



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**

19 June 2015

Case Document No. 4

Finnish Society of Social Rights v. Finland
Complaint No. 108/2014

**RESPONSE OF THE FINNISH SOCIETY OF SOCIAL RIGHTS
TO THE GOVERNMENT'S SUBMISSIONS**

Registered at the Secretariat on 15 May 2015

**Suomen sosiaalioikeudellinen seura ry.
- Socialrättsliga sällskapet i Finland r.f.**



Council of Europe

F6/0/5 Strasbourg Cedex

France

Mr Henrik Kristensen

Deputy Head of the Department of the European Social Charter

Deputy Executive Secretary of the European Committee of Social Rights

ESC 41

LV/KOG

Collective complaint 108/2014 due to that Finnish legislation along the opinion of our Association violates the Article 24 in the European Social Charter

Registered at the Secretariat on 30 April 2014

Responses of our Association to the Government's submissions

10 May 2015

Finnish Society of Social Rights

Finnish Society of Social Rights sends you respectfully the attached answer to the Government's submissions collective complaint due to Finnish legislation that along the opinion of our Association violates the Articles in the European Social Charter.

The person taking care of this complaint in the Society is:

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I Admissibility

There are no problems with the admissibility. Referring to observations touching on the admissibility of the complaint, the Government has noted that in relation to the formal requirements listed under Article 4 of the Additional Protocol it has no objections.

II Merits

II.1. the social protection of the long-term unemployed

Submissions of the Government

2. The Government observes that the heart of the complaint rests on a claim that the social security system in Finland in relation to what the association terms the unemployed elderly is being worsened sharply
2. The association has presented a number of claims related to the situation of what they term elderly or aged unemployed persons many of which are apposite.
3. Yet, in addition to those provisions and domestic policies mentioned by the applicant association, there exist a number of important developments, especially in relation to the earnings-related unemployment allowance that are left unmentioned.
4. It is for this reason that the Government is forced to outline in detail the relevant domestic provisions and practices that pertain to the relevant area.
5. Having done so the Government will then also outline the relevant domestic provisions that categorically show that discrimination based on age is prohibited under Finnish labor law.
6. According to the Unemployment Security Act (30.12.20012/1290, <https://www.finlex.fi/fi/laki/ajantasa/2002/20021290>) the basic unemployment allowance and the earnings-related unemployment allowance are payable for the maximum total of 500 days of unemployment (Chapter 6, Section 7 of the Act).
7. Moreover, the Unemployment Security Act stipulates the right to additional days of jobseekers born between 1950 and 1954 and turning 59 years old before exhausting the maximum period of the allowance; job seekers born 1955 or 1956 and turning 60 years old before exhausting the maximum period, and for jobseekers born in 1957 and turning 61 years old before exhausting the maximum period (Chapter 6, Section 9).
8. Notwithstanding the exhaustion of the maximum period, a jobseeker entitled to additional days receives the basic unemployment allowance until the end of the calendar month during which he or she reaches the age of 65 (Chapter 6, Section 9).

9. after the period with the unemployment allowance, the jobseeker is eligible for the labor market subsidy (Chapter 7, Section 1), payable without time limits (Chapter 7, Section 12).

10. If the beneficiary meets again the condition regarding previous employment, required for the employment allowance, i.e., if the beneficiary is employed in work eligible under the employment condition in at least 26 calendar weeks (Chapter 5, Section 3), he or she may be entitled to the employment allowance again (Chapter 5, Section 8).

11. The age limit at which the right to additional days arises (Chapter 6, Section 9) has been raised many times, the last time being at the beginning of 2014. The limit was raised because studies showed that rising has improved the employment of aged persons.

12. When raising the age limit for the right of additional days of earnings-related unemployment allowance, the Government has ensured at the same time that the labor market subsidy is not the only benefit available to dismissed aged persons.

13. According to the Act of Public and Business Service (Laki julkisesta työvoima- ja yrittäjäpalvelusta 28.12.2012/916 <http://www.finlex.fi/fi/laki/alkup/2002/20021295>), Chapter 11, Section 1, the municipality of residence of an unemployed jobseeker at least 57 years of age must ultimately provide the jobseeker with an opportunity to work six months if his or her right to the daily unemployment allowance would expire because of his or her exhausting the maximum period of the allowance.

14. By engaging in this temporary work the employed person meets again the condition regarding previous employment, and the calculation of the maximum allowance period starts from the beginning (Unemployment Security Act, Chapter 6, Section 8). The Unemployment Security Act also stipulates that the earnings underlying the earnings-related unemployment allowance of the person thus employed are not calculated again, unless the new earnings are higher than the earlier ones (Chapter 6, Section 8, subsection 4).

15. Thus, in practice a person who becomes unemployed at the age of 55 continues to receive the earnings-related unemployment allowance until he or she starts to receive an old-age pension. The pension also accrues for the period with the earnings-related allowance (Employees Pensions Act (395/2006), Section 74, and Subsection 3). The pension accrues at a rate of 1,5 % of this sum (section 65).

16. It is also to be noted that the employment allowance is payable with an increase for 90 days to jobseekers who have become unemployed because of dismissal without their own fault, e.g. for financial and production-related reasons.

17. In addition, the unemployed person must have been registered as an unemployed jobseeker within 60 days from the termination of the employment relationship and must, by that date, have been engaged in working life for at least 20 years. For the increased earnings-related component to be payable, the unemployed person must also have been a member of an unemployment fund in at least five years (Unemployment Security Act, Chapter 6, Section 3a).

18. Moreover, the increase to the basic unemployment allowance and the increased earning-related component are payable for the duration of any employment services (and for the time between the services agreed in an employment plan to the extent that the time maximum of 200 days (Unemployment Security Act, Chapter 6, Section 3b.) In 2014 the increase to the basic unemployment allowance amounted to EUR 4.78/day.

19. In 2014 the amount of the labor market subsidy is EUR 32.66/day. The subsidy is payable for five days a week, including midweek holidays. For the duration of any employment services, an increase to the labor market subsidy is paid at most 200 days.

20. In 2014 the amount of the increase is EUR 4.78/day. Without the increase, the subsidy amounts to an average of EUR 702/month (21.5. x EUR 32.66). An unemployed jobseeker is eligible for the labor market subsidy until the age entitling to an old-age pension.

21. Since the beginning of 2013, the earnings of the applicant's spouse have no longer been taken into account in means-tests for applicants for the labor market subsidy.

22. The amount of the subsidy is increased annually according the changes in costs of living. At the beginning of 2012, the level of the labor market subsidy was increased by EUR 100 per month because the amount of the subsidy was lagging behind the trend of the pay development.

23. At the beginning of 2014, a protected component of EUR 300 was introduced in unemployment benefits. An unemployed person may earn EUR 300 per month without losing any part of the benefit.

24. Regarding the year 2015, the Government has submitted a bill to Parliament to set the rate of the index increase at 0.4 % in 2015. Without this adjustment the increase would be approximately 1.1 %. The adjustment applies to all benefits except social assistance. The adjustment is intended to be permanent, i.e., it will not be compensated for in the coming years.

25. Consequently, the index increase to be made in 2016 will not be compared with the original level of the benefits but the level of 2015. In other respects the index increases will be made as usual, unless future governments decide otherwise.

26. As the applicant association states in its complaint, a person receiving the labor market subsidy is usually entitled to the housing allowance, too. The Society regards the housing allowance as insufficient.

27. The Government states that the level of the housing allowance is 80 % of those reasonable housing costs in excess of the deductible which the Government defines annually by a Decree as the maximum acceptable costs.

28. In defining the maximum acceptable amount of housing costs, accounts is taken of the size of the recipient household, the municipality where the household lives and the age, size and equipment level of dwelling.

29. The recipient of the allowance must always pay a deductible, at least 20 % of the housing costs. The level of the general housing allowance has not developed on a par with the development of rents. This is the situation especially in cities, e.g. in the Helsinki metropolitan area. Therefore, the real amount of the deductible paid by even the lowest-income recipients may have been higher than the intended 20 % of the housing costs.

30. In 2012 an extra rise was made in the income limits for the housing allowance in order to moderate the criteria for granting the allowance. Regarding the 2014 criteria, an extra rise was made in the maximum housing costs. The amount of the rise is largest in Helsinki and smallest in the smallest municipalities.

31. The adjustment eased especially the situation of households living in expensive dwellings. The housing allowance has been improved systematically. Throughout the existence of the general housing allowance, i.e. in 1975-2014, the average percentage of the allowance of the real housing costs has been 50 %. Thus, the allowance has helped to reduce the burden of housing costs efficiently.

32. A recipient of the housing allowance may apply for social assistance from his or her municipality of residence if the recipient's own income or assets do not suffice to ensure the recipient at least the indispensable subsistence after he or she has received the allowance and other benefits and the disposable income and assets.

33. The basic component of social assistance granted to an applicant living alone covers the basic everyday needs, such as food, clothing, telephone and public transports (EUR 480.20/month).

34. In granting social assistance, municipalities have the statutory right to consider and determine the amount of the indispensable housing costs. The amount of the housing defined by law to be covered by the social assistance is within the discretion of the authority deciding on the assistance. The purpose of the discretion is to ensure housing to the applicant.

35. When determining the amount of the social assistance, the authorities take account of the size and nature of the dwelling in relation to the size and needs of the household, as well as the local cost level corresponding to a reasonable housing standard.

36. Many municipalities have issued internal instructions to determine the amount of reasonable housing costs for households of different sizes. When social assistance is granted, housing costs are not counted as expenses to be covered by the basic amount of the social assistance, which is of equal size for all recipients. Instead, housing costs are compensated for as "other basic expenses" on the basis of each applicant's real situation.

37. The discretion of reasonableness in granting social assistance must not lead to the applicant's homelessness or being compelled to move to a dwelling that does not meet the housing standard that is generally acceptable or corresponds to the persons' or family's special needs.

38. Special needs to be taken into account in this context may be, e.g. the school of children, particular need for care, need for room for assistive devices or a person with disabilities, or need for room based on the right of non-custodial parents to meet their children.

39. It is justifiable to take account of the housing costs even when they exceed the amount laid down in the municipal instructions, if an applicant for social assistance has no real opportunity of finding a local dwelling at a cost considered reasonable by the municipal authorities. In addition, applicants must be allowed sufficient time for seeking less expensive dwelling before housing costs can be taken account only in an adjusted amount.

40. An applicant for social assistance may always request the rectification of a discretionary decision of a municipal authority from the municipal social welfare board, and further appeal against a refusal by the board to an administrative court and, in the last resort, to the Supreme Administrative Court.

41. Although the amounts of housing costs acceptable under the housing allowance scheme have been increased in recent years to correspond to the developments in the recipient's rents, the acceptable costs remain, after the savings decisions of the 1990s, lower than the real market rent level. Therefore social assistance, intended as a temporary and last –resort form of support, has often become a continuous form of reimbursement for housing costs.

42. The conclusion made by the applicant association ignores that social assistance, in the last resort, ensures a reasonable standard of housing also for those with the lowest income.

43. The applicant association also pays attention to the cuts made in reimbursements for medicine expenses. The Government refers to its observations on complaint no. 88/2012 and adds that the current price of medicines, applicable since the beginning of 2014, changed the determination of the retail price of medicines and reduced the yearly out-of-pocket limit for the costs for patients.

44. The new Decree on the price list has been expected to reduce the reimbursement costs for medicine expenses by approximately EUR 15.8 million per year, assessed at the cost level of 2011. Correspondingly, patients' medicine expenses have been estimated to rise approximately as much. To compensate patients for the amendment of the decree on the price list, the yearly out-of-pocket limit for clients' medicine expenses was reduced to EUR 610 as from beginning of 2014 (reduction by EUR 70, without which the yearly limit would have been EUR 680 in 2014).

45. Finally, the Government states that under Section 4a of the National Pensions Index Act (456/2001) the adequacy of basic security must be assessed every fourth year. The next assessment will be completed in early 2015. The assessments are intended to keep the national social security scheme satisfactory.

46. The Committee, too, considered in its Conclusions of 2013 that the Finnish scheme complied with Article 12 paragraph 1 of the Charter in this respect.

II.2. the prohibition of age-based discrimination in Finnish Labor Law

47. Finnish anti-discrimination legislation is based on international human rights instruments, such as the European Convention on Human Rights, the International Covenant on Civil and Political Rights, the Charter, and the International Labor Organization (ILO) Convention No. 111.

48. EU Council Directives on equal treatment irrespective of ethnic origin and equal treatment in employment constitute the basis of the Non-discrimination Act (21/2004) which entered into force in February 2004.

49. Under the Constitution of Finland, everyone is equal before the law. No-one shall without acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person.

50. According to the Non-Discrimination Act, different treatment based on age is not regarded as discrimination when it has a justified purpose that is objectively and appropriately founded and derives from employment policy, labor market (regarding, e.g. persons under 25 of age an elderly persons) or vocational training or some other comparable justified objective or when the different treatment arises from age limits adopted in qualification for retirement or invalidity benefits within the social security system.

51. Positive treatment of persons or groups of persons are considered to be in need of special protection on account of their age is not regarded as prohibited discrimination. The aim of such special treatment is to prevent or reduce disadvantages caused by discrimination and to achieve genuine equality for a certain group.

52. Further prohibitions against age discrimination are included in such legislation as the acts on employment and civil service relationships, which apply alongside the provisions of the Non-Discrimination Act.

53. Gender equality is protected by the Act on Equality between Women and Men. For instance the Criminal Code, too, prohibits discrimination in business activities, in the exercise of a trade and in public office under penalty of fine or imprisonment. Discrimination in advertising for job vacancies, in recruitment and during a service relationship is punishable as work discrimination.

54. Chapter 2 Section 2 of the Employment Contracts Act (55/2001) contains a provision of discrimination and on equal treatment: " The employer shall not exercise any unjustified discrimination against employees on the basis of age, health, national or ethnic origin, nationality, sexual orientation, language, religion, opinion, belief, family ties, trade union activity, political activity or any comparable circumstance."

55. It is a general obligation of employers to ensure that the employees perform their work also when the operations, the work to be carried out or the working methods of the employer change or develop. In order to maintain and improve the employees` qualifications, employers are expected to ensure that elderly employees, too, are provided with all the guidance that they need for performing their duties.

56. Regarding elderly employees there are some features of employment protection: The periods of notice are linked to the uninterrupted duration of their employment relationship. Elderly employees usually have longer periods of notice.

57. An employer who has a legal ground for terminating an employment contract on production-related or financial grounds is not entitled to terminate an elderly employee's contract on grounds of his or her age.

58. In considering the appropriate amount of compensation, the following should be taken into account: the employee's estimated time without employment and his or her loss of earnings, the duration of the employment relationship, the employee's age and prospects for finding work corresponding to his or her profession or education and training, the termination procedure applied by the employer, and the employee's and the employer's circumstances in general and other comparable factors.

59. Since 2005 the retirement age has been flexible. The accrued old-age pension is granted between the ages of 63 and 68. The employment contract and the service relationship terminate without a term of notice, when the employee or the official reaches the age of 68. The employer and the employee may, however, agree that the employment relationship does not terminate when the employee reaches the retirement age.

60. According to the Act on Co-operation within Undertakings (334/2007), Section 16) the undertaking must annually prepare a personnel and training plan in co-operation negotiations in order to maintain and improve the occupational skills of its employees. The personnel and training plans must include the general principles aiming to maintain the working ability of employees who are at risk of unemployment or aged and improve the access to labor market of employees at risk of unemployment. The personnel and training plan must pay attention to the special needs of ageing workers.

61. Legislation does not specifically prescribe the order in which employees are to be given notice or laid off for production-related and financial reasons. The employer's right to choose the employees who are to be given notice is, however, restricted by the provisions of the Employment Contracts Act which prohibit discrimination and require equal treatment, as stated above.

62. Since the 1960s, the order of reducing the labor force has been agreed upon the collective agreements. The provisions on the order of reduction are very similar in various agreements. According to these provisions, the last employees to be given notice or laid off are those qualified employees who are important for the operation of the company and those employees who have lost part of their working capacity in the service of the same employer. In addition, account is also taken of the duration of the employee's employment relationship and the degree of his or her liability for maintenance of dependants.

63. In practice, this provision has been interpreted so that the qualified employees important to the company and the employees who have lost part of their capacity is determined on the basis of the duration of their employment relationship and their liability for maintenance.

64. The relative order of employees other than those referred above is also determined on the basis of the duration of the employment relationship and the liability for maintenance.

65. The duration of the employment relationship – and thus indirectly also the age of the employee – is of significance, when employees are chosen for dismissal.

66. The provisions of collective agreements on the order of reducing labor force are also applied to unorganized employers in the sector in question if the agreements are universally valid, i.e. binding beyond the parties to the agreements.

67. If an employer bound by the agreement violates the provision on the order of notice, the employer may be ordered to pay a compensatory fine prescribed in the Collective Agreements Act. No compensatory fine can be imposed for a violation of a universally valid collective agreement.

Comments of our Association

The social protection of the long-term unemployed

68. Article 12. 1-3 in the Charter are:

The right to social security

With a view to ensuring the effective exercise of the right to social security, the Parties undertake:

1. *to establish or maintain a system of social security*
2. *to maintain the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security*
3. *to endeavour to raise progressively the system of social security to a higher level",*

69. Our Association notes that those employees who lose their jobs in collective redundancies and especially the aged ones are not protected enough.

70. Our view is that the situation is not in conformity with Art. 12. In collective agreements there are rules of dismissal order in redundancies. Along to these rules “professional employees who are important to the enterprise” are last to leave in redundancies.

71. This rule gives the employer a vast discretion area to choose which of the employees are professional and important to the enterprise.

72. In the legislation there are no rules of dismissal order and so aged, long-served employees have no special protection. In many times they are first to leave due to the unclear wording above.

73. The rules in Finland aimed to protect elderly employees from redundancy are much different with those in Sweden. In Sweden those who have worked longest time in the enterprise are the last to leave.

74. The problem of economic poverty rises up in those situations where the aged employee loses his/her job in redundancies. A redundant aged worker over 45 years has very small chances to find a new permanent job. Mostly those aged dismissed persons in seeking new job do not even access to job interviews. The employers do not take their professional skills account due to their age. Their application forms go directly to the trash basket.

75. The situation is so bad that labour offices do not even send employment applications to employers if the job-seeker is over 45 years. In the labour office they regard a waste of time due to the earlier experience to use much effort to help elderly dismissed persons. They know in the office that the employers are not interested. .

76. In the Finnish newspapers aged job seekers write (in chapters like “reader’s opinions and letters”) their frustration in job seeking. Many aged unemployed have sent hundreds of applications without getting any answer. Still there is a general attitude in Finland that of the unemployment is to blame principally the person him/herself not the society or Government. The unemployed are regarded “lazy”, happy to sit on their sofa at home without real interest to seek work. This blaming attitude by society and officials depresses and brings extra mental burden to the aged unemployed who have no hope to find new job despite huge efforts.

77. The state of Finland has recently carried out reforms in labour offices so that the life of the unemployed becomes even more difficult due to the lack of services from labour officials. From the year 2013 there has been only 15 labour offices in the whole country and due to the small personal resources those offices are concentrated almost uniquely to service the enterprises and employers and vis a vis this the services to the aged unemployed persons are minimal. Currently the aged long-time unemployed person has very rare chances to come to discuss with labour officials orally due to the rare network of offices and some of them do not even have money enough to pay the travel costs to the office. The aged unemployed are required to use internet if they want communicate with labour officials. The labour officials want to concentrate to serve effectively enterprises and employers. The services from labour offices to those seeking work and especially to those aged long-time unemployed has worsened dramatically due to the Labour office reform (See: Sosiaalibarometri 2015, http://issuu.com/soste/docs/sosiaalibarometri2015_nettiin, published by SOSTE ry pages 52 - 57)

78. The neglecting of the long-time unemployed by the Government has led to sad results amongst long time aged unemployed persons and the regrettable phenomena’s which are connected to the social exclusion are rising up amongst them (e.g. depression, alcoholism, breaking up marriages and families etc.).

79. As a follow-up of the negative attitude of employers to hire aged unemployed persons many aged job-seeker stays unemployed permanently. Due to that they lose their working capacity and after some years they are not capable to work market any more. Because already at the age of 45 the employee is regarded old in Finland losing one’s working capacity due to long-time unemployment may take place much earlier than at the age of 57, when they may have a possibility have a work in the municipality for 6 months along the Government’s submission (see para 13 above). As the

unemployment has gone on long enough and the working capacity of the aged has passed away those 6 months in the service of municipality do not help the aged unemployed any more.

80. Also the income-related 500 days does not begin anew, because before getting job from municipality he/she has been normally many years in the dependence of labour market subsidy and the provision to get income-related unemployment benefit from unemployment fund do not fulfil. After those six months most aged unemployed are still in the dependency of labour market subsidy. The provisions of unemployment fund require longer membership and longer working in order to get income-related unemployment benefit. Only in that case that the 500 days of income-related unemployment benefit ends when the aged unemployed becomes 57 years and gets this 6 months job in the service of municipality the new 500 income-related benefit begins anew and the unemployed can go on his/her living in the dependence of it next 500 days. If the 500 days are fulfilled before the unemployed is 57 years the 6 months in the service of municipality does not bring much use to the aged unemployed. After these 6 months he/she goes on his/her living in the dependence of labour market subsidy until retirement age (now 63 in the future 65).

81. A disappointed 54 years job seeker wrote in Helsingin Sanomat 9.6.2014: *“Nothing helps an employee over 50 –years in seeking job”*. The writer had been unemployed over three years and sent countless job applications. His question sounded: *“How can the state try to prolong work careers, when jobs are not offered to the employees over 50 years, who are very motivated to work?”* The time has passed nearly one year since this writing and the situation gone worse since. In the newly published Social Barometer 2015 (Sosiaalibarometri, http://issuu.com/soste/docs/sosiaalibarometri2015_nettiin, published by SOSTE ry) is on the pages 34 – 38 described how the situation of long-time unemployment has gone worse in one year. There are over 100 000 long-time unemployed (unemployment lasted over one year) and the amount is increasing rapidly. Still the main focus in Labour offices is to serve employers and entrepreneurs, not those unemployed who desperately seek work to get on decently. The unemployed workers do not even get access to Labour office to meet personally labour officials. They are required to use internet on contacts with labour offices. Many unemployed don't have even technical skill enough to use internet, but that did not bother the Government of Finland when it carried out Labour Office reform in 2013.

82. Our association also reminds what is said in the Merits 88/2012 on the level of labour market subsidy (29 % from the equivalent median income, massively under the level that the Charter (Revised) art. 12.1 presumes) and refer to pages 25 – 32 in the Social Barometer 2015 mentioned above (http://issuu.com/soste/docs/sosiaalibarometri2015_nettiin.) In the barometer it is noted that basic benefits (including labour market subsidy) should be raised heavily so that those long-time unemployed could live a decent life (see more details on labour market subsidy www.kela.fi/en/labour-market-subsidy)

83. After the Merits 88/2014 became public 11.2.2015 there was also published an assessment of the level of basic benefits in Finland made by a group of objective experts (See: http://www.julkari.fi/bitstream/handle/10024/125703/TY%c3%96_2015_001_web_06032015.pdf?sequence=3) The results of this assessment of the experts were the same as was the conclusion of the

Committee in the Merits 88/2014. Both Committee of Social Rights and objective experts in Finland have the view: Basic benefits in Finland are too low to reach a decent living. There is an urgent need to raise basic benefits and especially the level of labour market subsidy is far too low for long-time unemployed.

84. Our association notes that the provisions in the Act of Public and Business Service (Laki julkisesta työvoima- ja yrityspalvelusta 28.12.2012/916 <http://www.finlex.fi/fi/laki/alkup/2002/20021295>) referred in the Government's submission (see para 13 -15) do not solve the problems of the aged unemployed persons. The provision facilitates the income problems only for those persons who have been laid off at the age of 55 and when the 500 days of benefit has exhausted they are 57 years old and entitled to have a job in the municipality for 6 months. After the service in the municipality has exhausted the period of 500 days income-related benefit renews, but just for them. If the 500 days has exhausted before the person has reached 57 years he/she goes on in the dependency of labor market subsidy after the service in municipality.

85. According to the Unemployment Security Act (30.12.20012/1290, <https://www.finlex.fi/fi/laki/ajantasa/2002/20021290>) Chapter 5. 2 and 3 a person is entitled to income-related unemployment benefit if he/she has been insured in the unemployment fund at least 26 former weeks before unemployment begins and if he/she has been at salaried work at least 26 weeks during the former 28 months. Due to these preconditions the unemployed person whose 500 days has exhausted before he/she has reached 57 years is not able to receive income-related benefit after the 6 month service in the municipality due to that he/she has not worked 26 weeks during the former 28 months and he/she has not been member of the unemployment fund. After 6 month in municipal service he/she lives in the dependency of labor markets subsidy as before the service.

86. Our association has also doubts if the obligation to municipalities to offer work to unemployed 57 years for 6 six months really works in practice. The provision has not been disseminated and is still rather unknown amongst municipalities and unemployed persons. As the Government refers this provision strongly it should bring out examples from municipality level from the implementation of the provision. As far as we know there exist no researches of the implementation of this provision. Municipalities in Finland have a large independency and in many cases obligations of law are not obeyed in local level. The state does not control keenly Finland's municipalities, the amount of which is over 300.

87. The topic of our Complaint; the decision of 2014 to raise the age to 61 years in entitlement to get prolonged income-related unemployment benefit until retirement age means to most aged long-time unemployed under 61 years old in the time when 500 days of income-related unemployment benefit has exhausted a life living in the dependency of labour market subsidy the amount of which is insufficient social assistance which is so low that the Committee of Social Rights has noted to be a too low along art. 12.1 of the Charter (Revised) in Merits 88/2014. As most long-time unemployed lose their job at the age of 45 – 50 and have to live many years with 570 euros/month. The decision of raising the age to 61 years is to our mind a violation of art.12.3.

88. A few years ago, the aged unemployed person in Finland had a right to a prolonged earnings-related unemployment compensation when he/she was 55 years old. The earnings-related unemployment allowance went on until he/she reached 60 years and after that he/she became entitled to the unemployment pension. Due to the unemployment pension his/her economic survival was fairly well guaranteed for the rest of his/her life.

89. The situation changed rapidly due to reforms in legislation in 2011-2014 when the unemployment pension was erased as a benefit and due to that the unemployed person has to wait until he/she reaches the old-age pension at 63 years. The current form of Unemployment Security Act stipulates the right to additional days of jobseekers born between 1950 and 1954 and turning 59 years old before exhausting the maximum period of the allowance; job seekers born 1955 or 1956 and turning 60 years old before exhausting the maximum period, and for jobseekers born in 1957 and turning 61 years old before exhausting the maximum period (Chapter 6, Section 9).

90. The change to the current situation has taken place very quickly. In 2010 the unemployment pension still existed (chapter 6 § 9 in the Unemployment Act in 2010) and the amount of the unemployment pension at 60 was the same as pension in retirement age 63 years. At that time all long-time unemployed were entitled to unemployment pension at 60. From 2014 on the unemployment pension has been erased totally and the unemployed has to be 61 years old to be entitled to additional days of income-related unemployment benefit until retirement age.

91. Along the Unemployment Act, (Työttömyysturvalaki (30.12.2002/1290 <http://www.edilex.fi/lainsaadanto/20021290.pdf>, see also Guide to unemployment: http://www.kela.fi/documents/10180/578772/Unemployment_brochure.pdf/38b7be62-6840-41ef-b7e0-82e1627a351e) rules in chapter 6 § 9 that in order to get a prolonged earnings-related unemployment compensation those who are born 1957 or later have to be at least 61 years old when the maximum time of 500 days of earnings-related unemployment becomes full. This means that the aged person has to be dismissed when he/she was 59 years old or later.

92. When the person born in 1957 or later has been kicked off from his/her permanent job at 45-50 years old and he/she has not found a new job after that the 61 years threshold is very high. The 500 day income-related time may have exhausted when he/she is 51 years old. He/she has to wait 10 years. Normally those who lose their jobs in the age 45-50 have no chance to receive a prolonged earnings-related unemployment compensation. Their only option is to content his/herself to the labour market subsidy (575 euros/month/net).

93. If the unemployed wants to start anew 500 day's earnings-related compensation time is the precondition that he/she he/she has been insured in the unemployment fund at least 26 former weeks before unemployment begins and if he/she has been at salaried work at least 26 weeks during the former 28 months. This is impossible for many of the aged unemployed person, because there are no jobs for them and the employers discriminate aged unemployed job-seekers. If the unemployed does not find new job so that works full time during these 26 weeks the unemployed has to live in the dependency of labour market subsidy.

94. Along the statistics of Labour Ministry http://www.tem.fi/files/42814/TKAT_Maalis_2015.pdf there were over 360.000 job seekers in March 2015, of which over 100 000 had been unemployed over one year. The elderly job seekers are those last ones to be hired and for many of the unemployment shall be permanent under current economic circumstances. It is estimated that the total unemployment amount in Finland is over 500 000 persons.

95. Along the statistics of Social Insurance Institution Kela (http://raportit.kela.fi/ibi_apps/WFServlet) there were altogether 175 382 persons who received labor market subsidy on 2014. Of these those 50 years or older were 47 213 persons. To many of those aged unemployed labor market subsidy was a stable source of income. Of those receivers of the benefit 54 per cent had got the subsidy over 300 days (one year), 40 per cent 500 days (two years) and 15 per cent had received over three years. To all of them the erasing of unemployment pension and the age threshold of 61 years for additional days of income-related benefit has done much harm.

96. A Finnish trade union made a research “*Over 50 –years old employees on labour market*” in 2011 when the unemployment was not as difficult as now in 2015. Still in the conclusions it was noted especially in older age unemployment is a risk that shuts the person even finally from labour market. Many elderly job seeker had the opinion that the employers had prejudices and attitudes towards elderly job seekers. Job seeking is often frustrating full of failures and disappointments as one cannot find a job in spite of eager trying. In time this affects to the self-esteem of the elderly job-seeker. Here are some free answers in the research questionnaire, which describe well the situation:

“I am dismissed for productive and economic reasons. Due to my age it is difficult to me to get work”

“When the employer sees my year of birth from papers the interest dies. Age racism is general especially for women”

“At 56 years old has age racism come against me”

“At 55 – years old it is difficult to get any work, though I have been 25 years as a bank official, otherwise it has no value”

97. Labor market subsidy that is the main income for most of them and it does not accrue their income-related pension. There exists a threat that the pension of these aged long-time unemployed will be very small. Erasing unemployment pension worsen the life of tens or even hundreds of thousands Finnish in the future years. It is probable that the amount of aged unemployed will rise sharply due to the recession and age discrimination in hiring work-force.

How those living in the dependence of labours market subsidy live in?

98. Our Association is convinced that the kind of impairment of social protection of the aged unemployed citizens in just three years is not in conformity with the article 12.3 in the Charter (Revised).

99. We refer to our earlier Complaint 88/2012 about labour market subsidy and note the amount of that benefit does not allow a citizen to live a decent life. In the Merits 88/2014 the Committee of Social Rights agreed with our association. The 575 euros net/month is only 29 % of the equivalent

median income and the amount should be at least 50 % along the interpretation of the Committee of Social Rights.

100. In the response to the Government's answer in the complaint 88/2012 our association implicated a questioner research in what kind of living conditions are for those citizens who live in the dependency of labour market subsidy (see: *Ilpo Airio*: (toim: "Toimeentuloturvan verkkoa kokemassa.) Kansalaisten käsitykset ja odotukset", (<http://hdl.handle.net/10138/38496>). (Pages 50 - 74: *Minna Ylikännö. Työmarkkinatuki riittää, riittää, riittää – ei riittänytään, in English "Labour Market Subsidy is enough, enough, not enough"*).

101. From these answers it came out that:

- a) many unemployed had to give up their hobbies,*
- b) many unemployed had not health care enough,*
- c) new clothes could not be afforded*
- d) 25 per cent had been suffered hunger.*
- e) Many had delays and difficulties in paying obligatory bills*
- f) Many had problems and delays in paying the rent of their accommodation*
- g) 76 per cent had applied social assistance,*
- h) 52 per cent had afforded cost-free food (from bread queues)*
- i) 28 per cent had searched help from church diaconal work.*

The main reason for these troubles was the small amount of labour market subsidy. In the assessment report of minimum social protection 2011-2015 (Perusturvan riittävyden arviointiraportti 2011 – 2015, Työpaperi 1/2015)

http://www.julkari.fi/bitstream/handle/10024/125703/TY%c3%96_2015_001_web_06032015.pdf?sequence=3

It is noted that the basic social security was not enough to cover minimum living spending. The minimum benefits covered only of 71 per cent of the whole. The income of a labour market receiver who lived alone was 486 €/month after accommodation costs (page 48)

http://www.julkari.fi/bitstream/handle/10024/125703/TY%c3%96_2015_001_web_06032015.pdf?sequence=3

102. It should be also noted that the price of food in Finland is the highest in Europe and the price of electricity, the removal of electricity and the tax of electricity has risen sharply in recent years. There are researches concerning the income which is needed to lead a decent life in Finland and what kind of problems the level of basic benefits affects to unemployed and other low-income people in Finland (Of course the Merits 88/2014 already shows that there are serious problems):

a) *“Mitä eläminen maksaa, in English: “How much it costs to live”*
http://www.kuluttajatutkimuskeskus.fi/files/5461/2010_04_julkaisu_perusturva.pdf

b) *Mitä syöminen maksaa” in English “How much it costs to eat”*

http://www.kuluttajatutkimuskeskus.fi/files/5462/2010_126_tyoseloste_ruokabudjetti.pdf

c) *”Takaisin perusteisiin” in English ”Back to the basics”*

<https://helda.helsinki.fi/bitstream/handle/10138/42400/Takaisin%20perusteisiin.pdf?sequence=1>

d) *Huono-osaisten hyvinvointi Suomessa in English ”The welfare of low income citizens in Finland”*

https://helda.helsinki.fi/bitstream/handle/10138/40230/Huono-osaisten_hyvinvointi.pdf?sequence=1

e) *Social report 2015 (Sosiaaliraportti 2015)*

(http://issuu.com/soste/docs/sosiaalibarometri2015_nettiin)

f) *The assessment report of minimum social protection 2011-2015 (Perusturvan riittävyyden arviointiraportti 2011 – 2015, Työpaperi 1/2015)*

http://www.julkari.fi/bitstream/handle/10024/125703/TY%c3%96_2015_001_web_06032015.pdf?sequence=3

104. These studies confirm the conviction of our association that the impairment described above of social protection to elderly unemployed persons in three years and forcing many Finnish citizens to live with the income totally insufficient to decent life in Finland is a violation of the art. 12.3 of the Charter (Revised).

Housing allowance is not the solution

105. The unemployed with labour market subsidy is normally entitled to housing allowance (see Guide to family and housing allowances http://www.kela.fi/documents/10180/578772/Home_and_family_brochure.pdf/846580c1-5eba-4e93-b504-ae544013668f) but the problem is that the housing allowance does not cover all housing costs.

106. At least 20 % of the costs are included to co-payment and due to the strict rules of the benefit the real co-payment reaches often to 40-50 % of the housing costs. This co-payment has to be paid from labour market subsidy (575/month).

107. The result is that that for other living than paying housing costs is left just about 200-300 Euros/month. In the above mentioned research *“Mitä syöminen maksaa” in English “How much it costs to eat”* it is noted (page 19) that for those living alone the costs of food alone are 200 – 283

euros/month. So these people can afford just food and housing and nothing. That kind of living cannot be regarded a decent life in Western Europe.

New decisions

108. The Government of Finland made 25.3.2014 decisions which impaired the situation aged unemployed even more. One of those decisions was to freeze most of the indexes in social benefits. The amount of labour market subsidy will be the same until 2018.

109. As the price of food will be raising the amount of labour market subsidy and the other basic income will be will not raise and the living of those living in the dependence of labour markets will be even worse in the future. This kind of behaviour from Government side is to be regarded not acceptable along the principles of Social Charter (Revised) and the violation of art. 12.3 are to be noted.

110. There has also been made many other cuts to the social security in the same day 25.3.2014 (amongst others cuts to the medicament compensations), but our association comes back to them later on. Right now (middle of May 2015) are going on negotiations of forming a new Government to Finland after the Parliamentary elections on 19. April 2015. There are anticipated new drastic cuts to social security which shall have deep impact to the life of people living in the dependence of minimum benefits.

111. The amount of poor people in Finland is currently 824.000 citizens (people living under 60 % of medium income). In 2018 the amount will probably be bigger due to the decisions made in 23.3.2014 and the future program of our Government which will be formed soon.

The complaint of our Association

112. Referring to the above said our Association sees that there is a violation and non-conformity with art. 12.3 in the Charter (Revised). Finland is not endeavouring to raise progressively the system so social security to higher level but erasing and lowering social benefits so that hundreds of thousands citizens are living on the edge of survival and especially the aged dismissed employees who are living in the dependence of labour market subsidy have so small income that a decent life is impossible for them. Still the Government of Finland has erased unemployment pension and raised the age threshold of additional earnings-related unemployment allowance till 61 years to those born 1957 when the employees in Finland are kicked-off thrown permanent jobs when they are only at 45-50 years old. The freezing of index along the raising of living costs still worsens the situation in the future years. After dismissal they have very little chances to find new job due to the age racism of employers. They are “too old” to Finnish labour market.

113. The impairments concerning aged unemployed citizens in 201- 2014 form a serious violation of art. 12.3. of the Social Charter (Revised). Finland has not endeavoured to raise progressively the system of social security to a higher level. Our association notes that Finland is violating art. 12 in the Charter (Revised) and the situation in Finland are not in conformity with the Charter (Revised).

114. The Government has submitted that there is no violation of Article 12 of the Charter in the present case. Our association has a contradictory opinion. We are convinced that there exists a violation of Article 12 of the Charter (Revised)

115. From the other Merits concerning Finland our association notes that the Government of Finland has not made any changes to legislation so far concerning the decisions of the Committee in Merits 70/2011 and 71/2011.

116. In the Merits 70/2011 the Committee of Social Rights noted too much variety and differences between municipalities in the position of informal carers. In maintaining the system of informal care the municipalities have own rules due to that the informal carers are in unequal position depending on the policy in the municipality they are living in. The Committee noted violation of art. 23 of the Charter (Revised)

117. In the Merits 71/2011 the Committee found out that there is no national payment legislation in Finland concerning policy in inhabitation services for the elderly and this shortage created uncertainty amongst elderly people. The Committee noted violation of art. 23 of the Charter (Revised).

118. In both cases no change in legislation has taken place in Finland this far.

119. Also the violations of art. 12 and 13 of the Charter (Revised) noted by the Committee in the Merits 88/2014 has been passed with silence in Finland and instead of correcting situation the negotiations which are going on in forming new Government to Finland do not promise improvements to minimum benefits but instead there are reasons to wait new impairments to the situation of low-income citizens of Finland.

Cordially and with high respect

**Suomen sosiaalioikeudellinen seura ry.
- Socialrättsliga sällskapet i Finland r.f.**



Finnish Society of Social Rights

<http://ssos.nettisivu.org/>

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