



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

17 January 2019

Case Document No. 2

Finnish Society of Social Rights v. Finland
Complaint No. 172/2018

**OBSERVATIONS BY THE GOVERNMENT
ON ADMISSIBILITY**

Registered at the Secretariat on 28 November 2018



28 November 2018

Mr Henrik Kristensen
Deputy Executive Secretary
European Committee of Social Rights

Complaint No. 172/2018
Finnish Society of Social Rights v. Finland
OBSERVATIONS ON THE ADMISSIBILITY OF THE COMPLAINT

Sir,

With reference to your letter of 27 September 2018, I have the honour, on behalf of the Government of Finland, to submit the following observations on the admissibility of the aforementioned complaint.

Admissibility of the complaint

General

1. The Government observes that the present complaint has been lodged by the Finnish Society of Social Rights (later, "the applicant association") on 17 September 2018.
2. The applicant association alleges that Finland has violated Articles 12§1, 12§3 and 13§1 of the Revised European Social Charter (later, "the Charter").
3. The Government observes that according to the complaint the applicant association "wants to clarify if legislation in the Finnish Social security is in conformity with the treaty or is there a violation in the current situation in Finland with the rules in the treaty or in the obligations Finland has as a member state".
4. The Government further observes that the applicant association refers to the European Committee of Social Rights' decisions on the merits of complaints nos. 88/2012 and 108/2014, and alleges that following those decisions the Government "has been reluctant to discuss of the inadequate level of minimum social security and social assistance benefits in Finland and surprisingly also the media Finland has been silent of the problem of inadequate benefits and the effects of that to the low-income families and their children". The applicant association further refers to the Committee's Conclusions 2017 concerning Finland.

5. The Government observes that the European Committee of Social Rights (later, "the Committee") has requested the Government to submit observations only as regards admissibility of the complaint.
6. Finally, as regards the applicant association's multiple allegations presented to the Committee, the Government emphasizes that the fact the Government does not comment each and every allegation does not mean that the Government accepts them. Accordingly, all of their allegations are to be rejected.

Representativity and particular competence of the organisation

7. The Government observes that the Committee has previously found the applicant association to be representative within the meaning of the Protocol and that the applicant association has particular competence within the meaning of Article 3 of the Protocol (see *Finnish Society of Social Rights v. Finland*, Complaint No. 88/2012, decision on admissibility of 14 May 2013, §§6-12 and *Finnish Society of Social Rights v. Finland*, Complaint No. 108/2014, decision on admissibility and merits of 8 December 2016, §§18-19).
8. The Government submits that accordingly, it has no formal objections concerning the admissibility of the complaint in this respect.

A claim already examined

9. The Government notes that in the complaint at issue, the applicant association has invoked Articles 12§1, 12§3 and 13§1 of the Charter.
10. Firstly, the Government recalls that in the aforementioned Complaint No. 88/2012 the applicant association asked the Committee to find that the minimum level of several social security benefits is below the requirements of the European Social Charter and that Finland has neither maintained the social security system at a satisfactory level nor enhanced the system to a higher level in violation of Article 12§§1 to 3 of the Charter (see, *Finnish Society of Social Rights v. Finland*, Complaint No. 88/2012, decision on merits of 9 September 2014, §11). The Government further recalls that the Committee considered that the complaint concerned Articles 12§1, 12§3 and 13§1 of the Charter and held that there was a violation of Article 12§1 and 13§1 (§§ 39, 75 and 125).
11. Secondly, the Government recalls that in the aforementioned Complaint No. 108/2014 the Committee observed that in the presentation of the complaint the Finnish Society of Social Rights invoked in a general manner Articles 12§§1-3 of the Charter, but in the specific allegations it referred expressly to Article 12§2 and Article 12§3, claiming respectively that Finland had not maintained the social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security, and had not endeavoured to raise progressively the system of social security to a higher level (see, *Finnish Society of Social Rights v. Finland*, Complaint No. 108/2014, decision on admissibility and merits of 8 December 2016, §24).

12. The Committee considered that the allegations concerning Article 12§§1 and 2 of the Charter were very vague and noted that in fact, the Finnish Society of Social Rights has made no specific allegation under Article 12§1. It alleges that the level of the labour market subsidy in Finland is not in conformity with the requirements of the Charter (§25). The Committee further observed that the information and arguments put forward in the present complaint as far as the allegation that Finland has failed to raise the social security system to a higher level pertain to Article 12§3 and thus do not enable it to make a proper assessment of the situation in respect of Article 12§1 or 2 (§29). The Government further recalls that the Committee considered that the complaint concerned Articles 12§3 and 13§1 of the Charter and held that there was a violation of Article 13§1 (§§ 30, 55 and 71).
13. In this connection, the Government recalls that the related Committee of Minister's Resolutions were adopted on 17 June 2015 (CMResChS(2015)8) and on 14 June 2017 (CM/ResChS(2017)8) respectively.
14. In the Government's view, the purpose of the collective complaints procedure cannot be that the same complainant invoke the same issues under the same provisions every other year.
15. The Government underlines that were the Committee to consider such complaints every time, such practice would lead to an obscure situation as regards legal certainty, hence weakening the whole purpose of the collective complaints procedure, not to mention the reporting procedure.
16. In the Government's view, it is evident that the present complaint clearly relates to claims already examined in the context of the Complaints Nos. 88/2012 and 108/2014, which in itself should be a reason for inadmissibility and accordingly, the complaint should thus be rejected.
17. Were the Committee to be of different view, the Government submits the following.

Unsatisfactory application of the Charter

18. The Government notes that according to Article 4 of the Additional Protocol providing for a system with collective complaints, a complaint must relate to a provision of the Charter accepted by the Contracting Party concerned and indicate in what respect the latter has not ensured the satisfactory application of this provision.
19. In particular, the complaint must indicate the point(s) in respect of which the State in question has allegedly failed to comply with the Charter or implemented it inadequately, along with evidence and the relevant arguments, with supporting documents.
20. The Government further notes that the applicant association, however, has not at all specified their allegations under the specific provisions of the Charter. Their allegations are not only confused but general, vague and unsubstantiated as a whole.

21. In the Government's view, there is no indication in the complaint of how the Charter provisions are not satisfactorily applied. The applicant association has merely drawn its own conclusions from various sources listed as annexes but has failed to indicate in what respect Finland has not ensured the satisfactory application of the Charter provisions.
22. For instance, the Government observes that in the complaint the time frame occasionally referred to by the applicant association, namely years 2015 to 2018 is rather confusing.
23. The Government recalls in this connection that Finland submitted its 12th periodic report in October 2016, covering the period of 1 January 2012 to 31 December 2015. The report concerned, *inter alia*, articles 12 and 13 of the Charter.
24. In its Conclusions 2017 (dated January 2018), the Committee noted positive developments in relation to Article 12§3 and found the situation to be in conformity with the Charter. In the same conclusions, however, the Committee concluded that the situation in Finland is not in conformity with Articles 12§1 and 13§1. The conclusion concerning Article 13§1 has also been subject to the examination of the Governmental Committee which took note of the information provided.
25. Furthermore, in the complaint the applicant association appears to have erroneously compared the level of minimum benefits of autumn 2018 to certain threshold values of median income of 2015.
26. As far as the year 2018 is concerned, the Government notes that it is naturally premature to evaluate the adequacy of benefits to certain threshold values of median income as this data is not yet even available for the year 2018.
27. The Government further observes that in its complaint the applicant association appears to be dissatisfied also with the Finnish media. The Government notes in this connection, that naturally, the Government bears no responsibility whatsoever as regards actions of independent media.
28. The Government observes that, according to paragraph 2 of the Explanatory Report to the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, "the system of collective complaints is to be seen as a complement to the examination of governmental reports, which naturally constitutes the basic mechanism for the supervision of the application of the Charter".
29. In the Government's view, due to its nature and scope, the present complaint can be seen as alternative, rather than a complement to the reporting procedure, and should be rejected.

Conclusion

30. In the Government's view, in the specific circumstances of the present complaint, it is of importance to decide upon the admissibility of the complaint separately.
31. Should the Committee come to a different conclusion concerning the Government's preliminary objections, the Government is firmly of the view, without taking any stance on the merits of the case, that for the reasons mentioned above, the applicant association has failed to substantiate how the complaint relates to the provisions of the Charter, as well as to indicate in what respect Finland has not ensured the satisfactory application of the Charter's provisions. Thus, the applicant association has failed to meet the admissibility criteria laid down in Article 4 of the Additional Protocol. Accordingly, the complaint should be declared inadmissible.
32. At any rate, the Government is of the view that there has been no violation of any of the articles of the Charter in the present case.

Accept, Sir, the assurance of my highest consideration.



Krista Oinonen
Agent of the Government of Finland
before the European Committee of Social Rights
Director, Unit for Human Rights Courts and Conventions