



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

21 November 2019

Case Document No.5

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

SUBMISSIONS BY THE GOVERNMENT ON THE MERITS

Registered at the Secretariat on 15 November 2019



15 November 2019

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 MERITS OF THE COMPLAINT

Sir,

With reference to your letter of 17 September 2019, I have the honour, on behalf of the Government of Finland, to submit the following observations on the merits of the aforementioned complaint.

OBSERVATIONS ON THE MERITS OF THE COMPLAINT

General

1. The Government reiterates its observations of 25 November 2018 and 10 May 2019 on the admissibility of the complaint where the Government stated its objections concerning the requirements of the admissibility of the present complaint.
2. The Government observes that by its decision of 11 September 2019 the European Committee of Social Rights (later, "the Committee"), without prejudice to its decision on the merits of the complaint, declared the complaint admissible and invited the Government to make written submissions on the merits of the complaint by 15 November 2019.
3. The Government further recalls that the present complaint has been lodged by the Finnish Society of Social Rights (later, "the applicant association") on 17 September 2018.

4. The applicant association alleges that Finland has violated Articles 12§1 and 3 and 13§1 of the Revised European Social Charter (later, "the Charter").
5. The Government recalls its view that the present complaint relates to claims already examined in the context of the Complaints Nos. 88/2012 and 108/2014.
6. The Government further recalls that the Government has reported on the follow up to the decisions on merits of the aforementioned complaints in connection with its 13th periodic report, and will report again in connection with its 15th periodic report due by the end of 2019.
7. The Government notes in this connection that the Government has translated the Committee's Findings 2018 into Finnish which are publicly available at the webpage of Ministry for Foreign Affairs.
8. In this connection, the Government emphasises again that the Finnish social security system is a comprehensive set of services and social benefits. Instead of analysing an individual element of the comprehensive social security system, a broader look should be taken at the whole system, considering the overall situation of a beneficiary person or family.
9. Therefore, in the Government's view, the need to look at the social service system from the perspective of its overall situation should be taken into account in assessing the present complaint.
10. To this effect, the Government presents the following observations on the applicant association's allegations as well as information on the Finnish social security system.

Observations on the assessment of the adequacy of social benefits

11. The Government considers that the assessment of the adequacy of social benefits should take account of the different types of households and their median income as well as the impacts that possible increases have on the amounts of the benefits.
12. The benefits of one-person households should be compared to the median income of a one-person household, which was 17,960 euros in 2017. That year, 43% of all households in Finland were one-person households.
13. Similarly, a one-guardian household with dependent children should be compared to the median income of this type of household, and account should also be taken of child increases, which have been counted in calculating the median income of that type of household. In 2017, the median income of households with one guardian and one child was 26,500 euros. The median income of the whole population in 2017 was 31,930 euros, and 24,580 euros per consumption unit.
14. In this connection, the Government observes that the table below shows an example calculation of the amount of benefits for two example households at the benefit levels of 2019. The large difference between the amounts of different households' benefits and their median income is worth noting. Comparing the benefits with the same median income is thus very challenging.

	Adult living alone*	Family: 2 adults and 2 children**
Labour market subsidy ¹	10,681	12,663
Housing allowance	3,492	6,672
Child benefit	0	2,397
Child home care allowance***	0	4,841
Social assistance	1,368	3,600
IN TOTAL	15,541	30,172
*Assumed to be unemployed for 12 months.		
** One parent assumed to be unemployed for 12 months and the other to receive a child home care allowance for 12 months.		
***Municipalities have an option to pay a supplement to the basic amount of the allowance paid by the Social Insurance Institution of Finland.		

15. The Government underlines again the importance of understanding that Finnish social security system is a comprehensive set of services and social benefits which should be taken into account in assessing the applicant associations' allegations.
16. 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.

Observations on the applicant association's allegations concerning Articles 12§§1 and 3 and Article 13§1

General

17. The Government recalls that the applicant association alleges that Finland has violated Article 12§1 and 3 and 13§1 of the Charter.
18. Article 12 of the Charter to its relevant parts reads as follows:

Part I: "All workers and their dependents have the right to social security."

Part II: "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;

[...]

3. to endeavour to raise progressively the system of social security to a higher level.

[...]"

19. Article 13 of the Charter to its relevant parts reads as follows:

Part I: "Anyone without adequate resources has the right to social and medical assistance."

Part II: "With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

¹ The calculation is based on the assumption that the recipient of a labour market subsidy is entirely unemployed for 12 months, while at the same time his or her spouse receives a child home care allowance and is also caring for children at home full-time.

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition; [...]”.

20. The Government observes that in respect of Article 12§1, the complaint appears to concern the minimum amounts of the sickness allowance under the Health Insurance Act (1224/2004), the parental allowance and the rehabilitation allowance as well as the basic unemployment allowance and the guarantee pension.
21. Regarding Article 13§1, the Government further observes that the complaint also appears to concern the labour market subsidy and social assistance.
22. The Government observes that the Committee has previously considered that in order to be adequate within the meaning of Article 12, the amount of the social security benefit in question should be at least 40% of the median income in the State concerned. Beyond this threshold, other social security benefits can be taken into account in assessing the adequacy of the benefits. The total amount of the benefits should not be below 50% of the median income.
23. Further, the Committee has held that, in assessing compliance with the obligations under Article 13§1 in terms of the adequacy of the benefits for basic subsistence and the labour market subsidy, account can be taken of the benefits paid in addition to the basic benefits. The total amount of the additional benefits must not be lower than 50% of the level of the median income.

Taking housing allowance into account

24. The Government observes that the Committee has previously found regarding Finland that recipients of a labour market subsidy may be entitled to both a housing allowance and social assistance, which also covers some housing costs, as the housing allowance does.
25. According to the Committee, however, the Government has not provided information on the amount of the housing allowance paid to recipients of a labour market subsidy or about the social assistance for housing costs paid to them to supplement the housing allowance. Therefore, the Committee was not satisfied that the labour market subsidy combined with other benefits reaches an adequate level.
26. The Government notes in this connection that in 2018, 60–65% of all recipients of a labour market subsidy received also basic social assistance, a housing allowance or both a housing allowance and basic social assistance. Of the recipients of the minimum sickness allowance, 50–60% received basic social assistance, a housing allowance or both a housing allowance and basic social assistance.
27. Of all recipients of the minimum parental allowance, 45–50% also received basic social assistance, a housing allowance or both basic social assistance and a housing allowance.

28. The corresponding percentage among the recipients of the minimum rehabilitation allowance was the highest of all: 60–70% of them received basic social assistance, a housing allowance or both.²
29. In the Government's view, considering the above, an analysis of the benefits without taking into account especially the housing allowance gives an erroneous picture of the level of the means of subsistence available to the persons in question.
30. The Government underlines that the housing allowance is a central component of the Finnish social security system, and research has proved its positive role in reducing poverty. The housing allowance is a vital source of subsistence for the recipient households³.
31. Moreover, the housing allowance is linked with policies to reduce homelessness that are more comprehensive. Finland's strategy to combat homelessness is based on the "Housing First" principle, meaning that homeless persons are first provided with permanent housing and then helped to solve their other problems. The prevention and reduction of homelessness constitute a comprehensive set of measures relating to such issues as housing production, services to support housing without problems and coping with everyday life, employment and individuals' management of their finances, and the wellbeing and integration of families. Finland's long-term work to abolish homelessness has produced results: Finland is one of the few Member States of the European Union where the rate of homelessness has declined.
32. The Government emphasises that the Finnish social security system is based on the prevailing societal conditions. For example, housing costs are very high in Finland, especially in the Helsinki metropolitan area, and the support for housing by means of the housing allowance constitutes a clearly separate, specific element in the overall social protection scheme. The separation of the housing allowance from the other forms of support for subsistence is intended to ensure that the support needed for living is not used for housing costs. As stated in the complaint, a total of 800,000 households in Finland receive a housing allowance, whereas for instance in 2018 the number of households receiving basic social assistance was 277,316.
33. The Government further notes that, for example, most persons eligible for a guarantee pension are also entitled to a housing allowance for pensioners. The amount of the housing allowance for pensioners equals 85% of the housing costs that are taken into account after deduction for the basic deductible and the additional deductible according to the earnings. The amount of the additional deductible is also affected by the spouse's earnings.
34. In 2019, a person with no employee pension and with a rent of 450€/month could receive a national pension amounting to 628.85€ + a guarantee pension of 155.67€ + a housing allowance for pensioners amounting to 318.37€ = 1,102.89€. In 2015, the same benefits for the same person would have been as follows: the national pension 636.63€ + the guarantee pension 109.94€ + the housing allowance for pensioners 333.77€ = 1,080.34€).

² Statistics of the Social Insurance Institution of Finland.

³ <https://helda.helsinki.fi/bitstream/handle/10138/299806/Tutkimuksia155.pdf>.

35. The Government further underlines that the housing allowance is an important part of social security for recipients of minimum social benefits and for other low-income persons, too.
36. Therefore, the Government considers that the housing allowance should be taken into account in assessing the minimum social security benefits under Article 12§1 and the social security benefits under Article 13§1 of the Charter.

Index adjustments and general increases of benefits

37. The Government recalls that in their 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.
38. The Government notes that the amount of the benefits under the Health Insurance Act is usually calculated in proportion to the recipient's taxable earnings, which means an amount of approximately 70% of his or her previous annual earnings. However, a person need not be employed or have previous earnings in order to be eligible for a sickness allowance or a parental allowance. What is essential is the realisation of a social risk, such as illness or childbirth. If the person has no previous earnings, the daily allowance is payable at the minimum rate.
39. The Government underlines that thus, under Finland's social security system, a daily allowance is also payable to a person who does not take part, or has not even taken part, in the labour market.
40. The Government observes that in contrast, the decisions of the Committee have largely concerned systems that ensure benefits compensating for previous earnings of persons taking part in the labour market.
41. The Government notes that as from the beginning of 2018, the minimum amounts of the sickness allowance, the parental allowance, the special care allowance and the rehabilitation allowance were raised by a general increase from 593.25 euros to 616 euros per month. The purpose of increasing the minimum amounts was to raise the net minimum amount higher than the basic social assistance, in order to cover, in principle, those entitled to the minimum amount under the right benefit system.
42. Furthermore, the minimum sickness allowance, parental allowance, special care allowance and rehabilitation allowance were also increased as from the beginning of 2019. The minimum amount was increased from the 24.64 euros of the 2018 index to 27.86 euros, so that the monthly amount of the benefits rose to 696.50 euros (the daily allowance is payable for working days so that also Saturday is counted as a working day, $\sim 25 \times 27.86$).
43. The purpose of the adjustment was to raise the daily allowances and the rehabilitation allowance to the level of the labour market subsidy, in order to level out the differences between beneficiaries under different benefit systems, to make the benefit system consistent and to emphasise the primary benefit system instead of social assistance.

44. The Government notes that increases in the above-mentioned minimum benefits will continue. To reduce inequality and to emphasise the primary benefit system, the Government has proposed on 7 October 2019 to Parliament that the level of basic social security be raised by 20 euros per month (Government Bill 39/2019). The Government proposes also to raise the minimum sickness and parental allowances, the special care allowance and the rehabilitation allowance to 28.94 euros per day, so that the monthly amount of the benefits would be 723.50 euros ($\sim 25 \times 28.94$). The increase includes an index adjustment. The said amendments are intended to enter into force and thus the increase to take effect on 1 January 2020.
45. The Government notes that with the planned increase, the level of the minimum benefits mentioned above would rise by 22% from the level of 2017.
46. The Government observes that in fact, the general increases (year 2020 pending approval of Government Bill 39/2019) have raised the minimum benefits more than the index adjustments:

	Minimum allowance, €/day	Monthly amount, €/month
2017	23.73	593.25
2018	24.64	616.00
2019	27.86	696.50
2020	28.94	723.50

47. Furthermore, the 55 days' qualification period for the minimum sickness allowance was abolished as of the beginning of 2019. For that period, no sickness allowance was paid at all, or if an allowance was paid, its amount was lower than the minimum. After the amendment of the Health Insurance Act, everyone has the right to a minimum sickness allowance immediately after the waiting period. Moreover, as from the beginning of 2018, the waiting period for an entrepreneur's sickness allowance was shortened from the earlier four days to one day.
48. In 2019, the amount of the guarantee pension is 784.52 euros per month and that of the basic unemployment allowance 32.40 euros per day, *i.e.* an average of 697 euros per month (21.5×32.40) without a child increase. In 2020, the index adjustments of the benefits will be made in the normal order, in accordance with the legislation in force.
49. In addition to the index adjustments, the Programme of Prime Minister Antti Rinne's Government includes increases of the above-mentioned minimum daily allowances under the Health Insurance Act, the basic unemployment allowance, the labour market subsidy and the guarantee pension (Government Bills HE 39/2019 and HE 43/2019). The basic unemployment allowance and the labour market subsidy will be raised, as proposed in the Government Bill, by the index adjustment and an additional sum of 20 euros per month at the beginning of 2020.
50. At the same time, the basic unemployment allowance and the labour market subsidy will rise to 33.66 euros per day. As result of the increase, the amount of these benefits would be 723.69 euros per month (21.5×33.66).

51. On 6 November 2019, Parliament adopted the Government Bill 43/2019. The full guarantee pension will be increased by 50 euros as from the beginning 2020, thus the full guarantee pension will amount to 834.52 euros per month from the beginning of 2020.
52. In addition to the measures described above, the Government has proposed to dismantle the cuttings of the so-called activation model of the unemployment security system as from the beginning of 2020. The aim is to submit a Government Bill for repealing Chapter 6, Section 3a and Chapter 7, Section 5 of the Unemployment Security Act (1290/2002) and for amending certain other Acts to repeal the cuttings and obligations under the activity model during 2019.

Basic social assistance

53. Social assistance is the last-resort form of financial assistance, intended to secure the indispensable subsistence protected by the Constitution. Social assistance is mainly intended as a source of short-term financial aid that helps recipients overcome or avoid temporary financial difficulties and promotes their autonomy and independence. The amount of social assistance is, in principle, determined on the basis of the difference between the applicant's total available income, including other benefits, and his or her acceptable expenses, which are defined in more detail by law. However, for instance disability benefits, a maternity allowance, certain compensations for expenses and maintenance allowances payable from the social security system, and an increase of unemployment security payable during participation in employment promoting services are not counted as income. Moreover, at least 20% of the recipient's earnings, up to the maximum of 150 euros per month, may be excluded from the calculation. In light of the above, the Government thus considers that social assistance should not be assessed separately from other possible benefits.
54. Furthermore, the Government points out that social assistance consists of basic social assistance, which is divided into a basic amount and assistance for other basic expenses, and of supplementary and preventive social assistance.
55. The Government observes that in the complaint the applicant association refers to the low level of the basic social assistance compared to the median income, which the Government considers as an insufficient benchmark.
56. The Government notes that the basic amount is equal to the calculated assumed average daily living costs of different person groups at their minimum consumption level. The costs covered by the basic amount of social assistance include food, clothing, minor medical expenses, costs for personal hygiene and cleanliness of home, public local transport, newspaper subscription, use of telephone and data communications, hobbies and recreation, and other comparable expenses of the recipient's and his or her family's daily living. In practice, in addition to the basic amount, social assistance is also granted for other basic expenses, *i.e.* the recipient's real ordinary expenses.

57. Examples of these include housing expenses, other medical expenses apart from those covered by the basic amount, costs of obtaining a necessary identity, residence or travel document, child day care costs and costs for before and after school programmes, and, on certain conditions, if a child's parents live in separate households, costs incurred by the non-custodial parent for seeing the child. In euros, the social assistance granted for other basic expenses covers in practice a significant part of the recipient's ordinary living costs, especially housing expenses. Thus, analysing the level of the basic amount alone does not give the right picture of the level of the benefit as a whole.
58. A person's eligibility for social assistance is considered individually case by case. Thus, its amount varies between the individual households according to their other basic expenses defined by law and their available income, instead of being based on the basic amount as such. In 2018, the average basic social assistance paid to one-person households amounted to 410 euros per month, and for households of two or more persons it was 534 euros per month.
59. As an example: an unemployed person living alone in Helsinki pays a rent of 600 €/month and needs also 20 euros per month for medication. This person's right to social assistance is calculated as follows: The expenses covered by the basic amount consist of 497.29 € + housing expenses 600 € + medical expenses 20 € = 1,117.29 €/month. For this amount of expenses, the example person may receive at most the basic social assistance, if he or she has not for instance been granted other benefits yet or has no other income. The basic social assistance may also be granted for situations where a person's income or for example other social security benefits together do not suffice to cover the above-mentioned costs. If the example person received a housing allowance (at most 80% of the maximum housing expenses, which in Helsinki are 516 €/month, *i.e.* 412.80 €/ month for a person living alone) and an unemployment benefit (648 € gross /month – taxes 20% = 518.40 €/month), the social assistance payable to him or her would amount to 1,117.29 € – 412.80 € – 518.40 € = 186.09 €/month. In total, the benefits would amount to the same sum, *i.e.* 1,117.29 €.
60. The granting and payment of the basic social assistance were transferred from municipalities to the Social Insurance Institution on 1 January 2017. The consequences of the transfer are being studied and monitored carefully. One clear improvement is already visible: there is now more information with nationwide coverage available concerning relations between different benefits and different client groups and clientships. Statistics on the basic social assistance are now easily available and are easy to combine with other nation-wide statistics produced by the Social Insurance Institution. This makes the totality of the financial benefits of the lowest-income people visible in a new way. In future, register-based information will be available concerning the total amounts of social security benefits and social assistance paid to different person groups. This will also facilitate comparison with the median income. The transfer of the responsibility for the basic social assistance to the Social Insurance Institution was intended to facilitate applying for basic social assistance and to reduce the stigma of receiving such assistance. Another purpose of the transfer was to harmonise the granting practices at national level.

61. The Social Insurance Institution has, at the request of the Government, studied registered benefit data concerning young people who received basic social assistance in 2017⁴. The study showed that households of one person with a long-term illness received on average 341 euros in basic social assistance, 215 euros in a housing allowance and 443 euros in other benefits (*i.e.* a sickness allowance or a rehabilitation allowance for a person with a long-term illness) – altogether an average total of 999 euros. For recipients of pensions, social assistance and a housing allowance, this average total amount of benefits was 1,254 euros per month.
62. The Government observes that in light of the study, the level of benefits of young persons with long-term illnesses in 2017 compared to the median income in 2017 was exactly 50%, and for young persons receiving a pension the level of benefits was approximately 63%, which exceeded the percentage limit set by the Committee for the adequacy of a benefit in relation to the median income.

Reducing the basic amount of social assistance on grounds of refusal or negligence, e.g. when the recipient refuses to accept work

63. The Government observes that in the complaint the applicant association draws attention to situations where a person refuses to accept work or an employment service so that the basic amount of the social assistance payable to him or her may be reduced. According to the applicant association, such reductions can be made repeatedly in two-month periods if the refusal is repeated, and then the *de facto* available amount of money is further reduced.
64. The Government notes that the basic amount of the basic social assistance may be reduced by up to 20% for example if a person, without justifiable cause, refuses to accept a job or a public employment measure that has been offered to him or her specifically and demonstrably and that would secure a living for the person for a reasonably long period. The basic amount may also be reduced if a person defined in more detail in the Act on Rehabilitative Work (189/2001), without justifiable cause, refuses to participate in rehabilitative work or interrupts it for a reason attributable to himself or herself.
65. According to Section 10, subsection 4 of the Act on Social Assistance (1412/2007), the basic amount may be reduced only if the reduction will not endanger a living essential in providing security needed for a life of human dignity and cannot otherwise be considered unreasonable. According to Section 10, subsection 4 of the Act, the reduction cannot last more than two months at a time from the refusal or negligence concerned. Section 10, subsection 2 provides that when the basic amount is reduced, a plan on action to promote the client's independent living must always be drawn up, if possible with the applicant for social assistance and, if necessary, jointly with the employment authorities and other authorities. The plan is made by municipal authorities, to which the Social Insurance Institution must refer the client.

⁴ <https://helda.helsinki.fi/handle/10138/236234>.

66. Even if the basic amount were reduced when all criteria set for the reduction are fulfilled temporarily, the person may, on the basis of the calculation made for him or her in connection with the decision, be entitled to have his or her housing and health care costs covered to the necessary extent as "other basic expenses", regardless of the reduction of the basic amount. Thus, the possible reduction affects only the calculated basic amount and not, for instance, the total amount of the social assistance to be paid every month. In addition, the municipality may grant supplementary and preventive social assistance according to each individual situation.

Social security reform

67. The Government notes that under the Programme of Prime Minister Antti Rinne's Government, social security will be reformed with the aim to achieve a clearer and more streamlined system, where people can balance work and social security in changing life situations. The aim is also to make work pay and to ensure that people can clearly anticipate their take-home pay. The terminology and payment periods of the benefits will be harmonised, and the coordination of benefits and services will be improved. Moreover, the use of digitalisation and artificial intelligence will be promoted in applying, handling and making decisions on social security benefits.

68. The social security reform will be prepared in a parliamentary committee, whose work aims at developing the structures and operations of the social security system in the long term. The reform will be carried out in stages during two government terms. A roadmap with milestones will be prepared for the committee for two government terms. The committee will work in phenomenon-based sub-committees and sub-sub-committees.

69. However, the committee will not prepare all changes of social security. Part of them will be prepared proactively, separately from the committee's work. Because the reform will be carried out in stages, different parts of it may be finished and enter into force at different times. The social security reform is closely connected with other key reforms envisaged in the Government Programme, such as a restructuring of health and social services, a working capacity programme and an increase in the employment rate. According to the Government Programme, trials and smaller experiments will be used to restructure basic social security.

Conclusion

70. The Government refers to its observations of 25 November 2018 and 10 May 2019 on the admissibility of the complaint and recalls its view that the applicant association has failed to specify their allegations under the specific provisions of the Charter.

71. The Government reiterates that in the Government's view, the applicant association has failed to substantiate in what respect Finland has not ensured the satisfactory application of the Charter's provisions.

72. Furthermore, the Government observes that the applicant association's allegations are somewhat confused in their time-frame and their attempts to calculate the amounts of certain social benefits as well as median equalized income in a limited mathematical way provides a somewhat misleading, simplified and inaccurate view of the actual benefits provided by the social security system.
73. The Government underlines again that as Finnish social security system is complex that includes different components which in different combination aim at providing necessary assistance in particular situations, attention to the combination of benefits and the system as a whole remains essential.
74. The Government further recalls that in its Conclusions 2017 (dated January 2018), the Committee noted positive developments in relation to Article 12§3 and found the situation in Finland to be in conformity with the Charter.
75. In conclusion, in the Government's view, the situation in Finland is in conformity with Articles 12§1 and 3 and 13§1 of the Charter.

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