



16 October 2018

Mr. Henrik Kristensen
Deputy Executive Secretary
European Committee of Social Rights

Complaint No. 163/2018

ATTAC Finland, Global Social Work Finland (GSW) and Friends of the Earth v. Finland
FURTHER OBSERVATIONS ON THE ADMISSIBILITY OF THE COMPLAINT AND ON THE
REQUEST FOR IMMEDIATE MEASURES

Sir,

With reference to your letter of 28 August 2018, I have the honour, on behalf of the Government of Finland, to submit the following further observations on the admissibility of the aforementioned complaint and on the request for immediate measures.

Further observations on the admissibility

1. The Government reiterates its observations of 21 June 2018 on the admissibility of the complaint.
2. The Government observes that the response of the complainant organisations was submitted within the time-limit of 7 August 2018 set by the Committee.
3. However, the Government notes that the complainant organisations have also submitted further information after the time-limit set by the Committee.
4. Furthermore, the Government finds the response by the complainant organisations incoherent and confusing with all its annexes as well as with the explanations and corrections provided after the set time-limit.
5. In the Government's view, the formal nature of the collective complaints procedure requires the parties to submit their written observations in an appropriate, accurate and coherent manner respecting the time-limits set by the Committee.

6. As regards the complainant organisations' views presented to the Committee in their complaint of 17 April 2018 and in their response of 7 August 2018 to the Government's observations on the admissibility, the Government strongly emphasizes that the fact that the Government does not comment each and every inconsistent and at least partly repetitive allegation does not mean that the Government accepts them. Accordingly, all of the complainant organisations' allegations are to be rejected.

Representativity and particular competence of the organisation

7. The Government notes that the complainant organisations refer in the annex of their complaint (Annex on Admissibility of complainant organisations for response to the Finnish Government) to section IV of the cover letter to the complaint of 17 April 2018.
8. The Government notes that it has not received this part of the complaint and has, thus, not been able to submit its observations regarding this part of the complaint.
9. The Government requested the Secretariat to forward this part of the complaint to the Government.
10. The Government received the cover letter to the complaint on 15 October 2018.
11. The Government notes that the cover letter includes the same information as provided by the complainant organisations in their response of 7 August 2018.
12. Regarding the complainant organisations' response in "ANNEX on Admissibility of complainant organisations for response to the Finnish Government", the Government notes that the complainant organisations have not presented any new information with regard to the admissibility of the complaint.
13. The complainant organisations refer in their response to several events, statements and appeals to Parliament that Attac Finland and Friends of the Earth have organised or issued in order to demonstrate their activities.
14. The Government notes that these activities listed by the complainant organisations in their response are related to trade agreements only.
15. Furthermore, the Government notes that no statements nor events by Global Social Work are reported in the complainant organisations' response.
16. Moreover, the Government recalls that the umbrella organisations which the complainant organisations are members of, are not listed as international non-governmental organisations entitled to submit collective complaints by the Governmental Committee of the European Social Charter and the European Code of Social Security.
17. Again, the Government reiterates its view that the complainant organisations are not representative in the meaning of Article 2 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.

18. Taking into account the purpose and the scope of activities of the complainant organisations, the Government reiterated its view that the complainant organisations do not have particular competence within the meaning of Article 3 of the Additional Protocol.
19. Thus, the complaint should be declared inadmissible for not fulfilling the requirements under Articles 2 and 3 of the Additional Protocol Providing for a System of Collective Complaints.

Unsatisfactory application of the Charter

20. The complainant organisations state in their response that they have provided examples on referred provisions of the Charter.
21. The Government notes that these examples are merely general and vague references to Articles of the Charter and do not specify in which way satisfactory application of these provisions has not been ensured.
22. In the Government's view, these examples, too, demonstrate the failure of the complainant organisations to specify their allegations under the specific provisions of the Charter.
23. The Government reiterates that the allegations presented by the complainant organisations in their complaint and in their response to the Government's observations are vague, general, unsubstantiated and speculative in nature and are not supported by any relevant arguments nor evidence in that respect.
24. Moreover, the Government reiterates that the allegations presented by the complainant organisations are hypothetical and based on assumptions as the Government has pointed out in its observations of 21 June 2018.
25. At this stage, the Government does not take further stance on the unsubstantiated and speculative allegations presented by the complainant organisations in relation to the merits of the complaint.
26. Furthermore, the Government reiterates that it appears that the intention of the complainant organisations has been to bring the issue under the attention of any international body without specifically substantiating their claims under the Social Charter.
27. All in all, in the Government's view, the complainant organisations have failed to meet the admissibility criteria laid down in Article 4 of the Additional Protocol.

Request for immediate measures

28. The Government notes that the complainant organisations have not, in their response, presented any reasons why the immediate measures are necessary with a view to avoiding the risk of irreparable injury or what a serious irreparable injury would be in the present case.
29. Yet again, the Government notes that the complainant organisations have not specified any possible consequences if immediate measures are not granted.

30. In the Government's view, the complaint does not establish a tangible situation in which any person would face a risk of a serious irreparable harm.

31. Thus, no immediate measures should be granted.

Conclusion

32. In the Government's view, in the complainant organisations' observations of 7 August 2018, there is no relevant new information with regard to the admissibility of the complaint.

33. The Government reiterates that in the specific circumstances of the present complaint, it is of importance to decide upon the admissibility of the complaint separately.

34. Furthermore, the Government reiterates that in its view, the complainant organisations are not representative in the meaning of Article 2 of the Additional Protocol nor do they have particular competence within the meaning of Article 3 of the Protocol. Accordingly, the complaint should be declared inadmissible.

35. 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 the complainant organisations have 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.

36. Thus, the complainant organisations have failed to meet the admissibility criteria laid down in Article 4 of the Additional Protocol. Accordingly, the complaint should be declared inadmissible as a whole.

37. 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.

38. Regarding the request for immediate measures, in the Government's view, no immediate measures should be granted 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