

## **Executive Secretary of the European Committee of Social Rights**

Department of the European Social Charter

Directorate General Human Rights and Rule of Law Council of Europe

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## English translation of the original Finnish complaint.

### **Collective complaint to the European Committee on Social Rights about how Finland's measures and proceedings to formulate, negotiate and process the CETA-agreement to become approved have neglected Finland's human rights obligations**

Date of the complaint: 17 April 2018

#### Subject of the complaint:

ATTAC ry, Globaali sosiaalityö ry and Maan ystävät ry complain against the measures and proceedings by which the Finnish government has negotiated and contributed to formulate the Comprehensive Economic and Trade Agreement (CETA) and has proposed and processed it to be approved within the EU and by Finland in a manner which neglects Finland's obligations under the European Social Charter and thus violates or exposes to violations the rights recognised in the articles 1,2, 3(1), 4 (2,3 and 5), 5,6,7 (1 and 3), 11-13, 20-24, 26-31 and article E of the part V of the Charter.

#### Admissibility:

Finland is a party to the Revised European Social Charter and has committed itself to observe and respect the above mentioned articles of the Charter. By notification addressed to the Secretary General of the Council of Europe in accordance with Article D of the European Social Charter, Finland has also granted to the Finnish NGOs the right to lodge complaints against the government's inadequate application of the Charter on matters which affect the rights it provides and on which the activity of the concerned NGOs is focused.

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## Complaint to the European Committee of Social Rights

### Finland has neglected its human rights obligations in respect to CETA, its provisions and impacts

The proceedings by which the government of Finland has negotiated the Comprehensive Economic and Trade Agreement (CETA) and proposed it at different stages to become considered and approved by the parliament, have endangered the respect for the human rights which are enacted by the European Social Charter and also the state's ability to duly fulfil them.

We request therefore the European Committee of Social Rights to:

#### I. Review in which respects Finland may thus have neglected its responsibilities

- to assess CETA's and its investment rights provisions' impacts on the fulfilment of the rights enacted by the European Social Charter, on Finland's jurisdiction and on its qualifications and resources of securing these rights and their effective and equal use
- to examine the provisions of CETA and of its investment disputes tribunal system and to require them to become corrected and negotiated in compliance with what the human rights obligations of the European Social Charter would require
- to give to the parliament and the citizens true and adequate information about the content of the provisions which guide CETA and its 'investment court's awards and about their impacts on the possibilities to ensure and protect the resources and qualifications to secure human rights

#### II. Take immediate measures, by which:

- Finland is required to suspend the process of CETA approval as long as it has not assessed and reviewed the impacts of CETA, its investment court system and its court's potential verdicts on the state's ability to secure and implement human rights compliant to its obligations
- it ensures, that Finland will assess and review CETA's human rights impacts in a way which is acceptable to the European Committee of Social Rights as a competent human rights impacts assessment - including also CETA's cumulative impacts when combined with other changes of legislation which the government proposes, such as new laws on social and health services and new provisions on EU-Canada strategic partnership.

#### Rights whose protection is neglected by the government's CETA proposal

The European Social Charter obliges Finland to secure equal rights in compliance with its articles 1-7, 11-13, 20-24, 26-31 and article E of its part V to all of which Finland has committed itself to secure the rights to the following matters:

- equal rights to work, to safe, healthy and just work conditions, to a decent salary, the protection of health, social security, social and medical assistance, to housing and to the protection of children, youth and older people
- to get protection in respect to termination of employment, poverty and social marginalisation, and to get equal treatment and respect for one's dignity at work without gender-based or other discrimination or harassment
- to organise and bargain collectively, get information and participate in decisions on work conditions/ environment

#### The proceedings by which CETA has been negotiated, treated and proposed to be approved endanger human rights

Finland has not secured these human rights and their effective use the way its obligations require in respect to the provisions and impacts of CETA and the proceedings related to the negotiation and ratification process of CETA.

When the Finnish government has been negotiating and considering CETA and its investment provisions, and proposed their approval, it has not identified, recognised or treated compliant to its human rights obligations the ways how CETA restricts the state's ability to ensure the fulfilment of the rights recognised by the European Social Charter.

While the Finnish government proposes for the CETA 'investment court' the power to judge democratic laws and acts which secure human rights as being a 'breach' of investment protection, Finland has not ensured that this power could not weaken the state's ability to secure human rights as required by the European Social Charter.

Finland has thus neglected its obligations under the European Social Charter and endangered human rights, particularly in the following ways which we request the European Committee of Social Rights also to consider under the complaint:

1. During the negotiations and EU approval and national CETA ratification processes Finland has not required CETA to be made compatible with the state's human rights obligations.
2. Finland has not ensured that, as a condition of the formulation and approval of the provisions of CETA, they should not be allowed to weaken the efficient use and protection of the rights enacted in the Euroopan Social Charter.
3. Finland has not conducted human rights impact assessments on CETA's impacts as required by its obligations on the state's ability to maintain the conditions for protecting human rights in respect to labor, social, health or other laws.
4. Finland has neglected its sovereign competence to participate in formulating the provisions of the CETA 'investment court' as required by its human rights obligations.
5. The government of Finland has given to the parliament and to the public an untrue and inadequate picture of CETA's provisions, of the 'investment court's' jurisdiction and about the ways how these affect and endanger human rights
6. Finland has not clarified what judicial consequences for the state's laws, its property and for the use of these follows from the 'investment court's' power to judge the laws or legal use of public property as "breaches" of investors' rights.
7. The government has not demonstrated how it can ensure that CETA 's 'investment court' would determine the 'legitimate' objectives of regulation to be what the European Social Charter obliges Finland to ensure them to be.
8. Finland has not verified how it can ensure CETA's awards on compensation of 'indirect expropriation' to comply with the way how the European Convention on Human Rights and Finland's constitution oblige property to be protected.
9. Finland has not shown how it could, in respect to CETA compensation awards' threats and impacts in a sovereign way comply with its obligations to respect and enforce the whole of international legal order, the constitutional purpose of the state's international cooperation and people's right to self-determination of its own means of subsistence.

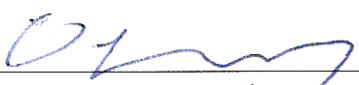
The government has not made explicit either how Finland could ensure that the rights recognised in the European Social Charter will be respected in negotiations about the EU-proposed 'Multilateral Investment Court', to which the implementation of CETA's investment protection would later be transferred on the basis of CETA article 8.29.

These 9 ways, in which the government neglects its responsibility or its obligations impair in many ways state capacity to secure and fulfil economic and social human rights including those provided by the European Social Charter, and peoples' fundamental democratic rights to self-determine their subsistence and their property ownership systems.

We request the European Committee of Social Rights to examine and clarify in respect to the risks presented in 9 corresponding sections here below and in 2 annexes, whether Finland's measures to negotiate and to get approved CETA, the EU-Canada Strategic Partnership Agreement or the 'Multilateral Investment Court' would neglect its European Social Charter obligations. We request the Committee also to clarify how Finland can ensure that it does not negotiate or approve such agreements which endanger state ability to protect and fulfil socioeconomic human rights.

If Finland does not review CETA's investment protection and compensatory awards' impacts on the protection of human rights and does not correct such provisions in time to comply with its human rights obligations, CETA's article 30.9 will oblige the state for at least further 20 years after it leaves CETA to remain under the binding jurisdiction of CETA investment verdicts even if they would endanger the country's ability to secure and fulfil human rights. (1) Also the Parliamentary Assembly of the Council of Europe and its Committee of Social-, Health and Sustainable Development Affairs have considered it to be inordinate that states would remain bound by CETA 'investment court's' verdicts still 20 years after leaving CETA. (2)

Signatures, Helsinki, 13 April 2018:

  
 ATTAC ry Omar El-Begawy

  
 Globaali sosiaalityö ry Miina Kaartinen

  
 Maan ystävät ry Liisa Uimonen

  
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## 1. How approval of CETA and its investment tribunal does not respect but violates human rights

When authorising transnational bodies to make decisions which bind it, Finland must be able to ensure that the decisions respect human rights and equal basic rights in compliance with the constitution and human rights treaties.

By accepting CETA, Finland would give the transnational investors the possibility to sue human rights protecting laws, measures and the use of public funds to become judged in the CETA 'investment court' as a 'breach' of investment protection which could force the government to pay billion euro scale compensations to the investors by assuming that acts of human rights protection would have restricted the realisation of investors' profit expectations.

CETA authorises its 'investment court' to observe only such rights of persons, which have been "created between the Parties under public international law" - including the privileges CETA creates to transnational investors. (3) As the EU is a party to CETA but not to the general human rights treaties of the UN or the Council of Europe, and as Canada is also not a party to the latter, the CETA 'investment court' is not obliged, not even mandated to consider equal human rights - which Finland is however obliged to ensure to be respected in any jurisdiction applied to Finland, in compliance with its constitution, UN treaties and the European Social Charter.

When making agreements like CETA by corresponding ways to negotiate, consider and approve a treaty, Finland and other states neglect their human rights obligations if they do not require the provisions of trade and investment treaties to be compatible with the obligations to protect and promote human rights and to use the available public resources for this. According to the UN human rights organs the state has as its obligations:

\* to ensure that also in its international economic cooperation the state continuously promotes the progressive fulfilment of universally equal economic, social and cultural human rights "by all appropriate means, including particularly the adoption of legislative measures", "to the maximum of its available resources". (4)

\* to "demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority" these human rights with "the widest possible enjoyment of the relevant rights" (5) - which "also requires directing the efforts of business entities towards the fulfilment" of these rights.(6)

\* "the primary obligation to respect, protect and fulfil the Covenant rights of all persons under their jurisdiction in the context of corporate activities" (7) observing that "the obligation to respect economic, social and cultural rights is violated when States parties prioritize the interests of business entities over Covenant rights ". (8)

In respect to these human rights covenant based obligations "States parties cannot derogate from the obligations under the Covenant in trade and investment treaties that they may conclude". (9) "Human rights norms must shape the process of international economic policy formulation" and states have "to ensure that their international human rights obligations are considered as a matter of priority in their negotiations" on trade and investment. (10)

Being responsible to secure human rights by their country's resources, States cannot give up their powers of jurisdiction on the use of those resources to organs like a CETA 'investment court', which does not have corresponding obligations to ensure that those resources must be used in a way which secures and fulfils human rights. The state must "reserve sufficient resources" to maintain "the real conditions for fulfilling its obligations" on human rights. (11) Finnish parliament's Constitutional Law Committee has requested the government to show how the equal realisation of basic rights can be ensured regarding the "available resources" also under the new social and health services (SOTE) legislation which the government however proposes to be realised, financed and implemented "compliant to the orders given on treatment of investments" in CETA, which is not obliged to secure human rights.

Human rights are violated if CETA's "investment court system judgments deprive Governments of funds essential to meet their health, housing and education obligations." (12) When public tax assets which protected human rights are bindingly judged to become transnational investors' private property used for other purposes, this violates human rights by preventing their realisation. As exceptions allowed by CETA do not cover investment protection, they cannot either protect against such violations. (13) Taking away the resources which the state would need to protect human rights, CETA can thus violate human rights without formally prohibiting a state from protecting them.

"States should refrain from concluding agreements that would affect their public budgets [...] in a way that would impede the full realization of human rights".(14) The Finnish parliament's social and health committee sees the government's proposal for CETA-approval as being "insofar inadequate, that it does not show how Finland has prepared to reply to upcoming lawsuits, trials and compensations" in the CETA Investment Court System (ICS) which might be "requiring often remarkable resources". (15)

## 2. Approval of CETA prevents efficient protection and use of the rights provided by the European Social Charter

The Council of Europe's Parliamentary Assembly's Committee on Social Affairs, Health and Sustainable Development notes that CETA creates "new powers for transnational investor companies to sue EU member states for laws they pass which affect investor profits, including those designed to protect public health, the environment and workers' rights". (16) The danger in this "is that investor rights "to make a profit" tend to prevail over public policies protecting human rights, in particular social rights such as workers' rights, and protection of public health and the environment". (17)

CETA parties "reaffirm" commitments and rights to protect by regulation the rights at work, the environment, public health and social security (18) but in a way which weakens the implementation of these rights and their jurisdiction. States lose their rights to follow human rights obligations and to refrain from obligations which weaken this protection if a CETA 'investment court' is authorised to order public resources earlier used for human rights to become investors' property. This threatens the rights to safe, healthy or just working conditions, to protection of health or social security.

The same applying of labor laws to which state is bound in CETA article 23, CETA's investment court can judge bindingly as a 'breach' of article 8.12 if it assumes labor protection to restrict "excessively" the profits expected by investors - as rights recognised for them by CETA. (19). Reinforcing investors' rights to get profits they expect to get compensated by investment verdicts, CETA's 'investment court' does not determine the content of labor laws, but orders the use of public funds which fulfils the labor law to become compensated to the investor as a 'breach' of its profit expectations.

Investors' rights enacted to encourage investment and their enforcement by compensation awards weaken in this way the state and its ability to protect labor and are imposed by the CETA 'investment court' - not by the state which CETA enacts to be responsible for impairing labor protection. Hence the responsibility for the consequences does not reach to the causes which impair labor protection in order to encourage investment. As nothing is done to correct them, this encourages investments in a way which impairs labor protection – in a manner not depending on the will of the state.

As funds of labor rights protection are shifted to become property of foreign investors, the state is deprived of its right to secure workers' rights by its public funds and laws it has set to secure these rights. If rights at work or environment are left unprotected, no economic sanctions follow. (20) CETA does not prevent the state from weakening labor protection but denies only that state were allowed to do so "to encourage trade or [...] investment in its territory." (21)

Also the EU Court of Justice has noted that such clauses on labor and environment "are intended not to regulate the levels of social and environmental protection".(22) CETA encourages investments thus by impairing labor protection by its awards, and also withdraws options to correct how CETA-encouraged investment impairs labor protection - enacting as responsible for this only the state, which is judged and can not correct or govern such CETA judgements.

By giving to the CETA's 'investment court' the power to determine the protection and rights of workers to become implemented according to how it would best promote the rights of transnational investors - and not according to what human rights and their commitments would oblige the state to do -, the EU and Canada would set by CETA retrograde conditions to laws for the implementation of workers rights. The 'investment court' does not implement the whole justice as equal to all but only the rights of transnational investors as a form of investor-state dispute settlement.

Transnational investors win about 60 % of those investor-state disputes which result in a award. Of these the state is judged to pay on average 0,55 billion dollars per award to the transnational investors, whose claims have been on average 1,4 milliard per case. (23) Even though all awards do not lead to compensations paid in billions, states must still remain prepared for the risks of being judged to pay, and amounts reaching billions cannot be excluded.

In most of the cases state laws or acts have been judged as 'breach' due to frustrated profit 'expectation' that investors have got from a state. Also CETA mandates its 'investment court' to issue awards thus for the following kinds of causes:

- \* Rights concerning work conditions, social security, work safety and health as protected by laws and acts which implement the European Social Charter could become judged as "indirect expropriation" which "interferes with distinct, reasonable investment-backed expectations" and restricts the profits expected by investors in a manner which "appears manifestly excessive" (24) - even if those laws and acts were obliged by the European Social Charter

- \* Social and medical assistance or protection of workers' rights could be judged as 'inequitable' for an investor if a state has made an investment-inducing "specific representation to an investor [...] that created a legitimate expectation, and upon which the investor relied" (on commercialisation of social and health services or on work conditions) but which the state for its human rights protecting acts has "subsequently frustrated". (25)

- \* Laws and acts, which secure people's rights to equal, dignified treatment in work without gender-based or other discrimination or disturbance - or rights against termination of job, poverty or marginalisation -, could be judged to become compensated as harrasment of investors or "abusive treatment of investors ". (26)

### **3. Finland neglects its responsibility to assess and examine in advance the human rights impacts of CETA and does not ensure or prove, how it could prevent CETA's awards from impairing the state's ability to secure human rights**

The government has not in these respects secured as a condition of the formulation and approval of CETA's enactments that they shall not impair the effective protection and use of the rights provided by the European Social Charter.

In authorising international bodies to make decisions which bind it, Finland has to be able as a member of the Council of Europe to ensure that they respect human rights and equal basic rights as required by the European Social Charter, the Finnish constitution or human rights agreements. According to the Council of Europe's Committee of Ministers:

When concluding "trade and investment agreements or other relevant conventions, member States should consider possible human rights impacts of such agreements and take appropriate steps", "address identified risks of adverse human rights impacts" (27) and "evaluate new relevant legislation with regard to any impact on human rights" "to protect individuals against human rights abuses by third parties, including business enterprises." (28)

The Council of Europe's Parliamentary Assembly urges states to ensure that CETA 'investment court' "mechanisms are (re)constructed in a way that obliges them to implement the European Convention on Human Rights and the rulings of the European Court of Human Rights" (29) to "ensure that [...] companies can only sue for actual damages". It shall not "discourage governments from taking necessary regulatory measures to uphold the rights of their citizens against foreign multinational companies [...] by strengthening the protection of the environment and social rights".(30)

The UN High Commissioner for Human Rights notes that state has "to examine international agreements, such as trade and investment agreements, and their impact on all human rights, including economic and social rights" to observe "extra-territorial obligations and [...] progressive realization".(31) States must "detail how they will uphold their human rights obligations if they ratify" such treaties. (32) "Human rights impact assessments of trade and investment agreements should be prepared prior to the conclusion of the agreements and in time to influence the outcomes of the negotiations", taking "every effort to ensure" that they "do not have a negative impact on" human rights. (33) A state "must demonstrate that every effort has been made to use all resources that are at its disposition [...] to satisfy, as a matter of priority" the obligations "to ensure the widest possible enjoyment" of human rights. (34)

"The conclusion of such treaties should therefore be preceded by human rights impact assessments" so that "States parties should identify any potential conflict between their obligations under the Covenant and under trade or investment treaties, and refrain from entering into such treaties where such conflicts are found to exist". (35) Also the EU has set human rights impacts to be assessed as guided by instructions of the human rights monitoring bodies. (36)

Finland however has not assessed CETA's impacts on its ability to secure and fulfil human rights compliant to its obligations. The government says that social and health services (SOTE) regulation must be renewed quickly so that "people's basic rights can be implemented" (37) and that "the impact assessment of the regulation has a great significance".(38) In practise the government however considers that SOTE-regulations must be implemented only "compliant to the orders given on treatment of investments" by CETA with no need to assess the combined impacts of the regulation set by SOTE and CETA on the fulfillment of basic rights (39) - even though it says<sub>2</sub> that "assessment of the factual impacts of the whole of regulation on the fulfilment of rights secured in the constitution is decisive". (40)

Finnish parliament's social and health committee notes that "the disadvantages caused by the investment protection have not been assessed in respect to the public benefit, public economy" or in terms "how Finland has prepared itself to reply to the upcoming lawsuits, trials and compensations". (41) Human rights are "violated when States parties prioritize the interests of business entities over Covenant rights" (42), in this way causing a risk that "investment court system judgments deprive Governments of funds essential to meet their health, housing and education obligations."(43) They must "test the legality of provisions of [...] investment court system" "for compatibility with their own Constitutions and with their human rights treaty obligations" before parliaments can duly approve CETA.(44)

As the government did not present CETA's relation to the international human rights agreements, also the Finnish parliament did not fulfil its constitutional duty. While its "Constitutional Law Committee shall issue statements on the constitutionality of legislative proposals" and 'on their relation to the international human rights treaties". The compatibility of CETA with the human rights agreements has thus not been examined as the constitution requires, and neither has CETA's constitutionality been verified even though "human rights agreements have also interpretational impact on the application of the basic rights". (46) CETA itself enacts that its binding awards do not need to be in compliance with the constitutional or other human rights obligations. (47) The impacts of this have not been assessed.

Finland has, thus, at present in no way ensured that it would not neglect its international and constitutional obligations to secure human rights compliant to its responsibilities and jurisdiction if it would approve CETA.

#### **4. Finland has neglected its legal competence and human rights responsibility to participate in shaping and negotiating the CETA articles on the investment tribunal to be compatible with Finland's human rights obligations**

CETA creates for transnational investors binding privileges which it respects, protects and strengthens without allowing them to become treated or judged in such courts which are authorised to respect and implement equal human rights (48), the European Social Charter, or "to protect [...] life or health" (49), not even rights equal to all investors.

When "it is possible to apply" to CETA's articles "only in a tribunal established by the agreement" itself, also according to the Finnish government the way how CETA transfers to its investment court "jurisdiction which belongs under the law and judicature of Finland [...] means as such interference to the sovereignty set by constitution's section 1§." (50)

In respect to the power shifted to the CETA 'investment court', Finland cannot secure that its awards do not endanger or limit human rights which secure public measures or resources. This would conflict with state's human rights obligations. (51)

"States have a duty to protect individuals against human rights abuses by third parties, including business enterprises." (52), but Finland has not used its competence to get CETA's provisions corrected in a manner which would protect human rights including those enacted by the European Social Charter and secure efficient use of these rights.

Decisions on dispute-settlement systems between investor and state "fall within a competence shared between the European Union and the Member States" according to the European Court of Justice. (53) Still this kind of "rules on the new Investment Court System (ICS) were included in the CETA-agreement" only "after the negotiations between the parties had been finalised". And the law committee of the Finnish parliament concludes thus:

"Memberstates of the Union did not thus have in practice possibilities to influence the content of the rules" of ICS even though they belong to the "shared competence of the union and its memberstates." (54)

Legality of the human rights impacts of the power proposed to be given to the 'investment court' must be examined and publicly clarified beforehand so that measures which the parliamentary committees say are needed can be taken:

\* The power of the 'investment court' decisions limits "the national jurisdiction in social and health sectors in a manner the scope of which is difficult to know in advance" and "the disadvantages of the investment protection have not been assessed in respect to the public benefit, public economy and other objectives concerning the society". (55)

\* As "there are many examples on how the lawsuit can be used as a means to pressurise against legislative change", such lawsuit threats' "indirect impacts would need to be assessed, considering how to prepare to handle them" (56)

\* "CETA provisions on dispute settlement have remained opaque and abstractly general" and investment awards' "relation to national courts has not been solved in any clear manner". (57)

#### **5. The government has given to the parliament and to the public an untrue and inadequate picture about the CETA articles, the 'investment court's' jurisdiction and about their impacts which endanger human rights**

The Finnish government and few CETA articles' inaccurate translations have given the following inadequate, misleading or untrue information for the parliament's decision making on CETA provisions which direct the investment rulings and jurisdiction and on their human rights impacts - basing Finland's CETA treatment on the following invalid assumptions:

**a)** It has been assumed that CETA would not create rights to any persons but only between the parties of CETA (58) - even though CETA creates rights also to persons, but as unequal privileges belonging only to the holders of transnational investment capital, creating only to them also a direct right of action in the CETA 'investment court'.(59)

**b)** The state has been assumed to commit itself in CETA "to strengthen human rights" without rights to persons being any further reinforced (60), "to promote labor rights" without adding their protection, to develop society with no direct "impacts on society". But society or human rights are not strengthened if people's rights are not better secured.(61)

**c)** The government has assumed that CETA would have no "direct impacts to the state budget", no "significant impacts on personnel or activities of authorities" (62) - even though CETA investment protection's awards can reach a scale of billion euros and thus influence a state's use of resources or personnel, crucially endangering human rights. (63)

**d)** The investment court has been assumed not to demand compensations for state acts that "impact equally without

discrimination" of investors (64) - even though according to CETA the state can be judged to pay huge amounts also for non-discriminatory acts if they restrict realisation of expected profit in a way that "appears manifestly excessive" (65)

e) 'Investment court' rulings have been assumed not to affect democracy's ability to "regulate economic activity in the public interest" by human rights protection of health, social security, environment and consumers (66) - even though human rights demand fiscal assets to be kept to protect them and not to be shifted into global investors' property. (67)

f) Finland has been assumed to have secured social and health services as the government believes it has set in CETA "EU's strictest reservations to the social and health services" (68) - even though these Finland's reservations do not even apply to CETA investment protection and do not thus protect the country from investment court's verdicts. (69)

g) It has been assumed that CETA would not give "privilege to appeal to the investment court system" of CETA and "will not result in foreign investors being treated more favourably than domestic investors" (70) - even though CETA determines that only transnational investors can file a suit in the investment court and get huge compensations. (71)

h) CETA articles on its investment tribunal have been assumed to guarantee "public and impartial treatment" (72) - even though CETA does not even mandate its 'court' in its binding awards to respect rights of other persons than holders of transnational investment capital. (73) Also in this way CETA discriminates against people's rights.

i) It has been assumed that CETA would have "determined the compensation criteria to cover only the objective loss" and that the only risk would be, if the "parliament would change the law" hampering the corporate activities (74) - even though risks come also from the way how CETA approves that compensations are also based on 'representations' which the investor has got (and which are difficult for the state to govern) and on that how high 'expectations' on profits the investor can be assumed to have got from state's laws and acts. (like from state's SOTE-proposal). (75)

How the government's above described assumptions and two of the CETA translation's mistakes have given to the parliament, to the people and to the publicity misleading information about CETA, is presented more in detail in the attached annex. Also in many other ways the Finnish government has not given adequate information on CETA.

The Finnish parliament's constitutional law committee has said it is not "appropriate that the government's proposal does not include the text of CETA, which is proposed to be approved and enacted". (76) Also states' jurisdiction "governing the system of property ownership" and competence to change it - which has not been given even to the EU - would be transferred to the 'investment court' by annexes which are difficult to find like CETA annex 8-A. (77)

When the government's interpretations of CETA and mistakes in CETA's translation have given in many ways an untrue, inadequate or inaccurate picture about the provisions, contents and impacts of CETA's investment rights for the parliament's upcoming CETA-decision, Finland neglects in this way its obligations to respect and secure human rights.

## **6. The 'investment court' judges bindingly our laws and property by meanings which it has itself given to them and which are neither legally enacted in our laws and property in our country nor legally binding on our jurisdiction**

"The Tribunal shall not have jurisdiction to determine the legality of a measure [...] under the domestic law of a Party" but it treats state's law or act as such "matter of fact" (78) which could be considered to violate the rights provided by CETA to transnational investors - if the 'investment court' gives it this kind of meaning.

But if a law is treated only 'as a matter of fact' without its legally obligating character which makes it to be a law, it is not factually treated as a law in a court. As a 'mere fact' it can also not be judged to be a 'breach' of CETA .

To examine whether a law or act would be a 'breach' of CETA investment protection, the 'investment court' needs however to clarify the legal meaning of a state's law or act as a law which would by its legal obligatory character violate CETA investment protection (79), and for this purpose:

"The Tribunal shall follow the prevailing interpretation given to the domestic law by the courts or authorities of that Party and any meaning given to domestic law by the Tribunal shall not be binding upon the courts or the authorities of that Party." (80)

When such "meaning given to domestic law" to be a 'breach' does not correspond the meaning enacted to that law by the state and does not follow "prevailing interpretation given to the domestic law", in which a country's law is not a 'breach', such meaning also "shall not be binding upon the courts or the authorities of that Party." (81)

But if from outside of the legal meanings which a parliament has enacted laws to mean, this 'investment court' itself gives to laws such new meanings on how a democratic law would be a 'breach' of investment protection, then:

As the law by itself does not have a meaning of being a 'breach' is it possible for the investment tribunal to get a state bound to pay compensation in billion dollars scale from such 'breach' if "any meaning given to domestic law by the Tribunal shall not be binding upon the courts or the authorities of that Party" ? (82)

Are not state's authorities anyway expected to be bound to pay from state's public funds those billion dollar scale compensations to the transnational investors in compliance with the meanings which CETA's 'investment court' gave to the domestic laws - but which "shall not be binding upon" these authorities who are still expected to be bound to pay?

Or if the meaning given to law by the Tribunal shall not bind state authorities to recognise and grant such billion dollar amount from the state's public funds to be property of transnational investors, then these authorities can not legally transfer such billions to those investors on the basis of meanings which are not legally binding on the authorities. (83)

Funds by which the state protects human rights come from taxpayers and remain public funds compliant to the state's law and sovereignty - if they are not bound by the meaning which the investment court gave to them as an investor's property.

A meaning according to which the money collected from taxpayers would be 'indirect expropriation' from a transnational investor to whom it should be 'compensated' does not "follow the prevailing interpretation given to the domestic law" (84) but comes from outside of it, ordering taxpayers' money to be transnational investors' property.

If the meanings which the investment tribunal gives to laws from outside are approved to bind the state's authorities and courts by orders of ownership transfer, this endangers the competences and obligations set by the EU treaties.

The EU Court of Justice "shall ensure that in the interpretation and application of the Treaties the law is observed" (85) so that it "shall have jurisdiction to give preliminary rulings concerning [...] the interpretation of the Treaties". (86) This is not respected by "a mechanism for settling disputes between an investor and a Member State which could prevent those disputes from being resolved in a manner that ensures the full effectiveness of EU law". (87)

As the EU Court of Justice is still clarifying whether the CETA investment court system is compatible with the EU treaties and primary law and to which extent submitting investor-state "disputes to a body which is not part of the judicial system of the EU" is excluded by the EU law, the approval of CETA can consequently not be justified before the EU court has concluded the clarification and is "not [...] compatible with the principle of sincere cooperation" of the EU. (88) Neither can the transnational investor be justified to get a CETA-type power to decide - independently from the totality of law and justice - whether its rights in a country are judged in a court which must respect all rights that are in force in this country or in a tribunal mandated to respect and enforce only transnational investors' rights. (89)

## **7. The 'investment court' endangers the rights and capacity of the state to carry out its obligations to fully secure human rights by public regulation and public services as required by the constitution**

CETA would give to its 'investment court' a power to re-determine what is a regulation "to achieve legitimate policy objectives, such as the protection of public health, safety, the environment", of culture, social security, or consumers. (90)

People lose sovereignty if their power "to adopt and apply their own laws and regulations" to regulate the economy by human rights measures is changed into the CETA 'investment court's' power to determine states' rights to "regulate economic activity in the public interest, to achieve legitimate public policy objectives". (91) As the investment "tribunal shall not have jurisdiction to determine the legality of a measure [...] under the domestic law" or human rights treaties (92), for it the protection of human rights may not be a 'legitimate policy objective'.

Under the investor-state dispute settlement's practices the "governments that have been democratically elected to carry out specific social policies have been sued by investors precisely because of those democratically mandated policies", and may get sentenced to pay high compensations. (93) "Investment court system judgments deprive Governments of funds essential to meet their health, housing and education obligations. " (94)

By approving CETA, the states would neglect their obligations to progressively "take necessary steps, to the maximum

of their available resources, to facilitate and promote the enjoyment of" economic and social human rights. (95) Also rights recognised by the European Social Charter are correspondingly economic and social rights, and their implementation and the corresponding resource use is allowed to be restricted "only in so far as this may be compatible with the nature of these rights". (96) CETA does not have any measures to secure this.

Human rights fulfilling by the use of public funds in social security and health care (SOTE) services would become subordinated to the enforcement of service investors' rights on commercialisation of these services by the combination of the government's proposals on SOTE and CETA. This would transfer human rights-based production, financing and provision of these services and public measures into such market-based arrangements under which the state is allowed to protect human rights only as far as corporations and investors can profit from it.

By commercialising such use of public funds which has secured human rights, the government proposal on SOTE services would also expose such funds to be treated as prohibited state aid under EU law (97) and give to foreign investors such expectations of profits which the state may "frustrate" if it enforces on service production such human rights requirements for which investors may sue the state under CETA to compensations for restriction of their expected profits.

The state could thus be sentenced to pay to investors huge compensations for measures which fulfil the European Social Charter or the Finnish constitution, as investors can claim that profits which they expect due to the government's SOTE-proposal are endangered if states provide human rights-protecting equal health care by public funds at cheaper prices. The government proposes Finland's SOTE-services, working life conditions and unemployment security to become changed in ways whose human rights impacts are - after years of many other kinds of assessments and clarifications - still quite unassessed and unclear, easily creating in investors many profit expectations from which CETA's 'investment court' could order the state to pay billion-scale compensations. (98)

The Constitutional Law Committee of the Finnish parliament has requested the government to demonstrate how people's equality as to their basic rights to health care and social security is guarded and enforced in practice under the proposed SOTE laws and within the conditions of the "resources available". (PeVP 29/2018 vp) As the government has told that this implementation, financing and guidance of SOTE services would be implemented "compliant to the orders given on treatment of investments" in CETA, which are judged by its 'investment court', which in turn does not have in its verdicts any obligations to respect or protect equal realisation of basic rights, the impact of the CETA 'investment court system' on these equal basic rights needs to be clarified correspondingly.

CETA increases in many ways the insecurity threatening the SOTE services' human rights basis, which has by commercialisation already in many ways been put into a chaotically fragile and vulnerable situation (See more in detail the attached annex "Miten SOTE:n 'valinnanvapaus' vaarantaa sosiaaliturvan ja terveydenhoidon perusoikeudet").

**8. The 'investment court' would get authority to change and violate the constitutional human right to property and the system of property ownership in ways contrary to the sovereignty of the Finnish state.** (CETA articles 8.10(4), 8.12(1) 8.18, 8.31(2))

In Finland the private and public "property is secured" and "expropriation to common need against full compensation is enacted by the law" so that it can be transferred to other ownership against the will of the owner only accordingly, compliant to the law which is equal to all. (99). As in CETA only transnational investors have rights to legal action and compensation on 'indirect expropriation', "It is difficult to justify that the investor-State dispute settlement grants to foreign investors greater rights than to domestic investors, thereby creating unequal competitive conditions." (100)

CETA's investment awards are binding and do not respect the Finnish law. Their definitions of 'indirect expropriation' and 'fair and equitable treatment' which the Tribunal in its decisions relies on, the criteria for compensation, and also the nature of dispute settlement do not protect property as required by the Finnish constitution. (101) These CETA provisions differ in all below-mentioned respects from the right to and protection of property enacted by the constitution, and also from the normal arbitration:

**a)** While the property that is to be expropriated must first be legal property of the actor from whom it gets then expropriated to general need against compensation, in CETA's 'indirect expropriation' however, nothing which has been owned by a legal holder is taken away, but on the contrary: the investor demands legal public property to become transferred away from the general need into its private property

CETA violates thus the constitutional protection of property right by forcibly transferring without compensation the legal public property away from the human rights securing use of general need into private property of a transnational

investor - without that property even having ever been legally a property of the concerned investor. Thus "the introduction of the ICS represents discriminatory protection in favour of the investor not available to either citizens or to the democracies that represent them". (102)

**b)** In Finland property can be transferred to public or general need by laws, which domestic courts can implement. CETA on the contrary orders public property to be forcibly transferred to a transnational investor in a way which does not depend on the country's laws and justice or on human rights - not even if it would violate human rights or democratic laws on the right to property.

Property which secures and fulfils human rights as legally governed public funds, becomes under CETA bindingly judged into property of transnational investors, independently of whose property it legally is under the European human rights convention, under EU law, the Finnish constitution, other laws, or according to the justice as a whole.

**c)** Human rights-protecting public fiscal assets are public funds in respect to the law and the state's sovereignty – unless the authorities and jurisdiction of the country are bound by how taxpayers' money is 'given significance' by the CETA investment tribunal so that it becomes a property of a transnational investor. However in such a manner that at the same time CETA enacts in a self-contradicting way that any such "meaning given to domestic law by the Tribunal shall not be binding upon the courts or the authorities of that Party". (103)

As binding decisions about human rights-protecting legally required use of taxpayers' money and about whether the nation has a responsibility to transfer such public funds into the private property of an investor are at the same time decisions on rights and responsibilities, so according to the European human rights convention article 6:

"In the determination of his civil rights and obligations [...] everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.". (104) This would be required also by the article 21§ of the Finnish constitution, but CETA excludes from its judgement processes all these kinds of rights.

**d)** The Parliamentary Assembly of the Council of Europe has demanded the states to ensure in this respect that:

- CETA investment court's mechanisms for determining the awards have to be "(re)constructed in a way that obliges them to implement the European Convention on Human Rights and the rulings of the European Court of Human Rights" (105) taking into account particularly also article 6.

When in investment awards states' democratic laws and acts can be judged on the basis of the 'specific representations' which the investors consider a state has given to them, and on the basis of their 'legitimate expectations' on profits (106), this must become reviewed according to the parliamentary assembly by ensuring, that:

- The investor must be able to "only sue for actual damages incurred" and only so that it should not happen that the "threat of litigation [...] could discourage governments from taking necessary regulatory measures to uphold the rights [...] for example by strengthening the protection of the environment and social rights". (107)

- The right to property " shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest" (108) - which CETA's judgements do not secure.

Finland has, however not, done anything to correct the concerning CETA's provisions or their impacts in order to secure human rights, so that the rights enacted by the European Social Charter could be efficiently used and realised.

**e)** CETA creates such new system for transfers of billions of dollars where the right to property will become judged on the basis of requirements of transnational investors' expectations of profits. Such CETA awards are themselves illegal expropriations or a "factual forced takeover of property", and violate Finland's and Europe's legal property rights. (109) Under CETA the ownership is not anymore determined by parliament-enacted democratic laws - which become on the contrary judged as a 'breach' of investment protection by meanings given to the democratic laws from outside.

**9. 'Investment court' endangers the UN charter based international legal order, democracy and the constitutional task of Finland's international cooperation** (CETA articles 8.10(4),8.12(1) 8.18, 8.31(1),28.3,28.6, 30.9, annexes 8-A & E)

"Finland's purposes to participate in international cooperation" (110) the constitution has enacted to be that "Finland participates in international cooperation for the protection of peace and human rights" and to develop the society as also the UN-commitments require in accordance with people's right to self-determination. (111)

When a state approves a treaty obligation which does not promote these aims such "obligation is in conflict with the constitution's provisions on sovereignty" (112) which are based on peace sustaining cooperation which respects human rights and the right to self-determination in accordance with the UN Charter where Finland's obligation is that:

"In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail". (113) Countries must fulfil these obligations to secure peace, human rights and people's right to self-determination (114) which Finland and European countries have agreed together, with nearly all other states of the world, to respect and to promote by their UN charter based agreements.

CETA, however, claims transnational investors' rights to get their profits protected and strengthened to be a priority, - from which no derogation is allowed - not even "to protect [...] life or health" or security. (115) Even if the 'investment court' judges a state to pay compensations, which exhaust the state's public resources needed to sustain peace and human rights, still such awards are prohibited from being interpreted to "prevent a Party from taking any action in order to carry out its international obligations for the purpose of maintaining international peace and security". (116)

Contrary to the UN obligations, CETA's judgements could thus take away states' ability to fulfil their UN Charter based obligations to promote respect for human rights or to adopt urgent "effective collective measures for the prevention and removal of threats to the peace". (117)

Against the UN Charter, CETA determines for its 'investment court' 20 years of power to continue to make binding decisions (118) even if they would cause "a particularly serious and substantial violation of human rights", which in turn would need to "be addressed as a case of special urgency" as it would "threaten the peace, security and well-being of the international community" - like the EU-Canada Strategic Partnership Agreement in articles 28.3 and 28.7 confirms. (119)

By these provisions the EU-states elude and neglect their primary obligations, which are to ensure that they can approve CETA's investment awards to bind themselves only as far as such verdicts can be verified to correspond and respect states' UN Charter-based primary obligations towards the world's peoples and countries. By approving the investment awards to continue as binding for 20 years still after the country has terminated CETA and even when they cause "a particularly serious and substantial violation of human rights" (120), Finland and other EU-countries neglect their human rights treaty obligations.

The Committee on Social Affairs, Health and Sustainable Development of the Council of Europe's Parliamentary Assembly notes that it is inordinate that "such arrangements would persist for twenty years without being open to change or improvement [...] irrespective of whether judgments and financial penalties were in conflict with the imperatives of public health, environmental sustainability and rights at work" (121). The parliamentary Assembly demands that, as "existing investments continue to benefit from protection for a transitional period", it "should be limited to a reasonable time frame." CETA should "make ICS mechanisms an optional protocol from which exit is possible for individual States with a one-year notice period" (122), so that human rights can become duly secured.

By approving CETA, Finland and other EU-states would neglect the obligations of the international legal order, like those of the UN Charter and UN and European human rights treaties, which the EU countries are responsible to guarantee to be respected in all jurisdiction which is binding in their territory. This has been neglected in Finland's and other EU member states' CETA negotiation and approval procedures as follows:

- \* EU member states have not agreed the EU approve the UN Charter or European or UN human rights treaties. The EU has, thus not, either made trade or investment agreements which would have binding provisions on how the EU must respect European and UN human rights treaties' obligations to which the EU is not a party - as it is to CETA.

- \* By setting the CETA 'investment court' to be mandated and obliged to apply and respect only treaties approved between CETA parties, states would against their obligations mandate this investment tribunal to sentence bindingly the states and their acts within their jurisdiction without responsibility to respect equal human rights.

- \* As the obligations of European and UN human rights treaties which EU member states have agreed with the world's other states do not depend on whether the EU states have set these obligations to the EU (123) or whether Canada is a party to the European Social Charter, thus EU states would neglect their obligations by approving CETA.

\* EU-membership does not mandate the EU member states to approve CETA independently from their human rights obligations, because their "rights and obligations arising from agreements concluded [...] before the date of their accession" to the EU - set by the UN Charter, UN human rights covenants or European Social Charter between the EU memberstates and other states - "shall not be affected by the provisions of the Treaties" of the EU. (124)

\*EU member states would neglect their obligations to clarify CETA's legality also in respect to the requirements of the EU treaties, as the compatibility of CETA with the EU-law is still in process to become clarified in the EU court.

The judicial review of the international agreements in respect to the EU law is based on judgements and preliminary rulings of the EU 's European Court of Justice. The EU member states thus neglect also the EU principle of "sincere cooperation" if they continue CETA ratification without waiting for the preliminary ruling of the EU Court of Justice (requested by Belgium) on the compatibility of the CETA 'investment court' with the EU-law . This is even more crucial after the EU court judged (6.3.2018) investor-state dispute settlement of intra-EU investment treaties to be incompatible with the EU-law. (125)

In respect to human rights, Finland and other EU member states are sovereign and responsible to refrain from CETA ratification as long as they have not ensured the compatibility of the CETA:n investment court system with UN Charter and human rights obligations.

Compliant to obligations approved under the UN Charter, states have to respect the peoples' right to self-determination to use also within obligations of their international economic cooperation the resources of their country in such a way that "in no case may a people be deprived of its own means of subsistence". (126) A state is in this respect responsible to promote the realisation of the economic, social and cultural human rights as equal for all "by all appropriate means, including particularly the adoption of legislative measures" "to the maximum of its available resources". (127)

Finland has, thus, "to reserve adequate resources" and maintain "actual conditions to carry out its responsibilities" so that the state can secure "basic rights ultimately integral to the right to life". (128) The 'investment court' would, though, not respect "the economic content of the right of self-determination", which belongs to peoples' inalienable rights as "an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights" thus as international law's unconditional order. (129)

According to the Finnish constitution "an international obligation shall not endanger the democratic foundations of the constitution". (130) But CETA's provisions "would unacceptably restrict the powers of national parliaments to adopt legislation on matters within their remit." (131) The legislation concerning investments and "the definition of investor protection [...] is the task of the Parliaments" and nothing justifies why "special rules for investor protection that bypass the Parliaments in terms of substantive law, should be set up and enforced by a special court.." (132)

The first article of the EU treaty demands that in the EU "decisions are taken as openly as possible and as closely as possible to the citizen". (133) But now the citizens in Europe have not got to know how the decision was made to give CETA's 'investment court' the power to judge bindingly the money which citizens have paid as taxes, and which has secured their human rights to become transferred into transnational investors' property. The citizens have not even had the possibility to become heard or to get their human rights taken into account in the decisions about CETA's 'investment court', whose awards deprive people of the public resources used otherwise to secure their rights.

CETA's 'investment court' endangers thus international legal order and the foundations of democracy. It subordinates the basic human rights under the rights of transnational investors to get profits which they have expected to get as their rights under the CETA. CETA's new type of 'investment court system' "differs from the one which international agreements on investment protection usually" set up. (134) Even according to the EU that "CETA represents an important and radical change in investment rules and dispute resolution" - also internationally "towards the creation of the Multilateral Investment Court". (135)

Acting without the human rights obligations of the UN and European human rights treaties, the EU has formulated also a proposal on a multilateral investment court, which does not respect but neglects the human rights obligations which the world's countries have agreed. CETA has enacted its investment court to become expanded into a multilaterally binding global system (136) without the world's countries having been able to influence its content of the proposal.

The Council of Europe notes that the states have "to require [...] business enterprises domiciled in their jurisdiction to respect human rights" also "throughout their operations abroad" and "ensure that everyone within their jurisdiction

may easily have access to information about existing human rights in the context of corporate responsibility." (137) States "must ensure that they do not obstruct another State from complying with its obligations under the Covenant. This duty is particularly relevant to the negotiation and conclusion of trade and investment agreements." (138)

The protection of the rights recognised by the European Social Charter is supported also by the sections 1-3, 6, 13-15, 18-22, 74, 80, 94-99, 106 and 124 of the Constitution of Finland and more widely by Finland's obligations under the articles 1-2, 55-56, 62 and 103 of the UN Charter, articles 1-15 and 25 of the UN International Covenant on Economic, Social and Cultural Rights, also by the articles 1, 4-7, 10-11, 13-14 of the European Convention on Human Rights and by its First Additional Protocol.

This overall legal context of Finland's human rights based legal order would get endangered by the Finnish government's proposal on approval of CETA and particularly of its articles on investment protection, on 'investment court system', on labor, on private rights, on exceptions and on conditions of termination which are gathered and presented in this complaint's "Annex of CETA articles whose combined impact endanger human rights as described in the complaint".

## **References**

1. CETA, article 30.9 and EU-Canada Strategic Partnership Agreement's article 28.7 and articles 10 and 28.3
2. Resolution 2151 (2017), of the Council of Europe's Parliamentary Assembly "Human rights compatibility of investor-State arbitration in international investment protection agreements", paragraphs 8 and 10.5 and its' Committee of Social, Health and Sustainable Development Affairs, Doc. 14255, 25 January 2017 Human rights compatibility of investor-State arbitration in international investment protection agreements, Committee Opinion, A. Conclusions of the committee
3. CETA articles 30.6 and 8.31 (1)-(2)
4. UN International Covenant on Economic, Social and Cultural Rights (ICESCR), articles 2.1 and 2.2
5. UN Committee on Economic, Social and Cultural Rights, General comment No. 3: The nature of States parties' obligations (art. 2, para. 1, of the Covenant, paragraphs 10-11
6. UN Committee on Economic, Social and Cultural Rights, E/C.12/GC/24, State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, paragraphs 12-13 and 23-24
7. E/C.12/2011/1, UN Committee on Economic, Social and Cultural Rights, Statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights, paragraphs 3 and 7
8. UN Committee on Economic, Social and Cultural Rights, E/C.12/GC/24, State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, paragraphs 12-13 and 23-24
9. UN Committee on Economic, Social and Cultural Rights, E/C.12/GC/24, State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, paragraphs 12-13 ja 23-24
10. UN Committee on Economic, Social and Cultural Rights, Statement to the 3rd Ministerial Conference of the World Trade Organisation, 26.11.1999, paragraphs 2, 5-6 & 8
11. The Finnish parliament's Constitutional Law Committee PeVP 29/2018 vp, PeVL 36/2012 vp, PeVL 26 2017 vp, section 3.3 and Finnish government's reply to parliament, written question on combined impacts of CETA and SOTE; KKV 232/2017 vp, 20.6.2017
12. A/HRC/33/40, UN Independent Expert of the International Democratic and Equitable Order 2016, paragraphs 30 and 36
13. CETA articles 8.15 and 28.3 (2b)
14. A/HRC/19/59/Add.5, Guiding principles on human rights impact assessments of trade and investment agreements, principle 2.4 commentary ja <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E> and UN Committee on Economic, Social and Cultural Rights, E/C.12/GC/24, General Comment No. 24 paragraphs 12-13
15. Social and health committee of the Finnish parliament, StVL 1/2018 vp
16. The Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly, of the Council of Europe, Strasbourg, 13 October 2016, <http://website-pace.net/documents/10643/2031071/D%C3%A9claration-SOC-EN.pdf/c368c678-b3bf-4ed0-8be0-6a98457b4bb8>
17. Statement of the Committee on Social Affairs, Health and Sustainable Development of the Parliamentary Assembly, of the Council of Europe, Doc. 14255, 25 January 2017 Human rights compatibility of investor-State arbitration in international investment protection agreements, Committee Opinion, A. Conclusions of the committee
18. CETA articles 8.9 (1), 23.3 (4) and 24.4 (2)
19. CETA, articles 8.12(1), Annex 8-A, paragraph 3 and article 23.4(2). CETA definition of 'indirect expropriation' would enable the investor to sue the state to pay high compensations for example on laws and measures by which state would implement European Social Charter articles 1, 2, 3(1), 21 or 22 but which CETA 'investment court' may judge as 'breaches' of investment protection
20. CETA:n articles 23.11 and 24.16
21. Statement of the Union Court of Justice (full court) Opinion 2/15, 16 May 2017, section 166 and HE 149 2017 vp
22. CETA article 23.4(2)
23. Investor-state dispute settlement: review of developments in 2016 [http://unctad.org/en/PublicationsLibrary/diaepcb2017d1\\_en.pdf](http://unctad.org/en/PublicationsLibrary/diaepcb2017d1_en.pdf), sivu 5
24. CETA, article 8.12 (1) and Annex 8-A, which would thus impair the protection and realisation of the rights provided by the European Social Charter articles 2, 3 (1), 4(2), 4 (5) and 12
25. CETA, article 8.10 (4) would in this way weaken the state's capacity of implementing the rights provided by the European Social

- Charter articles 1, 6, 13, 21, 22 and 28 - also in relation to the Finnish government's new proposals on labor conditions and social and health services - on which see attached also Annex on the SOTE-proposal of the Finnish government
26. CETA, article 8.10 (2) (e) would weaken the state's capacity of implementing the rights provided by the European Social Charter articles 4 (3), 20, 24, 26 and 29
27. The Council of Europe, Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business , Appendix 4 (Item 4.3)(Adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies, paragr. 23
28. The Council of Europe, Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business , paragraph 13, 15 ja 18-19
29. Committee of Social, Health and Sustainable Development Affairs of the Council of Europe's Parliamentary Assembly, Doc. 14255, 25 January 2017 Human rights compatibility of investor–State arbitration in international investment protection agreements, Committee Opinion, A. Conclusions of the committee 2151 (2017), paragraphs 10.6 ja 10.8.
30. Council of Europe's Parliamentary Assembly resolution 2151 (2017), "Human rights compatibility of investor–State arbitration in international investment protection agreements", paragrafit 1.2 ja 10.6
31. UN High Commissioner for Human Rights 3/9/16, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20447&LangID=E>
32. UN experts voice concern over adverse impact of free trade and investment agreements on human rights <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16031&LangID=E>
33. A/HRC/19/59/Add.5 Appendix Guiding principles on human rights impact assessments of trade and investment agreements, principle 3 commentary and A/HRC/RES/19/7, paragraph 26
34. UN Committee on Economic, Social and Cultural Rights, General comment No. 3: The nature of States parties' obligations (art. 2, para. 1) paragraphs 10-11
35. UN Committee on Economic, Social and Cultural Rights E/C.12/GC/24, General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paragraph 13
36. EU's Guidelines on the analysis of human rights impacts in impact assessments for trade-related policy initiatives, pages 5, 7-8 [http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc\\_153591.pdf](http://trade.ec.europa.eu/doclib/docs/2015/july/tradoc_153591.pdf) and The Implementation of the Charter of Fundamental Rights in the EU institutional framework, 2016 by DG for Internal Policies, Committee on Constitutional Affairs, pages 60 and 62
37. <https://www.juhasi.fi/blogi/2018/03/07/23720>, <https://yle.fi/uutiset/3-10105223> ja oheinen liite hallituksen SOTE-esityksestä
38. Finnish government's proposal on new social and health (SOTE) services legislation HE 16/2018 vp, pages 360-361, see also attached annex on Finnish government's SOTE-proposal
39. Finnish government's reply to the parliament, written question on combined impacts of CETA and SOTE; KKV 232/2017 vp, 20.6.2017
40. Finnish government's proposal on new social and health (SOTE) services legislation HE 16/2018 vp, page 361
41. Social and health committee of the Finnish parliament, StVL 1/2018 vp
42. UN Committee on Economic, Social and Cultural Rights, E/C.12/GC/24, State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, paragrafi 12
43. A/HRC/33/40, UN Independent Expert of the International Democratic and Equitable Order, report 2016, paragr. 30 and 36
44. A/HRC/33/40, UN Independent Expert of the International Democratic and Equitable Order, report 2016, paragr. 88 and 93
45. The Constitution of Finland section 74§
46. HE 1/1998 vp, page 126
47. CETA, article 8.31(2)
48. CETA, article 30.6
49. CETA, article 28.3 (2b) - the exceptions to protect life or health do not cover investment protection articles 8.9-8.12
50. The Finnish government's proposal on CETA, HE 149/2017 vp
51. When the CETA 'investment court' does not have competence to interpret or respect other laws or obligations than those which are in force between the CETA parties and other courts have no competence to interpret CETA, the rights and obligations which CETA enacts remain not reconciled but incompatible with and independent from the international law and justice as a whole
52. The Council of Europe, Recommendation CM/Rec(2016)3 of the Committee of Ministers , human rights and business, paragr. 15
53. EU Court of Justice (full court) Opinion 2/15, 16 May 2017, paragraphs 292-293 and 305
54. Committee of law of the Finnish Parliament, LaVL 1/2018 vp
55. Social and health committee of the Finnish Parliament, StVL 1/2018 vp
56. Committee of environment of the Finnish Parliament, YmVL 2/2018 vp
57. Committee of law of the Finnish Parliament, LaVL 1/2018 vp
58. The Finnish government's CETA proposal HE 149 2017 vp and the official but inaccurate translation of the CETA article 30.6 (1): "minkään tässä sopimuksessa ei pidä tulkita luovan oikeuksia tai määrävän velvollisuuksia millekään henkilöille paitsi osapuolten välille kansainvälisen julkisoikeuden mukaisesti"
59. CETA, articles 8.1 and 8.2 (1), 8.18 and the English text of the CETA article 30.6, which says: "Nothing in this Agreement shall be construed as conferring rights or imposing obligations on persons other than those created between the Parties under public international law"
- The expression "other than" refers to other rights and obligations than those persons' rights and obligations which have been "created between the Parties under public international law". Thus the meaning in Finnish would be rather: "Minkään tässä sopimuksessa ei pidä tulkita luovan oikeuksia tai määrävän velvollisuuksia henkilöille muita kuin ne, jotka on luotu osapuolten välillä kansainvälisen julkisoikeuden mukaisesti"
60. The Finnish government's proposal on CETA, HE 149 2017 vp
61. The Finnish government's proposal on CETA, HE 149 2017 vp
62. The Finnish government's proposal on CETA, HE 149 /2017 vp, sections 4.1, 4.2, 4.3

63. A/HRC/33/40, A/HRC/33/40, UN Independent Expert of the International Democratic and Equitable Order 2016, paragraphs 30 and 36 and A/HRC/19/59/Add.5, Guiding principles on human rights impact assessments of trade and investment agreements principle commentary 2.4
64. Finnish government's reply to parliament on combined impacts of CETA and SOTE; KKV 232/2017 vp, 20.6.2017
65. CETA Annex 8 A, paragraph 3
66. CETA Joint interpretative instrument, section 2
67. A/HRC/19/59/Add.5, Guiding principles on human rights impact assessments of trade and investment agreements principle commentary 2.4 and A/HRC/33/40, A/HRC/33/40, UN Independent Expert of the International Democratic and Equitable Order 2016, paragraphs 30 and 36
68. Finnish minister of foreign trade and development, reply to the Finnish parliament 8.11.2017
69. CETA article 8.15 enacts that in respect to the investments the reservations and exceptions concern the articles 8.4 - 8.8 and that they do not restrict the application of the articles of investment protection like articles 8.10 and 8.12
70. The reply of the Finnish Social and Health Ministry to the Finnish parliament's inspection committee on 15.6.2017 and HE 47/2017 and CETA's Joint interpretative instrument, section 6 a, whose official Finnish translation "CETA ei anna etuoikeutta vedota sopimuksella perustettuun investointituomioistuinjärjestelmään" does not correspond the English original "CETA does not privilege recourse to the investment court system set up by the agreement. Investors may choose instead to pursue available recourse in domestic courts", which says that "CETA-sopimus ei suosi sopimuksella perustettavaa sijoitustuomioistuinjärjestelmää", like also the Finnish government has written in its CETA proposal, namely that "CETA-agreement does not favor the investment court system established by it" but the investor can bring its claim to other courts outside CETA's jurisdiction as well
71. CETA article 8.12 (2) , 8.39.(1b) and 8.39.(3)
72. The reply of the Finnish Social and Health Ministry to the Finnish parliament's inspection committee on 15.6.2017
73. CETA article 8.18 and 30.6
74. The reply of the Finnish Social and Health Ministry to the Finnish parliament's inspection committee on 15.6.2017
75. CETA articles 8.10 and 8.12 and Annex 8-A, see also attached annex on government's SOTE-proposal
76. The Constitutional Law Committee of the Finnish parliament PeVL 61/2017 vp
77. According to the EU treaty "The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership" (TFEU, article 345) which would however be affected through applying the "indirect expropriation", which is defined by the CETA annex 8-A ,which one may not find without exploring ca. 1000 pages of the CETA annexes in EU's official CETA webpage to find this Annex 8- A
78. CETA article 8.31(2)
79. CETA article 8.18
80. CETA article 8.31 (2)
81. CETA article 8.31 (2)
82. CETA article 8.31(2)
83. If the authorities are not bound by that meaning which is given to our laws by the 'investment court' and according to which the laws would 'breach' investment protection so that the state would become judged to pay compensations (in some cases in scale of billion dollars) to the investor, there are no legally binding reasons to shift such public funds to be private property of the investor
84. "In Finland the constitution and domestic law do not necessarily give in all situations effective protection against such measures which under CETA could be seen as 'indirect expropriation'" because in the Finland's "jurisdiction these kind of setting of question is rare and connected to individual compensation provisions" and also otherwise the Finnish constitution has not led to the "obligation of the state to pay full compensation" from corresponding matters. (Legal Counselor Niilo Jääskinen, Highest administrative court of Finland, a reply on 22.11.2017 to the law committee of the Finnish parliament)
85. Treaty on the European Union (TEU), article 19.1
86. TFEU articles 267 and 344; also the EU "Member States undertake not to submit a dispute concerning the interpretation or application of the Treaties to any method of settlement other than those provided for therein."
87. Judgment of the court (Grand Chamber), Case C 284/16, 6 March 2018 paragraphs 56 and 60
88. Judgment of the court (Grand Chamber), Case C 284/16, 6 March 2018 paragraphs 58 and 60, see also LaVL 1 2018 vp and German association of lawyers, Opinion on recommendation of a Council decision authorising the opening of negotiations for a convention establishing a multilateral court for the settlement of investment disputes (COM (2017) 493 final) No. 21/17 Nov.2017
89. EU Court of Justice (full court) Opinion 2/15, 16 May 2017, paragraphs 290-292
90. CETA articles 8.9 (1) and 8.18 (1)
91. CETA Joint interpretative instrument, section 2
92. CETA article 8.31(2)
93. A/70/285, paragraphs 23-24 and A/HRC/19/59/Add.5, Guiding principles on human rights impact assessments of trade and investment agreements, principle and commentary 2.5
94. A/HRC/33/40, UN Independent Expert of the International Democratic and Equitable Order, report 2016, paragr. 30 ja 36
95. UN Committee on Economic, Social and Cultural Rights, General Comment 24 E/C.12/GC/24, State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, paragr. 23-24
96. UN International Covenant on Economic, Social and Cultural Rights,, article 4
97. TFEU article 107, see also Judgment of the general court (Second Chamber) 5 February 2018 (\*) In Case T 216/15, paragrafi 47,48, 63, 66, 67 ja 69 and also the annex on Finnish government's SOTE-proposal attached here
98. Under the CETA Finland cannot anymore fully itself determine compliant to its democratic laws and human rights obligations and as required by its constitution what is public regulation in Finland and corresponding use of public funds for its purposes "to achieve legitimate policy objectives" (CETA, article 8.9 (1)) because this becomes determined by the transnational investors' rights compliant to the meanings given to our laws by the CETA investment court.
99. The constitution of Finland, 15§

100. A/70/285, paragraphs 23-24
101. The reply of the Finnish Social and Health Ministry to the Finnish parliament's inspection committee on 15.6.2017 page 3, <https://www.eduskunta.fi/FI/vaski/JulkaisuMetatieto/Documents/EDK-2017-AK-132497.pdf>
102. Committee of Social, Health and Sustainable Development Affairs of the Council of Europe's Parliamentary Assembly, Doc. 14255, 25 January 2017 Human rights compatibility of investor-State arbitration in international investment protection agreements, Committee Opinion, A. Conclusions of the committee 2151 (2017), paragraph 12
103. CETA article 8.31.(2)
104. European Convention on Human Rights, article 6.1
105. Council of Europe's Parliamentary Assembly resolution 2151 (2017), "Human rights compatibility of investor-State arbitration in international investment protection agreements", paragraphs 10.6 ja 10.8.
106. CETA, articles 8.10 (4), 8.12 (1) and annex 8-A
107. Council of Europe's Parliamentary Assembly resolution 2151 (2017), "Human rights compatibility of investor-State arbitration in international investment protection agreements", paragraph 1.2
108. European Convention on Human Rights, First additional protocol, article 1 on protection of property
109. The Constitutional Law Committee of the Finnish parliament PeVL 8 2017 vp
110. The Constitutional Law Committee of the Finnish parliament PeVL 32/2016 vp; see also HE 60/2010 vp, PeVM 9/2010 vp, PeVL 8/2015 vp and TFEU articles 345 and 351 - the EU is obliged to respect Finland's earlier commitments and its constitutional arrangement of the system of ownership and property rights
111. The objective of the Finnish constitution and of the UN Charter is "to maintain international peace and security" "promoting and encouraging respect for human rights and for fundamental freedoms for all" also in "economic, social and cultural" relations (The constitution of Finland 1.3 § and UN Charter, article 1) "based on respect for the principle of equal rights and self-determination of peoples" - promoting "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction".(UN Charter, article 55-56)
112. The constitution of Finland 1 § and PeVL 6/2001 vp,, HE 1/1998 vp, page 73/II and PeVM 9/2010 vp – HE 60/2010 vp
113. UN Charter, article 103
114. As based on UN Charter the UN Economic and Social Council may also "make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all" and "draft conventions for submission to the General Assembly" (62 artikla), thus also the obligations of UN human rights conventions become approved in the UN General Assembly are UN-charter based obligations
115. CETA, article 28.3, particularly paragraph (2) a-c
116. CETA, article 28.6 c and annex 8-E
117. UN Charter, articles 1 and 2
118. CETA, article 30.9
119. EU-Canada Strategic Partnership Agreement articles 28.3 and 28.7. and CETA, articles 30.9 and 28.6 c and CETA annex 8-E
120. EU-Canada Strategic Partnership Agreement articles 28.3 and 28.7.
121. Committee of Social, Health and Sustainable Development Affairs of the Council of Europe's Parliamentary Assembly, Doc. 14255, 25 January 2017 Human rights compatibility of investor-State arbitration in international investment protection agreements, Committee Opinion, A. Conclusions of the committee
122. Council of Europe's Parliamentary Assembly, resolution 2151 (2017), "Human rights compatibility of investor-State arbitration in international investment protection agreements", paragraphs 8 ja 10.5
123. TFEU article 351
124. TFEU article 351
125. TEU article 4.3., Belgium's request on preliminary ruling by the EU Court of Justice Opinion 1/17 and Judgment of the general court (Second Chamber) 5 February 2018 (\*) In Case T 216/15, paragr. 47,48, 63, 66, 67, 69 and <http://europeanlawblog.eu/2018/03/13/dont-lead-with-your-chin-if-member-states-continue-with-the-ratification-of-ceta-they-violate-european-union-law/>
126. UN International Covenant on Economic, Social and Cultural Rights,, articles 1.2 and 25
127. UN International Covenant on Economic, Social and Cultural Rights,, article 2.1
128. The Constitutional Law Committee of the Finnish parliament PeVL 36/2012 vp ja PeVL 26 2017 vp, section 3.3
129. UN Committee on Civil and Political Rights , General Comment 12 (1984), UN General Assembly resolution A/RES/25/2625 and International Law Commission Sixty-eighth session Geneva, 2 May-10 June and 4 July-12 August 2016 First report on jus cogens by Dire Tladi, Special Rapporteur, A/CN.4/693
130. The constitution of Finland 94§ and HE 1/1998 vp, page 150
131. Committee of Social, Health and Sustainable Development Affairs of the Council of Europe's Parliamentary Assembly,13 October 2016
132. COM (2017) 493 final) No. 21/17 November 2017 <http://www.drj.de/stellungnahmen/2017/multilateraler-gerichtshof-fuer-investitionsstreitigkeiten.html> , pages 2 and 4
133. TEU, article 1
134. The Constitutional Law Committee of the Finnish parliament PeVL 32/2016 vp– E 32/2016 vp
135. CETA Joint interpretative instrument, section 6 (i)
136. CETA article 8.29 and EU:n negotiating directives 12981/17 ADD 1 DCL 1 <http://data.consilium.europa.eu/doc/document/ST-12981-2017-ADD-1-DCL-1/en/pdf>
137. The Council of Europe, Recommendation CM/Rec(2016)3 of the Committee of Ministers, paragraph 13-14
138. E/C.12/GC/24, Committee on Economic, Social and Cultural Rights General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities, paragraph 29