

## **8th ESPAnet annual Conference**

**Social policy and the global crisis: consequences and responses  
Budapest 2-4 August 2010**

-----  
**Stream 6. The crisis and social citizenship.**

### **Individualization of social rights and social citizenship: could the present economic and financial crisis revive the debate in the European Union?**

**Recent reforms from Finland and France**

**Nicole Kerschen<sup>1</sup> and Laura Kallioma-Puha<sup>2</sup>**

#### **Introduction**

In the last few months, a debate on the individualization of social benefits started in some EU Member States. In France, thousands of long-term unemployed dropped out of the unemployment insurance scheme and lost their benefits. They could not enter the unemployment assistance scheme, because benefits are means-tested and the income of the household is taken into account. The crisis revealed a somewhat 'forgotten' legislation and brought the Government, trade-unions and representatives of the employers to search for a solution in order to maintain individualized benefits and active measures for jobseekers.

At the same time, some EU Member States are testing 'back-to-work' measures granting part-time workers a public subsidy as a supplement to their wages. In France, this financial support has been put under a social assistance scheme; it is means-tested and takes into account maintenance obligations of civil law. Young workers under 25 have been excluded from this measure. A Green Paper on youth policy recommended an extension to young workers between 18 and 25 under certain conditions.

In Finland there are new signs of familism in social security legislation. At the same time individual activity is stressed. Even though the idea of individual rights is not contested, these divergent trends might affect individuality of social rights in practice.

How do these debates and reforms in social policy fit into the European objective of 'individualization of social rights' in order to 'change the gender balance'? This objective has been defined by the Commission in the Communication on 'Modernizing and improving social protection in the European Union' (1997)<sup>3</sup>. Our research project in the context of the SPECIAL network (Social

---

<sup>1</sup> Senior Researcher, IRERP EA 4419, University of Paris West Nanterre La Défense, 200, avenue de la République, 92001 NANTERRE Cedex (France), kerschen@noos.fr or nkersche@u-paris10.fr.

<sup>2</sup> Senior Researcher, Research Department, The Social Insurance Institution, PO Box 450, FI-00101 Helsinki, Finland, laura.kallioma-puha@kela.fi

<sup>3</sup> Communication from the Commission 12 March 1997, Com (97) 102

See: [http://www.europa.eu.int/comm/employment\\_social/social\\_protection/docs/com102\\_en.pdf](http://www.europa.eu.int/comm/employment_social/social_protection/docs/com102_en.pdf)

Protection in an Enlarged Europe) in 2003/2004 showed that 'individualization of social rights' could not be considered as a central topic in the discussions on modernizing Welfare systems on the national level. Ideology, based on the male breadwinner model and/or on family/marriage as a basic element of society, seemed to remain very strong, especially in France, Luxembourg, Hungary and Poland (SPECIAL Network 2004).

Could the present financial and economic crisis revive the debate on the individualization of social rights in the EU Member States? Would the crisis reinforce the *status quo* or would it challenge the question of independence and autonomy of European citizens? Would it rather add on the family's responsibility? Are recent debates and reforms revealing new signs of a reverse trend, namely the application of a means-test to previously individualized benefits taking into account the income of the household or maintenance obligations inside the family? Our current research aims to give an insiders' perspective into recent reforms in Finland and in France.

## **I. RECENT REFORMS IN FINNISH SOCIAL LAW CONCERNING INDIVIDUALIZATION.**

### **INDIVIDUAL RIGHTS**

The Finish social security system provides universal, individual rights to benefits and services: all residents are covered with the social protection system independent of their contributions or status as economically active or non-active. The need for help is decisive.

However, not all of the benefits are individual. Some benefits are meant for the whole household. Then the need is judged considering the whole family's – not just the individual's – needs and means. Such benefits are, for example, housing allowance and last resort income support. And even though the right to a benefit is individual, in some benefits a family might affect the amount of it – either by raising the amount or by descending it. For example, single parents get bigger child benefits or a housing benefit is bigger the bigger the family is. On the other hand, for example, a cohabitant descends the amount of survivor's pension or raises the fee for day care.

### **FAMILISM AND ACTIVATION**

The principles of universality and equal treatment have been strongly supported in Finland and these principles have also institutional support in the Constitution.<sup>4</sup> The general aim is to prevent exclusion from social security coverage. However, the income differences and differences in treatment are today better accepted than earlier.<sup>5</sup> This trend started already during the recession in the beginning of the 1990s. There is also emergent talk about shift of paradigm to '*familism*' in the meaning that families instead of the individual her/himself or the society is responsible of one's wellbeing. For example in organising elderly care a shift towards families is evidenced for example by a tax reduction presented for those who buy services to their parents, grandparents or parents-

---

<sup>4</sup> However, it can be professed that the recent anti-poverty policies have altered the system towards sselectivism, see Kuivalainen, Niemelä 2010.

<sup>5</sup> Kröger, Anttonen, Sipilä 2003, Kosonen 1998.

in-law. Family care is also motivated by an informal care support, which is paid to the family member taking care of old and sick in their homes instead of institutions. The same goes to parents taking care of their children at home instead of municipal day care (Child Home Care Allowance).<sup>6</sup>

On the other hand all plans to *activate* the citizen emphasize *individual responsibility*. Also the on going trend towards private service delivery – even within a framework of public financing – underline individuality. These changes are motivated by individual rights, the right to autonomy and the freedom to choose. It is interesting from a lawyer's point of view that social security is increasingly arranged by private law such as contract law. Such contractualism has its pros and cons. The more public services are arranged by contracts, the bigger the role the contractual terms and practices play – not to forget the importance the activity, ability and negotiation skills of the client. Their individuality may also mean abandonment. The danger of growing contractualism is that the weakest cannot formulate or justify their needs in contractual terms and therefore cannot benefit from the advantages of contractualism. Even though contracts as such could further the development of a client's autonomy, the fulfilment of his/her individual needs and thus equality, the result can be quite the opposite. A contract can promise more than it can fulfil, an agreement does not automatically guarantee the quality of the service or the openness of the activity, nor does it worry about social inequality. The possibilities of legal tools to protect human and civil rights are easily inconsistent with the usability of them in reality.<sup>7</sup>

Activation is most eagerly executed in unemployment benefits but it is also familiar among care. For example care allowances are meant to be used for organising care by oneself. Also, an act on vouchers has recently been adopted giving the municipalities the option of organising both health and social services by vouchers.<sup>8</sup> The vouchers emphasize the ability and responsibility of the care-needer. However, activation often in reality signifies the growing responsibility of the family as the citizen him/herself may not be fit to act. Also the shift to economical language and means in administering social security is bound to lead the way to same direction. When talking about a 'client' or 'customer' instead of a 'citizen' or 'dependant' or 'ward', we presuppose active people; customers and clients being able to take care of themselves. Even though these trends are not brought to us by the recent global recession, the recession is bound to strengthen them and makes changing the course harder than before.

## **SOCIAL PROTECTION REFORM**

The Government of Finland undertook to reform the social protection system in 2007. The aim was to make the entire system of social protection simpler and clearer as well as making accepting job offers always profitable, reducing poverty and ensuring an adequate basic income in all life situations.<sup>9</sup> The committee consisting of representatives of the relevant administrative sectors, labour market organisations and the third sector started their work with big hopes. Even though the work of the committee was loaded with many contradictions and conflicts, the intermediate report of their findings contained many improvements also from the viewpoint of the individuality

---

<sup>6</sup> See f. ex. Characteristics of the Social Security System in Finland, Niemelä, Salminen 2006 or [www.kela.fi](http://www.kela.fi) or [www.stm.fi](http://www.stm.fi).

<sup>7</sup> Sakslin – Keskitalo 2005, Keskitalo 2008, Kalliomaa-Puha 2009

<sup>8</sup> Act No 569/2009. There is no translation available at the moment.

<sup>9</sup> Proposals of The SATA Committee for reforming social protection 2007.

and gender equality. However, the global recession came before the committee finished its work and many of the already proposed improvements were left aside as too expensive.

### **LABOUR MARKET SUBSIDY**

An unemployed in Finland is eligible for unemployment allowance – basic or earning-related - or labour market subsidy. Earnings-related Unemployment Allowance is available to members of an unemployment fund only and thus require own initiative generally at least 6 months before unemployment. Earnings-related Unemployment Allowance can be paid for up to 500 days.

Basic Unemployment Allowance is meant for everyone not having been paying private insurance. It is flat rate and funded by the employee, employer as well as the state. However, to qualify for the basic unemployment allowance one must meet some specific conditions regarding ones employment history: i.e. one must have been employed for at least 8 months during the two years preceding the unemployment. Also basic unemployment allowance can be paid for a maximum of 500 days.

If one does not meet the conditions, one might be eligible for labour market subsidy. It is payable to unemployed job seekers who enter the labour market for the first time or otherwise have no recent work experience. It can also be paid to long term unemployed persons who have exhausted their 500-day eligibility for the basic or earning-related unemployment allowance.

Different from the unemployment benefits the Labour Market Subsidy is means-tested. It is not only one's own funds that are taken into consideration, but also the income of your spouse, registered partner or common-law-spouse or your parents in the same household. Especially since labour market subsidy is considered a sort of last resort benefit, this means-testing has been criticised from its adoption. In addition, in Finnish family law only married spouses and partners have a duty to maintain each. No such duty exists between common-law-spouses. Yet for the labour market subsidy account is taken of the income of a married spouse and a common-law-spouse alike – but unlike a married spouse the common-law-spouse cannot legally be obliged to provide the presupposed maintenance. Therefore denying one's Labour market subsidy because of the income of a common-law-spouse, might leave the unemployed without any support in reality. Therefore the proposal of the above mentioned Committee to abolish this has been joyfully welcomed. However, the proposal has not been forwarded to the Parliament yet. It appears that the present Government will not forward it – because of the monetary crises.

### **FAMILY OR THE INDIVIDUAL**

The committee suggested also equalizing definition of family in some social benefit legislation. Unfortunately most proposals were left out from the final document – for monetary reasons to which the global recession affected.

There are many definitions of the “family” in Finnish social security legislation. The rules in social security legislation are not always concordant with the legal obligation to support a family member as labour market subsidy presents. The social security system presupposes obligations between people also then when such do not legally exist. The rights do not coincide responsibilities. Since the definitions of the family in social security legislation are inconsistent with each other, they are misleading for the citizens as well as add the workload of the administration. The Committee for

example suggested that age limit of adulthood in child benefits would have been standardized to 18 years. Unfortunately this was not among the final propositions. It seems expediency has beaten consistency – and yet no one has counted how much consistent system would save the administration costs – not to mention the nerves of the citizens. Consistent system would also add the general public's trust to the system in whole.

### **STUDENT FINANCIAL AID**

Student's financial aid is in three forms: Study Grants, Housing Supplements and government guarantees for student loans. Study Grant is a government financed grant. One can be paid study grant from the beginning of the month following one's 17th birthday. Its amount depends on age, housing circumstances, marital status, school and, in certain cases, your parents' income. One can also be paid a Housing Supplement for the months in which one attends school and lives in rented, right-of-occupancy or partial-ownership accommodation. Housing Supplement is not available for owner-occupied homes. If several students share accommodation, each should apply for Housing Supplement according to their share of the rent.

Until 1990's the study grants were means-tested considering also the spouses income. Until 2000 the Housing Supplements were granted only to students living alone. Since then also students living with someone have been eligible to Housing Supplement but the spouse's income had influence to the amount of it. Since January 2009 neither a spouse's income nor a cohabitant's income has had an effect on the amount of the Housing Benefit but the students needs has been valued individually. Therefore this reform promoted student's individual rights.

### **PENSION REFORM**

There have recently been two Committees discussing the needs to reform the Finnish pension system and the discussion continues. One of the already accepted reforms has to do with guaranteed minimum – if a person's pension is under a set limit, she would get it topped up to agreed amount (685 €/month at the moment). The family relations would not affect the amount - everyone should get the agreed minimum. The meaning is to improve the most poor pensioner's situation. This has gender aspect to it, because the poorest pensioners are women over 75 years of age. More women than men in that age group have not been enjoying paid salaries but rather worked at home and are therefore not eligible to earnings-related pension. Many have the combination of low earnings-related pension and the basic pension, which is guaranteed to all residents.

## **II. RECENT REFORMS IN FRENCH EMPLOYMENT POLICY AND SOCIAL LAW CONCERNING INDIVIDUALIZATION.**

Between October 2008 and May 2010, unemployment rate raised dramatically from 8.2% to 9.9%<sup>10</sup>. For young people (aged 15 to 24), it raised from 20.3% to 22.6%<sup>11</sup>. The French Government and the social partners (representatives of the employees and the employers) found some arrangements to help people, who lost their jobs, and first time jobseekers to get beyond the crisis period. One of the aims was to maintain revenue to workers, who were not very strongly integrated in the labor market and among them especially to young people. A larger debate on '*youth autonomy*' took place during Summer 2009 and a Green Paper was published on '*reforming youth policy 2010-2015*'.

Economic and financial crisis hit also the old age pension system under reform since 2003. Deficit rapidly increased and the Government decided in Spring 2010 to put forward important decisions, initially planned for 2012, and to implement a new reform on old age pensions before the end of 2010. A debate started on the impact of the future reform on women's pensions as direct rights. What kind of pension rights will women, involved in part-time jobs, be entitled to? How does the reform get onto the future of derived rights?

Our investigation of anti-crisis measures, among which some are still under discussion, shows new trends towards individualization. In the French Welfare-State, still based on '*work and family*', economic crisis mainly challenges the financial independence of unemployed workers, young people and women.

We will first present unemployment insurance reforms applicable to some categories of unemployed, then look at the new youth policy and finally give insights into the old age pension reform.

## **1. Unemployment insurance reform.**

### ***The French unemployment scheme***

A compulsory unemployment insurance exists in France from 1958 on. The unemployment scheme has been changed in 1984 (split of the unemployment scheme into an unemployment insurance and an unemployment assistance), in 2001 (introduction of a 'back to work' logic and priority given to 'active measures') and in 2008 (reinforcement of the rights and duties of the jobseekers).

It includes:

- an unemployment insurance financed by contributions paid by the employers and employees of the private sector and managed by representatives of the trade-unions and of the employers (called the 'social partners');
- an unemployment assistance financed and managed by the State.

Until 2008, unemployment insurance granted workers, who had paid contributions for at least 6 months during the last 22 months and who lost their job, an individualized right to an allowance.

---

<sup>10</sup> Lowest unemployment rate has been 7.6% in January 2008. At that period, Government had in mind to decrease progressively the unemployment rate and to achieve 'full employment' in 2012.

<sup>11</sup> Lowest unemployment rate for the 15-24 aged has been 17.7% in January 2008.

The duration of the coverage was at least 7 months and depended on the previous activity with a maximum duration of 24 months. These conditions became more flexible in 2008 (see below).

If jobseekers do not re-enter the labor market before the end of the coverage, they drop out of the unemployment insurance and they may enter the unemployment assistance.

They are then entitled to a 'special solidarity allowance', called *allocation spécifique de solidarité*, if they fulfill the following conditions:

(1) to be not more than 65 years old

(2) to have been active for at least 5 years (full-time or part-time) during the 10 years before the end of the last labor contract (which opened the right to get an unemployment insurance benefit); training and military service are assimilated

(3) to have resources less than 1.059,80 €/month, if the unemployed is a single person, or less than 1.665,40 €/month, if the unemployed lives in a household. The special solidarity allowance is not only means-tested, but it takes also into account the resources of the household. In the French legislation, the household is the couple, including the spouse (marriage), the partner [registered partnership, called *Pacte civil de solidarité (PACS)*] and the cohabitant (*concubin*). It is a 'couple means-tested allowance'. The resources of the unemployed, including the 'special solidarity allowance', and the resources of the spouse, partner or cohabitant are taken into account. The following resources are excluded: the former unemployment insurance allowance, family benefits, housing benefits, tax credit awarded to low wage-earners, alimony....

Moreover, unemployed people, who are not entitled to the 'special solidarity allowance', because they do not fulfill, for example, the *former activity* condition, may be entitled to the minimum income, called *revenu de solidarité active (RSA)*, which replaced the former guaranteed minimum income, the RMI, from the 1st of June 2009 on.

Economic crisis raised two problems: the lack of an unemployment insurance coverage for workers with short activity periods (less than 6 months) and the dropping out of the unemployment insurance of jobseekers unable to get '*special solidarity allowance*' or the newly created RSA.

#### **a. Status of workers with short activity periods**

Social partners have signed a national agreement on *modernization of the labor market* on 11 January 2008<sup>12</sup>. The aim of this agreement was, on the one hand, to make the admission of workers to firms easier and to improve personal development and, on the other hand, to make labor contracts secure and to improve the return to the labor market. This agreement is considered as the French '*flexicurity approach*'. In article 16, social partners agreed to adapt the unemployment insurance to the economic crisis and to admit workers with short activity periods. Their objective was to promote especially the integration of young workers into the labor market. In article 3, they foresaw even a flat rate allowance for young people, who did not at all fulfill the activity conditions.

---

<sup>12</sup> Only CGT, the most important French trade-union, did not sign it.

The new convention on the unemployment insurance, signed on 19 February 2009<sup>13</sup>, materialized the promises made by the social partners in 2008 by reducing the duration of the period, during which a worker has to pay contributions in order to get unemployment benefits, from 6 months to 4 months during the last 28 months (instead of the last 22 months). It introduced the following principle: the duration of the coverage depends on the previous activity, that means that 4 months of activity and contributions offer an allowance during 4 months etc. with a maximum of 24 months (or 36 months for a person over 50). But they did not create under the unemployment insurance regime a basic allowance for young people, who did not fulfill the activity conditions.

Such an allowance has been created by the State for all unemployed workers, who are not entitled to an unemployment insurance allowance. It is an 'exceptional allowance', a one-off payment of 500 € for workers, who lost their job between the 1 April 2009 and the 31 March 2010, and who have had previously a professional activity of a duration of more than 305 hours and less than 610 hours during the last 28 months.

These measures recognize unemployed with short activity periods like workers, maintain them in the labor market and strengthen their financial independence. They are part of an activation policy.

#### **b. Status of workers who dropped out of the unemployment insurance scheme.**

According to forecasts, in 2010, 1 Mi of unemployed, mainly long-term unemployed, will drop out of the unemployment insurance regime and lose their benefits, 150.000 to 200.000 more than in previous years. Among them, 365.000 could probably not enter the unemployment assistance scheme, because they do not fulfill the conditions listed above. Especially, their revenues including those of their spouse, partner or cohabitant will be higher than the benefit ceiling. The Government, trade-unions and representatives of the employers searched for a solution in order to maintain individualized benefits and active measures for these jobseekers. They agreed on a "Job Recovery Plan" on 15 April 2010.

#### ***The "Job Recovery Plan"***

This Plan is the result of a tripartite negotiation started under the auspices of the French President. It will offer a solution to 365.000 persons, who have lost their unemployment insurance rights after the 1 January 2010.

This Plan will offer:

(1) gainful training to 70.000 persons, who will get training measures and an individual training allowance of 650 €/month during 6 to 9 months. This allowance will be financed by the unemployment insurance (social partners). The teaching costs will be financed by the State<sup>14</sup>.

---

<sup>13</sup> <http://www.unedic.org/Juridique/Nouvelle-convention>

<sup>14</sup> The whole costs are estimated at 309 Mi €, 133 Mi € paid by the State and 176 Mi € paid by the unemployment insurance scheme.

(2) subsidized contracts to 170.000 persons. The State will pay a financial aid to employers, who will hire a person under already existing employment policy measures. This aid will last from 6 to 9 months<sup>15</sup>.

(3) a safety net to 70.000/110.000 persons, and more precisely an '*exceptional back to work allowance*' of 460 €/month. At the origins, the duration of this allowance was limited to 6 months and it was considered as an individual right. The Government said explicitly that it would not be means-tested. When it came into force, it appeared to be means-tested. We will come back to this question later. The costs of this allowance will be financed by the unemployment insurance (50%) and by the State (50%)<sup>16</sup>.

Financing of the 'Job Recovery Plan' will be 838 Mi €, shared by the State, who will pay half of the costs, and by the social partners, who will pay 286 Mi € *via* the unemployment insurance. On 19 May 2010, the representatives of the trade-unions and the representatives of the employers signed an agreement '*on the social management of the consequences of the economic crisis on employment*', in which they committed themselves to co-finance the tripartite Plan, but they limited their financial participation. Therefore, the Government asked the regions, who are competent for the organization and the financing of training measures for workers, to round off the budget.

What is new in this Action Plan?

In the first place, the social partners committed themselves to finance allowances for jobseekers who dropped out of the unemployment insurance. It is the first time, since the split of the unemployment scheme in 1984 that social partners agreed to finance people, who are no more covered by the unemployment insurance.

Secondly, the safety net and more precisely the '*exceptional back to work allowance*' has been discussed as an individual right without means-testing, apart from the traditional conditions of the unemployment assistance regime. The argument used by the Government was the protection of the middle classes hit by the economic crisis.

Thirdly, the materialization of the tripartite agreement of April 2010 in a legal rule (decree of 31 May 2010<sup>17</sup>) resulted in a means-tested benefit in line with the '*special solidarity allowance*' of the unemployment assistance. But the argument of the protection of the middle classes hit by the economic crisis remained strong, because the upper limit of the resources (ceiling) has been doubled - 2.119,60 €/month for a single person and 3.330,80 €/month for a couple - allowing more jobseekers to be covered.

---

<sup>15</sup> It will cost 166 Mi €.

<sup>16</sup> The whole costs will be 220 Mi €, 110 Mi € for the social partners and 110 Mi € for the State.

<sup>17</sup> Décret N°2010-575 du 31 mai 2010 instituant des mesures exceptionnelles pour l'accompagnement des demandeurs d'emploi ayant épuisé leurs droits à l'allocation d'assurance chômage, JO N°124 01/06/2010 p. 9827.

Work in process – do not quote

Why did the Government and the social partners announce an individual non means-tested allowance and *in fine* opt for a means-tested one? Was it merely a financial problem (perhaps the budget limitation by the social partners) or a more ideological one?

## **2. A revolution in the youth policy?**

### ***Specificities of the French situation***

At the beginning of 2009, the French President assigned to Martin Hirsch, a representative of an NGO, who had previously been in charge of the experimentation of the RSA, the task of preparing a Green Paper on the youth policy. This task was based on an 'autonomy' concept: 'the capacity of a person to assume self-responsibility for his/her living'. Four items were raised: self-supporting through employment and financial independence from parents and society, independent living, independent decision-making, citizenship. But this task also started from a twofold statement. On the one hand, the French social system favors family solidarity, by supporting the resources of the parents obliged by the Civil Code to maintain even their children, who are of age, and is, in consequence, strengthening financial dependency between parents and young people, who rely upon their parents. On the other hand, economic crisis shows that youth employment is considered as a '*variable d'ajustement*' by the firms in their human resources management. During recession periods, youth unemployment is rising rapidly. But, young people are also the first to be hired in case of economic recovery. Moreover, young unemployed with short activity periods could get no allowance from unemployment insurance (see above) and they were not eligible to the guaranteed minimum income, which was limited to people over 25.

#### **a. Green paper on '*reforming youth policy 2010-2015*'**

Martin Hirsch coordinated the work of a Commission of 80 members from March to July 2009; among them were representatives of the trade-unions, representatives of NGO's and members of the Parliament. Through a Green Paper, Commission made the proposal of a global and coherent youth policy based on the objective to accompany young people towards autonomy in order to make them become self-supporting adults and citizens. Economic crisis would be taken into account and measures targeted on young unemployed would be adapted to their specific vulnerability during a recession period.

Commission published the Green Paper in July 2009 (Livre Vert 2009) . It recommended to review the existing mechanisms supporting people's revenues in the French social system and to strike a new balance between rights and duties for young people. It made 57 proposals. Proposal 37 suggested guaranteeing young people aged 18 a universal and unique financial support, which considers his/her needs, in order to strengthen independency and autonomy. Proposal 38 suggested supporting young people already in employment without any discrimination linked to their age. Last proposal is on the way to be implemented.

#### **b. Extension of the RSA to young people.**

The French President announced on 29 September 2009 that he had decided to extend the scope of the RSA, the new active inclusion scheme *Revenu de solidarité active*, to cover part of the population below 25, under some conditions. It must be noticed that the RSA consists of two

different benefits: on the one hand, the basic RSA (named '*RSA socle*'), which is a last resort benefit for people (households), who are not gainfully employed and who are not entitled to unemployment insurance or assistance allowances, and the additional RSA (named '*RSA complément*'), which is a tax credit awarded to low wage-earners, as an incentive to continue working and not to claim benefit instead. Young people, aged between 18 and 25, who have worked full-time for two years during the last three years, would be entitled to the additional RSA. If afterwards they lose their job, they will be entitled to unemployment benefits and, if necessary, to the basic RSA, even if they are under 25. Students under 25, who pursue a gainful activity, may also be entitled to the RSA.

These measures were implemented in the Finance Act 2010<sup>18</sup>. To enter in force, they need an implementing decree, which is still under discussion. It seems that the '*youth RSA*' will apply from the 1 September 2010 on.

'*Youth RSA*' must be considered as part of an individualization process. The beneficiary of the RSA will no more be under the responsibility of his/her parents, that means that they will no more have to support him/her and that, in return, he/she will no more be considered as a dependent person in order to determine the amount of a family-based benefit, especially the RSA. Nevertheless, Civil Code<sup>19</sup>, especially article 371-2<sup>20</sup>, remains unchanged. It must be noted, that '*Youth RSA*' has been heavily criticized by right wing members of the Parliament for ideological reasons ('the family is still the prior solidarity net') and for budgetary reasons ('the charge of solidarity must rely on the household and not on the State'). Some MPs wondered also about the problem of the access of young people to the labor market, which, in their opinion, could not be solved by the extension of the RSA.

### 3. Old age pension reform.

Individualization of old age pension rights has never been at stake in France (Kerschen 2003). The public pay-as-you-go pension scheme is based on contributions paid by the employees and the employers. It offers direct pension rights for the workers and derived rights for the spouses, mainly housewives. Family plays a role in the determination of direct pension rights, because the number of the children and caring years are taken into account to achieve the 40 contribution years necessary to get a 'full pension'. Moreover, each person over 65, residing in France, is entitled to a minimum pension paid by the State, if his/her resources are below a certain amount, which is different for a single person (676.81 €/month in 2009) or a couple (1147 €/month in 2009). It must be noticed that this minimum pension is not a universal right. It is means-tested and more precisely 'couple means-tested'. If a pension is (or pensions are) under the set limit, it (they) will be topped up to the agreed limit. The State has also the right to get his money back after the death of the person, if inheritance exceeds an amount of money fixed by law.

---

<sup>18</sup> Loi N°2009-1673 du 30 décembre 2009 de finance 2010, JO N°30 3/2/2009 p. 22856.

<sup>19</sup> There is an English version of the French Civil Code on Internet:  
<http://195.83.177.9/code/liste.shtml?lang=uk&c=22>

<sup>20</sup> *Each parent shall contribute to the education and support of the children in proportion to his or her means, to those of the other parent and to the needs of the child. That obligation does not automatically come to an end, when the child is of age.*

The old age pension system is undergoing reform from the 1990s on. Two reforms took place, the first one in 1993, the *réforme Balladur*<sup>21</sup>, and the second one in 2003, the *réforme Fillon*<sup>22</sup>. The third reform is underway<sup>23</sup> and it will be in Parliament during Autumn 2010. It has been directly influenced by the economic and financial crisis. It is not possible to explain the reforms in this paper and perhaps it is not necessary. It must be noticed that, in 2003, the number of the contribution years, necessary to get a 'full pension', has been raised from 37 and a half years to 40 years and that it will be raised to 42 years during the next years. Reform 2010 will also increase the pensionable age, the minimum age to be entitled to get an old age pension, which will be 62 instead of 60. It seems clear that the French system is more and more tightening the link between contributions paid into the system and benefits paid out of it.

I want to highlight three gender oriented ongoing discussions, which have something to do with individualization and equality between women and men. The first one concerns a '*pro-natalist*' advantage that the Government decided to remove. The other two are considered as 'unsolved questions' and are part of an official report published by the parliamentary Delegation of women rights and equal opportunity between women and men, which tries to estimate the impact of the future reform on the level of pensions for women.

#### **a. Repeal of a '*pro-natalist*' advantage for civil servants**

Government decided to repeal an advantage, created in 1924 under a *pro-natalist* policy, for women, who are working as civil servants in the public sector. They could retire after 15 activity years (instead of 40), if they had given birth to at least three children. Officially, the aim of this decision is to bring the rules applicable to civil servants closer to those applicable to the private sector and to remove unjustified differences. In fact, European law obliged France to offer this advantage to women and men, which changed the initial target and led to heavy costs.

This reform cannot only be interpreted as an 'equal rights' reform, because, from 2005 on, women and men had the same rights to retire earlier. It removes an advantage for women, who opted for a minor professional career compensated by family responsibilities. In this sense, it pursues the aim to raise employment rate of women and to promote equal careers. Consequently, it removes also a negative representation of women employment in the public sector.

This reform has not much been criticized, even by the trade-unions. It will enter in force on 1st January 2012. Until then, parents of three children may retire, without any age condition, provided that he/she has worked as a civil servant for at least 15 years on 1st January 2012 and that he/she interrupted the career to care for them. More surprisingly, since the announcement of this change, trade-unions are encouraging civil servants concerned by this reform to take up the opportunity and to retire quickly.

---

<sup>21</sup> Loi N°93-936 du 22 juillet 1993 relative aux pensions de retraite et à la sauvegarde de la protection sociale, JO N°168 23/07/1993 p. 10374

<sup>22</sup> Loi N°2003-775 du 21 août 2003 portant réforme des retraites, JO N°193 22/08/2003 p. 14310.

<sup>23</sup> Projet de loi N°2760, AN 13/07/2010, <http://www.assemblee-nationale.fr/13/projets/pl2760.asp>.

## **b. Unsolved questions linked to individualization**

Within the framework of the old age pension reform, the parliamentary Delegation of women rights and equal opportunity between women and men has published a report on 13 July 2010 (Délégation parlementaire 2010). It gives overall priority to direct rights acquired by work. But it also requires preserving compensation measures for the ups and downs of careers, especially those linked to care activities. Moreover, it points out two 'unsolved questions': the impact of part-time jobs on pensions and the future of derived rights.

### ***Impact of part-time jobs on pensions***

In France, part-time jobs developed from the beginning of the 1980s on, under the pressure of employment policies granting financial support to firms, who hired workers under part-time labor contracts. Part-time jobs represented only 8% of the labor force in 1982, but 18% in 2007. 30% of active women are now in part-time jobs against 5.7% of men. 82% of part-time workers are women.

The parliamentary Delegation raises two main problems: part-time wages taken in account to calculate the level of the pension and lack of consideration given to part-time jobs under 18 hours/week. It must be noted that basic old age earning-related pension scheme takes into account the wages of the 25 best years of contribution - previously only the 10 best years were targeted - that means that women, who worked part-time during an important part of their career, will be granted minor pension rights. Moreover, part-time jobs under 18 hours/week are not registered as contribution years.

Report asks for compensation mechanisms in order to balance flexibility of the labor market and security of the pensions. For example, full-time contributions could be paid by the employees with the consent of the employer. This arrangement exists already in some professional sectors promoting equality between women and men. Report asks also to grant pension rights to part-time workers under 18 hours/week, because they paid contributions. Last but not least, it suggests that information on future pension rights has to be given to part-time workers, when they sign their labor contract. They have to be aware of the impact of part-time work on their pensions.

### ***The future of derived rights***

French situation is a very complex one.

#### *Widow allowance and survivor pension*

Reform 2003 on pensions repealed the widow allowance, which was a means-tested temporary benefit for young widows. The aim of this benefit, guaranteed for two years, was to help housewives to return to the labor market or part-time workers to take up a full-time job. It has been replaced by the survivor pension, which is the pension granted to a survivor (husband/wife) after the death of his/her spouse already a pensioner. Survivor pension is a derived right normally limited to widows/widowers aged at least 55. Reform 2003 on pensions extended the survivor pension to all widows, without an age limit. But under budgetary pressure, the age condition of 55 has been restored by law on social security financing for 2009. 150 Mi € have been saved in 2009.

In its report, the parliamentary Delegation claims for an urgent solution for young widows in charge of children and asks for the restoration of the temporary widow allowance. This *story* shows that there is no clear vision, how to treat widows in working age.

#### *Combination of survivor pension and gainful employment*

From the reform 2003 on pensions on, pensioners can combine a pension with a professional activity in order to improve their resources. But this rule does only apply to pensioners, who have direct rights, because the survivor pension as a derived right is means-tested. If the widow takes up a job, she risks to lose the survivor pension and to reduce her resources. In its report, the parliamentary Delegation points out this difference without making any proposal.

#### *Splitting of pension rights*

In case of divorce, housewives or women, who have interrupted their professional career in order to care for children, have no right to a pension, unless their ex-husband will die. Then the survivor pension will be shared by the widows according to the duration of each marriage. Financial impact of divorce remains a private matter regulated by civil law.

In its report, the parliamentary Delegation reminds of the German system on individualization of pension rights (Veil 2002). Splitting of pension rights has first been introduced in the event of divorce (1977). *Riester Reform* on pensions (2001) extended it to married couples. They may opt either for the traditional scheme - a survivor pension for the surviving wife/husband after the death of the spouse - or for the splitting of pension rights at legal pension age. Splitting means that the future pension rights acquired during marriage by the spouses are added together, split by half and registered as individual pension rights for each spouse. But the parliamentary Delegation also indicates that splitting is impossible in the French basic old age pension scheme for technical reasons. It needs an '*à points*' scheme, which takes into account the whole career. As the proposal made by experts to turn the French system into an '*à points*' scheme has been rejected, the parliamentary Delegation suggests limiting splitting of pensions in event of divorce. The judge in charge of the divorce would be competent to split the future pension rights of the spouses.

### **Conclusion**

We reached the following conclusion:

1. All plans to activate citizens, in line with the European Employment Strategy and the Open Method of Coordination on social policy and social inclusion, emphasize individual responsibility. This European approach conflicts more or less with the French approach on '*familism*', which remains on a strong legal basis.
2. Even in systems based on individual rights such as Finland, the more there is activation and the more social security is arranged by civil law tolls such as contracts, the more there are people in need of a family or a friend. It is often forgotten while praising individual choice and splendor of free choice, that all people in need of social security are not able to be active. Helping those people is left to their intimates and thus activation may add on the family responsibility. Those people without families or other persons helping, may be left out of their social rights. As the individual responsibility grows, grows also the family's – or other intimate's - role.

3. In Finland families have also been given growing responsibility in various caring arrangements. However, even though the family provides the services or takes care of arranging social security, the right to social security is still considered individual. Law in books and law in practice may differ.
4. Unemployment allowances have been improved, in France, since the beginning of the economic and financial crisis. Especially young people with short activity periods got better coverage. Individual rights have been promised to unemployed dropping out of the unemployment insurance scheme, but the proposal has not been forwarded as such. The implemented '*job recovery plan*' grants finally a 'couple means-tested' allowance, whose limits have been upgraded.
5. In Finland, economical tightness is rather an argument to cuts. The economics have all in all been extraordinary strong argument over the years overstepping ideology in devising Finnish social security system.<sup>24</sup> The economical crises have been an argument to postpone (or forget) even reforms which are widely supported politically. The crises seem also to permit hasty changes in social security legislation. Then no one seems to take care of the entirety of the system and consistence of it is compromised. The system becomes even harder to comprehend even to the professionals let alone ordinary citizens.
6. Nowadays Finland and France take into consideration the income of cohabitants in order to determine the amount of some means-tested benefits. In Finland, common-law-spouses are concerned; in France, only cohabitants, in the sense of non-married spouses, called in French '*concubins*' are considered. Both social rules are problematic, because there is no legal responsibility in civil law to force a person to support a common-law-spouse (Finland) or a '*concubin*' (France). That means, that denying a social benefit to an unemployed may leave him/her without any support in reality. This is one example of the hasty solutions in social security not taking the entirety into consideration as described above.
7. It seems that the economic crises bring together or at least tend to keep moral argument inside the social security laws. Since the above mentioned "duty" to support a common-law-spouse does not equate with the statutory duty to do so in civil law, the social laws take the liberty to give a moral code telling that people living together should also support each other. Is it a proper function for social law to give such instructions? Shouldn't laws rather be neutral to such moral codes? Or shouldn't the legal system at least be consistent giving them?
8. The autonomy concept developed, in France, in the Green Paper on '*reforming youth policy 2010-2015*' shows a new trend. But, it does not really meet consensus and conflicts with '*familism*'. The fact that the date of the entry in force of the 'Youth RSA' is still vague reveals a lot of it.
9. France has clearly difficulties to change the gender balance. Present economic and financial crisis repeals pension rights granted to women linked to the traditional family model (male-bread winner model and *pro-natalist* policy) without guaranteeing equal treatment to men and women in the labor market. Derived rights are still strong and priority has been given to improve the poorest pensioners' situation (rising of the minimum guaranteed pension by 25% in five years).
10. Although it must be admitted that individuality is no sole guarantor of welfare and from an individual's point of view his/her rights – access to services or benefits – may be fulfilled in many ways, also by deriving<sup>25</sup>, we believe there to be nonetheless an ideological difference in whether one has an *independent* social right as a human being or a *derived* right as a spouse or a child of someone.

---

<sup>24</sup> Kröger, Anttonen, Sipilä 2003.

<sup>25</sup> See, however, Sakslin 1998, 157-158.

11. Economic and financial crisis speeded up changes in the French and slowed them down in Finnish social policy showing more and more contradictions. May these changes lead to a shift of paradigm from '*familism*' to '*individual self-responsibility*' in France? Or boost both the family and the individual responsibility in Finland? Nothing is less certain.

## BIBLIOGRAPHY

*Characteristics of the Social Security System in Finland.* (2007), Brochures of the Ministry of Social Affairs and Health 2007:9eng, [date of entry 14.6.2010], Helsinki: Ministry of Social Affairs and Health, [http://www.stm.fi/c/document\\_library/get\\_file?folderId=39503&name=DLFE-6714.pdf](http://www.stm.fi/c/document_library/get_file?folderId=39503&name=DLFE-6714.pdf)

Délégation parlementaire aux droits des femmes et à l'égalité des chances entre les hommes et les femmes (2010), *Rapport d'information sur le projet de loi portant réforme des retraites*, AN N°2762, Rapporteur: Zimmermann, M.,-J..

[http://www.toutsurlaretraite.com/documents/rapport\\_an\\_mj\\_zimmermann\\_reforme\\_retraites\\_2010\\_femmes.pdf](http://www.toutsurlaretraite.com/documents/rapport_an_mj_zimmermann_reforme_retraites_2010_femmes.pdf)

Hirsch, M. (2010), *Secrets de fabrication. Chroniques d'une politique expérimentale.* Grasset, Paris.

Kalliomaa-Puha, L. (2009), *Contracts as usual? – Pros and cons of the new social sector contracts*, JFT 3–4/2009, 343–350.

Kerschen, N., (1997), *Individualising rights and maintaining solidarity*, in 'Modernising and improving social protection in Europe', European Conference organised by the Luxembourg Presidency, Mondorf 10-12 November 1997, Bulletin Luxembourgeois des Questions Sociales Volume 4 p. 103.

Kerschen, N., (2003), *Vers une individualisation des droits sociaux. Approche européenne et modèles nationaux.* Droit social N°2 p. 216.

Kerschen, N., (2005), *Towards individualization of social rights in a European perspective*, in 'The future of social security system. Poland compared to Europe', Special issue of the Polish monthly Journal on 'Social Policy', Polityka Społeczna, December 2005 p. 33.

Kerschen, N., (2008), *Beveridge hier et aujourd'hui. Ebauche d'une problématique.* French Association of Sociology, RT6 network, Grenoble, 17-18 January 2008, [http://www.rt6-afs.org/IMG/doc\\_KERSCHEN\\_Grenoble\\_0108\\_Vers\\_Def\\_Bev.doc](http://www.rt6-afs.org/IMG/doc_KERSCHEN_Grenoble_0108_Vers_Def_Bev.doc)

Keskitalo, E. (2008), *Balancing Social Citizenship and New Paternalism. Finnish activation policy and street-level practice in a comparative perspective*, Research Report 177, Helsinki: STAKES.

Kosonen, P. (1998), *Pohjoismaiset mallit murroksessa.* Tampere: Vastapaino.

Kröger, T., Anttonen, A., Sipilä, J. (2003), *Social Care in Finland: Stronger and Weaker Forms of Universalism*, in Anttonen, A., Baldock, J., Sipilä J. (eds): *The Young, the Old and the State. Social Care Systems in Five Industrial Nations*. Cheltenham: Edward Elgar.

Kuivalainen, S., Niemelä M. (2010), From universalism to selectivism: the ideational turn to the anti-poverty policies in Finland. *Journal of European Social Policy* Vol 20(3): 263-276.

Livre Vert (2009), *Commission sur la politique de la jeunesse*, [http://www.lettre-insertion.fr/fic\\_bdd/article\\_pdf\\_fichier/1247071489\\_LivreVertJeunesse.pdf](http://www.lettre-insertion.fr/fic_bdd/article_pdf_fichier/1247071489_LivreVertJeunesse.pdf)

Niemelä, H., Salminen, K. (2006), *Social Security in Finland*, 2nd rev. impr., Helsinki : Social Insurance Institution (Kela) ; Finnish Centre for Pensions (ETK) ; Finnish Pension Alliance (TELA) ; Ministry of Social Affairs and Health.

*Proposals of the SATA Committee for reforming social protection*, (2007), Reports of the Ministry of Social Affairs and Health 2009:62 (summary in English) [date of entry 14.6.2010], [http://www.stm.fi/en/strategies\\_and\\_programmes/sata](http://www.stm.fi/en/strategies_and_programmes/sata)

Sakslin, M. (1998), *Worker versus Citizen – Why not forget them both?*, in Pieters, D. (ed), *Social Protection of the Next Generation*, EISS Yearbook, Kluwer Law international 1998, 153–163.

Sakslin, M., Keskitalo, E., (2005), *Contractualism in the Finnish Activation policy*, in Sol, E., Westerveld, E. (eds): *Contractualism in Employment Services. A New Form of Welfare State Governance*. Kluwer Law International, 359–382.

SPECIAL Network 'Social Protection in an enlarged Europe'. (2004), *Individualisation of social rights. European approach and national trends in an enlarged Europe*. Bubnov-Skoberne, A., Hajdu, J., Kerschen, N., Politis, I., Rutkowska, Z., Sredkova, K., Uscinska, G., Working Paper.

Tuori, K., Kotkas, T., (2008), *Sosiaalioikeus* [Social Law]. 4. uudistettu painos. Helsinki: WSOYpro.

Veil, M., (2002), *Alterssicherung von Frauen in Deutschland und Frankreich: Reformperspektiven und Reformblockaden*, Ed. Sigma, Germany.