



European Network Against Racism
Réseau européen contre le racisme

ENAR Shadow Report 2012-2013

ENAR SHADOW REPORT

Racism and related discriminatory practices in employment in Finland

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Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism in the EU and its Member States. NGO reports are, by their nature, based on many sources of data - official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by racism. It is this that gives NGO reports their added value, complementing academic and official reporting.

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Executive summary

Employment is, perhaps, one of the most important socioeconomic channels for a migrant or member of an ethnic minority to integrate and become a useful member of society. The aim of this report is to examine how migrants and ethnic minorities have fared in the Finnish labour market.

For centuries, Finland was relatively isolated from the rest of the world as a result of its geographical location and history. However, since the end of the Second World War, Finland has become a much more open, economically and culturally strong society, and a confident member of the European Union and the international community.

Starting from the early 1970s, when a group of Chileans fleeing General Augusto Pinochet's regime sought refuge in the country, the number of foreigners living in Finland has been steadily rising. Currently, the number of migrants living in the country is over 200 000 - roughly 4% of the entire population which stands at around 5 million.

Traditionally, Finland has maintained a tight immigration policy, but the realization that the country needs foreign workers to offset the economic effects of an ageing population, has compelled authorities to cautiously open the door. The number of immigrants is increasing, and, slowly but inexorably, Finland is becoming a multicultural society in the employment, education and social sectors.

Compared to about 20 years ago, when the first group of Somali immigrants came into a rather hostile country buffeted by a bitter recession, overt forms of racist behaviour such as verbal abuse and physical violence have been on the decline. On the other hand, however, covert or indirect racism is an everyday reality. Finnish employers are still reluctant to hire non-white immigrants from non-Western countries. They are equally reluctant to employ Russian speaking immigrants and members of the Roma community, who speak Finnish as a mother tongue, and have lived in the country for over 500 years.

The standard argument given by employers for not hiring immigrants is that the latter cannot speak Finnish. However, the validity of this argument is questionable because many of the jobs performed by migrants, such as cleaning, do not require Finnish language proficiency.

Most the labour market discrimination in Finland occurs in access to employment. Around half of the available jobs in Finland are not advertised, but are filled through social networks – the support offered by social systems that immigrants and other ethnic minorities do not have. Finnish regulations on recruitment are opaque and promote job discrimination, but even though discrimination on many grounds is prohibited by various pieces of legislation, violation of recruitment regulations is not a punishable offence.

Various forms of discrimination also take place at work, but even though there are channels to file complaints and legal suits, many migrants and ethnic minorities are reluctant to do so, largely because they fear losing their jobs and being victimised. Many non-governmental organizations are quite active in championing the rights of migrants and ethnic minorities, but there are very few that have tackled racism and discrimination in the labour market. The trade unions have attempted to do so, but, given their power and prestige in Finnish society, the efforts have been modest and the results thin.

Recommendations

- There should be a concerted campaign through for, instance, diversity training and race awareness education to counter Finnish employers' prejudice towards hiring migrants and ethnic minorities.
- Migrants and ethnic minorities should be encouraged to report discrimination and discriminatory practices at work. They need to be assured by, for example, byNGOS and employment protection bodies such as the Regional State Administrative Agencies about the safeguards against victimisation and harassment prescribed in Finnish legislation.
- Recruitment regulations should be clear and straightforward, and enshrined in law, with clear penalties and sanctions for violating them.
- Finnish anti-discrimination legislation should be streamlined, and being able to file complaints under it should be made easier for migrants and other ethnic minorities. At the moment, there are diverse provisions of anti-discrimination legislation, which makes it difficult for migrants and even representatives of the native population to understand them.
- As a result of the dismantling of the labour offices, which were part of a nationwide reform, such offices should again be available to all unemployed migrants and ethnic minorities.
- The labour offices should be structured to cater for the employment needs of migrants and ethnic minorities.
- Trade unions and other non-governmental organizations should be more active in fighting labour market discrimination and promote multiculturalism.

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1. Introduction

Racism is a reality in the lives of ethnic and religious minorities in Finland. The extent and manifestations of this fact are often unknown and undocumented, especially with regard to official data sources. As a consequence, it can be difficult to analyse the situation and to establish solutions. Even when there is extensive official data, NGOs offer a vital alternative data source which comes directly from the experiences of individuals and communities experiencing racism on a daily basis. The ENAR Shadow Reports have become a major tool for monitoring the situation of racism and xenophobia in EU Member States. Both ENAR's national and European Shadow Reports have proved to be an invaluable documented starting point for strategic and coordinated action, particularly for anti-racist civil society advocacy towards national governments, the European institutions, bodies and the media.

The aim of this report, therefore, is to contribute to knowledge and to provide insight from activists and professionals on the ground working to combat racism and discrimination in Finland as an advocacy tool by which to influence policy. This report takes on a more narrow focus than previous reports, by exploring the situation of racism and discrimination in the field of employment in Finland for the period of March 2012 to March 2013. The results will be used at national level to influence policy developments and will be further compiled into a European comparative report to influence European policies. With improved statistical and comparative data, the Shadow Reports will have a demonstrable impact for changing policy and bringing about necessary policy reforms.

1.1 Definitions

In Finland, the blanket term "migrant" or "immigrant" is used to describe recent new comers to the country, who include "ethnic minorities", such as, for example, Somalis, Albanians, Kurds, etc. Non-immigrant or native ethnic minorities in Finland include the Swedish Finns, the Sami, the Roma, Jews, Tatars, and Old or Native Russians (a distinction from newer immigrants).

Except in legal specific contexts, such, as for example, the Act on the Integration of Immigrants and Reception of Asylum Seekers, the Finnish judiciary system does not classify or define individuals as migrants, immigrants or representatives of ethnic minorities. A substantial number of these migrants have acquired Finnish citizenship.

The term "religious minorities" mostly refers to Orthodox Christians, Muslims, Jews and Neo-Pagans (according to the Oxford Dictionaries, "a modern religious movement which seeks to incorporate beliefs or ritual practices from traditions outside the main world religions, especially those of pre-Christian Europe and North America.")¹ While there has been a small population of Muslim Tatars, which dates back to the late 19th century, most of the Muslims in Finland originate from Somalia, North Africa, The Middle East and Asian countries such as Indonesia, India, Pakistan and Bangladesh. The Finnish constitution guarantees basic freedoms of thought and assembly to adherents of all religions including Islam. The ecclesiastical and administrative functions and activities of the Lutheran and Orthodox Church are prescribed in law.

The Roma are a recognised linguistic and ethnic minority in Finland and have lived in Finland for over 500 years. They are however stereotypically referred to as *mustalaiset* in everyday parlance, a term

¹
<http://www.oxforddictionaries.com/definition/english/neopaganism>

that roughly translates as dark skinned, and is loaded with deep suspicion and prejudice.

On the whole, the Finnish public, media and official organizations tend to use the blanket term *maahanmuuttajat* (immigrants) to refer to all non-native, physically distinct newcomers to the country. Immigration is still a new phenomenon in Finland, and the terms first, second or third generation immigrant are rarely used.

1.2 Statistical overview

The population of Finland is over 5 million. The total Finnish immigrant population is 195 511 and this number precludes immigrants who have acquired Finnish citizenship (over 9 000 individuals).

Effectively therefore, the number of people who have an immigrant background is over 200 000.²

According to Statistics Finland, the national statistics agency, the biggest immigrant/ethnic group in Finland are Estonians (39 763), who comprise over 20% of the immigrant population, the second largest group are the Russians (29 585), who comprise over 15% of the immigrant population,³

followed by recent migrants from Sweden (as distinct from native Swedish Finns) which number 8 481 and comprise over 4% of the immigrant population, and the fourth biggest group are the Somalis (7 421 individuals) who comprise over 3% of the immigrant population. Other significant immigrant groups include Chinese (6 159), Thais (5 545), Iraqis (5 742), and Turks (4 159).

1.2.1 Religious diversity

Over 76% of the Finnish population belongs to the Evangelical Lutheran Church. Other Christian denominations with more than 1 000 followers include:

1. Jehova's Witnesses (18 071)
2. Finnish Free Church (13 786)
3. Catholic Church in Finland (9 117)
4. Seventh Day Advent Church in Finland (3 813)
5. Finnish Evangelical Church (3 251)
6. Church of Jesus Christ of Latter-Day Saints (3 246)
7. Finnish Baptist Church (1 498)
8. Finnish Orthodox Church (60 000)

Many of the migrant groups, particularly those who have migrated to Finland from Africa, belong to Christian evangelical congregations. Their numbers, as well as for those who attend mainstream Christian congregations, are unknown. The main reason for this is that migrants are not registered by race or religious affiliation.

Muslims comprise the second largest monotheistic group in Finland after the Christians, and their number is estimated to be between 50 000-60 000 individuals.⁴

² http://www.stat.fi/til/muutl/2011/muutl_2011_2012-04-27_tie_001_en.html

³ http://www.stat.fi/tup/suoluk/suoluk_vaesto.html#ulkomaidenkansalaiset

⁴ http://fi.wikipedia.org/wiki/Islam_Suomessa

The Finnish Jewish Congregation is comprised of around 1 500 members.

Other religious groups include Buddhists, Hindus and Neo-Pagans. The number of Neo-Pagans in Finland could be close to 1 000 (There are an estimated 500 Wicca adherents).⁵ The number of Buddhists and Hindus is, however, unknown.

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<http://www.lehto-ry.org/english.html>

2. The context: labour market and legal framework

According to the Finnish Ministry of Employment and the Economy, the national unemployment rate at the end of February 2012 was 7.7%. The average unemployment rate for immigrants during the same period was 22.7% – roughly three times the national average.⁶

According to 2012 World Bank figures, the labour participation rate (percentage of total population over 15 years) in Finland in 2010 was 60.20.⁷

Several research studies have indicated the existence of extremely high unemployment rates among certain national/ethnic immigrant groups. In 2005, for example, the unemployment rates for Afghans and Iraqis was close to 65%. The unemployment rate for Somalis was close to 60%, while that for Iranians was slightly over 50%. The unemployment rate for Vietnamese during the same period was close to 45%, while that for Russians was around 35%.⁸

In general, immigrants from Muslim countries have extremely high unemployment rates. A survey carried out in 2001 by Jasinskaja-Lahti, Liebkind and Vesala revealed that Somalis and Arabs reported most discrimination among other national/ethnic groups surveyed, such as Russians, Estonians, Vietnamese and Turks.⁹ The reported rates of discrimination were 81% for Somalis and 64% for Arabs. Estonians, no doubt because of their ethnic affinity to Finns (The Estonian language is closely related to Finnish) reported the least discrimination (35 %).¹⁰

Mainly as a result of poor education and general discrimination, the Finnish Roma encounter serious obstacles in securing employment. They have difficulties in accessing housing, and are often denied entrance to restaurants and other facilities.¹¹

Higher educated immigrants also find it difficult to get jobs corresponding to their level of education on the Finnish labour market. Although there are no figures for their unemployment rate, there are hundreds of engineers, doctors and lawyers working as bus or taxi drivers and cleaners.¹²

Section 6 of the Non-Discrimination Act 2004 prohibits discrimination on the basis of ethnic or national origin, citizenship, language, religion or conviction, opinion, disability, health, sexual

⁶ http://www.intermin.fi/download/33854_TYOLLISYYS_JA_TYOTTOMYYS_taustapaperi.pdf

⁷ <http://www.tradingeconomics.com/finland/labor-participation-rate-total-percent-of-total-population-ages-15-plus--wb-data.html>

⁸ <http://www.doria.fi/bitstream/handle/10024/72519/AnnalesC321Kyha.pdf?sequence=1>

⁹ http://www.tem.fi/files/32827/TEMjul_16_2012_web.pdf

¹⁰ <http://www.red-network.eu/resources/toolip/doc/2012/07/06/discrimination-in-the-finnish-labour-market.pdf>

¹¹ <http://www.minorityrights.org/1537/finland/roma.html>

¹² <http://www.doria.fi/bitstream/handle/10024/72519/AnnalesC321Kyha.pdf?sequence=1>

orientation or any other personal traits.¹³ However, according to research,¹⁴ every year over half a million people in Finland consider themselves to be victims of discrimination.

Under Finnish labour legislation, employers are required to pay pension, social security, unemployment security and accident insurance contributions for all employees “regardless of their nationality.”¹⁵

All employees have the right to equal treatment and employers cannot discriminate workers on the basis of “gender, descent, ethnic or national origin, nationality, religion, age, health, disability, political activity, trade union activity or other corresponding reasons.”¹⁶

Many Finnish economic sectors have collective agreements between the employers’ organizations and the trade unions, which specify the determination of wage payments as well as terms and conditions of employment.

Collective agreements are prescribed by the Collective Agreements Act (436/1946), and include “any agreement concluded by one or more employers or registered associations of employers and one or more registered associations of employees, concerning the conditions to be complied with in contracts of employment or in employment generally.”¹⁷

Collective agreements were instituted into Finnish statutory law in 1924. However, because of political/class distrust between employers and employees, they were only formally recognized by both parties in 1940. The first collective agreements were concluded for blue-collar workers in major industries in 1946.¹⁸

Principles of equality, non-discrimination and “equal pay for equal work” are all enshrined in Finnish collective agreements, and are guaranteed to everyone legally residing in Finland.¹⁹

Further, in addition to employment legislation and collective agreements, employers and employees can establish mutual agreements in which the terms and conditions of employment are more specific than in the general provisions.

All employees, Finnish, foreign/immigrant, are encouraged to sign a written agreement whenever they accept new employment. According to Finnish labour legislation, an employment contract can be implemented orally or in writing. There are no legal repercussions to the employer or employee

¹³ <http://www.finlex.fi/en/laki/kaannokset/2004/en20040021.pdf>

¹⁴ http://www.yhdenvertaisuus.fi/welcome_to_equality_fi/

¹⁵ <http://www.tyosuojelu.fi/fi/workingfinland>

¹⁶ http://www.mol.fi/mol/en/99_pdf/en/92_brochures/workinginfinland.pdf

¹⁷ <http://www.finlex.fi/en/laki/kaannokset/1946/en19460436.pdf>

¹⁸ http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/meetingdocument/wcms_159941.pdf

¹⁹ http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/meetingdocument/wcms_159941.pdf

for non-compliance. However, it is in the legal interest of both parties, particularly immigrants, who are in a vulnerable labour market position, to draw up a written contract and sign it in order to avoid future misunderstandings.²⁰

The standard Finnish workday is eight hours, which amounts to forty hours a week. There are, however, some sectoral variations. Issues such as the amount of overtime work are strictly controlled by specific rules and regulations. For instance, the specific consent of the employee is required before he/she undertakes overtime work. Furthermore, the employer can only get the maximum amount of 138 hours during a four-month period from each worker, though 250 hours must not be exceeded in a calendar year. In addition, overtime pay must be more than regular pay, and for the first two hours of overtime exceeding the daily working hours, the pay is the regular pay plus 50 per cent, and for additional hours it is the regular pay plus 100 per cent.”

On average, however, immigrants tend to work more hours than locals. The reason for this is that many of them have more than one job, and they also tend to do more overtime tasks.²¹

Because of the complexity of the overtime regulations, and the difficulties that many immigrants encounter in attempting to master the Finnish language, it is inevitable that many of them are unaware of these regulations. At a seminar convened in Helsinki on 5.10. 2012, to examine the working conditions of Asian migrant workers, it was, for instance, revealed that Chinese restaurant workers, apart from being denied holiday benefits, were not being paid for overtime work.²²

The length of annual holidays, which are mostly taken in summer, is calculated on the basis of two days per every month, which, together, with some other allowances, translates to an average of 28 holiday days per year. All workers, who are legally resident in Finland are entitled to this benefit.²³

The Restrictive Trade Practices Act prescribes the terms and conditions for self-employment for both Finns and immigrants.²⁴ Immigrants have been very active in establishing business enterprises.

Currently the number of immigrant-owned business enterprises is over 8 000.²⁵ In general, immigrant-owned business enterprises are small, and are concentrated in the service sector. The most active immigrant entrepreneurs are from Turkey and Thailand. Immigrant entrepreneurs are particularly active within the Helsinki Metropolitan Area, where 12 % of foreign born men and 8% of foreign born women own a business enterprise. The survival rate of immigrant-owned businesses is the same as

²⁰ http://www.mol.fi/mol/en/99_pdf/en/92_brochures/workinginfinland.pdf

²¹ <http://www.eurofound.europa.eu/ewco/studies/tn0701038s/fi0701039q.htm>

²² <http://www.aepf-suomi.net/news/41/63/Asian-Immigrant-Workers-in-Finland--news/>

²³ https://www.tem.fi/en/work/labour_legislation/annual_holiday

²⁴ <http://www.tem.fi/en>

²⁵ <http://www.hs.fi/talous/a1361680396275>

that of native Finns.²⁶ Before establishing a business enterprise or becoming self-employed, prospective entrepreneurs are encouraged to find out what permits, etc. are required. The Centres for Economic Development, Transport and the Environment (ELY Centres)²⁷ can test the viability of a business idea free of charge.²⁷

2.1 Outlook of the labour market

The population of Finland stands at around 5.4 million people. Like in many other industrialized countries, the labour force is declining due to an ageing population. At the same time, the number of migrants is increasing and working careers are getting longer. For years, largely because of its geographical location and political domination by its more powerful neighbours, Sweden and Russia, Finland was largely unknown by the rest of the world. Finland began to exert its international presence after the Second World War, culminating in the hosting of the Olympic Games in 1952. Rising economic prosperity during the 1960's and 70's raised the country's international profile, with emigration, particularly to neighbouring Sweden being reversed.²⁸ The international success of Finnish companies, such as the mobile phone manufacturing giant Nokia, and Finland's reputation as a safe, stable democracy have been some of the factors which have made the country attractive for foreigners. Many immigrants, particularly from developing countries, have also been attracted to the country by the offer of free education and health services.²⁹ Another attraction has been the fact that Finland has largely been spared from the financial crisis which has ravaged many countries in south and central Europe.

In 2012, the labour force consisted of around 2.5 million workers. The average number of unemployed people during the same period was around 207 000, and the unemployment rate was about 7.7 percent.³⁰

In Finland, the service sector, which contributes close to 70% of the country's GDP, employs more people than the industrial and construction sectors.³¹ The service sectors that employ most workers include commerce, transport, hotel and restaurant services, education, health and social services. In 2012, the highest number of jobs in the service sector were recorded in the health and social sectors (around 13 000).³²

All in all, despite the uncertain economic situation, the employment indicators from other sectors

²⁶ <http://www.hs.fi/talous/a1361680396275>

²⁷ <http://www.ely-keskus.fi/web/ely-en>

²⁸ http://en.wikipedia.org/wiki/Sweden_Finns

²⁹ <http://finland.fi/Public/default.aspx?contentid=167189>

³⁰ <https://ec.europa.eu/eures/main.jsp?lang=en&acro=Imi&catId=2597&countryId=FI®ionId=FI0&langChanged=true>

³¹ http://www.indexmundi.com/finland/economy_profile.html

³² http://www.suomenpankki.fi/en/julkaisut/bulletin/economic_outlook/Pages/default.aspx

were also relatively good and are forecasted to be positive in the future.

Finnish companies employing the largest number of workers include Nokia, the mobile phone manufacturer, Itella, the postal and courier services company, UPM, the wood and paper products company, and Kesko, a wholesale and retail trading company. The greatest number of jobs was, however, created in small and medium-sized companies, and the share of microenterprises³³ (companies employing less than 10 people) is increasing.

The public service is also a significant employer in Finland, and the City of Helsinki is the largest employer in the country, offering thousands of jobs in education, social and health services as well as³⁴ in transport and maintenance.

Due to economic uncertainty, there is a freeze on hiring new workers in many companies and public institutions. The situation is, however, more positive in the service sector. Service sectors where there is demand for labour at the moment include healthcare (nurses, doctors and dentists), education (special education and nursery school teachers) and social services (social workers and psychologists).³⁵ There is also demand for sales personnel, accountants and cleaners.

The professions where unemployment is high include office workers, telecommunications assemblers, tailors and dressmakers, visual artists, cabinet makers, advertising specialists, wood machinists and media personnel.

2.2 Legal framework

The principle of equal treatment is firmly anchored in Finnish domestic law and the main provisions pertaining to discrimination are laid out in the Constitution, the Non-Discrimination Act and the Penal code. In general, an anti-discrimination clause is included in all statutory legislation.

Section 6 of the Constitution affirms equality and prohibits discrimination. The main thrust of this constitutional guarantee is to affirm the principle of formal equality, i.e. “that people in similar³⁶ circumstances are to be treated similarly,” but its legal ambit actually extends beyond that. For instance, Article 3 of Section 6 places special emphasis on treating children as equal individuals who “shall be allowed to influence matters pertaining to themselves to a degree corresponding to their³⁷ level of development.”

The constitutional prohibition of discrimination may be invoked in a court of law and it is used as a

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<https://ec.europa.eu/eures/main.jsp?catId=2597&countryId=FI&acro=Imi&lang=en®ionId=FI0&nuts2Code=%20&nuts3Code=®ionName=Na>

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<https://ec.europa.eu/eures/main.jsp?catId=2597&countryId=FI&acro=Imi&lang=en®ionId=FI0&nuts2Code=%20&nuts3Code=®ionName=Na>

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<https://ec.europa.eu/eures/main.jsp?catId=2597&Imi=Y&acro=Imi&lang=en&recordLang=en&parentId=&countryId=FI®ionId=FI0&nuts2Code=null&nuts3Code=null&mode=shortages®ionName=National Level>

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<http://www.non-discrimination.net/content/main-legislation-24>

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http://www.servat.unibe.ch/icl/fi00000_.html

legal yardstick to interpret other laws. The constitutional non-discrimination provision is usually invoked in cases involving public power, but it may also be invoked in situations involving private parties.

The Non-Discrimination Act, which entered into force on 1st February 2004, is the main instrument created to transpose the EU Racial Equality Directive and the Employment Equality Directive, although, in many respects, it goes beyond the minimum requirements of this directive.

Section 2 of the Act proscribes discrimination on the basis of age, ethnic and national origin, religious belief, disability, sexual orientation, and also on grounds of nationality, opinion, health, language, and other personal traits and attributes. The Act also prohibits discrimination in the provision of private or public goods and services such as housing, social benefits, health and social services, and movable and immovable goods.

The remit of the Act is quite wide and expressly prohibits many forms and manifestations of discrimination, such as direct and indirect discrimination, harassment as well as instruction or order to do so. To some extent, and depending on legal interpretation, the Act also prohibits discrimination based on assumed characteristics or traits, as well as association with persons bearing particular characteristics. In addition to that, Section 8 of the Non-Discrimination Act also contains provisions against victimisation, which is defined as extreme or adverse treatment or consequence directed against a victim of discrimination or some other person by the perpetrator, with the sole purpose of intimidating the victim of discrimination.

A narrow exception in implementing the Act can, however, be made in working life, where differential treatment may be legally permissible, if it is “based on a genuine and determining occupational requirement.”³⁸

To ensure non-discrimination against ethnic origin, two bodies were set up during the implementation phase of the EU Directives. The Office of the Ombudsman for Minorities and the Discrimination Tribunal monitor the implementation of the Non-Discrimination Act, but have no mandate to intervene in matters of employment discrimination, which is the remit of the Occupational Health and Safety Authorities.

During the parliamentary debate on the Non-Discrimination Act, legislators urged the government to reform equality legislation so that it would grant the same level of legal protection against all forms of discrimination.

The reform process has been under way since the beginning of 2007, but it has been bogged down by several disagreements over, among other things, whether gender equality issues should, for instance, be included in the same legislation as other discriminatory practices. There have also been disagreements on whether the Ombudsman for Equality and the Discrimination Tribunal should intervene in employment-related issues.

The long awaited draft amendments to the Non-Discrimination Act were released on 30.11.2012 by

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0url=http%3A%2F%2Fwww.non-discrimination.net%2Fcontent%2Fmedia%2F2012-FI-Summary%2520country%2520Report%2520LN%2520final.doc&ei=WqgdUrqelaSI4ATM04CYCw&usg=AFQjCNGVc7PLPb oyAE5njgU7a_N1rwo39Q&bvm=bv.51156542,d.bGEhttp://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&ved=0CDUQFjAC&

the Ministry of Justice. The main provision of this draft amendment is that other forms of discrimination will be given the same or closer level of legal protection accorded to ethnic discrimination. The amendment draft has been distributed to social partners, NGOs and public authorities. After possible modifications and discussions by the various stakeholders, the bill is scheduled to be presented to Parliament in autumn 2013.

The Finnish Penal Code has two main provisions on discrimination. The first one covers discrimination with reference to the provision of private and public services, and the second, employment-related discrimination. With reference to the first provision, the penalties prescribed by current legislation includes fines and up to six months imprisonment. However, in practice, fines have been the norm. The legal remit of the Penal Code covers areas such as employment and the provision of private, as well as public goods and services.

In general, Finland has ratified most of the main anti-discriminatory international conventions, and they have been incorporated into the national legal system. They can be applied in law courts and must be taken into account in interpreting existing laws - a credible legal guarantee against discrimination.³⁹

The Åland Islands, an autonomous Swedish-speaking province of Finland with about 26 200 inhabitants,⁴⁰ has also instituted legislative measures to comply with the EU Directives. Like on the mainland, the autonomous region has promulgated laws prohibiting discrimination on ethnic, religious, disability, age, sex and sexual orientation grounds.

In general, Finnish anti-discrimination legislation, old and new, does not permit the utilization of positive measures to remedy discriminatory practices or incidents. The Non-Discrimination Act addresses this legal deficiency by compelling authorities to promote the implementation of equal treatment actively and systematically by removing legal and other obstacles that impede the realisation of equality. This is one example where the legal scope of Finnish anti-discrimination legislation extends beyond the minimum requirements required by the two EU Directives.

The Non-Discrimination Act requires employers and education providers to promote equal treatment for people with disabilities, by taking measures, where necessary, to provide them with physical access to work or training, and ensure that they are able to manage and advance in their work careers.

2.2.1 Enforcing the law

In the event of a discriminatory decision or action by the public authorities, the victim of discrimination may resort to existing rectification procedures or some other channels of appeal. Alternatively, he/she can also turn to the Parliamentary Ombudsman or the Chancellor of Justice in order to file a complaint. These two offices may not alter or revoke a decision, but have the power to institute legal action against the official or issue an opinion about the correct interpretation of the law.

³⁹ <http://www.non-discrimination.net/countries/finland>

⁴⁰ <http://www.non-discrimination.net/content/main-legislation-24>

In Finland, employment-related discrimination cases are handled by the Occupational Health and Safety Authority. Under the Non-Discrimination Act, a victim may choose to claim compensation in a regular court of law, and damages for up to 16 430 euros or more (in exceptional circumstances) can be awarded.⁴¹

Under Finnish law, non-governmental organizations, such as human rights institutions, have no legal right to institute legal proceedings on behalf of victims of discrimination. However, they can and do provide expert advice to victims on how to institute legal action. They can also use situation testing to expose discrimination.⁴²

Now and then, discrimination cases are reported in the media. Last year, a local newspaper reported the case of 17 Polish workers from the municipality of Eura in Western Finland, who were taken advantage of by a local company because of their lack of knowledge of the Finnish language and national labour laws and, among other things, paid lower salaries, than the mandated rate. The managing director and other officials of the company were given suspended prison sentences, fined and ordered to pay substantial compensation.⁴³

⁴¹ <http://www.agediscrimination.info/international/Pages/Finland.aspx>

⁴² (Situation testing is the use of fake applications and actors to expose discrimination in hiring practices).

⁴³ <http://portti.iltalehti.fi/keskustelu/showthread.php?p=12829875>

3. Manifestations of racism and structural discrimination in employment

On the average, Europe's birth rate is declining and its population is aging fast.⁴⁴ Business realises the importance of migrant labour, but there is a nativist resistance to foreign workers, which is expressed in racist, xenophobic pronouncement by right wing anti-immigrant politicians and political parties. Anti-immigrant discourses are, however, not the sole preserve of right wing populist parties and politicians. In all European countries, there is a sizable population of citizens who silently subscribe to the racist agenda of the populist anti-immigrant parties and politicians, and as a result discrimination flourishes in areas such as housing, employment as well as the provision of private and public goods and services.

Data on labour market discrimination in Finland is sketchy and difficult to obtain. Although it is known and has been discussed in public that employers from both the public and private sectors are reluctant to hire immigrants, solid evidence is difficult to obtain. Most employers, particularly from the private sector, do not, for instance, inform the job applicant whether they have received his/her job application, why he/she has not been selected for the advertised position, and who has been selected for the position and on what basis. Most of the open positions, particularly in private companies, are not even advertised, but are filled internally by relatives, friends or acquaintances of current employees. Social networks play an important part in getting jobs. Due to language difficulties and other social constraints, migrants do not have or have minimal social network ties with the host population. Migrant national and ethnic social groups have their own social networks which play an important part in helping newcomers adjust to Finnish society and apply for jobs, but most of the appointments are low paid menial tasks, such as cleaning.⁴⁵

Under Finnish legislation, the employer is required to inform the labour market authorities about all open positions. There are, however, no prescribed legal sanctions for disregarding this obligation and employers may announce open positions through other channels, such as newspapers and web sites. Furthermore, this obligation does not apply in cases or situations where the employer intends to hire a person who is already employed by the company or any other private or public institution. This regulation or requirement directive also does not apply in situations where the employer has already decided to hire an employee or in cases and situations where a company or public institution is recruiting someone to fill a management or leadership position. The regulation does also not apply to

labour rental companies.⁴⁶ On the whole, the Finnish labour hiring regulations have many loopholes and hardly offer the migrant job seeker any possibility to file a discrimination case against a company or any other private or public institution.

The fact that, so far, there have not been any high profile legal case(s) filed by a migrant or foreigner for job hiring discrimination serves as an indication of the futility of the Finnish recruitment regulations. Although labour market discrimination and racism have been discussed in the Finnish media and public forums, for some reason, recruitment discrimination has never received the proper

⁴⁴ <http://www.cnn.com/id/100752786>

⁴⁵ <http://ethesis.helsinki.fi/julkaisut/val/sosio/vk/ahmad/gettinga.pdf>

⁴⁶ <http://www.yrittajat.fi/fi-FI/tyonantajanabc/rekrytointi/tyopaikastailmoittaminen/>

attention it deserves. The only issue in job hiring that has received wide attention is the perennial complaint that Finnish employers demand knowledge of the Finnish language from applicants, even though knowledge proficiency is not necessary for the job task.⁴⁷

According to the Finnish Ministry of Employment and Economy, immigration is still a new phenomenon in Finnish history, and it is much easier to monitor discrimination of second generation immigrants, whose educational and professional competences are much easier to compare than those of first generation immigrants. However, a substantial population of second generation immigrants is only now emerging in Finland.⁴⁸

A study undertaken by Jasinskaja-Lahti, Liebkind and Vesala in 2001 on immigrant perceptions of labour market discrimination found that 51% of Russians, 35% of Estonians, 46% of Ingrians, 81% of Somalis, 49% of Vietnamese, 64% of Arabs and 48% of Albanians thought that they had experienced discrimination in recruitment because of their ethnic background or country of origin. Somalis and Arabs reported most discrimination, and Estonians, whose language is closely related to Finnish, the least.⁴⁹

Another study revealed the same trend, although some of the figures were different from those obtained by Jasinskaja-Lahti, Liebkind and Vesala.

A study by Timo Jaakkola to determine immigrants' perceptions of access to and conditions in the Finnish labour market found that 65% of respondents indicated that their foreign origin was a major factor in not being hired.⁵⁰

A good documented example of discrimination based on foreign origin is reported in the 2012 report from the Ministry of Employment and the Economy. The report, for instance, noted that 26% of Finnish-named applicants were called for an interview compared to 13 % of Russian-named applicants. In practice, this means that a person with a Russian name has to send twice as many applications than a similarly qualified Finnish-named person in order to be called for a job interview. Using the net discrimination rate (NDR) index, (the net discrimination rate is the percentage difference between non-discriminated groups and those likely to be discriminated most) this means that a person with a Russian name is discriminated in 45% of the recruitment situations.⁵¹

According to the report, there were no significant differences in ethnic discrimination between the various occupations. The net discrimination rate (NDR) for waiters/waitresses was 38%, 48% for cooks 49% for office personnel and 41% for construction workers and drivers. The report notes that there were no major statistical changes when gender was factored in. Females

⁴⁷ http://www.migrationinstitute.fi/articles/069_Heikkila-Peltonen.pdf

⁴⁸ http://www.tem.fi/files/32827/TEMjul_16_2012_web.pdf

⁴⁹ http://www.tem.fi/files/32827/TEMjul_16_2012_web.pdf

⁵⁰ http://www.migrationinstitute.fi/articles/069_Heikkila-Peltonen.pdf

⁵¹ http://www.tem.fi/files/32827/TEMjul_16_2012_web.pdf

with Russian names are likely to be as much discriminated as their male counterparts. (The report does provide a reason for this observation. The obvious explanation is the historical suspicion and prejudice that Finns have towards Russia and Russian-speaking people)

3.1 Perceptions of discrimination in employment

In general, the mainstream Finnish population does not consider job discrimination as a major socio-political problem. Of late, however, because of the growing ageing population and the proposals to raise the pensionable age, the media has begun to talk about age discrimination, i.e. the reluctance of private companies to hire employees around and over the age of 50. Rather than discussing labour market discrimination and racism, the media, particularly on social forums, regularly lambasts immigrants for being lazy, and dependent on welfare.⁵²

Like many other Westerners, Finns are reluctant to openly express their xenophobic racist attitudes. The prevalence of social media forums, where participants can anonymously express their intolerant views, reveals the prevalence of racist hate speech.

The groups, which are most vulnerable to racism in Finland are the Roma, Sami, and visible migrant minorities, such as the Somalis, who are constantly maligned and denigrated in racist-oriented web discussion forums and social media platforms. Russian speakers are also quite often the targets of xenophobic verbal attacks.

Although all non-white and Russian speaking immigrants encounter discrimination in accessing the labour market, some national and ethnic groups face more discrimination than others.⁵³ Apart from facing general social discrimination, and in areas such as housing, Finnish Roma are also heavily discriminated in job recruitment. The general reason given by employers is that they do not have the requisite qualifications because of inadequate education, but even in situations where they have them, they are almost never hired.⁵⁴ This explains why their unemployment rate is 40%.

Despite having lived in Finland for at least 500 years, the Finnish Roma are discriminated against in all aspects of normal life. Landlords do not want them as tenants, and employers are reluctant to hire them. They are refused access to restaurants, and are often suspiciously trailed by security guards in shops.

The Sami, who mostly reside in Lapland, are also victims of ethnic discrimination. Although their minority and language rights are enshrined in law, local authorities have not, for instance, provided adequate Sami language services in day care centres and nursing homes.⁵⁵

3.2 Incidence of discrimination in employment

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<http://www.migranttales.net/lets-play-fill-in-the-blanks-with-finnish-mp-teuvo-hakkarainen/>

⁵³

http://www.yhdenvertaisuus.fi/welcome_to_equality_fi/campaigns/asenne-meininki-attitude-solutio/employers/

⁵⁴

<http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Finland/FIN-CbC-IV-2013-019-ENG.pdf>

⁵⁵

<http://cms.horus.be/files/99935/MediaArchive/Finland.pdf>

According to the Finnish Ministry of the Interior, migrants account for 3,6 % of the Finnish population. The largest group of migrants are from Estonia (close to 40 000 individuals). The second largest group of immigrants are from Russian (over 30 000 individuals). Swedes comprise the third largest group of immigrants (over 8 000 individuals).

The average immigrant unemployment rate in July was around 35%, compared to just about 12% for the native population.⁵⁶ However, in general, unemployment is quite low among immigrants from Western countries, such as the United States, Britain, Canada, Australia, Germany and Sweden. As reported earlier, the foreigners plagued by high unemployment tend to be non-white immigrants from outside the European Union, such as Somalis and other Africans, Arabs and Turks. In particular, there appears to be a deep seated aversion towards hiring Muslim immigrants or people from Muslim countries. For instance, the unemployment rate among Somalis, Iraqis and Afghans is over 50%,⁵⁷ compared to the national average of around 8%.

Unemployment is also quite high among Russian speaking immigrants. The main reason for this is the deep level of mistrust and suspicion that exists between Finland and its giant eastern neighbour. From 1809 to 1917, Finland was an autonomous province of the Russian Empire. During the Second World War, Finland aligned itself with Nazi Germany and fought against the Soviet Union. In general, Russian speaking immigrants in Finland are regarded with mistrust and suspicion bordering on xenophobia.

As reported earlier, labour market discrimination in Finland is mainly indirect. This, as we have seen, is aggravated by the opaqueness of the Finnish recruitment regulations, which impose no penalty on the offender. And again, as reported earlier, immigrants do not have the relevant social networks, which are so important for getting a job in Finland. And until quite recently, Finland has largely been a homogenous society, and many employers are still averse to hiring foreigners.

3.3 Patterns of inequality over the course of time

Throughout the last 20 years or so, overt racial discrimination (defined as discrimination that is open and not hidden in any way), expressed in, for instance, verbal threats and insults, physical violence and denial to places such as restaurants, has noticeably declined in Finland. Although difficult to quantify, overt discrimination is still a socioeconomic feature of Finnish society, manifested, most notably, in the labour market.

During economic downturns, national attitudes towards immigration and migrants tend to harden. Finland has weathered the current global economic downturn, which was triggered by the collapse of the US housing market quite well, and attitudes towards migrants have not been as negative as they were during the early 1990s when the country plunged into a severe recession after, among other things, the collapse of the Soviet Union, which was a significant trading partner.⁵⁸

⁵⁶ http://yle.fi/uutiset/immigrant_jobless_rate_outpacing_general_populations/6815742

⁵⁷ http://yle.fi/uutiset/major_unemployment_differences_among_immigrant_groups/6155062

⁵⁸ <http://www.tandfonline.com/doi/abs/10.1080/13691830120103958>

3.4 Discrimination in access to employment

One of the most limiting factors to the recruitment of migrants in Finland is the attitude of the employers. Because of its geographical location and climate, for centuries, Finland has been isolated from much of the world. The population, up until recently, has remained fairly homogenous and viewed the rest of the world with a mixture of suspicion and anxiety. In general, Finnish employers, in both private and public institutions, are still reluctant to hire foreigners, particularly non-white migrants. (There are cases where an employer has had to seek the approval of native employees to hire an immigrant worker) The official reason often given by employers for not hiring migrant employees is that the latter cannot speak Finnish - a not so convincing excuse given that many of the occupations relegated to foreigners, such as cleaning, do not necessarily require mastery of the language.

Finnish recruitment regulations are quite opaque and prescribe no penalties for the offender. Many open jobs in Finland are not published on the official Ministry of Employment and Economy website (<http://www.mol.fi/paikat/>), where migrant job seekers are registered. They are either published in newspapers or non-official, private and company websites. Many migrants cannot however, speak, read and/or write Finnish, a notoriously complicated language. The language barrier, combined with the absence of local social networks, effectively bar many migrants from getting a job.

Although there are no legal restrictions to wearing religious symbols in Finland, visible ethnic-religious dress symbols, such as those worn by, for instance, Muslim and Roma women (Unlike the Roma in other European countries, the Finnish Roma have retained their own distinct dress forms, which include long, black shirts for women and white shirts and black trousers for men) sometimes serve to aggravate suspicion bordering on hostility, and virtually precludes the wearer out of the job market. There are no separate unemployment figures for the Finnish Roma, but according to some unofficial estimates, their unemployment rate is as high as 90%.

3.5 Discrimination in the workplace

There is discrimination in many Finnish workplaces, but the evidence is quite thin. In 1997, Erkki Laukkanen conducted a study for the Central Organ of Finnish Trade Unions (known by its Finnish acronym as SAK), where it was discovered that discrimination had occurred in 12% of the workplaces which employed ethnic minority groups. In 5% of the workplaces surveyed, discrimination had been practiced by employers and work colleagues. The forms of discrimination practised by employers were, for instance, the assignment of secondary tasks to ethnic minority employees. Work colleagues, on the other hand, avoided, hostilely stared and avoided contact. According to Laukkanen, discrimination was more "flagrant" in the public sector (16%) and lowest in industry (7%).

One major reason for the lack of evidence is that many migrants are reluctant to complain or file discrimination cases with the Occupational Safety and Health Agency for fear of victimisation and losing their jobs.

The case of a Sikh bus driver, Gill Sukhdarshan Singh, from the City of Vantaa, provides a good example of this phenomenon. In February 2013, Singh's employer prohibited him from wearing his turban, arguing that it was not part of his work wear and that it would upset some passengers. Singh

argued that no passenger or his work colleagues had complained⁵⁹ and appealed to the Office of the Ombudsman for Minorities. In late June, the Southern Finland Regional State Administrative Agency ruled that the bus company's ban on wearing the turban was discriminatory because it placed the plaintiff in an unfavourable position due to his religion. The agency ordered the bus company to redress the problem by September. Obviously afraid of victimisation or losing his job (in one interview, he had intimated his plan to buy a house), Gill announced that he would not wear the turban, after all. The story, naturally, triggered animated discussions on social media sites, particularly those frequented by xenophobic, anti-immigrant groups. It also made the headlines in India, his country of origin.

3.6 Economic sectors

Racism and labour discrimination occur in service sector occupations that are dominated by migrants and ethnic minorities. In Finland, these include restaurant and catering services, cleaning, health care, commuter transport services (mainly bus and taxi driving), and construction, which is largely dominated by Estonian workers. Racism and labour market discrimination also occur in public services.

Racism and labour discrimination, inevitably, tend to occur at the lower levels of the labour market.

In general, migrants and other ethnic minorities find it more difficult to get bank loans during periods of economic austerity. Although figures are hard to come by, migrants and ethnic minorities intending to establish a business, are eligible for a small subsidy called *starttiraha* (literally meaning, start⁶⁰ money). The current payment rate is 32,46 euros per day.

3.7 Geographical areas and relevant actors

Geographically, racism and labour market discrimination tend to occur more frequently in the southern part of Finland, which comprises the Greater Helsinki Metropolitan Area and is home to⁶¹ more than 20% of the Finnish population. The frequency of racism and labour market discrimination is also higher in large cities such as Tampere, Turku and Jyväskylä.

As has been noted above, in workplaces where there are migrants and ethnic minority employees, discrimination is practised both by employers and employees. Job agencies also practice racial and ethnic discrimination in recruitment.

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http://yle.fi/uutiset/sikh_bus_driver_wins_right_to_wear_turban_in_vantaa/6708848

60

http://www.mol.fi/mol/fi/04_yrittaminen/05_starttiraha/

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<http://onlinelibrary.wiley.com/doi/10.1002/psp.396/abstract>

4. Tackling the challenges

The legal cornerstone of Finnish anti-discrimination policy is the Non-Discrimination Act, which came into force in 2005. The Act, among other things, prohibits discrimination on the basis of race, ethnicity, country of origin, gender, sexual orientation, etc. In addition, there are also other pieces of legislation such as the Penal Code, the Act on Equality between Men and Women, and bodies such as the office of the Ombudsman for Minorities and the National Discrimination Tribunal, which are all intended to monitor discrimination in all spheres of life.

Legislation alone is however, not enough, to change attitudes and create a non-discriminatory society

Interview.

Interviewee: Jonna Roos (JR), multiculturalism expert at the University of Helsinki, trainer and activist

Interviewer: Percy Mashaie (PM), teacher, journalist, translator .

PM: Immigrants and ethnic minorities face discrimination in the Finnish job market. Which groups are most vulnerable to labour market discrimination?

JR: In general, people from Africa, the Middle East and the Roma encounter discrimination in the Finnish labour market.

PM: What are the reasons for discrimination in the labour market?

JR: Employers are suspicious and some of the immigrants are also unfamiliar with the demands of the Finnish work place. Academically educated immigrants, who have received their education at Finnish universities do not, for instance, speak or write Finnish, and as a result, can't write a cv in Finnish.

PM: What should be done to rectify this situation?

JR : Employers should be trained to appreciate the advantages of multicultural labour force. Immigrants should also be trained to understand Finnish culture, and the culture of Finnish workplaces. Trade unions should also recruit more immigrant members in their ranks, so that they can understand multiculturalism much better.

PM: There are various pieces of anti-discrimination legislation. What should be done to make them comprehensible to immigrants?

JR: I hope that the Equality Act, which is probably due in November, will go a long way towards streamlining Finnish anti-discrimination legislation.

PM: Thank you for coming here for this interview.

JR: Thank you

4.1 Public policies

The cornerstone of Finnish anti-discrimination legislation is the Anti-Discrimination Act. However, although the scope of the Act is quite comprehensive, it should be borne in mind that it does not have a specific provision on working life.

Traditionally, labour market organisations have played an important part in the formulation of labour related legislation, but, as of late, officials have resorted to constitutional oriented fundamental and human rights principles, minimising the role of labour market actors. The current reforms to the anti-discrimination legislation, which have been on-going since 2009, include proposals to replace the Anti-Discrimination Act with the Equal Treatment Act. In 2011, this task was delegated to the Ministry of Employment and the Economy, an indication that the provisions of the new Act will be closer to labour market issues. Among its amended provisions, the Act would specifically prohibit discrimination for an individual on the basis of “labour union and political activities” - an exception in Finnish legislation, which does not usually provide an explicit definition.”⁶²

There are very few public measures, at the national, regional or local level to address labour market discrimination. One such initiative, which is aimed at promoting migrants’ entry into the labour market, can be found in south eastern Finland. The project, entitled KORKO (the acronym is derived from *korkeasti koulutetut maahanmuuttajat työelämään*), which is being funded by the European Social Fund, and jointly managed and implemented by, among other organizations, the cities of Kotka and Kouvola, local vocational colleges, labour offices, companies and business organizations as well as Palmenia, the University of Helsinki’s Centre for Continuing Education. The aim of KORKO is to promote the entry of academically educated migrants into the labour market through mentorships, company attachments, language training and coaching, among other things.⁶³

4.2 Access to effective remedies

4.2.1 Judicial remedies

In Finland, the task of monitoring discrimination and compliance with the provisions of the Non-Discrimination Act is done by the Occupational Safety and Health Administration (*Työsuojeluhallinto*). The issue, however, becomes complicated when it comes to monitoring racial and ethnic based discrimination, which is the preserve of the Ombudsman for Minorities and the National Discrimination Tribunal. These two bodies however have no legal mandate to intervene in work related discrimination cases, which is the preserve of the Occupational Safety and Health Authorities.

This complicated division of labour in monitoring discrimination makes it extremely difficult for migrants and ethnic minorities to report cases of work related discrimination. In 2010, 20% of labour market discrimination cases were reported to the office of the Ombudsman for Minorities – an indication that people do not know to whom to report cases of work related discrimination and particularly highlights a need for a clarification and simplification of the system to assist victims of discrimination assert their rights and access redress measures.

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http://www.regjeringen.no/upload/BLD/sla/Skjeieutvalget/Rapport_likestillingsapparat_Finland.pdf

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<http://www.palmenia.helsinki.fi/hankkeet/hanketiedot.asp?id=126>

In the event of a discriminatory decision or action by public authorities, the victim of discrimination may resort to existing rectification procedures or some other channels of appeal. Alternatively, he/she can also turn to the Parliamentary Ombudsman or the Chancellor of Justice in order to file a complaint. These two offices may not alter or revoke a decision, but have the power to institute legal action against the official or issue an opinion about the correct interpretation of the law.

In Finland, employment related discrimination cases are handled by the Occupational Health and Safety Authority. Under the Non-Discrimination Act, a victim may choose to claim compensation in a regular court of law, and damages for up to 16 430 euros or more (in exceptional circumstances) can be awarded.

Under Finnish law, non-governmental organizations, such as human rights institutions, have no legal right to institute legal proceedings on behalf of victims of discrimination. However, they can and do provide expert advice to victims on how to institute legal action. They can also use situation testing to expose discrimination (Situation testing is the use of fake applications and actors to expose discrimination in hiring practices).

Periodically, discrimination cases are reported in the media. Last year, a local newspaper reported the case of 17 Polish workers from the municipality of Eura in Western Finland, who were taken advantage of by a local company because of their lack of knowledge of the Finnish language and national labour laws, and, among other things, were paid lower salaries than the mandated rate. The managing director and other officials of the company were given suspended prison sentences, fined⁶⁴ and ordered to pay substantial compensation.

During the period covered by this report, the National Discrimination Tribunal issued two rulings against ethnic or national origin based discrimination. One concerned a foreigner who was denied the right to deposit money with Nordea Bank on the grounds that he had presented a French identity card. The petitioner was then physically removed from the bank's premises. The Tribunal ruled that this action and the denial of banking services constituted an infringement of the petitioner's dignity and integrity, and imposed a conditional fine of EUR 5,000 to compel the bank to implement its ruling.

The other case involved two Finnish citizens of Iranian origin, whose passports were taken away by security staff during a cruise voyage aboard a passenger ferry owned and operated by Tallink Silja Oy. The National Discrimination Tribunal did not consider the examination of the travel documents of all passengers discriminatory, but, instead, deemed the removal of the two individuals' passports as a discriminatory act based on ethnicity.

In the light of the circumstances before it at the time, the Tribunal, contrary to the view of the Ombudsman for Minorities, did not consider that taking away the two individuals' passports⁶⁵ constituted harassment and therefore did not impose a conditional fine.

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<http://www.satakunnankansa.fi/Satakunta/1194791070695/artikkeli/puolalaisten+tyosyrjinnasta+tuomiot+euralaisryttajille.html>

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http://www.syrjintalautakunta.fi/en/news/1/0/national_discrimination_tribunal_of_finland_prohibits_discrimination_based_on_ethnic_origin_in_connection_with_examination_of_travel_documents

4.2.2 Non-judicial remedies

4.2.2.1 Ombudsman or equality body

The purpose of the Finnish office of the Ombudsman for Minorities is to promote the legal status and protection of ethnic minorities resident in the country, and to prevent and tackle racial and ethnic discrimination. Further, the Ombudsman also documents and reports on issues pertaining to human trafficking.

The office of the Ombudsman for Minorities serves migrants and other foreigners living in the country, as well as Finnish national ethnic minorities, such as the Roma and Saami.

The Office provides information services in 21 languages, which include Finnish, Swedish, English, French, Russian, Estonian, Vietnamese, Arabic, Chinese, Somali, Albanian and Turkish. It outlines what constitutes discrimination and defines the scope of the Non-Discrimination Act.

Except in work related cases of discrimination, which are the responsibility of the Occupational Safety and Health Agency (OSH), the office of the Ombudsman for Minorities, can for, instance, seek clarification from the complainant's opposing party. Confidentiality provisions notwithstanding, the Office can obtain information from various authorities. However, the Office cannot interfere in the work processes, procedures or decisions of another authority. Complainants, can, at their own discretion, file their cases with the National Discrimination Tribunal, an impartial and independent body established under the Non-Discrimination Act, which deals with petitions related to ethnic discrimination. Its decisions can be appealed to the administrative court, but it has no legal authority over work related issues. The tribunal also does not have authority over a case or cases that have⁶⁶ been brought before another authority.

The office of the Ombudsman for Minorities provides legal aid to its clients in the form of advisory services. To this end, the Office can advise its client to contact the legal aid office or retain a lawyer. In exceptional circumstances, where the implications of the case have wider social, economic or political consequences, the Office can appoint a member of its staff to act as legal counsel for a client who has been the victim of racial or ethnic discrimination.

Complainants of racial or ethnic discrimination can contact the office of the Ombudsman for Minorities by telephone or email. The working languages of the Office are Finnish, Swedish and English, but complainants who are not conversant in these three languages can send a written submission in their mother tongue or national language.

4.2.2.2 Mediation or conciliation

Mediation services for criminal and civil cases are widely available throughout Finland and are⁶⁷ regulated by the Mediation Act (1015/2005). Except in domestic violence cases, where the decision to initiate mediation is the prerogative of the police, criminal and civil disputes can be voluntarily

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http://www.syrjintalautakunta.fi/en/front_page

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http://www.thl.fi/attachments/sovittelu/THL_sovittelu_haitariesite_eng_painoon_050212-final.pdf

submitted for mediation.

There is no specific body or institution charged with mediation in work related disputes.

4.2.2.3 Labour inspectorate

The Finnish legislation on Occupational Safety and Health (OSH) covers three main areas: (a) regulation of the basis for occupational safety and health, (b) the organization of occupational health services, and (c) their enforcement at the workplace.

The basic premise is that the employer is obliged to ensure employees' safety and health in all aspects of working conditions and the environment. The employer must also take into consideration "the personal prerequisites of the employee, including professional skills, experience, age, gender,⁶⁸ and other relevant aspects."

4.3 Civil society initiatives

Civil society organizations, such as the Finnish League for Human Rights (Ihmisoikeusliitto), have been at the forefront of the campaign against racism in Finland. For instance, in a report issued in 2012, the League discovered that 16,4% of Finnish Roma and 14,9% of immigrants encountered discrimination when applying for public houses. For example, their email enquiries were responded to much later than those by the majority population, or they were not responded to at all. They were also interrogated more vigorously about their creditworthiness and their employment situations than the mainstream population.⁶⁹

4.3.1 Trade Unions

Given their powerful bargaining position in annual labour market negotiations, Finnish trade unions have not been so active in championing the rights of migrants and ethnic minorities. SAK, the trade unions umbrella organization, has initiated or participated in a number of projects aimed at integrating or uplifting the socioeconomic position of immigrants and ethnic minorities in Finnish society, but the results have been modest.

4.3.2 NGOs activities

Non-governmental organizations are quite active in Finnish society, but apart from trade unions, there are virtually none that campaign against racism and discrimination in the labour market. The League for Human Rights (Ihmisoikeusliitto), has investigated general discrimination in Finnish society, and, in the process, also examined work related discrimination, but because the focus is not on labour market discrimination *per se*, the research studies have been useful, but not revealed much.

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http://www.ttl.fi/en/international/osh_in_finland/faq/pages/default.aspx#3

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http://www.ihmisoikeusliitto.fi/images/pdf_files/Asuntoselvitys.pdf

4.3.3 Employers' organisations

There are two main employers' organizations in Finland; the Confederation of Finnish Industries and the Employers' Confederation of Service Industries in Finland. Both organizations view immigration, immigrants and ethnic minorities from a purely labour supply perspective. This is the viewpoint championed by their political ally, the Conservative Party.

Apart from traditional pronouncements about diversity, the two organizations do not engage in any initiatives to promote the interest of migrants and ethnic minorities in the labour market.

4.3.4 Other civil society initiatives

Funded by the European Commission's PROGRESS programme funding, the YES - Equality is Priority project is being managed and implemented by a diverse group of public and independent organizations, such as the Ministries of the interior, employment, justice, defence and education, the advisory boards for Roma and ethnic relations, the Islamic Council of Finland, the Sami Parliament of Finland, the sexual equality and disability organizations, and the office of the Ombudsman for Minorities.

The Equality is Priority project (YES) is a national action programme which is designed to combat discrimination and promote diversity in Finnish society by emphasizing the principle of equality.

4.4 Individual employers' initiatives

SOL - an example of good practice to promote diversity and productivity

As soon as the 180 metre long and 28 metre wide ferry from Stockholm or Tallinn drops anchor at the Katajanokka ferry terminal in Helsinki, it is invaded by workers clad in bright red yellow uniforms, hailing from 44 countries. They dash from cabin to cabin, vacuum cleaning the carpeted floors and corridors, scrubbing the toilets, wiping the mirrors and changing the bed linen. They have to be quick because they have half an hour before new passengers start streaming into the floating behemoth.

They work for SOL, the family-owned facility services enterprise, which employs 9 000 workers in Estonia, Latvia and Russia. The majority (7 000) are employed in Finland, the company's headquarters, and 1 200 are migrants from all parts of the world.

SOL's business turnover is close to 200 million euros a year, and the company has realised the valuable role played by its migrant employees. Way back in 2007, the company established a multicultural development team and today, some of its supervisors are migrants. To promote diversity awareness, SOL has engaged professional trainers from university-level institutions. It has instilled the principle of equality in its migrant workers - a new thing for many foreigners who come from countries where social hierarchies are deeply entrenched.

The company devotes 2% of its turnover to worker education and, at the moment, 50 of them are undergoing training in facility maintenance and management, leadership and language instruction. SOL (the name comes from the sun, hence the bright red yellow uniforms) has been the recipient of two Finnish quality awards. The company philosophy is to let people work free and joyfully.

5. Conclusions and recommendations

Slowly, and perhaps, agonizingly, Finland is gradually coming to terms with people from different cultural and religious traditions who are trying to make this northernmost outpost their home. Second generation migrants, fluent in Finnish, are increasingly being found as doctors in hospitals, lawyers in prestigious law firms and engineers in companies such as Nokia. Workplaces, schools and sport fields can be seen to be more representative of the increasingly diverse Finnish society.

But old habits die hard. Many still refer to any dark skinned person as an *ulkomalainen* or foreigner although the individual may have born in Finland or has acquired Finnish citizenship. Even more disturbing is the continual rise in popularity of the anti-EU and anti- immigrant True Finns party, which is currently the third most popular political party and could enter government after the 2015 elections. Members of the party such as sawmill owner, Teuvo Hakkarainen, still continue to make inflammatory racist statements against migrants, particularly Muslims. Recently he wrote that

Muslims were like a Trojan horse in European society waiting for the call to jihad.⁷⁰

There is therefore an urgent need to condemn racism, promote tolerance and sensitize Finns to the benefits of a multicultural society.

5.1 Political and societal developments related to racism and discrimination

As mentioned earlier, Finland has various pieces of anti-discrimination legislation, the cornerstone of which is the Non-Discrimination Act (21/2004), which has been amended by several acts. The latest amendment was in 2009.

The purpose of the Act, as outlined in Section 1, is "to foster and safeguard equality and enhance the protection provided by law to those who have been discriminated against in cases of discrimination that fall under the scope of this Act."⁷¹

As regards labour market issues, the scope of the Act extends to private and public activities concerning recruitment and support for business activities, access to training and guidance ,as well as membership and involvement in employee or employer organizations. The Act also covers discrimination based on ethnic origin in matters concerning the provision of social welfare and health care services, performance of military service, supply or access of housing and other general or public services.

In addition to this, the Act also compels authorities to draw up "equality plans", which are monitored by the Ministry of the Interior, and foster equality, as well as removing any administrative or operational practices that may hinder the realisation of this objective.

Under the Act, private and public authorities are also specifically compelled to assist persons with disabilities to gain access to work or training, as well as to cope and advance in their careers. Where possible, public funds can be sourced for this purpose.

According to the Act, discrimination is defined as the treatment of a person less favourably than the other one in a similiar or comparable situation, and the deliberare or de facto violation of the" dignity and integrity of a person or a group of people by the creation of a intimidating, hostile, degrading,

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<http://www.migranttales.net/ps-mp-hakkarainen-of-finland-launches-new-attack-against-immigrants-and-muslims/>

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<http://www.finlex.fi/en/laki/kaannokset/2004/en20040021.pdf>

humiliating or offensive environment (*harassment*) and an instruction or order to discriminate.”⁷²
As mentioned earlier, attempts to control racism in net-based discussion forums have floundered on the fundamental imperatives of freedom of expression.

5.2 Conclusions and recommendations

Non-governmental organizations, particularly trade unions, which have access to decision making mechanisms, should strive to harmonize existing anti-discrimination legislation and actively strive to promote multiculturalism.

Recommendations:

- There should be a concerted campaign to fight Finnish employers' prejudice towards hiring immigrants and ethnic minorities.
- Immigrants and ethnic minorities should be encouraged to report discrimination and discriminatory practices at work. They need to be assured about the safeguards against victimisation and harassment prescribed in Finnish legislation.
- Recruitment regulations should be clear and straightforward, and violating them should be a punishable offence.
- Finnish anti-discrimination legislation should be streamlined, and make it easier for immigrants and other ethnic minorities to file complaints or legal suits.
- The labour offices to serve unemployed academically educated immigrants and ethnic minorities should be reinstituted. The offices were dismantled as part of a nationwide labour office reforms, which the Minister of Labour, Lauri Ihalainen, has admitted, were, in some circumstances, unsuccessful.
- Trade unions and other non-governmental organizations should be more active in fighting labour market discrimination, and promote multiculturalism.

⁷²

<http://www.finlex.fi/en/laki/kaannokset/2004/en20040021.pdf>

6. Bibliography

European Union

<http://www.red-network.eu/resources/toolip/doc/2012/07/06/discrimination-in-the-finnish-labour-market.pdf>
<https://ec.europa.eu/eures/main.jsp?lang=en&acro=Imi&catId=2597&countryId=FI®ionId=FI0&langChanged=true>
<https://ec.europa.eu/eures/main.jsp?catId=2597&Imi=Y&acro=Imi&lang=en&recordLang=en&parentId=&countryId=FI®ionId=FI0&nuts2Code=null&nuts3Code=null&mode=shortages&re>

International organisations

Governmental sources

<http://www.yhdenvertaisuus.fi/welcome-to-equality-fi/>
http://www.mol.fi/mol/en/99_pdf/en/92_brochures/workinginfinland.pdf
<http://www.ttl.fi/en/international/osh-in-finland/faq/pages/default.aspx#3>
<http://www.yhdenvertaisuus.fi/welcome-to-equality-fi/>
http://www.intermin.fi/download/33854_TYOLLISYYS_JA_TYOTTOMYYS_tautapaperi.pdf
<http://www.non-discrimination.net/content/main-legislation-24>
<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&ved=0CDUQFjAC>
<http://www.yrittajat.fi/fi-FI/tyonantajienabc/rekrytointi/tyopaikastailmoittaminen/>
http://www.tem.fi/files/32827/TEMjul_16_2012_web.pdf
http://www.tem.fi/files/32827/TEMjul_16_2012_web.pdf
http://www.tem.fi/files/32827/TEMjul_16_2012_web.pdf
<http://cms.horus.be/files/99935/MediaArchive/Finland.pdf>
http://www.mol.fi/mol/fi/04_yrittaminen/05_starttiraha/
<http://www.syrjintalautakunta.fi/en/news/1/0/national-discrimination-tribunal-of-finland-prohibits-discrimination-based-on-ethnic-origin-in-connection-with-examination-of-travel-documents>
http://www.thl.fi/attachments/sovittelu/THL_sovittelu_haitariesite_eng_painoon_050212-final.pdf

National legislation and case law

Non-governmental organisations

http://www.ihmisoikeusliitto.fi/images/pdf_files/Asuntoselvitys.pdf
http://www.stat.fi/tup/suoluk/suoluk_vaesto.html#ulkomaidenkansalaiset
<http://www.ttl.fi/en/international/osh-in-finland/faq/pages/default.aspx#3>
http://www.ihmisoikeusliitto.fi/images/pdf_files/Asuntoselvitys.pdf

Media reports

<http://www.migranttales.net/ps-mp-hakkarainen-of-finland-launches-new-attack-against-immigrants-and-muslims/>
<http://portti.iltalehti.fi/keskustelu/showthread.php?p=12829875>
<http://yle.fi/uutiset/immigrant-jobless-rate-outpacing-general-populations/6815742>
<http://yle.fi/uutiset/sikh-bus-driver-wins-right-to-wear-turban-in-vantaa/6708848>

http://yle.fi/uutiset/major_unemployment_differences_among_immigrant_groups/6155062
<http://www.satakunnankansa.fi/Satakunta/1194791070695/artikkeli/puolalaisten+tyosyrjinnasta+tuo+miot+euralaisyrittajille.html>
<http://www.migranttales.net/ps-mp-hakkarainen-of-finland-launches-new-attack-against-immigrants-and-muslims/>

Other sources

<http://www.palmenia.helsinki.fi/hankkeet/hanketiedot.asp?id=126>
<http://onlinelibrary.wiley.com/doi/10.1002/psp.396/abstract>
<http://www.doria.fi/bitstream/handle/10024/72519/AnnalesC321Kyha.pdf?sequence=1>
<http://oxforddictionaries.com/definition/english/discrimination>
<http://ethesis.helsinki.fi/julkaisut/val/sosio/vk/ahmad/gettinga.pdf>
<http://www.ask.com/question/what-does-overt-discrimination-mean>
<http://www.tandfonline.com/doi/abs/10.1080/13691830120103958>
<http://onlinelibrary.wiley.com/doi/10.1002/psp.396/abstract>
http://www.regjeringen.no/upload/BLD/sla/Skjeieutvalget/Rapport_likestillingsapparat_Finlan.
<http://www.palmenia.helsinki.fi/hankkeet/hanketiedot.asp?id=126>



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ENAR Shadow Report 2012-2013