

The background of the cover is a complex geometric pattern of overlapping triangles in various shades of red and pink, creating a 3D effect. The text is centered on the left side of the page.

# ANNUAL REPORT 2015



BY THE OMBUDSMAN  
FOR EQUALITY

# ANNUAL REPORT 2015

.....  
BY THE OMBUDSMAN  
FOR EQUALITY

PUBLICATIONS FOR EQUALITY 2016: 3

ISSN-L 1236-9977

ISSN 1797-9862 (online publication)

ISBN 978-952-7156-05-6 (pdf)

URN: ISBN 978-952-7156-05-6

Layout: Anita Pesola / Juvenes Print - Suomen Yliopistopaino Oy

# CONTENT

5	Duties of the Ombudsman for Equality
6	A word from the Ombudsman for Equality
8	Amendments to the Equality Act and Non-Discrimination Act were approved
9	Statements issued to the Parliament of Finland
	Monitoring the prohibitions of discrimination <ul style="list-style-type: none"><li>General prohibition on discrimination</li><li>Discrimination on the basis of pregnancy and family leave</li><li>Discrimination in recruitment</li><li>Pay discrimination</li><li>Discrimination in pricing and in the availability of services</li><li>Gender identity and gender expression</li></ul>
28	Promoting equality <ul style="list-style-type: none"><li>Equality at workplaces</li><li>Quotas</li><li>Equality in schools and educational institutions</li><li>Sports and physical exercise</li></ul>
36	International cooperation
37	Statistics



## DUTIES OF THE OMBUDSMAN FOR EQUALITY

*The Ombudsman for Equality is an independent authority whose domain is the promotion of gender equality.*

### **The duties of the Ombudsman for Equality:**

- *Monitoring compliance with the Act on Equality between Women and Men, particularly its prohibitions of discrimination*
- *Providing information about the Equality Act and its application*
- *Promoting the purpose of the Act by means of initiatives, advice and guidance*
- *Monitoring the implementation of equality between women and men in different sectors of society.*

If someone suspects that he or she has been discriminated against in a manner referred to in the Equality Act, he or she may appeal to the Ombudsman for Equality. The Office of the Ombudsman for Equality provides advice and instructions on rights and the application of the Equality Act and, if necessary, investigates suspected cases of discrimination through a written procedure. If the Ombudsman finds that a violation of the Equality Act has been committed, she will issue instructions and guidance on discontinuing the unlawful practice. In certain cases, the Ombudsman may refer the case to the Gender Equality Board, which has the power to impose a conditional fine to prevent discrimination.

Statements issued by the Ombudsman for Equality are not legally binding. Anyone who suspects that he or she has been discriminated against, can take the case to a district court and claim compensation.

The current Ombudsman for Equality is Pirkko Mäkinen.

# A WORD FROM THE OMBUDSMAN FOR EQUALITY

I am writing my final foreword to an annual report as the Ombudsman for Equality. My long journey as the Ombudsman for Equality will end with my retirement on 31 October 2016. I have worked as the Ombudsman for Equality at two different stages. The term that began in 1995 was a jump into membership in the European Communities. At this time, the focus was on the dissemination of information about the provisions on equality and case-law in the European Communities. UN's Beijing World Conference on Women also laid common, international foundations for the promotion of gender equality in different areas of life. My second term as the ombudsman began in 2007. The Equality Act had been reformed a few years earlier.

Year 2017 marks the 30th birthday of the Equality Act. The entry into force of the Equality Act in 1987 introduced a new authority to stand alongside the Council for Gender Equality and its secretariat. The Ombudsman for Equality became the leader of the newly-established organisation. At first, playing the role of the equality policy implementation and law enforcement authority went on without a hitch, but before long, the situation became

unsustainable. The law enforcement authority also investigated the legality of decisions by the Government and had to occasionally point out that the Ministry had infringed on prohibitions of discrimination laid down in the Equality Act. At last, the situation was resolved by separating the law enforcement measures into a separate Office of the Ombudsman and establishing a Gender Equality Unit to coordinate the Government's equality policy within the Ministry.

The gender pay gap sped up the dialogue for developing remuneration systems. The initial, ambitious goal was to create a single assessment system for job demands to be applied in all industries. This goal was found to be excessively challenging, leading to developing sector-specific analytical systems based on the assessment of job demands.

At the beginning of the 2000s, the membership in the European Union caused suspicions about the future of gender equality. Would we have to give up daycare, separate assessment or some other elements of the welfare society? In fact, it was surprising that the Finnish Equality Act had to be made stricter in order for us to fulfil the requirements of the European Union.

Over the years, the focus of equality work has shifted from equality between men and women to gender equality. The emergence of men's movement introduced a male perspective to equality policy. Similarly, gender minorities' status and protection against discrimination caused us to recognise deficiencies in both legislation as well as in service provision. The overall reform of the Non-discrimination Act introduced the Non-Discrimination Ombudsman as a new partner. The cooperation between the authorities is natural, particularly in promotion activities, but also in the discussion concerned with discrimination on multiple grounds or discrimination of sexual and gender minorities. There is also increased awareness about gender diversity.

2015 was a year of changes in the Equality Act. Provisions related to gender identity and gender expression were included as grounds of discrimination prohibited in the Act, and the Act was also amended with the inclusion of an obligation to the authorities, education providers and employees to prevent discrimination against gender minorities. Obligations related to the promotion of gender equality were specified regarding both working life planning

and educational institutions. New regulations on pay surveys will further enhance the clarity and quality standards for carrying out pay surveys. Employee representatives must have sufficient opportunity to participate and influence when drawing up equality plans and pay surveys. The employees are to be informed about the equality plan, which also plays a part in making the plans as a part of the discussion in the work community.

In the legislative reform, obligations of educational institutions related to the promotion of gender equality were expanded to include comprehensive schools. In 2015, the Ombudsman for Equality had a department at the Educa and Treduca fairs of the education sector as well as the Kouluterveyspäivät school health event. The events included disseminating information about the legal reform and the *Ei meidän koulussa – Not in Our School* campaign against sexual harassment. We also participated in preparing the *Tasa-arvo on taitolaji! (Equality is a skill)* equality planning guide aimed at comprehensive schools published by the National Board of Education. We will continue our work against sexual harassment together with the National Institute for Health and Welfare, the Non-Discrimination Ombudsman and the Ombudsman for Children.

We have increased our cooperation with different authorities, partly due to the overall reform of the Non-Discrimination Act and partly due to the wishes of different ombudsmen. Togeth-

er with the labour protection authorities, we reflected on and determined shared practices for discrimination cases on multiple grounds in workplaces. We aim to meet regularly with the Non-Discrimination Ombudsman and the Ombudsman for Children, also including the Data Protection Ombudsman in discussions on intervening in the hate speech that has become increasingly commonplace in the society.

At the beginning of 2015, the ombudsmen were transferred to the administrative branch of the Ministry of Justice, an endeavour with fast-tracked preparations. This resulted in the transfer of the Ombudsman for Equality from the Ministry of Social Affairs and Health to the administrative branch of the Ministry of Justice. This resulted in the small, ten-person unit becoming an independent agency, which meant a notable increase in administrative duties. We also updated our website following the move to a different administrative branch. The update of our website has the aim of serving customers better and providing information and guidance on the Equality Act from the perspective of customers.

During 2015, we also completed an assessment of the monitoring of case-law in 2012–2014. The assessment covered administrative courts, district courts and courts of appeal as well as the labour court. I am pleased to be able to confirm that we have been able to reduce the backlog of queries received from customers, and customers are again able to get an answer from the Om-

budsman for Equality at a reasonably fast rate. It is worrying that the largest customer group consists of discrimination claims on the grounds of pregnancy and parental leaves. The law enforcement has also revealed new phenomena in the working life, such as an increase in zero-hour contracts, discrimination due to pregnancy or parental leaves, particularly in case of employees in an insecure situation in the labour market.

During the year, I have watched in worry how estimating impacts on equality has been omitted in different reformations or this has been carried out at a superficial level. The initial idea has been to consider different alternatives and selecting one with least adverse effects on the implementation of gender equality. At the moment, working life is undergoing a major transformation and there is a threat of a growing gap between so-called women's and men's sectors. If consensus can be reached on the competitiveness pact, this will have a negative impact on the status of women working in the public sector.

In this situation, it is important to remember that the Equality Act is a part of the legislation safeguarding one's fundamental rights. Employers continue to be under the obligation to promote gender equality. If a person suspects they have been discriminated against, the Ombudsman for Equality can offer judicial guidance and support.

*Pirkko Mäkinen*



# AMENDMENTS TO THE EQUALITY ACT AND NON-DISCRIMINATION ACT WERE APPROVED

Amendments to the Equality Act were approved by the President of the Republic on 30 December 2014. In the reformed Equality Act, prohibitions of discrimination based on gender were extended to include discrimination based on gender identity or gender expression. The Act requires public authorities, education providers and employers to also help prevent this kind of discrimination.

In the reformed Act, regulations on the promotion of equality by educational institutions have been specified and broadened to include comprehensive schools. Workplace equality plans and the related pay survey obligation were also specified in the Act.

The prohibition of discrimination was also made clearer by prohibiting discrimination regardless of whether it is based on a reason concerning the person facing the discrimination or another person (so-called discrimination by association) and regardless of whether it is based on factual or assumed information (so-called discrimination based

on assumption). Discrimination by association means treating someone differently, for example on the basis of the person being a family member or friend of a pregnant woman or a transgender person. On the other hand, for example not hiring an applicant based on their assumed gender even if this would be a false assumption would be considered discrimination based on assumption. For instance, this could be the case when a person's gender is not indicated by his or her name.

The amendments to the Equality Act are part of an overall reform of non-discrimination and equality legislation. The Discrimination Tribunal and the Equality Board were merged alongside the legislative reform. The scope of the new National Non-Discrimination and Equality Tribunal covers overseeing all grounds for discrimination. The Tribunal may make decisions on prohibitions and obligations and set a fine for non-compliance. Work-related cases may be brought to the Tribunal based on the Equality Act also in the future.



# STATEMENTS ISSUED TO THE PARLIAMENT OF FINLAND



## OMBUDSMAN FOR EQUALITY: GOVERNMENT PROPOSAL CONCERNING EARLY CHILDHOOD EDUCATION CONFLICTS WITH THE PURPOSE OF THE EQUALITY ACT

**O**mbudsman for Equality Pirkko Mäkinen was heard by the Education and Culture Committee on 12 November 2015 regarding amendment of the Early Childhood Education and Care Act and Child Home Care and Private Day Care Allowance Act.

### Summary of the Ombudsman for Equality presentation at the committee hearing

Under the Government proposal, the right to day care would be limited to 20 hours a week for families in which one of the parents is on family leave or unemployed. The Ombuds-

man for Equality stated that a child's subjective right to early childhood education and care guarantees the right to early childhood education for all children. High-quality early childhood education and care is, above all, the right of every child and, in the opinion of the Ombudsman for Equality, it is in the best interests of the child to be entitled to full-time day care.

High-quality early education is also important from a gender equality standpoint. Flexible early childhood education and care services are crucial to balancing work and family life as well as extending the duration of careers.

Women take family leaves more than men. As a result, any adverse impacts caused by the Government proposal will affect women more than men. The Government proposal may put some people into an extremely vulnerable position, particularly those engaged in unconventional work arrangements (e.g.

fixed-term employment agreements, zero hour contracts, temporary and short-term work) and single parents, among others.

The current system, in which each child is entitled to early childhood education and care regardless of what the child's parents do, allows for a flexible return to the workplace after a family leave. The proposed limited right to early childhood education and care will make balancing work and family life difficult.

The Government proposal also puts early childhood education and care providers into a difficult position. The Government proposal includes an estimate, which states that implementation of the proposal would reduce the number of jobs related to early childhood education and care. As a majority of the people working in early childhood

education and care are women, a reduction in the number of jobs will have a greater impact on women than men.

Furthermore, the proposal states that a possible increase in part-time employment resulting from the proposed changes will affect the income level of early childhood education and care personnel working in a low-wage sector. Their working conditions will also suffer from having to deal with increasingly larger groups.

Based on the estimated impacts of the Government proposal on equality, it can be surmised that the proposal will have an undermining effect on women's position in the workplace and would increase gender inequality. The Ombudsman for Equality finds it concerning that no importance was given to the estimate of the proposal's impacts on equality, even though these impacts would seem to be in conflict with the purpose of the Equality Act.

## OMBUDSMAN FOR EQUALITY OPPOSES THE PROPOSAL ON THE RIGHT OF HEALTH CARE PERSONNEL TO UNILATERALLY REFUSE TO PERFORM A PREGNANCY TERMINATION

Citizen's Initiative (KAA 2/2015 vp) proposes the statutory right of health care personnel

to unilaterally refuse to perform a pregnancy termination. The Ombudsman for Equality has issued a statement on the initiative to the Social Affairs and Health Committee. The Ombudsman for Equality opposes the proposed addendum to legislation.

The Ombudsman for Equality stresses that the rights of the patient are also of the utmost importance in this regard. Pregnancy termination is a matter related to the reproductive health and rights of women as well as their right to self-determination. In Finland, pregnancy termination is a statutorily guaranteed health care service.

Including the right to refuse in applicable legislation could jeopardise the availability of health care services related to the termination of pregnancy that are provided for in law and, ultimately, the health of the patient. The termination of a pregnancy could be delayed, even though the law would require the termination to be performed at as early a stage as possible. It could also threaten the assurance of regional equality in access to health care services. Including the right to refuse in applicable legislation might also lead to a situation in which the patient would feel that her statutory rights were being called into question.

# MONITORING THE PROHIBITIONS OF DISCRIMINATION

*The Act on Equality between Women and Men applies as a rule to all sectors of society and in all areas of life. The law is not applied to relationships between family members or other relationships in private life, or to activities associated with religious practices.*

## GENERAL PROHIBITIONS ON DISCRIMINATION

The Act on Equality between Women and Men contains three types of regulations: those promoting gender equality, those banning discrimination and those related to legal protection and supervision. In the Equality Act, gender-based discrimination is defined and prohibited. This prohibition applies to all areas covered by the Act, meaning as a general rule all sectors of society and all situations in which discrimination may arise.

Discrimination becomes increasingly regulated by means of special prohibitions. However, not all forms of discrimination are yet covered by the special prohibitions; in some cases, discrimination is only prohibited on the basis of the general prohibition. The below sections include examples of the cases brought to the attention of the Ombudsman for Equality in which the general prohibition of discrimination has been applied.

## Provision of somatic and psychiatric care of female prisoners

The Ombudsman for Equality was requested to determine whether the decision by the Criminal Sanctions Agency to outsource the somatic and psychiatric care of female prisoners places such prisoners in an unequal position compared to their male counterparts. As a result of the decision, this form of care would no longer be provided at the Hämeenlinna Prison Hospital. According to the parties requesting a statement, the decision means that the health care of female prisoners will be far from equal to the health care of male prisoners and jeopardises the standard of care available to female prisoners.

In its report to the Ombudsman, the Criminal Sanctions Agency was of the view that female prisoners' access to necessary care

will not be affected. According to the report, the change was solely due to the low number of female patients at the Prison Hospital, and the care of a small patient population can be organised flexibly as part of general health care services.

According to a health survey of prisoners, psychiatric morbidity in particular is more common among female prisoners than male prisoners. According to the report of the Criminal Sanctions Agency, approximately 8 percent of prisoners are women. After the change, 15 percent of treatment places would continue to be allocated to women. The Ombudsman is of the view that the allocation rate of patient places specified by the Criminal Sanctions Agency does not mean that female prisoners are in an unfavourable position compared to male prisoners.

The Ombudsman states that the outsourcing of somatic and psychiatric care for female

prisoners previously provided at the Prison Hospital does not necessarily mean that female prisoners are in an unequal position based on their gender in breach of the Equality Act. The Criminal Sanctions Agency must ensure that the care received by female prisoners is of the same standard as the care of male prisoners regardless of the method by which the health care services are provided to female prisoners.

Conflicting views have been presented in the matter on the capabilities of operators outside of the Prison Hospital to provide effective care to female prisoners. Within the scope of its expertise, the Ombudsman is unable to form an opinion on the specifics of the health care of female prisoners. Further, within its competence, the Ombudsman is also unable to provide an opinion on the most suitable way of organising the health care of female and male prisoners. The Ombudsman nevertheless points out that economic efficiency of measures must not lead to discrimination based on gender. Similarly, the limited availability of economic resources does not provide acceptable grounds for an unequal allocation of resources based on gender.

The Ombudsman states that the Criminal Sanctions Agency must aim to ensure that the reform will not adversely affect the standard of care available to female prisoners compared to male prisoners. For ex-

ample, contracts on outsourced health care services must be drawn up so as to ensure the same standard of care for both female and male prisoners. If it is found that the standard of care available to female prisoners does not correspond to that available to male prisoners, the services must be improved. The Ombudsman emphasises the importance of monitoring and evaluating the actual effects of the reform on the care of female prisoners. (TAS 91/2013)

### Application of the Equality Act to associations

The Ombudsman for Equality was requested to give an interpretation of the so-called gentlemen's clubs in the Otaniemi university community which do not accept women as members. The student union had been tasked to find out what kind of discriminatory structures exist for the associations.

The purpose of the Act on Equality between Women and Men under section 1 is to prevent gender-based discrimination and promote equality between women and men. According to section 7 of the Act, direct and indirect discrimination based on gender is prohibited. In this Act, discrimination based on gender means treating women and men differently on the basis of gender. In turn, treating someone differently mainly means granting different benefits or rights, or certain obligations, limitations or burdens to

clearly apply to only men or only women. A measure or practice that appears to be gender-neutral but where the effect of the action is such that women or men actually find themselves in a less favourable position is also prohibited.

The prohibition of discrimination in section 7 of the Equality Act with exceptions laid down separately is intended to apply to all areas of society and all situations where gender-based inequality may appear. A measure guilty of discrimination prohibited in the Equality Act may target an individual man or woman, or a previously unspecified group of men or women.

The purpose of the Equality Act is not to prevent all different treatment of men and women, only different treatment on the basis of gender targeting one gender which is clearly unfair.

According to section 9(3) of the Equality Act, admittance of either women or men only as members of an association other than an actual labour market organisation if this is based on an express provision in the rules of the association shall not be deemed to constitute discrimination based on gender. If the association is another type of organisation representing labour market interests, a further condition is that the organisation must strive to implement the objectives of this Act.



Freedom of association itself is strongly protected by a number of provisions. According to Article 11 of the European Convention on Human Rights, everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

Everyone has the freedom of association under section 13(2) of the Constitution of Finland. Freedom of association entails the right to form an association without a permit, to be a member or not to be a member of an association and to participate in the activities of an association. The freedom to form trade unions and to organise in order to look after other interests is likewise guaranteed. Nevertheless, the freedom of association does not grant the individual a right to gain membership to any association. Freedom of association is based on the internal autonomy and freedom of action, association autonomy. Based on its autonomy, the association has, in principle, the right to freely manage their organisation and other internal

affairs. Thus, associations may issue their preferred rules and choose members accordingly. (HE 309/1993 vp)

More specific provisions on implementing freedom of association are laid down in the Finnish Associations Act (503/1989). Chapter 1, section 1 of the Act states that an association may be founded for the common realisation of an ideological purpose. The purpose may not be contrary to law or proper behaviour. The forms of activity of the association may therefore also not be contrary to proper behaviour (Toiviainen: Yhdenvertaisuus yhdistyksissä 1982).

In summary, as regards the Equality Act, it is noted that if an association wishes to prevent the membership of either women or men in the association, the rules of the association must contain a specific provision on the matter. (TAS 221/2015)

## DISCRIMINATION ON THE BASIS OF PREGNANCY AND FAMILY LEAVE

Discrimination on the basis of pregnancy and family leave is prohibited under the Equality Act. The reported cases cover all stages of employment and public service relationships. Typical situations involve hiring, extension of fixed-term contracts and returning to work from family leave.



Gender-based discrimination includes treating someone differently for reasons of pregnancy or childbirth or treating someone differently on the basis of parenthood or family responsibilities. When employing a person or selecting someone for a particular training, the employer may not bypass an individual for reasons of pregnancy, childbirth or family leave. Nor is it permitted on the basis of the above reasons to dismiss the employee or limit the length or continuation of their employment relationship. It is also prohibited to treat someone unfavourably with regards to decisions on wages and other employment conditions for reasons of pregnancy or family leave.

In practice these regulations are of particular importance regarding fixed-term contracts. For example, the employer may not

bypass an applicant because of pregnancy when choosing an applicant for a fixed-term contract. Also, a temporary contract cannot be limited so as to last only until the beginning of the period of maternal, paternal or parental leave, nor can a decision be made not to renew a contract because of pregnancy or family leave if the work itself is to continue. A replacement may be hired for a fixed-term employee while they are on family leave.

Discrimination due to pregnancy or family leave particularly targets women in insecure employment, such as agency workers and those with temporary, part-time or zero-hour contracts. Many cases in which an employment relationship has been terminated during a probationary period when the employer has found out about the employee's pregnancy are also brought to the attention of the Ombudsman for Equality.

Discrimination due to pregnancy or family leave causes financial losses to discriminated employees, as a lower income will also affect the amount of maternity benefits and parental benefits they will receive, as well as their eligibility for paid maternity leave, which is part of most collective agreements.

Discrimination claims related to pregnancy and family leave continue to be the main cause for employment-related enquiries received by the Ombudsman for Equality.



### Impact of pregnancy on a zero hour contract

A person employed as a cleaner requested a statement from the Ombudsman for Equality concerning whether she had been discriminated against in a manner that violates the provisions stipulated in the Act on Equality Between Women and Men (Equality Act) when she was assigned fewer work hours than before after informing her employer of her pregnancy.

The person requesting the statement was an on-call employee and her employment agreement was a so-called "zero hour contract". She had therefore pledged to be available whenever her employer called, but she did not have a minimum number of working

hours that her employer would be required to assign her.

In a zero hour contract or an on-call employment agreement, the amount of work to be assigned is primarily at the discretion of the employer, unless otherwise specified in the agreement and there is no established minimum number of working hours specified. If the work is performed irregularly and the number of working hours varies from week to week, it can be difficult to specify an established number of working hours.

In case law and legal literature, the following are considered requirements for an established practice: the practice has been in use for a substantial length of time; the practice is clearly-defined and unambiguous; the practice has been observed without exceptions or with minimal exceptions; and the applied practice is not based on error. An assessment of the establishment of a given practice is conducted on a case-by-case basis. In case law, when assessing the establishment of working hours, significance is attached to, for example, the content of the employment agreement and the employer's need for labour.

In her statement, the Ombudsman for Equality stated that it must be determined as to whether a certain number of working hours has been established for the person requesting the statement based on the num-

ber of hours she worked during her five months of employment. If the number of working hours can be considered established after approximately five months of work and this number of working hours has decreased significantly after the employer was notified of the pregnancy, this raises the suspicion of discrimination on the basis of pregnancy. In order to eliminate the suspicion of discrimination, the employer must be able to prove that the reduced number of hours assigned is due to an acceptable reason other than pregnancy.

In this case, there were conflicting reports of when and why the number of working hours assigned to the person requesting the statement had been reduced. The Ombudsman for Equality cannot, in a written statement process, take a stand on evidential issues, which would require, for example, oral testimony. The presentation and examination of evidence concerning disputed issues may be carried out in district court in connection with possible legal action brought against the employer, at which time a final determination can be made as to whether the employer's practice is in violation of the Equality Act.

Finally, the Ombudsman for Equality stated that discrimination at work is subject to punishment under the Criminal Code. The mandate of the occupational safety authority includes considering whether there are

sufficient grounds to suspect discrimination at work in this case as well as whether the matter should be reported to the police for further investigation. (TAS 320/2013)

### Employment terminated during the probationary period when the employee notified the employer of her pregnancy

The Ombudsman for Equality was asked to determine whether a young woman working as a salesperson was discriminated against when her employment was terminated during the probationary period a week after she notified the employer that she was pregnant. The employer stated that the reason for termination was operational losses.

In its report, the employer explained that the employment contract was terminated because it was unclear as to whether an extension of the sales location rental agreement would be granted and the summer sales volume had been low. The employer also had reason to believe that the employee's performance played a role in the low sales volume, as the employee, according to the employer, had herself taken several leaves from work, among other things. However, two weeks after the employment contract was terminated, the above-mentioned rental agreement was granted an extension and an additional sales location was also opened.

The employer hired three new salespersons, who, according to the shift schedule, rotated between the two sales locations. No work was offered to the terminated employee, because the employer recalled that she had refused to move to another sales location.

According to the employee's response, the low sales volume could not have had anything to do with rental agreement matters, but rather that the problem was that she had nothing to sell at the sales location during the summer. The product season was just beginning when she was let go. According to the employee, the claims of her taking leaves on her own initiative are not true, nor had she ever refused to move to another location.

As stated in the Equality Act: "The action of an employer shall be deemed to constitute discrimination prohibited under this Act if the employer:(...)gives notice on, terminates or otherwise discontinues an employment relationship, or transfers or lays off one or more employees on the basis of gender." The pregnant employee may not be terminated on the basis of her pregnancy or the decreased ability to work due to the pregnancy. Under the Equality Act, the burden of proof for showing that the terminated employee was not discriminated against lies with the employer.

The Employment Contracts Act (1(4)(4)) states that an employment contract may



not be terminated on discriminating or otherwise inappropriate grounds with regard to the purpose of the probationary period. According to Government Proposal for the Employment Contracts Act (HE 157/2000 vp), the grounds for termination must be a reason attributable to the employee's person or their work performance. According to a standard interpretation, an employment relationship may not be terminated during a probationary period on production or financial grounds, such as operational losses.

Given the fact that the employer was aware of the employee's pregnancy, the Ombudsman for Equality believes that this case involves the presumption of discrimination in violation of the Equality Act. The problem with the rental agreement, which was claimed in the report, was short-lived and the agreement was renewed a couple weeks after the employee was terminated. The parties were also in disagreement as to whether the employee was terminated during the probationary period on grounds attributable to the employee. According to the employee, she had never received anything but praise for her work. The presumption of discrimination is also confirmed by the fact that the employer had recruited three new employees at almost the same time as the employee in question was terminated. Prior to this, the employer had claimed the reason for termination was operational losses and had not offered the terminated employee any work. (TAS 259/2015)

## Father's right to receive paternity and parental allowance if he has not lived in the same household with the mother of the child

A single father contacted the Ombudsman for Equality concerning his ineligibility to receive paternity and parental allowance, due to the fact that he had never lived in the same household as the mother of the child. The father felt that this practice was in violation of the Act on Equality Between Women and Men (Equality Act), because a single mother would receive maternity and parental allowance in a similar situation, regardless of the circumstances. The father appealed Kela's decision with the Social Security Appeal Board, but the decision remained in effect.

The Ombudsman for Equality responded that her mandate included the oversight of compliance with provisions concerning the prohibition of gender discrimination and promotion of gender equality under the Equality Act. However, the application of legislative power and law falls outside the oversight purview of the Ombudsman for Equality.

In her statement, the Ombudsman for Equality stated that women on maternity leave and men on paternity leave are not, as a rule, in a mutually comparable situation. Maternity and paternity allowance are different ben-

efits and, according to the preparatory legislative work for the Health Insurance Act, they serve different purposes. The paternity and parental allowance paid to fathers provides an incentive for them to participate in the care of their children and build a good relationship with them. Maternity leave is intended not only to provide care to the child, but also to ensure the health of the mother, allowing her to recuperate from the pregnancy and childbirth. Under the Equality Act, the special protection of women due to pregnancy or childbirth cannot be considered gender-based discrimination. The requirements for receiving maternity and paternity allowance may therefore differ from one another, without this being considered a case of treating women and men differently on the basis of gender.

The Ombudsman for Equality stated that, unlike when assessing maternity and paternity leave, when it comes to parental leave women and men should be treated in basically the same manner, because mothers and fathers are equally entitled to take parental leave. However, according to the Ombudsman for Equality, this particular case primarily deals with the different treatment of men in different family situations. In this case, the situation of a father who was not married to or in cohabitation with the mother of the child needs to be compared to the situation of a father who had been married to or in cohabitation with the mother of the child. Under existing

legislation, the basis for granting parental allowance to fathers is a family arrangement, in which both parents and the child live together when the child is born or when the parents are divorced after the child is born.

The concept of family is constantly changing in society. Changes in the concept of family have had an impact on family leave schemes and related legislation, but often only after a delay. For example, the concept of a father being on equal terms with the mother in caring for the child has altered family leave schemes. The separation situations of the parents have also been gradually taken into consideration in family leave schemes, but not in cases where the initial situation involved a single father or the parents living in separate households.

The Ombudsman for Equality has no authority to amend the provisions of the Health Insurance Act (Chapter 9, sections 1, 6 and 8), which address the right to paternity and parental allowance. In Finland, legislative power belongs to Parliament. Legislative amendments may be made in Parliament with a Government proposal, a legislative motion submitted by a Member of Parliament or a citizens' initiative. Amendments to the Health Insurance Act are being prepared in the Ministry of Social Affairs and Health.

As regards the right to parental allowance, the Ombudsman for Equality contacted the

Ministry of Social Affairs and Health to request that it would investigate possibilities for the amendment of Chapter 9(8) of the Health Insurance Act so that a father who was not married to or in cohabitation with the mother of the child would be eligible to receive parental allowance should the parents so agree. This amendment would also encourage fathers in this particular situation to participate in the care of the child. This would have a positive impact on gender equality, as the child could be cared for by the parent whose employment and other circumstances are best suited to parental leave, regardless of gender. (TAS 267/2014)

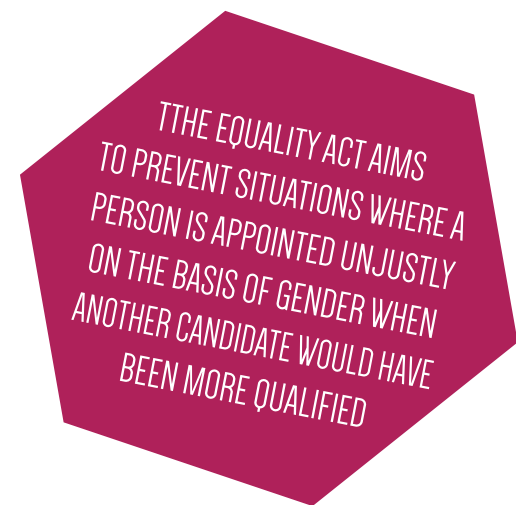
### Interview of an MP candidate at Finnish Broadcasting Company's election gallery

According to an enquiry received by the Ombudsman for Equality, the reporter conducting an interview of Niina Hietalahti, a candidate running for a position in the Finnish Parliament, had made a number of references to the candidate's pregnancy at the election gallery of the Finnish Broadcasting Company. The complainant felt that the interview was discriminatory against pregnant women and violated against gender equality.

For a long period of time, discrimination related to pregnancy has been a major problem related to working life. A major share of work-

related cases brought to the attention of the Ombudsman for Equality concern suspicions of discrimination in connection with pregnancy or family leaves. In this regard, strong emphasis of the candidate's pregnancy in the election interview can be considered inappropriate. This is also poorly compatible with section 5 of the ethical guidelines of Finnish Broadcasting Company's programme activities and contents, which state, for instance, that a person's gender must not be highlighted in an inappropriate or derogatory manner.

In terms of the provisions in the Equality Act concerning discrimination, it must be considered that no such setting was created between the reporter and the MP candidate that could be interpreted based on the provisions of discrimination in the Equality



Act. Due to the limitations set by aspects of freedom of speech and the role of the law enforcement authority, the Ombudsman for Equality does not usually interfere in individual articles, radio or television programmes or the contents of internet sites. In her work, the Ombudsman for Equality has presented perspectives of equality and the principle of non-discrimination in the context of mass communication at a more general level.

However, the Ombudsman for Equality considered it justified to bring this issue to the attention of the Finnish Broadcasting Company. This case also received attention in different media. The Finnish Broadcasting Company also made a news report of the case, in which it stated that the Ombudsman for Equality had clearly taken the viewpoint of freedom of speech into account in her statement, and noted that it would learn from the case in the future. (TAS 71/2015)

## DISCRIMINATION IN RECRUITMENT

The Equality Act does not restrict employers' right to choose the candidate they consider the best for a particular job. According to the Act on Equality between Women and Men, bypassing a more qualified candidate is usually prohibited, but may be done for a particularly significant and acceptable reason due to the nature of the job or task.

An acceptable reason may for example be a difference in personal suitability between the candidate who was selected and the candidate who was not. It is up to the employer to prove that such a reason exists.

The Equality Act aims to prevent an employee from being appointed on the basis of gender, gender identity or gender expression when another candidate would have been more qualified. Over the year, the Ombudsman for Equality received a number of queries concerned with a person's suspicions of being discriminated against in recruitment on the basis of gender. We were also contacted by persons claiming discrimination regarding jobs aimed solely to men or solely to women.

### Suspected discrimination in the selection of school assistants

A man (A) asked the Ombudsman for Equality to investigate whether he had been discriminated against, because in a certain municipality only women had been given permanent positions as school assistants in elementary school over the period 1999–2014.

A said that the last permanent school assistant employed in 2014 was a woman (B) without the same professional qualification that A held: she had been trained as a physi-

cal education supervisor. A woman (C) was also selected as the first reserve assistant, even though she had less work experience than A. A was chosen as the second reserve. The women were also made permanent at the school when serving an apprenticeship and despite the professional qualification as school assistant that A had acquired in 2008, the work experience of some seven years that he had gained in temporary employment at this school level, and the excellent reports on his work that had been received.

### Selection of school assistant in 2014

According to the Equality Act, it is prohibited discrimination if an employer, when hiring, bypasses a more qualified person of the opposite sex in favour of the person chosen, unless the employer's action was for an acceptable reason and not one based on gender.

The Ombudsman for Equality asked for a report on the matter from the Head of Administration of the local authority Educational Services. In spring 2014 a vacancy had arisen for an assistant for a small group of special needs pupils, and the selection process would therefore give preference to experience of such work.

The Ombudsman for Equality took the view that A was more qualified by virtue of his

training than B, the candidate selected. A also had experience of working with special needs children, but B had been a school assistant in a small class of special needs pupils for two academic years, so when B was selected it could not be concluded that this was a case of discrimination contrary to the Equality Act. C, who had been chosen as first reserve, had considerably less experience of working as a school assistant than A and only five months of working with special needs pupils. To the Ombudsman for Equality it seemed that the choice of C as first reserve led to the assumption that this was a case of discrimination contrary to the Equality Act. However, there could be no redress under the Act unless it was a case where B had turned the position down and C had been selected as school assistant in place of A.

## Previous choices of school assistant

According to the employer, A could not have been discriminated against in the various school assistant selection processes, because the positions had not been filled via the application procedure before the selection that had been made in 2014, now under investigation, when the vacancy arose after the holder of the post retired. The other school assistants in that municipality had been serving apprenticeships to gain a qualification as a school assistant. Three of them had been women and one a man. The women

had been given permanent positions in 2009, 2013 and 2014. The man had been made permanent in 2015. He was an employee of the local authority who had been relocated.

The Ombudsman for Equality took the view that a relocated permanent employee of a local authority was not in a position comparable to persons employed from outside that municipality or those who had worked there on temporary basis. Nevertheless, A was considered to be in a position comparable to school assistants given permanent positions in 2009, 2013 and 2014 as a result of serving apprenticeships.

Indirect discrimination, something prohibited under the Equality Act, is putting someone at a disadvantage on the grounds of gender on the basis of an apparently neutral practice, if, as a result, that person may actually be at a disadvantage on the grounds of gender. The actions are not, however, considered discrimination if they are aimed at achieving an acceptable objective and if the chosen means must be deemed appropriate and necessary in view of this objective.

In this case, a gender-neutral practice, where school assistants had been given permanent positions, with no application procedure for those who had served apprenticeships, had in fact resulted in a situation where the school concerned had not given a man who had worked as school assistant there

for years and was professionally qualified for the task, i.e. A, the same opportunity to become a permanent school assistant, as had been the case with the women who had been made permanent in 2009, 2013 and 2014.

The fact that the local authority had given its permission to the Educational Services Department to appoint the apprentices to permanent positions directly, and not through any application procedure, could not be regarded from the perspective of discrimination in the matter as an acceptable reason for not also giving the same opportunity to someone who had held several temporary positions in that local authority and who had already gained the relevant professional qualification.

A had experience of working as a school assistant and was professionally qualified for the task, and he had excellent references. The Ombudsman for Equality also found that no other acceptable reason by virtue of the Equality Act had become apparent in the case not to make A a permanent staff member in the same way as with the women who had been serving apprenticeships. The Ombudsman urged the local authority to desist from the practice in making school assistants permanent that resulted in A having been treated differently on repeated occasions from the women who had been given permanent positions after completing their apprenticeships. (TAS 83/2015)



## Suspected discrimination in filling a post for upper secondary school teacher in religion and philosophy

The Ombudsman for Equality was asked to determine whether a female applicant was discriminated against in filling a position for upper secondary school teacher in religion and philosophy. The applicant claiming discrimination had served as a substitute teacher in the upper secondary school in question for four years and in various teaching positions for over 17 years, but when a permanent position opened it was given to younger male teacher with considerably less work experience. Both the person chosen for the position and the substitute teacher claiming discrimination were qualified for the position in question. The deciding factor in selecting the teacher was that the person chosen for the position would possess the qualifications and previous experience in the use and development of “digital pedagogy”. However, digital pedagogy was not mentioned in the call for applications, nor was a single question asked about it during the interview.

The applicant claiming discrimination explained that the lack of using electronic methods in instruction was a structural point due to the employer. Although the applicant had used electronic methods to some extent in her teaching, a more extensive use of electronics had been planned for the au-

turn of 2015 due to the lack of equipment and its inconsistent reliability. Working as a part-time teacher in the upper secondary school in question, the applicant had participated in several training courses (incl. tablets, Pedanet, electronic teaching methods, electronic matriculation examination) with the consent of the principal. The training was organised by the employer.

The Ombudsman for Equality based her statement on the job description for an upper secondary school teacher, whose purpose is to support the growth of students into good, balanced and civilised people as well as to provide them with the skills needed in further studies, the workplace, their personal interests and the diverse development of their personalities. In addition, the teacher must promote the pupils’ opportunities for lifelong learning during their lives as well as work in co-operation with the pupils’ families.

The comparison of qualifications for filling the position was lacking in this regard. In her statement, the Ombudsman for Equality emphasised that, even though digital competence was chosen as a focal point, other equivalent qualifications required for the successful performance of teaching duties were also important. The final comparison of qualifications is an overall assessment of education, work experience and additional qualifications, at the centre of which lies the successful performance of the given task.

Even though additional qualifications gained from other positions augment the applicant’s chances for selection, they must still be supplementary to the applicant’s other qualifications. Selecting the most qualified applicant for any given position is also in the best interests of the employer.

Indeed, the Ombudsman for Equality found that the teacher claiming discrimination seemed, on the whole, to be the more qualified applicant for the position of teacher in religion and philosophy, taking into consideration the fact that she has fifteen more years of work experience in teaching as well as qualifications related to digital competence (even though she possessed fewer qualifications in this area than the selected applicant).

In its explanation, the employer stated that the applicant interview and references were the deciding factors in making the selection where suitability was concerned. The suitability of the applicants was compared based on interviews, information obtained from previous employers and the employer’s own previous experiences. In order for an employer to cite choosing an applicant based on a personal characteristic over an applicant with higher qualifications, the employer must be able to demonstrate that it has compared the abilities and characteristics of the selected and rejected applicants. It was never explained how the city had noted that the applicant claiming discrimination had also

expressed her own enthusiasm for school development and adopting electronic methods. The fact that the challenges in implementing electronic methods were primarily structural or even due to the employer (lack of personal terminal devices for pupils and reliability issues) was also not explained.

Even in this case, the thorough comparison of suitability and explanations given to the applicants would have eliminated any suspicion of the selection being made on grounds prohibited by law, such as stereotypical perceptions of women's ability to adopt new electronic methods. (TAS 233/2015)

### Public appointment of the city clerk by unanimous decision of the city council

The Ombudsman for Equality was asked to determine whether a woman, who had long served in a supervisory capacity in the municipal sector, was discriminated against when the city council appointed a recent male university graduate to the office of city clerk by unanimous decision. The difference in work experience between the two applicants – over 20 years – is considerable.

In the call for applications, the stated qualification requirements for the office were a higher education degree suitable to the po-

sition in question and sufficient familiarity with municipal administration. According to the call for applications, the successful performance of duties as city clerk required a strong knowledge of personnel management, excellent co-operation and interaction skills, management skills and a developmental approach to work. According to a report issued by the city, a special emphasis was given to the expertise needed in central municipal administration. It was required that the applicant's educational background and work experience be in the same field as the duties involved in serving as the city clerk. Another appointment criterion specified was a successful interview.

No comparison of qualifications between the applicants was made. All applicant applications and curricula vitae were submitted to the interviewers and decision-makers. The city board did not provide the name of the candidate to the city council. A council parliamentary group submitted its candidate proposal for the office and a deputy at the city council meeting. After the parliamentary group addressed the meeting, all other parliamentary groups seconded the proposal. Because the decision was unanimous, no municipal election was held.

The Ombudsman for Equality stated that the Equality Act requires a comparison of qualifications whenever men and women are applying for the same position. The

comparison of qualifications should not be considered a formal summary defining the appointment, but rather as an objective assessment of who is best qualified to hold the office. Even though a more qualified applicant might be bypassed for an appointment if a lesser qualified applicant possesses personal attributes that favour his or her appointment, this still does not diminish the importance of comparing the qualifications of both applicants. On the basis of a proper comparison of qualifications, both applicants are given an opportunity to judge the propriety and legality of the appointment process.

In order for an employer to invoke the personal attributes of a lesser qualified applicant as the reason for making its appointment, it would have to carefully and objectively weigh the skills and attributes of both applicants. In this case, the city did not provide the Ombudsman for Equality with a more detailed explanation of how it made this comparison. For example, no written interview records were made.

The Ombudsman for Equality stresses that the prohibition of discrimination under the Equality Act is a restriction on municipal self-government, which can impose more stringent requirements on municipal functions than the general principles of civil service or administrative law would. In a comparison of qualification compliant with the Equality Act, for example, political activ-

ity can be taken into consideration only to the extent that it enhances the applicant's qualifications to serve in the office.

The Ombudsman for Equality stated that, based on the report concerning the matter at hand, it would seem that, in terms holding the office in question, the woman requesting the statement possessed considerably more work and managerial experience than the man actually appointed to the office. The person appointed to the office, who had still not fully completed his post-graduate degree at the time of the appointment, could not have accumulated an equivalent amount of experience in, for example, supervisory tasks. This was not even possible in terms of the amount of time given. Seen as a whole, it would seem that the person requesting the statement was more qualified than the person appointed to the office in question. In this case, the burden of proof showing that the man appointed was better suited to the office of city clerk rests with the city. (TAS 188/2015)

## PAY DISCRIMINATION

The Equality Act prohibits gender-based discrimination regarding pay. In general the Equality Act concerns differences in pay between employees of the same employer.

Applying pay terms in a way that places an employee or employees in a less favourable

position because of their gender than one or several other employees doing the same or same level of work for the same employer constitutes discrimination, unless there is an acceptable reason for this.

It may also be a case of discrimination if a person is placed at a disadvantage regarding pay because of pregnancy, childbirth or another reason related to their gender. Employees may also not be discriminated against because of their gender identity or gender expression. The Ombudsman for Equality continues to regularly receive inquiries from people who suspect that they have been discriminated against in terms of pay because of their gender.

### Suspected case of pay discrimination in the salary of a teacher returning from family leave

A schoolteacher requested a statement from the Ombudsman for Equality regarding whether she had been discriminated against in violation of the Act on Equality between Women and Men. She suspected the employer of setting salary terms that, due to her gender and family care obligations, put her in a less favourable position than other persons working for the employer.

The teacher had taken an extended family leave, which was followed by a study leave.

During this time, the employer had restructured its payroll system. When the teacher returned to work, her performance level in the new payroll system was set lower than the performance levels of the peers she named; these levels had been set for the first time after restructuring the payroll system. The salary of a new male teacher who had begun working at the same time was set at the same level of the teacher requesting the statement. Seen from a salary standpoint, the teacher requesting the statement was treated as a new employee, even though her employment had begun several years before taking family leave.

The Ombudsman for Equality does not conduct performance evaluations. It is for this reason that the Ombudsman for Equality did not take a stand on the teacher's work performance itself, but rather the adverse impact that her family leave had on what her work performance was estimated to be in violation of the Equality Act. Insofar as the matter is a question of the adverse impact that a study leave has on setting salaries, the matter in question may be an issue of the interpretation of the Employment Contracts Act or Equality Act, which falls within the purview of the occupational safety and health authorities.

In her statement, the Ombudsman for Equality felt that, if the teacher had not taken a study or family leave, it is likely



that her performance would have been set at the same level as her peers in the first evaluation, as the performance level in question seems to have served as the basis in the first evaluation after the restructuring. Any deviation from this basis would require special grounds.

Even if it had been possible to assess the teacher's performance right after returning to work, the fact that she had been on family leave should not have had any adverse impact on what level her personal supplementary remuneration was set. If it turns out that she has been dropped to a level lower than her peers in her first performance evaluation after returning to work solely because she had been on family leave when the new payroll system was instituted, her family leave thus resulted in her unfavourable treatment compared to her peers in violation of the Equality Act. This would raise the presumption of discrimination in the matter, thus requiring the employer to provide an acceptable reason, in accordance with the Equality Act, for taking the action it did.

Finally, the Ombudsman for Equality stated that, if the parties could not reach an agreement on the matter, salary disputes concerning interpretation of both the Employment Contracts Act and Equality Act would ultimately be resolved in a District Court. (TAS 151/2015)

## DISCRIMINATION IN PRICING AND IN THE AVAILABILITY OF SERVICES

The Equality Act prohibits less favourable treatment of a person on the basis of gender, gender identity or gender expression in the provision of goods and services available to the public. The pricing system used by a trader cannot thus be based on the customer's gender.

Any sexual or gender-based harassment committed by a provider of goods or services also counts as discrimination, as does, for example, the refusal to offer goods or services to someone who has claimed discrimination or to their witnesses.

The purpose of the Equality Act is not to prevent all different treatment of men and women. Instead, it aims to prevent only different treatment based on gender which is clearly unfair. According to the Equality Act, offers targeting only one gender continue to be acceptable only if they are infrequent and of a relatively low monetary value. Therefore, discounts related to, for example Father's Day, Mother's Day or International Women's Day, with relatively low monetary value, cannot be seen as a violation of the Equality Act. In contrast, a discount, benefit or, for instance, a less expensive season ticket or dance course that is continuously offered



to one gender does not comply with the Equality Act.

The Equality Act also does not prohibit offering goods or services exclusively or mainly to one gender on the grounds of a legitimate objective and the measures are appropriate and necessary. Nevertheless, all limitations must be appropriate and necessary. This prohibition does not apply to media or advertising content or to education and training.

During the year under review, the Ombudsman for Equality received a number of enquiries regarding the availability and offering of goods and services. Among others, the enquiries were concerned with discounts offered for only one gender, barber or hairdresser services and their pricing,

gym services and driving school activities. The Ombudsman for Equality also received a number of queries about rental advertisements seeking female tenants.

The European Commission's report on the application of Council Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services was completed in May 2015. In the report, the Commission took into account the report on the issue prepared by Equinet, the European Network of Equality Bodies completed in September 2014, in whose formulation the Ombudsman for Equality also participated.

### Barber shop practices

The Ombudsman for Equality was asked to clarify whether the operations of a barber chain complied with the Equality Act. According to the complainant's understanding, the barber shop in question only offered its services to male customers.

According to a report submitted to the Ombudsman for Equality by the barber shop, the selection of services and products of the barber shop are aimed at men. The company also serves female customers, but does not offer hair salon services. Female customers are allowed to become members of the chain under the same conditions as men. However,

services potentially left unused, including shaving or shaping or beard or moustache will not be separately compensated for, and these potentially unused services cannot be traded for other services. This practice also applies to male customers.

The statement includes a reminder that the freedom to conduct business activities includes the entrepreneur's right to select the shape and means in which he or she would like to make a living, including the right to productise their business. Entrepreneurs can choose the contents of the goods and services they offer as long as their conduct does not violate the prohibition of discrimination, which is a guaranteed fundamental right which has been specified in the Equality Act. Therefore, a barber entrepreneur is allowed to provide services according to his or her business idea, professional competence and available tools.

This case would have been problematic from an Equality Act standpoint if the barber shop selected its customers on the basis of gender. As this was not the matter in the case concerned, the operations of the barber shop in question are not in conflict with the Equality Act.

Nevertheless, as the website of the barber shop stated that this was a barber service offered for men, the Ombudsman for Equality requested the barber entrepreneur to pay

more attention to its marketing in order to avoid unnecessary misunderstandings and official processing. (TAS 62/2015)

### Driving school practices

The Ombudsman for Equality was asked to clarify whether the operations of a driving school complied with the Equality Act. According to the complainant, certain driving school instructor had acted inappropriately towards female students during theory training held at a slippery track.

According to a report submitted to the Ombudsman for Equality by the driving school, the school is aware of the behaviour of the driving instructor in question and the is-



sue has been discussed with the person in question. The report also enforces that the situation described in the enquiry does not represent the driving school's view of an appropriately handled instruction situation or an appropriate attitude towards female students and female drivers. The instructor in question did not personally acknowledge that the words used by him, "blonde parking" and "hag parking", common among young people, were considered offensive and were not intended to be used in such a way.

In her statement, the Ombudsman for Equality notes that the driving school, similarly as any institution providing education or training, should adhere to appropriate language respectful for everyone in all of its activities. The person providing instruction should make a distinction between, on one hand, appropriate and professional language use and, on the other, the type of language possibly used among young people. Having certain words or expressions be common among young people does not mean that these words or expressions could be freely used when providing instruction, even in the case that, for instance, the driving school's customers are young. The instructing situation should also not be used for perpetuating or reinforcing prejudices or rigid gender stereotypes.

The Ombudsman for Equality also reminds the driving school of its obligation to take

the steps available to eliminate gender-based harassment after informing the responsible representative of the driving school about the case. (TAS 76/2015)

## GENDER IDENTITY AND GENDER EXPRESSION

People have diverse gender identities and gender expression. Each person's gender is a unique combination of physical, mental and social dimensions related to gender. People may identify as male or female, or something in between. Some do not identify as being part of the traditional classification of male or female at all. Each person's legal gender is registered as male or female in the population register.

In 2015, the work of the Ombudsman for Equality in issues related to gender diversity was focused on raising awareness on the new provisions related to gender identity and gender expression in the Equality Act. Brochures and an information kit published by the Gender Equality Unit of the Ministry of Social Affairs and Health on the Equality Act and gender diversity were a useful tool in this process. A representative of the Ombudsman for Equality got to participate in preparing and commenting on these materials. In addition to a general brochure, separate brochures were targeted at the authorities, employers and educational institutions.



The Ombudsman for Equality provided knowledge and advice on questions and suspected discrimination related to gender identity and gender expression in many different types of cases. Among other things, the cases were related to the Trans Act, treatment practices, the right to infertility treatments, the situation of trans people in closed institutions, study and work certificates, and sport services.

The Ombudsman for Equality continued to cooperate with organisations representing gender minorities, such as Trasek ry, DreamwearClub ry, Seta ry and Transtukupiste. The Ombudsman for Equality spoke at the *Sukupuolen moninaisuus, perhe ja lapset* ("Gen-

der diversity, family and children') training held by Sateenkaariperheet ry (Rainbow Families) as well as at the *Arvokas vanhuus II ('Dignified old age II')* seminar of the Active Age programme, whose theme was well-being through diversity. A representative of the Ombudsman for Equality also participated in the events of the TransHelsinki week: The LGBT network of the Parliament of Finland and Seta organised a discussion on the problems caused by the current Trans Act in the everyday lives of people. The *Urheilun syrjimättömyys ('Non-discriminatory sports')* seminar held by DreamwearClub ry involved examining the realisation of equality in sports and sport organisations.

### The Equality Act prohibits discrimination based on gender identity and gender expression

The reformed Equality Act, which took effect on 1 January 2015, prohibits discrimination based on gender identity and gender expression. The Act also obligates authorities, education providers and employees to prevent discrimination. The obligation must be taken into account in the formulation of equality plans and in decision-making on equality promotion measures.

New provisions related to gender identity and gender expression were included in the Equality Act specifically to clarify and

broaden the scope of the protections of gender minorities against discrimination. Gender minorities include trans people, such as transsexual, transgender (non-binary gender) and transvestite people, as well as intersex people. It should be noted that the same provisions apply to all people and not only gender minorities. The premise behind the amendments is the idea of gender diversity and that every person has their own gender experience and way of expressing gender.

### Ombudsman for Equality statement on the need for legislative amendment of amendments made to the Marriage Act

In December of 2014, the Finnish Parliament enacted an amendment to the Marriage Act (156/2015), under which persons of the same gender may enter into legal matrimony. The amendment to the Marriage Act enters into effect on 1 March 2017 and also requires the amendment of other acts, such as the Act on Confirmation of the Sex of a Transsexual (563/2002, hereinafter Trans Act). On 2 December 2015, the Ombudsman for Equality issued a statement to the Legal Affairs Committee concerning Government Proposal HE 65/2015, which concerns the additional amendments to the Marriage Act amendment. The Ombudsman for Equality stated that

gender and confirmation of gender in marriages occurring after amendment of the Marriage Act no longer affect the form of the relationship or any related legal effects. This also promotes the equal position of transgender persons.

The Ombudsman for Equality felt that it was good that the provisions proposed for the Trans Act no longer required being unmarried or spousal consent in order to confirm gender. Instead, it was proposed that the local register office must report confirmation of the gender of the married person to their spouse. The Ombudsman for Equality stated that marriage is a question of an agreement between two people and the assessment of changes affecting that agreement where both parties are concerned. The report issued by the local register office plays a key role in marriages occurring before amendment of the Marriage Act, where the spouses must be of different genders. The Ombudsman for Equality proposed that the Government Proposal be amended in such a way that the local register office must report a married person's confirmation of gender to the spouse only in cases where the marriage occurred before the amendment to the Marriage Act enters into effect on 1 March 2017.

The Ombudsman for Equality stated that, in addition to the currently proposed amendments to the Trans Act, the requirement

stating that a person must be sterilised or otherwise infertile must absolutely be eliminated from the requirements for confirming gender. The infertility requirement of the Trans Act violates fundamental and human rights, such as the right of transgender people to equality, personal integrity, and private and family life. The final report drafted by a working group to revise the Ministry of Social Affairs and Health Trans Act (6.5.2015, STM 2015:23) contains an existing proposal (in the form of a Government Proposal) on elimination of the infertility requirement.

The Legal Affairs Committee stated in its report (LaVM 7/2015 vp) that numerous other needs for amendment relevant to the Trans Act, such as elimination of the infertility requirement, were brought up in its hearing of experts. Because these other needs for amendment were not related to the amendment of the Marriage Act, the Committee stated that it was not possible to evaluate or implement them in connection with the matter in question. In light of the report submitted, an overall examination of the needs to amend the Trans Act was, however, still considered justified. (TAS 321/2015)

### Statement by the Ombudsman for Equality on gender markers on passports

The Ombudsman for Equality was contacted by a person who had in the gender reas-

signment process ended up in a situation in which their first name was a woman's name, their legal gender was male, and their body was gender diverse. The person wanted a travel document that would reflect their gender diversity so that they would not be forced to carry psychiatrists' statements in addition to the travel document when travelling from one country to another. Some countries require for the gender stated in a person's travel document and their external gender or name to correspond. In Finnish passports, information is stated according to what has been registered in the population information system. Providing information outside what has been entered into the population information system is not possible in Finland, even if this is allowed, for example in the definitions for machine-readable passports by the ICAO. It could be worth introducing and making available the gender marker X also in Finland.

The Ombudsman for Equality noted that the Act on the population information system and the certificate services of the Population Register Centre and the Passport Act lay down provisions on gender markers in the population information system and passports. According to these Acts, there are only two alternatives for the genders stated, "male" or "female". For example, those applying for a passport in Australia can currently choose between three gender

alternatives, "male", "female" or "unknown". In case the applicant selects the alternative "unknown", the marker "X" will be stated in the gender column of the passport.

The Ombudsman for Equality has no authority to amend the provisions addressing how gender is stated in the population information system and passports. In Finland, legislative power belongs to Parliament. Legislative amendments may be made in Parliament with a Government proposal, a legislative motion submitted by a Member of Parliament or a citizens' initiative. Provisions given on passports are prepared in the Ministry of the Interior and those concerned with the population information system are prepared in the Ministry of Finance.

The Ombudsman for Equality noted that it was highlighted in the discussions on needs for amendment to the Trans Act (563/2002) by a working group of the Ministry of Social Affairs and Health that, when developing the status of gender diverse individuals in the future, one issue that should be taken into account is the fact that retrieving the person's gender marker from population information system may result in problems in travelling in case of a disparity between the person's appearances and the gender marker. (TAS 38/2015)



# PROMOTING EQUALITY

*The Equality Act obliges every employer to promote gender equality in a purposeful and planned way. This affects both public- and private-sector employers, regardless of the number of employees involved. Schools and educational institutions also have the obligation to promote equality between men and women.*

## EQUALITY AT WORKPLACES

### Equality plan provisions were reformed

**T**he reformed Equality Act entered into force on 1 January 2015 (609/1986). Provisions on equality planning and pay surveys were also clarified and the new Section 6 b on pay survey was included in the Act. In the new version, representatives appointed by employees must have sufficient opportunity to participate and influence when drawing up equality plans. The employees are also to be informed about the equality plan.

The pay survey is used to ensure that there are no unjustified pay differences between women and men who are working for the same employer and engaged in either the same work or work of equal value. The em-

ployer must account for reasons behind pay differences, e.g. by reviewing most essential pay elements if the pay survey reveals clear differences between pay for men and women. If no acceptable reason is found for differences in pay between men and women, the employer shall take appropriate corrective action.

The new section 6 c has been introduced to the Equality Act, according to which employers are obliged to prevent in a purposeful and planned manner all discrimination based on gender identity or gender expression. The obligation must be taken into account in the formulation of equality plans and in decision-making on equality promotion measures. In the Equality Act, the phrase gender identity refers to an individual's experience of their own gender, while the phrase gender expression refers to expressing one's gender through clothing,

behaviour, or by other means. The regulations on discrimination based on gender identity and gender expression are also applied to discrimination which is based on the fact that an individual's physical gender-defining characteristics are not unambiguously female or male.

## Workplace visits by the Ombudsman for Equality

In 2015, the Ombudsman for Equality made workplace visits to Fiskars Oy Ab, Ahlström Glassfibre Oy and Alko Oy. The purpose of the visits was to promote equality planning and work on gender equality. All three meetings were attended by employer and employee representatives. The enterprises' equality plans were reviewed and there were discussions on measures which could be used to concretise equality work by enterprises.

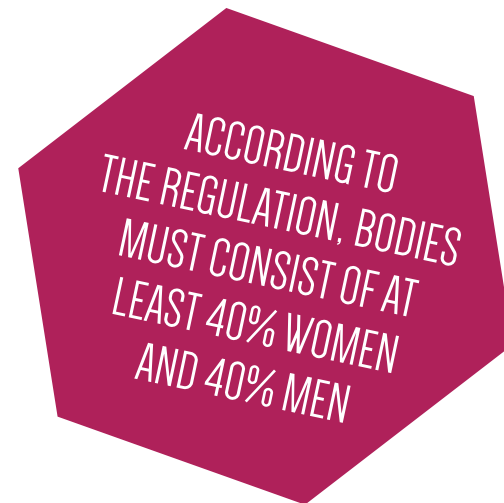
Alko Oy has combined a personnel and training plan according to Act on Co-operation within Undertakings with an equality plan. An assessment of the equality conditions is conducted annually at Ahlström Glassfibre Oy and used as a basis by the co-operation within undertakings committee in selecting the aims and planned measures for the following observation period. At Fiskars, the equality plan covers the entire corporation in Finland. However, problem areas in the different branches are separately discussed at equality working groups.

During the visits, the Ombudsman for Equality explained about the new provisions of the Equality Act concerned with equality planning, including the participation of employees in preparing the plan and the pay survey as well as taking gender diversity into account.

## QUOTAS

Section 4a (1) of the Act on Equality between Women and Men requires that all Government committees, advisory boards and other similar administrative bodies have at least 40 per cent of both women and men, unless there are special reasons to the contrary. In established use, the quota provision has also been deemed to apply to bodies appointed by ministries, such as working groups. Likewise, municipal and inter-municipal co-operation bodies, municipal councils excluded, must have at least 40 per cent of both women and men, unless otherwise dictated by exceptional circumstances.

According to the same section of law, the executive or administrative organs of bodies and institutions exercising public authority and companies in which the government or a municipality is the majority shareholder must include an equitable proportion of women and men, unless there are special reasons to the contrary. This provision ob-



ligates all parties proposing members to the bodies mentioned above to put forward the nomination of both a man and a woman for every membership position. The concept of special reason shall be interpreted restrictively. This kind of reason may be, for example, that a body will be working in a very specialized area where the experts are only either women or men. A special reason always requires justification, and such a reason must exist by the time the body is being appointed.

## Applying the quota provision in church bodies

The Ombudsman for Equality was requested to answer how the quota provision is applied in the make up of boards of directors in parishes. The Ombudsman for Equality stated



that the quota provision of the Equality Act (Section 4 a (1)) does not apply to church bodies; instead, the Church Act contains a corresponding provision Chapter 25 Section 10 a.

Similarly as the quota provision of the Equality Act, Chapter 25 Section 10 a of the Church Act states that the proportion of women and men in the body must be at least 40 per cent, unless there are special reasons to the contrary.

The detailed justifications of the Government Proposal for the Church Act (HE 121/2003) include the following regarding the special reasons referred to in Section 10 a of the Church Act: The 40 per cent minimum requirement of the quota provision may not be deviated from by downward rounding, unless there are special reasons to the contrary. When preparing the Equality Act, having only men or only women serving in the offices or positions from which the members of the body are selected was considered such a special reason. Similarly in case-law, when the membership in a body is based on the position as an official, it has been accepted as a special reason for deviating from the quota provision. However, members' positions as elected representatives, representation of political groups or different associations, membership in a body previously in charge of similar tasks or the authority of the bodies have not been considered special reasons.

The Ombudsman for Equality has no authority to interpret the Church Act and cannot thus take a stand on whether the case in question is a matter of a special reason to deviate from the minimum quota set in the quota provision pursuant to the Church Act. (TAS 98/2015)

### Bringing a quota requirement matter before the National Non-Discrimination and Equality Tribunal for hearing

The Ombudsman for Equality was asked to bring the compositions of the Kela Social Insurance Institution Parliamentary Supervisory Council, Bank of Finland Parliamentary Supervisory Council, YLE Administrative Council and the Board of the Library of Parliament as well as the compositions of certain Parliamentary committees before the National Non-Discrimination and Equality Tribunal for investigation, as the quota requirement specified in the Equality Act has not been met where the members and deputy members of these bodies are concerned.

In her statement, the Ombudsman for Equality stated that, as specified in the Equality Act: "The proportion of both women and men in government committees, advisory boards and other corresponding bodies, and in municipal bodies and bodies

established for the purpose of intermunicipal cooperation, but excluding municipal councils, must be at least 40 per cent, unless there are special reasons to the contrary.

If a body, agency or institution exercising public authority, or a company in which the Government or a municipality is the majority shareholder has an administrative board, board of directors or some other executive or administrative body consisting of elected representatives, this must comprise an equitable proportion of both women and men, unless there are special reasons to the contrary."

The Equality Act contains legal constraints. The Ombudsman for Equality cannot, for example, request an inquiry from Parliament in cases where the matter involves parliamentary activities that are connected with the duties of Members of Parliament.

The Equality Act also restricts the right of the Ombudsman for Equality to bring matters before the National Non-Discrimination and Equality Tribunal for hearing. The Ombudsman for Equality or a labour market organisation can bring cases involving violation of provisions in the Equality Act concerning discrimination and discriminatory job listing practices before the Tribunal for hearing. Likewise, the Ombudsman for Equality can bring cases involving the failure to prepare plans for educational institutions and work-

places before the Tribunal for hearing. The Equality Act does not entitle the Ombudsman for Equality to bring matters concerning application of the quota provision before the National Non-Discrimination and Equality Tribunal for hearing.

It is for the above reasons that the Ombudsman for Equality cannot request an inquiry concerning this matter from Parliament or bring it before the National Non-Discrimination and Equality Tribunal. (TAS 211/2015)

## EQUALITY IN SCHOOLS AND EDUCATIONAL INSTITUTIONS

The Equality Act prohibits discrimination in educational institutions based on gender, gender identity or gender expression. In addition, instruction and education providers must ensure that educational institutions carry out systematic work to promote gender equality. Educational institutions must also prevent discrimination on the grounds of gender identity or gender expression.

### Equality planning at educational institutions

The Act on Equality between Women and Men obliges educational institutions to draw up an equality plan aimed at improving the

educational institution's operations. The equality plan is a tool which supports the promotion of gender equality in all school activities. The purpose of the plan is to ensure that educational institutions are engaged in systematic work to promote equality.

The plan should always be drafted in cooperation with staff members and pupils or students and it must include a survey of how successfully people feel equality is achieved at the education institution.

The purpose of the systematic promotion of equality is not just to encourage equality between women and men but also to prevent discrimination. Equality work at educational institutions is also aimed at creating a shared understanding of what makes a school equal, what are the things promoting the implementation of equality and, on the other hand, what has been found to prevent equality.

Promoting equality at educational institutions and monitoring the quality and quantity of equality plans is a vital part of the work of the Ombudsman for Equality. The scope of the obligation concerned with educational institutions was expanded to include comprehensive schools providing basic education as of 1 January 2015 in conjunction with the reformation of the Act. Comprehensive schools must draw up their equality plans by 1 January 2017.



In addition to the reform of the Equality Act, the core curriculum for basic education given in December 2014 is committed to promoting gender equality in multiple ways. In October 2015, the core curriculum for basic education was supplemented with a provision on preparing school-specific equality plans.

### Guide for promoting equality in basic education

In order to clarify the obligation set by the Equality Act and the contents regarding equality in the core curriculum for basic education, a decision was made to prepare guidelines to support schools and providers of basic education. Indeed, during the year under review, the Ombudsman for Equal-

ity participated in a working group on the formulation of a guide for comprehensive schools in cooperation with the National Board of Education, the Ministry of Education and Culture, the Ministry of Social Affairs and Health, and the Peace Education Institute.

The *Tasa-arvotyö on taitolaji* ('Equality work is a skill') guide was published in 2015. The aim of this guide, aimed at comprehensive schools and education providers, is to clarify how to conduct school-specific, systematic work for promoting equality at a practical level with comprehensive school aged children. The guide highlights the challenges of gender equality, encourages increasing understanding of gender equality and provides information about sexual and gender-based harassment and measures for preventing harassment. The guide also includes a lot of suggestions and practical examples of how systematic work promoting equality can be conducted and how to prepare a school-specific equality plan on the school's activities.

### The task of the education provider in promoting work on equality

Organisations offering education, training and tuition must ensure equal opportunities for the education and professional

development of children and adults both male and female. In addition, they must ensure that their learning materials, tuition and research activities support equality promotion.

Education and training providers have the duty to ensure systematic work to promote equality in all of their schools and educational institutions as required by the Equality Act.

The Ombudsman for Equality continued to build cooperation with education and training providers throughout the review period. In particular, the Ombudsman met with various education providers as part of the duty to oversee compliance with the obligation set out in the Equality Act on the promotion of equality by schools providing basic education. At meetings called by the Ombudsman for Equality, the discussions focused on the systematic support for equality given to schools administered by the education provider. At the meetings, the representatives of the education provider also strongly emphasised that there is genuine need for the guide prepared as a support for schools and education providers. The intention on the meetings was also to establish a viable discussion link to education providers to facilitate systematic work to promote equality.

### Harassment: dissemination of learning materials on the topic of active harassment

In 2015, the Ombudsman for Equality continued the work against sexual harassment as well as the dissemination of the *Ei meidän koulussa - Not In Our School* material on sexual harassment, aimed at schools. We participated in the Educa 2015 fair of the education sector with the *Ei meidän koulussa - Not In Our School* campaign, and were able to reach comprehensive school staff at the national level. The Ombudsman also participated in the national Koulu-terveyspäivät school health event with this campaign. At the event, the Ombudsman's communications officer gave an expert speech on work against harassment at schools, and, as the exhibitor, the Ombudsman for Equality disseminated information and campaign material to health education teachers and public health nurses. Later in the autumn, we participated in the Treduka fair of the education sector in the Tampere region.

The anti-harassment work has also included providing training for teachers, principals, curators, public health nurses and psychologists, for example in complementing education provided by the City of Espoo. In 2015, our campaign reached 1,500 education professionals, with whom we discussed anti-harassment work at educational institutions.

The anti-harassment work has also produced cooperation between different authorities and researchers. We presented the *Ei meidän koulussa - Not In Our School* campaign for equality experts at the equality negotiation days held for the first time by the National Institute for Health and Welfare. During the year, we also started cooperation with the Non-Discrimination Ombudsman and the Ombudsman for Children in order to promote equality and non-discrimination and prevent harassment at educational institutions. The cooperation with the National Institute for Health and Welfare also continues. The aim is to develop the School Health Promotion Study regarding the section on sexual harassment and thus improve national monitoring of the prevention of harassment and related intervention at schools.

## SPORTS AND PHYSICAL EXERCISE

Gender equality continues to be a challenge in sport and physical exercise cultures. The Ombudsman is regularly contacted in questions involving physical exercise activities and sports. Those making contact query a range of issues, from women's and men's different possibilities to exercise to the allocation of time slots at exercise and sports facilities and the rewarding practices of sports contests.

The Ombudsman for Equality considers it important that society equally support sports and exercise activities of children and adults, both and female. Equality should be viewed as the provision of equal opportunities and resources, emphasising equitable treatment, attitudes and everyday acts. What is important is that everyone has equal opportunities to engage in sports and exercise activities, to receive competent coaching, to participate in competitions and to receive equal recognition for their performances.

During the year under review, the Ombudsman for Equality met with a representative of Valo, the national exercise and sport organisation, in order to discuss shared, current topics. The meeting included discussing the guidelines on non-discriminatory and equality planning prepared by Valo and the Ministry of Education and Culture for sports and exercise associations receiving state aid.

The importance of equality and non-discrimination in sports and exercise is addressed in the new Act on the Promotion of Sports and Physical Activity, as equality and non-discrimination are mentioned as the basis of the Act. According to the Act, when assessing the amount of state aid of organisations promoting sports and physical activity, not only the type and extent of the activities that the association is engaged in, but also the ways in which the association promotes

equality and non-discrimination are taken into account. As all sport and physical activity organisations are required to have a non-discrimination and equality plan in the future, preparing the plans is a topical target for development in the organisations.

## Finnish Chess Union's selection criteria for championships

The Ombudsman for Equality was asked to clarify whether a rule followed by the Finnish Chess Union concerned with sending teams to international competitions complied with the Equality Act. According to the enquiry, the Finnish Chess Union was discriminating against women by following selection criteria practically restricting sending a team consisting only of women to international competitions.

Based on the participation criteria adopted in October 2014, the average rating score of a team of four players must be at least 1,900 points and the team may include only one player scoring under 1,800 points. A further requirement was that the player had to have completed at least 20 official competitive games during the previous year.

In the autumn of 2015, there were over 500 male chess players who had scored over 1,900 points in Finland. The situation was completely different for women, as only

three women had a rating above 1,900 points. The situation had been very similar at the date when the rule had been adopted. Therefore, the participation of the women's team in championships would be under threat if just one player was unable to attend the competition.

As a result of the adopted selection criteria, the board of the Finnish Chess Union had made a decision in August 2015 not to send the women's team to the European Team Chess Championship held in November 2015.

In its notably in-depth statement on the matter, the Finnish Chess Union noted that the aim of the participation criteria adopted in October 2014 was to create rules that would facilitate the participation of women in international championships. According to the statement, women have been consciously favoured in preparing the criteria.

The Ombudsman for Equality made notice of the work conducted by the Finnish Chess

Union to support women's activity in playing chess, for example by offering female players a separate women's series in addition to the general series, in accordance with the international practice. The Ombudsman for Equality also considered it a positive feature that competition participants have autonomy for their gender identity, i.e. are free to determine their gender as they wish in competitions run by the union. Therefore, a person identifying as female may participate in competitions in women's series even if they are legally male.

However, the Ombudsman for Equality did not agree with the interpretation presented by the Finnish Chess Union of the rule in question facilitating the participation of women in international competitions. On the contrary, in her statement, the Ombudsman for Equality found that the gender-neutral provision of the average rating of 1,900 points actually put female players into an unfavourable position based on gender, thus indirectly discriminating against women.

In addition, the Ombudsman for Equality reminded the Finnish Chess Union of the fact that, in all its operations, the union is also required to create equal and non-discriminatory conditions for everyone to engage in the activity, to receive competent coaching, to participate in competitions and to receive equal recognition for their performances. This requirement for the realisation of actually equal conditions should also be taken into account in all decision-making of the union.

After receiving the Ombudsman's statement, the Finnish Chess Union still had time to send a women's team to the European Team Chess Championship of November 2015. In its meeting held in November 2015, the Chess Union also decided to update its participation criteria for international competitions and to prepare an equality and non-discrimination plan supplementing its action plan in accordance with instruction of Valo, the national exercise and sport organisation. (TAS 231/2015)





# INTERNATIONAL COOPERATION

The Ombudsman for Equality is a member of the European Network of Equality Bodies (Equinet). As in previous years, representatives of the Ombudsman for Equality participated in activities of Equinet's *Communication Strategies and Practices* and *Gender Equality* working groups as well as the work of a working group preparing European standards for equality and non-discrimination body activities.

The representatives of the Office of the Ombudsman for Equality presented its pregnancy-related discrimination campaign and problems of zero-hour contracts at the Equinet seminar *Work Life Balance and Pregnancy Related Discrimination* held in Tallinn on 2 July 2015. The Ombudsman's communica-

tions officer also participated in training on EU funding organised by Equinet.

The Ombudsman for Equality engages in regular cooperation with Nordic authorities for equality and non-discrimination. 2015, the annual Nordic conference was held in the Faroe Islands. The conference included discussing topical and ongoing national legislative endeavours which will affect the ombudsmen's activities. The increased racism and the work of the ombudsmen against xenophobia were also discussed at the meeting.

A representative of the Ombudsman also participated in a seminar on hate speech organised by the Nordic Council of Ministers in Copenhagen.

## PRESENTATION OF THE OMBUDSMAN FOR EQUALITY IN DIFFERENT BODIES

- *Human Rights Delegation (Human Rights Centre)*
- *Discrimination Monitoring group*
- *Gender Equality network of the Centre for Gender Equality Information (Minna)*
- *Statistics Finland's working group Equality and Statistics*

## PUBLICATIONS

- *Annual Report 2014 by the Ombudsman for Equality*
- *Jämställdhetsombudsmannens årsberättelse 2014*
- *Tasa-arvovaltuutetun vuosikertomus 2014*

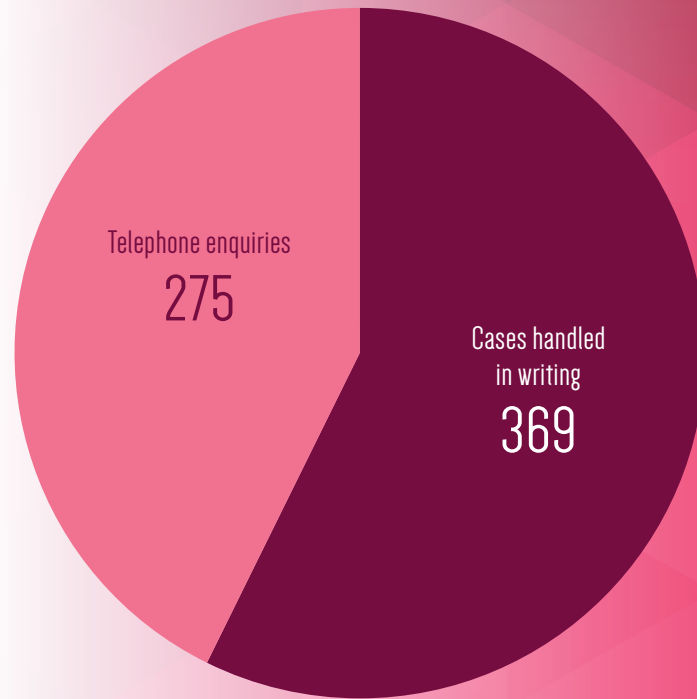


# STATISTICS

In 2015, 345 initiated cases received were entered in the Ombudsman's written register and during the year, 369 ongoing cases were concluded. The majority of the cases entered into the register were related to performing the statutory duties of the Ombudsman for Equality, such as suspected discrimination, supervision of equality plans, requests for information and other statements. In addition, the Ombudsman's legal advice line received in total 275 enquiries in 2015.

## ALL CASES HANDLED IN WRITING AND DECIDED UPON IN TERMS OF CONTENT

In 2015, 165 cases handled in writing (45%) were related to discrimination issues, covering slightly less than half of the total cases handled in writing. 52 cases concerned with supervision and promotion of equality plans and eight cases related to quotas in the composition of government



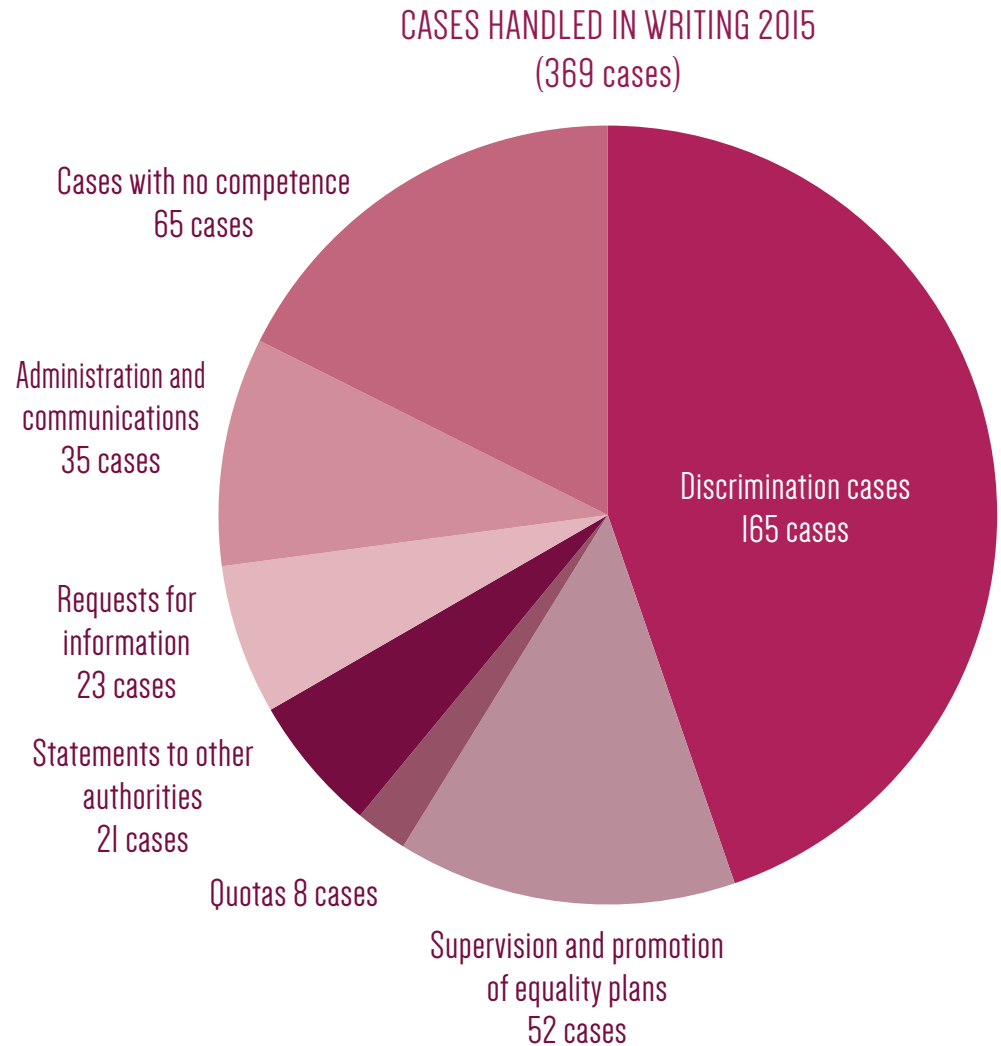
CASES HANDLED IN WRITING AND TELEPHONE ENQUIRIES 2015 (in total 644 cases)

bodies were handled during the year under review. The Ombudsman for Equality issued 21 statements to other authorities. The Ombudsman provided 23 replies to requests for information. 65 of the enquiries concerned issues in which the Ombudsman has no authority and in which customers were referred to the competent authority where necessary. The remainder of the cases dealt with during the year related to administration and communications.

## ENQUIRIES IN MATTERS OF DISCRIMINATION

A total of 102 (62%) of the discrimination cases handled in writing (which amounted to 165 cases in 2015) concerned issues of discrimination in working life. Similarly, 109 (80%) of the telephone enquiries concerned with discrimination received by the Ombudsman's legal advice line (in total 136 in 2015) were related to discrimination in working life. In particular, the enquiries were related to pregnancy and parenthood, recruitment and discrimination on the basis of pay. 40 (39%) of the enquiries handled in writing and 67 (61%) of the telephone enquiries concerned with working life were related to pregnancy and parenthood.

36 cases handled in writing related to the supply and availability of goods and services were concluded. The year under review also included concluding 27 discrimination cases handled in writing that were covered by the general prohibition of discrimination (issues not covered by the special prohibitions on working life, educational institutions or goods and services).



## WHAT ARE THE IMPACTS OF THE STATEMENTS BY THE OMBUDSMAN FOR EQUALITY?

The Ombudsman for Equality often makes a request for an employer to change its actions or recommends the employer to re-evaluate its policies from the perspective of equality. In some cases, the statement has led to negotiations at the workplace, resulting in a solution equally satisfying to both parties. Similarly, after receiving the statement from the Ombudsman for Equality, for example suppliers of goods or services have reported having changed their pricing in compliance with the Equality Act.

## APPROPRIATIONS AND STAFF

In 2015, the Office of the Ombudsman for Equality had 11.5 man-years at its disposal. In 2015, numerous changes in personnel took place at the Office, for example due to retirement. In addition to the Ombudsman for Equality, the regular staff comprises the Head of Division, five Senior Officers, the Communications Officer and two secretaries. One university trainee also worked at the Office.

During the year under review, the appropriation for the Ombudsman for Equality was EUR 1,017,000. In addition to an operational appropriation, this amount includes the employees' salary costs and other administrative expenditures.



## CONTACT

### Ombudsman for Equality

PO Box 33, FI-00023 Government, FINLAND

Tel. +358 295 830

[tasa-arvo@oikeus.fi](mailto:tasa-arvo@oikeus.fi)

[www.tasa-arvo.fi/en](http://www.tasa-arvo.fi/en)

[www.facebook.com/tasaarvoaltuutettu](https://www.facebook.com/tasaarvoaltuutettu)

[www.twitter.com/tasaarvo\\_news](https://www.twitter.com/tasaarvo_news)