ANNUAL REPORT 2014

BY THE OMBUDSMAN FOR EQUALITY

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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 National Non-Discrimination and Equality Tribunal of Finland, 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

2014 was a year of expectation and change. First, we were waiting for the government proposal to Parliament on the amendment of the Equality Act and the Non-Discrimination Act. We followed hearings on the proposal closely and endeavoured to influence the contents of the acts in committee readings. The proposal was finally adopted in December.

The legislative change is a step in the right direction, especially with regard to gender minorities. Discrimination on the basis of gender expression or gender identity is now expressly prohibited. In addition, the Equality Act requires public authorities, education providers and employers to help prevent discrimination against gender minorities. The reformed act includes a section on pay surveys of workplaces and specifies who represents employees in the formulation of equality plans and pay surveys. The Equality Act also includes new definitions of discrimination, such as discrimination by association and discrimination based on assumption.

The requirement on the formulation of an equality plan was expanded to also include comprehensive schools. In comprehensive schools, equality work means concrete, school-level cooperation with pupils aimed at developing equal opportunities in the school. It also challenges schools to reflect on how they discuss equality topics with pupils. The Equality Act requires educational institutions to intervene in harassment, and prevention and intervention to address harassment are a central part of operational equality measures at schools. Recent studies have shown that the level of harassment experienced by young people is alarmingly high. According to feedback received by the Ombudsman from teachers, schools find it difficult to intervene in cases of harassment; even though the phenomenon is recognised, means to intervene in it may not exist.

We made the scope of the requirements on equality promotion a prime focus and prepared a national campaign to address sexual harassment in schools. The campaign was called *Ei meidän koulussa - Not in Our School*. We want to encourage schools to intervene in cases of harassment and to take it seriously.

An infomercial released in cinemas in spring 2014 introduced the campaign that was then launched in autumn at target schools. We produced learning materials on the topic of harassment and a survey designed to help schools monitor the situations. A number of schools across Finland have joined the campaign. The practical learning materials on harassment have also attracted international interest. We presented the materials at a major equality conference in Sweden and at the seminar of the European Network of Equality Bodies (Equinet) in Poland.

The legislative reform still leaves some gaps that the new government will hopefully address and which were also noted by the Employment and Equality Committee. One such gap is the fact that the Ombudsman of Equality has no powers to promote settlement in matters of compliance with the Equality Act. The ability to promote settlement would give the Ombudsman a useful tool to help the parties find a mutually agreed solution without legal proceedings. Settlement could also include monetary compensation, which would be confirmed as binding by the new National

Discrimination and Equality Tribunal. The cost risk of legal proceedings is unreasonably high and can prevent individuals from referring a matter to a court. The current practice of trade organisations is to set a ceiling on the compensation of legal costs.

There is also reason to consider broadening the categories of complainants who can refer a matter to the Tribunal. Currently, the right to initiate proceedings only includes the Ombudsman for Equality and labour market confederations. However, prohibitions on discrimination have been broadened in the Equality Act, and it would be justified to extend the right to initiate proceedings to include organisations promoting men's/women's rights, consumer protection organisations and student organisations, and perhaps even employee and employer organisations directly.

A considerable percentage of the queries received by the Ombudsman of Equality's advice line about issues related to employment involve suspected discrimination due to pregnancy or family leave, and one-third of other queries also involve this issue. Oversight experiences shows that discrimination due to pregnancy or family leave particularly affects employees working under insecure employment conditions, for example on zero-hour contracts, via agencies or on fixed-term contracts. There have been cases where a fixed-term contract has not been renewed when the employer found out the employee was pregnant, hours have been cut before the start of a family leave, or the employer has no longer offered hours to an employee after finding out about a pregnancy. Discrimination due to pregnancy or family leave causes financial losses to discriminated employees, for example due to the fact that a lower income will also affect the amount of maternity benefits and parental benefits they will receive.

In 2015, the Equality Act was reformed and the Ombudsman was established as an independent law enforcement authority. The Ombudsman's transfer from the Ministry of Social Affairs and Health to the administrative branch of the Ministry of Justice has also led to the transfer of various administrative duties to the Ombudsman without additional human resources. The duties have been added to existing staff members' job descriptions. The Ombudsman is now responsible for staff appointments, and its appropriations are posted under a separate item in the budget of the Ministry of Justice.

The offices of the Ombudsman for Children and the Non-Discrimination Ombudsman were also transferred to the Ministry of Justice at the same time as the Ombudsman for Equality. We have held discussions with the Ombudsmen on how to continue and develop our cooperation. All in all, it is significant that dialogue between various actors in the field of fundamental and human rights has been enhanced over the last few years. It is of utmost importance to continue this cooperation.

Pirkko Mäkinen
Ombudsman for Equality

AMENDMENTS TO THE EQUALITY ACT AND NON-DISCRIMINATION ACT ADOPTED

In December 2014, Parliament adopted the amendments proposed to the Equality Act and the associated system of oversight which entered into force at the start of 2015. At the same time, the reform of non-discrimination legislation, which had been under way since 2007, was also carried out.

The Equality Act was supplemented with provisions on the prohibition of discrimination on the grounds of gender identity or gender expression, and measures for its prevention. In addition, the Equality Act prohibits discrimination regardless of whether it is based on the individual themselves or on factual or assumed information relating to another individual (discrimination by association or discrimination based on assumption). The scope of obligations on equality planning was broadened to include comprehensive schools, and provisions on workplace equality plans and pay surveys were clarified and reinforced.

The Ombudsman for Equality continues as the oversight authority for the Equality Act. The Ombudsman for Minorities is now the Non-Discrimination Ombudsman, whose oversight covers all of the discrimination grounds specified in the Non-Discrimination Act excluding workplace discrimination. The new National Discrimination and Equality Tribunal replaces the previously separate Equality and Discrimination Tribunals.

The Ombudsman for Equality commented on the reform proposals during the drafting stage and issued statements to the ministries responsible for the bill. In 2014, the Ombudsman for Equality issued statements to the Employment and Equality Committee and the Constitutional Law Committee on the government proposals (HE 19/2014 and HE 111/2014) for legislative reform.

Prohibition and prevention of discrimination on the grounds of gender identity or gender expression included in the Equality Act

First and foremost, the new provisions on the prohibition of discrimination on the grounds of gender identity or gender expression are designed to improve the discrimination protections for gender minorities. The Ombudsman considers it important that the Equality Act now includes specific provisions on this matter, even though the previous version of the Act was interpreted to cover this type of discrimination.

The new Equality Act also includes a provision on the prevention of discrimination on the grounds of gender identity or gender expression. While the Ombudsman would have preferred an obligation to promote the equality of gender minorities, it nevertheless considers it a good thing that educational institutions and employers are obliged to prevent such forms of discrimination in their equality plans and measures.

The proposed provisions regarding gender identity and gender expression are aimed at acknowledging gender diversity and the fact that not all people fit the concept of gender binary. For that reason, the Ombudsman was of the opinion that changing the name of the act to "the act on equality between genders" would have reflected its contents better. However, the full title of the Act remains "The Act on Equality Between Women and Men".

Scope of equality planning broadened to include comprehensive schools

The requirement on equality planning by educational institutions was broadened to include comprehensive schools. They are now required to draw up an equality plan by 2017. The obligation currently applies to all institutions providing statutory education or training. Education providers are responsible for ensuring that each educational institution prepares an equality plan annually in cooperation with staff and pupil/student representatives. The equality plan can be part of the local curriculum or other institution-specific programmes. Alternatively, educational institutions can draw up a combined action plan on equality and non-discrimination. The Ombudsman considers it important that the promotion of equality and non-discrimination as well as the prevention and elimination of sexual harassment and gender-based harassment be closely linked to all activities and development of each educational institution.

Clarified provisions on equality planning and pay surveys of workplaces

Based on experiences to date on equality planning at workplaces, it is important to improve the standard of equality plans in order to better promote equality in workplaces. For that reason, it was necessary to reformulate the provisions on equality plans and pay surveys. The obligations were clarified, for example, by including in the Equality Act certain matters which were previously addressed only in the notes to the Act.

Equality plans must now be formulated at least every other year, whereas before, an annual plan was required. The requirement on the formulation of the equality plan in cooperation with staff representatives was already in place. Now the Act also specifies that staff representatives must be given sufficient opportunities to participate in and influence the formulation of the plan. The obligation to inform staff about the equality plan and its updates is also specified in the Act.

With regard to the pay survey, a provision was added to specify the purpose of the Equality Act and more detailed requirements on the content of pay surveys. According to the Equality Act, 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 provision requires that the causes and rationale of any clear differences in pay must be defined and, if the pay is comprised of different components, that a review of the main components be carried out to determine the reasons for the differences. Unless acceptable grounds are identified for the difference in pay between women and men, the employer must take appropriate corrective measures.

During the legislative reform process, the Ombudsman proposed different wording of certain details of the provisions. The Ombudsman was of the view that at least the measures included in the equality plan and their outcomes should be addressed on an annual basis in order to ensure a regular review of equality matters in workplaces. Further, the reform should have better addressed the right of staff representatives to receive and process information on employee-specific pay in conjunction with the pay survey, even though the information is not recorded in the final survey report.

In the Ombudsman's view, the expressions "clear differences in pay" and "main components of pay" in the provision on pay surveys were not only unnecessary but also problematic from the point of view of the clarity and specificity of the Act, and the Ombudsman therefore recommended their omission. The Constitutional Law Committee also noted that the expressions could lead to legal uncertainty and difficulties in their interpretation and recommended that the provision on pay surveys be clarified in this regard. The Employment and Equality Committee supported this view and considered it important that the regulations be developed further.

Expediting the opportunity for settlement

The Ombudsman for Equality proposed that the Equality Act provide for the Ombudsman's powers to promote settlement in matters related to compliance with the Equality Act and for the ability of the Tribunal to formally confirm settlements. The Constitutional Law Committee drew attention to the fact that the Ombudsman for Equality did not have said powers, which were put forward in the government proposal and subsequently provided for the Non-Discrimination Ombudsman. At the same time, the Committee emphasised the role of low-threshold legal protection measures from the point of view of individuals experiencing discrimination and the ability to refer discrimination matters to the appropriate authorities with a minimal risk of costs. The Employment and Equality Committee considered it highly important that the Ombudsman for Equality be able to engage in a settlement procedure and

formally confirm settlements, and it recommended expedited preparation of the reform of the settlement procedure, referring to the Committee's earlier statements on the matter.

Reforms concerning the status of the Ombudsman for Equality

A new act on the Ombudsman for Equality was passed in 2014. The Act states that the Ombudsman for Equality carries out its activities independently and autonomously. The Ombudsman was assigned the powers to appoint the officials of its office. The Ombudsman is now required to submit an annual report to the government and a quarterly report on equality outcomes to Parliament. The report to Parliament can be submitted in cooperation with the Non-Discrimination Ombudsman.

At the start of 2015, the Ombudsman for Equality was moved to the administrative branch of the Ministry of Justice, after being under the scope of the Ministry of Social Affairs and Health since 1987. The move also brought a change in the Ombudsman's duties. Previously, a large proportion of the office's financial and HR management tasks were handled by the Ministry of Social Affairs and Health, but following the move to a different administrative branch, these tasks are now assigned to the Ombudsman's office.

The National Discrimination and Equality Tribunal

The legislative reform included the establishment of a new Discrimination and Equality Tribunal by merging the Equality Board and the Discrimination Tribunal and a new act governing the Tribunal. The Tribunal is responsible for the duties previously assigned to its two predecessors, but its remit under the Non-Discrimination Act covers all grounds of discrimination.

The Ombudsman considers problematic the fact that the new Tribunal has the authority to handle employment matters only under the Equality Act and not the Non-Discrimination Act. The merger of the two tribunals therefore does not improve the ability to intervene in cases of discrimination in workplaces on multiple grounds.

Reform of the non-discrimination legislation

The reform of non-discrimination legislation was a central part of the new legislative package which entered into force at the start of 2015. In addition to the Act on the Non-Discrimination Tribunal, the package also included the new Non-Discrimination Act and the Act on the Non-Discrimination Ombudsman.

The scope of the obligation to promote non-discrimination was broadened to cover education providers, educational institutions and employers as well as government authorities. Government authorities, education providers, educational institutions, and employers with 30 employees or more are required to draw up an equality plan.

The definition of discrimination was reformulated. Protection against discrimination and the eligibility to receive compensation are the same for all of the grounds for discrimination prohibited by the Non-Discrimination Act. The grounds for discrimination specified in the Act are: age, ethnic or national origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family ties, health, disability, sexual orientation or other personal characteristics. Refusal to reasonably accommodate individual needs is also prohibited as discrimination by the Non-Discrimination Act. The scope of the obligation to reasonably accommodate disabled individuals in order to ensure non-discrimination was extended.

The Non-Discrimination Ombudsman oversees the enforcement of the Act with regard to all grounds for discrimination. However, oversight duty in individual employment cases still rests with labour protection authorities. Nevertheless, the Non-Discrimination Ombudsman has duties related to non-discrimination in workplaces.

PROMOTING EQUALITY

The aim of the Act on Equality between Women and Men is not only to prevent discrimination on the basis of sex or gender, but to promote equality between women and men, and thus to improve the status of women, particularly in working life. The obligation to promote equality applies to all employers. Schools and educational institutions also have the obligation to promote equality between men and women. Further, the Act requires that the proportion of both women and men must be at least 40 per cent in planning and decision-making bodies of central and local government.

EQUALITY IN SCHOOLS AND EDUCATIONAL INSTITUTIONS

The Equality Act prohibits discrimination in educational institutions based on gender, gender identity or gender expression. In addition, 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.

Promoting equality in educational institutions is a vital part of the work of the Ombudsman for Equality. In 2014, the Ombudsman for Equality launched a campaign against sexual harassment in basic education and upper secondary education called *Ei meidän koulussa - Not in Our School*. The campaign and the associated learning materials on harassment encourage schools to intervene in cases of harassment and take it seriously.

The Ombudsman for Equality challenged schools to take action against sexual harassment

According to recent studies (e.g. the School Health Promotion Study 2013), young people regularly experience sexual harassment, but schools rarely intervene in such cases. Feedback received from teachers through the Ombudsman's work with educational institutions shows that schools find it difficult to intervene in cases of harassment. Even though the phenomenon is recognised, there can be a lack of means to intervene.

In 2014, the Ombudsman for Equality produced learning materials for schools on the topic of sexual harassment from the point of view of young people, which can be used in everyday school settings. In addition, the Ombudsman launched the *Ei meidän kou-*

lussa - Not in Our School campaign designed to challenge schools to develop measures against sexual harassment.

The aim is to promote an anti-harassment culture and adopt clear common rules on interventions in harassment cases. The Ombudsman hopes that as many schools as possible will grasp this opportunity and start using the learning materials in class. Sexual harassment is already taken seriously at workplaces. We must also achieve zero tolerance in the case of children and young people.

According to the Equality Act, educational institutions must promote equality and intervene in cases of sexual harassment. The reformed Act also requires comprehensive schools to promote equality and intervene in cases of sexual harassment in schools. The learning materials on harassment produced by the Ombudsman for Equality include class materials which are suitable for young people and offer advice on how to recognise harassment, as well as a questionnaire template which schools can use to map and monitor the prevalence of harassment experiences and whether the anti-harassment measures introduced are effective.

The website of the anti-harassment campaign *www.eimeidankoulussa.fi* and the pages designed for school staff had 10 366 visitors during the year. The campaign also had a lot of visibility on social media (Facebook, Twitter, YouTube and Instagram). The infomercial commissioned by the Ombudsman for a film about the campaign was shown nationwide in Finnkino cinemas during May 2015 and on TV channels of the national public broadcasting service company Yle for a week in September. News media highlighted the issue of sexual harassment experienced by young people and the Ombudsman's message, and the Ombudsman received a lot of praise for the campaign from the education sector. The National Board of Education and the Ombudsman for Children also supported the campaign.

Experts from the office of the Ombudsman for Equality offered training about harassment, interventions and the use of the learning materials to teachers, psychologists and school pastoral care support workers at a training event organised by the Education

Department of the City of Helsinki and at a pedagogy meeting organised by the City of Espoo Education Services. According to the views expressed by education professional who took part in the events, there is a great need for the learning materials produced by the Ombudsman and for this kind of training to be done nationwide.

The campaign also received a lot of international interest. The campaign and the learning materials were presented at the Nordic Forum on Gender Equality organised in Malmö, Sweden, in June 2014, and at the annual conference of Nordic equality and discrimination authorities. In addition, the campaign was introduced at a training event on sexual harassment organised by Equinet in Poland.

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 purpose of the equality plan is to ensure that educational institutions are engaged in systematic work to promote equality.

The plan should always be drafted in co-operation with staff members and students and it must include a survey of how successfully the pupils and students feel equality is achieved at their 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 things could promote equality and what has been found to promote it.

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.

Planning obligation now comprehensive schools

The provision of the Equality Act adopted in 2005 on the planning obligation applied to all education providers except comprehensive schools. Following the government's position on the matter, the scope of the obligation was expanded to include comprehensive schools as of 1 January 2015 in conjunction with the reform of the Act. Comprehensive schools must draw up their equality plans by 1 January 2017.

The Ombudsman for Equality participated in a working group on the formulation of a guidebook for comprehensive schools in co-operation with the National Board of Education, the Ministry of Education and Culture, and the Gender Equality Unit of the Ministry of Social Affairs and Health. The guide will be published in 2015.

The role 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 providers have the duty to ensure systematic work to promote equality in all of their education units as required by the Equality Act.

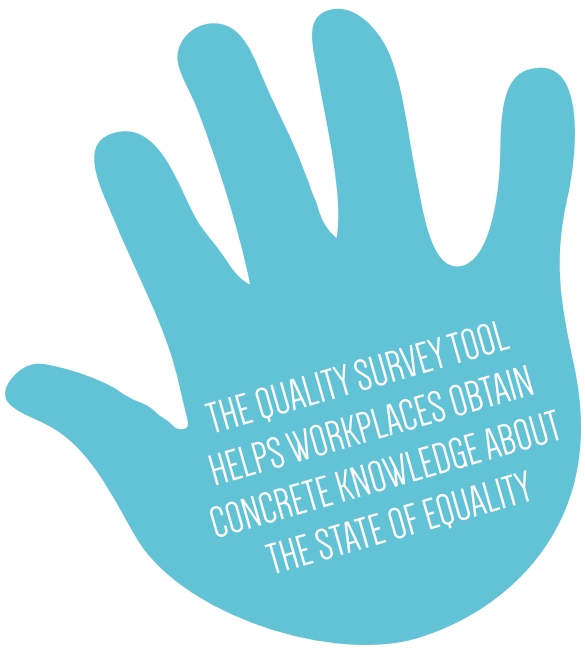
The Ombudsman for Equality continued to build cooperation with education providers throughout the review period. The Ombudsman met with various education providers as part of its duty to oversee compliance with the obligation set out in the Equality Act on the promotion of equality by educational institutions. At meetings called by the Ombudsman for Equality, the discussions focused on the systematic support for equality work given to educational institutions administered by the education provider. The intention on the meetings was also to establish a viable discussion link to education providers to develop systematic work to promote equality.

GENDER EQUALITY PLANNING AT WORKPLACES

The Act on Equality between Women and Men obliges workplaces with a minimum of 30 permanent employees to draft an annual personnel policy equality plan. The equality plan must be prepared in co-operation with the employees and shall include an account of the equality situation in the workplace, including details of the employment of women and men in different jobs. A compulsory section of the equality plan is a survey of the grade of jobs performed by women and men, the pay for those jobs and the differences in pay. The plan must also indicate the measures that have been decided on to promote pay equality and other types of equality at the workplace and an estimate of how successful those measures have been.

The Ombudsman for Equality continued to obtain workplace equality plans for review via many different routes. The Ombudsman re quested workplaces where an issue being investigated at the Office of the Ombudsman for Equality to provide an equality plan for inspection. An equality plan was also requested in cases in which a member of staff reported that no plan had been drafted, or that it did not fulfil the requirements of the Act. Where possible, the Ombudsman for Equality also endeavours to conduct targeted inspections of equality plans. The main issue of the plans in general continues to be the lack of concrete measures.

This can be greatly improved if workplaces carry out open-minded analyses of the state of equality in the workplace. The Ombudsman recommends that workplaces use the online questionnaire tool available at *www.tasa-arvokysely.fi* to gauge staff members' views about the state of equality in the workplace. The Equality Act specifies minimum requirements on the content of equality plans. According to the Act, the equality plan must include a review of the state of equality in the workplace, including a pay survey. The necessary measures are determined based on



the findings. The established view of the Ombudsman for Equality is that it is necessary to agree on an implementation schedule and assign responsibilities for the chosen measures. Usually the responsibility for the implementation of measures lies primarily with the manager responsible for the area in question. The responsibilities can also be included and recorded in managers' performance targets. The Equality Act also requires monitoring of the outcomes of adopted measures.

Workplace visits by the Ombudsman for Equality

In 2014, the Ombudsman for Equality visited three workplaces: Helsinki Region Transport (HSL), Lassila & Tikanoja Oyj and Manpowergroup. 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. The three enterprises have yet to carry out a separate equality survey, although Manpowergroup is planning to do so. Lassila and Tikanoja Oyj and Helsinki Region Transport both intend to include questions about equality in their well-being surveys. This would help them determine issues such as whether staff members have experienced sexual and gender-based harassment.

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 obligates 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.

In one case, the Ombudsman for Equality was asked for advice on how a student union should observe the quota provision of the Equality Act. The highest decision-making body of a student union is a group of representatives elected from among the student union members in a general election by universal voting rights. In addition to the representatives, the organisation includes the student union board and other multi-member bodies appointed by the representatives and the board. The student union also assigns representatives to other bodies, such as the university board, the student financial aid committee, and the Finnish Student Health Service FSHS.

In its reply, the Ombudsman for Equality stated that the student union is a unit of indirect public administration that exercises public authority. Therefore the provision on equitable proportion applies to the board of the student union. If the board nominations are preceded by a nomination or designation of candidates, the candidate selection must take into consideration the ability to fulfil the requirement on the representation of both genders. Regardless of the rules of individual student unions on the selection of board members, the parties who are requested to nominate candidates for the board should, insofar as it is possible, nominate both a woman and a man for every membership position. The student union representatives should then take equitable proportion into consideration when nominating the board. If for specific reasons it is not

possible to have equitable representation of women and men on the board, it is advisable to state the reason for the decision.

When the student union itself nominates candidates for bodies referred to in the quota provision or the provision on equitable proportion, the student union must, insofar as it is possible, nominate both a woman and a man for every membership position. On the other hand, if the student union directly nominates representatives for the abovementioned bodies, the representatives should include both women and men to the extent possible.

Application of the quota provision in an economic monitoring group

The Ombudsman for Equality requested a municipal executive to provide a report on the configuration of the municipality's economic monitoring group. The municipal executive had elected three men and one woman from among elected officials to sit on the group. The other members appointed to the group were the chief executive, the director of administration and finance, and the controller.

In its report, the municipal executive stated that the economic monitoring group was a temporary body and that the appointments had been made by vote. No permanent decision on the group's establishment had been made, and the group was not defined in the municipality's rules of procedure or administrative regulations. According to the rules of procedures of the municipal executive, it is responsible for the municipality's economic policy and may appoint economic working groups in this context. Over the years, the following working groups related to economic policy have been appointed: a working group on economic regeneration, a working group on economy and the working group on economic monitoring, which has been appointed twice. The working group on economic monitoring appointed in 2014 did not have a detailed description of tasks; instead, the charter stated that the working group can also make proposals on economic regeneration. The municipal executive was of the opinion that the quota provision of the Equality Act cannot be applied to the working group on economic monitoring.

According to section 4a(1) of the Equality Act, the proportion of both women and men in municipal bodies and bodies established for the purpose of inter-municipal cooperation, but excluding municipal councils, must be at least 40 per cent, unless there are special reasons to the contrary. The Ombudsman for Equality determined that the quota provision of the Equality Act does not contain a detailed definition of a municipal body with the exception of municipal councils, which are excluded from the scope of the provision. The Supreme Administrative Court has affirmed that municipal bodies covered by the quota provision may also include bodies other than those listed in the Local Government Act, such as working groups, for example. The interpretation depends on the status and duties of the body in municipal decision-making, its composition, the length of the fixed term of the working group, or the frequency with which such a working group is established.

The Ombudsman for Equality noted that before the working group on economic monitoring was appointed in 2014, the municipal executive had established various working groups on economic policy under different titles since 2009. According to the minutes of the 2013 working group on economic monitoring, the objectives of the group were to monitor budget outcomes at the monthly level, submit proposals on economic regeneration to the municipal executive, and prepare budget proposals to the municipal executive. The Ombudsman for Equality was of the view that, considering the established nature and duties of the working group on economic monitoring, the working group has to be considered a municipal body and thus the quota provision of the Equality Act applies. Since only one of the four elected officials on the working group was a woman, the provision of the Equality Act on the 40 percent quota had not been complied with. Further, the Ombudsman was of the view that the municipal executive had not specified a special reason, as referred to in the Equality Act, to qualify for an exception to the quota provision. (TAS 152/2014)

MONITORING THE PROHIBITIONS OF DISCRIMINATION

The Act on Equality between Women and Men prohibits discrimination on the basis of sex or gender. According to the reformed Equality Act adopted in late 2014, discrimination on the grounds of gender identity or gender expression is also prohibited.

The Act on Equality between Women and Men includes a general prohibition of gender discrimination (section 7); the scope of application of this prohibition is as extensive as that of the Act itself. In addition to this, the Act features certain special prohibitions that apply to discrimination in educational institutions, interest groups, and to matters related to the availability of and access to goods and services.

An individual who suspects that he or she has been subjected to discrimination, as referred to in the Act on Equality between Women and Men, may request instructions and advice from the Ombudsman for Equality (Section 19 of the Act on Equality between Women and Men).

The Act on Equality between Women and Men includes a general prohibition of gender discrimination (section 7); the scope of application of this prohibition is as extensive as that of the Act itself. Excluding some exceptions, the Act on Equality between Women and Men applies to all societal activities and all sectors of life. In addition to this, the Act on Equality between Women and Men features certain special prohibitions that apply to discrimination in working life, educational institutions, interest groups, and to matters related to the availability of and access to goods and services. Violation of these special prohibitions may entitle people to compensation in compliance with the Act on Equality between Women and Men.

Prohibitions of discrimination related to working life also apply to job advertisements, hiring, employment and the continuation of employment contracts. The Equality Act also prohibits the discriminatory use of supervisory powers and the termination of

employment or laying-off of an employee on the basis of gender. The majority of the employment-related queries received by the Ombudsman for Equality relate to recruitment, hiring and differential treatment on the grounds of pregnancy or a family leave.

The Ombudsman for Equality oversees compliance with the prohibition of discrimination. An individual who suspects that he or she has been subjected to discrimination, as defined by the Act on Equality between Women and Men, may request instructions and advice on the matter from the Ombudsman for Equality.

GENERAL PROHIBITION OF DISCRIMINATION

The significance of the general prohibition of discrimination has decreased as 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.

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 example, 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)

Access to sauna for a prisoner in the women's section of Kuopio Prison

A female remand prisoner who was placed in the Kuopio Prison requested that the Ombudsman for Equality determine whether she had been discriminated against in a way that violates the Equality Act as a result of the fact that women in Kuopio prison have no access to the sauna with certain exceptions, even though men are regularly given this opportunity. The report submitted by Kuopio Prison stated that the women's section does not have a sauna, but by special arrangements female prisoners have been given access to the sauna in male prisoners' section at Christmas and Midsummer. In practice, it is not possible to provide female prisoners access to the sauna even on a monthly basis.

The Ombudsman for Equality was of the view that female prisoners at Kuopio Prison are in an unfavourable position compared to male prisoners with regard to sauna access. In another case (4010/4/09), the Parliamentary Ombudsman found that in cases where female and male prisoners are in a comparable situation with regard to prisoner placement, their differential treatment would go against what is known as the principle of normality. The principle of normality is provided for in Chapter 1, Section 3, Subsection 1 of the Act on the Enforcement of Punishment (laki rangaistusten täytäntöönpanosta), which states that insofar as possible, the conditions of a penal institution must be organised in such a way as to correspond to the general living conditions of society.

In conclusion, the Ombudsman determined that the reasons provided by Kuopio Prison currently constitute an apparent factual obstacle to organising sauna access for women in the same way as to men. Nevertheless, the Equality Act requires that public authorities promote equality between women and men purposefully and systematically. In particular, circumstances which prevent the attainment of gender equality must be changed. The Ombudsman therefore found that, going forward, systematic efforts in this matter must be made to arrive in a situation where female prisoners at Kuopio Prison are not in an unfavourable position compared to men with regard to sauna access. (TAS 252/2012)

Opportunities for fathers to work or study during the parental benefit period

The Ombudsman for Equality has been contacted a number of times regarding the prerequisites of granting parental benefit. Fathers generally have not had the right to work or study during the parental benefit period. According to the provisions of the Health Insurance Act (1224/2004) which were in force in 2014, in general, fathers were not entitled to parental allowance unless they participated in childcare and were not gainfully employed. Only if the father was solely responsible for the child's care and gainfully employed would he have the right to parental allowance. The provisions of the Act did not require mothers to not engage in gainful employment in order to receive parental allowance. Mothers who were gainfully employed were granted the minimum parental allowance.

If both parents were gainfully employed, they could agree on which of the two would claim the parental allowance. If both parents had agreed with their employers on part-time work and cared for the child themselves, both had a simultaneous right to partial parental allowance.

The Ombudsman for Equality found that the grounds determining the right to parental allowance were different for fathers and mothers. In general, fathers were not entitled

to the allowance while gainfully employed. Fathers and mothers were also treated differently with regard to full-time student status during the benefit period. In general, fathers who were full-time students were not entitled to parental allowance, whereas mothers were.

The Ombudsman for Equality issued a number of statements on said provisions. With regard to the prerequisites on the right to receive parental allowance, the Health Insurance Act placed men in an unfavourable position compared to women directly on the grounds of gender, which meets the definition of direct gender discrimination. According to the understanding of the Ombudsman for Equality, the provisions were problematic from the point of view of the prohibition of discrimination both by the Equality Act and the Non-Discrimination Act as well as the obligations on the promotion of equality.

The Ombudsman requested that the Ministry of Social Affairs and Health undertake to amend the Health Insurance Act in such a way that fathers are no longer in an unfavourable position compared to mothers based on gender with regard to the prerequisites of parental allowance.

In spring 2014, the government submitted a proposal to Parliament on the amendment of the Health Insurance Act and the act on the rehabilitation services and allowances provided by the Social Insurance Institution of Finland (laki Kansaneläkelaitoksen kuntoutusetuuksista ja kuntoutusrahaetuuksista) (Government Proposal 63/2014). The proposal also addressed the problem described above as part of the wider reform of the Health Insurance Act. As a result of the reform, fathers have the same right as mothers to parental allowance during employment and full-time study. Like mothers, fathers who are gainfully employed or studying full time are now entitled to the minimum parental allowance.

The Act on the Amendment of the Health Insurance Act (678/2014) was adopted on 22 July 2014 and entered into force on 1 January 2015. (TAS 234/2014)

DISCRIMINATION ON THE BASIS OF PREGNANCY AND FAMILY LEAVE

Discrimination on the basis of pregnancy and family is a significant and long-standing problem in Finland. 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 leave. The threshold for reporting cases of discrimination is high, and only a small proportion of cases are brought to the attention of authorities.

Over half of employment-related calls received by the Ombudsman and a third of written queries concern discrimination due to pregnancy or family leave. Discrimination claims related to pregnancy and family leave are also reported to labour protection authorities and the police.

The reported cases cover all stages of employment and public service relationships. Typical situations of pregnancy discrimination involve hiring, extension of fixed-term contracts and returning to work from family leave.

In recruitment, applicants are asked about their family plans and how many children they have. If the pregnancy is visible or brought up in a job interview, the applicant is often not hired despite being qualified for the job. During a probationary period, the employment contract is sometimes not extended even if the employee has done the job well. In some cases, when an employee is expected to go on a family leave, her career and pay progression stalls, despite having been promised a raise or additional job duties before the pregnancy.

Pregnancy or an impending family leave can lead to the employee being selected for redundancy when the employer is laying off staff due to production or financial reasons. There are also many cases where an employee returns from a family leave and finds that her duties have "disappeared" or she has been replaced by temporary staff, and she is consequently laid off due to production-related and financial reasons.

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. For example, there are cases where a temporary contract is not renewed when the employer finds out about pregnancy, a pregnant agency worker no longer receives assignments, or an employee on a zero-hours contract is given less hours or none after the employer finds out about her pregnancy. Discrimination due to pregnancy or family leave causes financial losses to discriminated employees. For example, a lower income will also affect the amount of maternity benefits and parental benefits they will receive as well as their eligibility for the paid maternity leave, which is part of most collective agreements. The following are examples of cases reviewed by the Ombudsman for Equality to determine whether there were grounds to suspect discrimination due to pregnancy or family leave.

A planned change of a job position was cancelled due to pregnancy

A woman who was employed by a city authority requested that the Ombudsman for Equality provide a statement on suspected discrimination due to pregnancy. The woman was not given a new higher-paid job position which had been promised and she had prepared for. The matter came to light soon after she had informed the employer about her pregnancy.

According to section 8(1)(2) of the Equality Act, the action of an employer shall be deemed to constitute discrimination prohibited under the Act if the employer, upon employing a person, selecting someone for a particular task or training, or deciding on the duration or continuation of an employment relationship or the pay or other terms of employment, acts in such a way that the person finds herself/himself in a less favourable position on the basis of pregnancy or childbirth or for some other gender-related reason. "Other gender-related reason" can be, for example, a family leave.

In cases such as this, determining whether discrimination has taken place does not require the use of another person as a reference point; a hypothetical comparison with what would have happened if the person had not been pregnant is usually sufficient. This was also the finding of the European Court of Justice in the Dekker case (C177/88). Pregnancy is not an acceptable reason for placing someone in a less favourable position, but it also does not provide a right to more favourable treatment.

If a person suspects that he or she has been discriminated against as defined by the Equality Act and presents the matter to a court of law or a competent authority, and the facts given suggest that discrimination based on gender has taken place, according to the provision of the Equality Act on the burden of proof, the employer must prove that the action was due to another acceptable reason and not due to gender. A 1992 government proposal (HE 63/1992) states that in cases relating to pregnancy, childbirth or other situations meant by the Act, the burden of proof shifts to the employer as soon as the complainant has shown that she is pregnant or that he or she has family responsibilities as meant by the Act. In addition, it must be shown that the employer was aware of the employee's pregnancy or family responsibilities.

Based on interpretation of the Equality Act, the case of the woman who contacted the

Ombudsman gives rise to a presumption of discrimination directly on the basis of the fact that the complainant was pregnant and the employer know about the pregnancy. In order to disprove the presumption, the employer must demonstrate that the action was due to another acceptable reason and not due to the complainant's pregnancy. (TAS 148/2013)

Effect of family leave on the length and renewal of an employment relationship

The Ombudsman for Equality was contacted by Woman A, who felt that she had been discriminated against when her employer set the term of her fixed-term contract to end at the start of her maternity leave, even though the post was still available. A had been employed on consecutive fixed-term contracts since 2010. Each contract had been for a year at a time. She had been on a maternity leave from March 2012 until March 2013, after which she was given a new year-long fixed-term contract until the end of March 2014. In February 2014, she was told that the work would continue. However, when A told the employer about her pregnancy, she was told that the contact would end at the start of her maternity leave.

In its report to the Ombudsman, the employer stated that the work carried out by A would no longer be available after the end of the fixed-term contract. According to the employer, the job A had been carrying out no longer existed due to financial and production-related reasons, and the tasks were allocated to other employees. The employer further stated A's work would not have continued even if she had not become pregnant.

In her follow-up statement, A presented facts which suggested that the company's turnover had increased as a result of investments and an increasing customer base. The growth was expected to continue. The company's number of employees had risen steadily by approximately one position per year. Demand had also risen due to the increasing customer base.

In its statement, the Ombudsman for Equality noted that one of the express purposes of the Equality Act and European law was to protect employees who are pregnant or on a family leave against having their right to be selected for employment contracts or having the length or renewal of their contracts being restricted due to pregnancy or family responsibilities. The rule of thumb under the Equality Act is that an employee cannot be treated worse on account of pregnancy or family leave than would be the case if that employee had not been pregnant or taken family leave. Section 8(1)(2) of the Equality Act on discrimination based on pregnancy applies to both open-ended and fixed-term employment relationships. According to the provision, it is prohibited to not renew a fixed-term contract on the grounds of pregnancy or family leave or to end a fixed-term employment relationship at the start of a family leave.

When assessing whether discrimination due to pregnancy has taken place, the employee's employment history often offers some evidence of what would have been the likely outcome had she not been pregnant. In this case, the woman's employment relationship had continued since 2010 on consecutive fixed-term contracts. Since the start of April 2011, A had had three consecutive year-long contracts until the fourth contract which was set to end at the start of her maternity leave. The Ombudsman for Equality held this as strong evidence that the end of the last fixed-term contract at the start of the maternity leave was due to the employee's pregnancy. It therefore gives rise to a presumption of discrimination and the employer's failure to comply with Section 8(1)(2) of the Equality Act.

The employer can disprove the presumption by showing that the action was due to another acceptable reason and not due to gender. The employer justified the end of the contract on financial and production-related grounds. However, these grounds were not directly evident from the company's annual report for 2013 or its ownership policy programme. On the other hand, even if the company did have financial and production-related reasons to cut staff, it cannot target

the cut at a person based on pregnancy. The question of whether the employment relationship was terminated in violation of the Equality Act can be resolved by a District Court in conjunction with a possible compensation case.

The Ombudsman for Equality did not comment on whether A's employment relationship constituted a continuous employment relationship. The competence of the Ombudsman for Equality is restricted to oversight of the Equality Act, and it is not a competent authority with regard to oversight of other Acts such as the Employment Contracts Act, which falls within the scope of labour protection authorities. (TAS 73/2014)

Renewal of a fixed-term public service employment relationship in conjunction with a family leave

Woman A worked as a fixed-term untenured teacher at a vocational college. She asked the Ombudsman for Equality to review whether she had been discriminated against due to a family leave, when her employment relationship had not been renewed. A had been hired as an untenured teacher for the period from 2 January until 2 June 2012. The contract was renewed after the summer as per normal for the period from 15 August 2012 until 31 May 2013. A went on a maternity leave during the summer break on 14 June 2013. Her contract was not renewed for the 2013-2014 academic year, when the substitute teacher covering A's maternity leave was hired instead. When A was about to return to work from family leave in August 2014, she was told that the maternity leave coverage would continue on the job.

After negotiations, the school authority agreed to hire A as a part-time untenured teacher, but it also intended to allocate hours to her maternity leave coverage. A referred to the Act on Civil Servants in Local Government, which requires that part-time employees must be given the opportunity to transfer to a full-time position. After that, A was told that no hours were available as they would be distributed between the school's tenured teachers instead. If at some point the school did not have enough teachers, the untenured post would be filled by public notice of the vacancy.

According to the employer, the reason for A's fixed-term contract as an untenured teacher was "the uncertainty of adult education groups". A had told the employer that she would be available for some duties in the 2013-2014 academic year but, according to the employer, she was not prepared to accept a full-time untenured post. Another person had been appointed for the fixed-term full-time untenured post for the full academic year in accordance with the new practice adopted in spring 2013. The employer stated that in spring 2014, there had been negotiations between A and her line manager regarding her return to work, but the negotiations had been suspended due to planned cuts by the joint municipal authority.

A stated that she had not thought of demanding renewal of the letter of appointment, since she did not know that the employer was supposed to draw up to overlapping contracts, one for her and one for the maternity leave coverage. She had not been offered the post of a full-time untenured teacher in August 2013, and she would not have turned it down. A spent the 2013-2014 academic year on a family leave. At no point did she have the intention of quitting her job.

The Ombudsman for Equality reviewed A's case only from the point of view of the prohibition of discrimination according to the Equality Act. The question was whether A had been put in a less favourable position due to her family leave, when her fixed-term untenured contract was not renewed for the 2013-2014 or 2014-2015 academic years.

In the Equality Act, the premise is that, when deciding on the renewal of fixed-term contracts, a person who is pregnant or on a family leave should be treated in the same way as if she were not pregnant or on a family leave. The criteria and recruitment practice must be consistent with those applied before the person's pregnancy or family leave and those applied to other employees.

For there to be a presumption of discrimination, the employee needs to show that the employment relationship would have continued if she had not become pregnant or taken family leave. A demonstration of probability is sufficient. To refute any presumption of discrimination, the employer must show that the contract was not renewed for an acceptable reason other than the pregnancy of the employee or the fact that she had taken family leave.

The prohibition of the Equality Act on the restriction of the duration of the employment relationship also applies to a discontinuous employment relationship comprised of fixed-term contracts, if the periods of interruption occur regularly on an annual basis due to the nature of the activity, as in the case of summer breaks from school.

According to the Ombudsman for Equality, it seemed likely that A would have continued in the untenured post after the summer break from August 2013, had she not taken a family leave. The duties of the untenured teaching post continued in the 2013-2014 academic year, and another person was hired instead of A to carry out the duties. The other person was given enough hours to make it a full-time post. A had no obligation to accept work during her family leave, and any refusal by her therefore has no bearing on the assessment of whether discrimination took place. The Ombudsman for Equality was not given an acceptable reason for why A's employment relationship was not continued in the 2013-2014 academic year, and therefore the case constitutes discrimination due to family leave which is prohibited by the Equality Act.

With regard to the matter of whether A had the right to continue in the post of a fixed-term untenured teacher in the 2014-2015 academic year, from the point of view of the Equality Act it is necessary to consider whether A was treated in the same way as other individuals in a comparable situation and in the same way as if she had not been on a family leave.

According to the employer, contrary to the preliminary plans of spring 2014, it decided not to employ any fixed-term untenured teachers in autumn 2014; instead, the intention was to distribute the duties among the tenured teachers.

The Ombudsman for Equality found that if, in practice, no other untenured teachers were hired in autumn 2014 to carry out A's duties in addition to the tenured teachers, in the Ombudsman's opinion the matter does not give rise to a presumption of discrimination due to family leave which is prohibited by the Equality Act. In this situation, A was not in a comparable situation with tenured employees due to the fixed-term nature of her employment relationship. However, if a new fixed-term employee was sought to fill A's duties, it may constitute discrimination as prohibited by the Equality Act, since the fixed-term untenured teaching post which A had filled before her family leave had not previously been filled by public notice of vacancy.

A took the case to the District Court. According to the District Court's ruling, A had been discriminated against when her employment relationship had not been renewed for the 2013-2014 academic year. A has taken the District Court's ruling on the 2014-2015 academic year to the Court of Appeal. (TAS 136/2014)

Termination of the employment relationship of a pregnant agency worker

The Occupational Safety and Health Administration of the Regional State Administrative Agency for Southern Finland referred the case,

which had been initiated at the Agency, to the Ombudsman for Equality insofar as it related to the application of the Equality Act.

Woman A was as a temporary agency worker in the cold warehouse of a client company of the temporary recruitment agency. The work was physically demanding. When A became pregnant, she immediately notified the employer in order to avoid being assigned any tasks which involved lifting heavy boxes. A stated that her working speed reduced slightly due to back pain. The client company stated that they were not satisfied with A's job motivation and that her assignment ended on 29 June 2012. The temporary recruitment agency stated that it had tried to find another assignment for A and that A had told the agency that she would not be able to take warehouse work due to health problems caused by her pregnancy. According to the temporary recruitment agency, the agency and A therefore jointly agreed that A's contract would end after a two-week notice.

In the temporary recruitment agency's view, the termination of the assignment was due to A not having performed in a way required of its employees and not due to her pregnancy. According to A, the employer had not agreed with her on the termination of the employment contract and that it had illegally terminated the contract due to her pregnancy.

In this case, the concern is the way in which the employment relationship of agency worker A was terminated and whether it was terminated due to her pregnancy. According to the report submitted to the Ombudsman, the temporary recruitment agency had concluded two fixed-term employment contracts with A. In both contracts, the employment relationship was set for a fixed term to end when the employee's assignment at the client company ended, unless otherwise specified in the terms of temporary employment. However, the employment contracts gave no indication of how long the client company needed the employee for, or when the contract would end.

Further, when the employment relationship ended, it was not treated as a fixed-term contract but as an open-ended contract. Taking into account case law such as the Supreme Court ruling KKO:2012:10, it is left to be separately determined whether the case meets the requirements on the fixed-term nature of employment contracts or whether it should be considered an open-ended contract.

The client company notified the agency that it wished to end the assignment after A had taken two sick leaves. The agency thereupon terminated A's employment relationship with two weeks' notice. The reason given for the termination was that during the assignment A's performance had not met the employee's expectations. The agency was aware of A's pregnancy at the time of the termination of the employment relationship. The agency had noted to the client company that A's pregnancy may have affected her performance. Reduced work ability due to pregnancy is not an acceptable reason for the termination of an employment relationship.

In its statement, the Ombudsman for Equality noted that it was not possible to conclusively assess the matters presented as reasons for the termination of the assignment based on written submissions nor to determine the facts about the conversation regarding availability of further work, since the parties' accounts are so contradictory. However, the possibility of offering A other work was not determined until after the termination of the contract during the notice period.

The Equality Act prohibits discrimination in workplaces. The prohibition includes giving notice on, terminating or otherwise discontinuing the employment relationship on the basis of gender. The prohibition of gender-based discrimination of employees in conjunction with the termination of an employment relationship applies both to fixed-term and open-ended contracts. If the duration of a fixed-term employment relationship is reduced due to pregnancy, the employee is in a less favourable position than if she had not been pregnant, which constitutes discrimination as prohibited by the Equality Act. The Act also prohibits termination of an employment contract due to pregnancy. In a possible court case, the burden of proof that the contract was not terminated due to pregnancy rests on the employer.

In the legislative materials of the Equality Act, the division of responsibility in the termination of employment of agency workers due to pregnancy is determined to be borne solely by the temporary recruitment agency, if a pregnant employee is dismissed. If the termination of the employment relationship of agency worker A is considered discriminatory, the responsibility for the discrimination therefore rests solely on the agency. Resolution of whether A was discriminated against due to pregnancy in violation of the Equality Act requires more detailed evidence in some respects. This kind of evidence can be presented in a district court in conjunction with a possible compensation claim case against the employer.

In addition to the Equality Act, the rights of pregnant employees are also set out by the Employment Contracts Act and the Criminal Code. Compliance with the Employment Contracts Act is overseen by labour protection officials. They have the duty to refer cases to preliminary investigation by the police, for example, if there is reasonable cause to believe that the employer has committed work discrimination as prohibited by the Criminal Code. (TAS 125/2013)

Number of working hours reduced due to pregnancy

Woman A suspected she had been discriminated against due to pregnancy, when her employer stopped giving her hours. She had been working at a restaurant for approximately six months when she told her employer about her pregnancy. After that, the employer reduced her hours and two months later in February stopped giving her any work. A's maternity leave did not start until July.

In its report to the Ombudsman for Equality, the restaurant stated that it had agreed with A that the company would give her work when it needed someone. The number of hours was due to the company minimising its costs during a quiet period and it was not linked to A's pregnancy. The start of the year is a very quiet time in the restaurant business, and extra staff is rarely needed. In addition, two employees returned to work from family leave in the spring, which also reduced the need for extra staff.

Labour protection officials had requested that the employer provide a statement of the terms of the employment relationship, and they had been provided with the employer's proposal on A's employment contract. According to the contract proposal, the employment contract was open-ended and the average minimum hours were 30 hours per 3 weeks. The employment relationship was in compliance with the collective agreement of the hotel and restaurant industry, which sets the review period of actual working hours as one year. According to the employer, A's working hours are balanced over the course of the year.
According to the collective agreement, the purpose of reviewing the number of actual working hours is to ensure that the contract corresponds to the actual situation. If the average working hours are longer than the hours agreed in the employment contract without a justifiable reason, the hours must be re-negotiated to correspond to the actual hours. If the number of hours is less than the agreed minimum, the employer must compensate the employee for the difference, unless the reason for the shortfall of hours is attributable to the employee or his or her unpaid absence. The above regulations do not apply to employees who are called to work on a case-by-case basis as needed.

The Ombudsman for Equality found that A, while pregnant, had been in a situation where she was no longer offered hours in the same way as she had been in the past. The employer became aware of her pregnancy before the change. The case therefore gave rise to a presumption of discrimination, as prohibited by the Equality Act. To disprove the presumption, the employer had to demonstrate that the shortfall of hours was due to another acceptable reason and not due to A's pregnancy.

The Ombudsman for Equality reviewed the matter based on the employment contract proposal submitted by the employer to the labour protection officials. According to the view of the Ombudsman, taking into account the purpose of the working time review period defined in the collective agreement and

the fact that A had an open-ended part-time employment relationship based on average minimum hours, the year-long review period and the employment of other employees returning from family leave could not be used as acceptable reasons for the shortfall of A's hours. While seasonal fluctuations can affect the availability of hours even to employees on open-ended part-time contracts, if an employee's average minimum hours are stated as 30 hours every 3 weeks, completely cutting the hours due to a quiet season presents a conflict.

The Ombudsman for Equality found that, based on the reports submitted on the case, it was probable that A had been put in a less favourable position due to her pregnancy, as prohibited by the Equality Act, when the restaurant stopped giving her hours from March onwards. According to the Ombudsman, the suspected discrimination in the form of withheld hours had continued at least until the start of the maternity leave. However, the review of evidence and the final resolution of the discrimination matter will take place in the district court in a possible compensation claim case against the employer, if the parties are unable to settle the matter by other means. (TAS 253/2012)

Loss of study entitlement due to pregnancy

The Ombudsman for Equality was requested to clarify whether an educational institution had violated the Equality Act when it told a pregnant student that her study entitlement would end at the start of her maternity leave. If she wanted to continue her studies after the maternity leave, she would have to re-apply to the same programme.

According to the report submitted by the equality officer of the educational institution, the parties had reached a consensus that the student would not lose her place. Further, the parties had agreed that a personal study plan would be drawn up for the student upon her return after the family leave. The educational institution stated that it would not be able to guarantee the student the opportunity to complete her studies in programmes starting after 2016, since the licences for the provision and maintenance of these programmes had not yet been granted.

In its statement, the Ombudsman for Equality reminded the educational institution that a procedure which results in a person being in a less favourable position due to pregnancy, maternity or paternity leave or other family responsibilities with regard to decisions concerning, for example, study entitlement or the duration of studies is in conflict with the Equality Act. However, if it is not possible to continue studies for the reason that the programme in question will no longer be offered by the educational institution in question after the student's family leave, the procedure cannot be considered discrimination as prohibited by the Equality Act. (TAS 266/2014)

DISCRIMINATION IN RECRUITMENT

The Equality Act does not restrict employers' right to choose the candidate they consider the best for a particular job. The Act aims to prevent situations where a person is appointed unjustly on the basis of gender when another candidate would have been more qualified.

This also applies to situations where employees are selected from within the workplace for training programmes or new roles. Applicants must not be discriminated against on the grounds of pregnancy, childbirth, parenthood or family responsibilities. Further, the employer must not act in a way that results in a person being in an unfavourable position in these situations due to gender identity or gender expression. A finding of discrimination does not require intentionality or negligence by the employer.

A high proportion of suspected cases of discrimination in employment referred to the Ombudsman for Equality concern recruitment. To establish discrimination relating to recruitment, there needs to be a comparison made of the education/training, work experience and other merits of a jobseeker who suspects discrimination and of the person who is actually selected for the job. If the jobseeker shows that he or she is more qualified for a position than the person chosen for it, there is a presumption of discrimination. The employer

must then show that there was an acceptable reason for the choice other than gender.

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. Gender may be a significant or even deciding factor in selection, in the event that the job or task is determined on the basis of gender. The employer may also demonstrate that selection has been based on some other acceptable reason than gender. Acceptable reasons include issues such as personal suitability for the job.

The Ombudsman for Equality does not currently carry out a comparison of the merits of candidates in suspected cases of discrimination relating to recruitment, but instead provides legal guidelines and advice for the interpretation of the Equality Act. Ultimately it is the District Court that rules on cases of suspected discrimination relating to recruitment and possible compensation.

The Ombudsman for Equality is also regularly contacted with regard to job advertisements, where either only men or only women are able to apply. Under the Equality Act, a job may not be advertised just for women or men unless there is a pressing and acceptable reason for doing so given the nature of the work or task. The prohibition of discriminatory vacancy announcements is an attempt to promote equal opportunities for women and men in working life. Advertisements contrary to the Equality Act are often based on stereotypical notions of what jobs are suitable for women and for men.

Clarification of job description during the application process

Man A suspected that he had been discriminated against in the recruitment of a fixed-term post for a legal counsel by a city authority. Man A stated that he had 21 years of experience as a lawyer, whereas the chosen candidate, Woman B, only had some experience. Unlike B, A had not even been invited to a job interview.

According to Section 8(1)(1) of the Equality Act, the action of an employer shall be deemed to constitute discrimination prohibited under the Act if the employer, upon employing a person, 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 due to gender.

Man A referred to the criteria specified in the job advertisement, which stated that previous experience of solvency law (e.g. bankruptcy and collection matters) and company and foundation law, completion of a court internship and an attorney's licence would be beneficial. The stated duties included, for example, judicial proceedings. Man A believed that the person sought for the position was expected to have several years of experience and the merits specified in the job advertisement.

According to the employer, the actual duties of the counsel became clearer during the application process. During the recruitment process, the needs of the unit had become more specific and the candidate offering available on the job market had become clear. The weighting shifted to areas such as routine debt collections, bankruptcy cases and the use of a bankruptcy and reorganisation information system. As the job duties became clear and more specific, experience in company and

foundation law, statement formulation and judicial proceedings became less relevant. Woman B had been selected for an interview on the basis of her recent work experience involving bankruptcy cases. Man A had not been interviewed since, according to his application documents, his previous experience of insolvency law was from approximately ten years ago.

For the purposes of the Equality Act, merits must be assessed in the light of the position in question and on the basis of the selection criteria that the employer has established before advertising each position. However, the employer can refer to factors which are relevant to the performance of the duties even if they were not specified in the job advertisement. In this case, the burden of proof to justify the criterion from the point of view of the duties lies with the employer.

The employer has the right to assess and assign weighting factors to applicants' merits in a way that it deems best for ensuring the successful performance of the duties. Ultimately, it is down to a court to resolve in conjunction with a possible compensation claim case what importance can be assigned to the recentness of work experience in insolvency law in relation to applicants' other merits.

The Ombudsman for Equality noted that if a position is advertised with a broad job description and applicants are expected to have the corresponding experience, but the actual duties and the relevant experience are not clarified until during the application process, such recruitment practice is not transparent from the applicants' point of view and the outcome is difficult to predict. This kind of practice can easily lead to suspicions of discrimination on the part of applicants. (TAS 292/2013)

Recruitment of a guard for the custody facility of Kanta-Häme Police Department in Hämeenlinna

The Ombudsman for Equality was requested to issue a statement regarding the recruitment of a guard for a police custody facility. Male applicant A suspected that he had been discriminated against in the recruitment process in violation of the Equality Act. He believed that he was more qualified both in terms of education and work experience than the successful applicant, Woman B. A had not even been invited to the job interview, even though he had long-term experience working as a prison guard.

The Ombudsman for Equality found that the criteria stated in the vacancy notice did not appear to correspond to the criteria used to select applicants to be interviewed, at least not entirely.

No statutory eligibility criteria exists for guards of police custody facilities. According to the employer, all over-qualified individuals were excluded from the process regardless of gender. The Ombudsman for Equality emphasised that the employer must carry out a comparison of the applicants' merits, even if specific eligibility criteria had not been specified. The Ombudsman for Equality was of the view that A's education could be considered a supporting factor to successful performance of a guard's duties overall.

Both Man A and the successful applicant Woman B had long-term work experience but in different areas. Man A had extensive experience working as a prison guard. The successful applicant Woman B did not have comparable experience. Based on the documents submitted to the Ombudsman, A appeared to be a worthy candidate of good merit both in terms of education and work experience. The successful applicant B had a very different educational background and work experience, and notably did not have previous work experience as a guard.

In its statement submitted to the Ombudsman for Equality, the employer justified the appointment of the woman by referring to a specific aspect of the guard's duties. The arrangements referred to by the employer, which concern body and strip searches, can constitute acceptable grounds related to the nature of the job or task under the Equality Act. However, this criterion was not consistently referred to during the recruitment

process of the custody facility guard. The need for a female guard was not mentioned in the vacancy notice or in the appointment memorandum. Both women and men were selected for the interview. The matter only came to light in the employer's statement submitted to the Ombudsman for Equality. (TAS 51/2014)

Recruitment of a competence area manager and degree programme manager at a polytechnic

The Ombudsman for Equality issued a statement of the recruitment of a competence area manager and a degree programme manager for a polytechnic. An unsuccessful applicant, Woman A, believed that she had better education and more experience than the two male colleagues, B and C, who were appointed to the posts. According to Woman A, the polytechnic justified its selection mostly on the basis of applicant assessments carried out by a psychologist. Further, A claimed that the employer's focus on engineering and technical competence areas in the recruitment process was erroneous.

According to the employer, gender played no role in the selection process of the competence area manager and degree programme manager. The polytechnic had carried out an organisational reform, which involved internal recruitment for the fixed-term posts of competence area managers and degree programme managers. The male applicants were selected based on a comparison of all applicants and they were found to be considerably more suitable, motivated and cooperative for the managerial roles.

The Ombudsman noted that each reviewed candidate appeared to possess the formal qualifications specified in the vacancy notice. The female complainant had a doctoral degree, but the vacancy notice specified a master's degree as a minimum educational qualification. As long as applicants meet the eligibility criteria, a higher level of educational attainment is not necessarily considered an additional merit.

Each reviewed candidate had previous experience working in a managerial role at a polytechnic. Each candidate had also worked as a teacher at a polytechnic. The female applicant clearly had the most experience in managerial roles at a polytechnic. The successful applicants had certain merits that could be considered to be in their favour. In the selection process, the employer had given more weight to the breadth and versatility of applicants' experience in relation to the content and volume of the educational responsibilities.

The employer had tested applicant suitability by advance assignments and in individual and group interviews. The employer had appointed a consultant certified by the Finnish Psychological Association from a psychology consultancy specialising in recruitment. Further, since the posts were filled by an internal recruitment process, the applicants were known to the employer.

Without commenting on the content of the applicant suitability assessments, based on the reports submitted to it the Ombudsman found that the employer appeared to have organised the applicant suitability assessment process in an equal and careful manner. The employer had determined that the male applicants were more suitable, motivated and cooperative for the managerial roles than the female applicant. (TAS 5/2014)

Admission to a locomotive driver training programme

A local union representative of the Locomotive Drivers Union contacted the Ombudsman for Equality. According to the representative, women are not admitted to the locomotive driver training programme to work in Tampere. The reason was that the employer had not built enough welfare facilities for female employees. Three female employees shared one dressing room of approximately four square metres including a shower. The welfare facilities were not included in the budget. Further, the physical strength of female applicants is tested, whereas male applicants were not subjected to such a test. The representative had issued several complaints to the employer

about the fact that no women were selected for locomotive driver training for positions based in Tampere. According to the employer, they have not found any suitable applicants.

According to the report of VR-Yhtymä Oy, it had a total of 179 locomotive drivers based in Tampere: 3 women and 176 men. The admission process of the locomotive driver training programme comprised several stages. The eligibility and health criteria of work involving traffic safety had to be taken into account in the selection. In order to qualify for a rolling stock driving licence, applicants must meet the requirements specified in the act on work involving traffic safety in the railway system (laki rautatiejärjestelmän liikenneturvallisuustehtävistä, 1664/2009, hereinafter 'the Eligibility Act').

Recruitment of locomotive drivers based in Tampere complies with the nationwide recruitment process, which VR-Yhtymä Oy has described in detail in its report. The recruitment process comprises the following stages: an application screening; a possible initial screening of candidates consisting of assignments to test their ability; individual and group interviews; aptitude assessments; and lastly, a medical examination to determine suitability for work involving traffic safety. In the application screening stage, weighting is given to experience working in technical roles, preferably in transport, and experience of shift work. Beneficial personal characteristics include e.g. responsibility, the ability to cooperate, initiative, and flexibility.

The Eligibility Act requires that locomotive drivers have sufficient physical capabilities to perform the task. If, at the time of the medical examination, the occupational health physician suspects that a candidate does not have the necessary physical ability, the candidate is referred to a further assessment by an occupational physiotherapist.

The job of locomotive drivers has traditionally been very male-dominated. The locomotive driver training programmes were reinstated in 2001 after having been discontinued for approximately 20 years. Today, many women are interested in becoming locomotive drivers. VR hopes that more suitable female applicants will apply to the training programme. The recruitment criteria are the same for all regardless of gender. In its report, VR stated that VR-Yhtymä Oy does not discriminate against female applicants or locomotive drivers.

In its statement, the Ombudsman for Equality noted that in addition to the provisions on discrimination, the Equality Act also includes certain provisions which require that employers actively promote equality in practice. According to Section 6 of the Equality Act, each employer must promote gender equality in a purposeful and systematic manner. For example, the employer must, with due regard to the resources available and any other relevant factors, act in such a way that job vacancies attract applications from both women and men. Further, the employer must develop working conditions to ensure they are suitable for both women and men.

In particular, "working conditions" refer to the physical work environment. The purpose of the provisions is to ensure that there are no defects in working conditions, for example at work premises, welfare facilities or the methods of individual work stages, which could prevent men or women from seeking employment at a certain workplace or for certain duties. Possible obstacles include, for example, a lack of showers or dressing rooms. In some cases, the obligation to remedy such defects is provided by provisions and regulations on labour protection. In addition, if an employer regularly has a staff of at least 30 employees, it must draw up an equality plan. The equality plan helps to find ways to achieve more balanced gender representation across different roles. In its statement, the Ombudsman drew attention to the fact that, although VR expressed its wish to have more female locomotive drivers, it did not specify what measures it had taken in this regard. The Ombudsman also notes that, generally speaking, the lack of welfare facilities or showers cannot be used as a fundamental reason for recruiting only men or only women.

With regard to the testing of physical strength, the Ombudsman noted in its statement that in a recruitment process, emphasis can be placed

on applicants' personal characteristics such as physical ability if appropriate. However, evaluation of personal characteristics must not be based on generalisations about gender. Such a generalisation would be, for example, that persons of one gender are thought to do a job well. If someone's unfavourable treatment in a job application is based on the fact that those who make the selection decision associate either gender with undesirable generalisations, the procedure may be seen as being due to gender, and that is direct discrimination prohibited in the Equality Act.

In its statement, the Ombudsman does not comment on the types of physical capabilities required of the duties of locomotive drivers. From the point of view of the Equality Act, what is significant is that the same requirements apply to both women and men, and that the same testing criteria and method apply to both. The selective testing of applicants' physical performance only when deemed necessary does not violate the Equality Act per se. However, the practice could give rise to suspicion of decisions being based on generalisations about an applicant's gender. From the point of view of gender equality and the transparency of the selection process, it might be better if all applicants were tested on their physical performance.

The Ombudsman for Equality recommended that VR-Yhtymä Oy utilise its equality plan in its effort to increase the number of female locomotive drivers. It would also be advisable to review the adequacy of welfare facilities at the same time. (TAS 241/2013)

The increase of the number of women in the IT industry

The Ombudsman for Equality was asked to give its opinion on whether an IT business had discriminated against men by stating in a newspaper article that it would hire 20 women for IT roles in the next year. The managing director of the company told the Ombudsman for Equality that the company had used various means to attract more women to the IT sector and that he intended to continue doing so.

In its reply to the complainant, the Ombudsman for Equality stated that the IT business had not discriminated applicants by gender in its recruitment processes; rather, the business had tried to contribute to resolving the unsatisfactory state of the Finnish labour market with regard to the gender divisions that separate women's jobs from men's jobs. (TAS 272/2014)

PAY DISCRIMINATION

Enquiries about pay discrimination are a continuing topic in the Ombudsman's work. Some cases involve a suspicion that a person is paid a lower role-specific pay (basic pay) than another person working in an identical or equivalent role. Some others concern possible discrimination in the form of different bonuses. The Ombudsman also receives enquiries which require assessing the application of equality legislation in situations where family leaves have had an effect on pay or various benefits related to employment relationships.

In legislative oversight, it has come to light that some workplaces have a rather narrow understanding of the principle of equal pay. For example, an employer may claim that a pay comparison cannot be made between individuals who have been assigned a different pay grade in the pay system. However, that very fact can be the reason for suspecting discrimination, and according to legislation on equal pay, it does not in itself prevent pay comparisons.

Pay discrimination in the case of a process specialist

A process specialist working for a city authority asked the Ombudsman for Equality to determine whether the city was treating him in a way that violates the Equality Act by paying him a lower role-specific pay than the one paid to the IT specialist. Both specialists were covered by the municipal collective agreement for public servants (KVTES), but they were not under the same

tariff. The role-specific pay of the process specialist was assigned to the KVTES tariff 01HAL033 Tier 3, whereas the IT specialist role was assigned to the unclassified tariff.

Another person as a reference point

A key question in this case was whether the process specialist could use the pay of the IT specialist as a valid reference point. The city authority's rationale was that the work of the process specialist should not be compared to that of the IT specialist, since the roles were assigned to different tariffs. The city noted that in the municipal sector, comparisons are carried out within tariff groups and not between them. According to the city, KVTES and, ultimately, the employer determine the tariffs assigned to individual roles. The city referred to a statement issued by Local Government Employers, which states that the evaluation of the demands of a job involves evaluating roles assigned within the same tariff and comparing them with one another.

The Ombudsman for Equality determined that the process specialist could use the IT specialist's role as a valid reference point. In equality legislation, the underlying premise is that an employee can compare his or her work to that of another employee of the same employer, and if the roles are identical or equivalent, both should be paid the same. According to the Ombudsman, the case did not involve any factors which would prevent this kind of comparison. Although the roles were assigned different tariffs in the collective agreement, it does not present an obstacle to comparing the roles for the purposes of equality legislation. In Enderby C-127/92, a case ruled on by the European Court of Justice, the tariffs of the two roles under comparison were even determined by different collective agreements. Further, the fact that the roles were assigned to different tariffs - essentially due to the employer's decision - did not prevent such a comparison. If that were the case, the employer could prevent employees from demanding equal pay simply by assigning their roles under different tariffs. The right of the process specialist to have the same role-specific pay as the IT specialist therefore depended on whether the two roles could be considered to be equally demanding.

Comparison of job demands

Based on the reports received, the Ombudsman for Equality made some observations about the comparison of the job demands of the process specialist and IT specialist roles and the rationale presented.

Among other matters, the Ombudsman drew attention to the divergent rationales in the assessments of the two roles. When assessing the impact of the IT specialist's duties, the city appeared to place emphasis on the various dimensions of the work processes to which he contributed. This was in contrast to the impact assessment of the process specialist's role, where the city instead emphasised the fact that the responsibility for the sets of tasks in which the process specialist was involved was ultimately borne by someone else.

Further, the Ombudsman noted that by basing the impact assessments primarily on financial factors, the city overlooked some of the dimensions of the impact of the process specialist's role. Internal control and oversight, risk management tasks and strategy work, all of which the project specialist was involved in, are functions designed to ensure that the local authority and its organisations achieve their targets and that the necessary operational prerequisites are in place - factors which are crucial to the local authority's operations. For example, the tasks of the process specialist which relate to internal control could have a significant financial impact.

The Ombudsman for Equality has been informed that the parties have reached an agreement on the process specialist's pay. (TAS 93/2013)

Right of employees to receive recreational vouchers while on family leave

The chief local union representative of a business-based joint municipal authority asked the Ombudsman for Equality to determine whether the employer was acting

unlawfully in the way it was distributing recreational vouchers to its employees. Employees who were on an unpaid leave, such as parental leave or child care leave, did not receive the vouchers if they had not been working at the time when the self-contribution proportion was deducted from pay. Employees who were on paid maternity leave were entitled to the vouchers.

The employer explained that the idea was to offer working employees recreational vouchers for sports and cultural activities twice a year. If an employee was on an unpaid leave when vouchers were distributed, he or she could subscribe to the vouchers in the next round once they had returned to work. The self-contribution was deducted from pay in conjunction with salary payment. If an employee is on an unpaid leave, the employer is unable to deduct the self-contribution from pay; instead, it would have to invoice the employee for the contribution. This would mean additional costs to the employer. According to the employer, it would be a violation of equality if employees who were on family leave were put in a more favourable position than other employees who are on an unpaid leave.

The Ombudsman for Equality examined the recreational voucher scheme only within the sphere of its competence, i.e. whether the scheme placed employees who were on a family leave in a different position in a way that is prohibited by the Equality Act.

An employer's practice must be considered discrimination as prohibited by the Equality Act if, when deciding on pay terms or other terms of employment, the employer's action results in an employee being put in a less favourable position due to family leave. Putting comparable employees in differential positions on the grounds of family leave or child care leave constitutes indirect discrimination, unless it is justified by an acceptable reason as defined by the Equality Act.

In Finland, employers do not have a statutory obligation to pay their employees during family leaves. However, collective agreements may contain provisions which entitle employees to pay during a maternity leave or another type of family leave. Various employment benefits may also continue to be available during family leave depending on separate agreements or the employer's guidelines. Voluntary employment benefits granted by the employer must not be allocated in a way that places employees who are on family leave in a less favourable position, if they are comparable to other employees in the given situation.

Case law of the European Court of Justice has regularly determined that employees who are on maternity leave or another type of family leave are not in a comparable situation with men or women who are actively working. However, according to a principle commonly accepted in case law of cases involving maternity or family leave, when calculating the pay on hours worked, the maternity leave must be considered comparable to active work, and employees who are on a parental or child care leave must be paid based on the calculated working hours of the review period in question. Further, in case law, employees' entitlement to various employment benefits during family leave must be examined on the basis of the purpose and objective of the benefit in question. According to the employer, the specific purpose of the recreational voucher scheme was to support the well-being and coping in the workplace of employees who are actively working. All employees and officials who are off work on an unpaid leave when the vouchers are being distributed are excluded, including employees who are on unpaid family leave. The vouchers were not issued on the basis of merit; even fixed-term employees who were in the house for only a few months were entitled to the same benefit as employees with a longer service history.

The Ombudsman for Equality notes that, taking into account the purpose and objective of the recreational voucher scheme, the situation of employees who were on a maternity, paternity, parental or child care leave was not comparable to that of employees who were actively working. Further, employees who were on a family leave were not placed in a differential position compared to other employees who were off work.

According to the Ombudsman for Equality, taking into account the nature of the voucher scheme designed for active employees, the exclusion of employees who are on a family leave did not constitute discrimination as meant by the Equality Act. Nevertheless, the Ombudsman noted that the purpose and objective of the voucher scheme presented a conflict with the fact that, upon returning to active service from a family leave, an employee will not receive vouchers in proportion to the duration of his or her of active service up until the next round of vouchers. This places an employee in a differential position compared to other employees who are actively working. Problems related to financial or practical arrangements are usually not considered acceptable reasons for differential treatment. The Ombudsman for Equality recommended that the voucher scheme be developed further to facilitate fast inclusion in the benefit scheme of employees such as those returning to active service from a family leave. (TAS 304/2013)

Occupational health care benefits for employees on unpaid family leave

The local union representative of a company asked the Ombudsman's opinion on whether the company's guidelines on the determination of occupational health care benefit classes presented a conflict with the Equality Act. According to the guidelines, employees who were on an unpaid parental leave were excluded from the occupational health care scheme. The representative was of the view that the guidelines constituted indirect discrimination against women, since women take more parental leaves than men.

According to the guidelines, employees whose continuous unpaid absence lasts over a month are not entitled to reimbursed occupational health care services. Other employees are entitled to general practitioner-level care which is reimbursed in full, and, after one year of service, to specialist care, dental care, eyeglasses and physiotherapy benefits which are reimbursed partially or fully depending on the length of service.

During maternity and paternity leaves, the employee's benefit class stays the same. During unpaid sickness leaves and rehabilitation allowance periods i.e. temporary disability pension periods, the employee's benefit class stays the same for the first 12 months. If the unpaid sickness leave or rehabilitation allowance period continues even longer, the employee is still entitled to general practitioner-level care. In the representative's view, those who were on an unpaid parental leave were treated unequally compared to employees who were on an unpaid sickness leave or unpaid rehabilitation period.

In its report, the employer stated that the occupational health care benefits specified by the guidelines were in proportion to the length of service. The benefits remained in place during periods of absence in cases where the employer had the duty to pay the employee. During long incapacity periods, the benefits remained in place regardless of whether the employee received pay. During employees' sickness leaves and rehabilitation periods, the company's aim is to work in close cooperation with the employee and the occupational health care service in order to restore the employee's work ability and help him or her return to work. The continued availability of the occupational health care benefits during these periods is a means for the employer to help restore work ability and return the employee to work. The employer also offers occupational health care benefits to employees who are on a maternity or paternity leave. The benefits remain in place during both paid and unpaid parental leaves. The parental leave is not exclusively linked to either gender.

The Ombudsman for Equality noted that the case had to be assessed based on whether it meets the definition of indirect discrimination on the grounds that employees who are on unpaid parental leave are excluded from the occupational health care scheme. Since the majority of employees taking parental leaves are women, the employer's rule on unpaid absence periods of more than one month in the case of parental leaves mainly affects women. Therefore, although apparently neutral, the guidelines can be considered to constitute

indirect discrimination of women with regard to parental leave.

When considering whether the employer had an acceptable reason for the action as referred to in the Equality Act, the employer's rationale for the differential treatment of employees must be determined; i.e. 1) whether the action resulting in differential treatment had an acceptable objective, and 2) whether the chosen methods can be considered relevant and necessary from the point of view of the objective.

With regard to employees in active service, the Ombudsman for Equality noted that the objective of the occupational health care service, as meant by the Occupational Health Care Act, was directly linked to active service and associated risk factors. During family leaves, employees are not exposed to the risk factors. Therefore, the exclusion of employees who are on a parental leave from the occupational health care scheme is consistent with the purpose of the scheme. In case law, the European Court of Justice has found that employees who take a family leave are in a special situation which, although it warrants special protections, cannot be considered in all its aspects comparable to the situation of women or men who are actively working. Therefore the fact that employees who are on an unpaid parental leave are not entitled to the same services as other employees who are actively working cannot be considered discrimination.

With regard to employees who are on an unpaid sickness leave or a rehabilitation allowance period, in its statement to the Ombudsman for Equality, the employer justified the inclusion of these employees in the occupational health care scheme by stating that as an employer, it wants to support their ability to return to work. The Ombudsman found this objective to also be consistent with the general purpose of occupational health care as specified by the Occupational Health Care Act. The Ombudsman was of the view that the methods selected to achieve the stated objective can be considered acceptable and proportional to the objective. Therefore the fact that employees who are on an unpaid parental leave are put in a different position than employees who are on an unpaid sickness leave or rehabilitation allowance period with regard to how the benefit class is determined cannot be considered discrimination either. (TAS 147/2013; Opinion of the Ombudsman for Equality 2011 TAS 430/2008)

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 be based on the customer's gender. The goal is not to block all kinds of differential treatment, but rather to prevent unfair treatment.

Any sexual or gender-based harassment committed by the 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. This prohibition does not apply to media or advertising content nor to education and training.

Different pricing for men and women at a gym

The Ombudsman for Equality was asked to clarify whether the pricing list of a gym complied with the Equality Act. According to the complainant, female customers were paying less than men to use the gym.

In its statement, the gym explained that it had equipment designed for strong men, which is why the majority of its customers were men. Women were offered a lower monthly fee because the proprietor wanted to attract female customers as well.

In its statement, the Ombudsman for Equality notes that the pricing practice of the gym places men and women in unequal positions based on gender.

According to the Equality Act, offers targeting only one gender are acceptable only if they are infrequent and of a relatively low monetary value. A discount or benefit that is continuously offered to one gender by a business, association or sports club does not comply with the Equality Act.

The Equality Act does not prohibit differential treatment in cases where it is justified to offer goods or services exclusively to men or exclusively to women on the grounds of a legitimate objective and the measures are appropriate and necessary. However, the scope of cases where this is permitted is very limited. The financial interests of a business cannot be considered a legitimate objective. (TAS 357/2014; TAS 358/2014)

Gender equality in services offered by a sports centre

The Ombudsman for Equality was asked to clarify whether the services offered by a sports centre complied with the Equality Act. According to the complainant, the infrared sauna offered by the sports centre was only available to female customers, even though male customers paid the same price as women for the centre's services.

According to the statement received from the sports centre, the infrared sauna is located in the women's dressing room and therefore unavailable to men. Women had been allocated a larger dressing room due to the fact that a clear majority of the centre's customers were women. It was not possible to locate an infrared sauna in the smaller dressing room allocated to male customers. In other respects, the sports centre offers the same services to both men and women for the same membership fee.

In its statement, the Ombudsman for Equality noted that the practice of the sports centre to offer the infrared sauna to women only does not place men in a less favourable position to an extent considered discrimination as prohibited by the Equality Act. (TAS 384/2014)

Cleaner's conduct in the shower area of a swimming pool

The office of the Ombudsman for Equality received an enquiry regarding the conduct of a male cleaner in the women's shower area of a public swimming pool. In the complainant's case, she had been reluctant to take off her swimming costume in the shower area in the presence of a male cleaner, and she had gone to the sauna and taken it off there. The cleaner had come into the sauna and told her that customers were not allowed to wear swimming costumes in the sauna.

The Ombudsman was asked whether the action meets the definition of sexual harassment and whether the cleaner had the right to ask people to undress. The complainant questioned how it was even possible to have a cleaner of the opposite gender in the shower area.

The Ombudsman for Equality has received enquiries from both men and women who are not comfortable with the presence of a cleaner or another person of the opposite gender in shower rooms, dressing rooms or WCs. Some have felt that the presence of the opposite gender creates an unsafe atmosphere in shower rooms, dressing rooms or WCs regardless of the conduct of the person.

According to the government proposal on the Equality Act, reasons of modesty may require

the hiring of persons of a specific gender for certain duties, for example at a public swimming pool. Reasons of privacy and modesty may also justify differential treatment in the provision and access to goods and services.

For comparison purposes, it is noted that the modesty aspect is taken into account in various areas of legislation, for example in provisions on personal checks carried out by the police or security personnel. Provisions on security personnel require that personal checks be carried out discreetly, in accordance with the principle of minimum interference and with consideration of decency. A security officer carrying out a personal check must be of the same gender as the subject if removal of more than outer garments is required.

The Finnish Swimming Teaching and Lifesaving Federation has published a guidebook (2013) for associations, customers and staff of public swimming pools to promote equal access to swimming pool services. The guidebook is designed to give advice to staff and customers of public swimming pools to ensure that swimming pool services are suitable for all and that they are used in accordance with hygiene requirements. According to the guidebook, public swimming pools have separate dressing rooms, showers and saunas for women and men, but cleaners attending these facilities may be of the opposite gender. The general aim is to organise cleaning services in a way that causes minimal disruption to the customers. The guidebook cites high hygienic standard as one of the essential requirements of public swimming pools from the point of view of swimmers' safety. Regular professional cleaning of the facilities ensures good hygiene levels and, according to the guidebook, cannot be compromised. In order to ensure good hygiene, it is important that customers remove their swimming costumes and shower before going to the pool or the sauna. Customers are not permitted to wear their swimming costumes when entering the sauna, but they can wear a towel instead.

The Ombudsman for Equality found that, in order to respect modesty considerations, public swimming pools should endeavour to place female cleaners in women's facilities and male cleaners in men's facilities during opening hours. However, this kind of task allocation is not always possible, and some public swimming pools may not have both female and male cleaners. In cases where showers, dressing rooms and WCs are cleaned by individuals of the opposite gender, the service provider i.e. the swimming pool has the responsibility to instruct the cleaners on how to carry out their duties in an appropriate manner that takes into account modesty considerations.

In a case such as the one reported to the Ombudsman, the cleaner should exercise judgement and understand that his or her behaviour could be interpreted as sexual harassment or otherwise unacceptable behaviour. When a public swimming pool is notified of such an issue, as a service provider it has the duty under the Equality Act to take action to eliminate harassment and instruct the employee to ensure that the action which was perceived as harassment will not recur.

In the case of public swimming pools, a high standard of hygiene is an acceptable objective as such, and one way to ensure it is to require customers to shower, preferably nude, before entering the sauna or pool. However, this does not justify a practice of having a cleaner or another employee of the opposite gender overseeing the shower rules in the presence of customers in the sauna and shower facilities. Cleaners and other employees of swimming pools cannot have more extensive rights than, for example, those assigned to security officers by the relevant legislation, based on a swimming pool's own practices or guidelines.

Customer feedback submitted directly to the service provider is often a good way of promoting better practices. In the case of swimming pools owned by local authorities, feedback can be sent to the authority's sports service department. (TAS 371/2013)

SPORTS AND EQUALITY

The Ombudsman is often 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. Gender equality should be viewed as the provision of equal opportunities and resources, emphasising equitable treatment, attitudes and everyday acts.

What is important is that women and men have 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. The equality principle should also be observed in the award practices of sports contests and clubs, and the valuation of a performance or the prize awarded for it should not depend on the participant's gender.

Distribution of sponsorship money to sports clubs

The Ombudsman for Equality was asked to determine whether the recreation service committee of the city of Pori violated the Equality Act when it granted a men's football club a larger amount than that granted to a women's football club.

According to a statement submitted to the gender equality official of the city's recreational service department, the sponsorship was granted on the basis of the positive publicity the team brings to the city. Sponsorship amounts are decided on a case-by-case basis according to the market value of the sponsored subject. In football, the market value of a club is largely determined by the attendance numbers of its games.

In its statement, the Ombudsman for Equality notes that the Equality Act does not require sponsorship money to be distributed on the basis of athletes' gender or placement in the divisions. However, the Act requires that the grounds on which sponsorship money is distributed must not be discriminatory. Although the grounds on which sponsorship money was allocated in this case cannot be considered in violation of the Equality Act, on the other hand they cannot be considered to promote equality between women and men.

In the Ombudsman's view, the distribution of sponsorship money has to do with financial support of sports activity. When formulating the rationale of sponsorship allocation and making decisions on sponsorship, it is important to take into account the duty of public authorities to promote gender equality in a purposeful and systematic manner and to establish administrative and operational practices that promote gender equality in policy formulation and decision-making.

The Administrative Court of Turku ruled that the allocation of sponsorship money by the City of Pori in 2013 was illegal. The decision by the recreational service committee on the allocation of sponsorship money in 2014 has also been referred to the Administrative Court of Turku. (TAS 176/2014)

Promotion of ski-jumping among girls and women

Ombudsman for Equality was requested to pay attention to the unequal treatment of girls and women in ski-jumping. According

to the complainant, girls and women face various problems, especially at the club level, when trying to engage in ski-jumping as a hobby in a full and equal manner with boys and men.

Further, according to the complainant, despite requests certain clubs refuse to organise separate coaching groups or separate competition series for girls and women. The award practices of clubs do not always comply with the principle of equality.

In its statement, the Ombudsman for Equality notes that it is important and commendable that the Finnish Ski Association has led by example by promoting the status of women's and girls' ski-jumping in Finland in a purposeful and systematic manner. The Association endeavours to create equal conditions and opportunities for girls and women in the discipline of their choice. The Ombudsman hopes that the Association will use all means available to ensure that this is also the case at the club-level.

The Ombudsman for Equality hopes that the Association will also remind clubs about the fact that a sports club, as an organiser of a ski-jumping competition, could be guilty of discrimination if it treats male and female participants differently based on gender, for example in the form of awards of different value. (TAS 293/2014)

GENDER IDENTITY AND GENDER EXPRESSION

Human gender identity and gender expression come in a multitude of forms, and not everyone can be unambiguously defined as a woman or a man. Gender minorities include trans people (transsexual, transgender/nonbinary gender and transvestite people) and intergender people. Gender minorities are still often confused with sexual minorities.

In 2014, the Ombudsman influenced the status of gender minorities by, in particular, participating in processes to amend the Equality Act and the Trans Act (Act on Legal Recognition of the Gender of Transsexuals).

Individuals belonging to gender minority groups asked the Ombudsman for Equality for advice and opinion on a range of matters dealing with different areas of life. Some of the matters fell within the Ombudsman's remit, while some others did not. Enquiries covered topics such as the right to sickness pay, the revision of employment references and school certificates, treatment in health care services, room allocation in hospitals, the right to social assistance, infertility treatments, the Trans Act and Decree, examinations of gender identity, transphobic content in the media, sports activities, beauticians' services, and practices related to the shower and dressing rooms of sports facilities and workplaces.

The Office of the Ombudsman for Equality continued to co-operate with organisations representing gender minorities, such as Trasek ry, DreamwearClub ry, Seta ry and Transtukipiste, in various contexts.

In June, representatives from the Ombudsman's office attended the LGBTI seminar of Equinet in Stockholm. One of the themes of the seminar was the consideration of the specific status of trans people and intergender people in the work of equality and discrimination authorities in Europe.

The Equality Act now prohibits discrimination based on gender, gender identity or gender expression

Work by the Ombudsman for Equality to clarify the protection of gender minorities against discrimination by legislative means began in 2004. Since then, the Ombudsman has been active in calling for statutory-level regulations to protect gender minorities against discrimination and promote their equality.

The Ombudsman participated in the Ministry of Social Affairs and Health working group which prepared the amendments of the Equality Act with regard to gender minorities. The government proposal on the amendments was finalised and submitted to parliamentary reading in 2014. The new provisions entered into force on 1 January 2015.

Among other matters, the new provisions cover prohibition of discrimination based on gender identity and gender expression. In addition, authorities, educational providers and employers now have the duty to prevent discrimination based on gender identity or gender expression. The obligation must be taken into account in the formulation of

equality plans of workplaces and educational institutions and in decision-making on equality promotion measures.

The 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, although 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.

Amendment of the Trans Act and the tasks for the next parliament

The working group of the Ministry of Social Affairs and Health continued its work on the amendment of the Trans Act in 2014. The Office of the Ombudsman for Equality had a representative in the working group. The conditions on which transgender persons can have their legal gender and personal identity number match their own gender identity are laid down in the Trans Act. For example, the conditions concern requirements on infertility and unmarried status. The working group's task is to draft proposed amendments to the requirements relating to infertility and unmarried status in the Trans Act and to evaluate the need for other changes to the Act as a basis for further work. The government proposal prepared by the Ministry of Social Affairs and Health did not make it to a parliamentary reading during the government term, and therefore the amendment of the Trans Act is now the task of the next government.

In December 2014, Parliament adopted the amendment of the Marriage Act to entitle same-sex couples to get married. This will also have a bearing on the upcoming amendments of the Trans Act.

Statement of the Ombudsman for Equality on the bill for the amendment of the Trans Act (Act on the Legal Recognition of the Gender of Transsexuals, 563/2002)

In its statement, the Ombudsman for Equality recommended that the title of the act be changed as proposed to the "Act on the Legal Recognition of Gender". The prerequisites for the legal recognition of gender should be amended to omit the requirement of a person being sterilised or otherwise unable to reproduce. Further, the requirement on unmarried status should be omitted.

The Ombudsman for Equality supported the option which allows a transgender person and his or her partner to continue, by mutual agreement, their relationship with the same legal status they had previously.

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 requirement on infertility has adverse effects on the status of transgender people and their partners which extend beyond the legal recognition of gender, for example in access to infertility treatments.

Further, the requirement on an unmarried status or, in the case of individuals who are

married or in a civil partnership, on the partner's consent as a prerequisite for legal recognition of corrected gender, and the associated change in the status of the relationship from marriage to civil partnership or vice-versa against the couple's will were considered unjustified interference in the private and family lives of transgender people and their partners.

With regard to other necessary amendments of the Trans Act, among other matters, the Ombudsman for Equality noted that the right of a person to have his or her legal gender recognised in accordance with his or her gender identity should not be connected to a medical diagnosis or treatment of conflicted gender as is the case in the current Trans Act. (TAS 261/2014)

Trans people and common guidelines on infertility treatment

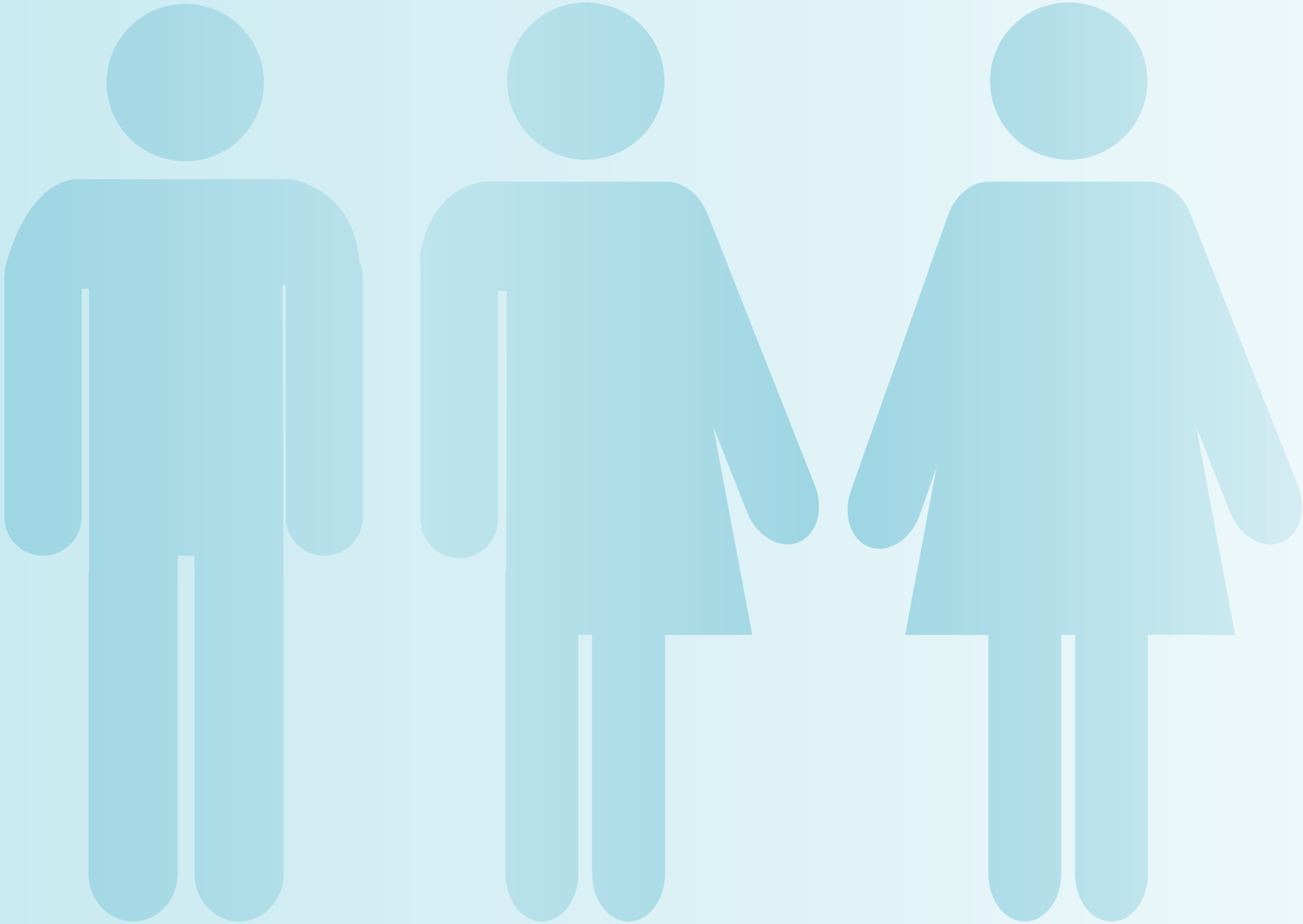
Sateenkaariperheet ry (Rainbow Families) asked the Ombudsman for Equality to review the guidelines of the Ministry of Social Affairs and Health on non-emergent care in infertility treatment (published on 3 September 2014) and the background memorandum (Hedelmöityshoidon yhtenäiset perusteet, Ministry of Social Affairs and Health Reports and Memorandums 2014:30). Sateenkaariperheet ry had worked on the content of the guidelines in cooperation with Seta and Trasek ry.

The organisations were concerned that the guidelines did not mention transgender people and the challenges they may face. The only reference to transgender people in the memorandum is in the summaries of the opinions of the Ombudsman for Equality and the Parliamentary Ombudsman, and in the statements issued by the organisations. Further, the Ministry of Social Affairs and Health had not mentioned transgender people, female couples or single women in its communications, nor had it communicated to infertility treatment clinics that the discrimination of transgender people, female couples and single women at public clinics had to stop. Sateenkaariperheet ry requested that the Ombudsman for Equality contact the Ministry of Social Affairs and Health to ensure that the Ministry clearly communicate what the guidelines were designed to achieve with regard to transgender people, female couples and single women.

The Ombudsman for Equality has stated in various contexts its view that transgender people should be entitled to infertility treatment on the same grounds as other people. The guidelines and criteria of the Ministry of Social Affairs and Health on the common principles of infertility treatment were formulated at a general level and they do not mention specific groups such as transgender people. However, according to the understanding of the Ombudsman for Equality, they do not present any obstacles to the access of transgender people to infertility treatment or otherwise place them in a less favourable position.

The Ombudsman noted that it is important that the right of transgender people to not be discriminated against is realised in the practice of infertility treatments. For example, this could be promoted by issuing guidelines specific to transgender people and rainbow families and communicating them to infertility treatment service providers. Decisions on the guidelines on infertility treatments and the related communications are the responsibility of the Ministry of Social Affairs and Health. The Ombudsman for Equality submitted its statement to the Ministry of Social Affairs and Health.

In December, Minister of Health and Social Services Susanna Huovinen sent a letter to hospital districts and joint municipal authorities responsible for the provision of infertility treatments. In the letter, the minister noted that sexual minorities and gender minorities must have access to infertility treatment in the public health care system as required by legislation and instructions of authorities. The minister requested that hospital districts inform her about the measures taken in this regard. (TAS 280/2014)

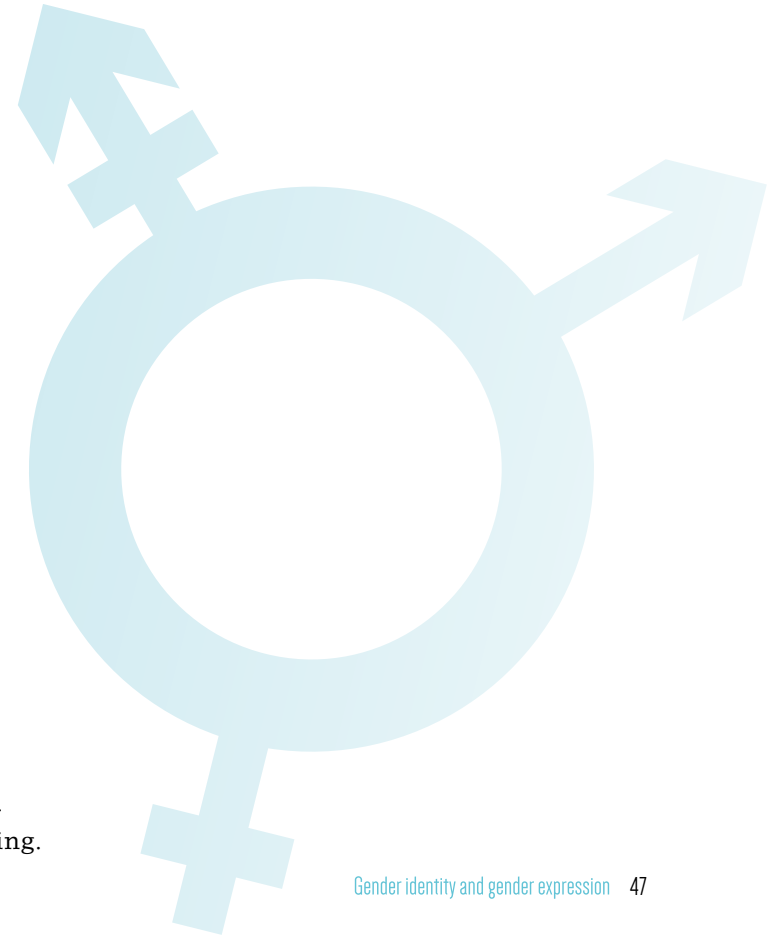


The Insurance Court arrives in the same conclusion as the Ombudsman for Equality: The change of a personal identity number cannot be considered a prerequisite for the special reimbursement of hormone replacement therapy

People undergoing gender change have faced problems in qualifying for special reimbursement for hormone replacement therapy. KELA has issued a decision based on the Health Insurance Act on the medical prerequisites which the patient's condition must meet in order for him or her to qualify for the special reimbursement of medical treatment. According to the decision, hypogonadism is considered to first manifest on the date of confirmation of the sex change and the amendment of the personal identity number to correspond to the new gender.

The Ombudsman for Equality first reviewed this matter as far back as 2008. In its statement, the Ombudsman noted that a practice which determines eligibility for reimbursement based on a personal identity number instead of medical grounds places transgender people in a different position than other people. The Ombudsman recommended that KELA amend its reimbursement criteria so that they do not lead to the discrimination of transgender people in the reimbursement of medical costs. After the statement, the Ombudsman continued to highlight the matter in its meetings with KELA representatives. KELA waited for the ruling of the Insurance Court before amending its decision.

In its ruling of 9 September 2014 (VakO 3394:2012), the Insurance Court found that KELA had acted in excess of its jurisdiction when it had ordered that the legal confirmation of gender change and the amendment of a personal identity number were prerequisites for eligibility for the special reimbursement of the medical treatment of severe hypogonadism. KELA amended its guidelines following the Insurance Court's ruling.



STATISTICS

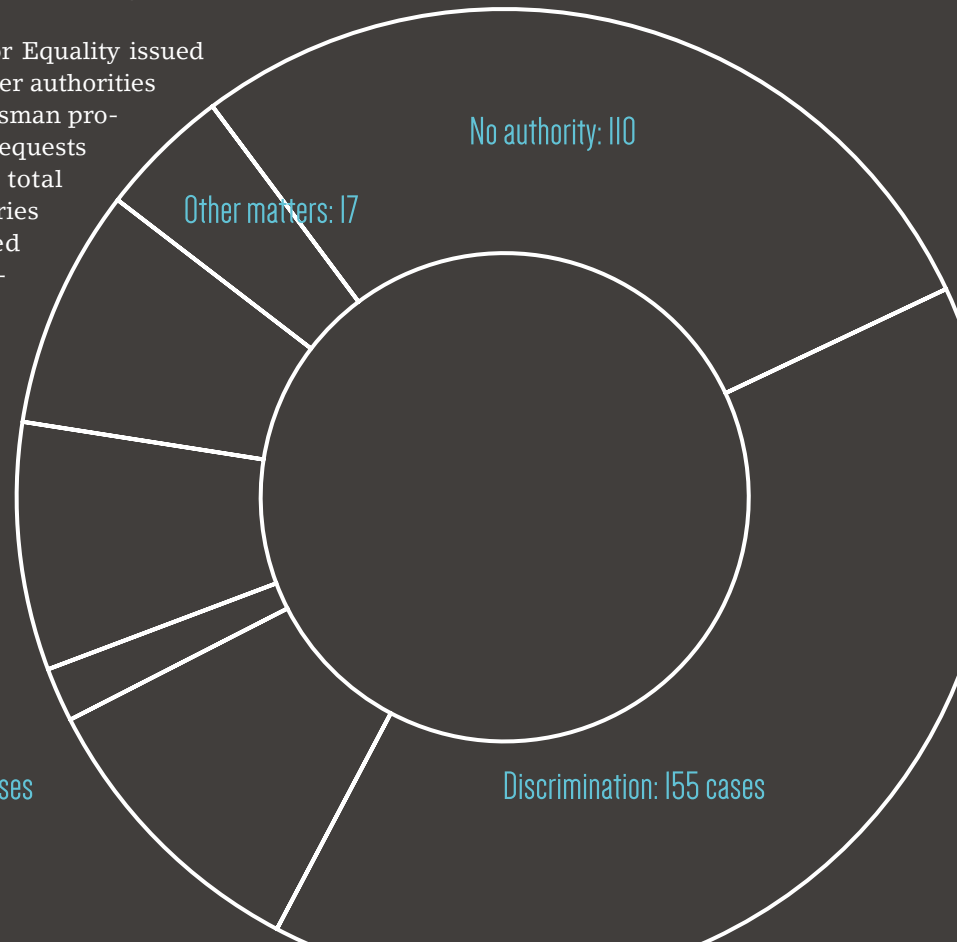
The Ombudsman for Equality investigates suspected cases of discrimination as a written procedure. The inspection of equality plans, requests for information and other statements are dealt with in writing and entered in the Ombudsman's register.

In 2014, the details of 382 new cases were logged in the Ombudsman's register. During the year under review, decisions were reached on a total of 390 written cases. The Ombudsman also offers legal advice by telephone. 303 requests for advice by phone were received by the Ombudsman for Equality in 2014.

Cases handled in writing and decided upon in terms of content

A total of 155 of the cases handled in writing concerned issues of discrimination. In 2014, 38 cases relating to the inspection and promotion of equality plans were processed. There were seven cases relating to quotas.

The Ombudsman for Equality issued 32 statements to other authorities in 2014. The Ombudsman provided 31 replies to requests for information. A total of 110 of the enquiries received concerned cases where the Ombudsman for Equality has has no authority. The remainder of the cases dealt with in 2014 related to communications and administration.



Enquiries in matters of discrimination

Enquiries in matters of discrimination were mostly related to employment: 54 % of the written enquiries concerning discrimination and 81 % of the telephone enquiries concerning discrimination. The proportion of enquiries related to pregnancy and parenthood was 46 percent and 59 precent respectively of written and telephone enquiries on employment matters.

The website of the Ombudsman for Equality received approximately 40,000 visitors in 2014. Visitors were mostly looking for information on discrimination and equality planning. The Ombudsman for Equality is on Facebook, Twitter, YouTube and Instagram. Social media is an important new channel for the Ombudsman to reach citizens and share information about its activities and the Equality Act.

Appropriations and staff

In 2013, the Office of the Ombudsman for Equality had 10.5 man-years at its disposal. In addition to the Ombudsman for Equality, the staff comprises the Head of Division, five Senior Officers, the Information Officer and three secretaries. One university trainee worked at the Office during the autumn. The operational appropriation for the Ombudsman for Equality was EUR 140,000. This does not include salary or rental costs, which were paid centrally by the Ministry of Social Affairs and Health.

INTERNATIONAL ACTIVITY

Nordic cooperation

In June, the Ombudsman for Equality attended the *Nordic Forum*, a major conference on women's rights and gender equality in the Nordic countries. The Ombudsman shared a booth with other Nordic equality and non-discrimination authorities, and it presented the *Not in Our School* campaign and the learning materials on harassment at the event.

In September, the Ombudsman attended the joint conference of Nordic Ombudsmen in Stockholm. The Ombudsman gave a presentation on the anti-harassment campaign and on its campaign against pregnancy discrimination titled *Oikeutta odottaville* (Justice for Those Expecting). In addition to pregnancy discrimination and harassment, discussion topics included the current legislative reforms, the prerequisites of equality promotion, and hate speech which is on the rise in all the Nordic countries.

Collaboration between European discrimination authorities

The Ombudsman for Equality is engaged in regular cooperation with European non-discrimination and equality authorities. As in previous years, representatives of the Office of the Ombudsman for Equality also participated in training events and working group activities of Equinet, the European Network of Equality Bodies.

The Ombudsman's communications officer continued to actively participate in the *Communication Strategies and Practices* working group and in the meetings of communication officers of the European Union Agency for Fundamental Rights. Prime topics in 2014 included emphasis on values in the work of discrimination authorities and how to change attitudes in a challenging European-wide atmosphere. In June, representatives from the office of the Ombudsman for Equality attended the LGBTI seminar organised by Equinet in Stockholm. In education, the common theme was the consideration of trans people and intergender people in the work of equality and discrimination authorities. The Ombudsman's representative attended an Equinet seminar on sexual harassment in Warsaw. The anti-harassment campaign designed for schools was presented at the seminar.

Visits

The Ombudsman for Equality regularly meets with expert representatives of organisations, journalists and students as well as international representatives, especially from delegations invited by the Ministry for Foreign Affairs. In 2014, the Ombudsman met with representatives of Trasek ry and DreamWearClub ry, among others. The discussions focused on the topic of equality promotion for transgender people. Isät lasten asialla ry (Fathers for Children) visited the Ombudsman to discuss fathers' rights during and after divorce.

The Finnish Act on Equality between Women and Men and the activities of Finland's Ombudsman for Equality attracted international interest. The Ombudsman discussed gender equality in Finland and the Ombudsman's activities with various guests, including the Iranian delegation of gender equality actors, a consultant of Equinet, discrimination expert Niall Crowley, and Salla Saastamoinen, the representative of the EU Director for Equality.

Finland's Ombudsman for Equality submits statement to CEDAW

The Ombudsman for Equality has submitted a statement addressing important, current issues related to equality to the Committee on the Elimination of Discrimination against Women (CEDAW), which is the body that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

In the statement, the Ombudsman for Equality highlights wage discrimination, as well as discrimination based on pregnancy and family leave, which is still significant concern in work life. According to the Ombudsman for Equality, Finland must specify its national legislation, as well as implement other measures, which are necessary with regard to these concerns. In February 2014, the committee will discuss Finland's seventh interim report which deals with the implementation of the contract obligations set by the Convention on the Elimination of All Forms of Discrimination against Women.

The Ombudsman for Equality also chose to highlight discrimination based on pregnancy and family leave in 2013, when the ESC committee which monitor's the United Nations Convention on Economic, Social and Cultural, reviewed Finland's sixth interim report on the ESC Convention. (TAS 6/2014)

REPRESENTATION OF THE OMBUDSMAN FOR EQUALITY IN OFFICIAL BODIES

- *Delegation of the Human Rights Centre*
- *The Council of Ethics in Advertising*
- *The steering group of Poikien Talo (House for Boys)*
- *Ministry of the Interior's Discrimination Monitoring Group*
- *The Ministry of Social Affairs and Health working group on the Trans Act*
- *Statistics Finland's work group Equality and Statistics*
- *Advisory Board for Minority Issues*

PUBLICATIONS

- *Tasa-arvovaltuutetun vuosikertomus 2013*
- *Jämställdhetsombudsmannens årsberättelse 2013*
- *Annual report by the Ombudsman for Equality 2013*

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