

ANNUAL REPORT 2016



BY THE OMBUDSMAN
FOR EQUALITY

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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.*
- *Taking measures to pursue reconciliation in matters concerning discrimination referred to in the Equality Act*

The Equality Act prohibits discrimination based on gender, gender identity and gender expression. 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 a victim of discrimination can take the case to a district court and claim compensation.

In 2016 the Ombudsman was Pirkko Mäkinen. She retired in October 2016.

YEAR 2016 AT THE OFFICE OF THE OMBUDSMAN FOR EQUALITY

THE AMALGAMATION OF THE OMBUDSMAN FOR EQUALITY AND THE NON-DISCRIMINATION OMBUDSMAN UNDER CONSIDERATION

The Ombudsman for Equality had outlined that she would devote year 2016 for focusing on the Ombudsman's statutory basic tasks. In the previous year, the transfer of the Ombudsman from the Ministry of Social Affairs and Health to the administrative branch of the Ministry of Justice and an increase in administrative tasks had consumed resources allocated for the basic tasks.

However, the year did not go quite as planned. Towards the end of spring 2016, the possible amalgamation of the tasks of the Ombudsman for Equality and the Non-Discrimination Ombudsman was brought up as a result of an assessment memorandum issued by the Ministry of Justice. Both the Ombudsmen's current statutory duties and the personnel would have been transferred to the new organisation. The proposal had a very critical reception. Especially women's organisations, employee organisations, the Gender Equality

Unit (TASY) of the Ministry of Social Affairs and Health and the Council for Gender Equality considered it imperative that the Ombudsman for Equality remain a separate post. It was stated that the matters concerning gender equality required a separate spokesperson. The different powers exercised by the Ombudsman for Equality and the Non-Discrimination Ombudsman in working life were also regarded as problematic.

In the Ombudsman for Equality's view, too, the proposal to amalgamate the two offices involved several challenges and uncertainties. However, neither the Ombudsman for Equality nor the Non-Discrimination Ombudsman were categorically against the amalgamation. Both Ombudsmen found that the amalgamation could be acceptable on certain conditions (see pp. 9-10 for details).

In 2008, the Ombudsman for Equality categorically opposed the proposal to amalgamate the Ombudsman for Equality and the former Ombudsman for Minorities that was discussed at the time. A lot has changed since then. For example, the Ombudsmen

have become separate small agencies and the Ombudsmen's administrative tasks have increased. The tasks of the Ombudsman for Equality and the Non-Discrimination Ombudsman overlap more than before and the Ombudsmen partly operate in the same fields of responsibility. As a whole, the Finnish system of supervising compliance with legislation is fragmentary from the clients' point of view and difficult from the point of view of the monitoring of discrimination on multiple grounds.

The concrete challenges in gender equality work look slightly different depending on whether the perspective is that of the actors operating in the field of gender equality policy or that of the enforcement of gender equality legislation and its structures. It would therefore be important to have an open discussion on these themes and genuinely listen to different points of view. Enough time is also required for these discussions, which was not the case in this process.

During a national seminar on gender equality (Tasa-arvopäivät), Juha Rehula, the Min-

ister responsible for gender equality, took a clearly negative stand on the matter and the entire project was terminated towards the end of October. The Ombudsman for Equality and the Non-Discrimination Ombudsman continue their operation as separate authorities in the same way as before.

PROMOTION OF GENDER EQUALITY AT EDUCATIONAL INSTITUTIONS AND WORKPLACES

The provisions concerning the promotion of gender equality in the Equality Act were specified with the legislative reform that entered into force in 2015. This has also affected the work of the Ombudsman for Equality. Over the past couple of years, there has been more emphasis on the promotion of gender equality work in educational institutions than before. For example, the Ombudsman for Equality was involved in implementing several training events organised in different parts of Finland in 2016 to disseminate information on how systematic gender equality work can be carried out in comprehensive schools.

The previously existing practice in the supervision of gender equality plans in working life was continued in the year of the review. According to this practice, the Ombudsman for Equality requests those workplaces that have had suspected cases of discrimination to submit their gender equality plans for

assessment. In addition, the Ombudsman for Equality requested all municipalities in three counties (a total of 60 municipalities) to submit their gender equality plans for assessment in spring 2016. Many of the municipalities began to either draw up a plan or started a process to update it as a result of the supervision activities. The supervision of gender equality plans therefore contributes to the implementation of the gender equality planning obligation.

The Ombudsman for Equality will later draw up a summary of gender equality planning in these municipalities. However, we can already conclude that irregular planning is not the only challenge related to gender equality planning and pay surveys. One significant challenge is related to the implementation of pay surveys in a manner that would better ensure equal pay. More information on the importance, objectives and implementation of equality planning is also required at workplaces.

EQUALITY ACT TO INCLUDE PROMOTION OF RECONCILIATION

In November 2016, the Ombudsman for Equality received statutory powers to promote reconciliation in matters concerning discrimination referred to in the Equality Act. The Ombudsman had long been proposing that promotion of reconciliation be

OMBUDSMAN FOR EQUALITY GIVEN THE POSSIBILITY TO PROMOTE RECONCILIATION

The legislative amendment gave the Ombudsman for Equality powers to promote reconciliation. The Ombudsman for Equality will soon be able to promote reconciliation in matters concerning discrimination referred to in the Equality Act. The Equality Act prohibits discrimination based on gender, gender identity and gender expression.

The Ombudsman for Equality has for many years urged the Government and Parliament to add a provision on reconciliation to the act and expresses her satisfaction with the change that will strengthen the legal protection of individuals experiencing discrimination. The option of settling a dispute through reconciliation is important to both parties in a discrimination case. The procedure may provide a workable alternative to court processes, which are often expensive and last long and may not necessarily produce the desired results.

The reconciliation procedure is a voluntary arrangement and based on the consent of both parties. Under the new provision, the parties can also agree to settle their dispute by agreeing on a financial compensation. The parties may submit the settlement to the National Non-Discrimination and Equality Tribunal for approval and after approval, the settlement is enforceable in the same manner as an enforceable court decision.

The amendment harmonised the legal protection instruments contained in the Equality Act and the Non-discrimination Act because there were already provisions on the reconciliation procedure in the Non-discrimination Act. The provisions of the Equality Act on promoting reconciliation and approval of a settlement entered into force on 15 November 2016.

recorded in the Act. However, the activities of the Ombudsman have promoted reaching a consensus between the parties in the matter even before this amendment.

The purpose of the statutory possibility for reconciliation is to promote the actual implementation of rights based on the Equality Act. The procedure is an important improvement in legal protection. It may be a good alternative for court processes, which are often expensive and last long.

NEW OMBUDSMAN FOR EQUALITY

Ombudsman for Equality Pirkko Mäkinen retired at the beginning of November 2016 and prior to that, already took her annual leave at the beginning of July. Pirkko was Ombudsman for Equality from 1995 to 2002 and again from 2007 to 2016. We would like to express our thanks to her for her long and successful work as Ombudsman for Equality. Pirkko's work to promote gender equality and, especially over the past few years, also to improve the status of gender minorities has been valuable.

Jukka Maarianvaara was appointed as the new Ombudsman for Equality in January 2017. He assumed his post in the middle of April. Jukka now leads our office as we work on old and new gender equality themes. Our work continues.

Anja Nummijärvi, Deputy Director

STATEMENTS ISSUED TO THE PARLIAMENT OF FINLAND AND OTHER AUTHORITIES

STATEMENT ISSUED TO THE MINISTRY OF JUSTICE ON THE ASSESSMENT MEMORANDUM ON THE AMALGAMATION OF THE OFFICES OF THE OMBUDSMAN FOR EQUALITY AND THE NON-DISCRIMINATION OMBUDSMAN

At the end of May 2016, the Ministry of Justice published a memorandum assessing the amalgamation of the offices of the Ombudsman for Equality and the Non-Discrimination Ombudsman and circulated the memorandum for comments. In her statement regarding the memorandum, the Ombudsman for Equality referred to the press release she had issued jointly with the Non-Discrimination Ombudsman, according to which the Ombudsmen were not categorically against the amalgamation. The Ombudsmen stated that they could accept the possible amalgamation on the following conditions: the Equality Act and the Non-Discrimination Act should remain two separate pieces of legislation, the competence of the Ombudsmen should not be restricted, the currently available resources may not

be reduced, and the position of the personnel in the Ombudsmen's offices should be safeguarded (press release on 30 May 2016).

When assessing the impacts of the amalgamation, the Ombudsman for Equality based her assessment on the assumption that the conditions set for the reform by the Ombudsmen would be met. The Ombudsman saw the following possibilities in the amalgamation:

If discrimination on different grounds were to be supervised by a single agency, the upkeep of more comprehensive expertise on anti-discrimination legislation would be easier. The decisions made in the application of the Equality Act and the Non-Discrimination Act may be reflected in the content of the entire anti-discrimination legislation.

The system for supervising compliance with anti-discrimination legislation in Finland is fragmented, and it is difficult for customers to make sense of the different authorities and, for example, decide which Ombudsman to contact. From this viewpoint, a single office of Ombudsman would probably be an improvement.

On the basis of the legislative materials of the Equality Act and the Non-Discrimination Act, the Ombudsman for Equality does not, unlike the Non-Discrimination Ombudsman, have the powers to handle cases of so-called intersectional discrimination. These include those cases of discrimination, in which only age and gender together result in discrimination or in which a person is discriminated against because of a headscarf worn for religious reasons. This limits the possibilities of the Ombudsman of Equality to address themes that are important and topical also from the point of view of gender equality. Multiple grounds of discrimination and the cross-cutting nature of gender should be taken into consideration better in all efforts to fight discrimination. Gender is an issue that directly concerns all people, including different minority groups.

The amalgamation could have benefits regarding the promotion of gender equality and non-discrimination. So far, the Ombudsmen have already cooperated in matters such as the promotion of gender equality work and non-discrimination work in educational institutions and the intervention in and prevention of harassment.

In her statement, the Ombudsman for Equality referred to the personnel resources available to her and the increase in the Ombudsman's administrative duties in connection with the new status as an agency and

employer given to it in 2015. The Ombudsman estimated that amalgamating two actors with meagre personnel resources regarding the size of their fields of work into an agency of 26 people could create an entity with a better operating capacity.

In her statement, the Ombudsman for Equality did not regard the proposed amalgamation as unproblematic, but was of the opinion that it would involve challenges and uncertainties.

The amalgamation could lead to combining the Equality Act and the Non-Discrimination Act. On the other hand, the Ministry of Justice's assessment memorandum was based on keeping the acts separate. The Ombudsman regards keeping the acts separate as important. Contrary to what is stated in the memorandum, the acts are not separate only formally, but they also have significant structural differences and differences in their content.

The Ombudsman for Equality considers that legislation can only be developed by improving the level of protection currently provided by each Act and reinforcing the competence of the Ombudsmen responsible for supervising compliance with them. Harmonisation is not a value in its own right. Additionally, it is quite obvious that a single Act would not mean the simplification or clarification of legislation, as a combined act would be obscure and complex.

If the tasks related to the supervision of compliance with legislation on gender equality were merged with an actor that also handles discrimination on other grounds, there might be a risk that gender equality issues would not get the attention they require. However, this might not necessarily happen. They also considered it challenging regarding the amalgamation that the Office of the Ombudsman for Equality and the Office of the Non-Discrimination Ombudsman had developed different procedures for handling matters.

In November of the year reviewed, the Ministry of Justice decided to terminate the work of the expert group set to consider the amalgamation. It had become clear that the preconditions for amalgamating the tasks of the Ombudsman for Equality and the Non-Discrimination Ombudsman did not exist.

STATEMENT ISSUED BY THE OMBUDSMAN FOR EQUALITY ON THE GOVERNMENT PROPOSAL DRAFT ON THE REGIONAL GOVERNMENT REFORM AND THE REFORM ON THE ORGANISATION AND PROVISION OF HEALTHCARE AND SOCIAL WELFARE SERVICES

The healthcare, social welfare and regional government reform includes great changes with significant effects on gender equality. In the opinion of the Ombudsman for Equality, it is positive that the background material

for the government draft includes an assessment on gender effects. The Ombudsman for Equality is pleased that the Act on Organising Healthcare and Social Welfare Services includes the goal to promote gender equality. It would be important to include this goal in the regional government reform, too.

The healthcare, social welfare and regional government reform will especially bring significant changes to healthcare and social welfare personnel in municipalities and joint municipal authorities, as the major part of the personnel consists of women. In the first stages of the reform, personnel positions are fairly secured, as the transfer-of-business principles will be applied to personnel transfers. However, it is very difficult to estimate long-term effects. This creates insecurity regarding the employees' positions. Employers and workplaces may change, commutes may become longer, and it may become more difficult to reconcile work and family life.

One goal of the reform is to decelerate the rise in healthcare and social welfare costs by approximately EUR 3 billion. As personnel expenses make up about two thirds of the costs of healthcare and social welfare, there is a great danger that the position of employees will deteriorate due to the reform. There may be negative effects on e.g. salaries, pensions, and the stability of employment. It does not seem that women's

status in working life will be improved. For some workers, having larger employers due to the reform may be an opportunity to access new assignments and training and subsequently advance in their careers. On the other hand, there will be fewer managerial positions and more competition for these positions.

When the employees of several municipalities and joint municipal authorities are transferred under one employer, i.e. a county, pay gaps may emerge between employees of different genders performing the same work or work of equal value, and the employer is obligated to correct this gap under the Act on Equality between Women and Men. Systematic work on harmonising pay levels within a reasonable period should be begun as soon as the new employer organisations have been formed. If personnel will be transferring to the employment of private service providers within some time frame, the right to access pay information does not concern these employees.

The reform transfers a significant part of the decision-making power in society from municipalities and joint municipal authorities to the counties. The Ombudsman for Equality is concerned about what will be the share of women and men in the new county councils. In municipal councils, 36% of council members are women. The representation of women and men in the municipal council bodies can be affected by extending the provisions of the Act on Equality between Women and Men to include these bodies.

When planning and providing healthcare and social welfare services, it is important to take into account the differences in health and life expectancy between women and men and the special needs of genders and gender minorities. Special measures are needed concerning the health issues of men in poor socio-economical positions and the sufficient provision and availability of the services for this demographic group. Especially in the older population, there are relatively more women than men using health care and social welfare services. Women's pension poverty prevents them from using additional paid





services, which has to be taken into account when planning different services, such as services for the elderly.

With the healthcare, social welfare and regional government reform, service production will increasingly be using the services of private enterprises. Counties will also need to incorporate some of their operations related to providing healthcare and social welfare services. The plan is to provide freedom of choice for the users in choosing the provider of the services. Based on the proposal, it is difficult to estimate how the freedom of choice will be realised equally for everyone. It is not clear where the large-scale incorporation of healthcare and social welfare services will lead: whether the development can be controlled by counties and democratic policies and if the results will be in accordance with the objectives of the reform, for example concerning the realisation of equality and gender equality.

According to the Act on Equality between Women and Men, authorities have the obligation to promote gender equality, related to the availability and provision of services, for example. However, the obligation to promote gender equality does not concern enterprises. When arranging competitive tenders for services, it is important to set the realisation of gender equality as one criterion for the choice of service provider. (TAS 353/2016)

LEGISLATIVE PROPOSAL ON ANNUAL LEAVE: PROPOSED AMENDMENT WOULD DISCRIMINATE AGAINST MOTHERS

The Ombudsman for Equality has stated their position on the working group's proposal to limit annual leave to six months during family leave. According to the proposal, a mother who uses the 105 days of maternity leave allocated to her would accrue annual leave during only 51 of these days, whereas a father who takes his paternal leave in its entirety would accrue annual leave for 102 days. The difference in the number of holiday days that would accrue during the parental leave is therefore significant.

The Ombudsman for Equality stated that they do not support the proposed restriction on annual leave accrued during parental leave because this legislative amendment would put mothers at a disadvantage. Earlier, women have accrued annual leave for an average of ten months when taking maternity leave and parental leave. The proposed amendment would reduce by just under 40% the annual leave accrued by the average mother during their family leave.

In contrast to maternal and paternal leave, parental leave is a form of family leave available to both the mother and the father, provided that the conditions for it are met. The parents have the right to choose which of

them will take this leave. Parents may also divide parental leave between them or take it in stages in the ways permitted by the law. With regards to parental leave, parents are in a similar position and should therefore be treated in the same way as recipients of the benefits related to parental leave.

The Ombudsman for Equality pointed out that if the beneficiary's female gender would lead directly to them receiving less benefits than a male beneficiary, women would have been placed at a disadvantage directly as a result of their gender. The goal of increasing use of parental leave is a very positive one, but it is to be pursued in ways other than through legislation that discriminates against women.

The Constitution of Finland prescribes the promotion of gender equality in societal activities. This prescription emphasises the central importance of equality in precisely those areas of social life (and salaries and other conditions of employment in particular) which are dealt with in this proposal. Therefore, reasons of a particularly compelling nature must be given to justify interfering – for the purpose of public sector savings – with protections guaranteed by the Constitution. The Ombudsman for Equality believes that the legislative amendments being proposed do not fulfil the acceptability and proportionality criteria that must be met in order to justify restricting people's fundamental rights.

The Ombudsman for Equality indicates that the proposed legislative amendments would also weaken the position and economic standing of a number of single-parent families. The legislative amendments would, above all, have an impact on the position of mothers with small children, and the majority of single parents are mothers. For this reason also the proposal cannot be supported from a gender equality standpoint. Single-parent families are in other ways faced with a more difficult economic situation and a large need for different support arrangements to integrate work and family life.

The Ombudsman for Equality spoke at a hearing of the Employment and Equality Committee on 11 February 2016. (TAS 57/2016)

STATEMENT ISSUED TO THE UNITED NATIONS HUMAN RIGHTS COUNCIL

The Ombudsman for Equality submitted a statement on some topical national issues on gender equality to the Universal Periodic Review of the United Nations Human Rights Council. In her statement, the Ombudsman for Equality highlighted discrimination based on pregnancy and family leave, which is still a significant concern in working life. Another concern brought up by the Ombudsman for Equality was the status of trans people, especially the requirement

of infertility for the confirmation of the legal gender, which violates human rights.

The Office of the United Nations High Commissioner for Human Rights (OHCHR) draws up a summary of the statements submitted to it. This summary will form a part of the material available to the United Nations Human Rights Council when the Council discusses the human rights situation in Finland in spring 2017 in connection with the Universal Periodic Review. (TAS 248/2016)

STATEMENT ISSUED ON THE APPLICATION OF CONVENTION NO. 156 OF THE INTERNATIONAL LABOUR ORGANISATION (ILO)

The Ombudsman for Equality presented the Ministry of Economic Affairs and Employment with a statement for Finland's report on the application of Convention No. 156 of ILO. The Convention concerns equal opportunities and equal treatment of male and female employees with family obligations.

In her statement, the Ombudsman for Equality particularly expressed her concern over discrimination on the basis of pregnancy and family leave. The risk of being discriminated against increases with employees in fixed-term employment relationships and temporary agency work and employees with zero-hours contracts. For



example, the hours for women on zero-hours contracts have been reduced once they have become pregnant.

The Ombudsman for Equality has proposed that a provision that prohibits limiting the duration of fixed-term contracts and restricting their renewal on the basis of pregnancy and family leave be added to the Employment Contracts Act (55/2001).

The reconciliation of work and family life can be supported with gender equality plans, which must be part of the employer's personnel policy. Good gender equality plans may contain, for example, measures for the induction training of employees returning from family leave.

The Ombudsman for Equality expressed her concern over the decision made by Parliament to limit the child's subjective right to early childhood education to 20 hours per week as of 1 August 2016. The child's right to day care was one of the key reforms regarding gender equality in the 1980s and the 1990s. After the amendment, justifications such as the parents' work, studies or some other specific need are required for more than 20 weekly hours of day care for the child. This may cause problems when parents with irregular work try to reconcile the need for care for the child and working. Limiting the right to day care may also make it more difficult for unemployed parents to enter working life after family leave.

Some female-dominated trade unions have attracted the attention of the Ombudsman for Equality to the fact that parents returning from family leave may be made redundant for financial or production-related reasons too easily. Under the Employment Contracts Act, the prohibition to terminate an employment contract is limited to the duration of the family leave. There has been discussion about whether the protection from termination of the employment contract should be longer or the employer's burden of proof should be extended in these situations. (TAS 177/2016)

MONITORING THE PROHIBITIONS OF DISCRIMINATION

The Equality Act prohibits discrimination based on gender, gender identity and gender expression. The Equality Act generally applies to all societal activities and all areas of life. The Act does not apply to relationships between family members, other private relationships or activities relating to religious practice.

GENERAL PROHIBITION OF DISCRIMINATION

There are three types of regulations in the Equality Act: regulations promoting equality, prohibitions on discrimination and regulations on legal protection and monitoring. The Act defines and prohibits gender-based discrimination. This prohibition applies to the entire field covered by the Act, meaning as a general rule all areas of social life and all situations in which discrimination may arise.

Discrimination becomes increasingly regulated by means of special prohibitions in the Equality Act. However, all discrimination is still not within the scope of the special prohibitions. Discrimination is in some cases only prohibited on the basis of the general prohibition in the Equality Act.

The issues assessed on the basis of the general prohibition include issues such as different treatment of women and men during the military service and the differences in

the reimbursement for osteoporosis medication. The following are examples of matters within the scope of the general prohibition that were brought to the attention of the Ombudsman during the year of the review.

Unequal treatment of female prisoners in comparison to male prisoners

Members of the Hämeenlinnan vankilan toverikunta (a prisoner representative group in Hämeenlinna Prison with 29 signatories) requested a statement from the Ombudsman for Equality in a letter titled 'class action', according to which the female prisoners' opportunities to use the phone and shower after outdoor exercise were more limited than those of the male prisoners.

The Ombudsman for Equality stated that the mandate of her office does not include taking a stand on how prison sentences in Finland are, as a rule, carried out or how prisoner hygiene or phone arrangements are to be approached from the standpoint

of the Prison Sentences Act or norms other than equality legislation.

The Ombudsman for Equality requested a report from the Criminal Sanctions Agency. According to the report, after filing the complaint, the situation involving access to showers had been rectified in the women's prison by moving the outdoor exercise period to a new time, thus allowing the prisoners to use the shower after exercising.

According to the complaint, the prisoners are required to notify the staff of their desire to shower after outdoor exercise during morning porridge. In response to this, the Criminal Sanctions Agency stated in its report that prisoners should be given an opportunity to shower after outdoor exercise, regardless of whether they notify the staff of their desire to shower or not.

The complaint also stated that the female prisoners had more restricted access to phones than the male prisoners. The Criminal Sanctions Agency stated that, because

the Parliamentary Ombudsman, in his resolution, felt that daily access to the phone was important, prisoners should be given phone access every day.

The Criminal Sanctions Agency denied that female and male prisoners would be treated differently in Hämeenlinna Prison. However, the Criminal Sanctions Agency, in its own statement and a report submitted to the Ombudsman for Equality, issued guidelines to the prison director on changing procedures where shortcomings or restrictions in prisoner hygiene or phone use are concerned. In her statement, the Ombudsman for Equality stated that there was no reason to pursue the matter further due to the above-mentioned measures taken.

Finally, the Ombudsman for Equality pointed out to the Criminal Sanctions Agency that measures taken for the sake of economic expediency must not lead to any form of gender discrimination. Similarly, the limited availability of economic resources does not provide acceptable grounds for an unequal allocation of resources based on gender. The Criminal Sanctions Agency would have to make an effort to ensure that the treatment of female prisoners would be equal to that of male prisoners insofar as women and men can be considered equals. If it is found that the treatment of female prisoners is not equal to that of male prisoners, the procedures must be changed to make it equal. (TAS 196/2015)

Gender equality and asylum seekers debated

The Office of the Ombudsman for Equality was contacted regarding two asylum seeker-related news reports in the media. One was about the instructions the headmaster of a school had given to female pupils regarding their behaviour in the company of male asylum seekers. The person contacting the Ombudsman was concerned about gender equality as the instructions advised girls to limit their constitutional rights such as moving about and behaviour.

According to the headmaster, the instructions concerned concrete events that had taken place in the city's market square between some girls and men that had arrived in Finland as asylum seekers. The events have involved suspicions of assaulting the girls and supplying alcohol and cigarettes to minors. The information letter was aimed at ensuring the safety of the pupils and to communicate that underage girls should not be in the city centre enjoying alcohol with grown men, which is what had happened.

Another news report explained how a female police officer had been giving lectures to asylum seekers on the status of women in Finland. According to the person contacting the Ombudsman, the female officer directed her lecture specifically to men with a blaming tone of voice and emphasised the status of women by forgetting the status of men.

The purpose of the Equality Act is to prevent discrimination based on gender and to promote equality between the genders. Sexual harassment and gender-based harassment are also forms of discrimination. The Ombudsman stated that it is important to communicate information on gender equality and sexual harassment and violence and discuss them as widely as possible. This kind of information is currently communicated, for example, by the authorities such as the police and by organisations. Information is also disseminated in workplaces, in educational institutions and in the media. This promotes the implementation of the purpose of the Equality Act. Sexual harassment and violence can be prevented and their victims helped by disseminating information.

Providing information on gender equality, women's status, sexual harassment and violence does not put women and men into a different position in a manner that would violate the Equality Act. This kind of information should also be given to asylum seekers.

It is important to disseminate information as equally as possible. However, it is not against the Equality Act to sometimes specifically discuss the status of women and the harassment and violence experienced by them or, similarly, sometimes specifically discuss the status of men and the harassment and violence experienced by them. It is possible to talk about sexual harassment and vio-



lence to women and men either together or separately without violating the Equality Act.

It is important to emphasise that the harassment is never the fault of the victim. For example, women and girls have the right to dress, move about and behave the way they wish, and this does not justify sexual harassment or violence against them. The harasser is always responsible for the harassment.

The European Council's convention on the prevention of violence against women and domestic violence (so-called Istanbul Convention) obligates the states to intervene in all forms of violence against women, such as sexual violence and other harassment, domestic and intimate-partner violence, forced marriages and female genital mutilation. In addition, the aim is to promote equality between women and men and the elimination of all forms of discrimination against women. The Convention acknowledges that domestic violence can also be directed at men and children.

With its *Not in our school* campaign (www.eimeidankoulussa.fi) the Ombudsman for Equality has aimed to increase awareness of how sexual harassment can be recognised and prevented in schools and how it is possible to intervene in it. In secondary schools, 61 per cent of girls and 46 per cent of boys have experienced sexual harassment sometimes or repeatedly (Student Health Sur-

vey of the National Institute for Health and Welfare 2013). (TAS 328/15 and TAS 329/15)

DISCRIMINATION ON THE BASIS OF PREGNANCY AND FAMILY LEAVE

The Equality Act prohibits discrimination on the basis of pregnancy and family leave. However, discrimination on the basis of pregnancy and family leave is common 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. Typical situations involving discrimination are related to recruitment, extension of fixed-term contracts and returning to work from family leave.

A fixed-term appointment to office of an employee on family leave was not renewed as her substitute was considered to have better capabilities for performing the task

The Ombudsman for Equality found that a person working as the substitute for a catering services manager was subjected to discrimination prohibited under the Equality Act as her appointment to office was not continued when she was on parental leave. While the first fixed-term appointment expired at the end of 2015, the original office

holder was to be absent until the end of 2016. Instead of renewing the fixed-term appointment to office of the employee on family leave, it offered the extended appointment for the fixed term of a year directly to her substitute. The employee on family leave would have returned to work in April 2016.

According to the information provided by the joint municipal authority, the absence of the permanent holder of the catering services manager's office was associated with the operative planning of a new catering services centre to be built in the joint municipal authority. As it turned out in early October 2015 that the project would continue until the end of 2016, the joint municipal authority had to choose whether the catering services manager would for the remaining period be deputised by the employee on family leave or the substitute hired for her. The substitute of the employee on family leave had become familiarised with the activities over two years and assumed responsibility for the transition to the new catering services centre, whereas the employee on family leave was not seen as having adequate capabilities for launching the activities of the new centre and introducing new production methods. Replacing the person responsible for the catering services and thus catering for patients in the middle of the process was considered an excessive risk. The joint municipal authority felt that its only option was to extend the employ-

ment relationship of the substitute for the employee on family leave.

The employee on family leave pointed out that the catering services centre has qualified staff who are, in practice, responsible for preparing the products for the patient and personnel restaurant. The duties of the catering services manager include ensuring that the personnel have adequate resources for doing their work and assuming overall responsibility for the operation and services of the centre. In addition to managing the unit, the duties of the catering services manager also include managing customer relationships, financial responsibility and serving in an expert role. In addition, induction training is usually offered for an employee who returns from family leave. Induction training after return to work was also cited as a measure that facilitates the reconciliation of work and family life in the equality plan that was part of the joint municipal authority's personnel policy.

Under 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 deciding on the duration or continuation of an employment relationship, 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. As "other gender-related reasons"

referred to in this subsection are considered family leaves. However, the action is not deemed discriminatory if the employer can show that it was due to some other acceptable reason rather than gender.

An employer's financial losses or operative difficulties, including the need to organise a substitute or provide induction training, are not other acceptable reasons referred to in the Equality Act for putting an employee in a less favourable position on the basis of pregnancy or family leave. This has been confirmed in the case-law, and it applies equally to employment relationships valid until further notice or a fixed term. When appointed, the employee who requested a statement had been assessed as competent for the position of the catering services manager, and the fact that the employee in the new situation would have needed more extensive induction training in order to resume her duties was not an acceptable reason for a failure to renew her fixed-term appointment to office and to replace her with a substitute recruited for the period of her family leave. (TAS 89/2016)

Fixed-term employment contract of an employee on family leave was not renewed as she was not actually available for the task

The Ombudsman for Equality found that a fixed-term employee working in a pro-

ject implemented by a university for an external customer was subjected to discrimination prohibited under the Equality Act when her contract was not extended as she informed the employer of her intention to take child care leave following parental leave.

The employee had started working at the institute operating under the auspices of the university while still a student. The employee had already had a total of 21 fixed-term employment contracts. The last four contracts, the duration of which was from six months to a year, concerned a single project for an external customer. The contract had been renewed twice while the employee had been on maternity and parental leave, and a substitute had been recruited for her for this period.

In summer 2015, the employee talked to the employer about taking child care leave. It was agreed that she would return to work in August 2016. In December 2015, however, she was told that her fixed-term contract would not be extended. On the other hand, the fixed-term contract of her substitute was continued. The fact that the contract concerned duties previously discharged by the employee and an on-going project was not contested.

In the information provided by it, the employer explained that a recruitment per-

mission procedure had been introduced at the university at the end of 2015. By decision of the president, a separate permission had to be sought for each recruitment at the university, and the institute was unable to apply for a recruitment permission for a fixed-term employee who was on family leave. A recruitment permission could only be applied for a person who was actually available for the project in question. It was thus only possible to apply for a permission to recruit the employee who substituted the employee on family leave.

According to the employee, she had been led to believe by the employer that her employment relationship would be continued, regardless of whether or not she would take child care leave. The employee would have been willing to return to work in January 2016 if the university had presented the termination of her employment as the alternative. The employee also pointed out that no recruitment permission was even applied for in her case, and thus the decision not to renew the fixed-term employment contract was made internally at the institute, outside the scope of the recruitment permission procedure.

In her statement, the Ombudsman for Equality expressed her concern over the possibility that a university would widely use a recruitment permission procedure

that would regularly prevent the renewal of the fixed-term employment relationship of a person taking family leave. This procedure would be apt to put an employee in a less favourable position due to pregnancy and taking of family leave, and in many cases this could constitute discrimination prohibited under the Equality Act.

In this case, however, no permission had been applied for, and it appears that the decision not to apply for the permission was based on the assumption that the permission would not have been granted because the employee was on child care leave. The Ombudsman for Equality finds it likely that the recruitment permission would have been applied for and the new contract would have been offered directly to the employee in question, had she not been on child care leave.

A suspicion of discrimination arose in the matter. In order to disprove the suspicion, the employer should produce some other acceptable reason for their action. The Ombudsman for Equality stated that the acceptable reasons referred to in the Equality Act do not include financial losses or operational difficulties suffered by the employer because the employee is not able to carry out his or her task during the family leave. This has been confirmed in the case-law, and it applies equally to employment relationships valid until further

notice or a fixed term. The Ombudsman for Equality is of the view that the employee had been discriminated against on the basis of child care leave. (TAS 93/2016)

Fixed-term employment was no longer offered to a nurse after she announced her intention to take child-care leave

The Ombudsman for Equality found that a person working as a nurse on a surgical ward was subjected to discrimination prohibited in the Equality Act when fixed-term contracts were no longer offered to her after she announced that she intended to take child care leave following parental leave.

The nurse had been working on the surgical ward as a substitute for four and a half years without interruption. Over this period, eight fixed term employment contracts had been drawn up for her on different grounds. In late 2014, she took maternity and parental leave, and in summer 2015, she told her employer that she wished to take some child care leave. Child care leave was granted to the nurse for four days, after which the hospital district announced that it could no longer offer work for her.

Subsequently, the fixed-term employment relationships of eight other substitute nurses in total on the surgical and anaesthetic ward were extended. Seven of the substitute nurs-

es had been working on the wards for a shorter period than the nurse who applied for child care leave, two of the most recently hired ones for less than a year. Not one of the substitute positions were advertised openly, as they were offered to the employees directly. On previous occasions, the same practice had also been followed in the case of the nurse who requested for a statement.

According to the information submitted to the Ombudsman for Equality, it was obvious that after October 2015, work was available for several substitute nurses on the surgical ward and the anaesthetic ward. From the justifications given for opening the substitute positions, it is not possible to conclude to whom this position would most likely have been offered, as the justifications varied, and some of the positions were based on the absences of several persons. The Ombudsman for Equality found it highly probable that the fixed-term contract would have been offered to the nurse who had requested the statement if she had gone directly back to work after parental leave, rather than informed the employer about her intention to take child care leave for a year. A suspicion of discrimination would thus appear to arise in the matter. In order to disprove the suspicion, the hospital district would have to produce another, acceptable reason for putting the nurse in a disadvantaged position.

The hospital district justified the situation by stating that the employee had not reported as a jobseeker on the Kuntarekry website. However, this had never been required before; on the contrary, the employee had been led to believe that she would not have to take any action to continue her employment contract. In addition, the hospital district justified its practice



of recruiting substitute nurses by correct allocation of skills.

However, the nurse who requested the statement had been given no feedback indicating that her work was inadequate. She was qualified to both work in a monitoring role and to look after the instruments in many types of operations. She had been on call since 2011, and according to her report, she had been rotated in different roles and also between wards. The fact that her contract had been renewed seven times in a row over a period of more than four years also speaks for her good deployability.

The Ombudsman for Equality found that in the information it provided, the hospital district had not produced another acceptable reason as required in the Equality Act that would explain why a different practice was applied to the employee. (TAS 274/2015)

Right of doctoral students to extension of employment relationship corresponding to the length of their family leave

The Ombudsman for Equality was requested to investigate the right of doctoral students with a fixed-term employment relationship to an extension of their employment relationship that corresponds to the length of their family leave. The request for a statement stated that the practices in universities had

developed in different directions since the universities were made independent legal persons at the beginning of 2010. A concern over the status of doctoral students with employment relationships who took family leave and the realisation of gender equality was brought up in the request for a statement.

To clarify the matter, the Ombudsman for Equality requested a report from all universities in Finland and received a reply from all except one. In her statement, the Ombudsman for Equality primarily addressed the situation of doctoral students employed to the four-year doctoral school structure. All students preparing a doctoral dissertation do not belong to this group: doctoral dissertations are also completed in projects financed, for example, by external funders or grants.

In 2008, the Ministry of Education issued guidelines for doctoral schools regarding the extension of employment relationships on the basis of maternity, parental and child care leave (Dnro 10/50/2008):

Maternity and parental leave and child care leave lengthen study times in the doctoral school with a time period equal to the length of the leave taken. Doctoral schools must be prepared for longer study times because of the above-mentioned leaves. When committing to doctoral schools, universities must take into account the costs from maternity and parental

leaves and child care leaves of doctoral students in the same way as they do with other staff. The student is entitled to education of the agreed duration regardless of the possibility that the doctoral school may discontinue its operation during the above-mentioned leaves.

The reports submitted by the universities revealed that there were great differences between the practices in different universities. As a rule, all universities granted an extension on the basis of maternity and parental leave. The greatest variation was in practices concerning child care leave. Many universities had given up extending the employment relationship on the basis of child care leave and in some cases, there was more room for consideration and more conditions regarding the granted extension than with other family leaves.

Under section 6 of the Equality Act, universities have the obligation to promote gender equality and facilitate the reconciliation of work and family life. The Ombudsman for Equality found that, following this obligation, universities have to grant extensions to fixed-term employment relationships aimed at providing the employee with the qualification required for the next level of the academic career.

Because all universities reported they extended employment relationships on the basis of maternity and parental leave, the

Ombudsman for Equality focused in her statement on whether the different treatment of paternity and child care leave is permitted from the point of view of the Equality Act.

Paternity leave is not always mentioned in the university's internal recommendations, even if extensions are granted based on it. Some universities had set a minimum duration of three months for the extensions, which means that leaves of absences shorter than three months did not extend the employment relationship. Another case (TAS/150/2016) also concerned the same issue. The Ombudsman for Equality was requested to investigate whether the minimum duration of three months the university had set for the extensions was indirectly discriminatory because it means that an extension cannot be granted on the basis of paternity leave only. The leave earmarked for fathers is 54 working days at the maximum and therefore remains below the minimum duration of three months.

The system of family leave is aimed at supporting men as well as women in reconciling paid work and caring for small children. It should therefore make no difference whether the doctoral student is on parental leave, paternity leave or child care leave. The Ombudsman for Equality was of the view that excluding paternity leave from the right to extension may in this respect violate the principle of equal treatment.

The Ombudsman for Equality was also of the view that practices which tend to keep men in a secondary role as parents are not in line with the employer's obligation to promote gender equality prescribed in section 6 of the Equality Act. Excluding paternity leave from the right to extension may lead to fathers not using their right to paternity leave, in which case the right to paternity leave is not implemented in practice. The Ombudsman for Equality recommended that universities apply the right to extension also to paternity leave regardless of its duration.

Excluding child care leave from the right to extension is mainly directed at women as 97 per cent of all child care leave is taken by women. The Ombudsman for Equality was of the view that the issue of child care leave must be looked at from the point of view of the obligation to promote gender equality in section 6 of the Equality Act. The inclusion of child care leave within the scope of the right to extension ensures that those doctoral students who use the right to child care leave have equal possibilities to complete their dissertation.

In addition, child care leave can be an opportunity for men to share child care responsibilities, considering that the leaves earmarked for fathers are short in the current Finnish system. The requirement of equal treatment must thus be taken into consideration. For example, from the em-

ployer's point of view, a father who combines his paternity leave with parental leave, is in a fairly similar situation as a father that combines his paternity leave with child care leave of the same duration. In this respect, it may be very difficult to justify different treatment.

Families have very different circumstances and the Ombudsman for Equality therefore recommended flexible practices regarding child care leave. A more evenly distributed responsibility for care increases equality in working life and thus contributes to the realisation of gender equality in society more generally. (TAS 22/2015)

Morning sickness and cancellation of appointment as a substitute

Woman A requested the Ombudsman for Equality to investigate whether she had been discriminated against in violation of the Equality Act on the basis of pregnancy when the city cancelled her appointment as a substitute and another person was employed to replace her.

A said she had been employed by the city as a substitute. It had been agreed in the spring that she would continue to work as a substitute in the autumn and she received a decision on her appointment as a substitute for the period 24 August 2015 – 13 May 2016.

A developed severe morning sickness before starting work in the substitute position and informed her supervisor that she would not be able to begin work before the morning sickness ended. The employer sent her a decision on cancelling the decision to appoint her as a substitute. The woman was told she could start work when she had recovered and a new decision on the substitute position would then be made.

However, her morning sickness was prolonged. In November, the supervisor informed her that they could no longer wait for her return, but would employ another person to replace her. A later recovered from the morning sickness and could have worked for another 3 to 4 months before her maternity leave began.

According to the report submitted by the city, the cancellation decision was caused by a false assumption that a cancellation was required to prevent the payment of salary. The substitute position remained unfilled while they were waiting for A to return, until the situation at work required the substitute position to be filled again. A mistake made in the decision-making process resulted in a situation in which a totally new person was employed for the substitution instead of employing a substitute for A and waiting for her capacity to work to return.

Placing a person in a different position on the basis of pregnancy constitutes discrimination in violation of the Equality Act. Putting a person in a different position on the basis of pregnancy-related illnesses and absences due to those illnesses is also regarded as prohibited discrimination. The Ombudsman for Equality stated that when the decision to appoint her as a substitute had been cancelled and the position had been given to another person, A had been put in a different position in a manner that violated the Equality Act on the basis of a pregnancy-related absence.

It is possible to employ a substitute for an employee with a fixed-term contract for the duration of an absence related to pregnancy. To comply with the Equality Act, the city would have had to employ a substitute for A to enable her to assume her position when her condition allowed it.

The employer's procedure does not need to be deliberate or negligent in order to be discriminatory and it does not need to have been motivated by discriminatory intent. The possible mistake made regarding the content of the regulations governing holders of municipal offices could therefore not be taken into account when discrimination in the situation concerned was assessed.

A and the city settled the situation after the statement issued by the Ombudsman for Equality. (TAS 71/2016)

OTHER DISCRIMINATION IN WORKING LIFE

The Equality Act prohibits gender-based discrimination in working life. The prohibitions of discrimination in working life cover all stages of the employment relationship, including job advertisements and recruitment.

The Ombudsman for Equality is regularly asked to investigate cases of suspected discrimination in recruitment. Gender-based discrimination in recruitment is related particularly to selecting a less qualified candidate without an acceptable reason. Job advertisements are also brought to the attention of the Ombudsman. Job advertisements that seek either a woman or a man for the position are prohibited unless there is a weighty and acceptable reason related to the nature of the job or the task.

The prohibitions of discrimination in working life cover the employer's procedures and the treatment of employees also during the employment relationship. Pay discrimination is prohibited by the Equality Act. In the pay-related enquiries received by the Ombudsman for Equality, the suspicion of discrimination may be related to the role-specific pay as well as bonuses. Discrimination is also prohibited in the other terms of the employment relationship, and in the supervision of work and in the allocation of work tasks.

The Equality Act prohibits discrimination on the basis of gender also when an employment relationship is ended. Discrimination is prohibited when notice is given on a contract or a contract is terminated or in other ways discontinued and when an employee is transferred to other duties or laid off.

Statements issued by the Ombudsman for Equality on discrimination based on pregnancy and family leave have already been described above. The following cases are examples of other suspected discrimination in working life handled by the Ombudsman for Equality during 2016.

A job advertisement sought for a professional support person to serve as a male role model

The Ombudsman for Equality was asked to investigate the lawfulness of a job advertisement. The job advertisement for a professional support person in a joint municipal authority stated that “the work of the support person is targeted at boys aged between 7 and 21 years, for whom the support person will be a male role model and a safe and reliable adult”.

The report submitted to the Ombudsman for Equality by the joint municipal authority revealed that the advertisement was looking for a male support person. The position was new. The joint municipal authority had decided to employ an employee of its own

because the need for a professional support person for boys had increased and they had previously had to outsource the service.

The mention of the support person working with boys aged between 7 and 21 years in the job advertisement had been intended to describe the group of clients that the support person would be working with. All known clients were boys.

The support person in the outsourced professional support service had been a man. The clients themselves had requested a man to be appointed as the support person. According to the assessment made by the social worker responsible for children’s affairs, the aim of the support person activity was to give a male role model for boys. The clients had been boys whose relationship with their fathers had broken down or was conflicting. The task included handling topics of conversation that dealt with growing up to be a man. The boys requiring a support person had expressly said they would not accept the support if the support person were a female.

The department of social affairs did not require a female professional support person. A female family worker had been able to act as a professional support person for girls in addition to her duties as a family worker as the need for this had been so low. The female family worker had also performed

the duties of a professional support person for those boys who did not necessarily need a male support person.

Under the Equality Act, a job or a training position can be advertised solely for women or men if there is a weighty and acceptable reason related to the nature of the job or task. The Ombudsman for Equality was of the view that the joint municipal authority had had such a reason to restrict the position of the professional support person to male applicants only. The joint municipal authority had advertised for a professional support person whose task included acting as a male role model to boys aged between 7 and 21 years. The job advertisement was therefore not in conflict with the Equality Act. (TAS 72/2016)

Gender of a personal assistant

Woman A had acted as a personal assistant to her male employer B from 1 June to 11 September 2015, after which the employer had notified A that he would terminate the employment contract. B justified the termination of the contract by saying that he hoped to find a male assistant because A was not strong enough to assist B, who was in a wheelchair. B also gave other reasons not related to A’s gender as reasons for terminating the contract.

B said that a trial period of four months had been agreed on with A, whereas A was under

the expression that the trial period agreed had been three months.

Under the Employment Contracts Act, both the employee and the employer have the right to cancel the employment contract during the trial period. However, the employer may not even during the trial period cancel the employment contract on discriminatory or otherwise inappropriate grounds with regard to the purpose of the trial period. The reason for cancelling the contract must be a reason related to the employee's personality or the employee's work performance, for which reason the employer is justified to consider that the contract signed does not meet the requirements set by the employer. The Equality Act prohibits giving notice on, terminating or otherwise discontinuing a contract on the basis of the employee's gender.

In her statement, the Ombudsman for Equality referred to the provisions regarding recruitment in the Equality Act. A decision to recruit on the basis of gender can be justified because of a weighty and acceptable reason related to the nature of the work or the task. According to the legislative materials of the Equality Act, the personal nature of the employment relationship can be regarded as a weighty reason that justifies selection on the basis of gender when selecting a personal assistant. B would therefore have been able to

employ a man for the position without the provisions on discrimination in the Equality Act preventing that.

However, gender must never be the reason for terminating the employment relationship. In this case, the reason for terminating the employment relationship has not been the gender as such. One of the reasons the employer has given to justify the termination of the employment relationship is especially the fact that A has not been strong enough to assist B, who is in a wheelchair.

Ultimately, the lawfulness of the grounds for terminating the employment relationship is decided in a district court where the matter can be clarified from the point of view of both the Employment Contracts Act and the Equality Act. (TAS 3/2016)

Allocation of work duties to female and male maintenance workers

The Ombudsman for Equality was contacted by A, a female maintenance worker employed by a municipality. She asked the Ombudsman for Equality to investigate whether she had been discriminated against in violation with the Equality Act when the municipality had not selected her to the 24-hour maintenance team. A total of three male employees had been selected to this task.

A stated that she had the same education, the Further Qualification for Property Maintenance Operatives, as the men selected to the 24-hour maintenance team. In addition, she had acquired the Specialist Qualification for Property Maintenance Operatives, but had still not been selected. A had already notified her willingness to be a member of the 24-hour maintenance team in 2011, when one of the two selected men had a vocational qualification and the other only had some work experience but no qualification. The employer provides training for the 24-hour maintenance duties and the Further Qualification for Property Maintenance Operatives qualifies for this training. In addition, A stated that her qualification in vehicle mechanics also qualifies her regarding the technical competence. In the case of the male maintenance worker, it was considered that his qualification in seafaring provided the required competence.

A felt that the employer had also discriminated against her in other ways. She said she cleared the snow with a shovel on her own outside the properties whereas a tractor cleared away the snow in many other properties owned by the local authority. In addition, the woman was the only maintenance worker that had not been given a computer for adjusting and maintaining the heating in the properties. The shop steward had on several occasions requested a clarification on the matter from the employer, but none had been received.

The report submitted by the local authority revealed that the sectoral director had already ordered the line organisation to rectify the situation at the end of 2013 and at the beginning of 2014. The maintenance workers are selected to the team by the maintenance manager. The candidates that have the skills and are capable of performing the 24-hour maintenance duties are chosen. In addition, they must be able to use the building automation and control programme in the properties. The selection is based on diverse professional competence and the person's ability to perform these work tasks.

The decision on not selecting the woman to the 24-hour maintenance team was based on the assessment of her overall competence by her immediate supervisor, the maintenance manager. She had not been considered competent enough to use the building automation and control programme in the municipality or to carry out the 24-hour maintenance duties independently. A's immediate supervisor did also not want to rush her to start in the 24-hour services. The supervisor was concerned about her coping because of the large number of absences.

Because of a reorganisation in the allocation of maintenance duties in regional maintenance services, the intention was to organise the 24-hour maintenance service provided by the local authority in a manner that would allow the woman to also join the

24-hour maintenance team in 2016. However, more training is required for her before joining the 24-hour services and she was indeed in internal training when the matter was investigated.

In her statement, the Ombudsman for Equality noted that if the employer manages work, distributes tasks or in some other way organises the working conditions so that the employee is in a less favourable position than the other employees on the basis of gender, the employer's action shall be deemed to constitute discrimination prohibited under the Equality Act. Discrimination includes, for example, duties being divided so that the most monotonous and boring tasks are given solely to either men or women. Discrimination also includes the opportunity to work overtime being given only to men.

Being selected to the 24-hour maintenance team guarantees a better income than that of the other maintenance workers. It could therefore be considered that A had been put in a less favourable position than the male maintenance workers who were selected to perform the 24-hour maintenance duties.

The Ombudsman for Equality stated that A had clearly notified her willingness to be a member of the 24-hour maintenance team. She had also completed the Further Qualification for Property Maintenance Operatives on her own initiative to be selected to

the 24-hour services. In addition, the shop steward had already enquired the employer about the matter in 2012, so the employer was well aware of A's willingness regarding the 24-hour services by then. The qualification in vehicle mechanics and the Further Qualification for Property Maintenance Operatives had provided good capabilities to perform the duties in the 24-hour maintenance team. The employer had trained each man that had been selected to the 24-hour maintenance team to use the building automation and control system, so the missing training could not be a justified reason.

The Ombudsman for Equality concluded that the employer had not presented any such details in its report that would have justified putting A in a less favourable position than the male maintenance workers selected to the 24-hour maintenance team. As regards clearing the snow and the computer, the woman's and the employer's views on the matter were different and the Ombudsman for Equality was not able to take a final stand on the matter.

Additionally, the Ombudsman for Equality concluded in her statement that working life in Finland was still strongly divided into women's and men's work. The European Commission has also reprimanded Finland regarding this matter. When a woman begins to work in a male-dominated field or a man in a female-dominated field, the employee is of-

ten faced with stereotypical attitudes related to his or her gender and the employer has to pay special attention to ensuring that also immediate supervisors are aware of the obligations of the Equality Act. (TAS 293/2015)

Cleaning arrangements at the Uimastadion open-air swimming pool

The Office of the Ombudsman for Equality was contacted because of a news report in *Iltalehti* on 18 May 2016. According to the report, the open-air swimming pool of the City of Helsinki had recruited only female cleaners. The procedure was considered discriminatory in the enquiries.

According to the report submitted by the Sports Department of the City of Helsinki, the news report did not correspond to the situation at the open-air swimming pool. Both men and women have been recruited to the swimming pool (40% are men and 60 are men). Gender has not been a basis for the selection of cleaners. Both women and men were also interviewed for cleaning and customer service tasks in the application process for summer jobs in spring 2016 and the most suitable people were selected to the tasks in question. The selection criteria varied according to the nature of the cleaning work.

For the coordination and even distribution of work, some of the cleaners concentrate on

cleaning the indoor facilities and some on cleaning the outdoor facilities. The hygiene facilities require cleaning approximately once an hour, for which reason the person carrying out the task may be either a man or a woman. The person working in these facilities is given guidance on how to work with discretion in the facilities. However, it has been observed that complaints have regularly followed when a man has been working in women's changing rooms. The presence of a female cleaner in men's hygiene facilities has so far not been questioned. Because the same cleaner must be able to clean both men's and women's changing rooms as the shifts rotate, mainly female cleaners have been allocated to the cleaning tasks in the showers and changing rooms. The Sports Department has assumed it has acted in compliance with the prevailing cultural practice and refers to the statement issued by the Ombudsman for Equality in 2009.

The Ombudsman for Equality stated that under the Equality Act, employees must be selected for the tasks on the basis of their qualifications and suitability regardless of their gender unless there are weighty and acceptable grounds related to the nature of the task to use employees of one gender to perform a certain task. The Equality Act also prohibits the distribution of work tasks in a manner that puts one or more employees to in a less favourable position on the basis of gender.

A prevailing cultural practice may sometimes be an acceptable ground for a different treatment of the genders referred to in the Equality Act. According to the Government proposal concerning the Equality Act, general modesty or established customs may require that, for example, in swimming pools or spas, persons of only one gender are used for certain tasks even if this was not technically required to carry out the task.

The attitude to nudity and modesty rules are culture-dependent and vary in different times and between different countries. In Finland, women have traditionally worked as bathing attendants and cleaning staff in public saunas and spas. Women have then worked on both women's and men's sides, whereas men have not carried out these tasks on the women's side. The cleaning industry continues to be very female-dominated. Only 14.5 per cent of cleaners in Finland are men (Labour Force Survey 2014, Statistics Finland).

Based on the report submitted in this matter, the selection of cleaners and the distribution of cleaning tasks at the open-air swimming pool was not found to have put male applicants/male cleaners to a less favourable position in a manner referred to in the Equality Act. (TAS 192/2016)

PRICING AND AVAILABILITY OF GOODS AND SERVICES

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

Discrimination also includes the sexual harassment or harassment based on gender committed by the provider of the goods or services. Refusal to offer goods or services to a person who has claimed discrimination or witnessed it is also regarded as discrimination.

The purpose of the Equality Act is not to prevent all different treatment of men and women. It aims to prevent any different treatment based on gender that is clearly unfair. For example, offers related to Mother's Day, Father's Day or the International Women's Day and aimed exclusively at one gender are possible if they are available only very seldom and their financial value is relatively low.

The Equality Act also does not prohibit offering goods or services exclusively or mainly to one gender on the grounds of a legitimate objective. In addition, the restrictions must be appropriate and necessary in terms of the objective.

The enquiries received by the Ombudsman for Equality in 2016 were partly related to the same themes as in previous years. Among other things, they considered discounts given exclusively to one gender, the pricing of barber's and hairdresser's services, the realisation of gender equality in gym services, and offering flats for rental exclusively to women.

SPORTS AND PHYSICAL ACTIVITY

Gender equality continues to be a challenge in sport and physical activity cultures. The Ombudsman is regularly contacted in questions involving physical activity and sports. Those making contact query issues such as women's and men's different possibilities to engage in physical activity, 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 girls, boys, women and men as well as trans people. Gender equality should be regarded primarily as providing equal opportunities as resources. What is important is that everyone has equal opportunities to engage in sports and physical activity, receive competent coaching, participate in competitions and receive equal recognition for their performances.

The importance of equality and non-discrimination in sports and physical activity

is addressed in the Act on the Promotion of Sports and Physical Activity, as equality and non-discrimination are mentioned as the basis of the Act. According to the Act, when assessing the amount of state aid of organisations promoting sports and physical activity, the ways in which the association promotes equality and non-discrimination are taken into account. As all sports and physical activity organisations are required to have a non-discrimination and gender equality plan in the future, preparing the plans is a topical target for development in the organisations.

The Ombudsman for Equality met representatives of the Ministry of Education and Culture to discuss the obligations in the Act on the Promotion of Sports and Physical Activity promoting gender equality. Especially the Ministry's plans related to the supervision of gender equality work in sports and physical activity organisations and sports federations were discussed.

Valo, Finnish Sports Confederation, has together with the Ministry of Education and Culture and the Ministry of Justice drawn up comprehensive instructions for drawing up non-discrimination and gender equality plans.

GENDER IDENTITY AND GENDER EXPRESSION

The Equality Act prohibits discrimination based on gender identity and gender ex-

pression. The Act also obligates authorities, education providers and employees to prevent discrimination.

Human gender identity and gender expression come in a multitude of forms, and not everyone is unambiguously female or male. Gender minorities include trans people, such as transgender and transvestite people, as well as intersex people.

Gender minorities are still often confused with sexual minorities. Discrimination based on sexual orientation is prohibited under the Non-discrimination Act. Compliance with the Non-discrimination Act is supervised by the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal, while labour protection officials (regional state administrative agencies, AVI) are in charge of monitoring discrimination in working life.

Gender diversity not recognised in the Government Action Plan for Gender Equality

According to the enquiry received by the Ombudsman for Equality, the Government Action Plan for Gender Equality 2016–2019 focuses only men and women or “both genders”. The diversity of gender identity and gender expression is completely ignored. The Ombudsman for Equality was asked whether the Government as an authority acted in compliance with section 6 c of

the Equality Act. Under section 6 c of the Equality Act, state and municipal authorities are obliged to prevent in a purposeful and planned manner all discrimination based on gender identity or gender expression.

In different contexts, the Ombudsman for Equality has expressed her disappointment over the fact that the Government Action Plan for Gender Equality does not include the perspective of gender diversity, or that the plan does not include such objectives as reforming the Act on Legal Recognition of the Gender of Transsexuals (563/2002). In the Ombudsman for Equality’s opinion, the requirement stating that a person must be sterilised or for some other reason infertile should be categorically removed from the requirements for legally recognising a person’s gender.

The Government is the highest executive power in Finland. The legality of the Government’s decisions is supervised by the Chancellor of Justice. The Government Programme is an action plan of procedures and objectives setting out the guidelines that the Government intends to follow during its term of office. When drawing up the Government Programme and the associated Action Plan for Gender Equality, the Government is an organ of government exercising political power whose responsibility for the contents and implementation of the Government Programme and the Action Plan is political, not

legal. Regardless of the importance of this issue, section 6 c of the Equality Act does thus not oblige the Government to include the perspective of gender diversity in the Government Programme or the Action Plan on Gender Equality or to set targets related to it. (TAS 181/2016)

Proposals for the Government’s action plan on human rights policy: reform of the Trans Act and the care practices of intersex children

The Ombudsman proposed that the reform of the Trans Act be included in the Government’s action plan on human rights policy under preparation at the time. People who are reassigning their gender must have access to the same fertility services as other people, for example, regarding the storage of gametes and assisted reproduction.

The Ombudsman for Equality proposed that a clarification of the care practices for intersexual children be added to the action plan. The rights of intersex children to physical integrity and a life in accordance with the gender identity they identify with may not be realised in care practices when gender is determined as early as possible and their development into the chosen gender is steered with hormone therapies and surgery, among other things. In addition to correct care guidelines, Finland would also need more research on how the decisions made at

birth and the treatments given in childhood have affected the lives of intersex people.

The Trans Act must be reformed immediately

In October 2016, the Ombudsman for Equality and the Non-Discrimination Ombudsman jointly issued a news release stating that the Trans Act (563/2002) must be reformed immediately.

The Ombudsmen were concerned because the Government has not yet taken measures to reform the Act. The Trans Act determines sterilisation or infertility for some other reason as a condition for legal recognition of gender. This requirement violates human and fundamental rights. The sterility requirement in the Act violates the rights of trans people, including their right to equality, personal integrity and private and family life, and violates their autonomy. People must not have to give up their reproduction rights to be able to have their legal gender recognised to match their gender identity.

Amendments to the Trans Act would in practice be possible to implement with a fast timetable because on 6 May 2015, a working group set by the Ministry of Social Affairs and Health already issued a proposal on removing the infertility requirement drafted as a Government proposal. In addition, the working group proposed that the possibility to change legislation to enable a person

to have his or her gender recognised without having to provide a medical statement of the transsexuality be investigated. The Legal Affairs Committee, too, has stated in its committee report (LaVM 7/2015 vp) on the legal amendments required as a result of the Marriage Act that an overall review of amendments required in the Trans Act is needed.

Helsinki Pride and TransHelsinki

The Ombudsman for Equality participated in Helsinki Pride in two ways. On the Pride week, the Ombudsman for Equality and the Non-Discrimination Ombudsman organised a joint discussion event in the Helsinki City Museum. In this public event, they talked about the operation of the Ombudsmen and about the discrimination experienced by sexual and gender minorities and its prevention. The Ombudsman for Equality also attended the closing celebrations of Pride: the Ombudsman for Equality's Pride flags were distributed in the Pride Parade and the Ombudsman's activities were introduced together with other authorities in the park party.

The Ombudsman for Equality also participated in the seminar *Sukupuolen moninaisuus työelämässä* ('Gender diversity in working life') organised during the TransHelsinki week by DreamwearClub ry, Trasek ry and Seta's Transgender Support Centre by providing an expert comment.

The seminar discussed the reform of the Equality Act and discrimination on the basis of gender identity and gender expression in working life. Results from the survey carried out by DreamwearClub ry in cooperation with the other organising parties to assess the extent of discriminatory and other experiences among gender minorities were also published in the event.





PROMOTING EQUALITY

The Equality Act obliges every employer to promote gender equality purposefully and systematically. This affects both public- and private-sector employers, regardless of the number of employees involved. Schools and educational institutions also have the obligation to promote gender equality. The Equality Act contains provisions on the equality planning obligation which applies to employers employing more than 30 people and educational institutions.

The Equality Act also obliges authorities to promote gender equality in all their activities and contains provisions on the composition of public administration bodies and bodies exercising public authority.

GENDER EQUALITY PLANNING AT WORKPLACES

The Equality Act obliges the employer to draw up a gender equality plan regarding personnel policy annually if the employer regularly employs more than 30 people. The plan must be drawn up in cooperation with the employees and must contain a report on the gender equality situation in the workplace. 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 equality plan must also indicate the measures that have been decided on to promote gender equality at the workplace and an estimate of how successful those measures have been.

The Ombudsman for Equality has for a long time followed a practice according to which the Ombudsman requests those workplaces that have had suspected cases of discrimination to submit their gender equality plans for assessment. The Ombudsman for Equality gives each employer feedback on its gender equality plan. This practice was also followed in 2016.

Survey of gender equality plans in personnel policy in the municipal sector

In spring 2016, the Ombudsman for Equality asked the municipalities in the provinces of



Uusimaa, Pirkanmaa and North Karelia to submit their gender equality plans to her for assessment. These municipalities were 60 in total. When the plans were requested, one quarter of all municipalities had an up-to-date gender equality plan; the others either had an outdated plan or no plan at all. These municipalities were given additional time to draw up their plans. By the end of 2016, 40 municipalities had submitted their equality plans. The rest of the municipalities will submit their plans in 2017.

As it seems, gender equality planning is still not a regular practice in many workplaces. There are also other challenges related to gender equality planning and pay surveys. The pay survey is aimed at ensuring 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. What is important from this point of view is how the employee groups are chosen for the comparison. Municipalities very often compare pays only within the existing pricing groups. There are hardly any comparisons made between female-dominated jobs and male-dominated jobs.

Especially in small municipalities, consideration has to be given to how the pay survey is extended to cover all employees and how it handles small employee groups. In her feedback to the municipalities, the Ombuds-

man for Equality has stated that also the pay details of individual employees may be used by local authorities when they conduct the pay survey. However, they must not be visible in the final, published gender equality plan. The Ombudsman will later draw up a summary of the content of the municipalities' gender equality plans.

Ombudsman for Equality's visit at the workplace

The aim of the Ombudsman for Equality's workplace visits is to promote equality planning and equality work. In 2016, the Ombudsman for Equality visited ABB Oy. ABB is a global group in the field of electric power and automation technology. The Group employs 5,100 people in Finland, of whom 80 per cent are men. ABB has thus focused attention on recruiting more women with technical qualifications using measures such as internal training within the group, mentoring and cooperation with education institutions. ABB's gender equality plan had been drawn up for the period 2012–2015. Because there had been changes in the provisions on the gender equality plan and pay survey in the Equality Act as of the beginning of 2015, ABB's gender equality plan was examined especially from the point of view of the new specified provisions of the Equality Act.

EQUALITY IN SCHOOLS AND EDUCATIONAL INSTITUTIONS

The Equality Act prohibits discrimination based on gender, gender identity or gender expression in educational institutions. As from November 2016, the prohibition of discrimination has also applied to the education providers and schools referred to in the Basic Education Act.

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

Equality planning at educational institutions

The Act on Equality between Women and Men obliges educational institutions to draw up a gender equality plan aimed at improving the educational institution's operations. The gender equality plan is a tool which supports the promotion of gender equality in all school activities. The aim is to ensure that the educational institution promotes gender equality in a planned and systematic way. The gender equality plan is always drawn up in cooperation with the personnel and pupils or students. The plan must among other things include a survey on how

gender equality has in their opinion been implemented in their educational institution.

Systematic promotion of gender equality is also aimed at the prevention of discrimination. The aim is to create a shared understanding of what makes a school equal, what the things promoting the implementation of equality are and, on the other hand, what has been found to prevent equality.

Promoting equality in educational institutions and monitoring their gender equality plans is a vital part of the work of the Ombudsman for Equality. Comprehensive schools are required to draw up gender equality plans as of the beginning of 2017.

The Ombudsman for Equality finds it important that the National Core Curriculum for Basic Education issued in December 2014 and the National Core Curriculum for Upper Secondary Schools issued in 2015 have committed to promoting gender equality in many ways.

Training events targeted at comprehensive schools

During 2016, the Ombudsman for Equality, the Finnish Agency for Education and the Gender Equality Unit TASY of the Ministry of Social Affairs and Health organised training to support and encourage schools to systematic work to promote gender equality.

The training events were targeted at headmasters, teachers and other staff responsible for gender equality planning in comprehensive schools and to officials in educational services of municipalities. The aim of the training events was to provide practical examples for how systematic work to promote gender equality can be carried out in comprehensive schools. During 2016, more than 400 participants were reached in a total of nine training events that were organised in different parts of Finland.

The training events were based on *Tasa-arvotyö on taitolaji* ('Gender equality work is a skill'), a guide published by the National Board of Education in December 2015. The working group that drew up the guide also included a representative of the Ombudsman for Equality. Approximately more than 6,000 copies of the guide have been distributed by the end of 2016.

The training events were considered successful and the feedback collected from the participants was mainly positive. The general atmosphere among the participants and their attitude to systematic promotion of gender equality in educational institutions were positive. The measures their schools had already taken or were taking to promote gender equality were actively discussed by the participants. There was very little open opposition against gender equality work. It can therefore be said that schools have

realised that gender equality work is significant in terms of the development of the school's activities.

Other work to support gender equality work in education

In addition to the training events targeted at comprehensive schools, the Ombudsman for Equality also reached a large number of students in teacher education. In September, a representative of the Ombudsman for Equality visited the Department of Education of the University of Helsinki to give an introduction to the reform of the Equality Act and especially to the work that educational institutions are expected to do to promote gender equality. Approximately 120 students in teacher education participated in the event. In November, the representative of the Ombudsman for Equality also gave an introduction *Miksi opettajan tulee edistää tasa-arvoa* ('Why teachers should promote gender equality') in the thematic seminar organised by SOOL ry, the Teacher Student Union of Finland, in Turku. Approximately 130 future teachers were listening to it.

In the *Opetustoimen ajankohtainen juridiikka – oppilaitoksissa laadittavat suunnitelmat* ('The topical legal issues in municipal education services – plans prepared by education institutions') event organised by the Finnish National Agency for Education, a representative of the Ombudsman for

Equality and a representative of the Non-Discrimination Ombudsman gave a joint introduction to the non-discrimination and gender equality plans that must be drawn up in educational institutions.

Like in previous years, the Ombudsman for Equality participated in Educa, a national fair in the field of teaching and education, this time with a stand shared with the Non-Discrimination Ombudsman. The stand reached a total of 1,000 teaching and education professionals who were interested in gender equality and non-discrimination work of educational institutions.

The Ombudsman for Equality has also been involved in the development of the national Student Health Survey in a project of the National Institute for Health and Welfare (THL) aimed at recognising sexual harassment in both primary and secondary schools. This work will continue in 2017, when the results of the renewed survey are published.

QUOTAS

Section 4a 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.

Application of the quota provision to the municipal strategy working group

The Ombudsman for Equality has been asked to issue an opinion on the decision of a local executive under which less than 40 per cent of the members elected to the municipal strategy working group by the local executive are women.

Section 4 of the Equality Act lays down provisions on the obligation of the authorities in all their activities to promote equality between women and men purposefully and systematically. All authorities, including the municipalities, must observe this provision.

Under 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 must be at least 40 per cent, unless there are special reasons to the contrary. This provision does not apply to the local council, which is elected by popular vote.

Under section 17 of the Local Government Act (365/1995) in force at the time, the mu-

municipal bodies comprise the local council, the local executive and its sub-committees, the local authority committees and their sub-committees, the management boards and their sub-committees, as well as the commissions. There is no specific definition of a municipal body in the quota provision of the Equality Act. According to the Supreme Administrative Court, the municipal bodies referred to in the quota provision may, in some cases, also include bodies other than those listed in section 17 of the Local Government Act (such as working groups). This depends on the role and tasks of the body in question in municipal decision-making. In the assessment, consideration can also be given to the composition of the body, to the length of its term and to how frequently it meets.

The quota provision applies separately to members and deputy members. The quota provision can be deviated from for special reasons, for example when in a special field there are only experts representing one gender. The Ombudsman for Equality is of the view that the concept of special reasons should be given a narrow interpretation and the parties referring to a special reason must justify their decision. The authorities preparing the appointment of a body must ensure that the quota provision is observed.

The case law shows that deviations from the gender quota provision in municipalities

usually involve situations where members are chosen on the basis of their official or elected position. The bodies in question are usually commissions to which local government officials can also be elected on the basis of their official position. The status of a local government official or elected official cannot automatically be considered the special reason referred to in the Equality Act. However, there may be situations where, taking into account the task of the body, there are objective reasons for only appointing specific elected and local government officials to a municipal body. This should, however, always be carefully considered and justified on a case-by-case basis. The reasons for the deviation should be stated when the members are being chosen and not after the completion of the selection process.

Due to the task of the municipal strategy working group investigated, its members had been selected on the basis of their official or elected position. The members included the members of the management group of the chief executive, the chairs of the local council groups, the chairs and deputy chairs of the local council and the local executive. The chair of the local council was the chair of the working group. When choosing the members of the working group, the local executive had taken into account the quota provision of the Equality Act and, according to its minutes, has justified the deviation from the provision by referring to a decision

of the Supreme Administrative Court (KHO 2001:26). Thus, according to the information provided by the local executive, a total of 15 men and 6 women had been elected to the working group.

The municipal strategy working group is a municipal body and its composition should be in accordance with the quota provision (40 per cent) contained in the Equality Act. In her opinion, the Ombudsman for Equality stated that the task of the working group is of such nature that the local executive had the right to choose its members on the basis of their official or elected position and that the local executive had special reasons to deviate from the principle of gender quotas referred to in the Equality Act. The decision of the local executive under which 15 men and 6 women were elected to the municipal strategy working group was therefore not in violation of the Equality Act. (TAS 288/2016)



INTERNATIONAL COOPERATION

The Ombudsman for Equality is a member of the European Network of Equality Bodies (Equinet). As in previous years, representatives of the Office of the Ombudsman for Equality participated in activities of Equinet's Communication Strategies and Practices and Gender Equality working groups.

The Executive Board of Equinet visited Finland in September 2016. The Ombudsman for Equality and the Non-Discrimination Ombudsman discussed the gender equality situation in Europe, the role and tasks of Equinet, and the position of the Ombudsmen among the actors in the field of human rights.

The Ombudsman for Equality works in regular cooperation with the Ombudsmen of the other Nordic Countries. In 2016, the meeting of the Nordic Ombudsmen for Equality and the Non-Discrimination Ombudsmen was organised in Greenland. In addition to the topical news from each country, the issues discussed in the meeting included topics such as discrimination in recruitment, reasonable adjustments made for persons with disabilities and the types of cooperation the Ombudsmen have with local authorities and civil

society. It was agreed that the next Nordic meeting would be held in Helsinki in 2017.

The Communication Officer of the Ombudsman for Equality participated in the Nordic Ombudsmen's meeting on hatred of women and intervention in it organised in Copenhagen. The objective of the network addressing hate speech is to share the good practices in the different Nordic Countries and thus promote the development of legislation concerning hate speech and cooperation with the police and other authorities.

The work of the Ombudsman for Equality and Finland's Equality Act also attract interest abroad. Several international groups from across the world visited the Ombudsman for Equality, among them a delegation from Turkey, delegations from Indonesia, Nigeria and South Korea and the Ombudsman for Equality of Moldova and his team of experts.

During the year of the review, the Ombudsman for Equality and a Senior Officer from her office visited Croatia to deliver a lecture to the international EU twinning project Support to Gender Equality (Cro Gender).

REPRESENTATION OF THE OMBUDSMAN FOR EQUALITY IN OFFICIAL BODIES AND WORKING GROUPS

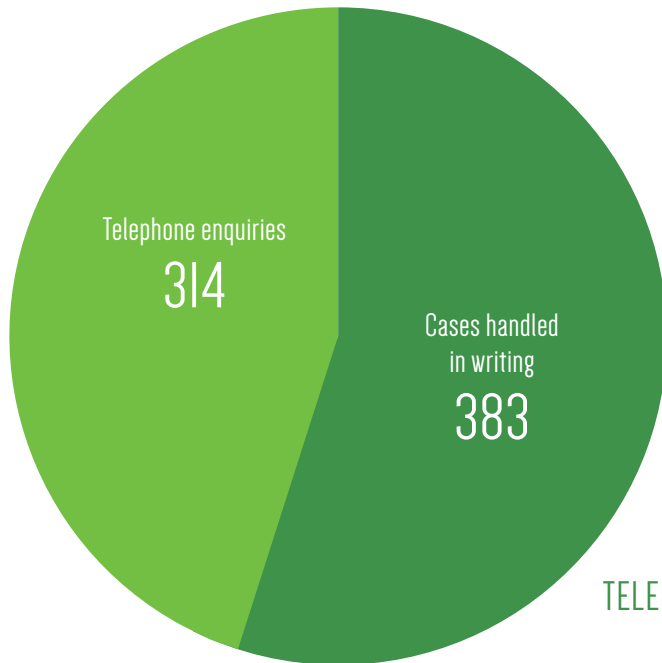
- *Delegation of the Human Rights Centre*
- *Discrimination Monitoring Group / Ministry of Justice*
- *Gender equality network/ Centre for Gender Equality Information in Finland, THL*
- *SEGLI development project for the promotion of gender equality and alleviation of segregation in education and working life*
- *Statistics Finland's group on equality*
- *Working group for the development of the Student Health Survey / National Institute for Health and Welfare (THL)*

PUBLICATIONS

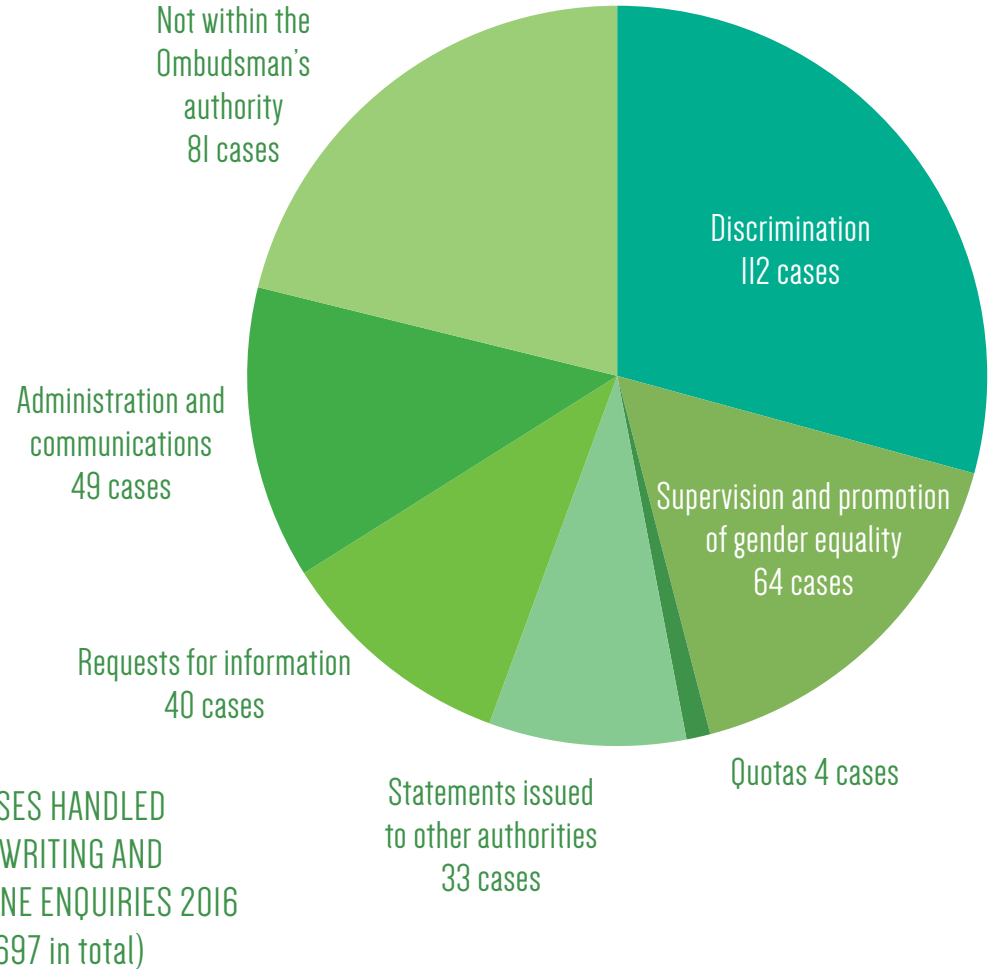
- *Tasa-arvovaltuutetun vuosikertomus 2015*
- *Jämställdhetsombudsmannens årsberättelse 2015*
- *Annual Report 2015 by the Ombudsman for Equality*

STATISTICS

In 2016, a total of 405 cases were entered to the written register of the Ombudsman for Equality and 382 cases that had been ongoing during the year were concluded. The majority of the cases entered into the register were related to performing the statutory duties of the Ombudsman for Equality, such as suspected discrimination, supervision of equality plans, requests for information and other statements. In addition, the Ombudsman's legal advice line received in total 314 enquiries in 2016.



CASES HANDLED IN WRITING BY THE OMBUDSMAN FOR EQUALITY IN 2016 (369 cases)



All cases handled in writing in terms of content

A total of 112 cases related to discrimination were handled in writing in 2016. A total of 64 cases concerning the supervision and promotion of gender equality plans and four cases related to quotas in the composition of different official bodies were handled during the year of the review. The Ombudsman for Equality issued 33 statements to other authorities. The Ombudsman provided 40 replies to requests for information. 81 of the enquiries concerned issues in which the Ombudsman has no authority and in which customers were referred to the competent authority where necessary. The remainder of the cases handled in writing during the year were related to administration and communications.

Written enquiries in matters of discrimination

Half of the written enquiries to the Ombudsman concerned suspected gender-based discrimination in working life. In most cases, they were related to suspected discrimination in recruitment or discrimination on the basis of pregnancy or parenthood. A total of 25 cases were related to the provision and availability of goods and services and 30 cases were within the scope of the general prohibition of discrimination. The general prohibition of discrimination concerns matters that are not covered by

the special prohibitions concerning working life, educational institutions and services.

Telephone enquiries

Almost half of the more than 300 telephone enquiries were related to discrimination. More than three quarters of them concerned working life. Among the telephone enquiries concerning working life, 59 were related to pregnancy and parenthood. Other calls related to the powers of the Ombudsman for Equality concerned discrimination in fields other than working life or they were related to gender equality planning.

What are the impacts of the statements by the Ombudsman for Equality?

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

APPROPRIATIONS AND STAFF

In 2016, the Office of the Ombudsman for Equality had on average 10 man-years at its disposal. Changes in the Office's personnel took place during the year of the review: for example, Ombudsman for Equality Pirkko Mäkinen retired on 31 October 2016. One university trainee also worked in the office.

During the year of the review, the appropriation for the Ombudsman for Equality was EUR 1,206,000. In addition to an operational appropriation, this amount includes the employees' salary costs and other administrative expenditures.



Ombudsman for Equality

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