

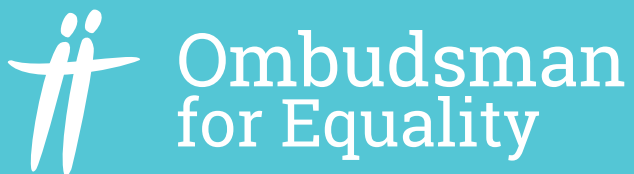
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OMBUDSMAN FOR EQUALITY'S

REPORT

TO PARLIAMENT

2018



Publications on Equality 2019:4

ISSN-L 1236-9977

ISBN 978-952-7156-17-9

Layout: Anita Pesola / Suomen Yliopistopaino Oy

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OMBUDSMAN FOR EQUALITY

The Ombudsman for Equality is an independent authority who works to promote gender equality.

TASKS 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 implementation of the Equality Act's intention by means of initiatives, advice and guidance
- Monitoring the implementation of equality between women and men in different sectors of society
- Taking action 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. If someone suspects that they have been discriminated against in a manner referred to in the Equality Act, they 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, he will issue instructions and guidance aiming to ensure that the unlawful action stops. In certain cases, the Ombudsman may refer the case to the National Non-Discrimination and Equality Tribunal, 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 they have been a victim of discrimination can take the case to a district court and claim compensation.

Jukka Maarianvaara, Master of Laws, serves as Ombudsman for Equality for the term 2017–2022.

THE EQUALITY ACT IN A NUTSHELL

- The purpose of the Act on Equality between Women and Men is to prevent discrimination based on gender, to promote equality between women and men, and to improve the status of women, particularly in working life. The aims of the Act also include preventing discrimination based on gender identity or gender expression.
- As a rule, the Equality Act 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 associated with religious practice.
- The Equality Act contains three types of provisions: provisions promoting equality, prohibitions on discrimination, and provisions on legal protection and monitoring.
- The provisions promoting equality apply to public authorities, education providers and other organisations providing education or training, and employers. Public authorities should assess all of their activities from the gender perspective and create practices for promoting equality. Equality is also promoted through the use of quotas. At educational institutions and in working life equality is, among other things, promoted through gender equality plans.
- The general prohibition of discrimination defines and prohibits direct and indirect discrimination based on gender. Such discrimination also includes sexual harassment, gender-based harassment, and any order or instruction to engage in discrimination. Countermeasures, or treating someone less favourably because they have made appeal to their rights, constitute discrimination. The reason for discrimination may also be connected to an individual close to the person, or discrimination may be based on an assumption.
- Special prohibitions define discriminative actions in working life, at educational institutions, in organisations representing labour market interests, and regarding provision of goods and services. The affected person may claim compensation for violations of these prohibitions. The employer and educational institution have the responsibility, when requested, to give a written report on their actions to anyone suspecting that discrimination has taken place.
- Compliance with the Equality Act is overseen by the Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal. Among other things, the Ombudsman for Equality provides guidance and advice on applying the Equality Act, such as the prohibitions of discrimination and equality planning. The National Non-Discrimination and Equality Tribunal may prohibit discriminatory practice under the threat of imposing a fine, and on recommendation of the Ombudsman for Equality, it can oblige parties to prepare an equality plan within a set period.
- Ultimately, the person suspecting discrimination may bring legal action at the district court. In line with the principle of shared burden of proof, the person suspecting discrimination has a lesser burden of proof. The Criminal Code contains provisions on discrimination offences, employment offences and sex offences.
- The Ombudsman for Equality can take action to promote reconciliation in a discrimination case.

INTRODUCTION

One of the Ombudsman for Equality's tasks is delivering a report on the realisation of equality in Finland to Parliament once every four years. This document is the Ombudsman's first report to Parliament.

The main task of the Ombudsman for Equality is to supervise compliance with the Equality Act (Act on Equality between Women and Men, 609/1986), and especially with its prohibition of discrimination. Additionally, the Ombudsman for Equality promotes compliance with the intention of the Equality Act and provides information about gender equality legislation. The Ombudsman for Equality is an autonomous and independent law enforcement authority.

The scope of the Equality Act and thus the Ombudsman's field of activity is broad: it only excludes private life and religious practice. The Ombudsman's enforcement activities are mainly based on reports made by clients, which reflect the length and breadth of Finnish society from working life to educational institutions, and from provision of goods and services to sports and physical activity. However, as it is not possible to discuss all phenomena and every area of life related to gender equality in this report, we will focus in particular on certain themes. This introduction contains a short description of the report's themes.

One of the Ombudsman for Equality's statutory tasks is monitoring the realisation of equality in different areas of society. This report is thus not limited to discussing the themes essential for gender equality associated with supervising the Equality Act.

Recommendations issued on the themes we deal with and shortcomings we have observed form a ma-

ior part of the report. These recommendations are addressed to Parliament, in particular, as the body exercising legislative and budgetary power.

In addition to sections composed at the Office of the Ombudsman for Equality, an independent background analysis of the status and development of gender equality in Finland is attached to the report. The authors of this analysis are researchers of gender equality Johanna Kantola, Anna Elomäki, Paula Koskinen Sandberg and Hanna Ylöstalo.

I.1 OMBUDSMAN FOR EQUALITY'S ACTIVITIES AND RESOURCES

The Ombudsman for Equality has an important role as a low-threshold legal protection authority. Every year, the Office is contacted by hundreds of clients who need instructions and advice, or have experienced discrimination that needs to be investigated. This is an essential part of our work. The client contacts also have a wider significance: they provide us with information on phenomena related to equality or discrimination currently emerging in our society. Active cooperation with our stakeholders also helps us gather this information. Over the last few years, the number of clients contacting us has increased dramatically, which naturally is a positive development. The Ombudsman for Equality is well known, and clients trust our ability to help.

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The Ombudsman for Equality is a
low-threshold legal protection authority.
.....

The number of clients contacting the Ombudsman has gone up dramatically in the last few years.

In terms of promoting gender equality it would, however, be important for us to have much better possibilities for also carrying out work aiming to promote equality and prevent discrimination. This means not only raising public awareness of gender equality issues and legislation but also supervising the existence of equality plans. Among other stakeholders, the parliamentary Employment and Equality Committee has repeatedly expressed its concern over the adequacy of the Ombudsman for Equality's resources.

In June 2018, the European Commission published its Recommendation on standards for equality bodies. The Recommendation notes that each equality body should be provided with the resources necessary to perform its tasks and exercise its powers effectively. Resources can only be considered adequate if they allow equality bodies to carry out each of their equality functions effectively, within reasonable time and within the deadlines established by national law.¹

Currently, the Ombudsman for Equality's resources fall far short of being adequate for the tasks.

While the importance of gender equality is often reiterated in speeches, the resources allocated to equal-

ity work remain rather meagre in Finland. There has been no increase in the resources of the Office of the Ombudsman for Equality following the extensive reforms of the Act on Equality between Women and Men carried out in the 2000s (2005 and 2015). Among other things, legislative reforms have expanded the group of educational institutions to which the equality planning obligation applies, imposed more specific equality planning obligations on employers, and placed gender minorities within the scope of the Equality Act. In practice, the lack of resources is felt most keenly in the promotion of gender equality and supervision of the planning obligations, which only too often receive little attention.

1.2 EQUALITY IN WORKING LIFE REMAINS A DISTANT DREAM

Ever since it was passed, the Act on Equality between Women and Men has focused on equality in working life. The tone of the Act is already set in its section 1: *The objectives of this Act are to prevent discrimination based on gender, to promote equality between women and men, and thus to improve the status of women, particularly in working life.*

Problems related to equality in working life have not gone away in the past 30 years, even if they naturally have been ameliorated in many respects. The gender pay gap remains at approx. 16 %, while the difference between women's and men's pensions is 21 %. Segregation in working life, or division into women's and men's fields, is exceptionally strong in Finland: as few as approx. 10 % of wage and salary earners work in industries where the proportions of

¹ European Commission C/2018/3850.

women are men are both at least 40 %. Fathers only take about 10 % of family leaves, which is reflected in women's status in the labour market – and, on the other hand, may also be seen in statistics on guardianship following divorce.

A tripartite Equal Pay Programme has been operational in Finland from 2006, and since that year, the pay gap has narrowed from approx. 20 % to 16 %. At this rate, eliminating the gender pay gap altogether is estimated to take some 50 years.

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The gender pay gap remains at 16 %.
The difference between women's and men's pensions is 21 %. At the current rate, it will take 50 years to eliminate the pay gap.

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More determined efforts should thus be made to reduce the pay gap. Both the objectives and the measures of the Equal Pay Programme for 2016–2019, in particular, have been unexceptional. An overall evaluation of the programme was due for completion before this report comes out. Should the Equal Pay Programme be continued, it is important to set sufficiently ambitious and measurable targets for it. In addition to central labour market organisations, the trade union level should be involved in the programme, as the central organisations no longer participate in negotiations on pay.

In client contacts made with the Ombudsman for Equality, one phenomenon of workplace discrimination towers above the rest: discrimination based on pregnancy. Its practical manifestations include restricting the duration of fixed-term employment relationships due to pregnancy and fam-

ily leaves, difficulties encountered when returning to work after family leave, and inappropriate questions in job interviews. Discrimination based on pregnancy occurs in all industries and sectors. Discrimination due to family leaves today also concerns men, as not all workplaces encourage fathers to take family leave.

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The majority of suspected cases of discrimination reported to the Ombudsman for Equality are associated with discrimination on the basis of pregnancy and family leaves. Discrimination based on pregnancy is a significant form of discrimination in Finnish working life.

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Structural solutions will also be needed to eradicate pregnancy-related discrimination in the labour market. The unequal sharing of family leaves maintains women's weaker status in the labour market and an uneven division of child care responsibilities – which is reflected on families' wellbeing. This is why a reform of family leaves should be carried out as soon as possible, considerably increasing the share of family leaves earmarked for fathers. This would send a clear message of valuing fathers' participation in caring for their children and help achieve the 'critical mass', after which fathers taking longer family leaves would be the rule rather than an exception. Additionally, the flexibility of the family leave system should be increased, and the diversity of families should be taken into account.

A reform of family leaves should be carried out promptly, significantly increasing the share of family leave earmarked for fathers.

Discrimination based on pregnancy has only come up indirectly in gender equality policy, for example through themes related to reconciling work and family life. However, discrimination due to pregnancy is such a common and blatant form of gender discrimination that it should also be prioritised in gender equality policy.

Workplaces' gender equality plans and pay surveys have been charged with great expectations. In our supervisory work, however, we have often come to realise that the plans usually do not meet these expectations. A more detailed discussion of our observations is contained in the section on working life of this report, as well as in the assessment of municipalities' gender equality plans attached to it as an Appendix.

The provisions on obligations to prepare gender equality plans should be clarified further, and sufficient resources for supervising these obligations should be secured. The significance of gender equality plans in promoting equality in working life can only be safeguarded by adequate supervision accompanied with instructions and guidance.

1.3 SCHOOLS PLAY A KEY ROLE IN PROMOTING GENDER EQUALITY

Workplaces can do a lot to promote gender equality in society. However, equality work carried out at

schools and other educational institutions plays at least an equally important role, particularly in dismantling gender roles and stereotypes. The exceptionally severe segregation in Finnish working life is underpinned by a division of fields of study into women's and men's fields. There is also disparity in academic success: learning differences between girls and boys are unusually large in Finland, and they are showing signs of growing further. We need to monitor, analyse and reduce learning gaps in order to safeguard everyone's possibilities of pursuing further studies and to prevent social exclusion.

The obligation of educational institutions to prepare gender equality plans was extended to comprehensive schools at the beginning of 2015. Gender equality planning – in most cases combined with non-discrimination plans – provides schools with an opportunity to scrutinise their equality challenges, including the gender divisions and contents of the subjects, and consider suitable interventions. The special needs of gender minorities should also not be forgotten when preparing gender equality plans.

Whether in the workplace or at school, gender mainstreaming in all activities is crucial, rather than merely preparing an equality plan. This also applies to teacher education.

Schools have a duty to intervene in sexual harassment.

Sexual harassment is also present in the lives of children and young people. According to the School Health Promotion Survey (2017), one out of three girls in grades 8 and 9 and female students in secondary level education, and 8–12 % of boys, had experienced sexual harassment during the past year.

While sexual harassment is mainly experienced outside the school, educational institutions have an important role in preventing harassment: they can address harassment and discuss the importance of personal boundaries. Preventing and intervening in harassment should thus be incorporated in the schools' gender equality plans.

1.4 GENDER MINORITIES FACE DISCRIMINATION

Since the beginning of 2015, discrimination based on gender identity or the expression of gender has been prohibited under the Equality Act. The Act also applies to discrimination against individuals whose physical gender-defining characteristics are not unambiguously female or male (intersex people). The new provisions were included in the Equality Act specifically to clarify and broaden the scope of the protection of gender minorities against discrimination.

Gender minorities continue to encounter many types of discrimination in Finland in working life and education as well as in different services. However, the most blatant violation of human rights is setting infertility as a requirement for legally recognising a person's gender under the Act on Legal Recognition of the Gender of Transsexuals. The European Court of Human Rights has found this requirement a breach of the European Convention on Human Rights, and Finland has been criticised by a number of international human rights bodies, including the United Nations Human Rights Council and the Commissioner for Human Rights of the Council of Europe. The Act on Legal Recognition

of the Gender of Transsexuals should thus urgently be reformed to fulfil Finland's international human rights obligations.

The Finnish Act on Legal Recognition of the Gender of Transsexuals is a blatant violation of human rights.

While there is a relatively broad consensus on the need to reform this Act, so far the matter has not made headway in the Finnish Government for political reasons. At the very latest, the new Government to be formed after the parliamentary election in spring 2019 should put it on the agenda and urgently proceed to make the required legislative amendments.

1.5 VIOLENCE AND HATE SPEECH AGAINST WOMEN MUST BE TAKEN SERIOUSLY

According to a report published by the European Union Agency for Fundamental Rights (FRA) in 2014, Finland is the second most dangerous country for women in the EU. Of Finnish women, 47 % reported having experienced physical or sexual violence after turning 15. A Finnish study of male victims (2010), on the other hand, found that more than one half of both men and women had experienced threats or physical or sexual violence when aged 15 or over. Men usually fall victim to unknown perpetrators of violence, whereas women's experi-

ences are defined by the possibility of sexual violence and a close relationship between the perpetrator and the victim. Being subjected to violence by an ex-partner, in particular, was considerably more common for women than men. Women also suffer from consequences of violence, both physical and psychological, more often than men.²

Finland has ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). This Convention entered into force in Finland in 2015. While an Action plan for the Istanbul Convention exists, no dedicated funding or other resources have been set aside for implementing it, despite the seriousness of the problems related to violence. Finland has also neglected the national implementation of some of its obligations under the Convention, including introducing consent as the legal criterion for rape.

Violence against women and domestic violence have been identified as a significant human rights problem in Finland. Bringing the theme up in speeches is not enough – it is the actions that count. In practice, the resources allocated to dealing with a problem indicate how seriously the problem is taken and how determined the efforts to intervene in it are.

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Violence against women and domestic violence are significant human rights problems in Finland.

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As defined by the Committee of Ministers of the Council of Europe, hate speech includes all forms

2 FRA (2014b).

of expression that spread, incite, promote or justify hatred and are intimidating or abusive. Hate speech is particularly rampant on social media.

Determined efforts should be made to combat hate speech, as it reduces the space for societal discussion and exercising the freedom of speech, thus hampering the realisation of democracy. The threshold for participating in political or other civic activities may become unsurmountable due to hate speech, and as a result, many voices in society may be silenced.

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Hate speech is a threat to democracy.

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#MeToo brought sexual harassment up in public discussion in a new way. It is not a new phenomenon, however: such surveys as the Gender Equality Barometer have contained questions related to experiences of harassment since 1998. In 2014, the Ombudsman for Equality launched a campaign titled *Not in our school* against sexual harassment at educational institutions. The learning material produced for this campaign is still in use at schools around Finland. The greatest achievement of #MeToo was that it finally put this gender equality problem in the limelight and made it easier to talk about experiences of harassment – and, at the same time, shed the shame often felt by victims of harassment.

In Finland, various reports, surveys and guidelines were produced on a rapid schedule as a result of the discussion about harassment. Trade unions, central labour market organisations and other organisations representing different occupations and sectors of society conducted their own surveys concerning experiences and perpetrators of harassment.

A guide on intervening in harassment in the workplace was produced within the framework of the Working life 2020 project, and the Finnish National Agency for Education issued guidelines for educational institutions. A report was produced on harassment and other inappropriate treatment in the film and theatre industry, and the actions proposed in this report could be used more widely in working life.

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There must be zero tolerance for sexual harassment.

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While reports and guidelines are necessary tools, they are not alone enough to eradicate the problem of sexual harassment. What plays a crucial role is practical work against sexual harassment in the workplace, at educational institutions and, for example, in sports clubs. There must be zero tolerance for harassment. The majority of harassment takes place in public spaces and on social media, and we must thus all be aware of our responsibility: we can all step in when we see somebody being harassed. Everyone should have a possibility of living their lives without the fear of sexual or other harassment.

1.6 PROMOTING EQUALITY IN POLICY-MAKING

Attached to this report is an independent analysis of the status and trends of gender equality in Finnish policy-making. Its authors are researchers of gender

equality Johanna Kantola, Anna Elomäki, Paula Koskinen Sandberg and Hanna Ylöstalo. I would like to highlight a few observations made in their report.

While gender equality is one of the cornerstones of Finnish society, we should not take it for granted. Work remains to be done in the field of gender equality from the perspective of women, men and gender minorities alike. In practice, the Government's programme 2015-2019 contained no objectives or measures related to gender equality, and this has been reflected in central government activities throughout the government term – after all, the Government Programme is the most important document directing the central government's work at policy level.

Gender mainstreaming in all decision-making and taking gender impacts into account has been the objective of Finnish gender equality policy for many years. Despite positive development, we still have a long way to go before this goal is reached. At best, as few as roughly one legislative proposal out of five has contained an assessment of gender impacts in recent years – and only one out of three of these assessments identified any gender impacts. Even in this case, the assessment usually made no difference to the decisions on the final content of the statute in question.

The assessment of gender impacts should not be a mere formality that plays no role for the end result. A number of statements issued by the Ombudsman for Equality on legislative proposals on request or on the Ombudsman's own initiative have drawn attention to inadequate assessment of gender impacts, or assessments that were meaningless in terms of the end result.

Clear and measurable national gender equality objectives are needed in Finland.

Specifying clear and measurable gender equality objectives at the national level, for example in the Government Programme or Action Plan for Gender Equality, would be desirable. Different branches of administration could base their specific gender equality goals on these objectives. This would facilitate gender mainstreaming and raise the bar in equality policy.

1.7 MEN AND BOYS

Rather than containing a separate section on gender equality problems experienced by men and boys, this report also discusses its various themes from their perspective. Almost one out of three clients contacting the Ombudsman for Equality is a man, and the issues reported by them concern all areas of supervision: working life, educational institutions, and the provision of goods and services. We should remember that gender equality is not a zero-sum game; in a more equal society, all genders are winners.

Almost one third of the clients contacting the Ombudsman for Equality are men.

Men also encounter discrimination in working life because of taking family leaves. A father's right to stay at home to care for a sick child may still be questioned, and he may even be asked for clarification

on why the mother cannot look after the child. A reform of the family leave system could help to 'normalise' long family leaves taken by fathers, and this would also influence the division of labour in families once the baby grows – thus having a bearing on the wellbeing of fathers, mothers and children alike.

A more balanced distribution of family leaves would improve the wellbeing of fathers, mothers and children alike.

Dropping out of studies following basic education is more common among men than women (men 9.5 %, women 6.9 %), and the proportion of men with higher education among the age group 30–34 is considerably smaller than the proportion of women (men 37.3 %, women 52 %). It appears that the educational difference between women and men continues to grow. On the other hand, we should remember that there are many pupils with poor academic success both among boys and girls, whom it is important to support. Intersectionalities are also important: particular attention should be paid to the school success of children and young people with an immigrant background and others in need of special support.

Military service is not addressed in this report. When the Act on Equality between Women and Men was passed in 1986, the legislator's decision was that enacting legal provisions on compulsory military service for men only should not be deemed to constitute discrimination based on gender (section 9 of the Equality Act). Provisions on compulsory military service are laid down in the Conscript-

tion Act (1438/2007), which is of the same order as a statute as the Equality Act. Should the military service system be reformed, the gender perspective should not be overlooked.

Social exclusion is to some extent more common among men than women, and men's exclusion is also more extreme in nature – 80 % of the homeless are men, for example. A tool for examining the dynamics of social exclusion developed by the National Institute for Health and Welfare and the We Foundation³ shows that, of the birth cohort of 1987, 7 % of men and 5.3 % of women were socially excluded (two or more risk factors of exclusion). Socioeconomic background determines men's life expectancy more than women's: the difference in life expectancy between 25-year-olds in the highest and the lowest income quintile is 9 years for men, whereas it is 5 years for women.⁴

Social exclusion and poverty are gendered phenomena. This should be taken into account when considering the solutions.

In their study *Leipäjonot sukupuolisen ja sosiaalisen eriarvoisuuden mittarina* ('Bread queues as an indicator of gendered and social inequality'), Tuomo Laihiala and Maria Ohisalo argue that deprivation is gendered. Older women living alone and, on the other hand, middle-aged men living alone are at the greatest risk of prolonged poverty. On the subject of reducing inequality between men and women, the authors note:

3 National Institute for Health and Welfare & We Foundation (2018).

4 National Institute for Health and Welfare (2018). Mortality.

In order to reduce men's inequality, intervention is needed in the mechanisms that allow especially unemployed men to drift far away to the margins of society. Health examinations of the unemployed offer an opportunity for intervening in the worst inadequacies in quality of life which result in health risks. By offering retraining, work or other activities that provide them with a feeling of meaningfulness to those who have lost their jobs, we can create pathways leading men out of male-typical social exclusion. The lives of those burdened with excessive debt should be made easier by more reasonable enforcement methods.

In order to reduce women's inequality, on the other hand, intervention is needed in the mechanisms that result in women being left with smaller incomes and pensions than men. A more even division of care responsibilities, for example by sharing the costs of parenthood and parental leaves, and supporting women in career progress are means of preventing the formation of groups of poor retired women in the future.⁵

Social exclusion and poverty are problems difficult to solve by individual measures. In addition, the gendered nature of these phenomena should be addressed, which means that the same methods cannot be applied to all cases. It is thus important to invest in assessing the gender impacts of both legislative and budget proposals as well as projects aiming to reduce inequality.

Helsinki 3 December 2018

Ombudsman for Equality Jukka Maarianvaara

5 Laihiala & Ohisalo (2017), p. 144.

SPORTS, PHYSICAL ACTIVITY AND EQUALITY

Gender equality in sports and physical activity have attracted increasing attention in recent years. The Ombudsman for Equality has followed with interest the national discussion sparked by more gender equality aware sports journalism and has also personally intervened in some shortcomings that came up.

SPORTS AND PHYSICAL ACTIVITY IN THE OMBUDSMAN'S ACTIVITIES

Regardless of increasing awareness of gender equality and certain progress, gender equality remains a challenge in the culture of sports and physical activity. Since the early years of the Ombudsman for Equality, the Ombudsman has been contacted by clients about issues related to sports and physical activity. These clients have been puzzled by a variety of questions, including women and men's different possibilities of taking part in physical activity, allocations of bookings in sports and exercise facilities, different rewarding practices of sports clubs and, more recently, the relationship between female athletes and money, or rather the lack thereof. The Ombudsman has also been contacted regularly about the visibility given to female athletes on the media, or the manner in which female athletes are portrayed and objectified.

The Ombudsman has considered it important that the participation in sports and physical exercise of all genders is supported equally. Gender equality in sports and physical exercise should, above all, be viewed as the provision of equal opportunities and

resources, emphasising equitable treatment, attitudes and everyday acts. This is the only way to achieve equality in real terms.

In addition to client contacts, the Ombudsman has valued stakeholder cooperation, for example with the Finnish Olympic Committee.

SPORTS FEDERATIONS SET AN EXAMPLE

The national federations of different sports and other sports organisations, including the Finnish Olympic Committee, play a key role in efforts to promote equality. By setting an example, they can influence attitudes and practices related to sports and physical exercise at the national level.

The number of women leaders in sports organisations remains small. In ten of the most significant sports organisations, the proportion of women in leadership roles (chairpersons, executive directors and board members) is as low as 25 %.⁶

The Ombudsman for Equality sets great score by the long-term efforts to promote gender equality made by many sports federations over the years. Nevertheless, a lack of appreciation for sports in which girls and women participate can still be observed at both the international and the national level. Further determined efforts will be needed to increase the number of woman leaders at different levels of sports and physical activity.

SEXUAL HARASSMENT IN SPORTS AND PHYSICAL ACTIVITY IS COMING TO LIGHT

In his activities, the Ombudsman for Equality has stressed the importance of work to combat sexual

harassment. Sexual harassment also occurs in sports and physical activity. Encouraged by the #MeToo campaign, different stakeholders have started investigating the prevalence of sexual harassment. The Finnish Olympic Committee also updated its guide on sexual and gender-based harassment in 2017. This guide contains instructions for preventing harassment and procedures for dealing with any harassment cases that come up.⁷ Understanding of the extent and prevalence of sexual harassment in sports and physical activity is only taking shape, however.

In 2018, the Ministry of Education and Culture granted the Faculty of Sports and Health Sciences of the University of Jyväskylä three-year funding for its PRACT research project, which focuses on harassment and other discrimination in sports and physical activity as well as gendered practices in physical education at school and in sports coaching. In particular, this project will concentrate on sexual and gender minorities' experiences of harassment in sports and physical activity.

Sexual harassment occurring in women's national football and ice-hockey teams sparked discussion in spring 2018.⁸ The federations of these sports with large numbers of participants, or the Football Association of Finland and the Finnish Ice Hockey Association, decided to investigate the matter more thoroughly.

On the joint request of the federations, the Finnish Center for Integrity in Sports FINCIS looked at experiences of sexual and gender-based harassment in all national football and ice hockey teams.

After investigations and guidelines, the next step is creating a safe atmosphere for participation, among other things by incorporating the prevention of har-

assment in the training of coaches and, by developing guidelines and structures, making the threshold for reporting harassment experienced in sports and physical activity as low as possible.

GREAT EXPECTATIONS PLACED ON THE SPORTS ACT

The importance of equal and equitable treatment in all activities and decisions related to sports and physical activity is also stressed because equality and non-discrimination lay the foundation for achieving the objective of the Act on the Promotion of Sports and Physical Activity.

Under this Act, when assessing the amount of state aid of organisations promoting sports and physical activity, not only the type and extent of the activities that the association is engaged in, but also the ways in which the association promotes equality and non-discrimination are taken into account. As all sport and physical activity organisations will be required to have a non-discrimination and equality plan in the future, the preparation and efficient implementation of such plans is a topical area of development in the organisations. Consequently, it will be natural for the Ombudsman for Equality to keep a close eye on the discussion on the obligations related to promoting equality under this Act. Great expectations are placed on the effective implementation of Act on the Promotion of Sports and Physical Activity.

7 Finnish Olympic Committee (2017).

8 MTV 29 March 2018

2 EQUALITY IN WORKING LIFE – GENDER DIVISIONS AND CHALLENGES

From the beginning, promoting gender equality and improving the status of women in order to achieve equality in working life have been key objectives of the Act on Equality between Women and Men, which entered into force in 1987. No changes have taken place in working life which would have rendered these objectives outdated. However, the Equality Act applies to men as well as women. Men also contact the Ombudsman for Equality about issues related to working life.

Gender equality policy pertains to different policy segments across a broad front, and its themes are more diverse than those within the immediate scope of the Equality Act. The gender perspective can be associated with being excluded from the labour force, among other things, which sometimes is about social exclusion. It is necessary to draw the line between social exclusion and actions defined as discrimination under the Equality Act. As a legal concept, discrimination refers to an action prohibited by law, liability for which can be attributed to a certain party and which can have legal consequences. Social exclusion, on the other hand, refers to vulnerability created through societal processes, deprivation and being excluded from society's functions (such as education and working life).⁹

Analyses of women's and men's labour force status are a core area of gender equality policy. Realising gender equality in working life is essential, as economic equality between women and men lays the foundation for the realisation of gender equality in more general terms in Finnish society. In gender equality policy, it is vital to pay attention to different uses of labour force (including fixed-term employment and part-time work) and the impacts they have on women's and men's labour force status. Other issues at the core of equality policy include promoting equal pay and reconciliation of work and family life. This section of the report is dedicated to these themes of gender equality policy.

Many differences significant in terms of equality can be seen in the labour force statuses of women and men. However, other divisions are also found in the labour market. Women or men do not form homogeneous groups in terms of their labour force statuses. Rather than being based on gender alone, differences in possibilities for participating in the labour market and the status of an employee also stem from age and being part of various minorities. When gender intersects with other factors of this type, experiences and phenomena of intersectional discrimination may be created in working life.¹⁰ Such experiences and phenomena are also counted among the gender equality problems of Finnish society. The themes of intersectional discrimination are not discussed further in this context. As a discrimination issue, competence related to intersectional discrimination belongs to the authorities supervising the Non-Discrimination Act, not the Ombudsman for Equality. However, the Ombudsman for Equality finds it important to pay attention to intersectional discrimination in equality and non-discrimination policy, which also highlights the need for inter-authority cooperation.

⁹ For more information on the concepts of exclusion and discrimination, see Nousiainen, e.g. pp. 31–34.

¹⁰ Julkunen (2009), pp. 31, 41.

2.1 WOMEN AND MEN IN THE LABOUR MARKET

Differences between women's and men's labour market participation rates are minor. While women's full-time employment has been typical in Finland, in recent years women have increasingly engaged in part-time work.¹¹ On average, however, women and men work in different occupations and tasks (horizontal segregation). Differences are also found in the hierarchic placement of women and men in roles with various levels of difficulty (vertical segregation). Long traditions of division of labour between the genders, in which care responsibilities are mainly shouldered by women, are reflected in the occupational segregation. In 2016, the most female-dominated sector was social welfare and health services, where 86.6 % of the employed were women. Construction, on the other hand, is a male-dominated industry, in which men account for as many as 92.1 % of the employed.¹² Occupational segregation has close links with differentiation of choices related to education and training by gender. Dismantling segregation in education and working life has been on the agenda of equality work for a long time.¹³ However, there has been little or no change in the overall picture.

Not all women and men are in the labour force, and some of those who are have no jobs. There has been a clear drop in the unemployment rate in the last year. In September 2018, 5.6 % of men and 7.0 % of women were unemployed.¹⁴

A polarisation has been observed in men's labour force status. At one end of the scale are men who are doing well, while at the opposite end are found long-term unemployed persons who become marginalised in terms of work, the majority of whom are men.¹⁵ In September 2018, 41,000 men and 29,100 women were long-term unemployed.¹⁶ Long-term unemployment is associated with a major risk of deprivation, as multiple risk factors to wellbeing cumulate on the same individuals.¹⁷ Lack of education often leads to problems in labour market access. Many people who have not registered as unemployed and who have not been found disabled are also outside the labour force.¹⁸ Attention has also been paid to the fact that a large number of men aged 25 to 35 remain outside the labour force, and fail to even register as unemployed, despite the improved employment situation.¹⁹

Women's absence from the labour market is often linked to family leaves. The employment rate of women who have young children is lower than other mothers'. As the family leave period ends, the child is about ten months old, and the majority of families (87–89 %) opt to care for their child at home at this stage, at least for a few months. However, very few take family leave until the child turns three.²⁰

Single parents, the majority of whom are women, have a heightened risk of social exclusion. The employment situation of single parents has not improved at the same rate as other groups'. In par-

11 Statistics Finland: Labour Force Survey 2017.

12 Statistics Finland (2018a). For more information about segregation, see also Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s*.

13 See the section in this report: *Promoting equality at educational institutions*; Ministry of Education and Culture (2010), p. 17

14 Statistics Finland: Labour Force Survey September 2018.

15 Pärnänen (2015), p. 249.

16 Statistics Finland: Labour Force Survey September 2018.

17 Laihiala & Ohisalo (2017), p. 133

18 Pyykkönen – Myrskylä – Haavisto – Hiilamo – Nord (2017).

19 Yle news 11 October 2018. See also Maczulskij (2017).

20 Salmi & Närvi (2017), p. 8.

ticular, this applied to single parents with a lower level of education.²¹ In 2017, the employment rate of single parents at working age²² was 71.6 %, while their unemployment rate was 11.6 %. These figures for the entire working-age population were 78.2 % and 8.2 %.²³

2.2 GENDER DIVISIONS AND GENDER IMPACTS RELATED TO USES OF LABOUR FORCE

2.2.1 Multiple ways of using labour force

More than 64 % of all employed persons work in *full-time employment relationships valid until further notice*.²⁴ This, in other words, remains the most common form of employment. Many people engage in forms of employment that do not fit into this pattern, however, including fixed-term employment, part-time work, temporary agency work and zero-hours contracts. They are sometimes referred to as flexible labour force.²⁵ There is also a form of self-employment that hovers on the borderline between paid employment and entrepreneurship. The varying uses of labour force create divisions and differences not only between women and men but also among each gender.

The proportion of workers in *fixed-term employment* has stabilised at approximately 15 % to 17

% in the 2000s.²⁶ Doing fixed-term work is more common for women than for men; 19% of women and 13 % of men are in a fixed-term employment relationship. In 2017, more than one half of new employment contracts were concluded for a fixed term, more frequently in the case of women than men.²⁷ Fixed-term employment is especially common for women who are at the age for starting a family. In 2016, for example, 33 % of women aged 25 to 29 were in fixed-term employment relationships, whereas this rate for men was 20.1 %.²⁸

Part-time work has become more common in recent years, especially for women. In 2017, approximately one out of five female wage and salary earners did part-time work, whereas this proportion for their male counterparts was 10 %. While the phenomenon of using temporary agency work has come to Finland to stay, the proportion of temporary agency workers among all wage and salary earners is relatively small.²⁹ In 2017, this form of employment concerned 41,000 people, accounting for 2 % of all wage and salary earners. Temporary agency work has become slightly more common in the last couple of years, more so for men than women.³⁰ The majority of temporary agency workers are in a fixed-term employment relationship.³¹ In 2014, 4 % of wage and

21 Härkönen (2017).

22 The figures describe people aged 20 to 59 who have children and who are neither married nor cohabiting.

23 Statistics Finland: Labour Force Survey 2017.

24 Statistics Finland: Labour Force Survey 2017.

25 Ministry of Economic Affairs and Employment (2012), p. 6.

26 Ministry of Economic Affairs and Employment (2015), p. 11; Statistics Finland: Labour Force Survey 2017.

27 Statistics Finland: Labour Force Survey 2017; see also Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s*.

28 Statistics Finland (2018).

29 Ministry of Economic Affairs and Employment (2015).

30 While men and women were more or less equally represented among temporary agency workers in 2015, 24,000 of these workers were men and 17,000 were women in 2017 (Statistics Finland: Labour Force Survey 2015; Statistics Finland: Labour Force Survey 2017.)

31 Huotari & Pitkänen (2013), p. 37.

salary earners, or 83,000 in total, had a zero-hours contract, 57 % of whom were women. A significant proportion were young people: almost one half were aged under 25, whereas 65 % were under 30.³²

2.2.2 Uses of labour force and labour force status

Full-time, long-term and well-paid work is more typical for employed men than women, whereas other forms of employment and low incomes are more typical for employed women than men.³³ Compared to other types of labour force use, full-time employment valid until further notice is associated with a stronger labour force status. Sometimes working in an employment relationship other than continuous full-time work is the employee's choice and suits their life situation. However, the most common reason for working in fixed-term employment, for instance, is lack of permanent work. The most important reason for doing part-time work for women is inability to find full-time work.³⁴

Employment relationships other than those valid until further notice are associated with more economic uncertainty, difficulties in planning your life and future, and slow or non-existent career progress.³⁵ Different uses of labour force also create dif-

ferences in women's and men's labour force status and influence gender equality. The earnings of workers in fixed-term employment are clearly smaller than those of workers in employment relationships valid until further notice.³⁶ Fixed-term work has been found to affect pay development also over the longer term.³⁷

Fixed-term employment relationships punctuated by breaks and other work arrangements fragmented in various ways (freelance work, self-employment) may cause problems with reconciling work and family life.³⁸ In zero-hours contracts, the working times and hours may vary dramatically from one week or month to the next, which may be difficult for a family with young children in terms of care arrangements and also affect the children's lives.³⁹ In the course of the Ombudsman's law enforcement duties, it has been observed that when work is not performed for the same employer in an employment relationship valid until further notice (fixed-term employment, zero-hours contracts and temporary agency work), particular challenges are associated with enforcing the prohibitions of discrimination based on pregnancy and family leaves.

The Government's Report on Gender Equality defines reducing involuntary fixed-term and part-time work as a key gender equality issue in working life.⁴⁰ This objective was also addressed in the Government Action Plan for Gender Equality 2012–2015, but not its 2015-2019 counterpart. The

32 Statistics Finland: Labour Force Survey 2014; see also Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s*.

33 Pärnänen (2015), p. 249.

34 In 2017, the reason for doing fixed-term work for 67% of all those in fixed-term employment was the lack of permanent work, and for one woman in part-time work out of three, the reason for working part-time was the lack of full-time work (Statistics Finland: Labour Force Survey 2017.)

35 Ministry of Economic Affairs and Employment (2012). See also Ojala – Nätti – Kauhanen (2015).

36 Ojala – Nätti – Kauhanen (2015), pp. 29–30.

37 Ojala – Nätti – Kauhanen (2017).

38 Statement of the National Institute for Health and Welfare to Parliament (THL/496/4.00.02/2018).

39 Pärnänen (2015), p. 244.

40 VNS 7/2010 vp, p. 14.

Ombudsman for Equality finds that reducing involuntary fixed-term and part-time work remains an important goal in efforts to promote gender equality in the world of work.

Some researchers and experts of the world of work have suggested that as forms of employment diversify, impact assessments of fixed-term and part-time work, self-employment and platform work should be introduced in all impact assessments of labour and social welfare legislation as well as collective agreement activities, similarly to the assessment of gender impacts.⁴¹ In fact, this perspective should be integrated in gender impact assessment. As we found above, full-time employment until further notice is more common for men, whereas women have more fixed-term and part-time employment relationships than men. When producing impact assessments, a systematic examination should be made of whether the proposals have different impacts when comparing workers in continuous full-time employment and those whose labour force use differs from this mode.

2.3 GENDER PAY GAP

2.3.1 Many factors and processes affect the gender pay gap

The average gender pay gap in the labour market is 16.1 %.⁴² While this gap has been reduced slowly, it remains large.

41 Suoranta (2018), pp. 15–16.

42 Statistics Finland's Index of wage and salary earnings, preliminary data 2017.

Many different factors and processes are at play in the pay differences between women and men. They are linked to both the formation of women's and men's labour force statuses but also, more directly, with the determination of pay and the pay policy pursued. Rather than coming into existence from nothing, the current gendered pay structures have a long history. Segregation has been found to be a significant cause variable of the gender pay gap,⁴³ and dismantling segregation a way of promoting equal pay. We can indeed presume that reduced segregation would have effects of this nature. On the other hand, differentiation between women's work and men's work does not automatically lead to lower salaries being paid for work typical for women.⁴⁴ The fact that these jobs have been traditionally evaluated as less demanding than work typically performed by men has influenced the lower pay level. This is a pay and pay policy issue.⁴⁵ In this sense, segregation is not a gender neutral explanation for the pay gap completely dissociated from pay.

Family leaves are another factor contributing to the gender pay gap. Taking family leaves affects negatively women's pay development, but not men's. The length of the family leave determines how significant and extended the effects of family leave are on a mother's pay. Family leaves have no effect on fathers' pay development, as they typically only take very short family leaves.⁴⁶ To some extent, the gen-

43 E.g. Ministry of Social Affairs and Health (2008), pp. 33–75.

44 Kinnunen & Korvajärvi (1996), p. 13.

45 Nummijärvi (2006), p. 434.

46 Immediately after returning to the labour market, mothers who have been on family leave for no more than two years earn approx. 8–11% less than women with no children. Mothers who stay on family leave for longer than this lose a considerably greater share of their earnings. Mothers who have been absent from the labour market for at least three years earn almost 19% less than women with no children immediately after returning to work. (Lilja – Asplund – Kauppinen (2007), pp. 57–67).

der pay gap is also affected by the fact that a larger share of women are in fixed-term employment and that the earnings in fixed-term jobs are on average smaller than in employment relationships valid until further notice.⁴⁷

Ultimately, the pay relations between women and men are created, maintained or readjusted through pay settlements and decisions on pay made at different levels. Collective agreements for the private and the public sector have played, and continue to play, a key role in pay determination. In the agreement system, a shift has taken place from centralised agreements to union-level and, increasingly, also local agreements.⁴⁸ As a framework for the agreement system, efforts have been made to introduce a negotiation model in which pay rises agreed in the export industry also determine the maximum pay increases to be negotiated in other fields, including the public sector dominated by female workers. These trends are fraught with challenges to promoting gender equality.⁴⁹ In order to narrow the gender pay gap, the agreement system at the level of the entire labour market should lead to higher pay increases in jobs where women predominate than in jobs where men are a majority. The solutions adopted in the Competitiveness Pact go against this objective, as employees' holiday bonuses were cut by 30 % in the female-dominated public sector in 2017–2019.⁵⁰

47 Statistics Finland: Labour Force Survey 2014; see also Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s; Pärnänen (2015)*, p. 249.

48 E.g. Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s*, section 6a.

49 Jonker-Hoffrén (blog 9 January 2017); Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s*, section 6a

50 See also Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s*, section 6b.

2.3.2 Public authorities' duty to promote equal pay

Under the Constitution, equality of the sexes should be promoted, especially in the determination of pay (section 6.4 of the Constitution). The Constitution also obliges the public authorities to guarantee the observance of fundamental rights and liberties and human rights (section 22 of the Constitution). While the obligation to promote equal pay applies to public authorities in their role as employers, they should also promote equal pay in other ways.

The central government has been a party to a series of tripartite Equal Pay Programmes implemented since 2006. The objective of the Equal Pay Programmes has been to reduce the average gender pay gap and to implement the principle of equal pay referred to in the Equality Act. The current Equal Pay Programme covers the years 2016–2019. The measures under this programme are associated with pay and agreement policies, pay systems and raising awareness of pay issues, dismantling segregation and reconciling work and family life. As positive achievements of the Equal Pay Programmes have been regarded commissioning various studies and reports and drawing attention to the gender pay gap in societal and labour market policy discussions. Evaluations claim that few of the objectives set for the Equal Pay Programmes have been achieved.⁵¹

The Act on Equality between Women and Men is one instrument in the work to promote equal pay. The prohibitions of pay discrimination apply to all employers. The Act also obliges all employers with at least 30 employees to prepare a pay survey aiming

51 Suomaa (memorandum 17 September 2018). An overall evaluation of the Equal Pay Programme, which was due to come out in autumn 2018, had not yet been published as this report was written.

to identify and remove unjustified pay differences. Pay surveys were made a mandatory part of equality plans in 2005. At that time, there were high expectations of the pay plans' significance in promoting equal pay. In connection with the Equality Act reform in 2015, the obligation to produce pay surveys was made more specific, and a separate provision on it was incorporated in the Act.

The constitutional obligations discussed above have been found to mean that the measures aiming to realise equality included in the legislation shall be effective.⁵² Later in this report, we discuss the development needs of the Equality Act, which are related to bringing in more effective legal protection associated with the prohibitions of pay discrimination and to reforming the provisions on pay surveys in order to ensure that they meet their objective better.

2.4 RECONCILIATION OF WORK AND FAMILY LIFE

2.4.1 Subjective right to day-care as an enabler of reconciling work and family life

Removal of subjective right to day-care. The possibilities of reconciling work and family life affect the employment rate and labour market participation of parents with young children. In particular, preconditions for this reconciliation are created by child day-care and early childhood education and care offered by society as well as employees' rights to family leave. Due to the gendered nature of care

52 Scheinin (1999), p. 255.

responsibilities, these factors influence especially women's possibilities of participating in gainful employment. This is why day-care and family leaves are key gender equality issues.⁵³

Until 2016, children had a subjective right to day-care and early childhood education and care: the municipalities had a duty to offer a place in day-care for all children. This right had great significance in terms of family, labour and gender equality policy.⁵⁴ Under a legislative amendment that entered into force at the beginning of 2016, children's right to early childhood education and day-care was restricted. For children whose parents do not work full time or are not full-time students, entrepreneurs or self-employed, this right was restricted to 20 hours a week. Children only have a right to full-time care if their parents can prove that longer hours in care are needed. However, municipalities may offer early childhood education and care in excess of the minimum required under the Act.

.....
Limiting the right to early childhood education and day-care to part-time care was a major step backwards in gender equality policy.
.....

The amendment has been criticised from the children's rights perspective, among other things because it puts children's equal treatment at risk.⁵⁵

53 Salmi & Närvi (2017), p. 8.

54 The Act on Children's Day-care dating back to 1973 (36/1973) was replaced by the Act on Early Childhood Education and Care in 2015 (580/2015).

55 E.g. Ombudsman for Children's statement to Parliament, LAPS/146/2014.

From the viewpoint of gender equality, limiting the subjective right to day-care and early childhood education to part-time care was a major step backwards in gender equality policy.⁵⁶ The Ombudsman for Equality believes that reinstating the subjective right to day-care for all children would be highly important.

Increased difficulties in reconciling work and family life. The restriction of the subjective right to day-care may make reconciling work and family life more difficult. This may happen, for instance, when a parent's work consists of fixed-term employment punctuated by breaks, or their work is fragmented and unstable for other reasons. The restriction of the right to early childhood education and care may also make it more difficult for a parent who is unemployed or on a family leave without a valid employment relationship to return to the world of work. The restriction may reduce their possibilities of looking for work and accepting a job offered to them on a rapid schedule.⁵⁷ Evidence has been found to indicate that restricting the subjective right to day-care has undermined parents' possibilities of looking for work, studying and working.⁵⁸ The restriction may also make it more difficult for an unemployed parent to meet the condition of being active required to receive unemployment benefit.⁵⁹ The so-called activation model requires workers to show partic-

ular flexibility in accepting work. The purpose of the Unemployment Security Act is to encourage the unemployed to also accept short-term and part-time work.⁶⁰ The preconditions for accepting a job on a very short notice include being able to make temporary child-care arrangements rapidly. Under section 17 of the Act on Early Childhood Education and Care, a place in care should be applied for no later than two weeks before the child needs the place if the need for early childhood education and care is based on finding employment or studies, and the time at which the need becomes acute cannot be anticipated. One could ask how well the provisions of the Act on Early Childhood Education and Care and the activation model go together, and also what kind of daily lives families and children are expected to lead in order to meet these requirements.

56 Salmi & Närvi (2017a), s. 10.

57 Statement of the Ombudsman for Equality to Parliament (TAS/309/2015); statement of the National Institute for Health and Welfare to Parliament (THL/496/4.00.02/2018).

58 Appendix 3 to this report: *Implementation of gender equality policy in Finland in the 2010s, and the literature referred to in this Appendix.*

59 Ibid.

60 HE 124/2017 vp.

The government proposal on the activation model paid no attention to the possibilities of arranging child day-care.⁶¹ The proposal only refers to women and men separately when examining the gender proportions of those receiving an adjusted daily allowance, and the numbers of those participating in rehabilitating work activities and in services promoting employment in general. It is up to Finnish society to make sure that an unemployed jobseeker does not lose their unemployment benefits due to being unable to accept work offered to them because they have no day-care place for their child.

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It is up to Finnish society to make sure that an unemployed jobseeker does not lose their unemployment benefits due to being unable to accept work offered to them as they have no day-care place for their child.

.....

Irregular working hours and shift work may also make it difficult to reconcile work and family life, especially for single parents. Arranging care for young schoolchildren when their parents work in the evenings and during weekends must also be possible. Shop opening hours were deregulated from the beginning of 2016. A report shows this has increased shift work in the trade sector and hampered the reconciliation of work and family life for employees in the sector. According to the report, it had made arranging child care more difficult, especially when the parents did evening and weekend work. Arranging

61 HE 124/2017 vp.

care for young schoolchildren has been a challenge, as many municipalities offer them no arrangements for round-the-clock care.⁶² Offering care places for non-standard working hours for young schoolchildren would thus be important when this is required by their parents' work.

As the parliamentary Employment and Equality Committee discussed the repealing of the act on the opening hours of retail shops and hair-dressing salons, it believed that deregulation of opening hours would make arranging child care and reconciling work and family life more difficult.⁶³ The Committee drew attention to the many problems associated with child care arrangements. The Committee criticised the fact that the proposal contained no information on or estimate of how the longer opening hours would affect the needs to organise day-care, nor did it contain a gender impact assessment. The Ombudsman for Equality agrees with the view of the Employment and Equality Committee according to which work carried out during atypical working hours should be addressed better when organising public services.

Assessment of gender impacts. Legislative proposals and other policy-making related to working life should include a carefully prepared and versatile assessment of gender impacts. When assessing gender impacts, the fact that women currently shoulder the main responsibility for child care should be taken into account. Where necessary, any policies should also be based on up-to-date and comprehensive information of how day-care services can be offered in different parts of Finland and how accessible day-care is.

62 Kllokoqi-Bublaku (2017).

63 TyVL 4/2015 vp.

Gender impact assessments have been neglected in connection with legislative amendments that have had an essential impact on workers' position.

The Ombudsman for Equality is concerned over the failure to prepare gender impact assessments in connection with legislative amendments that have had an essential impact on workers' position. In addition to producing gender impact assessments, it is crucial that real importance is attached to the findings of such assessments.

Subjective right to day-care should be reinstated as a right for every child.

Finnish society should make sure that an unemployed jobseeker does not lose their unemployment benefits due to being unable to accept work offered to them as they have no day-care for their child. The possibility of organising evening and weekend care for young schoolchildren should also be taken into account when assessing such matters as a jobseeker's possibilities of accepting work.

2.4.2 Family leaves

A reform of family leaves is needed. There is a reasonably broad consensus on the need to overhaul the family leave system. Instead, several minor reforms have been implemented, which have been necessary

as such. Leaves earmarked for fathers have been extended and made more flexible, and the diversity of families has been accounted for better. In order to balance out for the costs incurred by employers from family leaves, since April 2017, employers have been entitled to apply for a one-off payment of EUR 2,500 when a female employee goes on family leave.⁶⁴

Most fathers take a short family leave of two or three weeks,⁶⁵ while mothers continue to use the majority of the family leaves. In 2016, mothers used 90.5 % and fathers 9.5 % of the parental leave days.⁶⁶

Fathers use less than 10 % of the parental leave days.

Fathers are more likely to take a longer period of parental leave if their spouse has a high income and enjoys a strong labour force status. Fathers' attitudes towards parenthood and gender equality play a role in whether or not a father takes a longer parental leave.⁶⁷ The practices of different workplaces also

64 For more information about the reforms carried out, see: Salmi & Närvi (2017), pp. 25–31; Appendix 3 to this report: Implementation of gender equality policy in Finland in the 2010s, section 8. At the time of the writing of this report, the Ministry of Social Affairs and Health was working on a reform of the Health Insurance Act under which, among other things, the parental allowance period of adopted parents would be extended, and mothers who are looking after their children alone would be entitled to an extension to their parental allowance period (STM/3200/2018).

65 Lammi-Taskula – Närvi – Salmi (2017), p. 105.

66 Kela (2018).

67 Lammi-Taskula – Närvi – Salmi (2017), pp. 105–134; Närvi (2018).

vary. It is easier for fathers to take a longer period of parental leave if this is a usual practice in their workplace. Otherwise it may be difficult for a father to request parental leave. Workplaces may also presume that fathers can only use the leaves earmarked for them.⁶⁸

The uneven sharing of family leaves has a significant impact on the realisation of gender equality in working life. It has a negative impact on women's career and pay development and also influences the discrimination in recruitments experienced by women aged 20 to 40 who have no children.⁶⁹ A more even division of family leaves would not only promote the realisation of gender equality but also strengthen the fathers' role as parents and improve the wellbeing of children and families.

It has been observed that each reform of the family leave system which has extended the right to family leave earmarked for fathers has increased the use of the leaves by fathers.⁷⁰ A quota of the leave allocated to fathers shapes not only fathers' and mothers' ideas of but also workplaces' attitudes towards fathers as users of longer family leaves.⁷¹

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Each reform of the family leave system that has extended the right to family leave earmarked for fathers has increased the use of the leaves by fathers.

.....

68 Närvi (2017), pp. 136, 181.

69 Salmi & Närvi (2017), pp. 20–21.

70 Kela (2018); See also Salmi – Närvi (2017), pp. 22–23; Närvi (2018).

71 Närvi (2018), p. 71.

The Ombudsman for Equality finds it vital that the family leave system be reformed by considerably increasing the leave earmarked for fathers. The flexibility of using the leave should also be increased, taking into consideration the time at which parents wish to take their leave and how they would like to share it. It is also crucial to take the diversity of families into account in the family leave reform.

A family leave reform that significantly increases the leave allocated to fathers and the flexibility of leave use is needed.

Taking family leaves into account in determining the waiting period for labour market subsidy. As noted above, the fact that women currently shoulder the main responsibility for child care should be taken into account when preparing gender impact assessments. In impact assessments of legislative proposals, attention should also be paid to the status of parents on family leaves. Parents should not incur negative consequences for using family leaves. If they do, these consequences impair women's position, above all.

Currently, the use of family leaves has negative consequences for access to labour market subsidy. A client contacted the Ombudsman for Equality about reinstatement of the waiting period for the labour market subsidy after family leave. A woman had received labour market subsidy following a waiting period of 21 weeks. She had gone on family leave and then registered as an unemployed jobseeker, at which time another waiting period of 21 weeks was imposed on her.

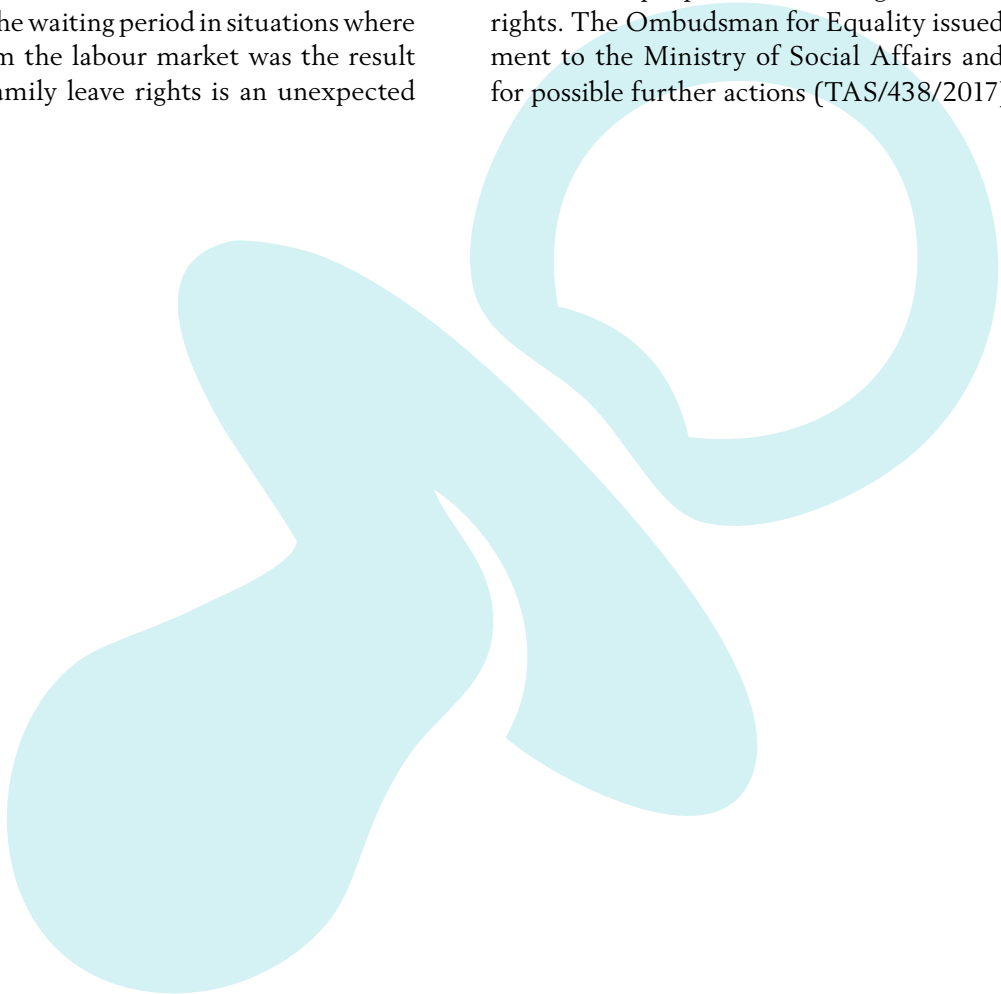
Under Chapter 7, section 2 of the Unemployment Security Act, labour market subsidy is paid after a 21-week waiting period. This waiting period

is not imposed on a person who has completed a post-comprehensive school or upper-secondary school education programme that leads to a degree and professional competence. According to the Social Insurance Institution (Kela), the waiting period can be set multiple times for the same person if the person does not possess the proper educational qualifications. If the person who has been on family leave has not remained registered as an unemployed jobseeker, a new waiting period is set for him or her.

Reinstating the waiting period in situations where the absence from the labour market was the result of using one's family leave rights is an unexpected

consequence that causes financial difficulties. It is not appropriate that a person who is on family leave should register as an unemployed jobseeker only to avoid a new waiting period when they intend to care for their child during their family leave, as is their right. In that case, they cannot realistically be available for work.

It is important to establish how the provisions concerning the waiting period in the Unemployment Security Act could better take into account the status of people who are using their family leave rights. The Ombudsman for Equality issued a statement to the Ministry of Social Affairs and Health for possible further actions (TAS/438/2017).



3 DISCRIMINATION IN WORKING LIFE AND PROHIBITIONS OF DISCRIMINATION

3.1 WORKING LIFE AT THE CENTRE OF CASE-LAW RELATED TO THE EQUALITY ACT

Intervening in discrimination in the workplace and prohibitions of discrimination in the world of work have been at the core of the Act on Equality between Women and Men. These aspects were highlighted particularly as the Act was passed. Until 2005, a defendant could only be sentenced to pay compensation for discrimination in working life. The possibility of compensation has since been extended to discrimination in educational institutions and labour market organisations as well as in the context of provision of goods and services.

In case-law, working life remains the central area of Equality Act application. The disputes concerning the prohibitions of discrimination contained in the Act are still almost exclusively relevant to working life. The Ombudsman for Equality has commissioned three reports on the case-law related to the application of Equality Act provisions. These reports

cover the years 2004–2014.⁷² During the most recent period of scrutiny, or in 2012–2014, all 48 disputes related to the Equality Act heard by district courts were associated with the world of work. As in previous years, the largest categories were cases related to recruitment and pay. Other cases concerned termination of employment and failure to renew a contract made for a fixed term.⁷³ For the purposes of this report, the administrative courts provided information on 50 decisions from this period in which appeal had been made to the Equality Act. Most of them concerned filling a post or appointing a substitute.⁷⁴ To the Ombudsman's knowledge, only one court decision associated with discrimination against a transsexual employee has been issued in 2011.

In the Ombudsman for Equality's work, matters related to workplace discrimination have always played a central role. The majority of discrimination cases reported to the Ombudsman concern working life. The largest category are suspected discrimination associated with pregnancy and family leaves.⁷⁵ Other major categories concern recruitment and pay discrimination, in particular, but also termination of employment and supervision of work. The Ombudsman for Equality is also regularly contacted with regard to job advertisements where either only men or only women are encouraged to apply.

This section deals with certain challenges associ-

72 The reports concerning the periods 2004–2008 and 2008–2011 were produced by the Finnish League for Human Rights, while the most recent one was drawn up at the Office of the Ombudsman for Equality.

73 In some of these cases, either the claim was withdrawn or the matter was settled out of court.

74 Five cases concerned the provisions on gender quotas and equality in section 4 of the Equality Act.

75 For more information about these cases, see section 3.2, which discusses discrimination based on pregnancy and family leaves.

ated with applying the prohibitions of discrimination in the workplace in the Equality Act and the Ombudsman's recommendations on developing certain provisions on discrimination.

3.2 DISCRIMINATION BASED ON PREGNANCY AND FAMILY LEAVES

Workplace discrimination based on pregnancy and parenthood, including taking family leaves, has continued for decades in Finnish society. It affects the position of women, in particular, in many different ways. Women in fertile age who have no children may also experience discrimination related to maternity in working life, as employers may presume that they will go on a family leave.⁷⁶

Gender equality legislation prohibits discrimination related to pregnancy and parenthood in no uncertain terms. Prohibited discrimination includes treating someone differently for reasons of pregnancy or childbirth, or on the basis of parenthood or family responsibilities. The protection against discrimination on these grounds afforded by the Equality Act was clarified and strengthened through reforms of the Act carried out already in the early 1990s.⁷⁷ At that time, special attention was paid to protection against discrimination in fixed-term employment relationships.

While we may expect that the Equality Act amendments related to discrimination based on pregnancy and family leaves have had a positive impact on the treatment of employees who are preg-

nant or taking family leaves, these provisions are not enforced effectively enough. A government proposal on amending the Equality Act from 1992 considered that treating employees differently based on pregnancy and family responsibilities is a key gender equality problem⁷⁸, and unfortunately there has been little or no change in this situation.

.....
Discrimination based on pregnancy and family leaves is a key gender equality problem which occurs in all industries and sectors.
.....

Discrimination based on pregnancy and family leaves occurs in all areas of working life and has for years been the most common category of suspected discrimination cases reported to the Ombudsman for Equality.

Up to one half of the clients contacting the Ombudsman about working life issues report discrimination due to pregnancy or family leave.

.....
Up to one half of the clients contacting the Ombudsman about working life issues report discrimination due to pregnancy or family leaves.
.....

Discrimination based on pregnancy or family leaves also comes up continuously in the daily work of trade unions. This was revealed by a survey addressed by the Ombudsman for Equality to

76 Salmi & Närvi (2017), pp. 20–21.

77 Acts 624/1992 and 206/1995 amending the Act on Equality between Women and Men.

78 HE 63/1992 vp.

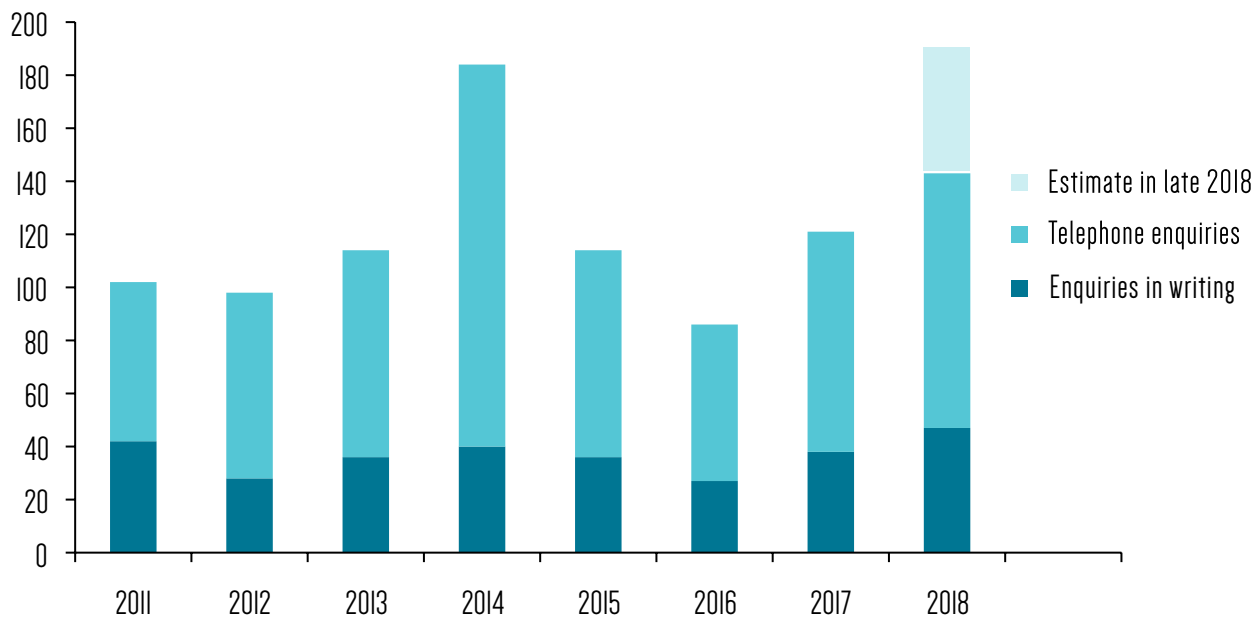


FIGURE I. Reports of discrimination due to pregnancy and family leaves received by the Ombudsman for Equality in writing and by telephone in 2011–2018*

*up till 30 September 2018

the trade unions to gauge suspicions of discrimination related to pregnancy and family leaves reported to the unions. The survey was associated with a campaign against this type of discrimination launched by the Ombudsman for Equality in October 2017 titled *Pregnancy discrimination is no child's play* (Raskaussyrjinta.fi, #raskaussyrjinta).

A total of 46 % of the unions that responded to the survey reported that they are contacted by their members regarding discrimination on the basis of pregnancy and family leaves at least once a week. Some unions are contacted about these issues several times a day. The Service Union United PAM, for instance, is contacted about

discrimination on the basis of pregnancy and family leaves more than 1,000 times every year.⁷⁹ In survey responses, as the most common forms of discrimination related to pregnancy emerged problems associated with returning to work after family leave and failure to continue fixed-term employment relationships.

.....
 46 % of Finnish trade unions are contacted every day, or every week, about discrimination related to pregnancy.

79 Service Union United PAM.

3.2.1 Discrimination related to pregnancy and family leaves reported by clients who contacted the Ombudsman for Equality

The highest number of clients contacting the Ombudsman about discrimination based on pregnancy or family leaves report suspicions of discrimination associated with failure to continue a fixed-term employment relationship. While the employee may have had a number of consecutive employment contracts with the employer, the employer no longer continues the contract when it turns out that the employee is pregnant, or announces that he or she is taking family leave⁸⁰. Taking family leave may also affect the duration of a fixed-term employment relationship.

.....

The most common category of suspected discrimination were cases where an employee's fixed-term contract was not continued when they got pregnant or wanted to take family leave.

.....

Other contacts with the Ombudsman were related to such issues as suspected discrimination in recruitments. For example, a decision to recruit an employee may have been cancelled when the employer found out she was pregnant. Candidates may still be asked about their family plans or child-care arrange-

80 Such experiences of mothers in fixed-term employment also came up in a population survey carried out for a study that, among other things, investigated the consequences of using family leaves (see Närvi (2017), p. 141).

ments in a job interview. Suspected discrimination may also be relevant to terminating an employment relationship during a trial period, employment conditions or returning to work after family leave.

The following typical forms of discrimination associated with returning from family leave come up in reports made both to the Ombudsman for Equality and the trade unions:

- 1) The substitute of an employee who has been on family leave is offered a permanent position and continues to perform the tasks of the employee returning from family leave. The returning employee is either dismissed or assigned to other tasks that do not correspond to their previous duties.
- 2) The tasks of an employee who has taken family leave may also be discontinued or disappear as a result of different rearrangements or organisation changes.

Fathers have also contacted the Ombudsman to some extent about their suspicions of discrimination due to taking family leave. These suspicions have related to such matters as returning from family leave, dismissals, and the impacts of the family leave on emoluments. The employer may also have questioned a father's right to stay at home to care for a sick child.

Suspected cases of discrimination usually occur in connection with

- Recruitment
- Continuation of fixed-term contracts
- Returning to work after family leave
- Salary and work-related benefits during pregnancy and family leave

3.2.2 Zero-hours contracts and contracts with variable hours – follow-up of regulation needed

The vulnerable position of workers with zero-hours contracts in connection with pregnancy and family leaves has also come up in the Ombudsman's work. The Ombudsman for Equality has mainly been contacted by women working in the service industries (including cleaners, sales assistants and waitresses). The number of hours offered to them has dropped, or no work has been offered to them, once they have told the employer about their pregnancy. While the employees were no longer given working hours, they had not been dismissed. In terms of protection against discrimination, it has often been difficult for the employee to prove that the reduction in the number of hours, or not being offered work, has been a consequence of their pregnancy.

The employee and the employer have had conflicting views of whether the employer actually had less work to offer than before the employee announced her pregnancy. There have also been disputes over whether the employee's working hours had been regularised at a certain level and become a condition that should be observed in the employment relationship. The employee has incurred financial losses from the reduced earnings, which may also have impacted her future maternity benefit and parental allowance, as well as her entitlement to pay over the maternity leave or its amount. Disputes concerning entitlement to payments for pregnancy-related sickness absences have also been common.

Workers with zero-hours contracts who are pregnant or on family leave are in a vulnerable position.

Zero-hours contracts have been discussed in the 2010s in labour market organisations and in a tripartite setting. The Ministry of Economic Affairs and Employment has investigated the needs for amended regulation.⁸¹ A citizens' initiative concerning zero-hours contracts was submitted to Parliament in December 2015 and later rejected.⁸² The drafting of legislative amendments continued, however.⁸³

Employment Contracts Act provisions (377/2018), under which no agreement that the minimum working hours will be fewer than required by the employer's labour need may be made at the employer's initiative, entered into force at the beginning of June 2018. The regularisation of the working hours of an employee with variable hours was also clarified. This amendment to some extent limits the use of contracts with variable working hours, which may mean that some employees with contracts of this type will be entitled to fixed working hours. However, the provisions on negotiating about changing the working hours condition and obtaining justifications for the working time condition from the employer, for example, remain complex from the viewpoint of an employee who is in a vulnerable position.

81 Ministry of Economic Affairs and Employment (2013).

82 Citizens' initiative on prohibiting zero-hours contracts by law, KAA 5/2015 vp.

83 Ministry of Economic Affairs and Employment (2017) and HE 188/2017 vp.

The de facto impacts of the legislative amendment concerning zero-hours contracts on employees' position should be monitored, and the legislation should be improved if necessary.

The majority, or 57 %, of workers with zero-hours contracts are women. Approximately 65 % of all wage and salary earners with zero-hours contracts are aged under 30.⁸⁴ Any improvements in the position of workers with zero-hours contracts will thus also strengthen the labour force status of women, and especially young women, and reduce the opportunities for resorting to discrimination based on pregnancy or family leaves. The Ombudsman for Equality finds it important to monitor the actual impacts of the legislative amendment related to zero-hours contracts on employees' position and, if necessary, develop the legislation further.⁸⁵ When monitoring the effects of the legislation, it is also necessary to pay attention to the challenges associated with providing protection against discrimination based on pregnancy and family leaves where zero-hours contracts are used.

84 Statistics Finland: Labour Force Survey 2014.

85 Office holders, including teachers, may also be unsure about the number of their teaching hours, which may depend on such factors as the need for instruction coming up later.

3.2.3 Possibilities of improving legal protection should be investigated

The Ombudsman for Equality considers it necessary to investigate the adequacy and development needs of regulation on discrimination related to pregnancy and family leaves. Firstly, the implementation of protection against discrimination and provision of more effective protection should be assessed in the context of fixed-term employment relationships. Secondly, in the case of temporary agency work, the responsibilities of the company using such workers should be assessed, as well as the sharing of responsibilities between the agency providing and the company using temporary workers when the latter, by its own actions, prevents a temporary worker from continuing their work in the company on discriminatory grounds.

More effective enforcement of protection against discrimination in fixed-term employment

The Ombudsman for Equality proposes that the possibilities be examined of providing more effective protection against discrimination in fixed-term employment by complementing the legislation on employment and public-service employment relationships with provisions that prohibit failing to renew such contracts, or limiting their duration, due to pregnancy or use of family leaves. In 2005, the Ombudsman proposed to the Ministry of Labour that this issue be investigated for the part of the Employment Contracts Act.⁸⁶ The Ministry of Labour produced a report in 2005 that, among other things, examined the needs to develop legislation on fixed-

86 Initiative of the Ombudsman for Equality (Register no. 1/50/05).

term employment, also addressing the proposal made by the Ombudsman for Equality. The final report proposed that this issue be resolved by using reference provisions. It proposed that an informative note be added to provisions on fixed-term employment contracts stating that separate provisions on failure to renew a fixed-term employment relationship because of pregnancy or family leave are found in the Act on Equality between Women and Men. It was also proposed that this reference apply to the prohibition of limiting the duration of a fixed-term employment relationship to the start date of family leave.⁸⁷ However, no progress was made in the matter.

The acts on employment contracts contain provisions on protecting employees with contracts valid until further notice against dismissal on grounds of pregnancy and family leaves. They are complemented by the provisions prohibiting discrimination in the Equality Act, which also apply to dismissals due to pregnancy and family leave. The prohibition of failing to renew a fixed-term contract due to pregnancy or family leave and the prohibition of limiting the duration of a fixed-term contract to the start date of a maternity, paternity or parental leave are only contained in the Equality Act. The renewal of fixed-term employment relationships is about continued employment. In this sense, its significance for the employee is similar to the protection afforded to employment relationships that are valid until further notice.

In the Ombudsman for Equality's opinion, including these provisions in the Employment Contracts Act and other acts regulating employment relationships would make the implementation of the current protection against discrimination more

effective for fixed-term employees. It would also spread awareness of the provisions in the workplaces. Compliance with the Employment Contracts Act is supervised by the occupational safety and health authorities, and information on the content of these acts is passed on efficiently to workplaces through such stakeholders as the labour market organisations.

Investigation of temporary agency workers' protection against discrimination

In 2005, the possibility of ordering compensation to be paid for discrimination in working life was extended. The concept of an employee in the Equality Act was, where applicable, also expanded to certain persons who do not work in an employment or public-service employment relationship (including self-employed persons and freelancers). A provision on the sharing the employer's responsibilities referred in the Equality Act in the case of companies hiring labour (temporary agency work) were added to the Act. Some parts of these arrangements regarding responsibilities related to temporary agency work have proven problematic for the Ombudsman's supervisory practice.

The basic premise of the Equality Act is that pregnancy or parenthood may not affect the conclusion of an employment contract, the renewal or duration of a fixed-term employment contract, or the termination of an employment contract valid until further notice. When the employer violates these prohibitions laid down in section 8 of the Equality Act, the employee is entitled to compensation. However, an employee working as a temporary agency worker may, in practice, be in a more vulnerable position regarding the implementation of the protection against discrimination than other employees.

87 Ministry of Economic Affairs and Employment (2017), pp. 66–67.

The problems, which have also come up in the Ombudsman's supervisory work, have been associated with the fact that while a temporary agency worker has an employment contract with the agency, the actual employment of the worker depends on the company/companies that use the agency's services. In temporary agency work, the employer's rights and obligations are divided between two different legal persons. Under section 3 of the Equality Act, a company using agency workers is obliged to also comply with the provisions of the Act with reference to the agency workers it uses to the extent that the company exercises the employer's power over them (including the duty to prevent and intervene in harassment as well as non-discrimination in assigning tasks and employment conditions). The Non-Discrimination Act also contains a similar provision. The agency is responsible for the other employer's obligations except for those transferred to the company using the worker. According to the preliminary work on the Equality Act, the sole responsibility is carried by the agency if a pregnant agency employee is dismissed. In other words, the agency is responsible for ensuring that the employee is not dismissed on discriminatory grounds.

In certain cases, being pregnant may affect an agency worker's possibilities of having her contract extended without, however, the employee being entitled to compensation under the Equality Act. For example, if the company is only prepared to continue its customer relationship with the agency regarding the other employees besides the one who is pregnant and excludes the pregnant employee from those who will continue working for it, the agency cannot, without an order received from the company, place the pregnant employee in the company to continue her work. In this case, the agency does not violate

against its obligations as an employer or breach the prohibition contained in the Equality Act of failing to renew its employment contract with the agency worker due to her pregnancy. The company using the employee, on the other hand, is not an employer referred to in section 3 of the Equality Act, and is thus not liable to pay compensation for its actions as referred to in the Equality Act. While the company using the employee can be regarded as having violated against the general prohibition of discrimination in section 7 of the Equality Act, it cannot be sentenced to pay compensation referred to in this Act, as compensation is only a penalty for violating the prohibitions laid down in sections 8–8e of the Equality Act.

Implementing protection against discrimination is also problematic in situations where the company announces that it no longer needs a certain employee and where the actual reason for this is discriminatory, including the employee's pregnancy or sickness absences related to pregnancy. Even if the employee had an employment contract valid until further notice, the employer cannot necessarily offer the agency worker other work once the company using the employee cancels its order placed with the agency. In that case, the employer may have the right referred to in the Employment Contracts Act to terminate the employment relationship on production-related and economic grounds. In fact, however, the agency worker loses her job due to the discriminatory actions of the company using the worker.

The division of responsibilities between an employment agency and a company using its employees should be clarified where the discriminatory action of the company has a bearing on the continuation of the worker's employment.

As noted before, the basic premise of the Equality Act is that the agency carries the sole responsibility for dismissal if the employment relationship is terminated due to the employee's pregnancy. It is unclear if the employment agency would be interpreted to carry the responsibility referred to in the Equality Act for terminating the employment relationship also when the agency's actions do not violate the provisions on protection against dismissal in the Employment Contracts Act.

The Ombudsman for Equality finds that the needs to develop legislation should be assessed in order to ensure that temporary agency workers are treated equally to other employees with respect to protection against discrimination. The possibilities of extending the liability to pay compensation to the company using the employees and the division of responsibilities between an employment agency and a company using its employees should be investigated in situations where the discriminatory action of the company has a bearing on the continuation of the employee's employment. It is reasonable to expect that the party guilty of discrimination also carries its consequences. The penalties will not serve as a deterrent if they are not imposed on the correct party. This way, arrangements concerning the divi-

sion of responsibilities will also have a bearing on the realisation of the employee's rights.

3.2.4 Putting discrimination based on pregnancy on the agenda of gender equality policy and labour market parties

In order to eradicate discrimination related to pregnancy and family leaves, other measures will be needed besides the legislative amendments proposed above. It is vital to raise employers' awareness of their statutory obligations concerning employees who are pregnant and taking family leave, and to strengthen family-friendly attitudes among employers and all supervisors. It is also important to inform employees of their rights.

The Ombudsman for Equality has brought up discrimination due to pregnancy in societal discussion through its campaigns titled *Oikeutta odottaville* (Justice for Those Expecting) in 2012 and *Pregnancy discrimination is no child's play* (Raskaussyrjinta.fi, #raskaussyrjinta) in 2017. Through these campaigns, the Ombudsman has sought to raise awareness of their rights among women aged 20 to 45. The campaigns have increased the number of cases of suspected discrimination due to pregnancy or family leaves reported to the Ombudsman for Equality. The increase indicates that similar information campaigns, or campaigns aiming to influence attitudes, are needed to ensure that the authorities are informed of this under-reported form of discrimination and to make victims of discrimination aware of their rights. In 2018, the Ombudsman had a campaign titled *Forerunner* (Edellakavija.fi,

#edelläkävijä) for employers to celebrate progressive family-friendly employers and to improve family-friendly family leave practices. In today's working life, being family friendly is a significant competitive advantage and a factor impacting an employer's reputation.

.....

Being family friendly is a significant competitive advantage and a factor impacting an employer's reputation.

.....

Discrimination based on pregnancy and family leaves should be clearly identified as a significant discrimination problem in working life, and measures aiming to prevent it should be selected as one of the priorities of gender equality policy. The Ombudsman for Equality proposes that this theme be included in the following Action Plan for Gender Equality. The Ombudsman has also proposed its inclusion in the National Action Plan on Fundamental and Human Rights.⁸⁸

3.3 VIEWS OF CERTAIN PROHIBITIONS OF DISCRIMINATION IN WORKING LIFE

The Ombudsman for Equality has for some time advocated certain amendments to the Equality Act which have so far not been carried through. The Ombudsman believes that these amendments would ensure more effective enforcement of the

prohibition of discrimination and the implementation of the legal protection related to them. The proposed amendments concern extending the scope of liability to pay compensation in connection with discrimination related to recruitments and reforming the provisions on access to pay data in the Equality Act to improve efficiency.

3.3.1 Scope of liability to pay compensation for discrimination related to recruitments

The liability under the Equality Act to pay compensation in cases of discrimination related to recruitments is too limited. Section 8(1) of the Equality Act on discrimination related to recruitments for which a penalty may be imposed in form of compensation is applied when it is suspected that an employer, when employing a person or selecting someone for a particular task or training, bypasses a more qualified person of the opposite sex in favour of the person chosen without a weighty and justified reason required under the Act. Discrimination referred to in this provision may only be proven when a decision to recruit has already been made. This provision cannot be applied to any discriminatory action in earlier stages of the recruitment process.

Only section 7 of the Equality Act (a general prohibition of discrimination) may be applied to actions preceding the recruitment decision, as a result of which a person is excluded from the shortlist or is not selected because of their gender. No compensation can be claimed on this basis. For example, discrimination in selecting candidates for an interview does not entitle the affected person to compensation, even if selecting the candidates to be interviewed,

88 Statement of the Ombudsman for Equality (TAS/22/2016).

the matters coming to light in the interview, and the impression made by the jobseeker often have major significance for the recruitment decision. The suitability of a person may be a justified reason referred to in the Equality Act for bypassing a more qualified candidate.

The provision on compensation should also be made applicable to discrimination during the recruitment process which precedes the selection of the successful candidate. The Ombudsman for Equality has for a lengthy period advocated amending the Equality Act in this respect and still considers this amendment necessary.⁸⁹ The compatibility of the current provisions with the EU Equal treatment directive 2006/54/EC is questionable.

The provision on compensation should also be made applicable to discrimination during the recruitment process which precedes the selection of the successful candidate.

3.3.2 Access to pay data

The arrangements related to accessing pay data play an important role in promoting legal protection related to pay discrimination and equal pay. This matter has been brought up regularly in connection with Equality Act updates since the early 1990s. At the core of the debate is the right to access individual employees' pay data.

In 1995, the employer's duty to provide an employee with information about the grounds of the employee's own pay and a union representative's right to access an individual employee's pay with the

89 Statements of the Ombudsman for Equality (Register nos 16/50/02; TAS/ 17/50/2004; TAS/84/2010).

employee's consent were laid down in the Act (section 10 of the Equality Act). Even at that time, the committee working on the Equality Act reform proposed that an employee suspecting pay discrimination could receive information on other employees' pay and its justifications from the employer.⁹⁰

In 2005, a provision was added to the Equality Act under which an employee representative has the right to obtain information from the Ombudsman for Equality on the pay and terms of employment of an individual employee if there are justified grounds for suspicions of pay discrimination. For more reasons than one, the Ombudsman for Equality doubted whether this provision would be effective and felt that the arrangement would stress official procedures in settling disputes arising in the workplace. The Ombudsman felt it would be important for the employee and the shop steward to have the right to obtain the information on pay directly from the employer in the workplace.⁹¹ When discussing the proposal, the parliamentary Employment and Equality Committee also suspected that this procedure for obtaining pay data could be bureaucratic and make the threshold for bringing up pay discrimination issues higher.⁹²

In order for an employee to be able to assess their pay from the perspective of the Equality Act and to suspect pay discrimination, they need to know that they are being paid less than the reference person(s). In other words, they must know the amount of the salary received by the reference person. In practice, access to pay data is a precondition for an employee's ability to make appeal to the prohibition of discrim-

90 KOM 1992:35, p. 53.

91 Statement of the Ombudsman for Equality (Register no 17/50/04).

92 TyVM 3/2005 vp.

ination under the Equality Act and, if necessary, negotiate an adjustment of their pay or take the matter to court. The right to access pay data thus also is a prerequisite for effectively enforcing the prohibitions of pay discrimination, which is something that the public authorities should strive to promote under the provisions of the Constitution alone. (Sections 6.4 and 22 of the Constitution.)

Currently, the employee's right to access pay data depends on whether they work in the public or the private sector. Under the Act on Personal Files in Administration, public sector pay data are public, whereas access to pay data in the private sector is determined under the Equality Act provisions discussed above, or the provisions of the collective agreement. It is crucial that access to a reference person's pay data be also expanded in the private sector. The employee's right to obtain the required pay data from the employer should also include information on the reference person's pay.

This conclusion is also contained in a report on pay openness which Ombudsman for Equal-

ity Jukka Maarianvaara prepared as a rapporteur appointed by the Ministry of Social Affairs and Health. Among other things, the report analyses the national legal situation related to pay openness and the relationship between pay openness and personal data protection. The report lays a solid foundation for drafting legislative reforms related to this matter.⁹³ Access to pay data is also significant when carrying out pay surveys to ensure that the survey can be produced in a manner that serves its purpose.⁹⁴

An employee who suspects pay discrimination violating the Equality Act should have the right to obtain information on a reference person's pay from the employer.

93 Maarianvaara (2018).

94 See Gender equality planning in the workplace, subsection 4.5.4: Pay surveys

3.4 RECOMMENDATIONS

- A family leave reform that significantly increases the leave allocated to fathers and the flexibility of leave use is needed.
- The subjective right to day-care should be reinstated as a right for every child.
- Finnish society should make sure that unemployed jobseekers do not lose their unemployment benefits due to being unable to accept work offered to them because they have no day-care for their child. The possibility of organising evening and weekend care for young schoolchildren should also be taken into account when assessing such matters as a jobseeker's possibilities of accepting work.
- The provision on compensation should also be made applicable to discrimination during the recruitment process which precedes the selection of the successful candidate.
- An employee who suspects pay discrimination violating the Equality Act should have the right to obtain information on a reference person's pay from the employer.
- The legislation on employment contracts should contain a prohibition of failing to renew a fixed-term contract due to pregnancy or family leaves and a prohibition of limiting the duration of a fixed-term contract to the start date of a maternity, paternity or parental leave.
- The division of responsibilities between an employment agency and a company using its employees should be clarified where the discriminatory action of the company has a bearing on the continuation of the employee's employment, and in these cases, the liability to pay compensation should be extended to the company using the employee.
- Preventing discrimination based on pregnancy and family leaves should be part of the following Action Plan for Gender Equality.

4 GENDER EQUALITY PLANNING IN THE WORKPLACE

The Act on Equality between Women and Men not only prohibits discrimination in working life but also contains an obligation to actively promote gender equality. In connection with Equality Act reforms, the duty to promote equality has been stressed increasingly. The provisions on the obligation to promote equality, and especially the obligation to draw up equality plans, have been clarified and made more effective. The obligation of workplaces to prepare gender equality plans was included in the Equality Act in 1995. In 2005, pay surveys became a mandatory part of equality planning, and penalties were laid down for violating the obligation to prepare the plan. The latest amendments to the provisions on equality planning and pay surveys were made in 2015.

4.1 WHAT IS GENDER EQUALITY PLANNING?

Under the Equality Act, each employer must promote gender equality in a purposeful and systematic manner. This applies to both public and private sector employers, regardless of the number of employees they have.

The Equality Act also contains provisions on the obligation to produce gender equality plans, which applies to employers with at least 30 employees. The gender equality plan must include an assessment of the gender equality situation in the workplace, necessary measures planned for promoting gender equality, and a review of the results of the previous plan. The gender equality plan must include a pay survey covering the whole personnel, which must contain the classifications of jobs performed by women and men, the pay for those jobs and the differences in pay.

.....
Under the Equality Act, each employer must promote gender equality in a purposeful and systematic manner.
.....

4.2 EQUALITY ACT REFORM 2015

Reformed provisions on gender equality planning and pay surveys contained in the Equality Act entered into force at the beginning of 2015, complementing and adding detail to previous regulation. An assessment made in connection with the legislative amendment found that the equality plans mainly are an effective and up-to-date way of structuring work to promote gender equality in the workplace. However, needs to improve the quality and coverage of the equality plans and pay surveys further were observed.⁹⁵ The purpose of the reform was to give the personnel better possibilities of participating in gen-

95 HE 19/2014 vp.

der equality planning and pay surveys and to improve information activities related to equality planning.

The Equality Act provisions on pay surveys were reformed by defining the more specific purpose and content of the surveys. An obligation to investigate the reasons for and justifications of any clear pay differences and, if necessary, to take appropriate corrective actions was incorporated in the Act, and an obligation to inform the personnel about the equality plan and the pay survey was added to it. The representatives of the personnel must have sufficient opportunity to participate and influence the preparation of the plan. As a rule, a workplace's equality plan must be prepared at least every second year, whereas before the reform, a review of the plan was to be carried out annually.

4.3 OMBUDSMAN FOR EQUALITY SUPERVISES GENDER EQUALITY PLANNING

Supervising compliance with the provisions on equality planning in the Equality Act is one of Ombudsman for Equality's tasks. It has been a long-standing practice of the Ombudsman to request workplaces in which suspected cases of discrimination have been reported to submit their gender equality plans for assessment. The Ombudsman then assesses case by case if the plan meets the requirements of the Equality Act and, based on this assessment, issues instructions for further equality planning. The emphasis in the Ombudsman for Equality's supervision thus is on instructing employers in the drawing up of equality plans.

Within the limits of the available resources, the Ombudsman also strives to undertake targeted su-

pervision by requesting several employers in the same industry to submit their equality plans for assessment. Experience has shown that active supervision of the obligation to prepare equality plans promotes compliance. It would thus be important for the Ombudsman for Equality to have sufficient personnel resources for supervising compliance with the obligation to draw up equality plans with a significantly wider coverage than today.

.....

Guiding employers in preparing their plans is stressed in the supervision of gender equality plans.

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In 2016–2017, the Ombudsman for Equality assessed compliance with the equality planning provision in municipalities by requesting all municipalities in three regions to submit their equality plans to the Ombudsman. These regions were Uusimaa, Pirkanmaa and North Karelia, encompassing 60 municipalities in total. The purpose of this exercise was to supervise compliance with the obligation to prepare equality plans and to find out about the quality of equality planning in municipalities. At the same time, information was collected on how the reformed provisions on equality planning and pay surveys, which entered into force at the beginning of 2015, have been implemented in the municipalities and what challenges are associated with their implementation (see the attached report on equality planning in municipalities).

The supervision of personnel policy equality plans continued in 2017–2018 by targeting the IT sector, the transport and logistics industry and

banking. The Ombudsman for Equality asked ten IT sector companies, six transport/logistics companies and four banks to submit their equality plans. With a few exceptions, the companies selected for inclusion in the assessment were well-known major enterprises in their sectors (with more than 250 employees).

[See the Ombudsman for Equality's report on gender equality planning in Finnish municipalities \(Appendix I\)](#)

4.4 LABOUR MARKET ORGANISATIONS' SURVEY ON THE STATUS OF GENDER EQUALITY PLANNING

In 2017, all central labour market organisations conducted a survey on the effectiveness of equality plans and pay surveys in the workplaces as part of the Equal Pay Programme. The purpose of the survey was to collect information on how the equality plans and pay surveys were prepared and how successful they had been in promoting gender equality in the workplace.

The surveys carried out by both employer and employee organisations found that gender equality planning had promoted equality clearly or somewhat in approximately one out of three workplaces.

Scope for improvement was found particularly in disseminating information about the equality plan in the workplace. Personnel representatives' knowledge of the workplace's equality plan and pay surveys was often inadequate. There was also

room for improvement in the follow-up of the equality measures agreed upon in the plan. Information on the proportion of workplaces subject to the planning obligation that had prepared an equality plan and carried out a pay survey varied depending on whether it was obtained by an organisation representing the employers or the employees. The same was true, among other things, regarding how many workplaces had observed unjustified pay differences or taken measures to rectify pay gaps.⁹⁶

4.5 OMBUDSMAN FOR EQUALITY'S OBSERVATIONS AND RECOMMENDATIONS

Based on the Ombudsman for Equality's experiences of supervising equality planning, it appears that progress has been made in achieving some of the objectives set for equality planning, at least to some extent. However, the observation made in the rationale of the 2015 amendment must be reiterated: there is scope for improvement in the quality and coverage of equality plans and pay surveys.

In the Ombudsman's view, there is a need to both spread awareness of the obligations concerning equality planning and pay surveys and to develop and clarify the guidelines. The Ombudsman also finds that the effectiveness of the provisions on equality planning and pay surveys should be evaluated. In particular, the extent to which the provisions on pay surveys in their current form promote the achievement of the objectives set for pay surveys should be evaluated.

⁹⁶ For more information, see Ministry of Finance (press release 19 March 2018).

The following section describes the Ombudsman's observations on the implementation of equality planning and pay surveys. The observations are mainly based on the assessment of municipalities and companies' equality plans conducted by the Ombudsman. The section also contains the Ombudsman's recommendations for developing equality planning and pay surveys. The observations concerning municipalities are discussed in greater detail in the Appendix to this report, Report on equality planning in the municipalities.

There is scope for improvement in the quality and coverage of the equality plans and pay surveys.

4.5.1 Regular preparation of equality plans

Under the Equality Act, a personnel policy equality plan and a pay survey should be prepared at least every second year as a rule. An agreement can be made locally that the pay survey included in the gender equality plan will be carried out no less than once every three years, provided that the other parts of the gender equality plan are completed annually. Based on the Ombudsman for Equality's supervision, equality plans are still not being drawn up regularly enough.

The assessment of municipalities' equality planning conducted by the Ombudsman, in particular, indicates that the statutory schedule of preparing equality plans appeared often to be unclear. As few

as about one half of the municipalities announced that they would draw up their equality plans on the schedule required under the Equality Act in the future. One out of three municipalities reported that an equality plan was prepared less often than required by the Act.

In a large share of the municipalities, equality plans were also not drawn up regularly, as the previous plan may have been prepared several years or even a decade ago.

In the 20 companies examined in the latest assessment, equality plans had been prepared more regularly than in the municipalities, and usually on the schedule required by the Act. What remained unclear was to what extent the companies rewrite all the sections of the equality plan, and to what extent they only copy the measures already contained in previous plans to the new document.

The Ombudsman for Equality finds it important that in all guidelines on equality planning, compliance with the statutory schedule and the management's responsibility for ensuring it be highlighted.

In the Ombudsman's experience, the current provisions of the Equality Act with their different schedules are obviously difficult to grasp. Consequently, amending the Act in this respect and only specifying a single schedule should be considered.

4.5.2 Combining the gender equality plan with other plans

Under the Equality Act, a personnel policy equality plan may be 1) prepared as a separate plan, 2) incorporated into a personnel and training plan, or 3) incorporated into an occupational safety and health plan. The preliminary work on the Equality Act also

notes that issues related to promoting non-discrimination may also be included in the gender equality plan when this is appropriate in workplaces. A combined personnel policy plan of this type should meet the obligations under both the Equality Act and the Non-Discrimination Act.

The majority of both companies and municipalities have combined their gender equality plans with the personnel policy non-discrimination plans, whereas incorporating the gender equality plan into any of the other plans referred to in the preliminary work was less common. When the equality plan is combined with a personnel plan, for instance, the challenge is making sure that the different sections of the equality plan can be found and that the plan can be understood as a whole.

The Ombudsman for Equality believes that drawing up a personnel policy equality plan and a personnel policy non-discrimination plan together may be sensible, as they both relate to preventing discrimination and developing an equal work organisation. Based on both companies' and municipalities' plans, the flip side of combining these plans appears to be that the share of either equality planning or non-discrimination planning has remained very small. It should be noted that the competence to supervise combined gender equality and non-discrimination plans is divided between different authorities. The Ombudsman for Equality's remit only extends to supervising these documents regarding gender equality planning. Personnel policy non-discrimination planning is overseen by the occupational safety and health authorities.

In some municipalities, the gender equality plan or combined gender equality and non-discrimination plan also contained themes related to

operational equality and non-discrimination, including equality and equity regarding municipal services and decision-making. The Ombudsman for Equality did not find such combinations particularly successful in general.

The problem with combining personnel policy related and operational equality plans lies in that fundamentally, the groups participating in the preparation of these plans consist of different persons. The personnel policy equality plan is to be drawn up in cooperation with employee representatives, whereas the participation of other experts besides personnel representatives in the drawing up of an operational equality plan could be justified. An operational equality plan of an educational institution should be prepared together with the staff and the students.

The Equality Act provisions under which the gender equality plan may be incorporated into a personnel and training plan or an occupational safety and health action plan should be reviewed. On the other hand, including a reference to combining the personnel policy equality plan and personnel policy non-discrimination plan in the Equality Act might be a good idea, as the Ombudsman for Equality has observed that this is a common practice.

4.5.3 Assessments and measures (other than regarding pay)

Under the Equality Act, the gender equality plans must include details of the employment of women and men in different jobs and an assessment of the gender equality situation in the workplace. The necessary measures planned for introduction or imple-

mentation with the purpose of promoting gender equality should be defined on the basis of these assessments.

Employment of women and men in different jobs

When preparing a gender equality plan, more attention should be paid to how the plan describes the employment of women and men in different jobs. This itemisation is significant as background information for assessments of the status and implementation of gender equality in the workplace. Additionally, the information on women and men in different jobs helps to evaluate the pay survey, for example to determine if it encompasses all employee groups.

In a large part of both the companies' and municipalities' plans, the itemisation was inadequate or missing. Employment in different jobs may, for example, only have been examined by department, area of activity or collective agreement. This level of itemisation is not always sufficient to facilitate the use of the information in gender equality planning.

Assessment of the gender equality situation

The gender equality plan must be based on an assessment of the gender equality situation in the workplace. This assessment has an important role in collecting the data on which equality planning is based. It helps to get an idea of how gender equality is implemented in the workplace and which areas of gender equality still have scope for improvement. The measures aiming to promote gender equality should be based on the issues that emerged in the assessment of gender equality situation. The gender

equality plan and the assessment prepared to underpin it must cover the employers' whole personnel.

The assessment of the equality situation may also focus on such areas as recruitments, the division of duties between genders, career development, employment conditions, personnel training, participation in working groups, opportunities to reconcile work and family life, including taking family leaves and work arrangements that support this, the atmosphere at work, the occurrence of sexual and gender-based harassment, and attitudes towards equality, leadership and occupational health and safety.

The municipalities' gender equality plans often discussed quite extensively themes important for equality in working life at the general level, while concrete efforts to investigate the current situation were in many cases unimpressive. Surprisingly little use had been made of different HR management statistics, including statistics on recruitments or use of family leaves. In some municipalities, however, the situation of gender equality had been examined more thoroughly, and statistics collected by the HR management had been utilised. In companies' gender equality plans, examinations of the gender equality situation often were relatively superficial.

Objectives and measures

The most important stages of equality planning are going through the assessment of the equality situation in the workplace and agreeing on measures. To ensure that the measures included in the plan actually promote gender equality, they should be concrete and realistic. The possibility of monitoring the implementation of the measures is also important. An implementation schedule should be agreed

upon, and responsibilities for the measures should be assigned.

All gender equality plans drawn up by municipalities contained measures (for a more detailed description, see Appendix 2). The greatest challenges lay in coming up with concrete measures. For example, up to one half of the municipalities had listed measures that, in the Ombudsman's view, were formulated at the level of the principle rather than practice. Some of the plans prepared by companies, on the other hand, contained no measures whatsoever.

Another challenge, especially in the municipalities' plans, was associated with the difficulty of telling the measures and the description of the current equality situation apart. The description of the current situation was combined with discussing the objectives and measures in a way that made it hard to clearly understand which descriptions concerned the current situation of gender equality and which the ideal of equality that was aimed for.

Review of results achieved by previous plans

Equality plans should also contain a review of the extent to which measures previously included in the gender equality plan have been implemented and of the results achieved. The review is also used as the basis of the following plan.

In a considerably large part of gender equality plans produced by both municipalities and companies, the plan did not contain a review of the results achieved through the measures in the previous plan. This is understandable in the case of the municipalities and companies where the plan assessed at this

time was the first gender equality plan. However, a review of the results achieved through previous measures was also missing in the gender equality plans of many municipalities and companies that had prepared gender equality plans on a regular basis.

Not reviewing the results of previous measures or using them as the basis of the new plan may indicate that the measures were not concrete enough to allow a review of their results. It may also indicate that personnel policy related gender equality work is not actually an established part of the municipality's or the company's culture.

4.5.4 Pay surveys

The gender equality plan must include a pay survey covering the whole personnel, which must contain the classifications of jobs performed by women and men, the pay for those jobs and the differences in pay. The issue of pay had been addressed in the gender equality plans of all the municipalities scrutinised by the Ombudsman for Equality. Some plans only contained a general reference to pay, however, and while some municipalities had carried out a pay survey, it had not been incorporated into the gender equality plan. A pay survey was included in the gender equality plans of almost all companies.

Whose salaries were compared with who?

Under the Equality Act, the employees may be grouped for the purposes of the pay survey on the basis of demands of the jobs, duty or some other

ground. The government proposal on the Act on Equality between Women and Men draws attention to taking the objective of the pay survey into consideration in the itemisations or groupings.⁹⁷ The objective is to ensure that there are no unjustified pay differences between women and men who are working for the same employer and engaged in either the same work or work of equal value.

In the scrutinised municipalities, comparisons of pay were most commonly made either within pricing levels or using also some additional classification criteria, including task group. In quite a large number of municipalities, comparisons of pay were exclusively made within the framework of collective agreements, comparing the pay of all women in the fields covered by the collective agreement to the pay of all men covered by the same agreement. Companies used varying methods of forming comparison groups. Some companies based their comparisons on competence or duties, whereas others compared female and male employees within the framework of such large entities as sectors of activity, personnel groups or collective agreements.

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The choice of employee groups to be compared has an essential impact on how well the pay survey can determine whether or not equal pay is implemented.

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The choice of employee groups to be compared has an essential impact on how well the pay survey can determine whether or not equal pay is implement-

97 HE 19/2014 vp.

ed. What causes problems in this respect is not only excessively limited comparisons but also those that are too inclusive, or place employees whose jobs are too different in the same comparison group. Comparisons of pay within pricing groups only provide answers to whether or not equal pay is implemented within each pricing group. On the other hand if, for example, all female workers covered by the collective agreement, or all women and all men in an entire business sector, are included in a comparison group, it is difficult to determine if unjustified pay differences exist in the same work or work of equal value. This makes the range of different jobs included in the comparison group too wide. In order to assess the realisation of equal pay, comparisons between female and male-dominated jobs would also be required. Comparisons of this type had not been conducted, however, apart from some positive exceptions in the municipal sector.

Based on the Ombudsman's supervisory work, the provision on pay surveys in its current wording is not coherent enough when we take into account the objective of the pay survey laid down in section 6b(1) of the Equality Act on the one hand, and the provision in section 6b(2) of this Act on how the groups can be defined for the pay survey on the other. The provision on pay surveys should be clarified for the part of the definition of groups to be compared, ensuring that the objective of the pay survey is taken into consideration better in the selection of comparison groups.

A pay survey rarely covers the whole personnel

Under the Equality Act, the pay survey must cover the whole personnel. The preliminary work on the

Equality Act specifically clarifies that part-time and fixed-term employees should also be included in each personnel group scrutinised. It appears that these statutory requirements are not complied with particularly well in practice.

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The pay survey should include the whole personnel, also part-time and fixed-term employees.

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A large number of the municipalities had excluded part-time workers, and relatively many also fixed-term employees, from their pay comparisons. Approximately one half of the municipalities had only included employee groups containing at least six women and six men in pay comparisons based on competence or duties. Some municipalities required an employee group to have at least five, and one large city as many as ten, employees representing the same gender. Many municipalities have small groups of employees, and the tasks are strongly divided into jobs dominated by either women or men. Consequently, a large share of the employees was excluded from these pay comparisons.

Based on the plans submitted by companies, it was not always possible to assess to what extent the pay survey covered the whole personnel and whether part-time and fixed-term employees were included in it. In pay comparisons based on competence or duties, the threshold for groups determined to be too small and excluded from the comparison varied. Based on the plans scrutinised by the Ombudsman for Equality, groups that had three to six of both female and male workers had been included. While the

comparison groups were large as such in companies from which gender equality plans were requested, in some of them the homogeneous gender division also hampered the forming of the comparison groups.

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In practice, pay surveys often fail to include all employees, even if this is a statutory requirement.

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The municipalities had generally excluded employees belonging to small employee groups from the pay survey to avoid publicising the pay data of individual employees. It is likely that companies have also followed this practice for the same reason. The preliminary work on the Equality Act notes that *"pay surveys would continue to be drawn up without revealing the pay data of individual employees"*. According to the preliminary work, the fact that the pay survey should not reveal individual employees' pay data should not prevent the processing of this data when drawing up the survey. At this point, the government proposal refers to the publicity of pay in the public sector.

When pay surveys are being prepared, the Ombudsman for Equality considers it important that the representatives appointed by the employees could examine pay and pay differences with regard to the whole personnel, assessing the reasons and justifications for any differences. For this reason, they should also have access to individual employees' pay data if necessary. This does not mean that the pay data of individuals would also be discussed in the final gender equality plan to which all employees have access.

In the public sector, processing individual employees' pay data is already possible.

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The pay data in the public sector is public; processing individual employees' pay data when preparing the pay survey is thus already possible, and some municipalities have indeed done so. In order to extend the pay survey to all public sector employees, clearer guidelines should be provided on also using individuals' data when producing pay surveys if necessary. To also enable this in the private sector, private-sector employee representatives' right to access pay data when participating in preparing a pay survey should be improved by legislation. According to the rationale of the Equality Act, the employee representatives who take part in equality planning must be given sufficient information for processing the matter. Some employers only give each personnel representative participating in the pay survey access to the pay data of the employees he or she represents. As the pay survey should cover the whole personnel, the Ombudsman for Equality has stated that all employee representatives who take part in drawing up the pay survey must have access to the information they need to include all personnel and employee group.⁹⁸ The right of each personnel representative to access the data on all personnel and employee groups, required to produce the pay survey should also be clarified in the Act.

Pay is examined and reasons for pay differences are analysed in general terms only

According to the government proposal on the Equality Act, the pay survey should look at wages and salaries as a whole.⁹⁹ The pay surveys of municipalities mostly examined job-specific pay and total salaries, relatively often also job-specific pay and regular salaries, or all of these. Some of the pay surveys looked at job-specific pay only, or total salaries only. While the pay surveys of companies did not always indicate which type of pay the comparison concerned, a typical object of comparison was total salaries.

Those municipalities that had produced pay surveys also observed pay differences. In some pay surveys, the reasons for the pay differences were not addressed at all, but in many cases, at least some of the pay differences observed were discussed in some way. These analyses were produced at more or less concrete levels. One half of the companies had not assessed the reasons for the pay differences observed, whereas others had discussed them at least in some way.

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An examination of pay differences by salary component helps to establish the real reasons for the differences and to ensure that pay is non-discriminating.

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98 Statement of the Ombudsman for Equality (TAS/386/07).

99 HE 19/2014 vp.

If the workplace has established a remuneration system in which salaries consist of salary components, to fulfil the Equality Act's requirements the central components should be scrutinised in order to clarify the reasons for any differences which have come to light. An examination of pay differences by salary component helps to establish the real reasons for the differences and to ensure that each component is non-discriminating in itself.

Based on the plans examined by the Ombudsman, it appears that the assessments of the reasons for pay differences revealed by the surveys were often rather general. If the salaries have been recorded as total salaries or regular pay in the survey, in practice the salary components will not be itemised when analysing the reasons for pay differences, and this analysis will be carried out at a very general level. In other words, the reasons for pay differences are not often analysed by salary component as required by the Act. The Ombudsman for Equality recommends that when issuing instructions for preparing pay surveys, the significance of examination by salary component be stressed more in order to investigate any pay differences observed.

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The Ombudsman for Equality recommends that pay should already be described as salary components when preparing the pay survey.

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The Ombudsman for Equality has recommended that pay should already be described as salary components when preparing the pay survey. It would then be more likely that the reasons for the differ-

ences would also be analysed by salary component, or in a more itemised and detailed manner. It would also be practical, as there would be no need to collect more detailed data broken down by salary component at a later stage to find out the reasons behind any pay differences.

4.5.5 Instructions regarding harassment

The employer must ensure that the employee does not become a target of sexual or gender-based harassment in the workplace. The employer must actively monitor the occurrence of any harassment in the workplace and, showing initiative, intervene in it.

The action of an employer may be deemed to constitute discrimination prohibited under the Equality Act if, upon receiving information that an employee has been a victim of harassment, they neglect to take the steps available to eliminate the harassment.

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The employer must actively monitor the occurrence of any harassment in the workplace and, showing initiative, intervene in it.

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The employer should also make efforts to prevent harassment in advance, for example by means of gender equality planning. There currently is no statutory obligation for employers to prepare instructions for investigating harassment situations.

To the Ombudsman for Equality's knowledge, at least one half of municipalities have instructions in place for investigating harassment cases, and some have also attached these instructions to their gender equality plans. In connection with the scrutiny of companies' gender equality plans, the Ombudsman asked the companies separately about their instructions for investigating harassment cases. All companies had such instructions in place.

It is important for every employer to have instructions for preventing harassment and investigating situations involving harassment. These instructions should be included in the gender equality plan, or the plan should refer to the existence of the instructions and explain where the employees can find them. This obligation should also be laid down in the provisions on gender equality plans in the Equality Act.

4.5.6 Prevention of discrimination on the grounds of gender identity or gender expression

The Act on Equality between Women and Men lays down the obligation to also address the prevention of discrimination based on gender identity or gender expression when preparing a personnel policy equality plan. Roughly one half of the municipalities and companies had not yet addressed this obligation at all. Some gender equality plans make reference to the statutory obligation, while a few plans had taken the obligation into account in more concrete terms. The measures foreseen included organising toilets and dressing rooms suitable for gender minorities.

4.5.7 Resources are needed to supervise gender equality plans

As we noted before, the supervision of gender equality plans has a bearing on the extent to which the obligation to prepare equality plans is complied with in practice. There is indeed a need for considerably more systematic supervision of gender equality plans. However, the Ombudsman for Equality's personnel resources are completely inadequate for anything going beyond random supervisory actions.

The legislative amendments of 2005 and 2015 laid down the minimum content of the gender equality plan and a penalty for neglecting the obligation to prepare an equality plan. Pay surveys were also made a mandatory part of gender equality planning. These reforms meant a considerable increase in the Ombudsman for Equality's supervisory and guidance tasks. Approximately 8,300 employers are within the scope of the obligation to produce a gender equality plan. The Ombudsman for Equality is also tasked to supervise equality planning at some 3,000 educational institutions. No additional resources have been allocated to the Ombudsman for performing these duties, however. In over ten years, several other amendments have been made to the Equality Act, further increasing the Ombudsman's supervision workload. Since 2005, issues related to discrimination against and the equality of gender minorities have been brought within the scope of the Equality Act. Penalties were also laid down for discrimination associated with access to goods and services in 2009. The transfer of the Office of the Ombudsman for Equality to the Ministry of Justice's

administrative branch in 2015 gave the Ombudsman the status of an employer and a government agency, increasing the administrative workload.

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A number of significant amendments which require additional supervision have been made to the Equality Act in the 2000's, however without increasing the personnel resources of the Office of the Ombudsman for Equality. The Employment and Equality Committee has stressed the importance of sufficient resource allocation to the Ombudsman for Equality.

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The Ombudsman for Equality's need for additional resources has also been acknowledged by Parliament. In a position in which it approved the Government Report on Gender Equality in 2010, Parliament noted that resources for gender equality work would be increased, among other things by allocating the Ombudsman for Equality appropriations for hiring additional staff for managing the supervisory and guidance tasks related to the obligations of promoting gender equality under the Equality Act.¹⁰⁰ In its statement on the Budget of 2018, the

100 EK 51/2010 vp – VNS 7/2010 vp.

Employment and Equality Committee paid attention to the failure to increase the Ombudsman for Equality's resources, regardless several legislative reforms carried out. The Committee noted: "A number of significant amendments which require additional supervision have been made to the Equality Act in the 2000's, however without increasing the personnel resources of the Office of the Ombudsman for Equality. The Office has the total personnel of ten employees, or the same number as already in 2005. The Employment and Equality Committee finds it important that sufficient resources be allocated to the Ombudsman for Equality."¹⁰¹

The impacts of an act depend on the extent to which the rights and obligations laid down in it are realised in practice. More effective supervision of gender equality plans would promote the coverage of the plans, the regularity of their preparation, and the quality of gender equality planning. Allocating resources to the supervision of the obligations to promote gender equality laid down in the Equality Act is taking a stand for promoting equality. In terms of gender equality policy, not providing sufficient resources for supervisory efforts indicates a lack of interest in gender equality.

101 TyVL 8/2017 vp.

4.6 RECOMMENDATIONS

- Experiences of supervisory work indicate that the current provisions of the Equality Act on the schedules of equality planning are obviously difficult to comprehend. Amending the Act in this respect and only laying down a single schedule should be considered.
- The Equality Act provisions under which the gender equality plan may be incorporated into a personnel and training plan or an occupational safety and health action plan should be reviewed. A reference to combining the personnel policy equality plan and personnel policy non-discrimination plan should be added to the Equality Act, as the Ombudsman for Equality has observed that this is a common practice.
- The provision on pay surveys should be clarified for the part of the definition of groups to be compared, ensuring that the objective of the pay survey is taken into consideration better in the selection of comparison groups. The coherence of the provision on pay surveys with its current wording should be reviewed, taking into account the objective of the pay survey laid down in section 6b(1) of the Equality Act on the one hand, and the provision in section 6b(2) of this Act on how the groups can be defined for the pay survey on the other.
- The representatives selected by the employees should be able to examine pay and pay differences regarding the whole personnel when preparing the pay survey, assess the reasons for the differences, and give their opinion on the corrective actions required. They should also have access to individual employees' pay data if necessary. This does not mean that the pay data of individuals would also be discussed in the final gender equality plan to which all employees have access.

- The pay data in the public sector is public, and processing individual employees' pay data when preparing the pay survey is already possible. In order to extend the pay survey to all public sector employees, however, clearer guidelines are needed on also using individuals' data when producing pay surveys if necessary.
- The right of private-sector employee representatives to access pay data when participating in preparing a pay survey should be improved by legislation to also enable the use of individuals' data when drawing up a pay survey in the private sector.
- The right of each personnel representative to access the data required to produce the pay survey on all personnel and employee groups should be clarified in the Act.
- Every employer should have instructions for preventing harassment and investigating situations involving harassment. These instructions should be included in the gender equality plan, or the plan should refer to the existence of the instructions and explain where the employees can find them. This obligation should also be laid down in the provisions on gender equality plans in the Equality Act.

5 PROMOTING EQUALITY AT EDUCATIONAL INSTITUTIONS

Under the Act on Equality between Women and Men, an educational institution must prepare a gender equality plan annually in cooperation with staff and pupils or students. The institution-specific equality plan must include an assessment of the gender equality situation within the institution, the necessary measures to promote gender equality, and a review of the extent to which measures previously included in it have been implemented and of the results achieved.

Special attention must be given to pupil or student selections, the organisation of teaching, learning differences and the evaluation of study performance, to measures to ensure the prevention and elimination of sexual harassment and gender-based harassment and measures to prevent discrimination based on gender identity or expression of gender. Education and training providers have the duty to ensure that systematic work to promote equality is carried out in all of their schools and educational institutions as required under the Equality Act.

At the beginning of 2015, the obligation to prepare gender equality plans was extended to include schools providing education under the Basic Edu-

cation Act. The same obligation was imposed on secondary level educational institutions and higher education institutions ten years earlier.

The purpose of the Equality Act provision on promoting gender equality at educational institutions is to ensure that systematic work to promote equality is carried out at each institution. The gender equality plan is a tool which supports the promotion of gender equality in all activities of the educational institution. The objective is that the activities of the institution are examined and developed from the perspective of gender equality, creating an experience of inclusion for the pupils and students where everyone can and dare be themselves.

Preparing a gender equality plan is not a purpose to itself. Its success is measured by the way it supports and guides the school's equality work and brings about practical and concrete changes. An ability to translate a good idea into daily action is needed. A precondition for this is the commitment of the entire school community and unreserved support of the management.

5.1 FROM DOCUMENTS TO EVERY-DAY ACTIONS

It is the Ombudsman for Equality's task to supervise compliance with the obligation to prepare gender equality plans at educational institutions. This has been one of the priorities of the Ombudsman's activities in recent years. As part of his task of supervising compliance with the law, the Ombudsman for Equality evaluated the quality of the equality plans prepared at secondary level educational institutions

and higher education institutions in 2009–2014 and examined what proportion of the institutions prepared these plans.

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The level of compliance with the obligation to prepare a gender equality plan is low.

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The Ombudsman’s supervisory work revealed that educational institutions’ efforts to promote gender equality plans were unremarkable. At secondary level institutions, in particular, the approach was to a great extent limited to producing a gender equality plan as a mere document. Efforts to promote gender equality at individual institutions were superficial and had no actual impact on the daily life of the institutions.¹⁰² Of the equality plans at secondary level educational institutions assessed by the Ombudsman, about two out of three did not meet the minimum requirements laid down in the Equality Act.

Many gender equality plans lacked a survey of how well the students felt equality had been achieved in their educational institution. Additionally, the equality plans may not have been prepared in cooperation with student representatives as required under the Act. A gender equality plan prepared by the staff only or drawn up by the education provider does not meet the requirements set in the Equality Act for an equality plan that aims to develop the educational institution’s activities.

The Ombudsman also pointed out to several institutions that a gender equality plan aiming to develop the institution’s activities is always prepared

for an individual educational institution to meet its specific needs and to incorporate measures it finds important. When the gender equality plan is a good fit with the educational institution, this also strengthens the commitment to promoting equality. The Ombudsman for Equality thus suggested that the educational institutions should in the future consider a more appropriate approach to gender equality work. As the purpose of the gender equality plan is to ensure that systematic work is carried out in education and instruction to promote equality at the level of individual institutions, this objective cannot be achieved by copying the equality plans prepared by other institutions, for example.

Due to the shortcomings revealed by the evaluation, the Ombudsman for Equality found that compliance with the obligation to promote equality with respect to gender equality planning was poor, at least at secondary level educational institutions. The Ombudsman’s experiences from the supervisory work also strongly indicate that merely preparing a gender equality plan does not mean that systematic work to promote equality is carried out at the institution.¹⁰³

5.2 OBLIGATION TO PREPARE GENDER EQUALITY PLANS EXTENDED TO COMPREHENSIVE SCHOOLS

Regardless of the unimpressive results that came up in the evaluation, the general public image of the planning obligation was positive. This is why there was a strong desire to also extend the obligation to promote gender equality to schools providing in-

102 Memorandum 20 August 2014 (TAS/255/2014).

103 Statement of the Ombudsman for Equality (TAS/147/2014).

struction under the Basic Education Act. A report on the effectiveness of the Equality Act submitted by the Ministry of Social Affairs and Health to the parliamentary Employment and Equality Committee in 2010, for example, notes that bringing basic education within the scope of the obligation to prepare gender equality plans would be useful for dismantling segregation in education and training, and thus also in the labour market.¹⁰⁴

The Ombudsman for Equality shares the view that promoting gender equality should be closely linked to all activities aiming to develop basic education. The Ombudsman noted, however, that expanding this provision to also apply to basic education is an ambitious objective, and the obligation to prepare gender equality plans in its current form would not necessarily bring the desired results.¹⁰⁵

At the beginning of 2015, educational institutions' obligation to prepare equality plans was clarified and extended to include schools providing education under the Basic Education Act. Comprehensive schools were given two years to prepare their gender equality plans.¹⁰⁶

5.2.1 Specification of the content and purpose of the equality planning obligation

The information acquired by the Ombudsman for Equality in the course of his supervisory work contributed to the legislator's better awareness of the reasons for the unimpressive results of equality planning. While the provision on gender equal-

104 Ministry of Social Affairs and Health (2010b).

105 Statements of the Ombudsman for Equality (TAS/84/2010; TAS/436/2010; TAS/245/2012).

106 Act bringing legislation on equality and non-discrimination into force (1347/2014).

ity plans remain unchanged in connection with the 2015 amendment, a different approach to this issue was adopted. There was a better understanding of the need to focus on the school's every-day life and the implementation of measures promoting gender equality, rather than preparing a certain document.

The approach adopted in the Act was supported by a guide for gender equality planning for comprehensive schools produced on the initiative of the Ministry of Social Affairs and Health. The guide titled *Tasa-arvo on taitolaji* ('Gender equality work takes skill') prepared under the direction of the Ministry of Education and Culture and published in late 2015 illustrates through suggestions and practical examples how systematic work to promote gender equality can be done and how a gender equality plan of an individual school meeting the requirements under the Equality Act and aiming to develop the educational institution's activities can be prepared. The Ombudsman for Equality participated in the preparation of this guide, which attracted widespread attention.¹⁰⁷

The Ombudsman for Equality also worked together with the Finnish National Agency for Education and the Ministry of Social Affairs and Health to provide training related to the guide for education providers, principals and teachers involved in equality work. The objective of these training events, which were held at different locations in 2016, was to encourage schools in institution-specific work to promote gender equality and to increase the participants' understanding of gender diversity and sexual harassment. The training was mainly well received. Many comprehensive schools have realised that gender equality work is significant for developing the school's activities.

107 Finnish National Agency for Education (2015).

Government Programmes and Government Action Plans for Gender Equality have paid attention to the need to include training related to promoting gender equality in teacher education and teachers' in-service training. As early as in 1988, the Commission of Equal Opportunities in Education noted how *"in basic education for teachers, future teachers should be given capabilities for promoting gender equality in their work."*¹⁰⁸ Thirty years later, this issue is still topical.¹⁰⁹ Teacher education should also provide teachers with sufficient capabilities for promoting gender equality in the school, and issues related to promoting gender equality should consequently have a more prominent role in teacher education and teachers' in-service training.

A National core curriculum for basic education was adopted in 2014. The core curriculum is committed to promoting gender equality in multiple ways; it notes that the approach of the instruction is characterised by gender-awareness, and each subject should promote gender equality in its own way. Additionally, each pupil should be supported in recognizing their personal potential and selecting learning paths without role models determined by gender. It remains to be seen if this gender equality work in basic education will have long-term effects on reducing the strong segregation in the labour market.

5.2.2 Education and training provider's responsibility highlighted

Commitment to promoting gender equality is needed at all levels of the activities from individual

108 KOM 1988:17, p. 108.

109 See e.g. Council for Gender Equality (2018).

teachers to the school's principal and further to the education and training provider, such as a municipality or a joint municipal authority for education. It is the education and training provider's responsibility to make sure that all educational institutions under its administration carry out systematic work to promote gender equality based on a gender equality plan prepared for individual institutions.

In his guidelines, the Ombudsman for Equality has noted that a gender equality plan prepared by the staff only or drawn up by the education provider does not meet the requirements set in the Equality Act for an equality plan prepared at the educational institution that aims to develop the institution's activities. While the work to promote gender equality should take place at the level of an educational institution, the education and training provider's responsibility for and commitment to promoting equality should also be stressed.

In the future, a study should be conducting to find out if plan-based gender equality work in comprehensive schools has got off to a good start. The Finnish National Agency for Education produced a report on the monitoring of gender equality plans in general upper secondary schools, vocational institutions and liberal adult education in 2010.¹¹⁰ Compliance with the obligation to promote gender equality in comprehensive schools should now be evaluated in a similar manner.

Due to the limited resources, it is impossible for the Ombudsman for Equality to effectively supervise the quality of work to promote gender equality in around 2,300 comprehensive schools. The Ombudsman thus intends to focus the supervision of comprehensive schools on education providers rather than individual educational institutions.

110 Ikävalko (2010).

The Ombudsman hopes to engage in close co-operation with education providers in developing systematic work to promote gender equality in comprehensive schools further. For this purpose, the Ombudsman for Equality is planning a survey to establish how education providers ensure that the work to promote gender equality in schools providing instruction under the Basic Education Act administered by them meets the minimum requirements set in the Equality Act. Among other things, the objective of this survey is to find out 1) how education providers supervise the school's operational gender equality planning, 2) if education providers issue guidelines for the schools on systematic work to promote gender equality, and 3) if education providers give the schools feedback on the quality of their systematic equality work.

The effectiveness of gender equality planning in comprehensive schools should be evaluated. This evaluation should also address compliance with the obligation to promote gender equality laid down in the National core curriculum for basic education.

Issues related to promoting gender equality should have a more prominent role in teacher education and teachers' in-service training.

5.3 QUESTIONS WARRANTING SPECIAL ATTENTION

When preparing gender equality plans and making decisions on measures aiming to promote equality, special attention must be given to pupil or student

selections, the organisation of teaching, learning differences and the evaluation of study performance, to measures to ensure the prevention and elimination of sexual harassment and gender-based harassment and measures to prevent discrimination based on gender identity or expression of gender.

5.3.1 Dismantling of segregation in fields of education and occupations

The instruction and learning materials play a role in the ideas pupils and students form of different occupations. The instruction and learning materials should convey an open-minded and unprejudiced idea of how an individual's gender should not limit her or his choices. The provision of the Equality Act, under which teaching and instructional material should support the attainment of the objectives of the Act, mean that instruction or learning materials should not create gender-based associations and thus create or uphold prejudices or stereotyped gender roles in those considering further studies or choosing occupations.

Young people's studies and subject choices continue to be strongly determined by the traditional gender division. Women pursue studies in fields traditionally dominated by women, and men in male-dominated fields. This has led to a strong division into men's and women's fields in the world of work, and also inequality between women and men in such areas as pay. It is estimated that as few as approx. 10 % of wage and salary earners work in occupations where both women and men account for at minimum 40 % of all workers. There has been no improvement in this situation

in over ten years, despite certain efforts.¹¹¹ The strong gender division of different fields may also direct the choices of persons belonging to gender minorities, as studying and working in some fields is experienced as safer than others.

A Finnish National Agency for Education report, which evaluated the impacts and effectiveness of admission criteria to vocational education and training, noted that “even if representatives of the minority gender can be attracted to the education programmes, few of them complete their qualifications”. The reason for this is that they, generally already during the first academic year, move to a field more typical of their gender. The report notes that “rather than changing the admission criteria, measures should be targeted at improving the attraction of the fields”.¹¹²

The Ombudsman for Equality has considered it important that educational institutions participate in dismantling stereotyped ideas of occupations and subject choices through instruction and guidance counselling. An effort should be made to influence the attitudes that guide students to make choices of education programmes and occupations based on their gender. The educational institution should encourage pupils and students to make open-minded choices subjects, specialisations and careers guided by their individual characteristics, strengths and motivational factors, or also pursue fields where the pupil’s or student’s gender is a minority, if this is in the best interest of the pupil or student.¹¹³ Women would thus be increasingly encouraged to pursue

careers in traditionally male-dominated fields, and men in fields traditionally dominated by women.

The use of gender quotas to even out the situation in occupations or fields of education with strong gender segregation comes up in public discussion from time to time. Previously in certain programmes determined by the education provider, applicants to vocational education and training have been awarded additional points for their gender when applying to a programme where their gender accounts for less than 30% of first-choice applicant.¹¹⁴ In its report on this issue submitted by the Ministry of Education and Culture to the Ombudsman for Equality in 2013, the ministry notes how “the two (2) admission points awarded to the applicant based on their gender cannot be seen as having a particularly crucial or differentiating importance in terms of student admissions. However, admission points awarded based on gender can be regarded as having vital symbolic significance, through which an effort is made to encourage applicants in educational choices atypical of their gender, and thus promote gender equality related to education and working life.”¹¹⁵

Admission points awarded on the basis of gender were dropped under the decree (699/2017) issued by virtue of the new Act on Vocational Education and Training (531/2017) which entered into force at the beginning of 2018. In its memorandum concerning the Decree, the Ministry of Education and Culture¹¹⁶ notes that this amendment was motivated by a statement issued by the Ombudsman for Equality in 2013 addressing the question.¹¹⁷

111 According to Statistics Finland, this figure was as low as 10.2 % in 2013 (Opening remarks of the Ministry of Social Affairs and Health, March 2016, training events on equality work in comprehensive schools).
112 Väänänen – Kaikonen – Kilpilampi – Kivistö (2008)
113 Statement of the Ombudsman for Equality (TAS/253/2010).
70

114 Ministry of Education and Culture Decree on student admission criteria in upper secondary vocational education and training (4/2013).
115 OKM/21/022/2013.
116 Ministry of Education and Culture (memorandum 6 October 2017).
117 Statement of the Ombudsman for Equality (TAS/226/2013).

Above all, the segregation of occupations and fields of education is about women's and men's unwillingness to pursue education and careers in certain fields. In his statements, the Ombudsman for Equality has pointed out that this is not a justified reason for using temporary, special actions based on a plan referred to in the Equality Act. The mere under-representation of one gender among students or applicants in a certain field does not justify special treatment referred to in this provision. In other words, any difference at all between women and men thus does not justify special treatment of this type; the difference should be associated with a more vulnerable position and have a backdrop of earlier discrimination. In other words, the purpose of special measures is to prevent and eliminate harms caused by discrimination. The Ombudsman stresses that action should be taken in order to improve the attraction of the most strongly segregated fields of education.¹¹⁸

5.3.2 Learning differences

As the obligation to prepare gender equality plans was expanded, a reference to giving special attention to learning differences in the future was added to the Equality Act provision on promoting gender equality. This provision was added to stress the fact that fair assessment of study attainments is not sufficient. Potential differences in the learning outcomes of girls and boys, or women and men, should be evaluated, and attempts should be made to eliminate the causes of these differences by various means.¹¹⁹

Gender-based learning differences vary by subject. In some subjects, girls demonstrate a clearly higher level of competence than boys, whereas in others, the differences are not quite as straightforward. Girls and boys also have different attitudes to many subjects. It seems obvious that especially boys and basic education is a match fraught with problems. It has been estimated that one boy out of eight in basic education does not achieve a standard of literacy that would allow him to cope with further studies.¹²⁰ Diverse literacy is the foundation of all learning, which is why its importance cannot be overemphasised.¹²¹ At the level of attitudes, differences in pupils' confidence in their competence can already be seen at the comprehensive school.¹²² However, the pupils start losing interest already in lower comprehensive school, which is likely to explain the general drop in the competence levels.¹²³

In their study published in 2018, Pöysä and Kupiainen find that the greatest learning differences between girls and boys in basic education would appear to be in the weakest pupils. This is why attention should be paid to pupils whose competence is particularly weak, be they girls or boys.¹²⁴

120 Välijärvi (2014), p. 16

121 Ministry of Education and Culture (press release 17 April 2018).

122 Ministry of Education and Culture (2015), p. 10.

123 Pöysä & Kupiainen (2018), pp. 5, 78.

124 Pöysä & Kupiainen (2018).

118 Statement of the Ombudsman for Equality (TAS/431/2012).

119 HE 19/2014 vp.

5.3.3 Work to prevent sexual harassment in schools and educational institutions

Under the provision on measures to promote gender equality in educational institutions in the Equality Act, special attention must also be given to measures to ensure the prevention and elimination of sexual harassment and gender-based harassment.

Developing work aiming to prevent sexual harassment in educational institutions has emerged as an important part of the Ombudsman for Equality's work. The Ombudsman has recommended that an educational institution should have clear instructions concerning sexual harassment and gender-based harassment. The instructions should include information on what sexual or gender-based harassment is, what persons affected by harassment can do and who they can turn to, and how the educational institution's staff should act in these situations. The Ombudsman for Equality also produced teaching material for schools dealing with sexual harassment and provided training for teaching professionals in recognising and intervening in sexual harassment.

Anti-harassment work has also been carried out in cooperation between different authorities and researchers. The Ombudsman for Equality has been involved in the development of the National Institute for Health and Welfare's national School Health Promotion Survey with the aim of recognising sexual harassment in both primary and secondary schools and improving national monitoring related to preventing and intervening in sexual harassment in schools. The Finnish National Agency for Education has also engaged in broad-based cooperation with different actors, one of which is the Ombudsman for Equality, to prepare a guide on sexual

harassment intended especially for comprehensive schools and secondary level educational institutions. More detailed guidelines on sexual harassment were found necessary as the harassment cases that had come to light in publicity and the results of the School Health Promotion Survey indicated that the incidence of sexual harassment in schools is too high and that interventions in these situations have not always been appropriate. The Finnish National Agency for Education's guide published in 2018, which is titled *Opas seksuaalisen häirinnän ennaltaehkäisemiseksi ja siihen puuttumiseksi kouluissa ja oppilaitoksissa* ('Guide to preventing and intervening in sexual harassment at schools and educational institutions') contains instructions and procedures for preventing harassment and intervening in it.¹²⁵

Under the Basic Education Act, the General Upper Secondary Schools Act and the Act on Vocational Education and Training, pupils and students have a right to a safe learning environment. Pupils and students must be protected from violence, bullying and harassment. Under the Student Welfare Act, the school must have a plan for keeping the pupils and students safe. The plan must be appropriate in terms of the school community, practical and effective. The education provider has the duty to implement the plan and supervise effective compliance with and implementation of the plan. Only in this case can the plan also have a preventive effect.

The results of the School Health Promotion Survey conducted in 2017 still give cause for concern. For instance, sexual harassment had been experienced by 12 % of the boys and 30 % of the girls in basic education grades 8 and 9, and 8 % of the boys and 30 % of the girls in general upper secondary schools and vocational institutions. While most

125 Finnish National Agency for Education (2018).

of the harassment occurs outside the school hours, some of it takes place at school. The fact that 11 % of grade 8 and 9 pupils would have needed help from the school's adults in the situation but did not receive it is a particular cause for concern. All schools do not necessarily have consistent practices for identifying or intervening in sexual harassment, which does not improve the situation.¹²⁶

All guides, instructions and plans remain meaningless unless effectively implemented. In addition to knowledge, willingness and courage to intervene in situations that come to light are also needed. Sexual harassment should be taken equally seriously at schools as in the workplaces.

Educational institutions and education and training providers should have a duty to monitor the incidence of sexual harassment and the effectiveness of the measures taken, among other things based on the school-specific data obtained in the School Health Promotion Survey.

126 Finnish National Agency for Education (2018).

5.4 RECOMMENDATIONS

- **The effectiveness of gender equality planning in comprehensive schools should be evaluated. This evaluation should also address compliance with the obligation to promote gender equality laid down in the National core curriculum for basic education.**
- **Issues related to promoting gender equality should have a more prominent role in teacher education and teachers' in-service training.**
- **Educational institutions and education and training providers should have a duty to monitor the incidence of sexual harassment and the effectiveness of the measures taken, among other things based on the school-specific data obtained in the School Health Promotion Survey.**
- **Learning differences and their reasons should be analysed further. Attention should be paid to reducing learning differences in order to safeguard pupils' access to further studies and to prevent social exclusion.**

6 GENDER DIVERSITY

Gender diversity and the status of persons belonging to gender minorities have increasingly been part of the Ombudsman for Equality's work since around 2004. The perspective of human rights and fundamental rights is strongly emphasised in this work.

Human gender identity and gender expression come in a multitude of forms, and not everyone is unambiguously female or male. However, everyone currently has their legal gender registered as male or female in the Population Register.

The National Advisory Board on Social Welfare and Health Care Ethics (ETENE) has defined gender in its statement on the care of intersex children as follows:

“According to current ideas, gender is not a clear-cut characteristic on the basis of which people could be unambiguously defined as women or men. Gender is a continuum consisting of different genetic, developmental, hormonal, physiological, psychological, social and cultural characteristics. The fact that a person may feel they are something other than just

a woman or a man, a girl or a boy, is also part of gender diversity.”¹²⁷

People may use many different words when describing their gender identity and expression of gender. These words and their definitions change over time. Gender minorities include trans people (such as trans gender, transvestite and non-binary people), as well as intersex people.

A provision protecting gender minorities from discrimination, compliance with which is supervised by the Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal, is contained in the Equality Act (609/1986). Gender minorities are still often confused with sexual minorities. Discrimination based on sexual orientation is prohibited under the Non-Discrimination Act (1325/2014), and compliance with this prohibition is supervised by the Non-Discrimination Ombudsman, the National Non-Discrimination and Equality Tribunal, and the occupational health and safety departments of the Regional State Administrative Agencies.

127 ETENE (2016).

GLOSSARY

Gender diversity. Gender is a diverse phenomenon that cannot be dichotomised into two opposite and clearly distinguished sexes.

Gender minorities. Gender minorities include trans people and intersex people.

Trans people. General concept: trans people's gender identity or gender expression sometimes or always differs from expectations placed on them on the basis of their gender determined at birth. Trans people include transsexuals and transvestites as well as non-binary/transgender people.

Transsexualism. A trans person feels their gender is different from their gender entered in the Population Register at birth. For example, a person registered as a man in the Population Register feels they are a woman, or a person registered as a woman feels they are a man.

Transvestism. A transvestite feels a periodical need to express a gender other than their gender determined at birth through their behaviour, clothes and makeup. They often are happy with their gender determined at birth and have no need for gender reassignment treatment.

Transgenderism. A transgender person feels they are a unique combination of corporeality, style and personality features considered female and male. They may also feel genderless, or that their gender is undefined.

Intersexualism. Intersexualism covers a wide range of congenital states where the persons physical, anatomical or other gender characteristics are not unambiguously female or male.

Gender incongruence. Gender incongruence means incongruence between an individual's experienced gender and their body or the gender which others see in them.

Gender dysphoria. Gender dysphoria means general distress caused by gender incongruence. Body dysphoria refers to feelings of alienation, anxiety and distaste inspired by the gendered features of the body. Social dysphoria describes anxiety and distress occurring in social situations related to misgendering, or not being seen as the person you are.

Gender reassignment. A person experiencing gender incongruence may adjust their body using medical treatments, for example hormones or surgery. Gender reassignment also is a social and legal process. Under conditions laid down in legislation, the recognised gender and first name recorded in the Population Register may be changed to correspond to the person's experienced gender.

For more information about gender minorities and the terminology, see the website of Seta's Gender Diversity & Intersex Centre of Expertise: www.sukupuolenosaamiskeskus.fi.

6.1 GENDER REASSIGNMENT

The Act on Legal Recognition of the Gender of Transsexuals (563/2002; the ‘Trans Act’) has for some time been centre stage in societal discussion on the status of gender minorities. Legal recognition of gender means that the indication of a person’s gender in the Population Information System and the last digits of their personal identity code are changed to match their gender identity.

More detailed provisions on the medical procedure associated with gender reassignment are contained in the Decree on Legal Recognition of the Gender of Transsexuals.¹²⁸ The word *transsexual* used in the names of the Act and the Decree misleadingly refers to sexuality, while this is a question of gender identity. Today, the word *transgender* is used.

Under the Trans Act, legal recognition of gender is only possible for transgender people whose gender determined at birth does not correspond with their experienced gender. In practice, a person registered as a man in the Population Information System may, under the conditions specified in the Act, have their gender legally recognised as a woman and vice versa. The current legislation does not take intersexism and non-binary gender into account. For a more detailed discussion of the Act and the Decree, see the section on Violations of personal integrity experienced by trans and intersex people in this report (p. 84).

128 Ministry of Social Affairs and Health Decree on the organization of the examination and treatment aiming at gender reassignment and on the medical statement for the confirmation of gender of a transsexual, 1053/2002.

6.2 DIVERSITY OF GENDER AND THE EQUALITY ACT

Since 2004, the Ombudsman for Equality had been actively demanding that provisions with the status of an act be passed on the protection of gender minorities against discrimination and the promotion of their equal status. The most natural place for such provisions was in the Equality Act. In keeping with the realisation of fundamental rights, the Ombudsman for Equality’s view has since 2005 been that the prohibitions of discrimination and provisions on promoting equality in the Equality Act also apply to gender minorities.

Amendments containing specific prohibitions of discrimination based on gender identity and gender expression were incorporated in the Equality Act (1329/2014). Preventing discrimination based on gender identity or gender expression was added to the objectives of the Equality Act. These amendments entered into force on 1 January 2015.

The new provisions related to discrimination based on gender identity and gender expression were included in the Equality Act to clarify and broaden the scope of the protection of gender minorities against discrimination. However, these provisions apply to everyone. The principle underpinning the amendments is the idea of gender diversity, as well as the fact that every person has their own gender experience and way of expressing gender and that they may not be discriminated against on this basis.

According to the definitions contained in the Equality Act, gender identity refers to an individual’s experience of their own gender, while gender expression refers to expressing one’s gender through

clothing, behaviour, or by other means. The prohibitions of discrimination also apply to situations where an individual's physical gender-defining characteristics are not unambiguously female or male.

The Equality Act also obligates authorities, education providers and employers to prevent discrimination based on gender identity and gender expression. This obligation to prevent discrimination should be taken into account in the employer's and educational institution's gender equality plans. The equality plans also offer an opportunity to raise awareness of gender diversity in workplaces and at educational institutions. In the context of these amendments, the Ministry of Social Affairs and Health published brochures titled *The Equality Act, discrimination and gender diversity*; *The Equality Act, workplaces and gender diversity*; *The Equality Act, educational institutions and gender diversity*; and *The Equality Act, the authorities and gender diversity*.

6.3 DISCRIMINATION AGAINST GENDER MINORITIES AND THEIR STATUS IN SOCIETY

In 2012, the Ombudsman for Equality published a report on the status of gender minorities¹²⁹. This report was the first survey conducted by an authority of the discrimination encountered by gender minorities as well as the legislation and different practices that affect their status. Apart from the invisibility of these minorities and lack of factual information,

129 Ombudsman for Equality (2012)

many other problems also came to light in the survey: discrimination, injustices in the Trans Act, issues related to the Population Information System and names, health insurance compensation practices, outdated disease classifications, and care practices for intersex children. A similar up-to-date and comprehensive report has not been produced since 2012, even if the need for this information is obvious.

Positive development in the status of people belonging to gender minorities has taken place since the previous report was produced in 2012, but this development has not been adequate. Many injustices remain in relation to their status, some of which involve serious violations of human and fundamental rights. Those belonging to gender minorities face inappropriate treatment in such areas as the world of work, social welfare and health care services, schools and educational institutions as well as physical activity services.

Fact-based information and societal discussion on gender diversity and the status of persons belonging to gender minorities are more widespread, however. In addition to transgenderism, gender diversity and, for example, the status of non-binary persons, transvestites and intersex people have gained more visibility.

Areas in which progress has been made include the following:

- Provisions on discrimination based on gender identity and gender expression were added to the Equality Act in 2015.
- The requirements of being unmarried, replacing marriage by a registered partnership and obtaining the spouse's consent when recognising a person's legal gender were removed from the Trans Act as from 1 March 2017 in connection with the Marriage Act amendment (156/2015).

- The Act on First Names and Surnames (946/2017) entering into force at the beginning of 2019 contains clearer and simpler provisions allowing exceptions to the rules on first names that may be used by women and men.
- The World Health Organisation WHO adopted a new classification of diseases ICD-11 in June 2018, which Finland is about to introduce. In the new classification of diseases, trans people's identities have been moved from the category of mental health disorders to the category of sexual health and its sub-category *gender incongruence*. Organisations representing gender minorities have proposed the adoption of this change in Finland without delay.

6.4 CASES OF SUSPECTED DISCRIMINATION REPORTED TO THE OMBUDSMAN

Actual discrimination matters can sometimes be difficult to distinguish from other shortcomings reported by persons belonging to gender minorities and information requests. The Ombudsman for Equality has investigated some questions related to their status in a broader context than an individual report and attempted to find more general solutions for these problems, for instance by issuing statements and negotiating with authorities and other actors.

In order to prevent discrimination in cases of gender reassignment, the Ombudsman together

with the occupational safety and health authorities issued a statement on certificates of employment containing new personal data in 2010. A similar recommendation on reissuing study certificates was given by the Ombudsman for Equality together with the Ministry of Education and Culture in 2013 (the previous recommendation dated back to 1997).¹³⁰ The Finnish National Agency for Education has issued instructions to educational institutions in keeping with the recommendation. In the Ombudsman's experience, compliance with the recommendations has been relatively good once the employer or the educational institution has been informed of them. Issuing new certificates containing modified personal data should, however, be made a mandatory obligation with the status of an act.

Transgender people have had problems with obtaining health insurance reimbursements for hormone treatment. The Ombudsman for Equality negotiated with Kela on the preconditions for entitlement to special reimbursement of hormonal treatment and issued a statement on changing this practice.¹³¹ In his statement, the Ombudsman noted that a practice in which the eligibility of medical treatment for reimbursement is based on a personal identity code rather than on medical grounds places transgender people in a different position than other people receiving pharmaceutical treatment of primary hypogonadism. The Ombudsman recommended that Kela amend the criteria used in its reimbursement practice to avoid discrimination against transgender people in the reimbursement of medical costs. In its ruling of 9 September 2014, the Insurance Court found that Kela had exceeded

130 OKM/8/591/2013.

131 Statement of the Ombudsman for Equality (TAS/229/2007).

its competence when it had ordered that the legal recognition of gender reassignment and alteration of the personal identity code were prerequisites for eligibility for the special reimbursement of medical treatment.¹³²

The Ombudsman for Equality has demanded since 2011 that people undergoing gender reassignment should have access to the same fertility services as other people, for example regarding the storage of gametes and assisted reproduction. The Ombudsman for Equality's statement on this matter (TAS 297/13) was referred to in a background study for the Ministry of Social Affairs and Health' new Current Care recommendation on assisted reproductive treatments issued in 2014. In practice, however, persons belonging to gender and sexual minorities are in a less favourable position regarding access to assisted reproductive treatments in public health care, especially if they need treatment carried out with donor gametes. On request of the Non-Discrimination Ombudsman, the National Non-Discrimination and Equality Tribunal investigated suspected discrimination based on sexual orientation and found that discrimination does occur in assisted reproductive treatment provided by the public health care system.¹³³ The matter is pending in the administrative courts.

The Ombudsman for Equality has worked together with such organisations representing gender minorities as Trasek, DreamwearClub and Seta and its Trans Support Centre. Reports from the organisations and complaints made by individuals have provided the Ombudsman for Equality with information about situations where transgender or inter-

sex people are discriminated against, or in which their situation has not been addressed in legislation and different practices.

Members of gender minorities have contacted the Ombudsman about suspected discrimination in writing or called the Ombudsman's helpline. More or less equal numbers of clients have contacted the Ombudsman in writing and by telephone.

In 2010–2014, the number of matters initiated in writing associated with discrimination against people belonging to gender minorities at the Office of the Ombudsman for Equality varied approximately between 5 and 11 annually. These matters were related to, among other things, discrimination at work, reissue of employment and study certificates, identity cards, travel cards, assisted reproductive treatments, change of a marriage into a registered partnership, reimbursement practices, problems in the treatment system for transgender people, dressing rooms and sanitary facilities at public swimming pools, online hate speech and student housing.

The following Table describes the cases of suspected discrimination related to gender identity or gender expression reported to the Ombudsman for Equalities in writing in 2015–2018 (up till 30 September 2018) following the latest amendment to the Equality Act.

132 VakO 3394:2012

133 National Non-Discrimination and Equality Tribunal (register no 80/2015).

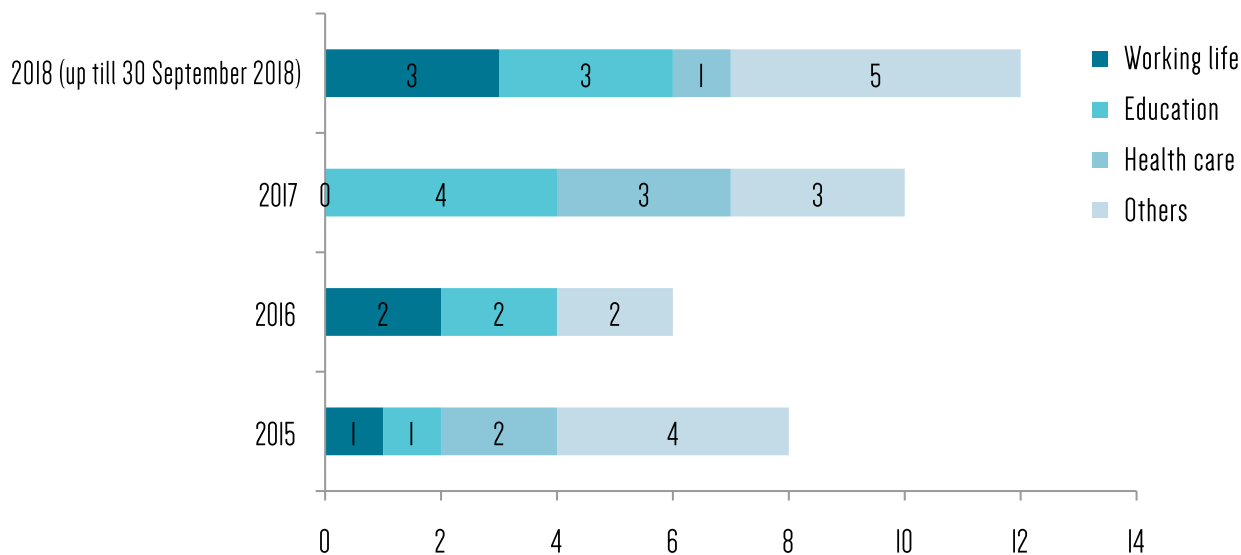


FIGURE 2. Cases of suspected discrimination related to gender identity or gender expression initiated in writing since the latest amendment to the Equality Act on 1 January 2015 (cases/year).

6.5 DISCRIMINATION IN WORKING LIFE

In 2016, DreamwearClub together with other organisations representing gender minorities conducted a survey on the discrimination encountered in working life by people representing gender diversity. The report on the findings was contained in the DreamWearClub journal 3/2016. The findings indicate that gender minorities continue to experience discrimination, which is sometimes blatant, in working life from the part of supervisors, colleagues

and clients. The intended steering impact of legislation has failed in its ultimate objective of preventing discrimination.

On the other hand, it should be noted that some respondents had not experienced discrimination, and some reported that problem situations had been resolved through systematic action in the workplace. Many also said that their supervisors and colleagues supported their gender identity. This proves that discrimination is not an inevitable part of working life and that it can be influenced. Some of the respondents had kept their gender identity a secret

in the workplace. For a majority of the respondents, the right to be themselves openly had been an empowering experience. However, no-one should be put under pressure to be open. Talking about gender diversity and preparing for various situations in advance play an essential role in reducing discrimination. In these preventive efforts, such documents as an equality plan may be helpful.

The respondents' unemployment rate exceeded the national average, and a considerably high proportion of them were in fixed-term employment. Respondents with higher education often were not in jobs that corresponded to their level of education. A low level of education and only completing general upper secondary school were significantly common.

A study by the European Union Agency for Fundamental Rights FRA published in spring 2013 looked at LGBT people's experiences of discrimination and hate crimes. This study also indicated that transgender people experience the very worst situation in working life. Finding a job in general is very difficult for many.¹³⁴

Persons belonging to gender minorities find the threshold for intervening in discrimination and contacting the authorities high. Court proceedings also carry a risk of high expense. The Ombudsman for Equality is only aware of a single court ruling concerning working life where an employer was ordered to pay an employee compensation due to discrimination related to transgenderism.¹³⁵

6.6 NON-BINARY CHILDREN AND YOUNG PEOPLE'S EXPERIENCES OF HARASSMENT AND DISCRIMINATION

Studies indicate that young people belonging to gender minorities face different forms of discrimination in Finland. This discrimination affects their well-being: young people belonging to gender minorities have a lower standard of wellbeing than other young people. Up to 70 % of transgender youth have experienced harassment. Roughly one half of Finnish transgender youth have had suicidal thoughts, and a significant proportion have self-harmed. Almost all of these young people have experienced psychological violence, while one half have experienced physical violence.¹³⁶

.....

Up to 70 % of transgender youth have experienced harassment.

.....

Rather than the fact of belonging to a gender minority, it is the discriminatory attitudes and normative gender ideas in our society that expose transgender youth to mental health problems and self-harm.¹³⁷ Accepting a young person's gender identity and supporting it thus have a direct impact on their psychological wellbeing: the more freely a young person can express their gender, the better their wellbeing.¹³⁸

134 FRA (2014a).

135 Helsinki District Court 2011, decision 53071.

136 Alanko (2014).

137 Taavetti – Alanko – Heikkinen (2015); Seta (2018).

138 Alanko (2014).

The school should be a safe place for all children and young people where they need not fear bullying or harassment. In studies on the wellbeing of transgender youth, non-binary young people have not found the school a safe environment. The majority of those who reported bullying at school to a teacher felt that it achieved nothing. For this reason, even a larger share had not reported the bullying. Young people have also regarded it as a problem that, in order to get help, they would have to reveal their gender identity.¹³⁹

The Equality Act imposes on schools and educational institutions a duty to intervene in harassment. Education providers should also prevent harassment based on gender identity or expression of gender. This aspect should be addressed in the educational institution's gender equality plan. The National core curriculum for basic education also obliges schools to provide information about gender diversity and to take the pupils' individuality into consideration.¹⁴⁰ The provision of correct and factual information about gender diversity prevents discrimination and supports children and young people's wellbeing.

In schools and educational institutions, it would be important to pay attention to the following:

- Providing more information and building up competence related to gender diversity to enable teachers and student welfare staff to support non-binary children and young people and protect them from bullying and discrimination. Starting from early childhood education and care, it is important to ensure that the staff have sufficient knowledge about gender diversity.
- It is vital to take a child's and a young person's experience of their gender seriously. For example, a child's or a young person's wellbeing can be promoted at school by using a name which conforms to their identity and which they prefer.
- Schools have an obligation to carry out regular and systematic gender equality and non-discrimination work aiming to establish the educational institution's situation, to recognise situations involving harassment and similar, to make decisions on measures through which problems can be eliminated, and to monitor their results.

139 Alanko (2014).

140 Finnish National Agency for Education (2014);
Finnish National Agency for Education (2015).

6.7 VIOLATIONS OF PERSONAL INTEGRITY EXPERIENCED BY TRANSGENDER AND INTERSEX PEOPLE

Many injustices are still associated with the status of transgender and intersex people, some of which involve serious violations of human and fundamental rights. In this report, the Ombudsman for Equality would like to draw Parliament's attention particularly to problems related to recognising and reassigning gender, including the requirement of infertility and the care practices of intersex children. The care practices of intersex people and the conditions set for recognising transgender people's gender in Finland should be examined from the viewpoint of personal integrity and protection of private life.¹⁴¹

The Ombudsman for Equality has drawn attention to these issues for many years (dropping the requirement of infertility since 2011 and the care practices of intersex children since 2012). The Ombudsman has proposed the inclusion of the Trans Act amendment and care practices of intersex children in such documents as the National Action Plan on Fundamental and Human Rights. The reform of the Trans Act has not been included in this Action Plan or the Government Programme. On a positive note, however, producing a study on the rights and experiences of intersex children was incorporated in the National Action Plan on Fundamental and Human Rights 2017–2019.¹⁴²

The National Action Plan on Fundamental and Human Rights 2017–2019 also contains the *Rain-*

bow Rights project administrated by the Ministry of Justice. The aim of this project is to promote the more effective enforcement of the national anti-discrimination legislation by supporting the municipalities in their non-discrimination planning, developing regional and local policy programmes for promoting the equality of LGBTI people, and combating the discrimination on multiple grounds encountered by LGBTI people. Also including gender minorities in this project is vital.

The Trans Support Centre's three-year (2018–2021) TIKA project (*Support for professionals, means for intersex people*) strives to promote the visibility and human rights of intersex people in Finland. The TIKA project produces training materials, animations for children and the whole family as well as guides for young intersex people and their families, and organises seminars and builds a national and international expert network. Allowing intersex people to make their voices heard is an important part of this project.

6.7.1 Requirement of infertility under the Act on Legal Recognition of the Gender of Transsexuals

Under the Act on Legal Recognition of the Gender of Transsexuals (563/2002), *"the person can be legally recognised to belong to the gender opposite to that according to which he or she is recorded in the population information system if he or she presents a medical statement stating that he or she permanently feels to belong to the gender opposite to that assigned to him or her and lives in that gender role, and that he or she has been sterilised or is for some other reason infertile."* Such a person must also be of age.

141 Rantala (2016), pp. 8–28.

142 Ministry of Justice (2017), section 3.4.

In other words, legal recognition of gender and the diagnostics and treatments associated with gender reassignment are intertwined in the Act. In practice, this means that before the gender identification in the personal identity code can be changed, the person's transgender identity and state of health need to be assessed, and a statement must be submitted to show that the person applying for legal recognition of gender is infertile.

At the time of passing of the Act, Parliament did not examine the requirement of infertility from the perspective of human rights and fundamental rights. However, the requirement of infertility interferes with everyone's right to personal integrity and protection of private life, which are protected as fundamental and human rights. The requirement of infertility has been dropped in the corresponding acts of other Nordic countries and many other states.

In the previous parliamentary term, the Ministry of Social Affairs and Health appointed a working group to reform the Act on Legal Recognition of the Gender of Transsexuals,¹⁴³ in which the Office of the Ombudsman for Equality had a representative. The working group's final report contained a proposal on reforming the Act on Legal Recognition of the Gender of Transsexuals worded as a government proposal, which did not include the requirement of infertility. The working group also proposed that in the future, the possibilities should be examined of amending the legislation to allow a person to give notification of, or submit an application for, having their gender recognised in the population information system and the register entry altered without providing a medical statement on their transgender identity. According to the working group, it would

be justified to review the requirement of being of age placed on a person wishing to have their gender legally recognised, as well as to assess any legislation to be passed on the parenthood of persons who have had their gender recognised.

The Government did not submit the proposals for amending the Act to Parliament, nor was an examination of the other needs to reform it launched. Neither was any progress made with the reform of the Act on Legal Recognition of the Gender of Transsexuals during the current government term. In 2016, Parliament discussed a legislative motion on this matter, but the Social Affairs and Health Committee made no progress in it.¹⁴⁴

In its decision of 2017 in the case *A.P., Garçon and Nicot vs. France*, the European Court of Human Rights held that the state should legally recognise a person's gender identity without the condition of being infertile or undergoing an operation, for example genital reassignment surgery. A national requirement of infertility with the status of an act is a violation of personal (physical) integrity and protection of private life, in other words a violation of human rights under the European Convention on Human Rights. In its decision of 2017, the clear stand of the European Court of Human Rights thus is that infertility may not be a requirement placed on transgender persons applying for legal recognition of their gender.

Demands to have the requirement of infertility removed from the Finnish Act on Legal Recognition of the Gender of Transsexuals have also been made by international human rights actors, including the UN Human Rights Council, the UN Commission on the Status of Women and the Commissioner for Human Rights of the Council of Europe. In Finland,

143 STM (2015).

144 LA 43/2016 vp.

this view has been expressed not only by the Ombudsman for Equality but also the National Advisory Board on Social Welfare and Health Care Ethics and numerous non-governmental organisations. The Ombudsman for Equality, the Ombudsman for Children and the Non-Discrimination Ombudsman have noted that the current Trans Act in Finland discriminates against people opting for gender reassignment, most recently in their joint statement of 17 May 2018.¹⁴⁵

In its report on legal recognition of gender, the Human Rights Centre has investigated the situation in Finland and legislative development in Europe.¹⁴⁶ In a statement issued on 13 December 2017, the Human Rights Delegation demanded that the Government take prompt action to reform the Act on Legal Recognition of the Gender of Transsexuals and, among other things, remove the requirement of infertility.¹⁴⁷

On 24 October 2018, Deputy Parliamentary Ombudsman Maija Sakslin issued a decision on a complaint concerning the actions of Helsinki University Hospital's Gender Identity Clinic. Taking into account the rulings of the European Court of Human Rights and the statement of the Human Rights Delegation, she urged the Government to amend the Act on Legal Recognition of the Gender of Transsexuals by removing the requirement of infertility as a precondition for legal recognition of gender. At the same time, the Act should be renamed the "Act on the Legal Recognition of Gender". The criterion of being of age should also be reviewed while drafting the legislation and consider

if it could be removed in connection with the legal recognition of gender, taking into account the child's age and level of development as well as the child's best interest. The Deputy-Ombudsman asked the Ministry of Social Affairs and Health to report by 29 March 2019 on the actions the ministry will take with regard of her proposals.¹⁴⁸

6.7.2 Legal recognition of gender must be separated from medical diagnoses and treatments

In addition to the requirement of infertility, the Act on Legal Recognition of the Gender of Transsexuals also needs to be reformed in other respects. On 12 September 2014, the Ombudsman for Equality issued a statement on the Ministry of Social Affairs and Health's draft government proposal on amending the Act on Legal Recognition of the Gender of Transsexuals.¹⁴⁹ The Ombudsman for Equality noted that the right of a person to have their legal gender recognised in accordance with their gender identity should not be connected to a medical diagnosis or treatment of gender incongruence as it is under the current Act. In addition to the situation of transgender people, the status of non-binary and intersex people should also be taken into consideration. As the act is passed, underage persons' possibility of having their gender recognised should also be considered.

145 Ombudsmen's joint statement on the International Day Against Homophobia, Transphobia and Biphobia 17 May 2018.

146 Human Rights Centre (2018).

147 Human Rights Delegation 13 December 2017.

148 EOAK/2842/2017.

149 Statement of the Ombudsman for Equality (TAS/261/2014).

When legal recognition of gender is separated from medical diagnoses and gender reassignment treatments, it is extremely important to ensure that adequate, appropriate and accessible health services, and also psychological support for those who need it, are available for persons who suffer from gender incongruence and require reassignment treatment. Those applying for legal recognition of their gender should not encounter unexpected situations in access to treatment. As a starting point, however, a diagnosis is required to access medical treatment and reimbursements under the health insurance system. Correcting a person's legal gender and their experience of being permanently a member of the opposite sex should also not be preconditions for medical treatment to address gender incongruence. Other groups besides transgender people should also have access to the medical reassignment treatments they need to deal with their gender incongruence.¹⁵⁰

While the Act and Decree on Legal Recognition of the Gender of Transsexuals safeguard medical treatments for transgender people, some non-binary people also feel they need gender reassignment treatments. The access of non-binary people to medical treatment of gender incongruence has been uncertain, and the practices in providing treatments have varied. In 2018, the situation of non-binary people came to a head as their access to surgery and hormone treatment was restricted at the Gender Identity Clinic of Helsinki University Hospital and the Trans Clinic of Tampere University Hospital, which are the two units providing gender reassignment treatment in Finland. In recent years, the numbers of referrals to both units have been increasing strongly, and in 2016, almost 800 people came in for an examination of their gender identity in Finland.

150 Statement of the Ombudsman for Equality (TAS 261/2014).

The clinics would like to see a uniform treatment policy in Finland. In November 2018, however, the clinics announced that treatments would be continued following the previous treatment practices until the uniform treatment policy has been completed (Helsingin Sanomat 23 November 2018).

The task of the Council for Choices in Health Care in Finland is to issue recommendations on whether or not a certain health care method for treating a certain health problem should be within the range of services provided on public funding. The Council has decided to launch work on a recommendation whose working title is *Medical examination and therapy methods in the treatment of gender variations.*¹⁵¹

6.7.3 Unnecessary genital surgery on intersex children

Different variations of the physical gender-determining characteristics occur in humans. A person's genitals, sex hormones, chromosomes or other congenital physical characteristics are not always unambiguously female or male. In medicine, intersexism means ambiguous genital development, but the lobbying organisations for intersex people use this term first and foremost to refer to all natural diversity in the body. Intersexism does not determine the gender identity the person will develop. It is observed in a child as a newborn or at puberty, or later in an adult.

Criticism has been levelled at the care practices of intersex children in the 2010s. The rights of intersex people have also been discussed in international human rights forums in recent years. The European

151 Sillanaukea (column, 2nd October, 2018, www.stm.fi).

Union Agency for Fundamental Rights recommended in 2015 that *"Member States should avoid non-consensual 'sex-normalising' medical treatments on intersex people"*.¹⁵² On 12 October 2017, the Parliamentary Assembly of the Council of Europe adopted a resolution that encourages Member States to prohibit genital surgery on intersex babies without medical reasons.¹⁵³

Two different lines have been followed in the care of intersex children in Finland. What both lines have had in common is that procedures necessary for the health of a newborn child are performed immediately after birth. The difference between the lines lies in whether or not cosmetic surgery is additionally performed to modify the child's external genitals to conform with the general ideas of the 'normal' genitals of a girl or a boy.

Both in Finland and in international academic research, opinions have been expressed according to which the backdrop to these genital surgery procedures is narrow-minded ideas of gender in society, stringent gender normativity and the fear of the child becoming a target for bullying because they are different. The treatment practices have been justified by the child's interests, in other words, but the views of the child's best interest differ.

The rights of intersex children to physical integrity and a life in accordance with the gender they identify with may not be realised in care practices when gender is determined by a group of physicians as early as possible after birth, and the child's development towards this gender is directed with hormone therapies and surgery, among other things.

Cosmetic surgery on intersex children is considered a violation of the children's right to self-determination. The surgical procedures may be irrevocable and lead to inability to have children. Among other things, they may cause scarring, loss of erogenous sensitivity and pain.¹⁵⁴

There has been little or no research in the care practices of intersex children in Finland. In 2016, the Ombudsman for Children organised a round table discussion on the care practices of intersex children and proposed that the preparation of care recommendations for intersex children be launched in Finland. According to the Ombudsman for Children, procedures that modify a child's external gender characteristics should only be performed once it is possible to hear the child in the matter.

The National Advisory Board on Social Welfare and Health Care Ethics (ETENE) issued a statement in 2016, proposing that procedures which modify external gender characteristics should only be carried out as part of the care of intersex children when the child is able to both determine their gender and express an opinion on their sexuality. ETENE considered it problematic that the child's gender is determined and modified by somebody else, for example an authority, as gender is part of an individual's internal self.¹⁵⁵

The Ombudsman for Equality welcomes the inclusion of a report on intersex children's rights and experiences in the Action Plan on Human and Fundamental Rights 2017–2019.¹⁵⁶ The idea is to establish how decisions made at birth and treatments

152 FRA (2015).

153 Council of Europe, Parliamentary Assembly (2017).

154 Seta (2018).

155 ETENE (2016).

156 Ministry of Justice (2017), section 3.4.

given in childhood have affected the lives of intersex people. In addition, the experience of parents with intersex children will be examined: what type of information and support were provided for them at the time of the child's birth and later, and what information and support they feel they need. In addition, information will be collected on good practices for taking intersex children into consideration in day-care, at school, and in recreational groups, health care and similar communities working with children.

6.8 RECOMMENDATIONS

- **The requirement of infertility must be removed as a precondition for legal recognition of gender in the Act on Legal Recognition of the Gender of Transsexuals.**
- **Legal recognition of gender should be separated from medical diagnoses and treatments of gender incongruence, while the right to medical treatment of gender incongruence as part of public health services should be safeguarded for those who need it.**
- **Unnecessary genital surgery on intersex children should be discontinued.**

7 SEXUAL HARASSMENT, HATE SPEECH AND GENDER-BASED VIOLENCE

The phenomena we understand and define as violence vary as the values of our society change. These changes are also reflected in the acts that are prohibited by law and, ultimately, for which penalties are imposed under criminal law. Recognising acts and phenomena of certain type as exercise of power may be difficult, and the power relationship between the genders they reflect may be questioned. For this reason, making the connection between harassment and exercise of sexual power, interlinkage of hate speech and misogyny, or recognising and condemning forms of violence against women is not something we can take for granted. This is also reflected in the inconsistencies of national gender equality policy and legislation regarding these questions.

In this report, the Ombudsman for Equality wishes to bring up harassment, hate speech and violence as forms of gender-based exercise of power which are manifested in a variety of ways and affect women, men and gender minorities differently. Treating phenomena as gender neutral hampers efficient intervention. The Ombudsman for Equality

thus considers it necessary to draw Parliament's attention to harassment, hate speech and violence.

The Ombudsman for Equality supervises compliance with the prohibitions of discrimination laid down in the Act on Equality between Women and Men. Sexual harassment is prohibited under the Equality Act as gender-based discrimination. The Ombudsman for Equality's tasks also include monitoring the realisation of gender equality in society and promoting gender equality. As part of this task, the Ombudsman monitors hate speech and violence against women in Finland.

7.1 SEXUAL HARASSMENT

The Equality Act defines and unambiguously prohibits sexual harassment and gender-based harassment. Despite this, sexual harassment is not always recognised as gender-based discrimination. Over time, different provisions on harassment have been incorporated in various Acts, including the Act on Equality Between Women and Men, the Non-Discrimination Act and the Occupational Safety and Health Act. The line between harassment that has been criminalised on the one hand, and prohibited in other legislation on the other is also partly unclear. The same action may simultaneously constitute inappropriate treatment and harassment referred to in the Occupational Safety and Health Act and sexual harassment prohibited under the Equality Act, while it also meets the criteria for both a work safety offence and work discrimination offence under the Criminal Code. The possibility of several authorities to investigate the case simultaneously with different and partly overlapping competence

makes things more difficult in terms of the victim's legal protection. It prevents the victim from knowing which route would be the best in terms of their legal protection. Employers are also not sufficiently familiar with their obligations under the different acts, and as a consequence, prevention of and intervention in harassment is not particularly consistent.

In the Equality Act, *sexual harassment* is defined as verbal, non-verbal or physical unwanted conduct of a sexual nature by which a person's psychological or physical integrity is violated intentionally or factually, in particular by creating an intimidating, hostile, degrading, humiliating or offensive atmosphere.

Sexual harassment can be expressed in the following ways:

- sexually suggestive gestures or expressions
- indecent talk, puns and comments or questions referring to body parts, clothing or private life
- pornographic material, sexually suggestive letters, emails, text messages or phone calls
- physical contact
- suggestions of or demands for sexual intercourse or other kinds of sexual activity
- rape or attempted rape.

Sexual harassment constitutes discrimination prohibited under the Equality Act.

In the Equality Act, *gender-based harassment* means unwanted conduct that is not of a sexual nature but which is related to the gender of a person, their gender identity or gender expression, and by which the person's psychological or physical integrity is intentionally or factually violated and an intimidating, hostile, degrading, humiliating or offensive atmosphere is created.

Gender-based harassment can be expressed in the following ways:

- degrading talk concerning another person's gender
- belittling the opposite gender
- workplace or school bullying, when this is based on the victim's gender.

Gender-based harassment constitutes discrimination prohibited under the Equality Act.

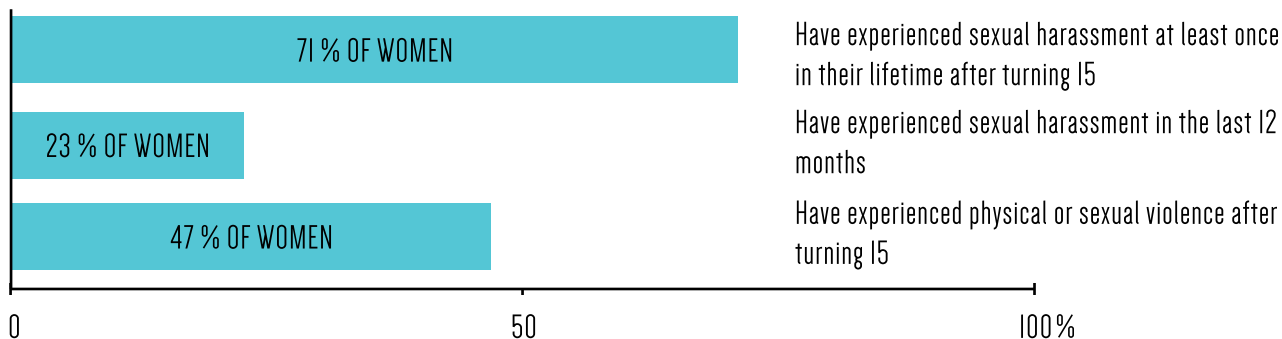


FIGURE 3. Women who have experienced sexual harassment and physical or sexual violence in Finland (a European comparison study)*
*FRA (2014b).

An employer, educational institution, labour market organisation or provider of goods or services is guilty of discrimination if they neglect to take action to eliminate harassment once it has come to their knowledge.

Sexual harassment has been prohibited under the Criminal Code since 2014. Under the Criminal Code (39/1889) *"a person who, by touching, commits a sexual act towards another person that is conducive to violating the right of this person to sexual self-determination"* shall be sentenced for sexual harassment. Sexual harassment may also meet the criteria for some other offence, including defamation or sexual abuse.

7.1.1 Incidence and gender-based nature of sexual harassments

Both Finnish studies and European comparisons show that sexual harassment remains widespread in Finland. While #MeToo triggered a wider societal discussion on sexual harassment, harassment is not

a new phenomenon in Finland: an interview survey conducted by the European Union Agency for Fundamental Rights (FRA) in 2014, which produced a comparison between the EU Member States, found that 71 % of Finnish women had experienced sexual harassment at least once since turning 15, and one woman out of four had experienced it in the last 12 month (23 %). Of Finnish women who responded to the survey, 47 % reported having experienced physical or sexual violence since turning 15. Harassment and violence are more common in Finland than in the EU on average.¹⁵⁷

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As few as approx. 20 % of cases of sexual harassment and violence are reported to the police. (Ministry of Justice, 2018)

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¹⁵⁷ FRA (2014b). 1,500 Finnish women were interviewed for the survey; for the entire survey, N = 42,000.

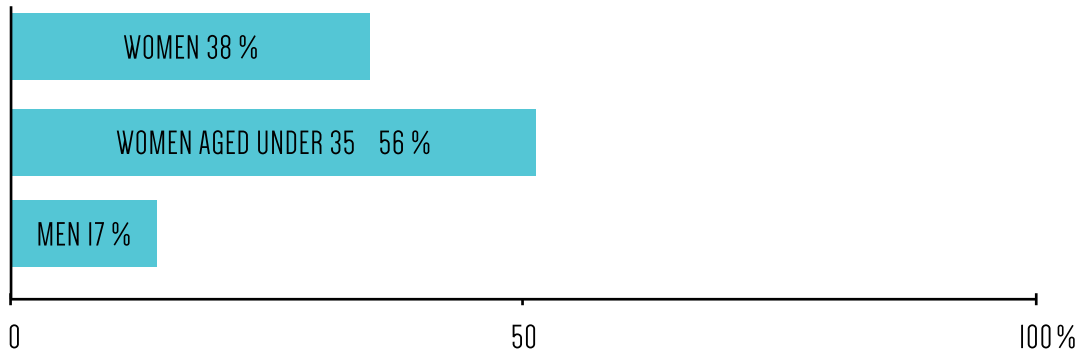


FIGURE 4. Respondents who had experienced sexual harassment in the last two years *

*Gender Equality Barometer 2017 (n = 1,678)

According to the Gender Equality Barometer of 2017, 38 % of Finnish women and 17% of men had experienced sexual harassment in the two years preceding the survey.¹⁵⁸ The highest levels of harassment had been experienced by women aged under 35: more than one half (56 %) of them had been harassed. The most common type of sexual harassment had been

- offensive suggestive jokes or obscene talk (women 28 % / men 8 %)
- inappropriate remarks related to the victim's body or sexuality (women 24 % / men 8 %)
- unwanted physical contact (women 15 % / men 6 %)
- proposing a sexual act in an inappropriate context (women 11 % / men 5 %).

Women had encountered all forms of sexual harassment more often than men. In harassment experienced by women, the perpetrator was mostly a man, whereas men were harassed by both women and other men.

Being a victim of sexual harassment is often a distressing and confusing experience, which is difficult to talk about. The authorities are only informed of a small proportion of harassment cases. The Ombudsman for Equality is only contacted by clients about sexual harassment a few times a year, whereas on the Ombudsman's website, the sections discussing sexual harassment have been the most frequently visited pages for years. The #MeToo campaign has increased the need for information on sexual harassment.

158 Attila - Pietiläinen - Keski-Petäjä - Hokka - Nieminen (2018).

TABLE I. Users who browsed and visited the pages on sexual harassment on the Ombudsman for Equality's website at tasa-arvo.fi.

Year	Browsing of pages addressing sexual harassment	Visitors seeking information about sexual harassment
2016	601	472
2017	3,246	2,535
2018 (1 January–7 October 2018)	3,773	2,852

7.1.2 Sexual harassment and violence experienced by children and young people

Sexual harassment and violence breach a child's right to self-determination and expose the child to sexuality which is not age-appropriate and to which the child cannot consent.¹⁵⁹

The School Health Promotion Survey generates survey data to support decision-making, steering and supervision as well as the development of student welfare and the management of schools and educational institutions. The National Institute for Health and Welfare has developed the School Health Promotion Survey with a view of laying a foundation for permanent study of children and young people's experiences of sexual harassment and violence.¹⁶⁰ The Ombudsman for Equality has participated in developing the survey for the part of studying sexual harassment. The Ombudsman regards the continued monitoring of the incidence of sexual harassment carried out by the National In-

stitute of Health and Welfare as highly important in order to obtain a comprehensive idea of how common experiences of sexual harassment and violence are among children and young people, and what interventions are made at the national, municipal and school level.

The results of the School Health Promotion Survey 2017 indicated that 7 % of boys and girls in basic education grades 4 and 5 had experienced unpleasant comments about their bodies or received disturbing messages of sexual nature. The experiences of sexual harassment increase significantly among both boys and girls as they move on to higher comprehensive school. In this group of young people, sexual harassment already appears as a gendered phenomenon: experiences of sexual harassment are considerably more common for girls than boys. In basic education grades 8 and 9, one girl out of three (30 %) had experienced sexual harassment in the past 12 months (bullying that violates their body or sexuality, name-calling, criticism, propositioning or molestation). Of boys in grades 8 and 9, 12 % had experienced sexual harassment. In secondary level education (general upper secondary school, voca-

159 Ikonen & Halme (2018); Save the Children (2013).

160 Ikonen & Halme (2018).

tional institutions) the incidence of these experiences remains quite similar. In upper secondary schools and vocational institutions, 30 % of the girls and 8 % of the boys had experiences of sexual harassment from the preceding 12 months.¹⁶¹

.....

Experiences of sexual harassment
are considerably more common
for girls than boys.

.....

Most of the sexual harassment encountered by young girls takes place through the phone or on the internet (15–18 % of the girls depending on the level of education) or in a public space (12–16 % of the girls depending on the level of education). Of boys, 3–6 % (depending on the level of education) had experienced sexual harassment through the phone or on the internet, and 2–4 % (depending on the level of education) in a public space. Only a small proportion of the harassment experienced by pupils and students takes place at the school. The School Health Promotion Survey indicates that harassment at school targets girls and boys equally.¹⁶²

It is important to remember that while girls are more likely to become victims of sexual harassment, boys also experience sexual harassment and violence. Boys should be encouraged to talk about their experiences of sexual harassment and violence, and boys should also be given sex education that contains safety skills.

At least so far, the School Health Promotion

Survey has not investigated sexual harassment or violence experienced by non-binary children and young people. Based on research findings, we know that such groups as transgender youth experience clearly more harassment than others: up to 70 % of these young people have experienced harassment¹⁶³ (see also p. 82 *Gender diversity*). The gender equality plans of schools and educational institutions should also pay attention to this.

.....

Up to 70% of transgender youth have
experienced harassment.

.....

In 2014, the Ombudsman for Equality produced learning material on sexual harassment titled *Not in our school* for higher comprehensive schools and secondary level educational institutions, and launched a campaign for schools and educational institutions on intervening in sexual harassment.¹⁶⁴ The Ombudsman has also provided training for teaching personnel on recognising and intervening in sexual harassment as part of the anti-harassment work. The Ombudsman stresses the importance of schools and educational institutions having clear guidelines concerning sexual harassment and gender-based harassment. The instructions should include information on what sexual or gender-based harassment is, what persons affected by harassment can do and who they can turn to, and how the educational institution's staff should act in these situations. The incidence

161 Ikonen & Halme (2018)

162 Ikonen & Halme (2018)

163 Alanko (2014).

164 www.eimeidankoulussa.fi.

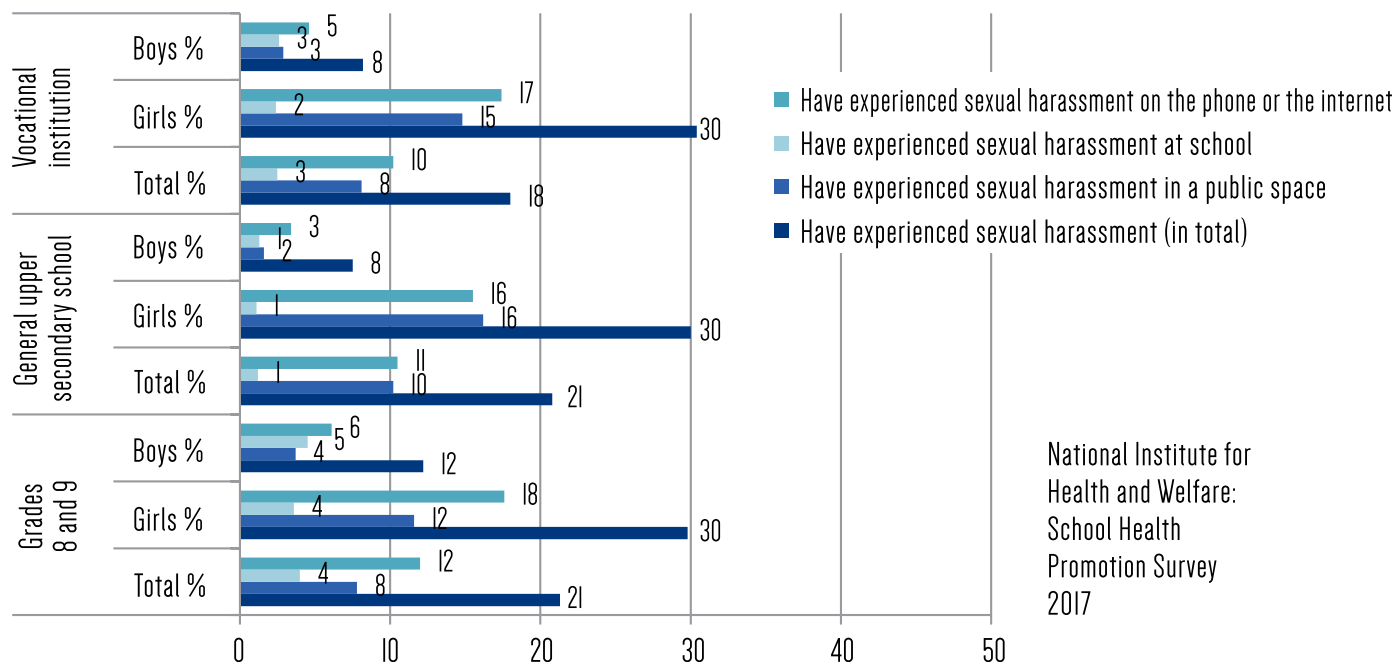


FIGURE 5. Sexual harassment experienced by pupils in basic education grades 8 and 9 and students in years 1 and 2 of secondary level education in the past 12 months

of harassment should also be monitored at the level of individual educational institutions to see if harassment has been intervened in and if the number of cases drops.

Not in our school – learning material on sexual harassment for schools:
www.eimeidankoulussa.fi

In 2018, the Finnish National Agency for Education issued new guidelines for educational institutions and education providers on intervening in sexual harassment. The Finnish National Agency for Education's guide titled *Guide to preventing and intervening in sexual harassment at schools and educational institutions* (2018) provides clear instructions for professionals at the institutions, students, guardians and education providers alike.¹⁶⁵

165 Granskog – Haanpää – Järvinen – Lahtinen – Laitinen – Turunen-Zwinger (2018).

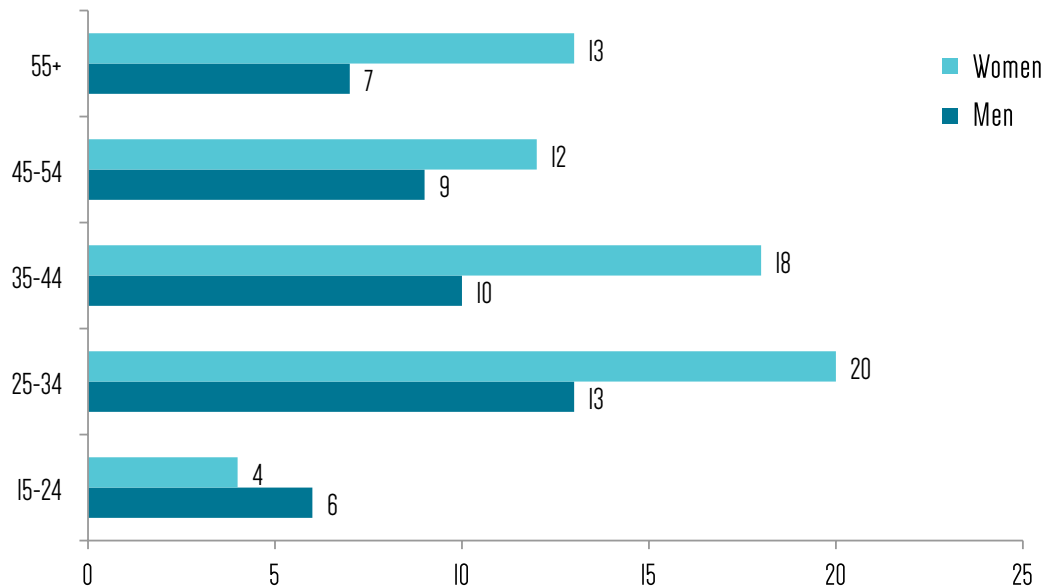


FIGURE 6. Proportion of full-time wage and salary earners who have observed sexual and/or gender-based harassment and/or name-calling in their current workplace by age group in 2017 (%), N = 797*

*Gender Equality Barometer 2017

7.1.3 Sexual harassment in the world of work

A survey commissioned by the Confederation of Finnish Industries EK and conducted by Taloustutkimus in 2018 indicated that 12 % of women and 2 % of men had experienced sexual harassment at work in the past two years. Of women aged under 25, one out of four had experienced harassment at work. In the workplace, the most common perpetrator was a client (60 % of the cases), followed by a colleague (36 %), a supervisor (16 %) or somebody else (9 %).¹⁶⁶

The harassment is rarely reported: according to the survey commissioned by the Confederation of

Finnish Industries EK, 58 % of those who had experienced sexual harassment in the past two years never reported it. The most common reason for not reporting the harassment was the fear of not being taken seriously, followed by the fear of attracting trouble for oneself.

According to the Gender Equality Barometer 2017, a larger share of women working in the private sector had observed harassment than women working in the public sector. The Gender Equality Barometer found that the highest volume of sexual and/or gender-based harassment and/or name-calling in their current workplace had been observed by employees aged 25 to 34: one out of five women (20 %) had observed harassment, and so had more than one out of ten men (13 %). Of women aged 35 to 45, almost one out of five had also observed harassment

166 Confederation of Finnish Industries EK (press release 13 February 2018).

in the workplace, while this figure for men was one out of ten.¹⁶⁷

The employer must ensure that the employee does not become a target of sexual or gender-based harassment in the workplace. The employer must actively monitor the occurrence of any harassment in the workplace and, showing initiative, intervene in it.

The action of an employer may be deemed to constitute discrimination prohibited under the Equality Act if, upon receiving information that an employee has been a victim of harassment, they neglect to take the steps available to eliminate the harassment.

The employer should also make efforts to prevent harassment in advance, for example by means of gender equality planning. There currently is no statutory obligation for employers to prepare instructions for investigating harassment situations. Guidelines for preparing such instructions are available, however: for example, the national project Working Life 2020 coordinated by the Ministry of Economic Affairs and Employment produced such guidelines for workplaces in 2018 (*Häirinnästä vapaa työpaikka*). *Opas seksuaalisen häirinnän ehkäisemiseen ja siihen puuttumiseen*.¹⁶⁸

It is important for every employer to have instructions for preventing harassment and investigating situations involving harassment. These instructions should be included in the gender equality plan, or the plan should refer to the existence of the instructions and explain where the employees can find them. This obligation should also be laid down in the provisions on gender equality plans in the Equality Act.

167 Attila – Pietiläinen – Keski-Petäjä – Hokka – Nieminen (2018).

168 Ministry of Economic Affairs and Employment (2018).

Section 6 of the Equality Act, which concerns the employer's obligation to promote gender equality, was amended in 2005 by removing from it the express duty to prevent harassment. It was replaced by an obligation to act to prevent the occurrence of discrimination based on gender. While the new wording does also cover the prevention of sexual and gender-based harassment, considering the high incidence of harassment in the workplace, it could be justified to add to this provision a particular obligation to prevent sexual and gender-based harassment.

7.2 HATE SPEECH

Hate speech as a concept has been defined in many ways. In this report, hate speech is defined in line with the Council of Europe recommendation¹⁶⁹:

Hate speech

While the concept of hate speech is not defined or used in the legislation, according to the definition formulated by the Committee of Ministers of the Council of Europe, *hate speech covers all forms of expression which spread, incite, promote or justify hatred and are intimidating or abusive. Hate speech has close links with harassment.*

Hate speech may be encountered in public spaces, on the social media, in internet chat rooms or in face-to-face interaction. Hate speech may also take the form of images, videos or music.

Hate speech may comprise discrimination prohibited under the Equality Act (sexual or gender-based harassment) or the Non-Discrimination Act, an offence under the Criminal Code (when target-

169 Council of Europe (2016).

ing an individual, defamation, menace or stalking; when targeting a group of people, ethnic agitation) or, in general, forms of expression that are otherwise harmful.

Hate speech is a gendered phenomenon

Sexist hate speech is abusive speech or forms of expression that spread, incite, promote or justify hatred based on gender. It stems from the power structures of society and results in inequality between the genders. Sexist hate speech mainly targets girls and women.

Forms of sexist hate speech include:

- victim blaming, for instance in the context of rape or sexual violence
- slut-shaming
- body-shaming by mocking or criticising another person's body
- sharing intimate or sexual images without permission
- brutal and sexualised threats of death, rape or violence
- menacing comments related to a person's appearance, sexuality, sexual orientation or gender roles.

While anyone can become a victim of sexist hate speech, young women and women in public life, including politicians, journalists and researchers, are particularly exposed to it.¹⁷⁰ A Ministry of Justice

report from 2016 and the Gender Equality Barometer 2017 confirm the idea of hate speech as a gendered phenomenon and of women's higher susceptibility to be targeted by hate speech.¹⁷¹

The Ombudsman for Equality has raised his concern over hate speech both in Finland and in international forums. The Ombudsman participates in work to combat hate speech and hate crimes in Finland and is involved in international cooperation on this issue through a Nordic network against sexist hate speech (Ombudsmen for Equality and Non-Discrimination Ombudsmen) and the European Network of Equality Bodies (Equinet). The cooperation between Equinet member states aims for defending European values, gender equality and non-discrimination, producing counter speech to hate speech and intervening in hate speech.

7.2.1 Freedom of speech does not apply to hate speech

Those who spread hate speech on the social media, for example, can be observed to define hate speech to a great extent as a matter of opinion and claim that it is protected by the freedom of speech. While the freedom of speech is safeguarded under the Constitution of Finland (section 12) and, among other things, the European Convention on Human Rights, it has its limits. The European Court of Human Rights has pointed out that equality and tolerance are cornerstones of democracy. In a democracy, it may thus be necessary to impose consequences or take action when forms of expression incite hatred based on intolerance. The European Court of Human Rights has stressed that speech which may in-

170 Centre for Gender Equality in Finland, National Institute for Health and Welfare (2018)

171 Ministry of Justice (2016); Attila – Pietiläinen – Keski-Petäjä – Hokka – Nieminen (2018).

sult persons or groups of persons does not merit the protection of freedom of speech.¹⁷²

Many international organisations supervising the human rights situation, including the bodies monitoring the UN's and the Council of Europe's human rights conventions (CERD¹⁷³, CEDAW¹⁷⁴, ECRI¹⁷⁵, the Commissioner for Human Rights of the Council of Europe¹⁷⁶ and the Committee of Ministers of the Council of Europe) have paid attention to the rise of hate speech and hate crimes in Finland, urging Finland to intensify its work against hate speech and hate crime.¹⁷⁷

Hate crime

Hate crime generally refers to an offence against a person, group, property, institution or its representative motivated by prejudice or hostility towards the victim's actual or presumed ethnic or national background, religious beliefs or worldview, sexual orientation, gender identity, gender expression or disability. (Poliisi.fi)

Hate crimes in Finland are monitored on the basis of national data on reports of an offence collected by the police. The Police University College publishes an annual study on hate crimes reported to the police.

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- 172 European Court of Human Rights cases: *Belkacem v. Belgium*; *Delfi vs. Estonia*; *Magyar Tartalomszolgáltatók Egyesülete and Index.hu Zrt vs. Hungary*; *Pihl vs. Sweden*.
- 173 UN Committee on the Elimination of Racial Discrimination, 2017 (CERD/C/FIN/CO/23).
- 174 UN Committee on the Elimination of Discrimination against Women, 2014 (CEDAW/C/FIN/CO/7).
- 175 European Commission against Racism and Intolerance, 2013 (ECRI (2013)19).
- 176 Commissioner for Human Rights of the Council of Europe, 2012 (CommDH(2012)27).
- 177 Committee of Ministers of the Council of Europe, 2017 (CM/ResCMN(2017)1).

7.2.2 A report on the incidence of hate speech

The Discrimination Monitoring Group¹⁷⁸ commissioned a report on hate speech and harassment as well as their impacts on different population groups in March 2016 ('*You often have to think about how you should act and where you should not go*'). According to this report, hate speech and harassment were encountered especially in the street, in car parks, and in parks and other public spaces. The second most common place where victims were targeted by hate speech was the internet, especially the social media and public chat rooms. It should be noted, however, that the report did not examine the phenomenon from the gender perspective.¹⁷⁹

In the Gender Equality Barometer 2017, the respondents (n = 1,678) were asked for the first time about gender-based hate speech, which referred to disparaging or menacing speech or writings. Hate speech was defined specifically as gender-based rather than general hate speech. The Gender Equality Barometer results indicate that women had encountered hate speech associated with their gender more often than men in the past two years. Hate speech associated with gender had been experienced by 15 % of all women and 8% of men.¹⁸⁰

The incidence of hate speech associated with gender is higher in the younger age groups. One out of five (20%) of women both in the age groups under 35 and 35 to 54 had experienced hate speech;

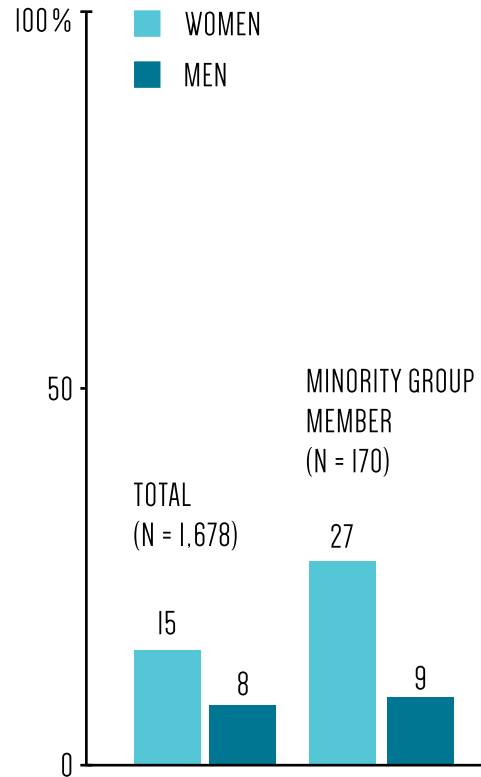
- 178 The implementation and development of the Government's monitoring system for discrimination is ensured by the Discrimination Monitoring Group (Ministry of Justice), one of the members of which is the Ombudsman of Equality.
- 179 Ministry of Justice (2016).
- 180 Attila – Pietiläinen – Keski-Petäjä – Hokka – Nieminen (2018).

for age groups older than this, the figure was 12 %. Of men aged under 35, 12 % had experienced hate speech, while the figures for the age group 35 to 54 was 6 %, and for respondents older than this it was 4 %.

According to the Gender Equality Barometer 2017, belonging to a minority has exposed women, in particular, to hate speech. Of women who belonged to a minority group, including a religious, ethnic, linguistic or sexual minority, more than 27 % had experienced hate speech, whereas 9 % of men belonging to a minority group had experienced gender-related hate speech.

Being targeted by hate speech also inspires fear of violence and affects the victim's general feeling of safety. The fear of both hate speech and violence had had the impact of restricting people's lives: one out of four women and one out of five men who were afraid of violence had started going out less often in the evenings because of their fear. The number of those who changed their behaviour because of hate speech was almost equal to the number of those who had experienced hate speech.¹⁸¹

Sexual and gender minorities are exposed to hate speech and hate crimes and, in particular, encounter gender-disparaging hate speech.¹⁸² The Police University College report from 2018 notes that the number of reports of an offence associated with hate crimes related to the victim's presumed or actual sexual orientation, gender identity or gender expression increased by 5 % between 2016 and 2017.



Women had encountered hate speech related to their gender more often than men in the past two years

Gender Equality Barometer 2017

181 Attila – Pietiläinen – Keski-Petäjä – Hokka – Nieminen (2018).

182 Ministry of Justice (2016).

7.2.3 Shortcomings in the Criminal Code from the gender perspective

Hate speech is associated with legal problems: there is little case-law related to hate speech, and it is also associated with understanding the limits of freedom of speech and consideration of fundamental rights.¹⁸³ Some of the hate speech is punishable. If hate speech targets an individual, it may constitute defamation or a menace. When targeting a group hate speech may, for example, meet the criteria of Chapter 11, section 10 (ethnic agitation):

Section 10 (13.5.2011/511)
Ethnic agitation

A person who makes available to the public or otherwise spreads among the public or keeps available for the public information, an expression of opinion or another message where a certain group is threatened, defamed or insulted¹⁸⁴ on the basis of its race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation or disability or a comparable basis, shall be sentenced for ethnic agitation to a fine or to imprisonment for at most two years.

What these criteria have in common is that they are based on either a person's congenital properties or other personal properties that are not within

183 Ministry of Justice (2018).

184 A threatening, defamatory or insulting expression means 1) considering violence or discrimination against a group desirable or acceptable; 2) comparing humans to animals or parasites, or 3) generalising a certain group as criminals or people of a lesser value.

the person's control. In some cases, the person may themselves have chosen to belong to the group determined by the criteria (e.g. a religion or belief).¹⁸⁵

In terms of criminal law, a threat of violence based on belonging to a group is at the core of this issue. However, these criteria do not include gender, as they are based on membership in a minority group.¹⁸⁶ In other words, the offence category that mainly applies to hate speech, or ethnic agitation, does not address misogyny or hate speech based on gender. According to a Nordic study titled *Hat och hot på nätet* (2017), this has often been justified by the fact that women do not form a minority group in need of protection. The study argues that the potential threat associated with gender has not been recognised in Nordic criminal law.¹⁸⁷

7.2.4 Need for cooperation between the authorities

According to a survey carried out by the Ministry of Justice (2018), actions to combat hate speech and hate crimes aiming to identify, prevent and

185 Prosecutor General (2012).

186 A report by a working group of the Prosecutor General's Office (2012) examines the application of this provision to the mainstream population: "According to the preliminary work on the Act, the provision above all affords protection to minority groups that usually are in a socially more vulnerable position and thus need particular protection. The wording of the provision does not exclude its application to expressions targeted against the mainstream population. The threshold to applying the provision to such expressions is rather high, however, considering the intent of protecting minorities attached to the provision in the preliminary work. -- It is likely that the provision could be applied to an act targeting the mainstream population if the expression is particularly serious (e.g. actual incitement to violence)." Prosecutor General (2012).

187 Bladini (2017).

intervene in hate speech and hate crimes are extremely diverse, and many types of actors are involved in them.¹⁸⁸ Overall coordination is lacking, however. Interauthority cooperation to combat hate speech and hate crimes has also been launched in recent years. The objectives of the Ministry of Justice's two-year project Against Hate (1 December 2017–30 November 2019) are developing work to combat hate crimes and hate speech between the authorities; improving the reporting of hate crimes; strengthening the capabilities of the authorities, and in particular the prosecutor, police, and judges, for combating hate speech and hate crimes; and developing support services for victims of hate crimes. It is important that interauthority cooperation against hate speech and hate crimes will also continue after the conclusion of this project, and that sufficient resources will be allocated to it.

The gender perspective should be part of all interauthority cooperation related to hate speech and hate crimes, not only data and research on these phenomena but also action plans and other similar measures aiming to combat them (including hate speech and security reports commissioned by the ministries). Gendered hate speech (based on gender, gender identity and expression of gender) should be taken seriously as a form of hatred occurring in society.

Regular research in hate speech based on gender, gender identity and gender expression is needed in

188 Ministry of Justice (2018).

Finland. Research in hate speech should be developed to cover all vulnerable groups.

The capabilities for and competence of different authorities (including the police and judges) in recognising, preventing and intervening in hate speech and hate crimes should be built up. Awareness of the requisite support services, among other things, should be spread among potential victims.

7.3 VIOLENCE AGAINST WOMEN

Violence against women is a significant gender equality problem in Finland. The forms, motives and incidence of violence vary greatly by gender. The highest incidence of violence is experienced by men, as the majority of violence occurs between men. Sexual violence and intimate partner violence, on the other hand, typically target women. Due to the differences between women and men, violence is a highly gendered phenomenon.¹⁸⁹ As an illustrative extreme example can be cited the most serious form of intimate partner violence, or that which leads to fatalities. In 2010–2017, of all adult female homicide victims in Finland, 60% were killed by their previous or current male intimate partner. This is the second most common type of homicide in Finland. Of male homicide victims, on the other hand, as few as 7% were killed by a female intimate partner.¹⁹⁰

189 See e.g. FRA (2014b); Statistics Finland (2016); EIGE (2017).

190 Lehti (2018).

Within the framework of his mission of promoting gender equality, the Ombudsman for Equality expresses opinions and issues statements to other authorities on this subject. The Ombudsman's views of the national situation are also requested in international forums; for example, the CEDAW committee and the GREVIO expert group, which monitors the implementation of the Istanbul Convention, work together with the Ombudsman for Equality when evaluating Finland's actions related to compliance with its obligations under the conventions. The European Network of Equality Bodies, Equinet, is also increasingly paying attention to violence against women.

7.3.1 Violence against women is a human rights issue

Since the 1990s, international human rights actors have regarded violence against women as a human rights issue and gender-based discrimination. Many of the typical forms of violence against women have been permissible in a number of countries for a long time, and in Finland, too, several legislative reforms have been implemented relatively late. While the majority of violence against women – especially in affluent and stable Western countries such as Finland – occurs between private individuals within families and in intimate partner relationships, the state is regarded as having a duty under international law to effectively combat typical forms of violence against women. Consequently, rather than seeing discrimination taking place between the family members living in a violent intimate relationship, for example, the state is considered to discriminate against women if the national legislation and

authorities do not prevent violence against women as effectively as possible, in which case the state is neglecting its duty of care.¹⁹¹ National actions are evaluated from the perspectives of preventing violence, protecting victims and punishing perpetrators of violence alike.

The CEDAW Committee, which monitors compliance with the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the European Court of Human Rights, which monitors compliance with the European Convention on Human Rights, have repeatedly evaluated the state parties' actions in cases concerning intimate partner violence and sexual violence. The CEDAW Committee issued its first decision on an individual complaint concerning Finland in spring 2018 in case *J.J. v Finland*, in which a guardianship dispute and violence perpetrated by the child's father against the mother were evaluated. The Committee found that Finland had neglected its obligations under the Convention as the national authorities did not take the intimate partner violence into consideration when making a decision on the child's guardianship. The CEDAW Committee has demanded that Finland report on the actions it has taken as a consequence of this case.¹⁹²

In addition to international case-law and recommendations for interpreting the conventions, Council of Europe Member States adopted a new convention on preventing and combating violence against

191 In other words, the fact that relationships between family members and other relationships in private life have been expressly excluded from the scope of the Equality Act has no significance.

192 *J.J. v Finland* (103/2016).

women and domestic violence (Istanbul Convention) in 2011.¹⁹³ The Convention entered into force in Finland in 2015. The national legislative and other measures required by the Istanbul Convention have been controversial in Finland ever since the ratification process began.¹⁹⁴ Since the Istanbul Convention was ratified, national actions to prevent violence against women have mainly been evaluated and planned in the light of the Convention, overlooking other international obligations and trends, including the CEDAW Committee's interpretation practice and the higher visibility of hate speech and harassment in public debate.

7.3.2 Work to prevent violence against women in Finland

The latest National Action Plan to Reduce Violence Against Women in Finland concluded in 2015.¹⁹⁵ The impacts and success of the Action Plan were evaluated in 2016.

The evaluation found that Finland should invest clearly more in preventing violence and improving support services for victims as well as holding perpetrators of violence responsible for their actions and supporting them in giving up violence. For this, effective cross-administrative cooperation between the authorities, participation of municipal and regional authorities responsible for primary services,

and good coordination of the cooperation will be needed. Legislation, including the Criminal Code, should be seen as one instrument among the methods of intervening in violence.¹⁹⁶

Already as the Government Report on Gender Equality was prepared in 2009, the fixed term of projects and objectives specific to a certain government term were found as the greatest weakness in Finland regarding violence against women. There had been an imbalance between the Government's objectives and the measures undertaken, and sufficient resources had not been secured for the measures.¹⁹⁷ A comprehensive national strategy to reduce violence against women, which would approach this phenomenon as a human rights and gender equality problem, is still lacking.

An Action Plan on the Istanbul Convention 2018–2020 is currently underway in Finland. The Committee for combating violence against women and domestic violence (NAPE) 2017–2020 is responsible for the Action Plan and coordinates the authorities' activities at Government level. This coordination does not incorporate the municipal and regional levels, or non-governmental organisations, which provide many of the services intended for victims and perpetrators of violence. The tasks of the Action Plan and the Committee are considerably less extensive than what was recommended in the 2016 evaluation report.

The Government's Action Plan for Gender Equality 2016–2019, the National Action Plan on Fundamental and Human Rights 2017–2019 and the Action Plan on the Istanbul Convention 2018–2020 all fail to examine legislation as a whole and evaluate the case-law from the perspective of preventing violence

193 The Committee of Ministers opened the Convention for signatures in Istanbul in May 2011. It entered into force in April 2014 when it was ratified by Andorra as the tenth state party.

194 Final report of the working group on Istanbul Convention ratification and the dissenting opinions attached to it. Ministry for Foreign Affairs (2013).

195 Ministry of Social Affairs and Health (2010a).

196 Törmä & Pentikäinen (2016).

197 Riski (2009).

against women.¹⁹⁸ For example, the close relationship between the perpetrator of an offence and the victim, including an intimate partner or family relationship, should be addressed specifically in the Criminal Code. This is not the case in Finland, however, even if this obligation is placed on the state parties in no uncertain terms under the Istanbul Convention. Neither is any empirical information available on the sentences pronounced for violent offences to determine if the relationship between the victim and the offender is taken into account in the penalty scale. Policy programmes do not include any plans to reform Chapter 20 of the Criminal Code or even introduce consent as the criterion for rape. However, the CEDAW Committee has, most recently in 2014, urged Finland to modify the criteria for rape, and now the Istanbul Convention also obliges Finland to amend the Criminal Code in this respect.¹⁹⁹

Sufficient resources should be allocated to implementing the Istanbul Convention.

Consent should be introduced as the criterion for rape, and a reform of Chapter 20 of the Criminal Code should be examined in more general terms. Gender as a motive for an offence should be added to the Criminal Code as grounds for imposing a more severe sentence.

The best way of taking into account the particularly reprehensible nature of an offence where the victim and the perpetrator are close (family members or in an intimate relationship) in the Criminal Code should be examined.

198 Ministry of Social Affairs and Health (2016); Ministry of Justice (2017); Ministry of Social Affairs and Health (2017).

199 (CEDAW/C/FIN/CO/7).

7.4 RECOMMENDATIONS

- The legislation should be developed to ensure that, for example, gendered hate speech and hate crimes and violence against women are recognised. For example, the possibilities of including gender, gender identity and gender expression in the criteria for ethnic agitation should be investigated.
- Use of force and violence as the criterion for rape should be replaced by lack of consent.
- Sufficient resources should be allocated to implementing the Istanbul Convention.
- Keeping statistics on and analysing offences regularly by the victims' and perpetrators' gender and the gender ratios should be part of assessing the status of gender equality.
- A regular survey to study gender-based violence should be conducted in Finland, especially a study of victims, in which not only women and men but also the diversity of gender is taken into account.

8 RECOMMENDATIONS

EQUALITY IN WORKING LIFE

- A family leave reform that significantly increases the leave allocated to fathers and the flexibility of leave use is needed.
- The subjective right to day-care should be reinstated as a right for every child.
- Finnish society should make sure that an unemployed jobseeker does not lose their unemployment benefits due to being unable to accept work offered to them as they have no day-care for their child. The possibility of organising evening and weekend care for young schoolchildren should also be taken into account when assessing such matters as a jobseeker's possibilities of accepting work.
- The provision on compensation in the Equality Act should also be made applicable to discrimination taking place during the recruitment process which precedes the selection of the successful candidate.
- An employee who suspects pay discrimination violating the Equality Act should have the right to obtain information on a reference person's pay from the employer.

DISCRIMINATION BASED

ON PREGNANCY AND FAMILY LEAVES

- The legislation on employment contracts should contain a prohibition of failing to renew a fixed-term contract due to pregnancy or family leaves and a prohibition of limiting the duration of a fixed-term contract to the start date of a maternity, paternity or parental leave.
- In temporary agency work, the division of responsibilities between an employment agency and a company using its employees should be clarified where the discriminatory action of the company has a bearing on the continuation of the employee's employment, and in these cases, the liability to pay compensation should be extended to the company using the employee.
- Preventing discrimination based on pregnancy and family leaves should be part of the following Government Action Plan for Gender Equality.

GENDER EQUALITY PLANNING AND PAY SURVEYS

- The Equality Act should contain a single schedule for preparing gender equality plans.
- A reference to combining the personnel policy equality plan and personnel policy non-discrimination plan should be added to the Equality Act. The possibility of removing the reference to incorporating the gender equality plan into a personnel and training plan or an occupational safety and health action plan should be considered.
- The objective of the pay survey is to ensure that there are no unjustified pay differences between women and men who are working for the same employer and engaged in either the same work or work of equal value. The provision on pay surveys should be clarified to ensure that the objective of the pay survey is taken into consideration better in the selection of comparison groups and the pay data to be processed.
- It should be possible for representatives selected by the employees to participate in all stages of the pay survey. They should have access to data required to draw up the pay survey on all personnel and employee groups and, if necessary, the pay data of individual employees.

- Each employer should have instructions for intervening in harassment. They should be included in the gender equality plan, or the plan should refer to the existence of the instructions and explain where the employees can find them. This obligation should also be included in the provisions on gender equality plans in the Equality Act.

EQUALITY AT EDUCATIONAL INSTITUTIONS

- The effectiveness of gender equality planning in comprehensive schools should be evaluated. This evaluation should also address compliance with the obligation to promote gender equality laid down in the National core curriculum for basic education.
- Issues related to promoting gender equality should have a more prominent role in teacher education and teachers' in-service training.
- Educational institutions and education and training providers should have a duty to monitor the incidence of sexual harassment and the effectiveness of the measures taken at schools and educational institutions, among other things based on the school-specific data obtained in the School Health Promotion Survey.

- Learning differences and their reasons should be researched and analysed further. Attention should be paid to reducing learning differences to safeguard pupils' access to further studies and to prevent social exclusion.

STATUS OF TRANS AND INTERSEX PEOPLE

- The requirement of infertility must be removed as a precondition for legal recognition of gender in the Act on Legal Recognition of the Gender of Transsexuals.
- Legal recognition of gender must be separated from medical evaluations, diagnoses of gender incongruence and medical treatments, while the right to medical treatment of gender incongruence as part of public health services should be safeguarded for those who need it.
- Unnecessary genital surgery on intersex children should be discontinued.

SEXUAL HARASSMENT, HATE SPEECH AND GENDER-BASED VIOLENCE

- The legislation should be developed to ensure that gendered hate speech and hate crimes and violence against women are recognised. For example, the possibilities of including gen-

der, gender identity and gender expression in the criteria for the offence of ethnic agitation should be investigated.

- The Criminal Code and the criminal justice system should be evaluated and developed comprehensively with the aim of reducing hate speech and violence against women. For example, Chapter 20 of the Criminal Code, which deals with sexual offences, should be reviewed from the gender perspective.
- Lack of consent should be instituted as the criterion for rape.

RESOURCES OF THE OMBUDSMAN FOR EQUALITY

- In terms of implementing the obligations under the Equality Act and citizens' legal protection as well as the promotion of gender equality, it is vital that the Ombudsman for Equality as the authority supervising the Act has sufficient resources for performing this task. Currently, the Ombudsman for Equality's resources fall far short of being adequate for the tasks.

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APPENDIX I

CONTACTS MADE WITH THE OMBUDSMAN FOR EQUALITY 2013–2018

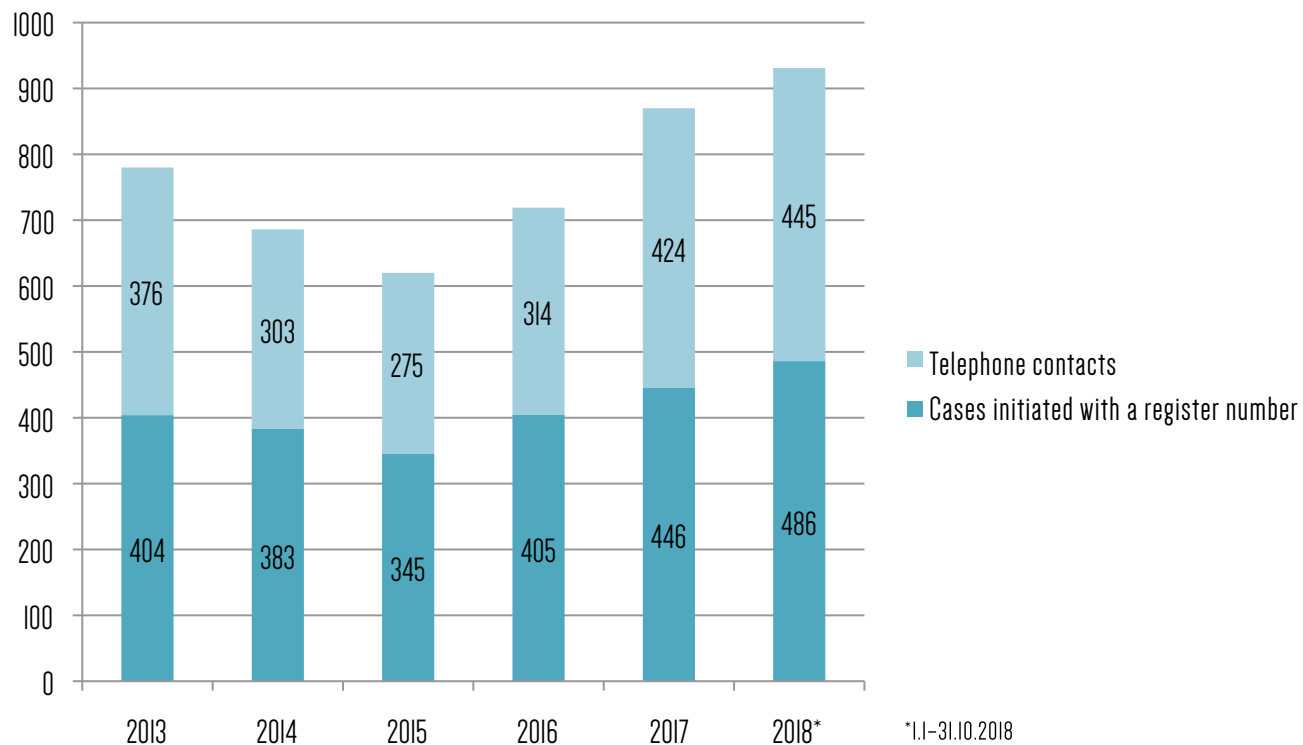


FIGURE I. Client contacts handled in writing and on telephone in 2013–2018 (until 31 October 2018)

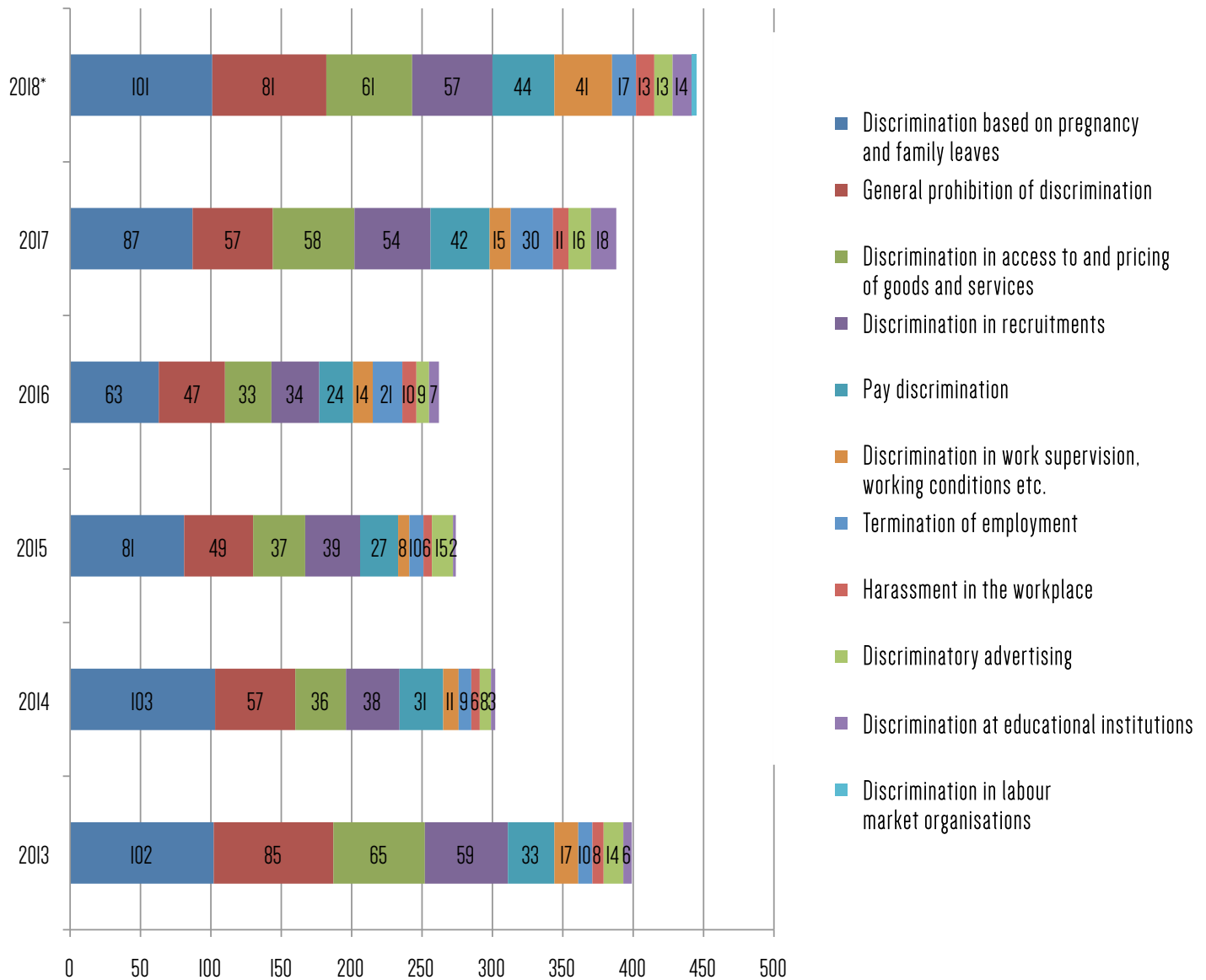


FIGURE 2. Client contacts related to discrimination made in writing and on telephone in 2013–2018 (until 30 September 2018)

APPENDIX 2

OMBUDSMAN FOR EQUALITY'S REPORT ON GENDER EQUALITY PLANNING IN FINNISH MUNICIPALITIES

Under the Equality Act, every employer must promote equality between women and men in a purposeful and systematic manner. One way of promoting equality in the workplace is preparing a personnel policy gender equality plan. This is mandatory for all employers who employ regularly at least 30 employees.

The Ombudsman for Equality supervises compliance with the employers' obligation to prepare gender equality plans by requesting that employers submit their personnel policy equality plans for assessment by the Ombudsman in connection with investigations of discrimination reported by clients. As far as the resources allow, the Ombudsman additionally strives to carry out supervision focusing on limited groups of employers. In 2016, the Ombudsman for Equality initiated a targeted assessment of the status of personnel policy gender equality planning in municipalities.

Obligation to prepare gender equality plans under the Equality Act

Provisions on the employer's personnel policy gender equality plan are laid down in section 6, paragraphs a–c of the Equality Act.

Under section 6a of the Equality Act, if an employer regularly has a personnel of at least 30 employees working in employment relationships, the employer shall at least every two years prepare a gender equality plan dealing particularly with pay and other terms of employment, according to which the gender equality measures are implemented.

An equality plans must include:

- 1) an assessment of the gender equality situation in the workplace, including details of the employment of women and men in different jobs and a pay survey on the whole personnel presenting the classifications of jobs performed by women and men, the pay for those jobs and the differences in pay;
- 2) necessary measures planned for introduction or implementation with the purpose of promoting gender equality and achieving equality in pay; and
- 3) a review of the extent to which measures previously included in the gender equality plan have been implemented and of the results achieved.

Section 6b of the Equality Act contains more detailed provisions on the requirements applicable to the pay survey, and section 6c provisions on discrimination based on gender identity or gender expression.

Gender equality plans of 60 municipalities assessed

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

Uusimaa, Pirkanmaa and North Karelia to submit their gender equality plans for assessment, including 60 municipalities in total. The purpose of the targeted supervision was to oversee compliance with the obligation to prepare equality plans and to find out about the quality of equality planning in municipalities. At the same time, information was collected on how the reformed provisions on equality planning and pay surveys, which entered into force at the beginning of 2015, have been implemented in the municipalities and what challenges are associated with their implementation.

In the course of this assessment, the emphasis of the supervision shifted. Rather than targeting a detailed supervisory action at each municipality and requiring that they prepare new gender equality plans that are in all respects compliant with the statutory requirements before giving final feedback to the municipalities, the Ombudsman emphasised providing instructions and advice for future equality planning and pay surveys in his feedback.

Few municipalities prepared gender equality plans regularly. It appeared more important to provide municipalities with detailed instructions based on the plans they had prepared and to re-launch the planning efforts.

As few as about one municipality out of six (11) submitted an up-to-date gender equality plan to the Ombudsman by April 2016. Many municipalities asked for additional time to prepare and update their plans. The last municipalities only submitted their equality plans to the Ombudsman for Equality in autumn 2017, and feedback on these plans to the municipalities was given in early 2018.

Major changes are about to take place in municipalities. Among other things, these changes

will affect the personnel groups covered by the municipality's equality plan. This contributed to the shifting emphasis in the Ombudsman's supervisory work and also to the Ombudsman's decision to abandon the original idea of going through all municipalities in Finland one region at a time. This report contains the Ombudsman for Equality's observations made on the basis of the supervision measure carried out and recommendations aiming to improve the impact of gender equality planning.

The report describes the observations made by the Ombudsman based on the municipalities' gender equality planning. To begin with, the formal requirements of equality planning are examined, including the schedule of planning and cooperation with personnel representatives. The report then moves on to look at requirements concerning the contents of the equality plan: assessment of the gender equality situation, the measures, and the reviews of how the measures in the previous plan were implemented. Pay surveys are discussed separately. Finally, the report examines certain issues that emerged in the course of the assessment, including municipalities' instructions for dealing with harassment situations and addressing gender diversity in the municipalities' gender equality plans.

Formal requirements applicable to the gender equality plan

Regularity of equality planning

Under the Equality Act, a personnel policy equality plan and a pay survey should be prepared at least every second year as a rule. An agreement

can be made locally that the pay survey included in the gender equality plan will be carried out no less than once every three years, provided that the other parts of the gender equality plan are completed annually.

In this respect, two problems emerged in the municipalities' gender equality plans: on the one hand, the regularity of planning so far, and on the other, the schedule of preparing equality plans in the future.

A scrutiny of when the municipalities had prepared their previous gender equality plans revealed that some had expired, while others covered too many years ahead. As the gender equality plans were requested in spring 2016, all plans prepared before 2014 would have been out of date pursuant to the Equality Act.

However, roughly one municipality out of three had produced gender equality plans regularly. If, to the Ombudsman's knowledge, several equality plans had been produced in a municipality at regular intervals between 2005 and 2016, the planning was considered regular.

Based on the data used, it is not possible to state clearly in what types of municipalities equality planning had been more regular than in others. The largest cities in the regions (including Helsinki, Vantaa, Tampere, Joensuu, Outokumpu) usually had an up-to-date gender equality plan. Differences between the regions regarding medium-sized cities and municipalities were minor. In North Karelian municipalities with a very low population, the equality planning process was drawn out, presumably due to meagre personnel resources.

LATEST PLAN PREPARED IN	UUSIMAA	PIRKANMAA	NORTH KARELIA	TOTAL
2014-2016	5	4	3	12
2010-2013	5	4	2	11
before 2010	12	5	6	23
Not known/no previous plan	4	9	1	14

REGULARITY OF PLANNING	UUSIMAA	PIRKANMAA	NORTH KARELIA	TOTAL
Regular	6	7	5	18
Not regular	18	10	5	33
Not known	2	5	2	9

SCHEDULE OF GENDER EQUALITY PLANNING	UUSIMAA	PIRKANMAA	NORTH KARELIA	TOTAL
Every year	5	1	1	7
Every second year	7	7	4	18
A plan every year and a pay survey every three years	1	3	1	5
Less often than every second year	10	7	3	20
Not known	3	4	2	9

Schedules of equality planning

Only one half of the municipalities (30) announced that they would prepare a gender equality plan on the statutory schedule in the future; they would either prepare a plan every second year, or a plan every year and a pay survey every three years.

Twenty municipalities said they would follow a schedule other than that specified in the Equality Act, and nine municipalities did not comment on the schedule in the gender equality plan or in the information requested by the Ombudsman. The reported non-statutory schedules varied from equality plans prepared every three years to plans that were valid up to five years. Some municipalities reported that a gender equality plan is prepared once during the local council's term of office or when necessary.

The Ombudsman for Equality considers it vital that all parties providing instructions for gender equality planning stress the importance of complying with the statutory schedule. The responsibility of the municipal leadership for preparing the plans on the schedule required under the law should be emphasised.

Combining the gender equality plan with other plans

A personnel policy gender equality plan may be 1) made as a separate plan; 2) incorporated into a personnel and training plan, or 3) incorporated into a personnel policy non-discrimination plan. Regardless of its concrete form, the gender equality plan should be a clear and well-defined whole that contains the sections specified in the Equality Act.

The majority of municipalities had combined their gender equality plans with their personnel policy non-discrimination plans, whereas a few had incorporated the gender equality plan into some of the other plans referred to in the preliminary work on the Equality Act. When the gender equality plan is combined with a personnel plan, for instance, the challenge is making sure that the different sections of the equality plan can be found and that the plan can be perceived as a whole.

The Ombudsman for Equality believes that drawing up a personnel policy equality plan and a personnel policy non-discrimination plan together may be sensible, as they both relate to preventing discrimination and developing an equal work organisation. However, in the combined plans assessed by the

Ombudsman, the share of especially non-discrimination planning was extremely small. It should be noted that the competence to supervise combined gender equality and non-discrimination plans is divided between different authorities. The Ombudsman for Equality's remit only extends to supervising these documents regarding gender equality planning. Personnel policy non-discrimination planning is overseen by the occupational safety and health authorities.

Combined gender equality and non-discrimination plans in their different forms were produced in 47 out of the 60 municipalities.

This also included plans where a personnel policy gender equality and non-discrimination plan was combined with an operational gender equality and non-discrimination plan. These plans address

equality in such areas as municipal services or decision-making.

Under the Equality Act, public authorities must promote the equality between women and men in all their activities. However, the Act does not so far require the authorities to produce a specific plan (operational gender equality plan) that would address equality in municipal services and decision-making, for instance. (Of public authorities, the obligation to produce gender equality plans only applies to education providers and their educational institutions (sections 5 and 5a of the Equality Act)). Of course, there is nothing to stop municipal and other authorities from preparing such a plan, which can help translate into concrete terms the authorities' obligation referred to in the Equality Act to promote gender equality in their activities.

INCORPORATION OF THE EQUALITY INTO OTHER PLANS	UUSIMAA	PIRKANMAA	NORTH KARELIA	TOTAL
A separate personnel policy gender equality plan	5	4	1	10
A combined personnel policy gender equality and non-discrimination plan	12	14	8	34
A personnel policy gender equality plan incorporated into the personnel plan	1	0	0	1
A personnel policy gender equality and non-discrimination plan incorporated into the personnel plan	0	1	1	2
A personnel policy gender equality plan incorporated into the occupational safety and health action plan	0	1	0	1
A personnel policy gender equality and non-discrimination plan incorporated into the occupational safety and health action plan	0	0	1	1
A personnel policy and operational gender equality plan	1	0	0	1
A personnel policy and operational gender equality and non-discrimination plan	7	2	1	10

The problem with combining personnel policy related and operational equality plans lies in that fundamentally, the groups participating in the preparation of these plans consist of different persons. The personnel policy equality plan is to be drawn up in cooperation with employee representatives, whereas the participation of other experts besides personnel representatives in the drawing up of an operational equality plan could be justified. An educational institution's gender equality plan should be prepared in cooperation with the staff and students.

- **Combining personnel policy gender equality plans and non-discrimination plans is justified. On the other hand, the Ombudsman feels that the Equality Act provisions under which the gender equality plan may be incorporated into a personnel and training plan or an occupational safety and health action plan should be reviewed. An equality plan should be a clear and well-defined whole which is easy to find and present. This is vital not only because the equality plan must be easily accessible to all employees but also in terms of supervising the planning obligation. However, once the equality plan has been made, its measures can be included in the plans which also contain decisions on other common affairs. Integrating the gender equality plan in other personnel planning of the workplace in this manner is in keeping with the gender mainstreaming principle.**
- **It is important to pay attention to the challenges that lie in combining a personnel policy gender equality plan and an operational equality plan. These challenges are associated**

with the clarity of the plan, composition of the personnel participating in preparing the plan, and compliance with the legal requirements concerning cooperation and procedures.

Cooperation with the personnel

Under the provisions of the Equality Act, the gender equality plan must be prepared in cooperation with the shop steward, the elected representative, the occupational safety and health representative or other representatives appointed by the employees.

In the municipalities that were evaluated, the equality plan was most typically prepared by a cooperation committee, or its preparation was assigned to a dedicated working group by the cooperation committee. In some municipalities, the gender equality plan was prepared in cooperation with an occupational safety and health committee. To the Ombudsman's knowledge, only a handful of municipalities had a gender equality committee/working group.

A dedicated and permanent working group on gender equality (and non-discrimination) lends permanence and continuity to the employer's personnel policy gender equality work. The gender equality working group can also serve as an expert in efforts to promote equality in different functions of the municipality. It is important that the working group which has prepared or discussed the equality plan also participates in monitoring its implementation.

Personnel representatives must have sufficient opportunities to participate in and influence the formulation of the plan. According to the preliminary work on the Equality Act, personnel representatives should be involved in investigating the gender

equality situation in the workplace, planning and selecting the required measures, and evaluating the implementation and results of previous measures.

In terms of realising personnel participation, it is vital that the representatives selected by the personnel can participate in all stages of equality planning. For example, personnel representatives should be able to participate in the preparation of any equality surveys addressed to the employees and other studies of the equality situation, the making of decisions on measures, and the different stages of the pay survey. A mere possibility of commenting or giving feedback on the gender equality plan does not secure sufficient opportunities for participation for the personnel representatives.

Cooperation with the personnel was evaluated based on the municipalities' answers to the following questions in the Ombudsman's information request:

- **In what way have personnel representatives participated in the preparation of the equality plan? What information was given to them while the plan was being prepared?**
- **In what way have personnel representatives participated in the preparation of the pay survey? What information was given to them while the survey was being prepared?**

It appears that the obligation to prepare the gender equality plan in cooperation with the personnel has mainly been well complied with. Chief shop stewards, for example, have often participated in the preparation of the equality plan, and the plan has been prepared by an existing body, such as a cooperation committee or a working group on

wellbeing at work. On the other hand, the more detailed content of the cooperation, including what information the personnel representatives had been provided with, remained unclear in the case of many municipalities.

The cooperation did not take place as required under the Equality Act in all cases, however. For example, sometimes the equality plan had been prepared as part of public servants' official duties without any personnel participation. Neither was it in keeping with the procedure laid down in the Equality Act when personnel representatives were only given an opportunity to familiarise themselves with or comment on a draft gender equality plan before it was adopted, or when such personnel representatives as shop stewards only had had access to pay data concerning the employees working under the same collective agreement with them.

In some municipalities, however, correctly implemented cooperation with the personnel was described as follows: Decisions on the collection of data for the gender equality plan as well as on its structure, contents and evaluation were made in cooperation with the personnel and personnel representatives; the targets and measures were agreed upon jointly with the personnel representatives; the pay survey was produced together with personnel representatives based on a joint agreement with the personnel on its production and the data to be included in it.

The Ombudsman recommends that the way in which the cooperation with personnel representatives was realised should also be discussed in the gender equality plan. Few gender equality plans produced by municipalities made reference to the way in which the cooperation was implemented.

GENDER EQUALITY PLAN CONTENTS

Assessment of the gender equality situation in the workplace

Employment of women and men in different jobs

The assessment of the gender equality situation must include an itemisation of the employment of women and men in different jobs. The Ombudsman for Equality believes that this itemisation should basically include all tasks.

An itemisation describing the employment of women and men in different jobs was missing from a large part of the plans. Only one municipality out of four had produced an itemisation that covered the employment of women and men in all jobs. Some municipalities had attached a partial itemisation of women and men in different jobs to their gender equality plans. Others had included the itemisation in the pay survey; in that case, however, it remained unclear if the data were accounted for in the actual equality plan. Roughly one half of the municipalities had examined the employment of women and men in different jobs by sector, collective agreement or department, for example.

An itemisation of this type provides significant background data for assessments of the situation and realisation of gender equality in the workplace. Additionally, the information on women and men in different jobs helps to evaluate the pay survey, for example to determine if it encompasses all employee groups.

Assessment of the gender equality situation

The gender equality plan must be based on an assessment of the gender equality situation in the workplace. This assessment has an important role in collecting the data on which equality planning is based. It helps to get an idea of how gender equality is implemented in the workplace and which areas of gender equality still have scope for improvement. The measures aiming to promote gender equality should be based on the issues that emerged in the assessment of gender equality situation. The gender equality plan and the assessment prepared to underpin it must cover the employers' whole personnel.

The assessment of the equality situation can thus be focused on such areas as recruitments, the division of duties between genders, career development, employment conditions, personnel training, participation in working groups, opportunities to reconcile work and family life, including taking family leave and work arrangements that support this, the atmosphere at work, the occurrence of sexual and gender-based harassment, and attitudes towards equality, leadership and occupational health and safety.

The gender equality plans often discussed quite extensively themes that are important for equality in working life at the general level, while concrete efforts to investigate the current situation were in many cases unimpressive. The gender equality plans of thirteen municipalities contained no assessment of the gender equality situation.

The description of the current situation was often combined with discussing the objectives and measures in a way that left it somewhat unclear which descriptions concerned the current situation of gender equality and which the ideal of equali-

ty that was aimed for. Surprisingly little use had been made of different HR management statistics, including statistics on recruitments or use of family leaves.

Gender equality statistics and surveys

Information itemised by gender on the workplace's situation is needed to prepare a gender equality plan. When assessing the equality situation, existing HR statistics broken down by gender can be used. It is also important to find out how well employees feel equality has been achieved in the workplace. For example, a personnel survey can be used to study the employees' views, or equality matters can be discussed at departmental and workplace meetings.

An equality survey can provide important information on the situation of gender equality in the workplace that it is difficult to elicit by other means. This includes information about the employees' experiences of harassment.

Roughly one half of the municipalities had conducted a gender equality survey, or included questions about equality in other surveys. Regrettably often, however, the workplace or personnel survey only contained a single question about gender equality.

Section 6 of the Equality Act lists areas in which the employer must promote equality between women and men in working life.

The employer must:

- act in such a way that job vacancies attract applications from both women and men;
- promote the equitable recruitment of women and men in the various jobs and create for them equal opportunities for career advancement;
- promote equality between women and men in the terms of employment, especially in pay;
- develop working conditions to ensure they are suitable for both women and men;
- facilitate the reconciliation of working life and family life for women and men by paying attention especially to working arrangements; and
- act to prevent the occurrence of discrimination based on gender.

SURVEY	UUSIMAA	PIRKANMAA	NORTH KARELIA	TOTAL
A gender equality survey	5	2	0	7
Interviews with personnel members	1	1	0	2
A personnel survey	5	1	0	6
A wellbeing at work survey	8	7	2	17
No surveys	10	11	10	31

Measures to promote gender equality

Under the Equality Act, the equality plan should include necessary measures planned for introduction or implementation with the purpose of promoting gender equality and achieving equality in pay. These measures are based on the assessment of the equality situation in the workplace, on the basis of which the employer together with the employee representatives agree on the measures needed to promote gender equality which are to be launched and implemented during the following equality planning period. The targets, means for reaching them and schedules as well as monitoring methods are also agreed upon together. Making arrangements for monitoring is necessary to lay the foundation for reviewing the results.

The most important stages of equality planning are going through the assessment of the equality situation in the workplace and agreeing on measures. To ensure that the measures included in the plan actually promote gender equality, they should be concrete and realistic. The possibility of monitoring the implementation of the measures is also important. An implementation schedule should be agreed

upon, and responsibilities for the measures should be assigned.

All gender equality plans scrutinised by the Ombudsman contained measures. The greatest challenges were associated with coming up with concrete measures. The plans of some municipalities contained relatively concrete measures. However, up to one half of the municipalities had listed measures that, in the Ombudsman's view, were formulated at the level of the principle rather than in practical terms.

Another challenge was associated with the fact that in some plans, it was difficult to distinguish between the measures and a description of the current gender equality situation of the workplace. Some plans also contained wordy descriptions of what can only be called the ideal situation of workplace equality with no concrete measures for achieving this situation.

The measures usually addressed a wide variety of gender equality themes in general, the same ones that typically were the focus of the assessment of gender equality situation. The measures mostly concerned recruitments, training and career development, reconciliation of work and family life, harassment and inappropriate behaviour, an equal

workplace and prevention of discrimination, leadership and gender diversity.

In particular, the plans contained a wide range of measures promoting the reconciliation of work and family life, which were related to safeguarding the career development of employees taking family leaves, working time arrangements that facilitate the reconciliation of work and family, induction training after family leaves, provision of information and keeping in touch during family leaves, and increasing the uptake of family leaves by men.

Some examples of good and concrete measures have been listed below. (The examples have been modified based on those contained in municipalities' equality plans.)

Goal: Non-discriminating recruitments

- Paying attention to the wording of job advertisement and avoiding the use of requirements or stressing characteristics experienced as typical for one sex only.
- As a measure promoting gender equality in recruitments, a representative of the minority gender can be favoured if the candidates are otherwise equal regarding their qualifications and suitability. (Ombudsman's comment: selecting the minority gender representative should not be automatic, however, and each recruitment should be assessed on its own merits.)

- No questions related to state of health or family planning which violate the candidate's privacy and are thus discriminatory and unlawful are asked in job interviews. Those participating in recruitments should be aware of the principles of the Equality Act and the gender equality plan.
- As far as possible, gender-neutral occupational titles are introduced.
- Messages are included in job advertisements which welcome applications from both men and women

Goal: Increasing the number of women leaders

- Encouraging women to take on supervisory roles (including as substitutes and in other supervisory roles). Supporting employees' career development through practices where a key role is played by peer support and a development plan prepared at the performance appraisal discussions.
- Creating shared practices for anonymous job applications and promoting their use for supervisory and expert roles.
- Targeting supervisory and leadership training in particular at members of the under-represented gender who meet the qualification requirements.

Goal: Equal opportunities for training and career development

- Encouraging the personnel in job rotation, especially as a measure promoting gender equality.
- In the planning and organisation of training, women and men's different training needs and possibilities of participating in training are taken into account, for example due to the nature of their tasks and family responsibilities.
- Instructions on training are reviewed, paying particular attention to offering training equally regardless of gender and tasks and encouraging employees to break free from conventional gender roles.
- Selecting representatives of both sexes to working groups, teams and projects.
- Developing working conditions to ensure that both women and men have equal opportunities for being placed in all tasks and positions. Ensuring that tools, workwear and working facilities, among other things, are suitable for both women and men. (Ombudsman's comment: At the same time, it would be a good idea to also pay attention to the suitability of tools, workwear and working facilities for non-binary employees.)

Goal: Reconciliation of work and family life

- Facilitating the reconciliation of work and family life by means of working time arrangements (e.g. flexible working time, annual leave, leave of absence and special personal leave arrangements).
- Organising a familiarisation and appraisal discussion with employees returning to work after a long leave within 2 to 3 weeks of their return, focusing on changes in the operating environment. During the discussion, suitable training and familiarisation are agreed upon.
- Making sure that employees retain their competence during family leave and that they are familiarised with any changes in their tasks after they return.
- Ensuring that employees are informed of important issues in the workplace also during family and other leaves.
- In connection with personnel arrangements and other changes in the work organisation, taking into account fairly persons who are temporarily absent from working life while taking a family leave.
- Encouraging men to take family leaves and participate in caring for a sick child by different means, including more efficient communications, developing flexible working times and substitute systems, and sharing good experiences. It is important that the line supervisor encourages also men to take family leave.

- Launching an information campaign to encourage men to use family leaves.

Goal: Equal leadership

- Planning and implementing leadership training to promote equal interaction, for example between supervisors and subordinates, that takes women and men into account.
- Taking into account the gender equality perspective at the meetings of cooperation bodies and, if necessary, other events where activities, services and personnel issues are discussed.
- Providing supervisors with instructions and training, for instance on questioning conventional gender roles, dissipating prejudices, working on attitudes among the personnel, taking a long-term approach to promoting gender equality and setting a personal example.

Goal: Harassment-free workplace

- Building up supervisors' skills related to systematically intervening in inappropriate behaviour as part of leadership development.
- Familiarising the personnel with recognising bullying, inappropriate behaviour, harassment and discrimination, everyone's personal responsibility for preventing them, and intervention and reporting procedures.
- Zero tolerance for all types of harassment in the work organisation. The employer issues clear instructions for cases of harassment and workplace bullying

Goal: Equal and safe workplace

- Collecting statistical data and research evidence related to gender equality in the workplace and developing HR reporting relevant to equality.
- Adding questions related to equality and non-discrimination to wellbeing at work surveys and examining the results from the gender perspective.
- Paying attention to occupational safety and the threat of violence, and taking gender differences into account in safety and security arrangements.

Review of results achieved by previous plans

The third key part of a gender equality plan is a review of the results achieved through the measures contained in the previous plan.

The review focuses on the implementation of the previous plan and its results and produces important information on, among other things, how different mechanisms to adjust pay work and which areas need development. The review is useful for developing effective activities further, and it also forms the basis of the following plan.

The majority (46) of the equality plans did not contain a review of the results achieved through the measures of the previous plan. This is understandable as such, as in many municipalities the previous gender equality plan could go back as many as ten years. A review of the results achieved through previous measures was also missing in the gender equality plans of many municipalities that had prepared such plans on a regular basis.

On the other hand, a few municipalities had still included a review section in their plans and noted that when the plan is drawn up the next time, the results of the current plan can also be reviewed.

In his statements to the municipalities, the Ombudsman required them to include a review of the implementation and results of previous measures in their following gender equality plans.

PAY SURVEYS

The gender equality plan must include a pay survey covering the whole personnel, which must contain the classifications of jobs performed by women and men, the pay for those jobs and the differences in pay. Under the Equality Act, the objective of a pay survey is to ensure that there are no unjustified pay differences between women and men who are working for the same employer and engaged in either the same work or work of equal value. Rather than just describing existing pay differences, the reasons for pay differences must thus also be explained and analysed. If there is no acceptable reason for the pay differences, the Equality Act requires employers to take action to remove them.

Had municipalities prepared pay surveys?

The question of pay had been looked at in all municipalities covered by the assessment when they drew up their gender equality plans. Not quite all equality plans contained an actual pay survey, however. Some only made a general reference to pay. In that case, the municipality usually made appeal to the small size of its employee groups, for example the fact that the municipality did not have employee groups with at least six women and men. Some municipalities had carried out a pay survey, but it had not been incorporated in the gender equality plan. These municipalities may have processed individual employees' pay data in the pay survey or they justified omitting the survey from the gender equality plan by the small size of the employee group.

Some of the municipalities had ordered municipality-specific data from Statistics Finland for the pay survey. While Statistics Finland data illustrates observable pay differences, it does not explain their reasons. Determining and analysing the reasons for pay differences are the employer's responsibility

Pay comparisons

Whose salaries were compared with who?

Employee groups created based on specific criteria should be used as the basis for assessing and comparing salaries in the pay survey. Under the Equality Act, the employees may be grouped for the purposes of the pay survey on the basis of demands of the job, duty or some other ground. The government proposal on the Act on Equality between Women and Men draws attention to taking the objective of the pay survey into consideration in the itemisations or groupings.²⁰¹ Under the Equality Act, the objective of a pay survey is to ensure that there are no unjustified pay differences between women and men who are working for the same employer and engaged in either the same work or work of equal value. In other words, its purpose is to ascertain if equal pay is realised.

In most cases, comparisons of pay in the assessed municipalities were made either within pricing level groups or using also some additional classification criterion, including a task group. Usually, only pricing level and employee groups of a certain size were included in the comparison.

When the comparisons were made by the groups based on demands of the job or pricing level, the basic premise was that duties of the same value have already been placed in the same group according to the workplace's remuneration system and under the collective agreement. In her feedback to the municipalities the Ombudsman noted that, as the use of a remuneration system is usually based on several decisions which often may have been made over a long period of time, it should also be ensured that the placement in the groups of duties carried out by female and male employees also follows the requirements of the Equality Act as a whole. The tasks of persons who have the same job title may have been placed in different pricing level groups. Comparisons of pay within each pricing level only provides answers to whether or not equal pay is implemented within each level. The scope of this examination is rather narrow in terms of evaluating the realisation of the equal pay principle.

In as many as 13 municipalities, comparisons of pay were exclusively made within the framework of collective agreements and the salaries of all women covered by the collective agreement were compared with the salaries of all men covered by the same agreement. Some municipalities did so because the number of their employees was small as a whole, and many employee groups had few or no representatives of the other sex. However, a few municipalities with one to three thousand employees also followed this practice.

Pay comparisons between all women and all men, covered by the same collective agreement, provides valuable information about the status of female and male employees with respect to pay. It does not, however, provide answers to whether or not equal pay is received for the same work or work of equal

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value. This is why, in the Ombudsman for Equality's view, examining pay in this way is not sufficient as a comparison produced for the purposes of a pay survey, even if the Equality Act states that the grouping of employees for the pay survey can also be based on "some other ground".

In terms of achieving the objectives of the pay survey, as a challenge could also be considered other comparisons that were carried out merely by collecting employees whose tasks are very different regarding demands of the job in the same comparison group (for example, a simple division into blue-collar and white-collar employees).

An essential part of equal pay is that, as a basic premises, the same pay is received for female-dominated and male-dominated tasks if they are regarded as being of equal value. In order to assess the realisation of equal pay, comparisons between female and male-dominated jobs would thus also be needed. Comparisons of this type had not been conducted, however, apart from a few positive exceptions.

One municipality had carried out an interesting examination of pay practices in different sectors of the municipality, comparing the salaries paid in female and male dominated jobs where an educational background of a similar level was required. The pay of child minders, who are covered by the KVTES agreement²⁰², was compared to the pay of building managers, who are covered by the collective agreement for technical personnel. Another comparison was made between kindergarten teachers (KVTES) and pay group II experts covered by the collective agreement for technical personnel.

For these comparison groups, the average salary, personal allowances and the extent to which the job-specific average salaries differed from the lower

limits specified under the collective agreements were examined; in other words, how discretion had been used in a male-dominated and a female-dominated field when making decisions on salaries. In the salaries of both child minders and property managers, discretion had been used in the same way. In both groups, the lower limit for the salaries was exceeded by 9.5%. However, discretionary personal allowances were paid clearly more often to property managers, and they were larger (EUR 94/EUR 44). In the second comparison, different findings were obtained. For pay group II experts covered by the collective agreement for technical personnel, the lower limit of the agreement (approx. EUR 2,852) was exceeded by 63.8%, bringing the job-specific average monthly salary up to approx. EUR 3,034. For kindergarten teachers, on the other hand, the lower limit specified in the collective agreement (approx. EUR 2,305) was exceeded by 3.2%, and the average monthly salary paid for the job was approx. EUR 2,380. However, discretionary personal allowances were paid to kindergarten teachers more often than to the men in the reference group.

The choice of employee groups to be compared has an essential impact on how well the pay survey can determine whether or not equal pay is implemented. What causes problems in this respect is not only excessively restricted comparisons but also those that are overly inclusive, or place employees whose jobs are too different in the same comparison group. On the other hand, comparisons of pay in some municipalities were exclusively based on collective agreements, in which the salaries of all women covered by the collective agreement were compared with the salaries of all men who were covered by the same agreement. Comparisons between female and male-dominated jobs were few and

202 Collective agreement for the municipal sector (KVTES).

far between. Based on the pay surveys assessed, it is not often possible to draw far-reaching conclusions on whether unjustified pay differences have existed in the same work or work of equal value.

- **The Ombudsman for Equality finds it necessary to investigate if the provision on pay surveys should be clarified for the part of the definition of groups to be compared, ensuring that the objective of the pay survey is taken into consideration better in the selection of comparison groups. The coherence of the provision on pay surveys with its current wording should be reviewed, taking into account the objective of the pay survey set in section 6b(1) of the Equality Act on the one hand, and the provision in section 6b(2) of this Act on how the groups can be defined for the pay survey on the other.**

A pay survey rarely covers the whole personnel

Under the Equality Act, the pay survey should cover the whole personnel. The preliminary work on the Equality Act specifically clarifies that part-time and fixed-term employees must also be included in each personnel group scrutinised. Almost one half of the municipalities (25) had excluded part-time workers, and relatively many (7) also fixed-term employees, from the pay comparisons.

Approximately one half of the municipalities had only included employee groups containing at least six women and six men in pay comparisons based on demands of the job or duties. In some municipalities, an employee group was required to have at least five, and in one large city as many as ten, employees representing the same gender. In many

municipalities, the employee groups are small, and the jobs are strongly divided into those dominated by either women or men. Consequently, a large share of the employees is excluded from these comparisons. For example, as a result of the most commonly used threshold of six female and six male employees, in one municipality the examination based on pricing levels or job groups only covered 20% to 35% of the employees, and in another municipality, only less than 10%. In one municipality, in which the itemisation of salaries was sound as such, the pay comparison itemised by job title only contained 15 out of the 388 titles. While the municipality in question had a high number of job titles only held by one person, it also had 160 other titles that were excluded from the comparisons.

In other words, the pay surveys were in practice often implemented in a manner that failed to include the whole personnel. In some municipalities using the threshold of six female and male employees, the gender pay differences were also examined by other variables, including age or educational background, in which case the whole personnel may have been included. The whole personnel could also be included when comparing the pay of all women and all men covered by the same collective agreement. While analyses of this type provide valuable additional information, they are not sufficient when aiming to establish if the pay meets the requirements under the Equality Act.

Generally, municipalities had excluded employees belonging to small employee groups from the pay survey to avoid revealing individual employees' pay data. The preliminary work on the Equality Act notes that "pay surveys would continue to be drawn up without revealing the pay data of individual employees".

The gender equality plans of a few municipalities contained reflections on protecting the privacy of pay data when carrying out a pay survey. One municipality's equality plan contained the following statement: "... *in the case of the personnel employed by a small municipal sector employer, issues related to comparing pay and publishing pay data need to be considered, in particular. The purpose of publishing the pay survey is to increase the transparency of such surveys and to support equal pay for women and men. However, the pay survey should be implemented without revealing the pay of an individual office holder or employee, which is challenging when the personnel is small.*" In this municipality, all employees' salaries were scrutinised as the pay survey was being prepared, but only comparisons of groups that contained at least six women and six men were included in the final survey.

Another municipality described the preparation of its pay survey as follows: "*In the interest of the individual's data protection, the pay survey is carried out without revealing the pay of individual office holders or employees. For this reason, salaries and pay differences at the individual level have been processed together with personnel representatives, or chief shop stewards. A summary of the salaries is given in the gender equality plan. Not all job groups contain representatives of both sexes. For these groups, the survey has been produced by comparing the groups to each other, taking the difficulty of the work into account.*"

The Ombudsman for Equality's feedback to municipalities often concerned specifically the examination of small employee groups' salaries and improving the coverage of the pay survey. The Ombudsman referred to the instructions contained in the preliminary work on the Equality Act. Among other things, the government proposal notes that

different employee groups can, if necessary, be combined with other groups performing work which is as comparable as possible when it comes to the value of work.²⁰³ When doing so, evaluating the reasons for pay differences emerges as a challenge, as employees performing work of unequal value end up being grouped together.

In the interest of examining the salaries of small groups, it is important that the municipalities can also use individual employees' pay data when preparing the pay survey. According to the government proposal, the fact that individual employees' pay data should not become public through the pay survey should not prevent the processing of this data when drawing up the survey. At this point, the government proposal refers to the publicity of pay in the public sector. KT Local Government Employers has also noted that individual employees' pay data can be processed when preparing a pay survey.²⁰⁴ In practice, however, only a handful of municipalities have done so, of which a few examples were given above.

Most municipalities appeared to have followed KT Local Government Employers' instructions only regarding the size of the employee group. KT Local Government Employers "recommends that pay data are only published for groups containing at least six women and six men".²⁰⁵ The group size (6 or more women and 6 or more men) is, in the instructions provided by KT Local Government Employers, associated with the cases in which pay data may be "published". In practice, this group size has also been used in many municipalities when deciding which employee groups should be included in the

203 HE 19/2014 vp.

204 KT Local Government Employers circular 3/2015 Appendix 1.

205 KT Local Government Employers circular 3/2015 Appendix 1.

pay data collection in general, and which data had been processed with the employee representatives.

The Ombudsman for Equality finds that pay data can be published for groups that contain at least three women or, respectively, three men. The Ministry of Finance also states in its recommendation on publishing the pay survey analysis that groups for which averages and similar statistical data are published should contain at minimum three persons.²⁰⁶

According to the rationale of the Equality Act, the employee representatives who take part in equality planning must be given sufficient information for processing the matter. As the pay survey should cover the whole personnel, the Ombudsman for Equality has stated that all employee representatives who take part in drawing up the pay survey must have access to the information they need to include all personnel and employee groups.²⁰⁷

- Under the Equality Act, the pay survey must cover the whole personnel. However, compliance with this requirement is not particularly good in practice. Pay comparisons relevant to assessing the implementation of equal pay often only concern a part of the personnel, sometimes only a small part. An effort to avoid publishing individual employees' pay data often directs the entire pay survey process.
- The representatives appointed by the employees should be able to examine pay and pay differences regarding the whole personnel

206 Ministry of Justice recommendation VM/661/00.00.01/2015, 28 August 2015.

207 Statement of the Ombudsman for Equality (TAS/386/07).

when preparing the pay survey, assess the reasons for the differences, and give their opinion on the corrective actions required. They should also have access to individual employees' pay data if necessary. This does not mean that the pay data of individuals would also be discussed in the final gender equality plan to which all employees have access.

- The pay data in the public sector are public; processing individual employees' pay data when preparing the pay survey is thus already possible, and some municipalities have indeed done so. In order to extend the pay survey to all public sector employees, however, clearer guidelines are needed on also using individuals' data when producing pay surveys if necessary. To also enable this without disputes in the private sector, the right of private-sector employee representatives to access pay data when participating in preparing a pay survey should be improved by legislation. The right of personnel representatives to access the data required to produce the pay survey on all personnel and employee groups should also be clarified in the Act.

Salary components examined and analysis of reasons for pay differences

The salary components examined in the survey are highly significant in terms of the coverage of the pay survey. According to the government proposal on the Equality Act (HE 19/2014), the pay survey should look at salaries as a whole. The same concept

of pay is used in the pay survey as when applying the prohibition of pay discrimination under the Equality Act. The definition of pay includes at least the basic salary and various supplementary allowances, including different bonuses. Various fringe benefits are also considered to be included in the pay. Under the Equality Act, salaries can be entered in the pay survey either as total salaries including all salary components, or itemised by salary component.

The pay surveys of municipalities mostly examined job-specific pay and total salaries, relatively often also job-specific pay and regular salaries, or all of these. Some of the pay surveys looked at job-specific pay only, or total salaries only. Examining the job-specific pay only is not sufficient, as the pay survey should also include a comparison of allowances. A few municipalities analysed personal allowances separately.

Those municipalities that had produced pay surveys also observed pay differences. Under section 6b of the Equality Act, “if the analysis of different employee groups of the pay survey, which are defined on the basis of demands of the job, duty or some other ground, reveals clear pay differences between women and men, the employer must analyse the reasons and grounds for these differences.” Rather than being limited to merely recording pay differences, the objective of the pay survey also is to assess if unjustified pay differences occur in the workplace in violation of the equal pay principle.

In some pay surveys, the reasons for the pay differences were not addressed at all, but in many cases, at least some of the pay differences observed were discussed in some way. These analyses were produced at more or less concrete levels. In some pay surveys, the analysis of the reasons for pay differences was clearly based on factors that had a conc-

rete impact on the differences. However, it was not always clear how accurately the reasons for the pay differences had actually been investigated to underpin the analysis. For example, if the pay survey is carried out by comparing the salaries of all women covered by the same collective agreement to the pay of all men covered by the same agreement, it is clear that particularly far-reaching conclusions cannot be made on the basis of pay differences on whether or not pay equality is realised in the same work and work of equal value. Where the collective agreement covers jobs of a wide variety, differences of demands of the jobs under comparison are one of the obvious factors explaining pay differences. In that case, the other possible reasons for pay differences often remain uninvestigated.

If the workplace has established a remuneration system in which salaries consist of salary components, the Equality Act requires that the central components should be scrutinised in order to clarify the reasons for any differences which have come to light. An examination of pay differences by salary component helps to establish the real reasons for the differences and to ensure that each component in itself is non-discriminating, as required under the Act. When the reasons for pay differences are being analysed, however, the equality plans assessed by the Ombudsman indicate that total salaries or regular salaries are not in practice broken down to salary components to analyse the reasons for pay differences, and the reasons are analysed at a very general level.

The Ombudsman for Equality has recommended that, where possible, salaries should be described as salary components in the pay survey. It would then be more likely that the reasons for the differences would also be analysed by salary component, or in

a more itemised and detailed manner. This would also be a practical way of ensuring compliance with the Equality Act, as there would be no need to collect more detailed data and analyse it by salary component at a later date.

- **The analyses of the reasons for the pay differences revealed by the pay surveys are frequently rather general. The reasons for pay differences are not often analysed by salary component as required by the Equality Act. The Ombudsman for Equality recommends that, when providing instructions for preparing pay surveys, the significance of examining pay by salary component be stressed more in the analysis of any pay differences observed. In the interest of clarity, salaries should be recorded by salary component to begin with in the pay survey.**

Measures concerning pay

The measures concerning pay showed varying levels of concreteness. Some measures were highly generalised and more like goals. The plan could state that pay was based on the principle of equal pay and contain a general description of the pay system in use, as well as a statement concerning the value of work as the basis of pay. There may be different reasons for the general nature of the measures related to pay. If pay differences requiring correction are not found in the work organisation, there is no need for concrete measures. However, it is also likely that this situation was influenced by the fact that the reasons for pay differences had either not been analysed at

all, or at least not in great detail. If very general remarks only are made concerning the reasons for pay differences, the measures often also fail to take a concrete shape.

Quite a many gender equality plans referred to, as measures concerning pay, developing the pay system and/or introducing a job evaluation system or developing the criteria for job evaluation. Updating job descriptions was sometimes mentioned as a measure. Some plans only made a general reference to the measures, while others contained a schedule or other aspects that made the measures more concrete.

As measures to be launched, or ones whose launch was planned, some gender equality plans also contained measures that should actually have already been implemented as part of the pay survey and its analysis. Plans containing entries of this type stood out in a good way among the others, however, as they indicate that the reasons for pay differences will be analysed in greater detail and in more concrete terms. The plans contained such statements as the following: "Attention will be paid to the differences between women's and men's pay that came up in the pay survey in certain pricing level groups and job categories, and the reasons of these differences will be investigated"; "of the personnel covered by the collective agreement for physicians, the salaries in two pricing levels will be scrutinised"; and "one deviation from the general pay level has been observed in the ASI pricing level group and two in the TOI group, the grounds of which will be investigated by the personnel services".

For the part of allowances, the measures related to pay focused some attention to personal allowances, in particular. As measures had been set down examining how discretionary and personal allowances and personal bonuses are allocated to men and women.

Some plans drew attention to the equal treatment regarding pay of employees who were on family leaves. As concrete measures, the plans of a few municipalities included maintaining and developing supervisors' knowledge of gender equality related to rewarding. Some plans paid attention to recruitments as a measure promoting equal pay, either through recruiting women as supervisors or men in female-dominated jobs. Some gender equality plans referred to using sectoral allowances as an instrument for promoting equal pay, eliminating unjustified pay differences and also proceeding to pay harmonisation..

OTHER OBSERVATIONS

Communication activities

Under the Equality Act, employees must be informed about the gender equality plan and any updates to it. The plan should be easily accessible to all employees. Discussing the issue with personnel representatives in a cooperation body is not enough to fulfil the obligation to inform the employees, as the information should reach all employees and the plan should be easily accessible to them.

The majority of the municipalities reported that the personnel had easy access to the gender equality plan. The most common channel used to disseminate information about the gender equality plan was the municipality's intranet. In many cases, supervisors were also responsible for passing on information.

The Ombudsman for Equality recommends including in the gender equality plan a reference to how the personnel have been informed of the plan. In the monitoring of equality plan implementation, attention should also be paid to how well the obligation to inform the employees has been fulfilled.

Instructions for dealing with harassment situations

The employer must ensure that the employee does not become a target of sexual or gender-based harassment in the workplace. The employer must actively monitor the occurrence of any harassment in the workplace and, showing initiative, intervene in it.

The action of an employer may be deemed to constitute discrimination prohibited under the Equality Act if, upon receiving information that an employee has been a victim of harassment, they neglect to take the steps available to eliminate the harassment.

The employer should also make efforts to prevent harassment in advance, for example by means of gender equality planning. There currently is no statutory obligation for employers to prepare instructions for investigating harassment situations.

To the Ombudsman for Equality's knowledge, at least one half of municipalities have instructions in place for investigating harassment cases, and some have also attached these instructions to their gender equality plans.

- Every employer should have instructions for preventing harassment and investigating harassment cases. These instructions should be included in the gender equality plan, or the plan should refer to the existence of the instructions and explain where the employees can find them. This obligation should also be laid down in the Equality Act.

Gender diversity

Under section 6c of the Equality Act, employers are obliged to take pre-emptive action in a purposeful and systematic manner against all discrimination based on gender identity or gender expression. According to the government proposal, it would be useful to include in the Equality Act a reference to employers' commitment to combating discrimination against and harassment of gender minority representatives.

In most gender equality plans, gender identity and gender expression were overlooked, or they were addressed in the form of a short reference to the contents of the Equality Act. As few as approximately one municipality out of ten had measures related to gender diversity in their gender equality plans, or the recommended comment on prohibiting discrimination based on gender expression or gender identity in the workplace. As an exception, the plans of some municipalities contained several concrete measures.

Examples of concrete measures relevant to gender diversity:

- Organising training on the Equality Act as well as gender diversity and multiculturalism in the workplace.
- Ensuring that employees in the workplaces have access to gender neutral toilet facilities.
- Improving the protection of privacy in the workplace's shower rooms by providing shower curtains, private cubicles, space dividers or curtains for changing if necessary.
- Preparing operating instructions that secure the possibility of changing the name and gender indication in employment certificates later on.
- In addition, gender identity and gender expression had been addressed in measures related to preventing harassment. Some plans also contained an explicit statement that "discrimination based on gender identity and gender expression in the workplace is prohibited".
- In the accounts of their equality planning some municipalities reported that gender diversity had been addressed in the municipality even if no reference is made to it in the gender equality plan.

APPENDIX 3

To the Ombudsman for Equality
24 September 2018
Background paper

IMPLEMENTATION OF GENDER EQUALITY POLICY IN FINLAND IN THE 2010S

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Introduction

This background paper written for the Ombudsman for Equality discusses the implementation of gender equality policy in Finland in the 2010s. The paper is based on our prior research and articles about this subject. In particular, we have drawn on and wish to popularise the findings of the *Tasa-arvovaje* ('Gender Equality Deficit') project (2016–2017) funded by the Kone Foundation, the *GePoCo* project funded by the Academy of Finland (2016–2020), and the Gender Equality in the Government Budget project (2017–2018) funded by the Government's Analysis, Assessment and Research Activities (VN TEAS). The findings of Koskinen Sandberg's doctoral dissertation (2016a) were also used in the background paper.

The research we discuss in this paper will be published in a work edited by us titled *Tasa-arvopolitiikan suunnanmuutos* ('Change of direction in gender equality policy'; *Gaudeamus*) in 2019.

Contents

1. Context and general trends of gender equality
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3. Gender mainstreaming
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5. Women's status in political and economic decision-making
6. Policy-making concerning the labour market and gender equality
7. Equality in the world of work
8. Family leave system and early childhood education and care
9. Resources of the gender equality work

Key observations:

- **The financial crisis and fiscal austerity have eroded gender equality in Finland. Whereas strong gender equality policy would have been called for to counteract this, the trend has gone in the opposite direction and undermined equality policy.**
- **Plenty of scope for improvement remains in the current gender mainstreaming practices and, in particular, their implementation. While assessing the gender impacts of legislative**

proposals is the best established one of the current practices, numerous shortcomings can be found in the number and quality of these assessments that reduce their effectiveness.

- Gender mainstreaming could be supported by more clearly defined gender equality objectives at the national and administrative sector level.
- Changes in government policy, and especially the transition to a concise strategic Government Programme, have reduced the role of gender equality policy and its visibility in government policy as a whole.
- Economic policy has different impacts on men and women, and various groups of men and women, and it may erode gender equality. The changes in taxation and benefits adopted in 2016–2018, for example, had a negative effect on economic gender equality.
- The development and implementation of gender budgeting would thus be a significant addition to the instruments of gender equality policy.
- The number of women on the boards of listed companies has been increasing.
- The Competitiveness Pact affected negatively the labour market status and income levels of especially public sector employees and women.
- Gender-based divisions in the labour market, including segregation, part-time work and fixed-term employment, have remained more or less unchanged in the 2010s. On the other hand, the gender pay gap has been somewhat reduced.
- Nothing but minor adjustments have been made to family leaves in the 2010s, which have not succeeded in fixing the greatest gender equality problem of the family leave system – the low number of fathers taking family leave.
- The early childhood education and care policy has been inconsistent from the viewpoint of gender equality, and cutbacks that are problematic from the gender perspective have been made in early childhood education and care provision. Restrictions affecting the universal right to day-care have impaired parents' possibilities of working, looking for work and studying.
- The resources of the gender equality authorities and equality policy are inadequate, and there has been little or no increase in them in the 2010s. Changes in public finance management may have hampered the allocation of resources to gender equality policy.

I. Context and general trends of gender equality, including the financial crisis and its impacts, as well as changes in the field of party politics

Gender equality and equality policy have been affected by the financial crisis, which has loomed large in European news over the last decade. The crisis has had not only economic but also social and political and, above all, gendered consequences. The fiscal austerity which followed the financial crisis has impaired the economic position of women, in particular, and thus increased gender inequality (see e.g. Kantola and Lombardo, 2017). In the aftermath of the financial crisis, the public sector has been targeted by various cutbacks and rationalisation measures around Europe. Due to the gendered structure of the labour market, cuts have had a particularly severe impact on women working in the public sector. Their impacts have also affected those citizens who are the most dependent on public services and social benefits, the majority of whom are women, single parents, pensioners, immigrants and other economically vulnerable groups. In addition to the cuts, changes in care policy have altered the relations of genders in society as care responsibilities have been shifted from society to families and, in practice, to women. Consequently, there is a particular need for strong gender equality policy, combat against racism, gender impact assessment of economic policy, and enforcement of gender equality and non-discrimination legislation in order to address these impacts and improve the status of the most vulnerable groups.

Many researchers have suggested that Europe has also faced a crisis of gender equality policy (Kanto-

la and Lombardo, 2017; Jacquot, 2015 and 2017). The permanence and continuity of gender equality policy structures have been tested. Not only the fiscal austerity policy but also the rise of right-wing populism fed by it have contributed to the crisis of gender equality. Conservative and nationalist voices have gathered strength, which has played a part in making it more difficult to talk about gender equality and to develop measures aiming to promote it (Elomäki and Kantola, 2018). In Finland, the rise of the Finns Party to the Government with the Centre Party and the National Coalition Party masculinised the political culture and enhanced its masculine characteristics. It also pushed key questions of gender equality policy and reforms that had undergone lengthy preparation, including the Trans Act, off the gender equality agenda.

The crisis of gender equality policy has also had positive impacts, however, in that it has seen the emergence of new actors in the field of equality. Following the example of other European countries, a Feminist Party has been established in Finland, a feminist group operates in Parliament, and new grassroots level movements have come to existence, for example anti-racist ones. The labour market organisations have taken on a newly active role in shaping gender equality policy, and they have stepped in to fill the vacuum left by the Government, especially in terms of the family leave reform (Elomäki, Koskinen Sandberg, Kantola and Saari, in press). Many companies have also taken the role of opinion leaders regarding gender equality in society. The new feminist stakeholders base their activities on feminist knowledge rather than the female gender. This has created new opportunities for understanding the inequalities created by racialisation in the Finnish feminist movement (Elomäki and Kantola, 2018)

and also facilitated a more diverse and inclusive feminist agenda than the one enabled by governmental gender equality policy. Opposition to racism and nationalism and emphasising the diversity of gender are thus in a more central role for the new feminist actors than in governmental gender equality policy or for traditional women's organisations (Elomäki and Kantola, 2018).

Equality policy comprises discussions, battles and activities initiated by a large group of actors aiming for equality in a broader sense than as gender equality alone. Equality policy is also implemented in interaction with international and EU law and equality policy. In this background paper, we focus on our research in national and governmental equality policy in a relatively narrow sense. In the 2010s, cornerstones of this equality policy have been the Government Report on Gender Equality (2010) and the Government Report on Gender Equality 2010 - Interim report (2016), which were prepared by the Ministry of Social Affairs and Health's Gender Equality Unit, adopted by the Government and discussed by Parliament. The objective of the Government Report on Gender Equality was to evaluate Finnish equality policy and provide guidelines for the next 10 years. Its 11 topics describe what were experienced as the core themes of gender equality policy at the time of its publication, as well as the ways in which gender equality could be promoted in relation to the themes. The Government 2015-2019's strategic Government Programme, Finland, - a land of solutions (2015), almost completely overlooked the problems related to gender equality, while the Government's Action Plan for Gender Equality was a watered-down version of its predecessor. This is a theme we discuss in closer detail in the next Chapter.

2. Government Programmes, Government action plans for gender equality, and the implementation of these plans and programmes

In this Chapter, we discuss the features of and changes in the Government's action plans for gender equality in the 2000s. The Government 2015-2019's Action Plan for Gender Equality is shorter and less ambitious than its predecessors, and it contains few new initiatives. However, an analysis of the action plans for gender equality adopted in the 2000s reveals that rather than an about-turn, this represents a sustained trend accelerated by recent changes in government policy. The key problem of the Government's action plans for gender equality lies in that gender equality policy and its measures have taken on an increasingly close resemblance to creating, complying with and mainstreaming good practices, whereas special measures focusing on equality have dwindled.

In the 2000s, the Government's action plans for gender equality gained a permanent footing as key policy and steering documents which specify the priority areas and measures of gender equality policy. Rather than being limited to the action plans, however, gender equality policy in central government also comprises implementing equality projects and drafting legislation that promotes gender equality also outside the action plans (Elomäki & Ylöstalo, 2017).

The first action plan for gender equality in Finland covered the period 1980–1985 and the second one, which implemented the Beijing Platform for Action, was valid in 1997–1999. In the 2000s each Government, starting with the Government of Prime Minister Jäätteenmäki/Vanhanen (2003–2007), has adopted an action plan for gender equality. In their current form, gender equality action

plans prepared and adopted in the early part of the government term collect in a single document the Government's measures aiming to promote gender equality. While the action plans for gender equality have become an institutionalised way of making equality policy and the Beijing Platform for Action also obliges Finland to prepare one, the preparation of an action plan for gender equality always is a specific decision and an expression of the Government's political will. (Elomäki & Ylöstalo, 2017.)

Government 2015-2019's Action Plan for Gender Equality

Prime Minister Sipilä's Government Programme and Action Plan for Gender Equality (Ministry of Social Affairs and Health, 2016b) have been severely criticised by women's organisations and researchers of gender equality for its low gender equality profile. The Government's (2015-2019) action plan has been characterised by such words as "less, cheaper, worse" (Elomäki et al., 2016b). While the themes of the Government's Action Plan for Gender Equality were familiar from the previous gender equality action plans and reports, their number has been reduced by almost one half. Whereas the Government Report on Gender Equality from 2010 formulates concrete policies on 11 different themes, six themes have been picked for the new action plan: the labour market, reconciliation of work and family life, education and sports, violence against women, men's wellbeing and societal decision-making (mainstreaming). Many of the themes included in the Report on Gender Equality are conspicuous by their absence, which is deplorable in a context of gendered policy of cutbacks. (Elomäki et al., 2016b.)

The Government's (2015-2019) Action Plan for Gender Equality 2016-2019 ignores the efforts recorded in the Report on Gender Equality and the previous action plans to improve the organisation and resources of gender equality work. The Report on Gender Equality contains many concrete policies on improving the status of the gender equality authorities by 2020. As the previous Government did not carry through these measures, it would have been the duty of the present one to do so. (Elomäki et al., 2016b.)

Promoting women's employment is not one of the targets cited in the action plan, even if improving employment is one of the Government's key goals. In the current context, the selected goals are not the most essential ones for de facto promotion of gender equality. The employment of mothers with young children is declining, and the policy of cutbacks has been considered to undermine the preconditions for women's employment. In addition, the set goals disregard the policies laid down in the Report on Gender Equality on promoting women's employment through equal economic and employment policy and reducing non-voluntary fixed-term and part-time work. (Elomäki et al., 2016b.)

The actual measures focus on immigrants and the boards of listed companies. While paying attention to the employment opportunities of women and men with a foreign background, focusing on immigrants while ignoring the other gender equality problems in the labour market indicates a mentality where inequality is seen as somebody else's problem and gender equality as something that has already been reached in Finland. An effort to increase the number of women on the boards of listed companies is primarily made through corporate self-regulation. The Government 2015-2019 thus appears to depart from the previous Government's policy of favouring quotas. (Elomäki et al., 2016b.)

Gender equality policy in the entity of government policy

While this background paper focuses on the 2010s, it is also necessary to look back to the development of action plans for gender equality in the 2000s. Rather than an about-turn, the Action Plan for Gender Equality of Prime Minister Sipilä's Government is part of a longer-standing continuum.

Anna Elomäki and Hanna Ylöstalo (2017) highlight the changes and continuums of the Government's gender equality policy in their analysis of the Governments' action plans for gender equality in the 2000s. A key difference is that changes in government policy have reduced the role of gender equality policy and its visibility in the entity of government policy. In addition to international treaties (including the CEDAW Convention and the Beijing Platform for Action), the Government Programmes have been the most important factor determining the content of the gender equality action plans throughout the 2000s. Since the late 1990s, however, the Government Programmes have been transformed from detailed steering documents towards visionary expressions of political will ("strategic approach"), in which the key themes of the government term are introduced. Prime Minister Sipilä's Government Programme which, unlike its predecessors, does not contain goals or measures related to gender equality, illustrates the problem related to the strategic way of policy-making: gender equality as a policy area runs the risk of disappearing from the agenda of government policy that focuses on large-scale themes and projects. Government policy-making that concentrates on great outlines raises the question of whether gender equality is a sufficiently large societal issue to be noticed as a goal in itself or even integrated in other major themes.

The visibility of gender equality in government policy also affects the practical level work in the ministries. A concrete example of this is performance management and the changes that have taken place in it. In recent years, the performance management system has been developed in a more strategic, cross-administrative and uniform direction. This trend sets certain challenges to gender mainstreaming in performance management. Firstly, as the strategic approach is stressed, the Government Programme objectives have joined the strategies of administrative sectors and agencies in determining the sectors' and agencies' goals related to societal impact. This means that the gender equality goals in the Government Programme, or the lack thereof, influence the visibility given to equality in performance management. Secondly, along with the strategic approach and lightening of the administrative burden, the ministries have been encouraged to reduce the number of their performance targets: whereas in earlier times the agencies could have dozens of targets, the Ministry of Finance now recommends four to five as a suitable number. The reduction in the number of performance targets may hamper the inclusion of content-related gender equality goals in the administrative sectors' performance targets and the agencies' performance agreements, as gender equality is rarely the most important and central issue. Additionally, the idea expressed in research interviews of the need to eliminate from the performance agreements small issues taken for granted may undermine the possibilities of using performance management as a reminder of the statutory obligations related to gender equality. (Elomäki & Ylöstalo, 2018.)

Form and measures of action plans for gender equality

The form and measures of the gender equality action plans indicate continuity, on the other hand, even if the development that began in the early 2000s seems to have gathered momentum. Throughout the 2000s, the gender equality action plans have been dominated by efforts to comply with the principles of good governance. The aspects associated with these efforts include prioritisation, realistic goal-setting, concrete measures and measuring the results. While all these aspects have strengthened the implementation of equality, this development also has its problems. When political issues relevant to gender equality are defined as administrative problems, there is a risk of gender equality becoming unpolitical. The current form of the action plans for gender equality thus transmutes equality policy into steering-related discourse with no interested parties, in which achievable targets and concrete means are emphasised, rather than analysis and identification of problems. This limits equality policy's possibilities of aiming for radical change, for example dismantling gender-based divisions related to care responsibilities. (Elomäki & Ylöstalo, 2017.)

Striving for good governance may also support attempts to sidestep gender equality or certain goals related to it, such as sharing caring responsibilities or recognising the diversity of gender. While sharing parenthood and developing family leaves, for example, have been an important part of previous action plans for gender equality and the Report on Gender Equality, these themes are almost completely absent from the Government 2015-2019's Action Plan for Gender Equality. The requirement of a li-

imited number of objectives associated with the strategic decision-making adopted by the Government 2015-2019 means that dropping certain themes out of the gender equality action plan is formulated as a technical requirement rather than an ideological and political choice. (Elomäki & Ylöstalo, 2017.)

Another feature that can be observed in the action plans for gender equality adopted in the 2000s is the increased number and stronger role of measures related to gender mainstreaming. Investigating alternative measures, monitoring and evaluating administrative processes, and integrating gender equality in existing projects and action plans are given increasing amounts of space in the range of measures used in gender equality action plans. The number of special measures related to gender equality, on the other hand, has declined in the same proportion. (Elomäki & Ylöstalo, 2017.)

In addition to the reduced significance of special measures, the increase in mainstreaming measures raises the question of drivers of change in gender equality policy. In Finland, mainstreaming is promoted in central government by including the gender perspective in existing policy objectives through the government's specific instruments and means. As gender mainstreaming is strengthened, gender equality policy and its measures increasingly begin to resemble creating, following and spreading of good governance practices rather than striving to influence policy objectives and their content. The focus on gender mainstreaming measures in the action plans for gender equality thus appears to prioritise the development of administrative tools as the number one goal of gender equality policy and offer equality policy the position of an ally promoting each Government's specific policy objectives. (Elomäki & Ylöstalo, 2017.)

3. Gender mainstreaming

Many gender mainstreaming measures, including gender impact assessments of legislative proposals, have been put on a permanent footing in the ministries. However, the implementation of mainstreaming has plenty of scope for improvement. A key development area is improving the number and quality of gender impact assessments. Clear equality objectives for specific administrative sectors would support the implementation of gender mainstreaming.

Gender mainstreaming targets the central government's key processes, which include legislative drafting, preparation of the draft budget, performance management, keeping statistics, and projects and action plans. In addition, an effort has been made to create and establish mainstreaming structures in the ministries and at the Government level. The most important ones of these are the ministries' working groups on operational equality and the network of working groups on operational equality created towards the end of the first decade of this millennium. (Elomäki, 2014.)

The resources allocated to mainstreaming work both at the Government level and in the ministries are meagre and have improved little in the last few years. The Gender Equality Unit at the Ministry of Social Affairs and Health, which coordinates gender mainstreaming, currently has at its disposal the partial work input of two person, or less than one person-year in total. In the ministries, the personnel resources available for mainstreaming vary. (Elomäki, 2014.)

Status of gender impact assessments of legislative proposals

Gender impact assessment of legislative proposals is the best-known and best-established practice of gender mainstreaming. In 2007–2017, the number of legislative proposals containing an assessment of gender impacts has varied between 11% and 22%. In 2017, a record number of legislative proposals, or more than one out of five (22%), contained an assessment of gender impacts (Elomäki & Ylöstalo, 2018; National Institute for Health and Welfare, 2018). There has been increased societal and political pressure to conduct impact assessments during the Government 2015-2019 term. Established in 2015, the Finnish Council of Regulatory Impact Analysis, which issues statements on legislative proposals and their impact assessments, has reinforced the importance of impact assessments at a more general level. More attention has also been paid to gender impact assessments in public discussions, and Parliament has intervened in inadequate gender impact assessments (Elomäki et al., 2016a). This increased attention may be one reason for the recent growth in the number of gender impact assessments.

A closer scrutiny reveals inadequacies related to both the number and quality of the assessments, however. In their analysis, Elomäki and Ylöstalo (2018) argue that the assessment of gender impacts continues to be neglected in many cases where this assessment should be made. Following the current practice, a gender impact assessment should always be conducted when a legislative proposal concerns humans and it can be expected to affect men and women differently (Ministry of Social Affairs, 2007; Ministry of Social Affairs, 2009). However, as few as approximately one third (N=116) of the gender

impact assessments carried out in 2007–2017 concluded that the proposal did have gender impacts. In other words, only 4.5% of legislative proposals made in 2007–2017 (N=2575) were found to have gender impacts. (Elomäki & Ylöstalo, 2018.)

Elomäki and Ylöstalo analysed all legislative proposals made in 2017 and found that slightly more than one half of all proposals in that year were gender impact assessment relevant (in other words proposals in which, following the guidelines, a gender impact assessment should have been carried out). While a higher number of gender impact assessments was carried out in 2017 than ever before, the gender impacts were not assessed in connection with more than 60 relevant legislative proposals, or in a total of 30% of the proposals made in 2017. In addition, research interviews carried out in the ministries showed that the gender impact assessments rarely have an impact on the final content of an act. (Elomäki & Ylöstalo, 2018.)

A closer scrutiny also reveals shortcomings in the quality of the assessments. Gender impact assessments are often based on the drafter's notions, and research evidence and statistical data are used relatively rarely: in 2007–2017, of 356 legislative proposals whose gender impacts had been assessed, research evidence or statistical data had been used in less than one third (N=106). Even in assessments relying on statistics itemised by gender, the statistics are usually not examined analytically, making an effort to identify inequality that potentially lurks in the background of statistical differences. In addition to data use and analysis, a common qualitative shortcoming concerns a narrow understanding of gender equality as treating women and men in the same way. The so-called formal equality of this type

disregards impacts in which women are men are in fact put in a different position even if the act treated them equally as such. (Elomäki & Ylöstalo, 2018.)

There is a number of reasons for the low number of gender impact assessments: inadequacies in the conduct of gender impact assessments in general, lack of knowledge of gender equality, insufficient resources allocated to impact assessments, and the fact that the guidelines on gender impact assessment have not been issued in the form of a government resolution, unlike the guidelines on many other types of impact assessment. The qualitative problems of gender impact assessment, on the other hand, ensue from shortcomings in the drafters' knowledge of gender equality, insufficient resources and a rushed schedule. (Elomäki 2014; Siukola, 2006.) A key quality problem is that the assessments rarely or never discuss impacts on gender equality. On the one hand, this is a result of the guidelines: the guidelines on preparing government proposals (Ministry of Justice, 2004) and the guide on assessing human impacts (Ministry of Social Affairs and Health, 2016a) identify the prevention of discrimination as the primary goal of the gender impact assessment, and they do not oblige the drafters to consider the other impacts of the proposal on gender equality. On the other hand, the drafters are not clear about what gender equality means. Unlike such countries as Sweden, no clear national objectives for gender equality have been adopted in Finland to which the impacts could be compared. (Elomäki & Ylöstalo, 2018.)

Gender mainstreaming in the Budget and performance management

In addition to legislative drafting, an effort has been made to incorporate gender mainstreaming in the budget process. The guidelines for preparing budget proposals issued by the Ministry of Finance to the other ministries have, since 2007, contained the requirement of taking the gender perspective into account: “In the justifications of the main titles, a summary of activities affecting the budget proposal that have significant gender impacts should be included.” Thanks to this summary, an established space for discussing gender equality and gender impacts exists in the budget proposal. Better use could be made of this space, however. The greatest practical problems currently are the non-specific nature of the requirement contained in the instructions for budget preparation and the lack of binding guidelines issued by the Ministry of Finance. Consequently, the ministries’ entries concerning gender equality often are vague, and they are not linked to the content-related issues of the administrative sector or the objectives of gender equality policy. (Elomäki & Ylöstalo, 2018.)

Including a gender perspective in performance management has been part of Government action plans for gender equality since 2004. Since the performance management reform of 2012, gender mainstreaming has been included in the performance management handbook published by the Ministry of Finance consisting of 19 information cards (Ministry of Finance, 2012). Performance management is affected by the same problems, however, as the gender equality entries in the justifications of main titles in the budget proposals: the entries on equality in performance agreements often are very

general, and they do not have direct links to the content-related issues in the administrative sector. (Elomäki & Ylöstalo, 2018.)

Development areas of gender mainstreaming

Plenty of positive development has been achieved in gender mainstreaming. The establishment of the ministries’ working groups on operational gender equality has improved its structures, and the gender impact assessment of legislative proposals, in particular, is a relatively well-established practice (Elomäki, 2014). As we have seen above, a number of problems also persist in connection with gender mainstreaming.

According to Ylöstalo and Elomäki (2018), more effective implementation of gender mainstreaming would require clearer gender equality objectives at the national and administrative sector level. Currently, each government term’s equality objectives are set in the Government’s action plan for gender equality. However, these objectives are not necessarily expressed clearly. Changing objectives which depend on the composition of the Government have been found inadequate, which is why the Government Report on Gender Equality prepared in 2010 and approved by Parliament set objectives extending till 2020. This document is considered outdated, however, and the Government 2015-2019 does not appear to see its relevance. It also contains too many objectives. Gender mainstreaming would benefit from clear national gender equality objectives, from which targets for individual administrative sectors can be derived. This should be taken into account as the drafting of the next Report on Gender Equality is to begin in a near future.

In addition to national gender equality initiatives, the ministries should continue developing their sector-specific goals. Goals selected for each administrative sector enable the promotion of gender equality in each ministry's key activities. Assessing gender impacts in proportion to these goals will improve the quality of assessment. On the one hand, the sector-specific goals should be based on equality problems relevant to the contents of the sector in question. These problems were surveyed as part of implementing the Action Plan for Gender Equality of Prime Minister Sipilä's Government. On the other hand, the sector-specific goals should reflect national objectives and the objectives of relevant international treaties and commitments from the perspective of the administrative sector in question. For example, the gender equality goals can be selected as part of the ministry's strategy. (Elomäki & Ylöstalo, 2018.)

The national objectives and sector-specific goals should be supported by indicators for equality promotion, which are already being developed by the Ministry of Social Affairs and Health and the National Institute for Health and Welfare. The equality indicators should be visible in budget proposals, performance agreements, and the annual reports of agencies and institutes, ministries and the Government.

4. Focus on gender equality and gender in economic policy

This Chapter looks at the gender impacts of economic policy as well as gender budgeting and its development in Finnish central government. While no systematic evaluation of the gender impacts of the 2010s economic policy as a whole has been produced, it has been found that the changes to taxation and benefits made in 2016–2018 have eroded economic equality between women and men. The findings confirm that economic policy has different impacts on men and women, as well as on various groups of men and women, and it may undermine gender equality. Some gender budgeting practices are currently followed in Finland, but they are insufficient and inadequately implemented. This Chapter contains five recommendations for a Finnish model of gender budgeting.

Gender impacts of economic policy

The impacts of economic policy on income distribution are currently not systematically assessed from the gender perspective in Finland, and no detailed and comparable data on the impacts of the policies of the 2010s are available as yet. According to calculations made by Kärkkäinen, the economic policy pursued in 2011–2018 has increased women's and reduced men's incomes. Whereas women benefited more than men in the 2011–2015 government term, during the 2015–2019 term the situation has been reversed. (Kärkkäinen, 2017.)

The most detailed gender impact assessment of economic policy produced in Finland covers the changes in taxation, social insurance payments and social security benefits made during the term of Prime Minister Sipilä's Government in 2016–2018

(Elomäki and Haataja, 2018). The assessment reveals that as a consequence of the Government's economic policy, economic equality between men and women has been impaired.

While changes to taxation and social security benefits have on average benefited both men and women, men have benefited more. Over the three years under scrutiny, men's personal disposable money income²⁰⁸ increased as a consequence of policy measures by 0.60% in relative terms, and women's income increased slightly less, or by 0.51%.

Men's benefits were greater than the benefits gained by women due to two factors. On the one hand, most of the persons who benefited from changes to taxation and benefits were men. As a consequence of the government policy, 61% of men and 54% of women were better off by more than EUR 50 annually. In relative terms, the benefits gained by men and women were more or less equal (the disposable income increased by approx. 1.1%).

On the other hand, the majority of the approximately half a million people who incurred losses as a result of the Government's actions were women, and the women who incurred such losses lost more in proportion than the men who incurred losses.

As a result of the Government's policy measures, 10% of men 12% of women lost more than EUR 50 annually. The losses of those who incurred losses over the three years (women -2.29% and men -1.88% of their disposable income) were considerably greater than the average benefits of those who did benefit.

208 These calculations were produced using the so-called modified personal disposable money income as the income concept. This concept of personal income uses scaling coefficients to take into account the number and ages of dependent children in order to facilitate comparisons between people with different family types.

The benefits and losses treated various groups of men and women differently depending on their age, income level and family type. For example, those in working age were more likely to benefit from the Government's policies (more than 60% of men and women benefited) than men and women in retirement age (37% of men and 25% of women benefited). The proportion of women and men who benefited from the reform increased when moving from the lower towards the higher income levels up till the ninth income decile, even if the benefits in relative terms reduced at the same time. The share of those who lost out in the reforms and the relative order of magnitude of their losses were the greatest at the lowest income levels, on the other hand. Changes to taxation and benefits have increased the income differences among both women and men, and the income differences among women have increased slightly more than the differences among men. The gender-specific Gini coefficient increased by 0.19 percentage points for women and 0.09 percentage points for men.

The personal at-risk-of-poverty rates of both men and women increased as a consequence of the changes to taxation and benefits made in 2016–2018, with women's rates increasing more than men's. Women's personal at-risk-of-poverty rate increased by 0.32 percentage points, while this rate for men increased by 0.23 percentage points.

There were major differences between the gender impacts of the Budgets of 2016, 2017 and 2018. The 2016 Budget benefited women slightly more than men, whereas the 2017 Budget benefited men clearly more than women. The average income changes and the situation of the winners and losers in the 2018 Budget showed little or no difference between men and women.

The findings of studies confirm that economic policy has different impacts on men and women, as well as on various groups of men and women, and it may undermine gender equality.

Developing gender budgeting

Gender perspective is needed in economic policy, as the Budget and other public economy decisions have different impacts on groups of men and women, and they may either promote or impair gender equality. Gender budgeting is gaining increasing popularity internationally as a strategy for promoting gender equality. It focuses on the budget and economic policy-making, aiming to change the allocation of public expenditure and revenue in a way that promotes gender equality. According to a widely used Council of Europe definition:

Gender budgeting is an application of gender mainstreaming in the budgetary process. It means a gender-based assessment of budgets, incorporating a gender perspective at all levels of the budgetary process and restructuring revenues and expenditures in order to promote gender equality. (Council of Europe 2005, 9.)

In Finnish central government, the concept of gender budgeting has so far been used little. However, three practices developed in connection with gender mainstreaming are in use, through which the gender perspective can be brought to bear on different stages of the budget process: gender impact assessment of legislative proposals, incorporating the gender and equality perspective in the ministries' budget proposals, and including the gender and equality perspective in performance management. (Elomäki & Ylöstalo, 2018.)

However, the current practices are fraught with

problems from the viewpoint of gender budgeting. The practices are not seen as a whole, and they are not interlinked at the implementation level. Additionally, the current practices of gender budgeting do not have direct links to the specific gender equality questions relevant to individual ministries' administrative sectors. Another problem is the role of the Ministry of Finance, which has remained minor. In the international context, the Ministry of Finance's role has been found critical for the success of gender budgeting (Elomäki, 2018). As the current practices have been formulated as part of gender mainstreaming, the Ministry of Social Affairs and Health's Gender Equality Unit has assumed responsibility for them. While the Ministry of Finance has issued guidelines on incorporating the gender equality perspective in budget proposals and performance management, it has not played an active role in developing and monitoring the practices. (Elomäki & Ylöstalo, 2018).

In its current form, gender impact assessment does not meet the needs of gender budgeting. It targets individual legislative proposals, and the gender impacts of the Budget are not currently assessed as a whole. Gender impact assessments made in the legislation stage are also conducted too late in terms of the budget process. In practice, the key contents of the legislative proposal have already been finalised in the Government Programme, the General Government Fiscal Plan or the Government's budget proposal, or at least there is such a strong political will concerning it that the impact assessment rarely has any effect on the final contents of the act. A gender impact assessment should be conducted in an earlier phase of the extensive budget process – before decisions on new measures are made in the Government Programme, the General Government

Fiscal Plan or the budget proposal. (Elomäki & Ylöstalo, 2018.)

Additionally, the methods of gender impact assessment do not meet the needs of gender budgeting. The impacts of individual changes to taxation or benefits, or of packages of such measures, on income distribution are currently not assessed from the gender perspective. So far, the gender perspective has also not been included in the ex-ante assessment of policy measures' employment impacts. If the impacts on income distribution and employment were assessed from the gender perspective, this would significantly improve the quality of gender impact assessment and produce important information on the impacts of the Budget. (Elomäki & Ylöstalo, 2018.)

Developing the gender impact assessment of the Budget was one of the measures contained in Prime Minister Sipilä's Action Plan for Gender Equality. The Government's long-term objective is that budgeting will support the promotion of gender equality and that gender impact assessment will be part of the budget preparation process. The gender impact assessment of the Budget and gender budgeting in a wider context have been developed in a project focusing on gender equality in the Budget associated with the Government's Analysis, Assessment and Research Activities which concluded in September 2018 (eds. Elomäki and Ylöstalo, 2018). The project issued five recommendations for developing gender budgeting and gender impact assessment of the Budget in Finland:

1. Launching the concept of gender budgeting
2. Linking gender budgeting to national gender equality objectives and individual administrative sectors' equality goals

3. Expanding the assessment of gender impacts from legislative proposals to the Budget
4. Reporting systematically on the Budget's gender and gender equality impacts
5. Supporting gender budgeting politically and within the central government

The project recommends that the current practices associated with gender budgeting (gender impact assessment of legislative proposals, entries on gender equality in the budget proposal and incorporating the gender perspective in performance management) and the new practices proposed in the project be collected under the concept of gender budgeting. Gender budgeting, on the other hand, should be linked to national gender equality objectives and the goals of individual administrative sectors. (Elomäki & Ylöstalo, 2018.)

The project also recommends that gender impact assessment be extended from assessing individual measures during legislative drafting to the entire extensive budget process, which consists of the Government Programme, government spending limits and the General Government Fiscal Plan, the Budget, the legislation that implements the Budget, and performance management. When the gender impact assessment focuses on not only legislative proposals but also on the budget proposal, attention can be paid to government policy as a whole rather than on individual measures, as the budget proposal brings together all measures of different administrative sectors. Reporting on the gender and gender equality impacts of the Budget should also be strengthened. (Elomäki & Ylöstalo, 2018.)

Gender budgeting should be supported politically and within the central government. The Government's commitment to gender budgeting in

its Government Programme would be an important show of support. The Ministry of Finance is the key gender budgeting actor in central government, and it should be responsible for leading the development work. (Elomäki & Ylöstalo, 2018.)

5. Women's status in political and economic decision-making

Women have traditionally had a strong status in politics in Finland. While the 2015 parliamentary election meant a small backwards step, the situation improved in the municipal elections of 2017. In economic decision-making, women's participation in the boards of listed companies, in particular, and potential gender quotas have been a key question. The number of women on the boards of listed companies has increased clearly during the period of scrutiny.

Following the parliamentary election of 2011, women accounted for 42.5% of the Members of Parliament. In the parliamentary election of 2015, their proportion dropped slightly to 41.5%. There were major differences between political parties, and the decline in the number of women MPs was particularly associated with their status in the Centre Party and the Finns Party, with proportions as low as 29% (Centre Party) and 32% (Finns Party) right after the election in 2015. The weaker representation of women in these two parties was also reflected in the composition of the Government, in which an exception was made to the principle of gender balance. While the composition of Prime Minister Sipilä's

Government has varied, the number of female ministers was as low as 36% at its highest (2015) and 29% at its lowest (in 2017). Women Female ministers have been particularly poorly represented in the four Cabinet Committees. In 2018, the Cabinet Committee on Foreign and Security Policy counted one woman among its seven members, in the Cabinet Committee on European Union Affairs this proportion was 2/13, in the Cabinet Finance Committee 1/4, and in the Cabinet Committee on Economic Policy 1/7.

There has also been a political debate on the gender balance of parliamentary committees, committee chair persons and the experts used by the committees. The proportion of women as committee chairpersons was relatively high. After the 2015 election, six of the chairpersons were women and ten were men. When vice chairs are taken into consideration, this balances out the situation, resulting in a gender balance of 16 women and 17 men. Of the 16 committees, men held the majority in 11 and women in 5. (Information: Perälä, 2015). Annu Perälä (2015) wrote that "in the distribution of committee places between men and women, the old truth of policy sectors being divided into hard and masculine fields, including the economy and defence, and feminine fields, including gender equality and social and health questions, appears to apply."

The proportion of women female local councillors and MEPs has grown steadily in the 2010s. Following the municipal elections of 2017, 39% of local council members were women, which was more than ever before. Great variations between the municipalities were observed in the gender balance, however, with lower proportions of women as local councillors in small municipalities than in large ones (Pekola-Sjöblom and Piipponen, 2018a: (11). At the

beginning of the council term 2017–2021, women accounted for 39% of council chairpersons, which was an increase of 11 percentage points compared to the previous term (Pekola-Sjöblom ja Piipponen, 2018b: (4). Of local executive chairpersons, 31% were women, representing an increase of 5 percentage points compared to the previous term (Pekola-Sjöblom and Piipponen, 2018b: (4). In the European elections of 2015, 6 men and 7 women were elected to the European Parliament. The proportion of women has increased since then, as some MEPs have stepped down and, for example, moved to the national Parliament. In 2018, 10 of the MEPs were women and 3 were men.

In the context of economic decision-making and gender equality, one of the most central areas of gender equality policy has been increasing the number of women on the boards of listed companies. At the centre of the debate has been the possibility of introducing gender quotas. Quotas have not become part of the Finnish equality policy, however. The Government 2015-2019 (Action Plan for Gender Equality 2016–2019) has set its target at no less than 40% of women and men as Board members in large cap and mid cap listed companies by 1 January 2020. The target currently covers about one half of all listed companies. The Government monitors the achievement of this target actively, and the need to pass legislation to achieve the targeted rate will be assessed in autumn 2018. A preference for avoiding legislation and achieving the target “through actions taken by the companies and market participants” has, however, been expressed by both the previous and the Government 2015-2019 (Action Plan for Gender Equality 2016-2019, Government Resolution 17 February 2015).

The Finnish debate concerning the gender balance on boards of listed companies is interesting; on one hand, quotas have met with strong opposition in Finland from the beginning. On the other hand, an effort to avoid regulation in form of quotas has encouraged Finnish listed companies to take the initiative in increasing the proportion of women on their boards. The Finnish Chambers of Commerce with its range of programmes for women leaders has been a key actor in this. There has been a willingness to prove that no quotas will be needed and that companies can increase the representation of women on their boards without them. The companies listed on Helsinki exchange have an obligation to follow a Corporate Governance Code and its recommendation 8 (Securities Market Association, 2015), according to which both genders should be represented in the board of directors. A significant increase has indeed been recorded in the proportion of women (Finnish Chambers of Commerce, 2018), and the Governance Code may thus be considered relatively effective. However, the Code does not contain detailed instructions on the numbers of women and men on boards. The first version of the Governance Code entered into force in 2003, and detail was added to it in 2008. The proportion of women in the boards of directors of listed companies has gone up from 7% in 2003 to 29% in 2018 (Finnish Chambers of Commerce, 2018). Very few companies today have boards of directors consisting solely of men. Women made up the highest proportion of board members in state-owned companies, while their proportion is the lowest in unlisted companies. The 40% goal set by the Government has not yet been achieved.

6. Policy-making concerning the labour market and gender equality

This Chapter deals with the realisation of gender equality in policy-making concerning the labour market and in the collective agreement system. The shift of the collective agreement system towards more local bargaining and the primary role of the so-called industrial norm in collective bargaining do not predict positive development for women who work in public sector roles. The adverse effects of the Competitiveness Pack and cuts in holiday bonuses were also felt most severely in the public sector.

The collective agreement system

The collective agreement system and the social partners play a rather essential role for gender equality in Finnish working life, which is why discussing this topic is also important in this report. A typical feature of the Finnish agreement system has been centralised agreements on employment conditions and centralised collective bargaining in so-called comprehensive incomes policy agreements. These policy settlements have also encompassed an agreement on economic and social policy since the 1960s. (e.g. Bergholm, 2015; Kauppinen, 2005). Differing opinions have been put forward on the gender equality impacts of the comprehensive incomes policy agreements. On the one hand, they contained such features as gender equality allowances, however modest in amount. They also prevented the differentiation of pay development in different fields, for example. On the other hand, however, they permanently settled the wage level in female-dominated fields at a lower level than the wage level in male-dominated

fields, and their gender equality impacts can thus not be considered exclusively positive (Koskinen Sandberg, Törnroos and Kohvakka, 2018).

The end of the era of comprehensive incomes policy agreements was already taken for granted in 2008 (Julkunen, 2009). Nevertheless, since that year a tripartite Framework Agreement was still negotiated in 2011 and a Competitiveness Pact in 2015–2016; as comprehensive settlements arrived at in tripartite negotiations covering the entire labour market, they were in many ways similar to the comprehensive incomes policy agreements. It currently looks, however, as though the time for centralised agreements is over. The Confederation of Finnish Industries (EK) decided in 2015 that it would no longer participate in comprehensive incomes policy agreement (YLE, 2015). EK's efforts to dissociate itself from the settlements gained momentum as the organisation announced in 2017 its intention to terminate the agreements made between central organisations (EK, 2017). The current model of more local agreements at industry level and the primary role of the industrial norm perpetuates and strengthens a tradition where the public sector which its female-dominated fields, for example, is of secondary importance in comparison to the male-dominated export industry; consequently, no positive development can be expected, at least not from the agreement system (Koskinen Sandberg, 2017).

Such a great number of collective agreements are negotiated in Finland that assessing the progress of gender equality through these negotiations as a whole is very difficult. The gender impacts of certain individual collective agreements have been assessed. This has been done in an attempt to ensure that the provisions of collective agreements are not discriminatory in themselves. The overall effects of

the entire collective agreement system and the different agreements in individual fields have not been assessed from the gender equality perspective. In terms of equal pay, statistics indicate that permanence, rather than radical change, can be expected. International research has found that a transition towards local agreements has typically meant increasing rather than narrowing pay differences (Colling and Dickens, 1998; Mandel and Semyonov, 2005).

The Competitiveness Pact

The conclusion of the Competitiveness Pact, which in the early days was known as the social contract, was an essential part of Prime Minister Sipilä's Government Programme, and the negotiations with the central labour market organisations were led by the Government from the start. The process was initiated in 2015, and the Pact was completed in 2016. According to information which came to light in early autumn 2018, President Niinistö himself got involved in the process and had personal discussions with actors participating in it, including business sector representatives (YLE news 13 August 2018).

The purpose of the Competitiveness Pact was improving Finland's competitiveness by reducing the labour cost. The target was reducing labour costs by approx. 5% per hour without cutting the actual monthly salaries; potential ways of carrying this through included increasing the number of hours worked. The Government's preference would have been to increase the annual working hours, for example by giving up some public holidays. The process of negotiating the Competitiveness Pact was long and arduous, however, and the Pact did not ultimately take shape in the way the Government had

intended. The alternative to the achieved negotiation result was so-called coercive acts, which would have undermined the conditions of employment in Finland even more than the negotiated Competitiveness Pact.

The modifications carried out meant that public sector holiday bonuses were cut by 30% for a fixed period. Working hours were also extended by approx. 6 minutes a day both in the public and the private sector. Additionally, so-called zero increases were used in 2017, and the collective agreement negotiations in 2018 were based on the industrial norm; this meant that the level of pay increases was low as a whole, and other fields were not given higher pay increases than those adopted in the export industry. The Competitiveness Pact together with its cuts of holiday bonuses and longer working hours affected especially the public sector, and thus women considerably more than men. Right away, the effects of the Pact were reflected on the earnings statistics in the municipal sector, for example (Statistics Finland, 2017). According to the Government, the income tax cuts brought in by it compensated for the most part for the gap in public sector workers' incomes created by the Competitiveness Pact. However, the tax cuts benefited all employees, while the cuts in holiday bonuses and longer working hours affected the female-dominated public sector more, increasing the income differences between the public and the private sector (e.g. Helsingin Sanomat, 2018)

7. Equality in the world of work

This Chapter discusses key gender equality questions in working life, including equal pay, segregation, part-time work, fixed-term employment and the fragmentation of working life. Segregation in Finnish working life is relatively strong, and little or no change has taken place in this situation. Women are more likely to work in both part-time and fixed-term jobs than men. On the other hand, the most recent statistics indicate that the gender pay gap is narrowing.

The questions related to strong gender segregation in education and the labour market, the different appreciations associated with this, the difficulties in career progress and workplace discrimination that women continue to encounter, unbalanced division of part-time and fixed-term employment, and the imbalance in caring duties and absences from working life are closely linked to gender equality in the workplace and gender equality policy related to the world of work. The most obvious areas in which men encounter inequalities in working life are linked to dropping out from education, and thus also from working life, and being excluded from the labour market. For women, being outside the labour market is associated with long family leaves, above all.

Part-time work, fixed-term employment and fragmentation of working life

Finnish women have traditionally been thought to engage in full-time work. This is no longer completely accurate today, as part-time work has increased over the decades. Additionally, women are more likely to do part-time work than men. In 2017, 21% of

female wage and salary earners, or 227,000 women, worked part time, whereas these figures for their male counterparts were 10% and 104,000. The proportion of male wage and salary earners in part-time work remained the same as in 2016, whereas among women, the number of wage and salary earners working part time increased by one percentage point, or approx. 9,000 people, year-on-year. In recent years, part-time work has become more common, specifically among women. As a comparison, a couple of decades ago in 1997, 14% of women and 5.5% of men worked part time (Statistics Finland, Labour Force Survey). At the beginning of our period of scrutiny in 2010, 21% of women and 9% of men worked part time. In other words, part-time work has become more common over the longer term, also for men but especially for women. The increase in part-time work did not take place in the 2010s; the trend started earlier than this.

In 2017, there was an average of 2,147,000 wage and salary earners in Finland, or 43,000 more than the year before. 345,000 of them were in fixed-term employment, women accounting for 204,000 and men for 141,000 of this figure. The number of wage and salary earners in fixed-term employment increased by 12,000 year-on-year. In 2017, 84% of wage and salary earners' employment relationships were valid until further notice, while 16% were valid for a fixed term. There was no year-on-year change in these proportions. Women work in fixed-term employment more often than men. In 2017, 19% of female and 13% of male wage and salary earners were in fixed-term employment. A similar increase cannot be observed here as in the case of part-time work. In the reference year of 1997, 19% of women and 14.5% of men were in fixed-term employment. In 2010, similarly, fixed-term employment was as

common as it is today: 20% for women and 13% for men (Statistics Finland, Labour Force Survey).

Reducing involuntary fixed-term and part-time work was identified as one of the objectives of gender equality policy in the Government Report on Gender Equality (Ministry of Social Affairs and Health, 2010, 41). However, the objective of reducing fixed-term and part-time employment is not visible in the gender equality action plans formulated in the 2010s (Ministry of Social Affairs and Health, 2012; Ministry of Social Affairs and Health, 2016). Instead, the strive to deregulate the labour market, which became more prominent in the labour policy of the 2010, has led to attempts to facilitate the conclusion of fixed-term employment relationships. Prime Minister Sipilä's Government proposed measures which, if implemented, would have been likely to increase women's fixed term employment relationships. In the government spending limits discussion of spring 2018, for example, the Government decided to allow the conclusion of a fixed-term contract with a jobseeker aged under 30 who has been unemployed for at least 3 months without a justified reason. This decision, which was also criticised from the viewpoint of gender equality, was cancelled in July 2018.

Other themes related to the fragmentation of working life are also missing from the agenda of gender equality policy. In addition to the increase in part-time work, another clear labour market trend in the 2010s has been the growing number of so-called self-employed persons, including sole entrepreneurs, own-account workers, freelancers and grant recipients (Pärnänen, 2015). The Government 2015-2019 has encouraged the unemployed to embrace self-employment, for example by making changes to unemployment security (HE 124/2017).

Self-employment has been seen as problematic from the gender equality perspective, because as many as one half of the self-employed are placed in the lowest income quintile. The increase in self-employment may thus swell the numbers of women in low-paid work. (Suoranta, 2016.)

The number of zero-hours contracts has also gone up in the 2010s, and in 2014, approx. 83,000 wage and salary earners aged 15 to 64 reported that they had a zero-hours contract. The majority of them, or 57%, were women. So far, there has been little research in zero-hours contracts from the viewpoint of gender equality. A key problem with zero-hours contracts from the gender equality perspective is that a great number of workers with contracts of this type would like more working hours, and the majority of these workers in search of more hours are women. (Labour Force Survey, 2015; Pärnänen, 2015.) The platform economy only operates on a small scale in Finland so far; in 2017, less than 14,000 Finnish workers received at least one quarter of their income through different digital platforms. Those who obtained at least one quarter of their income through platforms were mainly men (approx. 60%), and about one half of them were aged under 35. (Labour Force Survey 2018.)

Segregation

Segregation, or division by gender, is extremely prominent in the Finnish labour market. Women work above all in the fields of care, education and health services as well as in catering and accommodation jobs in the private services sector. Men, on the other hand, mainly work in the export industry, the construction sector and transport services (Statistics

Finland, Labour Force Survey). The only change in this segregation in recent decades has been women who have pursued training in male-dominated occupations, while not many men have shown interest in occupations in the care field, for example. Dismantling segregation has been one of the key themes of Finnish gender equality policy. It has been thought that stereotyped ideas of what is suitable for each gender limit people's possibilities for self-fulfilment and maintain gender pay differences, for instance (National Institute for Health and Welfare, 2018). On the other hand, this mentality takes to an unnecessary degree for granted such facts as lower pay in female-dominated fields; however, this is an extremely complicated societal issue that cannot be solved merely by individuals who make untypical choices. The low pay level in many female-dominated jobs in the welfare state has a long history which goes back to the stages of the growth of the welfare state, ideas held in former times of the women's role in the family and society, and the long-standing practice of pay based on gender, in which female workers received the so-called woman's pay (e.g. Koskinen Sandberg, 2018).

Gender equality policy has targeted measures at both segregation and the pay gap, but they have at least to some extent been treated as separate, although interlinked, issues. Segregation has been regarded as the factor which explains the pay gap; in many calculations, working in different jobs is accepted as the justification for the pay difference as such. On the other hand, measures aiming to dismantle segregation have striven to encourage women to pursue careers in male-dominated fields, especially in technology. While strong gender segregation in the labour market serves no-one's interests, it is still justified to criticise the clearly visible

way the measures aiming to dismantle segregation stress the presumed superiority of male-dominated fields and the under-appreciation of the female-dominated sectors (e.g. National Institute for Health and Welfare, 2018).

Equal pay and efforts to promote it

Pay equality has not made significant headway in the 2010s; in 2010, the pay gap was 18%, while it was approx. 16% in 2017 (Index of wage and salary earnings 2018, preliminary data). In other words, whereas a small improvement has been achieved, the goals of gender equality policy aiming for equal pay are still not within reach, regardless of the tripartite Equal Pay Programme implemented in Finland since 2006. Above all, this programme has attempted to raise awareness of the gender pay gap, to promote different measures focusing on the pay gap in a tripartite process, and to ensure the social partners' commitment to narrowing the pay gap as a joint objective. A number of research and development projects have been carried out within the programme on different themes, including gender equality planning, pay systems, collective agreement policy, gendered impacts of the labour market transition, and the challenges to women's career development (e.g. Lilja and Savaja, 2013, Asplund and Lilja 2010, Ikävalko et al, 2011, Uosukainen et al., 2009, Hearn et al., 2015, Koskinen, 2012). The themes of these projects represent the focal areas of the Equal Pay Programme. The programme has additionally organised a number of seminars and implemented an information campaign titled Let's talk about pay. The original target of the Equal Pay Programme was a gap of at most 15% by 2015. This

target was not achieved, however. The current term of the Equal Pay Programme runs from 2016 till 2019, after which the future and priorities of the programme depend on the next Government. An overall evaluation of the Equal Pay Programme will be produced in autumn 2018.

Efforts have also been made to promote equal pay through a reform of the Act on Equality between Women and Men (1329/2014). As part of a more extensive reform of the Act, its provisions on pay surveys were also updated. The reformed Act has been valid from the beginning of 2015. While the Act now contains more detailed instructions on how wages and salaries should be compared in the workplaces, it is impossible to be fully satisfied with the contents of the Act. Negotiations on the contents of the instructions for preparing pay surveys took place in the tripartite Working group on pay surveys (Ministry of Social Affairs and Health, 2012). The reform process has also been analysed critically (Koskinen Sandberg, 2016b, Saari, 2015). For example, the vital point of comparing pay across the boundaries of collective agreements disappeared from the agenda completely during the negotiation process. The current instructions urge employers to compare pay based existing job evaluation categories or within job titles, which does not fully embrace pay inequalities between jobs that are different but equally demanding, i.e. of equal value.

Indirect impacts on pay equality have also been expected from the reform of family leaves, agreement policy and desegregation, but no significant progress has been achieved in any of these areas.

8. Family leave system and early childhood education and care

This Chapter deals with the reform of the family leave system and development in family leave use as well as changes affecting early childhood education and care made in the 2010s. Only minor adjustments have been managed in family leaves in the 2010s, which have not succeeded in fixing the greatest gender equality problem of the family leave system – the low number of fathers taking family leave. The early childhood education and care policy has been inconsistent from the viewpoint of gender equality, and cutbacks that are problematic from the gender perspective have been made in early childhood education and care provision. Restrictions affecting the universal right to day-care have impaired parents' possibilities of working, looking for work and studying.

Developing family leaves has been on the gender equality policy agenda throughout the 2010s, above all with the aim of improving women's status in the labour market and encouraging fathers to take more family leaves. Other objectives have included more flexible use of family leaves and sharing more equally the costs incurred by employers from family leaves. In recent years, the diversity of families and problems associated with the home care allowance have also been stressed. (Salmi, 2017.)

Only minor adjustments to the family leave system have been successfully carried out in the 2010s. The paternity month was extended by two weeks in 2010. In 2013, a paternity leave independent of the mother's choices was created, and the period during which it can be taken was made more flexible. A flexible care allowance was introduced in 2013

to make it easier for parents to work part time. In March 2017, reforms aiming to address the diversity of families better were carried out. (Saarikallio-Torp and Haataja, 2016; Salmi, 2017) Additionally, Prime Minister Sipilä's Government has balanced out the costs of family leaves through a one-off payment of EUR 2,500, or the so-called family leave compensation, paid to the employer of a female employee taking family leave. The compensation has been criticised for not being an effective method for improving women's labour force status and sharing the care responsibilities (e.g. National Institute for Health and Welfare, 2016). Few employers have also applied for the compensation. Kela estimates that while approx. 30,000 employers would be entitled to the compensation every year, during the first year the compensation was available, it was only applied for by some 14,000 employers (Kelasto).

The reforms carried out have been inadequate to fix the greatest problem of the family leave system – the low number of fathers taking family leaves. While the number of fathers using the parental allowance and the number of days entitling to parental allowance used by fathers have gone up in the 2010s, the growth has been slow, and at times the development has been negative. In 2010, fathers used 7% of the days entitling to parental allowance, whereas these figures were 8.7% in 2012, 9.7% in 2015 and 10% in 2017. The number of fathers receiving parental allowance has also increased, both in absolute figures and in proportion. In 2010, parental allowance was received by 56,393 fathers (103,577 mothers) and in 2017 by 61,187 fathers (87,905 mothers). (Kela, 2018.)

Increasingly loud conservative voices and more stringent economic policy have hampered the development of the family leave system. The Action

Plan for Gender Equality of Prime Minister Sipilä's Government (Ministry of Social Affairs and Health, 2016b) contained no plans to develop family leaves and to promote gender equality by encouraging fathers to take family leave – for the first time in the history of the gender equality action plans. The family leave reform finally made it to the agenda of Prime Minister Sipilä's Government in autumn 2017 under pressure from the labour market organisations, gender equality actors, researchers and political parties.

Promoting gender equality and sharing care responsibilities played a minor role in the debate on the reform; instead, the discussions revolved around promoting employment and dismantling incentive traps. The tone for the discussions was also set by the idea that the reform should not increase public expenditure. As a result of the strive for cost neutrality, the 6+6+6 model promoted long promoted by women's organisations and gender equality researchers, in which a long quota for fathers is combined with extending the earnings-related parental leave period, was disregarded in the discussion as it was considered too expensive. (Elomäki ja Ylöstalo, 2017.)

The reform was abandoned in February 2018. Factors behind this included the conflicting marginal conditions set for the reform by the Government, the unwillingness of certain parties in the Government to touch the home care allowance, and unwillingness to allocate funds to the reform.

Early childhood education and care have not had a visible role in the gender equality policy of the 2010s, even if the universal right to day-care has been an important factor underpinning women's employment and gender equality in Finland. In the gender equality policy of the 2010s, early childhood

education and care have mainly been visible through themes related to gender awareness (Ministry of Social Affairs and Health, 2016b). There has been no commitment to improving the availability and quality of early childhood education and care in the gender equality action plans of the 2010s.

In recent years, impairments in early childhood education and care that are problematic from the gender perspective have been implemented as part of public economy cutbacks. The subjective right to day-care was questioned for the first time in 2013, as Prime Minister Katainen's Government made a decision to restrict it as part of the structural policy programme (Government, 2013). While this decision met with opposition and was cancelled in 2014, Prime Minister Sipilä's Government put restricting the right to day-care on the agenda again as part of its austerity policy, and the restriction finally entered into force in 2016 (HE 80/2015). At the same time, the quality of day-care was compromised by allowing an increase in the size of groups for children aged over 3.

The gender impacts of restricting the universal right to day-care have not been assessed properly. Examinations dealing with the impacts of the restrictions, which were based on surveys (Puroila and Kinnunen, 2017; Vertikal, 2017), focused on assessing the impacts on children and the operation of day-care centres. These studies indicate, in particular, that restricting the universal right to day-care has had negative effects on children and the equality of families. In the light of the studies, it also appears that the restriction has impaired parents' possibilities of looking for work, studying and working (Puroila and Kinnunen, 2017; Vertikal, 2017). Undermining the possibilities for looking for work is problematic, not only as such but also in connection with the acti-

vation model of unemployment security that entered into force in 2018, under which unemployment benefits are reduced if the jobseeker does not engage in a certain amount of paid employment or participate in the TE Office's services during the review period. Restricting the universal right to day-care may make it more difficult for an unemployed parent to meet the condition of being active.

It is also possible that the restriction leads to an increase in the home care of children. Some of the parents who responded to the survey also believed that the changes have made the threshold for staying at home with a child at the early childhood education and care age higher (Puroila and Kinnunen, 2017). The increased size of child groups at day-care centres, which was made possible at the same time as the universal right to day-care was restricted, may have had similar effects. Larger groups reduce the experienced and actual quality of early childhood education and care, and concerns over the quality of day-care are one of the reasons underpinning a decision to care for the child at home (Närvi, 2017, 80).

Restricting the right to day-care and increasing the group sizes also affect the wellbeing of early childhood education and care personnel, who are mostly women. Studies indicate that the majority of the employees experience increased work-related stress and find that their work in the child group has become more challenging (Puroila and Kinnunen, 2017, 79). No information is available on the potential reductions in personnel numbers caused by the restriction.

All in all, policies related to early childhood education and care have been inconsistent from the gender equality perspective in the 2010s. While the availability of day-care has been restricted and its quality has been reduced, gender awareness has emerged as

a more visible theme in discussions on early childhood education and care. Day-care fees, which affect especially women's possibilities of working, have sometimes been increased as part of austerity policies, whereas at other times they have been reduced to provide more incentives for working and to promote children's equality. It is positive that early childhood education and care are increasingly seen as an investment in the future in public debate and decision-making. On the other hand, the specific significance of early childhood education and care for gender equality has not been noticed in the same way.

9. Resources of gender equality policy

This Chapter discusses the resources of gender equality policy and the authorities in charge of gender equality. The resources of the gender equality authorities and equality policy are inadequate, and there has been little or no increase in them in the 2010s. Changes in public financial management may have restricted the possibilities of allocating resources to gender equality policy.

Many studies have found that the resources of the gender equality authorities are inadequate (e.g. Holli, 2009). However, the resources of the gender equality authorities have been reduced further in the 2010s. The personnel resources, in particular, are meagre and inadequate considering the tasks.

The Ministry of Social Affairs and Health's Gender Equality Unit, which coordinates the Government's equality policy, has a continuous shortage of personnel resources. While the Unit could apply to EU funding programmes and the ministry's own extraordinary operational appropriations for

additional resources, the personnel resources are not adequate for preparing applications. The Gender Equality Unit's personnel resources have been reduced by one person-year during the Government 2015-2019 period, while one person-year has also been cut from the Equal Pay Programme's resources. At the same time, the operating funding of the Equal Pay Programme was cut. The Ombudsman for Equality's personnel resources are completely inadequate considering the Ombudsman's tasks. During a period of over ten years, several significant amendments have been made to the Equality Act, which have added to the Ombudsman's workload considerably. Regardless of the legislative amendments, the Ombudsman for Equality has been allocated no funds for recruiting additional personnel. Especially the duty to supervise gender equality plans has created a clear gap between the Ombudsman for Equality's tasks and the available resources.

The operational appropriation of the Council for Gender Equality has decreased in the 2010s. While in 2011–2013, it was EUR 150,000 a year, since 2014 it has varied between EUR 130,000 and EUR 120,000. While no significant change has taken place in the personnel resources, replacing part-time secretaries with one full-time planning officer's post has been a positive development.

No separate funding has been allocated to the Government's action plans for gender equality to cover the costs incurred by the ministries responsible for the measures. The personnel resources and other funding must be sourced from within the spending limits of the ministries responsible for the measures. Monitoring documents do not itemise the amounts spent on implementing the measures. The lack of separate funding has an impact on the type of measures that are selected for inclusion in the gender

equality action plans. The share of measures requiring resources in the gender equality action plans has dropped in the 2010s. The majority of the measures in the current Action Plan for Gender Equality can be implemented as part of public servants' work, and they do not require separate resources of the ministries responsible for them.

International research had paid attention to the reduction in funding for gender equality policy in the aftermath of the financial crisis (e.g. Karamessini and Rubery, 2014; Lombardo, 2017). In Finland, too, the undoing of gender equality policy coincided with an economic recession and the ensuing austerity policy and public economy adjustment measures. In different contexts, Government representatives have given us to understand that the reason for the feeble gender equality policy can be found in the poor economic situation (Elomäki et al., 2016, see also the discussion on family leaves). Making appeal to the economic situation may also be an excuse for avoiding international and national obligations experienced as uncomfortable.

The funding of gender equality policy is also linked to broader public finance steering processes. The steering processes of central and general government finances and recent changes in them may hamper the allocation of resources to gender equality policy. As a result of the central government spending limits procedure introduced in the 1990s, important budget policy decisions are made in the autumn following the elections while deciding on the spending limits of the government term, as well as in the Government's spending limits discussions in the spring, which lay the foundation for preparing the following year's Budget. In connection with the spending limit discussions, the Government has often agreed upon new investments or cuts, or taken

a stand on new projects that may be allowed in each administrative sector. (Elomäki ja Ylöstalo, 2018.)

Action plans for gender equality have often been adopted more than a year after the Government has adopted the general government spending limits for the government term, and months after the decisions on possible new investments have been made in the spending limits discussion and the government budget session. This is why finding spare money is difficult at the time the action plan for gender equality is approved. Funding for gender equality policy has often been secured through a commitment to allocating resources for certain measures in the Government Programme. In that case, it has been possible to include the measures in the spending limits of the government term and the Government's first Budget. Ignoring gender equality in the Government Programme thus is a problem in terms of not only the visibility but also the funding of gender equality policy. The most significant measure requiring new resources in Prime Minister Sipilä's Action Plan for Gender Equality – strengthening the network of shelters as required under the Istanbul Convention – had already been decided and included in the General Government Fiscal Plan for the government term.

Recent reforms related to public financial management may make the allocation of resources to gender equality policy even more difficult. The model of 'strategic' government work adopted by Prime Minister Sipilä's Government includes the idea of reconciling substance-related and political steering, ensuring that substance-related political objectives are fitted within the financial framework. (Elomäki et al., 2016, Mykkänen, 2016.) In addition, public financial management as a whole has been transformed in recent years as, ensuing from the EU's strengthened economic governance, a new steering

model of the public finance has been developed in Finland, the most important instrument of which is the multiannual General Government Fiscal Plan. The new steering model and the General Government Fiscal Plan give the Government and the Ministry of Finance a stronger grip on local government finances, for example by extending the spending limits procedure used in central government finances to local governments and setting an expenditure ceiling in a Euro amount to local government finances. This stronger grip on the local government spending means that measures that would promote gender equality but also increase expenditure, including improvements in the quality and availability of day-care, supporting high-quality care of older people and improving the employment conditions and pay in the female-dominated public sector have become difficult, if not impossible, to carry out. (Elomäki, 2016.)

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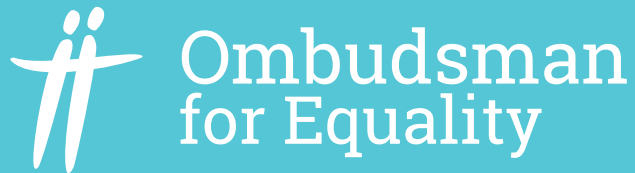
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