

Article 22 of the Constitution of the ILO
Report for the period 1 June 2018 to 31 May 2022
made by the Government of Finland
on the
DISCRIMINATION (EMPLOYMENT AND OCCUPATION)
CONVENTION, 1958 (No. 111)
(ratification registered on 23 April 1970.)

I LEGISLATION AND REGULATIONS

Non-discrimination Act (1325/2014)
Act on Equality between Women and Men (609/1986)
Criminal Code of Finland (39/1889), chapter 47, section 3 and 3 a

No amendments on the reporting period.

II

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III

1. Enforcement by Occupational Safety and Health Authorities

The Occupational Safety and Health Authority enforces the prohibition of discrimination at work under the Non-discrimination Act (1325/2014). Occupational safety and health divisions at Regional State Administrative Agencies serve as regional occupational safety and health authorities. Enforcement measures are determined in accordance with the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006). The Ministry of Social Affairs and Health Department for Occupational Safety and Health has drafted guidelines for enforcing equality and non-discrimination. These guidelines are available at www.tyosuojelu.fi/tietoa-meista/julkaisut/valvontaohjeet (in Finnish only). Discrimination is monitored both at the request of a client and independently by the authority in the course of a workplace inspection.

2. Client-initiated contact with the Occupational Safety and Health Authority

The Occupational Safety and Health Authority received a total of 570 contacts seeking advice concerning employment discrimination in 2021. The Occupational Safety and Health Authority received a total of 210 requests for enforcement related to employment discrimination in 2021.

3. Client-initiated inspections

The inspector drafts a processing decision on an initiated case that does not result in enforcement procedures. Possible grounds for this decision may include a lack, based on the information supplied by the client, of any cause to suspect that the employer has infringed the Non-Discrimination Act. The inspector will initiate enforcement procedures if the information supplied by the client gives cause to suspect that the employer has infringed the Non-Discrimination Act. An inspection relating to workplace discrimination is usually conducted on the basis of documentation. A total of 134 inspections concerning discrimination in initiated cases were conducted in 2021. An inspection report was prepared for each inspection, with the inspector including a reasoned opinion as to whether the employer had failed to comply with the prohibition on discrimination. A total of 46 client-initiated inspections establishing that an employer had failed to comply with the prohibition on discrimination were conducted in 2021.

4. Officially initiated inspections

Implementation of equality and non-discrimination provisions was monitored in the course of 729 officially initiated inspections in 2021.

5. Preliminary investigation notices to the police

The Occupational Safety and Health Authority has a statutory obligation to notify the police if it becomes apparent during an inspection that there is cause to suspect a criminal offence of workplace discrimination. The Occupational Safety and Health Authority submitted 32 preliminary investigation reports to the police concerning suspected work discrimination offences in 2021.

Article 1

There was nothing new to report with respect to equality legislation over the period from 1 June 2018 to 31 May 2022

Article 2

National measures to promote equality, especially in the field of employment:

The Government's Action Plan for Gender Equality 2020–2023 brings together the goals and measures of the Government of Prime Minister Sanna Marin for promoting gender equality. The objective of the Government is to make Finland a leading country in gender equality. The Action Plan for Gender Equality summarises the measures for which the various ministries are responsible. The Action Plan for Gender Equality contains about 50 measures. <https://julkaisut.valtioneuvosto.fi/handle/10024/162844>.

Thematic areas of the Action Plan:

- Improving equality in working life and financial decision-making
- Reconciling work and family life, and distributing care duties more equitably
- Promoting gender equality in early childhood education and in education
- Reducing violence against women and intimate partner violence
- Improving the status of gender minorities
- Promoting gender equality in major reforms and mainstreaming the gender perspective
- Promoting gender equality in the European Union and in international operations

In the field of working life, there are several measures: Promoting pay transparency through legislation, preventing pregnancy discrimination, improving the status of employees on zero-hour contracts and in temporary work, ensuring access to integration and language education for immigrant women, promoting gender balance on boards of publicly listed companies and continuing systematic efforts to increase the percentage of women among members of boards and management groups in State-owned companies.

Sexual harassment is discrimination within the meaning of the Act on Equality between Women and Men. Several studies suggest that this is most commonly encountered by young women and members of various minorities. Pursuant to the Government's gender equality programme, the Ministry of Social Affairs and Health has arranged two conferences to encourage policymakers and influencers to tackle sexual harassment more effectively in the world of work. The first of these events dealt with preventing sexual harassment in the world of work generally, while the second focused on the rescue sector in particular. A further two events will be held this year. (*The Ministry of Justice will probably report on a reform of sexual offences legislation with respect to sexual harassment)

The Government has also prepared a reform of family leave to improve gender equality, which is due to take effect on 1 August 2022: <https://stm.fi/en/-/family-leave-reform-enters-into-force-in-august-2022>. Both parents will be eligible to take 160 days parental leave, only some of which may be transferred to the other parent. The parental leave system will also be made more flexible in many ways, and equality between various families will also be improved. <https://www.finlex.fi/fi/laki/alkup/2022/20220028> (amendment available in Finnish and Swedish only)

Study of gender equality progress and attitudes: Gender Equality Survey 2017

The sixth Gender Equality Barometer 2017(<http://urn.fi/URN:ISBN:978-952-00-4012-3>, published in June 2018) provides information on opinions, attitudes and experiences related to gender equality in various areas of life. The barometer enables monitoring the development of gender equality in different sectors of Finnish society. The data shows a slow change in attitudes towards gender equality over the past 20 years although men felt more often than women that gender equality has already been achieved.

The barometer's results indicate that there are also problems with gender equality. For example women continue to face sexual harassment and inappropriate behaviour. Sexual harassment affects particularly women under the age of 35. Women experienced gender-related disadvantages in working life more often than men, for example concerning wages. Especially people working in private sector workplaces assessed that taking family leaves is more difficult for men than women. Approximately one third of wage earners assessed that gender minorities would experience discrimination in their workplace. One third of students felt that study materials contained gender stereotypes.

Promoting gender equality in pensions project aimed to generate discussion about differences between pensions paid to men and women. It also aimed to improve people's and decision-makers' awareness of the reasons behind the pension gap. The project was in progress 2018-2020. <https://stm.fi/en/projects-on-gender-equality> . A comprehensive report of the project was published in 2019 <https://julkaisut.valtioneuvosto.fi/handle/10024/161880> Women's pensions are on average one fifth lower than men's pensions. Even though the gap has narrowed somewhat, it is still significant and above the EU average. Today, there is not much difference in the average employment rate,

length of working careers or retirement of women and men, but the difference in earnings is significant even by international standards (16%). The gender pay gap has a key impact on the gender pension gap. The unequal sharing of family leave between women and men and particularly the long periods of supported home care increase the gap between earnings and pensions.

Project promoting diversity in working life

Some problems have been observed in employment of immigrant women. Their employment rate is substantially lower than the rate for all women or immigrant men. A “Manifold more” -project (<https://thl.fi/en/web/thlfi-en/research-and-development/research-and-projects/manifold-more>) aims to promote diversity in working life and advance career paths of highly educated women with immigrant background. The model and concrete tools developed by the project will help employers in producing mandatory gender equality plans. Research-based information will be used to challenge stereotypes related to immigrant background women. Project (1.10.2019 – 30.9.2022) is funded by European Social Fund (ESF).

Assesment of the Non-Dicrimination Act (Aidosti yhdenvertaiset –project)

[Aidosti yhdenvertaiset –project](#) assessed the success of Non-Discrimination Act reform of 2015. Study was published on 25 November 2020. The aim of the new Non-discrimination Act was to harmonise the prohibition of discrimination and to provide uniform legal protection from discrimination based on different discrimination grounds. According to the study, many of the objectives have been successful and the legal instruments are considered good overall. The new law has broadened the scope of legal protection against discrimination. The extension of the employer’s obligation to promote equality is also considered good. Despite improvement, the treatment of different discrimination grounds is still not completely harmonised. Perhaps the biggest challenge in achieving the law’s objectives relates to the implementation of the law. The study suggests that the Non-discrimination Act is still not known well enough. While the new legislation has increased the visibility of discrimination in society and the number of discrimination cases, it is clear that discrimination remains under-reported and partially unidentified. In addition, one of the challenges in improving the situation is the lack of resources for officials. One of the observations in this project was that discrimination on different grounds is reported and addressed through different legal channels, which results in differences in legal protection and remedies. This problem can be partially addressed by promoting non-discrimination and through legislative reform. Wider issues concerning the non-discrimination and equality legislation relate to the question of the competence of different authorities.

Partial reform of the Non-Discrimination Act

The partial reform of the Non-Discrimination Act has been prepared in the working group of the Ministry of Justice and in the tripartite working group of the Ministry of Economic Affairs and Employment. The government proposal was circulated for comments in March 2022.

Statistics etc.

Statistics Finland has published regularly up-to-date information on the gender equality (www.stat.fi/tup/julkaisut/tiedostot/julkaisuluettelo/yyti_sts_202100_2021_23460_net_p2.pdf). The

publication contains key statistical data on gender equality in Finland. The statistics describe diversely the position of sexes in society, depicting families, education, pay, crime and decision-making, for instance. Also Centre for Gender Equality Information at the Institution for health and welfare collects information, articles and statistics on gender equality www.thl.fi/en/web/gender-equality

See also report on Convention no. 100.

Preventing exploitation of foreign labour

The amendments to the Aliens Act prevent exploitation of foreign labour and improve the legal status of victims of exploitation. The aim of the Act (554/2021) is to detect exploitation at work more easily than now. The new provisions entered into force on 1 October 2021.

As a result of the legislative amendments, a worker's residence permit may be refused if there are reasonable grounds to suspect that the employer or the sponsor intends to circumvent the provisions on entry or residence.

The amendments do not affect the ability of a foreigner to obtain a residence permit for another employer. The amendments give the TE Office better opportunities to refuse workers' residence permits, if the employer has acted in a reprehensible manner.

If there are reasonable grounds to suspect that a foreigner who holds a residence permit has been exploited at work, they will not lose their right to reside and work in Finland. In such a case, they may continue to work for a new employer or for the purpose of applying for a new residence permit.

The provisions in the Aliens Act are completely new. The Act has not previously laid down provisions on residence permits of victims exploited at work or on sanctions that can be imposed on the employer.

IV

A copy of this report has been sent to the following labour market organisations:

The Confederation of Finnish Industries (EK)

The Central Organization of Finnish Trade Unions (SAK)

The Finnish Confederation of Professionals (STTK)

The Confederation of Unions for Professional and Managerial Staff in Finland (Akava)

Local Government and County Employers (KT)

The State Employer's Office (VTML)

The Federation of Finnish enterprises (SY)

Statements of the labour market organisations:

The Central Organization of Finnish Trade Unions (SAK)

Despite Finnish legislation on equality and non-discrimination, employees in Finland still suffer discrimination at work. This discrimination takes various forms, including varying degrees of employee exploitation, extortionate work discrimination and underpayment. This business model seems to be entrenched in the Finnish world of work.

While foreign workers in particular fall victim to discrimination, exploitation and underpayment, the phenomenon is not limited to these employee groups. Part-time and young employees are also at risk of exploitation. We may generalise by noting that these employees are, for one reason or another, in a vulnerable position in the labour market.

Forms of discrimination and exploitation range from underpayment of wages to conduct satisfying the elements of the criminal offence of trafficking in human beings. Between these extremes, there are extended uncompensated working days, prohibition of sick leave and failure to arrange occupational health care. Fees are charged to foreign workers for a job and a worker's residence permit, and employers even commit identity theft for the purpose of money laundering. Living conditions in housing provided by an employer can be inhumane, and ill-treatment of employees is manifest as inappropriate behaviour, emotional pressure and control exerted by employers against their employees. When nothing is done to eradicate the discrimination, exploitation and underpayment of employees lying midway between serious exploitation and individual wage disputes, employers realise that this is profitable with no risk of getting caught. This will tend to fuel the phenomenon, at worst leading to an increase in serious exploitation of workers.

Experience of discrimination against foreign workers has been growing in recent years. A report of the Occupational Safety and Health Administration on equality and non-discrimination in the world of work in 2021 notes a significant increase in the number of inspection requests relating to origin, citizenship and language.

Surveillance of foreign citizens conducted in 2021 by the Occupational Safety and Health Authorities focused on minimum terms and conditions of employment. Inadequacies in remuneration were observed at almost half of all inspected workplaces. Most shortcomings concerned failure to pay minimum basic wages, and unpaid or underpaid bonuses. Assessing the accuracy of remuneration was hampered by frequent shortcomings in working time records.

While the police, health and safety and victim support services have found that this employee abuse is most common in catering, cleaning, agricultural and livestock rearing, crop and berry farming, and construction, cases also arise in the beauty sector, warehousing, car washes and workshops, and in domestic service. Exploitation and underpayment of workers is even already normal practice in some of these sectors.

The powers of the Occupational Safety and Health Authorities to intervene in employee exploitation regarding wages and other aspects of employment are limited. Challenges include the long duration of investigations into such cases and interpreting the elements of criminal offences. For example, low pay can be interpreted as a wage dispute, and is not necessarily recognised as discrimination.

Specialists in various administrative sectors and victim support organisations find that current instruments of control and legal redress are insufficient to effectively eradicate exploitation and underpayment of employees in Finnish workplaces.

The range of remedies available to Occupational Safety and Health Authorities is modest, for example in cases of underpayment. While prosecutors have also recommended that the Finnish Penal Code should expressly criminalise underpayment for work, this view has been resisted at the Ministry of Justice.

SAK has long called for measures to address business models that rely on discrimination, exploitation and underpayment of employees. Legal remedies in cases of underpayment are currently inadequate, and employers who perpetrate discrimination and exploitation of workers seem to be able to continue their business model. While employee exploitation and underpayment are known to the authorities and the need to address them has been recognised and acknowledged in the Government programme, efforts to tackle the problem have been very modest to date.

The Confederation of Unions for Professional and Managerial Staff in Finland (Akava) and The Finnish Confederation of Professionals (STTK)

Akava and STTK agree with the SAK's statement.

The Federation of Finnish enterprises (SY)

Promoting equality is the employer's legal obligation. Even more important in promoting equality is the fact that equality in the workplace has a positive effect on the trust between employees and the employer and, more generally, on well-being at work. Well-being of employees is also reflected in customer satisfaction. Equality also improves the image of the workplace and the image of the employer. Therefore, promoting equality benefits all parties.

When talking about discrimination, it should be noted that in Finnish working life and the labor market, both employees and companies and self-employed professionals are still subject to structural discrimination. In 2015, the scope of the Equality Act was expanded to cover all public and private activities, with the exception of private and family life and religious practice. The goal of the Equality Act is to promote equality and prevent discrimination, as well as enhance the legal protection of those who have been subjected to discrimination. The regulation is based on the equality provision of the Finnish Constitution, which also obliges the legislator. The essence of equality is that the law cannot arbitrarily place individuals or groups of individuals in a more favorable or unfavorable position than others. The realization of equality must therefore also be examined from the point of view that the general binding nature of collective agreements, which is the main driver of the Finnish labor market, puts companies in an unequal position. The smaller the company, the more clearly and immediately the entrepreneur identifies with the company. At the same time, these smallest companies and entrepreneurs are the ones who are forced by legislation to comply with the collective agreement negotiated by outsiders due to universal application, but they are excluded from the flexibility of local bargaining that collective agreements give to organized companies. In other words, the external parties mutually agree on obligations for third parties and at the same time agree on flexibility for themselves, the use of which is prevented by the legislature from small unorganized companies. It should be noted that Finland's collective agreement system does not give all companies equal tools to respond to the changing competitive situation.

However, the discrimination of the general obligation system is not only aimed at companies and the entrepreneurs behind them, but also at employees. The system of employee representation written into many collective agreements and formed due to "established practices" that are not based on law leads in practice to the fact that unorganized employees do not get to participate in making decisions about them, and through this they are placed in an unequal position. It is important that, in the future, working life and labor legislation in Finland are developed in a way that is equal and does not discriminate against anyone. This requires that discriminatory elements related to legislation and labor market structures to be removed.