

Article 22 of the Constitution of the ILO
 Report for the period 1 June 2012 to 31 May 2015
 made by the Government of Finland
 on the
DISCRIMINATION (EMPLOYMENT AND OCCUPATION)
CONVENTION, 1958 (No. 111)
 (ratification registered on 23 April 1970.)

Observation, 2012

Access to employment and occupation of the Roma.

Information on follow-up actions being taken to the National Policy on Roma and results achieved

The Ministry of Social Affairs and Health appointed a working group for the period of 2012–2013 to coordinate and monitor the implementation of the National Policy on Roma. The working group consisted of 24 members, one half of whom had a Roma background. The members of this working group represented various ministries, the Association of Finnish Local and Regional Authorities, the National Institute for Health and Welfare (THL), the local level representatives and the National and regional Advisory Boards on Romani Affairs. The Office of the Ombudsman for Minorities and The National Board of Education served as permanent experts.

As the working group was appointed, an effort was made to ensure both horizontal cooperation between ministries and vertical cooperation between the national, regional and local levels. The working group met four times in 2012 and four in 2013.

The steering and monitoring group adopted a monitoring instrument used to follow up the national level implementation of the 147 measures contained in the National Policy on Roma. The National Institute for Health and Welfare provided expert support in the development of follow-up indicators.

The indicators are divided into 1) structural indicators (indicators describing legislation only); 2) process indicators (describing measures, projects, funding, inputs, outputs and other resources); and 3) outcome indicators (describing the achievement of objectives and the end result).

According to the report of the Monitoring and Steering group The National Policy on Roma has raised awareness and improved the coordination of Roma issues nationally. The highest success rates have been seen in measures assigned to various ministries, and significant progress has been achieved in some of them. In the educational sector in particular, important steps forward have been taken. On the other hand, local-level implementation has met with challenges. Particular challenges can be identified in the fields of employment and adult education for the Roma.

Information on the access of the Roma to the education at all level, as well as to employment and particular occupation

Education

The situation regarding the basic education of Roma pupils was studied for the first time by the National Board of Education ten years ago in 2000–2001. The first study indicated that the problems related to school attendance faced by Roma children are associated with having to repeat the year and numerous absences. A significant number of Roma children attended special needs teaching, and they participated in pre-primary education less often than children belonging to the majority population. Dropping out of school was also more common than in the majority population. The study also found that Roma children did well in arts and crafts, that they were sociable, and that they had good manners.

In 2010–2011, the National Board of Education conducted a follow-up study by interviewing a total of 240 Roma children and young people in the age for attending basic education and their guardians. Responses to an online questionnaire were received from 1,341 principals. The latest study points to positive trends, for example:

- in attending pre-primary education and in successful cooperation between Roma homes and the school.
- Roma children continue to participate in pre-primary education less often than children of the majority population, but their participation rate has gone up significantly in the last ten years.
- Roma homes have understood the importance that taking part in pre-primary education has for developing the child's learning skills.

While an increasing share of Roma pupils are doing well in basic education

- one out of five of all Roma pupils continue to have significant problems in their school attendance.
- Starting independent life and a family at a young age, as well as a lack of information and support, discourage them from pursuing further studies and studying for a vocation.
- This has a direct negative impact on their labor market position.

While approximately one half of Roma pupils move on to vocational studies after basic education, very few go to general upper secondary schools. Roma pupils thus need more support than others in moving on to secondary level studies. In many municipalities, a lot of attention has been focused on guidance: Roma pupils have been supported in all transition phases of education, and in particular in moving on to vocational studies or general upper secondary schools.

Employment and particular occupations

The number of jobseekers with a Roma background varies in different Employment and Economic Development Offices. The service provision starts from the individual service needs of the jobseeker, on the basis of which the Employment and Economic Development Office official selects a service channel for the customer. The provision of services is guided by the jobseeker's employment plan. Good experiences have been received from training that precedes vocational education and training (previously referred to as preparatory labour market training), as many students need to build up their study skills and revise their basic skills.

The Employment and Economic Development Office may also direct customers to workshop activities. If the number of Roma customers is high, specific training groups could be set up for them in labour market training, or such as sewing courses, even if the current trend is to organise joint training for Roma students and the majority population. This can help to ensure a wider selection of occupations as the objectives of the

training. The Ministry of Employment and the Economy has paid attention to also offering education and training to customers affected by structural unemployment, which the Roma customers mainly are.

Practical measures and good practices of the National Policy on Roma

The YES project produced learning material for basic education dealing with the history and culture of the Roma and the every-day lives of young Roma people today. This material also addresses prejudices and beliefs concerning the Roma people. The learning material is intended for those in the age for attending higher comprehensive school, and it contains a teacher's guide. The National Board of Education has organised seminars for Roma parents. In municipalities engaged in developing the basic education of Roma pupils, participation in pre-primary education has been stressed at events directed at Roma families. Roma families have responded positively. Homework clubs that support the Roma pupils' learning have also been proven a good practice. The homework club has often improved Roma pupils' learning outcomes, which has resulted in reduced absences.

In the municipalities taking part in the development activities, Roma pupils are actively guided towards further studies. Study guidance discussions with Roma pupils at a level adjusted to the children's age should already begin in the lower comprehensive school. In higher comprehensive school, the Roma pupils' personal wishes concerning their future should be discussed from their own starting points. At best, mentoring can be organised for Roma pupils, in which the pupils regularly meet a Roma adult who acts as a role model and advises and encourages them in continuing their studies.

Many localities have recruited school assistants with a Roma background for schools. The school assistants support all pupils in a class, which has turned out to be an effective practice. In case of the Roma children, the school assistants also support their identity. The special needs assistants also build bridges between the school and the home.

The media campaign organised by the YES project under the Progress programme in autumn 2012 strived to influence employers and jobseekers. The campaign sought to promote more positive attitudes to the Roma and other groups at risk of exclusion from the labour market. One part of the campaign set out to produce information material on practices at workplaces and in working life. The Ministry of Employment and the Economy funded a revised edition of the guidebook *Palkkaisinko romanin* (Should I employ a Roma, 2011). This guidebook is intended for providers of education for the Roma, instructors and the employment authorities. The book draws on experiences of supporting the Roma in working life and education in three Equal projects implemented in 2004–2007. Copies of the book have been distributed to the Employment and Economic Development Offices among others, and it is also available online in Finnish.

http://www.tem.fi/files/33394/palkkaisinko_romanin_julkaisu_120612.pdf

Implementation of measures has been promoted by information on the Roma culture obtained from such parties as planning officers with a Roma background in the Regional State Administrative Agencies.

The TEMPO project utilised labour policy subsidies to promote the employment of immigrants and Roma people. The project produced a model for coaching a jobseeker customer, and a model intended for employers on how to find places for these customers at workplaces and in work organisations. In practice, TEMPO offered jobseekers job coaching, linguistic and cultural training, career and study guidance, case management and psychosocial support. The objective was to find a job in the public labour market. A customer's path to working life often went through such stages as studying or a work placement. The project

was funded by the Centre for Economic Development, Transport and the Environment (ELY Centre) and Helsinki Deaconess Institute in 2008–2012.

The Ombudsman for Minorities published a report on discrimination experiences of the Roma in 2014 (*Erilaisena arjessa - Selvitys romanien syrjintäkokeneuksista*). Over 200 Roma were interviewed for the report on discrimination they had experienced in various areas of life, including work.

According to the report, 54% of Roma who had applied for a job in the past five years felt that they had been discriminated against in recruiting. This figure is higher than that of Somalis (41%) or Russians (25%), according to the EU-MIDIS study.

According to the report, Roma youth are more involved in working life than their parents. One factor behind this is the higher level of education of the youth and therefore, their better position in the labour market. However, their higher level of education does not eliminate the discrimination they experience to a great extent in job-seeking.

According to the report, Roma youth resort to existing legal protection measures very little in order to combat discrimination in job-seeking. 87% of Roma who had encountered discrimination in job-seeking did not report it to anyone. Out of the few who did report it, not one did so to the right authorities.

In their own view, however, the Roma are well aware of their rights, as 69% of respondents (n=247) felt that they would know their rights if they encountered discrimination or harassment.

Direct Request, 2012

Article 1(1)(b) of the Convention. Additional grounds of discrimination.

The Non-Discrimination Act (yhdenvertaisuuslaki 1325/2014) entered into force on 1 January 2015, and it provides for, inter alia, the duty of authorities and employers to promote equality, the authorities responsible for the supervising the act, and the legal protection of individuals who have faced discrimination. The act applies to public and private activities, with the only exceptions to the scope of application being activities within private and family life as well as the practicing of religion. The scope of application of the new act is therefore very wide indeed. The act replaces the previous Non-Discrimination Act of 2004.

The main purpose of the reform of the Non-Discrimination Act was that legislation should better meet the constitutional requirement of equal and comprehensive prohibition of discrimination. The new legislation extends protection against discrimination so that it is the same regardless of the ground of discrimination or the area of life in which discrimination takes place. Another objective was to reinforce prevention of discrimination and to clarify and unify concepts used in the law and the structures involved in overseeing compliance with the act.

The act contains a general prohibition of discrimination to the effect that there should be no discrimination on the basis of age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family status, state of health, disability, sexual orientation or other personal characteristics. The list of grounds of discrimination is therefore both comprehensive and open-ended. Discrimination is prohibited regardless of whether it is based on a fact or assumption about the person or another person, i.e. the law explicitly prohibits so-called ‘discrimination by assumption’ and ‘discrimination by association’.

The duty of authorities to promote equality was extended so that the duty to develop and implement an equality plan now extends to all grounds of discrimination. Providers of education as well as educational institutions are now required to promote equality and to draw up an equality plan as well. Another new element in the law is that also employers are now under a legal requirement to promote equality. All employers that regularly have 30 or more employees have to draw up an equality plan outlining how they are going to promote the realisation of equality at the work place.

The National Discrimination Tribunal and the National Equality Tribunal, which previously worked separately, were merged into a single tribunal body, the National Non-Discrimination and Equality Tribunal. The new Tribunal is empowered to deal with all cases of discrimination irrespective of the discrimination ground involved. Similarly, the office of the Ombudsman for Minorities was replaced by the office of the Non-Discrimination Ombudsman which now has more extensive powers, as also the Ombudsman may deal with all kinds of discrimination prohibited by the Non-discrimination Act. Under the Non-Discrimination Act, the investigation of individual cases of labour discrimination is given to the occupational health and safety authorities, which is why the Ombudsman and the Tribunal do not have the competence to deal with such cases. In this respect there is a difference in relation to gender equality legislation, where the Ombudsman for Equality (i.e. gender equality) and the new Tribunal have competence to deal with gender discrimination in the field of work.

In connection with the reform of the Non-Discrimination Act, amendments were also made to the Equality Act. The Equality Act now includes prohibitions of discrimination based on gender identity and expression, makes equality plans mandatory in basic education, specifies provisions on employers' equality plans and pay surveys and affirms the independent status of the Ombudsman for Equality. The Equality Board was dismantled as the new Non-Discrimination and Equality Board was established.

Article 2. Measures to promote gender equality. Occupational segregation.

One of the objectives of the Equality Report, adopted in 2010, is decreasing segregation both in education and work. Equality Report policies have been implemented mainly through measures in the Government Action Plan for Gender Equality (2012-2015). One of the measures was to decrease segregation through development activities, focusing particularly on e.g. employment services. As part of the VALTAVA development programme, the Ministry of Employment and the Economy published a study on the gender perspective into the employment office's services (*Sukupuolinäkökulma työvoimatoimiston palveluihin*) in December 2014. The intention is to utilise the results of the study in the development of the Ministry's employment services. In addition, a communication campaign on open-minded career choices was carried out in the VALTAVA development programme in autumn 2014. The purpose of the campaign was to provoke discussion on gender stereotypes in career and occupation choices. One of the measures of the Action Plan for Gender Equality of the Ministry of Education and Culture was to include gender equality in the reform of the core curricula of basic education. Various perspectives of the promotion of gender equality are included in several areas of the core curricula, e.g. the tasks of basic education and principles for the development of operating culture and working methods.

The previous Government Action Plan for Gender Equality (2008-2011) included measures to decrease segregation both in education and the labour market. For example, unemployed women were trained for occupations in the technology industry in the VALTAVA development programme with the support of EU structural funds. Their employment in the technology industry and the shift

of male-dominated companies into employing both genders were supported by customised education and training for selected jobs. In addition, men were trained into nursing in the development programme. The promotion of female entrepreneurship has been a development area in the administrative sector of the Ministry of Employment and the Economy. For example, the Centre for Economic Development, Transport and the Environment of Central Finland managed a project in 2010-2012 to develop a service concept in support of wellbeing at work and business success among female entrepreneurs as well as a cooperation network for female entrepreneurs.

As no separate statistics are kept on court cases pursuant to the Equality Act, they have to be looked into through separate inquiries. The most recent information is based on a review by the Finnish League for Human Rights, covering cases in 2008-2011. During this time, 100 cases pursuant to the Equality Act were tried. The subject matter of 37 of them is not visible in documents, 3 of them were on choice of education, 30 on recruitment, 11 on pay, 8 on terms of employment, 10 on termination of employment or dismissal, and one was on harassment. The claim was accepted in 14 of the cases, partially accepted in 5 cases, dismissed in 30 cases, left unprocessed or cancelled in 28 cases, remained unfinished in one case and ended in settlement in 22 cases. The average compensation pursuant to the Equality Act was EUR 7,633, and the range was from EUR 3,000 to EUR 15,000.

Measures to combat racial and ethnic discrimination.

Equality project in the fields of employment and the economy

The objectives of the YES – Equality is Priority project are awareness-raising and capacity building on equal treatment and non-discrimination, as well as promotion of diversity within Finnish society. The Ministry of Employment and the Economy participates in the project by implementing activities promoting equality and diversity in labour market and entrepreneurship.

The Ministry of Employment and the Economy implemented during the YES6 Project (from 15 January 2013 to 14 January 2014) a Diversity Management Programme, where the objective was to promote diversity management in the public and private sectors. The Diversity Charter -concept, which was launched in Finland in October 2012, was further developed in cooperation with the Finnish Business and Society (FIBS). Workshops on diversity management were organized for the private sector, a webpage and a data bank on the best practices of diversity management were established and a manual and a check list for the development of diversity management practices were published. In addition, a mapping exercise on diversity management in the public sector was carried out. Also a guidebook for a plan for the necessary measures for the promotion of equality was published by the Finnish Business and Society (FIBS).

The report of the expert working group on promoting the integration of the Somali community can be found under this link:

http://www.tem.fi/files/37056/TEMrap_21_2013_26062013.pdf

The working group focused on gathering information on Somali communities and on identifying measures to further Somalis' integration in Finland as well as on promoting dialogue and engaging Somali communities in integration planning. The work of the working group was taken into account when the Government adopted a National Integration Policy for 2012-2016 (including aims and implementation measures). Also dialogue between the Somali communities and authorities has been ongoing since the report was published.

Access to traditional occupations of the Sámi people.

The exercise of Sámi people's traditional occupations has been facilitated by a change by which reindeer herders can get a substitute to fill in for them in reindeer herding while they are incapable of working.

The substitute system for reindeer herders came into permanent effect on 1 Jan 2015.

The Mining Act (621/2011) and Water Act (587/2011), which entered into force in 2011, include prohibitions of weakening (into the Environmental Protection Act in 2014). The intention is to also include these prohibitions in other essential special legislation concerning the Sámi people.

The essence of the prohibitions is that the prerequisite for a permit in a project subject to a permit is that it does not more than slightly weaken the Sámi people's opportunities to utilise their rights as indigenous people to maintain and develop their culture and practice their traditional livelihoods. The acts also include provisions that reinforce the Sámi Parliament's rights to participate in and influence the permit process for mining and water projects. The acts contain provisions dictating how the Sámi Parliament shall be heard in permit processes and its right to participate in e.g. reviews conducted during the permit consideration phase. In addition, the Sámi Parliament has been granted an independent right to appeal as regards permits granted based on the acts.

The Sámi Education Institute provides information on the Sámi people's work and education-related matters also in English: <http://www.sogsakk.fi/index.php?lang=en>

Access to employment and occupation of other ethnic minorities.

At the moment, there are no specific measures targeted at Somali or Russian communities. However, promoting access to employment by all foreigners residing in Finland remains high on the government agenda. To that end, a pilot project to test new more effective ways to promote employment of foreigners is being planned. The project will focus on strengthening partnership between employees, public employment offices, municipalities, and various entrepreneurship and migrant organizations. Also ongoing measures to further employment of foreign job-seekers will be continued. These include providing foreigners with an integration plan and integration, vocational and other training as necessary, and ensuring that the public employment services cater effectively also to the needs of foreigners. Also assessing the background, skills and qualifications of foreign job-seekers as well as procedures for recognition of foreign qualifications are being developed.

No reports or surveys have been done on immigrants' experiences of discrimination in the labour market since 2012. Therefore, there are deficiencies in the information available on the situation, and anti-discrimination measures taken in working life can only be assessed on a very general level.

In this respect, the Non-Discrimination Ombudsman refers to a decision from the Helsinki District Court (14/113185), in which the employer was considered to have committed discrimination at work based on the employee's religion, as the employee was not allowed to wear a Muslim veil.

The Non-Discrimination Ombudsman also refers to a dispute during the reporting period concerning a Sikh man's right to wear a turban as part of his bus driver's uniform.

The Employers' Federation of Road Transport (ALT) and Transport Workers' Union (AKT) agreed that the Sikh turban can be part of the bus driver's uniform, if the man so wishes. However, the agreement only allows for the use of a turban, leaving open the issue of e.g. sporting a Muslim veil as part of a bus driver's uniform.

During the reporting period, the Police College of Finland requested the National Police Board to comment on whether religious symbols can be used with the Police uniform. The National Police Board gave a negative response.

As regards wild berry pickers, the Non-Discrimination Ombudsman refers to a report (K 19/2014) of the Employment and Equality Committee. The Non-Discrimination Ombudsman agrees with the committee in that the letter of intent on improving the berry pickers' position, signed by the Ministry of Employment and the Economy, Ministry for Foreign Affairs and several berry companies in 2014, must be observed and further action must be taken, if necessary.

In reference to information requested on discrimination experienced by vulnerable groups in vocational education, the Non-Discrimination Ombudsman states that there were no notable contacts to the ombudsman's office concerning this area of life during the reporting period.

Monitoring labor discrimination

The Government monitors discrimination in the Finnish Labor market. The latest study concerning discrimination in the Finnish labor market was published by the Ministry of Employment and the Economy in December 2014. The study (Monitoring labor discrimination) gives outline of existing research results and formal complaints data on labor discrimination on the grounds included in the Finnish Non-Discrimination Act and the Equality Act.

In this study, an overall picture was formed of discrimination and unequal treatment in working life. The examined grounds of discrimination were determined based on the grounds prohibited by law, which are gender, age, ethnic or national origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family ties, health, disability, sexual orientation or other personal characteristics.

To monitor discrimination, a model was built to enable both comprehensive description of this occurrence and following of its development in future. There are three types of data in the monitoring model. Official data describe labor discrimination reported to the authorities and what has followed from reporting on discrimination. Surveys provide information about either personally experienced or observed discrimination. Register data offer background information on the position of different population groups in the labor market.

The various grounds of discrimination gain emphasis in different data. The differences are also due to the divergences and limitations of the data. In official data the practices of recording cases and data in part affect the reported figures. In surveys, data are not even collected as concerns all the grounds of discrimination prohibited by law or by using legislative terms. In surveys covering the whole population, there is only scant information on some grounds of discrimination, such as that based on ethnic or national origin, disability or sexual orientation. Health, ethnic or national origin, gender and age were, however, the most common groups in several data selected to the monitoring model.

Health is the most general ground of discrimination in official data, such as communications received by occupational safety and health authorities (44%) and discrimination suspicions of the police (20 cases). As many as 12 per cent of the wage and salary earners having replied to the Quality of Work Life Survey 2013 had observed discrimination or unequal treatment based on health in their workplace.

In communications or labour discrimination suspicions obtained by occupational safety and health authorities the second most common ground of discrimination was nationality or national or ethnic origin (16%). In addition, one-third of labour discrimination offences or extortion-type labour discrimination offences known to the police were connected to discrimination based on national or ethnic origin. Discrimination or unequal treatment based on surveys had been observed or experienced mostly on the basis of health, age or gender. Nearly ten per cent of wage and salary earners had observed discrimination based either on young or old age in their workplace in 2013. The Quality of Work Life Survey shows that discrimination against aged people has decreased in workplaces on the longer term. However, according to the Eurobarometer old age is often seen as an obstacle to job search. Discrimination based on gender is clearly more often directed to women than men. Six to seven per cent of wage and salary earners had noticed discrimination against women in their workplace. Only two per cent had observed discrimination against men. According to the Quality of Work Life Survey, observations of discrimination or unequal treatment directed to women in their own work organization has declined over last 15 years, however. In occupational safety and health authorities' data, 13 per cent of discrimination communications or suspicions were related to gender or family leaves.

Occupational Safety and Health Authorities (5 Regional State Administrative Agencies' areas of responsibility) oversee compliance with the non-discrimination provisions in the Non-Discrimination Act and employment legislation mainly based on initiatives made by employees or jobseekers. This policy was agreed upon in the tripartite framework plan on occupational safety and health enforcement for 2012-2015. All customer contacts do not lead to enforcement measures. This is the case in situations where the experienced discrimination does not constitute discrimination at work as defined in legislation, for example. Discrimination matters can also arise, to some extent, in occupational safety and health enforcement initiated by authorities, for example in the enforcement of the terms of employment of foreign workers or young workers.

The main points described below are not fully comparable and uniform between the five areas of responsibility of occupational safety and health. Collecting and reporting discrimination-related information vary between the areas of responsibility. The Occupational Safety and Health Administration will pay attention to this in the future and develop its operations.

Based on customer contacts, the most common (over 50%) form of discrimination experienced is the termination of employment for a discriminatory reason. Contacts on discrimination experienced during employment have increased during the reporting period. Often the customer had other simultaneous grievances, such as inappropriate treatment and overloading. There are still very few (less than 10%) contacts concerning recruitment.

The most common grounds for discrimination reported in the contacts was health condition. Discrimination was also often experienced based on gender, trade union activity, nationality, national or ethnic origin and language. Other grounds, such as religion, disability or sexual orientation have only lead to a few contacts per year.

Over half of the contacts from jobseekers or employees lead to enforcement measures, followed by an inspection report to the employer. During the reporting period, matters initiated by customers were more thoroughly assessed and enforcement measures were not taken in situations without any visible facts pointing to discrimination.

You can find more information on monitoring discrimination at work in Finland in a publication by the Ministry of Employment and the Economy (*Työsyryjinnän seuranta Suomessa, 53/2014*),

including statistical data on discrimination cases processed by the authorities and suspicions reported to the police in 2013. You can find the publication online at: http://www.tem.fi/files/41717/TEMjul_53_2014_web_18122014.pdf

During the reporting period, Occupational Safety and Health Authorities reported 162 suspected cases of discrimination at work to the police. In the same time period, statements were issued to the police and prosecutor in 259 cases.

Please find in appendix the 2014 report of the area of responsibility of occupational safety and health enforcement of the Regional State Administrative Agency for Southern Finland. The report also includes court rulings. Over 40% of all jobs and employees in Finland belong to this particular area of responsibility.

In light of available figures, the following can be stated of cases handled by other occupational safety and health areas of responsibility:

The Regional State Administrative Agency of Western and Inland Finland reported a total of 44 discrimination cases initiated by customers from 2012 to 03/2015. Health condition was the most common grounds for discrimination.

In the same time period, a total of 13 cases were tried in Western and Inland Finland courts. 7 of these cases were about extortionate work discrimination (and/or trafficking in human beings). The charges were dismissed in 4 cases. The courts mainly imposed suspended sentences and/or fines in the cases.

The Regional State Administrative Agency of Southwestern Finland reported a total of 26 discrimination cases handled from 11/2011 to 03/2015. District courts tried a total of 6 cases in the same time frame. No further details were available on the cases.

The Regional State Administrative Agency of Eastern Finland reported a total of 46 discrimination cases handled from 2012 to 2014. 18 cases were tried in Eastern Finland district courts from 2012 to 03/2015.

The Regional State Administrative Agency of Northern Finland reported a total of 45 discrimination cases handled from 11/2011 to 03/2015. District courts tried a total of 4 cases in the same time frame. No further details were available on the cases.

Representatives of the Ministry of Social Affairs and Health and occupational safety and health areas of responsibility have cooperated with the Ombudsman for Minorities and thereafter the Non-Discrimination Ombudsman during the reporting period. Joint meetings have been held to discuss topical issues and develop collaboration. The Ombudsman for Minorities has actively commented on the drafting of guidelines for monitoring discrimination at work by the Ministry of Social Affairs and Health. The latest joint negotiations were in early 2015, discussing the entry into force of the amended Non-Discrimination Act, division of competences and cooperation practices needed with the new law.

A representative of the Non-Discrimination Ombudsman also participates in the activities of the employment division of the statutory Advisory Committee on Occupational Safety and Health. The purpose of the division is to promote cooperation and enforcement measures between Occupational

Safety and Health Authorities and e.g. the Ombudsman for Minorities and discuss and exchange information on enforcement-related legal issues.

Appendix: Enforcement of discrimination at work cases initiated by customers in the area of responsibility of occupational safety and health enforcement of the Regional State Administrative Agency for Southern Finland in 2014.

I LEGISLATION AND REGULATIONS

Non-Discrimination Act (1325/2014)

<http://www.finlex.fi/fi/laki/kaannokset/2014/en20141325>

Act on the Amendment to the Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (1330/2014)

The Act on the Amendment to the Act on Equality between Women and Men (1329/2014)

Act on the Ombudsman for Equality (1328/2014)

Act on the Non-Discrimination and Equality Board (1327/2014)

Act on the Non-Discrimination Ombudsman (1326/2014)

On the reform of the Non-Discrimination Act see above, Direct request.

In connection with the reform of the Non-Discrimination Act (1325/2014), the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (1330/2014) was also amended. The means of occupational safety and health enforcement regarding equality were reinforced, since as of 1 Jan 2015, unlike before, occupational safety and health inspectors have been able to issue employers an improvement notice in matters related to the prohibition of discrimination, adverse treatment as a reaction to complaint or discriminatory job advertising or their obligation to draft an equality plan. Neglecting the notice may lead to issuing a legally binding decision to the employer, which can be further reinforced with a conditional fine.

The Ministry of Social Affairs and Health drafted guidelines for monitoring discrimination at work for Occupational Safety and Health Authorities in 2012

(http://www.tyosuojelu.fi/upload/Valvontaohje_1_2012_Tyosyrjinnan_valvonta.pdf). The objective of the guidelines is to align the enforcement of occupational safety and health on a national level in terms of discrimination at work and clarify the enforcement role and operating methods of Occupational Safety and Health Authorities. The guidelines also describe cooperation with the Ombudsman for Minorities. With the new Non-Discrimination Act, the guidelines are being updated and they will be released in 2015.

Gender equality is laid down in the Constitution and the Act on Equality between Women and Men (Equality Act, 609/1986). The purpose of the Equality Act is to prevent gender discrimination, including pay discrimination, and to promote gender equality and improve women's position at work, in particular.

The act was updated in 2015. It now includes the prohibition of discrimination based on gender identity and expression, makes equality plans mandatory in basic education, specifies provisions on employers' equality plans and pay surveys, affirms the independent status of the Ombudsman for Equality, and establishes a new Non-Discrimination and Equality Board.

The provisions outlawing discrimination based on gender identity and expression and on the prevention of such discrimination secure trans and intersex persons' protection against discrimination in line with the Constitution.

The prohibition of discrimination was clarified by stipulating that discrimination is prohibited regardless of whether it is based on a reason concerning the victim of discrimination or another individual and whether it is based on fact or assumption.

Educational institutions shall have an equality plan in place, including a review of the equality situation, the necessary measures to promote equality and an assessment of the implementation and results of measures included in the previous plan. With this reform, equality planning in educational institutions was extended to institutions that provide basic education. Institutions are to pay particular attention to the selection of pupils or students, arranging teaching, differences in learning, the assessment of academic performance and the prevention and elimination of sexual harassment and gender-based harassment. The purpose of the equality plans is to ensure that schools are engaged in systematic equality efforts that can also affect occupational and industrial segregation. The new plans must be drafted by 1 Jan 2017.

Employers with a regularly employed staff of at least 30 persons must prepare an annual equality plan. The equality plan shall include a review of the equality situation at the workplace, the necessary measures and an assessment of the implementation and results of measures included in the previous plan. The plan shall focus on remuneration, in particular, along with other terms of employment. Provisions on equality plans at work were specified to make them more effective in the promotion of equality between men and women at work.

The contents of the pay survey, included in the equality plan, were further detailed in the act. In future, pay surveys shall look into the reasons and grounds for pay differences, if there are clear differences between men's and women's pay among employee groups. If no acceptable reason is found for differences in pay between men and women, the employer shall take appropriate corrective action. The amended act left the contents of the prohibition of pay discrimination unchanged.

An addition was included on the obligation to communicate the equality plan to personnel and the participation of personnel representatives was emphasised. In future, the equality plan at work can be drafted at least every other year.

The enforcement of the Equality Act will in future be regulated by the act on the Ombudsman for Equality (1328/2014) and the act on the Non-Discrimination and Equality Board (1327/2014). The independent status of the Ombudsman for Equality was further reinforced. The Equality Board merged with the Discrimination Board to form the new Non-Discrimination and Equality Board. The Ombudsman for Equality and the Non-Discrimination and Equality Board were transferred under the administration of the Ministry of Justice. No significant changes were made to the tasks and authority of enforcement authorities.

New preparatory training in vocational education

Act on the Amendment of the Vocational Education and Training Act (246/2015).

In line with the Government Programme, an educational guarantee has been implemented as part of the youth guarantee, aiming at ensuring everyone completing basic education a study place in upper

secondary school, vocational education, apprenticeship training, a youth workshop, rehabilitation or by some other means. Preparatory training has an important role in implementing the educational guarantee in order to secure equality in education and youth employment and prevent marginalisation.

The Act on the Amendment of the Vocational Education and Training Act (246/2015) from 20 March 2015 includes provisions on preparatory training for vocational education and for work and independent living. The new training will commence on 1 Aug 2015. The Ministry of Education and Culture has granted organisers the necessary permits for organising the training.

Preparatory training for vocational education is a line of education that does not lead to a qualification, primarily intended for young people who have completed basic education and need to improve their study skills and receive guidance and support in selecting their education and career. Another significant target group are young people and adults excluded from education for some reason, who have not found their place in the education system.

The objective of the training is to prepare students to apply for vocational education and strengthen their abilities to complete a vocational degree. The intention in the training is to take into account the students' special needs (poor study abilities, insecurities about career choice, immigrants, special support needs, etc.). Preparatory training for vocational education is worth 60 competence points and can take up to one academic year.

Preparatory training for work and independent living is a separate programme for those who cannot move onto studies leading to a qualification after the preparatory training due to illness or disability. The objective of the new training is to provide students with teaching and guidance in line with their personal goals and abilities. The training is always given in the form of special needs education. Organisers of education can arrange the training with a permit from the ministry to arrange special needs education as a special educational duty. The training is worth 60 competence points and its duration varies between individuals, the maximum being three years.

II

Article 1

According to the Equality Act, an employer's actions constitute discrimination, if the employer, in recruiting or selecting for training or a task, shuns someone who is more qualified than the selected individual, who is of the opposite sex, unless the employer's actions are due to another acceptable reason, besides gender, or unless there is a weighty and acceptable reason related to work quality. Such weighty and acceptable reason related to work quality may be that the work itself is determined based on gender, for example in the case of a ballet dancer. General reasons of modesty (in certain jobs e.g. at swimming centres) may justify the selection of an individual of a certain gender, as may the personal nature of the job (e.g. in assisting the disabled or elderly). The justification must be closely and factually related to the work or task in question, and only an acceptable reason by general standards can justify abandonment of the equality requirement.

Article 2

The implementation of the Government Action Plan for Gender Equality (2012–2015)

The Government Action Plan for Gender Equality (2012–2015) compiled essential Government measures to promote gender equality and eradicate gender discrimination (in Finnish, Swedish and English, <https://www.julkari.fi/handle/10024/111853>)

The programme was based on the Government Programme and Finland's first Government Report on Equality between Women and Men (2010). Moreover, the action plan has been a key tool in the implementation and monitoring of the policy definitions of the Equality Report. A final report on the implementation of the action plan was published in January 2015 (in Finnish and Swedish: <https://www.julkari.fi/handle/10024/125512>)

The Government action plan included measures concerning all ministries regarding the mainstreaming of the gender perspective and a variety of measures strengthening equality in working life. A reform of equality legislation was also incorporated as part of the action plan. Equality measures in working life have targeted at e.g. decreasing the gender pay gap, dismantling segregation, reconciling work and family and promoting women's careers. Career segregation has been decreased through development activities aiming at strengthening the gender perspective in employment services. The new 9-week quota of parental leave for fathers, which was introduced in 2013, aims at balancing out family leave more evenly. Another goal was to look into different kinds of families' equal rights to parental leave. This work will continue until October 2015. The situation is under review in particular with respect to single parents, remote parents, adoptive families, families with twins, rainbow and foster families.

Progress has been made in female career development. In support of women's career development, the Government has continued its dialogue with businesses through e.g. the EU-co-financed projects, NaisUrat and TASURI (Gender Equality in Top Management - Changing Practices in Economic Decision-Making). The statistical report on the TASURI project, published in June 2015, <http://www.julkari.fi/handle/10024/126299> contains compiled statistics on male and female representation in the top management of listed companies, major unlisted companies and State-owned companies. The qualitative research in the project produces new information on top management recruiting from the gender perspective and provides material for practical development work in future years. The objective of the NaisUrat project was to support female salaried employees and women in expert and middle management positions in advancing to more demanding jobs. In this project, research and development was done in SMEs, the public sector and third sector.

The Government has continued the programme increasing female representation on boards of State-owned companies, which began in 2004. A 40% target has been set for boards of State-owned companies and companies with a State majority shareholding for the minimum representation of both genders. Equal representation is also the goal in companies where the State has a minority shareholding. Clear numerical goals and the regular monitoring of their progress have yielded results: equal representation has been achieved in boards of State-owned companies and companies with a State majority shareholding. In February 2015, the Government adopted a resolution on the balanced participation of women and men on the boards of the listed companies. According to the resolution, the proportion of women and men should be at least 40 % on the boards of large cap and mid cap listed companies by 1.1.2020. The starting point is that this target will be met by the self-regulation of companies and business life. The government will evaluate the progress and need to legislative measures in the future.

The Government Action Plan for Gender Equality has also included measures to promote gender equality and decrease segregation in education and research. For example, in the new core curricula for basic education, adopted in late 2014, the promotion of gender equality is strongly included in e.g. tasks and development principles of basic education.

The Equality Act obligates all employers to promote gender equality purposefully and systematically. In order to promote gender equality at work, the employer shall, considering available resources and other factors, promote gender equality in e.g. terms of employment, particularly remuneration, and create equal opportunities for career advancement. Employers with an employed staff of at least 30 persons must promote gender equality in line with their equality plan. Provisions on the equality plan and pay survey included were updated on 1 Jan 2015 in order to be more effective. (See further above in I and C100 report).

Article 3

Authorities and organisers of education and other communities arranging education or teaching must make sure that girls and boys and women and men have equal opportunities to education and professional development and that teaching, research and learning material support the implementation of the purpose of this law. Educational institutions must have an equality plan in place to promote equality. Equality planning in educational institutions was expanded to basic education. (See more in chapter I)

III

The Ombudsman for Equality and the Non-Discrimination and Equality Board supervise compliance with the Equality Act. The Ombudsman for Equality can issue instructions and advice for those who suspect discrimination in a matter concerning compliance with the law. The board can outlaw discriminatory practices at the threat of a fine.

If an employer neglects the equality plan, the Ombudsman for Equality must strive to ensure, through instructions and advice, that the employer makes the equality plan. If the employer still neglects their responsibility to draft an equality plan in spite of instructions and advice, the ombudsman can set a reasonable deadline by which the obligation must be fulfilled.

If the plan still is not drafted by the deadline, the ombudsman can take the matter to the Non-Discrimination and Equality Board. The Non-Discrimination and Equality Board can obligate the employer to draft an equality plan by a certain deadline. The board can reinforce its demand with a conditional fine. If the employer still neglects to draft the equality plan, the board imposes the conditional fine.

One who suspects discrimination can initiate District Court proceedings for compensation. In line with the principle of shared burden of proof, the one suspecting discrimination has a lesser burden of proof.

IV-V

The Ombudsman for Equality is also concerned about *discrimination based on pregnancy and family leaves*. Women seem to be at an increased *risk for facing discrimination based on these grounds*, especially if they are on a fixed term contract, are temporary agency workers or are on a zero-hours contract. For example, when a woman working on a zero-hours contract becomes pregnant, her hours may be reduced. It may, however, be difficult to prove the cause for reduction, because of

employer's discretion to vary the employee's working hours. The Finnish government and social partners have paid rather much attention to developing and improving the possibilities to reconcile work and private life, but more attention should also be paid to discrimination based on pregnancy and parenthood and to finding new measures to prevent discrimination based on these grounds.

In December 2012, the Ombudsman for Equality started a campaign against pregnancy discrimination called *Justice for Those Expecting*. The campaign's objective was, on the one hand, to increase women's awareness of their rights with regard to pregnancy and family leave. On the other hand, the Ombudsman for Equality wanted to alert employers to adjust their attitudes towards employees who are pregnant or on family leave and ensure the legality of their actions.

The Ombudsman for Equality has commissioned two reports on court decisions relating to the application of the Gender Equality Act in 2005-2008 and 2008-2012 but there is no report which would cover years after 2012.

The Non-Discrimination Ombudsman notes that the expansion of the Non-Discrimination Ombudsman's competence is also a welcome change for working life.

Return to work after family leaves

A tripartite working group has analyzed how the legislation guarantees right to return to work from family leave. The memorandum was published by the Ministry of Employment and Economy in May 2014. The memorandum prepared by the working group clarifies the role of legislation in safeguarding the rights of those returning to work after family leave. The memorandum examines the provisions concerning protection against dismissal and right to return to work contained in the Employment Contracts Act, as well as the Equality Act's non-discrimination provisions and the underlying EU legislation. Legislation in Finland guarantees right to return to work after family leave and fulfils the criteria based on EU directives.

The memorandum with the English summary is available in following link:

https://www.tem.fi/ajankohtaista/julkaisut/tyohonpaluuta_perhevapaan_jalkeen_selvittaneen_tyoryhman_muistio.98033.xhtml

VI

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)
 The Commission for Local Authority Employers (KT)
 The State Employer's Office (VTML)
 The Federation of Finnish enterprises

Statements of the labour market organisations:

Confederation of Finnish Industries EK

The reform of the Non-Discrimination Act entered into force in Finland at the beginning of 2015. The reform responds to several questions from the Committee.

EK would like to note that the ILO Expert Committee's impression of the extent of discrimination in Finland is largely based on surveys that only look into people's subjective experiences. In future, the Expert Committee should consider the fact that there are very few cases that our justice system has deemed cases of illegal discrimination. There are also statistics available on this matter.

Akava

As regards gender discrimination, Akava refers to its statement on C 100.

APPENDIX

CUSTOMER-INITIATED MONITORING OF DISCRIMINATION AT WORK BY OCCUPATIONAL SAFETY AND HEALTH AUTHORITIES OF THE REGIONAL STATE ADMINISTRATIVE AGENCY FOR SOUTHERN FINLAND IN 2014

The enforcement measures described in the report are related to discrimination suspicions reported by customers to the *Occupational Safety and Health Authorities of the Regional State Administrative Agency for Southern Finland*.

1. Processing of a matter of discrimination at work by Occupational Safety and Health Authorities

Occupational Safety and Health Authorities enforce the prohibition of discrimination at work.¹ *The legislation enforced by Occupational Safety and Health Authorities outlaws discrimination on the basis of age, ethnic origin, nationality, language, religion or faith, views, health condition, disability, sexual orientation and other personal reasons.*

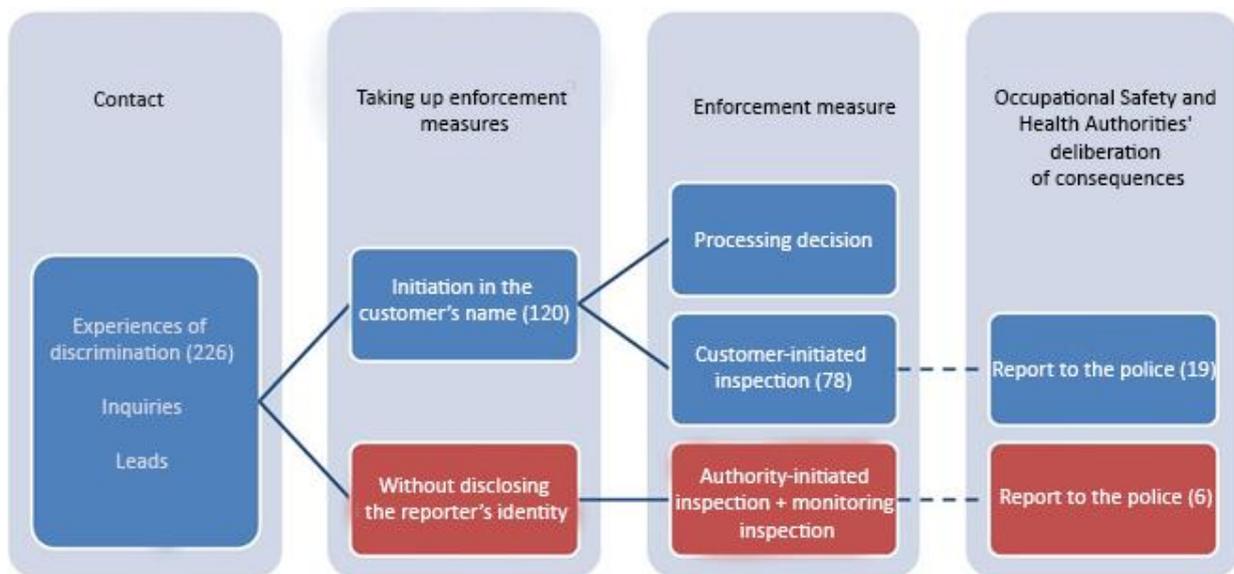


Diagram 1: Enforcement measures based on contacts. The path above in blue describes reports in which the customer consents to processing the matter in their name. This report does not comprehensively cover inspections initiated by authorities based on contacts (the lower red path).

Experiences of discrimination. *Customer-initiated monitoring of discrimination at work is based on a contact from a jobseeker or employee to the area of responsibility of Occupational Safety and*

¹ The Department for Occupational Safety and Health under the Ministry of Social Affairs and Health has drafted guidelines for monitoring discrimination at work. You can find the guidelines at

http://www.tyosuojelu.fi/upload/Valvontaohje_1_2012_Tyosyrjinnan_valvonta.pdf

Health, describing their experience and requesting enforcement measures to examine the experienced discrimination. The inspector assesses, based on the contact, whether there is call for enforcement measures in the customer's case in order to look into the customer's experience of discrimination.

Taking up enforcement measures. Solving an individual matter of discrimination without expression of identity is practically impossible. Therefore, the matter of discrimination is initiated with a form requesting enforcement, in which the customer consents to processing the matter in their name and contacting their employer, if necessary.

Enforcement measure. If the customer has produced sufficient indication of the grounds of discrimination and the employer's conduct to suspect discrimination, an inspection will be conducted. Customer-initiated inspections of discrimination at work are usually done on the basis of documents received from the employer and employee. Based on the material received, the inspector assesses whether the employer has violated the prohibition of discrimination. The inspection report provides the employer with instructions as to compliance with legislation.

Occupational Safety and Health Authorities' deliberation of consequences. In addition to monitoring the employer's activities, the authorities consider whether there is probable cause to suspect that the case meets the criteria of criminal discrimination. If that is the case, the authorities report the case to the police for investigation.

Other contacts. Occupational Safety and Health Authorities also receive other contacts related to discrimination at work. Inquiries about remuneration or terms of employment with signs of discrimination are sent in every day. The authorities also receive a great deal of leads from citizens and other authorities on neglect of labour laws in workplaces with foreign workers, for example. Based on these contacts, the authorities monitor job advertisements or terms of employment of young or foreign² employees³, for example. In this case, monitoring is done without disclosing the identity of the contacting individual.

2. Contacts recorded as suspicions of discrimination at work

Number of contacts concerning experiences of discrimination

The number of contacts concerning experiences of discrimination has increased steadily in recent years. The Occupational Safety and Health Authorities received 226 contacts recorded as suspicions of discrimination at work in 2014. However, no significant increase in the number of contacts concerning experiences of discrimination can be considered to have taken place in 2014, since the higher number can be explained with changes to recording practices in the new data collection system. In previous years, some of the contacts concerning experiences of discrimination

² In 2014, enforcement measures were targeted at young employees in e.g. telemarketing and workplaces with many young summer employees (such as summer cafés, market stands, kiosks). "Young employees" pertain to those under 30 years of age in this context. Approx. 130 inspections were carried out to ensure that employers adhered to the minimum requirements of occupational safety and health, working hours and employment legislation.

³ Inspectors specialised in foreign employees of the Regional State Administrative Agency for Southern Finland conducted just under 500 occupational safety and health inspections in 2014, targeted based on leads from labour market organisations, authorities, entrepreneurs, citizens and other types of inspectors. The results of these inspections are not discussed in this report.

were recorded in other categories, since the old system did not enable the activation of several categories.

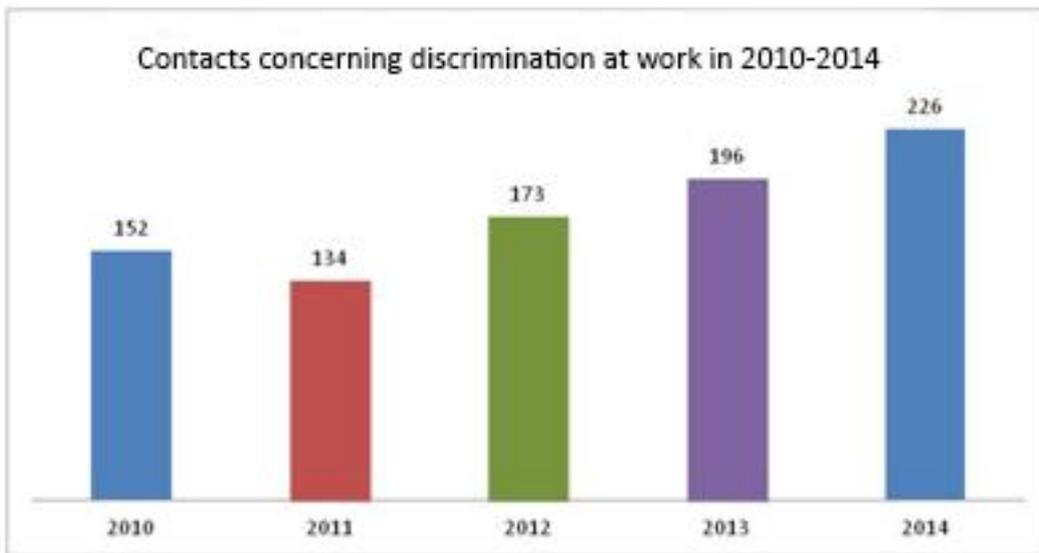


Diagram 2. *Contacts recorded as suspicions of discrimination at work by Occupational Safety and Health Authorities at the Regional State Administrative Agency for Southern Finland. The 2014 data is not fully comparable with data from previous years.*

Form of experienced discrimination

Discrimination at work can occur in recruitment, during the employment and after the employment has ended. In some contacts, the experienced discrimination began during the employment and led to the loss of employment.

The most common form of discrimination was, as in previous years, termination of the employment relationship based on a discriminatory reason (approx. 52% of contacts). In over half of these cases, the customers felt that their state of health had led to the dissolution of their employment relationship. The customers also felt that another factor that influenced the termination of the employment was the fact that the employee had demanded their rights at work, voiced grievances or contacted Occupational Safety and Health Authorities (trade union activity or other comparable activity). In these cases of experienced discrimination, it was typical for the employer, in turn, to justify the termination of the employment with reference to negligence in performance and deficiencies in competence.

Contacts on discrimination experienced during employment increased (41%). Health condition, ethnic origin, age, trade union activity or other professional activity were the most common grounds for discrimination during employment. Discrimination occurred in the form of e.g. neglecting minimum terms of employment, temporary lay-offs, changes to terms of employment, reducing working hours and inappropriate treatment. It was typical for the contacting customers to experience a continuum of discrimination, with various actions following one after the other. The

customers also often simultaneously experienced other grounds for grievances, such as inappropriate treatment and overloading.

1. There were still few contacts concerning recruitment (7%). The most common reason for discrimination experienced was advanced age. In a few contacts, the experienced discrimination was especially heightened by the fact that, in spite of requests, the candidate had not received an account of the selected candidate's education, experience and other qualifications from the employer. In some contacts, the candidate had applied for a permanent vacancy in their own workplace, and questioned the employer's view that the selected employee was better qualified. Authorities also received reports of job advertisements with a discriminatory requirement, such as church membership or perfect Finnish skills.

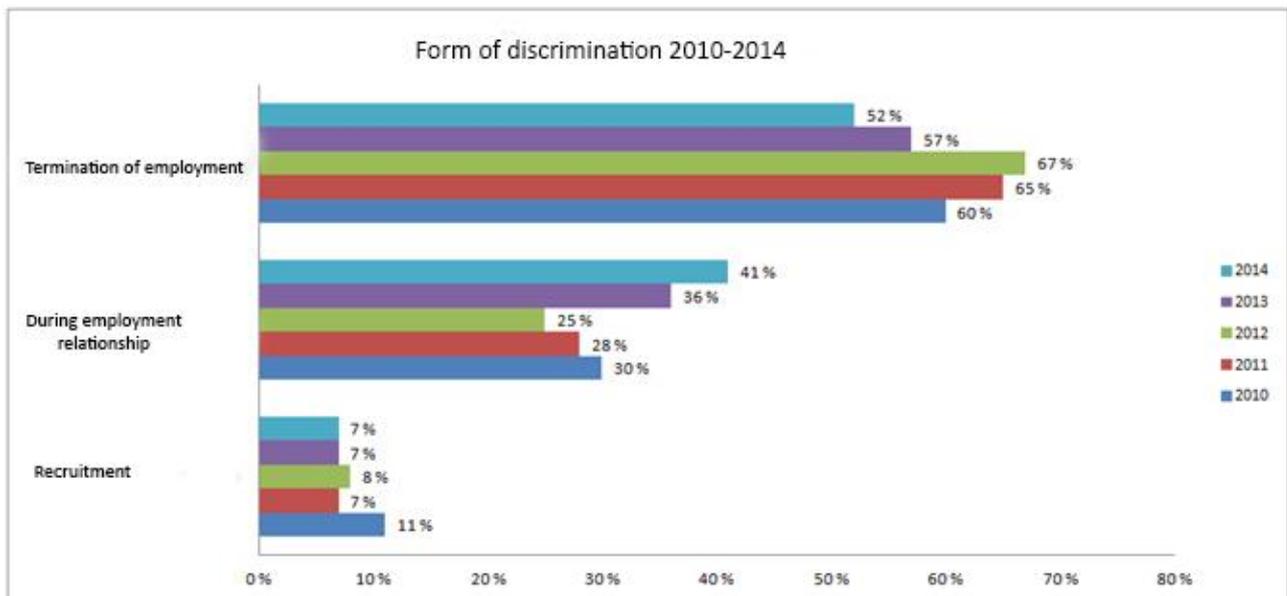
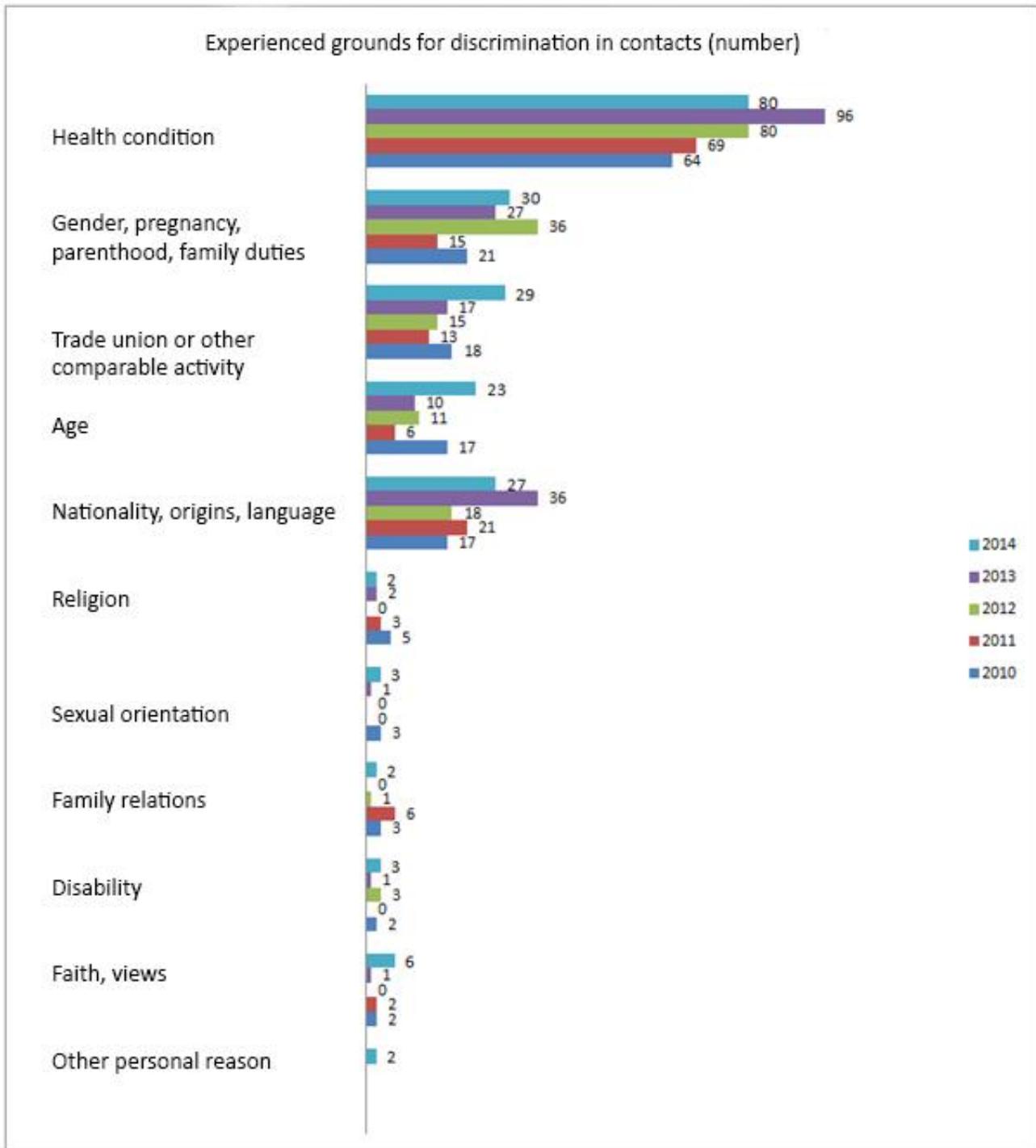


Diagram 3. *Contacts classified as discrimination by form of discrimination in the scope of the Regional State Administrative Agency for Southern Finland in 2010-2014.*

Experienced grounds for discrimination

When one who experiences discrimination contacts authorities, they most often declare the reason why they are experiencing discrimination. Sometimes the inspector, in turn, realises the grounds for discrimination based on the customer's account of events. In some cases, the employer's actions spring from many different grounds for discrimination. It is also typical for the discriminated contacting customer to not know why they have been treated unfavourably, offering a variety of alternative grounds for discrimination in stead.



Discrimination experienced based on *health condition* (80 cases) is still the most common reported form of discrimination. The majority of these reports concerned situations in which the employer had terminated the employment and the employee suspected that this was due to their sickness absences. A typical contact with Occupational Safety and Health Authorities concerns the termination of a trial period in connection with one's sickness absences. In these cases, the employer usually has not given any other reason for the termination besides the trial period, nor has the employer cautioned the employee of any deficiencies in their performance. Discrimination was also experienced when a diminished ability to work or several sick leaves had led to unpleasant shifts, reduced hours or removing tasks.

Contacts related to *gender* are also quite common (30 cases). Approximately half of the contacts concerned situations within the scope of Occupational Safety and Health Authorities' enforcement competence, such as termination of a trial period after the employer finds out about the employee's pregnancy, dismissals of pregnant employees and employees on family leave or returning to work after family leave. There were also contacts concerning discrimination experienced based on gender, parenthood and family duties. However, these fall within the scope of authority of the Ombudsman for Equality.

Discrimination experienced based on *trade union activity or other comparable activity* increased (29 cases). The experienced discrimination was most often linked to negative repercussions on the employee after demanding their rights at work or voicing other grievances. A few suspected cases of discrimination concerned situations in which the employer had terminated the employment or pressured the employee into resigning, because the employee had actively served as a shop steward or occupational safety and health representative. There were also some individual contacts concerning the fact that contacting enforcement authorities had resulted in the termination of the employment.

Discrimination suspicions based on *nationality, origins and language* (27 cases) usually concerned underpay, inappropriate working hours, terms of employment neglecting the minimum requirements or other conduct experienced as insulting. Discrimination upon the termination of one's employment was less frequently experienced - in these cases it was typical that a foreign employee had started demanding their rights.

Contacts based on *age* (23 cases) multiplied compared to previous years. Age discrimination was experienced in recruitment, at the end of the employment relationship and during the employment. Age discrimination was experienced based on advanced age in almost all of the contacts. Aged employees felt selected for dismissal or temporary lay-off based on their age. Pressuring into retirement was also experienced as discrimination. A few contacts concerned recruitment, in which the employer had selected a young candidate with less experience than the older candidate who was not selected. About a third of all those who reported age discrimination felt that there was also another basis for discrimination, such as health condition, which had affected the employer's conduct in addition to age (discrimination on multiple grounds).

There were only some individual contacts related to other grounds for discrimination, such as religion, sexual orientation, disability and family relations. A few customers felt discriminated against based on their appearance. Discrimination was also experienced in situations where the employer was acting based on grounds that are not prohibited in non-discrimination legislation. These included strained relations between supervisor and subordinate, individual incidents or disagreements.

3. Auditing measures

In 2014, approx. 120 cases concerning or related to discrimination at work were initiated by Occupational Safety and Health Authorities in writing.

In about a third of the customer-initiated, pending cases where the customer had experienced discrimination, the inspector found no call for measures to investigate the experienced discrimination. In these cases, the processing of the case is terminated with a decision. No enforcement measures have been taken, if no grounds for discrimination in the law concern the employee or if the experienced discrimination is not related to an act or event leading to a more unfavourable position for the employee in a comparable situation. In addition, in these situations it has been clear that there has been no causal connection between the grounds for discrimination and the employer's conduct. For example, an employee may have experienced discrimination based on their health condition, whereas it has turned out that the employment was terminated because of the employer's bankruptcy. The authorities may also issue a decision ending the processing, if the employee has wanted to stop the process as the case has been pending and no enforcement measures have been taken yet.

If there is reason to suspect discrimination at work, the enforcement measures are commenced with a letter requesting information from the employer and occupational safety and health representative to investigate whether the employer has neglected non-discrimination provisions. At the end of the enforcement measures, the inspector drafts an inspection report.

In 2014, discrimination at work was discussed in 78 inspection reports⁴. The number of inspection reports has decreased compared to previous years. This is most likely due to the fact that in the contact phase, the authorities have assessed the case more thoroughly and made sure that enforcement measures are not taken when there are no facts indicating discrimination.

⁴ In addition, in 2014, 15 inspections were targeted at discriminatory job advertisements. In the advertisements, the grounds for discrimination were language, nationality, age or faith.

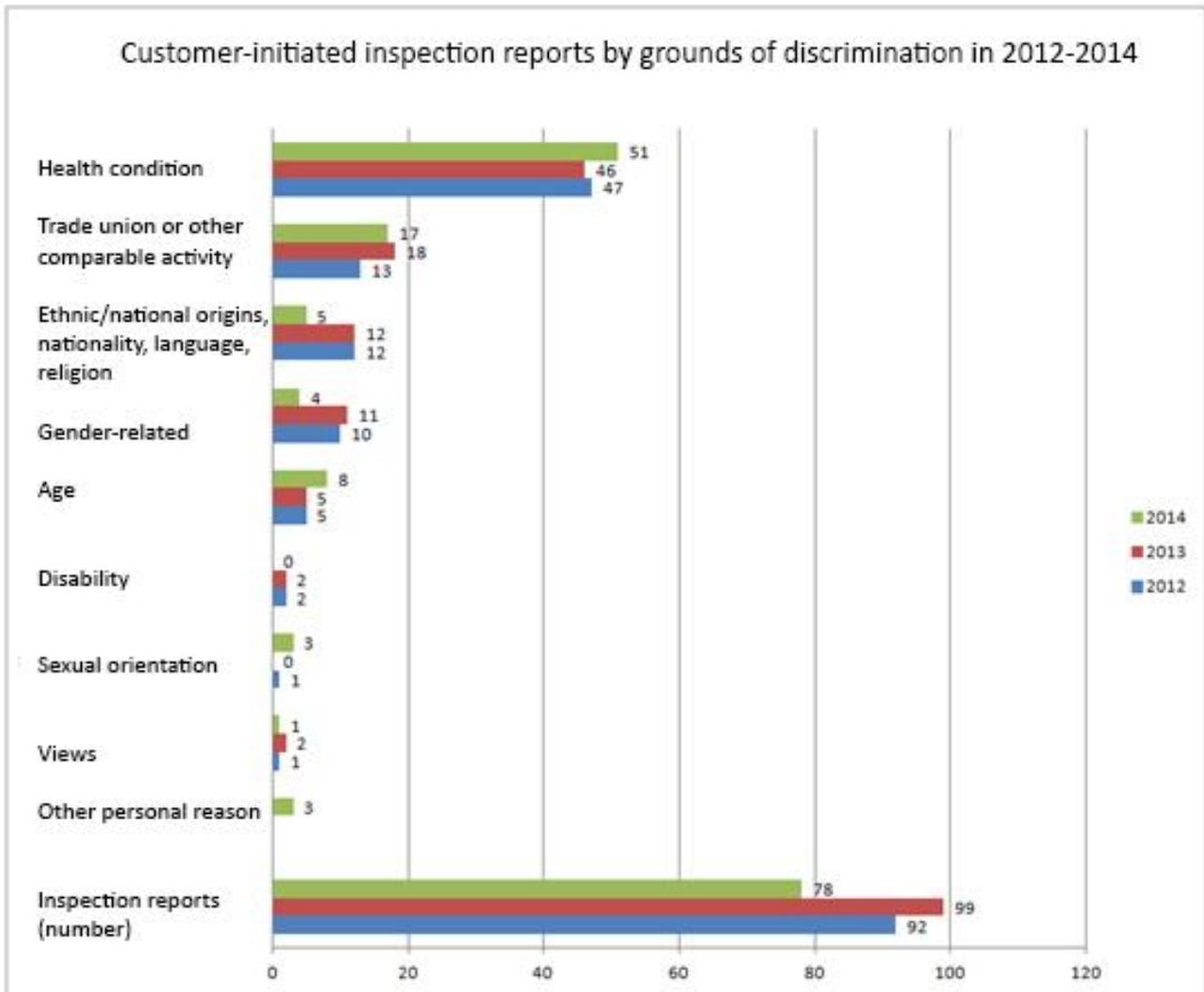


Diagram 5: *Customer-initiated inspection reports by grounds of discrimination in 2012-2014.*

In over a third (34%) of inspection reports that led to an inspection, the employer was given **written advice concerning compliance with non-discrimination legislation**. Written advice is issued when based on collected information, there is an assumption of discrimination, and the employer has not invalidated the assumed discrimination or indicated a justification for unequal treatment within the meaning of the law.

In under 20% of the inspection reports in which the employer is not considered to have neglected non-discrimination provisions, some other grievance has come to light, resulting in written advice to the employer. The grievances have been related to e.g. the duration of one's trial period, the employer's obligation to offer work and training, their obligation to take employees back, sick leave pay, personal data required in recruitment, working time records, occupational health care and occupational safety requirements, such as induction training.

In cases, where no faults were found in the inspection (45%), the employer has usually produced proof indicating that the case does not involve prohibited discrimination. It is typically a case of not finding a causal connection between the employer's conduct and the presented grounds for discrimination. It may also be a case of justified behaviour on the part of the employer. For

example, termination of employment on the basis of an employee's health condition may be justified when the illness has significantly diminished the employee's ability to work and this cannot be considered temporary or passing.

4. Deliberation on sanctions by the Occupational Safety and Health Authorities

In 2014, in 25 cases there was probable cause to suspect that the criteria of criminal discrimination at work were met, and the matter was reported to the police for investigation. In five of these cases, extortionate workplace discrimination was suspected.

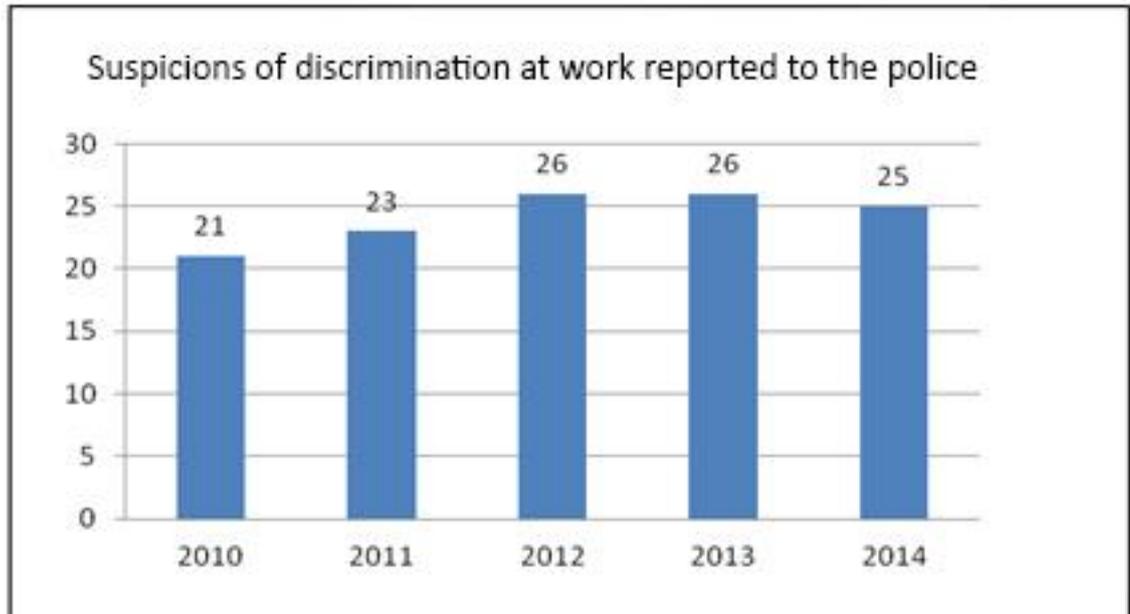


Diagram 6. *Suspicious of discrimination at work reported to the police by the Occupational Safety and Health Authorities of the Regional State Administrative Agency for Southern Finland. The figures include suspected cases of criminal discrimination at work found in monitoring measures initiated by authorities (6 cases).*

The grounds for discrimination in the suspicions were:

- health condition in 14 cases
- nationality and ethnic origins in 8 cases
- gender (pregnancy) in one case
- trade union or comparable activity in two cases
- views in one case

5. Occupational Safety and Health Authorities as experts in the labour law infringement process

After the police investigation, the criminal suspicion of discrimination moves on to the *prosecutor* for the consideration of charges. The prosecutor decides on whether charges will be pressed, i.e. whether the case will be tried in court. Approximately half of suspicions of criminal discrimination at work lead to charges being pressed. The prosecutor can decide to not press charges when there is not enough evidence, for example. The prosecutor has burden of proof in court cases concerning discrimination at work. In criminal proceedings, the presumption of innocence is the guiding principle, and in cases of unclear evidence, the case is ruled in favour of the accused.

Occupational Safety and Health Authorities participate in the investigation and trial of criminal cases of discrimination at work in line with the law on the enforcement of occupational safety and health. The prosecutor shall provide the authorities with an opportunity to give a statement before the consideration of charges is completed. When the case is handled orally in court, the Occupational Safety and Health Authorities have a right to be present and be heard. In appendix, there is a description of criminal cases of discrimination at work processed in Southern Finland in 2014.

Further information:

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Occupational Safety and Health, Regional State Administrative Agency for Southern Finland

Appendix: Court sentences in criminal cases of discrimination at work tried in Southern Finland in 2014.