

**Article 22 of the Constitution of the ILO**  
Report for the period 1 June 2015 to 31 May 2018  
made by the Government of Finland  
on the  
**DISCRIMINATION (EMPLOYMENT AND OCCUPATION)**  
**CONVENTION, 1958 (No. 111)**  
(ratification registered on 23 April 1970.)

### Observation, 2016

Finland's reformed non-discrimination legislation creates the prerequisites for intervention in discrimination in its various forms. Obligations related to the promotion of non-discrimination facilitate the development of non-discrimination policies in all areas of life. Increasing expertise concerning the assessment and planning non-discrimination will require education and the further development of methods. The objective is to promote non-discrimination in general meaning regardless of the reason for discrimination. In addition to this, there is an effort, for example, to promote the genuine equality of certain groups.

Increasing the equality of different population groups is a key objective set by non-discrimination legislation. This might require deviation from the formal principle of equality in order to realise equality in practice with regard to groups that are at risk of discrimination. According to the study, groups like this in Finland include in particular those ethnic minorities whose appearance visibly differs from that of the general population such as the Roma, groups with various disabilities as well as sexual and gender minorities. Specific issues for each group may be taken into account when implementing obligations for the promotion of non-discrimination, such as non-discrimination planning, but these may also require specific measures.

The implementation of the [Non-Discrimination Act \(1325/2014\)](#) and the promotion of non-discrimination are realised in the scope of the National Action Plan on Fundamental and Human Rights. [The National Action Plan on Fundamental and Human Rights 2017–2019](#) (includes an abstract in English) was adopted as a government resolution on 16 February 2017 (Ministry of Justice publication 9/2017). The Action Plan measures seek to address identified problems related to fundamental and human rights and complement the work being carried out in various policy sectors to promote these rights. Priority areas of the National Action Plan will be fundamental and human rights education, equality, right to self-determination as well as fundamental rights and digitalisation. The Action Plan contains a total of 43 projects spread across the administrative branches of all ministries.

Measures on the promotion of non-discrimination entered into the National Action Plan on Fundamental and Human Rights include providing support for municipal non-discrimination plans, the promotion of non-discrimination in working life, the publishing of equality and non-discrimination indicators, the implementation of the fundamental rights barometer, the TRUST project, which promotes good relations among the population, and the faster transition of immigrants into education and employment (please, see also answers given to the Direct Request 2016, *Measures to combat racial and ethnic discrimination*).

The Government's network of contact people for fundamental and human rights monitors the realisation of the National Action Plan on Fundamental and Human Rights. An independent and autonomous assessment is to be conducted on the implementation of the Action Plan at the beginning of the following government term. Additionally, independent supervisory authorities such as special ombudsmen, the Human Rights Centre, and the centre's Human Rights Delegation as well as NGOs play an important role in the implementation of the Action Plan as autonomous supervisors.

Programmes related to the Equality Act are described in the report on Convention 100.

### **Direct Request, 2016**

*Article 2 of the Convention. Measures to promote gender equality. Occupational segregation.*

In service training has been supplied and offered for the whole personnel of the Public Employment Services (PES) and especially for careers counsellors within PES. This training was organized as study circles during two years' time as part of the Finnish Government Gender Equality Program. Two studies was used as study material in this training: "Handbook on supporting non-traditional career choices" and "Gender Perspective in the Public Employment Services", produced in GM Program "Valtava". The target for the this training was that the whole personnel of the PES will participate in it.

The training was not successful when speaking in numbers of participants, the reason of which may be that participating was on voluntary basis. In the midterm report of the current Government this has been reported as unfinished measure, meaning to be developed during the rest of the Governmental period until 2019.

The TASURI project continued until the end of 2015. The statistical report compiled in connection with the TASURI project in the representation of men and women in top management positions at companies was published in 2015 (Ministry of Social Affairs and Health Publications 2015/3). The report is available online [here](#) (includes an English abstract).

In order to have more information about the measures to promote gender equality, please the report concerning C 100.

### *Measures to combat racial and ethnic discrimination*

In recent years the Finnish government has put a big emphasis on addressing the underprivileged position of immigrants in the labour market. In 2015, as in many European countries, Finland received a large number of asylum requests. 32 000 individuals sought asylum in Finland – equivalent to 6.6 asylum seekers for every 1000 of the Finnish population. Because of the high amount of asylum seekers coming in 2015 the Government approved on 3 May 2016 its action plan on integration.

The Act on the Promotion of Immigrant Integration (1386/2010) forms the basis for the integration work. The purpose of the Act is to support and promote integration and make it easier for immigrants to play an active role in Finnish society.

According to the Act the government decides on the development of integration at national level by drawing up a government integration programme containing the integration objectives for four

years at a time. The Ministry of Employment and the Economy is responsible for the preparation of the programme. The Government Integration Programme 2016-2019, approved on 8 September 2016, set out the goals, measures and resources to promote integration. The goal is to promote equality and ensure that the knowledge and skills of immigrants benefit the Finnish society. By means of an effective initial stage of integration and cooperation between authorities and stakeholders, efforts are made to ensure a smooth transition for immigrants into, for example, studies or working life. The goals of the Government Integration Programme 2016-2019 are:

1. Using immigrants' cultural strengths to enhance Finnish innovation capacity: The objective is to utilise the knowledge and skills of trained immigrants and those foreign students who graduate from Finnish institutes of higher education and to promote career advancement in Finnish labour market, business growth, and internationalization
2. Enhancing integration through cross-sectoral measures: The conditions for integration of immigrants are established in the early stages. The objective is to equip people with the required resources for continued training and working life, to improve immigrants' position in the labour market, ensure the provision of multi-profession support to immigrant families, support immigrants' participation in leisure activities.
3. Increasing cooperation between the State and municipalities in the reception of beneficiaries of international protection: The objective is that the placement into municipalities of quota refugees and asylum seekers that have received a residence permit takes place within two months of notification of the granting of the residence permit. The integration process begins immediately.
4. Promoting a humane national discussion culture that will not tolerate racism: The objective is that discussion about immigration be carried out openly and in a manner that respects human dignity. Official forums will also be created for dialogue between authorities and immigrants.

The most important measures that have been enforced as part of the implementation of the Government Integration Programme include reforming integration training. The integration training for immigrants has been renewed to better prepare for working life, by increasing the vocational content and on-the-job training and by facilitating a more flexible combination of integration training and vocational training. The Ministry of Employment and the Economy and the Ministry of Education and Culture have contributed to the identification of prior skills and guidance to a meaningful educational and employment path, including faster transition from integration training to vocational education and qualification training. Healthcare and social services help safeguard the functional capacity and health of those with residence permits.

The Government Integration Programme 2016-2019 can be found from [this link](#).

The national discrimination monitoring system has been in development since 2008. The development work began at the Ministry of Employment, later continued at the Ministry of the Interior. Today the work is being coordinated and developed by the Ministry of Justice. The tasks of the monitoring system are: 1) to produce up-to-date information on discrimination in the Finnish society, 2) to compile research data and statistics produced by others, 3) to promote cooperation of people and organisations working with discrimination research, 4) to suggest policy measures on promotion of non-discrimination.

The Ministry of Economic Affairs and Employment finances and the Ministry of Justice is implementing, in co-operation with the delegation of Ethnic Relations (ETNO), other authorities and non-governmental organizations, the TRUST project developing working models to promote good relationships between different groups at regional and local level. Measures have been devoted to providing good public relations education for officials, volunteers and asylum seekers, as well as prepared training material, a published guide to reception centers on demographic policy, and proven conflict resolution methods.

Measures of the Non-Discrimination Act, for example the obligation of the employer to promote equality (section 7 of the Act), have remained the same on the reporting period.

*Access to employment and occupation of the Roma. National Policy on Roma.*

Nevo tiija – the general objective of this project titled “a new time” is to increase the equality, inclusions and wellbeing of the Roma. It implements the measures required by the National Policy on the Roma. The project’s actual objective is to improve the work opportunities and abilities of the Roma and their possibilities for participation in working life. The project was launched in August 2016, and will continue to the end of 2018. The project’s actual target group is the Finnish Roma population, especially Roma individuals, who are outside working life and education, Roma families and young Roma, as well as the employees for employment services, social and healthcare services and guidance services. The project has produced, for example, a series of videos on people’s experiences of success in education, working life, entrepreneurship, hobbies and their combination. During the monitoring period the ESF-funded project has produced positive results.

*Access to education and vocational training.*

It is estimated that about 10,000 Roma live in Finland.

In 2011 the Finnish National Board of Education (since 2017 Finnish National Agency for Education) published A review on basic education of Roma pupils (2011:26). The purpose of the review was not to gather statistical information, but to give a voice to Roma pupils in basic education, their parents and careers. Their interviews were gathered all over the country. School principals answered to an online questionnaire. The main results were following

- In the principals’ estimation, general school performance among Roma pupils had improved somewhat or markedly during the previous three years. The principals estimated that 70% of the pupils were doing excellently, well or at least satisfactorily at school. Nevertheless, 30% of all Roma pupils were doing poorly or adequately in basic education. This means that necessary support methods should be employed to ensure that Roma pupils complete their basic education.
- The message of both school heads and Roma parents or careers was clear: cooperation between home and school works. Of the heads, 94% considered the level of cooperation very good, good or at least satisfactory. Similarly, Roma parents and careers almost unreservedly valued cooperation with teachers and other educational staff.
- Schools are still not aware of all cases of bullying, as the principals’ estimates of the frequency of bullying experienced by Roma pupils are lower than those reported by parents and careers. Bullying of Roma pupils is largely ethnic name-calling. All school bullying, ethnic name-calling and exclusion should trigger immediate intervention.

- An increasing number of Roma pupils completed their basic education. The development has been positive. The completion of basic education and seeking further education was the most important task for incoming years in many municipalities.

2014–2016, state subsidies promoting basic education of Roma pupils were still granted. Since 2008 totally 38 municipalities had received state subsidies. During 2014–2016 the granted municipalities focused their activities to completion of basic education and seeking further education. In many municipalities the results were good and Roma pupils completed their basic education. Nevertheless, too many, often Roma boys, still fail to gain their basic education certificate or do not seek further education, at least immediately on leaving comprehensive school. Many of the granted municipalities developed programs for guidance of Roma pupils to further education. These programs were often successful. The activities in the granted municipalities were following

- Roma pupils were given intensive guidance counselling as early as grades 1–6 of basic education.
- In grades 7–9 of basic education, Roma pupils received educational guidance aimed specifically at them and supporting the Roma pupils' own hopes for the future and addressing practical challenges viewed from the Roma's own perspectives. A good practice in school counselling was also to give space for people with Roma background.
- Roma parents and careers were informed at the stage of 7–9 of their children's education about application processes, selection criteria, study practices, and benefits and aids provided by society and available to students. A guide for Roma pupils and their families was prepared by the Finnish National Board of Education.

There is a continuing need for teaching materials in Romani language. A story book about Finnish Roma (Viljo Koivisto), a book of children's poetry (Seija Roth), fairytails about a Roma girl and her family (Helena Blomérus, Satu Blomerus, Helena Korpela & Irmeli Matilainen) and language exercise books (Seija Roth & Tenho Lindström) have been published by the Finnish National Board of Education during 2014–2017. A printed/electronic magazine concerning Roma education, *Latšo Diives*, has also been published twice a year.

One of the actions of Finland's first National Policy on Roma (2009–2017) was a review of the educational backgrounds of adult Roma. Finnish National Board of Education collected information during 2013–2014 in different parts of the country. Four surveys were drawn up: a survey for adult Roma and separate surveys for vocational institutions, general upper secondary schools for adults, and liberal adult education institutions. All the information for the review was requested anonymously. The Roma population responded actively to the survey, and information from a total of 327 survey forms was utilized during the analysis of the results. The collecting of information was done in close co-operation with a network of Roma people, Roma NGO's etc. A review of the educational backgrounds of adult Roma was published by Finnish National Board of Education in 2015 (2015:8) with following results

- Approximately two-thirds of the adult Roma respondents had completed basic education in comprehensive school or elementary school. The review material shows that 25 % of Roma who attended school in the 1950s completed basic education, with the numbers increasing to approximately 40 % in the 1960s, approximately 65 % in the 1970s, nearly 70 % in the

1980s, nearly 80 % in the 1990s, and slightly more than 80 % in the first decade of the 2000s. Thus, completion of compulsory education by Roma pupils has increased massively over the past 60 years, and the percentage of those earning a basic education certificate has risen from 25 % to more than 80 %. Despite this, Roma are still much less likely to complete basic education than the rest of the population. The situation for young men is clearly worse in comparison to women.

- Roma are familiar with the opportunities of vocational education and training. The majority studies after basic education in vocational institutions. A total of 39 % of respondents in all age groups had completed a qualification in vocational education and training.
- According to the vocational institutions, it is clearly more difficult to find work placements (work-based learning) and apprenticeship for Roma than for other students. In the opinion of Roma respondents, arranging of work placement was one of the most difficult stages of studying and could even lead to dropping out.
- Roma have lower level of enrolment in general upper secondary school than others. They are not familiar with the content of upper secondary and are often afraid of its degree of difficulty. There is a need for communication between the Finnish National Board of Education and the Roma about upper secondary school.

The Finnish National Board of Education has held in cooperation with various actors a series of information events dealing with application for education on the part of Roma adults. A cooperation with Roma organisations is initiated in order to develop operating models to support studies of adult Roma. A guide book for Roma about upper secondary education has been published.

In 2017 the National Board of Education plans to conduct a new study on the status of Roma children's early education and care and pre-primary education. The report is first of its kind, and it will be part of Finland's second National Roma Policy 2018–2022.

Finland is currently experiencing a shortage of Roma language-speaking teachers, and the situation does not look like it will improve quickly although the University of Helsinki has now established Roma language and culture studies. For this reason, the Finnish National Agency for Education is launching a project that will aim to develop Roma language teaching via remote connections. This would make it possible to provide Roma pupils in many areas Roma language studies. This would also make it possible to better utilise the possibilities outlined in the National Core Curriculum for the Roma language and literature syllabus.

No separate programmes have been established in vocational education and training for Roma students, and Roma people apply for and take part in vocational education and training within the normal system. It can be deemed that the vocational education and training reform will also improve the opportunities of the Roma to gain an education and find employment. The language of instruction in vocational education and training is Finnish, Swedish or Sami. Instruction could also be offered in the Roma language.

In 2015, The Finnish National Agency for Education conducted a survey on the education background of adult Roma. As citizens of Finland, the Roma have always been within the scope of compulsory education. Of the respondents, around two-thirds had graduated from comprehensive school or primary school. One-third had not graduated. Only 25 per cent of Roma people who attended school in the 1950s graduated with a certificate in basic education. The completion of comprehensive school studies by Roma people improved quite steadily, and by the first decade of the 2000s just over 80 per cent received a certificate in basic education. The attitudes of the Roma concerning completion of compulsory education and school attendance in general has also improved. Now, almost 100 per cent of young adult Roma, who are female, have completed compulsory education. Roma boys were still more likely to drop out of school.

According to the aforementioned survey, the Roma are able to take advantage of the opportunities afforded by vocational education and training reasonably well. More than a third of adult Roma have a vocational qualification, but only few attend upper secondary school or higher education. In 2018, the Finnish National Agency for Education published an upper secondary school guide for the Roma the purpose of which is to tell about upper secondary school the describe the academic further education paths made possible by upper secondary school. In 2019, the Finnish National Agency for Education will publish information materials for young and adult Roma that will cover the importance of adult education, everyday skills, study skills, the integration of studies and everyday life, education related costs and funding options, as well as descriptions on the range of studies offered by educational institutions that provide adult education. The Finnish National Agency for Education will also continue with these themes at meetings with Roma people in different areas. The purpose of these meetings will be to interact with people and impart information on the importance of education.

New licences for the provision of vocational education and training have been granted starting from the beginning of 2018. When assessing the minimum student years allowed for providers at the same time as these licences were granted, one factor that was taken into consideration was the education provided to the Roma by education providers who had in past years given emphasis to the vocational education of Roma people with the aim of improving the education level of especially the adult Roma. These providers have developed models for promoting the education and employment of the Roma in cooperation with Roma organisations and actors as well as authorities. Additionally, these actors have actively worked to have an impact on prejudice and attitudes especially in educational institutions and the workplace, but also more extensively in society.

*Access to traditional occupations of the Sámi people.*

Sami training center – license to provide education after VET reform:

As a novelty the Sami training center has a permit to give also both upper secondary qualifications and further vocational qualifications on media. There is need for skilled labour in the same speaking media.

The languages of instruction at the Sámi training center continue to be Finnish and Sami. The education provider may independently decide how education it provides in either of these languages according to need and the its licence for the provision of vocational education. The Sámi training center is obligated to provide degree programmes and studies, first and foremost, for the competence and education needs of the Lapland Region, but it can also provide degrees and studies elsewhere in Finland with the exception of Åland (Åland is an autonomous region and has its own education legislation).

The Sami training center also has a permit for labor policy education.

The virtual school of the Sami Education Institute has developed online pedagogy and technical solutions for virtual teaching in the Sami languages since 2004 and would have the capabilities to offer distance learning to pupils at all levels of education around the country. However, this has not happened in practice because, under the Basic Education Act, the instruction provided to pupils in compulsory education must be contact teaching. The lack of financial resources has also been a problem. During the on-the-spot visit, the Committee of Experts was informed that in 2017, the Ministry of Education and Culture took an interest in the development of e-learning for Sami and that a two year project in this domain might start in 2019. The Committee of Experts stresses the importance of virtual teaching especially for Sami pupils living outside the Sami Homeland and looks forward to receiving more information about the project in the next monitoring cycle.

#### Information on practical impact of certain legal reforms on the Sámi people's access to their traditional occupations

The purpose of the Act on Substitute Assistants for Reindeer Herders (1238/2014) is to support the work capacity of reindeer herders and extend their working lives. The work involved in reindeer husbandry has become even more binding in nature as the workload of reindeer herders has increased. Additionally, the average age of reindeer herders has increased, which in turn has affected their work capacity.

The substitute assistance provided pursuant to the Act on Substitute Assistants for Reindeer Herders promote the ability of reindeer herders to pursue their livelihood. Reindeer husbandry is of great importance to the reindeer herding area. It guarantees that migration loss areas in Northern Finland will remain populated, which is the essential in order to maintain the Sami culture.

A Ministry of Social Affairs and Health Decree stipulated that the maximum amount of substitute services allowed in 2015 per reindeer herder was 150 hours. In 2015, 92 reindeer herders used the services of substitutes. They used the services of substitutes for a total of 10,124 hours. This means that, on average, each reindeer herder used the services of a substitute for 110 hours.

A Ministry of Social Affairs and Health Decree stipulated that the maximum amount of substitute services allowed in 2016 per reindeer herder was 170 hours. In 2016, 92 reindeer herders used the services of substitutes. They used the services of substitutes for a total of 12,200 hours. This means that, on average, each reindeer herder used the services of a substitute for 133 hours.

A Ministry of Social Affairs and Health Decree stipulated that the maximum amount of substitute services allowed in 2017 per reindeer herder was 200 hours. In 2017, 114 reindeer herders used the services of substitutes. They used the services of substitutes for a total of 13,634 hours. This means that, on average, each reindeer herder used the services of a substitute for 120 hours.

A Ministry of Social Affairs and Health Decree stipulated that the maximum amount of substitute services allowed in 2018 per reindeer herder was 200 hours. According to a current estimate, in 2018 around 110 reindeer herders will use the services of a substitute. They will use the services of substitutes for a total of 13,750 hours. This means that, on average, each reindeer herder will use the services of a substitute for 125 hours. More accurate data will be available later on.



According to the information given above, it can be stated that the Act on Substitute Assistants for Reindeer Herders has benefited reindeer herders and supports the Sami in pursuing their traditional trade.

In the permitting procedures according to Mining Act (621/2011), Sámi People have the opportunity to describe in detail how the planned activity of the permit application would influence the Sámi Peoples' possibilities to maintain and develop their culture and practice their traditional livelihoods. This in order to facilitate the mining authority to evaluate if the permit can be given, and what regulative provisions might be needed in the permit in order to minimize the impacts.

Water resources management projects on land inhabited by indigenous people have mainly included bridges, water abstraction facilities, pipelines installed below waterways and similar projects, which according to the permit authority's assessment do not have any impacts on the indigenous peoples' rights. Extensive water resource management projects with profound impacts on the indigenous peoples' rights have not been carried out. However, the application of chapter 2, section 8 of the Water Act has been discussed in the context of mechanised gold mining, among other projects. The permit authority has deemed that since the water resource management projects have been small-scale operations, it has been possible to grant them permits under the Water Act. These permits have been appended, as required by the Water Act, with the necessary regulations on avoiding any nuisance resulting from the project and its implementation under the provisions laid down in chapter 2, sections 7 and 8 of the Water Act.

#### *Access to employment and occupation of the immigrant population.*

In autumn 2016, in order to speed up the employment of immigrants, a project by the name of SIB was launched for the integration of immigrants, which aims to improve the effective employment of immigrants with private capital. The purpose is to speed up the pace at which immigrants gain employment by uniting companies and employees and by tailoring integration training according to the needs of the workplace. By the end of 2017, a total of 521 people had participated in the projects training events and 140 of these people had gained employment. The objective is to help 2.500 immigrants gain employment within a period of three years.

#### *Enforcement.*

##### 1. Enforcement by an occupational safety and health authority

The Occupational Safety and Health Authority enforces the prohibition of discrimination at work as is provided in the Non-discrimination Act (1325/2014). The occupational safety and health divisions at the Regional State Administration Agencies act as regional occupational safety and health authorities. Enforcement procedures are determined in accordance with the Act on the amendment of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006). The Department for Occupational Safety and Health under the Ministry of Social Affairs and Health has drafted guidelines for the enforcement of equality and discrimination. The guidelines can be viewed at [www.tyosuojelu.fi/tietoa-meista/julkaisut/valvontaohjeet](http://www.tyosuojelu.fi/tietoa-meista/julkaisut/valvontaohjeet) (only in Finnish).

Enforcement of non-discrimination is carried out at the initiative of both clients and the authorities during workplace inspections (surveillance of foreign workers or self-initiated enforcement of workplace notifications). The enforcement of the prohibition on discrimination described below in

2017 in numbers especially from the viewpoint of client-initiated enforcement. In the case of enforcement by authorities, this describes the number of instances in which an obligation to comply with the prohibition on discrimination has been issued during inspections and the number of cases in which the police were notified of suspected workplace discrimination.

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

During 2017, a total of 545 calls related to workplace discrimination were made to the Occupational Safety and Health Authority's national telephone line. These calls cannot be differentiated by area. The number of contacts is indicative as discrimination-related contacts may also be registered in other topic areas.

## 3. Cases of discrimination that have been initiated in writing

The occupational safety and health divisions received a total of 197 written report of discrimination. Below is a list of reasons for which clients felt they experienced discrimination by area for cases which have been initiated. One case can include numerous reasons for discrimination.

<b>Initiated cases</b>	<b>AVI Southern Finland</b>	<b>AVI South-western Finland</b>	<b>AVI Western and In-land Finland</b>	<b>AVI Eastern Finland</b>	<b>AVI Northern Finland</b>	<b>Total</b>
<b>Total amount</b>	<b>104</b>	<b>14</b>	<b>57</b>	<b>10</b>	<b>12</b>	<b>197</b>
Age	14		10	1	2	<b>27</b>
Origin, nationality, language	19		1		1	<b>21</b>
Religion	3					<b>3</b>
Faith, opinion	22	2	2			<b>26</b>
Political activity	3					<b>3</b>
Union activities	14	2	3			<b>19</b>
Family relationship	1		3			<b>4</b>
Health	50	6	18	4	8	<b>86</b>
Disability	5		1			<b>6</b>
Sexual orientation						<b>0</b>
Another reason related to one's person	21	8	22	8	1	<b>60</b>

## 4. Client-initiated inspections in 2017

If a case that is initiated does not lead to enforcement procedures, the inspector draws up a processing decision on the matter. The grounds for the decision may include, for example, that there is no reason to suspect that the employer has violated the Non-Discrimination Act on the basis of the information supplied by the client. If there is reason to suspect that the employer has violated the Non-Discrimination Act on the basis of information supplied by the client, the inspector will initiate enforcement procedures. An inspection concerning workplace discrimination is usually carried out on the basis of documentation. In 2017, a total of 102 inspections concerning discrimination were carried out due to initiated cases. An inspection report was drawn up for each inspection in which

the inspector included a reasoned opinion on whether the employer had neglected to comply with the prohibition on discrimination.

<b>Client-initiated inspections</b>	102
AVI Southern Finland	64
AVI Southwestern Finland	8
AVI Western and Inland Finland	21
AVI Eastern Finland	1
AVI Northern Finland	8

#### 5. The set obligations:

In 2017, 28 client-initiated inspections were carried out during which it was established that the employer had neglected to comply with the prohibition on discrimination. During inspection where it was established that the employer had not acted contrary to the prohibition on discrimination, the inspection may have led to observations on other defects or faults might have been made, but those are not detailed here.

<b>Obligations issued during client-initiated enforcement</b>	AVI Southern Finland	AVI Southwestern Finland	AVI Western and Inland Finland	AVI Eastern Finland	AVI Northern Finland	<b>TOTAL</b>
<b>Instructions</b>	17	1	4	1	4	<b>26</b>
<b>Improvement notices</b>	1				1	<b>2</b>
Age			1		1	<b>2</b>
Origin, nationality, language	4					<b>4</b>
Religion	1					<b>1</b>
Faith, opinion	3					<b>3</b>
Political activity						<b>0</b>
Trade union activities						<b>0</b>
Family relationship						<b>0</b>
Health	8		3		3	<b>14</b>
Disability						
Sexual orientation		1				<b>1</b>
Another reason related to one's person	5			1	1	<b>6</b>

Directives and requests concerning the prohibition on discrimination were also issued during a total of 75 inspections which were part of enforcement initiated by authorities.

<b>Obligations issued in enforcement initiated by authorities</b>	AVI Southern Finland	AVI Southwestern Finland	AVI Western and Inland Finland	AVI Eastern Finland	AVI Northern Finland	<b>Total</b>
<b>Instructions</b>	33	3	17	10	1	<b>64</b>

<b>Improvement notices</b>	<b>9</b>	<b>1</b>	<b>1</b>			<b>11</b>
Age						
Origin, nationality, language	42	4	18	10	1	75
Religion						
Faith, opinion						
Political activity						
Trade union activities						
Family relationship						
Health						
Disability						
Sexual orientation						
Another reason related to one's person						

## 6. Pre-trial investigation notices

The Occupational Safety and Health Authority has a statutory obligation to notify the police, if during an inspection it becomes apparent that there are grounds to suspect a workplace discrimination related crime. In 2017, justifiable reason to suspect work discrimination as referred to in chapter 57, section 3 of the Criminal Code of Finland were observed in 11 client-initiated cases of enforcement. The police was notified of these cases and initiated a pre-trial investigation.

<b>Pre-trial investigation notices (Client-initiated enforcement)</b>	<b>AVI Southern Finland</b>	<b>AVI South-western Finland</b>	<b>AVI Western and Inland Finland</b>	<b>AVI Eastern Finland</b>	<b>AVI Northern Finland</b>	<b>Total</b>
<b>Total amount</b>	<b>8</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>11</b>
Race, origin, nationality, skin colour, language						
Gender	1	1				2
Age						
Family relationship	1					1
Sexual orientation and gender						
Heritage						
Disability	2					2
Health	5					5
Religion	1					1
Societal opinion						
Political activity						
Trade union activities				2		2
Other similar reason.	1					1

Another 10 pre-trial investigation notices were submitted concerning suspected work discrimination in 2017 on the basis of enforcement initiated by authorities.

<b>Pre-trial investigation notices (enforcement at the initiative of authorities)</b>	AVI Southern Finland	AVI South-western Finland	AVI Western and Inland Finland	AVI East-ern Fin-land	AVI Northern Finland	
<b>Total amount</b>	<b>9</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>10</b>
Race, origin, nationality, skin colour, language	9		1			
Other						

## **I LEGISLATION AND REGULATIONS**

Nothing to report

## **II – IV**

Nothing to report

## **V**

The Non-Discrimination Ombudsman gives every four years a report to the Finnish Parliament (The Report of the Non-Discrimination Ombudsman to the Finnish Parliament). In the recent report the Ombudsman has among other things highlighted the need to strengthen the measures needed to combat discrimination in working life. The report can be found from this [link](#).

The Sami as an indigenous people have autonomy in their home region with regard to their language and culture as stated in provisions contained in the Act on the Sami Parliament (974/1995) and elsewhere in legislation. This autonomy includes the election of the Sami Parliament from among their people. The Sami Parliament falls within the administrative sector of Ministry of Justice.

Taking into account the tasks and area of jurisdiction of the Sami Parliament, the Sami Parliament may not become aware of possible individual cases of discrimination in the working world on the basis of, for example, ethnicity or mother tongue and the Sami Parliament does not have sufficient information in this respect on the actual concrete presence of discrimination so that they could give an accurate statement on the matter. With regard to the core issues in Convention 111, instead of direct and immediate discrimination, the Sami Parliament notes that the convention includes an obligation to promote, for example, policies that aim to eliminate structural discrimination in the manner described in Article 3.

## **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 (SY)

Statements of the labour market organisations:

*Joint statement by SAK, STTK and Akava:*

A mere fraction of cases of discrimination at work involving foreigners come to light and end up in court. This is because posted workers arriving in Finland are unaware of their rights. This is particularly true when employees from developing countries come here to work in the cleaning, construction or accommodation and restaurant businesses, logistics or berry-picking. Employees may also have paid illegal fees to agents to find a workplace or, in other respects, find themselves in such a position that they dare not question their working or living conditions. Underpaid migrant workers in Finland may receive many times the pay they would receive in their home country. According to research data, the most common but not the only form for the exploitation of workers in Finland is pay discrimination.

The reason for the increasing use of temporary foreign workforce in the aforementioned lines of business is precisely that, due to defective supervision, migrant workers can be paid less than the majority population. While the use of migrant workforce has increased, the supervision of conditions of employment has not. Instead, the resources of authorities responsible for supervision have constantly been reduced. A further problem is that, in most cases, authorities do not carry out inspections outside office hours. Many foreigners, however, work irregularly when others are off work. For instance, shops are cleaned at night. In some cases, underpaid migrant workers work on construction sites during the weekends and the majority population on weekdays. Despite several proposals, there has been no enhancement of trade unions' opportunities to engage in supervision.

In spite of enforcement, it seems that it is impossible to do much about the underpayment of foreign labour force. The problem is the prosecutor's decision to not prosecute Polish employers on work discrimination although they paid their workers a wage that was below the Finnish pay level. The decision to not prosecute was made in a case, where the injured parties comprised 105 Polish workers employed by a Polish company at the Olkiluoto nuclear power plant's construction site. Occupational safety and health authorities suspected in the case in question that the employer was guilty of work discrimination and working time violations, but no final decision has been reached in the matter.

Supervision by trade unions is also complicated by the interpretation of Finland's data protection legislation in such a way as to deny employee representatives and unions the right to obtain individual pay data (see e.g. comment by the Data Protection Ombudsman 18.2.1011 Dno 45/41/2010). However, the right to access information would be particularly important in the case of migrant workers who do not necessarily have information on pay and other employment terms in Finland. This renders it almost impossible for employee representatives and unions to find out whether or

not migrant workers are paid in accordance with the collective agreement. Trade unions, the employee representatives representing them at the workplaces, and occupational safety and health representatives are, however, practically the only parties able to assist in migrant workers' pay and employment issues.

According to EU regulations binding on Finland, workers residing here on a temporary basis (so-called posted workers) are insured in the country posting them. Because social security is invariably better in Finland than in the home country of the migrant workers, foreign employees are always less expensive than those hired on the spot, even if the employee is paid in accordance with the collective agreement and the law and collective agreement is also complied with in other respects. Legal as such, this situation results in companies preferring to employ temporary foreign workforce. Unemployment increases among the local population, which undermines the possibilities of employee organisations to improve the position of their members in the labour market.

#### *The Federation of Finnish enterprises (SY)*

The Convention requires that all discrimination in the scope of the Convention be eliminated. Discrimination refers to all differentiation referred to in Article 1 for the reasons listed in section a of Article 1 as well as all other segregation, rejection or favouritism, which results in the same possibilities and non-discriminatory treatment in the scope of employment and occupation being sought or they are limited.

Non-discrimination and equal treatment is a fundamental principle of working life. It is also a right ensured in human rights agreements. The Federation of Finnish Enterprises notes that there is structural discrimination in the Finnish labour market with regard to trade union activities. This is apparent from the different status of employers and employees who are not union members in relation to workplace-specific agreements and the representation of workers.

The general applicability of collective agreements is strong in Finland. Due to their general applicability the employer must comply with the stipulations in the collective agreement even when the employer is not a member of an organisation that has entered into the agreement. Such workers and employers are bound by agreements on employment terms and conditions concluded by other parties even if they were not satisfied with them. This arrangement often also prevents employers that are not members of labour market organisations from concluding workplace-level agreements containing terms and conditions that differ from generally applicable collective agreements.

Unorganised employers are directly by virtue of the law on uneven standing, as the Employment Contracts Act (55/2001; chapter 13, sections 7 and 8) the Working Hours Act (605/1996; sections 40 and 40 a) and the Annual Holidays Act (162/2005; sections 30 and 31) contain prohibitions on agreements. If the aforementioned acts give the opportunity to deviate from the provisions with the collective agreement, the unorganised employer will not even then be able to make such a deviation, if the employment contract requires that the matter be agreed on locally. This limits the opportunities available to the unorganised employer's and those employed by the employer compared to organised employers, as local agreements in this type of situation are directly forbidden pursuant to the law. Only organised employers have the opportunity to enter into local contracts. Thus, contract prohibitions based on labour legislation place unorganised parties in a legally unequal position compared to organised employers.

With regard to employees, their unequal standing is apparent in the aforementioned situation in that employees cannot enter into local agreements on matters in the applicable collective agreement even if they wished to do so. On the other hand, the unequal position of employees is prevalent in all workplaces in that even if the collective agreement facilitates local agreements, unorganised employees cannot enter into them, if the collective agreement stipulates that the employee union's shop steward must be a party in the local agreement. Collective agreements often contain this type of stipulations. Entering into local agreements would thus often require that the employees join the employees' union that has entered into the collective agreement.

It is also peculiar that Finnish legal literature states that the employee union's shop steward can also act on behalf of unorganised employees in his/her "area of jurisdiction". The right of representation in this case would not be based on the unorganised employees membership in a union and the law does not contain any provisions on this right of representation. The situation is problematic as shop stewards have the opportunity in some situations to enter into agreements concerning terms of employment that also bind unorganised employees even when the employee in question would not want the shop steward to represent him or her.

In a preliminary ruling by the Finnish Supreme Court (KKO 2017:29) the court stated that employees who are not members of the trade union with whom the employer has entered into a binding collective agreement and cannot thus vote for the shop steward have the right to elect a representative for themselves in accordance with chapter 13, section 3 of the Employment Contracts Act. The Supreme Court based its decision specifically on freedom of association. However, the ruling will not unambiguously eliminate the problem described above, if employees cannot equally participate in cooperation and agreements between the employer's and employees' through their representative.

It is worth noting in this instance that the legal rights of employee's representative are in this regard unclear in Finland. This is likely to lead to situations in which employees are in an unequal position based on their affiliation in situations related to representation of employees. In order for employees to have equal rights to the selection of representative and equal rights to act in accordance with the Convention, the legal rights must be clarified through legislation.

It should be noted that, the freedom of association includes a positive and negative dimensions, meaning the right of association includes the right to be unorganised or unaffiliated with a union. This, segregation, rejection and favouritism should not take place in the labour market on the basis of whether a party is organised or unorganised. As was described above, unorganised employers and employees do not have the same opportunities, their options are limited. Thus, the stipulations contained in collective agreements thus have different impacts on organised and unorganised parties although everyone must comply with them.

The practice according to which the collective agreement contains a so-called union condition, which is problematic from the perspective of the Convention, but has been deemed permissible. The union condition specifies that the application of the collective agreement can be limited so that, for example, certain pay increases or pay items are only paid to employees who are members of a specific union. In its rulings (KKO 2013:10 and KKO 2013:11) the Finnish Supreme Court felt that this type of term in an employment contract is not discriminatory, but it does conflict with the requirement for equal treatment contained in the Employment Contracts Act. It is good to note in this case the conflict with the requirement for equal treatment laid down in the Convention.



It should be noted that ensuring the negative freedom of association does not in any way limit the positive freedom of association of workers and employers. The Federation of Finnish Enterprises emphasises that to safeguard freedom of association and to eliminate discrimination in employment and occupation, legislation should be such that enterprises and employees are not placed on unequal standing on the basis of whether they are organised or unorganised.