



European Network Against Racism

**ENAR SHADOW REPORT  
2002**

***ON FINLAND***

This report is funded by the European Commission (DG “EMPL”).  
Written by Joonia Streng, The Finnish League for Human Rights.

The responsibility for the content of this publication rests with the National  
Coordinations of ENAR in the respective countries.

## **Table of content**

<b>TABLE OF CONTENT</b> .....	<b>2</b>
<b>1. INTRODUCTION</b> .....	<b>4</b>
<b>2. NEW LEGISLATION AND PROPOSALS</b> .....	<b>5</b>
2.1. Establishing the post of Ombudsman for Ethnic Minorities.....	5
2.2. Implementation of the Race and Employment Directives .....	6
2.3. The EU Council Framework Decision on Combating Racism and Xenophobia.....	8
2.4. The reform of the general principles of criminal law .....	8
2.5. Law on the Integration and Reception of Asylum Seekers.....	9
2.6. Naturalisation .....	11
2.7. Aliens' Act .....	12
2.7.1. Introduction.....	12
2.7.2. Total revision of the Aliens' Act.....	12
2.7.3. Detention of foreigners and detention facilities.....	15
<b>3. STATISTICAL INFORMATION</b> .....	<b>17</b>
<b>3.1. Asylum seekers</b> .....	<b>17</b>
<b>3.2. Penal Code: discrimination cases</b> .....	<b>20</b>
<b>3.3. Complaints to the Parliamentary Ombudsman</b> .....	<b>20</b>
<b>3.4. Does the law work in practice? : Some critical notions</b> .....	<b>21</b>
<b>4. A PRECEDENT IN IMMIGRATION LAW</b> .....	<b>22</b>
<b>5. INTERNET</b> .....	<b>23</b>
<b>6. SAMI AND ROMA</b> .....	<b>24</b>
<b>6.1. THE INDIGENOUS PEOPLE - SAMI</b> .....	<b>24</b>
6.2. Roma .....	24
<b>7. POSITIVE ACTION</b> .....	<b>26</b>

**7.1. RASMUS network.....26**

**7.2. Awareness-raising campaigns.....26**

**8. CONCLUSIONS .....28**

**REFERENCES.....29**

**Court cases.....31**

## **1. INTRODUCTION**

Immigration and minority issues are quite recent topics in Finland. Compared to other EU countries, the proportion of immigrants is very low in Finland. At the end of 2002, the number of foreigners living in Finland was 103,682 (amounting to 1.99% of the population)<sup>1</sup>. The largest groups were Russians, Estonians, Swedes and Somalis. Approximately 20,000 immigrants are of Ingrian Finn origin or are ethnically Finnish, but have been previously living in the former Soviet Union. The position of Ingrian Finns is quite unique, because they have been able to obtain residence permits only on the basis of their ethnic background<sup>2</sup>.

As for other ethnic groups, there is an indigenous population known as the Sami and other traditional minorities, such as the Roma, Tatars, Jews and a long-established Russian population<sup>3</sup>. These groups have traditionally been small in number (altogether fewer than 30,000 people) and Finland has ethnically been a very homogeneous country. However, immigration became an issue in the early 1990s. In addition, the growth of the foreign population has been very rapid: within ten years, the foreign population has increased approximately five-fold.

When it comes to current anti-discrimination legislation, all ethnic and religious grounds are covered. For example, the Constitution lays down the fundamental rules on non-discrimination and equality. There are also several non-discrimination provisions in various laws and, formally, there is broad and comprehensive anti-discrimination legislation. In addition, there are laws regulating such things as integration, reception of asylum seekers and naturalisation. However, in practice there are certain problems, which will be explained.

2002 saw a number of events and activities: the RASMUS network against racism and xenophobia was established, many legislative reforms took place, Roma asylum seekers attracted media attention and so on.

---

<sup>1</sup> This figure covers only those immigrants who have received a residence permit or refugee status. Those who are waiting for a residence permit decision or whose appeal is pending in court are excluded.

<sup>2</sup> However, it seems that the requirements will be tightened in the forthcoming legislation.

<sup>3</sup> Roughly speaking, there are two categories of Russians: "old Russians" and "newcomers". The former are people whose ancestors came after the Russian Revolution and newcomers are those who have arrived since

In this report, new legislation is presented first, followed by statistical information, a court case (creating a precedent in immigration law) and the dissemination of racist material in the internet. In addition, there are chapters dealing with Sami and Roma (Chapter 6), positive action (Chapter 7) and, finally, conclusions (Chapter 8).

## **2. NEW LEGISLATION AND PROPOSALS**

### **2.1. Establishing the post of Ombudsman for Ethnic Minorities**

Concerning specialised bodies, the post of the Ombudsman for Ethnic Minorities was established in September 2001 and the new Minority Ombudsman, Mikko Puumalainen, took office on 1 January 2002. The job description of the new office is comparable with but somewhat wider than that of the abolished Ombudsman for Foreigners.

In addition to foreigners, the mandate of the Ombudsman was extended to cover indigenous people and ethnic minorities. The tasks of the Ombudsman include the following: promoting good ethnic relations; monitoring, improving and reporting on the status and rights of ethnic minorities; taking initiative to eradicate ethnic discrimination; and providing information about the legislation and implementation of laws relating to ethnic discrimination and the status of minorities and foreigners. Moreover, the Ombudsman can be involved in the processing of asylum applications and in cases of extradition of foreigners. Finally, the Ombudsman is to monitor, in collaboration with other authorities, the implementation of equal treatment regardless of ethnic background.

The establishment of the Ombudsman's office is a welcome step, especially as the establishment procedure had been delayed for several years. It was only when pressure grew through the Race Directive that serious efforts were made towards establishing the office. Despite additional staff - at the moment there are six permanent officials - the resources are still very limited. So far, the new Ombudsman has been very active in promoting ethnic equality.

## **2.2. Implementation of the Race and Employment Directives**

The implementation of the Race and Employment Directives was ongoing in 2002. The Ministry of Labour set up a working group in March 2001. The group consisted of mainly governmental officials, but also had representatives from two major labour organisations, as well as two NGOs - the Refugee Advice Centre and the Finnish League for Human Rights. The working group accomplished its work in autumn 2002. (Its mandate had been extended twice.) The working group submitted a report for a draft law on Promoting Ethnic Equality. In other words, a single law was proposed, instead of simply amendments to several existing laws.

The report was circulated for comment. Ministries, courts, trade unions and employers' associations, NGOs and other actors gave statements on the draft law. After this stage, the preparations were continued by labour market organisations.

It seemed that the 'fine-tuning' of the draft law actually translated into a deterioration. The original working group had prepared a wider draft law and had proposed more effective legal measures to prevent discrimination and to protect victims.

In the end, the draft law was submitted to the Parliament in December 2002. However, the Parliament was not able to consider the draft law due to parliamentary elections in March. Therefore, the draft law was dropped. It remains to be seen what kind of new draft law there will be. The main content of the dropped draft law will be presented below, because it is likely that the new draft law will be in accordance with this draft.

The dropped draft law dealt with civil proceedings only and criminal proceedings and class action are excluded. Many of the provisions of the dropped draft law were similar to articles in the Directive, such as those which apply to the purpose of the law, the definition of discrimination and the scope of the law (including the exclusion provisions). However, the implementation provisions of the Directive left room for interpretation in each EU Member State.

According to the dropped draft law, the most important innovation would have been establishing the discrimination board. It would be able to prohibit discriminatory practice and take counteraction<sup>4</sup>. To secure the compliance with the law, the board would be able to order a fine if such a prohibition was violated. However, the board would not be able to handle any compensation claims for a breach of the law<sup>5</sup>. All compensation claims would have to be addressed to a lower court and handled by ordinary civil proceedings. In addition, according to the draft, there is no minimum amount for compensation, so the sanction could be very low. The maximum sanction was proposed to be 15,000 Euro, although under specific conditions this could be exceeded.

The decisions of the discrimination board could be appealed through the administrative courts. The qualification requirements for board members would be equivalent to court judges.

The courts, the Ethnic Minority Ombudsman and practically any official would be able to request a statement from the board in an individual case (i.e. how to apply the law). It has been proposed that the same right be given to any organisation, including NGOs. However, only the Ombudsman and the victim would be able to take the case to the discrimination board. It is a question of interpretation, whether this provision fulfils the minimum criteria of Article 7 of the Directive.

Before resorting to the discrimination board, the Ombudsman may begin conciliation negotiations between the parties. If an agreement is reached, the board would be able to confirm the agreement.

As one can conclude, the mandate of the Ombudsman for Ethnic Minorities would have been extended and the Ombudsman would have had an important role in monitoring the implementation of the Directive.

---

<sup>4</sup> For the concept of “counter action” please see Article 9 of the directive.

<sup>5</sup> The draft law by the working group proposed that the board could issue a compensation of a minimum of 3, 000 Euro.

### **2.3. The EU Council Framework Decision on Combating Racism and Xenophobia**

Concerning other proposals for new legislation, the Constitutional Committee of the Parliament has dealt with the EU Council Framework Decision on Combating Racism and Xenophobia (PeVL 26/2002). The Government of Finland and the Committee agree on the importance of combating racism. However, both bodies emphasise the need to specify the criminalisations proposed in the framework. Based on the principle of legality, some concepts in Article 4 of the framework are too broad and loose. Both governmental bodies found that the obligation to criminalise racist action should be applied only to such behaviour as absolutely must be criminalised. For example, the Committee stated that the obligation to criminalise public trivialisation of racist crimes is not precise or in accordance with the principle of proportionality. The definition of racism and xenophobia should also be more precise. In addition, deciding the severity of the sanctions should be left to the authority of each EU Member State. All member states have their own legal systems and sanctions should be evaluated from a national context<sup>6</sup>.

Despite the criticism, governmental bodies consider legislative action against racism and xenophobia to be very important. The framework decision is a useful tool, but it must be more precise. From the point of view of an NGO, the Finnish League for Human Rights is largely in agreement with the governmental bodies. However, it is regrettable that there has not been further public discussion about the framework decision.

### **2.4. The reform of the general principles of criminal law**

Attention should be given to an additional reform. The Government has submitted a draft law dealing with reforming the general principles of criminal law<sup>7</sup>. This draft law deals with subjects such as the general principles of criminal liability, grounds for discharge from liability and principles for defining punishments. A new aggravating motive has been introduced when assessing a proposed punishment: committing a crime for racist and analogous motives. According to Chapter 6, Section 5 § of the draft law:

---

<sup>6</sup> PeVL 26/2002, pp. 2-5.

*“an aggravating motive would be committing a crime against a person, because of their membership of a national, racial, ethnical or equivalent group.”*

As is pointed out in the preparatory work, it would be easy to include other indictable offences in the law as well, but racist motives are usually connected with organised crime and therefore must be prioritised.

This enforces the official rejection of racism and clearly expresses racism as condemnable. Such an amendment improves the recording of racial violence.

## **2.5. Law on the Integration and Reception of Asylum Seekers**

The Law on the Integration and Reception of Asylum Seekers was passed in 1999. In spring 2002, the government submitted an evaluation report to Parliament<sup>8</sup>. The government collected information by sending questionnaires to municipalities and other officials, although it would have been good to send questionnaires to NGOs working on immigration issues as well.

At the local level, municipalities have considered the law to be an improvement, because it has clarified the responsibilities and duties of each actor. On the other hand, there have been difficulties, because of a lack of resources. When the law was passed there were not enough resources allocated for the new tasks. Among other things, there is a clear shortage of adequate language courses. In addition, people outside the labour force – housewives, students and pensioners – are not involved in this integration process, so the law does not apply to them.

In short, officials consider the law to be an improvement, adequate and necessary<sup>9</sup>. Generally, immigrants have been less satisfied, because the position of immigrants has not been properly taken into account. Secondly, the structure of the law has been criticised as being biased: there are no sanctions for officials who neglect their duties, but immigrants may lose a number of social benefits if they do not comply with the law.

---

<sup>7</sup> See HE 44/2002. It can be found on the internet at [www.finlex.fi/esitykset.html](http://www.finlex.fi/esitykset.html)

<sup>8</sup> The complete report can be found on the internet at <http://www.mol.fi/migration/selontekosu.pdf>

According to the act, an immigrant who is seeking a job and receiving unemployment benefit, has the right *and* the duty to take part in the designing of his or her individual integration plan (*Kotoutumissuunnitelma*) and the right and the duty to participate in the training and employment programme which is presented in this plan, in co-operation with the municipality and the local public employment service agency.

The immigrant has the right to an individual integration plan lasting three years, starting from their first day of official residence in Finland. In the case of asylum seekers, this three-year period begins after the asylum application decision. This means that asylum seekers have usually lived in Finland for one to two years before integration measures start to take place. Before this, it is unlikely that they will find employment. Therefore, asylum seekers have a formal right to work but in practice this right is a hollow one, since finding employment has proved to be very difficult without help from the public sector. In other words, the new life of refugees and asylum seekers in Finland often starts with a long period of unemployment.

Participation in the individual integration programme is economically supported for foreigners. Foreigners receive an integration benefit, which is more or less comparable with the lowest level of unemployment benefit. The integration benefit consists of a labour market subsidy and living allowance. If the individual fails to participate in the programme and the integration process is seen to be interrupted, the benefit is reduced. The grounds for granting the benefit is checked once a year and if the individual circumstances of the individual or his/her family members changes. It should be pointed out that the authorities face no sanctions whatsoever, for example, if they fail to provide proper education or other agreed measures for the individual concerned.

---

<sup>9</sup> See press release on the internet at <http://www.mol.fi/tiedotteet/2002051601.html>

## **2.6. Naturalisation**

The government submitted a draft law on citizenship to the Parliament in November 2002. The current law dates back to 1968, with few amendments, so it is completely out of date. The draft law contains several new provisions. According to the law, dual citizenship would be possible and persons who have already given up Finnish citizenship could reclaim it under certain conditions. There are also changes in the requirements for naturalisation. The required period of residence in Finland is proposed to be six years instead of the present five. However, it would be possible to “accumulate” the period in a number of shorter terms instead of living continuously in Finland (although in this case the period is increased to seven years). The latter amendment can be considered as a welcome step and it takes increased mobility into account – such as contemporary working or studying abroad.

Under the current law, there have been two major issues in court practice. The first issue deals with applicants who have committed crimes and their citizenship has been denied. The Directorate of Immigration has applied its own instruction of postponing naturalisation. In some cases, courts have overruled negative decisions and in other cases appeals have been dismissed. The Directorate of Immigration has even denied naturalisation in cases where an applicant has had one or two minor traffic violations. In these cases, especially, the court has overruled the negative decision. However, if an applicant has committed a more serious crime - such as aggravated assault or several minor crimes over a short period of time - then the appeal has usually been denied.

In the draft law, one of the requirements is that the applicant has lived ‘honourably’. In practice, naturalisation can be postponed for a certain period, depending on the severity of the crime(s), time passed after the crime(s) and other factors. The precise criteria will be defined later by a decree. The content of a decree remains to be seen.

Under the current law, the second major question deals with persons whose identity is considered unclear. This especially concerns the Somalis, who have given contradicting information during their time in the country. In almost all cases, appeals have been

dismissed, because courts have found that proper identity is an absolute prerequisite for naturalisation and, if there is contradicting information, there is valid ground for denial.

Typical examples are Somalis, who have come under certain names and later gave different information, and even a few people who have had two or three different identities in their time in Finland. There are no provisions which could enable naturalisation in these circumstances. Especially for children this has led to very unjust situations. They may have been living in Finland for most of their lives and are completely integrated into the society. Because of their parents' or other relatives' misleading information, their identity has remained unclear. There is no means to verify their identity, but it seems unfair to dismiss their citizenship application.

In the draft law, a provision states that if the person has had the same identity continuously for ten years, naturalisation is possible. Although this period is quite lengthy, it would be an improvement.

## **2.7. Aliens' Act**

### **2.7.1. Introduction**

One of the major issues in immigration law is the Aliens' Act. Originally, it was passed in 1991. Since then, it has been amended approximately 17 times, so the law is not very consistent. During 2002, a total revision was being prepared. However, the Parliament was not able to handle the draft law, so it was dropped.

### **2.7.2. Total revision of the Aliens' Act**

The Ministry of the Interior set up a working group in March 2000 to prepare a completely new law. The working group did not have any NGO representation. Several NGOs voiced their discontent with such a procedure. The aims of the law were to prepare a clear, consistent law in which the legal rights and protection of foreigners are taken into account. At the same time, the aim was to reduce the misuse of the asylum procedure, speed up the procedure and enhance the role of the Parliament in immigration policy.

The Parliament did not have time to consider and pass the law before the elections. It is quite evident that the new government will start preparing a new total revision, based mainly on the dropped draft law.

The present law contains fewer than 80 sections, but the dropped draft law was much wider, with more than 200 sections. Many provisions which are currently under administrative regulations, such as decree and ministerial instructions, were supposed to come under the law. Not only that, but the draft law covered new fields and circumstances that the current law does not deal with.

Considering improvements, it was proposed that the spouse of a Finnish citizen could come to Finland and wait for a residence permit decision. According to the current legislation, the normal procedure is to wait for a decision outside Finland. This improvement would not have applied to spouses of foreigners, however. For example, a foreigner who has a permanent residence permit could not bring his/her spouse to Finland until the residence permit has been granted abroad – and it can take 5-12 months to receive a decision.

According to the dropped draft law, Finnish embassies would not have made any residence permit decisions and all decisions would have been made by the Directorate of Immigration or the police. This was considered an improvement because decisions made by embassies cannot be appealed against.

However, there were several areas of concern – many issues that were considered to require improvement had not been reviewed. This applied to the asylum procedure, defining the best interest of children, obtaining a permanent residence permit and access to justice. Generally speaking, the draft law was so wide that only a few major issues can be highlighted here<sup>10</sup>.

To begin with, the accelerated asylum procedure was not reviewed. Currently, asylum seekers have the right to file an appeal with the Helsinki Administrative Court within 30 days *of a decision being made about their case*. According to the dropped draft law, the

---

<sup>10</sup> The draft preparatory works contain approximately 250 pages, so the details cannot be presented here.

decision of the Directorate of Immigration could have been enforced within eight days (of which at least five were working days), whether or not the actual appeal or the appeal for the suspension of enforcement is decided. The eight-day time limit with regard to enforcement also applied to other ‘manifestly unfounded’ applications. If an applicant who was previously denied asylum could not produce new substantial evidence to support his/her new application, he/she could be deported immediately after notification of the negative decision. Immediate deportation can now also take place if the applicant has arrived from a state party to the Dublin Convention.

These short periods have been criticised by several NGOs, CERD (Commission for Eliminating Racial Discrimination – a body of the United Nations) and even some governmental officials. In such a short time, applicants may not be able to respond to the negative decision properly (making an appointment for a lawyer, translator etc.).

The proposed ‘carrier sanctions’ were also rather worrying. According to the dropped draft law, heavy sanctions could have been imposed on transportation companies carrying people without proper documentation. The ability to seek asylum would be greatly diminished and this could easily lead to illegal trafficking. In addition, some of the border control responsibilities were shifted from the governmental officials to private companies. For example, how can an untrained person verify the proper documentation of a Bangladeshi, travelling from Russia to Finland?

According to the dropped draft law, new visa procedure provisions would have been similar to the current legislation. This meant that visa decisions could have not been appealed. However, it is questionable whether such legislation would have been in accordance with the Constitution (especially concerning section 21, which regulates access to justice)<sup>11</sup>. Secondly, although the reasons for negative decisions should be explained, in practice, the embassies usually refuse to give any ground for a negative decision. Embassies refer to ‘diplomatic custom’. Moreover, NGOs have received complaints which indicate that by denying visas the embassies classify some applicants as potential and unwanted asylum seekers.

---

<sup>11</sup> E-mails from Professor Olli Mäenpää 27.8 and 28.8.2002.

There were also regulations dealing with the right to work. The aim was to reduce bureaucracy and speed up the procedures. Currently, a work permit decision can take several months and a number of complaints have been made to the Parliamentary Ombudsman concerning the procedure time. The aims of the draft law were good, but it seemed that the draft law contained provisions which would be counterproductive. For example, one provision stated that all employment contracts with foreigners should be registered. Generally, there would be more paper work for employers and employees alike, as well as a further complication of bureaucracy.

Among other things, receiving a permanent residence permit would be more difficult, for instance, two traffic fines could postpone it being issued. In addition, the period was proposed four years instead of two years as it is now.

### **2.7.3. Detention of foreigners and detention facilities**

In addition to the total revision, there have been several amendments over the years. In 2002, one must still be mentioned. According to the Aliens' Act, foreigners taken into detention under this law (i.e. Aliens' Act) should be placed in a specific facility and detained separately from criminals or suspects. Finnish practice was contrary to the law until June 2002, because foreigners had been held in police cells and, if detention was prolonged to more than four days, in ordinary state prisons. The Parliamentary Ombudsman criticised the situation and sent a letter to the government in 2000. As a result of the letter, the government set up a working group to prepare the establishment of a specific facility for detention, as well as its necessary regulations. The working group completed its task in spring 2001 and published a report. The proposal was criticised by several NGOs. After the statements, the governmental proposal was submitted to Parliament in October 2001. The draft law was clearly an improvement: it was more analytical and reasoned than the previous report. The draft law took human rights into account and should give efficient means of accessing justice.

The new law came into force in March 2002. The Parliament did not make any substantial changes. The largest defect is that, according to the law, only one detention facility can be established in Finland. The preparatory works acknowledge the need for

several detention facilities, but argues that it would be too large a burden financially. Under certain circumstances, detainees can be held in police cells for short times.

The new detention facility has temporarily been an old prison, the Helsinki County Prison, since July 2002<sup>12</sup>. The prison was considered out of date and had been replaced by a modern prison facility less than a year earlier. Before converting the old prison into a detention facility, some (nominal) renovations were made. However, the use of an old prison aroused certain discontent. Especially since the old prison had received much criticism in reports by the Council of Europe.

A new detention facility will be established in Helsinki during 2003. Getting the new facilities was prolonged because of administrative bureaucracy. Normally, 20-30 detainees could be placed in the facility, but under exceptional circumstances the capacity could be extended.

The dropped draft law of the Aliens' Act contained similar provision concerning detention and the facilities.

---

<sup>12</sup> The press release from the Ministry of Labour can be found on the internet at <http://www.mol.fi/migration/nokka.html>

### **3. STATISTICAL INFORMATION**

#### **3.1. Asylum seekers**

##### **The decisions on asylum applications 1 January – 31 October 2002**

<b>Positive decisions</b>	<b>Numbers</b>	<b>Negative decisions</b>	<b>Numbers</b>
Refugee status	14	Normal procedure	335
Protection	229	Safe country of origin	291
Family ties	52	Safe country of asylum	5
Cannot be deported	12	Dublin	261
Other grounds	186	Manifestly unfounded	1118
<b>Total</b>	<b>493</b>	<b>Total</b>	<b>2010</b>

(Source: Directorate of Immigration)

As the statistics show, during the period from 1 January to 31 October 2002, the Directorate of Immigration made 493 positive and 2,010 negative decisions<sup>13</sup>. Out of 2,503 decisions only 14 applicants were admitted under refugee status. It is highly questionable whether the policy is in line with the principles of the Geneva Convention. The strict asylum policy in Finland has been criticised domestically and internationally throughout the years. Not only that, but the decision-making process is too lengthy. When excluding the accelerated procedure, it takes about 1.5 to 2 years to get an asylum decision and another year in the courts.

On the basis of international protection, residence permits were granted to 229 asylum seekers. During the procedure time, some asylum seekers were able to create family ties. Even though the Directorate of Immigration found no need for asylum or protection, 52 persons were given residence permits on the basis of family ties. In a few cases (12) the

---

<sup>13</sup> In addition, 389 asylum seekers cancelled their applications.

Directorate of Immigration found no reason to grant residence permits, but because people could not be deported, they were granted residence permits. 186 asylum-seekers were granted residence permits on other grounds – studies, age, health etc. –.

As can be deduced, four out of five decisions were negative. Most of the applications were considered manifestly unfounded and more than 80 percent of the negative decisions were handled in the accelerated procedure (which is explained in Chapter 6). Although these figures can be largely explained by the substantial number of Roma asylum seekers from Eastern Europe, it still shows that the use of ‘exceptional procedure’ has become the rule.

When considering the annual variations, it still seems that there are no significant changes in asylum policy. One should also note that the above-mentioned statistics are based on the decisions of the Directorate of Immigration. All decisions concerning asylum applications can be appealed against at Helsinki Administrative Court. Court statistics for the year 2002 concerning the outcome of appeals are not available. Judge Juha Rautiainen estimated that, of all immigration appeals, about two thirds had been dismissed by October 2002<sup>14</sup>. This figure could be a rough guide when assessing asylum appeals.

### **The largest groups of asylum seekers**

**1 January – 31 October 2002**

<i>Nationality</i>	<i>Numbers</i>
<b>Romania</b>	<b>590</b>
<b>Slovakia</b>	<b>352</b>
<b>Russia</b>	<b>224</b>
<b>Bosnia-Herzegovina</b>	<b>204</b>
<b>Bulgaria</b>	<b>177</b>
<b>Turkey</b>	<b>172</b>
<b>Yugoslavia</b>	<b>144</b>
<b>Other countries</b>	<b>936</b>
<b>Total</b>	<b>2 799</b>

(Source: The Directorate of Immigration)

---

<sup>14</sup> E-mail from the judge Juha Rautiainen 21.11. 2002.

By the end of October 2002, a total of 2,799 asylum seekers had been recorded. The figures are higher than for the entire year 2001 (1,590), but close to the figures for 2000 (3,170). By nationality, the largest groups were Romanians, Slovaks, Russians and Bosnians in 2002. A year earlier, the largest groups were Russians, Ukrainians and Iraqis.

### **Helsinki Administrative Court: Statistics**

#### **For Immigration Cases 1 January – 31 October 2002**

<i>Type of appeal</i>	<i>Received</i>	<i>Decided</i>	<i>Pending</i>
Citizenship	36	34	36
Residence permit	221	204	202
Residence permit for family reunification	439	294	322
Deportations (in Finnish: <i>karkotukset &amp; käännetykset</i> )	118	126	104
Asylum	296	222	265
Asylum, accelerated procedure	323	196	207
Miscellaneous	31	35	16
<b>Total</b>	<b>1464</b>	<b>1111</b>	<b>1152</b>

(Source: Helsinki Administrative Court)

These statistics were chosen because Helsinki Administrative Court exclusively handles all asylum appeals and the majority of all other immigration appeals as well.

As one can see, altogether there are 1,152 cases pending in the court and more cases have been received than the court has been able to issue decisions on. The normal procedure time is already quite long, about one year in all cases. The same division of the court handles taxation appeals as well. It has been predicted that there will be a huge increase in taxation appeals in 2003. It remains to be seen whether resources will be allocated accordingly. Otherwise, appeal processes will take even longer.

### **3.2. Penal Code: discrimination cases**

Unfortunately, court statistics for 2002 will not be available until autumn 2003. Therefore, in this report the statistics for 2001 are presented. Altogether, there have been 20 cases of discrimination in district courts in 2001. The court has found the accused guilty in 15 cases and in 5 cases the charges have been dismissed. The average punishment has been a 20-day fine.

Concerning previous years, the figures are quite similar. However, the dismissal percentage has varied greatly. In 1998, fewer than 30 percent of cases were dismissed, whereas a year later, it had risen to more than half. In 2001, again the dismissal percentage was lower. However, compared to most 'ordinary' crimes, the dismissal percentage is quite high. That leads one to question whether the law works effectively.

These statistics are based on the fact that they are the primary crimes in each case. Cases that do not have discrimination or employment discrimination as the primary crime are overlooked in the statistics. Additionally, it should be noted that Section 9 of Chapter 11 in the Penal Code also covers discrimination other than that based on ethnic background - for example, gender and age can also be grounds for discrimination. Therefore, one cannot assess reliable statistics on ethnic discrimination. However, according to unofficial information<sup>15</sup>, the majority of all court cases under Section 9 of Chapter 11 deal with ethnic discrimination.

### **3.3. Complaints to the Parliamentary Ombudsman**

Discrimination complaints are not categorised as their own group. According to unofficial information obtained from the registration of the office, there were only very few complaints dealing with discrimination and minority rights. They were mainly about Roma and Sami issues. Concerning language rights, there were 27 complaints. Among these were complaints about the lack of services in Swedish and the right to receive teaching in English. The authority of the Ombudsman applies only to the public sector, not private affairs.

---

<sup>15</sup> The Finnish League for Human Rights has received information about most of the court cases and, based on that material, only a few cases have been other than ethnic discrimination.

The proportion of complaints concerning ethnic discrimination is very low. On the other hand, the threshold for contacting the Ombudsman could be higher among immigrants. One could assume that the knowledge of the Parliamentary Ombudsman is lower among immigrants than the Finnish population.

### **3.4. Does the law work in practice? : Some critical notions**

There have been few court cases over the years concerning incitement to racism (i.e. hate speech) and discrimination. It is evident that the threshold for court proceedings is very high among immigrants. According to several studies, most racist crimes go unreported. The current anti-discrimination legislation seems weak in practice, or ineffective. In average crime cases, charges are dismissed in approximately 5 to 6 percent of all cases. Yet the dismissal percentage is many times higher in discrimination charges<sup>16</sup>. It is difficult to say what the reasons are for such a gap. It is a subject that should be reviewed thoroughly.

What is considerably worrying is not only the fact that a high proportion of cases are dismissed, but that there are rarely any cases in the courts, especially when taking into account how widespread a phenomenon racial discrimination is.

In immigration issues, one of the major problems is the lengthy processing time. The decision-making process for the first permit can take several years in the Directorate of Immigration. Even renewing residence permits may take several months and during that time the passport is held at the police station and the applicant is unable to travel abroad. For students, this procedure can continue for years.

The current Aliens' Act does not cover all possible situations. For example, if the grounds for a residence permit change over the years, there is no particular provision for that situation. The Directorate of Immigration has invented its own instructions and has used vast discretionary power. The dropped draft law contained provisions for such situations, so the legal aspect should be improved.

---

<sup>16</sup> Legal Statistics Finland 1999, 2000, 2001.

#### **4. A PRECEDENT IN IMMIGRATION LAW**

There is no comprehensive follow-up of court cases. Moreover, there are no relevant judgments in the Supreme Court dealing with racial discrimination. However, the Finnish League for Human Rights has collected district court decisions concerning discrimination and agitation against ethnic groups. Most discrimination cases have concerned Roma who have been denied entrance to restaurants<sup>17</sup>. Only in a few cases have there been immigrants as victims of discrimination. There have been court cases in several parts of the country.

Concerning immigration law, the Supreme Administrative Court hands down only a few judgments annually in this field. They concern the requirements for naturalisation, deportation, residence permits and family reunification. A decision was given recently on one of the most interesting cases (9 December 2002), in which the Court ruled that, when considering the validity and nature of marriage, one should take cultural differences into account. In this particular case (KHO: 2002:84), an Iranian had come to Finland as a refugee and had later married. The marriage ceremony had been held in Iran and the refugee had been represented by his brother because the refugee himself was not able to attend the ceremony. The couple had known each other before the refugee left Iran. After the wedding the couple kept contact by phone and mail. When the couple was interviewed they gave few answers that were not completely coherent. The Directorate of Immigration and Helsinki Administrative Court held the view that there was no real family life, they had not been living together and there was no need for reunification. However, the Supreme Administrative Court considered the appeal admissible and overruled the previous decisions. In the verdict, the Court emphasised the cultural differences, in Iranian culture it is not socially acceptable to live together before marriage and secondly, because of the position of the refugee, the couple had no possibility of family life in Iran.

---

<sup>17</sup> Vantaa district court judgments R 00/2753 and R 01/1308, Äänekoski district court R 01/544, Toijala district court R 01/45, Tuusula district court R 01/33, Oulu district court R 00/2136, Kouvola district court R 01/154. Rovaniemi Court of Appeal R 01/615 and Turku Court of Appeal R 01/1725.

## 5. INTERNET

Recently, a study was published on racism on the internet: “*Rasismia Internetissä – vierasvihaisen nettiaineiston kartoitus*” (Racism on the internet - an analysis of xenophobic material on the net) by Anna-Maria Pekkinen<sup>18</sup>. One of the findings was that official associations usually have more moderate content and they usually have a Finnish server. The more racist the content, the more likely it is that the server is not Finnish. According to the study, Blood and Honour is the most frequently visited site among the racist websites: its average is around 7,000 visits per month<sup>19</sup>. It is a part of the international Blood and Honour movement, which has local groups in several western countries.

There are radical movements and groups presenting their views on the internet - for example, various skinhead groups. They have distributed their material quite widely on the internet. The contents of web pages vary: from pro patria to outright hate speech and Holocaust denial.

According to the study, there are at least five racist internet magazines and six internet shops where one can buy skinhead-related material. The contents of many websites clearly constitute agitation against ethnic groups, but there have been few prosecutions. However, one should be aware of the potential risks involved with legal action. Legal action could be counterproductive: information of racist homepages would be spread widely if a court case received publicity.

---

<sup>18</sup> The survey was a part of “Racism and Ethnicity in the Media” – a research programme by the University of Tampere. The programme is financed by the Ministry of Education. The survey mainly presents the material, there is not much analysis.

<sup>19</sup> As Pekkinen points out, the figures have to be handled with certain caution, because the figures may not be accurate. See Pekkinen 2002.

## **6. SAMI AND ROMA**

### **6.1. The indigenous people - Sami**

In Finland, there are fewer than 10,000 Sami people, most of them still residing in northern part of Finland, called Lapland (north of the arctic circle). The majority of Sami speak fluent Finnish. Sami people have constitutional rights to maintain and develop their own culture and language (Section 17 of the Constitution).

The question of land-ownership rights has been noted by ECRI (European Commission against Racism and Intolerance) as well. ECRI published the country report on Finland in July 2002. One of the findings was that Finland has not properly recognised the land-owning rights of the Sami people, and it is a deficiency that the ILO Convention has not been ratified.

Concerning Nordic co-operation<sup>20</sup> on Sami issues, ministers in charge and the chairs of each Sami Parliament have decided to begin drafting a Nordic Sami Convention. A working group has been nominated and it will be working during the period 2003-2005.

### **6.2. Roma**

In Finland, there are approximately 10,000 Roma people, although there are no reliable statistics. Most Roma live in southern Finnish cities. In addition, circa 3,000 Finnish Roma reside in Sweden.

The majority of Roma speak fluent Finnish. Just like the Sami, the Roma also have the constitutional right to maintain and develop their own culture and language.

Although the government has taken action to improve the conditions of the Roma, their socio-economic position is still clearly below the average. In addition, Roma face everyday discrimination and exclusion.

---

<sup>20</sup> In practice, this means Finland, Sweden and Norway.

Concerning legal issues, one could point out language education in schools, housing, employment discrimination, access to services and the position of Roma prisoners. These are the issues that the Roma Advisory Board has emphasised in its report to the Finnish League for Human Rights<sup>21</sup>.

Problems with housing relate to both the public and private sector. In the public sector, there have been many complaints that selection for communal housing has been discriminatory. In the private sector, many landlords are not willing to have Roma as tenants.

Roma language education in schools began in 1989. In the beginning, the language education increased the use of the language. However, there has been lack of education material, teachers and teacher training. In addition, the difficult financial situation in many municipalities has prevented adequate language education. Roma language education was only given in twenty schools throughout Finland, the equivalent of about five percent of all schools which have Roma students.

Employment discrimination is quite common. At the same time, the traditional Roma professions have lost their importance. In addition, Roma and Finnish mainstream culture have significant differences, which also makes employment more difficult. Roma women especially face employment discrimination, partly because of their traditional dress. The European Social Fund has promoted one employment project, called *Finitiko Romako*, during the years 2001 to 2002. According to the findings of the project and the Roma Advisory Board, Roma nowadays have a more positive attitude towards working life and education, but employment is very difficult because of negative attitudes.

Access to services means, for example, entrance to restaurants, bars and even shops. Roma are frequently denied entrance, especially to night clubs. However, the law does not allow restaurants to exclude Roma even if they are wearing traditional dress.

---

<sup>21</sup> RONK 5.12. 2002.

In prisons, Roma prisoners are often separated from other prisoners. The prison officials usually claim that the reason is to protect Roma health and maintain order in the prison. However, if someone has to be separated, it should be the offender, not the victim. The Correctional Institute (*Rikosseuraamusvirasto*), which is under the Ministry of Justice, established a working group in 2001. The tasks were to survey the position of Roma prisoners and decide on necessary measures to improve the situation, including considerations concerning the establishment of a support network for ex-Roma prisoners. The mandate of the working group will last until the end of 2002.

## **7. POSITIVE ACTION**

### **7.1. RASMUS network**

RASMUS is a nationwide network against racism and xenophobia, consisting of key players in the field: governmental and municipal officials, NGOs, immigrant organisations, researchers and active individuals. It was established in February 2002. Aims of the network are to reach trade unions and employers' associations, the media, schools, municipalities and youth workers.

RASMUS organises seminars, provides information about current events and maintains a web site ([www.ihmisoikeusliitto.fi/rasmus](http://www.ihmisoikeusliitto.fi/rasmus)) and an e-mail list for the purpose of information distribution. RASMUS has also established local and special groups, such as a researchers' group and a political group.

RASMUS has received positive feedback and the Social Democratic Party gave the network a solidarity foundation award, worth 10,000 Euro. The award was given by the Prime Minister Paavo Lipponen and Chair of the Solidarity Foundation, ex-Prime Minister Kalevi Sorsa.

### **7.2. Awareness-raising campaigns**

IOM (International Organisation for Migration) is carrying out a project called Awareness Raising and Legal Training for Lawyers on Discrimination Practices. The second phase of the project began in September 2002. During autumn 2002 and spring

2003, the main focus will be on producing a guide for the target groups and planning training for autumn 2003. This project not only covers Finland, but also other countries, such as Sweden, France, Austria and Greece.

The project aims at addressing the need for information on different forms of discrimination and relevant legislation on discrimination among personnel of the justice system of each EU Member State participating in the project. The project consists of two components: (1) training and (2) information distribution. The training will be carried out in each participating Member State in the form of workshops. The information distribution will be a common effort on behalf of the project partners and will be carried out through the establishment of a website. The training is targeted at a select group of lawyers, attorneys, prosecutors and judges. The training includes the organisation of two three-day workshops in each participating country. The workshops will facilitate the exchange of information on the identification of forms and expressions of discrimination between the target group and the representatives of the minority and other groups vulnerable to discrimination. Furthermore, the training aims to inform target groups about relevant national and international legislation on non-discrimination as well as relevant case law. The trainers for the legal component will consist of specialists in human rights, including lawyers and academics working in this field. The seminar materials will be made available to the wider public through an information dissemination campaign, which will be carried out through a website hosting the project<sup>22</sup>.

---

<sup>22</sup> See the website <http://www.iom.fi/projects/index.htm>

## **8. CONCLUSIONS**

Ethnic discrimination is a relatively new phenomenon in Finland mainly because there have only been significant numbers of immigrants in the past few years. In addition, it has taken some time to persuade officials of the importance of such an issue. The monitoring system needs to be developed as it covers only a few fields at the moment. Therefore, there is no sophisticated statistical or data collection system. However, there have been improvements during the last five years. The police have been recording racist crimes since 1997, the Parliamentary Ombudsman has been recording minority complaints since 2001, the post of the Ombudsman for Ethnic Minorities was established in 2001 and there are many ongoing studies. Moreover, the government has taken its reporting duty to the CERD more seriously and the quality of reports has been improving.

## **REFERENCES**

EUMC: Attitudes towards minority groups in the European Union – Eurobarometer 2000. Vienna. 2001.

European Commission against Racism and Intolerance (ECRI): Second Report on Finland. Strasbourg. 2002.

Government of Finland: The Government Action Plan to Combat Ethnic Discrimination and Racism. The Ministry of Labour. Helsinki 2001. Available on the internet in English at <http://www.mol.fi/migration/etnoraen.pdf>

Government of Finland: The 16<sup>th</sup> Periodic Report by the Government of Finland on the Implementation of the Convention on the Elimination of All Forms of Racial Discrimination. Unpublished. Helsinki. 2001.

Hallituksen esitys Eduskunnalle syrjintävaltuutettua koskevaksi lainsäädännöksi, HE 39/2001 (Draft Law on Discrimination Ombudsman, HE 39/2001). Helsinki 2001.

Hallituksen esitys Eduskunnalle rikosoikeuden yleisiä oppeja koskevan lainsäädännön uudistamiseksi, HE 44/2002 (Draft Law to Amend Penal Code dealing with General Principles of Criminal Law). Helsinki 2001.

Hallituksen esitys Eduskunnalle kansalaisuuslaiksi, HE 235/2002 (Draft Law on Citizenship Act). Helsinki 2002.

Makkonen, Timo: Rasismi Suomessa 2000 (Racism in Finland 2000). Helsinki. 2000.

Jasinskaja-Lahti, Inga – Liebkind, Karmela – Vesala, Tiina: Rasismi ja syrjintä Suomessa – maahanmuuttajien kokemuksia (Racism and Discrimination in Finland – experiences of immigrants) Helsinki: Gaudeamus. 2002.

Mäenpää, Olli: E-mails 27, 28 August 2002.

Pekkinen, Anna-Maria: "Rasismia Internetissä – vierasvihaisen nettiaineiston kartoitus" (Racism in the internet – analysis of xenophobic material on the net). Helsinki 2002.

Perustuslakivaliokunnan lausunto 26/2002 vp, Valtioneuvoston kirjelmä ehdotuksesta neuvoston puitepäätökseksi (rasismin ja muukalaisvihan vastainen toiminta), (Statement of the Constitutional Law Committee 26/2002, dealing with the Framework Decision on Combating Racism and Xenophobia). Helsinki. 2002.

Raittila, Pentti (ed.): *Etnisyys ja rasismi journalismissa* (Ethnicity and racism in journalism). Tampere. 2002.

Rautiainen, Juha: E-mail 21 November 2002.

Roma Advisory Board: Report to the Finnish League for Human Rights, 5 December 2002.

Sisäasiainministeriö (The Ministry of Interior): Poliisin tietoon tullut rasistinen rikollisuus Suomessa vuonna 2000 (Racist crimes reported to the police in Finland 2000). Publication by the Ministry of Interior 15/01. Helsinki. 2001.

Sisäasiainministeriö (The Ministry of Interior): Ehdotus ulkomaalaislaiksi, luonnos 21 October 2002 (Draft for Aliens' Act, 21.10. 2002). Unpublished.

Statistics Finland: Legal Statistics Finland 1999, Helsinki 2000.

Statistics Finland: Legal Statistics Finland 2000, Helsinki 2001.

Statistics Finland: Legal Statistics Finland 2001, Helsinki 2002.

Streng, Joonia: Rasismi Suomessa 2001 – rasistiset ilmiöt, lainsäädäntö ja etnisten ryhmien asema (Racism in Finland 2001 – racial phenomena, legislation and position of ethnic groups). Helsinki 2002.

Työministeriö (Ministry of Labour): Rasismidirektiiviin liittyvän lainsäädännön kartoitusta (“Legislation Related to the Race Directive” by Meri-Sisko Eskola and Olli Sorainen). Unpublished. Helsinki 2001.

Työministeriö (Ministry of Labour): Luonnos yksityiskohtaisiksi perusteluiksi/Yhdenvertaisuuslaki, 10/2002 (Draft for the Law on Promoting Ethnic Equality, 10/2002). Unpublished.

Työministeriö (Ministry of Labour): Luonnos yksityiskohtaisiksi perusteluiksi/Yhdenvertaisuuslaki, 21.11. 2002 (Draft for the Law on Promoting Ethnic Equality, 21.11. 2002) Unpublished.

Valtakunnansyyttäjän viraston Ulkoasiainministeriölle 3.8.2001 antama lausunto, dnro 17/55/01 (Statement from the Prosecutor General addressed to the Ministry of Foreign Affairs, 3.8. 2001).

### **Court cases**

KHO:2002:84 (Supreme Administrative Court 2002:84)

Vantaa district court judgments R 00/2753 and R 01/1308,

Äänekoski district court R 01/544,

Toijala district court R 01/45,

Tuusula district court R 01/33,

Oulu district court R 00/2136,

Kouvola district court R 01/154.

Rovaniemi Court of Appeal R 01/615

Turku Court of Appeal R 01/1725