



# **ENAR Shadow Report 2005**

## **Racism in Finland**

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## I. Introduction

In the year 2005 there were very few significant changes in the Finnish legislation or society concerning racism. The non-discrimination legislation was already improved in 2004 with the introduction of the Non-Discrimination Act as well as with the introduction of the National Discrimination Tribunal of Finland. In 2005 the positive results from these were to be seen.

While the state of the non-discrimination legislation is considered relatively good, the immigration legislation, especially in terms of the asylum-seekers and the interpretations of the Aliens Act, appears to be a new problem.

Generally, the co-operation between the civil society and the authorities has improved, which is considered good, but there is still plenty to do for development in this field.

*Chapter I* introduces the findings of this report. The Non-Discrimination Act introduced in 2004 and the related legislation can be viewed as a milestone in the fight against racism. While in 2005 there were no legislative or policy developments of such importance, the proposition for the Government's Immigration Policy Programme accepted in December with the amendments for the Act on the Integration of Immigrants and Reception of Asylum Seekers can be viewed as having importance in the fight against racism. *Chapter II* introduces these and provides an update on the legislation in Finland.

*Chapter III* includes an overview of the ethnic minorities in Finland with some relevant information about the latest survey concerning racism experienced by the largest communities. *Chapter IV* explains the manifestations of racism and religious discrimination in Finland during the year 2005, while *the Chapter V* assesses the governmental responses paying attention to the views of civil society and anti-racism NGO's when such are available. Finally, *Chapter VI* concludes the findings of this report. Also included is list of the sources used in this paper.

## **II. Political and Legislative Developments**

### **II.i Anti discrimination**

In 2005 there were no significant updates or changes in the anti-discrimination legislation or policies. Finland transposed the Race Equality (2000/43/EY) and Employment Equality (2000/78/EY) Directives through the anti-discrimination legislation (Non-Discrimination Act 21/2004), which came into force on the 1st of February 2004. This Act prohibits discrimination based on age, ethnic and national origin, and nationality, language, religion, conviction, and opinion, state of health, disability or sexual orientation. The act applies to employment issues, working conditions and terms as well as to the education, social and health services. Alongside other legislation, the Non-Discrimination Act covers all ethnic and religious grounds of discrimination.

### **II.ii Migration, family reunion and asylum policies**

In December 2005, a working group submitted the final proposition for the government's Immigration Policy Programme. The emphasis of the Immigration Policy Programme is to promote work-based immigration, while the plans for creating a guiding system, rationalising the immigrant integration system and improving ethnic relations were also included. The Programme aims to promote the development of a pluralistic, multicultural and non-discriminatory society.

The programme was welcomed by civil society representatives, while concerns were expressed over the fact that it remained unclear whether this programme will be implemented only for the period of the current government. Moreover, while the programme takes a note on the position of the family members in terms of the working permissions, the Programme made no notions regarding the meaning of family as such or the rights of children. Besides these, the programme lacks views regarding the questions concerning the religions and the rights over the practice of religion (Human Rights League, Statement of Opinion 2005).

Moreover, in December 2005, a proposition for the amendments in The Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) was prepared and the amendments were accepted. The objective of the amendments is to make integration of the immigrants more effective and faster, while the tasks and responsibilities of the authorities are clarified.

### **II.iii Racism as a crime**

In 2005 there were no significant updates or changes in the anti-discrimination legislation or policies. The modifications of the Penal Code (Chapter 6, section 5, subsection 4, aggravating circumstances) have made penal consequences for racially-motivated crimes more severe. In addition, section 6 of the Non-Discrimination Act prohibits discrimination for example on the basis of ethnic or national origin (*prohibition of discrimination*). The Act also prohibits reprisals. Under section 8 of the Act, nobody should be disadvantaged or subjected to negative consequences as a result of any appeal or other action taken in order to secure equality.

### **II.iv Counter Terrorism**

In 2005 there were no specific judicial or policy developments pertaining to racial profiling or to counter terrorism.

### III. Communities vulnerable to racism

By the end of 2005 there were 113 852 foreign citizens (approximately 2.2% of the population) living in Finland. Approximately 40% of them originate from the former Soviet Union; the largest groups are Russians (25 000) and Estonian (14 000) citizens. About 25 000 persons living in Finland have ethnically Finnish background and were granted with the right to repatriation to Finland in 1990.

Finland has granted residence permits to 24 000 refugees. The largest refugee groups originate from the former Yugoslavia (5 400) and Somalia (4 700). In 2005 there were 3574 asylum applicants in Finland in total. Over 70% of these received negative decisions, while 0.3% (12) got asylum status, 4.3% (141) got residence permit for need of protection and 12.9% (444) got residence permit for other reasons.

Besides 'new minority' groups there are the 'traditional' ethnic minorities living in Finland including an indigenous population of Sámi as well as the Roma, the Tatars, the Jews and the Old Russians, which are, however, very small in numbers.

In Finland, five national victim surveys dealing with personal safety were conducted in a uniform way between 1980 and 2003. In 1980 every tenth person aged 15-74 reported being a victim of violence during the previous 12 months. In 2003, in the last national survey, the number of persons reporting violence was 11% of persons aged 15-17 years.<sup>1</sup>

The latest survey on the living conditions of immigrant groups was conducted in 2002. This survey was carried out among the largest immigrant populations in Finland (persons originating from Russia, Estonia, Somalia and Vietnam).

The comparison between the living conditions of immigrant groups (2002 survey) and the original population (the national survey 2003) indicates that immigrants experience violence twice as often as the original populations. However, it must be mentioned that these experiences cause them injuries less frequently. Moreover, the immigrants are more likely to report their experiences to the police than is the original population.<sup>2</sup>

According to the 2002 survey, over one fifth of the respondents had experienced some kind of physical violence in the past 12 months. The experiences of violence were most common among Somali respondents, whose appearance differs the most from the original population. Nearly half of them stated that they had experienced violence in the past 12 months. Moreover, Somalis reported their experiences as racist violence most frequently. Also the Estonians,

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<sup>1</sup> (Sirén, Honkatukia 2005).

<sup>2</sup> Honkatukia 2005a: 168.

especially Estonian women, had experienced violence more often than Russians or Vietnamese. In the two latter groups every tenth person had experienced violence, which is equal in number to the experiences of the original population. However, many of the Russian respondents had apparently not answered the question concerning violence.<sup>3</sup>

Most of the violence experienced by the immigrants concerned threats of violence (14% of the respondents), which is more than the similar experiences of the original population. Physical violence and sexual violence had experienced few percentages in both original population and immigrant groups. The experiences of violence followed by an injury were most common amongst Russian men (21% of the respondents); this experience was also relatively high for Russian women (15 % of the respondents).<sup>4</sup>

Amongst males the risk of becoming a victim of violence is greatest for Somalis, while amongst females the risk is greatest for Estonians. Moreover, it seems that women experience violence more often from their families or friends. Consequently, women who have come to Finland as minors or through family reunification face a higher risk of violence than women who have come to Finland for other reasons.<sup>5</sup>

The majority of the 2002 survey respondents felt that the violence was racially motivated. Moreover, almost every Somali who had experienced violence found it to be connected to the fact that they had an immigrant background. This corresponds to the results from earlier research.<sup>6</sup>

In comparison with the original population, the experiences of violence by a stranger were more common amongst the immigrants while, according to both surveys, women were more likely to experience violence from a person they knew. The Somali women were less likely to know the person well (4% of the respondents). While the same number in the other immigrant groups within the survey was much higher, one out of three women had experienced violence from someone they knew.

Generally, the survey 2002 shows that Somalis experienced violence most often in a public place, while this was not the case in the other immigrant groups. This can explain the fact that the cases where Somalis had been experiencing violence were reported to the police more often than the equivalent cases of Russians and Estonians. However, the second biggest group reporting cases of violence to the police were Vietnamese, especially men, who had experienced the least racism of all the immigrant groups included in the survey.<sup>7</sup>

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<sup>3</sup> Honkatukia 2005b.

<sup>4</sup> Honkatukia 2005b.

<sup>5</sup> Honkatukia 2005b.

<sup>6</sup> See for example Jasinskaja-Lahti etc. 2002.

<sup>7</sup> Honkatukia 2005b.

While Somalis and Russians are the 'new minority' groups most commonly facing racism, Roma is the group from the 'old' minority groups that continues to face racial prejudice in their everyday life.

## IV. Manifestations of racism and religious discrimination

On a general level, the attitudes of Finns have become more favourable towards immigrants since the recession period in the early 1990s. However, an alarming finding is that especially the attitudes of young (15-17 year-old) boys were negative towards immigrants. Every fourth boy in that age group considered him a racist and supported at least partially the anti-foreigner activities of the skinheads.<sup>8</sup>

While the legal protection against racism is generally strong and the non-discrimination legislation and the enforcement system have improved with the introduction of the Non-Discrimination Act, Finnish society is still developing on the practical level in terms of recognising racism and supporting the victims of racism. The following paragraphs will explain the general situation noting manifestations of racism and the key problem areas linked to them. It is good to mention here that while xenophobia, racism and discrimination towards ethnic minorities are accepted as phenomena in Finland, religion is often seen as a part of them.

### IV.i Employment

According to a recent study<sup>9</sup> the attitudes of Finns towards foreign labour became more favourable in ten year period from 1993 to 2003). The proportion of negative attitudes decreased from 61 percent to 38 percent and the proportion with favourable attitudes – those wanting “much more or somewhat more” foreign labour – doubled to 30 percent. While the general attitude towards well-educated foreign labour such as doctors or students, has improved, the preference however was for immigrants to be employed in the “typical immigrant occupations” found in many countries, meaning as cleaners and taxi drivers. People would also more readily accept immigrants as co-workers than as supervisors.<sup>10</sup>

The general atmosphere reflects the acceptance of the fact that Finland is in growing need of foreign labour due to the retirement of the proportionally large War generations. This view is also reflected in the proposition for the Government's Immigration Policy Programme, which was submitted in December 2005. The emphasis of the Programme is to promote work-based immigration, while other important themes are such as creating a guiding system, rationalising the immigrant integration system and improving ethnic relationships are also included.

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<sup>8</sup> Jaakkola 2005.

<sup>9</sup> Jaakkola 2005

<sup>10</sup> Ibid.

The permit system concerning work-based immigration is based on the Aliens Act (301/2004). The residence permit for an employee follows a two-step decision making process. A residence permit includes a partial decision made by an employment office and a residence permit decision made by the Directorate for Immigration or by the local police. In 2005 the employment offices gave so called third country citizens 3 262 partial decisions based on the first time application. Most of the decisions concerned transportation and restaurant work, IT-work, cleaning and plumbing work. Nearly half of the employees were Russians, while there were also many Chinese, Ukrainians, Turkish, Bulgarians, Croatians and Indians.

The Non-Governmental Organisations (NGOs), including ENAR-Finland, have been generally satisfied with the Immigration Policy Programme, but underlined the importance of finding work for those foreigners who are already in Finland. During the year 2005 there were approximately 28 300 foreign job-seekers in Finland, out of which 14 400 were unemployed. This number corresponds to 28% of unemployment, while the corresponding rate was 6 % a year ago. Unemployment is still more common amongst foreigners than amongst Finns. In 2005 the number of unemployed Finns was approximately 220 000 (8, 4%).<sup>11</sup>

Ethnic discrimination in employment is covered by Non-Discrimination Act. A person who feels that he or she has been discriminated in job-seeking process, in employment contracts or in working conditions can seek compensation and make a complaint within two years, except in such case that discrimination has happened in the job-seeking situation when the complaint must be made within one year. Equality of employees is also covered by the Employment Contracts Act (55/2001) and Occupational Safety and Health Act (738/2002). The reversed burden of proof gives a good position for a possible victim of discrimination. Judicial punishment follows the Penal Code (Chapter 47 section 3).

Following the Non-Discrimination Act the Ministry of Labour has implemented programmes and measures to enhance and promote diversity, equality and non-discrimination. The objective of the SEIS project (Finland Forward without Discrimination) is to provide information and training in issues related to diversity and non-discrimination and develop structures and models promoting equality. On the local level, the JOIN project (Joint Promotion of Anti-Discrimination at Local Level) has been create to operate towards the development of dialogue and good practices by e.g. promoting local know-how to identify, prevent and affect discriminatory processes.

The legal supervision as well as prevention of discrimination in working life in Finland is within the remit of occupational safety and health authorities. The occupational safety and health authorities are divided into nine regions, which give guidance, mainly in the form of advice, in discrimination cases mostly on the side of other safety and health guidance. There are no official statistics available

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<sup>11</sup> Työllisyyskertomus Vuodelta 2005.

concerning the cases of ethnic discrimination at work places, but the occupational safety and health authorities estimate that there were only few such cases in a year.<sup>12</sup>

The discrimination of foreigners in employment is most common in the recruitment process. However, discrimination in such cases, especially indirect discrimination, can be difficult to prove. For instance, when applying a job, the applicant can be asked to prove good and excellent command of Finnish while the work task itself does not require such skills. This puts job-seekers with foreign-background in an especially weak position in the labour market.<sup>13</sup>

Moreover, discrimination in employment can also be structural. This is the case when persons belonging to a minority are employed in low paid and heavy jobs more often than average population. Reasons leading to this are multiple. However, as the Office of the Ombudsman for Minorities notes, the general requirement of both Finnish and Swedish language skills for administrative posts in Finland excludes immigrants from these positions.<sup>14</sup>

The situation of Roma continues to be difficult in the labour market. On a positive note, some public employment offices have nominated personnel specialised on Roma customers' needs, encouraged by the Ombudsman for Minorities.

#### **IV.ii Housing**

While the Non-Discrimination Act has enhanced the position of Roma in terms of housing, they continue to face difficulties especially in the private housing market, where the prices are high and there is prejudice. In regard of public housing, Finland has underlined the principle of non-discrimination. Besides providing information on the special needs of Roma residents, the Ministry of Environment has also produced guidance documents and carried out training of public authorities in housing issues. Despite this, the Roma continue to face some difficulties also in public housing.

The Ombudsman for Minorities has been very actively engaged with the cases of Roma housing. In 2005 the Ombudsman for Minorities was contacted 70 times in cases concerning housing and the Roma, which is more than twice as often as it was in 2004 (30 times, respectively).

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<sup>12</sup> Tella 2005: 25.

<sup>13</sup> Tella 2005: 20.

<sup>14</sup> Tella 2005: 27.

#### IV.iii Education

The Non-Discrimination Act concerns primary education, adult and basic vocational education and education given in the universities for applied sciences or in the universities. Moreover, the Act applies to such cases where a person has or is about to start a vocational training, education or re-education connected to work organised, but arranged the place by himself or herself.

A young immigrant aged 7–17 who resides permanently in Finland has the right to the same basic education as Finns. The objective is to ensure that adult immigrants receive the education needed for working life and that they maintain their existing vocational skills, and for foreign qualifications, studies and work experience to act as the basis of the design and completion of education in Finland.

An immigrant can seek adult education via labour market training or via adult education under the labour market policy measures. Proportionally, the amount of foreigners within the total group of those who have started labour market training has grown in the recent years. The percentage of the immigrants out of the total number of the persons beginning their training was 9, 5% in 1999, while the correspondent number in 2005 was 17, 3%.<sup>15</sup>

Instruction in the Finnish or Swedish language is organised for immigrants of all ages including refugees, migrants and other foreigners and, in some cases, asylum seekers. While the integration and education of immigrants is generally good in Finland, it is important to note that the position of those asylum seekers granted with a temporary residence permit, so called b-residence permit, remained weak in 2005 (see IV.v for further details).

Regarding Roma, a report published by the National Board of Education presented that the Roma school children have high level of absence at school and drop-outs are also higher amongst them than the total population.<sup>16</sup> Following from the report, the government has taken several initiatives. Roma school children special projects have been created to support the attendance of Roma children in school and pre-school classes as well as to support the parental involvement in their education. Moreover, since 1994 a Romani education service unit has existed within the Finnish National Board of Education.

While the Basic Education Act (628/1998) secures the rights of Romani to maintain their own culture and language, the Romani-language teaching in Finland has been in practice arranged following the foreign-language students teaching in their mother tongue guidelines by the Ministry of Education. This teaching consists of two weekly hours of teaching for small group (4-5) children.

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<sup>15</sup> Työllisyysraportti 2005:32.

<sup>16</sup> Romanilasten Perusopetuksen Tila Selvitys Lukuvuodelta 2001–2002.

Currently, there are approximately 250 children out of 1700 compulsory school students who receive this teaching.

Moreover, the number of children receiving education in Romani language has dropped significantly in recent years. One reason for this has been the lack of qualified teachers. However, in 2001 the Ministry of Education accepted a degree for Romani culture, which should increase the number of teachers and school assistants skilled in Romani language and culture.

In regard to the Russian-speaking population, which is the largest non-territorial language group of Finland, NGOs representing the Russian-speaking population have expressed their concern that the cultural and linguistic needs of the Russian-speaking population are not noted in depth. While the *Non-Discrimination Act* covers all the grounds of discrimination, it does not, however, apply to the content of education or the education system. Consequently, while Russian is often taught in Finnish schools as a foreign language, there are concerns about the insufficiency of this language group. There are university courses and research programmes available in the field of Russian language, but culture and basic education does not make significant provisions for children whose mother tongue is Russian.

#### **IV.iv Health**

The Ministry of Social Affairs and Health is responsible for directing Finnish social, health, gender equality and occupational safety and health policy. Comprehensive social protection and broad welfare services are an essential part of the Finnish society. All the residents of Finland are entitled to social security as well as social and health services.

The Ministry has a long experience of planning and steering social protection. At present we consider of central importance, activities that reinforce people's working and functional capacity, support continued involvement in working life and ensure that they have well run social and health services.

The immigrants in Finland are generally granted the same rights to the public health service as native Finns. However, the status of residence permit can put individuals into a different position. Several NGOs have expressed their dissatisfaction about the fact that persons holding a temporary residence permit are not entitled to the health services. Since the Directorate of Immigration took a new stance towards the asylum applicants in the beginning of 2005 (see more IV.v), this has become a more current issue.

#### **IV.v Policing and racial profiling**

One of the most severe current policing problems related to human rights in Finland concerns policies linked to asylum seekers.

In Finland, the Directorate of Immigration (Ministry of the Interior) makes the decisions for asylum applications. In 2005, however, the Directorate of Immigration took a new stance to the approach to the applications. As a result several asylum seekers, including unaccompanied minors, were granted with a temporary residence permit, so called b-residence permit, with the reference to the section 51 of the Aliens Act instead of granting continuous permits with reference to other sections of the Act. The Directorate of Immigration has confirmed the change in the approach as well as the fact that in most of the cases "b-residence permits" are granted to failed asylum-seekers originating from Somalia, Iraq and Afghanistan. The Directorate of Immigration has grounded the new stance on the current practices in all Nordic countries.

The civil society has expressed their concern over the new stance of the Directorate of the Immigration. One of greatest problems related to this so called b-residence permit does not entitle a person to work or study. This can mean that before getting the "b-residence permit" an asylum seeker might have been an employee or have had at least very good employment possibilities but he or she must stop working as soon as the decision comes.

Another problem connected to this is that the municipalities do not have a requirement to accept a person with "b-residence permit" as an inhabitant. Thus, in practice, the refugees with a "b-residence permit" are not entitled to the national social security system and are forced to live in the reception centres for refugees though they are no longer asylum seekers. Moreover, a "b-residence permit" does not include a right for family reunification. In a case where a temporary "b-residence" permit is granted for several years repeatedly, a person holding such a permit must live without their family for many years.

An applicant can be issued with a "b-residence permit" under the section 51 of the Aliens Act if they cannot be returned to their home country or the country of permanent residence for temporary reasons of health or if they cannot actually be removed from the country. In their letter to the Interior Minister several NGOs working with refugees and asylum-seekers stated that the reason for not returning an applicant is often grounded on the unstable situation in the applicant's country of origin and that, moreover, the reason for Finland's new stance is rather an attempt to ensure that in Finland the asylum-seeking policies are not weaker than any other Nordic country.<sup>17</sup>

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<sup>17</sup> Letter to the Interior Minister 2005.

The civil society is also concerned about the judicial appeals procedure. The Aliens Act allows asylum-seekers to appeal most decisions regarding asylum applications to the Helsinki Administrative Court. The decisions on refusal of entry may not be enforced before the final decision of the Administrative Court, except in so called Dublin cases, where the decisions on refusal of entry may be enforced immediately. According to the Dublin process, the member state of the EU in which the asylum-seeker first applies for asylum has an obligation to process the application and as a consequence of the Dublin process Finland has returned several applicants to other EU-countries and to Norway. NGOs have expressed their worries over the current situation noting that while the Administrative Court does have the power to prevent the enforcement of return decision in all the cases, the appeal to the Administrative Court appears to be extremely difficult to make in Dublin cases while the applicant is still in Finland.

Moreover, on 26 July 2005 the European Court of Human Rights gave a judgement, which states that Finland had violated Article 3 of the European Convention on Human Rights, when Finland made a decision to return an asylum seeker. This is the first time in history that Finland received a conviction concerning asylum seekers and the violation of Article 3. The Directorate of Immigration and the Helsinki Administrative Court had found that the applicant could return to his homeland safely and his application and complaint was lodged based on their finding. One of the essential reasons for the decision was that the travel route of the applicant was considered unclear. The European Court of Human Rights agreed that the travel route of the applicant was unclear but did not consider this fact relevant in terms of the decision. The European Court found that the applicant had been able to prove his acts in his home country and, thus, also that he faced a risk of torture or other inhuman treatment following from that reason.<sup>18</sup>

Pakolaisneuvonta ry, an NGO assisting the applicant in this court case finds the judgement of the European Court of Human Rights significant, as lack of clarity regarding the travel route or other details considered to weaken the reliability of an applicant are very often used as a ground for rejection of an asylum application in Finland. The stance taken by the European Court of Human Rights should, according to Pakolaisneuvonta ry, have an impact on the policies of decision-making in Finland.<sup>19</sup>

#### **IV.vi Racist violence and crime**

Discrimination and racism remain as problems in Finland. The Government's report to Parliament on the human rights policy of Finland (2004) presents that people's attitudes towards national minorities and foreigners are still possibly

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<sup>18</sup> The case of *N. v. Finland*, application no. 38885/02.

<sup>19</sup> Pakolaisneuvonta 2005.

demonstrating prejudice. Moreover, according to the report, the attitudes of school children are possibly even harder than before.<sup>20</sup>

Since 1997, the Ministry of the Interior in Finland has ordered inquiries into the racist crime reported to the police. The data used in the inquiries is based on the crime reports of the police registering system fulfilling certain criteria. The inquiries consist of information about the numbers, crime types, the times and places where the crime has occurred, the victims and the suspects.

The most common racist crime throughout the years has been physical assault; common also have been personal damage, defamation and discrimination. Usual places where the crime has occurred are public places such as streets, roads, market places, restaurants, home of the victim and the work place of either the victim or the suspect. Most commonly the racist crimes have happened at the evening or night time. Most victims of racist crime are continuously citizens of Finland, while the information about the country of birth shows that Somali are most vulnerable group of all. Most the victims have been young men. Moreover, most of the suspects have been Finns.<sup>21</sup>

The data from 2005 is not available yet, while the latest information about the racial crimes concerns 2003. According to the inquiry 2003 the police have registered 522 racist crimes in 2003 while the equivalent number in 2002 was 364. Following the trend, the most common racist crime is still physical assault, while defamation and discrimination are also common. The majority of the crimes occur in the evening or at night time, while one third happens in public outdoor places and approximately one quarter happens in restaurants.

Most of the victims of crimes (80%) were foreigner or persons with a foreign-origin, while one tenth of the victims were Roma. Most of the victims as well as the suspects were men (70% and 86% respectively). Over half of the racist crimes in Finland occurred in the County of South-Finland, while almost one third occurred in Helsinki.<sup>22</sup>

However, it is important to mention that most of the racial crimes, like most of other crimes too, go unreported. Generally, it is also worth noting that NGOs tend to be more easily approachable for the foreigners than are the authorities. For instance, refugees might have negative experiences originating from their country of origin concerning contacts with authorities, which can take the form of fear towards the police. On the other hand, the authorities often enjoy more extensive access to information than do the Non-Governmental organisations and can therefore have more powers to get involved with the cases of racism. Thus, the co-operation between the authorities and NGOs should be improved.

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<sup>20</sup> Government's report to Parliament 2004.

<sup>21</sup> Keränen 2005.

<sup>22</sup> Keränen 2005: 8.

On the non-governmental level, there are several actors giving free legal advice and counselling for the victims of racism. For example, Rikosuhripäivystys gives practical advice, guidance and counselling for the victims of racism, for their families and also for the witnesses in the court cases concerning racism. Rikosuhripäivystys is active nationwide. The legal advice is given mostly in the form of advice. The victims are guided to contact the police or social workers. Rikosuhripäivystys has a call service for victims in the evenings and afternoons, while there is also a possibility of getting free legal advice on the phone most weekday evenings. Moreover, Rikosuhripäivystys is working on a service based on online. Besides Rikosuhripäivystys, other NGOs, such as Ihmisoikeusliitto ry (Finnish League for Human Rights) and Pakolaisneuvonta ry (the Refugee Advice Centre), give legal advice.

#### **IV.vii Access to goods and services in the public and private sector**

The racism and ethnic discrimination concerning access to goods and services in the public and private sectors have been tackled fairly well since the introduction of the Non-Discrimination Act and non-discrimination enforcement system in 2004. Prior to these, the civil society representatives had criticised the legal system for ineffectiveness. For example, in some cases a doorman of a restaurant had repeatedly denied access to members of an ethnic minority. The Ombudsman for Minorities has addressed these issues and the National Discrimination Tribunal has been equipped with powers to issue fines in such cases.

In fact, on 26 April 2005 the National Discrimination Tribunal of Finland issued its first condemnatory decision on a case which concerned ethnic discrimination. A Russian woman regarded herself as discriminated against when she was not allowed entry in February 2004 to *Restaurant Teatteri* in Helsinki. The restaurant and company from which the former purchases its doorman services disagreed with this stating that the denial of the entry was grounded on the complaint made with respect to the woman's previous conduct in the restaurant.

On the basis of the claimant's report and the replies received from the parties concerned, the National Discrimination Tribunal of Finland considered that access to the restaurant was denied on the foundation of the claimant's ethnic origin. The Tribunal resolved to prohibit continuation of the claimant's discrimination by Restaurant Teatteri's owner, restaurant manager and the company to which its doorman services had been outsourced, as well as the latter company's three attendants.

The decision was made because the respondents were unable to produce the necessary evidence to rebut the presumption of the discrimination on the basis of the ethnic origin of the applicant in accordance with the relevant provisions on

the burden of proof. The applicant was assisted by the Ombudsman for Minorities.<sup>23</sup>

Also the Roma continue to meet difficulties in accessing public premises. This kind of discrimination has been faced especially by Roma women wearing traditional dress. The NGOs estimate that approximately 20 of these kinds of cases are taken to courts in a year. Moreover, the Ombudsman for Minorities and the National Discrimination Tribunal are also very engaged with the cases of Roma.

#### **IV.viii Media, including the Internet**

The general attitudes towards immigrants, asylum seekers, refugees and ethnic minorities are directly influenced by the media. Therefore, the way media writes about racist crimes or the crimes made by members of ethnic groups is a significant factor in the creation of tolerance. For this reason, it is important that the media workers pay attention to the manner they use in writing about racial crime as well as in the ways they portray the ethnic and religious minorities and asylum seekers or issues related to them.

On the other hand, it is also important that the authorities both inform in an impartial manner and on the other hand, take action in such cases where ethnic origin, nationality or ideology is written about in a disparaging manner. An important factor in the link of information sharing is the police, who should pay special attention not to belittle the racist crimes when informing the mass media.

The Finnish law gives protection against racism in the media. The Act on the Exercise of Freedom of Expression in Mass Media (460/2003) gives the authorities a right to get involved in cases where there has been a case of ethnic agitation, which in itself is forbidden in the Penal Code (Chapter 11, section 8). However, the authorities have been criticised for not using their rights to get involved in the cases of racism in the media as often as they could. On the contrary, in some cases the messages given by authorities have gained critique from NGOs for their questionable tone. For instance, the NGOs have expressed their worries over the language used by the Interior Minister Mr. Kari Rajamäki. In their letter to Mr Rajamäki the NGOs condemned the phrase, "turvapaikkashoppailija" ("asylum shopper") Mr Rajamäki had used in speaking of asylum seekers.<sup>24</sup>

In media, besides the law it is possible to seek redress from other sources. In Finland the mass media - including press, television and radio and internet sites connected to these - are self-regulated by The Council for Mass Media (CMM), a committee established in 1968 for publishers and journalists in the field of mass

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<sup>23</sup> NDTF 2005.

<sup>24</sup> Standpoint of the NGOs 2005.

communication. CMM is not a court; nor does it exercise legal jurisdiction but its task is to interpret good professional practice and defend the freedom of speech and publication.

The Union of Journalists in Finland produced Guidelines for Journalists and CMM adopted them 1st of January 2005. The rule 26 states that,

The human dignity of every individual must be respected. The ethnic origin, nationality, sex, sexual orientation, convictions or other similar personal characteristics may not be presented in an inappropriate or disparaging manner.<sup>25</sup>

Anyone can submit a complaint and the matter does not have to directly concern the person issuing the complaint. The CMM requires, however, that this person consent to the investigation. The complaint must be submitted in writing, signed and sent via post or email. Once the CMM has established, through investigation that good professional practice has been breached, it issues a notice which the party in violation must publish within a short time span.

In 2005 CMM received 68 complaints. Eight convictions resulted from all the complaints. None of the complaints were concerned with ethnic or religious discrimination, while three of the complaints applied to discrimination of sexual minorities. However, there was no conviction in any of these cases. It should be noted, however, that the non-existence of complaints concerning ethnic or religious discrimination in the CMM does not mean that such cases would not exist.

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<sup>25</sup> JSN 2005.

## V. Assessing the response

### V.i Anti discrimination

Finland transposed the Race Equality (2000/43/EY) and Employment Equality (2000/78/EY) Directives through the anti-discrimination legislation (Non-Discrimination Act 21/2004), which came into force on the 1st of February 2004. This Act prohibits discrimination based on age, ethnic and national origin, nationality, language, religion, conviction, opinion, state of health, disability or sexual orientation. The Act applies to employment issues, working conditions and terms as well as to the education, social and health services. Alongside other legislation the Non-Discrimination Act covers all ethnic and religious grounds of discrimination.

Following from the Non-Discrimination Act, all state and municipal authorities are obliged to draft an Equality Plan, which includes their measures and tools to promote operational diversity and non-discrimination. While the *Non-Discrimination Act* covers all the grounds of discrimination, it does not, however, apply to the content of education or the education system. This law is also limited in application of provisions governing entry into and residence in the country for foreigners, or the placing of foreigners in a different position for a reason deriving from their legal status under the law.

In Finland there are two authorities working towards non-discrimination and ethnic equality alongside the Ministry of Labour, the Advisory Board for Ethnic Relations and the Ombudsman for Minorities. Besides these, the victims of racism can also seek assistance from the National Discrimination Tribunal of Finland and from The Advisory Board on Romani Affairs (RONK).

The Advisory Board for Ethnic Relations (ETNO) is an expert body appointed by the Government working under the auspices of the Ministry of Labour, to promote interaction between authorities, NGOs, immigrants and ethnic minorities. In practice the Advisory Board for Ethnic Relations (ETNO) promotes the relations between minorities and the majority population as well as between different minority groups by creating positive interaction. ETNO also acts as an advisory body to state administration by providing statements on issues under preparation and promotes NGO activities of ethnic minorities by e.g. organising seminars in issues including the founding of an umbrella organisation. Moreover, ETNO publicises the importance of immigration policies and minority issues through media events and other communications.

In 2005 ETNO was appointed for a three year period for the third time. At the same time the structures of ETNO were improved to gain even more democratically chosen Advisory Board. For the first time the representatives of the immigrant organisations were chosen via open elections. Besides this, the

political powers of the Advisory Board were strengthened by including representatives of Governmental Parties and by creating three local Advisory Boards.

The Ombudsman for Minorities is an independent authority working under the auspices of the Ministry of Labour since 2001 with the basic task of advancing the status and legal protection of ethnic minorities and foreigners as well as equality and non-discrimination and good ethnic relations in Finland. The jurisdiction of the Ombudsman only covers the supervision of ethnic discrimination.

The Ombudsman for Minorities promotes good ethnic relations and monitors and improves the status and rights of ethnic minorities by reporting, taking initiatives and informing. In addition, the Ombudsman for Minorities will, together with other officials, supervise to ensure that everyone is treated equally regardless of their ethnic background.

The primary means used by the Ombudsman include recommendations, instructions and advice. The Ombudsman can also take initiatives and give legal assistance through legal advice or in some cases by more extensive personal assistance. The Ombudsman enjoys an extensive right to access information.

The Non-Discrimination Act improved the Ombudsman's mandate in addressing ethnic discrimination. Moreover, an Advisory Board for Minority Issues will be established to assist the Ombudsman for Minorities.

While the Ombudsman for Minorities has been effective in its action, it is good to note that the Office of the Ombudsman for Minorities, located in Helsinki, serves nationwide and the services of the Ombudsman could be improved with additional local or regional offices.

The National Discrimination Tribunal of Finland, established in February 2004 pursuant to Directive 2000/43, is an independent organ promoting legal protection. A decision by the National Discrimination Tribunal of Finland has the same legal effect as a judgement by a general court of law. On written application, the Tribunal may issue legally binding prohibitive decisions on matters relating to ethnic discrimination. The Tribunal does not handle issues concerning employment relationships.

The National Discrimination Tribunal issued its first condemnatory decision on an ethnic discrimination case (see IV.vi)

The Advisory Board on Romani Affairs (RONK) serves as a link between the Romani people in Finland and the public authorities. The members of the Board are appointed every three years by the Finnish Government and include

representatives of the Roma and the central government. In 2004 the Advisory Board on Romani Affairs was strengthened by four regional Advisory Boards.

Besides these authorities, the government engages with civil society in many levels by asking for advice and statements directly from NGOs and networks formed by them.

## **V.ii Racist violence and racist crime**

In the Finnish legislation there are several notions against racial crime or violence. The modifications of the Penal Code (Chapter 6, section 5, subsection 4, aggravating circumstances) have made penal consequences for racially-motivated crimes more severe. Besides this, section 6 of the Non-Discrimination Act prohibits discrimination for example on the basis of ethnic or national origin (*prohibition of discrimination*). The Act also prohibits reprisals. Under section 8 of the Act, nobody must be disadvantaged or subjected to negative consequences as a result of any appeal or other action taken in order to secure equality.

The police produce records about racist crimes on an annual basis, but do not, however, record hate crimes. While the term “hate crime” (“viharikollisuus”) is known by the police, it has not yet been included to any statistics.

The police response to racist violence and racist crime is generally good. On the institutional level the police have made efforts on the prevention of racism, xenophobia and discrimination through awareness training and a multi-ethnic recruitment policy. In the field of action the police have increased surveillance of organised racist groups. Moreover, the police write report on racially motivated crimes on an annual basis. While the recent report shows that the numbers of racially-motivated crimes are increasing, this also indicates that the police are not on the denial of the situation in Finland but are rather aware of it.

However, most of the racial crimes, like most other crimes too, go unreported. One reason for this might be the fear of authorities. For instance, refugees might have negative experiences originating from their country of origin concerning contacts with authorities, which can take the form of fear towards the police. Generally, the NGOs tend to be more easily approachable for the foreigners than are the authorities. On the other hand, the authorities often enjoy more extensive access to information than do the NGOs and can therefore have more powers on getting involved with the cases of racism. Thus, the co-operation between the authorities and the NGOs should be improved. Moreover, the definition and the numbers of hate crime should be included in the annual police records.

### **V.iii Counter-terrorism and protection of human rights**

In Finland, there have not been specific policy developments pertaining to racial profiling nor any significant legal or policy actions against terrorism.

However, the protection of human rights in Finland gained a new step in August 2005, as the Government adopted an extensive Plan of Action against Trafficking in Human Beings (Plan of Action against Trafficking in Human Beings 2005). The Plan of Action, prepared by a working group under the auspices of the Ministry of Foreign Affairs, takes a human rights and victim based approach while also including a gender aspect.

Until recently the Finnish legislation had been lacking a notion of human trafficking. However, recently the Finnish authorities came to recognise that Finland is a transit and destination country for the trafficking of human beings, where the purpose for trafficking is often for sexual exploitation or labour purposes. Legislation that criminalised trafficking entered force in 2004 and in 2005 the police have already investigated some suspected cases with reference to legislation.

The recent Plan of Action against Trafficking in Human Beings poses measures the authorities will undertake for the informing about trafficking, identification of the victims of trafficking, prevention of trafficking, provision of assistance to victims and prosecution of traffickers. An inter-ministerial steering group under the chairmanship of the Ministry of Labour or the Ministry of the Interior will monitor the implementation of the Plan of Action. The steering group, having also representatives from NGOs; will set out a more specified Plan of Action by the end of 2006.

According to the Action Plan, the Finnish authorities are preparing for the signing and ratification of the Council of Europe Convention on Against Trafficking in Human Beings. Moreover, the criminalisation posed on the purchase of the sexual services is also planned as a preventive measure against trafficking.

The network of civil society representatives, many of whom were able to participate in the preparation work of the action plan, agreed on their statement over the Plan of Action that the working group has been successful in their work. Nevertheless, the network made a notion that specific efforts will need to be taken in order to ensure assistance to the victims of trafficking. This includes a need for a long, possibly six months, period of surveillance. Moreover, the civil society representatives expressed their concern over the fact that many health and social services in Finland are only accessible for people with a residence permit, while it seems that many victims of trafficking may not have a regularised residence status in Finland. While the Government has noted this in the Plan of Action and made proposes to modify the Aliens Act to allow residence permits for the victims of trafficking, there is a possibility that temporary residence permits

may in fact not grant a sufficient residence status including necessary services for their holders.<sup>26</sup>

#### **V.iv Integration and social inclusion of ethnic and religious minorities**

In 2005 a proposition for the amendments in The Act on the Integration of Immigrants and Reception of Asylum Seekers (493/1999) was prepared and the amendments were accepted in December. The amendments aim to make integration of the immigrants more effective and faster, while the tasks and responsibilities of the authorities are clarified. Following from this, the local authorities will participate in integration and service issues in their own fields respectively. Moreover, there will be a consultative committee established as a part of the Ministry of Labour to improve the possibilities of the Ministries, municipalities and NGO's to have an impact and to co-operate with each other. On the local level, the co-operation between municipalities and employment offices will be strengthened both in general issues and in individual cases concerning the integration of immigrants.<sup>27</sup>

Currently, new immigrants are entitled to an integration plan for three years from the time of arrival in cases where they are registered as unemployed. During the integration period an immigrant is granted with an integration allowance, which was paid in 2005 to 10 600 immigrants. The intention of the integration plan is that the immigrants will gain the language skills and other skill required in the Finnish society during the integration period. In 2005, 8 900 persons were entitled to the integration plan. While the legislative and social surroundings for immigrant integration and employment have improved in Finland and the unemployment of the foreigners has decreased, it still remains high. During the year 2005 there were approximately 28 300 foreign job-seekers in Finland, out of which 14 400 were unemployed.

In Finland, the civic, cultural and political participation of ethnic and religious minorities is generally good. However, the official recognition of the cultural and linguistic rights of the Russian-speaking population continues to be dissatisfying. In 2003 the Advisory Board for Ethnic Relations was assigned to assess the cultural and linguistic needs of the Russian speaking-population in Finland. The Advisory Board delivered its report, which included a recommendation that the cultural and linguistic rights of the Russian speaking population be recognised through a law that would place the Russian language in the same position with Romani and Sámi languages. The administration has debated about the issues put forward by the report but no significant action has been taken so far.

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<sup>26</sup> Statement of the Third Sector Network 2005.

<sup>27</sup> Työllisyyskertomus vuodelta 2005.

## VI. Conclusion

In recent years the governmental responses to racism and ethnic discrimination in Finland have been relatively good as well as the government's engagement with civil society and NGOs. The Ombudsman for Minorities has appeared to taken a place in Finnish society and the Non-Discrimination Act has been effective as well. The National Discrimination Tribunal of Finland, introduced in 2004, has also proven to be effective. The first condemnatory decision of the Tribunal, on 26th of April 2005, concerning ethnic discrimination towards Russian women in a restaurant in Helsinki stands as a milestone for the development in the fight against racism in Finland.

Unfortunately, where the decision made by the National Discrimination Tribunal of Finland seems a step forward, the new stance taken by the Directorate for Immigration appears to be a step backward. Since the beginning of 2005 the Directorate of Immigration has begun to issue asylum seekers with temporary residence permits. These so called b-residence permits can be issued under the section 51 of the Aliens Act in the case that they cannot be returned to their home country or the country of permanent residence for temporary reasons of health or if they cannot actually be removed from the country. A person with a b-residence is not entitled to work or study; neither do municipalities have a requirement to accept this person as an inhabitant. Moreover, a person with such a status does not have a right for family reunification. In worst cases, a b-residence permit is granted for several years.

The contribution of the civil society was important in 2005. Many of the NGOs actively took part in public debate and make statements of opinion. Especially significant appears to be the legal advice with the counselling given by NGOs such as the League of Human Rights to the victims of racism. Unfortunately, most of the NGOs do not have the resources to take legal action or get involved with individual cases in dept. However, the case *N. v. Finland* dated 26th of July, in which the European Court of Human Rights gave conviction concerning an asylum seeker whose application had been lodged by the Directorate of Immigration and the Helsinki Administrative Court, presents an excellent example of the results that can be gained with the participation of NGOs. The stance taken by the European Court of Human Rights will hopefully have an impact on the policies of decision-making in Finland.

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## ANNEX: Overall Assessment of Directive 2000/43/EC

- ⊖ Not yet implemented
- Partial implementation
- Fully implemented

Article	Provision	Implementation Status	Comment
2	<b>Concepts</b>		
	Direct discrimination	●	
	Indirect discrimination	●	
	Harassment	●	
	Instruction to discrimination	●	
3	<b>Scope</b>		
	Employment	●	
	Vocational training	●	
	Working conditions	●	
	Membership of organisations	●	
	Social protection	●	
	Social advantages	●	
	Education	●	
	Goods and Services	●	
4	Exceptions for genuine and determining occupation requirements	Yes	
5	Government led positive action measures	No	
6	Anti-discrimination goes beyond the provision of the Directive	No	
7	Remedies available	●	
	NGO participation in complaints procedures	●	
8	Application of the shift in the burden of proof	●	
9	Victimisation	●	
10	Government dissemination of information	●	

11	Social dialogue on anti-discrimination	●	
12	Government dialogue with NGOs	●	
13	<b><u>Functions of the Equality body</u></b>		
	Provide assistance to victims	●	
	Conduct surveys concerning discrimination	●	
	Publish reports	●	
14	Review of existing law to ensure that they are compliant with the Directive	●	
15	Effective and dissuasive sanctions	●	