



Responding to racism in Finland



europaan verkosto vastustamaan rasismia
europaan rasisminvastainen verkosto

INTRODUCTION: OVERVIEW OF RACISM IN THE NATIONAL CONTEXT

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 2004, the number of foreigners living in Finland was 108 300 (amounting to 2.1 % of the total population). The four largest minority groups in Finland are Russians, Estonians, Swedes and Somalis. In addition to immigrant groups, Finland has an indigenous population, the Sami, and some traditional minorities, such as the Roma, Tatars, Jews, and a long-established Russian population. The increase in the foreign population has been very rapid: within ten years the foreign population has increased approximately fivefold.

The questions of racial violence and discrimination are recent phenomena in Finland, and due to this the importance of fighting racism still is often underestimated. New laws have been passed in recent years (for example implementation of the EU Directives 2000/43 and 2000/78) and as a result Finland has comprehensive anti-discrimination legislation.

However, in practice the problem still prevails that many discrimination cases go unreported. Compared to the situation in the late 1990s, combating racism has been taken more seriously in recent years and the legislation has improved, mainly because of the EU. At the same time, asylum seekers have received quite a lot of negative publicity and the legislation concerning them has become stricter compared to the 1990s. Therefore it is rather difficult to evaluate and monitor whether there has been clear progress in combating racism.

KEY ACTIVITIES OF THE NATIONAL COORDINATION

In May 2005 ENAR-Finland organised a Round-table discussion of issues regarding minorities in Finland, in cooperation with the Office of the Ombudsman for Minorities. Moreover, we discussed family integration in a lecture arranged by representatives of Population and Family Welfare Federation in Finland and of the Office of the Ombudsman for Minorities. ENAR-Finland organised its annual General Assembly on 30th of May 2005 at the Caisa International Cultural Centre, City of Helsinki.

The Join-in project (2005-2006) promoting cooperation between NGOs and government officials was an import activity in 2005 and linked to that ENAR-Finland organised more than five training sessions for city officials in several cities (Helsinki, Hämeenlinna and Vantaa). The Join-In project is coordinated by the South Finland Local Authority and the project partners are the Ministry of Labour, the Finnish League for Human Rights, Sexual Equality in Finland, the Finnish Forum for the Disabled and ENAR-Finland.

OVERVIEW OF ENAR – EUROPEAN NETWORK AGAINST RACISM

ENAR promotes the cause of anti-racism and equal treatment for ethnic minorities and non-EU nationals residing in the European Union.

ENAR is a network of European NGOs working to combat racism in all EU Member States. The NGOs have formed National Coordinations (NCs), which constitute the membership of ENAR and include ethnic minorities, immigrants' associations, information centres, advocacy groups, trade unions, faith based organisations and many others. Democratically elected representatives of each NC attend the Network's meetings where they are consulted on policy and statutory issues. One of the representatives of each NC should belong to an ethnic minority.

ENAR is determined to fight racism, xenophobia, anti-Semitism and Islamophobia, to promote equality of treatment between EU citizens and third country nationals, and to link local/regional/national initiatives with European initiatives.

WHO IS EXPERIENCING RACISM: THE SITUATION

Among the minority groups living in Finland the ones most vulnerable to racial violence are young people of Somali and Turkish origin. Somalis and Turkish people also face other forms of discrimination on a higher level than the average immigrant groups. Among the traditional minorities the Roma are most likely to face discrimination.

The number of racist crimes that were reported to the police was 558 in 2004 and 522 in 2003. The increase in figures does not however show that the number of racist crimes has increased, but indicates only that more racist crimes were reported to the police in 2004 than in 2003. The most common types of racist crime reported to the police in 2004 were assault and battery, defamation, discrimination, menace, malicious damage and disturbance of domestic peace.

In 2004 the largest victim groups by nationality were: Finnish, Somali, Russian, Turkey, Iraqi and Iranian. A little less than 50 % of victims in Finland were of foreign background, one-third were Finnish Roma and approximately every sixth victim was a member of the majority population. 70 % of all the victims were men, and young men (15-24 year) were the single largest group of victims. However, the number of female victims is steadily increasing.

The majority of all racist crimes occur during the evening and at night in public places. In 2004 the majority (60%) of all racist crimes took place during the evening and at night, and about one-third (29%) of the crimes took place on a street, in a park or plaza. The second most likely places for racist crime were bars, pubs or restaurants and courtyards or the staircases of the victims' homes. The majority of all racist crimes are committed in the South Finland province, where the majority of foreigners and persons of immigrant background live. However, when the numbers of racist crimes are compared with the numbers of foreigners living in the provinces, East Finland province, Oulu province and Lapland province top the list.

POLITICAL REALITY: NATIONAL LAWS AGAINST RACISM

The Finnish anti-discrimination legislation covers all ethnic and religious grounds. The single most important development in the past years was the implementation of the EU Directives 2000/43 and 2000/87 with the Non-discrimination Act that came into force in February 2004.

The Finnish Constitution lays down fundamental rules of non-discrimination and equality. Section 6.2 of Chapter 2 covering basic rights and liberties states that “no one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person”. Similar provisions prohibiting discrimination appear throughout the legislation, the two single most important acts being the Act on Equality between Women and Men and the Non-discrimination Act.

The Non-discrimination Act prohibits discrimination on the basis of age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics. Both direct and indirect discrimination as well as harassment and an order to discriminate are covered by the Act (Section 6). The Non-discrimination Act applies to both public and private activities concerning access to livelihood, recruitment and working conditions, access to training, and membership and involvement in an organisation of workers or employers (Section 2.1). With reference to discrimination based on ethnic origin the Act also applies to various social security services and military service (Section 2.2). The prohibition of discrimination based on ethnic origin is supervised by the Ombudsman for Minorities and the Discrimination Board (Section 11).

Though formally the Finnish legislation is very comprehensive, in practice many problems are still left unsolved. One of the major problems is that many discrimination cases go still unreported. Victims feel that reporting to the police may not lead to anything or that they are not taken seriously.

IMPORTANCE OF THE CIVIL SOCIETY INFRASTRUCTURE

In Finland various NGOs contribute to the fight against racism through awareness raising and education campaigns. In addition, many NGOs provide legal or psychological aid to victims of racial discrimination.

One of the most important initiatives in the fight against racism is the RASMUS network that was set up in 2002. The RASMUS is a nationwide network that gathers NGOs, immigrant associations, religious communities, labour market organisations and authorities, as well as researchers and individuals together in the joint fight against racism and xenophobia. In RASMUS special focus is put on reducing racism and increasing multicultural interaction in the labour market, in the media, in schools and in youth organisations. The major Finnish NGOs involved in the fight against racism, such as ENAR Finland, the Finnish Red Cross, the UN Association of Finland and the Finnish League for Human Rights, are all members in the RASMUS network support group. The network is coordinated by the Finnish League for Human Rights. In addition, the Finnish League for Human Rights reports actively to the human-rights bodies of the UN, including the CERD.

The NGOs play a vital role in combating racism and cooperating with the authorities. They are heard during legislative processes and they can bring up issues that may not be monitored by the authorities.

STRATEGIC LITIGATION

Many anti-racist NGOs have not traditionally engaged in legal processes, often this is for the simple reason that there was little law for them to refer to. However the adoption of the EU Race Directive (see section 'EU and anti-racism') and the development of national law, means that now more than ever litigation has the potential to lead to real change for those who are vulnerable to racism and discrimination.

As anti-discrimination is a relatively new field of law, NGOs have a role to play in raising awareness regarding its potential. Consequently the strategic litigation has come to the fore as a useful advocacy technique. NGOs can both directly engage in strategic litigation and support others to do so by gathering data, assessing victims and engaging in advocacy.

“Strategic or impact litigation uses the court system to attempt to create broad social change”

The primary focus of strategic litigation is law or policy change rather than redress for an individual, though these two objectives are not mutually exclusive. Strategic litigation intends to reach beyond an individual case or victim, to create a context of enhanced protection for everyone who is vulnerable to discrimination. By changing law or setting precedents an individual case can have a ripple effect leading to change on a much broader level.

The concept of strategic litigation encompasses the selection of cases, case planning and management, as well as ensuring that favourable outcomes are implemented.

Not every NGO has the mandate or skills to engage in litigation, nor will litigation necessarily be the right strategy in many cases. Nonetheless, it is essential for all anti-racism actors to recognise the importance of strategic litigation as a tool for generating change.

SERVICES AVAILABLE FOR THE VICTIMS OF RACIAL DISCRIMINATION

The Office of the Ombudsman for Minorities advises persons who have experienced discrimination based on their ethnic origin or the fact that they are foreigners as well as persons who feel that they have been treated in a racist or inappropriate manner. The Office supports victims in finding an amicable settlement or refers their case to the correct authority. Furthermore the Office helps victims to get assistance from a public legal aid office or from a private lawyer.

Victims of racist crime and racist violence can find support in the Victim Support Finland national help line or regional offices. Victim Support Finland offers practical advice, psychological support and legal aid to victims of crimes or attempted crimes. Those requiring further help will be advised to seek professional help in their own area. Also other NGOs like the Finnish Association for Mental Health, the Finnish League for Human Rights and the Refugee Advice Centre provide psychological or legal support to victims of racist crime. The Finnish League for Human Rights offers legal advice by phone twice a week. Even though the service is offered to anyone who needs legal advice, questions of racism and immigration form a significant part of that activity.

Anybody whose place of residence is in Finland or whose case is being heard in a Finnish court may be granted public legal aid. The client is entitled to have the assistance of a public legal aid attorney or a private attorney fully or partially at the expense of the state. The legal aid covers all sorts of legal matters. The Ministry of Justice has produced several leaflets on the topic of legal aid and provides comprehensive information on their website.

However, the most vulnerable groups are sometimes unaware of their rights. They might hesitate to contact a lawyer, because they believe they cannot afford one – even though they could be entitled to a free trial. Informing everyone of their rights is a demanding task and civil society can play a crucial role in this respect.

WHY A EUROPEAN PERSPECTIVE IS CRUCIAL: EU AND ANTI-RACISM

National NGOs working on anti-racism are already seriously overburdened in their work to confront racism and discrimination. Why then should they also be concerned with what is going on in other European countries, and in the institutions of the European Union itself?

Developing an understanding of racism in Europe is essential for two key reasons. Firstly, to promote learning and knowledge about what racism is and how to combat it and secondly to generate common tools across the European Union to combat racism. Experience over the last ten years has demonstrated that national governments can be convinced to take action at a European level, where they may not have been prepared to move forward alone.

Racism has a distinctly European dynamic. Europe's colonial history underlines its role in fostering both historical and contemporary forms of racism; and the 20th century does not cast a positive light on the European legacy. Despite this long history Europe began to take racism seriously relatively recently. Europe has a responsibility both to the people living within its borders, as well as internationally to take a leading role in promoting a vision of a world free from racism.

In 1997, Article 13 of the Amsterdam Treaty gave the European Union a legal base on which to develop 'appropriate measures to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation'. Using these powers the European Union adopted the Race Equality Directive in June 2000 (and later that year the Employment Equality Directive).

While the Race Directive was due to be fully implemented by July 2003, at the beginning of 2006 some Member States have failed to implement it. This reality raises questions about the continuing commitment of EU Member States to combat racism and discrimination. However



the Directive does have direct effect, which means that individuals can assert it before national courts, even where it has not been implemented.

The Race Directive gives protection against discrimination in employment and access to a range of good and services, including social protection, health, social security and education. It puts forward a number of important definitions including: direct and indirect discrimination, harassment, and victimisation. Other significant aspects of the Directive are that it allows for positive action measures, the sharing of the burden of proof, and the establishment of equality bodies.

The principles enshrined in the Race Directive need to become core elements of anti-discrimination law and practice across the European Union. Strategic litigation is a tool to ensure that this happens. To this end, it expressly allows for NGOs to engage in proceedings in support of or on behalf of victims.

While Article 13 of the Amsterdam Treaty provided the context for developments in the field of anti-discrimination, Article 29 of the Treaty on European Union included reference to preventing and combating racism. While the European Commission proposed a Framework Decision against racism and xenophobia (racism as a crime) in 2001, developments in this policy area have been disappointing; the Council has failed to adopt the Framework Decision. In addition the European Union has competence in other policy areas that either directly or indirectly impact on the fight against racism, including: social inclusion, migration and asylum, and education.

The European Union is also involved in a range of other activities, including awareness raising (through the 'For Diversity. Against Discrimination' campaign) and funding of anti-racism projects. In 1997 the EU Monitoring Centre on Racism and Xenophobia (EUMC) was established. While the Centre is likely to be expanded to become a Fundamental Rights Agency in 2007, it will continue to focus on the problem of racism in Europe.

KEY LINKS AND SOURCES OF FURTHER INFORMATION AT NATIONAL LEVEL

ENAR-Finland: www.enar.fi

Rasmus - Network Against Racism and Xenophobia: www.rasmus.fi/index?l=3

The Office of the Ombudsman for Minorities:

www.mol.fi/mol/en/01_ministry/03_organization/02_minorities/index.jsp

Victim Support Finland: www.rikosuhripaivystys.fi/en/etusivu/index.php

The Finnish League for Human Rights:

www.ihmisoikeusliitto.fi/tausta/introduction

The Refugee Advice Centre: www.pakolaisneuvonta.fi/?lang=eng

The Finnish Association for Mental Health:

www.mielenterveysseura.fi/english.asp?main=English

Legal Aid: www.oikeus.fi/8852.htm

KEY LINKS AND SOURCES OF FURTHER INFORMATION AT EUROPEAN LEVEL

EU Monitoring Centre on Racism and Xenophobia: www.eumc.eu.int

European Commission - anti-discrimination and relations with civil society:

www.europa.eu.int/comm/employment_social/fundamental_rights/index_en.htm

European Network Against Racism (ENAR): www.enar-eu.org

European Roma Information Office: www.erionet.org

European Union: www.europa.eu.int

'For Diversity. Against Discrimination': www.stop-discrimination.info

Strategic Litigation of Race Discrimination in Europe: from Principles to Practice:

www.migpogroup.com/documents/2498.html

Strategies on Litigation Tackling Discrimination in EU Countries: www.solid-eu.org

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This leaflet was prepared on behalf of ENAR in Finland
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This leaflet is funded by the European Commission,
DG Employment and Social Affairs.