**Interim follow-up process with respect to the European Commission against Racism and Intolerance’s (ECRI) report on Finland (fifth monitoring cycle)**

**Follow-up given by the Government of Finland**

**1 September 2021**

**1. ECRI recommends that the National Non-Discrimination and Equality Tribunal should be empowered to deal with complaints of discrimination in employment on all prohibited grounds and not solely on the grounds of gender and gender identity; that all the Tribunal should be empowered to grant compensation to victims of discrimination; and that the resources of the Tribunal should be substantially increased to enable it to fully carry out its mandate.**

The revised Non-discrimination Act (1325/2014) entered into force on 1 January 2015, after which it has not been amended. According to the Act, no one may be discriminated against on the basis of age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relationships, state of health, disability, sexual orientation or other personal characteristics.

Compliance with the Non-discrimination Act in labour relations is supervised by occupational safety and health authorities in accordance with the provisions of the Non-discrimination Act as well as the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006). According to the Non-discrimination Act, the Occupational Safety and Health Authority shall take action provided for in the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces that is required as a result of a complaint about discrimination made in an individual case.

Supervising compliance with the Non-discrimination Act is not part of the National Non-Discrimination and Equality Tribunal’s powers. The Tribunal may, in other matters than those pertaining to the authority of the Occupational Safety and Health Authority, forbid the party in question from continuing or repeating the discrimination or victimisation, or order the person to take action within a reasonable time to fulfil the obligations provided for in the Non-discrimination Act.

The Tribunal cannot order compensation to be paid to victims of discrimination.

A working group for the partial reform of the Non-discrimination Act and its subdivision focusing on discrimination in employment were appointed on 4 June 2021, and their term ranges from 10 June 2021 to 31 May 2022. Their work is related to the Government Programme of Prime Minister Sanna Marin, according to which “the Non-discrimination Act will be partially reformed.” The working group’s task is to identify and assess any problems and necessary changes in the effectiveness of the Non-discrimination Act and other regulation related to it.

The subdivision is responsible for:

1) assessing the sufficiency of the Occupational Safety and Health Authority’s tasks and powers, and any changes needed in the supervision of the Non-discrimination Act;

2) assessing the possibility to expand the Non-Discrimination Ombudsman’s powers in questions related to discrimination in employment so that its powers would supplement those of the Regional State Administrative Agencies and strengthen legal protection and its availability; and

3) assessing the powers of the National Non-Discrimination and Equality Tribunal in matters related to discrimination in employment.

One of the working group’s tasks is to assess the possibility of the National Non-Discrimination and Equality Tribunal to grant compensation. If the Tribunal’s tasks are changed or extended, its resources must also be assessed.

ECRI has paid attention to the sufficiency of the number of personnel in the National Non-Discrimination and Equality Tribunal, considering that its workload nearly doubled from 70 cases in 2017 going into 2018. The Ministry of Justice will be monitoring the development of the Tribunal’s activities, the number of petitions and processing times, and it will assess the need for resources on their basis.

In 2018, more cases than normal were submitted to the National Non-Discrimination and Equality Tribunal, as a result of which the work of the Tribunal became congested. To improve the situation, new part-time referendaries were appointed, and a fixed-term office secretary and legal trainees were made available for administrative tasks.

In 2019 and 2020, the Tribunal was able to reduce its backlog to some extent (please see the table below). However, the large number of cases, combined with the Tribunal’s vulnerability to changes and irregular situations due to its small size, caused processing times to increase. To return processing times to normal, an additional full-time referendary was appointed to the Tribunal for one year (starting from 15 January 2021). Processing times have now started to decrease, and it appears that the backlog can be cleared during 2021.

**Table: Information obtained from the National Non-Discrimination and Equality Tribunal about the total number of petitions and petitions transferred from the previous year.**

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| **Year** | **Number of petitions received** | **Petitions transferred from the previous year** |
| 2015 | 40 |  |
| 2016 | 37 | 22 |
| 2017 | 70 | 28 |
| 2018 | 124 | 41 |
| 2019 | 62 | 110 |
| 2020 | 49 | 83 |
| 2021 | 9 (31.5.2021) | 53 |

The Ombudsman for Equality is an independent national equality body whose duty is to supervise compliance with the Act on Equality between Women and Men (1986/609, the Equality Act) and to promote compliance with the objectives of the Act. The purpose of the Equality Act is to prevent discrimination based on gender, to promote equality between women and men, and to improve the status of women particularly in working life. The Act is also intended to prevent discrimination based on gender identity or gender expression. Intersectional discrimination is not covered by the Equality Act nor does it fall under the mandate of the Ombudsman for Equality as this belongs to the authorities supervising the Non-Discrimination Act.

**2. ECRI recommends as a matter of priority and in conformity with the case law of the European Court of Human Rights, that the Act on Legal Recognition of the Gender of Transsexuals should be amended to remove the requirement that persons seeking recognition in a gender other than that in which they were originally registered should be infertile or should undergo sterilisation as a pre-condition for legal recognition.**

The Government Programme of Prime Minister Sanna Marin includes the overall reform of the Act on Legal Recognition of the Gender of Transsexuals. The Government proposal is due to be submitted to Parliament in 2022, and the Act is scheduled to enter into force as early as possible. The reform will correct the legal state that is not in compliance with the case law of the European Court of Human Rights and human rights treaties.

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