



DANISH INSTITUTE FOR  
HUMAN RIGHTS

**COWI**

# The social situation concerning homophobia and discrimination on grounds of sexual orientation in Finland

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## A. A Summary of the Overall Situation of LGBT Persons

- [1]. Since the late 1980s there have been two significant legislative steps in terms of LGBT family rights. The Law on Registered Partnership for same-sex couples was adopted in 2001 and the Fertility Treatment Act was adopted in 2006.
- [2]. In the Eurobarometer 2006 the right for homosexual couples to adopt children was favoured by 24 per cent of respondents. A 2007 poll pointed in an even more positive direction, with 36 per cent of the Finnish population in favour of adoption rights for gays and lesbians.
- [3]. Directive 2000/78/EC was transposed into national law primarily by means of the adoption of the Non-Discrimination Act [*yhdenvertaisuuslaki* (21/2004)]. The Non-Discrimination Act is a general piece of legislation in the sense that its overall material scope is wide and it covers several discrimination grounds. However, no equality body in Finland deals with discrimination on the ground of sexual orientation. The Ombudsman for Minorities deals only with discrimination on the grounds of ethnic origin and the Ombudsman for Equality deals with gender equality, including transgender.
- [4]. Surveys show that LGBT persons hide their sexual orientation and/or gender identity at work, and a large proportion have experienced harassment in the form of jokes about ‘trannies’ or ‘queers’.

## B. The Collection of Data

- [5]. The material for this report has been collected from four sources:
  - A legal country report, written by, Åbo Akademi University Institute for Human Rights professor Martin Scheinin, and Timo Makkonen.<sup>1</sup>
  - A sociological country report reviewing available data on the situation concerning homophobia and discrimination on grounds of sexual orientation, written by sociologist Kati Mustola, University of Helsinki.<sup>2</sup>
  - Data collected through interviews held in Finland with representatives from the *Finnish Organisation for LGBT Rights*

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<sup>1</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

<sup>2</sup> K. Mustola (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Finland*. Sociological Country Report.

(SETA), *The Ombudsman for Minorities*, *The Ombudsman for Equality*, *The Ministry for Interior*, *The Ministry of Education* and *The Ministry of Employment and Economy*.

- An online questionnaire sent out to the stakeholders mentioned above.

## C. Key Findings

### C.1. Attitudes Toward LGBT persons

- [6]. Surveys examining acceptance and attitudes toward homosexuality were carried out on a European level in 2008 and 2006.
- [7]. The 2008 *Eurobarometer* asked, 'How would you personally feel about having a homosexual (gay man or lesbian woman) as a neighbour?' (1 meaning 'very uncomfortable' and 10 meaning 'very comfortable'). The figure in Finland was 7.4 with an EU average of 7.9. Romania was the lowest with 4.8.<sup>3</sup>
- [8]. In the 2006 Eurobarometer, attitudes toward same-sex marriage were examined in every Member State. Forty-two per cent of EU citizens agreed that such marriages should be allowed throughout Europe; the figure was 45 per cent in Finland (Netherlands scored the highest with 82 per cent and Romania the lowest with 11 per cent). With regard to adoption, the level of acceptance decreases in the EU and in Finland. Thirty-one per cent of Europeans felt that homosexual couples should be allowed to adopt children throughout Europe; in Finland the figure was 24 per cent (Netherlands scored highest with 69 per cent and Poland and Malta lowest with 7 per cent).<sup>4</sup>
- [9]. In a Finnish opinion poll in 2007, 36 per cent of the population was in favour of full adoption rights for registered same-sex couples and 56 per cent was against.<sup>5</sup>
- [10]. In another 2007 opinion poll, 80 per cent of respondents were in favour registered same-sex couples being allowed to adopt one another's children.<sup>6</sup> In 2000, this percentage was 55 per cent.<sup>7</sup>
- [11]. In the current Finnish parliament clear majority (62,5 per cent) of MP:s are in favour of family internal adoption, but only 27,5 per cent favour both family internal and external adoption.<sup>8</sup>

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<sup>3</sup> European Commission (2008) *Special Eurobarometer 296. Discrimination in the European Union: Perceptions, Experiences and Attitudes*, chapter 9.

<sup>4</sup> Eurobarometer 66 (2006), available at:  
[http://ec.europa.eu/public\\_opinion/archives/eb/eb66/eb66\\_en.pdf](http://ec.europa.eu/public_opinion/archives/eb/eb66/eb66_en.pdf), pp. 43-46.

<sup>5</sup> *Aamulehti* 7.9.2007 [http://www.aamulehti.fi/sunnuntai/teema/asiat\\_paajutut/5459461.shtml](http://www.aamulehti.fi/sunnuntai/teema/asiat_paajutut/5459461.shtml)

<sup>6</sup> [www.seta.fi](http://www.seta.fi) > Ajankohtaista 10.4.2007.

<sup>7</sup> [www.seta.fi](http://www.seta.fi) > Ajankohtaista 2000.

## C.2. Criminal Law - Hate Crime

- [12]. Hate speech against LGBT groups or individuals may constitute several different types of crime as defined in the Penal Code, such as degradation of personal reputation or defamation or incitement against a population group. If hate speech takes place in the context of employment or education it may also constitute harassment under the Non-Discrimination Act. Homophobic motives may be taken into account as a ground for increasing the punishment for a common crime such as assault.<sup>9</sup>
- [13]. An amendment to the Penal Code was passed in 2003 with a view to making certain motivations grounds for increasing punishment. The amendment entered into force on Jan. 1, 2004. Accordingly, chapter 6, section 5 of the Penal Code now provides that ‘the following are grounds for increasing the punishment:....(4) the offence has been directed at a person belonging to a national, racial, ethnic or other population group due to his/her membership in such a group’. Although sexual minorities are not expressly referred to, it is clear from the pertinent preparatory works—that are generally of major significance for interpretation in Finnish legal culture—that the provision is meant to be applicable to crimes motivated by hatred against sexual minorities.<sup>10</sup> There is no case law on this issue, however. In principle, the provision could be applied to all types of crimes.<sup>11</sup>
- [14]. There are no statistics or assessments on the prevalence of homophobic or transphobic hate crimes in Finland. According to SETA, however, violence against sexual and gender minorities in Finland is a problem and an area to be addressed by police and Public Authorities.<sup>12</sup>

## C.3. Freedom of Assembly

- [15]. The Constitution and the Assembly Act provide strong protection for the right to exercise the freedom of assembly. Everyone has the right to arrange demonstrations and other public meetings without a permit, as well as the right to participate in them.<sup>13</sup>
- [16]. A small group of Christian fundamentalist extremists<sup>14</sup> have acted in counter-demonstration and verbally harassed LGBT Pride events in recent years.<sup>15</sup>

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<sup>8</sup> <http://toivottulapsi.wordpress.com/>

<sup>9</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

<sup>10</sup> HE 44/2002 vp, p. 203 ff.

<sup>11</sup> *Idem*.

<sup>12</sup> Field trip meeting with SETA (Finland, 3 March 2008).

<sup>13</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

<sup>14</sup> This group belong to the Pentecostal revival movement.

#### C.4. Family and Other Social Issues

- [17]. Since the late 1980s there have been two major legislative steps in terms of LGBT families. The Law on Registered Partnership for same-sex couples was adopted in 2001 and the Fertility Treatment Act which was adopted in 2006.
- [18]. At the time of writing, the Ministry of Justice has prepared a memorandum and a law proposal on internal adoption of children for registered partners, which would enable partners to adopt each others' children. Families with three or four parents, which are called three- or four-leaf clover families and are not unusual among LGBT families, fall out of the scope of this proposed law. Family external adoption of children also falls out of the scope of the proposed law.
- [19]. A recent study on LGBT families points out that LGBT families experience discrimination. Nineteen per cent of respondents (N=178) had experienced discrimination in some services. The qualitative analysis of the data, as well as previous research, suggests that discrimination is often based on the fact that practices in social welfare and health services (including fertility clinic services) are designed for heterosexual nuclear families, often making them unsuitable for LGBT families. Discriminatory dimensions were also reported in the dialogue with daycare centers and schools.<sup>16</sup>

#### C.5. The Labour Market

- [20]. Directive 2000/78/EC was transposed into national law primarily by means of the adoption of the Non-Discrimination Act [*yhdenvertaisuuslaki (21/2004)*]. The Non-Discrimination Act is a general piece of legislation in the sense that its overall material scope is wide and it covers several discrimination grounds.
- [21]. There is no equality body in Finland dealing with discrimination on the ground of sexual orientation. The Ombudsman for Minorities deals only with discrimination on the grounds of ethnic origin and the Ombudsman for Equality deals with gender equality, including discrimination on the grounds of transsexuality, but not sexual orientation
- [22]. Available information suggests that the number of discrimination cases is low.
- [23]. The study of the Finnish Equal project *Sexual and Gender Minorities at Work* was conducted at the Department of Sociology of the

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<sup>15</sup> K. Mustola (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Finland*. Sociological Country Report.

<sup>16</sup> K. Mustola (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Finland*. Sociological Country Report.

University of Helsinki in cooperation with the National Research and Development Centre for Welfare and Health Stakes and SETA. It used both quantitative and qualitative methods.<sup>17</sup> Part of the study objective, in which 726 LGB persons and 108 transgender persons participated, was to examine the level of disclosure of sexual orientation on behalf of sexual minorities and transpersons in the workplace.

- [24]. The study showed that half of the LGBT respondents hid their sexual orientation or gender identity from all or most of their co-workers.<sup>18</sup> Almost 50 per cent of all of lesbian, gay or bisexual employees in the sample had been subject to harassment (for example jokes about 'trannies' or 'queers') and the percentage was higher among those who concealed their sexual orientation than those who were open. Twelve per cent of lesbian, gay or bisexual employees had experienced bullying at work because of their sexual orientation.
- [25]. Evidence from the survey showed that the effects of hiding sexual orientation can cause anxiety and ill-health, which can lead to frequent sick leave and isolation from other members of the workplace.<sup>19</sup>

## C.6. Education

- [26]. The sample of the *Sexual and Gender Minorities at Work* project's questionnaire included 30 responses from lesbian, gay and bisexual teachers. Findings showed that most teachers concealed their sexual orientation from their pupils. A majority of the teachers also concealed their sexual orientation from other teachers and an even greater number from their superiors. Nevertheless, colleagues were told more often than pupils.<sup>20</sup>
- [27]. The findings also showed that pupils' parents played an important role in determining openness in schools. Teachers were afraid of parents' reactions, and were sometimes told by principals or other teachers that the teachers' homosexuality should be concealed from parents.<sup>21</sup>

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<sup>17</sup> J. Lehtonen & K Mustola (Eds.) (2004) "Straight people don't tell, do they...": Negotiating the boundaries of sexuality and gender at work. *ESF Research Report Series 2b/2004*. Helsinki: Ministry of Labour.

<sup>18</sup> J. Lehtonen & K Mustola (Eds.) (2004) "Straight people don't tell, do they...": Negotiating the boundaries of sexuality and gender at work. *ESF Research Report Series 2b/2004*. Helsinki: Ministry of Labour.

<sup>19</sup> J. Lehtonen & K Mustola (Eds.) (2004) "Straight people don't tell, do they...": Negotiating the boundaries of sexuality and gender at work. *ESF Research Report Series 2b/2004*. Helsinki: Ministry of Labour. Lehtonen & Mustola 2004.

<sup>20</sup> J. Lehtonen & K Mustola (Eds.) (2004) "Straight people don't tell, do they...": Negotiating the boundaries of sexuality and gender at work. *ESF Research Report Series 2b/2004*. Helsinki: Ministry of Labour. Lehtonen & Mustola 2004.

<sup>21</sup> M. Valkonen (2003) *Avoimena ammatissa. Homo-, lesbo- ja bi-opettajien kokemuksia*; J. Lehtonen & K Mustola (Eds.) (2004) "Straight people don't tell, do they...": Negotiating the

- [28]. There is limited data on the experiences of LGBT pupils in schools. In his doctoral thesis *Sexuality and Gender at School: The Perspective of Heteronormativity and the Stories of Non-Heterosexual Young People*,<sup>22</sup> Jukka Lehtonen studied the way sexuality and gender were expressed among young persons at school. The study showed that heterosexual masculinity for men and heterosexual femininity for women are conceived as something natural and depicted as the only present and future alternative. Other alternatives are not brought up, or they are presented as something questionable or otherwise negative.<sup>23</sup>

## C.7. Health Service

- [29]. There is no systematic research available on LGBT and healthcare issues. According to SETA there is lack of awareness of LGBT issues among healthcare professionals. As a consequence trans people are met with mistreatment and transphobia.

## C.8. Religion

- [30]. Finland has two national churches: the Evangelical Lutheran Church, with a membership of 83 percent of the population, and the Finnish Orthodox Church, with 1 percent of the population.<sup>24</sup> Both are considered conservative in terms of LGBT issues.<sup>25</sup>
- [31]. A positive step was identified when the bishop of Kuopio diocese, began to defend same sex partnerships despite strong reactions of some conservative Christians.<sup>26</sup>
- [32]. Gays, lesbians and trans persons who work in the Lutheran Church or are in other ways active in the local parishes have kept their identity more or less secret because of the fear of rejection. There are very few openly homosexual or trans priests. In the project *Sexual and Gender Minorities at Work*, Katri Valve interviewed 10 persons working in the Lutheran Church.<sup>27</sup>

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boundaries of sexuality and gender at work. *ESF Research Report Series 2b/2004*. Helsinki: Ministry of Labour. Lehtonen & Mustola 2004.

<sup>22</sup> J. Lehtonen (2003) *Seksuaalisuus ja sukupuoli koulussa: Näkökulmana heteronormatiivisuus ja ei-heteroseksuaalisten nuorten kertomukset*. Helsinki: Yliopistopaino. (English summary included). <http://ethesis.helsinki.fi/julkaisut/val/sosio/vk/lehtonen/>

<sup>23</sup> J. Lehtonen (2003) *Seksuaalisuus ja sukupuoli koulussa: Näkökulmana heteronormatiivisuus ja ei-heteroseksuaalisten nuorten kertomukset*. Helsinki: Yliopistopaino. (English summary included). <http://ethesis.helsinki.fi/julkaisut/val/sosio/vk/lehtonen/>

<sup>24</sup> Additionally, 1 percent belongs to other official religious communities and 15 percent have no official religious affiliation. Source: Population structure of Finland by end of the year 2005.

<sup>25</sup> K. Mustola (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Finland*. Sociological Country Report.

<sup>26</sup> K. Mustola (2008) *The situation concerning homophobia and discrimination on grounds of sexual orientation in Finland*. Sociological Country Report.

<sup>27</sup> K. Valve (2004) "Vocation and the Everyday: Lesbian, Gay and Bisexual Employees' Experiences in Different Work Communities within the Church". In: Lehtonen, Jukka &

- [33]. Several of the interviewees worked outside their place of residence in order to protect their privacy. According to one interviewee, it was a question of maintaining one's sanity. Some referred to having a 'bishop's box'—an extra flat where neither of the partners actually lived. Others had taken various measures to prevent their private lives from becoming public knowledge in the congregation or the work community.<sup>28</sup>
- [34]. For people working in the various work communities within the Church, discrimination or fear due to sexual orientation is part of everyday reality. Among the interviewees, however, only some had experienced discrimination. Internalised discrimination, secrecy and the suppression of certain matters were mentioned as forms of discrimination that reflected the internal culture of the workplace. For many persons, internalised discrimination has evolved into a way of coping—a vicious circle that is difficult to escape. Experiences of direct discrimination listed by interviewees included non-communication, ignoring, men being called sissies, and discrimination in recruitment.

## C.9. Sports

- [35]. There is no data available on homophobia and transphobia in sports.
- [36]. The Finnish Sports Federation conducted a project to combat homophobia and transphobia in sport. The Federation published a guidebook, *Involved and Visible: Sexual and Gender Minorities in Sports and Physical Activities*, in Finnish, Swedish and English, and distributed it on the Internet.<sup>29</sup> Educator's material was also made available. The purpose of the guidebook is to highlight questions related to sexual and gender minorities in sport and physical activities, to replace myths with facts and to provide useful practices for everyday dilemmas.

## C.10. Media

- [37]. Media concerning sexual orientation have mainly focussed on debates concerning the laws on registered partnership and assisted reproduction.

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Mustola, Kati (Eds.) "Straight people don't tell, do they...": Negotiating the boundaries of sexuality and gender at work. *ESF Research Report Series 2b/2004*. Helsinki: Ministry of Labour, 224-237..

<sup>28</sup> K. Valve (2004) "Vocation and the Everyday: Lesbian, Gay and Bisexual Employees' Experiences in Different Work Communities within the Church". In: Lehtonen, Jukka & Mustola, Kati (Eds.) "Straight people don't tell, do they...": Negotiating the boundaries of sexuality and gender at work. *ESF Research Report Series 2b/2004*. Helsinki: Ministry of Labour, 224-237.

<sup>29</sup> [http://slu-fi-bin.directo.fi/@Bin/85246e2eaf782b3ae0ea861648bb9ef3/1212873391/application/pdf/107874/slu\\_tasa\\_arvo\\_englanti\\_11064.pdf](http://slu-fi-bin.directo.fi/@Bin/85246e2eaf782b3ae0ea861648bb9ef3/1212873391/application/pdf/107874/slu_tasa_arvo_englanti_11064.pdf)

- [38]. According to Sari Charpentier (2004), Finnish discussions about lesbian and gay rights often include an audible component of religion. In both academic and common thinking, this religiosity has thus far been represented by Christianity, which in Finland mostly means Lutheran Christianity. In party politics, a few members of the Christian Democratic Party have been active in opposing same-sex unions and promoting heterosexual marriage. Letters to the editor often refer to the Christian God and the Bible.<sup>30</sup>

### C.11. Asylum and Subsidiary Protection

- [39]. Under the Aliens Act, non-citizens may be granted asylum if they reside outside their home country due to a well-founded fear of being persecuted for reasons of ‘membership in a particular social group’. In light of both preparatory works to the Aliens Act and case law, persecution on the grounds of sexual orientation is to be considered persecution for reasons of membership in a particular social group within the meaning of the said law. Family members, including LGBT partners, of persons who have been granted asylum or subsidiary protection are, upon application, also issued a residence permit.<sup>31</sup>
- [40]. There is no data available on the numbers or experiences of LGBT persons seeking asylum on the ground of sexual orientation.

### C.12. Family Reunification

- [41]. A family member of a third country national residing in Finland may be issued a residence permit on the basis of family ties. The material provisions regarding family reunification apply equally to married spouses and individuals in a registered partnership, and to different-sex couples living in a marriage-like relationship and same-sex couples living in such a relationship. Under the Aliens Act, when a non-national is issued a residence permit, his/her family members are issued a similar permit for the same period of time.<sup>32</sup>
- [42]. There is no data available on the numbers or experiences of LGBT persons seeking family reunification

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<sup>30</sup> S. Charpentier, Sari (2000) “Gender, Body and the Sacred: Heterosexual Hegemony as a Sacred Order” *Queen. Journal of Rhetorics and Power* 1:1; S. Charpentier, (2001) *Sukupuoliuskko. Valta, sukupuoli ja pyhä avioliitto lesbo- ja homoliittokeskustelussa*. Jyväskylä: Jyväskylän yliopisto, Nykykulttuurin tutkimusyksikön julkaisuja 69.

<sup>31</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

<sup>32</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

### C.13. Transgender Issues

- [43]. The issue of discrimination against transgender persons is not specifically addressed in Finnish law. The prevailing legal opinion, as well as the practice of the Ombudsman for Equality, support the interpretation that the law regarding equality and non-discrimination between women and men applies to discrimination against transgender persons.<sup>33</sup>
- [44]. There is a specific piece of legislation that governs the official recognition of the sex of a transsexual person. The new *de facto* sex of a person shall be legally recognised *ex officio* (i.e. there is no room for discretion), provided that certain conditions laid down in law are met. A person whose new *de jure* sex has been recognised by the competent authorities is to be treated as a person of that sex for all purposes under the law, including change of name.<sup>34</sup>
- [45]. Statistics about the number of individuals who have changed their *de jure* sex is not readily available, nor are statistics about the number of persons who have changed their name for these reasons. However, the Population Register Center intends to prepare these statistics in 2008. No case law interpreting the laws in question could be found from the case law database FINLEX or the pertinent legal literature.<sup>35</sup>
- [46]. At the time of writing The Equality Ombudsman is handling 5-6 cases regarding transgender persons. An example of a pending case is a transsexual's need for a separate changing room when attending a public swimming pool.<sup>36</sup>

### C.14. Multiple Discrimination

- [47]. There is no data available.

## D. Good Practice

- [48]. Good practices are described in Annex 1.

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<sup>33</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

<sup>34</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

<sup>35</sup> M. Scheinin and T. Makkonen (2008) *Legal Study on Homophobia and Discrimination on Grounds of Sexual Orientation*. FRALEX.

<sup>36</sup> Field trip meeting with the *Equality Ombudsman* (Finland 4 April 2008).