

The impact of the Racial Equality Directive: a survey of
trade unions and employers in the Member States of the
European Union

Finland

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1. Demographic background

Since the immigration policies of Finland have been very restrictive, there are very few people from other ethnic backgrounds. The main exception is the Swedish speaking population (*constituting about six percent of the total population of Finland*), which goes back to the long period of Finland being a part of the Swedish-Finland monarchy until 1809. The Swedish speaking population is well integrated in society and is mainly to be found among the middle class. The number of foreign citizens in Finland is around 2.5 per cent of the 5.3m population.

In 2005 there were 113,852 foreign citizens in Finland. Approximately 40 percent of Finland's foreign community is from the former Soviet Union. Of this group about 25,000 are Ingrian Finns and about 10,000 are Estonian. The immigrant population in Finland will probably become more diverse in the future. According to the forecast of Statistics Finland (*Tilastokeskus*), net immigration until 2010 is estimated at around 3,000 per year.

The number of foreigners in Finland includes over 20,000 refugees. In the 1970's Finland first accepted refugees from Chile and Vietnam. The Finnish refugee policy has been quite restrictive. Since 1986 there has been an annual refugee quota established with the UNHCR. Initially it was at the level of 500 individuals but has subsequently been increased to 750, the eventual annual target being 1,000 persons. The biggest refugee groups have been the Somalis, the citizens of the former Yugoslavia and the Vietnamese. During the last few years there has been an increase of asylum seekers arriving in Finland from Eastern European countries.

2. Industrial relations background

The Finnish Employment relations system is based on collective agreements between the employers' organisations and the trade unions. The most important legal basis for this is the Collective Agreement Act (1946), which is complemented by framework agreements between trade union confederations and employer organizations. Both trade union density and employers' organisational density is over 70 percent and has been stable in recent decades.

Labour market relations are characterized by close cooperation between the state and the social partners. Almost all legislation concerning working life is based on a tripartite consensus. An emerging trend during the most recent incomes policy agreements was the so-called continuous negotiation system. Under this system, the social partners took charge of different kinds of joint projects and working groups during the agreement period. Through a system of continuous negotiation, the signatory parties launched several mutual projects to improve working lives. The framework of working lives can be enhanced through joint development projects and by highlighting best practices. The scope of the continuous negotiation system also includes matters that should be considered on a bipartite basis between employer and trade union representatives or on a tripartite basis, encompassing the government as well.

Finnish trade unions cooperate closely with the government and with employers on anti-discrimination issues. Two jointly produced booklets were published, one in 2004 and another in 2007. The main trade union confederation has also supported individuals taking claims to the national Equality Body. The unions wish to keep discrimination on ethnic and racial grounds distinct from gender equality issues, and have reported a rising number of cases.

3. Trade union and employer awareness

All trade union representatives in this study were well aware of the Racial Equality Directive and the Finnish legislation on discrimination. The level of awareness was also high among employers and employees, even if there are ethnic groups in the labour market who are not aware of Finnish working life regulations, such as the case with Polish migrant workers (*Jokivuori 2008*). According to the legal adviser of SAK, ethnic minority workers are not very aware of their rights under the Racial Equality Directive and national legislation:

'I think that ordinary workers may indeed not be aware of certain directive or the content of the legislation, but they should be aware of their rights as employees' (respondent of SAK).'

Finnish employers have been seeking to recruit significant numbers of migrants to work in Finland, and have therefore placed migration and anti-discrimination high on their agenda. They suggest that the most important area of discrimination is associated with sub-contracting and the use of foreign labour. A construction industry employer representative said:

'I would say that the new legislation is not very effective. There is a common consensus of decent and equitable treatment for all kinds of employees in the Finnish society. The problem in the construction field is the unorganised, uncontrolled company where, for instance, wage discrimination amongst foreign or ethnic minority workers occurs sometimes.'

4. Comments on the Equality Body

Representatives of the trade unions and employer organisations were aware of Finland's Equality Body and they closely cooperated with it on the issue of discrimination.

In Finland, these kinds of issues are a strong focus of tripartite cooperation. The tripartite cooperation on this issue has meant a lot of meetings and joint arrangements. The 2000 EU Racial Equality Directive was introduced into the tripartite consultation and process. The Ministry of Labour represented the government, and all main employer confederations and all three trade union federations were involved.

At present, social parties have a joint tripartite committee (*yhdenvertaisuustoimikunta*) that is preparing reforms in the discrimination legislation. The committee's secretariats hosted by the Ministry of Justice and social parties have a representative in it. According to the trade union side, ethnic/racial discrimination and equal (gender) questions should be kept apart. The committee has published an interim report in January 2008.

5. Trade union and employer policies and measures

5.1 Trade union policies and measures

Trade unions give legal aid to their members in the case of racial discrimination as in other cases:

'Consultation in cases like ethnic discrimination is a part of normal consultation that central trade union confederation gives to its affiliated unions and members.'
(Representative of SAK)

There have been some lawsuits concerning this matter where SAK has provided legal assistance. The Ministry of Justice keeps statistics concerning lawsuits related to racial discrimination.

In the training of shop stewards, issues concerning non-discrimination have been widely discussed. Trade unions have trained their shop stewards in this legislation, and there have been special regional seminars on ethnic discrimination annually.

On a webpage of the trade unions, information is available in many languages (Finnish, Swedish, English Russian, Estonian and Polish). For instance, on the webpage of the Construction Trade Union (*Rakennusliitto, RL*) many kinds of information are available for foreign workers (*Workingliferules in Finland*) including social security and taxation issues). RL has been very active in monitoring working conditions amongst ethnic minority workers in Finland. RL has a close cooperation with the industrial safety districts in this matter. There have been several cases where foreign workers have been paid less than the collective agreement rates. RL has established a special local trade union for immigrant (foreign) workers. This local trade union of RL has about 900 members, and the idea of having their own local trade union is for this to be a place for practical training (running-in) of trade union activities.

A brochure called Equality Act – a toolkit against discrimination was designed by the STOP – Finland Forward without Discrimination - project in 2004. A booklet called Mahmoud, Mertsi ja Maija (*Mahmoud, Mertsi and Maija - Diversified workplace and anti-racial workday*) is a joint publication distributed to workplaces. A booklet was introduced in the European Year of Equal Opportunities (2007).

Trade unions have supported their members in taking discrimination complaints. For instance, the Service Union United PAM has supported its members in cases related to

race discrimination in the courts. There have been few lawsuits in this matter. The most important form of support is guidance and consultation on what to do in discrimination cases. PAM's representative said:

'If it seems that there is law-breaking, we will give legal assistance. Of course, first we are in contact with the employer and workplace involved.'

5.2 Employer policies and measures

The Managing Director of the Confederation of Finnish Industries (*Elinkeinoelämän keskusliitto, EK*), Leif Fagernäs, has recently stated that Finland needs thousands of new foreign workers a year (*Jokivuori 2007*). Thus, the enhancement of immigration and non-discrimination policy has been a key topic on the employers' agenda. Employer organisations have been in close cooperation with trade union federations in producing and publishing anti-discrimination materials.

In the public sector (local government), one of the most important effects of the new law is the fact that every municipality must draw up an equality plan (*yhdenvertaisuusuunnitelma*) at the municipal level. This equality plan contains conscious strategic planning as to how the municipal authority can improve ethnic anti-discrimination and the recruitment of ethnic minority workers in certain district.

The representative of the Confederation of Finnish Construction Industries (*Rakennusteollisuus, RT*) states that the most important field concerning non-discrimination is increased control of subcontracting and hired workforces that often use foreign labour. It can reveal cases of discrimination in the employment of foreign minors through sub-contractors, as direct employment of minors is not very common.

'It is difficult to evaluate whether these legislative changes are the result of the Directive and the new legislation, or are they the result of the fact that labour mobility has increased and these kinds of problems have been occurring more and more often recently.'

The promotion of immigration is mentioned in the Government's policy programme. An example of the impact of new legislation at the national political context level is that a new law concerning the responsibility of contractors and the use of hired workers and external labour came into force on 1 January 2007. The purpose of the new law is partly to create better preconditions for subscriber enterprises to ensure that their subcontractors are adhering to collective agreements and employer statutory obligations. Additional resources, in the form of 12 new posts in industrial safety districts, to monitor adherence to employment terms are ensured in the areas of subcontracting and hired work. The law improves the possibilities of shop stewards being able to access information related to the use of external labour (see *Jokivuori 2006*).

Employers have also been involved in the production of the aforementioned brochure entitled Equality Act – a toolkit against discrimination.

6. Views on how better to tackle discrimination

The principal Finnish employers' organisation (EK) opposes the idea of introducing sanctions against employers, and considers that:

'In the field of anti-discrimination, the inculcation of enlightened attitudes through education and, for instance, best practices at the European level (what are the national-specific problems and how they have been solved in different countries) are more useful than more legal paragraphs.'

The representatives of the employer organisations highlight that the effectiveness of the law cannot be improved through sanctions. Some representatives of the employer organisations emphasized that more control, and in particular more specific control, is needed. The respondent of the Confederation of Finnish Construction Industries (*Rakennusteollisuus, RT*) emphasizes that more control, and in particular more specified control, is needed in the construction field:

'More information, more resources and more specific allocation of monitoring are the most important elements that can improve the effectiveness of the law.'

A representative of the Federation of Finnish Commerce (*Suomen Kaupan Liitto, SKL*) state:

'Social partners in the commerce field can surely cooperation more in this field. Discussions, examples of good practices and so on, [are needed] especially after this economic recession has passed, when more labour from abroad and immigrants are needed to the Finnish labour market.'

A respondent representing City of Jyväskylä (*municipal employer*) says:

'The effectiveness of the law can be best improved in this way so that in every workplace there should be at least one ethnic minority worker. We should have a directive that at least one ethnic minority worker should be in every workplace. Of course, this is idealism. Anyway, I want to believe that this legislation has eliminated at least the most outrageous discrimination'.

According to her, active and conscious recruitment policies in organisations are a key instrument to improve recruitment of ethnic minority workers.

SAK has expressed the view that organisations (*like trade unions*) should have a right to support class action in equality cases. SAK considers that trade unions should also have the ability to take action in this matter. In this way, the effectiveness of the legislation can be improved.

A representative of the Construction Trade Union (*Rakennusliitto*) highlights that trade unions should treat their members equally. Trade unions should be active in the area of non-discrimination. The respondent of Rakennusliitto stated that the role of trade unions was essential in monitoring equal treatment of employees and multiculturalism. She stated:

'So, trade unions ought to have more training courses and more discussions and dialogue to its representatives in this matter and more trade union cooperation too.'

A respondent representing the Union of Professional Engineers in Finland (*Uusi Insinööriliitto, UIL*) stated:

'... first in mind is the meaning of the increased information, but there is always this problem of information expanding. So, the good question is what the information should be aimed at. Anyway, I see that information is a key element in the effectiveness of the law.'

An interviewee representing the Service Union United (*Palvelualojen ammattiiliitto, PAM*) stated:

'Despite the fact that the law is not well known, it (a special law concerning non-discrimination) exists. The law can be improved by more powerful official supervision, and of course information and training of shop stewards, and more effective cooperation between trade unions. Because equality is a core value of trade unions.'

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