



2009

ANNUAL REPORT

of the Ombudsman for Minorities



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Human rights are front and

Since the beginning of 2009, the Ombudsman for Minorities has also been the National Rapporteur on Trafficking in Human Beings. A report on children's rights in the asylum procedure was also prepared during the reporting year. A proposal for reforming the Non-Discrimination Act completed at the end of the year set a target for equal treatment in all cases regardless of the grounds for discrimination and presupposed more effective intervention in cases of discrimination.

The changes that took place during the reporting year further highlighted the importance of the human rights perspective in the work of the Ombudsman for Minorities. Non-discrimination and humane treatment are the right of every person, regardless of their origin, nationality, gender and other personal factors. The material presented in this annual report shows that much still needs to be done to achieve equality.

Tougher attitudes have contributed to making the situation more difficult over the past year. The Ombudsman for Minori-

ties has consistently emphasised the need for open and, if necessary, critical discussion on immigration – as is the case with other social issues. However, the discussion should not be one-sided nor should it generalise broadly or directly label different groups in a manner that complicates the life of people who are already in a difficult position. For example, the EU Agency for Fundamental Rights (FRA) reported particularly on racist attacks targeting Somalis in Finland during the year.

A positive development in this area is the Government Report to Parliament on the Human Rights Policy of Finland published in 2009. This report provides the first extensive review of the human rights situation in Finland. One important proposal contained in the report is the drafting of a Sami language revitalisation programme. The Ombudsman for Minorities concurs with the assessment of the urgent need for measures concerning the Sami language.

Acting as the National Rapporteur on Trafficking in Human Beings has opened up a new chapter in the activities of the Ombudsman for Minorities. Awareness

of the phenomenon of human trafficking has undoubtedly increased in recent years – few people would deny that this issue affects Finland. Another positive factor in Finland is the broad-based cooperation aimed at improving the effectiveness of actions to prevent human trafficking.

However, it has also become apparent during the year that there are still problems related to identifying victims of human trafficking. The victim rights perspective can become lost under the pressures of criminal justice. There are currently many groups in Finland about whose conditions only sporadic information is available, thus making it difficult to detect abuse and possible phenomena related to human trafficking. Such groups include Thai berry-pickers, Roma beggars and some people who have come to Finland via labour migration. During the reporting year, the Ombudsman for Minorities issued recommendations for ensuring the minimum rights of berry-pickers.

In 2009, the Ombudsman for Minorities received funding from the Ministry of the Interior for a project concerning the best

centre as activities expand

interests of the child in decision-making related to asylum and refugee procedures. The report concluded that the best interests of the child are often considered in quite a superficial manner. It would be appropriate to accurately determine what the best interests of the child mean in each case, and to also take this into account when making decisions.

The report also showed that, when speaking of minor asylum seekers, the focus often seemed to be on the first part of the phrase. However, the fact that a child is involved should always be kept in mind. When interviewing minor asylum seekers, it became clear that those involved are often young people in a very vulnerable position, whose understanding of the Finnish asylum and reception system can be very unclear.

During the year, the Ombudsman for Minorities launched a project to develop advisory services against discrimination in cooperation with the Ministry of the Interior Legal Affairs Unit. Although the Office of the Ombudsman for Minorities receives

contacts from all over Finland, the fact that the office only has a location in Helsinki still presents a challenge.

The aim is to test cooperation between a coalition of organisations, victim support, and the municipality in three different locations, and to use the results to develop a model for the future.

Efforts to improve the effectiveness of anti-discrimination activities also focused on a legislative project of crucial importance to the Ombudsman for Minorities, which was in progress during the year: the overall reform of the Non-Discrimination Act. The Ministry of Justice's Equality Committee, in which the Ombudsman for Minorities also participated, proposed that the scope of the Non-Discrimination Act be extended. Discrimination would be prohibited for all reasons relating to person. Compliance with the Act would be supervised by the new Ombudsman for Equality together with the Equality Committee and, with regard to working life, the Occupational Safety and Health Inspectorates.

The reform of the Non-Discrimination Act highlighted the fact that discrimina-

tion issues are related to many different areas of life – work, services, education, etc. – and the fact that different viewpoints exist on the matter. On the other hand, the broad spectrum of feedback from citizens received by the Committee indicates the need for reform: discrimination occurs in Finland on many different grounds and the intervention methods now available are considered insufficient. With regard to the sector led by the Ombudsman for Minorities, it is of the utmost importance to ensure that a substantial proposal for developing equality and non-discrimination legislation – even one that contains deficiencies – is implemented.



Johanna Suurpää
Ombudsman for Minorities



The



International conventions and statutes, the most important of which is the United Nations Convention on the Rights of the Child, place Finland under an obligation to give primary consideration to the best interests of the child.

status of minor immigrants

Growth in the number of immigrants, the establishment of new reception centres for asylum seekers and a clear increase in the number of unaccompanied minor asylum seekers were the subject of lively discussion in 2009. This discussion was closely linked to the amendments to the Aliens Act aimed at harmonising the national legislation to correspond with the relevant EU Directive, which were under deliberation in Parliament at the end of 2008.

At the same time, judicial and legal protection issues relating to age determination were also in the public eye. There were no statutes or clear guidelines for age determination, and practices used to determine age varied in different municipalities.

International conventions and statutes, the most important of which being the United Nations Convention on the Rights of the Child, place Finland under an obligation to give primary consideration to the best interests of the child in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies. Moreover, Finland has undertaken a commitment to treat children seeking asylum in the first place as children, to secure their right to life, the conditions for survival and devel-

opment, protection and care, their own identity and equal treatment. Finland is further committed to preventing the kidnapping, sale and trafficking of children and all forms of abuse and exploitation of children, and to protecting victims of human trafficking.

Report on the realisation of the rights of minor asylum seekers and refugees

The Ombudsman for Minorities produced a report on how the best interests of the child are recognised in decisions concerning minor asylum seekers and refugees. The report was based on the Government Programme objective to draft a report on the subject, and it was funded by the Ministry of the Interior.

The report mainly focused on the status and treatment of unaccompanied minor asylum seekers. Treatment of accompanied minor asylum seekers will be addressed in as far as it differs from that of unaccompanied children. The parties heard in drafting the report were the authorities involved in the asylum procedure and reception of minors, the representatives of organisations dealing with issues relating to the best interests of the child, and the minor asylum seekers themselves.

In practice, the best interests of the child are not always evaluated sufficiently in the asylum procedure, or they are not the primary evaluation criteria. Children may be refused the right to their identity or the possibility of family reunification

without assessment of the child's best interests.

With increasing frequency, the age given by the child is questioned, and on the other hand, the required consent to age determination tests is not in practice based on voluntary consent, but on what is experienced as compulsion by the child.

Another problem observed was that minor asylum seekers are returned as so-called Dublin cases to other EU Member States without sufficient assessment of the child's best interests, their being a victim of human trafficking or the risk of victimisation. Among these cases there are, however, extremely vulnerable children, regarding whom it is suspected that they may have been victimised in another Member State, for example, due to shortcomings in reception centre conditions in the state in question, or they may for the same reason be at a very grave risk of becoming victims if returned to that state.

The asylum process for minors is a very complicated and long one. The adults dealing with the child change, and the child's treatment and the actions of authorities also vary very much depending on where in Finland the child lives. After receiving a residence permit, fewer and fewer children have the possibility of family reunification. There is no after-care for young people after they have reached 18 years of age, and they are no longer within the scope of reception.

Reporting on



trafficking in human beings

The Ombudsman for Minorities assumed the role of National Rapporteur on Trafficking in Human Beings at the beginning of 2009 in accordance with the amendment to the Act on the Ombudsman for Minorities and the National Discrimination Tribunal. The background for this new mandate includes international recommendations and an entry in the Revised National Plan of Action Against Trafficking in Human Beings approved in 2008 concerning the appointment of the Ombudsman for Minorities to the position of National Rapporteur on Trafficking in Human Beings. The Rapporteur is an independent and autonomous actor. The new mandate led to the creation of one new senior officer's post in the Office of the Ombudsman for Minorities.

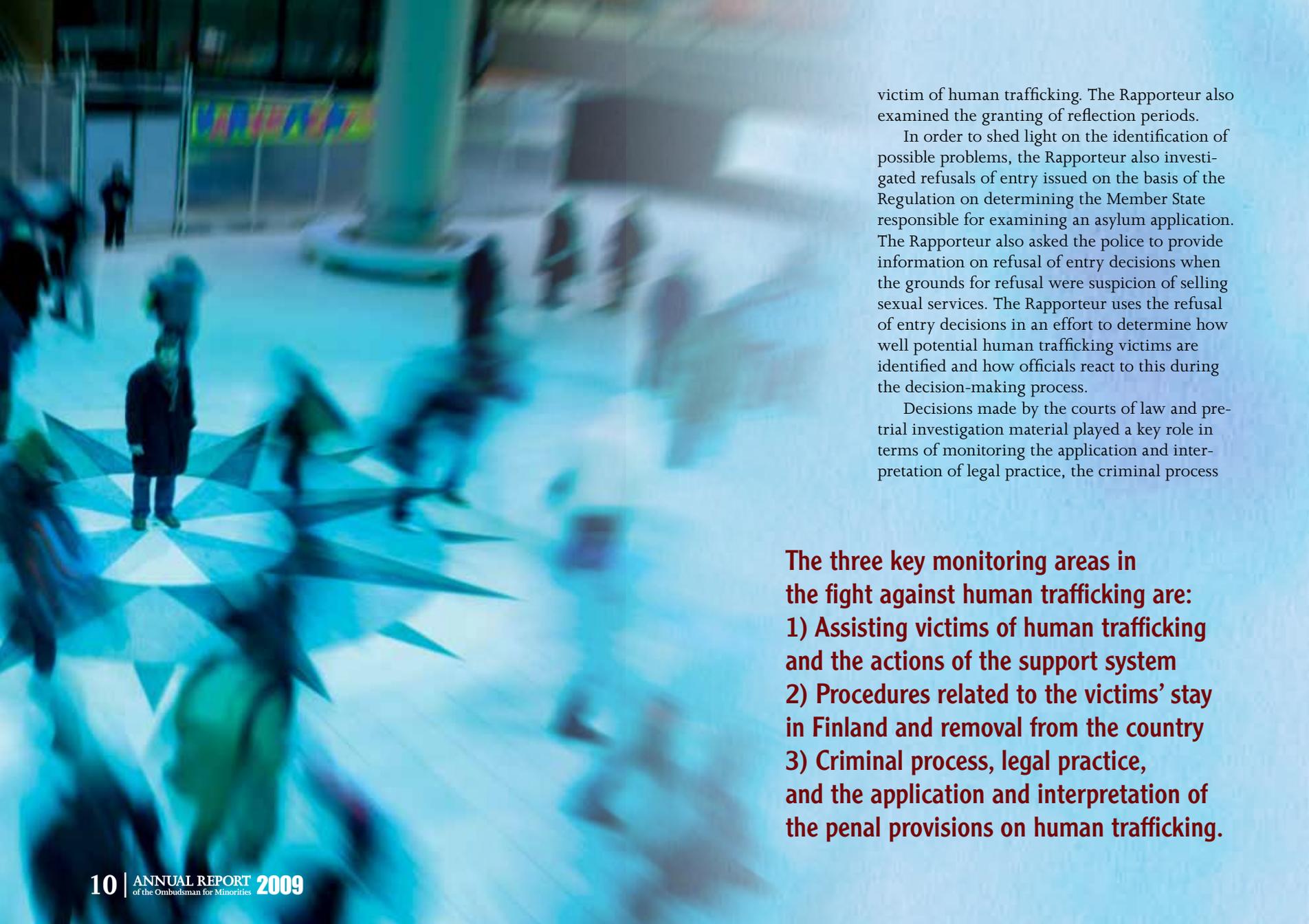
The Ombudsman for Minorities has started her work related to national human trafficking reporting by collecting and analysing information about human trafficking and related phenomena and the problems associated with combating human trafficking. This information has come from the authorities, key NGOs, labour market organisations and the courts of law. Based on the information received, the National Rapporteur on Trafficking in Human Beings has

aimed to assess action against human trafficking and the extent to which the rights of victims of human trafficking are realised in Finland.

During the first year, the National Rapporteur on Trafficking in Human Beings identified three key areas in the fight against human trafficking. The Rapporteur has focused special attention on the efficient functioning of these areas, all of which play an important role in properly identifying victims of human trafficking. These areas are 1) assisting victims of human trafficking and the actions of the support system for victims, 2) procedures related to the victims' stay in Finland and their removal from the country and 3) criminal process, legal practice, and the application and interpretation of the penal provisions on human trafficking.

In order to clarify the functioning of the three areas listed above, the National Rapporteur on Trafficking in Human Beings asked authorities and courts of law to provide material concerning the support systems for victims, the application of residence permit provisions, refusal of entry on various grounds, and the application of the penal provisions on human trafficking and related phenomena.

In order to assess the application of aliens legislation, the Rapporteur examined residence permit practices in relation to becoming a



victim of human trafficking. The Rapporteur also examined the granting of reflection periods.

In order to shed light on the identification of possible problems, the Rapporteur also investigated refusals of entry issued on the basis of the Regulation on determining the Member State responsible for examining an asylum application. The Rapporteur also asked the police to provide information on refusal of entry decisions when the grounds for refusal were suspicion of selling sexual services. The Rapporteur uses the refusal of entry decisions in an effort to determine how well potential human trafficking victims are identified and how officials react to this during the decision-making process.

Decisions made by the courts of law and pre-trial investigation material played a key role in terms of monitoring the application and interpretation of legal practice, the criminal process

The three key monitoring areas in the fight against human trafficking are:

- 1) Assisting victims of human trafficking and the actions of the support system**
- 2) Procedures related to the victims' stay in Finland and removal from the country**
- 3) Criminal process, legal practice, and the application and interpretation of the penal provisions on human trafficking.**

and the criteria for human trafficking. In addition to actual human trafficking cases, the Rapporteur examined the application of the Criminal Code with regard to phenomena closely related to human trafficking. The Rapporteur considers such phenomena to be procuring and discrimination at work tantamount to extortion.

Because there is very little court and pre-trial investigation material concerning labour trafficking and the related exploitation of labour, the National Rapporteur on Trafficking in Human Beings considered it necessary to examine labour exploitation situations in more detail in cooperation with the Occupational Safety and Health Inspectorates. The Rapporteur also attempted to clarify labour exploitation on the basis of reports published on topics such as the grey economy and foreign labour.

In March, the National Rapporteur on Trafficking in Human Beings issued a recommendation concerning legal advice and assistance for victims of human trafficking. The recommendation is based on the Rapporteur's observation that legal advice and/or assistance is not always available to all potential victims of human trafficking, even though their situation involves special questions that require legal expertise. In her recommendation, the Rapporteur states that, after preliminary identification, victims of human trafficking must be provided with information about the legal questions that concern them in a language that they understand, as soon as possible and without delay. Due to the wide variety of legal needs, the Rapporteur recommends that a personal support

In addition to actual human trafficking cases, the Rapporteur examined the application of the Criminal Code with regard to phenomena closely related to human trafficking. The Rapporteur considers such phenomena to be procuring and discrimination at work tantamount to extortion.

person be appointed for every person who is a possible victim of human trafficking. A legal advisor should also be appointed in cases where it can be assumed that becoming a victim of human trafficking will not lead to a pre-trial investigation and/or trial.

Furthermore, the Rapporteur sent a request for clarification concerning the refusal of entry based on the Aliens Act, when the grounds for refusal of entry are suspicion of selling sexual services. This request is based on the Rapporteur's observation of deficiencies in identifying the victims of human trafficking in situations where foreign persons are refused entry into the country under suspicion of selling sexual services.

In November 2009, the National Rapporteur on Trafficking in Human Beings sent a request aimed at safeguarding the status and rights of possible victims of human trafficking in criminal matters relating to beggars. The request was related to the concern felt by the Rapporteur about the situation of beggars and was based on information indicating that organised crime or even human trafficking might be associated with the phenomenon of begging. In her

request, the Rapporteur asked the relevant bodies to provide an explanation of how the police will attempt to safeguard the status and rights of possible victims of human trafficking in cases involving beggars.

In addition to the influence exercised by the Ombudsman for Minorities, in her first year as National Rapporteur on Trafficking in Human Beings, she also participated in the training of key actors in combating human trafficking. The Rapporteur kept abreast of court proceedings related to human trafficking, participated in several national and local meetings and international conferences on human trafficking and met representatives of international organisations in Finland and abroad. At the same time, the Rapporteur worked to create partnerships, networks and information channels with key authorities and third sector actors. Furthermore, the Rapporteur assisted several victims of human trafficking and directed dozens of other victims to the support system for victims of human trafficking. The first report of the National Rapporteur on Trafficking in Human Beings will be submitted to Parliament in spring 2010.



With regard to the deterioration in the economic situation, there were reports of a high threshold to entering the labour market along with poor employment terms and working conditions. Abusive situations in working life can also be linked with possible human trafficking.

Working life

In matters relating to working life, the Ombudsman for Minorities promotes anti-discrimination and good practices. The Ombudsman's operating methods with regard to discrimination in working life include initiatives, communication of good practices and recommendations. If necessary, the Ombudsman for Minorities clarifies legal practices related to discrimination in working life if the matter involves discrimination on grounds of ethnic origin as prohibited by the Non-Discrimination Act, and prepares independent reports relating to the subject. The Ombudsman for Minorities can also assist victims of discrimination or possible trafficking in human beings.

In 2009, the Ombudsman for Minorities continued to promote equality in the area of working life within the scope of her competence. During the reporting year, the Office of the Ombudsman for Minorities received about 100 contacts concerning discrimination or inappropriate treatment experienced in working life. People with a Roma background who had experienced discrimination in work placements and recruitment constituted a new client group in the area of working life. The level of cooperation and networking with trade unions also increased during the year.

The Advisory Board for Minority Issues discussed good practices in working life during the year. The Ombudsman for Minorities also participates in ongoing dialogue concerning discrimination issues, for example, with parties involved in working life and immigrant organisations. With regard to the deterioration in the economic situation during the year, there were reports of a high threshold to entering the labour market along with many incidences of poor terms of employment and working conditions. Abusive situations in working life may also be linked with possible human trafficking.

Supervision of employment relationship issues is the responsibility of the labour protection authorities in Finland. The Ombudsman for Minorities cooperates with the Occupational Safety and Health Inspectorates in cases related to working life.

Foreign berry-pickers and labour leasing companies

In 2009, the Ombudsman was contacted frequently concerning the conditions of Thai berry-pickers in Finland. Serious problems were observed in their living conditions, nutrition and other conditions. Despite working 15-hour days and the reasonably good berry crop last year, many of the pickers lost money



after paying the costs of their trip and accommodation.

Furthermore, the pickers are not in an employment relationship, but are considered to be subject to entrepreneurial risk. Without knowledge of conditions and rights in Finland and unable to speak Finnish, they are not truly capable of assessing the risks and are thus in a vulnerable position. The risk associated with the berry crop has been outsourced to the pickers, so the use of such workforce is quite risk-free for the company that has recruited them to Finland.

Thus, berry-picking in Finland may lead to situations in which people who are already in a vulnerable position become indebted. International experience indicates that being in debt increases people's susceptibility to phenomena related to human trafficking.

The Ombudsman for Minorities also drew attention to the fact that supervision of the pickers' conditions was almost non-existent. There is no supervision by the Occupational Safety and Health Inspectorates, Police, Ministry for Foreign Affairs or any other official body.

In 2009, the Ombudsman for Minorities

issued recommendations for improving the vulnerable position of foreign berry-pickers. A visa should only be granted to those recruiting companies that cover the cost of travel, accommodation and tools so that the picker is not left in debt after working in Finland. It would also be reasonable to consider some sort of minimum wage level for pickers who work a full day. Clearer and more transparent guidelines should govern the granting of visas to berry-pickers and the responsibility of the recruiting company.

The Ombudsman proposed a project to cover the picking season that would involve monitoring the conditions of berry-pickers as comprehensively as possible. Further measures could then be considered on the basis of experiences gained from such a project.

Settlement in work placement discrimination case

In 2009, a settlement was achieved in a matter where a senior officer appointed by the Ombudsman for Minorities assisted a person of Roma origin in a discrimination case that occurred during work placement.

The person had taken part in labour

The entrepreneur felt discriminated against on the basis of ethnic origin when a public limited company did not select the entrepreneur's company as a contract partner.

market training, which included a work placement period. The two-week work placement was terminated after a successful first day. The reason given was feedback from customers indicating that they could not accept the trainee delivering the goods due to the person's Roma background.

The company that offered the work placement claimed that it had only agreed to a two-day work orientation period rather than a two-week placement. The company reported that it had contacted the trainee at the end of the workday and passed on the feedback, according to which the trainee had not gained the trust of the customers.

The company refused to settle the matter, and consequently the senior officer appointed by the Ombudsman for Minorities assisted the trainee in taking the case to court. The trainee applied to the District Court to find the company guilty of direct discrimination on grounds of ethnic origin in violation of section 6 of the Non-Discrimination Act (21/2004) and to pay compensation to the trainee under section 9 of the Non-Discrimination Act (21/2004).

The matter was settled in a District Court hearing so that the company agreed to pay EUR 2,000 to the trainee. The settlement was confirmed by the court.

Inequality when filling public posts

In 2009, the Ombudsman for Minorities issued an opinion relating to a case in which a person of Roma origin was not selected for a permanent position. The Ombudsman for

Minorities considered that the person, who was working in a temporary public-service position, had been able to prove that they had more post-graduation experience than some of the people selected for the positions. The person involved also had more special expertise in areas such as the Roma language, which would have been beneficial in the post.

The Ombudsman for Minorities considered that the person in question was treated less favourably than others in the same situation and, based on the person's statement, there was reason to assume that presumption of discrimination as referred to in the Non-Discrimination Act had occurred.

The Ombudsman also drew the employer's attention to the drafting of an equality plan as required by the Non-Discrimination Act. Each authority must draw up an equality plan, which must be as extensive as required by the nature of the work of the authority, and a plan must also be drawn up of the authority's role as an employer.

Wearing of a head scarf while working in customer service

The Office of the Ombudsman for Minorities was contacted concerning the recruitment of cashiers at a retail shop. The person responsible for recruiting had reported that the retail chain regulations forbid the use of head scarves when working as a cashier. The person responsible for recruiting also said that other retail chains observed the same principle.

The Ombudsman for Minorities requested clarification of why it was considered neces-

sary to prohibit head scarves during work, and whether the possible prohibition only applied to certain types of head scarves. The company was also asked to indicate whether the interviewees had been informed of the possible ban on head scarves during their job interview.

Companies and discrimination

Contacts to the Office of the Ombudsman for Minorities may also bring up the question of who is protected by the Non-Discrimination Act. The Ombudsman for Minorities was contacted concerning a matter in which the parties were an entrepreneur of ethnic background and a public limited company. The entrepreneur felt discriminated against on the basis of ethnic origin because the public limited company did not select the entrepreneur's company as a contract partner. The Ombudsman for Minorities asked the National Discrimination Tribunal for a statement on the application of the Non-Discrimination Act to the case. Among other things, the Ombudsman asked the Tribunal for its opinion concerning whether a company can be considered to be the target of ethnic discrimination if unfavourable treatment appears to be linked to the entrepreneur's ethnic origin. In its statement the National Discrimination Tribunal stated that the Non-Discrimination Act does apply to such cases. The Tribunal also stated that one decisive factor concerns how directly an entrepreneur of ethnic origin is identified with the company and its operations.



In many cases, the customer felt that they were treated less favourably than other customers on account of their origin. However, it was often difficult to obtain proof of discrimination.

Provision of services

The Ombudsman for Minorities was contacted many times during the reporting year in cases concerning possible discrimination on grounds of ethnic origin in the provision of private services. As in earlier years, this type of discrimination typically arises with Roma people visiting a shop and with people of African origin trying to enter a restaurant.

Attention should be focused on the principles of customer service

In many cases, the customer felt that they were treated less favourably than other customers on account of their origin. However, it was often difficult to obtain proof of discrimination. In some cases, the problem may have been inadequate communication, leaving the customer with a feeling of being discriminated against. The Ombudsman for Minorities believes that shops and service providers should evaluate their customer service and the need for additional staff training in order to prevent situations in which customers feel discriminated against because of their ethnic origin.

Contacts received by the Ombudsman have revealed that the Roma feel as if they are being watched by guards or staff when they are in shops. The increased surveillance of guards and being followed around are perceived as insulting and disturbing. Negative attention is considered to label Roma customers in the eyes of other customers.

Problems in customer service

Questions of proof in discrimination cases can often be challenging. In many cases, this is only a matter of the differing views of the parties involved. However, a shop owner who provided a response in a 2009 case actually admitted that the Roma really were under special surveillance. The reason for this was the earlier difficulties caused by individual Roma. In this case, the shop owner agreed to change the discriminatory behaviour and the parties reached a settlement following mediation by the Ombudsman for Minorities.

The Ombudsman for Minorities also recommended a review of customer service practices and staff training in a case in which a customer felt discriminated against on a cruise. The customer had been subjected to a special inspection by officials of another country and felt that the ship's Finnish crew had failed to provide the appropriate support or defence. The customer believed that the treatment was due to ethnic origin.



Problems with access to bank services

During the year, the Ombudsman for Minorities was contacted by several people who had difficulty in opening a bank account or obtaining other bank services. The reason was often the person's inability to produce acceptable identification, in which case the bank based its requirement on legislation concerning money laundering. However, in practice not having bank services can make it difficult to work or receive benefits. For example, it may be impossible for refugees to obtain the required identification documents, or this may only be possible after a long delay.

On the other hand, the Ombudsman was also contacted by people who felt that they had been linked with money laundering mainly because of their ethnic origin. This type of contact came particularly from people of Russian origin.

The Office of the Ombudsman for Minorities was also contacted several times about situations in which a foreigner was asked to present a passport as proof of identity, even though EU citizens can travel without a passport.

Housing

Housing problems called to the attention of the Ombudsman for Minorities are typically associated with the difficulty that foreigners or Roma people have in obtaining rental accommodation. In practice, the problems are related to housing rentals offered both on the open market and by municipalities.

In recent years, there has been much public discussion on the tendency for immigrants and ethnic minorities to occupy certain city rental accommodation located in certain city districts and blocks. This phenomenon is also a global one in large cities, and the same kind of development is also visible in Finland. However, in Finland, the situation is not yet very advanced.

The Ombudsman for Minorities considers it important to offer immigrants and ethnic minorities a sufficient number of housing alternatives. In practice, this requires clear housing policy from both the State and municipalities and guidelines for community planning.

One of the side effects of this phenomenon is the tendency for disadvantaged people to inhabit certain city rental housing blocks while the more affluent mainstream population moves to other areas.

Some of the contacts give the Ombudsman for Minorities reason to assume that the city's housing office has not wanted to grant immigrants vacant accommodation from a residential block where a large number of immigrants already live. Other housing options were not available either. This is problematic if attempts to break up such concentrations lead to a situation in which no housing is available at all. The Ombudsman for Minorities considers it important that, rather than simply trying to correct phenomena related to housing segregation after the fact, the problems are anticipated in the planning phase by means of housing policy measures.

An identity card is enough

Two Polish workers were required to present a passport in order to open a bank account, although EU citizens are not required to carry a passport when crossing the border. In this case, the bank justified its requirement on grounds of money laundering legislation. However, the Federation of Finnish Financial Services changed its guidelines after the initiation of this action. According to the new guidelines, an identity card that is acceptable as a travel document can also be accepted as proof of identity.

The Ombudsman was also informed of another case in which a mobile telephone operator location had required a Spanish citizen to present a passport after this person had provided a Spanish identity card. The Ombudsman contacted representatives of the operator, after which the operator changed its practices so that EU identity cards are now accepted as well.

Education and teaching, youth work

The Ombudsman for Minorities was contacted concerning equality planning. In her opinion concerning a certain joint municipal authority, the Ombudsman for Minorities stated that the

One of the side-effects of this phenomenon is the tendency for disadvantaged people to migrate to certain city rental housing blocks while the more affluent mainstream population moves to other areas.

plan used in the education department did not meet the requirements of the Non-Discrimination Act. The Ombudsman instructed the education department in question on how to draw up an equality plan and asked to be informed when the equality plan had been completed.

The Ombudsman for Minorities submitted an initiative to the Ministry of Education concerning the equality requirements relating to supplementary teaching, travel to school and the Basic Education Act. The Ombudsman had already put forward an initiative concerning the same matter in 2005. However, because the matter came up again in the Ombudsman's activities in 2009, she presented a new initiative. This issue concerned the right of immigrant children to free school transportation in order to attend teaching to supplement basic education, or the right to an adequate subsidy for transporting or accompanying the pupil to school. Under the Basic Education Act currently in force, supplementary education and participation in such education does not entitle a child to free school transportation. In the view of the Ombudsman for Minorities, this matter is problematic in the light of the requirements of the Non-Discrimination Act.

According to the Ombudsman, the provision of the Basic Education Act concerning school trips also presents a problem with regard to the non-discrimination provision in the Constitution. In her initiative, the Ombudsman for Minorities proposed that the Ministry of Education take action to correct the above-mentioned situation. She also proposed that a legislative change might be necessary in this matter.

In 2009, a question concerning the evaluation of annual rents for foreign exchange students came up in the Ombudsman for Minorities' activities. The Ombudsman sent a request for clarification to the Foundation for Student Housing. The case was still pending at the end of the year.

Cooperation continued with NoRa (No Racism) – an online youth work project against racism. This project was earlier known as KEKS-chat and is a joint project run by several different NGOs. In 2009, the Ombudsman for Minorities granted funding for this project and two project employees were hired at the same time. A representative of the Office of the Ombudsman for Minorities is a member of the project steering group.



Language skill requirements in education

The Ombudsman for Minorities became aware of a certain university's practice in which an English proficiency test was only required for its English-language programme if the applicant's mother tongue was not Finnish, Swedish, Sámi or English.

According to the university, the above-mentioned competency requirement concerning study in English ensures that applicants are able to participate successfully in studies in the English language. The university justified its practice by stating that applicants whose mother tongue is Finnish, Swedish or Sámi can apply for a transfer to a Finnish programme if they cannot manage the studies in English, while in practice this option is not available to students whose mother tongue is not one of those languages.

In the view of the Ombudsman, this practice is discriminatory because applicants who speak Finnish, Swedish or Sámi as their mother tongue are not required to take a language test nor does the institution ensure that their English language skills are sufficient in any way. Since only some applicants are required to take a language test, the Ombudsman for Minorities considers that the application of qualification requirement may place applicants who meet the same general qualification requirements in an unequal position on grounds of their mother tongue and ethnic origin.

The Ombudsman recommended that completion of a language test required for admission to an English-language master's degree programme be independent of the applicant's

According to the Ombudsman, rather than making it more difficult for immigrants to earn a higher education degree, various measures should be implemented to support them.

mother tongue and therefore, in practice, of their ethnic origin.

Charging tuition fees for foreign students

The Student Union of the University of Helsinki asked the Ombudsman for Minorities for an opinion concerning tuition fees for foreign students. Under section 10 of the proposed Universities Act, students who are not citizens of a state belonging to the European Union or the European Economic Area could be charged tuition fees. The Ombudsman considered the proposal to be problematic because foreign citizens already residing in Finland on the basis of family ties (non-EU/EEA citizens) would not be able to study on the same principles as citizens of EU/EEA states. The integration of persons moving to Finland would be more difficult if, according to the wording of the proposal, they would have to pay for participation in certain education programmes even though an EU/EEA citizen from outside Finland could participate in the same programme at no cost.

The Ombudsman also considered that, in its proposed form, the provision would violate the prohibition on discrimination in the Non-Discrimination Act and would fulfil the criteria for direct discrimination. Under the Non-Discrimination Act, in matters concerning access to

education, foreign students may not on grounds of their ethnic origin be treated less favourably than, for example, Finnish students.

According to the Ombudsman, rather than making it more difficult for immigrants to earn a higher education degree, various measures should be implemented to support them. The majority of foreign students have come to Finland for reasons other than study, which means that most of these people already live in Finland. Their integration should not be hindered by means of a discriminatory provision. However, the proposal does not differentiate between citizens who come to Finland to study and non-EU/EEA citizens who already live here.

Without taking a stand on the appropriateness of tuition fees, the Ombudsman believes that it could be possible to charge tuition fees without the discrimination prohibited by the Non-Discrimination Act if the fees were linked to the students' municipality of residence rather than their nationality. Under the Municipality of Residence Act, foreign citizens are entitled to municipality of residence if they have a valid permit for continuous or permanent residence as referred to in the Aliens Act, or if they are citizens of a European Union Member State, Iceland, Liechtenstein, Norway or Switzerland. Thus, citizens of non-EU/EEA states living in Finland would also be entitled to study at no cost.

The indigenous Sámi

A blurred photograph of a busy subway station. People are walking in motion, creating a sense of a fast-paced, modern urban environment. The lighting is bright, and the overall tone is somewhat desaturated, with a mix of blues and greys.

Services provided in Sámi are inadequate in the Helsinki Metropolitan Area, and the Sámi culture is barely visible in the capital city.

people and ethnic minorities

The Sámi

The Ombudsman for Minorities considers the entries in the 2009 Government Report to Parliament on Human Rights Policy in Finland concerning the preparation of a Sámi language revitalisation programme to be of the utmost importance. According to the report, programme work would assess the measures and projects already being implemented and set a target of more comprehensive and long-term activities to preserve the Sámi language and ensure its development. The report calls for special attention to be focused on the preservation of small languages, such as Inari and Skolt Sámi. The Ombudsman for Minorities intends to monitor the progress of the language revitalisation programme.

Application of the Non-Discrimination Act regarding services in the Sámi language

The 2008 Annual Report mentioned two important decisions of the National Discrimination Tribunal concerning services for Sámi

speakers. Due to appeals by the opposing parties, both cases were pending in the Rovaniemi Administrative Court. In one of the cases, the municipality that was the opposing party only appealed the conditional fine imposed by the National Discrimination Tribunal. The Rovaniemi Administrative Court had not given its decision in the matter by the end of 2009.

The Sámi language in the Helsinki Metropolitan Area

In 2008, the Ombudsman for Minorities published a study on the Sámi language in the Helsinki Metropolitan Area. The study revealed that services provided in Sámi are inadequate in the area and that Sámi culture is barely visible in the capital city.

As a follow-up measure, the Ombudsman for Minorities, representatives of the City Sámi association and a Sámi Parliament representative visited the City of Helsinki Cultural Office and discussed the matter with the city's day care authorities.

In May, the Ombudsman for Minorities organised a round-table discussion aimed at

planning how the range of Sámi language services offered in the Helsinki Metropolitan Area could be developed through cooperation. In addition, a further aim was to plan how the Sámi culture could be made more visible in the metropolitan area and simultaneously ensure the preservation of the Sámi culture as a living culture in urban conditions.

The meeting concluded that short-term plans should include cooperation between municipalities and schools to arrange day care and language instruction in Sámi. Long-term

plans include the hiring of a full-time manager. The goal is to develop a permanent cooperation and operating model. At the meeting, it was agreed that the City of Helsinki Cultural Office would arrange the next meeting, inviting representatives of the city's various administrative branches, including representatives of culture, youth, education, social services and early education departments as well as the Adult Education Centre and information services organisers. The City Sámi association and the Ombudsman for Minorities agreed to be

present at the meeting as contact links for the participants.

Financing for language nests

In January 2009, the Ombudsman for Minorities asked the Ministry of Education to clarify how it intends to ensure Sámi language nest activities in the long term. The reasons behind this request included the concern of the Skolt Sámi association regarding the continuity of activities at Inari's Skolt Sámi language and culture nest. The Sámi Parliament also raised

Sámi right to autonomy

Section 121(4) of the Constitution states that in their native region, the Sámi have linguistic and cultural self-government, as provided by law. Under section 22 of the Constitution, the public authorities shall guarantee the observance of basic rights and liberties and human rights.

Under section 1(1) of the Act on the Sámi Parliament, the Sámi, as an indigenous people, have linguistic and cultural autonomy in the Sámi homeland as provided in this Act and in other legislation. To perform the tasks relating to cultural autonomy, the Sámi shall elect from among themselves a Sámi Parliament.

Under section 5(1) of the Act on the Sámi Parliament, the task of the Sámi Parliament is to look after the Sámi language and culture,

as well as to take care of matters relating to their status as an indigenous people. Section 9 of the Act states that the authorities have the obligation to negotiate with the Sámi Parliament regarding certain matters. The authorities shall negotiate with the Sámi Parliament in all far-reaching and important measures that may directly and in a specific way affect the status of the Sámi as an indigenous people and which concern the following matters in the Sámi homeland:

- 1) community planning;
- 2) the management, use, leasing and assignment of state lands, conservation areas and wilderness areas;
- 3) applications for licences to stake mineral mine claims or file mining patents;

- 4) legislative or administrative changes to the forms of livelihood belonging to the Sámi culture;
- 5) the development of teaching of and in the Sámi language in the schools, as well as of the social welfare and health services; or
- 6) any other matters affecting the Sámi language and culture or the status of the Sámi as an indigenous people.

In order to fulfil its obligation to negotiate, the relevant authority shall provide the Sámi Parliament with the opportunity to be heard and consulted. Failure to use this opportunity in no way prevents the authority from proceeding in the matter in question.

this issue. At the same time, the Ombudsman for Minorities sent a request for clarification to the municipality of Inari. According to the municipality, Sámi children have the right to Sámi language day care if their mother tongue is Sámi. However, the municipality stated that Finnish is recorded as the mother tongue of the Sámi children in the Skolt Sámi language nest. According to the Ministry of Education's response, there is a need to examine carefully the proper level of financing for the language nest activities and to determine which body is responsible for long-term financing of language nests. The most suitable body to receive the funds allocated for language nests should also be designated. The Ministry of Education reported that clarification of these matters is still in progress in the ministerial administration.

The Ombudsman for Minorities considers language nest activities to be of primary importance for the preservation and revitalisation of threatened languages and cultures.

Officials' obligation to consult with the Sámi Parliament

After being contacted by the Sámi Parliament, the Ombudsman for Minorities sent the Ministry of Finance a request for clarification concerning consideration of the rights of the Sámi in a certain major legislative project and observation of the obligation to hold consultations. The Ministry of Finance reported that it intends to arrange a consultation with the Sámi Parliament.

The Roma

Housing-related cases concerning the Roma decreased somewhat in comparison to the previous year. On the other hand, the problem situations that came to light were often very complicated and difficult to handle. In 2009, concern was caused by cases in which providers of State-funded rental accommodation took the Roma custom concerning permission to live in an area into consideration, thus leading to a situation where an applicant in need of housing was not offered any kind of dwelling. This made it impossible for the applicant to obtain new accommodation to meet changing housing needs. In other cases, the applicant could not move to the locality of their choice.

Cases related to permission to live in an area occurred in several municipalities. The procedures are very different in nature. Many housing agencies communicate orally, but in some cases Roma who contacted the Ombudsman's Office were able to provide written proof of the housing provider's actions. In one case, a municipality informed a family applying for housing of a negative written opinion given by Roma who had lived in the area for a longer period. In its cover letter, the municipality encouraged the family to take the opin-

ion into consideration when applying for new accommodation. The housing agency also told the family that housing could not be offered due to the resistance of other Roma. In a second case, a housing rental company sent applicants a letter explaining that a representative of the local Roma community would like to talk to any Roma who were applying to move to the community. In its letter, the company also requested that this discussion be held before accommodation could be offered. The Ombudsman for Minorities investigated these cases with the municipality and housing agencies. The applicants received accommodation in both cases.

The Ombudsman asked the National Discrimination Tribunal to examine whether a company or municipality offering rental accommodation had violated the prohibition on discrimination in the Non-Discrimination Act when a Roma applicant for accommodation was asked to sign a form allowing a Roma contact person to be present at meetings of the working group processing resident selection. The housing agency later informed the applicant that rental housing could not be offered because of the resistance of other Roma. The case was still pending at the end of 2009.

Resident selection for rental accommodation on the basis of permission to move provided by the Roma community or avoid-



Roma affairs processed by the Office of the Ombudsman for Minorities 2009

ISSUE	NUMBER OF CASES
Housing	35
Provision of private services	11
Access to social welfare and health services	8
Working life	10
Ethnic agitation	5
Actions by the police, judicial system and penal institutions.	6
Early education, teaching and education	1
Internal issues of the Roma (other than permission to live in an area) . . .	3
Other (e.g. general requests for information)	10
Roma beggars from outside Finland.	11
Total	100

ance behaviour is in conflict with the Constitution and legislation concerning the selection of residents. Placing housing applicants who belong to the Roma minority in an unfavourable position in relation to other applicants also violates the prohibition on discrimination in the Non-Discrimination Act. The Roma culture or internal Roma conflicts cannot be used as grounds for a discriminating procedure.

Based on the cases handled by the Ombudsman for Minorities, the procedure relating to permission to live in a certain area and avoidance behaviour observed by the Roma are customs that limit the rights of individuals in a way that cannot be considered acceptable. These procedures have their own historical roots and purposes. In today's soci-

The Roma culture or internal Roma conflicts cannot be used as grounds to justify discriminating behaviour.

ety, however, such customs have particularly harmful effects on schooling and study opportunities for children and young people, and on their future. In addition to changes in the activities of some municipalities and housing agencies, internal discussion by the Roma regarding how these harmful customs could be relinquished is also welcome.

The 2007 Annual Report described a decision by the National Discrimination Tribunal to prohibit a certain municipality from continuing or repeating ethnic discrimination against a Roma family or any other member of the Roma population relating to resident selection for rental housing, which was in violation of section 6 of the Non-Discrimination Act. In its decision, the Tribunal stated that the municipality's actions had clearly discriminated against members of the family on grounds of ethnic origin. After the National Discrimination Tribunal decision was handed down, the Ombudsman for Minorities negotiated with the municipality on behalf of the family regarding compensation to be paid to the Roma family under the Non-Discrimination Act. Because the parties could not reach agreement on the amount of compensation, the Ombudsman for Minorities decided, for the first time ever, to assist victims of discrimination when they demanded compensa-

tion in court. In conjunction with this event, the Ombudsman also decided to take on the risk of legal costs.

The compensation lawsuit was overturned in the Kokkola District Court in December 2007. The Ombudsman for Minorities continued to assist the family in their appeal to the Vaasa Court of Appeal. In February 2009, the Vaasa Court of Appeal sentenced the municipality to pay compensation to the members of the Roma family. The compensation was EUR 3,000 for each person.

The decision of the Vaasa Court of Appeal became legally valid in autumn 2009, when the Supreme Court ruled against the municipality's petition for leave of appeal.

Roma beggars

In addition to matters concerning the Finnish Roma minority, the Office of the Ombudsman for Minorities received 11 contacts about so-called Roma beggars from outside Finland. In particular, the Office received concerned contacts from people in both the Finnish Roma and mainstream populations following a special check on beggars carried out by the Helsinki Police Department. The Ombudsman monitored the situation but did not take action, because a complaint had been made to the Parliamentary Ombudsman.

Compensation

Under section 9 of the Non-Discrimination Act, a provider of work, movable or immovable property, or services, education or benefits, who has infringed the provisions prohibiting discrimination on grounds of age, ethnic or national origin, nationality, religion, belief, opinion, state of health, disability or sexual orientation shall pay the injured party compensation for the suffering caused by such discrimination or victimisation. Compensation shall not exceed EUR 15,000, depending on the nature of the infringement.

In determining the level of compensation, due consideration is given to the type and extent of the discrimination and its duration, the attitude to his/her actions on the part of the person who has infringed the provisions, any reconciliation reached between the parties, the restoration of a legal position of equality, the financial position of the offender and other circumstances, plus the financial compensation imposed or ordered to be paid under other legislation for the same act of infringement against the person. Imposition of compensation is not mandatory if not imposing it would be a reasonable decision in the circumstances. Where special cause exists, the maximum level of compensation may be exceeded if this is justified by the duration and severity of the discrimination and other circumstances of the case.

Payment of compensation does not preclude an injured party claiming damages under the Tort Liability Act (412/1974) or other legislation.



Racist expressions

In 2009, the Ombudsman for Minorities received many contacts concerning racist material on the Internet. For example, the Ombudsman was contacted about material in chat rooms that was considered racist. Concern about illustrations that were considered racist was also brought to the attention of the Ombudsman.

The 2007 Annual Report of the Ombudsman for Minorities mentioned a case in which the Ombudsman requested the police to investigate a book containing anti-Jewish propaganda. The Helsinki District Court issued its judgment in this case in January 2008. The District Court sentenced the man responsible to a 30 unit fine for ethnic agitation. He was also sentenced to forfeit to the state all copies of the publication concerned. In the book authored by the man concerned he had disseminated slanderous and defamatory statements about Jews, Africans and Roma among others. For example, the statements suggested that the groups in question should be the target of direct measures to remove them from the country. The statements also suggested that the mass destruction inflicted upon Jews, the Roma and other national groups in the Third Reich was an acceptable and desirable measure. The district court grounds stated that even if the expressions, which were made

in poetic form, had been intended to be satiric and therefore exaggerated, the book's statements regarding these national groups, particularly Jews – including the expression of a positive attitude towards the Holocaust – were of such a gross nature that they could be considered to go beyond the limits of freedom of speech. The Helsinki Court of Appeal handed down its decision on the case in February 2009, upholding the judgment of the District Court. Leave to appeal was sought from the Supreme Court, which in August 2009 decided to deny the request.

In 2007, the Ombudsman for Minorities requested the police to investigate a case involving statements made during an election debate relating to the Parliamentary election. The Helsinki District Court issued its judgment in March 2009, according to which a man was sentenced to 50 unit fines for ethnic agitation. The man had made public statements that were slanderous and defamatory to certain ethnic groups and refugees. The statements had been made during a live television broadcast. For example, the man had stated that it should be acceptable for citizens to take the law into their own hands if a refugee or immigrant is found guilty of a crime. The grounds for the judgement stated that the man had made his statements in conditions in which the sound activity of a democratic society had guaranteed him the right to freedom of

Finnish society is going through a rather fundamental change as immigration increases. The change will reflect on Finnish democracy in many ways, for example, in the work of municipal bodies.



speech. His claims, partly classified as “hate speech” and partly as otherwise indecent, had gone beyond the limits of freedom of speech in the manner referred to in Chapter 11, section 8 of the Criminal Code at the time of the offence. The grounds further stated that he did not at any time attempt to correct or mitigate his stand, and that the content of the statements was so serious that he could not fail to understand their criminal nature. For these reasons the District Court considered the man to have intentionally committed a crime. The case was appealed and was still pending at the end of 2009.

Recommendations for political parties

The 2008 Annual Report stated that the Office of the Ombudsman for Minorities had monitored campaigning during the municipal elections. Following the elections, the Ombudsman for Minorities asked the parties to review their commitment to the European Charter and, for example, the kind of training provided for newly elected officials regarding its content.

The Ombudsman received responses from all Parliamentary parties.

All respondents stated that their party was committed to combat racism. Based on the answers, however, it appeared that the Charter of European Political Parties for a Non-Racist Society was not very familiar, and that the parties had arranged hardly any monitoring of its implementation.

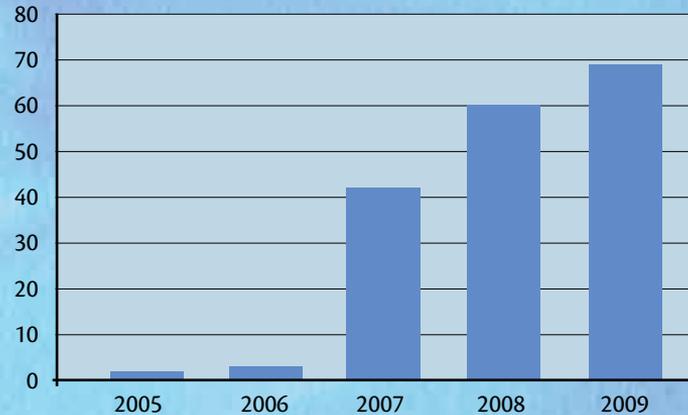
The Ombudsman for Minorities consid-

ers it positive that candidates, for example, have been asked to familiarise themselves with the party programmes, which also include commitments to tolerance. A number of parties have more detailed programme documents concerning, among other things, Roma or immigration policy. For the most part, however, the lines of the parties' programmes regarding the subject are quite general in nature, although actions to combat racism would require a concrete and active approach from the parties.

This also involves a rather fundamental change in Finnish society as immigration continues to increase. The change reflects on Finnish democracy in many ways, for example, in the work of municipal bodies. In accordance with the obligations of the Charter, some parties had tried to attract immigrant group representation in the municipal elections – but on the other hand, the responses contained no such mentions of Roma or Sami representation.

In her responses to the Parliamentary parties, the Ombudsman for Minorities first recommended more effective training. The Charter of European Political Parties for a Non-Racist Society obliges the parties to ensure that all persons who work for or associate themselves with the party are aware of its principles. Secondly, the Ombudsman encouraged the parties to pay more attention to minority group representation at different levels. In her third recommendation, the Ombudsman asked the

ETHNIC AGITATION – INCREASE IN THE NUMBER OF CUSTOMER CASES



parties to focus on improving their monitoring of Charter obligations. This would be an important step forward in making it possible to assess the results of anti-racist activities.

Online tips

The 2008 Annual Report also described the Ombudsman for Minorities' initiative to the Ministry of the Interior Police Department concerning the establishment of a tip-off service on the Internet. In its response, the Police Department stated that it was creating an Internet tip-off system that would make it easy for citizens and Internet service providers to inform the police of suspected crimes, including online racism. The response further stated that slanderous material disseminated over the

Internet has targeted people who work to combat racism or have informed the police of racist material. This highlights the importance of anonymity in the tip-off service, particularly relating to racist crimes. The tip-off service was not opened in 2009.

Manne/Romano-TV

Proceedings in the case known as the Manne/Romano-TV case continued during 2009. The Helsinki Administrative Court turned down the Roma organisation's appeal concerning the decision of the National Discrimination Tribunal. The Ombudsman for Minorities assisted the organisation in drafting its appeal to the Supreme Administrative Court. The case was still pending at the end of the year.



Matters relevant to the

A key element in issues relevant to asylum and foreign nationals in 2009 was the report prepared by the Office of the Ombudsman for Minorities on how the best interests of the child are recognised in asylum and refugee procedures (see p. 7). The report was published in January 2010, and it can be downloaded in English and Finnish on the Ombudsman for Minorities website.

Grounds for visa decisions

The Office of the Ombudsman for Minorities is regularly contacted by customers on matters relating to the status and rights of aliens with regard to negative visa decisions and the principles and grounds for those decisions. The majority of the contacts concern a negative decision received by a spouse or other family member. The person who received the negative visa decision and their family members have been uncertain about the reasons why the applicant was not granted a visa and the grounds for the decision. The applicant has no possibility to check the correctness of the information and grounds. In some cases, the lack of clarity may have resulted in expenses and delays.

The Ombudsman for Minorities issued a statement concerning the grounds for visa decisions. In her statement, the Ombudsman would like to call the Ministry of the Interior's attention to the fact that it is essential for the protection of the visa appli-

Aliens Act

cant's family life, legal rights and for the realisation of good governance that the person receiving a negative decision understands why the application was refused. A standard form with a check mark beside the section of the law upon which the decision is based may not give the applicant enough information to understand the reasons for the negative decision. The Ombudsman for Minorities recommends that Finnish diplomatic and consular missions provide customers with sufficiently clear information about why the applicant's visa application was unsuccessful. For example, in cases of suspected sham marriages, the applicant should be informed that the negative decision is based on the suspicion of a sham marriage. This is particularly important because visa decisions cannot be appealed.

The status of asylum seekers

During the year, the Ombudsman for Minorities commented on a report on asylum policy and on related Government proposals. The projects included several proposals for measures to improve the efficiency of the process, and the Ombudsman for Minorities supported the implementation of these measures. On the other hand, the report included proposals that clearly weaken the legal rights of people who have been granted international protection.

The Ombudsman for Minorities considers the proposal for making the right to work for asylum

seekers conditional upon determination of identity to be problematic. Many asylum seekers who arrive in Finland are unable to present written proof of their identity. The lack of documents is often due to conditions in the countries of origin and the fact that documented proof is simply not available.

Making the right to work conditional upon determination of identity can place asylum seekers in an unequal position. It is to everyone's advantage that asylum seekers earn their own living and learn the language and other skills that will enhance adjustment to life in Finnish society.

The projects pending during the year included many proposals for measures to improve administrative effectiveness and efficiency, and the Ombudsman for Minorities warmly supports the implementation of these measures. However, it must be ensured that cases are still handled on an individual basis. As the pace of the Dublin process accelerates, an applicant's personal reasons for seeking asylum must be taken into consideration and it must also be possible to identify victims of human trafficking. The Ombudsman for Minorities naturally supports the target of shortening processing times – without endangering legal rights and the quality of decision-making.

The Ombudsman for Minorities supports the project proposals to increase resources and increase the compensation to be paid to municipalities.

The Ministry of the Interior's report on asylum seekers proposed that a sponsor only be considered a minor if the person is underage at the time the decision is made. The Ombudsman for Minorities sees this as a problem in that the fundamental right to family life would depend on how much time officials take to process the case. All in all, it is important to ensure that the best interests of the child and a positive human rights perspective are the primary objectives in development plans, and that reform measures do not weaken the legal rights of asylum seekers and refugees who are in a vulnerable position.

For years now, the Ombudsman for Minorities has called attention to the high income requirements when a person applies for a residence permit on the grounds of family ties. When the actual income level of immigrants is taken into consideration, the income requirements make family reunification particularly difficult for families with children. The income requirements also have gender implications, as the lower income level of immigrant women often poses problems particularly for women as regards bringing their spouses and children to Finland. The income requirement should be considered on a case-by-case basis in such a way that the applicant's actual life situation and income is taken into account during consideration of the residence permit.

It is to everyone's advantage that asylum seekers earn their own living and learn the language and other skills that enhance adjustment to life in Finnish society.

Activities and resources of the



Ombudsman for Minorities

Staff in 2009

Ms Johanna Suurpää

Ombudsman for Minorities

Mr Rainer Hiltunen

Deputy of the Ombudsman for Minorities, Head of Office (on leave of absence 20 Jul 2009–28 Aug 2010)

Ms Päivi Keskitalo

Senior Officer (as from 1 Sep 2009)

Ms Pirjo Kruskopf

Senior Officer

Ms Yrsa Nyman

Senior Officer

Ms Annika Parsons

Senior Officer

Ms Venla Roth

Senior Officer (as from 1 Feb 2009)

Ms Päivi Okuogume

Planning Officer

Mr Massimo Zanasi

Department Secretary

Appointed to fixed-term public service employment relationships:

Mr Daniel Ahrari (until 7 Jan 2009)

Civilian Serviceman

Mr Alain Chiaroni (until 13 Feb 2009)

Trainee

Ms Päivi Keskitalo (until 31 Aug 2009)

Deputy Senior Officer

Mr Attikos Sironen (until 5 Nov 2009)

Civilian Serviceman

Ms Liselott Sundbäck (23 Mar–10 Jul 2009)

Trainee

Mr Muhammed Husein (1 Jun–31 Dec 2009)

Acting Senior Officer

Ms Tiina Ukkonen (as from 10 Aug 2009)

Trainee

Ms Yrsa Nyman (as from 2 Sep 2009)

Deputy Office Manager

Ms Hanna Välimaa (as from 2 Sep 2009)

Acting Senior Officer

Mr Hashim Mowlid (as from 7 Sep 2009)

Civilian Serviceman

Ms Tiina Oikarinen (5 Oct–4 Dec 2009)

Trainee

Mr Attikos Sironen (as from 6 Nov 2009)

Office Secretary

Ms Tiina Oikarinen (5 Oct–31 Dec 2009)

Office Secretary

Finances in figures 2009

The Ombudsman for Minorities' allocations

	Granted	Spent
Allocations	115,000	114,800
Allocations for staff	589,000	584,874

Major expense items of the Ombudsman for Minorities

Travel services	26,432
Translation and interpretation services	21,700
Materials and supplies	19,380
Advertising services	7,832
Printing services	16,926
External services	15,871

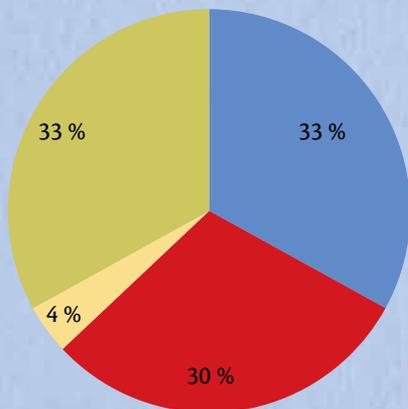
(these figures are ex VAT, with wages including overheads)

Projects of the Ombudsman for Minorities

Realisation of the best interests of the child in decisions concerning asylum and refugee procedures in Finland
1 June–31 December 2009
Allocation granted EUR 60,000

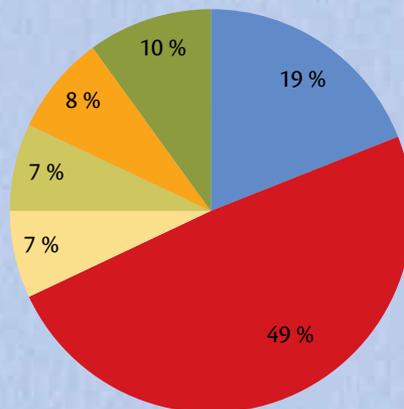
Regionalisation of advisory services against discrimination
1 November 2009–31 October 2010
Allocation granted EUR 66,442

REGIONAL DISTRIBUTION OF CONTACTS



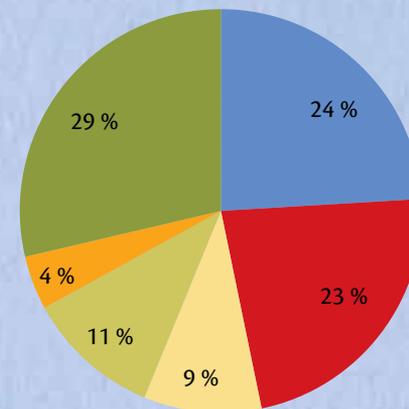
- Helsinki Metropolitan Area
- Other municipalities
- Overseas
- Not known

DISTRIBUTION OF CUSTOMER CASES BY CONTENT



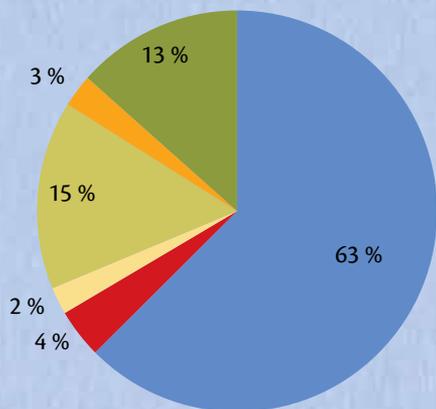
- Matters relating to foreigners
- Discrimination
- Human trafficking
- Promotion of equality
- General requests for information
- Other

CUSTOMER CASES BY SPHERE OF LIFE



- Working life/entrepreneurship
- Housing
- Education/teaching
- Social welfare services
- Health services
- Other services

DISCRIMINATION AND OTHER INAPPROPRIATE TREATMENT



- Discrimination
- Harassment
- Defamation
- Ethnic agitation
- Violence or threat of violence
- Other inappropriate treatment

During 2009, the scope of the Ombudsman for Minorities’ work expanded when the Ombudsman started work in the role of National Rapporteur on Trafficking in Human Beings. A new task related to the drafting of independent reports was also added to the law. At the same time, the number of customer contacts increased. A total of 921 cases were recorded in the contact register in 2009, which is approximately 30% more than in the previous year. Sixty-four of the customer cases involved human trafficking. Only modest resources were granted for handling the new tasks. One potential change in the future is the appointment of an Ombudsman for Equal Treatment, who would have a wider scope of operation than the Ombudsman for Minorities.

All this has made it necessary to define the Ombudsman for Minorities’ content priorities, work methods and administration in more detail. During 2009, a planning and administration development project was implemented in the Office. Among other things, the project involved drafting the strategy of the Ombudsman for Minorities for 2010–2011 along with more detailed specification of job descriptions, document processing instructions and other administrative procedures.

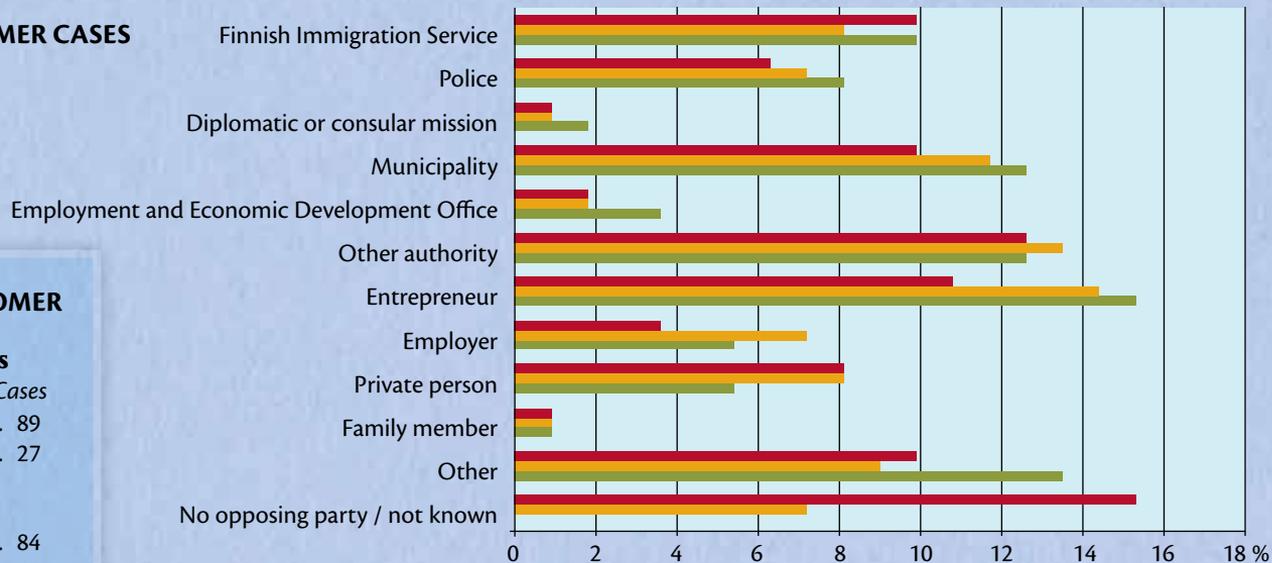
In the investigation of customer cases the aim was also to find new and more diverse work methods. In some cases, it may be important to act quickly and use rather unobtrusive methods – such as the telephone – or to focus on customer advice. However, other cases may require a full investigation and, for example, effective supervision to ensure that recommendations are implemented. Thus, different work methods should be

used based on the special characteristics of the case. On the other hand, it is also important to be able to identify the most common problems involved in customer cases – the ones in which the Ombudsman for Minorities should intervene within the framework of her mandate for promoting the rights of minorities.

In autumn 2009, the Ombudsman for Minorities launched together with the Ministry of the Interior Legal Affairs Unit a year-long project to develop regional advisory services against discrimination. The financing for this was provided through the EU’s YES 3 project. Within the framework of the project, the aim is to pilot three different models for providing advisory services to victims of discrimination. The results will be used as the basis for proposals for providing better advisory services with wider regional cover and for networking with bodies representing customers and with other actors. The outcome could be new forms of cooperation and practices for the provision of advisory services relating to discrimination.

The changes expected to result from the expanding sector within the Ombudsman’s competence make it important to develop cooperation, training and information exchange with other bodies that handle the grounds for discrimination, such as the Ombudsman for Equality and the Ombudsman for Children in Finland. Contact with immigrant organisations and traditional minorities has also been developed in a more systematic direction. The field of cooperation with various bodies has been extended, with the aim of developing training and communication about the activities of the Ombudsman for Minorities. Development of the system for assisting victims of human trafficking and better identification of victims will also require the construction of an extensive and efficient network and training of key groups.

THE OPPOSING PARTY IN CUSTOMER CASES (percentage of customer cases)



ETHNIC ORIGIN OF THE CUSTOMER

Traditional ethnic minorities

Ethnic Origin	Cases
Roma	89
Sámi	27

Immigrants

Russian	84
Somali	45
Iraqi	24
Turkish	18
Nigerian	15
Thai	10
Estonian	10

DISCRIMINATION AND OTHER INAPPROPRIATE TREATMENT (number of customer cases in 2009)



Opinions issued by the Ombudsman for Minorities

29 January 2009

Government proposal to Parliament concerning legislation for the transfer of certain tasks to the Finnish Immigration Service. VVT/2009/1

5 March 2009

Complaint by a Russian-born Finn concerning a teacher. VVT 2009/5

18 January 2009

Framework Convention for the Protection of National Minorities; draft of Finland's third periodic report. VVT/2009/14

18 January 2009

European Charter on Regional or Minority Languages; draft of Finland's fourth periodic report. VVT/2009/15

6 April 2009

Basic improvement of Nellim road. VVT/2009/75

6 April 2009

Employment of immigrants and incentive traps. VVT/2009/95

23 March 2009

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21 September 2009

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28 September 2009

Draft Government proposal for amending and provisionally amending the Child Welfare Act and amending certain associated laws. VVT/2009/316

8 December 2009

Case collection sheet: documented complaints concerning harmful discrimination. VVT/2009/359

19 November 2009

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13 November 2009
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Initiatives

18 December 2009
Equality requirements concerning supplementary teaching travel to school and the Basic Education Act. VVT/2009/430

Press releases

21 January 2009
Ombudsman for Minorities examined political parties' anti-racist activities

25 February 2009
Status of Russian speakers examined

20 March 2009
National Rapporteur on Trafficking in Human Beings would improve legal aid for victims

7 April 2009
Ombudsman for Minorities proposes changes to the status of berry-pickers

3 June 2009
Making multiple grounds of discrimination visible in the Ombudsman for Minorities' work – children and women in a vulnerable position

23 October 2009
Compensation for violating the prohibition on discrimination in a room rental case

9 December 2009
Problems appeared again this year; minimum protection needed for berry-pickers

Publications

Jekaterina Tanttu:
Venäjänkielisenä Suomessa 2008 (Being a Russian speaker in Finland 2008)
Report to the Ombudsman for Minorities
ISSN: 978-952-491-409-3
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Annual Report of the Ombudsman for Minorities 2008
ISSN: 1796-3001 (printed)
ISSN: 1796-4091 (on-line publication)
printed by Hämeen kirjapaino Oy 2009

Members of the Advisory Board for Minority Issues 31 December 2009

Advisory Board term 1 December 2008–30 November 2011

Chair

Ms Johanna Suurpää, Ombudsman for Minorities

Secretary to the Advisory Board

Ms Päivi Keskitalo, Senior Officer

Members and their deputies

Ms Sinikka Keskinen, Senior Specialist,
Ministry of the Interior

Mr Harri Sivula, Senior Advisor,
Ministry of the Interior

Ms Viveca Arrhenius, Ministerial Advisor,
Ministry of Social Affairs and Health

Mr Antti Janas, Senior Officer, Legal Affairs,
Ministry of Social Affairs and Health

Ms Anna-Elina Pohjolainen, Senior Legal Advisor,
Ministry of Justice

Ms Mirja Kurkinen, Senior Advisor,
Legal Affairs, Ministry of Justice

Mr Mikko Cortés Téllez, Senior Advisor,
Ministry of Education

Ms Zabrina Holmström, Counsellor for
Cultural Affairs, Ministry of Education

Ms Hanna Koskinen, Director of Customer
Service, Finnish Immigration Service

Ms Jaana Vuorio, Director, Finnish
Immigration Service

Ms Anu Wikman-Immonen, Co-ordinator,
Immigration Affairs, Association of the Finnish
Local and Regional Authorities

Mr Keijo Sahrman, Director, Association of
the Finnish Local and Regional Authorities

Mr Mikko Joronen, Advisor,
Finnish League for Human Rights

Ms Kristiina Kouros, Secretary-General,
Finnish League for Human Rights

Mr Klemetti Näkkäläjärvi, Chair,
the Sámi Parliament

Ms Irja Seurujärvi-Kari, Vice-Chair,
the Sámi Parliament

Ms Irina Kapelian, Board Member,
Union of Finland's Russian-Speaking Societies

Mr Kyösti Kozlov, Chair, Union of
Finland's Russian-Speaking Societies

Ms Sadiyo Dhuubow, Secretary,
Somali League in Finland

Mr Saed Guled, Information Officer,
Somali League in Finland

Ms Anu-Tuija Lehto, Lawyer,
The Central Organisation of Finnish
Trade Unions SAK

Ms Paula Ilveskivi, Lawyer,
The Confederation of Unions for Professional
and Managerial Staff in Finland AKAVA

Ms Riitta Wärn, Specialist,
Confederation of the Finnish Industries EK

Mr Mikko Räsänen, Specialist,
Confederation of the Finnish Industries EK

Mr Janne Jokinen, First Secretary,
Ministry for Foreign Affairs

Ms Martina Törnqvist, Legislative
Secretary, Ministry for Foreign Affairs

Ms Susanna Siitonen, Senior Legal Advisor,
Ministry of Employment and the Economy

Ms Hillevi Lönn, Ministerial Advisor,
Ministry of Employment and the Economy

Mr Dan Kantor, Executive Director,
Jewish Congregation in Helsinki

Ms Penina Blankett, Board of Trustees
member, Jewish Congregation in Helsinki

Mr Anas Hajjar, Board of Trustees Chair,
Finnish Islamic Council

Ms Isra Lehtinen, Board Information
Officer, Finnish Islamic Council

Mr Okan Daher, Chair,
Finnish Islam Congregation

Ms Behiye Samaletdin, Vice-Chair,
Finnish Islam Congregation

Ms Miranda Vuolasranta, Executive Director,
the Finnish Roma Forum

Mr Tino Varjola, Chair, the Finnish Roma Forum

Expert members

as from 11 February 2009:

Ms Leena-Kaisa Åberg, Head of Refugee
and Immigrant Affairs, Finnish Red Cross

Ms Reet Nurmi, Managing Director,
Monika – Multicultural Women's Association

Ms Taina Martiskainen, Planning Officer,
Central Union for Child Welfare in Finland

Strategy of the Ombudsman for Minorities

Vision

- Identification of discrimination and human trafficking will promote realisation of the rights of the victim.
- Minorities will be equal participants in Finnish society.
- Good ethnic relations are the foundation for knowledge and cooperation, and for respect for the human rights of every person.

Mission

The task of the Ombudsman for Minorities is to promote the status of ethnic minorities and foreigners, equality and legal protection, and good ethnic relations. The National Rapporteur on Trafficking in Human Beings promotes activities to combat human trafficking and the status of victims.

Values

1) Good service:

- The Ombudsman for Minorities is easy to approach and accessible,
- is perceived as trustworthy, professional and humane by customers and stakeholders,
- and operates independently and autonomously.

2) Cooperation:

- The Ombudsman for Minorities practises an open and transparent operating culture,
- cooperates with stakeholders,
- and builds bridges between different actors.

3) Initiative:

- The Ombudsman for Minorities anticipates rather than just reacting,
- utilises a wide range of methods,
- and thinks creatively.

Strategy

A. The Ombudsman for Minorities aims to:

1) Prevent ethnic discrimination and human trafficking

The Ombudsman for Minorities promotes the identification of victims and increases the visibility of phenomena associated with discrimination and human trafficking. The Ombudsman emphasises the importance of communication and training concerning legislative content, the manifestations of discrimination and human trafficking, and the rights of victims. The goal is to influence attitudes, which requires a sufficient information base and networking. With regard to ethnic minorities, the Ombudsman highlights positive experiences and examples.

A particular aim is to identify the key parties relating to discrimination and identifying victims of human trafficking, and to focus activities on these parties. The Ombudsman also draws attention to issues such as multiple grounds of discrimination.

2) Promote good ethnic relations in society

The Ombudsman for Minorities promotes the empowerment of minorities and more balanced participation in different areas of Finnish society, such as working life and exercising social influence.

The Ombudsman for Minorities acts as a bridge-builder and encourages open dialogue among different actors. The immigration discussion should allow different voices to be heard, but it should not include agitation against any ethnic group.

3) Improve the status and rights of foreigners and ethnic minorities and of victims of human trafficking

The Ombudsman for Minorities monitors the processes related to legislation and administrative procedures that influence the realisation of the rights of foreigners, ethnic minorities and victims of human trafficking.

The Ombudsman for Minorities actively highlights flaws that come to light through customer work and presents initiatives for correcting them.

4) Monitor the realisation of anti-discrimination and the rights of victims of human trafficking

In particular, the Ombudsman for Minorities monitors compliance with the Non-Discrimination Act. The Ombudsman for Minorities acts as a low-threshold body that advises and assists customers in different ways. Cases requiring more limited or more extensive intervention are separated from each other at an early point. The Ombudsman for Minorities may also examine a case on her own initiative. The Ombudsman promotes good practices and monitors the implementation of various measures.

The means for resolving a matter and for intervention in problems are considered in a flexible manner, including the possibility of mediation. Victims of discrimination or human trafficking can also receive assistance when the matter has particular significance in terms of application of a law or realisation of the victim's rights. Strategic litigation may also be considered in such cases.

Information about flaws in the legislation and general practices gained through customer work is actively used to enhance general activities via initiatives and opinions. Thus, customer work has two roles in the work of the Ombudsman for Minorities.

5) Report on matters relating to ethnic discrimination and human trafficking

Within the scope of the available resources, the Ombudsman for Minorities drafts and commissions independent reports on topics that are important for ethnic relations and for action to combat discrimination. The reports are limited and practical in nature, and they can be prepared in cooperation with stakeholders.

In terms of human trafficking, reporting on developments in the situation focuses on a different theme each year. The reporting emphasises the viewpoint of realisation of the victim's rights.

B. The Ombudsman for Minorities and the changing operating environment:

The economic recession has contributed to more negative attitudes and reduced labour migration. However, rather than being a single-dimension issue, immigration and the related attitudes include different trends. In the long term, Finnish society has clearly become more international and learned to respect difference.

Immigration is expected to clearly increase in the future. This is a positive development, considering, for example, the age structure of Finnish society, but it also opens up opportunities for negative phenomena such as discrimination and an increase in human trafficking. The Ombudsman for Minorities emphasises the human rights aspect of change in addition to promoting participation in society and fairness.

Goals:

- The Ombudsman for Minorities has an important role in the ongoing change.
- The Office gathers information from many different bodies and, as an independent actor, the Ombudsman for Minorities can use her influence to ensure that anti-discrimination and all human rights are respected as this change occurs.
- This will require forward-looking, active and patient work from the Ombudsman for Minorities in order to achieve the goals that have been set.
- The Ombudsman for Minorities has a broad mandate and, within the scope of her independent and autonomous position, she makes choices regarding how best to focus activities in order to respond to current challenges.
- The Ombudsman for Minorities can meet the needs of society's various organisations and individuals by working in cooperation with her network of actors.
- Cooperation with ethnic minorities is an important part of networking. The Ombudsman for Minorities also works with the authorities, organisations, researchers, the media, and individual activists. With regard to promoting equality, the aim is to increase visibility and cooperation in different sectors, including working life.

C. Communications

Communications plays an important role in the success of the Ombudsman for Minorities' work. Awareness of the activities

of the Ombudsman for Minorities should also be improved among people who belong to the target groups. In addition to the mainstream media, other methods are needed to reach the target group.

Communications is used to influence attitudes and promote the status of ethnic minorities, foreigners and the victims of human trafficking.

Goals:

- The Ombudsman for Minorities' profile is rational and dynamic.
- Communications should be a part of every employee's work. When planning and implementing activities, each employee should consider what will be communicated about the activity and how it will be communicated. In customer work, for example, the writing style and clarity of language used in statements is very important in terms of communicating the message to customers, who rarely speak Finnish or Swedish as their mother tongue.
- A special focus of communications should be those groups who, due to their language background, short stay in Finland or some other reason, have less than average information about the Office of the Ombudsman for Minorities.
- Communications also creates and meets expectations about our activities. Communications can encourage people in need of help to contact us, but it can also be used to ensure that people have realistic expectations about our activities, and that we communicate a true picture of our opportunities for action.
- Communications is planned and carried out with our stakeholders.
- Like other activities, communications should strive for the greatest possible impact, which means that in some cases it may be very creative or even emotional.
- In addition to the official languages of Finland (Finnish, Swedish and Sámi), the Ombudsman for Minorities communicates in other languages when possible. Customers can contact the Ombudsman in any language. The aim is to keep the threshold for contacting the Office as low as possible and to provide good service.

D. Staff

The influence of the Ombudsman for Minorities is the sum of the work of the Ombudsman herself and of the staff working

at the Office of the Ombudsman for Minorities. The staff has strong expertise in monitoring ethnic equality and reporting on human trafficking. This makes them a key resource in terms of the Ombudsman's activities.

The tasks of the Ombudsman for Minorities and customer work involve dealing with negative feelings and experiences. The scope of the mandate, limited resources, constant changes in the operating environment and occasional conflicting expectations of different actors continue to present challenges in the work. Support for coping at work is an important element. Training is used as a means to develop staff expertise. The expected changes in equality legislation will also require preparations for expansion of the Office's field of work. Ensuring the sufficiency of resources will be an important factor in this process.

Goals:

- Special attention will be paid to providing support for coping at work. Job descriptions will be developed in a more versatile and, when possible, varied direction. Job guidance and other development activities will provide tools and opportunities to address feelings regarding work.
- Developing operating methods and limiting the amount of work will help to reinforce the staff's sense of being in control of the work. The development and use of diverse operating methods will be encouraged so as to ensure that the most suitable operating methods are effectively utilised in each situation. Operating methods will be developed jointly in the work community and based on equality.
- Training and development have an important role to play.

E. Monitoring

Implementation of this strategy will be monitored as part of the Office's work.

The strategy will be taken into consideration in the Office's operational, financial, human resources and communications planning. Stakeholders will be informed of the strategy, thus giving them a chance to monitor implementation of the goals. Implementation of the strategy will be evaluated in two years in terms of the various operating areas, such as promoting equality, networking, communications and training.



Ombudsman for Minorities

**Mikonkatu 25 (PO Box 26)
FI-00023 Government, FINLAND**

Customer service

+358 (0)71 878 8666

Weekdays 10 am–noon

Exchange +358 (0)71 878 0171

www.ofm.fi