



European network of legal experts in gender equality and non-discrimination

NEWS REPORT

Country:	Finland
Title:	Non-Discrimination Act
Date:	15 February 2015
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<u>Context</u>	
Issue at stake:	Reform of gender equality and non-discrimination law
Ground of discrimination:	Gender; gender identity; expression of gender identity
Source:	Non-Discrimination Act 1325/2014, Act on Equality Board 1327/2014, Act on Equality between Women and Men (amended) 1329/2014, and several related acts, approved by the Parliament 30.12.2014 (not yet published)
Field:	Employment; equal pay; pregnancy and maternity; goods and services; gender identity; expression of gender identity; multiple discrimination

Content

Legislative reform: The Finnish Parliament approved the Government Bill (HE 19/2014 vp.) on the reform of the Non-Discrimination Act 2004 and related legislation on 30 December, 2014. Two former equality bodies, the Gender Equality Board (concerned with gender equality) and the National Discrimination Tribunal (concerned with ethnic discrimination), were united and given a broader mandate. The Act on Equality was amended by adding under Section 1 of the Act the explanation that the aim of the act is to prevent discrimination based on gender identity and expression of gender identity. Section 3, which contains definitions, now includes the definitions of gender identity and expression of gender identity. Gender identity is defined as a person's own experience of his or her gender (Section 3 (5)); and expression of gender identity is defined as the 'expression of gender by dress, behaviour, or in a corresponding manner' (an example of the latter being a manner of speech) (Section 3(6)).

The positive duty to promote equality and to equality planning of educational institutions was extended to the institutions of mandatory primary education. Under the new provisions, all educational institutions have the duty to promote equality between the sexes in a manner that takes into account the age and development of the children.

The positive duty of employers to undertake equality assessments ('equality planning') was made stricter by new provisions, especially those on 'pay mapping', which is to be undertaken by employers with 30 or more employees. Under the new formulation, 'pay mapping' requires that every second year (or every third year under certain circumstances), an employer is to prepare in cooperation with persons nominated by the employees, an equality plan. This equality plan is to show how women and men are

situated at different tasks in the work place. The equality plan aims to ensure that there are no unjustified pay differentials among women and men doing equal work or work of equal value. One of the new provisions (Section 6(b) of the Act on Equality) further explains how employees are to be grouped for wage comparison. A further new provision (Section 6(c)) obligates authorities, educational institutions, and employees to prevent discrimination on the basis of gender identity or the expression of gender identity.

The new Act on Equality Board replaces two separate equality boards, one for gender equality and the other on ethnic equality, with a unified Board of Equality. The new Board has the competence to handle cases under both the Non-Discrimination Act and the Act on Equality. However, a victim of gender discrimination (unlike a victim of discrimination based on other prohibited grounds) does not have the right to bring a case to the new Board, as the Act on Equality limits this right to the Equality Ombudsman and the main Social Partners. Concerning gender discrimination, the new Equality Board only has the mandate to prohibit the continuation of a discriminatory act, and the mandate of the new Equality Board therefore remains similar to the mandate of the previous Gender Equality Board. The new Board has a broader competence over issues covered by the Non-Discrimination Act (concerning all other discrimination grounds): to confirm conciliation between the parties (Section 20 of the Non-Discrimination Act). On the other hand, the Board has a mandate on employment-related gender discrimination, but no mandate in employment-related discrimination based on other discrimination grounds, as these are monitored by Occupational Health Authorities. The disparity between victims of gender discrimination and victims of non-discrimination concerning access to the Board and the difference in the mandate to conciliate may complicate the process of handling cases of intersectional discrimination under the new equality legislation. In its statement, the Constitutional Committee¹ requested the Employment and Equality Committee (the reporting standing committee) to consider both the disparity of remedies available to the victim of discrimination depending on the ground of discrimination, and the disparate mandate of the new Equality Board to deal with various discrimination grounds. The Constitutional Committee also noted that the proposed mandate and working process of the Equality Board put victims of multiple discrimination in a disadvantageous position.

Key points of analysis: The reform of the law has clarified the position of transsexual persons, and 'pay mapping' rules were made more stringent. However, the unification of all grounds of discrimination under one Act was not realised. The reform of the law has facilitated the unification of the equality boards, but not the Equality Ombudsmen. However, there is a significant disparity in both access to and the mandate of the new Equality Board, which puts victims of gender discrimination at a disadvantage.

Internet link source: Parliament website for the Bill 19/2014 vp on reform of the Non-discrimination Act and related acts:

<http://www.eduskunta.fi/triphome/bin/vex3000.sh?TUNNISTE=HE+19/2014>, accessed 26 February 2015.

¹ Perustuslakivaliokunnan lausunto 31/2014 vp.