



4 December 2020

**Replies by the Government of Finland to the questionnaire by the Office of the High Commissioner on human rights and fundamental freedoms of Africans and people of African descent (preparation of the report pursuant to HRC resolution 43/1)**

The Government of Finland thanks the Office of the High Commissioner for its work and presents the following replies to the questionnaire sent by the Office of the High Commissioner on 26 October 2020 for the preparation of the High Commissioner's comprehensive report as requested by the HRC resolution 43/1 regarding the human rights and fundamental freedoms of Africans and people of African descent.

The replies to the questionnaire were received from the Ministry of Justice and the Non-Discrimination Ombudsman of Finland.

**MINISTRY OF JUSTICE**

***Measures taken to identify, address, reform and remedy systems, institutions, structures, mechanisms, legislation, policies and/or practices that give rise to, perpetuate, entrench and/or reinforce systemic racism, racial discrimination and associated human rights violations against Africans and people of African descent, including those resulting from historical legacies, as relevant***

Prime Minister Sanna Marin's Government Programme (Inclusive and competent Finland – a socially, economically and ecologically sustainable society) which is currently underway includes several entries related to the fight against racism and the promotion of equality. Government Program entries concern both the development of legislation and the strengthening of anti-racism policies.

In line with the Government Programme the Ministry of Justice has launched preparations for the national action programme for combating racism and promoting good relations between population groups. Drawing up an action programme is an integral part of the anti-discrimination work of Prime Minister Sanna Marin's Government. The action plan is being prepared by a broad-based working group which, based on a situation assessment, will plan a set of measures to combat racism and promote good relations between population groups in different sectors of society. The action programme is to be adopted as a Government decision-in-principle in early 2021. The program will note that racism can be faced by many different groups, such as Africans or people of African descent, Roma, indigenous Sámi, Muslims and Jews, as well as immigrants, among others. Multiple discrimination and intersectionality will also be taken into account when considering the different manifestations of racism and discrimination.

The development and implementation of anti-racism actions require a wide-ranging cooperation. The Government emphasizes the importance of consulting various stakeholders and representatives of civil society. The Government is also committed to increasing the authorities' competence and awareness of minority issues.

In line with the Government Programme the need to address the most serious forms of organized racism through legislation will be assessed. In autumn of 2019 the Ministry of Justice set up a project to draw up an assessment memorandum on whether the provisions of the Penal Code relating to organized racism comply with the provisions of the UN Convention on Racial Discrimination and are otherwise sufficiently clear and comprehensive. This work is still ongoing.

In addition, the Ministry of Justice implements equity and non-discrimination projects which receive funding from the EU's Fundamental Rights, Equality and Citizenship Program. The All in for Equality project, coordinated by the Ministry of Justice, aims to increase the understanding and capacity of the entire population to tackle racism. The project aims to combat discrimination and harassment, in particular of ethnic and religious minorities. Among other things, the project will support educational institutions in their role in promoting equality and equity, increase employers' and professionals' knowledge and awareness of non-discrimination, anti-racism and diversity through training, and develop tools and methods for responding to and tackling discrimination and harassment. Police will be trained on ethnic profiling and its consequences.

The Prime Minister Sanna Marin's Government Programme also includes the development of discrimination monitoring. The aim is to develop systematic monitoring of discrimination and hate crimes. A national monitoring system and expert working group has been set up for 2021–2023 to support this as well as an EU funded project. The aim of the project is to promote the availability of disaggregated information.

On 18 November 2020 the Ministry of Economic Affairs and Employment appointed a steering group for the working life diversity program, which promotes diversity and inclusiveness in working life from the perspective of immigrants, as per the government program. The aim of the program is to ensure that companies and organizations benefit from diversity and those immigrants are able to find employment matching their skills and advance in their careers. The steering group includes representatives from ministries, public authorities and other key bodies. The term of the steering group will run from 18 November 2020 until 31 March 2022.

Finnish legislation contains comprehensive prohibitions on discrimination. The promotion of equality and the prohibition of discrimination are provided for in the Non-discrimination Act (1325/2014) (in English: <https://www.finlex.fi/en/laki/kaannokset/2014/en20141325.pdf>). Gender equality is regulated by the Act on Equality between Women and Men (609/1986) and the penalty for discrimination is provided for in the Penal Code (39/1889).

Reformed Non-discrimination Act (1325/2014) came into effect on 2015. Non-discrimination Act provides extensive protection against discrimination. Protection against discrimination is equally broad whether discrimination is based on age, origin, nationality, language, religion, belief, opinion, political activities, union activities, family ties, state of health, disability, sexual orientation or any other personal characteristic.

Compliance with the Non-Discrimination Act is supervised by the Non-Discrimination Ombudsman, the National Non-Discrimination and Equality Tribunal, and the occupational safety and health authorities. The task of the Non-Discrimination Ombudsman is to monitor compliance with the Non-Discrimination Act in the manner provided in the said Act and in general to promote equality and to prevent discrimination. The Ombudsman also serves as the National Rapporteur on Trafficking in Human Beings. The remit of the Ombudsman also covers monitoring the realization of the rights of foreign citizens and monitoring the removal from the country of foreign citizens. The Non-discrimination Ombudsman does not have the power to give judicially binding orders.

In cases where the National Non-discrimination and Equality Tribunal issues a decision, it may prohibit continued or repeated discrimination or victimisation and impose a conditional fine to enforce compliance with its injunctions, and also order payment of such a fine. In addition, the Tribunal may order the party concerned to take measures within a reasonable period of time in order to fulfil the obligations under the Non-Discrimination Act. However, it cannot order a party to pay compensation. The decisions of the Tribunal may be appealed to an administrative court. Compliance with the Non-Discrimination Act on working life is outside the Tribunal's supervisory remit.

According to Sanna Marin's Government Programme the Non-Discrimination Act will be partially renewed. In autumn of 2020 a report was published evaluating the Non-discrimination Act which showed that even though the legislation has moved in the right direction it is not yet sufficiently utilized. The main challenges to achieving the objectives of the Non-Discrimination Act are related to the implementation of the Act and the selection of discrimination on different grounds and in different areas of life into different legal protection channels. The process is ongoing.

***Information regarding systems of collection by the State authorities of disaggregated data based on race, colour, descent, or national or ethnic origin, and processes for analysis of such data. In relation to the above mentioned areas, please provide data disaggregated by race, colour, descent, or national or ethnic origin; as well as additionally by sex, age, economic and social situation, disability, sexual orientation and gender identity, incarceration and other status, where available. Where such information is not available, please state why***

Data on discrimination has been collected, in particular in the framework of the National Discrimination Monitoring System, since 2008. The purpose of the reports has been to find out about discrimination as a phenomenon in different areas of life and experienced by different population groups. In addition to experiences of discrimination, information has been gathered on suspicions of discrimination brought to the attention of the authorities, on discrimination decisions by various courts, and on hate speech, including hate crime.

The Discrimination Monitoring System, under the Ministry of Justice, produced a report of sources that produce information on discrimination (National sources for monitoring discrimination; Ministry of Justice, 2019). The report identifies national sources of information on discrimination. Discrimination refers to discrimination as defined in the Non-discrimination Act. The survey presents national continuous monitoring structures on different aspects of discrimination, discrimination-related research and data collection gaps. The report compiles information on national data collection structures, including, for example, population surveys, statistics and administrative data in different sectors.. It includes the views of the actors representing the target group on the current state and needs of data collection. It also identifies gaps and weaknesses in data collection, reflects the current state in a similar analysis carried out in the past and assesses the development of national data collection in 2008–2018. In addition, it includes recommendations for the development of national data collection. The report is based on information gathered from various actors on the Internet, as well as face-to-face or telephone discussions with more than 50 officials and experts, including members of the Working Group of the Discrimination Monitoring Group. The material was compiled from 1 November 2018 to 9 March 2019.

The above-mentioned report of data sources showed that the availability of data has significantly improved in Finland. Public authorities are more aware of the need to collect information on the implementation of equity and equality in their own sector and have developed their data collection.

The data collection of the EU Agency for Fundamental Rights (FRA) has also made a significant contribution to the development of national data collection, for example by harmonizing questions.

In recent years, solutions have been sought to collect information on discrimination based on ethnic background. The challenge, as in many other countries, is that, in accordance with legislation, the population register does not collect information on the ethnicity of persons living in Finland. With ethnic minorities, mother tongue, country of birth or parents' country of birth are most often used as a proxy.

The role of organizations that represent minorities in disseminating information, for example on online surveys, is very important. In addition, some population-based studies have used two-level sampling. The sample itself has been compiled on the basis of registers as a random sample, and as part of the survey, respondents are given the opportunity to identify their own minority background. However, a limitation of this good practice is that it only works in large population-level surveys that collect a sufficient number of responses for analysis. A good example of this is the School Health Survey, which is conducted every two years for three age groups.

In the spring of 2020, a new research project has been launched to ensure longitudinal monitoring of employment discrimination. The goal of the non-discriminatory working life research project is to provide up-to-date information on discrimination in working life in Finland. The aim is to build a comprehensive overview of discrimination in employment and to find ways to prevent recruitment discrimination in particular. The research project will be implemented as part of the Government's joint investigation and research activities.

***Mechanisms in place to ensure that Africans and people of African descent and their representatives are appropriately, adequately and sufficiently represented in processes to identify, remove and reform structures, policies and practices of racial discrimination in institutions of law enforcement and the related administration of criminal justice***

### **Advisory Board for Ethnic Relations (Etno)**

The Advisory Board for Ethnic Relations (Etno) serves as a national forum for dialogue. The Government appoints the Advisory Board for four years at a time. The main purpose of the Advisory Board is to enable dialogue, in other words regular cooperation and better understanding, between immigrants, ethnic minorities, authorities, political parties and civil society organizations. The members of the Advisory Board convene regularly, share information and bring various issues and different perspectives into public debate. Etno strives to promote positive attitudes and good relations between population groups, for example by organizing open discussion events and raising awareness of diversity in Finland.

The most valuable asset of Etno is its members, their expertise and their networks in society. Etno forms a network of experts specializing in questions relating to migration, integration, equality, participation and influencing opportunities of immigrants, and dialogue between different population groups. Etno may set up working groups and issue opinions and statements. It may also make proposals or act as a partner in research and development projects. Etno members share their expertise and participate in the preparation of opinions and in the work of different working groups. By participating in the preparation, members and experts have an opportunity to influence decision-making, legislation and structures of society. Etno brings together experts in immigrant work and good relations between population groups at national, regional and local level. Besides the national Advisory Board, there are seven regional advisory boards for ethnic relations.

Etno has an advisory role. It can, for example, issue recommendations and statements and launch initiatives. It has no power of decision or executive capacity. The recommendations issued by the Advisory Board are not legally binding. Etno may exert influence in society by engaging in public debate and by increasing understanding and expertise/knowledge. Provisions on the activities and composition of the Advisory Board for Ethnic Relations are laid down in the Government Decree (771/2015). Government Decree on the Advisory Board for Ethnic Relations (available in Finnish) <https://www.finlex.fi/fi/laki/alkup/2015/20150771>

***Specific information pertaining to all other aspects of the mandate set out in resolution 43/1, including regarding the situation and the perspectives of African women and children of African descent, as well as other relevant gender and intersectional dimensions, including discrimination based on color, sex/gender, economic and social status, disability or other status***

The Non-discrimination legislation covers also multiple and intersectional discrimination. The mandate to monitor discrimination is divided between the Non-discrimination Ombudsman and the Equality Ombudsman (inter alia gender). The Non-Discrimination Ombudsman however has the power to handle cases where gender is one of the discrimination grounds among other grounds for example origin or nationality.

## **THE NON-DISCRIMINATION OMBUDSMAN OF FINLAND**

The Non-Discrimination Ombudsman of Finland is an autonomous and independent authority. The task of the Ombudsman is to promote equality and to prevent discrimination. The Ombudsman also supervises removal from the country and is the National Rapporteur on Trafficking in Human Beings. The Ombudsman further works towards improving the rights and status of foreign nationals. The duties and rights of the Ombudsman are laid down in the Non-Discrimination Act and the Act on the Non-Discrimination Ombudsman.

Racism in Finland is a widespread social phenomenon with all-encompassing effect on Afro-Finns

In 2020 the Non-Discrimination Ombudsman published a report: Racism and discrimination - everyday experiences for People of African descent in Finland. The report showed that discrimination and racism have an all-encompassing effect on the lives of people of African descent living in Finland. Discrimination affects the lives of people of African descent in all areas of society in a comprehensive manner (more information below.)

Also FRA's report Being Black in the EU (2018) showed that racism in Finland is extremely widespread (<https://fra.europa.eu/en/publication/2018/being-black-eu> ).

The Black Lives Matter -movement also reverberated in Finnish society and the public discussion on discrimination against Afro-Finns has since then continued. However, the results remain yet to be seen.

Effective action against racism and discrimination is needed

Given the worrying prevalence of racism and hate speech, the Non-Discrimination Ombudsman considers that the Finnish government and authorities must take effective action to eradicate

racism and discrimination. Hate crimes need to be investigated effectively. The authorities should ensure more effective legal remedies and support services to victims of discrimination. Anti-discrimination authorities should take various measures to reduce underreporting of discrimination (see more recommendations below).

#### Report on racism and discrimination experienced by Afro-Finns published by the Ombudsman

The Non-Discrimination Ombudsman published recently the report *Racism and discrimination - everyday experiences for People of African descent in Finland* (<https://syrjinta.fi/en/front-page>). The Ombudsman collected information on the discrimination experienced by people of African descent using an online form and one-on-one interviews. The online survey received 286 valid responses and 11 interviews were conducted.

The majority of the respondents face discrimination on a monthly, weekly or even daily basis. The respondents' first experiences of discrimination have taken place at a young age, that is, under school age in early childhood education or in the early years of basic education.

Discrimination takes place in encounters in everyday situations in interaction between individuals and groups, as well as in the structures and workings of society.

Racist discrimination and harassment are primarily encountered in public urban spaces, in education and at work or when applying for a job. It also takes place in public services, such as social and health care services. The experiences of harassment range widely from seemingly harmless comments and acts, i.e. microaggressions, to violence.

Slightly more than half of the respondents reported having experienced ethnic profiling by police or security guards.

A clear majority of the respondents have experienced discrimination in education. Respondents say that racism emerges from actions by both other students and teaching staff. Almost a third of respondents have experienced discrimination already before reaching school age, in early childhood education.

Sixty percent of the respondents who have worked or applied for a job have experienced discrimination. The respondents have experienced discrimination by employers, colleagues, and customers in both the private and public sectors. Respondents have experienced discrimination especially in recruitment and at the workplace.

About half of the respondents do not report the discrimination they experience to any authorities. The most common reason for not reporting experiences of discrimination is the belief that reporting would not lead to any changes. Racism is seen as such a big problem that an isolated report on discrimination is not considered likely to change anything.

The report contains various recommendations to authorities:

- Authorities and other parties which have a responsibility of promoting equality in education and employment should familiarise themselves with the problems highlighted in the report.

- Public authorities, employers and training providers must effectively implement their legal obligation to promote equality.
- Police and security guards need to be regularly trained and adequately instructed to prevent ethnic profiling and experiences of ethnic profiling.
- Anti-discrimination authorities should take various measures to reduce underreporting of discrimination.
- The obligation of equality planning should be extended the whole education system, from early childhood to further and higher education.
- Racism and discrimination must be actively addressed in schools. Schools should have clear processes and a contact person for situations in which a student experiences discrimination.
- Educational courses against racism and discrimination should be included as part of the degree and in-service training of teachers and youth workers. Anti-racism and anti-discrimination in-service training should be provided to study counselors.
- The Ministry of Education and Culture and the National Board of Education must ensure that the actors under their authority effectively implement their obligation to promote equality.
- Employers' awareness and knowledge of non-discrimination and the promotion of equality should be increased. Management has a crucial role to play in preventing discrimination.
- The powers of the Non-Discrimination Ombudsman should be extended to the possibility of investigating individual situations of discrimination in employment. The powers of the Ombudsman should also be extended to cover the supervision of the obligation to promote equality, in cooperation with the occupational safety and health authorities.

#### Government measures to combat racism and discrimination

Currently, there are some policy documents/action plans being prepared, which may address the issue of racism and discrimination against persons of African descent. A Government Programme on fundamental and human rights is being prepared, and the programme is also to include a set of indicators on the state of fundamental and human rights. A Government Programme on measures to counter racism and enhance good ethnic relations is also prepared. A revision of the Penal Code, in order to better address the issue of hate speech, is also underway.