



**OMBUDSMAN FOR MINORITIES**

**Report for the first year of operations  
Office of the Ombudsman for Minorities 2002**

# To the Ministry of Labour

## First year of operation

During the Ombudsman's first complete year of operation, 2002, the operational environment – the Finnish society – continued to diversify ethnically. This process is anticipated to speed up in the future. Currently unsubstantial labour immigration is likely to soar in the next few years, irrespective of whether the unemployment rate declines or not. Simultaneously, the factors contributing to an increasingly multiethnic society – such as crossborder interaction and the provision of international protection – will hardly disappear.

The process towards multiethnic culture is a profound change that affects our society in a number of ways. We have taken it for granted that it is the ethnic minorities who change: they learn our language and customs – they settle down in Finland. Yet there is another change that we often fail to notice. In return, the minorities unavoidably change our society and quintessential Finnish identity. This results in something new: a multicultural society. At its best, it does not involve a sharp dichotomy between majority and minority culture or result in a full adaptation by the minority to the mainstream population. The change can be steered towards positive multiculturalism. This, however, requires extensive and open-minded preparations combined with active measures.

The establishment of the post of an Ombudsman for Minorities is one of them. The emphasis during the first year was on defining the new job description and creating the prerequisites for operation – head-

ing towards the future but making good use of the old. Outlining the duties, raising awareness of the Ombudsman for Minorities and establishing relations for co-operation have all improved opportunities for a multicultural society. Organising the internal activities of the Ombudsman's Office has also topped the agenda.

In 2002, the Ombudsman was faced with many new problems that had to be solved for the first time. This could be said to apply more widely in the everyday processes towards a multicultural Finland. Another observation, however, is equally true: Finnish society has strong foundations on which we can build something new by pooling resources.

According to Section 6 of the Decree on the Ombudsman for Minorities (687/2001), the Ombudsman for Minorities provides the Ministry of Labour with an annual report every year. Furthermore, in line with Section 6 of the Act on the Ombudsman for Minorities 660/2001), the Ombudsman has an Office and the report submitted on the administrative branch of the Ombudsman also includes the operations of the Office .

I hereby submit the Report of the Ombudsman for Minorities for 2002 to the Ministry of Labour.

25 June, 2003 Helsinki

With respect



Mikko Puumalainen  
Ombudsman for Minorities



# Contents

To the Ministry of Labour	1
1 On Ombudsman for Minorities in 2002	4
1.1 New, extended scope of operations	4
1.2 Main fields of operation	5
2 Customer service	6
2.1 General description	6
2.2 Matters addressed in the customer service	6
3 General measures aimed at improving the status of foreigners and ethnic minorities	11
3.1 Statements and other measures	11
3.2 Initiatives	12
3.3 Publications	13
3.4 Seminars, training sessions	13
3.5 Talks, visits, interviews, letters	14
4 Statements concerning the application of the Aliens Act	16
5 Administration	17
5.1 Operating expenses	17
5.2 Staff	17
5.3 Facilities	17
6 Advisory Board for Minority Affairs	18
Plan of action for 2003	19
Appendix	22

# 1 On Ombudsman for Minorities in 2002

## 1.1 New, extended scope of operations

The post for the Ombudsman for Minorities as a competent authority began as of 1 September 2001, when the Act (660/2001) and Decree (661/2001) on the Ombudsman for Minorities entered into force. The same date meant the termination of the post of Ombudsman for Aliens. The related Act (446/1991) and Decree (447/1991) were abolished accordingly.

The Ombudsman's position, field of operation, duties and powers are determined in legislation. In brief, the Ombudsman should promote good ethnic relations and improve the status and rights of ethnic minorities and foreigners in society, monitor the realisation of equality and observance to the prohibition of discrimination on the basis of ethnic origin, take initiatives, disseminate information, report, and attend the duties determined for the Ombudsman for Minorities under the Aliens Act (378/1991).

The Ombudsman is an independent authority administratively affiliated with the Ministry of Labour. The Ombudsman has an Office that provides a central and necessary resource for the Ombudsman. The Office staff serves customers, trains, disseminates information, prepares statements and initiatives in accordance with the policy lines provided by the Ombudsman.

The duties falling within the Ombudsman's competence include both new tasks determined for the Ombudsman for Minorities and old ones formerly determined for the Ombudsman for Aliens. The powers, the Ombudsman's nature as an expert and, to a certain extent, a legal protection authority, as well as some duties such as customer guidance, remained unaltered. The field of operation and duties, however, expanded substantially. The customers now include ethnic minorities. Furthermore, the promo-

tion of good ethnic relations was added to the job description.

The enlargement of the customer base concerns both traditional and new ethnic minorities. On the basis of the grounds provided in the Government Bill on the Act on Ombudsman for Minorities (HE 39/2001 parliamentary session) traditional ethnic minorities refers to the Sámi, Roma, 'Old Russians', Jews and Tatars. Traditional minorities settled down in Finland significantly earlier than the later arrivals. With regard to this, the Sámi are in special position as indigenous people. The new minorities include those who have arrived Finland more recently and whose ethnicity is both visible and different from ethnic Finns. These minorities include, for example, Somalis.

Because foreigners are often different from ethnic Finns, ethnic minorities could be understood to belong to the field of operations of the former Ombudsman for Aliens. However, the competence of the Ombudsman for Minorities also includes Finnish citizens who are members of ethnic minorities.

The new task – promotion of good ethnic relations – applies both to relations between ethnic minorities and those between minorities and ethnic Finns. The content of the task is flexible: it may include dissemination of information and perspectives on customers' status and life in the media by means of interviews, essays and talks, as well as more individual guidance and recommendations. The promotion of good ethnic relations may also mean assisting in the reconciliation of ethnic conflicts and, at a more general level, making use of one's expert knowledge to solve ethnic problems.

Although the Ombudsman operates independently, he has a special task as an authority. The core

of this duty is to improve the status of foreigners and ethnic minorities in different ways. The promotion of good ethnic relations is in harmony with this.

When promoting good ethnic relations, the Ombudsman is not entirely neutral since this task should not conflict with the other tasks assigned to the Ombudsman. Good ethnic relations improve the status of foreigners and ethnic minorities while bad ethnic relations become manifested as discrimination, even racism.

## 1.2 Main fields of operation

In 2002, the statutory duties of the Ombudsman can be classified into three main categories:

- customer guidance, counselling and assistance in cases of ethnic discrimination, appropriate treatment and questions related to the Aliens Act.

- general measures aimed at improving the status of foreigners and ethnic minorities; and

- preparation of statements concerning attending to duties laid down in the Aliens Act and the proposals for asylum applications and deportation of foreigners in particular.

During the first year of operation, establishing the prerequisites – both external and internal – for taking care of the duties could be described as the fourth main category. As a new authority, this has involved, for example, outlining the content, objectives and priorities of the field of operation and raising public awareness of them, as well as establishing co-operation and interest group relations. Organising internal activities and procedures to suit the new field of operation, recruiting Office personnel, creating job culture and job descriptions and procedures in the Office have also been crucial.

## 2 Customer service

### 2.1 General description

The Act on the Ombudsman for Minorities includes provisions governing guidance, counselling and assisting individual customers.

By virtue of Section 3 of the Act, the Ombudsman must, when observing ethnic discrimination, through guidance and advice contribute to the discontinuation of discrimination. The Ombudsman may take initiatives, give recommendations and advice that seek to improve good ethnic relations and promote the status of ethnic minorities. The Act further stipulates that proceedings can be instituted in court in relation to cases of ethnic discrimination. Section 4 of the Act includes provisions on the opportunity to provide and seek legal aid for victims of ethnic discrimination if, in the opinion of the Ombudsman, the matter can be considered significant from the perspective of prevention of discrimination.

It is typical that the customers first contact the Ombudsman for Minorities or his Office via telephone or e-mail. In some cases, the Office has needed to arrange for interpretation or translation of documents. The Ombudsman, or more often the Office staff, has first discussed the matter with the customer in order to acquire details of his or her situation and to determine the need for action. Most often guidance in the matter or referral of the customer further has sufficed. If necessary, the matter has been further investigated on behalf of the customer. If the need for legal assistance was deemed necessary, customers have been advised to use customary legal assistance. These have included the legal services provided by trade unions, public legal assistance offices and members of the Finnish Bar Association

Other authorities and representatives of non-governmental and other organisations have also uti-

lised the expertise of the Office. Most customers come from the Helsinki metropolitan area.

Besides customary registration, the number of customer contacts was not systematically entered in the statistics. On the basis of samples from three months, the estimated number of contacts in 2002 approximated 800. In all, 73 meetings with customers were arranged during the year.

The number of ethnic discrimination cases was estimated between 1 September and 25 November 2002. The Office registered a good 70 cases in which calls resulted from ethnic discrimination or suspected cases. The call led to further action in approximately one in four cases while in the rest of the cases guidance sufficed. The cases concerned suspected discrimination in filling vacancies and at the work place, in connection with housing services, social security, studies or educational establishments or racist-originated harassing or violence.

Although the Act on Ombudsman for Minorities clearly refers only to ethnic discrimination in customer services, in practice the questions related to the application of the Aliens Act outnumbered other contacts.

### 2.2 Matters addressed in the customer service

#### *Matters related to foreigners in customer service*

The most frequently asked questions via the telephone included the way the Directorate of Immigration or the police applied the Aliens Act. The customers enquired about, for example, the stage at which processing of pending residence permit or citizenship applications, deportation or asylum matters were or

decisions on them. Requests were also made to expedite the processing procedure in the Directorate of Immigration.

Non-nationals also often wanted to ask about the prerequisites or application procedures for compulsory permits, especially residence permits. On the basis of the contacts, it seems that the reason for the quite numerous enquires results from the cumbersome and non-informative prose style of the Aliens Act and insufficient customer service provided by authorities, which also partly results from the former.

Customers also contacted the Office of the Ombudsman because they were dissatisfied with the long application processing times. This occurs in all permit groups. Routine-like requests by the Ombudsman to expedite the matter is not, however, a good solution, although in some cases the Ombudsman has requested the Directorate to accelerate processing. For example, when the processing of a citizenship application had taken five years, the Ombudsman requested the Directorate of Immigration to speedily deliver the decision.

Customers or their assistants also occasionally contacted the office because of problematic decisions or issues related to the implementation of decisions. Some of the customer service concerned giving advice to customers who have received a negative decision on how to appeal the case or draw up an application for prohibition of enforcement. The Office has not, however, drawn up appeal documents for customers but rather, advised them to contact a lawyer.

### **Citizenship**

Some of the calls dealt with the new practice of the Directorate of Immigration to take fingerprints from certain applicant groups. Clients complained about the delay due to fingerprint comparison in their citizenship application, which had already been pending for a long time. Furthermore, inadequate information dissemination caused confusion. The Ombudsman requested the Directorate of Immigration to clarify

the fingerprint procedure, and urged it to disseminate information on the procedure and its goals already at this stage.

### **Residence permits**

The need for customer guidance in matters pertaining to residence permits became pressing in situations in which the purpose of the stay was about to change or had already changed. In accordance with the Aliens Act in force, a residence permit applied for a purpose other than the original purpose of the stay has to be applied for from outside Finland. Sometimes this led to an unreasonable situation if a person, who had obtained a residence permit on the basis of studies, wanted to enter the labour market. Situations were especially difficult in cases, in which the residence permit had been granted on the basis of marriage, but in which the marriage was being dissolved owing to, for example, spousal violence. Consequently, *verbatim* application of the Aliens Act discourages the victim of violence from applying for a divorce because this may lead to the cancellation of her residence permit or inability to obtain an extension to the permit.

Citizens of the EU Member States have an extensive right of residence in the entire EU territory. The right is not, however, unconditional and its interpretation in Finland is somewhat irregular. In accordance with the regulations concerning free movement of EU citizens, residence in Finland on the basis of studies should not place an “unreasonably burden” on the Finnish social security system. The Ombudsman intervened in a matter in which the application for a living allowance resulted in police investigation aiming at cancelling the residence permit. In a statement concerning deportation, the Ombudsman indicated that a living allowance needed for a short period of time in cases when a person has stayed in Finland for a long time should not result in deportation to another Member State.

### ***Consideration of asylum applications and enforcement of refusing entry to Finland***

The Office monitored several cases in which asylum seekers were detained or refused entry in relation to asylum and residence permit issues. The monitoring was due to calls from the detainees or those who were refused entry, or their family members or assistants. The Office of the Ombudsman for Minorities also exercised its own initiative in this matter. The cases were also discussed with assistants and the Refugee Advice Centre. The topics included the right application of grounds for detention, long individual detention times, detainees' problems in contacting their assistants or their family members and the treatment of applicants when detention was enforced.

#### ***Visas***

In accordance with the Aliens Act, visa applications and first residence permit applications based on other than family ties are principally decided in a Finnish mission abroad. These decisions are not subject to appeal. On the basis of the calls to the Ombudsman, not only is the lack of opportunity to appeal a problem, but also the fact that applicants are not told about the reasons for negative decisions. The processing guidelines of the Ministry for Foreign Affairs do not oblige a mission to state the reasons for a decision to the applicant. The Ombudsman considers that this procedure fails to comply with the requirement in the Administrative Procedure Act of providing a statement of reasons for a decision. The calls revealed that in some missions obtaining information on the consideration process is difficult.

#### ***Aliens' passports***

By virtue of the Aliens Act, the Directorate of Immigration may issue an alien's passport to a foreigner who is unable to obtain a passport from the authorities of his or her country of origin.

The Ombudsman requested the Directorate of Immigration to pay attention to the difficulty of Albanians in the Kosovo area, which belongs to the Federal Republic of Yugoslavia, to obtain passports. The negative decisions on the applications for alien's passports by the Directorate of Immigration have led to difficult situations since Kosovo Albanians have also been unable to obtain passports from the mission of the Federal Republic of Yugoslavia. One must present a certificate of citizenship in order to obtain a passport from the mission. The certificate of citizenship can be obtained by travelling to one's municipality of birth to request it, which, however, is not possible without a passport. In practice, applicants have found it impossible to obtain certificates of citizenship through the mission because archives in Kosovo were partially destroyed or transferred elsewhere and, therefore, the procedure takes a long time and is uncertain.

### ***Recognition of qualifications obtained abroad***

Customers have enquired about opportunities for the recognition of qualifications obtained abroad or wish to obtain Finnish qualifications by making foreign qualifications correspond to the provisions in force in Finland. The customers have been informed on the opportunities provided by legislation and advised to contact the National Board of Education or universities or other higher education institutions.

#### ***Social security***

Enquiries related to social security services or rights were common. For example, the callers have been dissatisfied about the social welfare officials' decisions on living allowance. The Office has advised the clients to lodge an appeal and use the services provided by the municipal Social Welfare Ombudsman.

#### ***Housing***

A common complaint has concerned the difficulties

of the Roma in obtaining council housing or the fact that the housing offered has been unsuitable for them. The municipalities may actively offer rented accommodation for new arrivals excluding Romany families. The authorities are not always aware of the special features in the Romany culture and, therefore, Roma may be offered culturally unfit flats. The rapid change of address among some Romany groups may, however, discourage municipalities from arranging suitable housing for Roma.

In these cases, it is difficult to find a clearly juridical and concrete obligation in the legislation in force that would ensure special treatment. Municipal housing agencies and other housing providers have been advised to take the special features of the Romany culture into account in housing. Furthermore, special housing needs related to the Romany culture have been dealt with lessors and an address related to multicultural housing in *Kuntamarkkinat 2002*, a fair arranged by the Finnish Local and Regional Authorities and *Kuntalehti* magazine.

### ***Working life and employment; discrimination in the labour market***

Clients having individual questions concerning job seeking were advised to use the services provided by employment offices. From the viewpoint of finding employment for those who are entering the Finnish labour market for the first time, services provided by labour administration promoting employment and opening access to the open labour market have proven significant.

The Office also paid attention to advertising for vacant jobs in order to observe potential discrimination. One employer in the service sector was requested to explain whether the company had special grounds for restricting the vacancy to Finnish citizens only. Consequently, the company changed its advertising to include foreigners as suitable applicants requiring, however, that applicants had lived a certain time in Finland. The criterion in this case was justified

since working takes place in an environment that requires a positive result from a background check from the authorities.

Some customers suspected they were being subject to discrimination at work. If, after discussions, they were convinced that discrimination had indeed occurred and wanted to proceed with the matter to competent authorities, they were advised to take the matter to the Occupational Safety and Health Inspectorate. The calls also indicated that ethnic non-discrimination played a more conspicuous role than before in wellbeing at work.

The Ombudsman was also requested to comment on or advise how to address special features of employees with different cultural backgrounds, for example, from the viewpoint of performing tasks and arrangement of working hours. One case concerned a Muslim restaurant worker's opportunity to pray during the working hours. The response highlighted the significance of equal treatment of employees: if breaks are possible without disturbing work the parties should be able to reach an agreement in these matters. Generally, arranging breaks for praying has been easy and the times have been settled in the framework of statutory breaks and sequencing of work without disturbing tasks.

### ***Provision of services***

The Ombudsman was notified of cases in which discrimination had allegedly occurred in providing services in industrial and commercial activities. In one case, a company refused to issue a loyal customer credit card to a foreigner since, in accordance with the credit card conditions, the card could be only granted to Finnish citizens. Upon the Ombudsman's request, the company removed the citizenship requirement.

Another case of alleged discrimination was the refusal of an insurance company to issue voluntary free-time accident insurance to a foreigner who had not yet lived in Finland for two years, which was one condition for issuing the insurance as stated by the

insurance company in its terms. Furthermore, a requirement for issuing insurance was competence in Finnish or Swedish.

According to the insurance company, a lengthier stay was required because the health of the potential customer and possible risk arising from it must be assessed for a longer time in the case of foreigners. The company maintained that otherwise it could not reliably find out about the authenticity of the information given in the health report. The company argued that competence in Finnish or Swedish was important because of the fulfilment of the reciprocal obligation of notification, for example, in relation to the health report. According to the company, the use of other languages in insurance activities is impossible due to a lack of language skills and to costs.

According to the Ombudsman, a justified reason could be deemed to exist as far as the requirement for a certain period of residence was concerned. The requirement for the command of Finnish or Swedish was not considered discrimination but, rather, poor customer service. As the number of foreigners in Finland is on the increase, companies should be able to serve customers in other languages than Finnish and Swedish alone. The Ombudsman requested the Consumer Agency to find out whether the marketing of the company's voluntary accident insurance could be interpreted as misleading, since the company's brochures failed to provide information on the requirement of a 2-year residence as a condition for issuing the insurance.

## 3 General measures aimed at improving the status of foreigners and ethnic minorities

### 3.1 Statements and other measures

#### *Drafting of statutes and other guidance*

The Ombudsman issued statements on:

- report on the working group on Aliens Act (2560/003/2001 TM /20.2.2002);
- draft for the Government Bill for the Finnish Nationality Act (statement of the substitute for the Ombudsman) (1446/001/2002 TM /12.7.2002);
- draft for the Government Bill on the amendment of the Employment Contracts Act and certain other acts (2840/001/2002 TM /19.9.2002);
- draft for the Government Bill for the Finnish Nationality Act (3206/001/2002 TM /4.11.2002);
- draft on the Government Bill for an Act ensuring ethnic equality and the amendment of the Act on Ombudsman for Minorities (2814/000/2002 TM /30.9.2002), and
- on his own initiative, a draft for the new asylum guideline of the Ministry of the Interior (3863/65/2002 TM /17.12.2002).

Upon the request of the City of Helsinki Education Department, the Ombudsman issued a statement on accepting children of immigrant origin as pupils (3369/65/2002 TM /7.11.2002). The Ombudsman also participated as an expert in a meeting of a working group preparing the Government Bill for the Aliens Act. The Ombudsman participated as expert in a Ministry of Labour working group preparing the Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

Parliamentary Committees heard the Ombudsman on:

- the proposal for the Council framework decision combating racism and xenophobia (Legal Affairs

Committee 7/2002 parliamentary session),

- the enforcement of integration legislation on the basis of a Council of State report (Employment and Equality Committee and Administration Committee VNS 5/2002 parliamentary session)
- the supplementary budget for 2002 (Finance Committee HE 67/2002 parliamentary session).

The Ombudsman participated in the strategy discussion (26 August 2002) in relation to the employment policy strategy currently under preparation in the labour administration.

The equality in working life issues were mostly related to discrimination in the recruitment of employees and appropriate treatment at the workplace. The Ombudsman for Minorities, the Occupational Safety and Health Inspectorate of Uusimaa and the Department for Occupational Safety and Health of the Ministry of Social Affairs and Health discussed co-operation areas and the opportunities of occupational safety and health authorities to monitor and prevent labour market discrimination against ethnic minorities at workplaces and in the recruitment of employees.

#### *Implementation of international instruments*

The Ombudsman issued a statement on the preparation of the fourth periodic report on the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

The Ombudsman took part in the hearing of the Framework Convention for the Protection of National Minorities and the Charter for Regional and Minority Languages of the Council of Europe.

### ***Consideration of applications for asylum and the enforcement of deportation decisions***

The Ombudsman for Minorities and his Office visited the Helsinki detention centre on 10 September 2002.

The Ombudsman visited Tampere police district on 7 October 2002. The discussions dealt with the duty to notify the Ombudsman for Minorities under Section 70 of the Aliens Act about detention and deportation procedures in Tampere

## **3.2 Initiatives**

### ***Labour market discrimination and occupational safety and health***

Foreigners and ethnic minorities feel that they often fall victim to labour market discrimination. The role of the occupational safety and health authorities in monitoring work permits and employment contracts of foreign workers is strengthening. Besides monitoring compliance with the terms and conditions of employment, it is worthwhile paying attention to other areas of work discrimination. Comprehensive development in monitoring and combating discrimination against ethnic minorities and foreigners in work-seeking situations or dismissals is a prerequisite for an ethnically diverse working life. Consequently, the Ombudsman presented an initiative to the Ministry of Social Affairs and Health concerning intensifying the prevention and monitoring of labour market discrimination against foreigners and ethnic minorities in occupational safety and health administration (3779/65/2002 TM /16.12.2002).

Among other things, the Ombudsman urged in his initiative that occupational safety and health strategy should more clearly encompass the prevention and monitoring of labour market discrimination. The strategy should specify occupational safety and health concepts and call attention to the prevention of labour market discrimination, focusing on minorities and foreigners, as part of mental wellbeing at work. Result management within occupational safe-

ty and health administration should include prevention and monitoring of labour market discrimination against foreigners and ethnic minorities as one of the objectives in the activities initiated by authorities or incorporate it into the agenda as a question to be agreed separately. The staff in the occupational safety and health administration should also be trained to recognise interaction relations and conflicts at a multiethnic workplace, as well as be equipped to prevent them.

### ***Roma and employment***

During the year under review, the Ombudsman paid attention to the difficult employment situation of Roma, partially on the basis of customer calls. The Ombudsman submitted an initiative urging the Ministry of Labour to make services promoting the employment of Roma more effective in the labour administration (3211/64/2002 TM /30.10.2002).

The aim is to develop actions promoting the employment of, and reduce discrimination against Roma in the labour market.

In his initiative, the Ombudsman suggested that the Ministry of Labour launch a project which would, among other things, survey the opportunities to collect more systematic data on Roma job-seekers within the framework of the data protection legislation. This would enable the targeting of the labour administration services better than before. Furthermore, the project would develop tools that would help the staff in the labour administration to better recognise the specific features of the Romany culture, and, consequently, take them into account in the customer service and labour market training provided by the labour administration.

### ***Information dissemination in Finnish missions***

Information on Finnish society and way of life is essential for a foreigner who is about to move to Finland. It is expected that foreigners are able to look

after themselves, seek advice and find solutions for their problems. To support this, the Finnish authorities produce materials, which aim to facilitate the integration of foreigners into Finland.

The Ombudsman submitted an initiative to the Ministry for Foreign Affairs and the Ministry of Labour in connection with communicating about the residence and work permits (3862/63/2002 TM /20.12.2002). The goal of the initiative is to facilitate the integration of foreigners, whose residence is intended to be long-term, by providing information on their rights, obligations and services in Finnish society. Foreigners would already receive the information in missions before their arrival at the same time as the permits are issued.

### 3.3 Publications

#### *Equality in Finland brochure*

The Ombudsman for Minorities participated in the publication of the brochure *Equality in Finland*. The brochure is a compact introduction to living in Finland, as well as to different life situations. It offers information on marriage and common-law marriage, bringing up children and their schooling, studying, job seeking, problems in family life and ways of solving them. The brochure also tells where to find further information and gives guidance on appropriate competent authorities.

The brochure was printed in eight languages and is available on the Ministry of Labour web site in thirteen languages.

### 3.4 Seminars, training sessions

#### *On equal footing? seminar*

In connection with the publication of the *Equality in Finland* brochure, the Ombudsman for Minorities and the Ministry of Labour arranged *On Equal Footing* seminar on 14 June 2002. The seminar focused on the realisation of equality in the everyday li-

fe of an immigrant family. The seminar gathered 50 immigrants and experts, who mainly work with immigrants, to discuss how equality is realised in everyday life of an immigrant family and how authorities can contribute to this. The seminar also discussed the meaning of equality in an immigrant family and studied the impact of cultural differences on equality.

Learning the language emerged as one important theme in discussions. Several speakers suggested that the provision of language training is one of the most central factors in successful integration but also indicated that language training for immigrants is currently not effective enough.

#### *Managing Inclusion*

On 19 and 20 August 2002, the Ombudsman arranged, in co-operation with the British Embassy and British Council, a pilot training session in order to raise awareness of diversity issues in organisational management. Training was based on a model which has been successfully applied to in-service training in the Foreign and Commonwealth Office and the tax administration in the UK.

The two-day course aimed at providing officials in public administration with professional skills to deal with situations related to diversity with a view to multicultural and multiethnic situations in working life. The main focus of the *Managing Inclusion* training course was on recognition of attitudes and reactions towards various forms of diversity. Skills related to these were also rehearsed during the course. The training aimed at helping to address diversity in working communities, to benefit from differences and, subsequently, being able to provide as high-standard and effective services as possible.

18 experts, who are in charge of planning in-service training in public administration and whose work either touches on questions related to multiculturalism or whose clientele is ethnically diverse, were invited to join the pilot project. The participants came from the largest Finnish cities, the Social Insurance

Institution of Finland, the field of education, the Police College of Finland, the Ministry of Labour and the Directorate of Immigration. The aim of the pilot training was to introduce a model which supports the organisation in planning its own training related to diversity and multicultural issues. Lois Leeming and Linbert Spencer, consultants, acted as trainers.

### *Minority Rights in increasingly multicultural Finland*

The Ombudsman for Minorities and the Northern Institute for Environmental and Minority Law NIEM arranged a research seminar on multiculturalism and minority rights on 30 September 2002.

The seminar clarified the theme of multiculturalism and rights and obligations pertaining to different minorities in the light of contemporary research findings. The first seminar, arranged on 30 September 2002, was aimed at researchers. The second seminar session to be arranged in 2003 will combine the views presented in the earlier seminar and know-how of experts who deal with questions related to multicultural and minority affairs.

The topics discussed in the researcher seminar included: the concept and ideology of multiculturalism (Professor Vesa Puuronen); Nature of minority rights (Professor Martin Scheinin); Limits of intervention and the right to a minority identity (Juhani Kortteinen, lecturer); generality of human rights (Reetta Toivanen, researcher); Special treatment and special rights of minorities (Professor Lauri Hannikainen); Common and different aspects in discrimination of minority groups (Outi Lepola, researcher); Minority rights from the perspective of women (Kaija Rossi, researcher); Reconciling the cultural and religious rights of a group and the individual rights of women (Scheinin); Multiple discrimination (Timo Makkonen, researcher), and the Integration of minorities and immigrants into society – the views of international organisations/organs on the prerequisites for integration (Merja Pentikäinen, researcher).

As well as the organisers, researchers from the Institute for Human Rights at Åbo Akademi, the Universities of Helsinki, Turku and Joensuu and CEREN participated in the researcher seminar.

### **3.5 Talks, visits, interviews, letters**

The task and duties of the Ombudsman for Minorities attracted wide attention. During the year under review, the Ombudsman met several representatives of the most important stakeholders and co-operation partners. The Ombudsman gave numerous interviews in the media, participated in talk shows and interviews and spoke in seminars and other functions.

The topic of the interviews ranged from the duties and objectives of the Ombudsman for Minorities to comments on topical questions closely related to the Ombudsman's field of activities. In addition to the job description, the Ombudsman provided information on the prerequisites in the integration of immigrants, the realisation of equality of foreigners and ethnic minorities and, in general, the increasing cultural diversity in Finland and the related challenges.

An abstract of the Ombudsman speeches is appended to this report. Some of them are also available on the web site of the Ombudsman.

A newspaper interview concerning the circumcision of boys (*Etelä-Suomen Sanomat, Satakunnan Kansa*, 4 February 2002) in connection with a supervision decision issued by the State Provincial Office of Eastern Finland attracted attention in particular. The Provincial Office objected to the improper procedure of a doctor who had carried out circumcisions outside hospital conditions. The Ombudsman considered that in order to prevent risks, circumcision should be part of public health care. The Ombudsman voiced his concern about the protection of children's health and its realisation in such conditions.

The Ombudsman requested the National Coalition Party (letter 2809/65/2002 TM/16.9.2002) to pay attention to the ethnically insulting way in which a party representative of high rank had spoken

publicly. The case concerned an interview featuring Harry Bogomoloff published in *Nyt* magazine 36/2002 of the national newspaper *Helsingin Sanomat*. In its response, the party administration confirmed

its commitment to the Charter of European Political Parties for a Non-Racist Society and its practical principles and emphasised its endeavours to promote these in its operations.

## 4 Statements concerning the application of the Aliens Act

### *Statements concerning asylum affairs*

In accordance with Section 33 of the Aliens Act, the Ombudsman for Minorities shall be given an opportunity to be heard when an application for asylum is being considered, unless so doing would be evidently unnecessary. Prior the Directorate of Immigration issues a decision on the application, it has reserved the Ombudsman an opportunity to be heard unless an application in the accelerated asylum procedure is the subject of consideration.

The statement procedure on applications for asylum and proposals for deportation has been in force since 1991. Thanks to the two additional posts of Senior Advisor established in June 2002, it has been possible to develop the statement procedure. The aim has been to provide a balanced expert opinion to support consideration on the matter indicated in the application. The procedure has also provided information on the issues and asylum procedures which are considered in connection with the statement. Thus, it has been possible to pay attention to possible shortcomings in the consideration procedure.

The procedure has mainly focused on cases in which the presenting official of the Directorate of Immigration would not primarily opt for international protection although the Ombudsman would consider that grounds for this exist in the documents. Subsequently, in his statements the Ombudsman has assessed, using the applicant's documents as his source of information, those issues on the basis of which international protection should be granted. In other cases, the Ombudsman has stated that the applicant's asylum documents available at the time of preparation have failed to reveal issues which would require a more detailed statement. Even if the Ombudsman does not issue a detailed statement in these cases, he nevertheless assesses the application and the related

documents and gives a short factual statement on representation.

In 2002, the Ombudsman submitted 644 statements on asylum applications.

### *Statements concerning proposals for deportation*

In accordance with Section 42 of the Aliens Act, the Ombudsman for Minorities must always be given an opportunity to be heard when deportation is being considered.

The Ombudsman has found the insufficient documents in the presentation to be a problem. The guidelines for the police fail to clearly emphasise the significance of collecting data enabling overall consideration. The former issue has been addressed in some statements. In the procedure, a foreigner is heard only after the Ombudsman has submitted his statement. Therefore, even essential facts which are significant from the perspective of overall consideration never come to the Ombudsman's knowledge.

As regards proposals for deportation, the Ombudsman usually gives a statement including an opinion and gives the reasons for the statement.

In cases when the deportation proposal by the police is not opposed, the statement was sometimes shorter. In 2002, 117 statements were issued on matters concerning deportation.

### *Statements to the Supreme Administrative Court*

In 2002, the Ombudsman issued, upon the request of the Supreme Administrative Court, 17 statements concerning individual appeals. The requests concerned petitions for leave to appeal and appeals on asylum, residence permit, refusal of entry and deportation.

## 5 Administration

### 5.1 Operating expenses

2002 was exceptional also from the point of view of administration: activities were tailored to better suit the new field of operation. Since 10 June, the staff has been complete. Resources were used more than usually in internal planning and arrangement of operations. The Office was also newly furnished. The starting point for the budget was the previous operating appropriation for the Ombudsman for Aliens which was, however, reduced since the item needed for one-off acquisition of furniture and equipment was taken into account. The operating appropriation totalled EUR 45,000. EUR 47,966 was spent on operating expenses. Significant acquisition of furniture in 2001 was transferred to be paid from the appropriation for 2002.

### 5.2 Staff

Ombudsman for Minorities, Mikko Puumalainen, LL.Lic. began in his post as of 1 January 2002. The former staff of the Office included Pirjo Takalo, MA and Raili Keriö, Secretary, graduate of Business and Administration. Two posts of Senior Advisors were established in the Office in 2002. As of 1 June, Rainer Hiltunen, LL.M., who also acted as substitute for the Ombudsman and Kari Kananen, M.Soc.Sc. began in their posts. The post of the former porter of the Office was changed into the post of Secretary as of 16 March. Päivi Okuogume Bachelor of Business and Administration began as Secretary as of 10 June.

In 2002, EUR 301,989.00 was allocated for wages and salaries. Wage and salary expenses were EUR 236,787.86.

Senior Advisors acted as presenting officials of the Office. Their duties include, for example, the preparation and presentation of asylum and deportation sta-

tements and other customer issues concerning foreigners, appeals for nullification on cases of ethnic discrimination, guidance and customer service, participation in compiling reports, information dissemination and training. The preparation tasks of the presenting official of the Office included individual measures related to the preparation for decisions, such as collecting and analysing background information, drawing up documents, following up after the implementation of decisions and monitoring.

Secretary is responsible for the customer and authority calls in the first stage, assists the Ombudsman and Senior Advisor in customer service, monitors the decisions issued by Supreme Administrative Courts and the Directorate of Immigration and monitors the notifications in accordance with the Aliens Act and serves as secretary to the Ombudsman for Minorities. The Secretary has an extensive responsibility for the administrative tasks of the Office, assists in organising seminars and other functions, co-ordinates information dissemination and serves as a tutor in IT support.

### 5.3 Facilities

The Office of the Ombudsman for Minorities is located in the Ministry of Labour facilities on Mikonkatu 4. The Office was temporarily located at Pohjoinen Esplanadi 37 (18 Dec 2001–30 August 2002) owing to the refurbishment of the Mikonkatu facilities. This had an effect on customer service in particular since only mobile phones were used in the temporary location, there were no regular porter services and the fax was in the Mikonkatu facilities.

## 6 Advisory Board for Minority Affairs

By virtue of Section 5 of the Act on Ombudsman for Minorities (660/2001), the Advisory Board for Minority Affairs assists the Ombudsman for Minorities in issues related to prevention and monitoring of ethnic discrimination and promotes co-operation between different authorities. The Decree

on the Ombudsman for Minorities (687/2001) lays down provisions regarding the tasks, composition and work of the Board. The Ombudsman requested the Ministry of Labour (letter 19 November 2002, TM006:00/2002) to proceed in establishing the Board.

## Plan of action for 2003

### *The law provides the foundation for operations*

The point of departure in operations in 2003 were the duties, field of operation and powers laid down in the Act on Ombudsman for Minorities (660/2001) and the stipulated tasks in asylum and deportation procedures laid down in the Aliens Act (378/1991 and amendments)

In the framework of provisions laid down in the law, the goals and priorities of the operation of the Ombudsman have been specified for 2003. In addition, the values guiding operations were determined.

The Ombudsman for Minorities has an Office. Thus, the action plan for the Ombudsman also includes the action plan for the Office.

### *Operational environment requires flexibility*

In 2003, the operational environment will change which means new challenges. These include projects in the Government programme related to the operational field of the Ombudsman, the Aliens Act reform, the implementation of the Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, preparation of the revisions in integration legislation and the establishment of the Advisory Board for Minority Affairs and launching of operations.

Issues which are more difficult to anticipate include the development of immigration and integration, the amount of applications for asylum and, in general, the status of foreigners and ethnic minorities, as well as other external factors having an impact on good ethnic relations. Therefore, it is important to be able to react flexibly in the changing operational environment.

### *Central operational fields in 2003*

In 2003, the central operational fields are as follows:

- strengthening of expertise and networking,
- developing customer service,
- statement procedure,
- influencing general structural factors; and
- producing information on the status of foreigners and ethnic minorities.

Besides the statutory tasks of the Ombudsman, one crucial aim of operations in 2003 is to further clarify the priorities for action, to strengthen the basic requirements enabling the work of the Ombudsman and his Office and both create and stabilise good administrative practices.

The central operational fields reflect the specific priorities set for 2003. The plan of action is not an exhaustive description of the operations of the Ombudsman and his Office in 2003.

### *Expertise and networking*

The aim of the operations is to strive for results within the administrative branch of the Ombudsman in a balanced way on the basis of an extensive and diverse statutory job description, and to maintain flexibility to react to societal changes with regard to the status of the customers.

The methods include endeavours to improve the status of foreigners and ethnic minorities in Finland in a way that is expert, constructive and efficient. A new dimension in networking in 2003 will be the establishment of contacts with European and Nordic actors operating in the same field.

During the year, the aim is to strengthen stakeholder contacts, disseminate information on the services provided by the Ombudsman and his Office in a more

visible way in accordance with the plan for dissemination of information drawn up in the Office.

The Ombudsman and his Office will focus on the development of diverse and profound expertise in the field of its operation. The customers benefit from expertise through statements on legislative projects and national implementation of international instruments, participation in seminars, discussion forums, meetings, visits of national and international groups and by availability to the media. Expertise is naturally also available for customers and stakeholders when addressing the matters of individual customers.

### ***The goals and contents of customer services to be clarified***

In individual customer contacts, the aim will be to provide services within two months in matters which do not require extensive further actions. As regards new customer cases, the objective is to make an evaluation of the required measures in two weeks at the latest after the case has come to the knowledge of the Ombudsman or the Office.

A significant part of customer contacts will be further transferred to a competent authority to be further studied and directly communicated to the customer. This will prevent the backlog of customer answers, as well as encourage other authorities to better answer the enquires and meet their customers' expectations. The quality criteria and specifications will also be further determined during the year.

The endeavours to make the processing of customer issues more high-standard partially prepares to cater for the increasing demands the Ombudsman will face when monitoring the principle of ethnic non-discrimination in equality legislation.

### ***Smooth and targeted statement procedure***

The Ombudsman will endeavour to process the statements concerning the deportation reports of foreigners in a maximum of one month. The waiting period for asylum decisions in the Directorate of Immigration

is scheduled to be a maximum of two weeks. If more profound grounds are required in applications, the Ombudsman will reserve a maximum of one month for processing.

By keeping to the agreed schedule, the Office seeks to prevent the backlog of statements and prolongation of overall processing. This year, the statement procedure developed in 2002 in which attention is especially paid to the realisation of the legal protection of foreigners and the opportunities for positive decisions in asylum affairs and the fulfilment of the criteria for decision for deportation will be continued.

### ***Initiatives are needed in influencing general structures and operations***

The Office seeks to influence the status of foreigners and ethnic minorities, as well as general structural factors promoting good ethnic relations, in as diverse a way as possible by disseminating information, providing expertise, reporting potential defects and using its own initiative in seeking new solutions. The initiatives will be targeted comprehensively at legislation, guidelines affecting the authority activities, operational methods, as well as at others operating in the Ombudsman's field who can in turn promote good ethnic relations and improve the status of foreigners and ethnic minorities in Finland.

In 2003, the monitoring of initiatives already taken up earlier will be continued and if necessary, they will be complemented in co-operation with those who process them. The initiatives include making the services targeted at Roma more effective, information dissemination on the rights and obligations for those who have been issued permits in foreign missions as well as improving the occupational safety and health of ethnic minorities.

In the operational year, new initiatives will be submitted together with implementation of effective measures that will have an impact on operational methods if necessary. This will include the initiative

seeking to increase Sámi-language day care for Sámi children and improving the status of the aged in ethnic minorities.

Initiatives can be taken up on the basis of customer calls or through issues revealed in statement procedures potentially requiring more general measures, such as the registration procedures of foreigners and immigrants in the population register, prevention of social exclusion of Russian-speaking adolescents and the asylum and detention procedures.

### ***More information on the status of foreigners and ethnic minorities***

The opportunities to collect and produce information on the status of minorities and foreigners will be addressed in the operational year. Either the Ombudsman or other actors may act as information producers. These include, for example, the development of advice and support services for ethnic mi-

norities and foreigners and the status, provided by legal administration, of ethnic minorities in services.

### ***Strengthening the skills and competence of the Office***

In 2003, the Office of Ombudsman will continue to organise internal operations by determining job descriptions and areas of responsibility, introducing a customer call register and by developing the external image of the Ombudsman and his Office and by implementing the designed information dissemination plan. Measures to develop the Ombudsman's web site is one of these. Organising the prerequisites for operations anticipates the coming into force of the Council Directive implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and enactment of equality legislation.

# Appendix

## Talks given by the Ombudsman in 2002

16 January “The job description of the Ombudsman”, a seminar arranged by the police dealing with foreigners’ affairs, Helsinki

4 February “Racism and ethnic discrimination”, the establishment of the Rasmus network, Helsinki

13 February “The job description of the Ombudsman for Minorities”, Seminar of Occupational Safety and Health lawyers, Helsinki)

20 February “Challenges of work combating discrimination in an increasingly diverse Finland”, SEIS project/Lapland regional seminar, Rovaniemi

12 March “On the position of minorities in Finland”, a meeting of the staff in labour administration, the Ministry of Labour, Kouvola

14 March “Issues to be addressed in local programmes”, a seminar on combating ethnic discrimination and racism by the Advisory Board for Alien Affairs of the City of Helsinki)

20 March “The opportunities to operate at a local level”, a seminar Multicultural – Equal Turku

23 April “Increasingly multicultural Finland, a seminar discussing the drug abusers from the former Soviet area in the Finnish service system for substance abusers”, Helsinki

14 May “The treatment and discrimination of members of minorities and foreigners”, legal training, Helsinki

6 June “Europe 2010 – the Europe of minorities?” talk in a lecture series by the Information Office of the European Commission in Finland, Helsinki

14 June “On equal footing?” introductory speech in a seminar on the realisation of equality in the everyday

life of an immigrant family, Helsinki

12 September “Ethnic minorities in higher education: how are general education, equality and well-being are realised”, a seminar ‘Many faces of the Finnish society’, arranged by the National Union of Students in Finland, Helsinki

20 September “Sports and ethnic minorities – a society in miniature?” Tolerance to sports fields – a seminar on multicultural sports, Helsinki

27 September “Making joint resources available in the enforcement of integration legislation”, Helsinki

5 October A speech at Mussalo primary school – celebrating the 100th anniversary of comprehensive schools, Kotka

17 October “The integration of immigrants with hearing disabilities”, a seminar of the Finnish Association for the Deaf, Helsinki

22 November “Does general education belong to everyone? A perspective to ethnic diversity in higher education”, opening speech, the National Union of Students in Finland /union meeting, Vihti, Korpilampi

17 December “The opportunities of reconciliation”, a commenting speech at conference On a road to equality, Helsinki

## Statements issued and initiatives submitted by Ombudsman in 2002

Statement on the report of the working group on Aliens Act 2001 (2560/003/2001 TM /20.2.2002)

Statement on the Government Bill for the Finnish Nationality Act (1446/001/2002 TM /12.7.2002)

Statement: UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, fourth periodic report (1567/059/2002 TM /9.8.2002)

Statement on the Government Bill on the amendment of Employment Contracts Act and certain other acts

Statement on the Government Bill for an Act ensuring ethnic equality and the amendment of the Act on Ombudsman for Minorities

Initiative on the making the services promoting the employment of Roma more effective in the labour administration (3211/64/2002 TM /30.10.2002)

Statement on the draft for the Government Proposal for the Aliens Act (3206/001/2002 TM /4.11.2002)

Statement on accepting children of immigrant origin as pupils (3369/65/2002 TM /7.11.2002)

Initiative on intensifying of the prevention and monitoring of labour market discrimination against foreigners and ethnic minorities in occupational safety and health administration (3779/65/2002 TM /16.12.2002)

Statement on the draft for a new asylum guideline (3863/65/2002 TM /17.12.2002)

Initiative on communicating about the residence and work permits of foreigners (3862/63/2002 TM /20.12.2002)

**OFFICE OF THE OMBUDSMAN FOR MINORITIES**

Mikonkatu 4

P.O. Box 34

00023 VALTIONEUVOSTO FINLAND

Tel. +358 9 160 06

Fax +358 9 1604 7002

[vahemmistovaltuutetun.toimisto@mol.fi](mailto:vahemmistovaltuutetun.toimisto@mol.fi)