



CRI(2022)01

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF FINLAND
SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 7 December 2021¹

Published on 3 March 2022

¹ Any developments which occurred after 1 September 2021, the date on which the response of the authorities of Finland to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, have not been taken into account in this analysis.

ECRI Secretariat
Directorate General II - Democracy
Council of Europe
F - 67075 STRASBOURG Cedex
Tel.: +33 (0) 390 21 46 62
E-mail: ecri@coe.int

www.coe.int/ecri



@ECRI_CoE

FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012², not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim follow-up recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

² CM/Del/Dec(2012)1154/4.2.

1) *In its report on Finland (fifth monitoring cycle) published on 10 September 2019, ECRI recommended that the National Non-Discrimination and Equality Tribunal should be empowered to deal with complaints of discrimination in employment on all prohibited grounds and not solely on the grounds of gender and gender identity; that the Tribunal should be empowered to grant compensation to victims of discrimination; and that the resources of the Tribunal should be substantially increased to enable it to fully carry out its mandate.*

Since ECRI made its recommendation in 2019, no changes have been made to the mandate and powers of the National Non-Discrimination and Equality Tribunal (NDET). According to the information ECRI received from the Finnish authorities, a working group for the partial reform of the Non-discrimination Act and its provisions dealing with discrimination in employment was appointed on 4 June 2021, with a view to completing its work by 31 May 2022. The working group's task is to identify and assess any problems and necessary changes in the effectiveness of the Non-discrimination Act and other regulations related to it, including the possibility to grant the NDET the right to award compensation to victims of discrimination.³

With regard to the resourcing of the NDET, ECRI notes that following a sharp rise in applications during 2018 and the resulting increase in average processing time from 243 days in 2018 to 352 days in 2019 and up to 515 days in 2020, the NDET temporarily received one additional staff member for the period from January 2021 to January 2022. While this has helped to bring the average processing time down to 454 days as of spring 2021, ECRI expresses its concern about the fact that this temporary staff increase will not be continued in 2022 and that the NDET resources will instead revert back to 2017 levels. In this context, it is noteworthy that the Deputy Chancellor of Justice, following a complaint received in 2019, considered in his decision of 20 June 2019 that the processing times for applications to the NDET should not be more than one year.

ECRI concludes therefore that this recommendation has not been implemented.

2) *In its report on Finland (fifth monitoring cycle), ECRI recommended that, in conformity with the case law of the European Court of Human Rights, the Act on Legal Recognition of the Gender of Transsexuals should be amended to remove the requirement that persons seeking recognition in a gender other than that in which they were originally registered should be infertile or should undergo sterilisation as a pre-condition for legal recognition.*

The Finnish authorities informed ECRI that the Programme for Government of the present administration includes an overall reform of the Act on Legal Recognition of the Gender of Transsexuals. Furthermore, the authorities state that the proposed reform of the Act would "correct the legal state that is not in compliance with the case law of the European Court of Human Rights and human rights treaties" and that the relevant legislation is scheduled to be submitted to the Finnish Parliament in 2022.

ECRI welcomes the commitment by the Finnish authorities to bring the law into compliance with the jurisprudence of the European Court of Human Rights, which includes removing any requirement that transgender persons must be infertile or must undergo sterilisation as a condition for having their gender recognised. However, the necessary amendments to bring this about have not yet been published or proposed in Parliament. Consequently, ECRI cannot consider that Finland has yet implemented this recommendation. ECRI calls on the Finnish authorities to bring amending legislation on this issue before Parliament without further delay.

ECRI concludes that the recommendation has not been implemented.

³ This was already part of an ECRI recommendation in its fourth report on Finland (ECRI 2013: § 38) and in the subsequent interim follow-up conclusions ECRI concluded that this aspect had not been implemented (ECRI 2016: 4).