

Enforcement of non-discrimination and prohibition of discrimination in working life in 2023

Report

Summary

Occupational safety and health authorities enforce non-discrimination in the workplace: the prohibition of discrimination, the prohibition of discriminatory job advertisements and the employers' duty to promote non-discrimination. The OSH Authority enforces compliance with the Non-Discrimination Act both at the request of those who have experienced discrimination and at the initiative of the authorities. This report describes the findings of inspections carried out in 2023.

In 2023, the OSH authorities received approximately 520 contacts concerning occupational discrimination. In most cases, contacts related to discrimination at work involved requests for advice on how to deal with the matter at the workplace or wanting to discuss whether a case involved discrimination or not.

The OSH authority processed 175 enforcement requests related to discrimination. A total of 101 inspections were carried out on the basis of enforcement requests, and these involved the enforcement of discrimination experienced by an individual employee or jobseeker. In about forty of the inspections carried out, it was found that an employer had violated the prohibition of discrimination. Most of the enforcement requests that led to an inspection concerned discrimination based on health. The second highest number of inspections due to discrimination were based on discrimination due to other personal characteristics. The third most common reason for inspections was cases of discrimination related to origin, nationality or language.

Slightly more than half of the inspections carried out on the basis of enforcement requests were related to the termination of an employment relationship. Approximately 40 per cent of the inspections concerned discrimination during employment or employment and about ten per cent concerned recruitments. In most cases, the employee felt that some grounds for discrimination had caused changes in work tasks or

the assignment of shifts or the terms of employment. A few inspections assessed whether harassment related to the grounds for discrimination had taken place at the workplace. In addition, the employer's obligation to make reasonable adjustments that would enable the work or to provide an explanation of why the adjustments had not been made, was assessed in a few cases.

The highest number of obligations due to a violation of the prohibition of discrimination were imposed due to other personal characteristics, and the second highest number of obligations concerned discrimination due to a person's state of health. More than half of all imposed obligations were related to the termination of an employment relationship and less than one third to discrimination experienced during the employment relationship. Almost 15 per cent of obligations imposed concerned discrimination in recruitment.

Some discrimination in working life remains hidden, as various minority groups may have a high threshold to contact the authorities and report the discrimination they experience. The OSH authorities receive very few contacts on discrimination against persons with disabilities or discrimination experienced on grounds of sexual orientation, so there have also been few inspections related to these.

OSH authorities also enforce the rules against discrimination through spot checks. In 2023, a total of 123 inspections focused on equality plans and the employers' duty to promote equality. Eleven inspections focusing on discriminatory job advertisements were carried out.

About a thousand inspections to enforce the prohibition of occupational discrimination related to foreign employees were carried out. On average, discrimination on the basis of origin, language or nationality was observed in the payment of wages or other minimum terms of employment in approximately one in ten inspections. The situation has not changed from 2021 and 2022. The amount of discrimination observed during the inspections of posting companies was clearly higher than in the previous year.

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Publisher: Occupational Safety and Health Administration in Finland, 2024

Publications of the Occupational Safety and Health Administration in Finland 5eng/2024

ISBN: 978-952-479-385-8 | ISSN: 2737-0879

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1. OSH authorities monitor discrimination in employment

Occupational safety and health (OSH) authorities are responsible for supervising compliance with the Non-Discrimination Act (1325/2014) in working life. The Non-Discrimination Act contains provisions on the prohibition of discrimination, the prohibition of discriminatory job advertisements and the employer's obligation to promote non-discrimination.

Enforcement by OSH authorities focuses on compliance with the Non-Discrimination Act in employment. The partial reform of the Non-Discrimination Act, which entered into force on 1 June 2023, expanded the competence of the occupational safety and health authority meaning discrimination can now be monitored more comprehensively, for example in recruitment situations.

The OSH authority is an independent and objective supervisory authority. The Divisions of Occupational Safety and Health of the Regional State Administrative Agencies act as regional OSH authorities.

The OSH authority assesses discrimination related to all grounds for discrimination defined in the Non-Discrimination Act. The Non-Discrimination Act prohibits discrimination on the basis of age, origin, nationality, language, religion, conviction, opinion, political activity, trade union activity, family relations, state of health, disability, sexual orientation and other personal characteristics.

The five OSH divisions of the Regional State Administrative Agencies

The OSH Divisions are responsible for regional enforcement, counselling and guidance.

The key objective is to promote and maintain employees' work capacity and functional capacity and to prevent work-related health hazards and risks. Enforcement also ensures that workplace rules are observed.

OSH Divisions of Regional State Administrative Agencies:

- 1 | Northern Finland
- 2 | Western and Inland Finland
- 3 | Eastern Finland
- 4 | Southwestern Finland
- 5 | Southern Finland



The OSH Authority enforces the realisation of equality in working life both at the request of those who have experienced discrimination and at the initiative of the authorities. In 2023, 101 customer-initiated and 1,131 official-initiated inspections were carried out.

The enforcement measures are determined in accordance with the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces 44/2006. Enforcement procedures are described in [the Enforcement of Equality and Discrimination guidelines](#).

Provisions on the prohibition of discrimination based on gender are laid down in the Act on Equality between Women and Men (609/1986). Discrimination based on gender, pregnancy and parenthood is supervised by the Ombudsman for Equality.

This report describes how the OSH Authority enforced the Non-Discrimination Act in 2023. The information in the report was compiled in February 2024, at which time a few dozen inspections initiated by the authorities in 2023 were still ongoing.

The report describes both client-initiated and authority-initiated enforcement and illustrates enforcement with authentic case studies. The

Actions by occupational safety and health authorities based on contacts:

- guidance and advice for those who have experienced discrimination
- assessment of prerequisites for enforcement
- enforcement measures based on enforcement requests.

Occupational safety and health authorities enforce the following at their own initiative

- discrimination in the payment of wages and other minimum terms and conditions of employment, especially in the enforcement of foreign labour
- discriminatory job advertisements
- the employer's obligation to promote non-discrimination and draw up an equality plan.

report also describes the role of the OSH authority in the processing of workplace discrimination offences. Information on enforcement carried out in 2022 can be found in the report [Enforcement of non-discrimination and prohibition of discrimination in working life in 2022](#) (Tyosuojelu.fi).

2. Client-initiated enforcement

2.1. Contacts concerning discrimination

Client-initiated enforcement usually starts off with the jobseeker or employee who suspects discrimination contacting the OSH authority. Clients can contact divisions by phone, email or letter.

In 2023, some 520 contacts related to discrimination at the workplace were processed. In reality, the number of contacts is higher, as a contact related to discrimination may also be recorded in systems under other categories. Contacts related to discrimination are often complex, and may also involve other labour law issues.

At the OSH authority's telephone service an inspector specialised in discrimination provides guidance and advice to persons who suspect discrimination on their matter and instructions on submitting a possible enforcement request. The person contacting the service may not always be able to assess whether they have been discriminated against and they will want to discuss the

- Around **520** contacts related to discrimination at the workplace
- Around **175** enforcement requests related to discrimination at the workplace
- Around **100** inspections related to discrimination at work carried out on the basis of enforcement requests.

matter with an expert before bringing up their experiences of discrimination at their workplace. During a phone call to the telephone service, the inspector and the person making the call can discuss whether the case constitutes discrimination a referred to in the Non-Discrimination Act or if it is something else.

Client contacts and enforcement requests concerning the prohibition of discrimination in 2019–2023 (number)

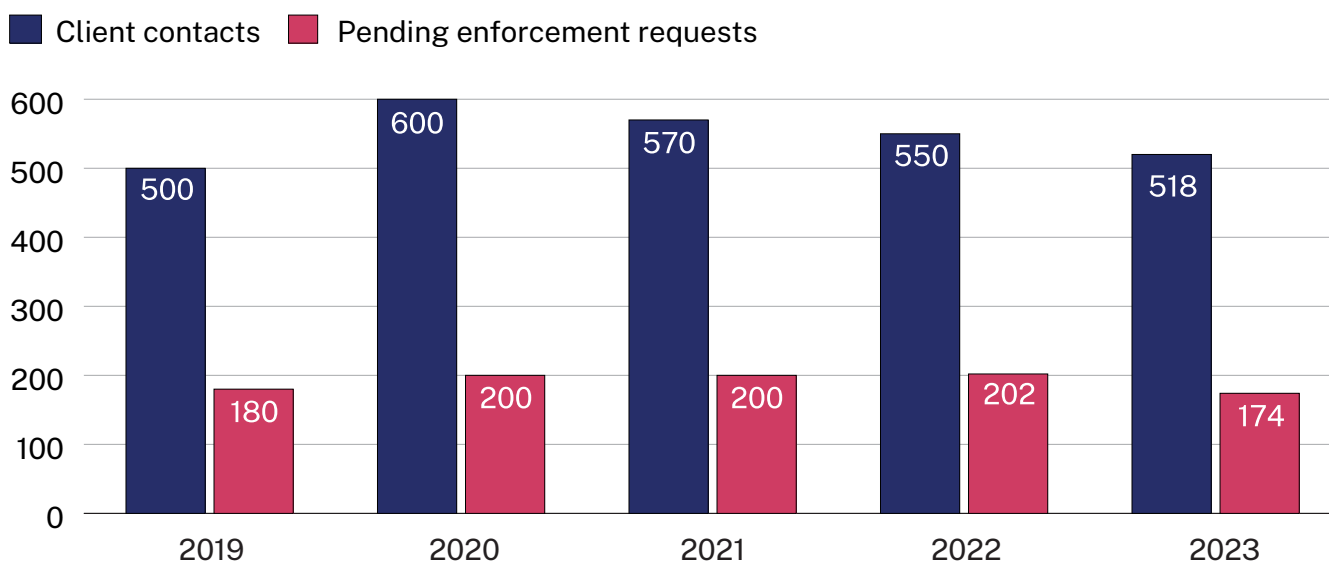


Figure 1. Client contacts and enforcement requests concerning the prohibition of discrimination in 2019–2023

The majority of persons contacting the service are jobseekers or employees. Also parties outside a workplace, such as Victim Support Finland, other authorities or the family and friends of a person suspecting discrimination, may also contact the divisions. Some contacts also come from occupational safety and health representatives and shop stewards. Typically, they want to check whether a matter that comes up at their workplace can be considered discrimination and how to proceed.

In some cases, the person contacted in matters of discrimination does not want the authority to start enforcement procedures under their name. Reasons for this include fear of stigmatisation or negative consequences at the workplace. This applies in particular to certain minority groups, such as sexual minorities, Roma people or persons with disabilities, who may have a higher threshold to request enforcement measures in their case. The phenomenon partly indicates that some of the discrimination in working life remains hidden.

The OSH authority is also regularly contacted in cases where despite the client's own assessment, there is no discrimination referred to in the Non-Discrimination Act. The person contacting the division may feel discriminated against, but the case does not involve grounds for discrimination referred to in act. In this case, the matter may involve, such things as poor management or that another person has been favoured, and instead of discrimination, the matter may involve harassment prohibited by the Occupational Safety and Health Act or other matters that fall within the scope of the OSH authority's supervision.

Who contacted the OSH authorities about discrimination in 2023

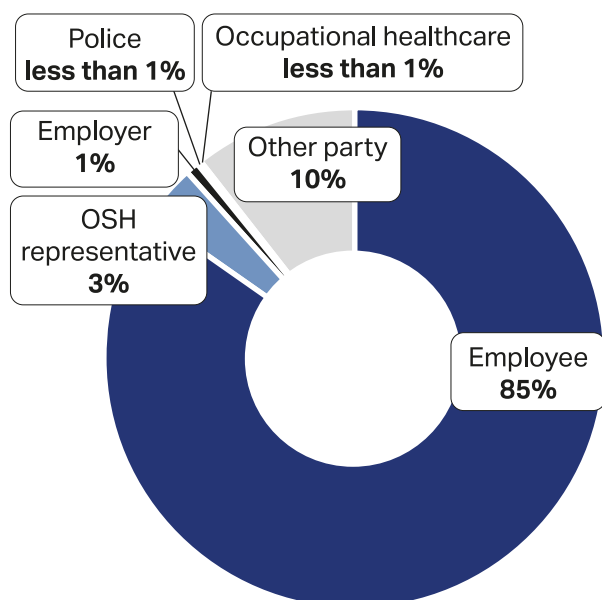


Figure 2. Persons who contact the OSH authorities about discrimination in 2023.

Contacts by sector	Pcs
Health and social services	78
Wholesale and retail	52
Construction	43
Administrative and support services	39
Transport and warehousing	35
Hotel and restaurant sector	34
Public administration and national defence	31
Industry	31
Instruction and training	28
Real estate operations	25
Other service activities	21
Professional, scientific and technical activities	20
Information and communication	15
Arts, entertainment and recreation	7
Electricity, gas and heat supply, refrigeration business	6
Financing and insurance activities	6
Agriculture, forestry and fisheries	5
Water supply, sewerage and wastewater management, waste management etc.	5
Unspecified sector	37
Total	518

2.2. Cases of discrimination processed at the initiative of the client

In 2023, OSH authorities processed approximately 175 enforcement requests related to discrimination. The number decreased slightly from the previous few years to the same level as in 2019 (Figure 3).

Normally, a discrimination matter is initiated with a form requesting enforcement, in which the customer consents to the matter being processed in their name and to the authorities contacting their employer.

In 2023, the OSH authority processed more than 170 enforcement requests. The authorities carried out a total of 100 inspections on the basis of enforcement requests. A procedural decision was made in about 70 cases.

Enforcement requests initiated and their processing in 2019–2023

■ Enforcement requests ■ Inspections
 ■ Procedural decisions ■ Obligations imposed due to violation of prohibition of discrimination

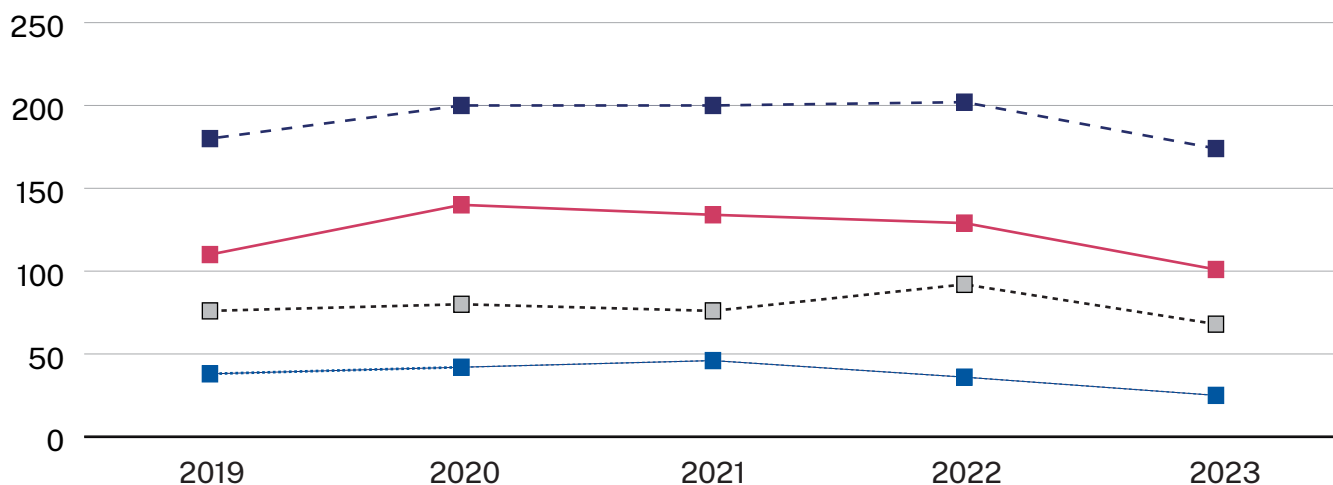


Figure 3. Enforcement requests processed, inspections carried out on the basis of enforcement requests and the obligations imposed on the basis of these for violating the prohibition of discrimination, and procedural decisions in 2019–2023 (number).

In their enforcement request, the client details their understanding of the grounds for discrimination on the basis of which they suspect they have been discriminated against. Clients may report several grounds for discrimination if they are unsure of the reason for the discrimination or they suspect that they have been discriminated against in several different ways.

The most common grounds for discrimination reported in enforcement requests have remained the same in recent years. The largest number of experiences of discrimination reported to the OSH authority were related to their state of health.

Figure 4 shows the grounds for discrimination reported by the clients in the cases processed in 2023. Approximately 40% of enforcement requests were related to health. More than half of these concerned situations where the employer had terminated an employment relationship and the employee suspected that this had been due to their sick leaves or other health condition.

The second most common ground for discrimination reported in enforcement requests was another personal reason, which was assessed in about 30% of processed cases. These situations were most commonly linked to situations

in which an employee had highlighted shortcomings in their working conditions or demanded their rights at the workplace.

The smallest number of enforcement requests processed were related to political activity.

The enforcement requests submitted to the OSH authority do not give an overall picture of the prevalence of discrimination in working life nor of what groups experience the most discrimination in working life.

Those who experience discrimination sometimes also mention harassment or other inappropriate treatment that endangers the employee's health or other inappropriate treatment or excessive workload, which are prohibited under the Occupational Safety and Health Act. Other provisions supervised by the OSH authority, such as the Employment Contracts Act, the Occupational Health Care Act or the Working Hours Act, are also often related to a case of discrimination that is pending. The person submitting an enforcement request is not always fully aware of what is meant by discrimination in the law and reports the inappropriate treatment they have experienced using the term discrimination.

Grounds for discrimination reported by clients in enforcement requests in 2023

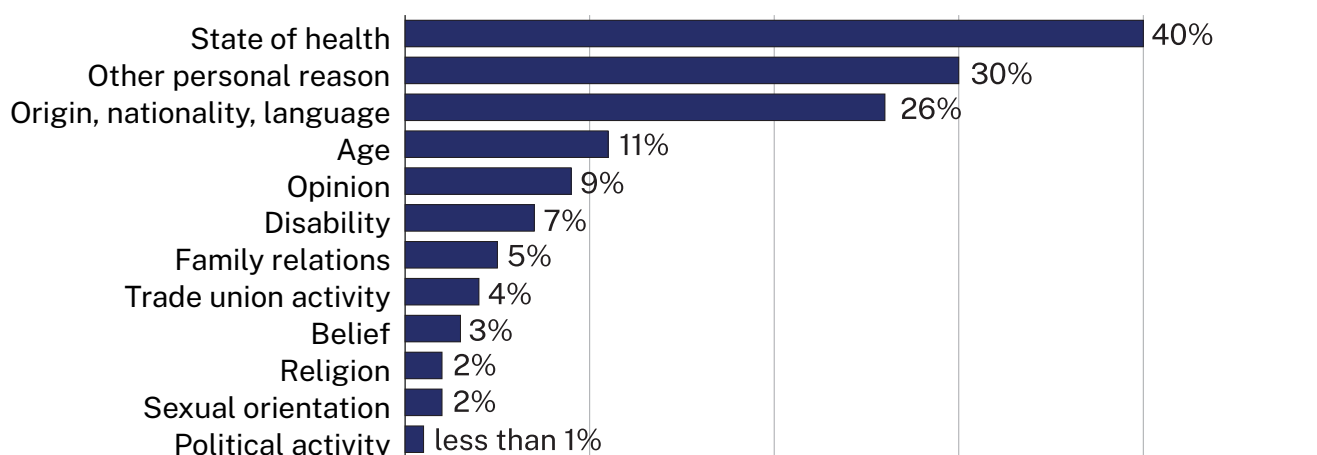


Figure 4. Grounds for discrimination reported by clients who submitted an enforcement request in the cases processed in 2023. Several grounds for discrimination may be listed in one enforcement request.

2.3. Procedural decisions

When an enforcement request related to discrimination is initiated, it is first assessed whether the case may constitute discrimination prohibited under the Non-Discrimination Act. If necessary, additional information is requested from the client so that the preconditions for enforcement can be determined.

If, on the basis of the points raised by the client, there is no reason to suspect that the employer has violated the Non-Discrimination Act, a procedural decision will be made on the matter. The procedural decision lists the reasons for why the OSH authority will not take measures to investigate discrimination that the party who requested enforcement asked for.

In 2023, around 70 procedural decisions were made that found that a request for the enforcement of discrimination would not lead to enforcement measures.

The most common reason why enforcement measures were not taken was that the report by the person submitting the enforcement request did not indicate that they had been placed in a less favourable position than others in the manner referred to in the Non-Discrimination Act. A subjective experience of discrimination by the person submitting the enforcement request alone is not sufficient to create a suspicion of discrimination and will not lead to enforcement.

The second most common reason for the procedural decisions was that, despite being requested to do so, the client did not provide any additional information, did not consent to the processing of their case under their name or withdrew their enforcement request before enforcement began.

Approximately one quarter of the cases that came to a conclusion with a procedural decision involved cases in which the grounds for discrimination brought up by the client were not grounds

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for discrimination referred to in the Non-Discrimination Act. For example, a person submitting the enforcement request felt that they had been discriminated against on the basis of an opinion, but the enforcement request did not reveal whether the opinion was one referred to in the Non-Discrimination Act. Opinion as referred to in the Non-Discrimination Act means such things as a person's political and societal opinions and views. Discrimination on the basis of opinion is essentially related to the freedom of expression safeguarded by the Constitution of Finland.

The OSH authority also received individual reports on suspicion of discrimination related to gender and parenthood. However, these do not fall under the family relations referred to in the Non-Discrimination Act, but are gender-based discrimination as defined in the Equality Act. Enforcement requests related to gender-based discrimination are transferred to the Ombudsman for Equality.

In a few cases, no enforcement measures were taken because too much time had passed since the suspected discrimination.

2.4. Inspections based on enforcement requests

Enforcement is initiated on the basis of an enforcement request, if the information provided by the client gives reason to suspect that the employer has violated the Non-discrimination Act.

In the case of an individual employee or job-seeker, the inspection is generally carried out on the basis of documents. The inspector sends a request for clarification to the employer asking for more information in the matter concerning the person who believes they have experienced discrimination. After the employer’s response has arrived, the person subjected to discrimination will be given a chance to present their views on the information submitted by the employer. Once the inspector has been provided sufficient information to resolve the case, the inspector will prepare a written inspection report, in which they assess whether the employer has violated the prohibition of discrimination.

A shared burden of proof applies to the enforcement of the prohibition of discrimination referred to in the Non-Discrimination Act. The employee or jobseeker must first present a report to the authority on the discrimination they have experienced. If, on the basis of this information, it can be assumed that the employer has violated the

prohibition of discrimination or the prohibition of victimisation, a presumption of discrimination will be established. In order to rebut the presumption, the employer must demonstrate that they have not violated the prohibition.

The shared burden of proof aims to promote the effective realisation of rights, as providing evidence in cases of discrimination may be more difficult than usual. In general, only the employer can demonstrate that the actions that are claimed to be discrimination have been based on a reason that is not personal.

In 2023, a total of 101 inspections related to discrimination were carried out on the basis of enforcement requests. Figure 5 shows which grounds for discrimination the inspections have addressed. One inspection may have addressed several different grounds for discrimination. Approximately 40% of the inspections assessed more than one grounds for discrimination.

This generally means that there has been so-called multiple or intersectional discrimination. Multiple discrimination occurs if a person is discriminated against on two or more grounds. The most common grounds for discrimination in cases of multiple discrimination were other personal characteristics, and state of health. Intersectional discrimination, on the other hand, refers

Grounds for discrimination in inspections carried out on the basis of enforcement requests in 2023

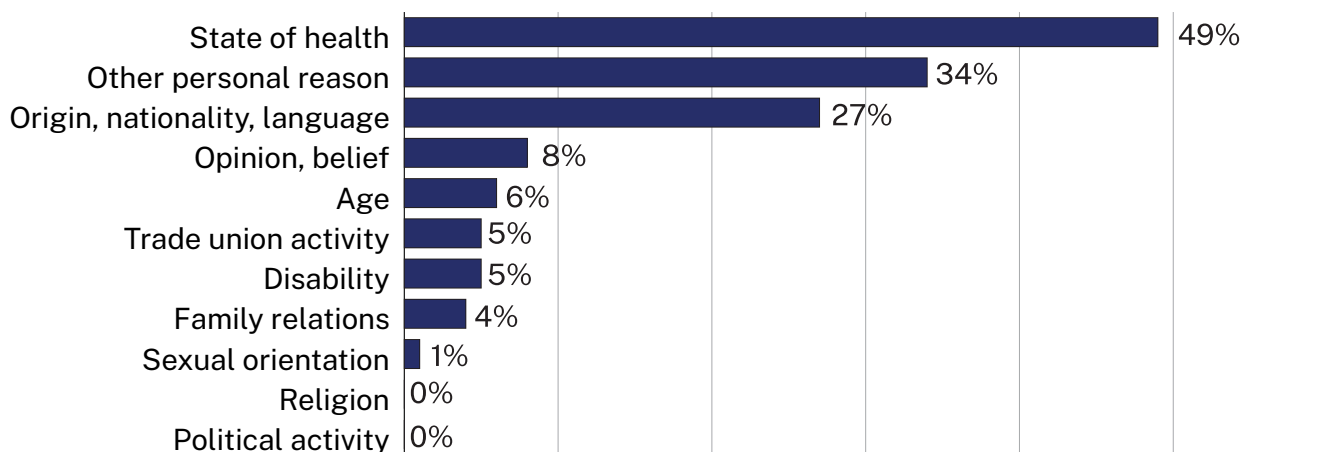


Figure 5. Grounds for discrimination in inspections carried out on the basis of enforcement requests in 2023 One inspection may have addressed several different grounds for discrimination.

to cases in which two grounds for discrimination only together lead to a presumption of discrimination against a person.

The by far most prevalent ground for discrimination in inspections carried out on the basis of enforcement requests was state of health. Slightly less than half of the inspections concerned discrimination based on state of health.

The second most common ground for discrimination assessed in the inspections was another personal characteristic. Other personal characteristics often involved speaking up about short-

comings at the workplace or demanding one's own rights. The person submitting the enforcement request most commonly felt that they had been selected for dismissal or that their duties had been changed after they had brought up any shortcomings at the workplace. Other suspicions of discrimination that were assessed on the basis of other characteristics were linked to the person's legal status or appearance or to the person having been in contact with the OSH authority or another authority.

Grounds for discrimination in inspections carried out on the basis of enforcement requests in 2019–2023 (number)

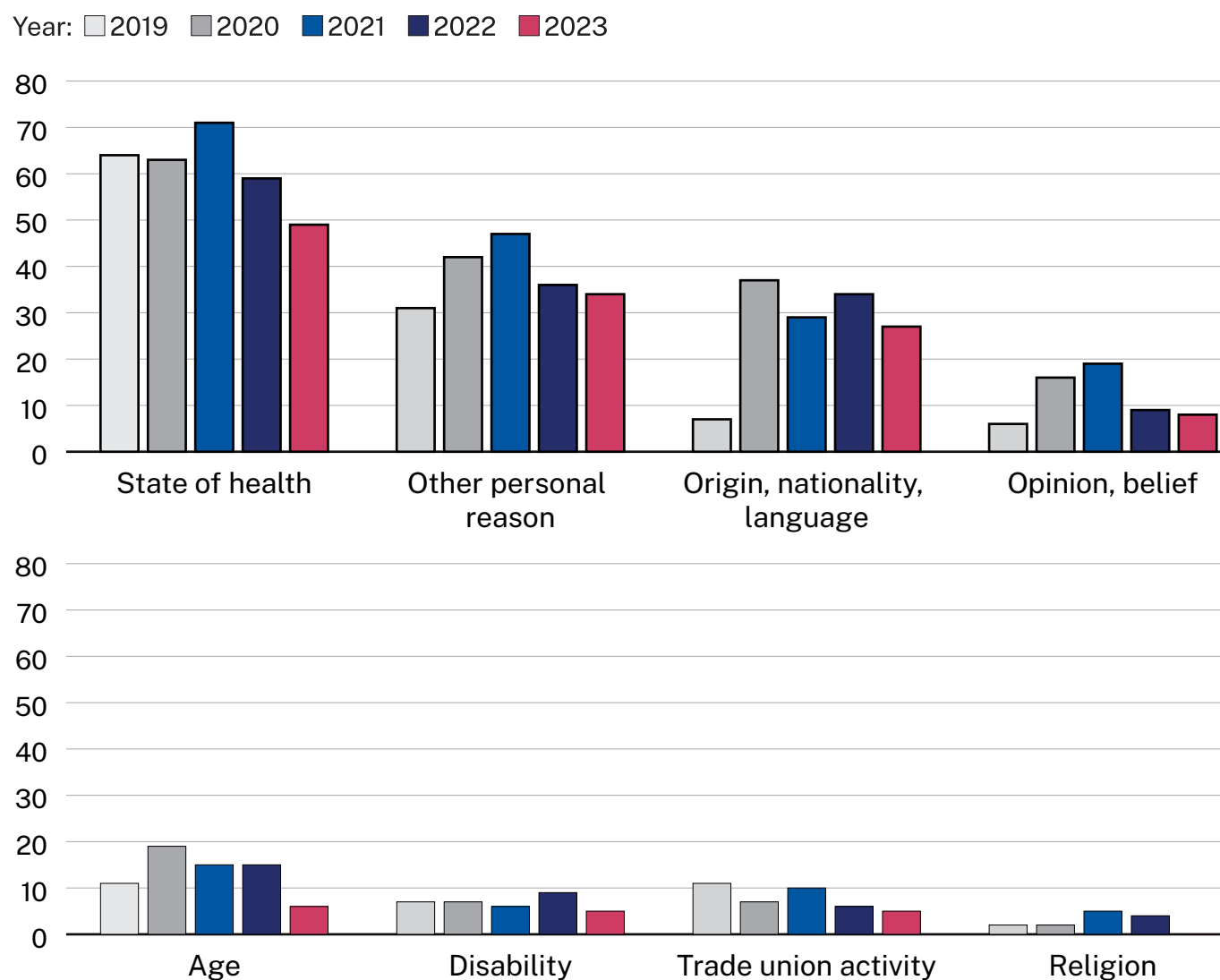


Figure 6. Grounds for discrimination in inspections carried out on the basis of enforcement requests in recent years One inspection may have addressed several different grounds for discrimination.

The discriminatory treatment of employees or job-seekers addressed in around just over half of the inspections carried out in 2023 was related to the termination of employment. In about half of the cases related to termination of employment, discrimination was assessed on the grounds of state of health. Some cases involved multiple discrimination, in which means that other grounds for discrimination were addressed in the same case in addition to state of health.

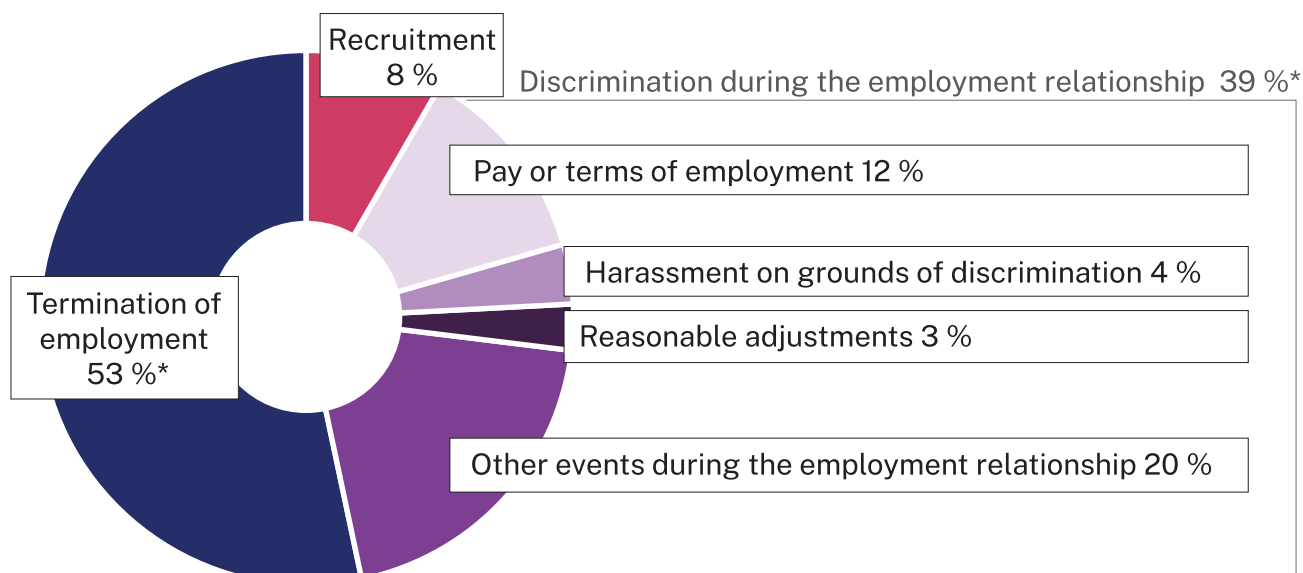
Around 40% of conducted inspections were related to discrimination during the employment relationship. In most cases, the employee felt that some grounds for discrimination had caused changes in work tasks or the assignment of shifts or the terms of employment. A few inspections assessed harassment related to the grounds for discrimination had taken place. Discrimination experienced during employment was mostly assessed on the grounds of origin, nationality or language. A few inspections also addressed the employer's obligation to make reasonable adjustments or to provide reasons for which they refused to make adjustments.

Approximately one in ten inspections carried out on the basis of enforcement requests concerned discrimination in recruitment. In inspections related to recruitment, the most common grounds for discrimination were state of health, age and other personal characteristics. In 2023, the number of inspections related to recruitment was clearly lower than over the previous two years.

In some cases, the client may have experienced discrimination in several different situations, such as pay and termination of employment. In this case, it is common that different discrimination situations involve different grounds for discrimination. In these cases, the same inspection involves an assessment of several different grounds for discrimination and several discrimination situations or forms of discrimination.

The OSH authority also regularly receives reports of suspected cases of discrimination related to temporary agency work. In temporary agency work, compliance with the prohibition of discrimination is monitored on a case-by-case basis with the enforcement of either the personnel ser-

Manifestation of discrimination at different stages of employment in 2023



* Some of the inspections covered both discrimination during the employment relationship and discrimination related to the termination of the employment relationship.

Figure 7. Discrimination related to recruitment, that occurs during employment or is related to the termination of employment in inspections in 2023. Discrimination during employment is divided into the following areas: Pay or terms of employment, harassment related to the grounds for discrimination, reasonable adjustments and other discrimination during employment relationship.

vice company or the user company where the employee works. In some cases, enforcement is carried out at both companies, which means that one request for enforcement may lead to more than one inspection.

2.5. Conclusions drawn from inspections

In about forty of the inspections carried out, it was found that an employer had violated the prohibition of discrimination. The employer was issued written advice or an improvement notice for the observed shortcomings.

The highest number of obligations due to a violation of the prohibition of discrimination were imposed due to other personal characteristics, and the second highest number of obligations concerned discrimination due to a person's state of health. More than half of all obligations were related to the termination of an employment relationship and less than one third to discrimination experienced during the employment relationship. Almost fifteen per cent of obligations imposed concerned discrimination in recruitment. Approximately half of the obligations concerned more than one ground for discrimination.

During the majority of inspections, the employer was able to demonstrate that the employee had not been discriminated against. In just over ten per cent of the inspections, it was considered that the matter did not reveal any factors on the basis of which it could have been assumed that the employer had violated the prohibition of discrimination. In less than ten per cent of the inspections, it was found that the employer had justifying grounds for different treatment under the Non-Discrimination Act on the basis of a ground for discrimination.

In addition to violating the prohibition of discrimination, inspections carried out on the basis of enforcement requests also resulted in the imposing of individual obligations due to employer not complying with the prohibition of victimisation, not promoting equality or not drawing up an equality plan. Some obligations were also imposed for discriminatory job advertisements.

Other observed shortcomings

In connection with the supervision of compliance with non-discrimination legislation, the occupational safety and health authorities also supervise compliance with other aspects of labour legislation and intervene if other deficiencies in labour legislation are noticed. Inspections carried out on the basis of suspected discrimination revealed a number of other deficiencies in the activities of employers, due to which obligations were imposed on employers.

In 2023, a total of 62 obligations were imposed for other deficiencies concerning compliance with labour legislation in connection with discrimination cases. In some cases, it was found that the employer violated both the prohibition of discrimination and other labour legislation, while others found shortcomings other than discrimination.

The greatest number of obligations under other legislation were related to harassment under the Occupational Safety and Health Act or other inappropriate treatment, induction and the duties of supervisors. Obligations related in particular to pay and other terms of employment, compliance with a generally applicable collective agreement and hearing of employee were imposed under the Employment Contracts Act. In addition, some obligations were imposed that were related to working hours and the provision of occupational healthcare or the practices for using occupational healthcare.

In connection with the inspection report, the client is also provided information on the possibility of applying for compensation or damages under the Non-Discrimination Act. The client is also informed of the Non-Discrimination Ombudsman's ability to promote a resolution and provide assistance to a victim of discrimination.

Case study descriptions:***The employer terminated the employee's employment relationship due to their state of health and pregnancy***

The employee's pregnancy had come to the employer's attention about a month after the start of the employment relationship. The employee had been on sick leave twice after this. Only a short time after the last sick leave, the employee informed the employer that they would have to see a doctor again due to their back problems and that their back problems would probably continue to exist as the pregnancy progressed. The employer then sent the employee a message asking whether the employee would be able to do the agreed work or whether the employment contract should be terminated during their probationary period. After these messages, the employer terminated the employee's employment relationship on the basis of the probationary period.

During the inspection, it was found that the employee's sick leave and information about their pregnancy had a clear chronological link to the termination of the employment relationship. It was found that the employee's state of health and pregnancy together formed an entity on the basis of which she was discriminated against. This established a presumption of intersectional discrimination on the grounds of health and gender.

The employer denied the employee's termination during their probationary period had anything to do with the employee's pregnancy and state of health. According to the employer, the employment relationship was terminated during the probationary period because the employee's work performance was inconsistent and failed to complete assignments. The employer stated that they had notified the employee of instances of negligence a couple of times and asked them to complete the tasks that are part of the work. According to the employer, the lack of personal chemistry had also caused tension between employees at the workplace. According to the employer, the overall reason for the termination of employment during the probationary period was the

employee's lacking work and professional skills, team work skills and willingness to work and serve customers. However, no evidence was found during the inspection to support this view of the employee's negligence, actions at the workplace or deficiencies in work performance. Also, the messages sent by the employer to the employee on the day the employment relationship was terminated did not address the employee's professional skills or work performance at all, but only their ability to work related to their state of health and pregnancy.

The inspection found that the employer had not sufficiently demonstrated that the employee's health and pregnancy together had not affected the termination of the employment relationship. It was deemed that the employer was unable to rebut the presumption of discrimination, and they were found to have violated the prohibition of discrimination.

The underpayment of a foreign employee constituted discrimination

A foreign employee said that they had worked approximately ten-hour shifts at their workplace six days a week. Some of the shifts were at night. According to the employee, they had been paid once a week in cash. The amount paid to the employee was significantly lower than what would have been paid to the employee in accordance with the generally applicable collective agreement in the sector. A presumption of discrimination on the grounds of origin and nationality was found to have been established. The employer denied that the employee had worked at the workplace. According to the employer, the person in question had often visited the workplace at which the employer and the person had met and become acquainted. According to the employer, a written employment contract had been concluded with the employee only because of the employee's residence permit process.

The inspection found that the employer's vague claims that the employee would lie about their work were insufficient to rebut the presumption of discrimination that had been established. The employer was found to have violated the prohibition of discrimination.

A jobseeker was not selected due to their age

At the end of their job interview, the jobseeker had been informed of their preliminary selection, and an agreement had been made with them on the start date for their employment and on their induction training. At the same time, the jobseeker been asked to provide their personal identity code to the employer. The jobseeker had sent the information, after which they were called back and told that they could not be selected for the position because they were too old for the workplace. The case gave rise to a presumption of discrimination on the grounds of age.

According to the employer, the jobseeker was not selected for the position because there were also applicants who had better skills in using the online software needed for position and better IT skills. However, the employer did not provide information on how the applicants' skills had been assessed and how the selected applicants' skills differed from those of the unselected applicant. According to the jobseeker, their skills in the use of online software had not been discussed at all during their interview.

The employer denied that a job start date and induction training had been agreed on with the jobseeker during the interview. According to the employer, the jobseeker had been told that they were involved in the next stage of the process, and they were asked to provide their CV and other personal information at this point in time. However, the messages provided by the jobseeker showed that they had provided this information prior to the job interview.

According to the employer, the decision to not select the jobseeker had been made by the supervisor of the recruiting person to whom the interviewees had been presented. However, the employer was unable to tell exactly when the jobseeker's information was presented and a decision had been made.

In fact, the jobseeker had been informed of their rejection moments after the job interview and after they had provided their personal identity code. The employer did not dispute that the topic of the jobseeker's age had been mentioned in a telephone conversation with the jobseeker.

It was found that the general arguments presented by the employer regarding the employee's competence and a partly a contradictory report on the course of events were not sufficient to rebut the presumption of discrimination. The employer was issued written advice on compliance with the prohibition of discrimination in job-seeking situations.

An experienced jobseeker was not discriminated against due to their age

An employee suspected that they had not been hired for a vacancy in a fixed-term position at their workplace due to their high age. The employee felt that they met the requirements of the position exceptionally well, as they had previously worked in similar positions. However, a significantly younger person, who had substantially less experience in a similar position than the complainant was recruited to the position. A presumption of discrimination was established in the case.

The employer denied that the employee's age had been a deciding factor. The employer explained that when the employee had previously worked in a similar position, the unit had been very dissatisfied with their work, and general wellbeing at work had been very poor in personnel surveys. For this reason, the employer had no confidence in the employee and did not believe that the employee had the necessary personal characteristics to work in the open position.

The inspector found that the employer raised factual points that showed that the employee had not passed by because of their age. The employer was found to have complied with the prohibition of discrimination.

The termination of an occupational safety and health representative's employment was discrimination

An employee who acted as the occupational safety and health representative was dismissed from their position as an expert and was offered a support service task with lower pay. The employee had been an active occupational safety and health representative: they had highlighted the stress experienced at the workplace and submitted an initiative for the employer to carry out a workplace survey. The employer terminated the employee's employment contract for production-related reasons and claimed that the expert's task in question would end completely as justification. However, the employee has stated that this was not the case, and, instead, some of the tasks they performed as an expert were transferred to other employees. At no point had there been discussion with the employee or their supervisor about the need for dismissal or the reorganisation of the expert task.

According to the employer, due to a human error the employer's representatives had failed to notice that the employee in question acted as an occupational safety and health representative and thus had increased protection against termination under the Employment Contracts Act. The employer explained that some of the employer's representatives who made the decision had only been informed of the employee's position as an occupational safety and health representative after the dismissal. However, it emerged that the employee had participated in a board meeting as an occupational safety and health representative about six months earlier, where their role had come to the attention of the entire board. After this, the employee had contacted the Executive Director several times in their role as occupational safety and health representative, most recently only about a week before their dismissal.

Other personal characteristics referred to in the Non-Discrimination Act may include highlighting of shortcomings in the workplace or acting as an occupational safety and health representative.

The occupational safety and health representative also has special protection against dismissal under the Employment Contracts Act.

When the position of the employee as an occupational safety and health representative had been highlighted at the time their employment was terminated, the employer had started investigating the matter. Finally, the employer had cancelled the termination and the employee was permitted to remain in their position as an expert. However, the inspection found that the employer's actions to cancel the termination after the employee had stated that they had found the decision discriminatory did not as such indicate that the prohibition of discrimination had not been violated when the original decision was made. Furthermore, the employer cannot generally invoke the fact that they are not aware of the employee's position as an occupational safety and health representative. The employer's claim of ignorance was also not considered credible, as the employee had been active in their role just before the termination and also been in contact with the employer. The employer was found to have violated the prohibition of discrimination on the basis of other personal characteristics.

Termination of an employee's employment on the grounds of their nationality was justified

The employee suspected that their employment relationship was terminated during their probationary period in violation of the prohibition of discrimination due to their dual nationality and family relations. The employer had commissioned a security clearance on the employee, which included a general list of the employee's background information and foreign interests, including their family relations in Russia. After this, the employer had terminated the employee's employment relationship on the basis of the probationary period, and did not provide the employee more detailed grounds for their dismissal. A presumption of discrimination on the grounds of nationality and family relations was considered to have arisen.

The employer did not dispute that the employee's nationality and family relations had contributed to the termination of their employment relationship. According to the employer, a security clearance was commissioned for persons working in similar tasks regardless of their nationality or family relations. The employer stated that, based on the information obtained from the security clearance and the nature of the position, they had carried out a safety risk assessment of the employee, on the basis of which the employment relationship was terminated. According to the employer, the employee's links to Russia due to their nationality and family relations posed a risk that could expose the person to pressure, exploitation, bribery and other inappropriate influence in their duties.

The employer pointed out that its aim is to protect the employer's and its customers' critical information and to protect the employee from inappropriate influence. The employee

Differences in treatment in working life related to the grounds of discrimination may also be justified if the treatment is based on actual and decisive requirements for work tasks. Such treatment must, however, be proportionate in view of the aim, and the aim itself must be acceptable.

had continuous access to such things as classified information, detailed information on the employer's information systems and their protection methods, and preparedness for emergency conditions. According to the employer, it would not have been possible for the employee to work in a position in accordance with their employment contract without access to the confidential information in question.

The employer did not rebut the presumption of discrimination, but it was also assessed whether the employer had grounds for treating the employee differently on the basis of nationality and family relations in accordance with the Non-Discrimination Act. During the inspection it was determined that the employee's different treatment had been based on actual and decisive requirements arising from their work tasks. The target for different treatment proposed by the employer was considered justified and the treatment itself proportionate to the target. Consequently, it was found that the employer had a justification for different treatment on the basis of nationality and family relations, and the prohibition of discrimination was thus not violated.

An employer changed its practices in how a person's conviction is taken into account providing lunch benefits

The employee suspected that they had been discriminated against because of their conviction, as the employer had not provided them with a food benefit suitable for their vegan conviction. The food benefit arranged by the employer included two options, one of which was a vegetarian meal. The employee pointed out that the employer had also where necessary arranged alternative food for employees following a special diet based on their religion.

When the employee had pointed out that they could not eat either of the available alternatives because of their conviction, the employer had asked the employee to provide a medical certificate on the matter. The employee had stated that they could not get a medical certificate as observing a vegan diet is not based on health but on a conviction. The employer pointed out that meals according to special diets had been prepared on the basis of medical certificates and religion. According to the employer, they were not familiar with conviction-based veganism, and they had not meant to put anyone in an unequal position. The employer announced that it would enable a vegan alternative in the food benefit from now on.

The employer was not imposed any obligations because it changed its practices during the enforcement process.

In the Non-Discrimination Act, conviction refers to a certain view of life that is permanent in nature. A conviction includes such things as pacifism, veganism and atheism.

An employee's state of health and their tendency to highlight shortcomings in the workplace did not affect the termination of their employment

The employee told their employer that they had experienced mental stress due to their work as they were unable to take breaks and asked for instructions on taking breaks. The employee had asked about their right to breaks during the working day from the trade union.

The employer's representative had replied to the employee that the stress issue would be discussed with the employee's supervisor after they returned from the holiday. A short time after this, the employee had to take about a week of sick leave due to excessive stress. After their sick leave came to an end, the employer stated that the employee is not suitable for work outlined in their employment contract and terminated the employee's employment relationship on the basis of their probationary period. A presumption of discrimination was found to have arisen in the matter on the basis of the employee's state of health and their highlighting of shortcomings.

The employer denied that sick leave had affected the termination of the employment relationship. According to the employer, the work was independent work carried out using remote connections and, despite the instructions provided to them, the employee was unable to find a suitable rhythm for their working day. According to the employer, the deficiencies in the employee's performance were due to their personal characteristics, such as their inability to work independently and on their own initiative, and the employee did not follow the provided instructions when performing their work.

According to the employee, the employer had not commented on their requests to intervene in work-related stress, nor had they commented on or attempted to direct their work performance. According to the employee, they

had requested feedback on their work before their supervisor's holiday, at which time the supervisor had stated that they were satisfied with the employee's work performance. The information provided by the employer did not state that they had discussed the deficiencies in work performance or compliance with

instructions with the employee prior to their termination.

During the inspection, it was found that the employer was unable to rebut the presumption of discrimination and they were imposed an obligation due to violation of the prohibition of discrimination.

3. Supervisory activities on the initiative of authorities

3.1. Pay-related discrimination and discrimination in other minimum terms of employment

The OSH authority may, at its own initiative, investigate whether discrimination occurs in the workplace in the payment of wages or other terms of employment. This matter is usually looked into in the supervision of the use of foreign labour, and an effort is made during every inspection of the terms and conditions of employment to assess whether the employer has complied with Finnish labour legislation in pay. Compliance with the prohibition of discrimination under the Non-Discrimination Act is enforced at the same time. The inspector examines such things as the working hours register, shift schedules and payslips, and then determines whether the employer has discriminated against employees in the payment of wages and other minimum terms of employment on the basis of their origin, nationality or language. The comparison is made either to Finnish employees in the workplace or to the general legal level.

In 2023, the prohibition of discrimination was enforced during approximately one thousand inspections related to the use of foreign labour. Most of the inspections (approximately 800) were carried out at companies with a domicile in Finland. Of these, around 70 companies employed seasonal workers. Seasonal work refers to the sectors covered by the Seasonal Workers Act, i.e. seasonal agriculture and tourism sectors. The prohibition of discrimination is also monitored through inspections where the inspected site is a foreign company posting workers to Finland. In 2023, compliance with the prohibition of discrimination was enforced far more frequently than in the previous year.

Discrimination on the grounds of origin, language or nationality was observed in the payment of wages or other minimum terms of employment on average in approximately one in ten inspec-

In the case of foreign workers, the most common form of discrimination was observed in pay.: the pay of many employees was below what is required in the generally applicable collective agreement. There was more discrimination, especially in the case of posted workers.

tions. The situation has not changed from 2021 and 2022. The number of deficiencies detected during the inspections of posting companies was clearly higher than in the previous year.

In the case of foreign workers, the most common form of discrimination was observed in pay. This was mostly reflected in a foreign employee being paid a basic salary that was below the generally applicable collective agreement. Overtime pay and pay supplements were also often left unpaid.

It should be noted that more very serious pay deficiencies were observed in the enforcement of the use of foreign labour than mentioned here. However, it is not possible to demonstrate in all situations that the discrimination under enforcement is specifically the discrimination referred to in the Non-Discrimination Act. It is normal for it to be impossible to carry out a genuine pay comparison as the working time documents of the workplace are incomplete and it is thus not possible to establish with certainty that no discrimination has taken place.

In addition to the enforcement of the prohibition of discrimination, the OSH authority now also has new means for intervening in underpayment. An amendment to the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health Enforcement entered into force on 1 June 2023, which makes it

possible to issue an improvement notice during an inspection for obvious deficiencies in pay and, ultimately, the OSH authority may use a conditional fine to obligate the employer to pay statutory pay.

Examples of discrimination that has emerged during the enforcement of the use of foreign labour in 2023:

Case study: young restaurant workers

Underage foreign citizens who had not been paid for their work were working in a restaurant. According to the young people, the employer had taken them into unpaid traineeships to learn Finnish. The employer had also stated that they were justified in not paying young people for their work on the basis of their age and inexperience.

The work carried out by these young people did not involve work placements included in studies or on-the-job training related to employment services. A presumption of discrimination was established on the basis of the workers' age and nationality. The employer did not provide any information to rebut the presumption of discrimination.

During the inspection, it was found that young workers had been placed in a disadvantaged position, especially in terms of pay, due to their nationality and age. The situation of young people was compared to how other employees would be treated in a comparable situation.

During the inspection, other deficiencies were also observed, on the basis of which obligations were imposed on the employer. The employer had not given the employees the principal terms of employment in writing, kept a record of working hours or planned working hours in accordance with the applicable collective agreement. No occupational healthcare had been arranged for the employees, and wages were not paid in accordance with the generally applicable collective agreement. In addition, there were shortcomings in the provision of payslips.

Case study: Work of workers posted to Finland in the construction sector

A foreign employer had posted their employees to Finland for temporary work in the construction sector. Terms of employment under which the posted workers worked did not comply with the generally applicable collective agreement for the construction sector.

The inspection revealed that the employees' working hours had been partly arranged in a manner that violated the collective agreement for the construction sector. They were not paid compensation for overtime or Sunday work nor were they given raises in accordance with the collective agreement. It became clear that the employer had been aware of the raises in pay required by the collective agreement. In addition, the working hours agreed to with the employees were in violation of the collective agreement. The inspection resulted in a presumption of discrimination according to which the posted workers had been placed in a position that was less favourable than that of other employees in a comparable situation on the basis of their nationality and origin.

The employer justified the different treatment of foreign workers with the company's poor financial standing. The explanation did not rebut the presumption of discrimination. The inspector found that the employer violated the prohibition of discrimination in the workplace as provided in the Non-Discrimination Act.

Other shortcomings were also observed during the inspection. The employer was obliged to pay wages in accordance with the collective agreement. Obligations were also imposed on the organisation of working hours in accordance with the collective agreement and the preparation of shift schedules and a working hours adjustment plan for the application of average working hours.

Case study: work in the massage and natural remedies sector

Foreign employees worked in the massage and natural remedies sector. The sector does not have a universally binding collective agreement in Finland. The inspection examined whether the employer had complied with the Working Hours Act, the Annual Holidays Act and the Employment Contracts Act.

It turned out that two massage work employees had been treated in an exceptionally unfavourable manner in terms of how their working hours had been arranged and how they had been paid compensation for additional work and overtime pay. Deficiencies were also observed in the payment of overtime compensation and sick pay to other employees. In addition, the employer did not comply with the Annual Holidays Act as the employees had barely been given any annual leave for several years. The inspector's observations on the employees' working hours were based on interviews conducted during the inspection and information and documents, such as payslips, received from the employer.

A presumption of discrimination was established in the case, according to which employees had been treated worse than other employees in the sector are treated due to their nationality. The employer did not use their option to rebut the presumption. The employer was found to have violated the prohibition of discrimination when determining the terms of employment and paying wages.

Other shortcomings were also observed during the inspection. The employer was imposed an obligation to compensate for additional work and overtime in accordance with the Working Hours Act and was imposed several obligations related to working hours, such as the obligation to ensure that the maximum number of working hours is not exceeded. The employer was also obliged to grant employees annual leave in accordance with the Annual Holidays Act. In addition, the employer was given several different obligations related to the use of foreign labour.

3.2. Prohibition of discriminatory job advertisements

When advertising an open position, public office or post, an employer may not unlawfully require that applicants have the personal characteristics or qualities referred to in the Non-Discrimination Act. When enforcing discriminatory job advertisements, the inspector determines whether requiring a characteristic or a matter mentioned in the job advertisement is justified under the Non-Discrimination Act from the perspective of performing the task.

In 2023, the OSH authorities carried out 11 inspections concerning discriminatory job advertisements. Nine inspections revealed that the employer had violated the prohibition of discriminatory job advertisements. Inspections were conducted with the OSH authority sending employers a request for clarification. Some employers admitted that they did not have an acceptable basis for the application criterion in question, but denied discrimination. Employers appealed to ignorance, human error or the fact that someone else had drawn up the job advertisement.

Examples of discriminatory job advertisements in 2023:

- A lingerie shop had a job advert seeking a person aged 30 or over for the position of a clerk.
- Applicants for a designer's position were required to be under 40 years of age.
- Finnish citizenship and fluent Finnish language skills were required for the tasks of concrete workers, mould makers and iron workers.
- A native-level proficiency in Finnish was required for the task of car washer and cleaner.
- Laundry workers were required to be fluent in Finnish.

3.3. Employer's obligation to promote equality.

Every employer has an obligation to promote equality in their activities. Promoting equality means both active measures to prevent discrimination as well as supporting those at risk of discrimination or those at a disadvantage with regard to equality or taking steps to improve their status.

Under the Non-Discrimination Act, the employer must assess from the perspective of the grounds for discrimination how equality is realised in recruitment and at the workplace. After this, the employer must, taking into account the needs of the workplace, develop the working conditions and operating methods that it follows in recruitment and other decisions concerning personnel. Employers that regularly employ at least 30 employees must also draw up an equality plan, i.e. a plan for the necessary measures to promote equality. The plan does not have a specific format. What is important is that it includes the practical measures needed to achieve genuine equality in the workplace.

Measures promoting equality can be considered concrete means and actions that the employer selects from its toolkit to improve, maintain and develop the equality situation in the workplace. When the equality situation in the workplace is reviewed periodically as planned, the tools in the toolbox can be added, changed and reused as necessary. If necessary, the employer may make changes to the planned and already implemented measures promoting equality.

Under the Non-Discrimination Act, the employer must assess from the perspective of the grounds for discrimination how equality is realised in recruitment and at the workplace.

Employers that regularly employ at least 30 employees must also draw up an equality plan, i.e. a plan for the necessary measures to promote equality.

More information on drawing up an equality plan and concrete measures to promote non-discrimination:

- [Promoting equality](#) (Occupational Safety and Health Administration)
- [Equality planning](#) (Non-Discrimination Ombudsman)
- [Equality planning checklist](#) (Ministry of Justice-maintained website Yhdenvertaisuus.fi)
- [Diversity, equality and non-discrimination in the work community](#) (The Centre for Occupational Safety)
- [How to promote diversity in recruitment?](#) (Finnish Institute of Occupational Health)
- [Handbook on working towards equal inclusion of persons with disabilities in working life](#) (in Finnish, Non-Discrimination Ombudsman and the Human Rights Centre)

During an OSH inspection, the inspector determines whether the employer has assessed and promoted the implementation of equality in recruitment and at the workplace. When carrying out the assessment, the inspector examines how the employer has taken different grounds for discrimination into account. If a workplace with at least 30 employees, the inspector determines whether the employer has a plan for the necessary measures to promote non-discrimination.

In 2023, the OSH authority carried out a total of 123 inspections to enforce the employer's obligation to assess and promote equality and draw up an equality plan. Shortcomings in the preparation or content of the equality plan were found in 88 inspections. In 18 per cent of these, the workplace lacked an equality plan. Deficiencies in the assessment and promotion of equality were observed during 79 inspections. During enforcement, it was observed that many workplaces wanted to act correctly, although there was still room for improvement in the work carried out to assess the equality situation and in concrete measures to promote equality. During inspections information was provided to workplaces on the promotion of equality and equality planning.

Common observations during inspections:

- Relevant grounds for discrimination had not been fully identified or assessed.
- The equality plan was not based on a comprehensive assessment of the equality situation.
- The planning of concrete measures to promote non-discrimination was inadequate.
- The equality plan included measures to promote gender equality under the Equality Act, but there was little on the need to promote equality on the basis of personal characteristics under the Non-Discrimination Act.
- The equality plan required updating or had not been prepared at all.
- Development targets had not been discussed in cooperation with the personnel.

4. Discrimination in the workplace as a crime

4.1. OSH authorities report suspected offences to the police

Under the OSH Enforcement Act, the OSH authorities are obliged to submit a report to the police if there are likely grounds for suspecting an offence related to discrimination in the workplace. However, there is no need to file a notification to the police if the act can be considered minor in view of the circumstances and public interest does not require the notification to be submitted. The wording of the definition of an occupational discrimination offence laid down in the Criminal Code differs from the wording of the provision on discrimination laid down in the Non-Discrimination Act. Meeting the criteria for discrimination in the workplace offences are assessed separately by comparing the facts of an enforced case to the distinctive characteristics of a discrimination in the workplace offence.

In 2023, the OSH authorities filed 29 pre-trial investigation reports of suspected workplace discrimination offences with the police. Of these, 14 were related to extortion-like workplace discrimination.

Grounds for discrimination in pre-trial investigation notifications in 2023:

- National or ethnic origin, nationality, language: 26
- State of health: 2
- Union activities or equivalent: 1

The OSH authority's reporting obligation also applies to gender discrimination, even though its enforcement is the responsibility of the Ombudsman for Equality. In 2023, the OSH authority did not submit any requests for the investigation of gender-based discrimination in the workplace.

An employer or a representative of an employer who, when advertising for a vacancy or selecting an employee or during an employment relationship, without a serious and acceptable reason, puts a job applicant or an employee in a unfavourable position

1) on the basis of his or her race, national or ethnic origin, nationality, colour, language, sex, age, family relations, sexual orientation, genetic inheritance, disability or state of health, or

2) on the basis of his or her religion, societal opinion, political or vocational activities or another comparable circumstance,

shall be sentenced for work discrimination to a fine or to imprisonment for at most six months.

*Criminal Code,
Chapter 47, section 3*

4.2. OSH authorities participate in the investigation and legal proceedings of employment-related discrimination offences

The OSH authority acts as an independent expert at different stages of the processing of cases involving discrimination at work. On the basis of the OSH Enforcement Act, the OSH authority participates in the investigation of workplace discrimination offences and on the basis of pre-trial investigation materials from the police issues an opinion before the conclusion of the considera-

tion of charges after the prosecutor has reserved an opportunity to do so. When cases of discrimination at the workplace are dealt with orally in courts, the OSH authority has the right to be present and to speak in the capacity of the authority to be heard.

The OSH authority provides information on the most important decisions concerning offences in the workplace. Media releases can be ordered through the STT press release service (sttinfo.fi). The media releases are also published in the OSH Administration's website [Tyosuojelu.fi](https://tyosuojelu.fi).

The following media releases on offences concerning discrimination in the workplace were published in 2023:

- [Turkulaisen ravintolan edustaja tuomittiin sakkoihin kiskonnantapaisesta työsyrynnästä](#) 13 January 2023, Southwestern Finland
- [Työnantaja ei maksanut työntekijälle sairausajan palkkaa ja toimitti lomautusilmoituksen sairauslomalla – tuomio työsyrynnästä](#) 6 March 2023, Southern Finland
- [Ravintola-alan yrittäjille ehdollista vankeutta ihmiskaupasta ja törkeästä kiskonnasta](#) 2 May 2023, Southern Finland
- [Työnhakija jätettiin valitsematta vammaisuuden perusteella – työnantajan edustajille sakkorangaistus työsyrynnästä](#) 24 May 2023, Southern Finland
- [Hovioikeus pysytti käräjäoikeuden tuomion työsyrynnästä – isännöintitoimiston johtajalle sakkoja](#) 26 May 2023, Southwestern Finland
- [Hieronta-alan yrittäjälle ehdollista vankeutta törkeästä kiskonnasta sekä useista muista rikoksista](#) 31 May 2023, Southern Finland
- [Kahta ravintolaa pyörittäneelle ex-pariskunnalle vankeusrangaistukset – työntekijöihin kohdistui ihmiskauppaa ja kiskonnantapaista työsyryntää](#) 31 October 2023, Southern Finland
- [Vuokratyönantajan edustaja lähetti asiattomia ja vähemmistöryhmiä kohtaan vihamielisiä viestejä työntekijöille – sakkoja työturvallisuusrikoksesta](#) 15 November 2023, Southern Finland
- [Sukulaismies syyllistyi ihmiskauppaan – tekaistu yrityskauppa toi 15 000 euron velkavankeuden veljentyttärelle](#) 5 December 2023, Southwestern Finland

Tyosuojelu.fi

Website of the Occupational Safety
and Health Administration in Finland