

**ADVISORY COMMITTEE ON THE  
FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES**

COUNCIL OF EUROPE



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**Comments of the Government of Finland on the Fifth Opinion of the Advisory Committee  
on the implementation of the Framework Convention for the Protection of National  
Minorities by Finland –  
received on 17 October 2019**

**The Advisory Committee's fifth Opinion on Finland on the implementation of  
the Framework Convention for the Protection of National Minorities**

**Comments by the Government of Finland  
17 October 2019**

**Article 3, paragraph 38**

The Government specifies that the committee dealt with several changes to the Act on the Sámi Parliament and not only with changes to sections 3 and 9.

**Article 3, paragraph 41**

On 3 April 2019 the Executive Board of the Sámi Parliament, on grounds of the views by the UN Human Rights Committee, referred to section 63 of the Administrative Judicial Procedure Act and requested the Supreme Administrative Court to annul its decisions of 26 November 2011 and 30 September 2015 concerning 97 individuals who are currently enrolled in the electoral roll. On 5 July 2019, the Supreme Administrative Court rejected the Executive Board of the Sámi Parliament's petition for annulment. The Supreme Administrative Court published a summary of this precedent (*KHO:2019:90*).

According to the summary, the overall consideration, including the aspect of self-identification of a person, had been of significance in the decision making of the Supreme Administrative Court if the person in question, in principle, met the wording of section 3, paragraph 2 of the Act on the Sámi Parliament, *i.e.*, if he or she was a descendent of a person who had been entered in a land, taxation or population register as a mountain, forest or fishing Lapp. If, however, the entry dated back to the time before the year mentioned in the legislative history of the Act, *i.e.*, 1875, additional evidence had been required concerning the person's other ties with Sámi culture. Similarly, the overall consideration could have had significance in these cases in respect of the language criterion laid down in section 3, paragraph 1 of the Act if there had not been entirely complete evidence to show that a grandparent of the person had learnt Sámi as his or her first language.

Therefore, the Supreme Administrative Court held that it had not ignored the objective criteria mentioned in the Act in its overall consideration. Instead, the Court had interpreted the law by trying to take into account not only the legislative history of the Act on the Sámi Parliament, the positions taken by the Constitutional Law Committee of Parliament, other relevant domestic legislation and international human rights instruments, as well as fundamental and human rights-friendly interpretation of the law, but also the recommendations of the UN Committee on the Elimination of Racial Discrimination concerning the appropriate interpretation of the definition of a Sámi in light of international law. In 2015, also the Constitutional Law Committee of Parliament stated in its report (*PeVM 12/2014 vp*) that, among other criteria, self-identification and overall consideration were important in interpreting the definition of a Sámi.

According to a press release of the Supreme Administrative Court, the decisions concerning 64 individuals were similar or concerned the descendants of previous decisions that had been similar to the summary. The decisions concerning 33 individual were different. These decisions had been based on the interpretation of the language criterion of the criterion concerning the descendants. A summary of the latter mentioned precedents was published (*KHO 2019:2019*).

In the light of the foregoing, the Government notes that not all of the 93 decisions were based on an approach giving prevalence to the subjective criterion of self-identification as a Sámi as contained in the chapeau of section 3 of the Act on the Sámi Parliament and that, according to the Supreme Administrative Court, the Court had not ignored the objective criteria mentioned in the Act in its overall consideration.

#### **Article 4, paragraph 62, footnote 44**

The Government notes that also discrimination on the ground of gender expression remains the task of the Equality Ombudsman.

#### **Article 4, paragraph 69**

According to the Non-Discrimination Act, occupational safety and health authorities monitor compliance with the Non-Discrimination Act in working life.

According to the Government Proposal regarding the Non-Discrimination Act, as revised in 2014, an assessment of which authority should monitor compliance with the Non-Discrimination Act in working life was conducted in connection with the drafting of the proposal. The proposed models included one in which monitoring was the exclusive responsibility of the occupational safety and health authorities or the Non-Discrimination Ombudsman, and another in which both authorities had equal monitoring powers. During the enacting process, it was decided that the Ombudsman's duties do not include monitoring compliance with the Non-Discrimination Act in areas where such monitoring was, under law, the occupational safety and health authorities' duty.

According to the current legislation, the occupational safety and health authorities are responsible for monitoring compliance in working life on a case-by-case basis while the Non-Discrimination Ombudsman is responsible for more general promotion, monitoring and mediation tasks.

The Employment and Equality Committee of Parliament has stated, reiterating the Government's statement, that the occupational safety and health authorities have in-depth understanding of the labour legislation, and that they are responsible for monitoring compliance with binding collective agreements. Inspectors visit workplaces, which gives them excellent opportunities of assessing equality and discrimination in practice. Occupational safety and health authorities also have an extensive, nationwide network of offices, and they are the chief authorities supervising the enforcement of legislation on working life in Finland.

The duties of the Non-Discrimination Ombudsman in working life include helping employers plan equality promotion measures, issuing general recommendations to prevent discrimination and to promote equality, acting as a mediator, preparing reports and making initiatives.

It is the Employment and Equality Committee's opinion that the present duties of occupational safety and health authorities and those of the Non-Discrimination Ombudsman are mutually complementary. Furthermore, the Committee had reservations about the proposal to increase the Ombudsman's powers in matters related to the monitoring of working life practices. Having powers that overlap does not seem like an effective solution, nor would it clarify the situation in terms of an individual's legal protection. Instead, the Committee emphasised the importance of close cooperation and exchange of information between different monitoring authorities.

### **Article 5, paragraph 70**

The Government notes that during the electoral term 2015-2019 neither a Government Proposal to ratify the ILO Convention No. 169 nor the Act on the Sámi Parliament was submitted to Parliament. This means that none of these legislative projects had been adopted by the end of the electoral term in spring 2014. The Government Proposal to ratify the ILO Convention No. 169 was withdrawn from Parliament in January 2019, since it was outdated, and it was no longer possible to give new proposals to Parliament before the elections in April 2019. The withdrawal of the Proposal did not include a statement concerning the possible ratification of the Convention at a later stage. According to the new Government Programme, work will continue to assess the preconditions for ratification of the ILO Convention No. 169.

Regarding the last sentence of this paragraph, the Government considers that the assessment is somewhat simplistic. Amending the Act on the Sámi Parliament has been a politically sensitive and difficult question.

### **Article 6, paragraphs 102 and 104**

Countering hate crime is one of the priorities of the police. Therefore, the police have invested resources both in training dealing with hate crime and in investigating uncovered cases. In 2017, the police, jointly with OSCE, arranged Training against Hate Crimes for Law Enforcement under the TAHCLE programme. First, the Police University College arranged a one-day workshop under the programme for 20 commanding police officers. Then, during two separate training meetings, a total of 34 police officers were trained to become trainers on hate crime issues. Thereafter, the new peer trainers trained in all approximately 900 police colleagues in all police departments in Finland. Moreover, the Police University College organises annually further training on how to uncover and investigate hate crime. This autumn, as part of the ERASMUS programme, the College will organise a hate crime course in English. The course will be open to students outside the College, too. Hate crime is discussed also during the basic and continuing education of police officers.

In 2017, with additional funding from the Ministry of the Interior, a team was established within the Helsinki police department to uncover and investigate punishable hate speech on the web. Some police departments also have virtual police officers focusing on such hate speech.

The police strive to address hate crime and to lower the reporting threshold through preventive work. Strategy on Preventive Police Work 2019–2023 and the action plan for the strategy, prepared by the National Police Board, set out a number of measures to address hate crime. Interaction with minority groups will be increased. The police will also continue to counter punishable hate speech and hate crime and to increase the knowledge and understanding of the police about the special nature of hate crimes and their impacts on the victims of such offences, the communities represented by the victims and society at large.

The National Police Board has issued instructions to its subordinate agencies for identifying and recording hate crimes, and separate instructions for referring victims to assistance services.

## Article 9

Since 1995, the Finnish Broadcasting Company (*Yleisradio Oy*) has been broadcasting a weekly current affairs programme entitled *Romano Mirits* on the radio. The programme deals with up-to-date themes related to such issues as Roma culture and prejudice against Roma people. The broadcast includes brief news highlights in the Roma language. The programme is intended for the public at large, whereas the Roma language news are mainly targeted at Roma people.

## Article 10, paragraph 143

According to paragraph 143 of the draft report, the Act on the Sámi Language safeguards the right to use the Sámi languages with authorities in offices located in the Sámi homeland. The Government notes in this respect that the Sámi Language Act applies to a wide range of authorities, including some outside the Sámi homeland. These include, for example, joint municipal authorities in which one or more of the municipalities of the Sámi homeland are members, such as the Lapland Hospital District situated in Rovaniemi; courts, police, prosecutors and magistrates offices whose jurisdiction covers the said municipalities in full or in part; the Chancellor of Justice of the Government and the Parliamentary Ombudsman; other supervisory authorities such as the Consumer Ombudsman and the Consumer Complaints Board, the Ombudsman for Equality and the Non-Discrimination Ombudsman as well as the National Non-Discrimination and Equality Tribunal of Finland; the Social Insurance Institution and Farmers' Social Insurance Institution and the State administrative authorities that hear appeals against decisions of the aforementioned administrative authorities.

According to the draft report, sections 4 and 12 of the Sámi Language Act are limited to the municipalities of the Sámi homeland and therefore Sámi living outside the homeland have no access to services in their languages.

The Government notes that section 4 of the Act provides for a Sámi the right to use a Sámi language in his/her own matter or in a matter in which he/she is being heard before all authorities which fall within the scope of application, including those outside the Sámi homeland. Section 12 provides for a more extensive right within the Sámi homeland to use Sámi in all dealings with authorities which fall within the scope of application. The person has the same right, if the same matter is dealt with as an appeal by an authority outside the homeland.

If the authority does not have staff with knowledge of the Sámi language, it shall arrange for interpretation free of charge. A Sámi is also entitled to a translation of certain documents from authorities within the scope of application free of charge into his/her own language. In practice, service in a Sámi language is a challenge both within and outside the Sámi homeland due to, *inter alia*, a lack of Sámi speaking staff.

#### Article 15, paragraph 171

The Government notes regarding the sentence *“Another proposal was developed by a committee consisting of government and Sámi representatives during 2018, but again failed to gain the approval of the Sámi Parliament and was therefore withdrawn from Parliament”* that this proposal was never submitted to Parliament since the Sámi Parliament did not approve it. Therefore, the wording “withdrawn” is incorrect.

#### Articles 17 and 18, paragraph 184

The Government notes that a preliminary agreement on the Nordic Sámi Convention was reached in December 2016. In February 2017, the Convention was initiated by three States, Finland, Norway and Sweden. In spring 2017, the Ministry of Justice submitted the Convention to the Sámi Parliament for approval in accordance with Article 42 of the Convention. In June 2018 the Sámi Parliamentary Council, *i.e.*, the Sámi Parliaments of Finland, Norway and Sweden, proposed amending the Convention. In June 2019 the three States replied that they do not oppose continuing negotiating on some parts of the Convention assuming that the balance in the Convention will not be affected. A political decision on whether to continue the negotiations still needs to be taken.

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