



# FIFTH OPINION ON FINLAND

Advisory Committee  
on the Framework  
Convention for  
the Protection of  
National Minorities  
(ACFC)



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Secretariat of the Framework Convention for the Protection of National Minorities  
Council of Europe  
F-67075 Strasbourg Cedex

[www.coe.int/minorities](http://www.coe.int/minorities)

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## SUMMARY OF THE FINDINGS

1. Finland has a long tradition of support for minority languages and cultures, enshrined in a well-developed legal framework that is generous towards minority communities and affords extensive linguistic rights. As in other European countries, levels of intolerance and nationalism have risen in the past years and the populist right has continued to receive considerable support. This has begun to put pressure on persons belonging to both traditional and “new” minorities as well as Swedish-speaking Finns. As trust decreases and distance between communities increases, it is important that Finland’s elaborate system of minority protection evolves to close a gradually emerging gap between *de jure* guarantees and *de facto* shortfalls in implementation.

### Scope of application

2. Finland continues to follow a flexible and open approach as to the scope of application of the Framework Convention. Though progress has been made supporting the Karelian language and culture, a more regular dialogue appears necessary to respond to the Karelians’ request for formal recognition.

### Equality and non-discrimination

3. The material scope of the 2015 Non-Discrimination Act is adequate to protect persons belonging to national minorities. The institutional framework, however, is too fragmented, has loopholes in the protection in employment, and does not provide satisfactory solutions in particular to intersectional discrimination, for example with respect to women belonging to national minorities in the employment sector. The Non-Discrimination Ombudsman continues to deal with the bulk of cases concerning persons belonging to national minorities, but its resources have not increased proportionally to its increased mandate and workload since 2015.

### Language revitalisation and preservation

4. The authorities invest considerable resources in the promotion of the Sámi culture and the revitalisation of the Sámi languages, which is commendable. The Advisory Committee welcomes that a first, albeit small-scale, revival programme for the Karelian language and culture was started in 2017. As these efforts can only be sustainable if they are continued over a longer period of time, the Advisory Committee welcomes the intention of the government formed in June 2019 to develop a language policy programme on the Sámi languages, the Karelian language, and also the Romani language.

### Tolerance and intercultural dialogue

5. The Advisory Committee welcomes the Finnish authorities’ firm commitment to promote tolerance and intercultural dialogue through a broad variety of measures and in particular its focus on children and youth in this context. This is direly needed, as evidence shows a hardening of attitudes not only vis-à-vis refugees and migrants, but also long-established minorities such as Swedish speakers and Sámi. However, the impact of many measures seems to be limited by the fact that they are implemented through relatively short-term project funding and are thus not always sufficiently sustainable.

### Hate speech and hate crime

6. Hate speech and hate crime have been recognised by the authorities as a serious issue and are comprehensively addressed at a policy level, but this approach has yet to be consolidated. Due to a lack of resources and training, the response of the police in cases of alleged hate crime is still considered not sufficiently effective and prompt. The Advisory Committee welcomes the addition of the motive “bias against Roma” in the national hate crime statistics as a means to devise more targeted measures against anti-Gypsyism. As persons speaking languages other than Finnish are increasingly targets of hate speech, the authorities are invited to consider adding ‘language’ as another bias motive, both in the Criminal Code and in the statistics.

### Media

7. The public Finnish Broadcasting Company *Yle* has reorganised its Swedish-language channels, which decreased Swedish-language broadcasting times on TV, but reportedly increased the availability of on-demand Swedish-language content online. The Advisory Committee notes that these kinds of reforms require a careful balance between the investment in attractive online content for younger audiences and the needs of persons who are used to linear TV. Broadcasting in Sámi languages has increased which is welcomed and should be maintained to make language revitalisation sustainable. Radio broadcasting in Karelian has started at a very low level, which is also welcomed and should gradually be increased. The public media offer in the Russian language is not considered sufficient given the numerically large size of the Russian-speaking minority.

### Sámi

8. The issue of the registration on the electoral roll to the Sámi Parliament remains highly contested. A solution will have to be found that balances the individual right of persons belonging to minorities to self-identification with the collective rights of indigenous peoples to determine the membership of their structures of self-governance. Disconnecting the objective criteria for registration on the electoral roll from the definition of who is a Sámi could be one way to balance both rights. The considerable funding given to Sámi culture, language, education and the functioning of the Sámi Parliament is welcomed. The investment made in the revitalisation of the Sámi languages over the past years is starting to yield results and should be consolidated, in particular as regards Sámi language nests and distance education, which are still project based. The decision to enter into a truth and reconciliation process and the consultations held on this matter in 2018 are strongly welcomed. However, the Advisory Committee is deeply concerned about continued flaws in the involvement of the Sámi in decision making on land use and water use and the failure to reform the corresponding legislation on the ‘obligation to negotiate’.

### Swedish speakers

9. Many Swedish speakers in Finland experience on a daily basis that their constitutionally guaranteed linguistic rights are not respected. The Advisory Committee is deeply concerned about this situation and the gradual erosion of the traditional consensus that Finland is a bilingual country. It observes that while Finland is *de jure* a bilingual state, the country is *de facto* becoming multilingual, with not only the majority language Finnish, but also English and languages of migrants gaining increasing importance. Many Swedish speakers feel that the Finnish-speaking majority is either unaware or unwilling to respect the constitutionally guaranteed status of Swedish as the second official language. The Advisory Committee regrets to see a certain scepticism of Swedish speakers whether the promises made by the authorities on language policy are actually realistic.

### Roma

10. Based on the consent of the Roma community, the motive “bias against Roma” is included since 2017 in the national hate crime statistics; the Advisory Committee welcomes this measure as a basis for more targeted measures against anti-Gypsyism. The Advisory Committee regrets that first language education in Romani (Kaalo) continues to decrease and that government funding for language nests has been discontinued.

### Public service provision in minority languages

11. Finland has rather generous provisions regarding the supply of public services in Swedish and Sámi languages, but these are not always implemented in practice. Gaps are particularly apparent in health care and social services, where the challenges of an ageing population and rising costs mean that the system increasingly struggles to meet formal legal commitments and the concomitant high expectations of minority groups. This is exemplified by the failed *Sote* reform, which aimed to meet some of these challenges but may have insufficiently taken the specifics of minorities into account, especially in its reliance on larger administrative areas, privatisation of service providers, and digitalisation.

### Participation

12. The Advisory Board for Ethnic Relations (ETNO), which has a broad mandate covering both traditional national minorities and migrant communities, only partially fulfils its function as an effective consultation mechanism for person belonging to national minorities. Neither its role in the political decision-making process, nor its selection and appointment procedure appear to be regulated in a sufficiently precise manner or known to all minority representatives. The representatives of minority communities constitute themselves a minority among the Advisory Board's members. To increase ETNO's impact and significance for national minorities, its status should be legally formalised, its composition re-evaluated and its budgetary resources increased.

## RECOMMENDATIONS

13. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Finland.

14. The authorities are invited to take account of the detailed observations and recommendations contained in the present opinion of the Advisory Committee's. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

### Recommendations for immediate action

15. The Advisory Committee urges the authorities to increase and consolidate the resources of law enforcement entities dealing with hate crime and provide the necessary training in order to effectively prevent and combat hate crime and reduce handling times of complaints. As regards the funding of activities that promote tolerance and intercultural dialogue, the Advisory Committee urges the authorities to move from a project-based to a more structural and sustainable approach.

16. The Advisory Committee urges the authorities to develop, together with the Sámi, a commonly recognised system for registration on the electoral roll that strikes an effective balance between the interests of the community in preserving its structures of self-governance on the one hand, and the principle of free self-identification on the other. This process should be inclusive and strive to reach an agreement on criteria for registration on the electoral roll; on an appeals mechanism on the interpretation of these criteria; and on a longer time frame for decision making on applications.

17. The Advisory Committee urges the authorities to significantly strengthen the participatory rights of the Sámi Parliament in legislation and practice, *inter alia* by equipping the Sámi Parliament with the necessary resources and providing training to concerned officials at national and local levels on the correct implementation of the 'obligation to negotiate'. While the amendment to the Act on the Sámi Parliament should have priority, the authorities should ensure effective participation as a matter of urgency even whilst the act remains unamended.

18. The Advisory Committee urges the authorities to safeguard the societal consensus on Finnish-Swedish bilingualism through stepping up awareness-raising, underpinned by an explicit commitment at the highest political level. Without prejudice to their constitutional obligations, the Finnish authorities should engage in an open dialogue with the Swedish speakers about their priorities to ensure that commitments made regarding public services in the Swedish language are realistic, effective, matched with adequate resources, and regularly monitored.

### Further recommendations<sup>1</sup>

19. The Advisory Committee calls on the authorities to maintain their flexible and open approach to the scope of application of the Framework Convention and to formalise

their dialogue with representatives of Karelians, with a view to strengthening their protection in domestic legislation.

20. The Advisory Committee calls on the authorities to streamline the fragmented system of equality bodies in close consultation with representatives of national minorities. It recommends, in particular, extending the mandates of the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal to the area of employment, to grant the National Non-Discrimination and Equality Tribunal the right to decide on awarding compensation and to provide the Non-Discrimination Ombudsman with adequate resources to fulfil its mandate.

21. The Advisory Committee calls on the authorities to ensure, in close consultation with the Sámi, that decisions on the use of traditional Sámi land do not negatively affect the possibility for the Sámi to maintain and develop their culture in that area. To secure Sámi cultural and institutional autonomy, the authorities should continue to seek consensus on a reform of the respective legislation, the ratification of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and the Nordic Sámi Convention.

22. The Advisory Committee calls on the authorities to ensure that in practice Swedish speakers have access to health care and social welfare services in their first language. Efforts should be made in particular to combat any intersectional discrimination of Swedish-speaking children, the elderly, and persons with disabilities using such services. The authorities should closely monitor and, if necessary, undertake action regarding the implementation of Swedish speakers' linguistic rights in the amalgamated district courts.

23. The Advisory Committee calls on the authorities, in close consultation with the Sámi, to clarify the statutory rights as regards the provision of Sámi-language health care and social welfare services in the Sámi homeland and define attainable and measurable objectives. Sufficient budgetary resources should be made available so these objectives can realistically be met. Furthermore, it invites the authorities to assess the need and, if it is established, consider supporting the provision of certain services in the Sámi languages outside the homeland.

24. The Advisory Committee calls on the authorities to consolidate the support for Sámi language teaching, paying particular attention to language nests, distance education, and teacher training. Furthermore, it calls on the authorities to increase their efforts to revitalise the Romani and Karelian languages through actively promoting first language teaching of these languages in schools.

25. The Advisory Committee calls on the authorities to strengthen the Advisory Board for Ethnic Relations (ETNO) in close consultation with representatives of all minorities. The authorities should in particular increase the share of minority representatives, ensure transparency of the membership selection process, increase budgetary and human resources, and consider formalising ETNO's status in law.

<sup>1</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

### Follow-up to these recommendations

26. The Advisory Committee encourages the authorities to organise a follow-up event after the publication of this fifth cycle opinion, as they have done previously. It considers that a follow-up dialogue to review the observations and recommendations made in this opinion would be beneficial. Furthermore, the Advisory Committee stands ready to support the authorities in identifying the most efficient ways to implement the recommendations contained in the present opinion.

### MONITORING PROCEDURE

#### Preparation of the state report for the fifth cycle

27. The state report was received on the due date, i.e. on 1 February 2019. Organisations representing and promoting the rights of persons belonging to national minorities were consulted in its preparation. Some gender-related aspects of minority rights were addressed in the report.<sup>2</sup>

#### Follow-up activities related to the recommendations of the fourth opinion of the Advisory Committee

28. A round table<sup>3</sup> to follow up on the recommendations of the fourth opinion of the Advisory Committee took place on 11 December 2018 in Helsinki/Helsingfors.<sup>4</sup>

#### Country visit and adoption of the fifth opinion

29. This fifth-cycle opinion on the implementation of the Framework Convention for the Protection of National Minorities (hereinafter “the Framework Convention”) by Finland was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution (97)10 of the Committee of Ministers. The findings are based on information contained in the fifth state report, other written sources, as well as information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Helsinki, Inari and Espoo/Esbo from 18 to 22 March 2019. The Advisory Committee expresses its gratitude to the authorities for their excellent co-operation before, during and after the visit.

\* \* \*

In the present opinion, a number of articles of the Framework Convention are not addressed. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations. This statement is not to be understood as signaling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove over time to have been underestimated.

<sup>2</sup> See state report, paras. 179-180 on gender-related hate speech faced by minorities. As announced in a letter to state parties of 5 July 2018, the Advisory Committee decided in the 5th monitoring cycle to pay particular attention to gender equality.

<sup>3</sup> See Programme of the follow-up round table on 11 December 2018.

<sup>4</sup> For municipalities having both Finnish and Swedish names, both names are used at the first occurrence in this opinion. Hereafter the name in the majority language of the respective municipality is used.

## ARTICLE-BY-ARTICLE FINDINGS

**Scope of application (Article 3)**

30. Finland continues to follow a flexible and open approach as regards the application of the Framework Convention. The state report provides information about groups that are explicitly mentioned in the Finnish Constitution (Sámi, Roma<sup>5</sup> and the Swedish-speaking population),<sup>6</sup> as well as about Tatars, Jews, and the Russian-, Karelian- and Estonian-speaking population.<sup>7</sup>

31. Karelian representatives maintain their wish that they be explicitly mentioned in the constitution and that an act on the Karelian language be adopted. While no such legal guarantees have been introduced, it appears that dialogue with Karelian representatives has been intensified, as recommended by the Advisory Committee in previous opinions.<sup>8</sup> Karelian associations were involved in the preparation of the state report and the follow-up event in December 2018 and are regularly invited to the annual consultations organised by the Advisory Board on Language Affairs. However, neither the Language Board nor the Advisory Board for Ethnic Relations (ETNO) has a Karelian representative in its composition.

32. Responding to requests from Estonian speakers mentioned in previous opinions,<sup>9</sup> representatives of this group are included in the current composition of the ETNO.<sup>10</sup>

33. Several hundred Roma from other EU countries live in Finland, mostly on a temporary basis. Though this group is not explicitly mentioned in the state report, the delegation was informed that persons belonging to this group can benefit from certain rights under the Framework Convention, notably to receive minority language education in their own variant of the Romani language under the same requirements – a minimum of two students – as Finnish Roma (see *Teaching in and of minority languages* below).<sup>11</sup>

34. The Advisory Committee recalls that when examining the scope of application of the Framework Convention, it has consistently encouraged authorities to be inclusive and context specific and to consider on an article-by-article basis

which rights should be made available to whom. Such an approach promotes a societal climate of dialogue and understanding, where cultural diversity is viewed as a source of enrichment rather than division.<sup>12</sup>

35. The Advisory Committee therefore welcomes the authorities' generally flexible and open approach to the application of the Framework Convention demonstrated, *inter alia* by the increased dialogue with Karelian and Estonian representatives and the readiness to extend the right to minority language education to Roma children from other EU countries. The Advisory Committee regrets that the dialogue with the Karelians, who expressed a wish for stronger legal protection, is so far taking place on an *ad hoc* basis and would benefit from becoming more formalised.

36. The Advisory Committee calls on the authorities to maintain their flexible and open approach to the scope of application of the Framework Convention and to formalise their dialogue with representatives of Karelians with a view to strengthening their protection in domestic legislation.

**Electoral roll to the Sámi Parliament (Article 3)**

37. The dispute about the definition of who is a Sámi and the admission to the electoral roll for the Sámi Parliament, which is also described in the preceding opinions, has continued during the present reporting period. As of April 2019, the electoral roll to the Sámi Parliament counted 5 844 voters. For the 2019 elections, the Sámi Parliament informed the delegation that it had received about 550 new applications, out of which it had accepted 207.

38. Between the end of 2017 and June 2018, a committee composed of representatives of the government and the Sámi Parliament developed a reform proposal for Section 3 of the Act on the Sámi Parliament (974/1995)<sup>13</sup> on the definition of a Sámi, along with Section 9 on the 'obligation to negotiate' (see *Participation in public affairs - Sámi* below).

39. According to the proposal, the heading "Definition of a Sámi" in the current law would have been replaced by the

<sup>5</sup> Unless otherwise noted, the term "Roma" in the present opinion refers to the Finnish "Kaale" Roma. Finnish Kaale are Sinti related. On terminology, see also the Council of Europe Descriptive Glossary of terms relating to Roma Issues, available at [www.coe.int/roma](http://www.coe.int/roma).

<sup>6</sup> According to Section 17 of the constitution, the national languages of Finland are Finnish and Swedish and have equal status. However, given that only 5.2% of the population are Swedish speakers, they are considered a *de facto* linguistic minority. Section 17 states, furthermore, that the "Sami, as an indigenous people, as well as the Roma and other groups, have the right to maintain and develop their own language and culture".

<sup>7</sup> According to the state report, there are approximately 10 000 Sámi, 10 000 Roma, 800-900 Tatars and 1 800 persons belonging to the Jewish community. The number of Karelian speakers, mainly former border Karelians and their descendants, has been estimated at 5 000. The estimated number of Finnish Karelian speakers is 3 000 and the number of people who have moved from the Russian Karelian area slightly over 2 000. It is estimated that around 20 000 people know the language to some extent. Approximately 77 200 persons were registered as Russian speakers and 49 600 persons as Estonian speakers (data for 2017).

<sup>8</sup> See para. 25 of the 3rd opinion and para. 14 of the 4th opinion.

<sup>9</sup> See para. 26 of the 3rd opinion, and para. 14 of the 4th opinion.

<sup>10</sup> See state report, para. 369. For the full composition of ETNO, see *Advisory Board for Ethnic Relations* below.

<sup>11</sup> The Ministry of Education informed the delegation that in practice, however, this has not yet happened.

<sup>12</sup> ACFC Thematic Commentary No. 4, The Framework Convention: a key tool to managing diversity through minority rights. The scope of application of the Framework Convention for the Protection of National Minorities, adopted on 27 May 2016, para. 7.

<sup>13</sup> State report, paras. 18-22. *Act on the Sámi Parliament (974/1995)*, Section 3, in the current version, reads: "For the purpose of this Act, a Sámi means a person who considers himself a Sámi, provided: (1) That he himself or at least one of his parents or grandparents has learnt Sámi as his first language; (2) That he is a descendent of a person who has been entered in a land, taxation or population register as a mountain, forest or fishing Lapp; or (3) That at least one of his parents has or could have been registered as an elector for an election to the Sámi Delegation or the Sámi Parliament."

heading “The right to be registered on the electoral roll”, thus separating registration on the electoral roll from “the constitutional rights otherwise belonging to the Sámi as an indigenous people and the development of these rights”.<sup>14</sup> In a similar vein, the authorities informed the delegation that in their everyday contacts with persons identifying as Sámi, they strive not to differentiate between persons identifying as Sámi who are on the electoral roll to the Sámi Parliament and those who are not on the electoral roll.

40. It was also proposed that the most contentious part of the definition concerning the ‘Lapp registers’ be removed. However, in September 2018 the Sámi Parliament rejected the proposal because it did not agree with the transition period implying that the 2019 elections should be held according to the old definition.<sup>15</sup> Other reasons mentioned were that the proposal contained the establishment of an appeals body with members appointed by the government and that the issue of land rights had been omitted entirely.<sup>16</sup>

41. In parallel to the political process described above, the legal dispute about the individual cases of persons requesting registration on the electoral roll to the Sámi Parliament continued. As described in the fourth opinion, of the nearly 800 persons who applied for voting rights in the 2015 elections, only 483 were admitted. Following complaints by 182 of those rejected, the Supreme Administrative Court issued in September 2015 a series of decisions recognising 93 persons as entitled to be registered in the Sámi electoral roll.<sup>17</sup> These decisions build upon 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, even if none of the objective elements contained in paragraphs 1 to 3 applied. The President of the Sámi Parliament and a group of other Sámi complained about these cases to the UN Human Rights Committee which in February 2019 confirmed a violation of Article 25 of the International Covenant on Civil and Political Rights, read alone and in conjunction with Article 27, as interpreted in light of Article 1 of the Covenant.<sup>18</sup> The authorities are asked to inform the Human

Rights Committee by the end of July 2019 about measures taken to give effect to the committee’s views.

42. On 18 June 2019, the Sámi Parliament decided to ask the authorities to amend the Act on the Sámi Parliament so that the next elections to the Sámi Parliament, normally scheduled for autumn 2019, could be postponed by two years until Section 3 of the Act on the Sámi Parliament is amended.<sup>19</sup>

43. The Advisory Committee met both with representatives of the majority in the Sámi Parliament and its Board, who strongly oppose the above-mentioned decisions by the Supreme Administrative Court, and with Sámi representing the views of those who were rejected by the Sámi Parliament’s Electoral Committee to be on the electoral roll and who appealed this decision at the Supreme Administrative Court.<sup>20</sup>

44. Representatives of the majority in the Sámi Parliament argue that the decisions of the Supreme Administrative Court constitute an unlawful interference of the authorities as regards the right of the Sámi people to internal self-determination and that the court interpreted the Act on the Sámi Parliament in an arbitrary and discriminatory way.<sup>21</sup> Some interlocutors also mentioned, as did another group of applicants to the UN Human Rights Committee, the possibility that some persons rejected by the Electoral Committee are “part of campaigns organised by non-Sámi inhabitants of Lapland to register non-Sámi persons as voters, with the objective to influence the composition and position of the Parliament”.<sup>22</sup>

45. Other representatives of the Sámi Parliament met by the Advisory Committee found that the rejections by the Electoral Committee were not in line with the Act on the Sámi Parliament as people were rejected who not only self-identified as Sámi but met at least one of the objective criteria defined in Section 3. They described the rejection as hurtful for the applicants identifying as Sámi and reported that in early 2019 the Electoral Committee had again rejected over 300 candidates who wanted to vote in the autumn 2019 elections. They also expressed concern about the composition of the Electoral Committee, noting that they

<sup>14</sup> Unofficial translation of the proposal submitted by the authorities. Section 3, in the proposed amended version, reads: “The right to be entered in the electoral roll is held by persons who regard themselves as Sámi, if the following preconditions are met: 1) the person himself or herself or at least one of his or her parents, grandparents or great-grandparents must have learned Sámi as their first language; or 2) at least one of the person’s parents must be or have been included in the electoral roll for the Sámi Delegation or the Sámi Parliament.”

<sup>15</sup> State report, para. 21.

<sup>16</sup> Submission to the Advisory Committee by Sami Soster ry. See also Irja Seurujärvi-Kari and Kristiina Pirjo Kristiina Virtanen (forthcoming), Sámi Reconciliation in Practice: A Long and Ongoing Process, in: Ranjan Datta (ed.), Reconciliation in Practice, A Cross-Cultural Perspective, Co-authored with Irja Seurujärvi-Kari. Winnipeg: Fernwood.

<sup>17</sup> Given the relatively small overall electorate and number of seats in the Sámi Parliament (21), the decision of the Supreme Administrative Court may have implications on the overall result of the elections. What is more, the descendants of persons admitted to the electoral roll are automatically admitted.

<sup>18</sup> UN Human Rights Committee [CCPR/C/124/D/2668/2015](#) (1 February 2019), Views adopted by the committee under Article 5 (4) of the Optional Protocol, concerning communication No. 2668/2015 and concerning communication No. 2950/2017.

<sup>19</sup> Website of the Sámi Parliament (18 June 2019), [The Sámi Parliament proposes to the Government to change the time of the Sámi Parliamentary elections](#) (in Finnish).

<sup>20</sup> The appeal procedure with the Supreme Administrative Court was introduced to the Act on the Sámi Parliament in 2002 (1279/2002) and, as such, is not contested by the UNHRC.

<sup>21</sup> UN Human Rights Committee [CCPR/C/124/D/2668/2015](#) (1 February 2019), Views adopted by the Committee under Article 5 (4) of the Optional Protocol, concerning communication No. 2668/2015, paras. 1.2-1.4.

<sup>22</sup> UN Human Rights Committee [CCPR/C/124/D/2950/2017](#) (1 February 2019), Views adopted by the Committee under article Article 5 (4) of the Optional Protocol, concerning communication No. 2950/2017, para. 2.7.

felt it was too closely controlled by a relatively small group. Representatives of the majority in the Sámi Parliament informed the Advisory Committee that they had taken steps to create more distance between the Electoral Committee and the members of the Sámi Parliament, acknowledging that 'politicians should not be allowed to determine their own electorate'.

46. Virtually all interlocutors of the Advisory Committee described the decades-long dispute as unhealthy for the community and an obstacle to progress with the strengthening of Sámi indigenous rights, including the ratification of the ILO Convention No. 169. The public discourse around this topic was described as increasingly polarised and involving incidents of hate speech in social media. Few interlocutors had hoped that the conflict would soon be resolved. Researchers pointed to various underlying causes for the dispute, including of an economic and personal nature, as well as flaws in the institutional framework established by the Act on the Sámi Parliament such as the short time span in which the Electoral Committee decides on applications and the lack of an appeals body that is recognised by all Sámi.

47. The Advisory Committee recalls that the right to free self-identification, as protected in Article 3(1) of the Framework Convention, is of cardinal importance and constitutes the cornerstone of international protection of minorities.<sup>23</sup> According to the explanatory report to the Framework Convention, this does not imply a right for an individual to choose arbitrarily to belong to any national minority. The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity.<sup>24</sup> The Advisory Committee has intentionally refrained from interpreting what such objective criteria may be, as it is clear from the wording of the Explanatory Report that they must only be reviewed vis-à-vis the individual's subjective choice.<sup>25</sup> In the view of the Advisory Committee, a person's free self-identification may only be questioned in rare cases, such as when it is not based on good faith. Identification with a national minority that is motivated solely by the wish to gain particular advantages or benefits, for instance, may run counter to the principles and purposes of the Framework Convention.<sup>26</sup>

48. The Advisory Committee recalls, furthermore, that Article 3(2) of the Framework Convention provides that the rights flowing from the Framework Convention may be exercised individually or in community with others. This means that the Framework Convention recognises the possibility of joint exercise of those rights and freedoms, which is distinct from the notion of collective rights.<sup>27</sup>

49. The Advisory Committee is aware that the rights of the Sámi are not only protected by the Framework Convention, but also under international indigenous law. Unlike the Framework Convention, the UN Declaration on the Rights of Indigenous Peoples explicitly refers to collective rights and the right to self-determination.<sup>28</sup> It furthermore states the right of indigenous peoples to determine their own identity or membership in accordance with their customs and traditions, and to both determine the structures and select the membership of their institutions in accordance with their own procedures.<sup>29</sup>

50. The Advisory Committee notes that the situation is highly complex, also because of the various layers of internal differentiation within the Sámi community, notably across the three language groups (North, Inari and Skolt Sámi), places of settlement (within and outside the homeland), and occupations (reindeer herders and others).<sup>30</sup> It understands the deep concern of the majority of Sámi within the Sámi Parliament that the system of self-governance which they managed to finally obtain may be eroded by a large number of applications that they consider are not made in good faith. It can, however, also understand the grievances of persons identifying as Sámi who may be applying in good faith and whose applications are rejected by the Electoral Committee. It is evident that the current situation causes serious harm to the relations within the Sámi community as well as to those between the Sámi and the authorities. Tackling this issue will require time and space for open, inclusive discussions, for which the regional broadcaster *Yle Sápmi* may lend itself as a platform. The truth and reconciliation process could also help to put this question into a wider perspective (see *Promotion of minority cultures – Sámi* below).

51. As regards the definition contained in the Act on the Sámi Parliament, the Advisory Committee finds that the proposal developed in 2018 reflects the spirit of Article 3 of the Framework Convention better than the current version. Against the background of the right to self-identification, it welcomes the idea of applying objective criteria merely to the membership in the electoral roll. In this context and without prejudice to the question of the electoral roll, the Advisory Committee also welcomes the authorities' inclusive approach based on the right to free self-identification in their everyday contacts with persons identifying as Sámi.

52. Concerning the procedural aspects in the law, the Advisory Committee considers mainly two aspects as problematic: first, the majority in the Sámi Parliament appears not to unequivocally recognise the Supreme Administrative Court as a legitimate appeals body for

<sup>23</sup> ACFC Thematic Commentary No. 4, para. 9. See also European Court of Human Rights Grand Chamber judgment in the case of *Molla Sali v. Greece*, no. 20452/14, § 157, 19 December 2018.

<sup>24</sup> Explanatory Report to the Framework Convention for the Protection of National Minorities, para. 35.

<sup>25</sup> ACFC Thematic Commentary No. 4, para. 10. See also UN CERD (1990), General recommendation VIII concerning the interpretation and application of Article 1, paragraphs 1 and 4 of the Convention.

<sup>26</sup> ACFC Thematic Commentary No. 4, para. 10.

<sup>27</sup> Explanatory Report to the Framework Convention for the Protection of National Minorities, para. 37.

<sup>28</sup> United Nations Declaration on the Rights of Indigenous Peoples, adopted by the UN General Assembly on 13 September 2007, Preamble and Article 3.

<sup>29</sup> *Ibid.*, Article 18.

<sup>30</sup> See also Prime Minister's Office (15/2018), Truth and reconciliation process concerning Sámi issues. Report on hearings.

questions pertaining to the Sámi electoral roll; secondly, according to the current provisions in the Act on the Sámi Parliament, the Electoral Committee must take decisions within a short period ahead of each election, which leads to time pressure and a higher risk of errors.

53. The Advisory Committee urges the authorities to develop, together with the Sámi, a commonly recognised system for registration on the electoral roll that strikes an effective balance between the interests of the community in preserving its structures of self-governance on the one hand, and the principle of free self-identification on the other. This process should be inclusive and strive to reach an agreement on criteria for registration on the electoral roll; on an appeals mechanism on the interpretation of these criteria; and on a longer time frame for decision making on applications.

### Population data (Article 3)

54. The Finnish Population Information System includes, *inter alia* data on citizenship, first language, and contact language.<sup>31</sup> Ethnic affiliation is not registered. Only one first language can be indicated. This information is usually registered at birth by the parents or when a person takes up residence in Finland and can be changed through the local registration offices.<sup>32</sup>

55. Following the Advisory Committee's recommendation in the fourth opinion, the Ministry of Justice will undertake a study on the effects of entering more than one first language into the Population Information System.<sup>33</sup> The study will assess the benefits for the individuals concerned as well as the impact on planning of services. During the visit, the authorities informed the Advisory Committee about their concerns that such a measure would make it more difficult to plan education, health care and other services in minority languages and assess the respective budgetary needs of municipalities. Furthermore, both the authorities and representatives of the Swedish Assembly of Finland anticipate that the possibility to enter both Swedish and Finnish as first languages could result in lowering the level of service provision in the Swedish language.

56. The Swedish Assembly of Finland opposes the registration of multiple languages because it fears that, as a result, the authorities would in practice communicate with the bilingual person in the majority language of the

respective municipality, which in most cases would be Finnish.<sup>34</sup>

57. As regards ethnic affiliation, the first language registered in the Population Information System is used as a proxy indicator for some groups such as Estonians and Russians.<sup>35</sup> The authorities acknowledge, however, that in the cases of bilingual or multilingual persons in particular, the language entered in the Population Information Register does not give an accurate picture of the person's language proficiency and the languages they use, nor does it take the consequences of past linguistic assimilation into account. For example, many of the Sámi have not registered any of the three Sámi languages as their first language. The number of entries for Karelian and Romani<sup>36</sup> are much lower than what is assumed to be the actual number of persons having acquired these languages as their first language (152 and 23 respectively in 2015).<sup>37</sup> For these national minorities and those where the respective languages are not widely spoken (Jewish, Tatars) the authorities rely on additional research or data provided by the respective communities.<sup>38</sup>

58. The Advisory Committee recalls that reliable information about the ethnic and linguistic composition of the population is an essential condition for implementing effective policies and measures to protect persons belonging to minorities and for helping to preserve and assert their identity. The opportunity to express multiple affiliations should be provided and the respective data adequately processed, analysed and displayed, in particular when they are used as the basis for the applicability of minority rights. Minority representatives should be consulted on the organisation and operation of such data collection processes.<sup>39</sup>

59. The Advisory Committee maintains its view that persons belonging to minorities should have the opportunity to indicate more than one first language in the Population Information System. At an individual level, this would better respond to the individual right to free self-identification, for instance for persons whose parents speak two different languages and for persons speaking languages that may be associated with stigmatisation (e.g. Romani) or are not widely spoken and/or written (e.g. Karelian and Sámi). At a macro level, such a measure would lead to a more accurate reflection of the reality of an increasingly multilingual society and increase the reliability of the first language indicator as

<sup>31</sup> The contact language can either be Finnish or Swedish and is the language in which a person wishes to be contacted by administrative authorities if his/her first language is none of the two.

<sup>32</sup> Based on the Population Information System and other databases, a register-based population census is conducted every 10 years, the next being due in 2020. See [website](#) of the Population Register Centre (in English).

<sup>33</sup> See state report, para. 114-116, and Prime Minister's Office (31 January 2018), [Report of the Government on the application of language legislation 2017](#), p. 33.

<sup>34</sup> Submission by the Swedish Assembly of Finland to the Advisory Committee, 29 April 2019.

<sup>35</sup> State report, para. 16.

<sup>36</sup> Unless otherwise noted, the term "Romani" in the present opinion refers to "Kaalo", the language spoken by Finnish Kaale. The latter being Sinti related, their language Kaalo is subsumed under Romanes, the language spoken by Sinti and which linguistically is a dialect cluster of Romani. On terminology, see also the Council of Europe Descriptive Glossary of terms relating to Roma and Travellers, available at [www.coe.int/roma](http://www.coe.int/roma).

<sup>37</sup> Prime Minister's Office (31 January 2018), [Report of the Government on the application of language legislation 2017](#), p. 35-38.

<sup>38</sup> See state report, paras. 15-16.

<sup>39</sup> ACFC Thematic Commentary No. 4, paras.16-17.

a proxy for ethnic affiliation.<sup>40</sup> Given the relevance of these data for policy design and planning, a methodology will have to be developed which ensures that a person's indication of Finnish as one of their first languages does not result in a lowering of the standards and provisions for minority languages.

60. The Advisory Committee welcomes the authorities' commitment to assess the effects of registering more than one first language in the Population Information System and encourages them to broadly involve minority representatives in this assessment and in the development of a methodology that best corresponds to their needs and does not result in a lowering of the standards and provisions for minority languages.

### Anti-discrimination legislative and institutional framework (Article 4)<sup>41</sup>

61. The legislation pertaining to non-discrimination and in particular the Non-Discrimination Act (1325/2014) in force since 1 January 2015 is described in the Advisory Committee's fourth opinion and has since remained unchanged.<sup>42</sup> The same applies to the institutional framework, which consists of the Chancellor of Justice and the Parliamentary Ombudsman as supreme overseers of legality and several equality bodies (the Non-Discrimination Ombudsman, the Equality Ombudsman, the National Non-Discrimination and Equality Tribunal, and the Human Rights Centre). The Parliamentary Ombudsman together with the Human Rights Centre and the Human Rights Delegation, each being functionally autonomous and independent, form the national human rights institution complying with the Paris Principles.<sup>43</sup>

62. The Non-Discrimination Ombudsman deals with the bulk of discrimination cases concerning persons belonging to national minorities.<sup>44</sup> Although the overall number of cases handled has more than doubled since the broadening of the mandate in 2015,<sup>45</sup> cases concerning national minorities have remained largely stable at approximately 200 per year.

Typical cases concerned discrimination on the grounds of language (mainly Swedish, Sámi, but also others) in the education sector, in social services and in health care,<sup>46</sup> and discrimination on the grounds of origin in private services such as shops and restaurants, as well as in the housing sector. The latter often concerned Roma, in particular women in traditional dress. On average, the Non-Discrimination Ombudsman handles 80 cases concerning the discrimination of Roma every year, which correspond to about 5% of the overall number of cases.<sup>47</sup>

63. The Non-Discrimination Ombudsman cannot issue binding decisions or sanctions. This competence is held by the National Non-Discrimination and Equality Tribunal, an independent and impartial judicial body, to which individuals can complain directly, or to which cases are referred by the Non-Discrimination Ombudsman.<sup>48</sup> The tribunal cannot award compensation to victims; this must be requested from a district court. Neither the Non-Discrimination Ombudsman nor the tribunal have jurisdiction in employment. Those cases are dealt with by the Occupational Safety and Health Authority.<sup>49</sup> This public authority under the Ministry of Social Affairs and Health can receive communications from employees, carry out on-site inspections, and issue legally binding improvement notices, but is not considered an independent equality body.<sup>50</sup>

64. The Chancellor of Justice and the Parliamentary Ombudsman receive relatively few cases on matters concerning national minorities. In their capacity as "overseers of legality", national minorities usually address both bodies to challenge the legality of a decision or action taken by a public authority or its passivity in taking action. During the reporting period, the Chancellor of Justice issued five decisions criticising state authorities for a failure to comply with linguistic rights of Swedish speakers (see *Use of the Swedish language* below).<sup>51</sup> He also delivered an important decision concerning the 'obligation to negotiate' under the Act on the Sámi Parliament (see *Participation in public affairs – Sámi Parliament* below).<sup>52</sup> The approximate 50-60 minority-related cases brought to the Parliamentary Ombudsman per year also mostly concern linguistic rights.

<sup>40</sup> It has to be noted, though, that this would not be the case for instance for the Jewish community, where neither Yiddish nor Hebrew are widely spoken.

<sup>41</sup> The Advisory Committee notes that the European Commission against Racism and Intolerance (ECRI) has in 2018 had occasion to examine this development in depth while drawing up its fifth report on Finland. The Advisory Committee refers to ECRI's detailed findings and recommendations in this regard.

<sup>42</sup> The Non-Discrimination Act covers discrimination on grounds of, *inter alia* origin, language and nationality (i.e. citizenship) and is applicable to both the public and the private sector. 'Origin' is defined as including ethnic origin, national origin, social origin, race and colour of skin.

<sup>43</sup> For an overview, see European network of legal experts in gender equality and non-discrimination (2017), [Country report Non-Discrimination; Finland](#).

<sup>44</sup> With entry into force of the Non-Discrimination Act in 2015, the name of the ombudsman was changed from Ombudsman for Minorities to Non-Discrimination Ombudsman and the competences were expanded to cover all grounds of discrimination except gender and gender identity, which remain the task of the Equality Ombudsman.

<sup>45</sup> The number of complaints handled was 496 in 2015, 891 in 2016, 1 107 in 2017 and 1 192 in 2018.

<sup>46</sup> [Report of the Non-Discrimination Ombudsman to the Parliament 2018](#), pp. 28-35.

<sup>47</sup> Data for 2015-2018, provided by the Non-Discrimination Ombudsman. See also the [Report of the Non-Discrimination Ombudsman to the Parliament 2018](#), pp. 35-36.

<sup>48</sup> In 2018, the Non-Discrimination Ombudsman has, with the injured party's consent, submitted five cases to the tribunal.

<sup>49</sup> See [website](#) of the Occupational Safety and Health Authority (in English).

<sup>50</sup> European network of legal experts in gender equality and non-discrimination (2017), [Country report Non-Discrimination; Finland](#), p. 64.

<sup>51</sup> State report, paras. 260-266.

<sup>52</sup> Decision No. OKV/12/21/2016 on the Tenjoki Fisheries Agreement, see state report, para. 37.

The office dealt with several cases on the right to receive services in the Swedish language and one case on the possibility to enter Sámi-language fonts in the Population Information System (see *Use of the Swedish language* and *Use of Sámi forenames and surnames* below).

65. While interlocutors of the Advisory Committee were largely satisfied with legal provisions prohibiting discrimination contained in the Non-Discrimination Act, many raised concerns about the fragmented and complex institutional framework of ombudspersons and “overseers of legality”. Some minority representatives appeared to be confused by the multitude of bodies and their respective mandates and many did not see much purpose in filing complaints because they thought it would take far too long to remedy their situation, if it were to be remedied at all. This occurs in particular if a case is referred to the Equality Tribunal which is the only body mandated to issue binding decisions and sanctions. Requesting compensation in a district court further delays the procedure and entails the risk that the claimant may have to pay the legal costs. Some interlocutors questioned if the available budget was used in the most efficient way, in particular as regards the overlaps in the respective mandates of the Chancellor of Justice and the Parliamentary Ombudsman.<sup>53</sup> In particular, the resources of the Non-Discrimination Ombudsman have not been increased in proportion to the broadened mandate and to the number of cases handled which has more than tripled. While the then Ombudsman for Minorities dealt with 287 discrimination complaints in 2014, the number increased to 496 in 2015 and 891 in 2016. Taking the grounds of ethnicity, language and religion together, almost half of the cases concern persons belonging to minorities.

66. The Advisory Committee recalls that in line with Article 4(2) of the Framework Convention, states shall adopt adequate measures in order to promote effective equality between persons belonging to a national minority and those belonging to the majority in all areas of economic, social, political and cultural life. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

67. While the Advisory Committee finds that the material scope of the Non-Discrimination Act provisions prohibiting discrimination is adequate to protect persons belonging to national minorities, it regrets a number of lacunae concerning the complaints mechanisms established by the act. Firstly, the Advisory Committee finds it highly problematic that – unlike the Equality Ombudsman, which exclusively covers discrimination based on gender – neither the Non-Discrimination Ombudsman nor the National Non-Discrimination and Equality Tribunal can handle individual cases in employment, which is an essential area of

application of the Non-Discrimination Act and particularly relevant for persons belonging to national minorities.<sup>54</sup> Secondly, it is concerned that national minority representatives are discouraged from filing complaints due to the long handling time and administrative burden involved if they seek remedy in the form of a binding decision, sanction or compensation, but also by the sheer complexity of the system. Thirdly, the multitude of bodies and their partial overlap of mandates raise questions about whether resources could not be more efficiently used, in particular to strengthen the Non-Discrimination Ombudsman, which is the most relevant point of contact for persons belonging to national minorities.

68. Overall, it finds that the current elaborate but complex Finnish system of anti-discrimination bodies with overlapping but distinct mandates can in some instances weaken anti-discrimination provisions. The fact that the mandate of the Equality Ombudsman is much stronger than that of the Non-Discrimination Ombudsman, confronts women with a minority background who experience discrimination with a difficult choice. In such cases of intersectional discrimination, this system could have the adverse effect of creating unjustified differential treatment between women from majority or minority communities.<sup>55</sup>

69. The Advisory Committee calls on the authorities to streamline the fragmented system of equality bodies in close consultation with representatives of national minorities. It recommends, in particular, extending the mandates of the Non-Discrimination Ombudsman and the National Non-Discrimination and Equality Tribunal to the area of employment, to grant the National Non-Discrimination and Equality Tribunal the right to decide on awarding compensation and to provide the Non-Discrimination Ombudsman with adequate resources to fulfil its mandate.

### Promotion of minority cultures – Sámi (Article 5)

70. The authorities invest considerable resources in the promotion of the Sámi culture and language, notably through the “Revival Programme for the Sámi Language” and various cultural and heritage projects implemented mainly by the Sámi Parliament.<sup>56</sup> The government having committed back in 2010 to strengthen the cultural and institutional autonomy of the Sámi people, has carried out an extensive dialogue between the authorities and the Sámi Parliament in previous years.<sup>57</sup> The process aimed at reforming the Act on the Sámi Parliament, ratifying ILO Convention No. 169 on Indigenous and Tribal Peoples, and amending the Finnish Forest and Park Service Act. None of these legislative projects had been adopted by the end of the electoral term in spring 2019, and all bills that had been submitted to Parliament during this period were withdrawn.<sup>58</sup>

<sup>53</sup> The Ministry of Justice has set up a working party for assessment on needs to reform the division of tasks between the Chancellor of Justice and the Parliamentary Ombudsman (*Tehtävänjakotyöryhmä* (OM044:00/2018)). The assessment is due in spring 2019. If necessary, a separate body will prepare the possible amendments to the legislation.

<sup>54</sup> In 2017-18, approximately 10% of the almost 200 discrimination complaints brought to Occupational Safety and Health Authority per year were on the grounds of origin, citizenship and language. Submission by the authorities to the Advisory Committee, 18 April 2019.

<sup>55</sup> See also Tove H. Malloy (2015), *Minority women’s hard choices when seeking redress for multiple discrimination*, ECMI Brief No. 36.

<sup>56</sup> State report, para. 164; submission by the authorities.

<sup>57</sup> Advisory Committee’s 4th opinion, paras. 37-41.

<sup>58</sup> State report, paras. 18-24.

It was explained that the failure to ratify ILO Convention No. 169 is closely connected to the disagreement between the authorities and the Sámi Parliament on a reform of the Act on the Sámi Parliament, the key question being the electoral roll to the Sámi Parliament (see *Electoral roll to the Sámi Parliament* above).

71. The Finnish Forest and Park Service reports progress in the field of involving the Sámi in the management of state land and water areas in the homeland through the setting up of advisory boards. The state report also lists a number of issues regarding land and water use, on which it conducted consultations in accordance with Section 9 of the Act on the Sámi Parliament.<sup>59</sup>

72. In March 2019, the Lapland District Court acquitted four Sámi fishers who had fished without the required licence in the Tana river system, referring, *inter alia* to the constitutionally guaranteed cultural rights of the Sámi as indigenous people.<sup>60</sup> Sámi representatives hope that the decision will lead to a change in the fishing regulations, which require Sámi to obtain fishing licences in the same way as other citizens or tourists.

73. Sámi interlocutors acknowledged that the dialogue with the authorities in general was constructive; many felt that their interlocutors in ministries had good intentions and that relationships with the government have generally improved over the years. At the same time, interlocutors expressed serious concerns about the continued exploitation of the Sámi homeland for gold mining, logging and other economic use and in particular about the project of an Arctic Railway. The project of a railway stretching from Rovaniemi to Kirkenes was abandoned by the outgoing government following an assessment of its insufficient economic impact, but recently brought up again by private investors.<sup>61</sup> According to the Sámi Parliament, the Arctic Railway would cut through reindeer pastures and seriously threaten traditional livelihoods. Interlocutors informed the delegation that they were worried by the fact that despite them having clearly spoken out against the project in consultations, the regional authorities of Lapland were still pushing for it.<sup>62</sup> Generally, interlocutors complained that impact assessments for new economic projects, such as for mining, often did not take into account the expertise provided by the Sámi Parliament.

74. Responding to an initiative of the Sámi Parliament, the Office of the Prime Minister launched the preparation of a truth and reconciliation process in late 2017 and the government formed in June 2019 expressed its intention to continue this work.<sup>63</sup> A range of consultations was carried out in 2018, which resulted in a report which shows that the Sámi who participated in the consultation generally supported the idea, but also expressed distrust about

whether the authorities would investigate the injustices experienced by the Sámi in good faith.<sup>64</sup>

75. The Advisory Committee recalls that the land that indigenous people traditionally inhabit incorporates their cultural history, is the basis for their traditional economic activities and has a spiritual dimension. External pressure on this land through the exploitation of its resources endangers their culture and identities (see also *Participation in public affairs – Sámi Parliament* below).

76. The Advisory Committee deeply regrets that despite explicit commitments by the authorities and genuine investment in a constructive dialogue, no results have been achieved in improving the legal protection of Sámi cultural and institutional autonomy or ratifying ILO Convention No. 169. It considers that the reasons lie not only in the long-standing dispute about the definition of a Sámi, but also in a deep-rooted distrust of many Sámi vis-à-vis the Finnish State. Caused by painful individual and collective experiences of colonisation and assimilation in the past, this distrust requires constant engagement by the authorities to be overcome and projects such as the Arctic Railway are clearly counterproductive to reaching this aim. In this light, the Advisory Committee strongly welcomes the efforts undertaken by the authorities to engage in a truth and reconciliation process, which may in the long run also contribute to strengthening mutual trust.

77. The Advisory Committee calls on the authorities to ensure, in close consultation with the Sámi, that decisions on the use of traditional Sámi land do not negatively affect the possibility for the Sámi to maintain and develop their culture in that area. To secure Sámi cultural and institutional autonomy, the authorities should continue to seek consensus on a reform of the respective legislation, the ratification of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, and the Nordic Sámi Convention.

78. The Advisory Committee encourages the authorities to continue, in close co-operation with the Sámi, engaging in a truth and reconciliation process which thoroughly addresses past human rights violations against the Sámi and raises awareness of such violations in Finnish society.

### Promotion of minority cultures – Karelians (Article 5)

79. Since 2017, the authorities have supported a language revitalisation programme for the Karelian language, which is carried out by the Society for the Karelian language and aims to strengthen and develop Karelian language and culture. A grant of €100 000 was given in 2017, whilst €200 000 were granted in 2018 and again in 2019. The objective of the revival programme is to strengthen and

<sup>59</sup> State report, paras. 38-40.

<sup>60</sup> The Barents Observer (7 March 2019), [Fishers rejoice over court decision in Finland: "The court has now declared that we Sámi have rights to our culture."](#) The Public Prosecutor appealed the decision in order to create a precedent.

<sup>61</sup> *Yle News* (9 May 2019), [Ex-Angry Bird's marketing chief's involvement in Arctic Railway ruffles feathers in Lapland.](#)

<sup>62</sup> See [brochure](#) published by the Region of Northern Lapland.

<sup>63</sup> [Programme of Prime Minister Antti Rinne's Government](#) (6 June 2019), p. 93.

<sup>64</sup> Prime Minister's Office (15/2018), [Truth and reconciliation process concerning Sámi issues. Report on hearings.](#)

develop the Karelian language and culture, which are at risk of disappearing without active revival measures.

80. Representatives of Karelians informed the Advisory Committee that they appreciated this support, but that increased and continuous funding was needed to revitalise the Karelian language and culture. Some representatives expressed frustration over the fact that Finnish authorities have long ignored the Karelians' linguistic and cultural distinctiveness. In particular in post-war Finland, due to the specific geopolitical and historic circumstances,<sup>65</sup> the use of Karelian was marginalised and even stigmatised and the language was treated as a dialect of Finnish.<sup>66</sup> This led to a significant loss of speakers and a widespread ignorance about Karelians in society and their language until today. Against this specific historic background, representatives demanded not only legal guarantees and more investment in Karelian language media and education, but also symbolic recognition, for example through a day celebrating the Karelian culture.

81. The Advisory Committee recalls the important link between language and the preservation of culture for numerically small minorities, whose traditions and cultures are preserved, among others, through the continued use of their languages.<sup>67</sup> The creation of suitable conditions for persons belonging to minority groups to preserve and develop their cultures and to assert their respective identities is thus considered essential for an integrated society.<sup>68</sup>

82. The Advisory Committee welcomes the support provided for the revival of the Karelian language and culture and the new government's intention to include it together with other languages in its new policy programme.<sup>69</sup> It observes that in particular representatives of those Karelians whose ancestors were resettled in the 1940s feel a need for their perspective on Finnish post-war history to be given more attention.

83. The Advisory Committee encourages the authorities to continue supporting the Karelian language and culture, including through more systematic funding, and to consider giving more attention to specifically Karelian perspectives on history.

## Tolerance and intercultural dialogue (Article 6)

84. The authorities conduct and support a broad range of measures to promote tolerance and intercultural dialogue, which are laid out in the Action Plan on Democracy Policy 2017-2019, the National Action Plan on Fundamental and Human Rights 2017-2019, the Second Integration Programme 2015-2019, and the "Meaningful in Finland" Action Plan to prevent hate speech and to foster social inclusion.<sup>70</sup> A multitude of projects were implemented during the reporting period, usually involving a broad range of governmental and non-governmental actors. The project "TRUST-Good relations in Finland" brought together the Ministry of Justice, the Ministry of Economic Affairs and Employment and the Advisory Board for Ethnic Relations to provide training for municipal authorities and NGOs (see *Advisory Board for Ethnic Relations* below).<sup>71</sup> Particular attention is paid to promoting tolerance and intercultural dialogue among children and young people through democracy and human rights education and projects against bullying in schools.<sup>72</sup> A campaign against hate speech was supported by the Ministry of Education and Culture and other ministries.<sup>73</sup>

85. As regards the climate of tolerance and understanding in Finnish society, both the authorities<sup>74</sup> and the Advisory Committee's non-governmental interlocutors report a hardening of societal attitudes towards ethnic and linguistic minorities. Campaigning on an anti-immigrant platform, the populist "Finns Party" became the 2nd largest party in the April 2019 parliamentary elections.<sup>75</sup> Some politicians associated with this party are suspicious of Swedish influence and dismissive of the Sámi and Roma.<sup>76</sup>

86. Intolerance is predominantly targeted towards refugees and persons who settled in Finland more recently and in particular persons of Somali or other sub-Saharan origin. A survey of persons from sub-Saharan Africa surveyed in Finland for the EU MIDIS II study, for example, concluded that 45% had experienced discrimination because of their skin colour, ethnic origin or religion in the past 12 months and 14% reported having experienced physical attacks due to their immigrant background in the five years before the

<sup>65</sup> Some 30 000-40 000 Karelians were resettled in Finland in the 1940s from areas ceded to the Soviet Union. "In the immediate post-war years (...) Karelian-speaking children were pressured or even forced to speak only Finnish at school, for example. The combination of the Russian-sounding features of Karelian and the Orthodox faith of its speakers were widely experienced as "suspicious" and "un-Finnish". See Anneli Sarhimaa (2016), *Karelian in Finland. ELDIA Case-Specific Report*, p 23.

<sup>66</sup> *Ibid.*, p. 11.

<sup>67</sup> ACFC Thematic Commentary No. 3, *The Language Right of Persons belonging to National Minorities under the Framework Convention*, adopted on 24 May 2012, para. 22.

<sup>68</sup> *Ibid.*, para. 25.

<sup>69</sup> Programme of Prime Minister Antti Rinne's Government (6 June 2019), p. 90.

<sup>70</sup> See State report, paras. 58-69 and 184. See also Action Plan on Democracy Policy 2017-2019 (in Finnish), National Action Plan on Fundamental and Human Rights 2017-2019 (in English), Integration Action Plan 2016-2019 (in English), and Meaningful in Finland Action Plan (in English).

<sup>71</sup> State report, p. 20.

<sup>72</sup> State report, paras. 184-196 and para. 212.

<sup>73</sup> See website of the campaign (in Finnish).

<sup>74</sup> State report, paras. 61, 168, and 219. See also the chapter "Description of the current situation" in the National Action Plan on Fundamental and Human Rights 2017-2019, pp. 63-66.

<sup>75</sup> *Yle News* (18 April 2019), *Finland's racialised minorities worry after nationalist gains*.

<sup>76</sup> Eirikur Bergmann (6 March 2017), The Surge of the Finns Party: A Brief History. Oxford Research Group.

survey.<sup>77</sup> According to a survey conducted in Finland<sup>78</sup> as well as the hate crime statistics (see below), Islamophobic incidents are also on the increase. However, intolerance also affects long-established national minorities such as members of the Jewish community, Roma, Russians, Sámi, and Tatars, as well as Swedish speakers. A campaign by the Helsinki Regional Transport Authority, the Helsinki City Transport and the Finnish League for Human Rights gives an impression of cases of harassment experienced by persons belonging to various minorities in public transport.<sup>79</sup> Interlocutors confirmed, however, that negative attitudes towards Finland's growing ethnic and linguistic diversity are most widespread on the internet and in particular social media.

87. While acknowledging the multitude of initiatives taken by the authorities to counter this tendency, interlocutors of the Advisory Committee criticised the fact that these are almost exclusively project based. According to interlocutors, this short-term approach hampers the effectiveness and potential impact of the above-mentioned measures.

88. Swedish speakers reported to the Advisory Committee that negative attitudes towards Finnish-Swedish bilingualism have increased in society. Surveys conducted in 2016 found that 71% of Swedish-speaking respondents think that general attitudes towards those who speak a different language have become more negative. Residents of the (unilingual Swedish) Åland islands responded to the survey in a similar way as the Swedish speakers on Finnish mainland.<sup>80</sup> Of Swedish speakers interviewed for the Language Barometer 2004–2016, 44% experienced discrimination on account of their language, while the corresponding figure for Finnish speakers was 20%. Over 60% of Swedish-speaking Finns in the 20-39 age bracket have experienced harassment or discrimination because of their language.<sup>81</sup> Interlocutors also reported pejorative statements about Swedish speakers, the special status of the Åland islands,<sup>82</sup> or the mandatory teaching of the Swedish language by right-wing politicians, which often remained unchallenged by mainstream politicians and officials. The increasing number of speakers of languages other than Finnish and Swedish is also perceived as a challenge by some.

89. Sámi also experience negative attitudes from mainstream society. Some respondents to the Sámi Barometer survey noted that recent debates about the definition of a Sámi and ratification of ILO Convention No.

169 have contributed to making the attitudes of Finnish speakers towards the Sámi people and language more negative (see *Electoral roll to the Sámi Parliament* above).<sup>83</sup> Discriminatory language and cultural appropriation have become more manifest and especially Sámi women who take active part in public discussions are targets of online harassment.<sup>84</sup>

90. Russian speakers are another group who face negative treatment due to their language or origin. Some 20-25% of respondents to the language barometer report having been subject to discrimination in the past year.<sup>85</sup> In a survey conducted by the Finnish Broadcasting Company *Yle* in 2015, one third of the respondents reported that they had faced negative treatment due to being Russian speakers. One fifth of the respondents believed the general attitude in Finland towards the Russians resident in Finland had become more negative, though 46% still considered it to be positive.

91. The Advisory Committee recalls that Article 6(1) of the Framework Convention obliges states "to take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory". A long-term engagement going beyond ad hoc measures is required for such efforts to be effective.

92. The Advisory Committee welcomes the firm commitment of the Finnish authorities to promote tolerance and intercultural dialogue in society and in particular the focus on children and youth in this context. Given the clear evidence that the societal climate is hardening, and decisive action is needed to counter this tendency, the Advisory Committee regrets that many of the measures taken in this area are implemented through project funding awarded to non-governmental actors and are not sufficiently sustainable.

93. The Advisory Committee urges the authorities to move from a project based to a more structural and sustainable approach to funding activities that promote tolerance and intercultural dialogue.

<sup>77</sup> [European Union Survey on Minorities and Discrimination \(EU-MIDIS II\)](#). Somalis are the fourth-largest minority group in Finland after Swedish speakers, Russians and Estonians.

<sup>78</sup> Linda Hyökki, Karin Creutz (2017), *Islamophobia in Finland*, National Report 2016, in: SETA Foundation for Political, Economic, and Social Research, *European Islamophobia Report*, p. 180.

<sup>79</sup> See [website](#) of the campaign "Stop! Terminus for discrimination".

<sup>80</sup> [Report of the Government on the application of language legislation 2017](#), pp. 48-50.

<sup>81</sup> Submission by the Swedish Assembly of Finland to the Advisory Committee, April 2019.

<sup>82</sup> Negotiations between the national government and the regional authorities of Åland are ongoing regarding the revision of the Act on the Autonomy of Åland in the run-up to its centenary. While views on the divisions of competencies continue to diverge, the new Government has included in its programme that "The autonomy of Åland will be developed and fostered in cooperation with Åland (...)", and the government "will ensure that the communications in Swedish between the central government and the autonomy authorities in Åland continue to work well. [Programme of Prime Minister Antti Rinne's Government](#) (6 June 2019), p. 90.

<sup>83</sup> Prime Minister's Office (2018), [Report of the Government on the application of language legislation 2017](#), p. 55.

<sup>84</sup> Submission by the Finnish League for Human Rights to the Advisory Committee, March 2019.

<sup>85</sup> Kultura Foundation (2017), [Russians in Finland here and now. Statistics, surveys, organisation field](#), p. 49.

## Hate speech and hate crime (Article 6) <sup>86</sup>

94. The Criminal Code of Finland does not include a definition of hate crime, but does include it as an aggravating circumstance for sentencing purposes. For the purpose of reporting, hate crime is defined as a crime against a person, group, property, institution, or a representative of these, motivated by prejudice or hostility towards the victim's real or perceived ethnic or national origin, religion or belief, sexual orientation, transgender identity or appearance, or disability.<sup>87</sup> The Criminal Code covers public incitement to violence, hatred or discrimination, public insults, defamation, and threats (Chapter 11). Increased penalties apply for criminal acts committed with a motive based on race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation, disability or a comparable basis (Chapter 6). Language is not listed in the respective open-ended lists of grounds regulating hate crime.

95. The National Crime Prevention Programme and the Strategy on Preventive Police Work 2019-2023 contain a number of prevention measures such as sharing of good practices between actors at local level, and increased resources and training for the police.<sup>88</sup> A range of projects are being carried out, including the EU-funded projects "Against Hate" and "PROXIMITY".<sup>89</sup>

96. According to data compiled by the Police University College, the number of hate crimes recorded by the police jumped from 822 cases in 2014 to 1 250 cases in 2015. Subsequently, the number decreased again (1 079 in 2016, 1 165 in 2017), but is still far higher than before 2015.<sup>90</sup> The large majority of cases (69.8%) were incidents based on ethnic or national origin. The second largest group were cases motivated by the victim's religious background (20.2%). This type of hate crime increased sharply compared to previous years, the most common targets being Muslims.

97. In 2017, with the consent of the Roma community, hate crime against Roma is included for the first time as a special category: 81 cases were motivated by bias against Roma, including 30 of discrimination, 29 of defamation and 10 of assault.

98. Nine cases of hate crime in 2017 had an anti-Semitic motive (10 in 2016 and 8 in 2015). No violent acts against persons occurred during the reporting period; sporadic cases of vandalism targeting the Jewish community, in particular desecration of graves, have been reported.

99. According to the 2017 Gender Equality Barometer quoted in the state report, women belonging to minorities

experience hate speech significantly more frequently than women belonging to the majority. Over one quarter (27%) of the women who defined themselves as members of a minority group had experienced hate speech while among non-minority group women the equivalent figure was 14%.<sup>91</sup>

100. Interlocutors from the non-governmental sector welcomed the authorities' increased attention to the monitoring, prevention and investigation of hate speech and hate crime, but found that the invested resources were still too low and not sufficiently sustainable through the often project-based funding. Several representatives including those of the Jewish community said that handling times and in particular the identification of a xenophobic or anti-Semitic motive by the police tend to take a long time or are not effective due to unclear definitions and lack of training. This perception of ineffectiveness discourages victims leading to frequent underreporting of such incidents.<sup>92</sup>

101. Representatives of Swedish speakers criticised that hate speech based on belonging to a linguistic minority is not counted as a separate category. In the same vein, Russian speakers mentioned that there is no monitoring of Russophobic statements.

102. The Advisory Committee recalls that hate speech and hate crime concern and threaten society as a whole. Law enforcement agents should be appropriately trained to ensure that such incidents are prevented, identified and recorded, as well as duly investigated and punished through targeted, specialised and prompt action.<sup>93</sup>

103. The Advisory Committee welcomes the comprehensive legal framework on hate crime and hate speech as well as the various programmes and projects initiated by the authorities, which demonstrate that the problem is taken seriously. It further welcomes the efforts to collect data and in particular the recent addition of the motive "bias against Roma" in the hate crime national statistics, which provides a basis for more targeted measures against anti-Gypsyism. The Advisory Committee is worried, however, that persons speaking languages other than Finnish increasingly report being a target of hate speech, while language is neither explicitly mentioned in the respective criminal law provisions, nor registered as a motive in a separate category in the relevant statistics. This may result in an incomplete picture of the real situation and thus potentially risk overlooking a significant part of hate speech targeted at persons speaking minority languages, including those for whom language is the principal marker of difference from the majority population such as speakers of Swedish or Russian. The revision of the respective

<sup>86</sup> The Advisory Committee notes that the European Commission against Racism and Intolerance (ECRI) has in 2018 had the opportunity to examine this development in depth while drawing up its fifth report on Finland. The Advisory Committee refers to ECRI's detailed findings and recommendations in this regard.

<sup>87</sup> OSCE/ODIHR *Hate Crime Reporting – Finland*.

<sup>88</sup> Ministry of Justice (2016), *Working Together for Safer and More Secure Communities – National Crime Prevention Programme*, p. 33; Ministry of the Interior (2019), *Strategy on Preventive Police Work 2019-2023*, p. 34.

<sup>89</sup> State report, paras. 70-73 and 75-76.

<sup>90</sup> Police University College (2018), *Annual Hate Crime Report 2017* (Summary in English). Figures include cases of ethnic agitation, defamation and discrimination.

<sup>91</sup> Ministry of Social Affairs and Health (12/2018), *Gender Equality Barometer 2017*, p. 42.

<sup>92</sup> Victim Support Finland/CORE (2019), *Victims' Experiences of Hate Crimes in Finland (2014-2018)*, p. 15.

<sup>93</sup> ACFC *Thematic Commentary No. 4*, para. 56.

provisions in the Criminal Code announced in the June 2019 government programme may be an opportunity to consider explicitly including language as a motive in the list of aggravating circumstances for bias-motivated crimes. Finally, the Advisory Committee regrets that despite increased resources and training, minority representatives still feel that the police's response to incidents of alleged hate crime is not sufficiently effective and prompt. Increased diversity in the police force should be promoted as a means of enhancing minority communities' trust in the police and the police's sensitivity to minority-related issues.<sup>94</sup>

104. The Advisory Committee urges the authorities to increase and consolidate the resources of law enforcement entities dealing with hate crime and provide the necessary training in order to effectively prevent and combat hate crime and reduce handling times of complaints.

105. The Advisory Committee invites the authorities to examine the possibility of explicitly including the grounds of language in the provisions of the Criminal Code prohibiting public incitement to violence, hatred or discrimination, and as a separate category in the monitoring of hate speech and hate crime.

### Manifestation of religion (Article 8)

106. In the context of a discourse on children's rights, but also the increased presence of migrants with a Muslim background in Finland, the topic of non-medical circumcision of boys has continued to receive some attention.<sup>95</sup> Non-medical circumcision of boys for religious reasons is, according to a survey by the Ministry of Social Affairs and Health, performed on approximately 400 boys per year. It has traditionally been practiced by members of the Jewish and Tatar communities in Finland, but the number of cases has increased through immigration. In 2015, the Ministry of Social Affairs and Health issued guidelines on non-medical circumcision of boys, which require that the procedure be performed by a doctor, using pain relief, with the permission of both parents, and with the boy's consent. An information brochure addressing immigrants and asylum seekers in different languages informs those concerned about the guidelines.<sup>96</sup>

107. In 2016, the Finnish Supreme Court adopted two decisions, stating that "circumcision of a boy with other than medical reasons, even when done medically correctly, meets the elements of maltreatment".<sup>97</sup> However, the court also found positive effects for a child, such as belonging to a social community and building one's identity as a part of the said community. The Supreme Court also noted that Finland has no legislation dealing specifically with non-medical circumcision and that the guidelines of the Ministry of Social Affairs and Health do not resolve the ambiguity in questions concerning circumcision, such as the criminal liability of persons who have violated the recommendation.

The authorities informed the Advisory Committee that they do not see a necessity to regulate the question by law.

108. The Advisory Committee takes note of the views expressed by the Nordic Ombudspersons for Children, according to which non-medical circumcision of boys violates children's rights to physical integrity and to self-determination. The ombudspersons state that the procedure should not be allowed until a boy is mature enough to give his informed consent to it and that the matter should be regulated by law.<sup>98</sup>

109. Interlocutors of the Advisory Committee from the Jewish and Tatar minorities said that they felt under pressure because the societal climate is against non-medical circumcision of boys and that they increasingly have difficulties finding doctors who are willing to carry out the procedure.

110. The Advisory Committee notes that while Article 8 of the Framework Convention guarantees that every person belonging to a national minority has the right to manifest his or her religion or belief, it may be necessary to balance this right with the rights and freedoms of others.<sup>99</sup> The Advisory Committee recalls, therefore, that certain conditions on the practice of non-medical circumcision of boys can be legitimately imposed to ensure that the best interests of the child are given primary consideration.

111. The Advisory Committee notes that the authorities have over the past year taken a pragmatic and inclusive approach, using for example the Advisory Board for Ethnic Relations during its last mandate to discuss these issues with representatives of minorities.

112. The Advisory Committee welcomes the authorities' efforts to search for pragmatic solutions to the religious practice of circumcision of boys together with the groups concerned.

### Minority media (Article 9)

113. According to the state report, the Media Policy Programme adopted in 2018 aims to ensure the diversity of media and to improve citizens' opportunities to receive reliable information in their own languages.

114. The main change as regards public broadcasting was the 2017 merger of the Swedish-language channel *Yle Fem*, set up in 2001, with the Finnish language channel *Teema*, dedicated to culture, science and learning. As a result, the number of weekly hours broadcast in Swedish dropped by approximately 20%. According to information provided by the authorities, this is mainly due to fewer retransmissions of programmes from Sweden's SVT World. In return, the amount of Swedish programmes on the Finnish Channels *Yle 1* and *Yle 2* has increased to about two hours per day and there is more content in Swedish on *Yle's* digital platform *Areena*. The Swedish Assembly of Finland informed the Advisory Committee that the Swedish-

<sup>94</sup> OSCE High Commissioner for National Minorities (February 2006), [Recommendations on Policing in Multi-Ethnic Societies](#).

<sup>95</sup> See the Advisory Committee's [2nd](#) and [3rd](#) opinions on Finland.

<sup>96</sup> Finnish Immigration Service (2016), brochure on [Circumcision of Boys](#).

<sup>97</sup> [KKO:2016:25](#), submission to the Advisory Committee by the authorities.

<sup>98</sup> Joint statement from the Nordic Ombudsmen for Children and paediatric experts (2013), [Let the boys decide on ritual circumcision](#).

<sup>99</sup> European Convention on Human Rights, Article 9. See also Article 23 of the Framework Convention.

language department of the public broadcaster, *Yle Svenska*, had to accept cuts in its resources for producing content in the Swedish language. In addition, the Swedish Assembly stressed that the shift from regular TV to digital on-demand services primarily affects elderly persons.

115. The broadcasting times of *Yle Sápmi*, which produces TV and radio programmes in the three Sámi languages, have increased between 2016 and 2018. The newsrooms with altogether 20 journalists working in Inari, Enontekiö and Utsjoki produce eight hours of radio per day and a daily 15 minutes TV news service, *Yle Ođđasat*. With linear TV getting less popular and the audience of regular TV in the Sámi languages ageing, *Yle Sápmi*, in co-operation with the other Nordic broadcasters, is working on strategies to make content in the Sámi languages or on Sámi more attractive for young users. *Yle Sápmi* has 7 000 followers on Facebook, for example, mostly from big cities outside the homeland. Certain restrictions are imposed, however, by *Yle Sápmi*'s status as a regional broadcaster, which requires a more informative and educational approach rather than entertainment. One of the key problems of *Yle Sápmi* is finding qualified journalists with knowledge of the different Sámi languages.

116. Since April 2018, a four-minute programme in Karelian is broadcast every Saturday on *Yle Radio 1*, which is funded by the Language Revitalisation Programme and carried out in co-operation with the Karelian Language Society. Representatives of Karelians informed the Advisory Committee that this was a very welcome first step, but that they hoped for more and longer publicly-funded programmes in Karelian. Some representatives said they would appreciate if one day part of the programme could also include different varieties of Karelian. Furthermore, representatives mentioned that there is hardly any reporting about Karelian culture, language or history on *Yle TV* and radio.

117. Since 2014, a five-minute news service in the Russian language is broadcast daily on *Yle TV 1*. *Yle Novostí* also maintains a website with news in the Russian language and a corresponding Facebook page with approximately 8 000 followers. The state report quotes a study on "Finland's Russian Speakers as Media Users", describing how Russian speakers in Finland navigate the cross-border media landscapes. The study observes that most of the Russian-language media content available in Finland is produced outside the Finnish borders and that more Russian-language news and documentaries produced in Finland are needed "to reach all Russian speakers living in Finland". Another study observes that at present discussions among Russian speakers largely take place in social media other digital fora, so that the voice of the Russian-speaking minority is not properly heard in the national media. Representatives of Russian speakers told the delegation that they appreciated the short news service on *Yle TV 1*, but that the primary source of information of most Russian speakers was Russian TV. Some households

would not even buy a receiver to be able to receive *Yle* and other Finnish channels.

118. The Advisory Committee recalls that the possibility to receive and impart information in a language one can fully understand and communicate in, is a precondition for equal and effective participation in public, economic, social, and cultural life.<sup>100</sup> It notes that the abundance of information and media available in today's digital media environment does not diminish existing state obligations to facilitate the production and dissemination of content by and for national minorities.<sup>101</sup> The Advisory Committee recalls, furthermore, that when the media play a central role in an ongoing process of linguistic revitalisation, resolute public support is needed.<sup>102</sup> Finally, the Advisory Committee recalls that "the division of media audiences according to linguistic backgrounds may enhance the formation of separated and mutually exclusive public spheres".<sup>103</sup>

119. The Advisory Committee notes the concerns voiced by Swedish speakers about the adjustments made to *Yle*'s Swedish-language broadcasting and considers that further study into how these have impacted the availability of Swedish-language programmes in particular for elderly persons is required.

120. The efforts made for broadcasting in the Sámi languages are to be commended. Given that language revitalisation will soon begin showing results, the Advisory Committee considers it crucial that *Yle Sápmi* and other potentially interested producers receive all necessary support to produce content, including online, in Sámi for all age groups and in particular for the young generation.

121. The introduction of a weekly radio news service in Karelian is to be welcomed as an important first step. As this is part of a revitalisation package of measures, the Advisory Committee considers it important to maintain and gradually extend this offer.

122. The Advisory Committee considers that the current public media offer in Russian falls short of the needs of the numerically large Russian-speaking minority, which currently does not have sufficient space in the public media landscape to voice their views and concerns.

123. The Advisory Committee encourages the authorities to closely monitor the consequences of any reorganisation of *Yle* on the provision of broadcasting in the Swedish language. Support for *Yle Sápmi* should be consolidated, in particular with a view to producing attractive content for children and youth and the training of Sámi journalists should be supported. The public media offer in the Karelian language should be gradually extended. Finally, the Advisory Committee invites the authorities to consider increasing the public media offer in the Russian language.

<sup>100</sup> ACFC Thematic Commentary No. 3, para. 40.

<sup>101</sup> OSCE High Commissioner for National Minorities (February 2019), [Tallinn Guidelines on National Minorities and the Media in the Digital Age](#), para. 7.

<sup>102</sup> ACFC Thematic Commentary No. 3., para. 42.

<sup>103</sup> ACFC Thematic Commentary No. 4, para. 70.

### Use of minority languages - Sote reform (Article 10)

124. Since 2015, Finland has been planning a major reform of the public health and social welfare services, known as the *Sote* reform. It aims at centralising the health and social service provision, currently the responsibility of nearly 200 organisations, to 18 counties. According to the authorities, the planned reform would have safeguarded linguistic rights and even improved them in certain areas.<sup>104</sup> After extensive discussions, the legislative proposals necessary for implementing the reform (Government Proposals 15/2017 and 16/2018) ultimately failed to be adopted by the Parliament before the end of the legislative period in March 2019.<sup>105</sup>

125. Representatives of Swedish speakers, Sámi, but also other national minorities criticised the planned *Sote* reform and expressed relief that its adoption had failed. In their view, the transfer of social and health care duties from the local to the regional level would negatively affect the availability of services in Swedish and Sámi languages. While interlocutors acknowledged the general need for a health care reform and appreciated the efforts in particular of the Ministry of Justice to build in safeguards for minority languages, they found that the proposed system lacked effective control and sanction mechanisms ensuring the compliance of health care providers with linguistic rights. They were specifically sceptical about how linguistic rights would be controlled and ensured for private service providers.

126. The Advisory Committee observes that representatives of Swedish speakers and Sámi do not seem to have trust in the intention voiced by the government that the *Sote* reform would not negatively affect and may even improve their linguistic rights. It regrets to see this certain alienation, which may be an indication that minority representatives feel the positive scenarios put forward by the authorities are not realistic. This may also be caused by their everyday experiences with a lack of implementation of the generous linguistic rights provided for in legislation.

127. The Advisory Committee welcomes the intention of the new government to secure linguistic rights of Swedish and Sámi speakers in health and social welfare<sup>106</sup> and encourages the authorities to proactively implement their commitments to this effect.

### Use of the Swedish language (Article 10)

128. Finland has a comprehensive legal framework guaranteeing the use of Swedish in contact with authorities, in judicial proceedings, and in the provision of public services, in line with its constitutional status as one of the two state languages and regulated by the Language Act (423/2003) and sectoral legislation.<sup>107</sup> In addition, the status of Finland as a bilingual country and the equality of the Finnish and Swedish languages are underpinned with a number of policy documents and regular reports. The Government Strategy for the National Languages of Finland was adopted in 2012 and is supposed to span several decades.<sup>108</sup> The government in office between 2015 and March 2019 continued to support the strategy and adopted, in February 2017, an Action Plan for the Strategy for the National Languages of Finland.<sup>109</sup> The government formed in June 2019 intends to draw up a revised Strategy for the National Languages of Finland “to ensure that everyone has the right to receive services in the national languages and to improve the language climate”.<sup>110</sup>

129. Following mergers of municipalities over the past 15 years, the overall number of municipalities has decreased to 311, out of which 33 are bilingual Finnish-Swedish, leaving no unilingual Swedish municipality on the Finnish mainland. Amendments to the Language Act in 2013 ensured that a bilingual municipality does not become unilingual when the municipal division changes, even if the merger leads to a situation where the size of the group of minority-language speakers no longer meets the threshold laid down in the act.<sup>111</sup>

130. The Report of the Government on the Application of Language Legislation 2017<sup>112</sup> highlights a number of shortcomings in the practical implementation of the legal and policy framework on Swedish speakers’ linguistic rights. These concern the deterioration of the language climate experienced in dealings with public authorities, the lack of Swedish-language health services, and insufficient availability of Swedish-language social care services, in particular for elderly persons. As regards services for Swedish-speaking children and youth, the report recognises that there is a lack of data. Furthermore, the report elaborates on challenges, but also opportunities linked to linguistic rights in digital public services.

131. Some of these shortcomings are addressed in the Action Plan for the Strategy for the National Languages of Finland. Its implementation started during the reporting period. Measures include training of government officials

<sup>104</sup> State report, paras. 377-387.

<sup>105</sup> In March 2019 the government resigned due to the failure to reach a majority on the reform. See BBC (8 March 2019): [Finland's government resigns over failed healthcare reform](#).

<sup>106</sup> Programme of Prime Minister Antti Rinne's Government (6 June 2019), p. 152.

<sup>107</sup> See Section 17 of the Finnish Constitution, and the Language Act (423/2003).

<sup>108</sup> Prime Minister's Office (2012), [Strategy for the National Languages of Finland](#). See also Advisory Committee's 4th opinion on Finland, adopted on 24 February 2016, para. 63.

<sup>109</sup> Ministry of Justice (2017), [Action plan for the Strategy for the National Languages of Finland](#).

<sup>110</sup> Programme of Prime Minister Antti Rinne's Government (6 June 2019), p. 90.

<sup>111</sup> Since 2005, the overall number of municipalities decreased from 444 to 311. The threshold for becoming a bilingual municipality is that 8% of the population or 3 000 persons speak a minority language. See also the [5th report of the Committee of Experts on the application of the European Charter for Regional or Minority Languages in respect of Finland](#), adopted on 22 March 2018, paras. 9-10.

<sup>112</sup> Prime Minister's Office (2018), [Report of the Government on the Application of Language Legislation 2017](#).

and health professionals on linguistic rights, promotion of Swedish learning in vocational education, and targeted recruitment of Swedish speakers for emergency response centre operators. Several measures concern the refinement of the data collection and monitoring of the language situation, for example through developing follow-up indicators on linguistic rights.<sup>113</sup>

132. The Chancellor of Justice took a number of decisions criticising the non-compliance of public authorities with rights of the Swedish-speaking minority (see *Anti-discrimination legislative and institutional framework* above). The cases are described in detail in the state report<sup>114</sup> and concerned the non-availability of some services in Swedish, including: 24-hour urgency child protection services in one municipality; fire officer training at a university of applied sciences/polytechnic; and literature required for the written exam included in the bar examination.<sup>115</sup>

133. The authorities of the Åland Islands informed the Advisory Committee that the situation criticised in the fourth opinion regarding the lack of Swedish translations of up-to-date information on pharmaceuticals (*Pharmaca Fennica*) has not been remedied. Continuous training of police staff in Swedish, another matter raised in the fourth opinion, appears to have slightly improved, but the authorities of the Åland Islands are still concerned that due to the insufficient availability of further education in Swedish, the police in Åland may, in the long term, have fewer opportunities than their counterparts in the mainland Finland to maintain their know-how and to ensure a modern police administration.<sup>116</sup>

134. Representatives of the Swedish Assembly of Finland and other interlocutors of the Advisory Committee stressed that the legal framework protecting the rights of Swedish speakers was excellent and all that is needed is its proper implementation. Swedish speakers fully endorse the 2012 Strategy for the National Languages of Finland, but find that its implementation, in particular under the last government, not been effective enough. In addition to the shortcomings listed above, they mentioned the risk of intersectional discrimination against elderly Swedish speakers or those with a disability and the insufficient availability of mental health-care services in Swedish such as a crisis helpline for children and youth. Problems were also reported relating to the outsourcing of public services to private providers, where the need for service provision in Swedish is sometimes not taken into account during the tender process.

135. The decision taken by the Parliament in December 2016 to close the 24/7 emergency ward of the Vaasa/Vasa Central Hospital was heavily criticised and will require clients from Vaasa, which has a large Swedish-speaking population, to use the facility in the unilingual Finnish hospital in Seinäjoki.<sup>117</sup>

136. Another concern was the reduction of the number of bilingual district courts from eight to five in the context of a revision of the Courts Act (673/2016).<sup>118</sup> Following the amalgamation of district courts in areas with larger Swedish-speaking populations with those in areas with much lower percentages, the average number of decisions in Swedish would decrease in those larger courts.<sup>119</sup> Swedish speakers fear that since the court offices were moved, leaving only legal chambers, services in Swedish will be significantly weakened in the long term and court clerks will have fewer opportunities on the mainland to practise in Swedish. The Swedish Assembly of Finland states that the restructuring of the network of district courts weakens the position of the Swedish language within the judicial system and has a detrimental effect on the accessibility of judicial services in Swedish.<sup>120</sup>

137. Interlocutors also reported a chronic lack of Swedish-speaking staff in health and social welfare services. In addition, they sometimes observed a lack of will by some hospitals or services to better co-ordinate the shifts of their Swedish-speaking staff to ensure a continued presence. Another complaint was that the top-up paid to staff in such services who are regularly using the Swedish language was minimal (approximately €20-30) and thus not suitable as an incentive.

138. The Advisory Committee recalls that language rights are effective only if they can be enjoyed in the public sphere. The authorities should support and actively encourage measures creating an environment that is conducive to the use of minority languages, including through the allocation of necessary financial and human resources.<sup>121</sup>

139. The Advisory Committee welcomes the authorities' efforts and resources invested in monitoring the situation through data collection and research, and the transparent approach in admitting the gaps between the legally granted rights and their implementation in practice. It is deeply concerned, however, that Swedish speakers, and in particular those most in need such as the elderly, persons experiencing a medical emergency, or children in need of mental health support, have limited possibilities to receive

<sup>113</sup> Ministry of Justice (2018), *Follow-up Indicators for Linguistic Rights*.

<sup>114</sup> State report, paras. 255-266.

<sup>115</sup> Further decisions criticised the use of Finnish by the Ministry of Justice on the Ministry's Twitter account when responding to a question asked in Swedish, and the short time limit for the authorities of Åland in submitting its statement on a draft law on a boat tax.

<sup>116</sup> State report, paras. 200-203 and 206-208.

<sup>117</sup> *Yle* (13 December 2016), *Parliament votes against saving Vaasa A&E*. When approving the respective amendment to the Health Care Act (1326/2010), the President of Finland issued a rare statement according to which emergency care services may only transferred from Vaasa to Seinäjoki if it can be ensured that patients can obtain these services in the language of their choice, either Finnish or Swedish. See the *Report of the Government on the application of language legislation 2017, p. 27*.

<sup>118</sup> See also Prime Minister's Office (2012), *Strategy for the National Languages of Finland*, pp. 27-28.

<sup>119</sup> The former District Court of Västra Nyland (Länsi-Uusimaa) having its main office in largely Swedish-speaking Raasepori was merged to the District Court of Espoo and the new amalgamated court became renamed as the District Court of Västra Nyland (Länsi-Uusimaa) having its main office in Espoo. Similarly, the former District Court of Östra Nyland (Itä-Uusimaa) having its seat in largely Swedish-speaking Porvoo was merged to the District Court of Vantaa and the new amalgamated court became renamed as the District Court of Östra Nyland (Itä-Uusimaa) having its main office in Vantaa. Furthermore, the district courts of Ostrobothnia and Central Ostrobothnia were merged.

<sup>120</sup> Submission by the Swedish Assembly of Finland, May 2019.

<sup>121</sup> ACFC *Thematic Commentary No. 3*, paras. 51 and 58.

the required services in their first language. Furthermore, the Advisory Committee is concerned that this might lead to reduced possibilities for using Swedish in courts.

140. The Advisory Committee observes that the relevant policy documents, which are usually elaborated in close consultation with representatives of Swedish speakers and have their full support, may sometimes create expectations that are difficult to meet in practice. While the situation can certainly be improved considerably through better regulation and/or increased resources allocated by the authorities, the problems are complex and also influenced by demographic, economic and other external factors.

141. The Advisory Committee urges the authorities to safeguard the societal consensus on Finnish-Swedish bilingualism through stepping up awareness raising, underpinned by an explicit commitment at the highest political level. Without prejudice to their constitutional obligations, the Finnish authorities should engage in an open dialogue with the Swedish speakers about their priorities to ensure that commitments made regarding public services in the Swedish language are realistic, effective, matched with adequate resources, and regularly monitored.

142. The Advisory Committee calls on the authorities to ensure that in practice Swedish speakers have access to health care and social welfare services in their first language. Efforts should be made in particular to combat any intersectional discrimination of Swedish-speaking children, the elderly, and persons with disabilities using such services. The authorities should closely monitor and, if necessary, undertake action regarding the implementation of Swedish speakers' linguistic rights in the amalgamated district courts.

### Use of the Sámi languages (Article 10)

143. Based on population data from 2015, Sámi had been registered as the mother tongue of 1 957 people in the entire country.<sup>122</sup> The Act on the Sámi Language safeguards the right to use the Sámi languages with authorities in offices located in the Sámi homeland.<sup>123</sup> The right to receive health care and social welfare services in Sámi is derived by means of reference to the respective provisions (4 and 12) in the Act on the Sámi Language. No direct provisions on Sámi speakers' rights are contained in respective sectorial laws and regulations.<sup>124</sup> As the respective provisions of the Act on the Sámi Language are limited to the above-mentioned municipalities in Lapland, Sámi living outside the homeland (approximately 65% of adults and 75% of children) have no access to services in their languages.

144. Furthermore, the Chancellor of Justice is dealing with a case, which concerns the services in Sámi languages of the Social Insurance Institution of Finland (OKV/1161/1/2018). The institution opened the taxi services it covers to the market, but failed to require providers in the Sámi homeland to provide their services in Sámi, thus obliging the approximately 300 Sámi-speaking clients to most often use Finnish-speaking drivers. Following the inquiry of the Deputy Chancellor of Justice, the Social Insurance Institution has decided to allow an exemption to Sámi-speaking clients to use their regular Sámi-speaking drivers.

145. The authorities report that the actual availability of health care and social welfare services in Sámi in the municipalities covered by the Act on the Sámi Language is rather poor. A survey carried out in 2016 and quoted in the state report<sup>125</sup> shows that only a very small proportion of respondents had received essential social welfare and health care services in one of the Sámi languages and that these few services depended on a small number of employees. Sámi-language services for children and elderly people were criticised as being particularly scarce. However, respondents considered that the availability of services had slightly improved in recent years. The availability of services in Sámi is particularly meagre in the municipalities of Sodankylä and Inari, as well as for speakers of Skolt Sámi. Sámi living in the municipalities of Utsjoki and Enontekiö enjoy better service provision in their first language. In the Report of the Government on the application of language legislation 2017, the authorities explain that the exceptionally sparse population, the relatively small number of speakers of the different Sámi languages and the large geographical areas of municipalities in the Sámi homeland, create challenges in the organisation of health care and social welfare services in the region in general.

146. This picture was confirmed by the Advisory Committee's interlocutors representing the Sámi. Given that at least one generation of Sámi speakers was "lost" through assimilation (see *Promotion of minority cultures - Sámi above*),<sup>126</sup> the number of Sámi speakers who could potentially choose to work in the health care and social welfare sectors is very limited. Though hundreds of people learned to speak the language anew through language revitalisation over the past decades, this is not yet sufficient to meet the demands in all relevant sectors. Services delivered by way of interpretation were not considered an appropriate replacement for direct contact with Sámi-speaking health care and social welfare professionals. Sámi interlocutors further criticised the fact that the annual appropriation paid to the Sámi Parliament to support municipalities in delivering Sámi-language services has

<sup>122</sup> Prime Minister's Office (2018), *Report of the Government on the application of language legislation 2017*, p. 35. Statistics collected in connection with the Sámi Parliament elections in 2011 show that 1,514 people said they spoke Northern Sámi, 253 Inari Sámi and 332 Skolt Sámi as their mother tongue (ibid.).

<sup>123</sup> According to the act (Section 3), the Sámi language is defined as the languages of Inari Sámi, Skolt Sámi or North Sámi, depending on the language used or the main target population. An authority is defined as a court and another public authority, a herding cooperative and the Reindeer Herders' Association.

<sup>124</sup> See Prime Minister's Office (2018), *Report of the Government on the application of language legislation 2017*, pp. 67-68.

<sup>125</sup> State report, paras. 277-283.

<sup>126</sup> See Marja-Liisa Olthuis et al. (2013), *Revitalising Indigenous Languages: How to Recreate a Lost Generation*.

remained at the same level (€480 000) since 2013, while actual needs are two times higher.

147. The Advisory Committee recalls that the rights of Article 10(2) apply also to areas where only a relatively small percentage of persons belonging to national minorities reside, provided that persons belonging to national minorities traditionally inhabit the areas concerned, that there is a request by these persons, and that such a request corresponds to a real need. 'Need' in this context does not imply the inability of persons belonging to national minorities to speak the official language and their consequent dependence on services in their minority language. A threat to the functionality of the minority language as a communication tool in a given region is sufficient to constitute a 'need' in terms of Article 10(2) of the Framework Convention.<sup>127</sup> The Framework Convention being based on an individual rights approach, the Advisory Committee recalls, furthermore, that the conditions of Article 10(2) are also met where persons belonging to national minorities live in substantial numbers and there is demand, which may also apply to places where minorities live in substantial numbers outside of their traditional territories, such as capital cities.<sup>128</sup>

148. The Advisory Committee welcomes that, in principle, the authorities make efforts to support the provision of health care and social welfare services in the Sámi homeland. It finds, however, that the fact that the Act on the Sámi Language only covers 'authorities' and not (increasingly privatised) health care and social welfare providers, creates a certain ambiguity. On the one hand, the policies and programmes in place raise Sámi expectations. On the other hand, these expectations are not met in practice due to insufficient funding (such as in the case of the annual appropriation to the Sámi Parliament) or due to external factors such as the limited ability of numerically small communities such as the Skolt Sámi to 'produce' sufficient health care and social welfare professionals. It seems insufficiently clear exactly which the statutory rights of Sámi speakers are in this area. It is important to keep in mind, however, that the possibility of speaking the Sámi languages in as broad a range of institutions, authorities and services as possible, is the only viable way of maintaining and revitalising this language, which constitutes an essential element of the Sámi identity.

149. The Advisory Committee is furthermore concerned that the majority of Sámi, namely those living outside the homeland, have no possibility of receiving health care or social welfare services in Sámi languages at all. It would therefore find it necessary to assess the need for certain services in Sámi such as elderly care or helplines, in cities with larger numbers of Sámi such as Helsinki.

150. The Advisory Committee calls on the authorities, in close consultation with the Sámi, to clarify the statutory rights as regards the provision of Sámi-language health care and social welfare services in the Sámi homeland and define attainable and measurable objectives. Sufficient budgetary

resources should be made available so these objectives can realistically be met. Furthermore, it invites the authorities to assess the need and, if it is established, consider supporting the provision of certain services in the Sámi languages outside the homeland.

### Use of Sámi forenames and surnames (Article 11)

151. The Finnish Population Information System and other public administration systems still do not support the Sámi spellings of personal names, despite several recommendations by the Advisory Committee to remedy the situation. A case dealt with by the Parliamentary Ombudsman (EOAK/3592/2017) in 2018 resulted in the issuing of a reminder concerning the realisation of the rights of the Sámi. The complainants criticised the procedures of the Population Register Centre because it was not possible to enter all Sámi-language fonts in the population information system. Since the name of the complainant's daughter had not been entered correctly into the population information system, the name could not be printed correctly on official documents, such as the passport and health insurance card. The Advisory Committee notes that font with diacritic signs in all three Sámi languages are available and for example used by the broadcaster *Yle Sápmi*.

152. The Advisory Committee recalls that new technologies facilitate the use of diacritic signs and alphabets of national minorities. States are therefore encouraged to make use of all available technical opportunities in order to offer full and effective guarantees to the rights provided for by Article 11 of the Framework Convention.<sup>129</sup>

153. The Advisory Committee reiterates its call on the authorities to guarantee the registration of Sámi names respecting the language diacritic signs in public registries, passports, and other public documents without further delay.

### Knowledge about minorities and intercultural education (Article 12)

154. New core curricula for basic education, and secondary education has been in force in Finland since 2016. Their objective is "to educate pupils into active cosmopolites able to recognise and uphold human rights".<sup>130</sup> The curricula contain elements about the ethnic diversity in Finland, human rights and citizenship education. According to interlocutors from the Ministry of Education, they provide only a loose framework, especially on history education, and leave the attainment of these objectives to individual schools and teachers.

155. Efforts are made in teacher training to prepare teachers in the field of democracy and human rights

<sup>127</sup> ACFC Thematic Commentary No. 3, para. 56.

<sup>128</sup> ACFC Thematic Commentary No. 3, para. 58.

<sup>129</sup> ACFC Thematic Commentary No. 3, para. 62.

<sup>130</sup> State report, para. 298. See also the [website](#) of the Finnish National Agency for Education.

education.<sup>131</sup> The State Regional Administrative Agency of Lapland has given in-service training to teachers in accommodating diversity and promoting mutual respect between cultures, whilst the University of Lapland has taken Sámi culture into account in the basic and in-service teacher training.<sup>132</sup> Textbooks and other teaching materials are developed by private companies and teachers are free to choose which ones to use.

156. Interlocutors of the Advisory Committee expressed satisfaction with the overall ambition of the new core curricula to introduce information about minority perspectives into mainstream education at all levels. However, in textbooks and other teaching materials, information about minorities remains limited and at worst reproduces negative stereotypes about national minorities such as Roma. Representatives of Karelians reported that Finnish textbooks contained hardly any information about their minority and in particular its post-war history (see *Promotion of minority cultures - Karelians* above). Furthermore, interlocutors said that education about national minorities and human rights for teachers and government authorities exists, but on a project basis rather than in a co-ordinated manner.

157. The Advisory Committee recalls that state parties need to regularly review the curricula and textbooks of subjects such as history, religion and literature in order to ensure that the diversity of cultures and identities is reflected, and that tolerance and intercultural communication are promoted.<sup>133</sup>

158. The Advisory Committee welcomes that the new core curricula are based on respect for human rights and diversity and aim at including this approach in various subject curricula. It acknowledges that Finland has an education system internationally recognised to be of excellent quality, which is trust-based and relies on the high competence of its teachers. Notwithstanding this, the Advisory Committee considers that the wide discretion to teachers, combined with the loose framework character of the curriculum and the free choice of textbooks, may pose a risk of overlooking certain aspects of minority cultures and histories, especially as tolerance in Finnish society recedes (see *Tolerance and intercultural dialogue* above).

159. The Advisory Committee invites the authorities to conduct research on whether Finnish students receive adequate information on the history, culture and languages of national minorities as well as their perspective on Finnish national history and, if applicable, introduce safeguards to this effect, especially by the training of teachers and the

development and dissemination of teaching and learning materials.

### Teaching in and of minority languages (Article 14)<sup>134</sup>

160. The new core curriculum for basic education contains a specific objective in the education of Sámi children to support their growth in the language, culture and community and to give them the opportunity to adopt Sámi cultural heritage.<sup>135</sup> The authorities continued to invest in the revitalisation of all three Sámi languages through funding of language nests, which have expanded along with the increase in budgetary appropriations allocated to them. As of autumn 2017, there were three Inari Sámi language nests, two Skolt Sámi language nests and seven North Sámi language nests, including three outside the homeland (Helsinki, Oulu and Rovaniemi), with a total of 104 registered children registered in 2018, up from 73 in 2016.<sup>136</sup>

161. The number of students receiving education in and of Sámi both in and outside the homeland has slightly increased. While the fourth opinion reported on 554 students learning Sámi in 2012/2013 in both the homeland and beyond, the number of students increased to 627 in the school year 2015/16 for the homeland alone.<sup>137</sup> In addition, 93 students studied Sámi languages outside the homeland, including 53 students enrolled in distance learning. A further pilot project on distance learning started in 2018, which is co-ordinated by the municipality of Utsjoki and attempts to complement Sámi language teaching outside the homeland. A new Sámi language class has started at the school of Pasila in Helsinki in autumn 2018, and another is planned to open in Oulu in 2020, provided there is a minimum of 6 children interested. The biggest reported factor limiting a further increase in Sámi language teaching remains the scarce availability of Sámi-speaking teachers. To mitigate this, the authorities launched Sámi-language kindergarten teacher training in 2016 and subject teacher training in 2018, both at Oulu University.<sup>138</sup>

162. Interlocutors representing the Sámi expressed satisfaction with the level of funding for education in the homeland and are proud that the revitalisation efforts are starting to yield results. By way of example, the case of a young woman was mentioned, who learned Sámi in a language nest because her parents had lost the language and is now becoming a Sámi language kindergarten teacher herself. In addition to concerns about the continuing lack of qualified teachers, interlocutors complained about the complicated funding schemes, in particular for projects such

<sup>131</sup> State report, paras. 302-311.

<sup>132</sup> State report, para. 345.

<sup>133</sup> ACFC *Thematic Commentary No. 1*, Education under the Framework Convention for the Protection of National Minorities, adopted on 2 March 2006, page 11. See also OSCE High Commissioner for National Minorities (2012), *The Ljubljana Guidelines on Integration of Diverse Societies*, p. 56.

<sup>134</sup> The Advisory Committee notes that the Committee of Experts on the European Charter for Regional or Minority Languages (COMEX) has in 2018 had the opportunity to examine this development in depth while drawing up its [fifth report on Finland](#). The Advisory Committee refers to the detailed findings and recommendations of COMEX in its report.

<sup>135</sup> State report, para. 326. The same applies for Roma children (state report, para. 302).

<sup>136</sup> State report, page 65.

<sup>137</sup> Of these, 199 children receive instruction in the Sami language, 43 learn Sami as a first language and 385 as a foreign language.

<sup>138</sup> State report, paras. 335-349.

as the one on distance education and Sámi language nests. The funding application process for a language nest which the Advisory Committee visited in Inari, for example, must be renewed every calendar year in a heavy process, which constitutes a burden for the parents' association running it and insecurity among the parents if their children will be able to continue their education in Sámi.

163. The authorities report that the Romani language is acutely endangered and that only about one third of Roma have a good knowledge of it.<sup>139</sup> The teaching of Romani is available if a minimum of two children express an interest. Such lessons, usually one or two hours per week, further decreased: from 120 students in 2014, to 98 students in 2016 and 56 students in 2017.<sup>140</sup> As a result, the vast majority of Roma children attending primary education do not receive any Romani-language lessons.<sup>141</sup> The main reason for these low figures is reported, notably in the state report, to be the shortage of Romani-language teachers.<sup>142</sup> Teacher training courses at the University of Helsinki and the Open University were launched in 2009 and 2013 respectively. Some 10 students are enrolled in these courses on average; slightly more than half of them are non-Roma. However, so far this has not resulted in an increase in teachers with the full qualifications required to teach the Romani language in Finnish schools.

164. Language nests and clubs in Romani were subsidised by the government in 13 municipalities with a total of €75 000 per year from 2010 to 2015.<sup>143</sup> Following an evaluation, the funding was discontinued and only three language nests continue to operate, funded by the respective municipalities.

165. Although theoretically possible as of two children, there are no children learning the Karelian language as their first language yet. There are also no language nests.

166. The Advisory Committee recalls that it is essential that teachers working in minority languages are trained in sufficient numbers and that such training is of adequate quality, preparing teachers for all levels of education, including at pre-primary or nursery levels.<sup>144</sup> The Advisory Committee encourages the inclusion of minority languages in the public school system and in the mandatory curriculum, including languages of numerically smaller minorities.<sup>145</sup> Special attention must be paid to the languages of numerically smaller minorities, including those of indigenous groups, as their languages are often particularly threatened.<sup>146</sup>

167. The Advisory Committee welcomes the generous legal framework for minority language teaching in general and the investment made in Sámi language teaching in particular. It regrets, however, that the Sámi language nests, which are recognised as a successful method for language revitalisation, are not yet sufficiently institutionalised and still depend on annual project-based funding and parent-led initiatives. It welcomes the pilot project introducing distance teaching in the Sámi language and considers that it should receive all necessary support. The Advisory Committee regrets that the take-up of Romani language classes continues to decrease and that there is no teaching available in the Karelian language.

168. The Advisory Committee calls on the authorities to consolidate the support for Sámi language teaching, paying particular attention to language nests, distance education, and teacher training.

169. The Advisory Committee calls on the authorities to increase their efforts to revitalise the Romani and Karelian languages through actively promoting first language teaching of these languages in schools.

### Participation in public affairs – Sámi Parliament (Article 15)

170. The participation of the Sámi in public affairs and their cultural autonomy in line with their status as an indigenous people is regulated by the Act on the Sámi Parliament (974/1995). Section 9 of the act obliges the government to “negotiate with the Sámi Parliament in all far-reaching and important measures which may (...) affect the status of the Sámi as an indigenous people”. Section 9.2 qualifies this ‘obligation to negotiate’ the following way: “In order to fulfil its obligation to negotiate, the relevant authority shall provide the Sámi Parliament with the opportunity to be heard and discuss matters. Failure to use this opportunity in no way prevents the authority from proceeding in the matter.”

171. The provision has long been contested and the authorities recognise the need for it to move closer to the internationally recognised rights of indigenous peoples. They have therefore made several attempts to amend the Act on the Sámi Parliament. The Advisory Committee’s fourth opinion describes in detail the discussions concerning government bill HE 167/2014, which was withdrawn from Parliament in 2015.<sup>147</sup> 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

<sup>139</sup> State report, para. 153.

<sup>140</sup> Advisory Committee’s 4th opinion, para. 88.

<sup>141</sup> Report of the CAHROM (2017)14 Thematic visit on the protection, preservation and teaching of languages spoken by Roma, Sinti, Kaale and Yenish (including ways to handle the opposition of traditional communities to have their language written and taught), Presentation by Henry Hedman.

<sup>142</sup> State report, para. 154.

<sup>143</sup> Advisory Committee’s 4th opinion, para. 70.

<sup>144</sup> ACFC Thematic Commentary No. 3, The Language Right of Persons belonging to National Minorities under the Framework Convention, adopted on 24 May 2012, para. 76.

<sup>145</sup> Ibid, para. 73.

<sup>146</sup> Ibid, para. 70.

<sup>147</sup> Advisory Committee’s 4th opinion, paras 15-17.

withdrawn from Parliament.<sup>148</sup> The authorities explained that they would not take a decision in a matter important to the Sámi people without the consent of the Sámi Parliament.

172. As regards Section 9 of the Act on the Sámi Parliament concerning the ‘obligation to negotiate’, the Finnish Chancellor of Justice issued a decision in late 2016 considering that the Ministry of Agriculture and Forestry had not consulted the Sámi Parliament adequately when it negotiated the Tenjoki Fisheries Agreement between Finland and Norway.<sup>149</sup> Representatives of the ministry informed the Advisory Committee that a Sámi Parliament representative was present in the working group meetings preparing the agreement, but acknowledged that the official consultation with the Sámi Parliament itself took place only after the signing of the agreement. With a view to improving the understanding within the government of the implications of the ‘obligation to negotiate’, the Ministry of Justice has prepared, together with the Sámi Parliament, a memorandum gathering good practices. The state report informs, furthermore, about a number of negotiations held between the Finnish Forest and Park Service and the Sámi Parliament and the establishment of a negotiation forum for reindeer herding involving one representative of the Sámi Parliament.<sup>150</sup> Finally, the Deputy Chancellor of Justice is currently handling a case concerning the failure of the Ministry of Economic Affairs and Employment to consult the Sámi Parliament on a bill amending provisions in the Mining Act regulating procedures for obtaining mining permissions.

173. Interlocutors representing Sámi as well as many other interlocutors such as equality bodies and human rights NGOs agreed that the current provisions under Section 9 are far removed from the requirements established by international law regarding indigenous peoples, namely free, prior and informed consent.<sup>151</sup> The last two attempts to amend the Act on the Sámi Parliament and thus strengthen the Sámi’s participatory rights failed, however, because of the controversies regarding the planned modifications to Section 3 on the definition of a Sámi (see *Electoral roll to the Sámi Parliament* above).

174. The Advisory Committee recalls that violations of land rights or limitations imposed on the use of land by certain groups such as indigenous peoples, whose economic situation and culture are closely connected to land usage, can significantly undermine their participation in socio-economic life and identity. Therefore, land traditionally used by them should be given particular and effective protection. Furthermore, representatives of indigenous peoples should be closely involved in any decision making affecting the use of land in their traditional areas of residency.<sup>152</sup>

175. The Advisory Committee considers that due to the weak provisions in Section 9 of the act, the Sámi Parliament is, despite the goodwill of some of the authorities and a number of practical improvements in the past year, not in a position to effectively influence the outcome of decision-making processes when issues of concern to the Sámi are at stake.

176. The Advisory Committee urges the authorities to significantly strengthen the participatory rights of the Sámi Parliament in legislation and practice, *inter alia* by equipping the Sámi Parliament with the necessary resources and providing training to officials at national and local levels on the correct implementation of the ‘obligation to negotiate’. While the amendment to the Act on the Sámi Parliament should have priority, the authorities should ensure effective participation as a matter of urgency even whilst the act remains unamended.

### Advisory Board for Ethnic Relations (Article 15)

177. The Advisory Board for Ethnic Relations (ETNO), regulated by a government decree, is tasked with, *inter alia* promoting “dialogue between immigrants and ethnic minorities, authorities, political parties and NGOs”, monitoring ethnic relations in society, and providing expertise on immigration, integration and equality policies.<sup>153</sup> The Advisory Board, has an annual budget of €95 000, which has remained stable since 2015, and a secretariat made up of two staff from the Ministry of Justice. Integration policies and intercultural relations are a focal point of the issues dealt with by ETNO.<sup>154</sup>

178. ETNO has a maximum of 34 members, out of which at least ten should represent migrant or national minority communities. Furthermore, members include representatives of six ministries, each political party represented in the Parliament, registered religious communities, the Association of Finnish Local and Regional Authorities, labour market organisations and the seven regional Advisory Councils. In addition, the Ministry of Justice may appoint permanent experts to the Advisory Board.

179. The current composition for the 2016-20 mandate includes representatives of the Afghan, Estonian, Kurdish, Russian, and Somali communities. The other five places reserved for NGOs are attributed to umbrella organisations dealing with multicultural or migrant issues, such as the Finnish Red Cross, and the National Forum for Cooperation of Religions in Finland (CORE Forum). The Jewish and Tatar minorities have a permanent seat in ETNO through appointment as permanent experts.<sup>155</sup> Representatives of Swedish speakers, Roma and Sámi are not represented in

<sup>148</sup> State report, paras. 18-22.

<sup>149</sup> Decision OKV/12/21/2016; state report paras. 35-37.

<sup>150</sup> State report, paras. 38-42.

<sup>151</sup> See for example Leena Heinämäki and Stefan Kirchner (2017), Assessment on recent developments regarding indigenous people’s legal status and rights in international law: With special focus on free, prior and informed consent, in: Prime Minister’s Office, Actualizing Sámi Rights: International Comparative Research.

<sup>152</sup> See ACFC Thematic Commentary No. 2, The Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs, adopted on 27 February 2008, para. 52.

<sup>153</sup> Government Decree 771/2015 on the Advisory Committee on Ethnic Affairs.

<sup>154</sup> See ETNO website with links to the 2017 Forum for Ethnic Relations on the theme “Civil peace now – good relations in Finland”, and the 2018 report “Right to belong – Proposals for strengthening the sense of belonging among multicultural youth in Finnish society”.

<sup>155</sup> Website of the Advisory Board for Ethnic Relations.

ETNO because their concerns are considered the responsibility of the Advisory Boards on Languages, on Roma Affairs and the Sámi Parliament, respectively. Karelians are not represented in the present composition and have, according to information submitted by the authorities, not applied for membership in ETNO's current composition.

180. Interlocutors generally appreciated the existence of a body like ETNO and particularly praised the work done by its regional branches. However, a number of shortcomings were mentioned. Firstly, ETNO tended to be perceived as not having much impact and influence on decision making. Secondly, the large proportion of government representatives and politicians who were said to take much of the speaking time during meetings, was perceived by some as a symbol of a “top-down” and “government-dominated” process. Thirdly, some of the Advisory Committee's interlocutors from national minorities did not know how the members are appointed and why their organisation was selected for the current term or not. Fourthly, due to the heavy emphasis on issues related to recent migration, there is a persistent risk that questions of interest to traditional national minorities are overlooked, while others regretted that there is not one single body bringing together all national minorities including also the Roma, Sámi, and Swedish speakers. Last but not least, interlocutors mentioned that the resources of the secretariat are too limited.

181. The Advisory Committee recalls that it is essential that the legal status, role, duties, membership and institutional position of consultative bodies be clearly defined. This includes the scope of consultation, structures, and rules governing appointment of their members and working methods.<sup>156</sup> The Advisory Committee recalls that appropriate attention should be paid to the inclusiveness and representativeness of consultative bodies. This implies, *inter alia* that where there are mixed bodies, the proportion between minority representatives and officials should not result in the latter dominating the work.<sup>157</sup> For the credibility of consultative bodies, it is essential that their appointment procedures are transparent and designed in close consultation with national minorities. State parties are encouraged periodically to review the appointment procedures to make sure that the bodies concerned are as inclusive as possible, maintain their independence from governments, and genuinely represent a wide range of views amongst persons belonging to national minorities.<sup>158</sup> Adequate resources should be made available to support the effective functioning of consultative mechanisms.<sup>159</sup>

182. The Advisory Committee considers that ETNO indeed fulfils only partially its important function as an effective consultation mechanism for persons belonging to national minorities. While the body has existed for a long time, guaranteeing its status through law rather than government decree would be a first step to increase its authority. In addition, being more formal and transparent about the selection process as well as ETNO's role in the political decision-making process would enhance its status.

The key problem is, however, that representatives of minorities constitute less than a quarter of ETNO's membership. The small number of places for representatives of minority communities means that many groups are not represented at all, and those who are selected are in a rather marginalised position among all the 34 members. Lastly, the rather modest human and budgetary resources allocated to ETNO necessarily limit the impact the advisory body can have and obliges it to prioritise a small number of activities.

183. The Advisory Committee calls on the authorities to strengthen the Advisory Board for Ethnic Relations (ETNO) in close consultation with representatives of all minorities. The authorities should in particular increase the share of minority representatives, ensure transparency of the membership selection process, increase budgetary and human resources, and consider formalising ETNO's status in law.

### Bilateral and multilateral co-operation (Articles 17 & 18)

184. A preliminary agreement on the Nordic Sámi Convention was reached in December 2016. In February 2017, the Ministry of Justice submitted the convention to the Sámi Parliament for approval in accordance with Article 42 of the draft convention. In December 2017, the three Sámi Parliaments of Finland, Norway and Sweden decided at the Sámi Parliamentary Council to propose new negotiations on the Nordic Sámi Convention to the three governments. In June 2018, the Sámi Parliamentary Council submitted a proposal for a new draft convention, to which none of the three states has yet replied.

185. The Advisory Committee observed that its interlocutors both from the authorities and from the Sámi communities place hopes in the Nordic Sámi Convention, which some hope could help resolve the deadlocked domestic situation.

186. The Advisory Committee recalls that both protection schemes, the Framework Convention and international treaties on indigenous rights, are not mutually exclusive and may provide parallel and complementary benefits to individuals affiliated with the group.

187. The Advisory Committee encourages the authorities to pursue their efforts with a view to concluding the negotiations on the Nordic Sámi Convention in order to improve the protection of the indigenous rights of the Sámi from a regional perspective.

<sup>156</sup> ACFC Thematic Commentary No. 2, para. 116.

<sup>157</sup> ACFC Thematic Commentary No. 2, para. 109.

<sup>158</sup> *Ibid.*, para 111.

<sup>159</sup> *Ibid.*, para. 119. See also paras. 138-139.

The Advisory Committee on the Framework Convention for the Protection of National Minorities is an independent body that assists the Committee of Ministers of the Council of Europe in evaluating the adequacy of the measures taken by the Parties to the Framework Convention to give effect to the principles set out therein.

The Framework Convention for the Protection of National Minorities, adopted by the Committee of Ministers of the Council of Europe on 10 November 1994 and entered into force on 1 February 1998, sets out principles to be respected as well as goals to be achieved by the states, in order to ensure the protection of national minorities. The text of the Framework Convention is available, among other languages, in Finnish, in Swedish, in Sámi and in Russian.

This opinion contains the evaluation of the Advisory Committee following its fifth country visit to Finland.

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