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OF THE FRAMEWORK CONVENTION FOR  
THE PROTECTION OF NATIONAL MINORITIES**

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**THE SECOND PERIODIC REPORT  
ON THE APPLICATION OF THE  
FRAMEWORK CONVENTION  
ON THE PROTECTION  
OF NATIONAL MINORITIES**

**FINLAND**

**DECEMBER 2004**

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# INTRODUCTION

The Committee of Ministers of the Council of Europe adopted the Framework Convention for the Protection of National Minorities in November 1994. Finland has been a Party since 1998 when the Convention entered into force internationally. The Framework Convention is included in the Treaty Series of the Statutes of Finland, under numbers 1-2/1998.

The Framework Convention is the first legally binding multilateral instrument ever devoted to the protection of national minorities. It is also the first international convention that brings the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities into force at the regional level. The Framework Convention contains programme-type provisions on how the States Parties shall protect their national minorities. The principles included in the Convention have to be implemented through national legislation, appropriate governmental policies or by concluding bi- or multilateral treaties.

The evaluation this Framework Convention's implementation by the Parties is carried out by the Committee of Ministers of the Council of Europe, assisted by an Advisory Committee. The State Party shall transmit on a periodical basis to the Council of Europe full information on the legislative, judicial and administrative measures taken to give effect to the principles and rights of the Convention. The information shall include a response to the recommendations adopted by the Committee of Ministers on the implementation of the Framework Convention. The first recommendations concerning Finland adopted by the Committee of Ministers in October 2001 are included in this report.

The Advisory Committee examines the report and gathers further information to support its conclusions by visiting the State Party. After the examination, the Advisory Committee gives its conclusions and draft recommendations to the Committee of Ministers. The Committee of Ministers then makes the final decisions concerning the adequacy of the implementation of the Convention in the State Party and recommends possible additional measures.

This is the second periodic report of the Government of Finland on the implementation of the Framework Convention. The report covers the period between March 1999 and June 2004.

## **Further information:**

For further information on human rights conventions and on periodic reports concerning their implementation, please contact the Unit for Human Rights Courts and Conventions of the Legal Department of the Ministry for Foreign Affairs of Finland, at the following address:

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Legal Department  
Unit for Human Rights Courts and Conventions (OIK-31)  
P.O. Box 176  
FIN-00161 HELSINKI  
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# PART I

## A. FOLLOW-UP OF THE RESULTS OF THE FIRST MONITORING CYCLE OF THE IMPLEMENTATION OF THE FRAMEWORK REPORT

The Advisory Board for International Human Rights Affairs, operating under the auspices of the Ministry for Foreign Affairs, held a seminar in Helsinki on 1 February 2002, addressing the conclusions and recommendations of the Committee of Ministers of the Council of Europe concerning the implementation of the Framework Convention for the Protection of National Minorities and of the Charter of regional and minority languages in Finland. The seminar was attended by nearly 80 persons representing e.g. the treaty monitoring bodies in question, the Parliament, State administration, the mass media, associations and communities of minorities, and research institutes. The experiences of the seminar were positive. The seminar enabled a direct discussion on the position of the minorities and increased, at the general level, awareness on the minority rights in Finland.

As regards the contribution of authorities to the implementation of the recommendations, it can be said that the recommendations have been communicated to a large number of authorities and the responsibility to take possible measures lies within each sector of administration.

## B. PUBLICATION OF THE RESULTS OF THE FIRST MONITORING CYCLE

The Framework Convention, together with its Finnish and Swedish translations, has been published in the Treaty Series of the Statutes of Finland, which is available in the largest public libraries. In addition, the text of the Framework Convention is available in the FINLEX database of legislation<sup>1</sup> and on the web site of the Ministry for Foreign Affairs<sup>2</sup>. The Internet may be used free of charge at public libraries.

The first periodic report of the Government on the application of the Framework Convention was published on the then home pages of the Ministry for Foreign Affairs<sup>3</sup>. Currently, the periodic reports on the implementation of the human rights instruments are found under *<http://formin.finland.fi>*. The present report will also be published on the web site as soon as possible. It will further be published in the form of a bound paper copy which is easy to distribute and reproduce. The report will be sent out to a large number of authorities and non-governmental organisations.

On 5 July 2001, the Ministry for Foreign Affairs gave out a press release on the Advisory Board's report and the Government's comments relating to it. The report and Government's comments were communicated to national advisory committees and non-governmental organisations on 28 August 2001.

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<sup>1</sup> <http://www.finlex.fi>

<sup>2</sup> <http://formin.finland.fi>

<sup>3</sup> <http://virtual.finland.fi>



On 7 November 2001, the Ministry for Foreign Affairs gave out a press release concerning the recommendations given by the Committee of Ministers. The press release summarized the recommendations, the aims of the Framework Convention and the monitoring mechanism. The press release was also available on the Ministry's web site<sup>4</sup>.

The recommendations of the Committee of Ministers were translated soon after their adoption into both national languages of Finland, i.e. into Finnish and Swedish. The recommendations were communicated on 18 December 2001 *inter alia* to the President of the Republic, the Prime Minister's Office, all the Ministries, the Parliament, the Parliamentary Ombudsman, the Chancellor of Justice, the Office of the Prosecutor General, the Supreme Court and the Supreme Administrative Court, various Advisory Boards, the Association of Finnish Local and Regional Authorities, and research institutes specialised in human rights, as well as to a number of representative bodies of minorities and non-governmental organisations. The recommendations were accompanied by a note in which it was recommended that they be widely disseminated by the said bodies.

The recommendations are available in Finnish on the web site of the Ministry for Foreign Affairs<sup>5</sup>.

The recommendations were also translated into North Sami, and the translation was communicated on 1 October 2002 to the Sami Parliament, the Sami Council, the Association of Finnish Local and Regional Authorities, the State Provincial Office of Lapland, and all the municipalities located in the Sami Homeland.

The Unit for Human Rights Courts and Conventions (OIK-31) at the Ministry for Foreign Affairs of Finland will provide, upon request, materials relating to the text of the Convention, to its implementing legislation and to the monitoring of its implementation, and to respond to enquiries concerning the rights and the duties deriving from the application of the Convention. The contact information can be found in the introduction of the present report.

## **C. CONTRIBUTION OF THE CIVIC SOCIETY TO THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION AND MEASURES TO DEVELOP THIS CONTRIBUTION**

The two-phase contribution of the civic society to the making of the periodic report has already become a well-established custom. The representatives of the civic society can express their views on the periodic report already in its drafting phase. In addition to the first request for material, the civic society is offered the possibility to comment on the draft periodic report. Discussions on the draft reports are organised in order to give the Government and the civic society the opportunity of direct conversation.

A discussion on the second periodic report of Finland on the application of the Framework Convention was organised on 3 August 2004 at the Ministry for Foreign Affairs. Altogether 41 different authorities, advisory boards and associations were invited to participate in the discussion. The discussion was attended by representatives of the Ministry of Justice, the Ministry for Social Affairs and Health, the Ministry of Labour, the Ministry of the Environment, the Office of the Parliamentary Ombudsman, the Population Register Center, the Association of Finnish Local and Regional Authorities, the Church Council of the Evangelical Lutheran Church of Finland, the Advisory Board on International Human Rights Affairs, the Advisory Board on

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<sup>4</sup> <http://formin.finland.fi>

<sup>5</sup> <http://formin.finland.fi> (human rights; resolutions and recommendations)

Roma Affairs, the Ombudsman for Minorities, the Sami Parliament, the Union of Finland's Russian-Speaking Societies, the Finnish Islamic Congregation (Tatar Community), The Ingrian Centre, the Eric Castrén Institute/University of Helsinki, the Central Union for Child Welfare and the society for the Karelian language.

Moreover, opinions or propositions for changes concerning the draft report were provided in writing/by phone by the Ministry of the Interior, the Government of Åland and the Minority Rights Group.

The aim of the Government is to further increase the transparency of the drafting of periodic reports. As an example of the transparency are the specific questions related to the drafting of the present periodic report, which Finland published at its own initiative in the autumn of 2003. The publishing was justified by the Finnish of transparency practice in reporting. The Government emphasizes the fact that the publicity of documents and the accessibility of information are prerequisites for developing human rights and for societal discussion.

The Ministry for Foreign Affairs, responsible for the periodic reports, has expressed the wish that the different authorities and representatives of the civic society would regularly submit information on the implementation of the Framework Convention as well as of other human rights conventions in Finland.

The information relating to the drafting of the periodic reports and to the recommendations has been discussed in the previous paragraph.

#### **D. DISCUSSION WITH THE ADVISORY COMMITTEE**

As to the discussion with the Advisory Committee, reference is made to the point I.A. dealing with the seminar organised by the Advisory Board for International Human Rights Affairs in the spring of 2002.

## PART II

### A. RESOLUTIONS OF THE COMMITTEE OF MINISTERS

#### RESOLUTION 1

*Finland has over a period of time made particularly commendable efforts concerning the protection of the Swedish-speaking Finns and their status in such areas as media and education.*

The linguistic rights of the Swedish-speaking Finns are ensured by the new Language Act (423/2003). This Act entered into force at the beginning of 2004 and relates to the Finnish and Swedish languages which, under the Constitution of Finland, are the national languages and equal as such. The law emphasizes the right of every person to use his or her language, either Finnish or Swedish, and the fact that the authorities shall ensure on their own initiative that the linguistic rights are secured in practice. The scope of application of the Act is extensive. The new Language Act will be discussed more in detail under Article 10.

#### RESOLUTION 2

*Valuable efforts have also been made in various fields to improve the protection enjoyed by the Sami. However, delays in the settling of the questions of land rights and the issue of the definition of the term Sami have caused disputes.*

The Government has been asked to speed up the examination of the question of land rights as well as the ratification of the ILO Convention No. 169 (1989) on Indigenous and tribal peoples in independent countries. The questions of land rights in the Sami Homeland have been examined in an active way. Since the issue of Finland's first periodic report, different examinations on the questions related to land rights have been made on assignment by the Ministry of Justice.

The most concrete phase of this examination was reached in 2002 when a proposition in the form of a Government Bill was made in the Ministry of Justice on setting up a specific advisory board in the Sami Homeland. The task of this advisory board would have been to give a statement on the principal land use solutions of the area under separate provisions. The Finnish Forest and Park Service (Metsähallitus, a state enterprise operating within the administrative sector of the Ministry of Agriculture and Forestry) could have diverged from the statement only for a specific reason. The major significance of the advisory board would have been that in the principled land use solutions, it could have been possible to integrate better than at present the care, use and protection of natural resources in a way that the prerequisites of the Sami culture and the natural livelihoods would have been secured and that the regional circumstances and the need to develop them would have been taken into account at the same time. The aim was to find an ecologically, socially, culturally and financially durable solution by integrating the different functions. The advisory board would have included representatives from the Sami Parliament and from other local populations. The bill was miscarried by combating views of the effects of the land use questions on the organization of the land use by means of legislation.

At the moment, there is an ongoing study, based on archives, on the history of settlement, population and land use from the middle of the 18th century until the beginning of the 20th century in the areas called formerly Kemin Lappi and Tornion Lappi. The study is to be completed by the end of 2004. The aim of the Government is to find a solution in the question of land rights, which would also remove the obstacles of the ratification of the ILO Convention No 169. The question of land rights related to the Sami Homeland will be discussed more in detail under Article 5.

The definition of a Sami will also be explained further under Article 5.

Attached to the document concerning the accession of Finland to the EU, there is the Protocol No 3 on the Sami people. This protocol recognizes the obligations and commitments of Finland with regard to the Sami people under national and international law, in order to preserve and develop the means of livelihood, language, culture and way of life of the Sami people. The Commission of the European Union has later applied the protocol e.g. in its decision on supporting the small-scale industrial projects of the Skolt Sami<sup>6</sup>. The European Parliament has in its resolution in the field of the agricultural policy of the European Union, *Resolution on a new strategy for agriculture in arctic regions*, taken into account e.g. the Protocol 3 attached to the document concerning the accession of Finland and stated that the Sami culture and reindeer herding can be developed on the Sami people's own terms, with Community support<sup>7</sup>.

The rights of the Sami have been developed in the field of education. The State Provincial Office of Lapland has designated a specific official, whose location is Inari, to monitor and evaluate the situation of the Sami language and teaching in this language, to develop the teaching and the use of the Sami language, to take care of the questions related to legal protection of the pupils in the comprehensive and upper secondary schools of the Sami Homeland and to organize further education to the Sami teachers. This official works in the same locations with the Sami Parliament and knows the Sami language.

In the State Budget for 2004, a specific government subsidy of € 600 000 was granted to secure social and health care services in the Sami language. The allowance can be used to pay a government subsidy through the Sami Parliament for the municipalities of the Sami Homeland to secure social and health care services in the Sami language. The government subsidy shall be granted for the expenses of social and health care services in all the Sami languages. The state aid authority responsible for the administration of the government subsidy is the State Provincial Office of Lapland. The administration is carried out according to the Act on Discretionary Government Transfers (688/2001).

### **RESOLUTION 3**

*Despite some commendable efforts, the implementation of the Framework Convention has not been fully successful as concerns Roma, inter alia, in the educational system and the media. There is also reason for concern about the de facto discrimination suffered by Roma as well as the existing socio-economic differences between some of the Roma and the majority population.*

According to the Constitution of Finland, which entered into force in 2000, the Roma and other groups have the right to maintain and to develop their own language and culture (Section 17(3); 731/1999). The same right was included in the specific provisions, e.g. in the acts on social and health care services, education and prison administration, among others. The judicial position of

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<sup>6</sup> 3 February 1997 SG(97) D/786.

<sup>7</sup> A4-0073/99

the Roma has also been strengthened by the section on equality of the Constitution (Section 6), the general prohibition of discrimination of the Penal Code (Chapter 11, section 9; 578/1995), the provision on employment offences of the Penal Code (Chapter 47, section 3; 578/1995) and the new Equality Act (21/2004).

The Roma still suffer de facto discrimination in many everyday situations. The Government has taken different measures to promote tolerance and to prohibit discriminatory treatment. The work to combat discrimination will be discussed more in detail under Article 6.

The Ministry for Social Affairs and Health has tried to strengthen the legislative position of the regional Advisory Boards on Roma Affairs operating in four provinces. The decree on the establishment of the four regional Advisory Boards on Roma Affairs came into force by decision of the Council of State on 1 January 2004<sup>8</sup>. The establishment of the regional Advisory Boards promotes the co-operation between the Roma living in the provinces and the officials responding to the regional needs of the provinces. Administratively, the regional Advisory Boards are subordinated to the Ministry of the Interior.

A nationwide project on Roma children's education was carried out in Finland in 2001–2002. The project surveyed the school attendance of Roma children and youth from the point of view of both teachers and Roma families. The final report of the project on the basic education of the Roma children contains several propositions to promote the education of Roma children and youth. Even though the Finnish Roma have proceeded significantly in the last 50 years in developing their formal education and a lot of achievements have been made in the education of Roma children and youth, at least as many challenges still exist, and there is work to be done in changing the attitudes and the school practices.

The Romany Education Unit with the National Board of Education organises every year supplementary education for teachers of the Roma language, contact person training and summer schools of the Roma language. The unit is also responsible for providing teaching material in the Roma language. In 2003 a Roma children's songbook and CD as well as the third edition of the ABC-book and grammar in the Roma language were published. In addition to national financing, teaching material has been sponsored e.g. by the *Comenius* Programme of the European Union. The Research Institute for the Languages of Finland has also produced material in the Roma language and the Institute employs nowadays two persons for full-time researcher and maintenance of the Roma language.

A possibility for a diploma of Roma culture instructor<sup>9</sup> has existed since 15 December 2001. The diploma consists of three alternative programmes: Roma language instructor, consultant, and cultural secretary. The diploma of Roma culture instructor is obtained by taking examinations for the demonstration of professional skills, irrespective of how the professional skills have been obtained. This system has been developed for the needs of the adults and the developing working life. The exams, described more in detail under Article 12, have been arranged since autumn 2003.

The Ministry of Labour, responsible for labour administration, has trained its equality personnel to serve clients with different cultural backgrounds. In addition to this, the Ministry of Labour has, at the initiative of the Ombudsman for Minorities, started an investigation of the development of Roma employment services. The local organisation of the labour administration

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<sup>8</sup> Decree of the Council of State (1019/2003) on the national Advisory Board on Roma Affairs and on the regional Advisory Boards on Roma Affairs.

<sup>9</sup> National Board of Education; DNO 54/011/2001.

has been asked to designate in each employment office and in the employment unit of each Employment and Economic Development Centre a contact person of the Roma affairs.

Taking into account the customs of the Roma culture when distributing apartments is dealt with e.g. in the guidebook on choosing inhabitants in rented apartments of the State Housing Board or apartments with interest subsidy<sup>10</sup>. Moreover, the Ministry of the Environment has, in cooperation with the Advisory Board on Roma Affairs, already in the summer of 2000 produced the guidebook on the special aspects of Roma culture called *The Special Aspects of Housing in Roma Culture*<sup>11</sup>.

#### **RESOLUTION 4**

*Further consideration should also be given to the implementation of the Framework Convention in respect of the Russian-speaking population, in particular in the fields of education and media.*

Along with the new Language Act, the Council of State gives to the Parliament once every electoral period a report on the implementation of the Language Act and on the implementation of the linguistic rights and, where necessary, on other linguistic circumstances in Finland. In legislative history<sup>12</sup>, it is stated that monitoring the actual linguistic circumstances and linguistic needs could therefore reveal legislative needs or deficiencies and act as a stimulus for future legislation. In addition to the Finnish and Swedish languages, the report will at least deal with the language groups mentioned in section 17(3) of the Constitution, that is, the Sami language, the Roma language and the sign language. The expression "at least" allows discussing other language groups as well. The aim is to deal at least with the position of the Russian language in the first report to be given to the Parliament.

The report of the working group which investigated studies on the Russian-speaking population in Finland was given in 2003 to the Advisory Board for Ethnic Relations, subordinate to the Ministry of Labour. The Advisory Board has representatives from the traditional Russian-speaking population in Finland (the Old Russians), the immigrants from the former Soviet Union and the Ingrian returnees. The report dealing with the Russian-speaking population in Finland includes in totality 37 recommendations. It will be explained further in Chapter III.7.

A seminar on the questions related to the Russian-speaking immigrants in Finland was held in Helsinki in September 2003. The seminar was organized by *the Finnish Institute for Russian and East European Studies* in co-operation with *the Department of Slavonic and Baltic Languages and Literatures* of the University of Helsinki. In the seminar, e.g. the meaning of maintaining the mother tongue and learning Finnish to the immigrants, questions of culture and of identity and integration were discussed.

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<sup>10</sup> Guidebook on choosing the inhabitants in rented apartments of the State Housing Board or apartments with interest subsidy. Environment Guide 102. Housing. Ministry of the Environment 2003.

<sup>11</sup> Malla Pirttilahti. *The Special Aspects of Housing in Roma Culture*. Environment Guide 77. Ministry of the Environment 2000.

<sup>12</sup> Government Bill for the Parliament on the new Language Act and the legislation relating to it (HE 92/2002 vp.)

## **B. APPLICATION OF THE FRAMEWORK CONVENTION ARTICLE BY ARTICLE**

### **ARTICLE 1**

*The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.*

#### **Human rights policy and minority rights in Finland**

According to the Government Programme of Prime Minister *Matti Vanhanen's* Government (24 June 2003–), human rights are among the foreign policy priorities of the Finnish Government. The Government of Finland exercises an active human rights policy in bilateral relations, in the European Union as well as in international organizations. Finland supports the central position of the UN in promoting universal human rights as well as the work done in the Council of Europe and in the Organization for Security and Co-operation in Europe (OSCE). In the minority issues there is also co-operation in the framework of the International Labour Organization ILO, the United Nations Educational, Scientific and Cultural Organization UNESCO and the Council of the Baltic Sea States (CBSS).

*The Report of the Council of State on the Human Rights Policy of Finland*<sup>13</sup>, issued for the first time, was adopted on 24 March 2004. The report deals with, together with international questions, some national human rights questions. The report, prepared in co-operation with different Ministries, is a comprehensive presentation of Finland's goals in the different fields of human rights policy. Earlier, in 1998 and 2000, reports on international human rights questions by the Foreign Minister have been issued to the Parliament. Minority rights are and have been one of the priorities of Finland's human rights policy.

#### **International treaty obligations**

Finland has, in addition to the Framework Convention discussed here, ratified the following international human rights agreements:

- UN; International Covenant on Civil and Political Rights (1966);
- UN; International Covenant on Economic, Social and Cultural Rights (1966);
- UN; Convention for the Elimination of all forms of Racial Discrimination (1965);
- UN; Convention of the Rights of the Child (1989) and its Optional Protocol on the Involvement of Children in Armed Conflicts (2000);
- UN; Convention Eliminating All kinds of Discrimination Against Women (1979) and its Optional Protocol;
- CoE; Convention for the Protection of Human Rights and Fundamental Freedoms (1950) and its Optional Protocols;
- CoE; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987);

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<sup>13</sup> The Government report on the Human Rights Policy of Finland VNS 2/2004 vp. Helsinki 2004.

- CoE; European Charter for the Protection of Regional or Minority Languages (1992);
- CoE; European Social Charter (1961);
- CoE; Revised European Social Charter (1996).

The Government Bill on the ratification of the 12th Protocol to the European Human Rights Convention was submitted to Parliament in June 2004<sup>14</sup>. The Protocol, which is significant for the protection of the minorities, is not yet entered internationally in force. Section 14 of the Human Rights Convention prohibits discrimination only in relation to the rights secured by the Convention and by its Protocols, but the new Protocol includes a so-called general prohibition of discrimination. According to it, the enjoyment of any right set forth by law shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. No one shall be discriminated against by any public authority. The significance of the Protocol is emphasized by the fact that after it has come into force, the alleged discrimination can be more extensively brought before the European Court of Human Rights.

As to bilateral treaties, reference is made to Article 18.

### **Example on international co-operation in the framework of the UN**

Finland has participated every year in the session of the UN Working Group on Minorities<sup>15</sup> and sought interaction e.g. by ordering in 2001 a study on Finnish autonomy models<sup>16</sup> to be used by the Working Group. The aim of the Government is to deal with the UN minority issues more visibly and more effectively and thus strengthen the position and action of the Working Group on Minorities and in this way also to develop the rights of the minorities.

During the year 2004 Finland has developed the dialogue with the Working Group on Minorities with new tools by inviting the Working Group to a country visit to meet Finnish minority groups. Country visits are not actually included in the mandate of the Working Group, but the Working Group has expressed the wish to make country visits in order to study more closely the minority situation of different countries. At the initiative of Finland, the Working Group visited Helsinki and Mariehamn in Åland on 17–20 January 2004. The Working Group reported on the results of this visit during 2004. The visit of the Working Group offered the possibility of a direct and open discussion between the UN human rights mechanism, the Government and the minorities. The visit increased the visibility of the minority rights and made different actors familiar with the only actual minority mechanism of the UN. Moreover, the visit served to express support and respect for the challenging work of the Working Group.

### **Example of international co-operation in the framework of the Council of Europe**

President of the Republic *Tarja Halonen* initiated in 2001 a project called *Forum for Roma and Travellers*, which has progressed significantly during the last three years. In the background of the project there are the insufficient possibilities of the European Roma to participate in decision-

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<sup>14</sup> The Government Bill to Parliament on the adoption of the 12th Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms and concerning the Act on the implementation of the legislative provisions of the Protocol (HE 121/2004 vp.).

<sup>15</sup> <http://www.ohchr.org/english/issues/minorities/index.htm>

<sup>16</sup> Lauri Hannikainen: Examples of Autonomy in Finland. The Territorial Autonomy of the Åland Islands and the Cultural Autonomy of the Indigenous Saami People. E/CN.4/Sub.2/AC.5/2001/WP.5, 8 May 2001.



making, to express their views and to demand their rights. There are estimated 8–10 million Roma living in the Member States of the Council of Europe. The aim of the Government of Finland is to promote the human rights of the Roma to full, as adopted under international human rights norms. The Roma shall have the possibility of participating in the decision-making at the European, national, regional as well as local level.

The starting point of Finland's action has been to prepare the project in co-operation with the Roma. At the moment, the Roma Forum is being prepared in the Council of Europe, in a working group (GT-ROMS), chaired by the permanent representative of Finland, and within the Roma organisations themselves. The preparations are based on the proposition made in the summer of 2003 by Finland and by France, according to which the forum is a non-governmental organisation founded by the Roma themselves that has a co-operative relation, regulated by an agreement, with the Council of Europe.

Finland has offered a temporary expert for the purposes the European Council to prepare the Roma Forum since 2002 .

## **ARTICLE 2**

*The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.*

### **Nordic co-operation**

The Nordic co-operation and e.g. the deepening of the co-operation between the communities along the border between Finland and Norway is dealt with under article 18.

### **Co-operation between Finland and Russia**

There is diverse multilateral, bilateral and regional co-operation between Finland and its neighbouring country Russia. The *Russia Programme* of the Ministry of Education implements the objectives of Finland's foreign and cultural policy, as well as those strategies and programs to which Finland is committed itself under international treaties, with the means of cultural, sports and youth policy.

At the initiative of the Government, the *Programme on the kindred nations of Finland* was created in 1993, the aim of which is to preserve and develop the cognate languages of Finnish, to strengthen the cultural identity of the language societies in Russia and to try and increase the cultural bonds to Finland. Under the treaties and cultural agreements between Finland and Russia the parties commit themselves to these aims.

One of the central promoters of the citizen's action between Finland and Russia is the *Finnish-Russian Society*<sup>17</sup>, which receives annual state aid for its operation. The Society runs *the Russiainfo*, which serves non-governmental organizations and private citizens, both in Finnish and in Russian, by providing information on Russia and offering neighbouring area actors services related to crossing the border and to contacts. *The Russiainfo* has seven offices in different parts of Finland. The Society carries out cultural exchanges directly at the regional and local level, such as

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<sup>17</sup> <http://www.venajaseura.com/>

a contact network in schooling, promotes the studying of Russian in Finland and makes Finland and Finnish culture known in Russia.

*Finnish Institute for Russian and East European Studies*<sup>18</sup> is a Research centre sub-ordinate to the Finnish Ministry of Education. The priority fields of the Institute are assisting Ministries and other authorities, different organizations, researchers and others in need of assistance in questions relating to their field of action and in producing information for the support of research and decision-making. The Institute participates in the implementation of the immigrant and refugee policy of the Government as far as it concerns those moving from Eastern Europe to Finland.

### **Russia information service**

The aim of the *Russia information* project, started on the initiative of the Ministry of Education in the summer of 2003, is to gather under one web site information on Russia from different resources. The national web portal will serve the needs of a large group of users from government officials and media to the business community and academics. The *Aleksanteri Institute* is responsible for the development of this project. The web information service will be available for the public in 2005.

### **ARTICLE 3**

- 1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.*
- 2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.*

### **Population register authorities**

The central authority responsible for the population registry is the Finnish Population Register Centre<sup>19</sup>, and local registry offices serve as local authorities. The registration of the data is based on the statutory reports by citizens and authorities. The following information on Finnish nationals is registered into the population registry: name and personal identity number, address, nationality and mother tongue, family relations, and information on birth and death.

Statistics Finland<sup>20</sup> collects statistics e.g. on nationality, birth country and language on the basis of information from the population registry system. Moreover, Statistics Finland makes many statistics which illustrate the socio-economic state of the population. This kind of information include education, profession, working field, primary action (e.g. working/unemployed) and level of housing. The yearly statistics and information are available on the basis of nationality, birth country and language.

In Finland, no statistics are made according to ethnic groups. The personal data protection legislation prohibits the processing of sensitive data relating e.g. to race or ethnic origin<sup>21</sup>.

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<sup>18</sup> <http://www.rusin.fi/>

<sup>19</sup> [http://www.vaestorekisterikeskus.fi/vrk/home.nsf/pages/index\\_eng](http://www.vaestorekisterikeskus.fi/vrk/home.nsf/pages/index_eng)

<sup>20</sup> <http://www.tilastokeskus.fi>

<sup>21</sup> Personal Data Act (523/1999; section 11). The prohibition is not absolute but sensitive information may be registered subject to certain conditions provided by an act of Parliament or decree. There are further provisions of law on the publicity of such information.

Therefore, information e.g. on the Roma or the Tatar population cannot be derived from statistics.

The underlying principle applied to the registration of languages is that each person has only one language of his or her free choice. Thus, the language of each person is defined in accordance with the declaration made by himself or herself. It is possible to later change the information included in the population information system.

## Population

At the end of the year 2003, Finland's population was 5,219,732 persons. According to the Constitution, the national languages of Finland are Finnish and Swedish. 290,251 persons spoke Swedish as their mother tongue. Foreign nationalities amount to 107,003 persons. The biggest groups were the Russians (24,998), the Estonians (13,397), the Swedes (8,124) and the Somalis (4,642).<sup>22</sup>

## Minority groups

The concept "national minority" is not used in Finnish law. Section 17, subsection 3 of the Constitution of Finland guarantees the Sami, as an indigenous people, as well as the Roma and other groups the right to maintain and develop their own language and culture. The Constitution does not more closely define these "groups". According to the Government Bill<sup>23</sup> the "groups" referred to in the Constitution include the Sami people, the Roma and mainly national and ethnic minorities, such as the Russians, the Jews and the Tatars. The relevant explanatory note reads as follows:

*On the one hand the proposal is not limited to traditional minorities in Finland. On the other hand the groups referred to in [section 14, subsection 3] cannot include groups that only temporarily reside in Finland, but a certain stability and permanency is required from the group to be covered by it. [...] The provision would not only guarantee the language rights of minorities but would extend the protection to minority cultures. [...] Together with section 16a, subsection 1 the provision would impose an obligation upon the Government to allow and support the development of the languages and cultures of the groups referred to in it. The provision also provides a constitutional basis for developing the living conditions of those groups with full respect for their cultural traditions.*

The Framework Convention does not either define the meaning of national minorities. In the preparation phase of the Convention, it has, however, turned out that the intention has been to extend the Convention only to cover those people belonging to the minorities who have strong roots with the State they live in. Both when ratifying the Convention and when preparing the first report, Finland did not want to specifically and exclusively comment on which minorities fall within the scope of the Convention in Finland and which do not. According to the opinion of Finland, the existence of the minorities does not depend on a declaration by the Government but on the factual situation in the country.

The Government Bill to the Parliament on the adoption of the Framework Convention<sup>24</sup> states the following on the minorities falling within the scope of the Convention:

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<sup>22</sup> Statistics Finland, statistics on the population. [Http://www.tilastokeskus.fi](http://www.tilastokeskus.fi)

<sup>23</sup> Government Bill to the Parliament on amending the provisions on the basic rights in the Constitution (HE 309/1993 vp.).

<sup>24</sup> Government Bill to Parliament on the adoption of certain provisions of the Framework Convention for the Protection of National Minorities (HE 107/1997 vp.).

*In Finland, the framework Convention, when it is implemented, can be considered to cover at least the Sami, the Roma, the Jews, the Tatars and the so-called old Russians and de facto also the Swedish-speaking Finns. The status of these groups as national minorities has also been reported to the UN human rights treaties monitoring bodies. When implementing the Framework Convention in Finland, the purpose is, however, not to restrict exclusively the group of the minorities coming under the Convention the way some States have done when signing or ratifying the Convention. This kind of a restriction would be problematic also for the reason that it would always request a new, updated explanation when the circumstances would possibly change. In this respect it has to be remembered also that the formation of minorities is a fact which includes, as a central element, the right of those belonging to a minority to identify themselves. Another question which will probably be discussed during the monitoring process of the Framework Convention is if there are in the area of a certain State Party persons to whom the provisions on the protection of those belonging to a national minority in the Framework Convention will have to be applied.*

The Government Bill also reminds that the notion of minority adopted in the UN is more extensive than that adopted in Europe and includes also the so-called new minorities.

As regards the Finnish legislation, however, definitions of minorities can be found in the Act on the Sami Parliament (definition of a Sami in section 3; 974/1995) and in the Skolt Act (definition of a Skolt in section 4; 253/1995).

Information was included in the first periodic report of the Framework Convention primarily on the minority groups mentioned in the explanatory memorandum of the above-mentioned Government Bill. When specifically asked, the Finnish-speaking people living in Åland, whose position was "minority in a minority", and of the Sami people, the Sami of Inari and the Skolts were mentioned. As other minority groups, the foreigners have been mentioned, and as the biggest group of these, the Russian, the Estonians and the Somalis. As a specific group in this connection, the Ingrians have been mentioned. However, as national minorities in the Government report as well as in the speeches during the country visit of the Advisory Committee, only the groups mentioned in the explanatory memorandum of the Government Bill have been dealt with.

In this connection, it can be mentioned that the *Society for the Karelian language* has on its own initiative submitted to the Government information on the Karelian language and on the action of the Society. The purpose of the Society is to increase interest on the Karelian language as well as to support the research and publication action aimed at preserving the language and studying and leisure activities in relation to the language.

## **The Sami**

The Sami are an indigenous people living in Finland, Sweden, Norway and Russia. The area inhabited by the Sami extends from the central parts of Norway and Sweden over the northernmost part of Finland to Russia, to the Kola Peninsula. There are in total 75,000 to 100,000 Sami living in this area. The Sami have a language, culture, way of life and identity of their own, and they are united by common history, traditions, customs and communities. The traditional means of livelihood, such as reindeer herding, hunting and fishing, constitute the essence of the Sami culture.

The definition of 'Sami' is based on the Act on the Sami Parliament (974/1995; section 3). Data on the number of Sami and on the numbers of persons speaking Finnish and/or Sami, respectively, were last compiled by the Sami Parliament for the Sami Parliament elections in 2003. According to information provided by the people entitled to vote in the elections, there were

altogether 7,956 Sami. Of them, 3,669 (46,1%) lived in the Sami Homeland in northern Finland (including the municipalities of Enontekiö, Inari and Utsjoki as well as the reindeer herding association of Lapland in the municipality of Sodankylä). In Finland, 3,702 Sami lived outside the Sami Homeland and 585 Sami lived in other countries (both constituted together 53,9 % of the Sami). In the Sami Homeland, the Sami constitute approx. one third minority of the area's population.<sup>25</sup>

Of the population of Finland, 0,03% belong to the Sami people. There is a brochure in English on the Sami people in Finland attached to the present report.

## **Roma**

There are approx. 10,000 Roma in Finland. It is only possible to give an estimated figure as the Finnish law on the protection of personal data prohibits the registration of sensitive information indicating e.g. race or ethnic origin<sup>26</sup>. In addition, there are approx. 3,000 Finnish Roma living in Sweden. There are Roma in all parts of Finland but most of them live in the largest cities of Southern Finland. Attached to this report, there is a brochure in English on the Roma of Finland.

The position and the rights of the Roma population are promoted by the national Advisory Board on Roma Affairs and by the regional Advisory Boards on Roma Affairs.

## **Swedish-speaking Finns**

At the end of the year 2002, there were 290 251 Swedish-speaking Finns. Of the Finnish population, the share of Swedish-speaking Finns is 5,55%. Considering that Swedish is one of the two national languages of Finland, the Swedish-speaking Finns are not considered a minority as such but rather a *de facto* language minority.

The rights of the Swedish-speaking population of Finland are promoted by an organisation called *Svenska Finlands folkting*, also known as *Folktinget*<sup>27</sup>, which acts in order to develop the cultural and social rights of this population and to promote the position of the Swedish language in Finland. *Folktinget* has already been existing for 85 years. In the beginning of the year 2004, an Act on the organisation called *Svenska Finlands folkting* came into force (1331/2003)<sup>28</sup>. This Act revoked the Act on the Government subvention for the organization called *Svenska Finlands folkting* (902/1985). The new Act gives the rules on the organization of the *Folktinget*, now comprised in the rules of procedure, the status of a law.

## **Old Russians and other Russian-speaking population**

The so-called "Old Russians" are descendants of the Russians who moved to Finland primarily during the 19<sup>th</sup> century and at the turn of the 20<sup>th</sup> century. It is difficult to estimate the current size of this group, because the historical Russian-speaking minority in Finland has been joined by a large number of immigrants in the past decades. While Swedish-speakers are the largest language minority in Finland, the Russian-speaking persons constitute the largest non-territorial

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<sup>25</sup> <http://www.samediggi.fi>

<sup>26</sup> Personal Data Act (523/1999; section 11). The prohibition is not absolute but sensitive information may be registered subject to certain conditions provided by an act of Parliament or decree. There are further provisions of law on the publicity of such information.

<sup>27</sup> <http://www.folktinget.fi>

<sup>28</sup> The Government Bill for the Parliament on the Act on the organisation called Svenska Finlands folkting (HE 118/2003 vp.).

language group. There are approx. 33 400 Russian-speaking persons in Finland, of whom 24 998 are Russian citizens. The amount of the old Russians is estimated to be less than 5 000 persons.

It is challenging to enhance the use of the Russian language in Finland. While paying attention to the possibilities of those Russian-speaking persons who have lived in Finland for a long time, who have the Finnish nationality and who often have a perfect command of either Finnish or Swedish or both, to maintain their own native language, it is at the same time important to take account of the needs of new immigrants who also need to learn Finnish or Swedish in order to integrate into Finnish society.

In statistical terms, also many Ingrian returnees, who have returned to Finland in thousands within the framework of the return programme applied since the beginning of the 1990's, are included in the Russian-speaking population group. Their return is based on an initiative taken by President *Mauno Koivisto*, to accept those Ingrians who are of Finnish origin as returnees. In the course of their history, the contacts of Ingrian Finns with Finland and Finnish language have been disrupted on several occasions but many of them have nevertheless cultivated their Finnish identity. Ingrian Finns living currently in Finland wish to underline their relationship with the Finnish language. However, because the Ingrian Finns have faced various problems after moving to Finland, including unemployment, the criteria applied to the acceptance of their applications for returning to Finland have later been reviewed, *inter alia*, insofar as the required knowledge of one of the national languages of Finland is concerned.

*The Union of Finland's Russian-Speaking Societies* has criticized the division into the old Russians and the so-called new Russians, made for the purposes of the implementation of the Framework Convention, as being artificial and misleading, unfounded and useless.

## **Tatars**

There are approx. 800 Tatars in Finland, who are descendants of the tatars who moved to Finland from Russian Tatar villages of the Volga region at the end of the 19th century and at the beginning of the 20th century. The Tatars are the oldest Islamic minority in Finland. Tatars, having their historical origins in Turkey, speak a language which belongs to the group of Turkic languages. Most of Finnish Tatars live in Helsinki and in its surroundings.

The maintenance of the Tatar culture and language is enhanced by the Islamic Congregation in Finland, established in 1925. The Congregation organizes teaching in the Tatar language during summer and winter courses and publishes text books of the mother tongue and of religion in the Tatar language. A cultural society called *Finlandiya Türkleri Birliđi ry*, founded in 1935, and a sports club *Yolduz ry*, founded in 1945, operate with the support of the Congregation. The Tatar community also comprises the Islamic Congregation of Tampere, founded in 1943. The Tatars of Finland have created many international connections to other Tatar communities in different parts of the world.

## **Jews**

The Jewish community of Finland has about 1 440 members. Yiddish entered Finland in the 19th century. The Jewish people in Finland speak a dialect of north-eastern Yiddish, which may also be called Lithuanian Yiddish. Originally, Yiddish was the official language of the Jewish community in Finland but it has been replaced by Finnish, Swedish, Hebrew and English. Considering that Yiddish is mainly used in private communication between individuals, there is no reliable information on the number of persons speaking Yiddish. However, according to a rough

estimate, there are less than 50 persons, mainly old ones, who are able to understand and speak Yiddish.

The Jewish School in Helsinki teaches Hebrew and is entitled to state subsidies for this purpose. The school does not teach Yiddish but Yiddish is used in the activities of the school, e.g. in songs.

The Jewish Congregation in Helsinki has undertaken to revive the use of Yiddish. The congregation provides basic courses to adults and holds a discussion club in Yiddish. At present, there are approx. twenty adults participating in them. In addition, a newsletter published by the Jewish congregation, *HaKehila*, contains regularly an article written in Yiddish. A specific year of the Yiddish language has also been planned, to be implemented by the Congregation in cooperation with the Jewish School in Helsinki.

## **Åland**

Åland, consisting of more than 6,500 islands, is a province of Finland where only the Swedish language is used. The status of the Swedish language, the extensive autonomy and the competence of the Åland legislative assembly are provided for in a specific Act on the Autonomy of Åland (1144/1991). There are 26 000 persons living on the islands.

The special status of the Åland Islands is based on a decision given by the League of Nations in 1921. Between 1917 and 1921, the residents of the islands aimed at having the islands ceded back to their former mother country, Sweden. However, as Finland was not willing to lose the islands, they were offered an autonomous status instead of reannexation. The residents did nevertheless not approve the offer, and the dispute over the islands was finally submitted to the League of Nations. The latter decided that the Åland Islands were part of Finland but found that they should be made an autonomous area. Finland is under an obligation to ensure the residents of Åland islands a right to maintain the Swedish language, as well as their own culture and local traditions. At the same time, an international treaty was concluded on the neutral status of Åland, under which it is prohibited to place military headquarters or forces on the islands.

A protocol on the Åland islands (Protocol No 2) was attached to the Act of Accession of Finland into the EU. The special status that the Åland islands enjoy under international law is taken into account in the Protocol, as well as e.g. the regional citizenship of Åland.

According to the Act on the Autonomy of Åland, Åland is unilingually Swedish-speaking. The new Language Act does not concern the province of Åland (section 7 of the Language Act). However, according to the Act on the Autonomy of Åland, in a matter concerning himself a citizen of Finland shall have the right to use Finnish before a court and with other State officials in Åland.

## **ARTICLE 4**

- 1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.*
- 2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.*

3. *The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.*

### **Equality as a basic right**

After the release of Finland's first report, the new Constitution of Finland has been adopted on 11 June 1999 and it has entered into force on 1 March 2000. It has repealed the old constitutional acts: the Constitution Act of Finland of 1919, the Parliament Act of 1928, the Act on the High Court of Impeachment of 1922 and the Act on the Right of Parliament to inspect the Lawfulness of the Official Acts of the Members of the Council of State, the Chancellor of Justice and the Parliamentary Ombudsman, also of the year 1922. The list of basic rights of the Constitution Act, renewed in 1995 (969/1995), was included, with unchanged contents, in the new Constitution.

For the Framework Convention, the most important new basic rights provisions are the following:

Constitution, section 6: equality

Constitution, section 11: freedom of religion and conscience

Constitution, section 13: freedom of assembly and freedom of association

Constitution, section 17: right to one's language and culture; position of the Sami as an indigenous people

Constitution, section 21: protection under the law

Constitution, section 22: protection of basic rights and liberties

Constitution, section 106–118: provisions on the supervision of legality.

As to the detailed justifications of the basic rights provisions, general reference can be made to the Government Bill on the amendment of the basic rights provisions of the Constitution<sup>29</sup> and to the memorandum concerning this Bill by the Constitutional Law Committee of Parliament<sup>30</sup>.

In accordance with section 6 of the Constitution, everyone is equal before the law. No one shall, without an acceptable reason, be treated differently from other persons on the ground of sex, age, origin, language, religion, conviction, opinion, health, disability or other reason that concerns his or her person. Children shall be treated equally and as individuals and they shall be allowed to influence matters pertaining to themselves to a degree corresponding to their level of development. Equality of the sexes is promoted in societal activity and working life, especially in the determination of pay and the other terms of employment, as provided in more detail by an Act.

### **Other new provisions concerning linguistic and minority groups**

In addition to Chapter 2 concerning the basic rights, provisions concerning linguistic and minority groups are included also in other parts of the Constitution. In accordance with section 121(4) of the Constitution, in their native region, the Sami have linguistic and cultural self-government, as provided by an Act (earlier Section 51 a of the Constitution Act). In accordance with section 122(1) of the Constitution, in the organization of administration, the objective shall be suitable territorial divisions, so that the Finnish-speaking and Swedish-speaking populations have an opportunity to receive services in their own language on equal terms (earlier Section 50(3) of the Constitution Act).

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<sup>29</sup> HE 309/1993 vp.

<sup>30</sup> PeVM 25/1994 vp.



The hearing of the representatives of the Sami when considering a legislative proposal or another matter which especially concerns the Sami is provided in Section 37(2) of the Rules of Procedure of Parliament (earlier Section 52 a of the Parliament Act).

The new Language Act (423/2003), which specifies the right granted in Section 17(2) of the Constitution of every person to use his or her own language, either Finnish or Swedish, before courts and other authorities and to receive official documents in this language, entered into force on 1 January 2004. The Language Act will be dealt with more in detail under article 10.

The Act on the Use of the Sami Language before the Authorities (516/1991) was repealed by the Sami Language Act (1086/2003)<sup>31</sup>, which came into force at the same time as the new Language Act.

### **Non-discrimination Act**

The purpose of the new Non-Discrimination Act (21/2004) is to foster and safeguard equality in the different sectors of society. The Act prohibits discrimination on the basis of age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability or sexual orientation. In accordance with the Act, both direct and indirect discrimination is prohibited. Also harassment or an instruction or order to discriminate is prohibited. The Non-Discrimination Act came into force on 1 February 2004.

The new Act and the amendments of Acts related to it implement (1) Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and (2) Council Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, both Acts of Community law. The purpose of these directives is to create a framework to fight against discrimination on prohibited grounds with a view to implementing the principle of equal treatment in the Member States of the European Union.

In accordance with the Non-Discrimination Act, different treatment relating to a prohibited discriminatory ground is not classified as discrimination if there is a reason for it provided by law, such as a genuine and determining requirement relating to a specific occupational activity and the performance of that activity. Different treatment based on age is not considered discrimination when it has a justified purpose that is objectively and appropriately founded and derives from employment policy, labour market or vocational training or some other comparable justified objective. Moreover, a procedure based on an equality plan is not considered discrimination. Victimization is prohibited, that is, no one may be placed in an unfavourable position or treated in such a way that they suffer adverse consequences because of having taken action to safeguard equality.

The Non-Discrimination Act applies to recruitment, employment and working conditions, personnel promotion, access to training, conditions for self-employment and support for business activities. Moreover, its scope of application includes membership and involvement e.g. in an organisation for workers or employers.

The Act also prohibits discrimination based on ethnic origin concerning social and welfare services, social security benefits or other forms of support, rebate or advantage granted on social grounds. This applies also to the performance of military service, women's voluntary military service or non-military service as well as to the supply of or access to goods, property and services, including housing, that is offered or made available by other than private individuals.

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<sup>31</sup> Government Bill on the Sami Language Act (HE 46/2003 vp).

Central and local authorities have, in accordance with the Non-discrimination Act, the duty to draw up a plan for the fostering of ethnic equality in their action. The draft general recommendations for the content of these plans, issued by the Ministry of Labour, has been circulated for comment. The draft pays attention e.g. to the situation of the Roma and to the rights of the Sami as an indigenous people. The recommendations for the authorities will be given as a letter from the Ministry of Labour during the end of the summer 2004.

The Act provides for the division of the burden of proof in discrimination cases. For infringement of the provisions of the Act, a compensation, which shall not exceed 15 000 euros, may have to be paid to the injured party.

In work and employment relations, compliance with this Act shall be supervised by the labour protection authorities. In other fields, monitoring of discrimination on the basis of ethnic origin belongs to the Ombudsman for Minorities and to the new Discrimination Board. The Ombudsman for Minorities may provide recommendations, instructions and advice. Moreover, the Ombudsman can be requested to take action, for example to organise meetings in order to find reconciliation between the parties. The aim is that the parties would reach a consensus satisfying enough for both in relation to compensating the damages caused to the discriminated person.

The Ombudsman for Minorities may forward the case to be examined by the new Discrimination Board, fostering ethnic equality. The Board was founded by the Government for a period of four years on 19 February 2004. The Discrimination Board increases the factual availability of legal protection. The Board may, at the initiative of a party or of the Ombudsman for Minorities, reinforce the reconciliation or prohibit continuation or renewal of procedures contrary to the prohibition of discrimination or of victimization. The Board may attach to the duty it has imposed the threat of a fine and, where necessary, impose a conditional fine. The Discrimination Board, attached to the Ministry of Labour, does not in practice replace the existing appeal procedures or authorities and it does not have the competence to change the decisions of these authorities.

When examining the proposition for the Non-Discrimination Act, the Parliament's Employment and Equality Committee considered important in its memorandum<sup>32</sup> that the authorities, when drafting equality plans, take into account not only the immigrants but also our own national minorities, the Sami and the Roma. According to the Committee, special attention should be paid to the rights of the Sami as an indigenous people and to securing the most important material basis of the Sami culture, the reindeer herding. The authorities shall systematically promote the possibilities of the Sami to exercise reindeer herding and to make their living by it. As to the Roma, their main problems are related to the availability of services, housing and employment.

### **Act on the Integration of Immigrants**

The objective of the Act on the Integration of Immigrants (493/1999), which entered into force in 1999, is to promote the integration, equality and freedom of choice of immigrants through measures which help them to acquire the essential knowledge and skills they need to function in society, and to ensure the essential livelihood and welfare of asylum-seekers and those who need temporary protection by arranging for their reception. In 2002, a provision concerning the promotion of ethnic equality and good ethnic relations was added in the Act. The obligation concerns the communities and other authorities responsible for drafting the integration

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<sup>32</sup> Memorandum of the Employment and Equality Committee 7/2003 vp.

programme. In order to implement the provision, the Association of Finnish Local and Regional Authorities and the co-operation parties involved in the integration have trained actors whose task it is to promote the aspects in question.

When adopting the Integration Act, the Parliament required the Government to monitor the functioning of the Act and to give in three years of its coming into force a report which takes into account the different aspects related to the ensemble of the renewal.

The report of the Council of State on the implementation of the Integration Act was given to the Parliament in May 2002. According to the report, the Act is felt to be well-functioning and necessary. The Act is also considered to have improved the position of the immigrants. Since the development of practices and the defining of co-operation parties is still going on in many municipalities as well as in the labour administration, the Parliament presumed in its response that the Government give the Parliament a new report on the functioning of the Immigration Act in five years, that is, at the latest in 2007. The amendment proposals concerning the Integration Act included in the report will be given to the Parliament during 2004.

### **Nationality Act**

Finland's new Nationality Act (359/2003) entered into force on 1 June 2003. The Act replaces the former Nationality Act, which was adopted in 1968. The most significant change is that the new Nationality Act provides for a wider application of multiple nationality (dual nationality). Finnish nationals will no longer lose their Finnish citizenship when they assume another citizenship. Similarly, aliens who are granted Finnish citizenship will not need to give up their former citizenship. The legislation of the other country determines whether a person can have another citizenship besides the one he or she already has. The provisions of the Act concerning the loss of or release from a citizenship cannot be implemented if the person in question would, as a result of this, become stateless. The Nationality Act is attached to the present report.

### **Employment Contracts Act**

The Employment Contracts Act (55/2001), which entered into force in 2001, is a general Act containing the main provisions relating to employment relationships which the employer and the employee have to observe. The Employment Contracts Act requires an equal treatment of employees and prohibits discrimination. In the new Act, discrimination in work is regulated in the way that the provisions of Section 17 of the former Employment Contracts Act (320/1970) are included, in an expanded form, in Chapter 2, Sections 1 and 2 of the new Employment Contracts Act.

The Employment Contracts Act contains a general obligation, according to which the employer shall in all respects work to improve employer/employee relations and relations among the employees. The employer shall also strive to further the employees' opportunities to develop themselves according to their abilities so that they can advance in their careers.

The employer shall not exercise any unjustified discrimination against employees on the basis of age, health, national or ethnic origin, sexual orientation, language, religion, opinion, family ties, trade union activity, political activity or any other comparable circumstance. Provisions on the prohibition of discrimination based on gender are laid down in the Act on Equality between Women and Men (609/1986). The employer must also otherwise treat employees equally unless there is an acceptable cause for derogation deriving from the duties and position of the employees.

Equality means similar treatment of people in similar cases. Equality aspects are important both when granting advantages and when imposing obligations. The requirement of equal treatment can be deviated from only when there is a justified reason referred to in legislation. The starting point of the principle of equal treatment is that comparable employees shall be treated equally in similar situations. The provision in the Penal Code on work discrimination complements and strengthens the prohibition of discrimination of the Employment Contracts Act.

### **Act on the Protection of Privacy in Working Life**

The new Act on the Protection of Privacy in Working Life (759/2004) comes into force on 1 October 2004 and replaces the Act which entered into force in 2001 (477/2001). The purpose of the Act is to implement the protection of private life and other basic rights safeguarding privacy in working life, and to promote compliance with good data processing practice. The Act provides for processing of personal data concerning the employee, testing and examination of the employee and the requirements concerning these tests and examinations, technical monitoring at the work place and searching and opening of the employee's electronic mail messages.

### **Rights of social welfare clients**

The Act on the Status and Rights of Social Welfare Clients (812/2000) entered into force on 1 January 2001. The Act contains the central legal principles of participation, treatment and legal protection of social welfare clients. The Act on Social Welfare Clients has many points in common with basic and human rights. The new Act also promotes the change of professional practices and attitudes.

The purpose of the Act on the Status and Rights of Social Welfare Clients is to promote client-oriented services, the confidentiality of client-service provider relationships and the client's right to good service and treatment in social welfare. The above-mentioned aspects can be considered as components of good administration of the social welfare services. People should be aware of the different rights and alternative courses of action which are available for them. Increasing the right of access to information of the client is also one of the aims of the Act.

The Act also contains a provision on the right of the client to quality social welfare and good treatment without discrimination. This provision has a connection with the basic rights secured in the Constitution, at least to equality, the right to privacy, freedom of religion and conscience and right to one's language. Good treatment in social welfare would also encompass the integrity of human dignity. In implementing social welfare, the own language and cultural background of the client will also have to be taken into account.

A lot of training concerning the Act on the Status and Rights of Social Welfare Clients has been organised, and there is a booklet concerning the Act for the clients (publications of the Ministry of Social Affairs and Health 2001:1) in several languages, e.g. in Finnish, Swedish, Russian, English, German and Somali. There is also an easy-to-read version of the booklet. Moreover, there is a guidebook available concerning the Act (Ministry of Social Affairs and Health 2001:11), the purpose of which is to provide support for social welfare organised by officials and private persons and for the social welfare clients themselves.

### **Social and welfare centres of expertise**

Social and welfare centres of expertise started their continuous action at the beginning of 2002, when the legislation entered into force and the centres were granted a special government

subsidy. The specific national duty of the Social and welfare centre of expertise of Northern Finland is the development of welfare services for the Sami people on the basis of the Sami culture. Social and welfare centre of expertise of Northern Finland receives 1.5% of the total amount of government subsidy in order to take into account the service needs of the Sami population. The Sami unit of the centre is organised by an agreement as part of the Sami Parliament. The Sami unit is located in the premises of the Sami Parliament in Inari and its action is directed by the Social and Health Board of the Sami Parliament. There is a planning officer working in the unit, and the wages of this employee are paid through the University of Lapland.

### **Human and basic rights monitoring conducted by the Chancellor of Justice**

The questions related to the protection of minorities come up in the work of the Chancellor of Justice, as part of Constitution based monitoring of human and basic rights, in the form of decisions given to complaints and in the form of statements given mainly on draft bills under the supervision of the Council of State.

In relation to the conclusions adopted by the Council of Europe, among the latest decisions of the Chancellor of Justice can be mentioned the statements on the proposition of the Sami Parliament concerning the new Sami language Act (register No 9/20/02), the proposition concerning an advisory board of the nature conservation area in the Sami Homeland (register No 20/20/02), and the statement on the reports concerning the rights of the Sami (register No 52/20/01). The status of the Ombudsman for Minorities in giving statements in relation to the requirement of legal protection has been dealt with in the comment concerning the hearing of the Ombudsman for Minorities. The question concerning the obligation imposed by the Constitution and the language acts to serve customers from both language groups according to the same principles is repeated in the decisions in relation to complaints (register Nos 1144/1/00, 309/1/01).

### **Observations on complaints submitted to the Ombudsman by minority groups**

The complaints related to minority rights probably reflect for their part the degree of implementation of essential human and basic rights in Finland. The Ombudsman monitors the treatment of minorities also during his inspections e.g. in prisons and other establishments.

Dozens of complaints are submitted to the Ombudsman every year by minority groups (including the traditional minorities referred to in the Framework Convention and other minority groups, such as the aliens and the Ingrians). For example, in 2003, there were 23 complaints which can be classified as language complaints (in 2002, about 30 language complaints were submitted). Cases are classified as language issues in the Ombudsman's office when related to the right to use one's own language, Finnish or Swedish, which is secured in Section 17 of the Constitution, or when related to the securing of linguistic rights in general. In the complaints submitted in 2003, e.g. the insufficient language skills of the emergency centre, the implementation of the Language Act in communication in the Internet and the naming of streets in bilingual municipalities were criticised.

The complaints concerning alleged discrimination in the action of the authorities are not filed as a separate group in the statistics. According to the information in the register of the Ombudsman's office, in 2002, about 15 complaints were submitted where the action of the authorities was allegedly discriminatory (in 2001 about 20 such complaints were submitted). The alleged discrimination varies considerably. There were, for example, suspicions about discrimination at work or in prison. The Ombudsman has received some complaints which refer to the fact that

there are still problems in finding housing for the Roma in some cases. The Ombudsman will continue to monitor the development of this situation as far as it is possible in the framework of legal monitoring. It has to be remembered that the legal monitoring conducted by the Ombudsman is directed only to the authorities and the carrying out of official tasks.

The aliens living in Finland (immigrants, refugees or e.g. Ingrians) have during the last years submitted 30–40 complaints to the Ombudsman each year. The complaints related to the administrative section of the different ministries (Ministry of the Interior, Ministry for Foreign Affairs, Ministry of Labour, Ministry of Social Affairs and Health) are classified as made by foreigners when these complaints deal with issues related to the Alien's Act or the Nationality Act. The complaints made by foreigners are mostly aimed at the Directorate of Immigration, the Ministry for Foreign Affairs, the police or the border authorities. These complaints have been related to e.g. the process of issuing a residence permit, the family unification or the turning back of a foreigner from the country.

In 2003, in total 2,498 complaints were submitted (in 2002 there were 2 623). There have therefore been only few complaints relating to ethnic origin/minority position. It can thus be presumed that the threshold for immigrants and other representatives of ethnic minorities to submit a complaint is higher than for the original population. In addition to this, their knowledge of the Ombudsman institution is supposedly lesser than that of the original population.

The Ombudsman has during the last years tried to increase the contacts with the representatives of the so-called civic society. E.g. in 2002, the office of the Ombudsman organised meetings with the central non-governmental organisations working in the field of human rights questions. The aim of the meetings was to gain information on the actions of these organisations and to hear their concerns in relation to human rights, for example in relation to discrimination or position of the minorities. In 2003, the Ombudsman's office organised a meeting also with representatives of the Roma population.

Efforts have been made to increase the knowledge of the minorities and other groups of the Ombudsman's tasks also by editing new booklets, which are being distributed largely to authorities, non-governmental organizations and e.g. to libraries. In addition to Finnish, Swedish and English, the booklet has been drafted in the Sami and Russian languages as well. The booklet and the complaint form are also available in the web. The Web site of the Ombudsman is also being renewed<sup>33</sup>.

### **Prosecuting authorities and minority rights**

The prosecuting authorities do not have specific statistics which would enable the Prosecutor General to follow closely the consideration of charges or conviction practices in cases where the person may have been the object of discrimination, hostility or violence or may have experienced such a threat because of his or her ethnic, cultural, linguistic or religious identity. This kind of cases are, however, taken seriously and the situation is monitored in different ways. The authorities try to react quickly and properly in the cases that come to their attention.

The cases of this kind are monitored in the prosecution units during the regular monitoring visits in these units. In addition to this, the local prosecutors are, according to the directions of the Prosecutor General 1998:1, given on 24 February 1998, obliged to inform to the Prosecutor General's Office about criminal cases significant for the society, the most important of which are ordered to be prosecuted by a State prosecutor. According to the directions, the criminal case can have societal significance in the sense referred to in the instruction if it is e.g. a crime which has a clear political or racist motive. A few announcements made on these grounds arrive in the

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<sup>33</sup> <http://www.oikeusasiamies.fi/Resource.phx/EOA/index.htm>

Prosecutor General's Office every year, and usually the case concerns discrimination or incitement to racial hatred. The number of the announcements has not increased during the monitoring period. No such criminal cases have been ordered to be prosecuted by State Prosecutors.

In the basic education of the prosecutors, the aspects of minority protection are dealt within the section concerning human rights.

### **Deputy Prosecutor General's decisions on minority issues**

One of the central tools of the Prosecutor General's Office in monitoring the prosecuting authorities are the Deputy Prosecutor General's decisions in relation to complaints concerning the action of the prosecutors. The most important decisions are summarised, and the summary is published on the web site of the Prosecutor General's office<sup>34</sup> and used in training. During the monitoring period, e.g. the following decisions in relation to complaints concerning minorities can be mentioned:

*Decision 146/21/00, given on 5 May 2000:* The district prosecutor had, because of insufficient evidence, made a decision of non-prosecution in the case relating to alleged discrimination. In the decision, following a complaint, it has been considered that three directors of a municipal joint-stock property company were guilty of discrimination. They had in business activity without an acceptable reason placed the complainant in a significantly worse position, because the persons in question belonged to the Roma tribe, when they had in the board of the joint-stock property company decided that the company would not rent an apartment to the complainants. Since the complaint was made only after ten months had elapsed after the decision of non-prosecution and the limitation of prosecution was already near, the defendants were not prosecuted, in accordance with Chapter 1, Section 8(1) of the Criminal Procedure Act, on the basis of reasonableness.

*Decision 95/21/03, given on 31 March 2003:* Two employees of a department store had on two occasions on the same day not served customers belonging to the Roma tribe according to the conditions usually obeyed when they without an acceptable reason denied to accept the bank cards offered by the customers to pay for the purchase. The superior of the check-out personnel had one year earlier given an instruction according to which only cash and no bank cards would be accepted from the Roma when paying for their purchases. The denial of one of the check-out employee was due to this instruction.

The district prosecutor had not prosecuted the check-out employees for discrimination due to the minority of the offence, since their guilt had to be considered as minor because of the instruction given by the superior. The district prosecutor found that there was no evidence of the superior of the check-out employees having committed the discrimination offences in question as the instructions had been given earlier, they had been of a general nature and their purpose had been to prevent the misuse of bank cards and since the superior had during the events been on annual leave and his employment had ended after the annual leave.

As the result of the complaint on the decisions of non-prosecution, the check-out employees and their superior were ordered to be prosecuted for discrimination. The instruction given by the superior had clearly been discriminating and illegal. The employee who knew the instruction had had enough time to think about how to take the instruction. The discrimination crimes of the check-out personnel could not be considered as minor. The superior was guilty of discrimination by giving the employees the instruction not to serve a certain group. The superior had not annulled the instruction. It was not yet obeyed at the time the events in question took place. The

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<sup>34</sup> <http://www.oikeus.fi/vksv/>

right to institute criminal proceedings still existed, even though the instruction had been given more than two years earlier.

*Decision 114/21/03, given on 31 March 2003:* A goldsmith had refused to offer the work performance asked for by the customers because they belonged to the Roma tribe. The shop had repeatedly received complaints from the Roma concerning the work performances. In the pre-trial investigation the goldsmith had given as a reason to the above-mentioned denial also the fact that the shop had no possibility to offer such a work performance to anybody in a reasonable price, because the shop did not have the tools necessary for the work. The price of his work would have been many times higher than that of a colleague proposed to the customers by him. The district prosecutor had made a decision to restrict the pre-trial investigation in the case because of the minority of the suspected discrimination crime. However, the documents received by the prosecutor did not lead to a conclusion that the issue had been minor. As the result of the complaint made in relation to the decision of the prosecutor, the police were asked to complete the pre-trial investigation.

*Decision 199/21/03, given on 16 May 2003:* A restaurant had refused to serve for a group of Roma people. When discussing the matter it appeared that the employees of the restaurant had been given a discriminating instruction concerning serving the Roma. The district prosecutor had not prosecuted considering that the refusal to serve was not due to the customers belonging to the Roma tribe but to the fact that there had been a disturbance earlier, and that it was therefore not a question of discrimination. The Deputy Prosecutor General draw the prosecutor's attention to this error. The complainants had already earlier initiated a private prosecution in the case.

The Prosecutor General's office, as the central authority of the prosecution authorities, considers that the racist or otherwise discriminating phenomena against minorities cannot be effectively prevented only by using one tool but that co-operation between authorities and citizens and a continuous search of new means are needed. The prosecutors must in their work estimate the events related to race hatred and discrimination clearly from the criminal point of view and ensure that appropriate measures are directed at the suspects. The Prosecutor General's office continues to monitor closely the action of the prosecutors in this respect.

### **Racist criminality**

The police have been following organised and racist action groups, and offences have been interfered with immediately. Training has been increased in order to enable the police to recognise better the offences with racist motives and to carry out the pre-trial investigation in an effective way.

In Chapter 6, Section 5 of the Penal Code which entered into force in the beginning of 2004, it is considered as grounds increasing the punishment if the offence has been directed at a person belonging to a national, racial, ethnic or other population group due to his/her membership in such a group<sup>35</sup>. Therefore the police will have to pay more attention than before to finding a motive for the deed. This has been taken into account in police training.

The development of racist criminality has been monitored e.g. on the basis of statistics and the change of attitudes through different surveys and studies. Since 1997, the Police Department of the Ministry of the Interior prepares annually a report of the racist crimes which have come to the attention of the police. According to the reports, the number of the racist crimes, known to the police, has continuously decreased since the year 2000.

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<sup>35</sup> The Act 515/2003.



In 2002, total of 364 racist crimes came to the attention of the police. The most common racist crimes were assault (28%) and vandalism (16%). Of the racist crimes, 36% were committed in a public place, such as streets or stations. About two thirds of the racist crimes were committed during the evening and the night. The number of the victims of the racist crimes was 348. Most racist crimes were directed at Somali citizens.<sup>36</sup>

The crime information system of the police is not necessarily sufficient to distinguish all the racist crimes which are directed e.g. at the Roma, since Finnish legislation prohibits the processing of personal data e.g. on the basis of race or ethnic origin. A specific entry will have to be made in the information system if the motive of the crime is racist. However, the motive of the deed is not often known at the time the crime is recorded, so this does not solve the problem.

### **Discrimination experienced by the Roma**

The Advisory Board on Roma Affairs has repeatedly pointed out the factual discrimination directed towards the Roma. Regardless of the renewed and developed legislation against discrimination, the Roma experience discrimination at the labour market and in the availability of private services. There are several examples of factual discrimination. The Roma can be collectively denied entry into restaurants, shops and camping places because of their traditional clothing and/or ethnic origin, or their entry can be restricted by letting inside the shop only one person at a time. The Roma of Finland are, however, more conscious than before of their own rights and prosecute for discrimination more often than earlier. About 20 discrimination cases are treated in the lower courts yearly and the number of the cases can be expected to be increasing because of a better conscience of the rights.

The district courts have in most cases ordered day-fines for shopkeepers and doormen who have been found guilty of discrimination. The day-fines may have been considered a small punishment, the result of which has sometimes been that even the same doorman can be accused several times without his changing his practices of letting people in. The Advisory Board on Roma Affairs has therefore stressed that equality should be implemented in practice primarily without court procedures. On the basis of the citizens contacting the *Finnish League for Human Rights*, it can be stated that in discrimination cases, the criminal sanction, that is, the small day-fine imposed on the doorman, does not usually have an effect on the practices of the restaurant. Therefore the Finnish League for Human Rights has encouraged the Government to think about other actions, for example administrative measures. The League has proposed that a continuous indifference in relation to discrimination provisions could lead to a temporary termination of the licence of the trader.

### **Employment of the Roma**

According to the memorandum of the Ombudsman for Minorities concerning the employment of the Roma, drafted in the spring of 2003, the Roma are in the same position as the main population in relation to the services offered by the labour administration, because in Finland the customers of the employment offices are not classified on the basis of their ethnic origin. This, in turn, makes it more difficult to focus the employment services on the Roma. On the basis of the memorandum, the labour administration started a study on the factors having an effect on the employment of the Roma.

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<sup>36</sup> Racist criminality which has come to the notice of the police in 2002. Publications of the Ministry of the Interior 12/2003.

According to this study, it has, however, appeared that there are so many insecurity factors related to estimating the number of job applicants with Roma origins and to the assessment of their unemployment rate that the results of the study are suggestive only. If, however, it is presumed according to the results gained that there are about 10,000 Roma persons living in Finland, about half of whom belong to the labour force, the unemployment rate of the Roma would be, according to the survey, about 20%.

According to the statements of the different employment offices participating in the study, the promotion of the employment of the Roma requires measures which support the following:

- occupational training,
- guidance in relation to subsidised employment,
- completion of comprehensive school education,
- practical training/ training for working life/ work testing and career guidance.

According to the opinion of the Ministry of Labour, the services of the labour administration offered to the Roma can be further expanded by increasing co-operation and staff training on different levels of administration. Also a more detailed assessment of the service needs of the job applicant, which constitutes the basis for the strategy of the labour administration with the help of which a thorough estimate of the needs and skills of the job applicant is made together with the job applicant, enhances the surveying of the employment conditions of the Roma and preventing long-term unemployment. Special attention should be paid to a more intense co-operation of the local and regional organisation of the employment administration, the social and welfare administration and other regional and local actors with the regional organisation of Roma affairs. The employee service centres founded in the beginning of 2004 enable a more comprehensive support to all unemployed job applicants in finding their place at the labour market. The services offered are also available to the Roma.

The regional organization of the labour administration has been requested to nominate a contact person of Roma affairs in every employment office and in the employment departments of Employment and Economic Development Centres. Moreover, a request has been made to organise staff training on ethnic equality and on the Roma culture and to take into account these aspects in the work of the employment offices. Occupational training and language training should be organised in co-operation with a representative of the Roma population. Guidebooks in the Roma language on e.g. the services of the employment offices shall, when possible, be drafted in co-operation with the Advisory Board on Roma Affairs subordinate to the Ministry of Social Affairs and Health.

The Ministry of Labour monitors regularly the application of the above propositions e.g. by making a new survey among the employment offices in 2005.

The Ministry of Labour is also represented in the management group of the Education Unit for the Romany Population, subordinate to the National Board of Education. The management group monitors and makes propositions to promote the school going and education of the Roma youth, strengthening in this way indirectly the position of the Roma youth in the labour market. Through the non-discrimination project of the European Union, a new support programme for the school going of the Roma children has been created in the JOIN project<sup>37</sup> administered by the Ministry of Labour in the capital city region. Preventing discrimination against the Roma on the labour market has been strengthened after the coming into force of the new Non-Discrimination Act.

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<sup>37</sup> <http://www.join.fi>

The Roma still experience discrimination in the labour market and most of all when they apply for a job. The problems of the Roma in the labour market have been for example the following:

difficulties in finding work despite suitable education;  
difficulties in finding apprenticeship contracts since the employees are unwilling to the contract;  
difficulties in getting municipal subsidised jobs, because the municipalities are not willing to employ.

The Roma need to be supported by the labour and education authorities in order to be educated. Completion of comprehensive school and professional education are still not self-evident for the Roma. Correspondingly, the employment of the educated Roma requires support measures. Even though Finland's anti-discriminatory legislation is comprehensive, its implementation is not satisfactory. Awareness of the illegality of discrimination at work has increased, but there are still prejudices against the Roma, and individual employers are guilty of discriminating the Roma at work because of their ethnic origin.

### **Roma and housing**

Generally speaking, the Roma of Finland are not homeless, and they live in the same areas and have the same level of apartments as the main population. In relation to apartments granted for social reasons, the Roma are in an equal position with the other applicants. The most of the housing difficulties for Roma are in one way or another related to his or her difficult situation, which would require rapid solutions and financial resources. Difficult situations in life are caused e.g. by the death of a family member, divorce and moving from the common home, or financial difficulties. Discriminatory and prejudiced attitudes, especially in the private housing market, make it more difficult to find or to change an apartment. With the housing problems, the situation of the person in question and his or her family becomes more difficult. The guidance and advice offered by the municipalities has not been sufficient and cultural features have not been taken into consideration sufficiently when trying to solve the situation.

The Ministry of the Environment, responsible for housing, has paid special attention to equality and to the prohibition of discrimination, agreed upon in the Treaty establishing the European Union or the so-called Amsterdam Treaty, in its guidebook concerning the choice of inhabitants in relation to state-subsidized housing or rented flats with interest subsidy loans<sup>38</sup>. The latest guidebook has been published in March 2003. In relation to the Roma, the taking into account of the Roma culture, where possible, when distributing apartments is emphasized in the guidebook.

The Ministry of the Environment has in co-operation with the Advisory Board on Roma Affairs produce in the summer of 2000 a guidebook on the special features of the Roma culture called *The Special Aspects of Housing in Roma Culture*<sup>39</sup>. The guidebook is designed for the use of housing authorities of the municipalities and other parties responsible for housing. The purpose of the guidebook is to offer the authorities facts on the Roma and to enhance the finding and change of apartments for the Roma.

The Advisory Board on Roma Affairs has emphasized the meaning of the new Non-Discrimination Act in granting rented flats for social reasons and e.g. in the field of house management, even though a private company were in charge of this. The Advisory Board has stated that especially from the point of view of the Administrative Procedure Act, only approving decisions are made in communities in relation to housing applications, and the possibilities to

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<sup>38</sup> Arava- ja korkotukivuokra-asuntoja koskeva asukasvalintaopas. Ympäristöopas 102. Asuminen. Ympäristöministeriö 2003.

<sup>39</sup> Malla Pirttilahti. Romanikulttuurin erityispiirteet asumisessa. Ympäristöopas 77. Ympäristöministeriö 2000.

receive information on the progress of applicant's application are very weak before the decision is made. According to the opinion of the legal monitoring authorities, it is not completely clear whether there is an obligation to make a decision which can be appealed against when choosing the inhabitants. Perhaps the legislation should be clarified in this respect. In practice, a Roma applying for an apartment or for the change of an apartment may be queueing for an unlimited time but is not able to complain or appeal against this, because this could only be done in relation to decisions.

The practices concerning the rented flats owned by the municipalities or utility property companies resemble more and more the private housing market. According to contacts to the Advisory Board, the rent guarantees and the creditworthiness of the customer required by the owners of the flats hinder the Roma who live in a weak economic situation from receiving or changing apartments. Regardless of the guidance, which is in principle good, and of the comprehensive legislation, the spirit of non-discrimination is not always applied in the practical solutions. There have been problems e.g. in the inhabitant choices of the property companies which administrate the rented apartments. The new Non-Discrimination Act improves considerably the anti-discriminatory legislation and its monitoring.

The Ombudsman for Minorities and the *Finnish League for Human Rights* have been contacted by Roma, according to whom there are, unfortunately, differences between municipalities in distributing rental apartments. The contacts and complaints show that the Roma still have difficulties in getting into the market of rental apartments. The complaints made by the Roma especially concern the choice of inhabitants and the change of an apartment. The Roma are dependent on the production of public rental apartments, since on the private renting market, the Roma still have difficulties in getting an apartment because of prejudices and because of their below average economic position. There have also been changes in the choice of renters, which have moved the choice of renters in more and more municipalities directly to property companies. In such a situation, more efficient monitoring by the public authorities would be needed in order to avoid possible discrimination situations.

## **ARTICLE 5**

*1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.*

*2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.*

### **Finnish legislation**

In the legislation of Finland, Section 17 of the Constitution corresponds to the contents of the present article. The Section in question concerns the right to one's language and culture. Paragraphs 1 and 2 state Finland's bilingualism and the equal status of Finnish and Swedish as the national languages and guarantee the rights of individuals and groups related to this. The provision employs the term 'own language', instead of the term 'mother tongue'. The public authorities encompass both the State and the municipalities. The provision on the public authorities has a special meaning in the organising of, for example, public services, schooling and other education and information in the own language. Everyone has the right to use his or her own language, either Finnish or Swedish, before courts of law and other authorities, and to

receive official documents in that language. As to paragraph 3, it guarantees the linguistic and cultural rights of the Sami as an indigenous people, the Roma and other groups.

In accordance with the Act on the Autonomy of Åland (1144/1991), the official language of Åland is Swedish. However, in a matter concerning himself a citizen of Finland shall have the right to use Finnish before a court and with other State officials.

The Constitution guarantees everyone the freedom of religion and conscience. The right of the minority groups to practise their own religion and the new Freedom of Religion Act (453/2003) are discussed under article 8.

### **Immigrant policy plan**

There is no specific integration policy concerning national minorities in Finland. The Government adopted in 1997 a decision in principle on an immigrant and refugee policy plan which concerns returnees, refugees and asylum seekers. National and international development in immigrant and refugee affairs has been so fast that the program is already, to a great extent, outdated. The Ministry of Labour has set a working group to prepare a new immigrant policy plan according to the program of Prime Minister *Matti Vanhanen's* Government.

The task of the working group is to prepare for the ministerial group a proposition on the immigrant policy plan until the end of May 2005. The working group also prepares matters requiring coordination between different fields of administration for the ministerial group of immigrant policy. The working group, consisting of three divisions, has representatives from the Ministries responsible for immigrant issues and it has been extended by a representative from the Association of Finnish Local and Regional Authorities. The division dealing with the international movement of work force has also representatives from the labour market organisations and the Federation of Finnish Enterprises.

### **Supporting minority cultures**

The public forms of support for culture and arts are available to everyone in the population regardless of their ethnic origin. The services of the Finnish culture and arts as well as their support systems have been created in a unicultural period from the needs and premises of the main population of Finland. Therefore the threshold, due to linguistic and cultural differences, to use the services and support in question can be higher for the immigrant artists and minority culture associations than for the main population. The Ministry of Education has a specific appropriation for granting state subsidies to support minority cultures and to promote anti-racist work. Every year, EUR 252 000 have been reserved for this purpose in the State budget.

Subsidies for minority cultures are granted for cultural and publishing activities of ethnic and linguistic minorities. Central actors include immigrants, such as migrants, refugees and asylum seekers and the traditional national minorities of Finland, such as the Roma and the old Russians. The needs of the Swedish language cultural activities have been taken into account as a part of the general subsidy policy of the Ministry of Education. In addition to artistic activity, subsidies may be granted e.g. to youth activities, cultivating and developing the own identity of minority culture groups, different club activities and presenting the culture of different minority cultures to the main population.

The Sami culture is in the midst of a period of strong growth. Artistic activities, association activities and cross-border co-operation are lively. The Sami Parliament is granted each year a specific allowance of EUR 168 000 to support the culture in the Sami language and the operation

of the Sami organisations. The cultural appropriation is an important support for the Sami community, and it has helped to revive the culture in the minority language of Sami. According to the Sami cultural autonomy principle, the decisions concerning the distribution of the appropriation in question are made by the Sami Parliament. Moreover, the Ministry of Education has, in cooperation with the Sami Parliament, supported the operation of Nordic artistic associations of Sami artists.

### **Definition of a Sami**

The definition of a Sami is comprised in Section 3 of the Act on the Sami Parliament (974/1995). In comparison with the earlier definition, the criteria have been somewhat loosened. The starting point remains that the person must consider himself a Sami. Moreover, a basic rule is the linguistic connection to the Sami people. In accordance with the Act, a person is considered a Sami if he himself or at least one of his parents or grandparents has learnt Sami as his first language.

The following requirement was included in the Act on the Sami Parliament as a new ground to accept a person to be a Sami: 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. A person who wishes to be a Sami on these grounds does not have to present an attestation of his own or his parents' or grandparents' linguistic skills. A decree was meant to be given, according to which the above-mentioned registers which were drafted before 1875 could not be referred to. The Parliamentary Committee for Constitutional Law found, however, that the Act did not authorise this kind of regulation by decree. The Committee did not, however, consider appropriate to complete the Act in this respect.

Further, in accordance with the Act on the Sami Parliament, a person is considered a Sami if at least one of his parents has or could have been registered as an elector for an election to the Sami Delegation or the Sami Parliament. This ground is meant to be applied to persons whose parents have had the possibility to register for the above-mentioned elections but who have not done so for one reason or another.

In the elections of the Sami Parliament in 1999, the new definition provision was applied for the first time. It was then noticed that the definition had apparently been loosened too much as far as the entries in the above-mentioned registers in relation to being a Lapp were concerned. Altogether 1,128 people registered for the elections on the basis of being a Lapp. Almost all of these persons referred to the information entered in the Land registers between 1739 and 1825, and in this case, it was question of people who where born in the 15<sup>th</sup> or the 16<sup>th</sup> century. The oldest information was, however, already in the Land register of 1695. The newest entries, which were referred to by 54 of the applicants, were in the Land registers of 1826–1857.

The electoral board of the Sami Parliament rejected most of the applications made on the basis of being a Lapp considering that the applicants were, according to their language, Finns and not Sami. However, 56 of these applicants were accepted on the basis of their language skills. Of the applicants, 765 appealed against the decision of the board. The board rejected 740 of these applications considering that no new information, which would have had an effect on the issue, was presented. However, 25 applications were accepted on the language skill basis. Of those whose application against the decision had been rejected, 726 forwarded the case to the Government of the Sami Parliament. The Government rejected all the applications except one, in support of which, according to the Government, enough information had been given considering the Sami origins. Most of the applications against the Government's decision forwarded to the Sami Parliament, of which there were still almost 700, were rejected, even though about thirty among them were considered to be acceptable on the linguistic basis. Still, as much as 657

applicants applied against the decision of the Parliament before the Supreme Administrative Court.

The dispute on the question of the definition was solved by the decisions given by the Supreme Administrative Court on 22 September 1999. Most of the applications were rejected. In the decisions, the provision containing the definition of a Sami was considered ambiguous in relation to the Lapp basis. The Supreme Administrative Court considered, therefore, that the case cannot be solved only according to the wording of the disposition. In its interpretation it took into account also the rights guaranteed in the Constitution for the Sami as an indigenous people and the meaning of the Act on the Sami Parliament to secure the autonomy of the Sami in relation to their own language and culture. After it had stated that being Sami on the linguistic basis may, in accordance with the Act, be stretched only to the grandparents of the person in question, the Supreme Administrative Court considered that also being a Sami on the basis of being a Lapp cannot be derived farther than that on the basis of the language. Most of the applications were rejected just because the entries in the Land or Tax register were made too many generations ago.

As the question on the definition had thus been interpreted by the decision of the Supreme Administrative Court, it was decided that there was no more need to amend the definition included in Section 3 of the Act on the Sami Parliament.

In the elections of the Sami Parliament in 2003, before which the complaining process in relation to the elections had been simplified by amendments made in the legislation, only about 50 persons requested to be registered for the elections on the basis of being a Lapp. The election board of the Sami Parliament rejected all these applications, and the applicants were satisfied with this decision. This confirmed the estimate, made according to the decisions of the Supreme Administrative Court, that there is no need to change the definition of a Sami comprised in the law.

The Sami Parliament has proposed that the definition of a Sami in the Act on the Sami Parliament be changed to be based on the Sami language and to correspond the present-day Sami group.

### **Questions related to the Sami land rights**

When organising the cultural autonomy of the Sami, the land right questions were left out of this law drafting concerning the administrative status of the Sami. It was considered at that time that the legislative solution would require a more detailed examination of the questions related to the land rights. The Sami Parliament has since 1993 declared that it will itself deal with the land right questions. The Ministry of Justice has tried to examine the land right questions actively on one hand by drafting or by commissioning the legislation relating to the administration of the land use, which would be based on the confirmed right of the Sami to use the State lands administered by the Finnish Forest and Park Service (*Metsäballitus*) and, on the other hand, by examining it as a question of proprietary right.

The examination of the land right questions has proved to be a long and multi-phased process. The Deputy Chancellor of Justice stated in December 1998 in a letter sent to the Ministry of Justice that the question of the land rights is important when deciding on the extent and contents of the basic rights of the Sami and on the ratification criteria of the ILO Convention No. 169 on Indigenous Peoples. The decision of the Deputy Chancellor of Justice referred to the duty of the Chancellor of Justice to monitor the implementation of human and basic rights and proposed that the Ministry of Justice would consider if it would now be possible to take measures in order to examine the land right questions of the Sami.

In order to create the legislation on the administration of the land use, the Ministry of Justice invited in 1999 *Pekka Vibervuori* to be an administrator and to make a proposition on lifting the obstacles of the ratification of the ILO Convention No. 169 on Indigenous Peoples. According to *Pekka Vibervuori's* proposition, a land right council would have been created as a part of the Sami Parliament which would together with the Sami Parliament give its opinion on the projects related to the land use of the region. *Pekka Vibervuori* also proposed the creation of a specific land right fund, where a part of the income of the region, e.g. the income from the felling of timber, would be directed. Moreover, he proposed changes in the material contents of the land use legislation of the region in a way that especially the protection of reindeer herding would be enhanced. The proposition was generally considered foreign to the practical point of view and difficult to implement. The Sami Parliament found various shortages in the examination but considered the propositions in it to be realizable regardless of the ratification of the ILO Convention No. 169.

In 2000, the Ministry of Justice set a specific Sami Committee, one third of whose members represented the different Sami parties, that is, the Sami Parliament and the village meeting of the Skolt. The task of the Committee was to examine and make a proposition on how the use of the land administrated as State land in the Sami Homeland should be organised in a way that the organisation would on one hand secure the rights of the Sami as an indigenous people to maintain and develop their culture and their traditional livelihoods and on the other hand to take into account the local living conditions and the needs to develop them. The proposition should also fulfil the minimal criteria for lifting the obstacles from the ratification of the International Labour Organization (ILO) Convention No. 169 on Indigenous Peoples. The task of the Committee was especially to examine the question to what extent the propositions made by *Pekka Vibervuori* in his examination could be carried out and to what extent they should be modified, and also to take into account, in its task, the rights of the Skolt and their special features. Moreover, the proposition of the Committee was to include an estimation of the cost and other effects of the measures.

The Committee made in December 2001 a proposition on the creation of a specific directorate in the Sami Homeland in order to decide on the important land use principles. The directorate was proposed to have representatives of the Sami people and of other local inhabitants. The proposition of the Committee was not unanimous. The reactions to the opinions were also very diverse.

The drafting of the bill was continued after this in the Ministry of Justice. Additional discussions were carried out both with the Sami Parliament and inside the Government.

According to the proposition finalised in June 2002 in the Ministry of Justice, a specific consultative committee would have been created in the Sami Homeland, and the task of this committee would have been to give an opinion on the most important land use principles of the area in accordance with separate provisions. The Finnish Forest and Park Service could have been able to diverge from the opinion only for a specific reason. The central importance of this committee would have been that in the principled solutions of the land use, it would have been easier than at present to integrate the care, use and conservation of the natural resources in a way that the special features of the Sami culture would have been secured and that the local circumstances and their development needs would have been taken into account in the same time. The aim was to find an ecologically, socially, culturally and economically sustainable solution by integrating the actions. The committee would have had representatives from the Sami Parliament and from the other local populations.

According to the opinion of the Ministry of Justice, the participation right and the influence of the Sami in the land use solutions was to be considered sufficient, taken into account the history of the area, its land use, population relations and the form of State administration which had long



reigned in practice and in the legislation. The solution would not have had an effect on the municipal autonomy nor violated the rights of private beneficiaries. A starting point was also that the solution would not have increased conflicts in the area. The securing of the participation right also for the rest of the population was considered justified, because in Finland, the Sami have practised their livelihoods side by side with the Finns for centuries, even though the livelihoods of the Lapps were originally the livelihoods of the Sami only.

The proposition of the Ministry of Justice was circulated extensively for comment. The conflicting opinions, presented in the statements, on the effects of the land ownership questions on the organisation of the land use administration by legislation had as a result that the bill could not be presented to Parliament as scheduled in 2002, especially as also the Sami Parliament opposed to the proposition.

The question of the proprietary right in relation to the land and water in the Sami Homeland has proved to be so difficult that it has been considered justified to examine it in a specific study. From the judicial point of view it would be inappropriate to decide on the question of the land rights of the Sami by an appeal in the Court. The final result could remain arbitrary e.g. because of evidence questions. Instead, a sufficient historical study based on archive sources could give a solid basis for political decision-making.

In order to clarify the issue, in addition to and during the work of the Sami committee, the Ministry of Justice invited at the end of the year 2000 *Juhani Wirilander*, Justice of the Supreme Court, to make a judicial appraisal as an administrator on the importance of the earlier examinations for the land ownership situation in the Sami Homeland from the point of view of the of property law. *Wirilander* gave his opinion on the land ownership situation and on its development in the Sami Homeland to the Ministry of Justice in August 2001. According to his examination, there is no indisputable evidence on the fact that the earlier Lapp villages using the land would have owned their area. Instead, there is evidence that the joint owners of the village have, either alone or with others, had a right comparable to the current proprietary possession, that is, a proprietary right to their tax lands, which have been fishing waters, hunting places, pasture lands and other areas used for a specific purpose. These areas, that is, tax lands, have been taken into account when dividing the Lapp tax set on the village between the joint owners (chiefs of the families). According to *Wirilander*, there are also decisions of the District Courts which give the impression that in Lapland, there have also been lands considered open land, no man's land, which have not belonged particularly to anybody. Among other things, *Wirilander* illustrates in his examination the strengthening of the Crown's power and the gradual stabilisation of State ownership. It is also essential that in this development, the Lapps started to found pioneer farms in order to secure their position.

*Wirilander* characterised his work mainly as a justified opinion and proposed in his accompanying letter that making a profound study on the subject would require an examination based on the original documents. He enumerated separately a list of material which was to be used in his opinion. The Sami committee proposed, in addition to the propositions concerning the legislation, that the mentioned kind of a historical study should be launched in the way recommended by *Wirilander*.

The existing examinations prove that the Finns and the Sami have lived in certain places side by side and practised the same livelihoods already for centuries. Taking this into consideration, the facts related to the settlement and population history as well as to the development of the land use rights have been estimated to have a great importance for finding a balanced solution which would also be correct from the historical point of view. The Government has, when dealing with the matter in May 2002, considered important to start a study based on archive material concerning the settlement, population and land use history from the mid-18th century until the beginning of the 20th century in the areas of the former *Kemin Lappi* and *Tornion Lappi*.

In the second supplementary budget for the year 2002 the Government adopted funding for the land right study. The study project was tendered, and the Sami Parliament was also sent an invitation for tenders. At the closing date, one bid had arrived in the Ministry of Justice. The bid was made by the joint working group of the Universities of Oulu and Lapland. The bid fulfilled the criteria set in the invitation for tenders, and the Ministry of Justice accepted it in December 2002. The study will be finalised during 2005.

The Ministry of Justice has set a specific monitoring group for this independent study, and also the Sami Parliament has been requested to nominate a representative. The Sami Parliament has, however, at least until now decided to stay outside of the work of this monitoring group, which the Government finds unfortunate. The conducting of a comprehensive historical study of the settlement and population history of the area and on the development of the livelihoods and of the land use rights and their connections with the settlement has been considered necessary for making a solution in the issue regardless of whether the issue will be solved using judicial or political grounds.

The Sami Parliament has, however, continued its own investigation on the land rights. In September 2002, the Sami Parliament published the report of the land ownership working group, set by the Sami Parliament, concerning the land question of the Sami Homeland (first part of the report). The starting point of the report was that the land ownership of the State was based on judicially untenable grounds. The land ownership of the State was contested. According to the report of the Sami Parliament, the forest land areas of the Sami Homeland would have been transferred formally to State ownership only thirty years ago, by the amendment of the Land Partition Act (984/1976) made in 1976, when also the State forest lands were transferred into the land register.

However, the register entry has not and has never had a constitutive or declarative effect from the point of view of land ownership. Originally the real estate register and its predecessor land register were not even meant to cover all the areas, but only the real estates, that is, private farms and houses, were included in them. Later on, State lands also were added to them. The earlier absence of the State lands of the Sami Homeland from the register does not indicate that they would have been a *terra nullius* land, a no man's land, no more than the absence of other State lands from the register. The events which were important for land ownership, the general parcelling out and other legislation, go further back in history. In the Government bill to Parliament (169/2003) concerning the national Park of Pallas-Yllästunturi, it is stated that the areas belonging to the park are an old State land and that the State has required a registration of title in relation to the mentioned areas. A part of these State lands is situated in the Sami Homeland. Since State lands are, according to the Land Partition Act, not subject to registration of title, the Sami Parliament has demanded the registration to be corrected.

The President of the Republic *Tarja Halonen* discussed the land right question in her speech in the opening ceremony of the Sami Parliament in Hetta in Enontekiö in April 2004. She said that the solutions should be acceptable to both the Government and the Sami and hoped that the joint working group of three Nordic Countries, active at the moment, would end up in a clear proposition concerning a Sami agreement between the Nordic Countries. The President of the Republic did not exclude the possibility of gradual development towards what has been set as the final aim. She encouraged both the Sami Parliament and the Government to still consider different approaches in an unprejudiced way and in the constructive spirit. Reaching mid-term aims should naturally not stop the development of the land rights.

## Flagging on the Sami national day

In 2004, the Ministry of the Interior recommended February the 6th, the National Day of the Sami, to be an official flagging day in the Sami Homeland. The wish was expressed that together with the Finnish flag, also the Sami flag would be used. In addition to the official flagging, the State offices and institutions of the Sami Homeland were ordered to flag on the National Day of the Sami. The recommendation to flag reinforced the already existent practice.

## ARTICLE 6

- 1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.*
- 2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.*

## Office of the Ombudsman for Minorities

The office of the Ombudsman for Minorities was founded under the Ministry of Labour on 1 September 2001. At the same time, the Act on the Ombudsman for Minorities (660/2001) entered into force. The tasks of the Ombudsman include the prevention of discrimination, the promotion of good ethnic relations, securing the position and the rights of aliens and minorities and the monitoring of the principle of ethnic non-discrimination. The tasks and functions of the Ombudsman for Minorities are discussed more in detail in Chapter III.1. of the present report.

## STOP – Finland Forward Without Discrimination

Since the autumn of 2001, the Ministry of Labour has coordinated and implemented in co-operation with the Ministry of Education, Ministry of Social Affairs and Health and the Police Department of the Ministry of the Interior the information campaign STOP (SEIS) – *Finland Forward Without Discrimination*<sup>40</sup> co-funded by the EU. The aim of the campaign is to raise awareness about discrimination questions and to increase equality and diversity in the Finnish society. The project is both trans-administrative and horizontal and includes all the discrimination criteria of Section 13 of the Amsterdam Treaty, that is, racial or ethnic origin, religion or belief, disability, age, sexual orientation and sex. The target groups of discrimination, such as representatives of the Roma minority, have participated as equal actors in the planning and implementation of the project.

In the framework of the STOP project, a web site on discrimination questions have been maintained, a web magazine on discrimination, a brochure on the prohibition of discrimination and a series of articles on equality have been published. Training has been organised to authorities, non-governmental organisations and discriminated groups. Representatives of the Roma minority have also been involved in the implementation of the project. Material relating to the project (the brochure, some articles) have been published in the Roma language. In addition to spreading information on the Roma culture, the project has served to support education where people belonging to the Roma minority act as lecturers and instructors.

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<sup>40</sup> <http://www.join.fi/seis/english/>

A special target group has consisted of teachers, police officers, employment officials and social and health care officials. In the framework of the project a information material to be used in the teacher training has been developed to recognize discrimination, to intervene where it occurs and to prevent it. Contents of this material have included e.g. getting acquainted with the theory and practice of discrimination questions, equality, non-discrimination as well as human and basic rights, means to interfere with discrimination and to reduce discrimination. Persons belonging to the Roma minority have also been acting as instructors.

The latest, third phase of the STOP-project ended in June 2004.

### **JOIN – Joint Promotion of Anti-discrimination at Local Level**

The two-year project co-ordinated by the Ministry of Labour and the Association of Finnish Local and Regional Authorities is related to the training of local authorities and testing and spreading good practices. The objects of the project co-funded by the EU have been education, health care and police work. Ireland (Dublin) and Germany (Hamburg, Berlin) participate in its implementation. The project, which has employees representing the Roma minority, has prepared an extensive package of teaching material, which concerns the history of the Roma, their culture and non-discrimination questions.<sup>41</sup>

### **JOINEHV Project**

The Ministry of Labour launched in April 2004 a nine-month project called JOINEHV, the objective of which is to transfer and stabilise the equality models developed in the JOIN Project as part of normal action of the municipalities of the capital city area. The project enhances co-operation between the authorities and the groups in danger of being exposed to discrimination and their dialogue in equality questions. In addition to the municipalities of the capital city region, different organisations, the Association of Finnish Local and Regional Authorities, the County Administrative Board of Southern Finland, the Ministry of Education and the Ministry of Labour participate in the project.

### **ETNA network**

The aim of the project launched by the Ministry of Labour in 2001 is to promote ethnic equality in working life by collecting and training an expert network (the ETNA network). The network has its own web site<sup>42</sup> and it has produced an information folder on the questions relating to ethnic equality in working life. The network consists of authorities and representatives of organizations and communities (e.g. representatives of the Roma organisations). At the moment the network is being locally reorganised.

### **Plan of action against racism and ethnic discrimination**

A decision in principle was made in the plenary session of the Council of State on 6 February 1997 regarding administrative measures to increase tolerance and to prevent racism. Moreover, in the plenary session of the Council of State on 22 March 2001, the plan of action of the Government against ethnic discrimination and racism called *Towards Ethnic Equality and Diversity* was adopted. The Ministry of Labour co-ordinates the implementation of the plan of action as

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<sup>41</sup> <http://www.join.fi/english/index.html> (in English)

<sup>42</sup> <http://www.etna.kaapeli.fi/esittely.htm>

well as the implementation of the European Community Action Programme in order to combat discrimination in Finland.

The plan of action of the Government against racism and discrimination has been implemented during many years. It was prepared as a broad-based co-operation and information on it was spread extensively both nationwide and locally (seminars, publication, web sites). The program in question as well as the EU's *Community Action Programme to combat discrimination* has been implemented with the help of national and international projects. Co-funding has been received from the Commission.

The central theme of the implementation of the non-indiscrimination projects is the recognition of multi-based discrimination and influencing it. Practical forms of activity have included training, testing of methods and creating models, forming networks and co-operation structures and spreading information with the help of publications, web magazines and media co-operation. There have been both immigrant and Roma women working in these projects.

The non-discrimination projects have been implemented in co-operation between four different Ministries, organisations and equality organs (the Advisory Board for Ethnic Relations and the Advisory Board for Roma Affairs). Especially in relation to the discrimination of women, attention has been paid also to cumulative discrimination, which occurs as simultaneous effect of different discrimination criteria (e.g. ethnic origin, disability, sexual orientation, religion, age).

The European Union programme aimed at combating discrimination has been implemented e.g. with the help of the above-mentioned EU projects (the STOP and JOIN projects). Moreover, the Ministry of Labour has supported non-governmental organisations in the work against racism and ethnic discrimination and participated in the work of the EUMC (*European Union Monitoring Centre on Racism and Xenophobia*).

### **Increasing tolerance and combating racism in the police administration**

In the police administration, special attention has been paid to combating racism, xenophobia and discrimination after the above-mentioned decision in principle. In 1997, the Police Department of the Ministry of the Interior gave instructions on increasing tolerance and combating racism in the police forces<sup>43</sup>. The Police Department requested the police divisions of the County Administrative Board and the national units of the police forces to give a report on how the obligations to act mentioned in the instructions have been implemented in the police administration. The answers were analysed in November and December 2003, and the Police Department will give new instructions on increasing tolerance, combating racism and investigating racially motivated offences.

### **Co-operation of the police administration with other authorities and with different non-governmental organizations**

Courses on ethnic questions and prevention of discrimination have been increased both in the basic and further training of the police. National and local training courses have been organised together with different co-operation partners such as human rights organisations. The purpose of the training courses has been e.g. to increase the awareness of those working in the police administration about different cultures, problems of different minority groups and to remove prejudices on both sides.

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<sup>43</sup> The instructions of the Ministry of the Interior, register No 15/011/1997, given on 30 June 1997.

International co-operation between different organisations has been increased. Representatives of the Finnish police administration have participated in different human rights training courses and seminars both as students and lecturers. A representative of the police administration is participating at the moment in a project of the European Union called *Police and Human Rights after 2000*<sup>44</sup>, one of the themes of which is police action in the multicultural society.

Multiple information campaigns aimed at Finns have been organised together with different non-governmental organisations in relation to combating discrimination and increasing tolerance in the Finnish society. A result of the co-operation with the *Human Rights League* is e.g. the small booklet *Guide for the victims of a crime*, both in Finnish and in English and especially aimed at the victims of racially motivated crimes. The booklet is available in many different languages at the web site of the Human Rights League<sup>45</sup>. The booklets are distributed e.g. to the client service units of different police districts. The booklet is attached to the present report.

In co-operation with different Ministries, projects have been implemented with the purpose of promoting non-discrimination and equality in society. This has been implemented e.g. by organising trans-administrative training courses both at national and local levels and by producing training and information material.

A representative of the Police Department of the Ministry of the Interior participates also in the Advisory Board for Ethnic Relations and its two divisions (work division and racism and ethnic relations) and in the Advisory Board on Roma Affairs.

### **Recruiting of Police Personnel**

In the police administration, it has been considered particularly important to employ personnel especially among ethnic minority groups. In 2002, a study was made on the recruitment of police officers with immigrant origin or belonging to ethnic minorities and on the experiences of police work. According to the study, the biggest obstacle for the recruitment of those with immigrant origin has so far been the requirement of a fluent Finnish or Swedish language.

### **Advisory Board for Ethnic Relations (ETNO)**

The Advisory Board for Ethnic Relations<sup>46</sup> functions in conjunction with the Ministry of Labour as a broad-based expert body in questions related to refugees and immigrants, racism and ethnic relations<sup>47</sup>. The cross-sectoral Advisory Board assists e.g. the different Ministries in questions relating to refugee and immigrant issues and ethnic relations. The Advisory Board also promotes interaction between authorities, non-governmental organisations working in the field as well as immigrants and ethnic minorities. It has developed and supported measures in order to promote the repatriation of immigrants as well as tolerance and good ethnic relations in society, working life included.

Eight main tasks have been defined for the Advisory Board by degree, according to which it shall:

1. monitor the development, reasons and effects of attitudes related to refugees, immigrants and ethnic groups;
2. monitor the economic, social and educational situation of refugees and immigrants;

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<sup>44</sup> [http://www.coe.int/T/E/Human\\_Rights/Police/](http://www.coe.int/T/E/Human_Rights/Police/)

<sup>45</sup> <http://www.ihmisoikeusliitto.fi/php/ohjeita.php>

<sup>46</sup> <http://www.mol.fi/etno/esiteenglanniksi.pdf>

<sup>47</sup> Degree on the Advisory Board for Ethnic Relations (1391/1991, others 825/1992, 103/1995, 151/1998, 267/1998 and 811/2001).

3. promote studies and statistics in relation to refugees and immigrants as well as the exploitation of the results of these studies;
4. conduct and integrate the information activities of different authorities in refugee and immigrant issues;
5. give statements on far-reaching or otherwise principally important questions in relation to the management of refugee and immigrant issues;
6. monitor the actions of different authorities and organisations in relation to refugee and immigrant issues;
7. monitor international development in the field; and
8. make propositions and initiatives in issues concerning refugee and immigrant questions and racism and ethnic discrimination.

The Advisory Board meets at least four times a year, and hears every year also other representatives than those of the immigrants and ethnic minorities represented in the Advisory Board. As representatives of the language groups in the Advisory Board there are immigrants who speak Arabian, English, Yugoslavian, French, Russian, Vietnamese and Kurdish. The Swedish-speaking minority is represented by *Svenska Finlands Folketing*. Also the following societies have their representatives in the Advisory Board: the Ingrian returnees from the area of the former Soviet Union, the Jewish congregation of Helsinki and the Islamic congregation of Finland (the Tatar community).

The action and development of the Advisory Board for Ethnic Relations has been examined in the study by *Outi Lepola* and *Leena Suurpää* called *Vallan syrjässä* ("On the Edge of Power"), which was published in the spring of 2003<sup>48</sup>. On the basis of this study, there have been discussions on the development of the co-operation between the ethnic minorities and the representatives of the authorities in the Advisory Board. The study will be used also in the renewal of the mandate of the Advisory Board, as the current one will end in August 2004.

The study launched by the Advisory Board for Ethnic Relations on the co-operation between the schools and the immigrant families and on the attitude environment of the schools and on problems occurring there strives to combat racism and discrimination directed towards immigrants.

The nationwide Conference *Tiellä tasavertaisuuteen* ("On the Way to Equality") was organized in co-operation with different ministries and with the Advisory Board in December 2002. In addition to lectures the conference consisted of three working groups where the following issues were dealt with: "role of the media in discrimination issues", "minorities in education and in the service system: object or actor", "reforms of legislation and conciliation of ethnic conflicts", "youth and racism, ethnic minorities and working life". The Advisory Board also nominated in the conference ten well-known persons from the field of politics, science, art and sport as "goodwill ambassadors".

### **Guidebook "Information on Working Life for Foreigners"**

The Guidebook called *Information on Working Life for Foreigners*, which was published in the beginning of 2003 is a publication drafted by the working life division of the Advisory Board for Ethnic Relations<sup>49</sup>. In addition to the Finnish and Swedish versions, the guidebook has also been

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<sup>48</sup> Vallan syrjässä : tutkimus Etnisten suhteiden neuvottelukunnan toiminnasta. ("On the Edge of Power : A Study on the Action of the Advisory Board for Ethnic Relations".) Outi Lepola and Leena Suurpää. Publication Series of the Labour Administration No. 329. Ministry of Labour. Helsinki 2003.

<sup>49</sup> Facts for foreigners working in Finland. Advisory Board for Ethnic Relations. Helsinki 2003.  
[Http://www.mol.fi/migration/tyoelamaopaseng.pdf](http://www.mol.fi/migration/tyoelamaopaseng.pdf)

published in the English, Russian and Estonian languages, and it presents for the immigrants and foreigners coming to work in Finland the basic facts of Finnish working life. The concise guidebook has been very well received and its first edition proved to be too small. Because of great demand, more guidebooks have been printed. The English version of the guidebook is attached to this report.

### **Regional seminars on the questions related to repatriation**

The Ministry of Labour carried out in the autumn of 2002 in co-operation with the Association of Finnish Local and Regional Authorities, the Ministry of Education and the Ministry of Social Affairs and Health and with the corresponding regional administrations a series of six seminars, which was based on the theme "the activation of common resources". The purpose of these seminars was, in addition to giving information, to raise discussion about the repatriation of immigrants and to the questions on ethnic relations on the basis of the report on the implementation of the Repatriation Act and the recent law reforms. Moreover, the aim was to strengthen the cooperation between different local authorities involved in repatriation and the services relating to it, as well as education and development of different supportive actions. The report on the seminars has been distributed nationwide to all the key actors. The results of the seminar series were published in the Internet on the web pages of the Ministry of Labour.

### **Report on the living conditions of the immigrants**

Statistics Finland made in 2002 a study on the living conditions of the immigrants in Finland<sup>50</sup>. The study was made through interviews and letter surveys among Russian, Estonian, Somali and Vietnamese immigrants. The study is the first comprehensive study illustrating the living conditions of the immigrants in Finland. Over 500 Russians living in Finland participated in the study.

The study examined e.g. the health of the immigrants, their education, language skills, work, living, social relations and experiences of violence. The study on the living conditions was made primarily in the capital city area, where most of the immigrants live.

Every fourth Russian told he or she had experienced discrimination when applying for a job. The survey comprised those who had applied for a job during the last three years. Most of the unemployed Russians were ready to accept work with a significantly lower wage level than that of the Finns. Most of the Russians were also willing to accept work which did not correspond to their education. The majority of the Russians who have found a job work full time and have permanent working contracts. Their wage level is, however, significantly lower than that of the native Finns. According to the study, the immigrants work remarkably often in the public sector. One third of the Russians work for a public employer.

The Russian immigrants are well-educated, and about 90% of them have at least secondary education (from a secondary or a vocational school). A little over 70% of the population of Finland has at least secondary education.

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<sup>50</sup> Kirsti Pohjanpää, Seppo Paananen & Mauri Nieminen. Living conditions of the immigrants. Life of the Russians, Estonians, Somali and Vietnamese in Finland in 2002. Statistics Finland.



## **Monitoring the situation of immigrant women**

One task of the Advisory Board for Ethnic Relations is to monitor the situation of immigrant women and to make propositions concerning the implementation of their equal possibilities and the removal of the defects and problems concerning them. In 2003, the division organised all over the country workshops where the situation of the immigrant women and their position in the Finnish society were discussed. As the follow-up of the workshops, a nationwide forum was organized (in September 2003), where researchers, immigrant women, organisations and authorities made concrete proposals for action in order to improve the situation of the women and to prevent and combat the discrimination aimed at them.

The situation of the minority women has been taken into account in the measures taken in order to combat discrimination and racism by mainstreaming the aspects related to the equality of sexes in the initiatives and by using experts in equality questions as consults and/or evaluators.

The women's organizations and the Parliament's women's network have participated actively in the discussion on the position of the immigrant women. They have tried to support the taking into account of the ethnic minorities as a part of the promotion of equality.

The publication of the Ministry of Labour called *Equality in Finland*<sup>51</sup> deals with every-day equality questions and the position of the immigrant women.

## **Staff training in relation to diversity**

In the training aimed at the staff of the Ministry of Labour, diversity is dealt with comprehensively. The education unit called *Immigrants as customers* is carried out every year. Diversity is also taken into account in the new staff training programme of the Ministry. The staff training aimed at the employees of employment offices and at the staff of the reception centres has regularly included training offering expertise and additional capacities in relation to questions concerning ethnic relations and meeting with the minorities. The adoption of non-discrimination and good administrative practices has been supported e.g. by using immigrants as lecturers and experts. Furthermore, seminars dealing with the promotion of diversity and equality have been organised for the employment offices and their contact groups. The values in question are also included in the equality programme of the work administration.

## **Citizens' action against racism**

Citizens' action against racism has been carried out with the support by the Ministry of Education. When deciding on the subsidies, projects which aim at keeping young people away from different racist-oriented groups have been considered important. One important project receiving funding is the *Exit* project carried out in the city of Joensuu. It is a project aiming at reducing and preventing racially oriented actions, and its objective is, e.g., to help young people to break away from racist groups and to develop and carry out processes with which attachment of young people into these groups can be prevented. Another example of supported action are school visits giving information on refugees and on reasons for becoming a refugee.

In addition, the Ministry of Education has since 1996 together with *Finnish Sports Federation* and with Finnish sports organisations carried out action promoting ethnic tolerance in the field of sports. As a part of the programme, local, regional and national projects promoting tolerance have been financed. In the years 1999–2003, more than 300 projects have been supported.

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<sup>51</sup> <http://www.mol.fi/migration/wesitteenSivu9.html>

## **Card series "My Family"**

*The Finnish League for Human Rights* published in January 2004 the card series *My Family*, presenting Finland's different ethnic minorities and the Sami as an indigenous people. The purpose of the card series is to increase the awareness of schoolchildren of the different minorities and to promote in this way the creation of an equal and tolerant society. The card series presents 16 different ethnic groups, e.g. the Roma and the Sami. Each card includes a drawing made by a child belonging to an ethnic group and representing his or her family as well as the basic information of the minority in question, such as the number of these people in Finland, their major religion, language, traditions and customs, dressing etc. The card series, financed by the Ministry of Education, is attached to the present report.

## **Proposition on a national information campaign on the Sami as an indigenous people**

The Sami Parliament has expressed its concern about the insufficient awareness of the public administration, private citizens and the media of the Sami as an indigenous people and made a proposition to start a four-year information campaign on the Sami and the Sami culture. The campaign would make the Sami better-known in Finland.

## **ARTICLE 7**

*The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.*

### **Freedom of assembly and freedom of association**

In accordance with the Constitution of Finland, everyone shall have the right, without obtaining permission, to arrange meetings and demonstrations and to participate therein. Furthermore, everyone has the right to freedom of association with others, that is, the right to found an association, without permission, to belong or not to belong to an association and to participate in the activities of an association. The right of assembly applies both to freedom to form trade unions and to organisation to protect other interests.

The Associations Act (503/1989) lays down provisions on the establishment of associations. The basic principle is freedom of association, but the purpose of an association may not be contrary to law or against public decency. An association that, due to the obedience required of members, to the division into units or groups or to the equipping with arms, is to be deemed, in full or in part, militarily organised, shall be prohibited. Some associations may need to be registered. An association that acts in essential respects against the law and public decency can be discontinued, and a person who pursues illegal association activities can be sentenced to a fine.

The freedom of assembly, provided for by the Constitution of Finland, is secured by a separate Assembly Act (530/1999), which also includes the necessary regulatory provisions on the arrangement of public meetings. A government proposal concerning the Assembly Act was under discussion in Parliament when the first Periodic Report of Finland was prepared, but the Act entered into force on 1 September 1999.

Employees have the right to organise, and violation of the right is punishable under Penal Code (Chapter 47, section 5; 578/1995). Employers or employees have the right to establish, join, belong to and participate in the activities of a registered industrial or political association. Employees or their industrial organisations have the right to elect an employee representative, trustee, occupational safety trustee or representative of the staff in their workplace.

According to Penal Code, violation of political freedom is also punishable (Chapter 14, section 5; 578/1995). Political freedom covers both public expression of opinion about public affairs, participation in a meeting, march or other gathering, and establishment of an association, joining it or participation in its activities. Political freedom is violated if a person is prevented from exercising these freedoms by violence or by a threat of serious injury to the well-being of another person. Violation of political freedom can take place in an opposite manner, too, if a person is made to participate in political activities involuntarily. A person who prevents a public meeting can be sentenced to a fine or imprisonment.

### **Freedom of expression**

Freedom of expression and freedom of print are discussed under Article 9.

### **Respect for freedom of thought, conscience and religion**

Freedom of religion and conscience are discussed under Article 8 below. According to Penal Code a breach of the sanctity of religion (Chapter 17, section 10; 563/1998) and prevention of worship (Chapter 17, section 11; 563/1998) are punishable acts.

## **ARTICLE 8**

*The Parties undertake to recognize that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.*

### **Freedom of religion and freedom of conscience**

The Constitution of Finland guarantees freedom of religion and conscience, which entails the right to profess and practice a religion, the right to express one's conviction and the right to be a member or decline to be a member of a religious community. Of the population of Finland, 84.2% belong to the Evangelical Lutheran Church, 1.1% to the Orthodox Church and 1.2% to other religious communities. Some 13.5% are non-affiliated. Denominational education, based on different religious communities' beliefs, is arranged in comprehensive and upper secondary schools.<sup>52</sup>

### **New Freedom of Religion Act**

The new Freedom of Religion Act (453/2003), which repealed the Freedom of Religion Act of 1922, entered into force on 1 August 2003. The Act's objective is to ensure that the provisions related to freedom of religion, laid down in the Constitution, are applied. The new Act seeks to bring the legislation pertaining to freedom of religion up to date both in terms of content and technical legislative procedure.

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<sup>52</sup> Statistics Finland, Population Statistics 2003.

The new Act has not altered the special status of the Evangelical Lutheran and Orthodox churches, and the status of different registered religious communities has also remained basically unchanged. However, the new Act seeks, among other things, to relax the provisions that concern the structure and organisation of registered religious communities so that they do not unreasonably hamper the establishment of a registered religious community. In addition, some provisions limiting the activities of religious communities have been repealed (such as restrictions concerning ownership of property and the right of the Ministry of Education to have communities inspected).

A minimum of 20 persons can establish a registered religious community. Becoming registered brings certain advantages to a religious community, such as the right to instruction of their own religion in comprehensive and upper secondary schools, the right to officiate at weddings and partial tax exemption from income taxation. However, registration is not obligatory; religious activity can be exercised also without registration and, for example, by such entities as non-profit associations. Under the new Freedom of Religion Act, the registration of religious communities and the maintenance of records of them is taken care of by the National Board of Patents and Registration (NBPR).

The new Act does not prevent a person from belonging to several religious communities simultaneously. The religious communities decide whether their members can belong to other communities or not. As regards resignation from membership of a religious community, the formerly used requirements of a one-month reconsideration period and personal presentation of one's resignation notice are no more applicable. Resignation from a community may take place by mail and it is enforced at the time of the letter's arrival in the office.

The Act also includes certain other amendments, to be discussed later in this Periodic Report, that are related to the provisions concerning instruction of religion and ethics, laid down in the Basic Education Act and the General Upper Secondary Schools Act. Provisions on the Evangelical Lutheran Church and the Orthodox Church are issued also, as today, in the special acts on these churches.

### **Act on the Funeral Administration**

A separate Act on the Funeral Administration (457/2003) was issued in connection with the reform of the legislation related to the freedom of religion. The Act entered into force on 1 January 2004. In accordance with the Act, the churchyards of Evangelical Lutheran parishes serve as public graveyards where also non-members of the Church are entitled to obtain a burial place. One of the most important changes from the viewpoint of minorities is the fact that the fee for a burial place in the public graveyards shall be the same for non-members and members of the Church, and that a burial place can be requested from a separate non-denominational burial area. Non-members of the Church must, on request, be given a burial place on a separate non-denominational burial area. The amendment will enter into force on 1 January 2007.

### **About a child's religious status**

According to law, a child's religious status is no more automatically determined in accordance with the religious status of the legal guardians. The legal guardians of a child decide whether he or she enters or leaves a religious community. The change harmonises the practices used in the Register Offices and also strengthens the right of various religious communities to decide themselves about the preconditions of entry in their community and, on the other hand, reinforces the right of the legal guardians to decide on their child's religious status.

The legal guardians settle on their child's religious status together. However, if the legal guardians do not reach agreement about the religious status of their newborn baby, the mother, who is the child's guardian at this stage, can make a decision about the child's religious community on her own. Similar presumptions, giving preference to the mother of a child, are included in the former Freedom of Religion Act (267/1922) and in the Names Act (694/1985), according to which a child acquires the surname of the mother, in case the parents have not, within the given time limit, informed which of the two parents shall give the surname to the child.

The mother should then report the community in question about the entry of the child into that community within one year of the date of birth of the child. The exception to this provision, mentioned above, refers only to a situation when a child is born and his or her religious status is not yet determined. All later changes in the child's religious status will be made jointly by the legal guardians.

Contrary to the views expressed in the report submitted by the Freedom of Religion Committee<sup>53</sup>, the law does not prevent legal guardians from joining their child to any religious community of their choice. According to the Committee's proposal, a child could only be made a member of the religious community of the legal guardians or one of them. The Committee was of the opinion that an exception to this could be possible only if it secured the child access to education that corresponds to his or her earlier religious education or if the child's permanent residence was not with the legal guardians. Assessment of whether the preconditions of these exceptional provisions are met or not would ultimately have remained the duty of the relevant Registry Office. However, Registry Offices' opportunities of finding out about the content of a child's previous religious education would in practice have been rather limited. It is possible to say that in situations like this the legal guardians are more competent to assess whether joining the child in a community other than their own meets the requirement of the best interests of the child or not.

When the legal guardians of a child are deciding upon his or her religious status or considering of consenting to a change of the religious community of a child aged 15 years, they are also advised by the provisions on the objectives of the care of a child, given in the Child Custody and Right of Access Act (361/1983). The underlying principle is to safeguard a balanced development and welfare of the child in accordance with his or her individual needs and wishes. Joining a child to a community where he or she does not have any natural ties cannot, as a rule, be considered to be in line with these objectives.

Decisions concerning one's religious status are considered to call for a particularly sound judgement and maturity. Therefore a person cannot make an independent decision on his or her religious status until after he or she has attained 18 years of age or, provided that the legal guardians have given their consent, at the age of 15. The age limits have not changed. To protect the continuity of a child's religious status and his or her right of co-determination, the right to be heard has been expanded in respect of persons aged under 15, and so the change of the religious status of a child who has attained 12 years of age is possible only subject to his or her consent.

## **Religious education**

The new Act will bring up to date the legislation concerning teaching of religion in comprehensive and upper secondary schools and make it more consistent with the constitutional provisions on the freedom of religion and conscience. In religious education, the overriding concern is to secure the rights of the pupils and not support the interests of religious communities. Another objective is to enhance pupils' or students' opportunities of access to

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<sup>53</sup> Committee Report 2001:1. Ministry of Education 2001.

religious education in accordance with their own religion and, in case denominational religious education in their own religion is not organised, to other ethical education. It also seeks to clarify the regulations that concern such events and ceremonies in schools as are considered to fall in the framework of practice of religion.

Participation in religious education is provided for in the provisions related to the education of religion and ethics laid down in the Basic Education Act (628/1998) and the General Upper Secondary Schools Act (629/1998). The expression used in the previous provisions, "*denominational education*", is replaced by a wording that goes as follows, "teaching of the pupil's own religion", which better describes the content and arrangement of religious education today.

This did not call for any changes in the present content of religious education in Finnish schools. A pupil's right and obligation to take part in the education of his or her religion or in the education of ethics has remained for the main part as it is today. Teachers of the Evangelical Lutheran and Orthodox religions do not need to belong to the church the religion of which they teach.

Pupils who do not belong to the religious community of the majority of the pupils in a given school are not granted a separate exemption from the religious education of the majority, but they participate in the education only if they specifically enrol on the class. Some other minor amendments have also been made in the provisions concerning the education of religion and ethics.

A pupil who belongs to a religious community can also attend classes of ethics in case religious education is not organised in the religion that he or she professes. Furthermore, pupils and students who do not belong to any religious community but whose religious views are obvious, based on their upbringing and cultural background, have improved access to education of their own religion.

The Basic Education Act (section 13; 454/2003) refers to the grounds expressed in the Freedom of Religion Act and abandons the concept "*denomination*", replacing it with the concept "*a religious community*". This change is in line with the present practical application of the law. Based on the reasons stated in the explanatory notes to the Freedom of Religion Act, any reference to the provisions of the Act concerning a pupil's exemption from religious education have been removed from the aforementioned section

The legal guardian of a pupil has the right to choose what religious education the pupil attends if he or she belongs to more than one religious community at the same time. The provision is required because the new Freedom of Religion Act does not prohibit a person from belonging to several religious communities simultaneously; the religious communities shall decide the matter by themselves. However, the new Freedom of Religion Act states that the prohibition to belong to several religious communities simultaneously, provided by the former Freedom of Religion Act, shall be applied for three years as of the entry into force of the new Act. The legal guardians' freedom of choice shall therefore become applicable only after the said period of time.

The aforementioned section includes a provision, according to which a pupil who belongs to a religious community the teaching of which is not organised shall, at the request of the legal guardians, be taught ethics. According to the former law, a pupil who belonged to a religious community could not attend teaching of ethics at all. This was considered to be a defect, because in situations like this a pupil was left outside any ethical education at all; for example, no denominational education was organised for a pupil if the required minimum number of three pupils in the same group, set to entail a duty to organise teaching, was not met.. When the duty of the organiser of the education to make arrangements for the teaching of ethics is weighed, the

pupils belonging to a religious community and asking to receive the education of ethics, referred to in the section, are taken into consideration.

Section 13 also lays down provisions concerning an exception to the principle according to which a pupil's participation in classes of religion is determined based on what religious community the pupil belongs to. A pupil who does not belong to a religious community can also participate in such religious education organised by the education provider as apparently, based on the upbringing and cultural background of the pupil, corresponds to his or her religious views. The practice has been already observed in some municipalities. The provision will apply to such groups as Orthodox or Muslim immigrants. It often happens that immigrants do not join any religious community registered in Finland, even if their religious views were known. Since the education provider's duty to organise such religious education as is other than that given based on the religion of the majority of the pupils may not remain subject to interpretation, the pupils referred to in subsection 6 of section 13 are not taken into consideration when the education provider's duty to organise that education is weighed.

The amendments that were made to section 13 of the Basic Education Act were also included in the General Upper Secondary Schools Act (section 9; 455/2003). In upper secondary schools, the right to be heard in issues related to the education of religion and ethics is to be used by the student instead of the legal guardian. This is in line with the general premise adopted in the legislative provisions applying to education, according to which students in upper secondary schools shall exercise the right to be heard in issues related to their own studies.

The Advisory Board for Ethnic Relations has supported the reform of the Freedom of Religion Act and reminded that a growing number of immigrant pupils belong to families that profess some other doctrines than those of the Evangelical Lutheran Church. The reform is very significant in the integration process of immigrant families and contributes to better school achievement of immigrant children.

### **The Evangelical Lutheran Church and minorities**

The Swedish-speaking people in Finland have a diocese of their own, the Diocese of Porvoo (*Borgå-stift*). Swedish-speaking parishes and bilingual parishes, where the majority of the members are Swedish-speaking, belong to the Diocese of Porvoo. They are subject to the same provisions as the Finnish parishes and dioceses. All Church Official Books are also available in both languages.

The Church Council is a bilingual office. For example, circulars, proposals and initiatives submitted to the Synod, Committee reports and collective agreements prepared by the Church Negotiation Commission are written in both Finnish and Swedish. Information and advice is given in Swedish also. Plans have been made to set up a separate Swedish unit under the administration of The Church Council and to transfer tasks now carried out by a unit called *Stiftsrådet i Borgå-stift* and some of the tasks of the cathedral chapter of Porvoo to the new unit.

The Church Act provides that the local Parish Councils of Åland shall elect one lay representative to the Church Assembly.

The Church Act (1054/1993) includes several language-related provisions concerning parishes and their members, the division into different parishes, the language of parishes and association of parishes, a parish's membership of a diocese, the language used in church activities and office-holders and employees. The Church Act also notes the Sami language. The cathedral chapter of the Oulu Diocese and the parishes under its administration, which belong at least partly to the Sami Homeland, observe the Sami Language Act. In the Sami Homeland, it is possible to

establish a bilingual Finnish-Sami parish and the Church Act states that, in the Sami Homeland, some activities are to be organised and parish members are to be served also in Sami.

The Evangelical Lutheran Church pays attention to the religious needs of the Sami-speaking people and also allocates a considerable amount of funds for the activities. In the parishes of the Sami Homeland, services and other religious ceremonies and acts are officiated also in North Sami and Inari Sami. A Finnish-Sami parish has not been established, but the functions have been organised in other ways supporting Sami culture. Material for church elections is also provided in North and Inari Sami.

Sami literature has its origins in religious needs. The oldest Sami service material was published in the South Sami language area as early as in the 17th century. In the area where North Sami is spoken, the Sami people still have in daily use, for example, an old Sami hymn book entitled *Sálbmakirje*, first published in 1897. It includes service instructions, a Gospel book and a book of prayers. They are still in common use along with other hymns.

Over the years, religious books in Sami have been revised and edited. The most recent Sami service books were introduced in August 2002. Texts of the Bible have been translated into North Sami as a joint Nordic enterprise since 1986. The New Testament was translated in 1986. In 1998, plans and project preparation were started with a view of the linguistic revision of the Old Testament. The linguistic reform of the Old Testament will help the Sami people receive religious services in their own language. Since 1998, the Synod has granted EUR 26 000 on an annual basis for the reform work. The Finnish Evangelical Lutheran Church will participate in the project also in the future.

The status of the Sami in the Evangelical Lutheran Church improved considerably in 2000 with the introduction of a system, based on the new Church Act, according to which the Sami could, for the first time, have the Sami Parliament elect a lay member and two alternates to the highest Lutheran church institution, the Synod. Since the beginning of 2004, the Sami representative has been entitled to vote in the elections of the bishop and archbishop of the Oulu diocese.

The majority of the Roma in Finland belong to the Evangelical Lutheran Church. In The Church Council, there is a *Church and the Roma* –working group, which is assigned to develop the relations between the Church and the Roma minority and thus combat racism and marginalisation. The group has, among other things, translated texts used in services into Roma. So far, three Gospels are available in Roma. The Central Church Fund's budget for 2004 includes resources for the translation of the Catechism into Roma.

### **The Orthodox Church and minorities**

The Orthodox Church of Finland has a Sami minority of some 300 to 400 persons, mainly speakers of Skolt Sami in the municipality of Inari. The Skolts belong to the Orthodox Church of Lapland, which has its main church and office in Rovaniemi, but a touring priest and a Skolt Sami –speaking cantor, assigned to work in Inari, take pastoral care of the Skolt Sami. The new Language Act also applies to the Orthodox Church's office in the Oulu Diocese and the Parish of Lapland.

The Church Council has supported and participated in the translation of Church Official Books into Skolt Sami. A Skolt Sami translation of the Gospel according to St John and a prayer book are already available.

Services have been held in Finnish but the clergy has also used Skolt Sami to some extent. The cantor and the choir have been using more Skolt Sami. A new translation of the Liturgy helps in



the use of Skolt Sami in religious ceremonies. The Finnish Broadcasting Company YLE has broadcasted services and hours of prayer in Skolt Sami a few times.

The Orthodox Church is revising its electronic communication and information strategy. Its Finnish Internet pages were opened in the autumn 2002, and some of the texts will, eventually also be translated in Swedish, English, Russian, Greek and Skolt Sami.

The Sami Parliament has proposed that a representative of Skolt Sami be sent to the Assembly of the Orthodox Church. The initiative will be dealt with in the Assembly during 2004.

The Finnish Orthodox Church has a small Swedish-speaking minority, most of whom belong to the Helsinki Diocese and live in the metropolitan area, which is part of the Parish of Helsinki. The Orthodox Parish of Helsinki holds Swedish services on a regular basis and other religious ceremonies are also officiated in Swedish. The clergymen and cantors have a satisfactory knowledge of Swedish. The majority of the Orthodox service texts are in Swedish.

The *Ortodoksiviesti*, an Orthodox periodical published by the Orthodox Parish of Helsinki, includes news and other articles in Swedish. The Finnish Broadcasting Company broadcasts services and hours of prayer in Swedish.

The Finnish Orthodox Church has had a Russian-speaking minority from old time.. Most of them belong to the Helsinki Diocese and live in the metropolitan area, which is part of the Orthodox Parish of Helsinki. During the past years, many Russian immigrants have moved to Finland and many of them have joined the Finnish Orthodox Church.

Regular Church Slavonic services and religious ceremonies are officiated not only in the Orthodox Parish of Helsinki but also in other parishes. Clergymen with knowledge of Russian have taken pastoral care of the Russian-speaking parishioners. The Parish of Helsinki has a Russian-speaking priest. The Church Council has founded an office of a Russian-speaking priest to serve the Russian immigrants in Finland.

There is a wide selection of Church Slavonic service literature available in Finland.

The aforementioned periodical, the *Ortodoksiviesti*, publishes news and articles in Russian on a regular basis. Other publications of the church also include Russian material. The Orthodox Parish of Helsinki informs about its activities in the *Spektr*, another periodical with a wide circulation.

### **Public financing of the Evangelical Lutheran Church and the Orthodox Church**

The Advisory Committee has paid attention to the fact that only the Evangelical Lutheran Church and the Orthodox Church receive public financing. The Church Council emphasizes that the public financing is very fair, considering the fact that the Evangelical Lutheran Church takes care not only of the legal obligations related to funerals and population register but also many functions that are important from the point of view of society, such as activities for children and young persons, diaconal work and maintenance of culturally and historically valuable buildings. The Church has regarded the right to a share of corporate tax a very well functioning form of financing.

The Government has informed that it intends to replace part of the share of corporate tax by direct government aid. The Committee, which prepared the new Freedom of Religion Act, proposed the inclusion of an annual appropriation in the Budget, of which discretionary government transfers could be given to registered religious communities. However, when the

Committee's proposals were discussed in more detail, a more extensive reform was adopted for consideration, according to which the share of corporate tax would be abandoned altogether. This approach was then examined by a working group, which submitted its report<sup>54</sup> in the spring 2002. The working group suggests that the share of corporate tax to the Church would be replaced by statutory government aid. The amount of the aid would be determined by law and the aid would be tied to index. Government aid has been said to be fair because of the social functions of the Church, especially its statutory obligations related to the maintenance of public graveyards and population register. The working group suggested that the financial relations between the Orthodox Church and the Government be examined as a whole in connection with the overall reform of the legislation concerning the Orthodox Church. The working group suggested that registered religious communities be supported through discretionary government transfers, the amount and distribution of which would be based on the number of members in each community. So far, decisions have not been made about whether the working group's suggestions will be implemented or not. More detailed discussions are under way.

## ARTICLE 9

- 1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.*
- 2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.*
- 3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.*
- 4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.*

### **Freedom of expression and freedom of print**

The Constitution of Finland guarantees that everyone has the freedom of expression (section 12, 731/1999). Freedom of expression entails the right to express, disseminate and receive information, opinions and other communications without prior prevention by anyone. More detailed provisions on the exercise of the freedom of expression are laid down by an Act.

The new Act on the Exercise of Freedom of Expression in Mass Media (460/2003) entered into force on 1 January 2004. The Act repeals the Freedom of the Press Act and the Broadcasting Liability Act. According to the Act, the Prosecutor General shall decide on the bringing of charges for an offence arising from the content of a published message, formerly the responsibility of the Ministry of Justice. This gives the Prosecutor General a significant new tool in efforts to protect the interests of minorities. The Prosecutor General decides on the prosecution of all offences subject to public prosecution that are based on the content of a published communication. The Prosecutor General's sphere of jurisdiction also includes decision

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<sup>54</sup> Working group on the removal of parishes' share of corporate tax. Ministry of Finance working group memoranda 9/2002.

on the prosecution of editorial misconduct pertaining to such an offence. The new provisions apply also partly to the Internet. The Office of the Prosecutor General is of the opinion that fight against illegal racist communications via the Internet will be the most essential issue in the Office's new area of responsibility.

The Ministry of Transport and Communications is responsible for the overall direction and development of television and radio broadcasting. To be allowed to exercise television and radio broadcasting on the terrestrial mass media network, a company needs a license, granted by the Government. The licensing authority shall, when granting licenses, seek to promote the freedom of expression, to secure the provision of a wide variety of programmes and to satisfy the needs of special audiences. Licenses for short-term (three months at the most or a maximum of four hours per week) activities can be applied from the Finnish Communications Regulatory Authority, which has to grant a license if there are no reasonable grounds for suspecting that the applicant intends to violate legislation in force.

After the submission of the first Periodic Report of the Government of Finland, legislative provisions on television and radio programmes have been amended several times.

In Finland, the Government does not found or own newspapers. All Finnish citizens are free to found a newspaper, and this right is guaranteed by law. The Finnish press is relatively versatile by international standards and it operates, as a rule, without public support. The Government grants assistance, based on applications submitted annually, to be used to reduce the cost of the transport and distribution of newspapers and other expenses. The support can be used also to developmental projects of the press.

The Ministry of Education grants discretionary government transfers, on an annual basis, to support minority cultures and to combat racism. The Ministry can use certain support items for the printed media in minority languages.

### **Minority cultures in the programmes of the Finnish Broadcasting Company Ltd, YLE**

Based on its basic mandate, the Finnish Broadcasting Company Ltd (YLE) broadcasts a vast variety of programmes on the radio and on television that are targeted to serve different minority groups. Internationalisation and the consequent cultural diversity is also visible in a pronounced manner in the broadcasts on the different channels of YLE. In the spring 2002, the company, among other activities, established a special diversity forum, led by one of its directors, to promote the further development of diversity in the provision of programmes.

The Act on Yleisradio Oy (the Finnish Broadcasting Company, 1380/1993) lays down provisions on how the company shall address different minorities in the broadcasting activities and in its administration. The public broadcasting service company shall, according to section 7 of the Act:

- support democracy by providing a wide variety of information, opinions and debates on social issues, also for minorities and special groups; and
- treat in its broadcasting Finnish and Swedish-speaking citizens on equal grounds and produce services in the Sami and Roma languages and in sign language as well as, where applicable, for other language groups in the country.

Furthermore, section 6 of the Act contains a provision according to which the Board of Directors of the company is elected so that it represents both language groups (Finnish and Swedish) and sufficient expertise in the handling of the public service duties, in accordance with section 7 of the Act. Accordingly, the law prescribes that the Board of Directors of YLE be

elected so that the members of the Board are competent to take care of the best interests of both regional and minority languages and the different population groups in the public broadcasting service.

After the submission of the first Periodic Report of the Government of Finland, the Act on Yleisradio Oy has been amended three times (37/2000; 492/2002 and 396/2003). The amendments have had no effect on the duties of the company in respect of minority languages.

The Ministry of Transport and Communications has set a parliamentary working group (Public service television and radio broadcasting in 2010) to assess the public service broadcasting and the administrative reform of YLE. The working group is scheduled to submit its report in September 2004.

### **Swedish media**

In the organisation structure of YLE, Swedish broadcasts are administered by a separate Swedish-language Department, which comprises Swedish radio (*Finlands Svenska Radio, FSR*) and television (*Finlands Svenska Television, FST*) and the common functions of the two services. The Department is led by a Director who is a member of the Board of Directors. It is assigned to serve primarily the Swedish-speaking audience by broadcasting on the two analogue television channels of YLE and on the digital YLE-FST channel, introduced in August 2001. Some of the digital broadcasts are also sent in an analogue format. YLE also takes care of the provision of Swedish subtitles to some Finnish programmes.

The total number of broadcast hours of Swedish television programmes by FST was over 2000 in 2003. The Swedish-speaking citizens are also served on two radio channels (*Radio Vega* and *Radio Extrem*), which send nearly 20 000 hours of radio broadcasts. YLE also broadcasts regional programmes in Swedish in five different regions inhabited by Swedish-speaking Finns.

YLE produces Swedish text-TV and Internet services for the Swedish-speaking viewers and, as a license-holder on the terrestrial mass communication network, transmits television programmes produced in the neighbouring country Sweden that can be seen in the Swedish-speaking regions in Finland.

Thanks to the digitalisation of radio and television services, the company has been able to improve its provision of Swedish programmes in 2001–2002 by, for example, producing a Swedish *prime time* –entity on television with long news broadcasts and developing digital Swedish services on the radio in the form of, for example, education programs.

Several Swedish daily papers and periodicals are published in Finland.

### **Sami media**

As regards the Sami media in Finland, it can be said that the radio continues to play a significant role in the transmission of news. The Sami Radio (*Sámi Radio*), which has operated since 1947, broadcasted more than 2000 hours in 2003 on its own radio channel in the north of Finland in the three different Sami languages, North Sami, Inari Sami and Skolt Sami. Some of the programmes are co-produced with the Norwegian and Swedish Sami Radios.

The Sami Radio broadcasts approximately ten hours per day in North Sami. Some Skolt Sami and Inari Sami programmes are also broadcast on a regular basis. The Sami Radio's range of programmes includes not only current affairs programmes but also programmes targeted at

special groups, such as young persons. The Sami Radio also plays an important role in the field of culture. For example, music with Sami lyrics or other music characteristic of indigenous peoples is broadcasted. A new area under development in the Sami Radio is Sami children's programmes, launched in the summer 2002. The weekly amount of children's programmes is 25 minutes.

The Sami Radio of YLE also produces Internet services in Sami. Text television service in Sami was introduced in the autumn 1999 as a developmental project funded by the EU.

As from the beginning of 2002, YLE started to broadcast daily TV news in Sami, co-produced by the Nordic (Swedish, Norwegian and Finnish) Broadcasting Companies. Sami news (*TV-uddasat*) is transmitted to the Finnish Sami Homeland in the analogue TV1 network, the national digital YLE 24 –news and current affairs channel and also on the Internet.

Sami television programmes that are broadcasted on a regular basis do not include separate programmes for children. The Norwegian Radio (NRK) broadcasts Sami television programmes for children twice a week, and it has offered the programmes to YLE, too, but to date YLE has not started separate Sami programmes for children. Children's programmes in Sami on television would significantly contribute to the promotion of and the use and position of Sami language.

Sami culture and lifestyle, phenomena and issues have been presented on YLE's national television channels.

Thanks to the improving digital radio service of YLE, it will be possible to expand the provision of Sami programmes and further develop cooperation with the Sami Radios of the Arctic Region of the Nordic Countries.

As regards the possibilities of starting a newspaper, reference is made to the paragraph on freedom of expression and freedom of the press of this report. There is not a daily Sami newspaper in Finland yet. The start of a Sami newspaper is possible under present legislation, but in practice the issue depends on the Sami people's initiative and available resources. There is no obstacles for applying for a discretionary government transfer to a Sami newspaper either.

### **Giving speakers of Sami improved chances for exercise of influence in YLE**

Deputy Parliamentary Ombudsman *Jaakko Jonkka* carried out inspections of the Sami Parliament and the Sami Radio in the autumn 2000 and found out about the Sami people's opportunities of influence on the preparation of decisions concerning themselves and their living conditions and on the actual decision-making. The inspections revealed that the Sami do not have a representative either in the Administrative Council or in the Board of Directors of the Finnish Broadcasting Company YLE. A development group in the Sami Radio proposed, as early as in 1987, that the Sami people should be given the right to appoint their own representative in the Administrative Council of YLE<sup>55</sup>. The 21 members of the Administrative Council are elected by Parliament. Parliament has a chance, if it wishes, to elect a Sami representative to the Administrative Council, but it is difficult in practice. Deputy Parliamentary Ombudsman *Jonkka* brought up the issue for consideration on his own initiative. He said that the provisions of the Constitution of Finland obligate the public authorities in general to ensure the Sami people better opportunities of influencing the preparation and decision-making related to issues that affect them.

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<sup>55</sup> Memorandum of the development group in the Sami Radio, p. 32. Publication of the Ministry of Transport and Communications 5/87.

The Constitution, internationally binding obligations or the provisions of the Act on Yleisradio Oy do not as such obligate the Finnish Government to ensure the Sami people representation in the Administrative Council or the Board of Directors of YLE. In accordance with the Act, the company shall ensure equal treatment of the Swedish- and Finnish-speaking citizens of the country, that is, the Board of Directors of YLE must have representatives of the Swedish-speaking people. According to the Act on Yleisradio Oy, the members of the Administrative Council shall include representatives from the fields of science, art, education, business and economics, as well as representatives of different social and language groups. There are many other groups in society, in practice, such as speakers of Russian and Roma, signers and persons with disabilities, who do not have a representative in the Administrative Council of YLE. However, Deputy Parliamentary Ombudsman *Jonkka* was of the opinion that comparing the Sami with the aforementioned special groups is not in all respects justified. The Sami must be viewed as a special minority, whose status differs to some extent from that of the groups referred to in section 17(3) of the Constitution. This approach is in favour of taking special notice of the position of the Sami.

Deputy Parliamentary Ombudsman *Ilkka Rautio* (Deputy Parliamentary Ombudsman since 1 October 2001) considers that there is reason to examine whether the Sami people's present opportunities of influence in YLE are in agreement with the legislative provisions that recognize the special status of the Sami. The Constitution places the Sami in a position that differs from that of others, referred to in the Act on Yleisradio Oy, in that the right of the Sami to the use of their own language in the authorities shall be laid down by law. In addition, the Constitution recognizes the status of the Sami as an indigenous people and guarantees the Sami the right to self-determination in issues related to their language and culture in the Sami Homeland, as provided by law. Deputy Parliamentary Ombudsman Rautio is of the view that radio and television broadcasts play a major role in the protection of culture.

Deputy Parliamentary Ombudsman *Rautio* considers that there would be even legal grounds for a stronger participation of the Sami in the administration of YLE. In his conclusion<sup>56</sup> Deputy Parliamentary Ombudsman *Rautio* refers, among other things, to the remarks of the UN Human Rights Committee and the Advisory Committee of the Framework Convention and to the positive example of Norway and Sweden concerning Sami broadcasts.

### **Film Centre for Indigenous People**

At the beginning of 2004, the Culture Department of the State Provincial Office of Lappi granted a total of EUR 186,000 to the establishment of a Film Centre for Indigenous People, a project that has been launched by the Sami Parliament. The main part of the financing (96%) comes from the European Social Fund and the Government's education service funds, but the local authorities also make a contribution. The project will be carried out in 2004–2005.

The objective is to chart the different sources of financing and ways of running the Film Centre for Indigenous People to be founded in Inari, to develop the educational methods used in media education in Sami language in cooperation with the schools of the Sami Homeland, and to establish a foundation for a cooperation network of Sami filmmakers. The project's essential function is to find financiers and partners for the film centre, and to organise media-related training for teachers and cultural employees in the Sami Homeland.

The project will contribute to a diversification of trades and businesses in the Sami Homeland by supporting producers, employers and employees engaged in the cinema and television programmes, the Sami language among children and young people and their cultural identity, and

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<sup>56</sup> Decision by Deputy Parliamentary Ombudsman Ilkka Rautio, dated 31 December 2003, Register No 112/4/01.

cooperation between and preconditions of operation of Sami filmmakers and audio-visual entrepreneurs, such as the Sami Radio, active in the Sami Homeland.

### **Roma media**

The most popular radio channel in Finland, YLE Radio Suomi, broadcasts a 12-minute Roma news and current affairs programme, called *Romanibelmiä - romano mirits*, which serves the Roma population in their own language once a week. Other programmes related to Roma culture or otherwise concerning the Roma people are incorporated into the company's Finnish and Swedish radio and television broadcasts. Roma news on the national radio network has had a positive effect on the usage and modernisation of the vocabulary and it also stimulates interest in Roma. The Education Unit for the Roma Population and the Advisory Board for Roma Affairs and YLE have discussed the possibility of increasing broadcasts dealing with the Roma. Besides, the Advisory Board for Roma Affairs has underlined the significance of regular broadcasts. Programmes targeted at minorities may need to give way to broadcasts of a more widespread popularity at the national level.

The three regular Roma periodicals are mainly in Finnish, with occasional articles in Roma. The Ministry of Education has supported the publication of Roma periodicals by using the funds earmarked for cultural publications.

### **Russian media**

As regards the Russian media in Finland, certain positive developments may be observed. As of March 2001, YLE has broadcast 50 minutes in Russian every day. There is a 45-minute Russian news broadcast on the radio every night, the reception area covering southern Finland. The programme is re-broadcast later on the same night. In addition, an abridged version of the programme is broadcast on FM-frequency every day for audiences in the cities of Helsinki, Turku, Lahti and Kuopio. A brief news broadcast is sent out every day on the nationwide Radio Suomi channel.

In addition to the programmes produced by YLE itself, the company also transmits programmes in Russian produced by the *BBC World Service* (in London and Moscow) and *Golos Rossii* (in Moscow). The majority of these programmes can be received digitally in Helsinki and in the Uusimaa province, and some of them also on FM-frequency in the Helsinki area.

The Russian-speaking population also have a radio station of their own, *Radio Sputnik*, that can be heard in south-eastern and southern Finland. The radio station broadcasts in Russian 24 hours a day.

The Government granted a licence for analogue radio broadcasts to *Radio Satellite Finland Ltd* in August 2002. The licence covers certain cities and certain frequencies (the frequencies are in the region between Helsinki and Lappeenranta). In accordance with the terms of the licence, the broadcasts must be primarily in Russian and include news and current affairs programmes, and promote open public discussion. The licence is valid until the end of 2006. In 2004, *Radio Satellite Finland* was given a discretionary government transfer of EUR 4 000.

*Radio Finland/Capital FM*'s Finnish and Swedish broadcasts are targeted at expatriate Finns. Programmes in Russian and, to a minor extent, in the Finno-Ugric languages, are also broadcasted abroad.

The Ministry of Education has also supported publications in Russian, including a regular newspaper entitled the *Spektr* and a literature periodical entitled the *LiteraruS*. The *Spektr* was first published four years ago and now comes out eleven times a year with a volume of 20,000 copies. The newspaper is distributed free of charge in 70 places. It is targeted at Russian-speaking people residing in Finland and it seeks to take into account the needs of the readership without aspiring to obtain any economic benefit. In the autumn 2002, the *Spektr* was mailed free of charge to all Russian-speaking households (about 18 000 addresses). Thanks to the campaign, the number of subscriptions grew threefold. In 2002, a discretionary government transfer of EUR 14 500 was granted to the *Spektr*. The *Finnish Association of Russian-Speaking Organisations* has hoped greater government transfers in tandem with the greater number of copies and subscriptions.

Besides the *Spektr*, another Russian periodical, the *Novye Rubeži*, is published in Helsinki. Since 1993, a Finnish-Russian unsolicited publication entitled the *Severnyi torgovyi put - Pietarin kauppatie* has been published. It appears 12 times a year with a circulation of about 70 000 copies. Another Russian paper, the *Russkij Svet*, is published by the Russian Club in Tampere. A publication entitled the *HaKehila*, produced by the Jewish community in Helsinki, regularly includes articles in Russian.

## ARTICLE 10

- 1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.*
- 2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.*
- 3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language if necessary with the free assistance of an interpreter.*

## The new Language Act

The new Language Act and related legislation entered into force on 1 January 2004. The new Act repeals the previous law from the year 1922, which was outdated both in terms of the content and legal technical procedure. The Language Act applies only to Finnish and Swedish, the national languages of Finland and as such equal on the basis of the Constitution.

The revision of the Language Act is related to the reform of the constitutional rights provisions of 1995 and to the need to revise several fundamental rights provisions that had become outdated. The amendment of the Language Act was included in the Government Program of Prime Minister Paavo Lipponen's second Government in 1999. A broad-based language law committee was set up to prepare the work in 1999–2001. The committee was assigned to: 1) assess the existing Language Act and related legislation in the light of the fundamental rights of the Constitution and international legal obligations binding on Finland; 2) suggest practical measures to enable exercise of the linguistic rights; and 3) clarify the legislation applying to the national languages of Finland in a systematic manner and in linguistic terms. The memorandum of the Committee<sup>57</sup> was widely circulated for comments in the autumn 2001. The Ministry of

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<sup>57</sup> Memorandum of the Language Committee (KM 2001:3).



Justice prepared a Government proposal, based on the memorandum and the statements obtained, and submitted it to Parliament in June 2002<sup>58</sup>. Parliament adopted the new Language Act and the related legislation with minor amendments in February 2003 and the President of the Republic ratified the laws (423–433/2003) on 6 June 2003.

Since, according to the Constitution, Finnish and Swedish are the national languages of Finland and as such legally equal, Swedish is not dealt with in the Language Act as a minority language even though its actual position is that of a minority language. The Language Act is therefore neutral in terms of the languages, laying down provisions on the same linguistic rights for both the Finnish and Swedish citizens.

The new Language Act safeguards the linguistic rights of Finnish- and Swedish-speaking citizens as required by the Constitution. The Act highlights private individuals' right to their own language, either Finnish or Swedish (Constitution of Finland, section 17) as a part of good governance (Constitution of Finland, section 21), the authorities' obligation to take independent initiative and to ensure that the citizens can exercise their linguistic rights in practice, and both national languages' visibility in the activities of the authorities. The scope of application of the Act is wide. It seeks to comprehensively ensure that the public authorities meet their responsibility to secure the materialization of the fundamental rights (Constitution of Finland, section 22) irrespective of changes in the structure of the administration and of the producer of the public services. The Act therefore applies not only to the services given by courts of law and the authorities but also, under certain preconditions, by such parties providing their services to the public by order of the authorities given by law as are other than the authorities.

The Language Act includes, for example, detailed provisions on the language of proceedings in different situations, on the right to interpretation and translation and official information in both national languages.

The Language Act does not impose any special sanctions on the authorities in case they do not meet the requirement of ensuring the linguistic rights according to law. However, the authorities have responsibility for the legality of their actions, as provided by the Penal Code, also in respect of the linguistic rights. In accordance with law, every authority shall supervise compliance with the law in its own field of administration. The Ministry of Justice monitors the enforcement and application of the Language Act and issues recommendations concerning legislative provisions relating to the national languages. The Ministry issues initiatives and launches other measures, as required, to remedy any detected defects. In order to be able to discharge the duties arising from the monitoring of the enforcement of the Language Act, the Ministry of Justice has employed two permanent officials and one temporary official.

An Advisory Board for Language Affairs was set up under the administration of the Ministry of Justice to help monitor the enforcement of the Act.<sup>59</sup> The Advisory Board is a permanent body of experts, which follows the development of language-related issues in Finland, prepares proposals for measures designed to promote the use and status of the national languages, and issues statements to the authorities on questions concerning linguistic rights. The Advisory Board also exchanges views of other languages' position in Finland and, as required, listens to representatives of other languages.

The Government submits a report to Parliament on the application of the Language Act and other language-related legislation once during every election period. The report deals with not only Finnish and Swedish but also at least Sami, Roma and the sign language and, as necessary,

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<sup>58</sup> Legislative proposal to Parliament for a new Language Act and related legislation (HE 92/2002 vp.).

<sup>59</sup> Government Decree No 433/2004 concerning the enforcement of the Language Act took effect on 15 June 2004.

the linguistic conditions in the country in general. The Advisory Board assists the Ministry of Justice in the preparation of the report.

The Act on the Knowledge of Languages Required of Personnel in Public Bodies (424/2003) safeguards access to services in Finnish and Swedish by imposing responsibility for hiring personnel with appropriate language skills and for the maintenance of the employees' language proficiency throughout their employment on the employing authority. The Act seeks to set the qualification requirements in a flexible manner, ensuring that persons in charge of certain duties possess the language skills actually needed in that particular function.

The reform aims at ensuring the possibility of exercise of the linguistic rights that are secured by the Constitution and, consequently, at improved linguistic equality.

### **The new Sami Language Act**

The Act on the Use of the Sami Language before the Authorities (516/1991) was replaced on 1 January 2004 by the Sami Language Act (1086/2003)<sup>60</sup> that entered into force simultaneously with the new Language Act.

The Sami Language Act was prepared by desk officials at the Ministry of Justice, based on a proposal submitted to the Ministry by the Sami Parliament in 2002. The content of the proposal was discussed with the Sami Parliament prior to the submission of the government bill.

The new Sami Language Act guarantees the right of the Sami, under the Constitution of Finland and in compliance with international agreements binding on Finland, to maintain and develop their own language and culture and to use their own language (Inari, Skolt or North Sami) in court and before other authorities.

The scope of application of the new Act in different authorities mainly corresponds to that provided in the former act. The Act obligates not only the state and local authorities in the Sami Homeland but also, as takes place today, some key authorities from the point of view of the legal safety of citizens that are operating outside this area. The following authorities became covered by the scope of application of the new Act: Skolts' village assembly, the Minority Ombudsman and Reindeer Herders' Association. The Act is binding on public utilities and, under certain preconditions, on bodies other than the authorities that, commissioned by an authority, offer services to the Sami people in the Sami Homeland. Purchase of public services from the private sector does not have an effect on the linguistic rights. In accordance with the Act, the authorities shall take care of the linguistic rights of the Sami without a separate request, and use Sami also in their public communications.

The Sami people are entitled to use either Finnish or Sami before state and local authorities in the Sami Homeland. These authorities are under an obligation to promote the linguistic rights of the Sami in their activities. They shall also use Sami in their written communications, addressed to parties or a person who according to law must be informed about a matter that is or will become pending. Sami shall be used also in answers to written contacts received in Sami. Local authorities shall complement their use of Finnish with Sami to the extent they consider appropriate in protocols and other documents that are not addressed to private parties and that are of general significance. In municipalities where the proportion of speakers of Sami exceeds one third of the whole population, as in the city of Utsjoki today, such documents shall always be in the Sami language.

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<sup>60</sup> Legislative proposal to Parliament concerning the Sami Language Act (HE 46/2003 vp).

The Sami Language Act provides for the Sami language qualification requirements of State and local authorities in the Sami Homeland. The authorities shall see to it that in each office in the Sami Homeland customer service can be given also in the Sami language. In addition, the authorities shall provide training or take other measures in order to ensure that the personnel have the knowledge of the Sami language necessary for the performance of the functions of the authority. Officials employed by a state authority in the Sami Homeland shall be entitled to a paid leave of absence in order to study Sami.

Every authority shall supervise compliance with this law in its own field of administration. The Sami Parliament shall follow the application of the Act and, as required, issue recommendations and initiatives. The Sami Language Bureau and the Sami Language Council shall issue a report on the application of the legislation in the Sami language and the enforcement of the linguistic rights of the Sami to the Sami Parliament once during every election period. The report is appended to the annual report to Government of the Sami Parliament.

The Sami Language Act has been translated not only into Finnish and Swedish as required by section 51, para 2 of the Constitution but also into Inari, Skolt and North Sami.

### **The new Administrative Procedure Act**

The new Administrative Procedure Act (434/2003) and Act on changing the Administrative Judicial Procedure Act (435/2003) entered into force 1 January 2004. The new Administrative Procedure Act repealed, among others, the former Administrative Procedure Act (598/1982), the provisions of which were dealt with in the first Periodic Report. Provisions on clients' right to use their own language before the authorities are laid down in the Language Act (Finnish and Swedish) and in the Sami Language Act (Sami). In accordance with the new Administrative Procedure Act, an authority shall arrange for interpretation and translation in a matter that becomes pending on the initiative of the authority, if a party using Roma or sign language or some other language does not know Finnish or Swedish. The matter may be interpreted or translated into a language that the party can be deemed to know adequately in view of the nature of the matter.

### **Linguistic rights during criminal investigations and legal proceedings**

Section 37 (427/2003) of the Criminal Investigations Act lays down provisions on the right of persons being questioned to use their own language during criminal investigations. Concerning Finnish, Swedish and Sami, reference is made to the Language Act and Sami Language Act. The authorities responsible for the pre-trial investigations shall take care of interpretation or arrange for an interpreter at the Government's expense whenever the authority is not, under the Language Act, obligated to use the language of the suspect. Persons using other language than Finnish, Swedish or Sami are entitled to the services of an interpreter free of charge during preliminary investigations, unless the authorities take care of the interpretation. The authorities shall ensure, *ex officio*, that the interpretation needs are met.

The new Language Act led to amendment of provisions concerning the language used in the court proceedings by adding new relevant chapters to the Code of Judicial Procedure (Chapter 4; 425/2003) and the Criminal Procedure Act (chapter 6a; 426/2003).

The language of court proceedings is Finnish or Swedish, and judgements are given in Finnish or Swedish as provided in the Language Act. In the Sami Homeland, the language of proceedings can be also Sami as provided in the Sami Language Act.

In case it is necessary to use some other language than Finnish or Swedish in court proceedings, a Finnish- or Swedish-speaking person is entitled to interpretation and translation services. Provisions on the use of Sami in court are laid down in the Sami Language Act. Other than Finnish-, Swedish- or Sami-speaking defendants and complainants in a criminal trial are entitled to free interpretation during criminal proceedings. The court shall take care, *ex officio*, of the interpretation or invitation of an interpreter. What is provided concerning interpretation also applies to the translation of the judgement and decision.

### **Linguistic rights of the Swedish-speaking people in criminal matters**

Provisions on the rights of the Swedish-speaking population in criminal matters are issued in the new Language Act (section 14). In addition, related new provisions are laid down in the Criminal Procedure Act and the Criminal Investigations Act. To ensure the materialisation of the linguistic rights of the Finnish- and Swedish-speaking people in Finland, amendments were made (1202/2003) to the Act on Judicial Appointments (205/2000), and some other acts were complemented in the same connection by introducing provisions concerning the language skills of court staff members<sup>61</sup>. The Acts entered into force at the beginning of 2004.

### **Linguistic rights of the Sami-speaking people in criminal matters**

According to the Prosecutor General's Office, there has not been need to employ Sami-speaking officials. Individual cases have been taken care of with the help of an interpreter.

### **About statutes**

Statutes and decisions that specifically apply to the Sami are published in Finnish, Swedish and Sami. Provided that a statute or a regulation based on it applies only to persons speaking Skolt Sami, a translation of the text is given in Skolt Sami, Finnish and Swedish. The same applies to different application forms and instructions concerning them.

### **The European Charter for the Protection of Regional or Minority Languages**

Finland ratified the European Charter for the Protection of Regional or Minority Languages in November 1994. The Charter entered into force internationally on 1 March 1998. In connection with the ratification, Finland submitted an explanatory statement, according to which it undertakes to meet 65 of the special measures in respect of Swedish (less spoken official language) and 59 of the special measures in respect of Sami (regional language), laid down in Part III of the Charter. Besides, Finland has submitted a statement in which it undertakes to apply, as appropriate, the provisions of Part II of the Charter in respect of Roma and other non-regional languages.

The Second Periodic Report of Finland on the Application of the European Charter for the Protection of Regional or Minority Languages was submitted in December 2002.

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<sup>61</sup> Government Bill proposing to change the Act on Judicial Appointments and to amend other acts relating to the language proficiency of court staff members (HE 103/2003 vp).

## ARTICLE 11

- 1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.*
- 2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.*
- 3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.*

### Names Act

Provisions related to a person's name are enacted by the Names Act (694/1985). Every Finn shall have a surname and a forename. A person may have no more than three forenames. The forename must not be inappropriate or a name that is harmful for the child, such as a woman's name for a boy or a man's name for a girl, a surname must not be used as the forename, and the child must not be given a name that is in conflict with the customary way or form of writing names in Finnish. Siblings and stepsiblings must not have the same forename. Exceptions to the above may be accepted, however, based on religious habits or such criteria as nationality.

The forenames shall be registered with the population register (the Registry Office or the Evangelical Lutheran/Orthodox Church) within two months of the child's birth.

Provisions related to the surname are also recorded in the Names Act. When a child is born, he or she receives the surname of the parents if they have a common surname. If the parents do not have a common surname, the child receives the surname of either of the parents, based on an agreement between them. Minor children who are in the joint care of their biological parents always receive the same surname.

The surname of a child shall be registered with the population register (the Registry Office or the Evangelical Lutheran/Orthodox Church) within two months of the child's birth. If both parents of the child are not his or her legal guardians, they are or one of them is entitled to decide which parent's surname the child receives.

In Finland, name change issues are dealt with by the Registry Offices. Applications concerning change of a surname are submitted to the Registry Office of the applicant's municipality of residence. The forename can be changed by submitting a written notification to the Registry Office. No one is under a legal obligation to change his or her name at any stage of his or her life. Persons belonging to minorities are free to use their forenames and surnames based on their own minority language.

### Sami forenames and surnames

As stated above, Sami forenames and surnames are allowed. However, there are practical problems relating to the Sami alphabet because an established solution has not been devised to the question of how to transliterate the Sami alphabet in the official technical applications. For example, names that include letters in the Sami alphabet cannot be entered in the personal Social Insurance Card or the driver's licence.

## **Panels and information signs**

Finnish municipalities are either monolingual in Finnish or Swedish or bilingual. Of the 444 municipalities of Finland, 381 are Finnish, 19 are Swedish and 44 are bilingual. In accordance with the Language Act, a municipality is designated bilingual if the population includes Finnish and Swedish speakers and the minority comprises at least eight per cent of the local residents or at least 3000 persons. A bilingual municipality is designated monolingual if the minority comprises less than 3000 persons and its proportion has decreased below six per cent. The government determines for ten years at a time, which municipalities are monolingual and which are bilingual. All municipalities in Åland are Swedish-speaking.

In bilingual municipalities, the local authorities shall provide panels, traffic signs and other information signs directed at the general public in both Finnish and Swedish, unless solely foreign languages are to be used in them in accordance with international practice.

In the Sami Homeland, information signs shall be also in the Sami language. For example, road signs shall be in Finnish and, depending on the region, in North, Inari or Skolt Sami.

More accurate provisions on the language of traffic signs on roads and streets and other traffic management and control systems are laid down in the road traffic legislation. Should there be a special reason, some other language besides Finnish and Swedish can be used in traffic signs or the additional panels. A concrete example of this is Russian in signposts on motorways.

Provisions on the place names to be used in signposts placed by the authorities may be issued by a Government Decree. A statement by the Research Institute for the Languages of Finland shall be obtained before such a Decree is issued.

The Finnish legislation does not prevent the public use of private information signs and panels, referred to in the second paragraph above, in a minority language in compliance with the safety regulations of Finnish road traffic legislation.

## **About a decision by the Deputy Parliamentary Ombudsman**

Deputy Parliamentary Ombudsman *Ilkka Rautio* submitted a decision on the naming of roads in bilingual municipalities in October 2003<sup>62</sup>. Based on a complaint, many road signs are only in Swedish especially in the less densely populated bilingual municipalities.

In the course of the investigation of the complaint, the interpretation of the law proved to be problematic in respect of one municipality. The question was about road names in Swedish-speaking sparsely populated areas, which refer to a place without a tag implying the actual nature of the road. The local authorities considered translation of such place names into Finnish inappropriate and artificial, because Finnish names were not used on the base map and they were not common in spoken or written language. The road signs gave only the Swedish place name without the tag "road or street" ("vägen" in Swedish or "tie" in Finnish), which is why the local authorities considered that the naming met the demand of equal treatment of Swedish and Finnish.

Deputy Parliamentary Ombudsman *Rautio* stated that naming of places is strongly qualified by aspects related to cultural history and language usage. In legality control, only the legal questions

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<sup>62</sup> Decision by Deputy Parliamentary Ombudsman Rautio, dated 31 October 2003, Registry No 1248/4/02.

and viewpoints are addressed. Considered from this point of view, the basic issue in the bilingual naming of roads in sparsely populated areas in bilingual municipalities appears explicit on the basis of the established interpretation of section 10 of the Language Act (former Language Act 141/1935) and the present legal practice. In his decision, the Deputy Parliamentary Ombudsman referred to a former decision by the Supreme Administrative Court (KHO: 1993-A-17).

Based on the fact that road names represent information given to the residents according to section 10 of the Language Act (former Language Act 141/1935), the issue was not about a matter that would leave room for discretion by the local authorities in that should the names be confirmed in both national languages or not. Therefore the issue was not about appropriateness except as regards how the local authorities meet this responsibility in practice.

## **ARTICLE 12**

*1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.*

*2. In this context the Parties shall, inter alia, provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.*

*3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.*

### **About the Government's objectives**

Prime Minister *Matti Vanhanen's* Government Programme (24 June 2003 -) seeks to increase teacher training in order to ensure that teachers in all language groups are available throughout the country. The cultural rights of different minority groups are also supported in the Government Programme.

### **Teacher training in Swedish**

Separate teacher training is arranged for Swedish-speaking teachers in Finland. On account of lack of qualified Swedish-speaking teachers, the Ministry of Education allocated a separate appropriation in 1998 to increase student intake in class teacher and special education teacher-training programmes and to give teachers access to a wider choice of pedagogical studies.

In 2001–2003, Swedish teacher training was further expanded by means of a separate appropriation by the Ministry of Education. Student intake was increased in the following lines of study: class teacher, pedagogy for subject teachers, study counselling, kindergarten teacher, special kindergarten teacher, special education teacher, music teacher, visual arts teacher, professional teacher training, vocational special education teacher and visual, aural and developmental handicaps. The Ministry of Education also earmarked a special appropriation to the education of Swedish-speaking pre-school teachers in 2001–2003.

In 2004–2006, the Ministry of Education plans to allocate special appropriations also to the following teacher-training studies: class teacher, study counsellor, special kindergarten teacher, special education teacher, vocational teacher and vocational special education teacher training.

## Teacher training in Sami

The University of Oulu and the University of Lapland have quotas for Sami-speaking students applying to become class teachers. In 2003, three persons applied for the training programme. In 1997, the Ministry of Education had a study made on the situation and the need of subject teachers. A working group, which had been set by the Ministry to draft a proposal for practical arrangements concerning the training of Sami-speaking teachers, completed its work in 1999. Based on the working group's proposals, the Ministry of Education has granted a special appropriation to the University of Oulu for the training of Sami-speaking subject teachers.

As concerns North Sami teachers, the problems relate mainly to class teacher training, but with regard to Inari Sami and Skolt Sami there are problems in the entire field of education. In Finland, becoming a teacher takes considerably long, which is why there is not any rapid remedy for the situation. At the moment, two persons speaking Inari Sami are studying to be teachers, but in the long term this is inadequate in view of securing teaching in Sami from pre-school through upper secondary school, even if the persons now in teacher training were recruited to work as Sami-speaking teachers in Inari.

What is positive is that, although few in number, all the present North Sami class teachers are qualified class teachers.

In Norway, in the Sami University in Kautokeino there are also Finnish Sami-speaking persons studying to become class teachers.

## Swedish instruction in universities and polytechnics

The Finnish system of higher education consists of two kinds of educational establishments, universities and polytechnics. The basic mission of universities is to carry out scientific research and provide higher education based on it. The underlying principles in university education are the freedom of science and autonomy of the universities, which give them extensive latitude for independent decisions. All Finnish universities are state-run, with approximately 70% government funding. There are universities in all regions of the country. The universities also provide continuing education and open-university education.

The universities' language of instruction and examination is Finnish. However, based on separate provisions, the following universities use Swedish as their language of instruction and examination as well as their official language:

- Åbo Akademi University (<http://www.abo.fi>)
- Swedish School of Economics and Business Administration (<http://www.sbh.fi>)
- Swedish School of Social Science/University of Helsinki (<http://www.soc.kom.helsinki.fi>)

The following universities use both Finnish and Swedish as their language of instruction and examination:

- University of Helsinki (<http://www.helsinki.fi>)
- Helsinki University of Technology (<http://www.hut.fi>)
- Academy of Fine Arts (<http://www.kuva.fi>)
- Sibelius Academy (<http://www.siba.fi>)
- University of Arts and Design/Helsinki (<http://www.uiah.fi>)
- Theatre Academy (<http://www.teak.fi>)



The Universities Act (645/1997) contains specific provisions on the Åbo Akademi University, under which it has a special duty to satisfy the educational and research needs of the Swedish-speaking population and to take into account in its activities that Finland is a bilingual country. (section 28). Based on special provisions, the University of Helsinki may reserve a quota for Swedish-speaking students in a certain field of studies in case corresponding education in that field is not available at other universities. The university has reserved quotas for Swedish-speaking students, among others, in the intake of students to the faculties of law and medicine.

The full implementation of Swedish university instruction calls for additional resources. For example, the availability of the study materials (set books for exams) in Swedish is not sufficient.

According to section 10 of the Polytechnics Act (255/1995), the language of instruction in the polytechnics shall be either Finnish or Swedish. There are also bilingual polytechnics in which both Finnish and Swedish are used as languages of instruction. Swedish instruction is given in eight polytechnics in Finland, of which four use Swedish only and four use both Finnish and Swedish.

Several institutions of further education and open universities in Finland provide adult and continuing education in Swedish. The aforementioned universities provide corresponding education in Swedish.

### **Sami language and culture in the University and other higher education**

Sami language and culture can be studied at three universities in Finland. The University of Oulu (the Department of Finnish, Sami and Logopedics, SUOSALO) has the main responsibility for the teaching of the Sami language in Finland<sup>63</sup>. The University has one professor of the Sami language. The University has a quota for Sami-speaking students in the teacher-training programme. Students majoring in the Sami language may also qualify as subject teachers..

At the University of Helsinki, students can take Sami as a minor subject at the Department of Finno-Ugrian Studies. The purpose of the multidisciplinary Sami Studies Programme is to provide basic knowledge and qualifications required in various tasks relating to Sami issues, questions relating to indigenous peoples, Nordic and international cooperation, Lapland and the Arctic Region of the Nordic countries in general. The programme consists of 20 credit units<sup>64</sup>. The University has one lecturer of the Sami language.

At the University of Lapland<sup>65</sup>, Sami-speaking persons can study to become class teachers, and Sami can be taken as a minor subject. The University has one lecturer of the Sami language. Furthermore, many Departments maintain a quota for Sami-speaking students.

The aforementioned universities also provide Sami language courses for students who are studying to become teachers or administrative officials.

The only Sami University, *Sámi Allaskuvla*, located in Kautokeino, Norway, was established in 1989<sup>66</sup>. This Sami University uses Sami as the principal language of instruction, and provides

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<sup>63</sup> <http://www oulu.fi/suosalo/>

<sup>64</sup> <http://www.helsinki.fi/hum/sugl/saame.html>

<sup>65</sup> <http://www.urova.fi>

<sup>66</sup> <http://www.Sámiskhs.no/>

teacher training in the Sami language. The Sami University also admits students from the neighbouring countries Finland, Russia and Sweden.

### **Promotion of the education, language and culture of the Roma population**

The Roma language cannot be studied at university level in Finland. In 1997, a Roma Language Board was established under the auspices of the Research Centre for the Languages of Finland<sup>67</sup> to maintain and develop Roma and carry out research thereon. At present, the Research Centre employs two full-time research and language planning employees working on Roma.

The National Board of Education established in 1994 an Education Unit for the Roma Population, specializing in Roma training<sup>68</sup>. The staff of the unit are experts in Roma education and culture and exert their influence on the planning and implementation of education so that the basic and vocational education of the Roma population is carried out based on equality of opportunity.

#### The Education Unit for the Roma Population

- takes initiatives, makes surveys and compiles reports;
- disseminates information and promotes the education of the Roma, use of the Roma language and Roma culture;
- cooperates with Roma families and different administrative bodies as well as non-governmental and other interest groups;
- monitors international developments in the field.

The Education Unit arranges seminars and courses dealing with a variety of matters, organises consultations and information meetings for the Roma and the main population in cooperation with different authorities and publishes a regular information bulletin about its assignments and activities.

Vocational studies for a diploma of Roma culture instructor<sup>69</sup> have existed since 15 December 2001. Students of the diploma can choose between three alternative lines of specialization: instructor of Roma, consultant or cultural secretary. Those who opt to become teachers will qualify primarily to work as Roma language and Roma culture instructors in comprehensive schools, vocational colleges and liberal adult education. However, the diploma does not provide the same teacher qualifications as teacher training at universities does. The second line of specialization qualifies for various social counselling and consultative duties, and also gives competence to guide and motivate customers in specific social skills. Consultants can function within various consultative organisations, institutions for rehabilitation, social welfare, and health care, municipal culture services and education as well as in a variety of consultative activities. Cultural secretaries, who are well versed in Roma arts and crafts, perform various duties relating to projects promoting the Roma culture and cultural diversity, leisure activities, and education. The diploma of Roma culture instructor is acquired by a competence-based qualification examination, developed to meet the needs of the adult population and the demands of working life. The qualification is not dependent on the means through which the competence has been acquired. The first examination was arranged in the autumn 2003.

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<sup>67</sup> <http://www.kotus.fi/>

<sup>68</sup> <http://www.oph.fi/english>

<sup>69</sup> The National Board of Education; DNO 54/011/2001.

## **Other minority groups**

Finnish universities have introduced quotas for immigrant applicants in their class teacher-training programmes.

### **Project on the state of basic education of Roma Children and its further development**

In 2000-2002, the National Board of Education carried out an extensive national project charting the state of basic education of Roma children and supporting its further development. The report is based on the responses obtained to questionnaires sent to all Finnish comprehensive schools in 2000–2001. The report is the first of its kind at the national level.

The following issues were highlighted in the report:

- Only 2% of Roma children attend pre-school education.
- Absences are less frequent thanks to permanent housing, but Roma children are still absent from class more often than others.
- About 50% of all Roma pupils receive special education. It is unlikely that their great proportion would be based on a real need.
- Based on follow-up, about 50% of those who had been in special education did not attend any school during the next two years after they had finished special education (years 1993 and 1996 were examined). Special education can therefore be assumed to contribute to the onset of marginalization because those without a final report from the comprehensive school are not in practice available for the labour market.
- About 5% of all Roma children drop out of the comprehensive school. The figure is too high compared to the nearly zero average at the national level.
- Of those without a final school report, 58% were girls. More attention must be paid to girls' school attendance and family planning counselling.
- According to 54% of the schools under review, non-participation in further education is based on cultural reasons. Only 7% of the Roma families considered culture as the reason for non-participation in further education.
- Roma families considered social and societal reasons and limited financial means the principal obstacles to participating in further education.
- Two thirds of the schools informed that they have not detected discrimination. One third reported that discrimination manifests in the form of calling names, bullying and exclusion.
- Possibilities to learn about Roma culture were offered in 53% of the schools, while 42% of the schools did not pay any attention to the Roma culture.
- As few as every fifth of the school staff members had received information about Roma culture and history.
- Knowledge of Roma culture and history was considered to be positive for the whole school, both pupils and school staff.

### **Study Material in Sami**

The Sami Parliament and the Office and Committee for Education and Learning Material, operating under its auspices, take responsibility for the provision of study material in Sami. In 2004, an appropriation of EUR 258 000 was granted to the Sami Parliament for the production of study material in Sami. The Committee decides how the funds will be used.

The need of study material has increased in tandem with the increase of the instruction of Sami. Sufficient study material is not yet available in all school subjects. The materials have been prepared by teachers of Sami who are proficient in the different Sami dialects. In the past few years, part of the study material appropriation has been directed to their employment as textbook scriptwriters on a temporary basis. Lack of textbook writers is a problem especially in Inari Sami ja Skolt Sami study material. In practice, the teachers prepare the texts as a sideline occupation. Therefore, producing study material for a very small language group is a long-term process. The appropriation that has been earmarked for the preparation of study material in Sami has proved to be insufficient. Additional support is required especially to respond to the needs of Inari and Skolt Sami study materials.

*The Finnish League for Human Rights* is of the opinion that in basic education the material presented on ethnic minorities and the indigenous people, the Sami, is still factually inadequate – in respect of the Sami even misleading. In addition, teacher-training studies should include more information about minorities and the indigenous Sami people. All universities that run teacher-training programmes should incorporate a compulsory module on minority issues in their curricula. Based on inquiries received by the Finnish League for Human Rights, all teachers do not have enough resources to be able to deal with diversity.

### **Study material in Roma**

The Romany Education Unit of the National Board of Education is in charge of the production of Roma study material. Study materials have been and are prepared for both the need of the main population and the Roma. The material that is directed to the main population aims at giving readers a better knowledge of Roma culture and consequently at removing prejudices and increasing tolerance. The purpose of the material that is targeted at the Roma themselves is enhancement their knowledge of their own roots, empowerment of their own identity and the strengthening and development of Roma.

### **Promotion of the Russian language and culture**

The Department of Teacher Education of the University of Oulu has launched a three-year training project related to Russian culture and language. The project enables persons taking their Master's degree to include in their study programme modules focusing on the Russian culture and language. This is a trial during which the Department will assess, develop and organise a future training programme that will concentrate on Russian culture, language and pedagogy. In January 2003 a total of 23 students started the programme.

*The Finnish Institute for Russian and East European Studies* is a research institute functioning under the auspices of the Ministry of Education, in accordance with Act No 857/1992. A new Government Decree (1100/2001) entered into force at the beginning of 2002, according to which the Institute shall promote cultural and educational cooperation related to Russia and East Europe, and support related research. The Institute shall also, *inter alia*, support the languages and cultures of Russian and East European immigrants in Finland, maintain a library and information service, provide public information and produce publications related to its field of research.

The Finnish Centre for Russian and East European Studies, *Aleksanteri Institute*, at the University of Helsinki, was established in 1996. The Institute carries out research and provides education and knowledge related to Russia and East Europe, particularly in social sciences and the humanities.

## ARTICLE 13

- 1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.*
- 2. The exercise of this right shall not entail any financial obligation for the Parties.*

Under the Basic Education Act (628/1998), the Government may grant a permission for an registered association or foundation to arrange comprehensive or upper secondary school education. The applicant is required to have the necessary professional skills and economic capacity for arranging the education.

## ARTICLE 14

- 1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.*
- 2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language*
- 3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.*

### **Education as a fundamental right**

In Finland, education is a constitutionally guaranteed fundamental right. All residents of Finland are entitled to basic education free of charge. Post-comprehensive education is mainly free and entitles students to state financial aid.

Prime Minister *Matti Vanhanen's* Government (24 June 2003 -) set as one of its objectives the provision of equal right to education and training to everyone according to their abilities, in compliance with the principle of lifelong learning. The Government supports the right of children from different ethnic groups to their own language and culture. Immigrant children's first-language skills are supported with a view to achieving a good command of both Finnish and their native language.

### **Swedish**

Swedish is taught as the other national language of Finland and it is a compulsory language both in comprehensive schools and upper secondary schools for Finnish-speaking pupils. As from 2004, Swedish is an optional subject in the matriculation examination (school-leaving examination). It is possible to study Swedish at all levels of education, and a wide selection of classes and courses are available.

### **Sami**

The right of the Sami to education in their own language is safeguarded mainly by the provisions of the Basic Education Act (628/1999), the General Upper Secondary Schools Act (629/1998) and the Vocational Education and Training Act (630/1999). There are three Sami languages in Finland: North Sami, Inari Sami and Skolt Sami. Sami pre-school education is arranged to take place in conjunction with the basic education classes in the Sami Homeland. In accordance with

the Basic Education Act, the language of instruction can also be Sami. Teaching of Sami-speaking children living in the Sami Homeland has to take place mainly in Sami. The new grounds for basic education curricula contain provisions on Sami and instruction in Sami. The Basic Education Act requires that the provider of the education must adopt a curriculum of its own for instruction in Sami.

The right to education materialises well in respect of those Sami-speaking children in classes 0 to 6 who are capable of studying in Sami. As concerns classes 7 to 9, the situation does not meet the spirit of the Basic Education Act, which stipulates that the instruction of Sami pupils should take place mainly in Sami. Qualified class teachers are still few in number.

Sami can be the language of instruction, the mother tongue or an optional subject. If pupils study Sami as an optional subject, the total number of their weekly classroom hours will be increased. According to the Basic Education Act and the General Upper Secondary Schools Act, Sami as a mother tongue is on an equal footing with the two national languages, Finnish and Swedish. In accordance with the Matriculation Examination Decree, exams of the mother tongue are arranged in Finnish, Swedish and Sami. The Sami examination can be taken in either North Sami or Inari Sami. In upper secondary schools, the language of instruction can be Sami, but the education provider is not under an obligation to arrange instruction in Sami. It is not possible to take the entire school leaving examination in Sami.

In basic education, upper secondary education and vocational education and training, subsidies cover nearly all employment expenses caused to the education providers. According to a Government Decree (1117/2002), subsidies are conditional upon a group size of a minimum of three students per education provider. The previous minimum group size requirement was five students. The change was made to safeguard the position of Sami and instruction in Sami in the Sami Homeland. Sami pupils living outside the Sami Homeland are offered a chance to participate in basic education in their own language in Rovaniemi and Oulu.

The National Board of Education has been funding a virtual Sami project in the Sami Homeland in the years 2003 and 2004. The idea of the project is to develop and encourage studies of Sami also outside the Sami Homeland, using tools available in the virtual environment.

### **Other measures to develop the Sami language**

The State Provincial Office of Lapland has assigned a Cultural Service Official, with an office in Inari, to monitor and evaluate the position of Sami and Sami instruction, to develop instruction and use of Sami, to provide for the legal protection of the rights of children in comprehensive and upper secondary schools in the Sami Homeland and to organise continuing training for Sami teachers. The Official speaks Sami and works in the premises of the Sami Parliament.

The Sami Parliament has set up a cooperative body to deal with the education of Sami people. The body consists of representatives of the Sami Parliament, municipalities in the Sami Homeland, the State Provincial Office of Lapland and the Ministry of Education/National Board of Education. Its assignment is to develop instruction of and in Sami, and to enhance the provision of information and joint projects for the development of education.

In each municipality in the Sami Homeland, there is a specific language and cultural community (siida) financed by the Sami Parliament, municipalities, the State Provincial Office of Lapland and the European Union (within the framework of the European Social Fund Objective 1). The purpose of these cultural communities is to enhance Sami culture and the use of Sami among Sami families. The cultural community project was concluded at the end of 2003 and experiences of it were positive.

There is reason to acknowledge the work done to enhance the use of Sami in liberal adult education circles. Many folk high schools and adult education centres, mainly in the Province of Lapland, organise courses of Sami and Sami culture on a regular basis.

### **Teaching of Roma and Roma culture**

Under the Basic Education Act (628/1998), schools may choose to use Roma as the language of instruction. Roma may also, by choice of the parent or legal guardian, be taught as the pupil's mother tongue. In accordance with the reformed National Guidelines for Roma School Curricula, Roma children's position as an ethnic and cultural minority in Finland shall be taken note of in their education.

On account of the social integration of the Roma population and the introduction of new legislation relating to minority rights, issues pertaining to their education and the maintenance of their unique linguistic and cultural heritage shall be paid attention to in basic education too. The instruction of Roma must encourage the build-up of a dual identity and enhance school satisfaction. The instruction must provide Roma pupils a natural medium for expressing their own personal minority identity also at school. Roma education must lead to improved knowledge of the history and language of the Roma people among Roma pupils and contribute to their awareness of the Roma as one of the most important minorities in Europe and in the entire world. The significance of language instruction at school is emphasized because, in Finland, Roma has traditionally been only a spoken language. This is why the different linguistic backgrounds and regional differences of the pupils must be appreciated in the instruction of Roma and Roma culture. The neighbourhood, family community and Roma media are taken advantage of in education.

The existing Roma study materials focus on the instruction of Roma as a mother tongue or as a half mother tongue. The publication scheme is based on the reformed National Guidelines for Roma School Curricula. The long-term objective is to produce a series of study material that would cover the needs of basic education and general upper secondary schools for those who study Roma as their mother tongue or half mother tongue. The main problem has proved to be the limited number of persons who would be competent enough to do the job, because there are very few teachers who are both qualified to write study materials and also proficient in Roma. In addition, the poorly established character and inadequate vocabulary of Roma place exceptionally high demands on the writers, not to mention the pedagogical problems that may sharply differ from those encountered in the context of other language studies and still need to be solved.

In the school year 2000-2001, instruction of Roma was available in only 5% of the Finnish schools having Roma pupils. A total of 8.5% of Roma pupils were given the chance to study their own cultural language in the comprehensive school. It appeared that there were schools that were absolutely unaware of the existence of Roma. Problems were also caused by lack of teachers and too small a number of pupils. Many times, Roma parents either do not know how or do not want to suggest that Roma be taught at school.

Arrangements for teaching of Roma have not yet reached a satisfactory level. Teaching has been impeded by inadequate financial resources in the municipalities in charge of the provision of instruction, the fact that the pupils are scattered to different places (it is difficult to meet the group size requirement because of the long distances between schools with Roma-speaking pupils), lack of teachers, and inadequate textbook supply. The Constitutional Law Committee of Parliament paid attention to this when it laid provisions for the new Language Act. The

Committee stated that the Government must engage in legislative and administrative measures to improve the materialisation of the linguistic and cultural rights of the Roma population<sup>70</sup>.

A sign of favourable developments is seen in that the Ministry of Education has accepted the diploma of Roma culture instructors to be equivalent of a vocational qualification. More detailed information about the diploma is given under Article 12 above.

## Russian

The size of the Russian-speaking population and its concentration in southern Finland provide a favourable environment for the development of Russian schools. However, many Russian parents who have a positive attitude towards education in general choose to place their children in Finnish schools for such reasons as better employment opportunities. The Finnish school legislation provides good opportunities for the establishment of private Russian schools but, in practice, the maintenance of such schools is difficult for private entities. Nevertheless, there has been interest in establishing private Russian schools in different parts of the country. At present, there is no shortage of teachers of Russian in Finland, whereas Russian-speaking class and subject teachers are fewer in number than would be needed.

Basic education is given in Russian in a few schools, such as the Finnish-Russian school in Helsinki, that was founded several decades ago and is maintained by the State<sup>71</sup>. Russian is used in the school as a school subject and partly a language of instruction and working language. Knowledge of Russian culture is considered to be an element of knowledge of the Russian language. The school is primarily meant for Finnish children but both Finnish- and Russian-speaking pupils are admitted.

Russian is taught as a foreign language at all levels of education, including the basic education and general upper secondary level, vocational education and training, university and other post-secondary education as well as adult education.

## Daycare

Under Section 11, subsection 2, of the Children's Daycare Act (36/1973, as amended by Act No 875/1981), the local authorities are under an obligation to ensure that there is daycare available in the child's mother tongue: Finnish, Swedish or Sami. Under section 1 of the Act, 'children's daycare' means care provided for the child at daycare centres, in family daycare homes, at playschools or in other daycare forms. Section 1a of the Children's Daycare Decree (239/1973, as amended by Act No 1336/1994) provides that the educational aims referred to in section 2 of the Children's Daycare Act shall include the provision of support for the maintenance of the languages and cultures of Finnish and Swedish, Sami and Roma children and of children with an immigrant background, in cooperation with persons representing those cultures.

## Pre-school education

By virtue of an amendment (1288/1999) made to the Basic Education Act (628/1999), the local authorities are under an obligation to provide all children residing in the municipality in question with pre-school education during the year immediately preceding the year when they start school. The amendment became effective on 1 August 2001. Children attend pre-school education,

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<sup>70</sup> Report of the Constitutional Committee of Parliament 9/2002 vp.

<sup>71</sup> <http://www.svk.edu.hel.fi>



consisting of a minimum of 700 hours of teaching free of charge, on a voluntary basis. The local authorities may arrange the education at schools, daycare centers or in some other suitable manner. The provisions of the Basic Education Act apply to pre-school education, too. The language of pre-school instruction shall be either Finnish or Swedish. The language of instruction may also be Sami, Roma or sign language. In addition, instruction may be provided in other languages. In municipalities with both Finnish and Swedish-speaking inhabitants, the local authorities must arrange pre-school education in both languages.

The local authorities shall ensure that daycare is available in the child's mother tongue, that is, in Finnish, Swedish or Sami.

## **ARTICLE 15**

*The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.*

### **Supporting Minority Cultures**

Support of minority cultures has been dealt with, *inter alia*, in connection with Article 5 above.

### **Political representation**

There are no specific minority parties in Finland. Politically active persons representing a minority group are members of parties of their own choice.

In Parliament, there are no seats reserved for minorities, with the exception of one seat for the Member of Parliament representing Åland. The existing electoral system does not make a full political participation of small ethnic and other groups possible, because, in practice, it is difficult for persons representing such groups to become elected. Thus, the Sami people, for example, do not have their own Member of Parliament nor has any Roma ever been elected to Parliament. The Sami Parliament suggested in 2002 that the Government investigate if it was possible to set a quota to get a Sami MP in Parliament.

At the local level it is easier for persons representing small groups to become elected. Swedish-speaking Finns, the Sami and the Roma, for example, have representatives in town councils.

### **Autonomy**

The Province of Åland enjoys a high degree of autonomy based on the Constitution of Finland and the Act on the Autonomy of Åland. The Åland Legislative Assembly represents the people of Åland and the administration of Åland is vested in the Government of Åland and the official authorities subordinate to it. The Sami have cultural and linguistic autonomy within the Sami Homeland. The cultural self-government of the Sami is based on the Constitution of Finland and the Act on the Sami Parliament.

### **Advisory Boards**

An *Advisory Board for Sami Affairs* has been set up under the administration of the Ministry of Justice to coordinate and prepare matters concerning the Sami people. The assignments of the

*Advisory Board for Roma Affairs*<sup>72</sup>, operating under the administration of the Ministry of Social Affairs and Health, include duties such as monitoring the possibilities of the Roma population for social participation and improvement of their living conditions, exercise of initiative and promotion of the status of the Roma language and culture.

An *Advisory Board for Minority Issues* has been set up to assist the Minority Ombudsman in questions related to the prevention, monitoring and control of ethnic discrimination. By virtue of the new Language Act, an *Advisory Board for Language Issues* was set up to work under the administration of the Ministry of Justice, in charge of promoting the use and monitoring of the national languages and contributing to the development of linguistic conditions in Finland. The *Advisory Board for Ethnic Relations (ETNO)* is active under the administration of the Ministry of Labour. Minority issues are also discussed in the *Advisory Board for International Human Rights Affairs* under the administration of the Ministry for Foreign Affairs.

The Swedish Assembly in Finland, *Svenska Finlands folkting*, monitors the position and interests of the Swedish-speaking Finns and the Swedish language.

The *Finnish Association of Russian-Speaking Organisations (FARO)* has repeatedly criticized the defective supervision and management of issues concerning the Russian-speaking minority in Finland. According to the association, these issues cannot be successfully managed on a voluntary basis only through the Advisory Board for Ethnic Relations and its limited resources. The association therefore suggests that the Russian minority in Finland should be encouraged to organise in the legal and social sense and to set up bodies of their own to represent the interests and expertise of the ethnic Russian and Russian-speaking minorities in Finnish governmental and local organs.

A working group focusing on the research on the Russian-speaking minority in Finland, made by the Advisory Board for Ethnic Relations, has suggested that an Advisory Board be set under the administration of the Government of Finland to discuss issues related to Russians in Finland. The branches of administration that deal with questions affecting the Russian-speaking minority and members of the minority itself should be represented in the board. The board would be a body of experts, primarily in charge of preparing recommendations on issues concerning the Russian-speaking minority and assisting the authorities to manage them.

The Ministry of Labour sent the working group's report for comment on 6 May 2003. None of the ministries and the central administration bodies subordinate to them that commented on the report supported the setting up of a separate advisory board. In their view, questions concerning the Russian-speaking people in Finland should be dealt with and, as required, incorporated into the existing bodies.

Research on the Russian-speaking minority in Finland, carried out by the Advisory Board for Ethnic Relations, will be discussed in more detail in Chapter III, para 7 of this Periodic Report.

### **Hearing of minorities**

When legislation is prepared and matters are discussed in parliamentary committees, the opinions of the different minorities are being heard more than before. Hearings have taken place in different ways but, in most cases, minorities have been given a hearing via the relevant advisory boards.

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<sup>72</sup> See: Paavo Lounela: The Role of the Advisory Board for Roma Affairs in Finnish Administration.

## **The Swedish-speaking Finns**

Swedish-speaking Finns' participation in cultural, social and economic life is found to be as effective as that of the majority of the population, and they are found to stand on an equal footing in that respect.

### **Obligation to negotiate on issues related to the Sami people**

Under section 9 of the Act on the Sami Parliament, the authorities shall negotiate with the Sami Parliament in all far-reaching and important measures which may directly and in a specific way affect the status of the Sami as an indigenous people and which concern matters in the Sami Homeland as referred to in the Act, such as:

1. community planning;
2. the management, use, leasing and assignment of state lands, conservation areas and wilderness areas
3. applications for licences to stake mineral mine claims or to file mining patents
4. legislative or administrative changes to gainful occupations belonging to the Sami form of culture;
5. the development of the teaching of and in the Sami language in schools, and the social and health services; or
6. any other matters affecting the Sami language and culture or the status of the Sami as an indigenous people.

The obligation to negotiate is met when an authority reserves an opportunity for the Sami Parliament to be heard and discuss an issue independent of whether the opportunity is used or not.

Section 12 of the Forests Act (1093/1996) includes a special provision, which refers to the Act of the Sami Parliament and lays down an obligation to negotiate prior to the issue of a decision concerning timberline forest.

Furthermore, the ILO Convention on Indigenous and Tribal Peoples No. 169 of 1989, still not ratified by Finland, calls for the organisation of negotiations with indigenous peoples whenever such issues are dealt with as affect them. The Social Affairs and Health Committee of Parliament noted in 1990 that efforts should be made by those in charge of legislation and administration to comply with the provisions and spirit of the Convention even prior to its ratification. The Constitutional Committee of Parliament has also pointed out on several occasions that the Sami should be heard when issues affecting them are being prepared.

Guarantees of good governance, provided for in Section 21 of the Constitution of Finland, are considered to require that the Sami be heard in issues affecting them even without the aforementioned obligations.

Situations arise at regular intervals in the fields of administration of nearly all ministries where the authorities need to pay attention to the legal position of the Sami people. This applies not only to government officials but, in particular, also to municipal authorities in the Sami Homeland. The authorities must then pay due attention to their obligation to negotiate, laid down in the Act on the Sami Parliament. As a rule, the responsibility to take care of compliance with this obligation is imposed on one official or post-holder in each authority. According to law, they shall discharge their duties in an appropriate manner and observe the relevant provisions and instructions (section 14, para 1 of the State Civil Servants' Act, 750/1994; and section 44a of the Local Government Act, 365/1995). In accordance with section 118 of the Constitution of Finland, a

civil servant is responsible for the lawfulness of his or her official actions. The highest guardians of the law, the Chancellor of Justice of the Government and the Parliamentary Ombudsman shall oversee that the authorities and civil servants comply with the provisions of law and carry out their responsibilities (sections 108 and 109 of the Constitution of Finland). Anyone who has suffered from an infringement or been injured because of an unlawful act or neglect from the part of an official, is entitled to claim that the official be punished and that compensation for damage be paid by the public entity or the official in question. Anyone is also entitled to file an appeal to the Chancellor of Justice or the Parliamentary Ombudsman concerning experience or observation of unlawful acts or neglect of duty in the authorities (Chancellor of Justice Act, 193/2000, section 3 and Parliamentary Ombudsman Act, 197/2002, section 2).

As a rule, the obligation to negotiate is observed rather well. Any detected cases of neglect have led to action. For example, in 1996-97 the Supreme Administrative Court quashed decisions concerning claims to mines, made by the Ministry of Trade and Industry, because the Sami people had not been heard in the issue. Negotiations with the Sami Parliament seem to have become an established practice among the authorities that are required to carry out such talks. There does not, therefore, seem to be any special need for the issuance of particular instructions as was proposed by the Advisory Committee.

The Sami Parliament has criticized the inadequate implementation of the negotiation obligation and said that the promotion of the opportunities of the Sami people to exercise social influence has stagnated. According to the Sami Parliament, its expressions of opinion still remain, in many cases, unheard and unnoticed in the context of administrative planning and preparation.

### **Regional Advisory Boards for Roma Affairs**

Questions related to the Roma have been dealt with in specialized advisory boards since 1956. Besides the national Advisory Board for Roma Affairs, there are regional advisory boards, established to function on a permanent basis as from the beginning of 2004<sup>73</sup>. The regional advisory boards are active at present in the Provinces of Southern Finland, Western Finland, Eastern Finland and Oulu. This strengthens the participatory role of the Roma population in the administration of their own affairs. The status and tasks of the national Advisory Board on Roma Affairs remain unchanged. Development of services that enjoy the confidence of the Roma population calls for improvement of the administration of Roma affairs. Experiences of the activities of the regional boards are positive. The cooperation between the regional advisory boards takes place, appropriately, in the context of the national Advisory Board on Roma Affairs.

## **ARTICLE 16**

*The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.*

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<sup>73</sup> Government Decree 1019/2003 on a national Advisory Board for Roma Affairs and regional Advisory Boards for Roma Affairs.

## Administrative divisions

In 1999, when the previous Periodic Report was submitted, the Constitution Act of Finland of 1919, including its provisions on the rearrangement of the boundaries of administrative districts, was still in force. In the new Constitution of Finland, the provision is in an amended form. In the present Constitution of Finland, provisions on administrative divisions are laid down in section 122, according to which the objective of the organisation of administration shall be suitable territorial divisions in view of the Finnish-speaking and Swedish-speaking population's opportunity to receive services in their own language on equal terms. This provision is designed to ensure equal opportunities for both language groups to have access to services in their own language.

*The Swedish Assembly* has, however, criticised the wording of section 122 of the Constitution. According to the Swedish Assembly, the new provision is weaker than the repealed provisions because it does not provide for any obligation to pay attention to the language of administrative districts in the context of rearrangement of their boundaries.

As regards the use of Swedish, there are also certain special administrative divisions. For example, the Evangelical Lutheran Church is divided into parishes on linguistic grounds so that, in cases where there is a significant Swedish-speaking population in a municipality, the Swedish-speaking population constitutes a parish of its own. Since 1923, all Swedish parishes have belonged to the same autonomous Swedish diocese.

In the field of defence, there is a Swedish detachment (Uudenmaan prikaati; Nylands brigad). The different detachments of the defence forces use Finnish, with the exception of Uusimaa Brigade (Nylands brigad) in Dragsvik where the language of training is Swedish and all decisions concerning conscripts and other documents are written in Swedish. The staff is mainly Swedish-speaking and also the other staff members are able to use Swedish. In order to ensure the quality of the basic military training also in future, it is necessary to require adequate command of the Swedish language in the context of recruiting superior officers responsible for the training.

Many provisions of the Sami Language Act are applicable irrespective of the place of residence of the person speaking the language, although the rights of those living in the Sami Homeland are more extensive. Even the right to receive instruction in and of the Sami language applies to the entire country although, in practice, the right may be best ensured in the Sami Homeland. Outside this area, there is very little instruction in and of the Sami language. Municipalities are, however, entitled to a specific state subsidy for the purpose of arranging supplementary teaching for two hours a week. The financial resources of municipalities are fairly modest, and also shortage of teachers, the weak position of the language outside the Sami Homeland, and the small number of Sami children in each school make it more difficult to provide instruction in and of Sami. When the Sami Language Act was reformed, the different extent to which enjoyment of the rights is possible in the Sami Homeland and other parts of the country was, nevertheless, maintained.

The Sami Parliament has criticized the fact that the administrative districts defined by law do not conform to the limits of the Sami Homeland. In the opinion of the Sami Parliament, this hinders the maintenance and development of the Sami language. For example, the Sami Homeland extends over two sub-regions, Northern Lapland and Fell Lapland.

## ARTICLE 17

*1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.*

*2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.*

### **The freedom of assembly and association**

An account of the freedom of assembly and association is provided under Article 7.

### **Cross-border cooperation of the Sami people**

The Sami being one single nation living in the three Nordic countries and the Kola Peninsula in Russia enables active and natural cross-border contacts. On the border regions in Finland, Norway and Sweden, daily contacts are frequent especially between private persons and in the context of the activities of associations of the Sami Homeland.

The Sami Council<sup>74</sup>, founded in 1956, has member organisations in Norway, Finland, Sweden and Russia. It has a long tradition as a promoter of the position and rights of the Sami, for example, through international cooperation between indigenous peoples.

The Finnish, Swedish and Norwegian Sami Parliaments cooperate via the Parliamentary Sami Council. Linguistic cooperation, embracing also the Sami languages spoken in Russia, is carried out through the joint Sami Language Board of the Sami Councils.

The Central Organisation of the Sami in Finland (Suoma Sámiid Guovddássearvi ry, SSG), which was founded in 1996, protects and promotes the cultural, linguistic, administrative, economic and educational rights of the Sami and takes collective responsibility for managing Sami issues in both national and international contexts. The organisation represents the Finnish Sami as the only Finnish member organisation in the Sami Council. As a member of the Sami Council, the central organisation is involved in the activities of the EU, the UN and the Arctic Council and other cooperation between the Sami people. Its operation is based on voluntary participation and its financing, decided upon by the cultural board of the Sami Parliament, is part of a discretionary transfer for international cooperation and funds for art organisations of the Sami, granted by the Ministry of Education.

The Sami Training Centre was set up in the 1970s to provide vocational education mainly for the needs of people in the Sami Homeland, to maintain and develop the Sami culture and the traditional means of livelihood of the Sami, and to enhance the production of study materials in Sami. The Centre provides vocational basic and further training, courses in the Sami language and culture and also general education. The Centre has attracted international attention as a party of cooperation not only in its principal fields of activity but also otherwise. However, the Centre has chosen to focus its cooperation on the Arctic Region and its Northern cultures.

Sami students also from Finland study to become class teachers in the Sami University in Kautokeino, Norway. Class teachers are required to meet the same qualifications in Finland, Sweden and Norway. The Sami University offers also courses in the media sciences.

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<sup>74</sup> <http://www.Samicouncil.net>

## **Finns and Finno-Ugric peoples in Russia**

Article 10 of the Agreement on the Foundations of Relations between the Republic of Finland and the Russian Federation (Finnish Treaty Series 63/1992) provides for the preservation of national identities. According to the Article, "the Parties shall give their support to the preservation of the identity of Finns and Finno-Ugric peoples and nationalities in Russia and, correspondingly in Finland, the identity of persons originating in Russia. They shall protect each other's languages, cultures and historical monuments."<sup>75</sup> The Agreement also incorporates a programme on kindred nations, including the Sami people. The programme covers the promotion of the Sami language and culture in the Kola Peninsula in Russia. Thanks to this programme and the activities of Sami associations, contacts between the Sami in Finland and Russia have increased for example in the fields of culture, school education, vocational training and continuing education.

## **Civil participation and non-governmental organisations**

Voluntary work done in non-governmental organisations is a key resource in society. The Government seeks to further improve the preconditions for active civil participation by removing various barriers. Prime Minister *Matti Vanhanen's* Government Programme (24 June 2004-) includes a Civil Participation Policy Programme. This national democracy project seeks to enhance civil participation and contribute to effective democracy. The purpose is to improve opportunities for civil and electoral participation and provide more democracy education, and also to strengthen representative democracy otherwise. The project aims to reinforce the position of non-governmental organisations as a channel for civil participation and civil interaction and as a buttress of democracy.

In 2000, the Government opened an electronic discussion forum *Otakantaa.fi*, which citizens can visit in order to give an opinion on ongoing governmental projects or projects to be launched, legislative reforms, and other issues of interest in the state administration. The objective of the forum is to give citizens a chance to directly express their views, expert opinions and ideas on projects and preparative work carried out in the central administration and to create new channels for dialogue between citizens and officials.

The Finnish state administration maintains fairly extensive contacts with human rights organisations. One example is the Advisory Board for International Human Rights Affairs at the Ministry for Foreign Affairs, which issues statements, makes suggestions and arranges seminars on topical human-rights issues. It also serves as an important channel for exchange of information and contacts between the Government and human rights NGOs.

## **Joint Nordic Roma seminar 2004**

Helsinki will host a joint Nordic Roma seminar on 5-6 October 2004, entitled *Romanit eteenpäin Euroopassa*. The themes of the seminar will be the Nordic values as an element in the European policy on the Roma, the status and visibility of Roma women, the impact of the measures taken by the Minority Ombudsmen, the future European Roma forum from the Nordic point of view and grassroots level cooperation, such as the coordination of school textbooks in Roma.

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<sup>75</sup> Unofficial translation.

## ARTICLE 18

*1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.*

*2. Where relevant, the Parties shall take measures to encourage transfrontier co-operation.*

### **Nordic cooperation**

Finland, Norway and Sweden are engaged in cross-border cooperation at various levels and in several forms.

Finland has concluded agreements with the other Nordic countries<sup>76</sup> on, among others, cooperation in the field of culture (Treaty series 60/1971; as amended 21/1990), on cooperation between local authorities (Treaty series 1-2/1979) and on the right of citizens of the Nordic countries to use their own language while visiting another Nordic country (Treaty series 11/1987).

The Nordic Agreement on Social Welfare Services (Treaty Series 69/1996) expands the right of citizens to use their own language in another Nordic country, provided for in the Nordic Language Agreement, to some extent in the fields of social welfare and health care.

Finland, Sweden and Norway carry out cooperation in the fields of culture and education in bodies and committees operating under the administration of the Nordic Council of Ministers. The majority of the projects are related to cooperation focusing on culture, information service and education, where language plays a key role.

The Nordic Council of Ministers in Copenhagen also administers the Nordic Cultural Fund, to which Finland contributes. In addition, Finland has bilateral cultural funds with the other Nordic Countries: Finnish-Swedish Cultural Fund (1960), Finnish-Icelandic Cultural Fund (1974), Finnish-Norwegian Cultural Fund (1979) and Finnish-Danish Cultural Fund (1981).

In the summer 2001, the Ministry for Foreign Affairs of Finland and the Swedish Ministry of Industry, Employment and Communications appointed a joint working group on minorities and minority languages. The working group monitors legislative and statutory developments concerning minorities and minority languages and their use at the national and international levels. The idea is that the working group would serve as a forum for discussion and exchange of experiences in order to identify different problems and make initiatives to find out solutions to the problems. The working group is entitled to make statements, proposals or recommendations based on its findings. Chapter 8 of Part III of this Periodic Report gives more information of the group's work.

### **Closer cooperation between local authorities bordering Finland and Norway**

A working group on cooperation between neighbouring towns and cities in Finland and Norway submitted its final report on 18 May 2004<sup>77</sup>. The objective of this joint project has been to

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<sup>76</sup> Finland, Sweden, Denmark, Norway and Iceland.

<sup>77</sup> Rajoitta pohjoisessa - Gränslöst i norr. A Working Group report on cooperation between Finland and Norway in the north. Ministry of the Interior 2004.



intensify cross-border cooperation between local authorities in the northern parts of Finland and Norway in order to improve the provision of basic services, to heighten the vitality of the region, and to strengthen the use of Sami in the border areas in the north in the future. In the context of the project, the existing barriers to cooperation have been identified and remedies have been sought relying on the local strengths, which could form the basis for joint organisation and use of services in the future. Ideas for development have been put forward concerning public services, education, social welfare and health care, cooperation in the technical sector, and the fire and rescue service.

The report highlights language skills as a key element in the development of more intensive cooperation. Both Finnish and Norwegian and the three Sami dialects are spoken in the region. The report presents a number of suggestions concerning efforts to strengthen the position of Sami as a language used in instruction and by service providers. In respect of the provision of social welfare and health care services, the report has examined, among other things, access to Sami services in child welfare clinics, basic health care, 24-hour doctor's service, different sectors of special health care, including psychiatric services and children's daycare.

To ensure the future of the only Sami upper secondary school in Finland and to guarantee its financial footing, it is recommended that a study be launched on the transfer of the school under the administration of the Educational Centre of the Sami Region.

Some of the measures proposed by the working group can be implemented by decision of the local authorities and other actors in the region, such as reindeer owners. Other proposed measures would possibly require legislative action, and the Ministry of the Interior is currently investigating the possible need of legislation concerning trials.

The develop cooperation between bordering municipalities, the local authorities of North Lapland have appointed a special Norway ombudsman, who will start work in August 2004.

### **Nordic Sami convention**

The preparation of a Nordic convention concerning the rights of the Sami people will be discussed in Chapter III.8 of this Periodic Report.

### **Cross-border cooperation in Sami in the field of culture**

In addition to the appropriation earmarked for Sami culture, the Ministry of Education has channeled a separate allocation to cross-border cultural cooperation in Sami, such as the activities of joint Nordic Sami art organisations and the Finnish division and national member organisations of the Sami Council.

### **Cooperation in Roma issues**

As concerns Roma issues, cooperation is conducted with the Council of Europe, the OSCE's Office for Democratic Institutions and Human Rights, ODIHR, the EU and the European Roma NGOs.

## ARTICLE 19

*The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.*

There is nothing to report in respect of this Article.

## **PART III**

### **QUESTIONS BY THE ADVISORY COMMITTEE**

#### **1. ABOUT THE WORK OF THE MINORITY OMBUDSMAN**

The Advisory Committee has asked Finland to provide an overview of the work of the Ombudsman for Minorities and of its impact on the relevant practice.

##### **The duties of the Minority Ombudsman**

The Act on the Minority Ombudsman (660/2001) took effect on 1 September 2001, when the office of the Minority Ombudsman was established and the office of the Ombudsman for Aliens was discontinued. The Minority Ombudsman is in charge of the prevention of ethnic discrimination, promotion of good ethnic relations and advancement of the status and rights in society of aliens and persons who belong to ethnic minorities, monitoring of the materialisation of ethnic equality and supervision of the implementation of the principle of ethnic non-discrimination. The Minority Ombudsman's duties further include certain tasks that are provided for in the Aliens Act. The Ombudsman is an independent and autonomous authority. The Ombudsman's office operates under the administration of the Ministry of Labour.

The present ambit of responsibilities of the Minority Ombudsman and the Ombudsman's office can be outlined by identifying the following three main areas: (1) counselling and assistance of clients; (2) good ethnic relations and general activities related to the status of aliens and ethnic minorities; and (3) exercise of the functions provided for in the Aliens Act, especially issuance of statements concerning applications submitted by refugees and statements related to proposals concerning deportation of aliens.

The Minority Ombudsman can issue instructions, give advice and prepare statements. Persons who have suffered discrimination based on their ethnic origin may ask advice and instructions and, to prevent ethnic discrimination in very significant contexts, also legal assistance. However, legal assistance cannot be given in practice due to the limited resources available. Action related to ethnic discrimination can also be lodged via the Minority Ombudsman.

Whenever the Minority Ombudsman detects ethnic discrimination, he seeks to give advice and instruction to prevent continued or repeated discrimination. The Minority Ombudsman's present sphere of powers does not give him the authority to make binding and enforceable decisions in cases of discrimination.

The general factors contributing to the promotion of good ethnic relations and positive attitudes and the improvement of the status of aliens and ethnic minorities have been addressed by means of initiatives, statements, interviews, public presentations, participation in the preparation of statutes and speeches. The Minority Ombudsman has also organised seminars and training.

To improve the employment of the Roma population, the Minority Ombudsman submitted an initiative to the Ministry of Labour in the autumn 2002, where suggestions were made to upgrade the services in the labour administration that are targeted at creating employment opportunities for the Roma. Based on this initiative, the Ministry of Labour started a preliminary investigation

on the number of Roma job-seekers by region and a study of what administrative measures could be taken to improve the employment situation of the Roma.

The Minority Ombudsman considers it important that the position of the Sami language and culture be strengthened in children's daycare and schools. Under the Children's Daycare Act (36/1973; as amended by Act No 875/1981), the local authorities are under an obligation to ensure that there is daycare available in the child's mother tongue: Finnish, Swedish or Sami. However, very few Sami daycare places are available for Sami-speaking children. This is because the local authorities in the Sami Homeland do not have the economic resources required for the provision of Sami daycare services. The organisation of Sami daycare would call for a separate appropriation granted by the Government. In April 2003, the Minority Ombudsman submitted an initiative to the Ministry of Social Affairs and Health, where suggestions were put forward to safeguard more comprehensive provision of daycare to Sami children in their mother tongue.

On the basis of approaches addressed to the Minority Ombudsman and a study of discrimination at work experienced by aliens,<sup>78</sup> published in 2002, the Minority Ombudsman made an initiative on intensified measures to prevent and control discrimination at work faced by aliens and persons belonging to ethnic minorities, and submitted the proposals to the Department for Occupational Safety and Health of the Ministry of Social Affairs and Health. The suggestions include improvements in the formulation of strategies and in the guidance and operation of the Occupational Safety and Health Inspectorates. In its reply to the Minority Ombudsman, the Department for Occupational Safety and Health endorsed the proposed improvements and further noted, *inter alia*, that the Ministry of Social Affairs and Health seeks to pay attention to the issues mentioned in the initiative in the future but, in the short term, it is not possible to channel extra funds to special measures on account of limited resources.

The Annual Report 2002 of the Minority Ombudsman, appended to this report, gives more detailed information about the activities of the Minority Ombudsman.

### **The impact of the activities**

The impact of the activities of the Minority Ombudsman has not, during his short term in office so far, been assessed regularly or by any outside evaluator. Certain general views can be expressed concerning the impact of the activities on the basis of observations, that is, so-called self-assessment. More regular assessment of the impact will be carried out as soon as the activities have become more established.

Choices have to be made: not everything can be influenced due to the limited resources available. The working environment is very wide and the duties of the Minority Ombudsman will increase now that the new Non-discrimination Act is effective. In the future, even more prioritising has to be made.

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<sup>78</sup> Based on the results of a study entitled *Syrjintä ja rasismi Suomessa* (Marginalisation and racism in Finland), carried out by Jasinskaja-Lahti, Liebkind and Vesala, about 50% of jobseeking immigrants reported of at least one case of experience of being denied access to employment on account of their foreign background. Of the working immigrants reviewed, 24% reported of having become ignored when there should have been a chance of promotion at work, 6% reported of being fired and 31% said that they had suffered from insults and bullying at work because of their foreign origin. The study also examined the experience of discrimination related to work among jobseeking and working immigrants during the 12 months preceding the study period. 80% of immigrants (790 jobseekers) had suffered from discrimination in connection with jobhunting. Of the immigrants who were working and who reported of discrimination at work, 79% told of experience of disregard when they had expressed a desire to advance at work, 55% were of the opinion that they had been fired and 81% said they suffered from insults and bullying at work because of their foreign background during the past 12 months preceding the study.

As a rule, influencing the authorities has been found to be difficult. It appears that in questions related to ethnic minorities they are, to some extent, reluctant to assume responsibility for rectifying problems encountered by persons belonging to ethnic minorities in their own field of administration, and willing to see that some other authority is responsible or that the solution lies in the activities of some other authority. One of the principal methods of influence is therefore to try and make the authorities assume responsibility for what their own field of administration can do and find out what possibilities they have to solve questions that fall under their administration.

Secondly, the authorities refer to the limited resources that are available and the impacts on the position of ethnic minorities. The Minority Ombudsman wonders if reference to the scarce resources is related to prioritising issues so that measures targeted at persons belonging to ethnic minorities and the promotion of their position are regarded as a secondary objective, and the minorities do not therefore receive enough attention when resources are allocated. A possible way of thinking behind this is an assumption that because the minority groups are small, there is no need for any special arrangements but their services will be taken care of as part of the overall provision of services.

An important channel of general influence available for the Minority Ombudsman is also his statements and performance in the public media. Influencing opinions plays a role in the work profile of the Minority Ombudsman and this partly promotes the status of aliens and ethnic minorities in Finnish society. However, it must be pointed out that it is difficult to ascertain the effectiveness of the activities also in this respect.

The Minority Ombudsman can exercise influence not only on the structures in general but also through individual cases, which are diverse and increasingly brought to the attention of the Minority Ombudsman. In cases where an individual has encountered a problematic situation, advice and, in some cases, mediation helps to find a solution and to advance good governance. In addition, statements on applications for a refugee status and on proposals of deportation of aliens, given by the Minority Ombudsman, also direct the decision-making process and strengthen the legal protection of individuals.

## **2. PREPARATION, CONTENT AND IMPACTS OF THE NEW LANGUAGE ACT**

The Advisory Committee has requested information about the drafting process, content and envisaged impact of the new Language Act. An account of the Language Act is given in Article 10.

## **3. ABOUT INGRIAN FINNS**

The Advisory Committee has requested information about the most recent changes in legislation and practical measures concerning Ingrian Finns.

There are about 25 000 Ingrian return migrants in Finland. The majority of them live in the Helsinki and Turku regions and in south-eastern Finland.

Amendment of section 18a of the Aliens Act took effect on 1 October 2003. The amendment applies to the certificate of knowledge of Finnish that return migrants are required to show and to a document certifying that they have a residence in Finland. After the enforcement of these amendments, persons arriving in Finland from the former Soviet Union, who apply for a

residence permit, are required, among other things, to participate in re-entry orientation arranged in the sending country and to present a certificate of completion of a language test arranged by Finnish authorities. Returning migrants' knowledge of Finnish or Swedish must correspond to level A2 of the Common European Framework for Modern Languages, published by the Council of Europe unless, in view of the applicant's situation, participation in the re-entry orientation training or in the language test is to be considered inappropriate. A person who has passed the test is able to cope with everyday communication situations and understands clear and slow speech and simple texts relating to everyday life and immediate needs. Such language tests are being arranged at present.

In the Finnish Consulate General in St Petersburg, which administers Ingrian return migration, there were 20 331 persons in the so-called re-migration queue in the autumn 2003. At the end of 2002, there were 20 083 persons. The number of persons on the queue has reduced over the last few years. The number of return migrants was 1 206 in 2000 and 488 in 2002.

The Finnish Embassy in Estonia had a queue of about 2 800 Ingrian Finns (plus their family members) in the autumn 2003, waiting for a re-migration interview. In the housing queue, there were 85 families that had passed the interview and were waiting for entry in Finland.

In 2003, as many as 772 persons moved to Finland from the former Soviet Union, 656 of them from Russia and 116 from Estonia. During the first third of 2004, of the 135 persons arriving in Finland from the former Soviet territory, 110 were from Russia and 25 from Estonia.

The Finnish Embassy in Estonia has reported that about half of those who have been recently invited for a remigration interview have informed that they are no longer interested in moving to Finland. The more aged applicants say that they are too old to move and are not able to go through the process any more, while some of the younger applicants report of changed plans. The Embassy staff consider that the reason for most of the changed plans has been improved living conditions in Estonia and possibly also Estonia's accession to the European Union on 1 May 2004. Also the difficult housing situation especially in Helsinki and in the metropolitan area in general, where the majority of the re-migrants would like to live, has curbed the desire to move to Finland..

Ingrian Finns living in north-eastern Estonia are the most willing to move Finland. About half of them hold either a "grey" (stateless) or Russian passport and often speak only Russian. The desire to move is also partly explained by the fact that the rate of unemployment is the highest in north-east Estonia.

The Advisory Board for Ethnic Relations has given a statement on the change of legislation concerning Ingrian return migrants and especially on the Finnish and Swedish language requirement included in the amendment. The Advisory Board considers that the language skill requirement must not be set too high. On the other hand, measures facilitating the arrivals' integration into society right at the start must be improved. Also, Russian and Estonian authorities must step up the provision of opportunities of learning Finnish in respect of persons who are waiting for a permission to move to Finland or who are considering the option. The situation is the most difficult for those, entitled to re-migrate, who were forcibly moved to Siberia and far away from their former dwelling place by the Soviet authorities.

#### 4. ROMA IN PLACES OF DETENTION

The Advisory Committee has asked information about the situation of Roma people in places of detention.

The situation of Roma prisoners has been regularly discussed in the prison administration and the issue is high on their agenda. On account of the increasing number of foreign prisoners, the prevention of racism has been paid attention to also more generally in the performance policy of the service. At the moment, the proportion of foreign inmates in Finnish prisons is about 8% of the total number of prisoners, and they represent approximately 60 different nationalities. The number of Roma prison inmates is about 120–140, representing some 4% of the present number of prisoners in Finland (Memorandum of a working group on Roma issues 2003).

Two reports have been published within the past two years on the situation of Roma prison inmates: Paavo Lounela's *Romanit Suomen vankiloissa (The gypsies in the prisons in Finland)*<sup>79</sup> and a report by the Roma Unit of the Criminal Sanctions Agency, entitled *Romanien asema ja olosuhteet vankiloissa sekä yhdyskuntaseuraamusten suorittajina*<sup>80</sup> (*The status and conditions of Roma prison inmates and the Roma as performers of community service*). These reports provide enough information about the situation of the Roma inmates for the prison service to be able to examine their in-house training and activities from the point of view of Roma culture.

Recommendations for measures:

- the performance policy objectives of prisons should include protection of the position of Roma prisoners at least in the institutions where, based on the study, problems have appeared;
- in the prisons where Roma inmates are kept in different quarters, a housing plan should be made of a system enabling inmates' participation in the normal activities;
- Roma language and Roma culture should be supported by, for example, increasing the provision of instruction of Roma and ensuring access to periodicals published in Roma;
- Roma prisoners' readiness to study should be enhanced in order to enable them to use the educational services
- Roma contact persons should be sought to support Roma prison inmates and Roma support persons should be sought to help them after release; and
- a broad-based working group should be set up to monitor the proposals for measures.

The report by the Criminal Sanctions Agency arrives at the conclusion that Roma prison inmates still encounter special problems related to housing, employment, training needs, intoxicant care and rehabilitation and the situation at the time of release. Community service has proved to be particularly difficult because of prejudiced attitudes in the service places. In some prisons, the reason for placing Roma inmates in different quarters may be discrimination based on origin. In addition, prison staff members were found to have inadequate information about Roma culture.

In a hearing of the Advisory Board for Roma Affairs on 19 November 2002, the Director General of the Criminal Sanctions Agency called attention to the fact that foreign prison inmates have brought new kinds of cultural problems to Finnish prisons, which is why other issues than those concerning the Roma have come to the fore. Problems arise mainly in certain prisons due to tensions between different groups and cause security problems. Efforts have been made to prevent such problems.

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<sup>79</sup> Roma inmates in Finnish prisons. Paavo Lounela. Prison Administration Training Centre publication 1/2001.

<sup>80</sup> The status and conditions of Roma prison inmates and the Roma as performers of community service. Report of a working group on Roma Affairs at the Criminal Sanctions Agency 2/2003.

In the majority of the detention centres, Roma inmates are placed to live with the others. Problems tend to arise in only a few prisons, and the situation is being addressed all the time. On account of tensions between prisoners, Roma inmates themselves want to be placed in separate units, which is why their adjustment with the others does not succeed only by virtue of the prison administration's decisions. However, as far as is known, Roma prison inmates have not faced any cases of violence recently. The most serious threat of violence is related to organised crime.

The increase in the number of prison inmates and in the use of drugs has caused major problems for the prison administration. Correctional treatment is currently dependent on funds channelled through supplementary budgets. Only about half of the inmates can receive correctional treatment because of lack of adequate appropriations.

Representatives of the Committee for the Prevention of Torture (CPT) of the Council of Europe visited some prisons in Finland in the autumn 2003. The CPT did not detect any evidence of discrimination towards the Roma.

#### *The Parliamentary Ombudsman's prison inspections*

Prison inspections by the Parliamentary Ombudsman always focus especially on the position of prisoners representing the Roma, foreigners and linguistic minorities. Some extraordinary appeals concerning indiscreet and prejudiced treatment of Roma inmates have been filed, but based on investigations, these problems arise especially on account of other inmates' attitudes.

The Parliamentary Ombudsman has been concerned about the fact that a greater number of Roma inmates have, at their own request, been placed in special units than would be normal considering their relative share of the prison population. One purpose of the inspections is to stress to the prison staff that the authorities are obliged to ensure the security of Roma and other minorities in detention and to prevent the exercise of pressure from the part of other inmates. In connection with these inspections, it has been possible to notice that some prisons have managed better than others to maintain a good atmosphere, with no discrimination towards the Roma. One way to improve the position of minorities might be exchange of good experiences of combating discrimination between prisons. The Parliamentary Ombudsman will pay attention to the treatment of Roma inmates in Finnish prisons also in future.

## **5. THE CONTENT OF THE NEW LAW ON THE FREEDOM OF RELIGION**

The Advisory Committee has requested information about the content and impact of the new law on the freedom of religion on the implementation of Article 8 and other Articles of the Framework Convention. The law on the freedom of religion is discussed in more detail under Article 8.

## **6. RECENT DISCUSSIONS REGARDING RELIGIOUS PRACTICES PERTAINING TO THE CIRCUMCISION OF BOYS BELONGING TO NATIONAL MINORITIES**

The Advisory Committee has requested information on the recent discussion regarding religious practices pertaining to the circumcision of boys belonging to national minorities.



The Jewish community and the Islamic Tatar minority in Finland have maintained the tradition of circumcision in Finland since their arrival in the country in the 19th century. In the Jewish community, circumcisions have been conducted mainly by the *mohel* of the community, who nowadays is a licensed physician. Tatars have had their circumcisions performed in the private sector.

Male circumcisions, motivated by religious and cultural reasons, (so-called non-medical circumcision) have been discussed in Finland more widely in the 1990s because of the growth of the Muslim minority in the country and possibly also on account of the fact that fundamental rights thinking has gained momentum. Circumcisions have been a greater economic problem for the Muslim minority than for the traditional minorities.

Non-medical male circumcisions have still been performed in the private and partly also public health care sectors and, as far as is known, also in homes. Public discussion on non-medical circumcision has been conducted especially from the viewpoint of ethics and human and fundamental rights. The number of cases of non-medical male circumcision is not significant but the issue is a matter of principle. Medical experts and other authorities have expressed conflicting views about the issue. The present situation has led to discussion and insecurity among religious minorities also.

The Ministry of Social Affairs and Health issued instructions to local authorities on male circumcision for the first time in its letter No 22/56/92, in which it, referring to patient security aspects, hoped that hospital districts and health care centres would take a favourable attitude towards the possibility of enabling male circumcision for refugee clients in the municipal health care either as a public or bought service, with regard to the low income level of refugee families. The inclusion of the operation in the municipal health care system was at the time said to be partly justifiable also on account of the positive health effects of circumcision.

Circumcision has been discussed in Parliament, for example in 1994 and 2003, based on written questions by Members of Parliament. Assistant Parliamentary Ombudsman Riitta-Leena Paunio replied, on 30 November 1999, to an extraordinary appeal concerning cases of male circumcision performed at university hospitals. In her decision, the Assistant Parliamentary Ombudsman considered that circumcision of male children without medical grounds is very questionable from the legal point of view because young children cannot themselves give their consent to the operation.

The State Provincial Office of Eastern Finland issued a decision, dated 25 January 2002, concerning a case where a licensed physician had carried out a circumcision on six Muslim boys at home and the boys had suffered post-operation complications. The State Provincial Office reprimanded the physician for a wrong action that was contrary to good paediatric practice. The State Provincial Office concluded that it had also appeared in connection with the investigation of the case that the health care service does not have explicit instructions on how to react to ritual-based circumcisions. The State Provincial Office brought this issue to the attention of the Ministry of Social Affairs and Health.

Based on concerns expressed by various circles, the Ministry of Social Affairs and Health and the Association of Finnish Local and Regional Authorities sent a letter to the hospital districts and some other receivers, in March 2003, stating that, based on recent studies, male circumcisions without any medical indications are not found to provide any positive health effects. However, provided that the operation is carried out in proper conditions, the risk of complications is small. In practice, operations had taken place also outside the public health care sector and, as it appeared, performed in conditions that did not meet the requirements of adequate medical expertise, hygiene and pain-management. To ensure the well-being of children and to prevent any possible risks, the ministry and the Association of Local and Regional Authorities stated that

circumcisions should be performed also in the public health care sector, but a registered health care professional must have the right to decline conducting such an operation if it is contrary to his or her ethical principles.

The Ministry of Social Affairs and Health and the Association of Finnish Local and Regional Authorities emphasized that, since there is not any clear set of norms, it is necessary to consider laying down appropriate, possibly separate, legislation to cover this subject matter and to start the required preparatory measures. The letter aroused active discussion. Opinions and opposing views were exchanged and various angles to the issue were introduced. The hospital districts also continued to pursue incoherent policies. Some hospital districts carry out the operations as part of the public health care service using promissory notes, while others consider that the operations do not fall under the framework of public health care at all.

The Ministry of Social Affairs and Health set up a working group on 11 April 2003 to find out about the need of legislation related to male circumcisions. The objective was to assess the legislative foundation and need of new legislation concerning non-medical circumcision of boys and to make appropriate suggestions for amendments. The memorandum of the working group was published on 12 February 2004<sup>81</sup>. The working group heard the expert opinions of various religious communities, service providers and different associations of physicians.

The working group considers that male circumcisions that are based on religious and cultural traditions should be allowed subject to the consent of the boy's parents. Only licensed physicians or physicians who have got a permission to perform the operation would have the right to perform the operation. Such circumcisions would be comparable to medical circumcisions, and the public health care sector should take care of them in the same way as of circumcisions on medical grounds. The parents could, if they so wish, have the operation made in the private health care sector. Since circumcision means interference in a boy's physical integrity, provisions on it must be laid down in legislation. The main objectives must be to take care of the best interests of the boy and ensure that the operation is conducted in safe conditions.

According to the working group, male circumcisions should be performed within the public health care system because, for example, the costs of circumcisions are high for families with many children and there is the risk that they might use the services of non-licensed physicians. That would involve a greater risk of post-operation complications and the boys would have to suffer pain. A separate fee for the operation, from which a family with poor means could be exempted, would require unnecessary bureaucracy and be complicated. If the fee were deducted from income support, there would be a danger that the practice breed inequality, because local authorities can grant income support on various grounds.

A boy who is to undergo circumcision should be heard and he should be given enough information about the operation and its impact in a manner that corresponds to his age and level of maturity. The boy's opinion of circumcision should be found out and taken into account whenever it is possible considering his age and level of maturity. He should have the right to refuse to undergo the operation. According to the Jewish belief, circumcision has to be performed on the eighth day after birth. Muslims do not have a similar age limit, but circumcision has to be done before the boy reaches puberty.

The working group's memorandum includes two dissenting opinions. According to them, the costs arising from a non-medical circumcision should primarily be born by the boy's parents or

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<sup>81</sup> Memorandum of a working group investigating the need of legislation related to male circumcisions. Working group memoranda of the Ministry of Social Affairs and Health 2003:39. Helsinki 2004.  
<http://www.stm.fi/Resource.phx/publishing/store/2004/02/pr1079077234542/passthru.pdf>

legal guardians. Whenever a legal guardian with limited means cannot pay the operation, the local authorities could consider using income support. Furthermore, different payment arrangements outside the social welfare and health care service, related to immigration, should be also examined. They could be used to cover the expenses to the service provider, independent of whether the latter is a private or public health care provider.

The memorandum also includes two statements, which assert that male circumcision that is based on religious and cultural grounds does not fall under the framework of health care, referred to in the Primary Health Care Act and Act on Specialized Medical Care. Therefore the parents or legal guardians should bear a greater share of the expenses than was proposed. According to the statements, the economic support arrangement required of the local authorities should be examined in more detail than what was possible for the working group.

The working group's memorandum was circulated for comment to a large number of recipients, and 41 opinions were received. Non-medical male circumcision and enactment of a related law split opinions. The majority of those issuing an opinion, 24 in all, were in favour of the enactment of a law on non-medical male circumcision, while nine were against. Eight opinions were neither for nor against the bill but brought up different aspects of the issue and suggested several specifications and improvements to the text.

Those supporting the enactment of a law agreed about the grounds put forward in the memorandum and said that male circumcisions that are based on religious and cultural traditions must be allowed and that they must be regulated by law. This would ensure as safe operations as possible and prevent the adverse effects caused by operations conducted in uncontrolled conditions. The proposal ensures boys an equal right of access to the operation independent of the parents or legal guardians' income level.

Some of those against the proposal were of the opinion that male circumcisions must never be performed for any other than medical reasons. The operation is irreversible and involves risks, and circumcisions conducted because of religious and cultural traditions do not provide any health benefits. Some parties issuing their opinion considered that non-medical circumcisions can be allowed in principle, but they must be performed only on persons who are capable of assessing the significance of the operation for them and give their consent. Circumcisions should therefore not be performed on small children.

Some parties considered that the proposals call for specification. Questions that should be examined in greater detail include, for example, the materialisation of the best interests of the child, consolidation of two fundamental rights (personal integrity and freedom of religion), hearing of the child and the child's consent to the operation, the relation of the proposal to the Council of Europe's Convention on Human Rights and Biomedicine, and provisions on sanctions imposed on persons acting contrary to the law. Many dealt with the ethics of the physician and considered it important that the physician has, if he wishes, the possibility to refuse to perform non-medical male circumcisions. Some said that even if the law was enacted, that would not mean rejection of the long-term objective to abandon non-medical male circumcisions altogether.

Also the question concerning the financing of non-medical male circumcisions divided opinions. Some of the parties consulted were in favour of the working group's suggestion and hoped that the operation be viewed as comparable to medical circumcisions and that it be arranged in the public health care sector. Since the number of non-medical male circumcisions is only about 200 per year and a the majority of them are still performed in the private health care sector, the issue does not involve great sums of money. Others considered that because a male circumcision that is performed based on religious and cultural reasons is not the kind of health care or treatment of an illness that is referred to in the Act on the Status and Rights of Patients (765/1992), Primary

Health Care Act (66/1972) and Act on Specialized Medical Care (1062/1989), the expenses arising from the operation must be born by the legal guardians or religious community of the boy. Clarification of other possible financing possibilities was suggested.

The Ministry of Social Affairs and Health commissioned, on 17 April 2003, Ms Kristina Stenman to carry out an overview of international and Finnish legislation and current practices related to non-medical circumcisions of boys. The report was published on 12 February 2004<sup>82</sup>. The reporter concludes that all boys in Finland should have the possibility to have circumcision carried out in safe conditions regardless of the place of residence.

## **7. QUESTIONS RELATED TO THE RUSSIAN-SPEAKING MINORITY IN FINLAND IN 2002**

The Advisory Board has requested information on issues that an *ad hoc* working group on Russian-speaking population, appointed by the Advisory Board for Ethnic Relations, has addressed and on how these issues are being taken into consideration by the relevant authorities.

The report of the *ad hoc* -working group, assigned to assess the cultural and linguistic needs of the Russian-speaking population in Finland, was submitted to the Advisory Board for Ethnic Relations in 2003. The Board has representatives of the traditional Russian speaking population, the so-called Old Russians in Finland, persons re-migrated from the territories of the former Soviet Union and Ingrian re-migrants. The report is available in both Finnish and Russian, and before its submission, a presentation and discussion event was organised in December 2002.

The report deals with questions concerning the Russian-speaking population in Finland and it includes a total of 37 recommendations. The Advisory Board sent the report for information to NGOs that have an immediate interest in the matter and to the ministries that take principal responsibility for immigration policy issues and other relevant parties in order to give them a chance to take measures.

Even if the recommended measures were viewed acceptable, it was advised that they cover all immigrant groups and ethnic minorities. The proposal to set up a separate Russian advisory board under the administration of the Government did not gain support either from the part of the ministries or the Government.

In addition, in several of the statements received the concept "Russian-speaking population of Finland" and the size of the minority were considered to be open to various interpretations. Persons of Russian origin that arrived in Finland prior to the First World War and immediately after the war and their second and third generations have integrated into the population of Finland. In some statements, it was considered inappropriate that the Finnish Ingrians and second-generation Finns who had returned to Finland from the former Soviet Union were included in the group of Russian-speaking Finns.

Based on the statements, it is possible to conclude that the needs of the Russian-speaking Finns could be attended to as an element of the development of immigration policy and integration measures, and they could be taken into account when the provision of services targeted at the different immigrant groups are being formulated. There would not be any new advisory boards

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<sup>82</sup> *Circumcision of boys. A study on international and Finnish practices.* Reporter Kristina Stenman. Publications of the Ministry of Social Affairs and Health. 2004:3. Helsinki.2004

for the different immigrant groups but the special needs of these minorities would be addressed by improving the activities of the Advisory Board for Ethnic Relations.

Since the report is the first extensive account of the Russian-speaking minority in Finland, the *Finnish Association of Russian-Speaking Organisations (FARO)* has said that it hopes a more detailed discussion in the state administration about the report and the numerous recommendations. The association has criticised the fact that the discussion has focused on immigrant issues at a general level only, and many concrete recommendations concerning the Russian-speaking minority have remained unnoticed.

## **8. NORDIC CONVENTION ON THE SAMI AND THE WORKING GROUP FOR MINORITY AND MINORITY LANGUAGE ISSUES, SET UP BY FINLAND AND SWEDEN**

The Advisory Committee has requested information on the envisaged Nordic convention on the Sami and on the activities of the working group for minority and minority language issues, set up in 2001 by Finland and Sweden.

### **Nordic Sami convention**

The Nordic Sami Council proposed as early as in the 1980s that a Nordic convention concerning the rights of the Sami be prepared. A joint expert group was set up on 13 November 2002 by the ministers responsible for Sami issues in Norway, Sweden and Finland and by the chairs of the national Sami Parliaments to prepare the Nordic Sami convention. In 2003 the group convened five times and five meetings have been scheduled for the year 2004, too.

The expert group is chaired by Professor *Carsten Smith*, former Chief Justice (emeritus president) of the Supreme Court of Norway, and Professor *Kirsti Ström Bull* from the Oslo University takes care of the group's secretarial functions. The expert group is composed of six members, of whom three represent the governments and three the national Sami Parliaments. All members have personal deputies who also take part in the meetings of the group.

In accordance with its mandate, the expert group is assigned to find out about the need of a Nordic convention on the rights of the Sami. The group has approached its mandate by means of an open discussion on the principal issues concerning the Sami as an indigenous people. The results of this general survey are recorded into a preliminary draft Sami convention.

Based on the mandate, the following elements can be identified as structural and substantial items in the possible future Sami convention :

- the status of the Sami
- the concept of the Sami
- right of self-determination
- cooperation between the Sami Parliaments and Nordic Governments
- language issues
- environmental issues
- health issues
- issues related to education and research
- Sami livelihoods

- cultural issues, including the maintenance of the cultural heritage
- position of women
- children and young persons.

As concerns the content of the draft convention, the mandate requires that the specific obligations of the contracting parties, arising from international instruments and the member states' customary law be taken into consideration. The expert group must also express its opinion on the question of monitoring the implementation of the agreement and on the possible need to establish a monitoring body.

The expert group is to submit its proposal by the end of 2005. It has not been given any actual negotiation mandate.

The work in the expert group observes the traditional unofficial and free forms of Nordic cooperation.

### **Finnish-Swedish working group dealing with minorities and minority languages**

The Finnish Ministry for Foreign Affairs and the Swedish Ministry of Industry, Employment and Communications appointed a joint working group in 2001 to discuss issues relating to minorities and minority languages. The working group functions as a forum of dialogue and exchange of experiences, and it is assigned to deal with different problems related to minorities and minority languages and to present alternative solutions.

The working group submitted its first annual report to both countries' Governments on 4 November 2002. The report focuses on the Finnish-speaking minority in Sweden.

According to the report, legislative provisions grant Finnish-speaking persons in Sweden the right to use Finnish with the authorities and courts only in Jällivaara, Haaparanta, Kiiruna, Pajala and Ylitornio in the province of Norrbotten. However, the majority of the Finnish-speaking people in Sweden live in areas where the minority legislation is not applicable, such as the Mälaren valley. The working group therefore suggests that a study be made on the possibilities to extend the administrative area of Finnish language to cover also the Mälaren valley.

Swedish schools have dramatically reduced bilingual instruction over the past ten years. It has been also noted that the local authorities in Sweden do not often satisfy the obligation to arrange instruction in the mother tongue to pupils representing minorities, such as speakers of Finnish. The working group suggests that the school authorities be assigned to concentrate on these problems during its inspections. In addition, the reasons for the reduction of lessons should be analysed and appropriate measures should be devised to turn the direction of development.

The working group also draws attention to the welfare services of Finnish-speaking elderly people. The Swedish National Board of Health and Welfare is of the opinion that care of the elderly in Finnish is possible without great expenses. Therefore, the working group suggests in the report that the local authorities implement the proposals in practice. The working group concludes its report by encouraging the Nordic countries to engage in more extensive cooperation in minority issues. Its work will continue.

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# APPENDIX I

## ENGLISH APPENDICES TO THE REPORT

### Legislation:

- Constitution of Finland (Act No. 731/1999)
- Language Act (Act No. 423/2003)
- Act on the Knowledge of Languages Required of Personnel in Public Bodies (Act No. 424/2003)
- Sámi Language Act (Act No. 1086/2003)
- Act on Television and Radio Operations (Act No. 744/1998)
- Act on the Exercise of the Freedom of Expression in Mass Media (Act No. 460/2003)
- Administrative Procedure Act (Act No. 434/2003)
- Nationality Act (Act No. 359/2003)

### Annual reports:

- Ombudsman for Minorities. Report for the first year of operations. Office of the Ombudsman for Minorities 2002.

### Brochures and guidebooks:

- A Guide to Victims of Crime. Finnish League for Human Rights 2001.
- Facts for foreigners working in Finland. Advisory Board for Ethnic Relations. Helsinki 2003.
- The Sami in Finland. Publications by Sami Parliament 2002.
- Finland's Roma People. Ministry of Social Affairs and Health. Brochures 1999:14.

### Other:

- My Family -cards. Finnish League for Human Rights and the Ministry of Education 2004.

## APPENDIX II

### COUNCIL OF EUROPE COMMITTEE OF MINISTERS

#### **Resolution ResCMN(2001)3**

#### **on the implementation of the Framework Convention for the Protection of National Minorities in Finland**

*(Adopted by the Committee of Ministers on 31 October 2001 at the 771<sup>st</sup> meeting of the Ministers' Deputies)*

The Committee of Ministers, under the terms of Articles 24 to 26 of the Framework Convention for the Protection of National Minorities (hereinafter referred to as “the Framework Convention”), and sitting in the presence of non-member States Parties<sup>83</sup>;

Having regard to Resolution (97) 10 of 17 September 1997 setting out rules adopted by the Committee of Ministers on the monitoring arrangements under Articles 24 to 26 of the Framework Convention in particular rule 39<sup>84</sup> of Resolution (97)10;

Having regard to the voting rule adopted in the contest of adopting Resolution (97) 10<sup>85</sup>;

Having regard to the instrument of ratification deposited by Finland on 3 October 1997;

Recalling that the Government of Finland transmitted its state report in respect of the first monitoring cycle under the Framework Convention on 16 February 1999;

Whereas the Advisory Committee accepted the invitation of the Government of Finland to send a delegation to gather further information in Finland; this visit taking place from 23 to 24 August 1999;

Whereas the Advisory Committee's opinion on the implementation of the Framework Convention by Finland was adopted on 22 September 2000 and then transmitted to the Permanent Representative of Finland and communicated to the permanent representatives of all member states and to the representatives of non-member states Parties as document CM(2000)177 and subsequently made public by the Finnish Government;

Whereas the Government of Finland submitted its written comments on the opinion of the Advisory Committee within the time-limit of four months following the communication of the said opinion, these written comments having been communicated to the delegations of all member states and the non-member states Parties as an addendum to document CM(2000)177 dated 4 July 2001;

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<sup>83</sup> Bosnia and Herzegovina and the Federal Republic of Yugoslavia.

<sup>84</sup> According to Rule 39 of Resolution (97) 10, “the Committee of Ministers shall invite a representative from each non-member Party to attend the meetings of the Committee of Ministers whenever it exercises its functions under the Framework Convention, without the right to participate in the adoption of decisions”.

<sup>85</sup> In the context of adopting Resolution (97) 10 on 17 September 1997, the Committee of Ministers also adopted the following rule: “Decisions pursuant to Articles 24.1 and 25.2 of the Framework Convention shall be considered to be adopted if two-thirds of the representatives of the Contracting parties casting a vote, including a majority of the representatives of the Contracting parties entitled to sit on the Committee of Ministers, vote in favour”.



Having examined the Advisory Committee's opinion and the written comments of the Government of Finland;

Having also taken note of comments by other governments,

1. Adopts the following conclusions concerning the implementation of the Framework Convention by Finland:
  - Finland has over a period of time made particularly commendable efforts concerning the protection of the Swedish-speaking Finns and their status in such areas as media and education.
  - Valuable efforts have also been made in various fields to improve the protection enjoyed by the Sami. However, delays in the settling of the questions of land rights and the issue of the definition of the term Sami have caused disputes.
  - Despite some commendable efforts, the implementation of the Framework Convention has not been fully successful as concerns Roma, *inter alia*, in the educational system and the media. There is also reason for concern about the *de facto* discrimination suffered by Roma as well as the existing socio-economic differences between some of the Roma and the majority population.
  - Further consideration should also be given to the implementation of the Framework Convention in respect of the Russian-speaking population, in particular in the fields of education and media.
2. Recommends that Finland take appropriate account of the conclusions set out in section 1 above together with the various comments in the Advisory Committee's opinion.
3. Invites the Government of Finland, in accordance with Resolution (97) 10:
  - a. to continue the dialogue in progress with the Advisory Committee;
  - b. to keep the Advisory Committee regularly informed of the measures it has taken in response to the conclusions and recommendations set out in section 1 and 2 above.