United Nations CERD/C/106/D/59/2016

International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
14 April 2023

Original: English

Committee on the Elimination of Racial Discrimination

Opinion adopted by the Committee under article 14 of the Convention, concerning communication No. 59/2016*, **

Communication submitted by:	Anne Nuorgam et al. (represented by counsel, Martin Scheinin)
Alleged victims:	The petitioners
State party:	Finland
Date of the communication:	14 March 2016 (initial submission)
Date of adoption of opinion:	22 April 2022
Document references:	Decision taken pursuant to rule 91 of the Committee's rules of procedure, transmitted to the State party on 18 January 2017 (not issued in document form)
Subject matter:	Right to vote in elections to the Sami Parliament; equality in the enjoyment of cultural rights
Procedural issues:	Jurisdiction of the Committee; victim status; exhaustion of domestic remedies
Substantive issue:	Discrimination on the ground of ethnic origin
Articles of the Convention:	1 and 5 (a), (c) and (e)

1.1 The 23 petitioners of the communication dated 14 March 2016 are Anne Nuorgam (Head of the Human Rights Unit of the trans-border association Saami Council); Maria Sofia Aikio (cultural non-governmental organization activist, Ohcejohka, Finland); Pekka Aikio (Association of Saami Reindeer Herders, Vuotso, Sodankylä, Finland); Niillas Beaska (fisherman, Chairperson of the Norwegian Saami Association, Deatnu, Norway); Björg Bonk (Saami People's Association, Samenes Folkeforbund, Norway); Andrei Danilov (Member of Saam Sobar, Russian Federation); Tatjana Egorova (Barents Indigenous Peoples Office, Murmansk, Russian Federation); Hartvik Hansen (fisherman, Deatnu, Norway); Ida-Maria Helander (private childminder, Rovaniemi Saami Society, Rovaniemen saamelaisyhdistys ry, Rovaniemi, Finland); Aslak Holmberg (teacher, Finish Saami Youth, Suomen saamelaisnuoret ry, Finland); Áile Javo (President of the Saami Council, Karasjok, Norway); Jevgenji Jushkov (acting Secretary General, Lujári/Loverezo village, Russian Federation); Mirka Kelahaara (private childminder, Rovaniemi Saami Society, Rovaniemen

* Adopted by the Committee at its 106th session (11–29 April 2022).

** The following members of the Committee participated in the examination of the communication: Sheikha Abdulla Ali Al-Misnad, Noureddine Amir, Michal Balcerzak, Chinsung Chung, Bakari Sidiki Diaby, Ibrahima Guissé, Gün Kut, Gay McDougall, Vadili Mohamed Rayess, Verene Shepherd, Stamatia Stavrinaki, Mazalo Tebie, Faith Dikeledi Pansy Tlakula, Eduardo Ernesto Vega Luna and Yeung Kam John Yeung Sik Yuen.

Please recycle

saamelaisyhdistys ry, Rovaniemi, Finland); Åsa Larsson Blind (National Union of Swedish Sami, Svenska Samernas Riksförbund, Övre Soppero, Sweden); Jouni Lukkari (reindeer herder, Saami Council, Anár, Finland); Juhani Länsman (reindeer herder, Inari, Finland); Ristenrauna Magga (Chairperson of the Saami National Association, Eadonat, Finland); Piia Nuorgam (PhD researcher, Rovaniemi, Finland); Outi Paadar (student, Rovaniemi Saami Society, Rovaniemen saamelaisyhdistyry, Rovaniemi, Finland); Gunn-Britt Retter (Chairperson Nesseby Sameforening – Unárgga Sámi Searvi, Unjárga, Norway); Ellen Inga Turi (PhD researcher, Saami Council, Guovdageaidnu, Norway); Nils-Henrik Valkeapää (Johtti Sápmelaččat ry, Enontekiö, Finland); and Samuel Valkeapää (teacher, Johtti Sápmelaččat ry, Inari, Finland). They allege that Finland has violated their rights under articles 1 and 5 (a), (c) and (e) of the Convention. They are all members of the Indigenous Sami community. They are represented by Martin Scheinin. Finland made the declaration under article 14 of the Convention on 16 November 1994.

1.2 On 7 May 2018, under article 14 of the Convention and rule 94 of its rules of procedure, the Committee adopted a decision on the admissibility of the communication. For further information about the facts, the petitioners' claims, the parties' observations on admissibility and the Committee's decision thereon, see *Nuorgam et al. v. Finland*.[1]

Facts as submitted by the petitioners

2.1 The communication concerns a series of judicial decisions in relation to the electoral roll for the Sami Parliament. The Act on the Sami Parliament (No. 974/1995) defines the functioning and powers of the Parliament. Pursuant to section 5 (1) of the Act, the task of the Sami Parliament is to "look after the Sami language and culture, as well as to take care of matters relating to their status as an Indigenous People". In matters pertaining to its tasks, the Sami Parliament may take initiatives and make proposals to the authorities, as well as issue statements (sect. 5 (2)). Section 9 stipulates that:

> The authorities shall negotiate with the Sami Parliament in all far-reaching and important measures that may directly and in a specific way affect the status of the Sami as an Indigenous People and that concern the following matters in the Sami homeland:
>
> (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 file mining patents;
>
> (4) Legislative or administrative changes to the occupations belonging to the Sami form of culture;
>
> (5) The development of the teaching of and in the Sami language in schools, as well as 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.
>
> In order to fulfil its obligation to negotiate, the relevant authority shall provide the Sami Parliament with the opportunity to be heard and discuss matters. Failure to use this opportunity in no way prevents the authority from proceeding in the matter.

2.2 The petitioners submit that section 3 of the Act on the Sami Parliament contains the definition of whom is to be regarded as a Sami for the purposes of being allowed to vote in elections for the Sami Parliament:

> A Sami means a person who considers himself a Sami, provided:
>
> (1) That he himself or at least one of his parents or grandparents has learned Sami as his first language;

[1] CERD/C/95/D/59/2016.

(2) That he is a descendent of a person who has been entered in a land, taxation or population register as a mountain, forest or fishing Lapp; or

(3) That at least one of his parents has or could have been registered as an elector for an election to the Sami Delegation or the Sami Parliament.

The petitioners stress that this wording indicates that the chapeau requirement of considering oneself to be a Sami is in addition to fulfilling one of the three objective criteria provided in subparagraphs (1), (2) and (3).

2.3 In the context of the 2015 elections, 182 decisions by the competent organ of the Sami Parliament, the Electoral Board, to reject the inclusion of individuals on the electoral roll were appealed to the Executive Board of the Sami Parliament and then to the Supreme Administrative Court of Finland. On 30 September 2015, the Supreme Administrative Court decided to include 93 of those persons on the electoral roll, against the decisions of the Electoral Board and of the Executive Board.[2] The petitioners indicate that, in at least 53 out of the 93 rulings, the Supreme Administrative Court included a new voter on the electoral register based on an "overall consideration", without demonstrating that they fulfilled one of the three objective criteria established by section 3 of the Act on the Sami Parliament. In other cases, the new voter was registered because of a family tie with a person who had been included on the electoral roll in 2011, also in application of the "overall consideration" by the Supreme Administrative Court.

2.4 On 18 November 2015, the Executive Board, having received petitions from individuals, including the petitioners, decided that new elections should be held because the Supreme Administrative Court's rulings had, in its view, distorted the will of the Sami people. Some of the 93 individuals included on the electoral roll appealed the Executive Board's decision to the Supreme Administrative Court. On 13 January 2016, the Supreme Administrative Court quashed the Executive Board's decision to hold new elections. The election results announced on 7 October 2015 therefore became final.

Complaint

3.1 The petitioners indicate that they and the members of the associations that they represent have been subject to violations of their rights as individual members of the Sami, an Indigenous People, who constitute a group of distinct ethnic origin under the Convention, both within Finland and in a broader geographic area covering regions in Norway, the Russian Federation and Sweden. They allege that the 93 Supreme Administrative Court rulings, dated 30 September 2015, and the ruling by the same Court of 13 January 2016 (hereafter "the rulings") violate article 1 of the Convention. The rulings indeed have the effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life regarding the petitioners, as well as all the members of the associations that they represent, as a group of individuals.

3.2 The petitioners further indicate that the rulings by the Supreme Administrative Court represent a major step to nullify the right of the Sami people to linguistic and cultural autonomy. They consider that, by including persons not recognized as Sami by the Electoral Board on the electoral roll for the Sami Parliament, the rulings have promoted the inclusion of individuals who are not fully committed to the defence of Sami rights but rather supporting the State party's positions in Parliament. They consider that this situation will gradually result in the forced assimilation of the Sami people into the mainstream population in violation of article 1 of the Convention, as well as sections 17 (3) and 121 (3) of the Constitution of Finland,[3] which aim to address the historical discrimination, dispossession and disadvantage

[2] The petitioners indicate that the 93 persons were included on the electoral roll through 93 different rulings. They also indicate that only 4 of the rulings were published in the yearbook of the Supreme Administrative Court and that the remaining 89 rulings are referred to in a Court press release.

[3] Section 17 (3) states: "The Sami, as an Indigenous People, as well as the Roma and other groups, have the right to maintain and develop their own language and culture. Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act." Section 121 (3) states: "Provisions on self-government in administrative areas larger than a municipality are laid down by an

of the Sami people.[4] The risk of forced assimilation of the Sami people into the Finnish population is aggravated by the fact that the Sami constitute a numerical minority even within their homeland.[5] The petitioners indicate that an example of this occurred in 2015 when the Government presented its bill on the forestry agency to the Parliament of Finland and deleted all provisions aimed at protecting the Sami people against forestry and any other commercial activity using public land and waters within the Sami homeland. They consider that this demonstrates how crucial it is to protect Sami people through an autonomous and vocal Parliament.

3.3 The petitioners also consider that the rulings constitute a violation of the State party's obligations under article 5 (a), (c) and (e) of the Convention. Regarding article 5 (a), they affirm that, by departing from the wording of section 3 of the Act on the Sami Parliament, the Supreme Administrative Court has ignored the requirements of legality, foreseeability, non-arbitrariness and non-discrimination. The petitioners submit that the rulings violated their right to equal treatment before the tribunals and all other organs administering justice (art. 5 (a) of the Convention). Due to the indeterminacy of this "overall consideration", the decisions of the Supreme Administrative Court have resulted in arbitrariness and discrimination, with identical cases being treated differently and significant differences between various situations being ignored by granting voting rights to dozens of individuals who do not meet any of the three criteria specified in the aforementioned Act. Given that a further 89 rulings also issued on the same day did not order inclusion on the electoral roll, the 93 rulings that did include the individuals concerned on the electoral roll amount to discrimination and arbitrariness. There are cases in which, for instance, siblings have received rulings with opposite outcomes. In the Enontekiö municipality, all applicants whose family name is Vieltojärvi were added, while those whose family name is Keskitalo were rejected, even though the two families share genealogy.

3.4 The petitioners also indicate that the State party has violated article 5 (c) of the Convention, as the State's intervention in the operation of the Sami Parliament relates directly to Sami political participation, through the elections of the main organ of Sami autonomy. They affirm that, while Sami individuals who are Finnish citizens are able to vote in national parliamentary elections, they comprise such a small minority that there are no Sami Members of Parliament in Finland. The elections to the Sami Parliament are therefore one of the only means for Sami individuals to enjoy their rights to participate in public affairs.

3.5 The petitioners also consider that the rulings have violated their rights under article 5 (e) of the Convention, as the gradual takeover of the Sami Parliament by the mainstream Finnish population would have an adverse effect on the exercise and enjoyment of the economic, social and cultural rights of the Sami people in Finland, as well as across national borders where the Sami people reside. They argue that giving preference to the "overall consideration" over section 3 of the Act on the Sami Parliament has entailed a move away from the Sami language, and that their linguistic rights have thus been violated, in particular given the role of the Sami language as the main aspect of cohesion across national borders. They consider that the linguistic rights protected by article 5 (e) of the Convention have therefore been violated.

3.6 The petitioners further consider that, through its rulings of 30 September 2015, the Supreme Administrative Court has refused to acknowledge its own earlier error in its rulings of 2011. They refer to the Committee's concluding observations of 2009, in which the Committee recommended that the State party gave more adequate weight to self-identification by individuals concerned, as indicated in the Committee's general

Act. In their native region, the Sami have linguistic and cultural self-government, as provided by an Act."

[4] The petitioners refer to the Committee's general recommendation No. 23 (1997) (para. 3), in which it stated that Indigenous Peoples had been, and were still being, discriminated against and deprived of their human rights and fundamental freedoms. Consequently, the preservation of their culture and their historical identity had been and still was jeopardized.

[5] The petitioners indicate that, under Finnish law, there is a Sami homeland in the northernmost part of the country, namely the municipalities of Enontekiö, Inari and Utsjoki and the north of the Sodankylä municipality.

recommendation No. 8 (1990).[6] According to the petitioners, general recommendation No. 8 (1990) was misunderstood by the Supreme Administrative Court in its rulings of 2011, in which, instead of applying a generous interpretation of each of the three alternative criteria contained in section 3 of the Act on the Sami Parliament for recognizing a person as Sami, it departed from the law in some cases and replaced the law and the opinion of the Sami themselves with an "overall consideration", which resulted in the registration of some members of the Finnish mainstream population as voters in Sami elections. This error was highlighted by the Committee in its concluding observations of 2012, in which it stated that it was concerned that the definition adopted by the Supreme Administrative Court gave insufficient weight to the Sami people's rights, recognized in the United Nations Declaration on the Rights of Indigenous Peoples, to self-determination (art. 3), in particular their right to determine their own identity or membership in accordance with their customs and traditions (art. 33), as well as their right not to be subjected to forced assimilation or destruction of their culture (art. 8) (art. 5 of the Convention). The Committee also recommended that, in defining who was eligible to vote for Members of the Sami Parliament, the State party accord due weight to the rights of the Sami people to self-determination concerning their status within Finland, to determine their own membership and not to be subjected to forced assimilation.[7]

Committee's decision of admissibility

4. On 7 May 2018, under article 14 of the Convention and rule 94 of its rules of procedure, the Committee adopted a decision on the admissibility of the communication. First, the Committee found that it was precluded by article 14 (1) of the Convention from reviewing the claims of the petitioners, both individuals and groups of individuals, from Norway, the Russian Federation and Sweden. The Committee also found that it was not precluded by the State party's reservation to article 14 of the Convention from examining the communication, since, even if a communication relating to the same facts was being considered by the Human Rights Committee, that communication had been submitted by different individuals. The Committee also considered that the petitioners had exhausted domestic remedies as required by article 14 (7) (a) of the Convention. The Committee finally considered that the decisions taken by the institutions of the State party, which had an impact on the composition of the State party and the equal representation of the Sami people, could have a direct impact on the civil, political, economic, social and cultural rights of individual members of the Sami community and of groups of Sami individuals, in the terms of article 14 (1) of the Convention. The Committee decided that the communication was admissible with regard to the petitioners who were under the jurisdiction of the State party in their individual capacity. The Committee requested that the parties submit written observations and comments concerning the merits of the communication. For further information about the facts, the petitioners' claims, the parties' observations on admissibility and the Committee's decision on admissibility, refer to *Nuorgam et al. v. Finland*.[8]

State party's observations on the merits

5.1 On 29 August 2018, the State party submitted its observations on the merits of the communication.

5.2 The State party reiterates its submissions in relation to the admissibility of the communication. It reiterates that the communication amounts to an *actio popularis*, that the petitioners have not proven to be directly affected by the decisions, that they have not exhausted domestic remedies as they were not part of the relevant proceedings before the Supreme Administrative Court and that the Committee does not have jurisdiction to re-examine the facts already examined by the Supreme Administrative Court, especially in the current case in which none of the parties involved in the Court's decisions are parties to the present communication.

5.3 The State party recalls the facts of the case, and clarifies the reasoning of the decision of the Supreme Administrative Court, adopted on 13 January 2016, annulling the Executive

[6] CERD/C/FIN/CO/19, para. 13.
[7] CERD/C/FIN/CO/20-22, para. 12.
[8] CERD/C/95/D/59/2016.

Board's decision to hold new elections. The Supreme Administrative Court submitted in its ruling that the Executive Board had no competence to take up legal matters already adjudicated by the Court and that its decisions were binding on the Sami Parliament.

5.4 The State party recalls the provisions of its domestic legislation that protect the rights of the Sami as an Indigenous People, as well as protect all citizens from any discrimination, in particular in the Constitution of Finland, the Non-Discrimination Act, the Act on the Sami Parliament, the Skolt Act and the Sami Language Act. It notes that the Supreme Administrative Court has, in its established case law, paid attention to safeguarding the rights of the Sami people. The State party stresses that the Supreme Administrative Court examined 182 appeals carefully, of which it accepted the inclusion of 93 persons on the electoral roll, and that the Executive Board was consulted.

5.5 The State party recalls that, when reviewing the implementation of the Convention, the Committee has addressed the definition of Sami by recommending in its concluding observations[9] that the State party should give more weight to self-identification of the individuals concerned as indicated in the Committee's general recommendation No. 8 (1990). In its subsequent concluding observations,[10] the Committee noted that the Supreme Administrative Court had, in its decisions of 2011, relied on its own prior concluding observations and emphasized the right to self-determination as including the right of the Sami people to determine their own membership. Furthermore, the State party notes that a report analysing the case law of the Supreme Administrative Court shows that the rulings of 2011 and 2015 referred especially to the Committee's recommendations to take individual self-identification better into account in its definition of Sami.[11] The State party also notes that the Committee recommends that an explicit prohibition of descent-based discrimination be made in the domestic legislation of States parties (general recommendation No. 29 (2002)).

5.6 The State party submits that the Sami Parliament is an independent institution under public law that promotes the general interest of the Sami people. According to the Act on the Sami Parliament, for the tasks relating to their self-government, the Sami people elect the Sami Parliament from among themselves. There are about 6,000 voters on the electoral roll while there are approximately 10,000 Sami in Finland in total. The State party notes that a process is under way to agree on an amendment to the Act on the Sami Parliament and that the Government has a policy to not proceed with matters falling within the core of the linguistic and cultural self-government of the Sami people against the will of the Sami Parliament.

5.7 The State party submits that it has taken positive measures to protect the identity of the Sami people and the rights of its members to enjoy and develop their culture and language in community with the other members of the Indigenous People. It emphasizes that the right to vote in the election is established by law and the State has taken measures to ensure that all those entitled to vote can exercise that right. It also notes that voters have a free choice in their votes, which the Government fully respects and therefore there is no objective way to assess the alleged impact that the decisions of the Supreme Administrative Court would have on the results of the elections. In this vein, the State party submits that the petitioners are claiming indirect and hypothetical violations of the rights of the Sami people in general, not of the petitioners' individual rights. For example, the petitioners submit that the decisions amount to forced assimilation of the Sami people into the mainstream population, but the State party cannot make assumptions concerning other individuals' future behaviour, for example that relatives of these persons newly added to the electoral roll will, in turn, request their inclusion on the electoral roll, provoking an exponential growth of Court-approved voters.

5.8 The State party concludes that the petitioners have failed to demonstrate how their rights under article 5 (a) of the Convention have been violated and how they would not have been treated equally by the judiciary, when the petitioners have not been parties to any

[9] See CERD/C/FIN/CO/19.

[10] See CERD/C/FIN/CO/20-22.

[11] Leena Heinämäki and others, *Actualizing Sámi Rights: International Comparative Research*, publications of the Government's analysis, assessment and research activities (Prime Minister's Office, 2017).

domestic proceedings concerning the facts of the present communication. It also concludes that the petitioners have not demonstrated that their rights under article 5 (c) have been violated, in particular, that they have been deprived of the right to participate in an election on the basis of universal and equal suffrage, as they have not claimed that they were unable to participate in any election. In relation to article 5 (e), the State party submits that the petitioners have not presented any specific allegations regarding how their rights under this article are affected. The State party submits that the submissions of the petitioners merely reflect their views and that, nevertheless, they appear to be speaking on behalf of "the Sami" and "the relevant sectors of Sami society". At the same time, the petitioners acknowledge that not all Sami individuals are of the same view as them. It must therefore be understood that the communication represents merely the views of the 23 petitioners in their individual capacity.

5.9 The State party considers that finding a violation in a case such as this, in which the facts presented are based on hypothetical, unforeseen, future events, would amount to an unpredictable interpretation of the Convention and legal uncertainty, weakening the whole individual communications procedure.

Petitioners' comments on the State party's observations on the merits

6.1 On 14 December 2018, the petitioners submitted their comments on the State party's observations on the merits of the communication.

6.2 The petitioners reiterate that, through the rulings of the Supreme Administrative Court, the State party has intervened in the right of the Sami people to freely determine the composition of their representative organ and thereby impaired the recognition, enjoyment and exercise by the petitioners and other Sami persons in Finland of their human rights and fundamental freedoms in the political, economic, social, cultural and other fields of public life; violated the right of the petitioners and other Sami persons to equal treatment before the tribunals due to the arbitrary nature of the rulings; violated the right of the petitioners and other Sami persons to political participation by compromising and delegitimizing the representativeness of the elected Sami Parliament; and caused, through the weakening of the authority of the elected Sami Parliament, adverse effects upon the exercise and enjoyment of the economic, social and cultural, including linguistic, rights of the petitioners and other Sami persons.

6.3 The petitioners submit that some new developments demonstrate how the State party's intervention in their elections has had an impact on their enjoyment of their rights under the Convention. First, the freeze of the processes to ratify the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169) and to approve the plan for a Nordic Sami convention. Second, the Government and representatives from the Sami Parliament have advanced in their negotiations regarding reform of section 3 of the Act on the Sami Parliament, even reaching an agreement on wording, but then the agreement was frozen when the Government insisted that the next elections of 2019 would have to be carried out according to the current interpretation of section 3, regardless of the reform. Third, a new law on the government forestry agency has been enacted, with the exclusion of all clauses regarding mechanisms of consultation and decision-making with the Sami, which has a direct impact on reindeer herding and other nature-based means of subsistence constitutive of the Sami culture. Fourth, the Teno River treaty has been ratified by Finland without due consultation of the Sami Parliament, even though it has a direct impact on Sami fishing rights and their traditional methods of fishing. Fifth, the Government has announced the construction of an Artic railroad, which would cut through the lands and central reindeer herding areas of the Sami. The petitioners submit that all of these examples of political and legal developments that prejudice their rights have resulted from the weakened position of the Sami Parliament, after the elections under dispute. They add that the Parliament's position has often been marginalized or ignored using, as an excuse, the fact that there is a "controversy" regarding the membership of the Parliament, even if it is the State itself that is, according to the petitioners, at the origin of such a controversy.

6.4 The petitioners contend that the Supreme Administrative Court has ignored the Committee's concluding observations on Finland of 2012 and has based itself on an erroneous reading of the Committee's concluding observations of 2009, adopting a position

based on a person's self-proclamation as Sami together with the Court's indeterminate, arbitrary and even discriminatory "overall consideration". The Supreme Administrative Court should have understood that the Committee's reference in 2009 to giving "adequate" weight to a person's self-identification as Sami cannot be understood as support for disregarding both the requirement of objective criteria and the right of the Sami people collectively to determine its own membership in a non-arbitrary and non-discriminatory manner. However, instead of simply applying a wide interpretation of each of the three alternative criteria, required by section 3 of the Act on the Sami Parliament, the Supreme Administrative Court replaced those criteria with the vague concept of "overall consideration". This is obviously not what the Committee meant by giving "adequate" weight to individual self-identification.

6.5 The petitioners also stress that their communication has wide support among the Sami community and consider it insulting that the State party submits that their communication would present only the subjective views of merely 23 individuals.

6.6 The petitioners wish to clarify that, even if the State party submits that the Electoral Board were consulted before the adoption of the decision by the Supreme Administrative Court, this was merely procedural. The consultation was a purely written procedure and the Sami Parliament was given only a few days to provide its comments on 182 appeals.

6.7 Finally, the petitioners point out that the report[12] that the State party refers to severely criticizes the decisions adopted by the Supreme Administrative Court and the arbitrariness of an "overall consideration".

6.8 The petitioners finally stress that new elections will take place in September 2019, and it is highly likely that further requests for new inclusions on the electoral roll under the "overall consideration" will be submitted from the Finnish mainstream population.

6.9 The petitioners request that the Committee find that the 93 rulings by the Supreme Administrative Court of 30 September 2015 and the ruling by the same Court on 13 January 2016 constituted a violation of articles 1 and 5 (a), (c) and (e) of the Convention and that its suggestions and recommendations to the State party, pursuant to article 14 (7) (b) of the Convention, would include:

(a) A public apology by the State party for the violations of the Convention as established by the Committee;

(b) Immediate discontinuation of ongoing legislative, treaty-making or administrative processes that would significantly affect the rights and interests of the Sami people for which the free, prior and informed consent of the Sami has not been obtained;

(c) Immediate and urgent initiation of an amendment to section 3 of the Act on the Sami Parliament, which will be applicable to its elections in September 2019 and will define the criteria for eligibility to vote in a manner that respects the right of the Sami people to exercise their self-determination and that limits the external judicial review by State courts of decisions by the organs of the Sami Parliament to situations in which a decision has been shown to be arbitrary or discriminatory.

State party's additional observations

7.1 On 24 April 2019 and 9 August 2019, the State party submitted further observations and updated some information relating to the matter at hand.

7.2 The State party notes that the Sami Parliament decided, on 25 September 2018, that it did not accept the proposed amendment to the Act on the Sami Parliament. According to the State party, such an amendment would have brought about essential changes to the linguistic and cultural autonomy of the Sami people.

[12] Ibid.

7.3 The State party also notes that the Human Rights Committee has found, in its Views relating to *Sanila-Aikio v. Finland*[13] and *Käkkäläjärvi et al. v. Finland*,[14] that the facts disclosed a violation of article 25, read alone and in conjunction with article 27, of the International Covenant on Civil and Political Rights, as interpreted in light of article 1 of the Covenant. The Human Rights Committee specifically recommended a review of section 3 of the Act on the Sami Parliament.[15] The State party observes that four members of the Sami Parliament's plenum[16] published a statement in which they claimed that the decision of the Human Rights Committee was biased and based on deficient information and that the Supreme Administrative Court had found the decisions of the Election Committee and the Board to be illegal and therefore continuing reliance on the Court would be needed.

7.4 In relation to those Views by the Human Rights Committee, the State party underlines that the Supreme Administrative Court has accepted the Views, but it notes that the principle of "overall consideration" has been of significance in the decision-making of the Supreme Administrative Court if the persons in question, in principle, met the criteria in section 3 (2) of the Act of the Sami Parliament, for example, if they seemed to meet one of the requirements but the evidence to show this had not been entirely complete. Therefore, the Supreme Administrative Court holds that it has not ignored the objective criteria, instead, it interpreted the law by trying to take into account the recommendations of the Committee, as well as the legislative history of the Act on the Sami Parliament, the positions taken by the Constitutional Law Committee of the Parliament of Finland, other relevant domestic legislation and international human rights instruments, while interpretating the law in a fundamental and human rights-friendly manner.

7.5 The State party also notes that, on 3 April 2019, the Executive Board of the Sami Parliament referred a request to the Supreme Administrative Court to annul its decisions of 26 November 2011 and 30 September 2015 in view of the Human Rights Committee's Views. The Supreme Administrative Court noted that, if the reading of a law is open to interpretation, this does not justify annulling a final decision of a court, according to the Administrative Judicial Procedure Act. The Supreme Administrative Court assessed whether grounds existed for annulling the relevant decisions on the basis of manifestly erroneous application of the law. It noted that the Views had been adopted by the Human Rights Committee after the said decisions and that, prior to the adoption of the Views, there was no clear case law or, if anything, prior case law was more in favour of individual self-identification than group identification. Therefore, it could not be concluded that the Supreme Administrative Court, at the time of making the decisions at issue, had applied the law erroneously in light of the available case law. It followed that there were no grounds that justified an annulment.

7.6 The State party also notes that, on 1 July 2019, the Election Committee of the Sami Parliament removed from the electoral roll the 93 individuals that had been added to it after the Court's decisions. This decision has been repealed by the Supreme Administrative Court with respect to one individual who had appealed it. The State party submits that the Government has been approached by persons among those 93 individuals, including members of the Sami Parliament's plenum, expressing concern about their legal protection in the proceedings before the Human Rights Committee, as they had not been heard. The State party recalls that there were 182 judicial appeals, of which only 93 were successful, and that it is in the nature of any court proceedings that the outcome will not be agreeable for all parties, or persons not involved in the proceedings.

7.7 The State party also submits that it is determined to promote the realization of the linguistic and cultural rights of all Sami people in a way that takes into account relevant international treaties.

7.8 In relation to what the petitioners describe as negative developments that demonstrate the impact of the State party's intervention in the elections, the State party considers that the petitioners' allegations are unsubstantiated and are in part erroneous. Regarding the Artic railway project, the State party submits that no decision has been adopted yet on the

[13] *Sanila-Aikio v. Finland* (CCPR/C/124/D/2668/2015).

[14] *Käkkäläjärvi et al. v. Finland* (CCPR/C/124/D/2950/2017).

[15] Ibid., para. 11.

[16] The Sami Parliament's plenum is composed of 21 members and 4 deputy representatives.

construction or the choice of route; and that the project the petitioners refer to is merely that of two private companies that do not exercise any control over the land areas affected and are not in a position to make any decisions on the construction of the railway. The State party reiterates that there is no causal link between the decisions of the Supreme Administrative Court and those allegations. The petitioners are merely claiming indirect and hypothetical violation of the rights of the Sami people in general, based on their own assumptions regarding the future behaviour of certain individuals.

7.9 The State party submits that the petitioners have not provided any information to show how their rights under article 5 (a) of the Convention have been violated, that is, how they have not received equal treatment from tribunals. The State party stresses that the first petitioner, Ms. Nuorgam, recently received a judgment, dated 6 March 2019, from the District Court of Lapland in which she succeeded. The judgment recognized that the defendants (among whom there was Ms. Nuorgam) had been within their right to fish in a Sami home river and within the type of fishing to which they, as Sami people, have a constitutional right. This decision has been appealed by the prosecution.

7.10 The State party observes that the Committee has not requested statements from the parties to the domestic proceedings before the Supreme Administrative Court and that the situation of those who were added to the electoral roll was not considered by the Human Rights Committee in its Views.

7.11 In relation to the petitioners' allegations of a violation of their rights under article 5 (c) of the Convention, the State party considers that the petitioners have not substantiated how their right to participate in elections to vote and to stand for election, on the basis of universal and equal suffrage, would be violated.

7.12 In relation to the petitioners' allegations under article 5 (e), the State party also considers that the petitioners have not substantiated that any of the rights enumerated in that article have been violated, as they have not alleged any specific violation.

Petitioners' comments on the State party's additional observations

8.1 On 24 July 2019 and 16 December 2019, the petitioners made comments on the State party's additional observations.

8.2 On the matter of amending the Act on the Sami Parliament, the petitioners submit that the Sami people were in support of the proposed amendment drafted together with them in a working group established by the Government. However, they felt pressured to accept that the 2019 elections to the Sami Parliament would still be conducted according to the current interpretation of section 3, which would result in the same violations of the Convention and the State party's other international human rights obligations, as had occurred in the 2015 elections. The petitioners clarify, nonetheless, that their complaint refers to the events of the 2015 elections and not any events that may have occurred during the 2019 elections.

8.3 Furthermore, the petitioners submit that such a legislative measure would not be necessary to implement the Views of the Human Rights Committee if the Supreme Administrative Court had accepted the request to annul its decisions of 2011 and 2015.

8.4 The petitioners note that, in its ruling of 6 July 2019, the Supreme Administrative Court did not contest the Views of the Human Rights Committee but rather expressed some mild criticism of the Human Rights Committee's interpretation of the Court's own case law. Where the Human Rights Committee had stated that the domestic court had included on the electoral roll persons who did not meet a single one of the three alternative objective criteria provided in section 3 of the Act on the Sami Parliament, the Supreme Administrative Court now names this characterization as "simplistic" and provides lengthy explanations and (apologetic) justifications concerning its own case law. Nevertheless, the Supreme Administrative Court's own new summary of an earlier case (KHO 1999:55) clearly demonstrates how the contested subsequent rulings of 2011 and 2015 deviated from what had been established by the Court itself as the proper reading of section 3 and what also had met the approval of the Sami people. The petitioners refer to the interpretation from which the rulings they complain of deviated as the "consensual interpretation".

8.5 Furthermore, the petitioners submit that the interpretation that the Government gives to the 2011 and 2015 decisions of the Supreme Administrative Court, submitting that the principle of "overall consideration" was only used whenever one of the three alternative objective criteria was prima facie met, is only a retrospective interpretation of the Court's judgments and was clearly not a consideration that was present in the Court's decision at the time. The petitioners do recognize that such reasoning is present in the recent judgments of the Supreme Administrative Court handed down in July 2019 on the same matter. The petitioners consider that the State party's explanations clarify that the Supreme Administrative Court consciously decided to give undue weight to the 2009 concluding observations of the Committee (concerning individual self-identification) to set aside the 2012 concluding observations (that stressed Sami self-determination and objective criteria).

8.6 Regarding the letter submitted by the State party from four elected members of the Sami Parliament, the petitioners consider that the State party seeks to give the Committee the impression that the petitioners would not enjoy broad support within Sami society in respect of their complaint pending before the Committee. They submit that the fact that four members of the Sami Parliament have issued a letter against the Sami Parliament and actions by persons who have submitted complaints to international human rights bodies is regrettable, but merely reflects the fact that the repeated interventions by the State party in Sami self-determination, mainly in the context of the 2011 and 2015 elections of the Sami Parliament, have had the typical consequences of *divide et impera* (divide and rule) when understandably some Sami individuals will adopt a less determined approach to defending the rights of the Sami people and instead seek collaboration with the local dominant (Finnish) population.

8.7 On the matter of why the 93 citizens added to the electoral roll are not part of these proceedings, the petitioners insist that they have sought to speak neither on behalf of those individuals who were included on the electoral roll against the carefully considered decisions of the organs of the Sami Parliament, nor on behalf of those individuals whose request to be included on the electoral roll was denied by the State party's organs.

8.8 Regarding the criminal proceedings against Ms. Nuorgam, the petitioners clarify, first of all, that this is not the object of the communication and that they merely raised it to provide an illustration of the consequences of the weakening of the Sami Parliament on discriminatory developments. They stress that the State party is still pressing charges against her, within the appeal.

8.9 As regards the Artic railway project, the petitioners insist that this is just one illustration of the consequences of the growing discrimination against the Sami people. Nevertheless, they submit that, even if the central Government is not directly participating in the project, local and regional governmental bodies, which fall within the responsibility of the State party, continue to prepare the project, which would have a devastating effect on the Sami culture and way of life.

Issues and proceedings before the Committee

Consideration of the merits

9.1 The Committee has considered the present communication in the light of all the submissions and documentary evidence produced by the parties, as required under article 14 (7) (a) of the Convention and rule 95 of its rules of procedure.

9.2 The Committee notes the petitioners' allegations that, in at least 53 of its 93 rulings, the Supreme Administrative Court included new voters on the electoral roll based on an "overall consideration" of the facts, without demonstrating that they fulfilled at least one of the three objective criteria established by section 3 of the Act on the Sami Parliament. The petitioners argue that the rulings constitute a violation of the State party's obligations under article 5 (a), (c) and (e) of the Convention. They allege that the State party has violated the right of the petitioners and other Sami persons to equal treatment before the tribunals due to the arbitrary nature of the rulings; intervened in the right of the Sami people to freely determine the composition of their representative organ and thereby impaired the recognition, enjoyment and exercise by the petitioners and other Sami persons in Finland of their human rights and fundamental freedoms in the political, economic, social, cultural and other fields

of public life; violated the right of the petitioners and other Sami persons to political participation by compromising and delegitimizing the representativeness of the elected Sami Parliament; and caused, through the weakening of the authority of the elected Sami Parliament, adverse effects upon the exercise and enjoyment of the economic, social and cultural, including linguistic, rights of the petitioners and other Sami persons.

9.3 The Committee takes note of the State party's argument that the petitioners have failed to establish in which way their rights under article 5 (c) of the Convention, to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government, as well as in the conduct of public affairs at any level and to have equal access to public service, have been violated since their right to vote has not been affected.

9.4 The Committee first recalls that the provisions of the Convention apply to Indigenous Peoples. As noted in its general recommendation No. 23 (1997), the culture and historical identity of Indigenous Peoples has been and is being jeopardized. The Committee called upon States parties to ensure that members of Indigenous Peoples had equal rights in respect of effective participation in public life and that no decisions directly related to their rights and interests were taken without their informed consent.[17] The Committee has frequently reaffirmed the understanding that lack of appropriate consultation with Indigenous Peoples may constitute a form of racial discrimination and could fall under the scope of the Convention. The Committee adheres to the human rights-based approach of free, prior and informed consent as a norm stemming from the prohibition of racial discrimination, which is the main underlying cause of most discrimination suffered by Indigenous Peoples.[18] Conscious of the collective dimension of Indigenous Peoples' rights, the Committee invited the States parties to provide Indigenous Peoples with conditions allowing for a sustainable economic and social development compatible with their cultural characteristics and to ensure that Indigenous communities could exercise their rights to practise and revitalize their cultural traditions and customs and to preserve and to practise their languages.[19] With regard to Indigenous Peoples, the realization of this right can include or even require the establishment of a separate body representing the interests and positions of the members of the Indigenous community. Such a body is of importance with regard to ensuring adequate participation of the Indigenous community in decision-making processes of the State that affect the rights and interests of the Indigenous community. It is also an instrument to facilitate and enable consultative processes that are required under international law. The Committee further points out the importance of the right to political participation under article 5 (c) of the Convention for the enjoyment and full realization of other rights of Indigenous communities, in particular their economic, social and cultural rights guaranteed under article 5 (e).

9.5 The Committee notes that the powers and duties of the Sami Parliament include preserving the Sami language and culture, taking care of matters relating to the status of the Sami as an Indigenous People, acting as a representative of the Sami people nationally and internationally in matters pertaining to its tasks, and being consulted by all authorities in a long list of matters that concern the Sami as an Indigenous People or developments within the Sami homeland.[20] The Committee accordingly considers that the Sami Parliament constitutes the institution that enables, under Finnish domestic law, the effective participation of the Sami people in public life as an Indigenous People. The Sami Parliament also conducts negotiations to ensure that free, prior and informed consent is sought in all matters affecting the Sami people. The Committee considers that these functions determine the enjoyment of the political rights of members of Indigenous Peoples protected by article 5 (c) of the Convention; this without prejudice to the other political rights that Finnish Sami individuals may have as Finnish citizens on an equal footing with other citizens. Therefore, the electoral process for the Sami Parliament must ensure the effective participation of those concerned, in accordance with the traditions and customs of the community or nation concerned, both as a guarantee for the continued viability and welfare of the Indigenous community as a whole

[17] General recommendation No. 23 (1997), para. 4 (d).
[18] *Ågren et al. v. Sweden* (CERD/C/102/D/54/2013), para. 6.16, and A/HRC/39/62, paras. 9–10.
[19] General recommendation No. 23 (1997), para. 4 (c) and (e).
[20] Act on the Sami Parliament, sect. 5.

and their effective protection from discrimination. The Committee recalls its decision of admissibility in the present case, in which it stated that decisions taken by institutions of the State party, which have an impact on the composition of the Sami Parliament and the equal representation of the Sami people, can have a direct impact on the civil, political, economic, social and cultural rights of individual members of the Sami community and of groups of Sami individuals, in the terms of article 14 (1) of the Convention.[21] The Committee reiterates, therefore, that the composition and the effective functioning of the Sami Parliament and its capacity to adequately represent the views of the Sami people affects both individually and collectively the rights of the petitioners, under article 5 (c) of the Convention, as members of the Sami people and as voters on the Sami electoral roll.

9.6 The Committee notes that the right to vote in the elections of the Sami Parliament is determined by the requirements of section 3 of the Act on the Sami Parliament, which contains a subjective requirement (self-identification as a Sami) and an objective requirement based on either mother tongue or descent. The State party submits that the Committee has recommended that domestic legislation explicitly prohibit descent-based discrimination. The Committee recalls that the prohibition of racial discrimination underpinned in the Convention requires that States parties guarantee to everyone under their jurisdiction the enjoyment of equal rights de jure and de facto. Pursuant to article 2 (1) (c), each State party must take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws or regulations that have the effect of creating or perpetuating racial discrimination, wherever it exists. States must take positive measures to enable the realization of human rights for Indigenous Peoples, either by removing the remaining obstacles or by adopting specific legislative and administrative measures to fulfil their obligations under the Convention.[22] The Committee notes that the need of the Sami people to safeguard their culture and livelihoods is among the reasons why States parties must adopt concrete positive measures to ensure their effective consultation and participation in decision-making. The Committee recalls that, in its general recommendation No. 32 (2009), it clarified that the notion that special measures should not lead to separate rights for different racial groups must be distinguished from rights accepted and recognized by the international community to secure the existence and identity of groups such as minorities, Indigenous Peoples and other categories of person whose rights were similarly accepted and recognized within the framework of universal human rights.[23]

9.7 In the current case, the Committee notes that the establishment of the Sami Parliament is a measure adopted, as mentioned earlier, to enable the effective participation of the Sami people in public life as an Indigenous People and to hold negotiations to obtain free, prior and informed consent, which is part of the rights of members of Indigenous Peoples protected by article 5 (c) of the Convention. As a special measure, it does not lead to separate rights for different racial groups, as citizens both within and outside the electoral roll do participate in the democratic system of Finland on an equal basis.

9.8 The Committee also notes that the definition in section 3 of the Act on the Sami Parliament is used exclusively for the purposes of establishing the electoral roll for the Sami Parliament, but it does not determine the enjoyment of other rights. The Committee finally notes that the purpose of the subjective and objective requirements of section 3 of the Act on the Sami Parliament is to ensure the representativeness of the Sami Parliament for the Sami as an Indigenous People. In that context, the use of a decent-based distinction as an objective criterion in the specific circumstances of the current case is reasonable and justified by that purpose[24] and is compatible with other human rights obligations.

9.9 The Committee notes that, in its latest submission, the State party argued that the "overall consideration criterion" had been of significance in the decision-making of the Supreme Administrative Court if the person in question, in principle, met the objective criteria wording of section 3 (1) or (2) of the Act on the Sami Parliament and that therefore

[21] *Nuorgam et al. v. Finland* (CERD/C/95/D/59/2016), para. 7.11.

[22] *Ågren et al. v. Sweden*, para. 6.13.

[23] General recommendation No. 32 (2009), para. 26.

[24] See also Human Rights Committee, *Lovelace v. Canada*, Views, communication No. 24/1977, para. 16.

the Court held that it had not ignored the objective criteria but that it had relied on the Committee's concluding observations in its 2015 rulings in the sense of giving greater weight to self-identification, as well as on the legislative history of the Act on the Sami Parliament, the positions taken by the Constitutional Law Committee of the Parliament of Finland, other relevant domestic legislation and international human rights instruments, while having interpretated the law in a fundamental and human rights-friendly manner. The Committee recalls that, in *Käkkäläjärvi et al. v. Finland* discussed by both parties in the present communication, the Human Rights Committee noted that it was undisputed by the parties that, in the majority of cases, the Supreme Administrative Court had stated explicitly that the person did not meet any of the objective criteria spelled out in section 3 of the Act on the Sami Parliament.[25]

9.10 The Committee recalls that, under article 33 of the United Nations Declaration on the Rights of Indigenous Peoples, Indigenous Peoples have the right to determine their own identity or membership in accordance with their customs and traditions and the right to determine the structures and to select the membership of their institutions in accordance with their own procedures. Article 9 of the Declaration provides that Indigenous Peoples and individuals have the right to belong to an Indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned, and that no discrimination of any kind may arise from the exercise of such a right. In accordance with article 8 (1) of the Declaration, Indigenous Peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture. In this context, the Committee notes the process of amending section 3 of the Act on the Sami Parliament, following negotiations between the State party's authorities and representatives of the Sami Parliament and that, according to the State party, the Sami Parliament did not accept the proposed amendment to the Act.

9.11 The Committee recalls that, in 2012 and 2013, it shared its concern that the definition adopted by the Supreme Administrative Court (in its 2012 rulings) had given insufficient weight to the Sami people's rights, recognized in the United Nations Declaration on the Rights of Indigenous Peoples, to self-determination (art. 3), in particular their right to determine their own identity or membership in accordance with their customs and traditions (art. 33), as well as their right not to be subjected to forced assimilation or destruction of their culture. The Committee further wishes to clarify that its recommendation provided in its concluding observation of 2009 referred to "adequate" weight,[26] while in subsequent concluding observations, the Committee recommended that, in defining who was eligible to vote for Members of the Sami Parliament, due weight should be given to the rights of the Sami people to self-determination concerning their status within Finland, to determine their own membership and to not be subjected to forced assimilation.[27]

9.12 The Committee recognizes the right and obligation of States parties to ensure the legality of all administrative decisions adopted by its domestic authorities and other public institutions. The Committee wishes to highlight that, although the principle of self-determination grants Indigenous communities the right to freely determine their own membership in accordance with article 33 (1) of the United Nations Declaration on the Rights of Indigenous Peoples, decisions regarding participation in representative bodies and elections may not be taken in an arbitrary manner or with the aim or the effect of excluding members or voters in violation of international human rights law. In this regard, judicial scrutiny by State courts can play an important and legitimate role. It stresses that, in the specific context of Indigenous peoples' rights, this should be done in a way that is compatible with their right to determine their own identity or membership in accordance with their customs and traditions[28] and should not amount to arbitrariness. Although it falls within the competence of the judiciary to interpret the applicable law, when adjudicating on the rights of Indigenous Peoples and in particular on the criteria for membership as well as on the membership of individual persons, domestic courts, however, have to pay due regard to the right to self-determination of Indigenous communities, in particular when courts deviate from

[25] *Käkkäläjärvi et al. v. Finland*, para. 9.7.
[26] CERD/C/FIN/CO/19, para. 13.
[27] CERD/C/FIN/CO/23, paras. 14–15, and CERD/C/FIN/CO/20-22, paras. 11–12.
[28] United Nations Declaration on the Rights of Indigenous Peoples, art. 33.

generally established criteria for membership and from the assessment of representative bodies of the community in this regard.

9.13 The Committee has examined the information referred to by the parties, including the report submitted by the State party,[29] and notes that the Supreme Administrative Court has, on several occasions, explicitly established that the objective requirement could not be determined, but has continued to make an "overall consideration", basing itself mainly on the subjective requirement, and finding that the appellant should be included on the electoral roll. The Committee notes that, even assuming that, as argued by the State party, an "overall consideration" was used only when there was some indication of fulfilment of the objective requirement, such an assessment in essence amounted to considering that a high fulfilment of the subjective requirement could exempt the appellant from meeting the standard of evidence required to show fulfilment of the objective requirement. Therefore, it appears that the Supreme Administrative Court's decisions did not apply the objective requirements provided in the applicable norm, the Act on the Sami Parliament.

9.14 In such a context, the Committee finds that the rulings had the capacity to artificially modify the electoral constituency of the Sami Parliament, affecting its capacity to truly represent the Sami people and their interests. Therefore, those rulings of the Supreme Administrative Court that departed without any apparent justification from the existing proper interpretation of the applicable law, shared by the Supreme Administrative Court and the Sami Parliament, violated the petitioners' right, as members of the Sami people, to collectively determine the composition of the Sami Parliament and take part in the conduct of public affairs, as protected by article 5 (c) of the Convention.

9.15 As regards a violation of article 5 (e) of the Convention, the petitioners have not sufficiently substantiated that an adverse effect on their enjoyment of their economic, social and cultural rights has already taken place.

9.16 The Committee has further taken note of the petitioners' claims under article 5 (a) of the Convention to the effect that, by departing from the wording of section 3 of the Act on the Sami Parliament, the Supreme Administrative Court has ignored the requirements of legality, foreseeability, non-arbitrariness and non-discrimination, and that identical cases had different outcomes. The Committee notes the State party's submission that the petitioners were not parties to the proceedings in question and that they have not substantiated how their rights to equal treatment before the tribunals have been violated. The Committee notes that it is undisputed that the petitioners were not part of the national proceedings, and that there is no additional information in the file that would suggest that their right to equal treatment before the tribunals and all other organs administering justice has been violated. The Committee therefore considers that, in the present circumstances, there was no violation of article 5 (a) of the Convention.

10. In the circumstances of the case, the Committee, acting under article 14 (7) (a) of the Convention, considers that the facts before it disclose a violation by the State party of article 5 (c) of the Convention.

11. The Committee recommends that the State party provide an effective remedy to the petitioners by urgently initiating a genuine negotiation for the review of section 3 of the Act on the Sami Parliament with a view to ensuring that the criteria for eligibility to vote in Sami Parliament elections are defined in a manner that respects the right of the Sami people to provide their free, prior and informed consent on matters relating to their own membership and their political participation for the enjoyment and full realization of the other rights of Indigenous communities, in particular their economic, social and cultural rights, in accordance with article 5 (c) and (e) of the Convention. The State party is also requested to give wide publicity to the present opinion of the Committee and to translate it into the official language of the State party and the petitioners' language or languages.

[29] Heinämäki and others, *Actualizing Sámi Rights: International Comparative Research*.

12. The Committee wishes to receive, within 90 days, information from the State party about the measures taken to give effect to the Committee's opinion.