



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

unedited version

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Committee on the Elimination of Racial Discrimination

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

<i>Communication submitted by:</i>	Anne Nuorgam et al., represented by Dr. Martin Scheinin
<i>Alleged victims:</i>	The petitioners
<i>State party:</i>	Finland
<i>Date of the communication:</i>	14 March 2016 (initial submission)
<i>Date of the present decision:</i>	22 April 2022
<i>Document references:</i>	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)
<i>Subject matter:</i>	Right to vote in elections to the Sami Parliament; equality in the enjoyment of cultural rights
<i>Procedural issues:</i>	Jurisdiction of the Committee; victim status; exhaustion of domestic remedies
<i>Substantive issues:</i>	Discrimination on the ground of ethnic origin
<i>Articles of the Convention:</i>	1 and 5 (a), (c) and (e)

1.1 The 23 petitioners of the communication dated 14 March 2016, are Ms. Anne Nuorgam (Head of the Human Rights Unit of the trans-border association Saami Council); Maria Sofia Aikio (Cultural NGO 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 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

* Adopted by the Committee at its 106 Session (11 April - 29 April 2022).

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



saamelaisnuoret ry - Finland); Áile Javo (President of Saami Council, Karasjok, Norway); Jevgenji Jushkov (Acting Secretary General, Lujári/Loverezo, Russian Federation); Mirka Kelahaara (Private Childminder, Rovaniemi Saami Society - Rovaniemen 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 – Unárgega Sámi Searvi, Unjárge, 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 breached their rights under articles 1 and 5 (a), (c) and (e) of the Convention. They are represented by Mr. Martin Scheinin. They are all members of the indigenous Sami community. Finland has 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 on admissibility, refer to Nuorgan et al. v. Finland (CERD/C/95/D/59/2016).

The facts as submitted by the petitioners

2.1 The communication concerns a series of judicial decisions concerning the electoral roll to 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 bring proposals to the authorities, as well as issue statements (sect. 5 (2)). Section 9 stipulates that:

(a) The authorities shall negotiate with the Sámi 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 the following matters in the Sámi 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 Sámi form of culture;
- (5) The development of the teaching of and in the Sámi 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 Sámi as an indigenous people.

(b) In order to fulfil its obligation to negotiate, the relevant authority shall provide the Sámi Parliament with the opportunity to be heard and discuss matters. Failure to use this opportunity in no way prevents the authority from proceeding in the matter.

2.2 The petitioners submit that section 3 of the Act on the Sami Parliament contains the definition of who is to be regarded as a Sami for the purposes of being allowed to vote in Sami parliamentary elections: "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; (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 cumulative to 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 in 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 Court decided to include 93 of those persons in the electoral roll, against the decisions of the Electoral Board and of the Executive Board of the Sami Parliament.¹ The petitioners indicate that in at least 53 out of the 93 rulings, the Court included a new voter on the electoral register based on the “overall consideration”, without demonstrating that he or she fulfilled one of the three objective criteria established by article 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 admitted to the electoral register in 2011 also in application of the “overall consideration” by the 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 in the list of voters 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.

The complaint

3.1 The petitioners indicate that they and the members of the associations they represent, have been subject to violations of their rights as individual members of the indigenous Sami 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 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 Sami Parliament electoral roll, the rulings have promoted the inclusion of individuals who are not fully committed to the defence of indigenous 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,² which aim to address the historical discrimination, dispossession and disadvantage of the Sami people.³ The risk of forced assimilation of the Sami into the Finnish population is aggravated by the fact that the Sami constitute a numerical minority

¹ The petitioners indicate that the 93 persons were included in the electoral register through 93 different rulings. They further indicate that only four of the rulings were published in the Court’s yearbook and that the remaining 89 rulings are referred to in a Court press release.

² 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: “Provisions on self-government in administrative areas larger than a municipality are laid down by an Act. In their native region, the Sami have linguistic and cultural self-government, as provided by an Act.”

³ The petitioners refer to the Committee’s general recommendation No. 23 (paras. 3–4): “Indigenous peoples have been, and are still being, discriminated against and deprived of their human rights and fundamental freedoms ... Consequently, the preservation of their culture and their historical identity has been and still is jeopardized.”

even within their homeland.⁴ 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 aiming at the 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 Court's decisions 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 register, the 93 rulings that did admit the individuals concerned to the register amount to discrimination and arbitrariness. There are cases where, for instance, siblings have received rulings with opposite outcomes. In the Enontekiö municipality, all applicants whose family name is Vieltojärvi were admitted, while those whose family name is Keskitalo were rejected, even though the two families share genealogy.

3.4 The petitioners further 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 the Finnish Parliament. 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 by its rulings of 2011. They refer to the Committee's concluding observations of 2009, in which the Committee recommended that the State party give more adequate weight to self-identification by individuals concerned, as indicated in the Committee's general recommendation No. 8 (1990).⁵ According to the petitioners, general recommendation No. 8 was misunderstood by the Supreme Administrative Court in its rulings of 2011, where, 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 the Committee stated that it "is

⁴ 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.

⁵ See CERD/C/FIN/CO/19, para. 13.

concerned that the definition adopted by the Court gives insufficient weight to the Sami people's rights, recognised 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 is 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”.⁶

Committee's decision on 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, this 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 have an impact on the composition of the State party and the equal representation of the Sami, 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. The Committee decided that the communication is admissible with regard to the petitioners who are under the jurisdiction of the State party in their individual capacity. The Committee requested the parties to 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 *Nuorgan et al. v. Finland* (CERD/C/95/D/59/2016).

State party's observations on the merits

5.1 On 29 August 2018, the State party submitted its considerations 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 referred 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 this 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 Board of the Sami Parliament's decision to hold new elections. The Court submitted in its ruling that the Board had no competence to take up legal matters already adjudicated by the Court, and that its decisions are 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 protects 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. The State party stresses that the Supreme Administrative Court examined 182

⁶ See CERD/C/FIN/CO/20-22, para. 12.

appeals carefully, of which it accepted 93 persons to the electoral roll, and that the Board of the Sami Parliament 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 (CERD/C/FIN/CO/19) that the State party should give more adequate weight to self-identification of the individuals concerned as indicated in the Committee's general recommendation No. 8. In its subsequent concluding observation (CERD/C/FIN/CO/20-22), the Committee noted that the Supreme Administrative Court had, in its decisions of 2011, relied in its own prior Concluding Observations, and emphasised the right to self-determination as including the right of the Sami people to determine their own membership. Furthermore, the State 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 the individual self-identification better into account in its definition of Sami.⁷ The State party also notes that the Committee recommends that an explicit prohibition of descent-based discrimination is made in the domestic legislation of State parties (General Recommendation No. 29).

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 elect from among themselves the Sami parliament. There are about 6,000 voters in the electoral roll while there are about 10,000 Sami in Finland in total. The State party notes that a process is underway to agree on an amendment to the Sami Parliament Act and that the Government has the policy of not proceeding with matters falling within the core of the linguistic and cultural self-government of the Sami against the view 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 peoples. It emphasises that the right to vote at 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 further notes that voters have free choice over 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 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 in the electoral roll will, in turn, request their inclusion in 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, how they would have not been treated equally by the judiciary, when the petitioners have not been parties to any 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 from the right to participate in election on the basis of universal and equal suffrage, as they have not claimed being unable to participate in any election. With relation to article 5 (e), the State party submits that the petitioners have not presented any specific allegations as to 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 13 petitioners in their individual capacity.

⁷ Actualizing Sami Rights: international Comparative Research – Publications of the Government's analysis, assessment and research activities 4/2017.

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

6.1 On 14 December 2018, the petitioners submitted their 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 to freely determine the composition of their representative organ and thereby impaired the recognition, enjoyment and exercise by the petitioners and other Sami in Finland, of their human rights and fundamental freedoms in the political, economic, social, cultural and other fields of public life; violated the petitioners' and other Sami persons' right to equal treatment before the tribunals due to the arbitrary nature of the rulings; violated the petitioners' and other Sámi persons' right to political participation by compromising and delegitimising the representativeness of the elected Sámi Parliament; and caused, through the weakening of the authority of the elected Sámi Parliament, adverse effects upon the exercise and enjoyment of 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. Firstly, the freeze of the processes to ratify ILO Convention 169 on the rights of indigenous and tribal peoples and to approve the plan for a Nordic Sami Convention. Secondly, the Government and representatives from the Sami Parliament have advanced in their negotiations regarding the reform of section 3, 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. Thirdly, a new law on the Government Forestry Agency has been enacted, with an exclusion of all clauses regarding mechanisms of consultation and decision with the Sami, which has a direct impact on reindeer herding and other nature-based means of subsistence constitutive of the Sami culture. Fourthly, the Reno River Treaty has been ratified by Finland without due consultation of the Sami Parliament, even if it has a direct impact on the Sami fishing rights and their traditional methods of fishing. Finally, the government has announced the construction of an Arctic 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 are adverse to their rights have resulted from the weakened position of the Sami Parliament, after the elections under dispute. They further add that the Parliament's position has been often marginalised or ignored using, as an excuse, the fact that there is a "controversy" as to the membership of the Parliament, even if it is the State itself who is, according to the petitioners, at the origin of such 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 Sámi 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 Sámi cannot be understood as support to disregarding both the requirement of objective criteria and the right of the Sámi 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 Sami Parliament Act, the Court replaced such 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 13 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 Sámi Parliament was given only a few days to provide its comments on 182 appeals.

6.7 Finally, the petitioners point out to the fact that the Report that the State party refers to⁸ severely criticises the decisions adopted by the Court and the arbitrariness of the “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 in the electoral roll under the “overall consideration” will be submitted from Finnish mainstream population.

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

(a) Public apology by the Republic of Finland 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 where 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 Sami Parliament Act, that will be applicable already in its September 2019 elections and will define the criteria for eligibility to vote in Sami Parliament elections in a manner that respects the right of the Sami people to exercise its self-determination and that limits the external judicial review by State courts of decisions by the organs of the Sami Parliament to situations where a decision has been proven as arbitrary or discriminatory.

State party’s additional submissions

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 proposal of the Amendment of the Sami Parliament Act. According to the State party, such amendment would have brought about essential changes to the linguistic and cultural autonomy of the Sami people.

7.3 The State party also notes that the Human Rights Committee had found, in its Views relating to communications *Sanila-Aikio v. Finland*⁹ and *Kakkalajarvi et al v. Finland*¹⁰ that the facts disclosed a violation of article 25 of the International Covenant on Civil and Political Rights, read alone and in conjunction with article 27 of the Covenant, as interpreted in light of article 1 of the Covenant. The Human Rights Committee precisely recommended the review of section 3 of the Sami Parliamentary Act.¹¹ The State party observes that four members of the Sami Parliament’s plenum¹² published a statement sharing their opinion that the Human Rights Committee’s decision 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 the 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 “overall

⁸ Actualizing Sami Rights: International Comparative Research. Publication of the Government’s analysis, assessment and research activities 4/2017.

⁹ Human Rights Committee, *Sanila-Aikio v. Finland* (CCPR/C/124/D/2668/2015).

¹⁰ Human Rights Committee, *Kakkalajarvi et al v. Finland* (CCPR/C/124/D/2950/2017).

¹¹ See *Kakkalajarvi et al v. Finland*, para. 11.

¹² The Sami Parliament’s plenum is composed of 21 members and 4 deputy representatives.

consideration” has been of significance in the decision-making of the Supreme Administrative Court if the person in question, in principle, met the criteria wording of Section 3, paragraph 2, of the Act of the Sami Parliament, for example, if he or she 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, the Court had 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 Parliament, other relevant domestic legislation and international human rights instruments, as well as fundamental and human rights-friendly interpretation of the law.

7.5 The State party also informs that on 3 April 2019, the Executive Board of the Sami Parliament has 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 Court noted that if a question of applying to the law is open to interpretation, this does not justify annulling a final decision of a Court, according to the Administrative Judicial Procedure Act. The 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 balanced against that of group identification and towards individual self-identification. Therefore, it could not be concluded that the 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 the 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 have been added to it after the Court’s decisions. This decision has been repealed by the Supreme Administrative Court with respect of one individual who had appealed it. The State party submits that the Government has been approached by persons belonging to the aforementioned 93 individuals, including members of the Sami Parliament’s plenum, expressing concern over 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 of the satisfaction of all parties, or persons not involved in the proceeding.

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

7.8 In relation with what the petitioners describe as negative developments that would demonstrate the impact of the State party’s intervention in the elections, the State party considers that the petitioner’s 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 construction or the routing choice; and that the project the petitioners refer to are merely the projects 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 on some individuals’ future behaviour.

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, this is, how they have not received an equal treatment from tribunals. The State party stresses that the first petitioner recently received a judgement of 6 March 2019 by the District Court of Lapland in which she succeeded. The decision recognised that the defendants (among which there was the first petitioner) 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 accepted in 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 articles 5 (e), the State party also considers that the petitioners have not substantiated that any of the rights comprised in that article has been violated, as they have not claimed any specific alleged violation.

Petitioners' additional submission

8.1 On 24 July 2019 and 16 December 2019, the petitioners complemented their earlier submission to comment on the State party's additional observations.

8.2 On the matter of the amendment to the Sami Parliamentary Act, the petitioners submit that the Sami were in support of the current amendment proposal drafted together with them in a working group established by the Government. However, they felt pressured to accept that the 2019 elections of the Sami Parliament would still be conducted according to current Section 3, which would result in the same violations of the Convention and Finland's other international human rights obligations, as they occurred in conjunction with 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 legislative measure would not be necessary for the implementation of the final Views by the Human Rights Committee if the Supreme Administrative Court had accepted the request for the annulment of its decision of 2011 and 2015.

8.4 The petitioners note that, in its ruling of 6 July 2019, the Court did not contest the Views by the Human Rights Committee but expressed some mild criticism of the Human Rights Committee's construction of the Court's own case law. Where the Human Rights Committee had stated that the domestic court had included in the electoral roll of the Sami Parliament elections persons who did not meet a single one of the three alternative objective criteria provided in Section 3 of the Sámi Parliament, the domestic Court now names this characterization as "simplistic" and provides lengthy explanations and (apologetic) justifications concerning the Court's own case law. Nevertheless, the Court's own new summary of its 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. They 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 "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 judgements, but 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 judgements of July 2019 by the Supreme Administrative Court on the same matter. The petitioners consider that the State party's explanations clarify that the 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 the Sami society in respect of their complaint pending before the Committee. They submit that the fact that four

members of the Sámi Parliament have issued a letter against the Sámi 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 Sámi self-determination, mainly in the context of the 2011 and 2015 elections of the Sámi Parliament, has had the typical consequences of *divide et impera* (divide and rule) when some Sami individuals understandably will adopt a less determined approach to defending the rights of the indigenous Sámi people and instead seek collaboration with the local Finnish dominant population.

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

8.8 Regarding the criminal proceedings against the first petitioner, they 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 On the Artic Railway project, the petitioners insist that this is just one illustration of the consequences of the growing discrimination against the Sami. 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 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 a new voter on the electoral register based on the "overall consideration", without demonstrating that he or she fulfilled one of the three objective criteria established by article 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 petitioners' and other Sami persons' right to equal treatment before the tribunals due to the arbitrary nature of the rulings; intervened in the right of the Sami to freely determine the composition of their representative organ and thereby impaired the recognition, enjoyment and exercise by the petitioners and other Sami in Finland, of their human rights and fundamental freedoms in the political, economic, social, cultural and other fields of public life; violated the petitioners' and other Sami persons' right to political participation by compromising and delegitimising the representativeness of the elected Sámi Parliament; and caused, through the weakening of the authority of the elected Sámi Parliament, adverse effects upon the exercise and enjoyment of 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 what way their right under article 5 e) 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, 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 jeopardised. The Committee called upon

States parties to ensure that members of indigenous peoples have equal rights in respect of effective participation in public life and that no decisions directly relating to their rights and interests are taken without their informed consent.¹³ 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.¹⁴ 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 can exercise their rights to practise and revitalize their cultural traditions and customs and to preserve and to practise their languages.¹⁵ 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 rights and interests of the indigenous community. It is also an instrument to facilitate and enable consultative processes which are required under international law. The Committee further points out the importance of the right to political participation under Art. 5 (c) ICERD for the enjoyment and full realization of other rights of indigenous communities, in particular their economic, social and cultural rights guaranteed under Art. 5 (e) ICERD.

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 homeland¹⁶. The Committee accordingly considers that the Sami Parliament constitutes the institution that enables, under Finnish domestic law, the effective participation of the Sami in public life as an indigenous people. The Sami Parliament also conducts negotiations to ensure that a 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 other political rights that Finnish Sami individuals may have as Finnish citizens on 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 and their effective protection from discrimination. The Committee recalls its admissibility decision in this case, where 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, 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.¹⁷ 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 affects both individually and collectively the rights of the petitioners, under article 5 (c), as members of the Sami indigenous people and as members of 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

¹³ General Recommendation No. 23, para 4 (d).

¹⁴ See *Agren et al v. Sweden* (CERD/C/102/D/54/2013) para 6.16 and A/HRC/39/62, paras. 9–10.

¹⁵ General Recommendation No. 23, para 4 (c) and (e).
Section 5, Act on the Sami Parliament.

¹⁷ See *Nuorgam et al* (admissibility), para. 7.11.

recommended that domestic legislations 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 which 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 remaining obstacles or by adopting specific legislative and administrative measures to fulfil their obligations under the Convention.¹⁸ The Committee notes that the need of the Sami indigenous 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 are similarly accepted and recognized within the framework of universal human rights.¹⁹

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 in public life as an indigenous people, and to hold negotiations to obtain a free, prior and informed consent, which are 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 Sami Parliament Act is used exclusively for the purposes of establishing the electoral roll to 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 Sami Parliament Act 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 purpose²⁰ 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” has 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, paragraphs 1 or 2, of the Act of the Sami Parliament and that therefore, the Court holds that it has not ignored the objective criteria but that the Supreme Administrative Court 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 Parliament, other relevant domestic legislation, and international human rights instruments, as well as fundamental and human rights-friendly interpretation of the law. The Committee recalls that, in the *Kakkälajärvi et al* case discussed by both parties in the present communication,²¹ the Human Rights Committee noted that it was undisputed by the parties that in a majority of cases the Supreme Administrative Court stated explicitly that the person did not meet any of the objective criteria spelled out in Section 3.²²

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

¹⁸ *Agren et al. v Sweden* (CERD/C/102/D/54/2013) para. 6.13.

¹⁹ General Recommendation No. 32, para. 26.

²⁰ See also *Lovelace v. Canada* (CCPR/C/13/D/24/1977), para. 16.

²¹ *Käkkäläjärvä et al v. Finland* (CCPR/C/124/D/2950/2017).

²² *Käkkäläjärvä et al v. Finland* (CCPR/C/124/D/2950/2017). Para. 9.7.

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 Sami Parliament Act following negotiations between the State Party authorities and representatives from the Sami Parliament and that, according to the State party, the Sami Parliament did not accept the proposal of the Amendment of the Sami Parliament Act.

9.11 The Committee recalls that in 2012 and 2013, it shared its concern that the definition adopted by the Court (in its 2012 rulings) gave insufficient weight to the Sámi 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, while in subsequent Concluding Observations,²³ the Committee recommended that, in defining who is 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 not to be subjected to forced assimilation.²⁴

9.12 The Committee recognises the right and obligation of State parties to ensure the legality of all administrative decisions adopted by its domestic authorities or 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 Art. 33 (1) UNDRIP, decisions regarding participation in representative bodies and elections may not be taken in an arbitrary manner or with the aim or the effect to exclude 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 traditions²⁵ 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 generally established criteria for membership and from the assessment of representative bodies of the community in this regard.

9.12bis The Committee has examined the information referred to by the parties, including the report submitted by the State party,²⁶ 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 in the electoral roll. The Committee notes that, even assuming that, as argued by the State party, the "overall consideration" was used only when there was some indication of fulfilment of the objective requirement, such "overall consideration" in essence amounted to considering that a high fulfilment of the subjective requirement could exempt the appellant from meeting the standard of evidence of fulfilment of the objective requirement. Therefore, it appears that

²³ Concluding Observations 19 periodic report of Finland (CERD/C/FIN/CO/19) para. 13.

²⁴ Concluding Observations 23 periodic report of Finland (CERD/C/FIN/CO/23) para. 14-15 and Concluding Observations 20-22 periodic report of Finland (CERD/C/FIN/CO/20-22) para. 11-12.

²⁵ See United Nations Declaration on the Rights of Indigenous Peoples, article 33.

²⁶ Actualizing Sami Rights: International Comparative Research. Publication of the Government's analysis, assessment and research activities 4/2017.

the Supreme Administrative Court's decisions did not apply the objective requirements provided in the applicable norm, the Act on the Sami Parliament.

9.13 In such 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 indigenous 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.

9.14 As regards a violation of Art. 5 (e) ICERD, 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 outcome. 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 has 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 on the Elimination of Racial Discrimination, acting under article 14 (7) (a) of the International Convention on the Elimination of All Forms of Racial Discrimination, 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 provides 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 its free, prior and informed consent on matters relating to their own membership and their political participation for the enjoyment and full realization of other rights of indigenous communities, in particular their economic, social and cultural rights guaranteed, in accordance with article 5 (c) and (e) of the Convention. The State party is also requested to give wide publicity to the Committee's views and to translate it into the official language of the State party as well as into the petitioners' language.

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.