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Heidi Öst

The Åland Islands Peace Institute

**Legal and Institutional Framework Analysis:
Sweden Finnish and Meänkieli in Sweden**

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Foreword

The **Legal and Institutional Framework Analyses** represent the collected knowledge of the ELDIA-project in the field of law, politics and policies and of their institutional representations with regard to the languages studied in this research project. Each report examines one or two languages in their wider national and international context. The **core scientific questions** in the present law and policy studies are: What role is played by law in the use or non-use of different languages in different domains? What role is played by law in promoting or inhibiting language diversity as such? Finally, which factors related to legal and institutional matters influence language use, language maintenance and language diversity? Each study consists of three main parts: a) The **overall legislative and institutional framework**; b) **Languages and minority policies in practice** (a section which covers the discussions and the implementation, or non-implementation, of constitutional provisions, language legislation, education and media legislation) and c) an identification and analysis of **the legal actors**, i.e. persons, organisations, and public authorities engaged in the development, interpretation and monitoring (judicial and other) of the relevant legal frameworks. The law researchers involved in this part of the research have benefited greatly from the input of and interactions with the broad network of researchers represented in the project, and thus we are now even more convinced that contacts across scientific disciplines is a precondition for a deeper understanding of complex societal processes. The *Legal and Institutional Framework Analyses* shall form part of the background for the development of the comparative and interdisciplinary work that is currently taking place within the ELDIA-project.

As all *Working Papers* published on the project website and within ELDIA, also these studies have been submitted to extensive project internal as well as external review under the supervision of Associate Professor, Jur. Dr., Sia Spiliopoulou Åkermark. The Åland Islands Peace Institute is responsible for this component of the ELDIA project. Any comments can be sent to sia@peace.ax

We wish to thank all those that have kindly contributed to our work with their comments and advice.

Mariehamn in May 2012

Sia Spiliopoulou Åkermark

The Åland Islands Peace Institute

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1 The overall legislative and institutional framework

1.1 The position of languages and minorities in the legal and political context of Sweden

In Sweden, the Swedish language has been actively promoted as the national vehicular language for at least over one and a half century through the public education system.¹ The first national regulation on public education was adopted already in 1842.² It demanded that schools with authorized teachers be established in every parish. As education prior to the 1840's had been carried out mainly in the realms of the church and the home, the year 1842 marks the start of a modern public education system in Sweden. The establishment of a public education system is commonly explained by historians as a step in the state formation process.³ In the words of one historian, the public education system was formed "to foster new citizens for the benefit of the nation".⁴

In areas such as the Torne Valley in the north of Sweden, where Finno-Ugric languages had a strong presence, only a few schools had been established by parishes prior to 1880's.⁵ From the 1880's onwards, both state and private actors begun to establish public schools in the area. The use of other languages than Swedish in these schools was discouraged, and in some cases even prohibited by unofficial local regulations. There are many testimonies of children being punished for speaking Meänkieli, Finnish or Sami in schools in the Torne Valley. In response to complaints about the situation, the Swedish National Board of Education declared in 1957 that children could no longer be prohibited from speaking Finnish, Meänkieli or Sami on the breaks in the Torne Valley.⁶

While all minority languages and minority groups that have been present in Sweden for over a century have been pressured to learn Swedish and assimilate with the Swedish speaking society, the different circumstances that the various groups and languages have found themselves in has produced different responses to the pressure.⁷ The Roma, who today number an estimated 50-100,000⁸, are within themselves a diverse group, some of whom may be regarded as a visible minority due to for example characteristic

¹ Sweden emerged as an independent kingdom in the 1520's out of a union with Denmark and Norway. At that time the territory of Sweden included most of the territory of today's Sweden and Finland. During the 17th century, Swedish conquests laid much of the territory surrounding the Baltic Sea under Swedish control. In the 19th century, most of this territory was lost to Russia, which also annexed what is now Finland in 1809.

² Kungliga Majestäts Stadga angående folkundervisningen i riket, 18 June 1842

³ Florin, C. "Från folkskola till grundskola 1842-1962", available at http://www.lararnashistoria.se/article/folkskolans_historia

⁴ Elenius, L. "Både finsk och svensk. Modernisering, nationalism och språkförändringar i Tornedalen 1850-1939" 2001, p. 16.

⁵ Rova, M "Språkpolitisk förändring i Tornedalen efter 1968 – Med avseende på skolväsendet" (Luleå tekniska universitet; Luleå) 2004, available at <http://epubl.ltu.se/1402-1773/2004/012/LTU-CUPP-04012-SE.pdf>

⁶ Mänty, N. internal ELDIA report on file with the author, p. 10. See also Mänty, N. Finnish in Sweden: An Overview of a Language in Context (2012).

⁷ See Mänty, internal ELDIA report on file with the author, p. 16. See also Mänty, N. Finnish in Sweden: An Overview of a Language in Context (2012).

⁸ All the population estimates in this passage are taken from the poster "Nationella minoriteter i Sverige" produced jointly by the County Administrative Board of Stockholm, local and regional administrative authorities in Sweden and the Sami parliament. Available at http://www.lansstyrelsen.se/stockholm/SiteCollectionDocuments/Sv/manniska-och-samhalle/nationella-minoriteter/Reviderad_affisch_2011.pdf

dress codes.⁹ The same can be said for the Sami, who today are estimated to number 20-35,000, and who are also regarded as an indigenous people, and for the Jews, who number approximately 20-25,000. Of these groups, the Sami is the only group that is geographically concentrated in a certain area, north of Sweden. Northern Sweden is also the homeland of around 50,000 Meänkieli speakers, and many Finnish-speakers, whose numbers are estimated at 450-600,000 in the whole country. These two latter groups are distinguished mainly by their language and do not constitute visible minorities in any sense. They are also the groups in focus in this report.

While Swedish has indeed been promoted as the sole national vehicular language, other languages have in the second half of the 20th century been tolerated and supported to some degree. A high influx of immigrants to Sweden led to an increased interest in the teaching of immigrants in the 1960's and 1970's. Schools were encouraged by the National Board of Education in 1973 to allot two hours a week to "home language" instruction for children with a mother tongue other than Swedish. Through a decision of the Swedish parliament in 1977, principles for a publicly funded home language instruction programme were established and took effect in 1977.¹⁰ The introduction of the home language instruction programme was probably the most important aspect of the 1975 immigrant- and minority policy, which aimed to allow immigrants and their children to maintain and develop their own language and culture and maintain contacts with their country of origin.¹¹

In the beginning of the 1990's demands for strengthening the status of the Finnish language in Sweden¹² were put forward with renewed intensity in the context of a wider, global, ethno-political mobilization of linguistic minorities.¹³ In response, the Swedish government decided to appoint a working group to strengthen the Finnish language in Sweden in 1993.¹⁴ In 1994 the Swedish government declared in writing to the parliament that the Finnish language is a domestic language in Sweden with a special status. This statement brought about a development which resulted in the Swedish ratification of the Framework Convention and the Minority Language Charter of the Council of Europe in 2000, in connection with which five national minorities and five national minority languages were legally recognized, namely: Jews, Roma, Sami, Swedish Finns and Tornedalians and the languages Finnish, Yiddisch, Meänkieli, Romany Chib and Sami.¹⁵ In 2009, Sweden adopted a Language Act which for the first time explicitly specifies the position and usage of the Swedish language and of other languages in the Swedish society.

⁹ On the history of discrimination against the Roma in Sweden see Wadstein, M. *Diskriminering av romer i Sverige – Rapport från DO:s projekt åren 2002 och 2003 om åtgärder för att förebygga och motverka etnisk diskriminering av romer.*

¹⁰ The proposal of the Swedish government for public support to the home language tuition for immigrant children, 1976/77:22, of 4 November 1976, was adopted by the Swedish parliament in 1977. See Riksdagens protokoll 1976/77:68, of 9 February 1977.

¹¹ Riktlinjer för invandrar- och minoritetspolitiken, 1975 års riksmöte (prop. 1975: 26, InU 1975: 6, rskr. 1975: 160).

¹² See Tammenoksa, E., Motion 1990/91:U508, Finska som ett nordiskt minoritetsspråk i Sverige.

¹³ Spiliopoulou Åkermark, S. "Minority education in Sweden – problems and trends" *Europa Ethnica* Volume 65, Issue 1-2, 2009, p. 23.

¹⁴ Delbetänkande av Utredningen om finska och de sydsamiska språken, *Rätten till mitt språk – förstärkt minoritetsskydd*, Swedish Government Official Reports No. 2005:40, Stockholm, 2005, p. 220.

¹⁵ See *Nationella minoriteter i Sverige*, 1998/99:143, 10 June 1999.

1.2 Language as an area regulated by law

While Swedish has been promoted as the national vehicular language in Sweden for centuries, as mentioned above, there was no legal provision directly regulating the status of Swedish in Sweden until the adoption of the Language Act in 2009. The position of the Swedish language was rather implicitly enforced, and could be deduced from certain provisions regulating court and administrative procedures.¹⁶ In the mid-1990's however, a major shift occurred towards thinking on language as an area to be regulated by law. An increased awareness of the risks posed to small and lesser used languages by globalization motivated legislators to adopt legislation in order to protect smaller languages. The legal recognition of the national minority languages was seen primarily as a way to increase the chance for the languages and identities of the minority groups in Sweden to live on in the face of globalization and the increased influence of English. Similarly, the introduction of the Language Act was primarily an attempt to clarify the legal responsibility of Swedish authorities to protect and promote the Swedish language, the national minority languages, as well as the Swedish Sign language.

Law-making requires a common understanding of how a language should be written. To achieve such common understanding, there must be certain rules regulating the written language. In Sweden, the spelling reform of 1906 and the abolition of plural verb forms in the 1950's are examples of the introduction of changes to the rules regulating the written form of the Swedish language. These rules have nevertheless not been adopted as laws in Sweden, only as official recommendations.

1.3 Language diversity and multilingualism

As mentioned above, the promotion of Swedish as the vehicular language of Sweden has historically often been carried out at the expense of other languages. Language diversity at the societal level has not traditionally been a goal of the Swedish society, nor has it in any way been guaranteed by the legal and political system.

The current curriculum for the primary school education in Sweden specifies that schools should be striving towards the goal that each student develops a rich and nuanced language, as well as an ability to communicate in foreign languages.¹⁷ It further provides that schools are responsible for ensuring that each graduated student masters the Swedish language, and is also able to communicate in English orally as well as in writing. These rules and guidelines clearly indicate that multilingualism at the individual level is a goal of the Swedish educational system. Multilingualism, understood as bilingualism in Swedish and English, is in some sense also guaranteed through the compulsory education system. The curriculum explicitly makes schools responsible for ensuring that each graduated student has a certain level of competence in these two languages.

In 2005, the Swedish parliament approved a Swedish language policy with four overarching goals:

- 1) Swedish shall be the main language in Sweden;
- 2) Swedish shall be a complete and foundational language;

¹⁶ *Språk för alla – förslag till språklag*, 2008/09:153, 9 March 2009, p. 9.

¹⁷ *Läroplanen för det obligatoriska skolväsendet, förskoleklassen och fritidshemmet*. Lpo 94, 2006, p. 9.

- 3) Swedish used in public life shall be polished, simple and intelligible;
- 4) Everyone shall have a right to language: to develop and acquire the Swedish language, to develop and use one's own mother tongue and the national minority language and to have the opportunity to learn foreign languages.¹⁸

At the time of the adoption of this policy, there was a proposal from the language committee of the parliament that included the adoption of a special law on the status of the Swedish language.¹⁹ The parliament at the time rejected the need for such a law.²⁰ The Language Act, which was finally realised in 2009, lists as its explicit purposes to value the Swedish language and the linguistic diversity in Sweden as well as the individual's access to language.²¹

1.4 The languages studied by the ELDIA project

The two languages studied by the ELDIA project in Sweden are Finnish and Meänkieli.

Finnish is the second largest Finno-Ugric language and is spoken mainly in Finland. Finland and Sweden has a long history of shared borders prior to 1809, and therefore, not surprisingly, Finnish has been used and spoken in Sweden for a long time. While children were discouraged from speaking Finnish in an effort to establish a monolingual Swedish state until the 1950's, attitudes shifted in the latter half of the 20th century from being prohibiting to becoming tolerant and later also supportive. Instruction of Finnish began to be offered in the 1970's through the home language instruction programme. One may argue that since this time, the multilingualism desired at the individual level has included Finnish, besides Swedish and English, for children using Finnish at home. In the early 1990's, the Swedish government appointed a working group to investigate the status of the Finnish language in Sweden, which led to a government recognition of Finnish as a domestic language in 1994.²²

Meänkieli is a small Finno-Ugric language spoken in some parts of northern Sweden. Work is currently being carried out under the leadership of the Department of Dialectology, Onomastics and Folklore Research at Umeå University to document the existing spoken and written varieties of Meänkieli.²³ Meänkieli literally means "our language". Prior to 2000, Meänkieli was sometimes referred to as

¹⁸ Author's unofficial translation. 7 December 2005: "1) svenska språket ska vara huvudspråk i Sverige; 2) svenskan ska vara ett komplett och samhällsbärande språk; 3) den offentliga svenskan ska vara vårdad, enkel och begriplig; 4) alla ska ha rätt till språk: att utveckla och tillägna sig svenska språket, att utveckla och bruka det egna modersmålet och nationella minoritetsspråket och att få möjlighet att lära sig främmande språk." The approved language policy came from a proposition from the social-democratic government and Vänsterpartiet. The origin of the policy proposal is according to the Swedish Language Council a programme drafted by the Swedish Language Council in 1998. See <http://www.sprakradet.se/2140> (last accessed 9 November 2010).

¹⁹ *Bästa språket – en samlad svensk språkpolitik*, 2005/06:2, 29 September 2005, p. 14

²⁰ This parliamentary debate is discussed further in Section 2.1.2.

²¹ Language Act 2009, § 2. On the other hand, the Act does not list multilingualism at the individual level as a goal, except for persons belonging to national minorities and persons with impaired hearing ability, who should be given the opportunity to learn, develop and use a minority language and the sign language respectively, besides the opportunity to learn, develop and use Swedish.

²² Riksdagsskrivelse, *Finska språkets ställning i Sverige*, 1994/95:1, 8 September 1994.

²³ See information on Meänkieli published at the homepage of the Language Council of Sweden. <http://www.sprakradet.se/meankieli> (last accessed 9 November 2010).

Tornedalian Finnish, after the Torne Valley region where the majority of the speakers live.²⁴ Meänkieli has a long history in this region and some other parts of northern Sweden, where it has been spoken since early medieval time.²⁵

The Tornedalians have since the 1970's been recognized as a non-immigrant linguistic minority in Sweden.²⁶ In the same decade, the first attempts to introduce mother tongue instruction in the northern Swedish municipalities took place, using standard Finnish in educational material and as the language of instruction.²⁷ While the initiative managed to raise interest at first, the number of interested students soon decreased. At the time, the lack of success was perceived to be caused by the fact that the distance between the regionally spoken variety and the standard Finnish was too large. In order to lower the drop-out rates, the local school authority decided that the home language instruction had to start from the local Finnish variety, before later moving on to standard Finnish. This local language variety was later recognized, together with Sami and Romani singled out as domestic minority languages in 1988.²⁸ After considerable debate both within and outside of the Torne Valley, Meänkieli was recognized as a language in connection with the Swedish ratification of the Framework Convention and the European Language Charter. The decision was taken after the representative for the Torne Valley region in the minority committee established in the Swedish Parliament stated the opinion that Meänkieli should be recognized as a separate language, as did Henning Johansson, one of the experts interviewed by the Committee.²⁹

In 2000 both Finnish and Meänkieli achieved legal recognition by the Swedish state as national minority languages, as discussed above.

1.5 Political and legal tradition in dealing with minorities and language

The Swedish historian Lars Elenius has described the history of Swedish policy towards minorities since the 13th century as starting with a period of religious and territorial unification lasting until the 1550's, followed by a nationalistic period that allowed for the preservation of the minority cultures until the 1870's, but which took a more conformist and assimilatory turn after that. The conformist and assimilatory nationalistic period lasted until the 1950's according to Elenius, after which a more liberal approach gained acceptance until the 1990's.³⁰ After 2000, Lars Elenius refers to Swedish minority policy as post-nationalistic. These periods, Elenius points out, are fluid, and the shift from one dominant ideological

²⁴ For example, in the Compulsory School Regulation of 1988, Tornedalian Finnish was mentioned together with Sami and Romani. See 5 §, 1988:655 Compulsory School Regulation (SFS 1988:655 Grundskoleförordning).

²⁵ See Winsa, B. "Från Tornedalens finska till meänkieli" in *Svenska språkets ställning i Finland och finska språkets ställning i Sverige Juridica Lapponica* No. 14 1996, pp. 138 – 158, p. 138.

²⁶ *Regeringens proposition om riktlinjer för invandrar- och minoritetspolitiken*, 1975:26, 27 February 1975.

²⁷ Wande, E., "Finska i Sverige – ett inhemskt språk" Utbildningsdepartementet, Ds 1994:97, at pp. 30 – 31.

²⁸ See 5 §, 1988:655 Compulsory School Regulation (SFS 1988:655 Grundskoleförordning). The Regulation stipulated that children for whom Tornedalian Finnish, Sami or Romani was a living element in the homewould continue to be eligible for home language instruction. For other children, the home language had to be used on a daily basis in order to allow them to receive home language instruction.

²⁹ See Speech by Siv Holma, Anf. 31, 5 § Nationella minoriteter i Sverige, Riksdagens snabbprotokoll, Protokoll 1999/2000:38, 2 December 1999.

³⁰ Elenius, L. "Statlig minoritetspolitik i Sverige" in Eva Westergren and Hans Åhl (eds.) *Mer än ett språk – En antologi om flerspråkighet i norra Sverige* (Nordstedts Akademiska Förlag; Falun) 2007, pp. 56 – 75.

position to the next has happened not overnight, but over decades. The latest shift, which has already been described to some extent in section 1.1, was for example the result of pressure that began to be applied in the early 1990's, if not even earlier.

On the whole, while ideologies and approaches to minorities and minority languages have shifted, it cannot be emphasised enough that the promotion of Swedish as the standard language has been continuous and has been achieved through legal as well as political tools.

1.6 Changes over time in legal and political thinking on minorities and languages

Within the so-called liberal nationalistic period identified by Elenius and described above, the minority policy between 1970 and 1985 has been described as firmly pro-minority languages, and the policy after 1985 as more polarizing since less home language instruction was offered in the public schools, while greater freedom was granted to private schools to develop their own curriculum.³¹ In the 1990's, as mentioned above, demands for the strengthening of the status of the Finnish language in Sweden started a process which led to the recognition of five national minorities and minority languages in Sweden. The rights of national minorities and the promotion of national minority languages are since 2000 objectives towards which new legislation and policies aim, in a way previously not seen in Sweden. Symbolically, in the shift towards this so-called post-nationalistic period, a tongue previously perceived as a dialect and not a language of its own achieved recognition as a language - Meänkieli.

The new minority language Act of 2009 deepens and entrenches the post-nationalistic minority policy by substantially increasing the administrative area where the right to use Finnish is recognised. In addition it enables any Swedish municipality to opt to become part of any of the administrative regions for Finnish, Meänkieli or Sami.³²

1.7 Characteristics of the legal system

Sweden practices a civil law legal system, which is characterized by relative stability and clarity. The constitution from 1974 has been changed a number of times, but has nevertheless lasted for over three decades, during which relative stability has prevailed. The legal situation of languages and minorities in Sweden has however changed rather dramatically during the last couple of decades, from non-recognition of national minority languages to recognition of national minority languages and increased efforts to promote the use of these languages. The institutional responsibility for questions concerning minorities, including national minorities, has also shifted on several occasions in the past decade. This caused the Advisory Committee on the Framework Convention for the Protection of National Minorities to point out that repeated changes in the allocation of responsibilities for minority issues within governmental

³¹ See *inter alia* Lainio, J. "Finskans ställning i Sverige" in *Svenska språkets ställning i Finland och finska språkets ställning i Sverige*, *Juridica Lapponica* No. 14 1996, pp. 83 – 115, p. 100.

³² 7 §, Lag (2009:724) om nationella minoriteter och minoritetsspråk.

structures at times complicated the efforts of minorities to engage in the monitoring process.³³ In the words of the Committee, the institutional responsibility for minority issues in Sweden could be characterized as in “a constant state of flux”.

1.8 Languages covered by legislation

The new Swedish language Act mentions specifically Finnish, Yiddisch, Meänkieli, Romani, Sami, Swedish and the Swedish sign language. Indirectly, the Act also affects speakers of other languages as it provides that speakers of other languages than those mentioned should be given the opportunity to develop and use their mother tongue.³⁴ Finnish, Meänkieli and Sami are also mentioned specifically in the Act on National Minorities and Minority Languages, which only cover these three languages.

1.9 Regulation in relation to minorities and languages

1.9.1 Constitutional provisions

The Swedish constitution consists of four Acts with constitutional status. These are the Instrument of Government (*Regeringsformen*), the Act of Succession (*Successionsordningen*), the Freedom of Press Act (*Tryckfrihetsförordningen*) and the Fundamental Law on Freedom of Expression (*Yttrandefrihetsförordningen*). Of these, it is the Instrument of Government that primarily regulates how the country is governed.

The current Instrument of Government was enacted in 1974, but has been reformed many times since. The most recent reform took effect on 1 January 2011. The reform included changes to the Instrument of Government aimed to make the text gender neutral.

With respect to national minorities, and minority languages, the Instrument of Government contains several important provisions. Firstly, it prohibits the authorities from forcing individuals to report their political, religious, cultural or other affiliation or opinion.³⁵ The prohibition is entrenched through provisions of the Personal Data Act that prohibit the handling of statistical information revealing race, ethnic origin or religious conviction, with some exceptions.³⁶ Secondly, it obliges the public authorities to act preventively against discrimination on the grounds of gender, skin colour, national or ethnic origin, linguistic or religious

³³ See Opinion on Sweden of the Advisory Committee on the Framework Convention for the Protection of National Minorities, 8 November 2007, ACFC/OP/II(2007)006.

³⁴ 14 § 2, Språklag (2009:600).

³⁵ ”Ingen får av det allmänna tvingas att ge till känna sin åskådning i politiskt, religiöst, kulturellt eller annat sådant hänseende. Inte heller får någon av det allmänna tvingas att delta i sammankomst för opinionsbildning eller i demonstration eller annan meningsyttring eller att tillhöra politisk sammanslutning, trossamfund eller annan sammanslutning för åskådning som avses i första meningen.” 2 §, 2nd Chapter, Instrument of Government, (*Regeringsformen*), as amended through Act 2010:1408.

³⁶ 13,14 §§, Personuppgiftslagen (1998:204).

belonging, physical disability, sexual orientation, age or any other circumstances specific to an individual.³⁷ Thirdly, since the most recent reform, it states that the opportunities of ethnic, linguistic and religious minorities in Sweden to preserve and develop their own cultural and social life shall be promoted.³⁸

The Instrument of Government also lists the basic freedoms and rights of citizens and others in Sweden in its second chapter, where two articles concern protection against discrimination. According to Article 12, no person may be disadvantaged by a law or order due to his or her belonging to a minority on the basis of skin colour, ethnic origin, sexual orientation or other circumstances.³⁹ Similarly, according to Article 13, no law or other order may imply that somebody would be disadvantaged on the basis of his or her gender, unless the act in question is a part of the effort to achieve equality between men and women or relates to conscription.⁴⁰ These two provisions are both directed against discrimination, but on different grounds. A closer examination of these provisions reveals that there is a constitutional recognition of positive discrimination as a legitimate means to be used in order to achieve gender equality, while there is no corresponding recognition of the legitimacy of positive discrimination with respect to minorities. In the recent reform process, several consultative bodies were of the opinion that positive discrimination should be allowed also to promote equality for persons belonging to a minority on the basis of skin colour, ethnic origin or other circumstances.⁴¹

In 2008, a new Discrimination Act was adopted that entered into force 1 January 2009 and which includes a general prohibition on discrimination on the basis of *inter alia* ethnic belonging affecting all public servants in their contacts with the public and means for courts to award higher compensation for discrimination offences to victims.⁴² The term ethnic belonging in the Discrimination Act is considered to include national or ethnic descent, skin colour, and belonging to a national minority.⁴³ The 2008 Discrimination Act replaced the previous law on discrimination in employment, and the law on discrimination within higher education.

1.9.2 Language legislation

The Language Act of 2009 entered into force 1 July 2009.⁴⁴ A new Act on National Minorities and Minority Languages was adopted in 2009 and entered into force 1 January 2010.⁴⁵ Considering these recent changes, this section will first describe briefly the language legislation that existed prior to the entry into force of these two acts, and then in more detail the legislation as it applies today.

³⁷ "Det allmänna skall motverka diskriminering av människor på grund av kön, hudfärg, nationellt eller etniskt ursprung, språklig eller religiös tillhörighet, funktionshinder, sexuell läggning, ålder eller annan omständighet som gäller den enskilde som person." 2:5 §, 1st Chapter, Instrument of Government, (Regeringsformen), as amended through Act 2010:1408.

³⁸ "Samiska folkets och etniska, språkliga och religiösa minoritetens möjligheter att behålla och utveckla ett eget kultur- och samfundsliv ska främjas." 2:6 §, 1st Chapter, Instrument of Government, (Regeringsformen), as amended through Act 2010:1408. Prior to the 2010 reform, this part merely stated that the opportunities of ethnic, linguistic and religious minorities to preserve and develop their own cultural and social life ought to be promoted.

³⁹ "Lag eller annan föreskrift får inte innebära att någon missgynnas därför att han eller hon tillhör en minoritet med hänsyn till etniskt ursprung, hudfärg eller annat liknande förhållande eller med hänsyn till sexuell läggning." 2nd Chapter, 12 §, Regeringsformen, as amended by Act 2010:1408.

⁴⁰ 2 Kap, 13 §, Regeringsformen, as amended by Act 2010:1408.

⁴¹ Regeringens proposition 2009/10:80, p. 154.

⁴² Diskrimineringslag (2008:567).

⁴³ See *Från erkännande till egenmakt – regeringens strategi för de nationella minoriteterna*, Reg. prop. 2008/09:158, p. 20.

⁴⁴ Språklag (2009:600).

⁴⁵ Lag om nationella minoriteter och minoritetsspråk (2009:724).

1.9.2.1 Language legislation between 2000 and 2009

Specific legislation on the right to use Sami, Finnish and Meänkieli before administrative authorities and before the courts was introduced in 2000 in connection with the Swedish ratification of the Framework Convention and the Minority Language Charter of the Council of Europe.⁴⁶ Accordingly, the right of individuals to use Sami, Finnish or Meänkieli before administrative authorities or courts was recognized in a number of municipalities in the North of Sweden. The administrative region where the right to use Sami was recognized encompassed the municipalities of Arjeplog, Gällivare, Jokkmokk and Kiruna. The right to use Finnish and Meänkieli was recognized in an administrative region consisting of the municipalities of Gällivare, Haparanda, Kiruna, Pajala and Övertorneå. Within these administrative regions, public pre-school services and elderly care also had to be made available completely or partly in Finnish, Meänkieli or Sami respectively upon request. The municipalities in question were made eligible to receive state funds, intended to cover the additional costs arising from hiring translators and interpreters as well as making pre-school services and elderly care available in the minority languages.⁴⁷ With respect to the Finnish and Meänkieli Administrative Region, the funds were distributed to the municipalities through the Norrbotten County Administrative Board (Länsstyrelsen i Norrbottens län), which divided the funds between the municipalities taking into account the number of languages, the total number of inhabitants, and the percentage of persons belonging to a national minority in the municipalities.⁴⁸ The County Administrative Board in Norrbotten also carried responsibility for monitoring the implementation of the national minority language legislation in the Finnish and Meänkieli Administrative Region.

1.9.2.2 Language legislation after 2010

By the entry into force of the new Act on national minorities and minority languages, which replaced the special laws concerning the right to use Sami, Finnish and Meänkieli before administrative authorities and courts, the administrative regions where the right to use Finnish or Sami respectively before administrative authorities is recognized has been extended.⁴⁹ Since 2010 the Finnish administrative region thus includes also 18 municipalities in the Stockholm-Mälardalen region of Sweden, municipalities which all favoured such inclusion in the legislative review process.⁵⁰ The new legislation also provides that other municipalities may opt to become part of any of the administrative regions for Finnish, Meänkieli or Sami.⁵¹ A municipality wishing to become part of an administrative region should simply submit an application to the government showing that there is an expressed interest within the affected minority in the municipality to join the administrative region.⁵² Confusingly the right to use Finnish or Sami before the courts was not extended to be applicable in the whole of the new administrative regions. The right to use Finnish before the court is thus still only applicable within the municipalities of Gällivare, Haparanda, Kiruna, Pajala and Övertorneå.⁵³

⁴⁶ Lag om rätt att använda samiska hos förvaltningsmyndigheter och domstolar(1999:1175), Lag om rätt att använda finska och meänkieli hos förvaltningsmyndigheter och domstolar(1999:1176).

⁴⁷ Förordning om statsbidrag till åtgärder för att stödja användningen av samiska, finska och meänkieli (2000:86).

⁴⁸ *Från erkännande till egenmakt – regeringens strategi för de nationella minoriteterna*, Reg. prop. 2008/09:158, p. 21-22.

⁴⁹ Lag om nationella minoriteter och minoritetsspråk(2009:724).

⁵⁰ These municipalities are Botkyrka, Eskilstuna, Hallstahammar, Haninge, Huddinge, Håbo, Köping, Sigtuna, Solna, Stockholm, Södertälje, Tierp, Upplands Väsby, Upplands-Bro, Uppsala, Älvkarleby, Österåker and Östhammar.

⁵¹ 7 §, Lag om nationella minoriteter och minoritetsspråk(2009:724).

⁵² 4 §, Förordning om nationella minoriteter och minoritetsspråk(2009:1299).

⁵³ 13 §, Lag om nationella minoriteter och minoritetsspråk(2009:724).

The right to receive public pre-school services and elderly care in Finnish, Sami or Meänkieli however is applicable across each respective administrative region. With the entry into force of the new minority language Act, the responsibility for monitoring the implementation of the legislation and distributing the earmarked state funds with respect to Finnish and Meänkieli was moved from the Norrbotten County Administrative Board to the County Administrative Board in Stockholm.⁵⁴

1.9.2.2.1.1 The rights of minority language speakers before administrative authorities

Within the administrative regions, individuals generally have the right to use Meänkieli, Finnish or Sami in their oral and written contacts with an administrative authority, and to request a translated written copy of any decision, including argumentation, concerning their cases.⁵⁵ The administrative authorities in these regions are in such cases generally obliged to respond orally in the same language, and to provide the written translation of a decision, including argumentation, to the language in question upon request. Administrative regions are also generally obliged by the new minority language Act to strive to meet the needs and wishes of individuals with regard to on the use of the national minority languages also in other situations. There is however an exception clause in the new minority Act, which provides that the government may in exceptional circumstances relieve an authority from the above mentioned obligations.⁵⁶

Whether inside or outside the administrative regions, individuals always have the right to use Finnish or Sami in their written contacts with the Ombudsmen of the parliament, as well as with the Attorney General (*Justitiekanslern*), the Central Authority for Insurances (*Försäkringskassan*), the Central Tax Authority (*Skatteverket*) and the Discrimination Ombudsman, without any exceptions.⁵⁷

Individuals may approach administrative authorities located outside the administrative regions in Finnish, Sami or Meänkieli, but they only have the right to do so if there is staff working at the authority in question and such staff has command of the minority language.⁵⁸ If there is a need, administrative authorities are obliged to work for ensuring availability of staff with knowledge of Finnish, Meänkieli and Sami respectively.⁵⁹

1.9.2.2.1.2 The rights of minority language speakers before courts

Before courts located in the Meänkieli or Sami administrative region, individuals have the right to use Finnish, Meänkieli or Sami respectively.⁶⁰ This provision includes the right to submit documentation and written evidence in these languages, the right to have all documentation that is relevant to the case

⁵⁴ 2 §, Förordning om nationella minoriteter och minoritetsspråk(2009:1299).

⁵⁵ 8 §, Lag om nationella minoriteter och minoritetsspråk(2009:724).

⁵⁶ 19 §, Lag om nationella minoriteter och minoritetsspråk(2009:724). The exception clause has not been applied to this date, and the government has not issued any criteria for when it may be used.

⁵⁷ 10 §, Lag om nationella minoriteter och minoritetsspråk(2009:724).

⁵⁸ 9 §, Lag om nationella minoriteter och minoritetsspråk(2009:724).

⁵⁹ 11 §, Lag om nationella minoriteter och minoritetsspråk(2009:724). Administrative authorities may designate a certain time and location to receive Finnish, Meänkieli or Sami speaking individuals in person, and to receive calls from such individuals according to 12 §, Lag om nationella minoriteter och minoritetsspråk (2009:724).

⁶⁰ 13 §, Lag om nationella minoriteter och minoritetsspråk (2009:724). More detailed information on the right of individuals to use the minority languages before courts is available in Finnish, Meänkieli, Sami and Swedish on www.domstol.se under the section "Minoritetsspråk".

translated orally, as well as the right to use the language in question before the court in oral proceedings.⁶¹ In addition, an individual without a legal counsel has the right to receive a written translation of the court order and reasoning, or the decision with argumentation, upon request. An individual who wants to invoke his or her right to use Finnish, Meänkieli or Sami before the court must make this known by requesting this right at the start of the proceedings.⁶² It is important to make this request as early as possible, as it may be rejected if it is not made at the initial stage of the proceedings. In order to receive a written translation of the court order or decision, an individual must make a request for a written translation within a week after the date of the order or decision. A request to use the minority language or to receive a written copy of the order or decision may be rejected if it is obvious that it has an undue purpose.

There is no obligation upon the courts even within the Meänkieli or Sami administrative regions to ensure that some members of the staff are proficient in the minority languages; hiring an interpreter and/or translator is considered sufficient to fulfil the rights of individuals to use Finnish, Meänkieli or Sami before the court.⁶³

All courts across Sweden are obliged to hire an interpreter if a party or a witness or another person to be heard by the court does not have a command of the Swedish language. This is prescribed by the Swedish Code of Judicial Procedure and the Administrative Court Procedure Act.⁶⁴ The Administrative Court Procedure Act provides that administrative courts may hire an interpreter also in other circumstances, if needed. The Code of Judicial Procedure specifies that all criminal courts may translate documents related to trials that the courts receive or produce if necessary.⁶⁵ They are, however, not legally obliged to do so unless the document in question shall be sent to a person residing in another country and there is reason to believe that the person would not understand the original language used in the document.

1.9.2.2.1.3 The rights of minority language speakers in connection with social services

As mentioned above, municipalities within each respective administrative region must offer public pre-school services and elderly care completely or partly in Finnish, Meänkieli or Sami upon request.⁶⁶

Municipalities outside the administrative region must offer elderly care partly or wholly in Finnish, Meänkieli or Sami, if they are able to (i.e. if they have staff that is knowledgeable in the language in question). Curiously, the minority language Act does not spell out an obligation upon the municipalities to work to employ elderly care staff knowledgeable in the minority languages, though, as mentioned above, it proclaims that the administrative authorities must work towards securing linguistically competent staff if there is an obvious need.

1.9.2.2.1.4 Other legal language requirements

In addition to the legislation specifically on national minorities and minority languages, there are other legal language requirements that may affect the use of the national minority languages. Among these there is a

⁶¹ 14 §, Lag om nationella minoriteter och minoritetsspråk (2009:724).

⁶² 15 §, Lag om nationella minoriteter och minoritetsspråk (2009:724).

⁶³ 16 §, Lag om nationella minoriteter och minoritetsspråk (2009:724).

⁶⁴ See 5th Chapter, 6 §, Rättegångsbalken (1942:740) and 50 §, Förvaltningsprocesslagen (1971:291).

⁶⁵ 33 Chapter, 9 §, Rättegångsbalken (1942:740).

⁶⁶ 17-18 §, Lag om nationella minoriteter och minoritetsspråk (2009:724).

requirement in the Heritage Conservation Act that Swedish, Sami and Finnish names shall as far as possible be used simultaneously in maps and on signs in multilingual areas.⁶⁷ This requirement binds the Swedish mapping, cadastral and land registration authority, Lantmäteriet, as it decides the spelling of local place names on the maps it produces. The Institute for Language and Folklore, Institutet för Språk och Folkminnen, assists Lantmäteriet by examining place names before Lantmäteriet takes a decision.

Beside regulations for place names, since 1963 there are also regulations concerning personal names in Sweden. It has been argued that already the first Act concerning personal names was formulated so as to accommodate Finnish- and Sami-speaking minorities.⁶⁸ The main rule was that newly formed names would be compatible with “domestic language use” (i.e. the language used at home), a term used instead of “Swedish language use” in order to allow for the creation of new names within the Finnish- and Sami-speaking minorities. Today, the main rules for the formation of new names are specified in paragraphs 12 and 13 of the Names Act of 1982.⁶⁹ They specify *inter alia* that newly formed surnames that are not suitable as surnames in Sweden due to their formation, pronunciation or spelling may not be approved. It also states that as surnames that can be easily mistaken for a commonly known foreign surname may not be approved as names, regardless of whether they are newly formed or not..

1.9.3 Education legislation

All formal education in Sweden is regulated by the Education Act⁷⁰ as well as various ordinances issued by the government. The Education Act, which was recently reformed in 2010, delegates responsibility for the various educational forms between municipalities, county councils, the state and private persons.⁷¹ It also contains provisions concerning the recruitment of personnel. Only qualified teachers may be hired, with some exceptions. Of relevance to this study is that with respect to mother tongue instruction, persons without formal qualifications that have enough competence in the language in question may be hired if there are no formally qualified applicants for the post.⁷² The Education Act further contains provisions aimed at guaranteeing the safety and quality of education, and some basic provisions related to the content of the various educational forms (*inter alia* pre-school in Chapter 8 and 9, primary school in Chapter 10 and 11, adult learning in Chapter 20 and 21 and language courses for immigrants in Chapter 22).⁷³ The content of the various educational programmes is further regulated by ordinances.

In the section below, the legislative framework concerning pre- and primary school will be described in more detail. As the education of mother tongue teachers is a particularly important issue within the minority language debate in Sweden, this will also be discussed.

⁶⁷ 4 §, Lag om kulturminnen m.m. (1988:950).

⁶⁸ See Eva Brylla, “Namnlagens tillämpning ur språklig synvinkel”, Bilaga till SOFIs skrivelse, dnr 402-614/04, p. 13.

⁶⁹ Namnlag (1982:670).

⁷⁰ Skollag (2010:800).

⁷¹ 2 kap., Skollag (2010:800).

⁷² 20 §, 2 kap., Skollag (2010:800).

⁷³ The Education Act recognizes the right of Finnish citizens that are residing in Finland close to the border, and who are employed on the Swedish side of the border, to participate in Swedish language courses for immigrants if she or he lacks knowledge of Swedish. 13 §, 22 kap., Skollag (2010:800).

The authorities responsible for pre- and primary school services are the municipalities.⁷⁴ Private legal persons, may also be permitted to carry responsibility for a pre- or primary school, upon application, and subject to certain criteria, such as a minimum number of 20 students, unless there is a special reason for a lower number of students.⁷⁵ The same rules and general curriculum apply however with respect to all pre- and primary schools. As mentioned, municipalities within each respective administrative region have since 2000 been bound to offer public pre-school services completely or partly in Finnish, Meänkieli or Sami upon request.⁷⁶ The general curriculum for the pre-schools states that the pre-school services shall stimulate every child's language development and contribute to the opportunity of every child with another mother tongue than Swedish to develop both the Swedish language and his or her mother tongue.⁷⁷ It further states that pre-school services shall contribute to ensure that children belonging to national minorities are supported in their development of multicultural belonging.

1.9.3.1 Mother tongue instruction in primary and secondary schools

In the primary school, home language instruction, which was introduced in 1977, is nowadays referred to as mother tongue instruction.⁷⁸ The mother tongue instruction of today is regulated in § 4 and § 7 of the 10th Chapter of the Education Act, and more closely in the 9-14 §§ of the Second Chapter of the Swedish Compulsory School Regulation from 1994⁷⁹, which remains in effect until a new compulsory school regulation has entered into force, which is expected to happen in summer 2011.⁸⁰

Both the Swedish Education Act and the Compulsory School Regulation lack a proper definition, but it is clear that the concept "mother tongue" in this context is not to be understood narrowly. The term mother tongue in the Swedish school system may be said to refer to a language spoken by one or both of the child's care takers since their childhood, which they now use with the child.⁸¹ The homepage of the Swedish National Agency for Education, Skolverket, states that "all students who speak another language than Swedish at home can receive mother tongue instruction in school".⁸² The Swedish Education Act however consequently refers to mother tongue in the singular and the Compulsory School Regulation spells out that mother tongue instruction cannot be offered in more than one language to one student, with only the limited exception of foreign Roma children, which may be offered mother tongue instruction in two languages if there are special reasons for doing so.⁸³ If the parents are multilingual, some authorshave

⁷⁴ 2 §, 2 kap. Skollag (2010:800). The municipalities are also primarily responsible for adult education services and Swedish language courses for immigrants.

⁷⁵ 5 §, 2 kap. Skollag (2010:800).

⁷⁶ 17-18 §, Lag om nationella minoriteter och minoritetsspråk (2009:724).

⁷⁷ Läroplanen för förskolan, Lpfö 98. See also *Från erkännande till egenmakt – regeringens strategi för de nationella minoriteterna*, Reg. prop. 2008/09:158, p. 22.

⁷⁸ The decision to change the term was taken in 1997. The issue was debated in parliament on the 14 May 1997. See 28 § Hemspråk, Riksdagens snabbprotokoll, Protokoll 1996/97:102, 14 May 1997.

⁷⁹ Grundskoleförordningen (1994:1194).

⁸⁰ Work with a new Compulsory School Regulation is currently under way and expected to be finished during the autumn of 2010 and to enter into force by summer 2011. The new Compulsory School Regulation is expected to contain provisions on minority languages in the pre-schools according to Jarmo Lainio, Korpilombolo, 8 December 2010.

⁸¹ This definition is based on an interpretation by the author of this report of 9 §, Grundskoleförordningen.

⁸² <http://modersmal.skolverket.se/index.php/grundskola>, accessed 26.1.2011

⁸³ 10 §, Grundskoleförordningen (1994:1194)

noted that it would be possible for the child to have several mother tongues, but the Swedish school system may not necessarily support such multilingualism.⁸⁴

Originally, home language instruction was offered without any distinctions based on the actual language spoken in the child's home. In 1985 however, home language instruction was restricted by the additional requirement that a child had to use the language in question daily at home in order to be eligible. Exceptions to this requirement were confirmed in 1988 for the language groups that at the time were recognized as domestic, namely, Tornedalian Finnish (Meänkieli), Sami and Romani, but not for standard Finnish, which was still at that time regarded only as an immigrant language.⁸⁵

The 2010 School Law provides that mother tongue instruction should in general be offered to students who firstly, have another mother tongue than Swedish, secondly, use the language in question daily in their home, and thirdly, have a basic knowledge of the language in question.⁸⁶ The assessment of whether a student has enough basic knowledge of the language in question so as to be able to reach the targets for the mother tongue instruction programme is carried out by the mother tongue teacher together with the school principal.⁸⁷ The second of these criteria does not apply to national minority students – the division between national minority languages and other (“immigrant”) languages has been preserved since the mid 1980's. This is one of two important distinctions in the current regulation between national minority languages and other (immigrant) languages.

The second important distinction between national minority languages and other languages relates to a restriction on the individual right to mother tongue instruction. There is no legal recognition of the right of each individual child to mother tongue education in the Swedish Education Act, as the Law also provides that the Government may issue ordinances restricting the obligation to offer mother tongue instruction in such a way that mother tongue instruction only has to be offered if a certain number of students wishes to take part in it. The current Compulsory School Regulation does impose such a restriction (at least five students must be requesting mother tongue instruction for a municipality to be bound to offer it). The restriction does however not apply to the teaching of the national minority languages, thereby increasing the advantage for national minority languages over other (immigrant) languages. Thus, according to the current Compulsory School Regulation, every child that has a national minority language as his or her mother tongue must be offered mother tongue instruction in primary school by the responsible municipality, with only one reservation – that there is a suitable teacher.⁸⁸ The question of availability and qualifications of mother tongue teachers will be discussed further below under the heading “Higher education”.

With respect to the implementation of mother language instruction, the Compulsory School Regulation provides that mother language instruction may be arranged in one of the following four ways: 1) as a language choice, 2) as the student's choice, 3) within the frame of the school's choice, or 4) outside of the

⁸⁴ See for example Børestam, U. and Huss, L., *Språkliga möten. Tvåspråkighet och kontaktlingvistik*, (Studentlitteratur; Lund) 2001.

⁸⁵ Skolförordning 1988. Pekkari, K. "Språkfrågor i Haparanda – problem och lösningar" in *Svenska språkets ställning i Finland och finska språkets ställning i Sverige* *Juridica Lapponica* No. 14 1996, pp. 159 – 177, p. 169.

⁸⁶ 7 §, 10th Chapter, School Law (2010:800).

⁸⁷ <http://modersmal.skolverket.se/index.php/grundskola>, accessed 26.1.2011.

⁸⁸ 13 §, Kap. 2, Grundskoleförordningen.

ordinary curriculum.⁸⁹ The three first options are designated different amounts of instruction time in the general primary school time plan, annex to the School Law, but neither the time plan or the Regulation prescribe exactly the number of hours of mother tongue instruction a child is entitled to. The Swedish National Agency for Education, Skolverket, recognizes that the instruction time in mother tongue languages varies between different municipalities, with most students being offered 60 minutes of mother tongue instruction per week.⁹⁰

Besides mother tongue instruction, the Compulsory School Regulation also provides that a student shall receive tutoring in his or her mother tongue, if he or she needs it.⁹¹ The Swedish National Agency for Education states that the final decision as to whether a student shall be offered tutoring in his or her mother tongue rests with the school principal.⁹²

1.9.3.2 Bilingual education in primary and secondary schools

For children that use another language than Swedish at home, the Compulsory School Regulation allows bilingual education in primary and secondary schools as long as the instruction in another language than Swedish does not amount to more than 50 % of the education and instruction in Swedish is gradually increased during the programme.⁹³ Bilingual education within these limits may be arranged between grades 1 and 6, but up to grade 9 if the second language in question is Finnish.⁹⁴

The independent school of Kangos in Pajala has a Meänkieli profile and there are at least six independent Sweden Finnish primary schools that are run by parents and/or Sweden Finnish associations, located in Stockholm, Upplands Väsby, Botkyrka, Örebro, Kista and Gothenburg.

1.9.3.3 Higher education

Considering that the duty of the municipalities to offer mother tongue instruction depends on the availability of suitable teachers, the question of teacher education is highly relevant to the debate concerning mother tongue instruction and minority languages in Sweden. As from 2007, the universities of Uppsala and Stockholm are responsible for higher education in Finnish, while the University of Umeå is responsible for higher education in Meänkieli and Sami.⁹⁵ In addition, the polytechnic university of Luleå has been given the task to offer teacher education with specialisation in the national minority languages Finnish, Meänkieli and Sami. Such responsibility has been allocated to the universities by the parliament every year through regulatory letters (*regleringsbrev*) in connection with the allocation of funds to the universities. However, according to a recent investigation made public by the National Authority for Higher Education, *Högskoleverket*, in 2011, these universities have difficulties offering complete courses in the

⁸⁹ 10 §, Kap. 2, Grundskoleförordningen.

⁹⁰ <http://modersmal.skolverket.se/index.php/grundskola>, accessed 26.1.2011.

⁹¹ 2 §, Kap. 5, Grundskoleförordningen.

⁹² <http://modersmal.skolverket.se/index.php/grundskola>, accessed 26.1.2011.

⁹³ 7 §, Kap. 2, Grundskoleförordningen.

⁹⁴ Ibid.

⁹⁵ See Prop. 2009/10:89, p. 42.

national minority languages.⁹⁶ In 2005, Högskoleverket noted that the institutions that were allocated special responsibility for higher education in the national minority languages also ought to be allocated special funds designated for this purpose. Following up on the 2005 report in 2011, *Högskoleverket* notes that the institutions report that no such special funds have been allocated since.

1.9.4 Media legislation

Two laws of constitutional status concern media, namely, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression.⁹⁷ The former regulate print media, while the latter regulate other media, including the web. Both laws are considered to form part of the Swedish constitution. To have such detailed regulation of the freedom of the press and freedom of expression in the constitution is a unique feature of the Swedish constitution. The laws on the freedom of the press and of expression contain lists of offences, 18 in total.⁹⁸ The listed offences are however only punishable and illegal if they are also listed in criminal law. The reason for this order is that the parliament should be able to easily change the status of the listed offences by changing the criminal law. Some examples of criminalized offences that also can constitute offences according to the above mentioned laws are libel, slander and agitation against a group of people.⁹⁹

Media legislation in Sweden, however, does not only consist of these two laws. In addition, there is, for example, a Radio and Television Act that contains regulations regarding radio and television broadcasting directed to the general public.¹⁰⁰ Below the regulation of print media, radio- and TV broadcasts and new media will be described more closely.

1.9.4.1 Regulation of print media

The first Chapter of the Freedom of the Press Act defines what is meant by freedom of the press, clarifying that no prior control of what is printed or prohibition on what can be printed is allowed, and that the authorities may not take any measures to prevent the spreading of printed material to the public, beyond those mentioned in the Act, i.e. law-making and by prosecution before a lawful court.¹⁰¹ The right to print a text is recognized for all Swedish citizens and Swedish legal persons.¹⁰² While the Act does not contain any

⁹⁶ See Högskoleverket Rapport 2011:1:R, Uppföljning av Högskoleverkets ämnes- och programutvärderingar 2005, available at <http://www.hsv.se/download/18.328ff76512e968468bc8000428/1101R-uppfoljning-amnes-programutvarderingar.pdf>, p. 22

⁹⁷ See Mänty, Structured Context Analysis, p. 37. Tryckfrihetsförordningen (SFS 1949:105) and Yttrandefrihetsgrundlagen (SFS 1991:1469).

⁹⁸ See 7th Chapter, Freedom of the Press Act.

⁹⁹ Libel and slander are criminalized in the 5th Chapter of the Swedish Criminal Law, *Brottsbalken*. Agitation against a group of people is criminalized in 16th Chapter, 8th § of the Swedish Criminal Law.

¹⁰⁰ Radio- och tv-lag (SFS 2010:696).

¹⁰¹ The Act further contains chapters on access to public documents (Chapter 2), on the right to anonymity (Chapter 3), on printing (Chapter 4), on the issuing of periodicals (Chapter 5), on the spreading of printed material (Chapter 6), on crimes against the freedom of press (Chapter 7), and on the responsibility for printed material (Chapter 8).

¹⁰² 1 §, 4th Chapter, Freedom of the Press Act.

provisions with respect to the language of a publication, it does contain a requirement that a printed text must be clearly marked with the place and year of printing, and with the name of the publisher.¹⁰³

Public subsidies to the press have existed in Sweden since the early 1970's. The subsidies are governed by a government ordinance (currently Presstödsförordningen SFS 1990:524), which specifies two categories of subsidies: operational support (driftsstöd) and distribution support (distributionsstöd). Both types of subsidies are available upon application to a certain committee, the Press Subsidies Committee, Presstödsnämnden.¹⁰⁴ With respect to the first type of support, the general criteria newspapers have to fulfil in order to be entitled to public subsidies are listed in 1 § and 3 § of the 2nd Chapter of the Ordinance. These are *inter alia* that the highest coverage¹⁰⁵ of a newspaper must be below 30 %, that the number of subscribers must be at least 1500, and that issues shall be sold mainly through subscription. The coverage rate demand is there to ensure that the support is not given to the dominant newspaper of an area. Through the definition of newspaper in the ordinance there is a requirement that the paper should be mainly written in Swedish. To this definition there are however recognized exceptions, of which newspapers that address linguistic minorities in their own languages form a part.¹⁰⁶ Newspapers in other languages than Swedish must however in addition to the other criteria mentioned above fulfil the criteria that at least 90 % of the issues must be distributed in Sweden and that the main editorial office is in Sweden. There is also a special provision affecting bilingual newspapers in the municipalities of Haparanda, Kalix, Överkalix or Övertorneå. These are entitled to limited subsidies, if the editorial content is written in Finnish to at least 25 %, and if they fulfil the general criteria, even if they exceed the highest allowed coverage rate.¹⁰⁷

1.9.4.2 Regulation of radio- and TV-broadcasts

In general, broadcasting of TV and radio using radio-waves requires permits. The Radio and Television Act specifies that such permits will be issued by the government with respect to publicly funded broadcasts, and by a special authority for radio and TV broadcasting in other cases.¹⁰⁸

There are a three public service media companies with broadcasting permits, i.e. licenses.. These are Sveriges Television (the Swedish Television, SVT), Sveriges Radio (the Swedish Radio, SR) and Utbildningsradion (the Swedish Educational Broadcasting Company, UR). The broadcasting licenses for the public service media companies oblige these companies to take the needs of linguistic and ethnic minorities into account and to ensure that Sami, Finnish and Meänkieli have a particular position in their programme activities.

¹⁰³ 2 §, 4th Chapter, Freedom of the Press Act.

¹⁰⁴ More information about the committee, about who is eligible for subsidies, and about the application procedure is available at the homepage of the Press Subsidies Committee at www.presstodsnamnden.se.

¹⁰⁵ By coverage (in Swedish "täckningsgrad") the Ordinance refers to the average percentage of households that will get the newspaper out of the total number of households in the place where it is published. See definition in 6 §, Chapter 1 of Presstödsförordningen SFS (1990:524).

¹⁰⁶ 11 §, Presstödsförordningen SFS (1990:524).

¹⁰⁷ 8 §, Presstödsförordningen, SFS (1990:524).

¹⁰⁸ 3 §, 4th Chapter, Radio- och TV-lag (2010:696).

By the Radio and Television Act, wireless TV broadcasts are generally obliged to see to that more than 50 % of the broadcasted material is of European origin, and that a considerable proportion of the material consists of programmes in Swedish, with Sweden-based artists, and of Sweden-based creators.¹⁰⁹ The general demand that a considerable proportion of the material should consist of programmes in Swedish, with Sweden-based artists, and of Sweden-based creators applies also to radio broadcasts that have received a broadcasting permit from the government (i.e. publicly funded radio).¹¹⁰

In 2000, SVT broadcasted 107 hours nationally for the Finnish-speaking minority. In the same year, SVT broadcasted 17 hours for the Sami population, and three nationally broadcast programmes produced by Tornedalians and dealing with the specific features of living in the Torne Valley. In 2009, SVT reportedly broadcasted a total of 12 hours in Meänkieli.¹¹¹

SR runs a Finnish channel, P 7 Finnish, which according to the Swedish government broadcasts both in Finnish and Meänkieli. During 1999, it reportedly broadcasted a total of 4,487 hours in Finnish and Meänkieli. In contrast, the Sami radio channel Sámi Radio, which is also produced by SR, broadcasted only 204 hours in Sami in 1999.

One may also note that an agreement of reciprocity between Sweden and Finland with respect to the broadcasting of a Finnish public service channel in Sweden and a Swedish public service channel in Finland has been in place at least during the last two decades. Following the digitalization of TV however this arrangement has been discontinued in the last couple of years.

1.10 Other legal areas of particular importance

The current law on citizenship was enacted in 2001. A major reform that it brought about was the abandonment of the principle that double citizenship should be avoided. Swedish citizenship regulation favours nationals of the neighbouring Nordic countries, including Finland, by providing both eased criteria as well as an eased procedure to naturalize citizens from these countries. Firstly, Swedish citizenship through naturalization can be granted in Sweden after only two years of domicile for Danish, Finnish, Icelandic, and Norwegian citizens, compared to five years for other foreigners, or four years for refugees and stateless persons.¹¹² Secondly, citizens of Denmark, Finland, Iceland and Norway may acquire citizenship through registration with the County Administrative Board (länsstyrelse) – a more simple procedure compared to the application to the National Migration Authority (Migrationsverket) that is required for other nationalities.

¹⁰⁹ See 7 §, 5th Chapter of the Radio and Television Act.

¹¹⁰ See 6 §, 14th Chapter of the Radio and Television Act.

¹¹¹ Jarmo Lainio, Presentation at Korpilombolo, 8 December 2010.

¹¹² See 11 §, Lag (2001:82) om svenskt medborgarskap.

1.11 The relation between national and international law in the domestic legal order

The view on the relationship between national and international law in the domestic legal order in Sweden is neatly summarized in the first report of Sweden to the Council of Europe on the implementation of the Framework Convention for the Protection of National Minorities:

International agreements, treaties and legal instruments do not automatically become part of the national law of Sweden. Treaties that have been concluded by Sweden must be incorporated into Swedish law in order to apply before Swedish courts and public authorities. A common method to achieve this is to incorporate a treaty into Swedish law by stating in the law or other enactment that the provisions of the treaty apply directly in Sweden. A treaty may also become valid in Sweden by so-called transformation, which either involves the provisions of the treaty being translated into Swedish and included in a Swedish enactment, or that the agreement is rearranged as a Swedish statutory text. If the substantive provisions of a treaty correspond with the content of current Swedish law, the legislator has considered that no special procedure is necessary.¹¹³

Sweden has ratified a great number of international conventions pertaining to the protection of human rights.¹¹⁴ These treaties have been made part of the national law of Sweden either by incorporation or transformation, unless they have been considered to correspond with the content of contemporary Swedish law such that no special procedure has been necessary. Examples of the latter are the International Covenants on Political and Civil Rights and Economic, Social and Cultural Rights, both ratified by Sweden in 1971 without any changes of the contemporary Swedish law. Similarly, the European Convention on the Protection of Human Rights and Fundamental Freedoms was seen as corresponding to contemporary Swedish Law when Sweden ratified the Convention in 1952. In the early 1990's however, the European Convention was incorporated into Swedish Law through Act 1994:1219.¹¹⁵ It has been directly applicable since 1 January 1995.

The Swedish government appointed in 1995 a committee to investigate what would be required for a ratification of the European Charter for Regional and Minority Languages. In 1996, the committee's mission was extended to also investigate what a possible ratification of the Framework Convention for the Protection of National Minorities of the Council of Europe would entail. In 1999 the Swedish legislator introduced certain changes that enabled Swedish ratification of these two treaties, notably, the laws enacted in 2000 on the right to use Finnish, Sami and Meänkieli respectively in administrative authorities and before courts of law, which are regarded as having been adopted directly as a result of the ratification of the Charter. Sweden ratified the Framework Convention and the Language Charter in February 2000 and both treaties entered into force with respect to Sweden on 1 June 2000.

¹¹³ Initial report submitted by Sweden pursuant to article 25, paragraph 1 of the Framework Convention for the Protection of National Minorities, Council of Europe, 8 June 2001, Doc. ACFC/SR(2001)003.

¹¹⁴ A list of all the human rights conventions ratified by Sweden can be found at the human rights portal of the Swedish government, <http://www.humanrights.gov.se>.

¹¹⁵ Lag (1994:1219) om den europeiska konventionen angående skydd för de mänskliga rättigheterna och de grundläggande friheterna.

Thus, Sweden amended the domestic legislation beforehand so that it would correspond to the Framework Convention and the Language Charter. Neither of the two treaties is considered to be directly applicable in Sweden. Nevertheless, as the provisions of the Swedish law are meant to correspond with these two treaties, courts and other authorities are bound to interpret the domestic law in conformity with these two treaties.

1.12 Debates on language rights and ‘old’ and ‘new’ minorities

There is an on-going debate in Sweden concerning the language rights and situations of immigrants and linguistic minorities since the 1970s, when the influx of immigrants peaked. No sharp distinction was made between “old” and “new” minorities at that time. The government recognized the Sami and the Tornedalians as non-immigrant ethnic and linguistic minorities, but the minority policies of the time were not specifically aimed at these two groups.¹¹⁶ For example, the home language instruction reform offered equal rights for all non-Swedish native speakers.

The debate on whether Finnish should be regarded as an immigrant language or a national minority language did not take off until in the mid-1980’s, after a distinction was made in the regulations regarding mother tongue instruction with respect to Tornedalian Finnish, Sami and Romani and other languages. While the Finnish language in Sweden has an old history, the large influx of Finnish-speakers from Finland between 1940 and 1970 caused the language to be perceived largely as an immigrant minority language.

In the 1990’s, the immigration policy was re-framed as integration policy.¹¹⁷ This happened shortly after a second peak in the influx of immigrants in 1993-94, when refugees from the former Yugoslavia found their way to Sweden. Minority policy eventually was introduced as a new policy area separate from that of integration, in connection with the new legislation on national minorities and the ratification of the Framework Convention and the Language Charter.¹¹⁸

2 Languages and Minority Policies in Practice

The analysis below considers the position of Finnish and Meänkieli in Sweden. The indigenous status of the Sami in Sweden has been frequently debated in connection with the topic of national minorities. Such debates often concern a Swedish ratification of the International Labour Organization Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries or the negotiations towards a Nordic

¹¹⁶ See *Regeringens proposition om riktlinjer för invandrar- och minoritetspolitiken*, 1975:26, 27 February 1975.

¹¹⁷ See *Regeringens proposition 1997/98:16, Sverige, framtiden och mångfalden – från invandrapolitik till integrationspolitik*.

¹¹⁸ *Nationella minoriteter i Sverige*, 1998/99:143, 10 June 1999.

Sami Convention. These debates will, however, not be described in detail as such a discussion falls beyond the boundaries of this report.

2.1 Parliamentary debates on languages and minorities

This section gives an account of major parliamentary debates in the legal areas described above and pertaining to languages and/or minorities.

2.1.1 With respect to constitutional provisions

The 2010 reform of the Instrument of Government did away with the term “race” in the Act. The decision followed a debate in the parliament as the result of a motion aimed at removing the concept of race from all legal texts. In that context, the parliament stated that there is no scientific ground for dividing people into different races, and hence also from a biological perspective no ground for using the term race about people.¹¹⁹ The concept was nevertheless not removed from all legislative text, though it was purposefully not used by the Government in the proposed text for the new Discrimination Act in 2008. In the Discrimination Act, and in the Instrument of Government, the concept has been replaced by ethnic belonging.

Another major point of debate has been whether the national minorities should be mentioned specifically in the Instrument of Government. The Liberal People’s Party (Folkpartiet Liberalerna) has argued for the recognition in the Instrument of Government of the groups that Sweden recognized as national minorities in connection with the ratification of the Framework Convention and the Language Charter.¹²⁰ The 2010 reform of the Instrument of Government resulted in having the Sami specifically mentioned, but no other national minority. This amendment followed a long struggle by Sami representatives to have the indigenous status of the Sami recognized in the constitution. Several consultative bodies stated in reaction to the Government proposition that all the national minorities should be mentioned specifically in the Instrument of Government, but the Government argued that all the national minorities were offered protection as a result of the text, although they were not mentioned specifically, and that there were not sufficient reasons to mention each minority group specifically.¹²¹

More generally, the obligations derived from the international undertakings of Sweden following the ratification of the Framework Convention and the Language Charter and how these can be reflected in the Instrument of Government have been repeatedly debated in the parliament, particularly in relation to Section 6 of Article 2, Chapter 1 of the Instrument of Government. The paragraph that previously declared that the opportunities of ethnic, linguistic and religious minorities to maintain and develop their own

¹¹⁹ Bet. 1997/98:KU29, p. 7. See also Regeringens proposition 2009/10:80, p. 150-153.

¹²⁰ See Speech by Helena Bargholtz, Anf. 3, 5 § Nationella minoriteter i Sverige, Riksdagens snabbprotokoll, Protokoll 1999/2000:38, 2 December 1999. See also Speech by Liselott Hagberg, Anf. 1, 7 § Minoritetsfrågor, Riksdagens protokoll 2005/06:121, 11 May 2006.

¹²¹ See Regeringens proposition 2009/10:80, p. 188-191.

cultural and common life *ought* to be promoted was amended in 2010, as the Government considered it necessary to change *ought* to *shall*. However, the possibility to include “language” among the values that the minorities shall have opportunity to maintain and develop was not seized, though consideration of this possibility was recommended by the 2005 official investigation into improved minority protection.¹²²

2.1.2 With respect to language legislation

With respect to the minority language legislation that was introduced in 2000, the debate in the parliament focused primarily on the geographic reach of the two minority language acts. The Swedish Center Party (*Centern*) was already at the time of the opinion that an administrative region in the Mälars Valley region (*Mälardalen*) where Finnish-speakers would have the right to use Finnish was lacking.¹²³ In this context, representatives of the government party, the Social democratic Party, argued that the government initially wanted to introduce the new minority language rights in the areas where the languages have been spoken traditionally for a longer period of time and where they still are spoken more widely.¹²⁴ Indeed, the proposition only made claim to lay the basis for a common Swedish minority policy.¹²⁵ Another point of debate concerned the term chosen to refer to the Finnish minority in Sweden. Several MPs stated their opinion that the term *Sverigefinländare* (Sweden Finlanders) ought to be used instead of *Sverigefinnar* (Sweden Finns), in order to encompass also Swedish-speaking persons that had migrated to Sweden from Finland.¹²⁶ Considerable debate concerning whether Meänkieli should be recognized as a language separate from Finnish had preceded the adoption of the legislation.¹²⁷ The representative for the Torne Valley region in the minority committee was of the opinion that it should be recognized as a separate language, and so was Henning Johansson, one of the experts interviewed by the Committee.

The geographical extension of the minority language administrative areas brought about by the reformed minority language legislation in 2009 followed a regime shift which brought a coalition government consisting of the Swedish Centre Party, Liberal People’s Party (*Folkpartiet*), the Moderate Party (*Moderaterna*) and the Swedish Christian Democrats (*Kristdemokraterna*). One major issue that the debate in the parliament in 2008 with respect to the new minority language legislation focused on was the question of responsibility for implementation. Representatives of the Social Democratic Party argued that such responsibility should have been placed with a separate central authority, according to a suggestion made by the Ombudsman for ethnic discrimination.¹²⁸ The geographical extension, which was welcomed by all parties, did however not satisfy a representative of the Left Party of Sweden (*Vänsterpartiet*), who

¹²² Delbetänkande av Utredningen om finska och de sydsamiska språken, Rätten till mitt språk – förstärkt minoritetsskydd, SOU 2005:40, p. 165,

¹²³ See Åsa Torstensson, Anf. 2, 5 § Nationella minoriteter i Sverige, Riksdagens snabbprotokoll, Protokoll 1999/2000:38, 2 December 1999.

¹²⁴ See speech by Statsrådet Ulrica Messing, Anf. 24, 5 § Nationella minoriteter i Sverige, Riksdagens snabbprotokoll, Protokoll 1999/2000:38, 2 December 1999,

¹²⁵ See Nationella minoriteter i Sverige (prop. 1998:99:143).

¹²⁶ See for examplespeech by Paavo Vallius, Anf. 30, 5 § Nationella minoriteter i Sverige, Riksdagens snabbprotokoll, Protokoll 1999/2000:38, 2 December 1999.

¹²⁷ See speech by Siv Holma, Anf. 31, 5 § Nationella minoriteter i Sverige, Riksdagens snabbprotokoll, Protokoll 1999/2000:38, 2 December 1999.

¹²⁸ See Speech by Helene Petersson, Anf. 155, 14 § Lag om nationella minoriteter och minoritetsspråk m.m., Riksdagens protokoll 2008/09:122, 20 May 2009.

criticized the fact that only 18 out of a total of 53 municipalities would make up the new administrative area in the Mälars Valley.¹²⁹ On the whole, the new legislation was welcomed and many references were made to the long common history of Finland and Sweden.¹³⁰ It should be noted that the option of extending minority language protection for the Finnish-speakers not on a geographical basis, but on an individual basis, so that all speakers would have the right to use Finnish wherever in the country they found themselves, had been investigated.¹³¹ It did not however have enough support in the parliament to be realised.

The 2005 government proposition to adopt a common Swedish language policy, but not a law recognising Swedish as the official language of the country, was criticized by representatives for the Liberal People's Party¹³², the Moderate Party,¹³³ the Swedish Christian Democrats¹³⁴ and the Swedish Centre Party¹³⁵ in the parliament. The main argument put forward by these representatives was that a legal recognition of the Swedish language had been favoured by most of the consultative bodies in the preparation of the proposition, and that it would be strange to have no such legal recognition, following the recognition of the national minority languages in 2000. In response, the representative of the Social Democratic Party argued that the adoption of a law recognizing Swedish as the official language of the country would offer no practical protection beyond that offered by the policy proposal.¹³⁶ A representative of the Left Party of Sweden, who also stood behind the proposition, however stated that the Left Party also supported a legal recognition of Swedish as the official language, but suggested this should be done through a constitutional recognition, and not through a new law.¹³⁷ The Swedish Green Party also favoured a law recognising Swedish as the official language.¹³⁸

2.1.3 With respect to education legislation

The decision of the parliament in 1997 to change the term home language (*hemspråk*) to mother tongue (*modersmål*) was aimed to strengthen the status of the minority languages. According to the representatives of the Social Democratic Party in the parliament debate preceding the decision, the term

¹²⁹ See Speech by Elina Linna, Anf. 170, 14 § Lag om nationella minoriteter och minoritetsspråk m.m., Riksdagens protokoll 2008/09:122, 20 May 2009.

¹³⁰ See Speech by Mikael Johansson, Anf. 155, by Stefan Tornberg, Anf. 159, and by Nyamko Sambuni, Anf. 161, 14 § Lag om nationella minoriteter och minoritetsspråk m.m., Riksdagens protokoll 2008/09:122, 20 May 2009.

¹³¹ See the promemoria by Bertil Bengtsson, "Nationella minoritetsspråk vid domstolar och myndigheter – Ett alternativ" DS 2008:26, Integrations- och jämställdhetsdepartementet, p. 50.

¹³² See Speech by Lennart Kollmatsm Anf.1 84, 9 § Bästa språket – en samlad svensk språkpolitik, Riksdagens protokoll 2005/06:45, 6 December 2005.

¹³³ See Speech by Anna Lindgren, Anf. 185, 9 § Bästa språket – en samlad svensk språkpolitik, Riksdagens protokoll 2005/06:45, 6 December 2005.

¹³⁴ See Speech by Gunilla Tjernberg, Anf. 186, 9 § Bästa språket – en samlad svensk språkpolitik, Riksdagens protokoll 2005/06:45, 6 December 2005.

¹³⁵ See Speech by Birgitta Sellén, Anf. 188, 9 § Bästa språket – en samlad svensk språkpolitik, Riksdagens protokoll 2005/06:45, 6 December 2005.

¹³⁶ See Speech by Matilda Ernkran, Anf. 193, 9 § Bästa språket – en samlad svensk språkpolitik, Riksdagens protokoll 2005/06:45, 6 December 2005.

¹³⁷ See Speech by Siv Holma, Anf. 187, 9 § Bästa språket – en samlad svensk språkpolitik, Riksdagens protokoll 2005/06:45, 6 December 2005.

¹³⁸ See Speech by Mikael Johansson, Anf. 208, 9 § Bästa språket – en samlad svensk språkpolitik, Riksdagens protokoll 2005/06:45, 6 December 2005.

mother tongue was preferable to the term home language, as the former referred to a language that could be spoken in public, while the latter seemed to imply that the language was bound to the home environment.¹³⁹ A representative of the Moderate Party argued against the proposed change of term, stating that the term home language was an established term and that a change of term would do nothing to raise the status of the subject in the schools.¹⁴⁰

The 2009 proposition for a new Education Act stirred up a heated debate which divided the parliament. Several of the criticisms and suggestions raised by the opposition concerned language learning. Among the arguments forwarded by the representative of the Social Democratic Party for example was the claim that the government's introduction of allowances for child-care in the home had resulted in several pre-schools closing down and in effect that many children now would not come in contact with the Swedish language before the start primary school.¹⁴¹ The representative of the Left Party on the other hand criticised the fact that the demand for qualified teachers did not apply in all circumstances to mother tongue instruction teachers.¹⁴² Another idea forwarded by the representative of the Left Party was to recognise studies in these languages as qualifying in latter selection processes to high schools and universities, and not only studies in so-called modern languages, a proposal aimed particularly at raising the status of sign languages and the national minority languages.¹⁴³ The parties behind the proposition however defended the text, stressing primarily the need for an updated school law and the failure of the opposition to come up with an alternative that all opposing parties could agree on.

2.1.4 With respect to media legislation

Public subsidies to the press are contested in Sweden, and the parliament has on several occasions debated the issue heatedly. When the terms and conditions governing public subsidies to the press were discussed in parliament in 2006, in relation to a proposition from the social-democratic government to increase press subsidies, a representative of the Moderate Party argued that subsidies should not be raised, and that it on the contrary is time to dismantle the public subsidies to the press.¹⁴⁴ Also a representative of the Liberal People's party argued for the dismantling of the operational support subsidies, while the Liberal People's party wanted to retain the distribution support subsidies.¹⁴⁵ The representative of the Social Democratic Party however argued that both types of subsidies have been important to preserve diversity within media, and specifically among newspapers, and that they therefore have a role to play in the future.¹⁴⁶ The decision of the parliament in 2006 resulted *inter alia* in making operational support available for newspapers with a smaller number of subscribers, by lowering the criteria of minimum number of subscribers from 2 000 to 1 500 – a move that may be seen as favourable to minority language newspapers.

¹³⁹ See Speech by Majvi Andersson, Anf. 233, 28 § Hemspråk, Riksdagens snabbprotokoll, Protokoll 1996/97:102, 14 May 1997.

¹⁴⁰ See Speech by Ulf Melin, Anf. 232, 28 § Hemspråk, Riksdagens snabbprotokoll, Protokoll 1996/97:102, 14 May 1997.

¹⁴¹ See Speech by Marie Granlund, Anf. 38, 12 § Ny skollag, Riksdagens protokoll 2009/10:141, 21 June 2010.

¹⁴² See Speech by Rossana Dinamarca, Anf. 93, 12 § Ny skollag, Riksdagens protokoll 2009/10:141, 21 June 2010.

¹⁴³ See Speech by Rossana Dinamarca, Anf. 82, 12 § Ny skollag, Riksdagens protokoll 2009/10:141, 21 June 2010.

¹⁴⁴ See Speech by Henrik S Järrel, Anf. 144, 12 § Nya villkor för driftsstödet till dagstidningar, Riksdagens protokoll 2005/06:140, 13 June 2006.

¹⁴⁵ See Speech by Helena Bargholtz, Anf. 145, 12 § Nya villkor för driftsstödet till dagstidningar, Riksdagens protokoll 2005/06:140, 13 June 2006.

¹⁴⁶ See Speech by Helene Petterson, Anf. 146, 12 § Nya villkor för driftsstödet till dagstidningar, Riksdagens protokoll 2005/06:140, 13 June 2006.

The decision to raise public press subsidies in 2006 was brought before the European Commission, which argued that some of the subsidies could be seen as distorting fair competition.¹⁴⁷ After the change of government, new amendments were proposed, which were debated in 2009. The changes proposed by the right-wing coalition government involved an upper limit to the operational support given to big city newspapers and a mandatory review of the public press subsidy system every 6 years. The mandatory six year review was heavily opposed by representatives of the Social Democratic Party, the Swedish Green Party and the Left Party of Sweden. A representative of the Social Democratic Party also argued that Sweden for several years had received criticism in the Council of Europe because there is no daily newspaper in Sami or Meänkieli, but that the government did not propose anything concrete to address this issue except initiating negotiations with Norway and Finland.¹⁴⁸ A representative of the coalition government responded by stating that the decision in 2006 to lower the minimum required number of subscribers had been favourable to minority language newspapers.¹⁴⁹ The representative of the Social Democratic Party noted, however, (and in fact correctly) that this decision had been based on a proposition by the former social-democratic government, and not by the coalition government.¹⁵⁰

When the parliament in 2001 debated the terms and conditions for public TV and radio between 2002 and 2005 the proposed sharpening of the obligation of public media companies towards ethnic and linguistic minorities received no outright opposition.¹⁵¹ This aspect did not attract much attention in an otherwise long and heated debate, beyond being warmly welcomed by a Swedish-Finnish representative of the Social Democratic Party, who stressed the importance of recognizing that the public service media have a responsibility towards ethnic and linguistic minorities and of holding them to account to see to that they fulfil their obligations.¹⁵²

In 2006 the parliament again debated public service radio and TV in connection with the renewal of the licenses.¹⁵³ No major changes to the terms and conditions were proposed that year. Nevertheless, the debate was long, as the parties differed greatly in their view on the role and task of the public service media, especially with respect to entertainment. With respect to programmes in national minority languages and for and by persons belonging to national minorities however, all parties seemed to agree

¹⁴⁷ See "Sverige uppmanas ändra reglerna för presstödet", published on the European Commission homepage EU i Sverige, available at http://ec.europa.eu/sverige/news/topics/business/news_date_804_sv.htm (last accessed 7 March 2011).

¹⁴⁸ See Speech by Helene Petterson, Anf. 114, 14 § Nya villkor för stödet till dagspressen, Riksdagens protokoll 2009/10:127, 27 May 2010.

¹⁴⁹ See Speech by the Minister of Culture, Lena Adelsohn Liljeroth, Anf. 128, 14 § Nya villkor för stödet till dagspressen, Riksdagens protokoll 2009/10:127, 27 May 2010.

¹⁵⁰ See Speech by Helene Petterson, Anf. 132, 14 § Nya villkor för stödet till dagspressen, Riksdagens protokoll 2009/10:127, 27 May 2010.

¹⁵¹ The proposed amendment involved changing an obligation to take the *needs* of ethnic and linguistic minorities into account, to an obligation to take the *interests* of ethnic and linguistic minorities into account, as well as including all national minorities among the groups that would be acknowledged with a special status, and an overall obligation to see to that the programmes and resources devoted to ethnic and linguistic minorities would successively increase, and at the very least not fall below the level of the year 1996. See Regeringens Proposition 2000/01:94.

¹⁵² See Speech by Paavo Vallius, Anf. 67, 7 § Radio och TV i allmänhetens tjänst 2002-2005, Riksdagens protokoll 2000/01:123, 12 June 2001.

¹⁵³ 14 § Radio och tv i allmänhetens tjänst 2007-2012, Riksdagens protokoll 2005/06:132, 31 May 2006.

that the public service media has a particular responsibility. A representative of the Swedish Centre Party also mentioned that the TV co-operation between Finland and Sweden ought to continue.¹⁵⁴

2.2 Recent legal initiatives on languages and minorities

As the reformed legislation concerning national minority languages has yet to be tried and implemented, no major legal initiatives concerning national minorities and national minority languages are to be expected within the nearest future.

However, within the educational sector, there are several recent legal initiatives that may result in changes affecting mother tongue instruction in schools, which have not been considered in this report. This include a 2009 proposition to reform the education of teachers,¹⁵⁵ which was adopted by the parliament and the reforms entered into force on 31 December 2010, a new Compulsory School Regulation, which entered into force in 2011, and a proposition adopted by the parliament introducing from 1 January 2012 teachers' certificates for all teachers.¹⁵⁶ According to the latter proposition, mother tongue teachers are to be exempted from the certificate requirement.

2.3 Case law on languages and minorities

In the section below, court case law in relation to the above mentioned legislation is examined.

2.3.1 With respect to constitutional provisions

In general, the Swedish constitution is, unlike in the Anglo-Saxon legal tradition, primarily aimed at providing direction for the law-makers and is rarely applied by courts while they are implementing the law.

The constitutionally-related prohibition on the handling of personal information that relates to the race, ethnic origin or religious affiliation of individuals has been tried in a number of cases. Mostly these cases have concerned personal information published on the internet. The Personal Information Act states that the Act is not applicable to such handling of personal information that is carried out as part of activities of a private nature, but the case law has clarified its applicability to the publication of personal information on a website, even if it is a privately maintained and unprofessional website.¹⁵⁷

The constitutional provisions on discrimination do not mention that measures aimed at positive discrimination of ethnic and linguistic minorities is allowed, as discussed in section 1.9.1 above. The case of

¹⁵⁴ See Speech by Birgitta Sellén, Anf. 111, 14 § Radio och tv i allmänhetens tjänst 2007-2012, Riksdagens protokoll 2005/06:132, 31 May 2006.

¹⁵⁵ See Regeringens proposition *Bäst i klassen – en ny lärarutbildning*, 2009/10:89, 11 February 2010.

¹⁵⁶ See Regeringens proposition *Legitimation för lärare och förskolelärare*, 2010/11:20, 7 October 2010.

¹⁵⁷ See Decision RH 2004:51 of the Göta Court of Appeal, Case no. B747-00, of 7 April 2004.

J.M. and C.L. v. the State, which reached the High Court, sheds some light on this issue.¹⁵⁸ It concerns the measures taken by Uppsala University to increase the ethnic diversity of the body of students accepted to study law. The Law faculty of the university reserved 10% of the first year places in 2003 for applicants with both parents born abroad. The initiative was based on an ordinance that allowed universities to use different criteria aimed at increasing the ethnic diversity of the student body for 10% of the beginner's places, which entered into force 1 January 2003. Both the courts at the lower level and the High Court found that the measure taken by Uppsala University Law Faculty constituted illegal discrimination. While ruling that strong positive discrimination that favoured certain persons that were less qualified than others on the basis of their ethnicity were unlawful, the courts however recognized that certain weaker forms of positive special treatment of persons on the basis of their ethnicity or gender may be allowed.

With respect to discrimination law in general, the case law is very broad. In the context of this report, it has not been possible to examine the whole case law, wherefore the examination has focused on the case law that directly has concerned discrimination of Finnish and Meänkieli speakers, including Finnish Roma.

A case in the High Court concerned the decision of two managers of the low price department store Hedlandet in Mariefred not to allow women wearing long wide skirts, of the type commonly used by Finnish Roma women, to enter the store.¹⁵⁹ The managers were freed in the lower court, but the Court of Appeal and the High Court both found the policy of the department store to constitute unlawful discrimination. The managers' claim that the policy strived to prevent the use of such skirts to hide shop-lifted goods from the department store only served to underline the discriminatory character of the policy in the opinion of the High Court. The case is one of many examples of the harsh type of discrimination that affects the Finnish Roma, which to some extent be considered to constitute a visible minority, and which does not to the same extent affect Finnish or Meänkieli-speakers who do not visibly manifest their belonging to a national minority group. The Equality Ombudsman (*Diskrimineringsombudsmannen*)¹⁶⁰, hereinafter DO, recently sued the owner of a flat in Linköping for having contacted his Finnish Roma tenant to explain that neighbours had complained about the presence of Roma women in the house and that she would have to leave the apartment if she or any of her friends wore their traditional dresses again.¹⁶¹

The DO has also made an attempt to challenge the lack of mother tongue instruction in minority languages on the grounds that this constitutes discrimination.¹⁶² While the first attempt has failed, the DO is not satisfied with the outcome and is likely to make further attempts in this regard.¹⁶³ How such attempts succeed are of vital importance to all linguistic minorities in Sweden. The first case brought by the DO concerned a complaint to the DO, in which the parents of two Finnish Roma children reported that their children had been discriminated against in a school in the municipality of Vetlanda on the basis of their

¹⁵⁸See Decision NJA 2006:84 of the Supreme Court, Case no. T400-06, of 21 December 2006.

¹⁵⁹See NJA 1999:70.

¹⁶⁰ Prior to 2009, there were four Ombudsman-institutions against discrimination in Sweden: one against disability-based discrimination, one against ethnic origin-based discrimination, one against gender-based discrimination and one against sexual orientation-based discrimination. In 2009 these four merged to form the Equality Ombudsman, *Diskrimineringsombudsmannen*. The DO can receive complaints from the public, investigate them and represent the complainant in court free of charge. For more information see <http://www.do.se>

¹⁶¹ See <http://www.do.se/sv/Om-DO/Stamningar-och-forlikningar/Stamning-hyresvard-i-Linkoping>

¹⁶² See <http://www.do.se/sv/Om-DO/Stamningar-och-forlikningar/Tingsrattsdom-Vetlanda-kommun/>

¹⁶³ Interview with Björn Brodin of 28.4.2011.

ethnicity.¹⁶⁴ The parents referred to harassment of their children by other students at the school, and also to the fact that the children had not received mother tongue instruction in Finnish or Romani Chib despite the parents' request for such instruction. The DO subsequently sued the municipality of Vetlanda before the District Court in Eksjö on a number of grounds, including direct discrimination in relation to the failure of the school to provide mother tongue instruction.¹⁶⁵ According to the DO, the Finnish Roma children had been disadvantaged in comparison to Swedish children when the school failed to provide mother tongue instruction in Finnish or Romani. The municipality however argued that the school had not, despite having taken all the required actions of the Ordinance on Primary School Education, been able to find a suitable teacher of Finnish or Romani Chib, and that this fact alone did not mean that the children had been disadvantaged because of their ethnic origin. The Court found that the school's treatment of the Finnish Roma children did not constitute discrimination. In this context the Court argued that the comparison had to be made between the Finnish Roma children and other children with another mother tongue than Swedish, and not in relation to Swedish-speaking children.¹⁶⁶ It further noted that the DO had failed to show that the school had abandoned its efforts to find a Finnish or Romani Chib mother tongue teacher faster than it had abandoned efforts to find mother tongue teachers in other languages. While the DO appealed to the Göta Court of Appeal, the latter declined to re-open the case.¹⁶⁷

The case law of the Labour Court considers discrimination at the workplace and in recruitment. When the Labour Court in 1996 was confronted with a case concerning the dismissal by the municipality of Stockholm of 154 mother tongue instruction teachers, in which the mother tongue instruction teachers alleged to have been discriminated against, it ruled that there is no obligation on behalf of employers to treat their employees or applicants absolutely fair.¹⁶⁸ On a more general note, many discrimination cases before the Labour Court have concerned language requirements (usually proficiency in Swedish and English) imposed by employers while recruiting.¹⁶⁹ Such language requirements, though they may disproportionately affect certain ethnic groups, and thus constitute indirect discrimination, are allowed as long as they can be justified for reasonable reasons and as long as they can be considered suitable and necessary for the aim they strive to achieve. The Labour Court on many occasions has therefore found that the employers have not faulted while choosing one candidate over another because of their perceived superior language skills.¹⁷⁰ It is up to the employer to decide what criteria to apply when recruiting and how much weight that should be given to various language skills.¹⁷¹

¹⁶⁴ See <http://www.do.se/sv/Om-DO/Stamningar-och-forlikningar/Tingsrattsdom-Vetlanda-kommun/>

¹⁶⁵ See Judgement of the District Court in Eksjö of 21 October 2010, Case no. T 1395-09, available at http://www.do.se/Documents/pdf/forlikningarochdomstolsarenden/vetlanda_20101021.pdf

¹⁶⁶ Ibid. p. 39.

¹⁶⁷ See <http://www.nutidningen.nu/index.php/nyheter/hoglandet/6358-kommun-fick-raett-mot-do>

¹⁶⁸ Decision 1996:149 of the Labour Court, Case No. A-118-1994, of 18 December 1996

¹⁶⁹ See for example the decision 2008:47 of the Labour Court, Case no. A-152-2007, of 4 June 2008 and the decision 2005: 98 of the Labour Court, Case no. A-238-2003, of 19 October 2005.

¹⁷⁰ See the above mentioned decisions.

¹⁷¹ A case worth mentioning because it touches on this topic and originates from the Torne Valley is Jämställdhetsombudsmannen mot Staten via Arbetsgivarverket. The case concerned alleged gender discrimination in connection with the appointment of a chief of investigator in Haparanda by the police authority of Norrbotten County. However from the facts of the case it is clear that the applicant who alleged discrimination was also competent in Finnish, unlike the applicant who was eventually appointed. The Labour Court recognized that knowledge in Finnish should have been considered a merit in the context, but did not find that any discrimination on this ground had taken place. See decision 2004:44 of the Labour Court, Case no. A-57-2003, of 5 May 2004.

2.3.2 With respect to language legislation

With respect to the 2009 Language Act, it is the Ombudsmen for Justice, *Justitieombudsmannen*, hereinafter JO, that have had primarily interpreted the Act so far. The JO are elected by the Swedish Parliament to ensure that public authorities and their staff comply with the laws and other statutes governing their actions.¹⁷² The JO exercise supervision *inter alia* by evaluating and investigating complaints from the general public. The praxis and interpretations of the JO in relation to the Language Act will be examined in section 2.4.2.

Similarly, with respect to the minority language legislation introduced in 2000, it is the JO that has received complaints relating to the failure of public authorities to provide services in the minority languages. These too will be examined in section 2.4.2. No case law with respect to the language legislation of the past decade has come to the awareness of the author of this report.

Nor has the author been able to identify any case law with respect to the requirement to use Finnish, Sami and Swedish simultaneously in maps and on signs in multilingual areas.

2.3.3 With respect to education legislation

The Supreme Administrative Court has considered many cases that have related to schools run by private legal entities.¹⁷³ One of the cases concerned the decision of the National Agency for Education to withdraw permission for the independent school Judiska Skolan Beit Menachem in Gothenburg, on the grounds that the school did not fulfil the criteria of having at least 20 students.¹⁷⁴ The school argued that there were special reasons for making an exception for the school with respect to this criteria, primarily the need to allow the students to follow practices demanded by their Jewish-Orthodox faith, which according to the school, other schools would not allow. The Supreme Administrative Court found that this was not the case, citing the proposition¹⁷⁵ which stated that a lower number than 20 students in a school inhibits the social development of the students. While Judiska Skolan Beit Menachem did not make any reference to the national minority status of the Jews in Sweden, one may nevertheless assume that the interest to provide education for national minority children in a separate school, would not override the criteria that the school ought to have at least 20 children. The only exceptions to the criteria recognized in the proposition are schools for the lower classes in sparsely populated areas that allow students to go to school within a reasonable distance from their home, as re-stated by the Supreme Administrative Court in the above mentioned case.

¹⁷² Read more about the Ombudsmen for Justice here: <http://www.jo.se/Page.aspx?Language=en>

¹⁷³ See for example RÅ 2009:3 on the duty of municipalities to contribute equally to privately run schools and public schools; RÅ 2008:29 on the possibility of a company owned by the municipality to run a school; RÅ 2008:4 concerning Transtad Skola, which after being closed by the municipality tried to re-establish as a private school; and RÅ 2006:7 on the conditions for withdrawing a permit to a privately run school.

¹⁷⁴ See RÅ 2008:33.

¹⁷⁵ *Fristående skolor m.m.*, 1995/96:200, 9 May 1996, p. 40.

The case brought by the DO against the municipality of Vetlanda, discussed above in section 2.3.1, is the only known case where the lack of mother tongue instruction has been challenged before a court.

2.3.4 With respect to media legislation

The whole case law on criminal offences related to media is very broad and it is not within the scope of this study to make a full examination of case law concerning all offences. However, a recent case with respect to the offence of agitation against a group of people is worth mentioning, as it also concerns the responsibility of the editor of a homepage for removing messages agitating against a group of people posted on an electronic message board.¹⁷⁶ In the case, while the Court of Appeal had found the accused guilty of not removing the offending messages, the Supreme Court changed the ruling of the lower court, arguing that responsibility only would have been awoken had the offending messages *obviously* constituted agitation against a group of people.

The right to press subsidies has been found to constitute a civil right in the meaning of the European Convention on Human Rights, and the status of the Press Subsidies committee to be that of a court by the Supreme Administrative Court.¹⁷⁷ The Press Subsidies committee is regarded as the highest instance with respect to the applications for press support, which means that the decisions of the committee cannot be appealed. Whatever the status of the Press Subsidies committee, for the purpose of this paper it will be regarded an administrative organ and its decisions will be examined in the next chapter.

2.4 Practice of administrative organs or other supervisory organs

2.4.1 With respect to constitutional provisions

In 2008, the DO published a report on the discrimination of national minorities within the educational system in Sweden.¹⁷⁸ According to the report, the DO had since 2000 received 120 complaints regarding ethnic discrimination from Swedish Finns.¹⁷⁹ As the prohibition of ethnic registration prevents the DO from keeping lists of all complaints it has received from a certain language group, the authors of the report have gone through all complaints that the authority has received and identified the complaints that has come from Finnish-speakers. One of the authors of the report later stated that of the 120 complaints received, there are only a few cases where the DO actually has taken action.¹⁸⁰ In most cases, the complaints have not led to any investigation as the DO has not noted any circumstances suggesting that the behaviour complained of would have any linkage to the complainant's ethnic origin. One example of a complaint that did not lead to an investigation concerned a decision by the municipality of Nynäshamn not to allow the

¹⁷⁶ See NJA 2007:99.

¹⁷⁷ See RÅ 2004:122.

¹⁷⁸ See "Discrimination of national minorities in the education system" DO:s rapport serie 2008:2, English version.

¹⁷⁹ *Ibid.*, p. 16.

¹⁸⁰ Interview with Björn Brodin in the office of the DO 28 April 2011

complainant's sister, a Finnish national and Finnish speaker, to be moved from the old people's home Rosengården in Nynäshamn to the Finnish home in Stockholm, where she could receive care from Finnish-speaking staff.¹⁸¹ The complainant appealed the decision in the Administrative Court, the Administrative Court of Appeal and the Supreme Administrative Court, but her appeal was rejected at all levels. She had also written to the European Court of Human Rights, but the case has not led to a substantive examination by the Court.

In 2006, the DO received three complaints that concerned a prohibition on speaking Finnish in the work place.¹⁸² The complainants stated that their boss had told them they were prohibited from speaking Finnish together in the public spaces of her workplace at the Social Services department of the municipality of Uppsala. In these cases, the first response of the DO was to forward the complaints to the Labour Unions to which the complainants belonged, and which have a prior right to represent their members with respect to conflicts and negotiations with the employer. With respect to two of the complainants, the case was later dropped by the DO as their Union reported that the prohibition had been dissolved and that the employer had apologized to the complainants.¹⁸³ The third complainant belonged to a different Union. Her Union made claims on her behalf for financial reparations. The negotiations between the Union and the employer did however not result in any damages, but ended rather with an agreement concerning the use of language at the work place that consisted of three points: 1) that the official working language of the work place is Swedish; 2) that the public language is Swedish, meaning that the language used in all public spaces, the coffee room, corridors etc. should be Swedish; 3) that the employees may speak another language in private contexts also at the workplace, but that it then is important to show consideration with co-workers with another linguistic background are present.¹⁸⁴ Upon receiving the protocol, which included the above mentioned agreement, from the Union, the DO decided to close also the third case.¹⁸⁵ The DO noted that employees were allowed to speak other languages than Swedish in a private context in the work place and that the issue thus had been resolved. The DO's case file however shows that the DO re-opened the case in late 2007, but that it was decided in 23 November 2007 that the individual case would not be continued, but that the Inspection Unit (*Tillsynsenheten*) would take over the case and engage in discussions with the Union. In the meanwhile, the Sweden Finnish Delegation forwarded the complaint to the Council of Europe.¹⁸⁶ The DO has registered a case from 2007-2008 where the Inspection Unit has addressed the Union in question, but unfortunately the case file has gone missing, and it has not been possible for the author to confirm the results of that case. While an account by the DO afterwards of how it handled the case gives the impression that the DO intervened decisively, the case files do not support this account. On the contrary, it seems that the DO did not consider that a collective agreement that prohibited the use of languages other than Swedish in the public spaces of a work place constituted ethnic discrimination.¹⁸⁷

¹⁸¹ DO, 685-2006, Laura Vianden.,

¹⁸² DO, 528-2006, 529-2006, 530-2006, Tina Kiveliö, Hilka Wärnbäck, and Stina Bernsten.

¹⁸³ DO, 529-2006, 530-2006.

¹⁸⁴ See Förhandlingsprotokoll 2006-06-14—2006-11-17, Uppsala kommun, Signed by Vivan Erickson for the Municipality of Uppsala, and Ahmed Karamus for the Union SKTF.

¹⁸⁵ See Decision of the DO Ulrika Dietersson, of 26 June 2007.

¹⁸⁶ See Letter of 15.11.2007, at http://www.sverigefinne.nu/CE_anmalan.pdf

¹⁸⁷ According to the DO, the complaint prompted the DO to initiate an inspection with respect to the collective agreement of the Municipality of Uppsala, which concluded that it had been possible to interpret the agreement as including a ban on speaking any language other than Swedish at work. This supposedly led to the DO informing the municipality that such a ban and agreement

A report concerning degrading treatment of inmates of Finnish and Roma origin by prison authorities was quite recently considered by the JO.¹⁸⁸ The report concerned one instance where personnel at a prison presented a text that de-valued and degraded people of Finnish origin to a prisoner of Finnish origin. The JO concluded that the prisoners that reported the incident clearly had felt degraded, wherefore the prison authorities could not escape criticism for the incident even though the personnel withheld that it had not been their intention to degrade persons of Finnish origin.

2.4.2 With respect to language legislation

The duty of authorities to engage an interpreter when necessary has been considered by the JO. In the case, prison authorities failed to translate notes written in Turkish handed over to them by a Turkish-speaking inmate.¹⁸⁹ In this context, the JO stated that it was unacceptable that the prison authorities dismissed the prisoner's notes without first having them translated. In the same decision, the JO stated that there is no general obligation on behalf of the prison authorities to translate laws and ordinances to various languages, which is what the Turkish prisoner had requested. In another decision, the JO added that this principle applies also with respect to various decisions of the prison authorities.¹⁹⁰ However, the JO in the latter decision added that with respect to decisions of the prison authorities, the prison authorities have an obligation to convey the meaning of the decision to the inmate in a language he or she understands.

In another report to the JO, Isabella Nutti et. al. made a complaint against the social services in the municipality of Kiruna. The complaint concerned the failure of the municipality to ensure that Nutti's mother could receive social services in her home by persons who spoke Sami or Meänkieli.¹⁹¹ The JO asked the municipality to respond to the complaint, upon which the municipality responded that they were aware of the minority language laws and therefore would work towards meeting requests for social services in the minority languages. With this, the JO was satisfied and did not find any reason to continue the investigation.

A complaint was also reportedly made to the JO by a Finnish-speaking 90-year old man from Vaxholm in 2010.¹⁹² The same source reported later on that the man eventually after 8 months struggle had got a place in a Finnish-speaking elderly home in Enskede.¹⁹³

may conflict with discrimination legislation, both in terms of individuals' rights and the requirement of prevention work in the aim of combating discrimination at the workplace. According to the DO, the DO had in this context also made it clear that the rights of national minorities are a part of Sweden's obligations to respect human rights and that discrimination includes both arbitrary special treatment and failure to respect the right of special treatment. After this, the Union and the municipality have according to the DO signed a new agreement. See "Discrimination of national minorities in the education system" DO:s rapportserie 2008:2, English version, p. 16.

¹⁸⁸ See decision of the Ombudsmen for Justice Cecilia Nordenfelt of 3 March 2009, No. 2565-2008.

¹⁸⁹ See decision of the Ombudsmen for Justice Cecilia Nordenfelt of 14 February 2008, No. 603-2007.

¹⁹⁰ See decision of the Ombudsmen for Justice Cecilia Nordenfelt of 19 March 2009, No. 305-2008.

¹⁹¹ See decision of the Ombudsmen for Justice Kerstin André of 8 June 2010, No. 7179-2009.

¹⁹² See <http://sverigesradio.se/sida/artikel.aspx?programid=103&artikel=3735175>

¹⁹³ See <http://sverigesradio.se/sida/artikel.aspx?programid=103&artikel=3842171>

Since the entry into force of the new Language Act, several Swedish authorities have been reported to the JO for using English instead of Swedish in *inter alia* slogans and e-mail addresses. The JO has already found that Swedish authorities cannot demand that applications for research funding should be in English without any legal basis for such a demand.¹⁹⁴

The fact that Meänkieli is not mentioned in the paragraph in the Heritage Conservation Act through which the requirement of multiple place names for multilingual areas was introduced in 2000 has been pointed out by Meänkieli-speakers, who also have stated that it is important to change the paragraph.¹⁹⁵ In practice however, the Swedish mapping, cadastral and land registration authority (*Lantmäteriet*) reportedly also publicise Meänkieli place names on the maps it produces.¹⁹⁶

2.4.3 With respect to education legislation

The Swedish National School Agency has collected on its homepage a list of advice and guidance in relation to the interpretation of the Education Act.¹⁹⁷ In relation to the duty of schools run by private persons to offer mother tongue instruction, the School Agency suggests that this duty would apply only if there are five or more students in the school in question that request such instruction. Private schools are in other words not according to the School Agency, obliged to investigate how many students in the whole municipality that are requesting mother tongue instruction in a certain language, or to cooperate with public schools to offer such instruction. However, the Agency recognizes that from the perspective of the students, it would be preferable if such cooperation would exist and if a student requesting mother tongue instruction in a certain language would receive such instruction even if there are no other students in the private school participating.

In its report on the discrimination of national minorities within the educational system, the DO stated that “using literature in educational contexts that contains gross generalisations or provides a negative description of the situation of national minorities in Sweden cannot be seen as promoting the equal opportunities of students”.¹⁹⁸ The DO further stated that:

A school that uses literature that can be perceived as degrading in relation to national minorities should therefore replace such literature as a part of the work to promote equal rights and prevent discrimination and harassment. If the school becomes aware that a student has felt harassed due to literature used in school education, the school has an obligation to investigate the circumstances and, where appropriate, undertake the measures that can reasonably be required to prevent continued harassment.¹⁹⁹

¹⁹⁴ See decision of the Ombudsmen for Justice Hans Gunnar Axberger of 27 October 2009, No. 1811-2008.

¹⁹⁵ See for example Harriet Kuoppa, “Situationen för minoritetsspråket Meänkieli i Sverige”, 2008, p. 29.

¹⁹⁶ At least the authority claims it does this. See information on the homepage of the land registration authority (*Lantmäteriet*), at http://www.lantmateriet.se/templates/LMV_Page.aspx?id=17043

¹⁹⁷ See <http://www.skolverket.se/sb/d/467/a/10682>

¹⁹⁸ See “Discrimination of national minorities in the education system” DO:s rapportserie 2008:2, p. 34.

¹⁹⁹ See “Discrimination of national minorities in the education system” DO:s rapportserie 2008:2, p. 35

2.4.4 With respect to media legislation

The Swedish Broadcasting Commission (Granskningsnämnden för radio och TV), which in 1 January 2010 merged with the Radio and TV Agency (Radio- och TV-verket) to form the Swedish Broadcasting Authority (Myndigheten för radio och TV), was mandated to receive reports from the general public with respect to the content of radio and TV programs and make rulings on whether the content was in conformity with the licenses issued by the Government. The work is being continued by the supervision department of the Swedish Broadcasting Authority.

In 2000, a reporter to the Broadcasting Commission alleged that the placement of the Finnish-language broadcasts in the P7 radio channel, which was only transmitted digitally, was not in accordance with the requirement in the license agreement that the interests of minority groups be taken into account.²⁰⁰ However, Finnish language programs at the time were also sent through the analogous channels P2 and P4. The Commission did not consider that the report gave any reason to suppose that the broadcasting practices of SR were not in accordance with the license requirements.

In 2002, the Swedish-Finnish Delegation reported the decision of SVT to stop broadcasting the Finnish language current affairs program Ekg in 2003 to the Broadcasting Commission. The Delegation argued that the proposed action would amount to a cut of 60 % of the Finnish language current affairs broadcasts in SVT in 2003.²⁰¹ Also this report failed to spur the Commission to start an investigation.

The Press Council (Pressens opinionsnämnd) is a non-governmental body financed by four Swedish Press organizations that also jointly drafted a code of ethics for the press, radio and TV in Sweden.²⁰² Point 10 of the same code of ethics states as follows (unofficial translation by the author):

Do not emphasize ethnic origin, sex, nationality, occupation, political affiliation, religious persuasion or sexual disposition in the case of the persons concerned if such particulars are not important in the specific context and demeaning.

Any member of the public can report newspaper items they regard as a breach of good journalistic practice to the Press Council. However, no instances of non-ethical conduct with regard to national minorities have been raised by the Press Council.

From the homepage of the Press Subsidies Committee one can find the statistics over the subsidies awarded to different newspapers since 2000. For instance, *Ruotsin Suomalainen*, which is a Finnish language weekly newspaper founded in 1964, was awarded 1 764 000 SEK in 2000, 2 035 000 SEK annually 2001-2005, and the subsidies have increased since to 5 260 000 SEK in 2011.

²⁰⁰ See Granskningsnämnden för radio och TV, Decision of 3 March 2003, SB 68/00. Available upon request from the Authority for Radio and TV.

²⁰¹ See Granskningsnämnden för radio och TV, Decision of 13 December 2002, SB 802/02. Available upon request from the Authority for Radio and TV.

²⁰² See the homepage of the Press Council, www.po.se

2.5 Practice of international monitoring organs and courts with respect to language and minority issues in Sweden

With respect to international monitoring organs and courts, the Council of Europe organs that monitor the implementation of the Framework Convention on National Minorities and the European Charter for Regional and Minority Languages have produced the most substantial jurisprudence in relation to language and minority issues in Sweden. Before examining this jurisprudence in more detail, the opinions, decisions and judgements emanating from monitoring organs within the UN and the European Court of Human Rights will be revisited briefly..

Among the communications concerning Sweden to the Committee on Human Rights that oversees the implementation of the Convention on Civil and Political Rights (CCPR) in the most recent decades, most have dealt with decisions of expulsion by Swedish authorities. More relevant to the issues at hand are therefore the concluding observations of the Human Rights Committee with respect to Sweden. The Human Rights Committee has repeatedly expressed concern with the fact that the standards of the CCPR are not fully respected in Swedish domestic law, and reiterated this concern in its latest concluding observations.²⁰³ While the ECHR has been made directly applicable, the CCPR has not, and this is seen as a problem by the Human Rights Committee in the cases where the CCPR offers a broader protection. The Human Rights Committee also in its latest concluding observations commented on the need to intensify efforts to prevent, combat and prosecute hate speech. With respect to the Sami, the Committee made several observations and recommendations, including that Sweden should take further steps to involve the Sami in the decisions concerning the natural environment and necessary means of subsistence for the Sami people, and grant adequate legal aid to Sami villages in court disputes concerning land and grazing rights. The Committee did not mention any other national minority specifically, but suggested that the concluding observations would be translated to the official minority languages spoken in Sweden.

In its latest concluding observations on Sweden, the Committee of Economic and Social Rights urged Sweden to consider ratifying the ILO Convention No. 169, and expressed concern about continued discrimination of Roma children with respect to their access to education as well as within the educational system.²⁰⁴ In the same document, the Committee repeated its earlier recommendation that Sweden ensures that all children entitled to mother tongue education receives such education in practice. The Committee also took note of the minority language legislation that authorized the use of Finnish, Meänkieli and Sami before public authorities and courts and recommended its effective implementation. Importantly, the Committee also asked Sweden to translate and disseminate its concluding observation in the national minority languages.

The lack of data with respect to the ethnic composition of the population in Sweden and the mother tongues and languages spoken has been a cause of concern for the Committee on the Elimination of Racial

²⁰³ See Concluding Observations on Sweden of the Human Rights Committee, 7 May 2009, CCPR/C/SWE/CO/6.

²⁰⁴ See Concluding Observations on Sweden of the Committee on Economic, Social and Cultural Rights, 1 December 2008, E/C.12/SWE/CO/5.

Discrimination.²⁰⁵ Other points of concern expressed by this Committee in its latest concluding observations on Sweden related inter alia to the lack of a provision in the new Discrimination Act providing for the adoption of special measures regarding vulnerable racial and ethnic groups, the absence of explicit criminal law provisions declaring illegal and prohibiting organizations promoting and inciting racial hatred, the increase of reported racially motivated hate crimes and the limited prosecution of such crimes. In addition, the Committee pointed out that it was particularly concerned about allegations of racial prejudice among judicial personnel and about the lack of legal interpreters. The Committee also expressed concern with respect to the continued discrimination of the Sami and the Roma, but did not mention the other national minority groups. The Committee however recommended that its observations should be publicized in the state and national languages.

2.5.1.1 European Court of Human Rights

Given the recent introduction of legal protection of national minority language in Swedish domestic law, it may not come as a surprise that the European Court of Human Rights has not yet had the chance to examine any case relating to the implementation of this legislation. Nevertheless, it is worth mentioning here one case that highlight the position of the European Court of Human Rights with respect to the right to interpretation before courts, and which may partly explain the standards currently applied in Swedish domestic legislation. In *Lagerblom v. Sweden* the applicant, a Finnish national, alleged that his rights under Article 6 of the European Convention on Human Rights had been violated in criminal proceedings against him between 1991 and 1995, as he had not been given a Finnish-speaking defence counsel.²⁰⁶ In the context of this case, the Court stated as it has earlier, that “the right guaranteed under Article 6 § 3 (e) for an accused who cannot understand or speak the language used in court to have the free assistance of an interpreter extends to all those documents or statements in the criminal proceedings which it is necessary for the accused to understand or to have rendered into the court’s language in order to have the benefit of a fair trial. The interpretation assistance provided should be such as to enable the accused to have knowledge of the case against him and to defend himself, notably by being able to put before the court his version of the events”.²⁰⁷ As the applicant had been provided with interpretation between Finnish and Swedish at both the hearings at the District Court and at the Court of Appeal, had been allowed to make oral and written submissions in Finnish to both Courts, the European Court of Human Rights unanimously held there had been no violation of Article 6.²⁰⁸

Another application that deserves mentioning was made by the Finnish Parish in Stockholm and Teuvo Hautaniemi in 1994, concerning a decision by the Assembly of the Church of Sweden to adopt a Finnish translation of its liturgy to replace the use of the liturgy of the Finnish Evangelic-Lutheran Church in the

²⁰⁵ See Concluding Observations on Sweden of the Committee on the Elimination of Racial Discrimination, 23 September 2008, CERD/C/SWE/CO/18

²⁰⁶ Case of *Lagerblom v. Sweden*, (Application no. 26891/95), European Court of Human Rights, Judgment of 14 January 2003.

²⁰⁷ Case of *Lagerblom v. Sweden*, (Application no. 26891/95), European Court of Human Rights, Judgment of 14 January 2003, at para. 61.

²⁰⁸ *Ibid.*, at paras. 62 and 64.

applicant parish.²⁰⁹ The applicant alleged a violation of Article 9, but the European Commission dismissed the application as manifestly ill-founded.

2.5.1.2 Monitoring of the implementation of the Framework Convention

In the first opinion of the Advisory Committee on the implementation of the Framework Convention on Sweden, the Committee made several remarks that contained concrete suggestions for policy and legislative reforms.²¹⁰ On a general level, the Committee noted a need to increase the awareness of the provisions of the Framework Convention as well as of the new Minority Language Laws in the country. With respect to the lack of statistical data on the ethnic composition of the population, the Committee suggested that the Government in cooperation with national minorities should consider whether additional initiatives to collect statistically sound data could be introduced in a manner respectful of the views of the persons belonging to national minorities on this issue.²¹¹ In relation to Article 4, the Committee *inter alia* welcomed the proposed reform of the discrimination laws and stressed that such a reform ought to be coupled with adequate additional resources for the monitoring of its implementation. In relation to Article 5, the Committee welcomed the 2002 creation of a special fund to support cultural initiatives of national minorities, but expressed concern about the lack of systematic participation of national minorities in the distribution of funding and encouraged the introduction of systematic methods for consultation.

With respect to the Swedish-Finns and Tornedalians, the Committee made some specific remarks in relation to Article 9, which concerns media.²¹² The Committee commented in this context on the need to ensure that the plans to stop the Finnish-language current affairs programme EKG on SVT would not amount to a negative development of the quality and quantity of SVT's broadcasting in the Finnish language. The Government should monitor whether broadcasting companies follow their obligations with respect to broadcasting in the minority languages and take measures if the companies do not fulfil their obligations, remarked the Committee. With respect to Meänkieli, the Committee noted a need to consolidate initiatives taken by SR to broadcast in Meänkieli. In relation to Article 11, the Committee also proposed that Article 4 of the National Heritage Act should be amended so that place name signs would be required to be also in Meänkieli in areas traditionally inhabited by a substantial number of Tornedalians.²¹³

On education (Article 12 of the Framework Convention), the Committee stated *inter alia* that the Government need to improve monitoring of text books used in schools in order to ensure that such text books adequately informs about various national minorities in Sweden. The decentralized responsibility for school textbooks cannot be used as an excuse for a lack of oversight in this regard. In addition, the Committee noted a need to educate more teachers in the national minority languages and to develop teaching materials particularly in Meänkieli and varieties of Sami. With respect to the regulatory framework

²⁰⁹ Finska församlingen i Stockholm och Teuvo Hautaniemi v. Sweden, (*Application No. 24019/94*), European Commission on Human Rights, Decision of 11 April 1996.

²¹⁰ Opinion on Sweden of the Advisory Committee on the Framework Convention for the Protection of National Minorities, 25 August 2002, ACFC/INF/OP/I(2003)006.

²¹¹ Opinion on Sweden of the Advisory Committee, 2002, at para. 9.

²¹² Opinion on Sweden of the Advisory Committee, 2002, at para. 42-44.

²¹³ Opinion on Sweden of the Advisory Committee, 2002, at para. 51.

for mother tongue instruction, the Committee suggested that the obligation to provide such instruction in the national minority languages should not be dependent on the availability of teachers. It also commented on the lack of an obligation to provide bilingual education classes, and suggested that such an obligation should be introduced.

In its second opinion on Sweden, the Committee pointed out shortcomings in the Swedish effort to raise awareness of the Framework Convention, including failure to translate the earlier reports and opinions of the Committee into Swedish and the minority languages.²¹⁴ It also noted that repeated changes in the allocation of responsibilities for minority issues within the governmental structures at times complicated the efforts of minorities to engage in the monitoring process and described the institutional responsibility for minority issues in Sweden as being in a constant state of flux. The fundamental role played by local authorities in implementing the minority language legislation in Sweden was recognized by the Committee, as it expressed regret at the limited interest in advancing minority protection demonstrated by local authorities. The continuous lack of data was mentioned as another obstacle to improvements in minority policies and practices.

With respect to the support for the cultural initiatives of national minorities, the Committee reiterated its opinion that representatives of national minorities ought to be ensured effective participation in the decision-making. With respect to media, the Committee commented on the need to ensure that the digitalisation of broadcasting would expand access to media for all persons belonging to national minority groups and not restrict it, given the resources needed for such technologies. It also noted that print media in the minority languages remained a weak sector and recommended that the concerns of persons belonging to national minorities should be taken into account when planning reforms of the press subsidies system.

The geographical extension of the Administrative Region for Finnish was naturally recommended by the Committee already in its first opinion on Sweden. The recommendation was repeated in the second opinion, along with a call for a swifter process in this regard. With respect to minority language education, the Committee noted in 2008 that the problems mentioned in its first report remained basically unsolved, but welcomed initiatives such as an in depth review of text book content on national minorities and the launch of the Mother Tongue Theme Website.

The latest report by Sweden to the Committee was submitted in June 2011 and is expected to be examined in 2012.²¹⁵

2.5.1.3 Monitoring of the implementation of the Language Charter

State reporting under the European Language Charter is more frequent than in relation to the Framework Convention. Sweden has already submitted four reports and the Committee of Experts that monitors the

²¹⁴ See Opinion on Sweden of the Advisory Committee on the Framework Convention for the Protection of National Minorities, 8 November 2007, ACFC/OP/II(2007)006.

²¹⁵ See http://www.coe.int/t/dghl/monitoring/minorities/3_FCNMdocs/PDF_3rd_SR_Sweden_en.pdf (as of 30 January 2012).

implementation of the Language Charter has released evaluation reports in response to three of them.²¹⁶ On the basis of these reports, the Committee of Ministers have adopted three sets of recommendations with respect to Sweden, in which Sweden has been recommended to as a matter of priority address *inter alia* the following issues:

- The need to define, in co-operation with the speakers, the areas where Finnish and Sami should enjoy protection under Part III of the Charter.
- The need to strengthen the education in regional or minority languages.
- The need to encourage the oral and written use of Sami, Finnish and Meänkieli in dealings with judicial and administrative authorities in the administrative regions.
- To facilitate the creation of newspapers in Sami and Meänkieli.

The first of the above mentioned issues relates to the territorial stretch of the Minority Language Administrative areas, which the Committee of Experts already in its first report concluded was unsatisfactory in relation to the Swedish Finns. With respect to the second issue, the Committee encouraged in its first report Sweden to take measures to improve the accessibility of primary and secondary school and technical and vocational education in Finnish and Meänkieli and to ensure monitoring and reporting on a periodic basis.²¹⁷ The Committee also found a direct breach of obligation with respect to the obligation to provide necessary basic and further training of minority language teachers.²¹⁸ The third issue was also addressed by the Committee already in its first report, as it noted *inter alia* that the undertaking to have the most important statutory texts translated into the minority languages had only partially been fulfilled and that the right to have documents orally translated into the minority languages specified in the Minority Language Laws did not fulfil the Charter obligation to produce documents in the relevant minority languages in connection with legal proceeding upon request.²¹⁹ Similarly, the Committee noted that the Minority Language Laws only obliged administrative authorities to translate decisions and official documents orally into the minority languages, and hence considered the undertakings to ensure that local and regional authorities produce official documents also in the relevant regional minority language was only partly fulfilled. With respect to media-related obligations, the Committee noted in its first report that the authorities need to collaborate with broadcasters and Finnish-speakers in order to ensure that Finnish language programmes do not suffer unfairly as a result of budget-constraints.²²⁰ It also encouraged the authorities to cooperate with broadcasters and Meänkieli speakers to explore the possibility of providing a regular locally broadcast TV news programme in Meänkieli, as well as to explore the possibility of establishing a newspaper in Meänkieli.²²¹

In the second report, the Committee of Experts sharpened its criticism with respect to the territorial scope of the Minority Language Administrative areas, stating that the percentage of Finnish speakers benefiting from the measure could be as low as 3,5% and that the geographical limitation could be seen as incompatible with the spirit of the Charter.²²² It also expressed regret that the Swedish authorities had not

²¹⁶ See http://www.coe.int/t/dg4/education/minlang/Report/default_en.asp#Sweden.

²¹⁷ See Report of the Committee of Experts on the Charter, 19 June 2003, ECRML (2003) 1.

²¹⁸ See para. 208.

²¹⁹ See para. 216.

²²⁰ See p. 40.

²²¹ See p. 56-57.

²²² See Report of the Committee of Experts on the Charter, 27 September 2006, ECRML (2006) 4.

responded to the observations and requests for further information contained in the first report.²²³ As no changes to the legislative and organisational framework with respect to minority language education had been made since the first report of the Committee, the Committee referred to its earlier comments and stressed the need for a pro-active approach by the authorities both in terms of informing minority language speaking parents of the rights of their children, of providing clearer instructions to municipalities and schools of what their obligations are, and to encourage the production of teaching materials in the minority languages.²²⁴ In addition it revised its earlier assessment that Sweden had fulfilled the obligation to ensure the teaching of the history and culture of the minority languages, and now considered the obligation only partially fulfilled.²²⁵ Sweden had also not produced any new information on how it strived to implement the obligations of judicial authorities to produce documents in the minority languages upon request, wherefore the Committee again found this undertaking unfulfilled and urged the Swedish authorities to ensure its fulfilment.²²⁶

With respect to Meänkieli, the Committee reiterated that the right to use Meänkieli before judicial authorities, though recognised in the Minority Language Act, was only formally fulfilled, as it had never been used in practice.²²⁷ No additional information had been shared on the translation of the most important statutory texts to Finnish or Meänkieli either. On a more positive note, the Committee noted that the awareness of municipalities of their obligations had increased since the first monitoring round, partly visible through the adoption of action plans for the regional and minority languages by several municipalities in the administrative areas as a result of inter-municipal co-operation.²²⁸ The Committee suggested continued support for such cooperation as a way to fulfil the undertakings with respect to administrative authorities that remained unfulfilled. Finally, with respect to the media-related obligations, the Committee concluded that the obligation to encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages had not been fulfilled as it had not received any additional information from Sweden on specific measures adopted in this regard.²²⁹ It further noted with respect to the obligation to encourage and/or facilitate the creation and/or maintenance of at least one newspaper in the regional or minority languages had not been fulfilled in relation to Meänkieli and urged the authorities to take measures to fulfil this undertaking.²³⁰

It remains to be seen how the Council of Europe will react to the new minority language legislation, which is the focus of the latest report of Sweden in relation to the implementation of the Charter.²³¹ Both the Committee of Experts as well as the Committee of Ministers will certainly welcome the territorial extension of the Finnish administrative region. The other concerns that have been expressed in the monitoring process however have concerned the quality of the language rights specified in Sweden's domestic legislation and perhaps even more importantly the quality of implementation of the domestic legislation.

²²³ See para. 15.

²²⁴ See p. 31 and p. 43.

²²⁵ See para. 66, para. 178 and para. 243.

²²⁶ See para. 188 and para. 259.

²²⁷ See para. 255.

²²⁸ See para. 199 and para. 274.

²²⁹ See para. 210 and para. 280.

²³⁰ See para. 287.

²³¹ See Sweden's Report to the Council of Europe on the European Charter for Regional and Minority Languages, submitted in September 2010.

For example, in the third round of reporting, the Committee of Experts strongly urged the Swedish authorities *inter alia* the following:

- To take action to promote pre-school education in Finnish and Meänkieli, to take action towards developing bilingual Finnish-language education at the primary and secondary level as an alternative to mother tongue education, to take steps to provide mother tongue instruction in Meänkieli in all municipalities in the administrative area and to develop bilingual education in Meänkieli as an alternative to mother tongue instruction.²³²
- To ensure that judicial authorities produce, upon request, documents connected to legal proceedings in Finnish and to take practical and organisational measures to ensure that Meänkieli can be used in criminal proceedings.²³³
- To ensure that the most important national statutory texts and those relating particularly to users of Finnish and Meänkieli are made available in Finnish and Meänkieli too.²³⁴
- To ensure that local and regional authorities publicise official documents also in the relevant regional minority languages in the regions where a minority language is traditionally spoken.²³⁵
- To encourage and/or facilitate the creation of a newspaper in Meänkieli.²³⁶

2.6 Programmes and action plans on language use and language diversity

In 1999, the government ordered all authorities under the government to draw up action plans to promote ethnic diversity among the employed. A national action plan against racism was adopted by the government and handed over to the parliament in 2001.²³⁷

Sweden adopted its first action plan on human rights in 2002 for the years 2002-2004²³⁸, and the second one in 2006 for the period 2006-2009.²³⁹ Both of the human rights action plans have dealt with questions that touch upon language use and language diversity in sections on protection against discrimination, national minorities and freedom of expression. The sections on national minorities mention all national minorities and languages. The action plans have not however included any specific measures to be taken with respect to Meänkieli. With respect to Finnish, the enlargement of the administrative area for Finnish has been the only specific measure discussed in the human rights action plans.²⁴⁰ On a general level the 2006 action plan included measures to strengthen consultation procedures for all national minorities²⁴¹, the adoption of a strategy for spreading knowledge about and increasing the awareness of Sweden's

²³² See Report of the Committee of Experts on the Charter, 6 May 2009, ECRML (2009) 3, at para. 139. and 145, and para. 201 and 204.

²³³ See para. 166 and 228.

²³⁴ See para. 169 and 240.

²³⁵ See para. 175 and 246.

²³⁶ See para. 255.

²³⁷ Regeringens skrivelse 2000/01:59, "En nationell handlingsplan mot rasism, främlingsfientlighet, homofobi och diskriminering", 7 February 2001.

²³⁸ Regeringens skrivelse 2001/02:83, "En nationell handlingsplan för de mänskliga rättigheterna", 24 January 2002.

²³⁹ Regeringens skrivelse 2005/06:95, "En nationell handlingsplan för de mänskliga rättigheterna 2006-2009", 9 March 2006.

²⁴⁰ Regeringens skrivelse 2005/06:95, "En nationell handlingsplan för de mänskliga rättigheterna 2006-2009", 9 March 2006, p. 50.

²⁴¹ Regeringens skrivelse 2005/06:95, "En nationell handlingsplan för de mänskliga rättigheterna 2006-2009", 9 March 2006, p. 52-53.

obligations according to the Framework Convention and the Language Charter,²⁴² and consideration of measures with respect to the mother tongue instruction of national minority languages.²⁴³ In addition, measures that concern the Roma and the Sami specifically have been discussed in the human rights action plans.

On the municipal level, action plans have been adopted in some municipalities that are striving to implement the minority language legislation. The first municipality to adopt an action plan for Meänkieli and Finnish was the municipality of Pajala.

In the 2011 budget, the government appointed 85 million Swedish Crowns for the implementation of its minority policy and legislation.²⁴⁴ The bigger share of this amount is reserved for local, regional and national authorities that work to implement the policy and legislation.

2.7 View on language and minority legislation in the wider public discourse and media

Previous research by Nieminen Mänty analyzed how Sweden Finns were portrayed in mainstream Swedish media, more specifically in six major daily newspapers.²⁴⁵ The result of the study published in 2004 suggested that the portrayal of Sweden Finns in mainstream media was fragmented bordering to non-existent. Nieminen Mänty also noted that the distinction between national minorities and immigrants and the status of Sweden Finns as belonging to the former was not always presented clearly in the media. Nieminen Mänty noted further that many articles stressed that the Swedish integration policy had failed. In this context, the legislation on national minorities was presented as a much welcomed measure that was the first step to redeem the disastrous integration policy of the past.

It is easy to find reports in mainstream national media that have concerned the legal developments relating to the national minorities of the last decade.²⁴⁶ Reports that tell the stories of national minority individuals struggling to claim their language rights are also fairly common in national media.²⁴⁷ It is harder to find debate articles that concern the minority language legislation, especially debate articles that do not

²⁴² Regeringens skrivelse 2005/06:95, "En nationell handlingsplan för de mänskliga rättigheterna 2006-2009", 9 March 2006, p. 53-54.

²⁴³ Regeringens skrivelse 2005/06:95, "En nationell handlingsplan för de mänskliga rättigheterna 2006-2009", 9 March 2006, p. 54.

²⁴⁴ See <http://www.regeringen.se/sb/d/11787/a/88600>

²⁴⁵ See Nieminen Mänty, N. "Sverigefinländare i majoritetsmedia – en diskursanalytisk studie" in Lainio, J. (ed.) *Gammalt och nytt om sverigefinnar och finskt i Sverige*, Report from the Finnish language and cultural centre at Mälardalens högskola, 2004. The newspaper studied were Aftonbladet, Dagens Nyheter, Expressen, Norrländska Socialdemokraten, Svenska Dagbladet and Sydsvenska Dagbladet.

²⁴⁶ See for example "Tornedalsfinskan får sin första språkvårdare" *Aftonbladet*, 2 August 2007, available at <http://www.aftonbladet.se/nyheter/article560189.ab>; "Stärkt ställning för finska och jiddisch" *Svenska Dagbladet*, 14 September 2007, available at http://www.svd.se/nyheter/inrikes/starkt-stallning-for-finska-och-jiddisch_20334.svd; "Fler får läsa minoritetsspråk" *Aftonbladet*, 20 September 2007, available at <http://www.aftonbladet.se/nyheter/article815801.ab>; "Myndighet ska prata minoritetsspråk" *Svenska Dagbladet*, 29 January 2009, available at http://www.svd.se/nyheter/inrikes/myndighet-ska-prata-minoritetssprak_2390211.svd; "Sverige risas om minoritetsspråk" *Svenska Dagbladet*, 6 May 2009, available at http://www.svd.se/nyheter/inrikes/sverige-risas-om-minoritetssprak_2849095.svd; "Skolan sviker de romska barnen" *Dagens Nyheter*, available at <http://www.dn.se/ledare/signerat/skolan-sviker-de-romska-barnen>

²⁴⁷ See for example "Hemspråk i Stockholm – inte alla barn får läsa samiska" *Dagens Nyheter*, 11.11.2001

originate from the government and that present another view than the official view. It seems that the public debate regarding these developments has been fairly limited in media on the national level in the last decade. The official view on language and minority legislation is also the dominant view in the wider public discourse. This suggests either that the minority protection and legislation in Sweden is largely perceived as legitimate and acceptable or that the issue in general is only a peripheral concern to the general public. Some individuals to the far right questioned the idea of introducing minority language legislation prior to 2000.²⁴⁸

The status of the Swedish language in Sweden and the (lack of) efforts by the government to protect and promote Swedish has been debated more intensely in national media. To some extent this debate was spurred by the legal recognition of the national minority languages in 2000. In connection with two legislative bills presented by the government in 2002²⁴⁹ and 2005²⁵⁰, the debate became heated and focused especially on whether a new statute ought to be adopted to ground the status of Swedish as the main language of Sweden in law.²⁵¹ Many of the contributions expressed concern about the loss of domains where Swedish had been used previously in favour of English, and called for increased protection and promotion of Swedish, including legal protection.

2.8 Perceived effect of the examined legislation on the languages and language communities studied

After the introduction of the minority language laws in 2000, several studies were conducted to follow up the effect of the legislation. Among these is a study conducted by historian Lars Elenius commissioned by the constitutional committee of the Swedish parliament of the implementation and use of the laws in Norrbotten County between 2000 and 2004.²⁵² The study showed that there had been a slight increase in the demand for services in Finnish and Meänkieli reported by many authorities in the municipalities belonging to the minority language administrative region. In the municipality of Övertorneå, the demand for services in Meänkieli seemed to have increased the most, while the demand for services in Finnish seemed to have increased most in Haparanda. With respect to the demand for using minority languages before courts, the study detected a slight increase in the demand for using Finnish, but not for any other languages. The study further noted that the minority language laws seemed to have in a very powerful way increased the participation of national minorities in cultural activities, especially in the Torne Valley.

The Sami Parliament and the County Administrative Board of Stockholm released a first report on the implementation of the new minority language legislation in 2011. While the effect of the legislation on the languages and language communities is not a core focus of the report, it may be noted that it reveals that the possibility introduced by the new law for municipalities to opt to become part of the minority language

²⁴⁸ See for example debate article by Sten Anderson i Svenska Dagbladet 2.7.1998.

²⁴⁹ *Mål i mun – Förslag till handlingsprogram för svenska språket*, SOU 2002:27, 2 April 2002.

²⁵⁰ *Bästa språket – en samlad svensk språkpolitik*, 2005/06:2, 29 September 2005.

²⁵¹ See *inter alia* "Svenska språket dör ut på landets universitet" *Dagens Nyheter*, 17.6.2005, "Engelskan breder ur sig på svenskans bekostnad" *Dagens Nyheter*, 25.8.2005, "Är god svenska diskriminerande?" *Svenska dagbladet*, 6.12.2005.

²⁵² See Lars Elenius, "Ett uthålligt språk – genomförandet av lagarna om användning av minoritetsspråk i förvaltningsområdena i Norrbottens län åren 2000-2004".

administrative areas has been used. Three municipalities applied to become part of the Finnish administrative area and were accepted in May 2010, and one to become part of the Sami administrative region.²⁵³ This suggests that the legislation has activated Finnish-speakers in Borås, Surahammar and Västerås to lobby for the unification of these municipalities with the Finnish administrative area. This was definitely the case in Surahammar.²⁵⁴ In addition, the report notes that the requirements for consultation with the minorities of the law led to the registration of a local Finnish organization, able to act as a consultative body for the municipality of Österåker, where previously no such organisation existed.²⁵⁵

3 The legal actors

3.1 Minority and language group actors involved in legal and policy debates

The main actor involved in legal and policy debates concerning Meänkieli is the National Association of Swedish Tornedalians, *Svenska Tornedalingarnas Riksförbund - Torniolaaksolaiset* (STR-T), founded in 1981.²⁵⁶ The organisation is the only established national association for Meänkieli-speakers and functions as a consultative body to the government with respect to proposals concerning linguistic, cultural and societal questions. It has at least four local chapters, based in Pajala, Gällivare, Stockholm and Umeå, and is engaged in legal and policy debates also on the local level within the Meänkieli administrative region. The National Association of Finns in Sweden, *Ruotsinsuomalaisten Keskusliitto* (RSKL), founded in 1957, is a similar interest organisation that works to promote the interests, ambitions and active societal participation of Swedish Finns with the goal to achieve equality with the majority population.²⁵⁷ It consists of at least 123 local Finnish societies and ten district offices. The National Association of Sweden Finns runs several Finnish language institutions such as pre-schools, independent schools, folk high schools and various types of elderly homes, but it does not function as a consultative body to the government. On the local level however, several of the local Finnish societies are involved in legal and policy debates. In connection with the enactment of the new minority language laws in 2000, the Sweden Finnish Delegation, *Ruotsinsuomalaisten Valtuuskunta*, was formed to represent the Sweden Finnish minority in contacts with the Swedish State authorities and the Council of Europe.²⁵⁸ The Sweden Finnish Delegation includes in addition to the National Association of Finns in Sweden, also the National Association of Swedish-speaking Finns in Sweden (*Finlandssvenskarnas riksförbund i Sverige*, FRIS), several Finnish religious assemblies, as well as various Swedish Finnish professional networks. According to the statutes of the Delegation, the two

²⁵³ See "Rapport om tillämpningen av lagen om nationella minoriteter och minoritetsspråk år 2010", The County Administrative Board of Stockholm and the Sami Parliament, p. 3.

²⁵⁴ See "Rapport om tillämpningen av lagen om nationella minoriteter och minoritetsspråk år 2010", The County Administrative Board of Stockholm and the Sami Parliament, p. 5.

²⁵⁵ See "Rapport om tillämpningen av lagen om nationella minoriteter och minoritetsspråk år 2010", The County Administrative Board of Stockholm and the Sami Parliament, p. 5.

²⁵⁶ More information about STR-T is available at its homepage <http://www.str-t.com>

²⁵⁷ See more information about the National Association of Finns in Sweden at its homepage <http://www.rskl.se>. RSKL is a short form of the Finnish version of the name of the organisation, Ruotsinsuomalaisten Keskusliitto. The Swedish version is Sverigefinska Riksförbundet, SFRF in short.

²⁵⁸ Ruotsinsuomalaisten Valtuuskunta is the Finnish name of the Delegation, in Swedish it is Sverigefinländarnas Delegation. See <http://www.sverigefinne.nu>

National Associations and the Finnish section of the Swedish Church may appoint one representative per 1-499 members, another per 500-999 members, and then an additional representative for every 1000 additional members, although at most 7 representatives in total. This model seemingly favors the representation of Swedish-speaking Finns in the Delegation. Other member organizations and networks have one representative each in the Delegation.²⁵⁹

3.2 Other actors

The Swedish Finnish Delegation has enjoyed close cooperation with the other four national minorities in Sweden.²⁶⁰ According to the chairperson Markku Peura, the cooperation with other national minorities has become more sporadic in the past two years as one important forum for such cooperation, the Swedish Bureau for Lesser Used Languages (SWEBLUL), was closed down.²⁶¹ Current forums for meeting representatives of the other national minorities are according to Peura mainly consultative meetings arranged by the Minister for Minorities or by the County Administrative Board of Stockholm. Another actor that the Delegation meets with on a regular basis is, perhaps surprisingly, the Swedish Assembly of Finland (*Svenska Finlands folkting*). This is an organ founded in 1919, which functions as a consultative body to the Finnish government in relation to questions that concern the status of the Swedish language and culture in Finland.²⁶² Cooperation with other national minorities around Europe and other groups within the Finno-Ugric language family is also seen by the Delegation as a pre-requisite for the maintenance and development of the Finnish language and Sweden Finnish culture.

According to Maja Mella, the operative chief of STR-T, STR-T co-operates with other national minorities, in the last couple of years primarily through projects within the fields of equality, power, health and entrepreneurship.²⁶³ Besides other national minority organisations, the STR-T has also according to Mella cooperated with the Red Cross primarily with respect to information exchange and development questions.

3.3 Channels of participation in language related matters

Administrative authorities are legally bound to give the national minorities opportunities to influence questions that affect them and to, as far as possible, consult representatives of such minority groups in such questions.²⁶⁴ This obligation is part of the so-called basic protection of national minorities and applies to all administrative authorities across Sweden, not only those that are part of an administrative region for a particular minority language.

In practice however this obligation seems to have been largely forgotten, especially on the regional administrative level and outside of the administrative regions. As the County Administrative Board of Stockholm and the Sami parliament followed up the implementation of the new minority language law,

²⁵⁹ See Article 3 (1) and (2) of the Statutes of the Sweden Finnish Delegation.

²⁶⁰ See Sverigefinländarnas minoritetspolitiska program, available at <http://www.sverigefinne.nu/Program.pdf>

²⁶¹ See e-mail reply of Markku Peura of 19 April 2011. SWEBUL was financed by the EU and connected to the European Bureau for Lesser Used Languages (EBLUL). When the EU cut its financial contributions the Swedish Bureau had to close.

²⁶² For more information see its homepage at <http://www.folktinget.fi/sve>

²⁶³ Response from Maja Mella in an e-mail dated 31 March 2011.

²⁶⁴ 5 §, Lag om nationella minoriteter och minoritetsspråk, SFS 2009:724.

only four regional administrative authorities reported that they had operated with consultations of national minority representatives in 2010.²⁶⁵ Municipalities outside of the administrative regions were not even requested to report how they had implemented this obligation in the follow up process. Though most of the municipalities that form part of the administrative region for Finnish have established some form of consultative forum, five municipalities reported that they still operated without consulting representatives for the minority.²⁶⁶ While three of these are municipalities that have recently have joined the administrative region, two are surprisingly municipalities that have belonged to the administrative region since 2000.²⁶⁷ The consultative forums that exist in the other municipalities are diverse with respect to how often they meet and how they are constituted.

On the national level, national minority organizations are regularly invited to participate in the legislative process as consultative bodies for legislative proposals. In addition, the Minister responsible for minorities reportedly arranges regular meetings with representatives for national minorities, as have the County Administrative Board of Stockholm done in the past year. In order to strengthen the consultation on the national level, the government has since 2006 strived to invite representatives of the national minorities to participate in meetings in connection with the preparation of Swedish reports to the Council of Europe on the implementation of the Language Charter and the Framework Convention.²⁶⁸

Certain forums on the international level can also offer channels of participation to national minority representatives. One example is the Finnish Swedish working group on minorities and minority languages, which was established in 2001 as a forum for dialogue and exchange between the governments of Finland and Sweden with respect to questions concerning minorities and minority languages. Another was the Finnish Swedish Educational Council, which functioned since the 1960's, but which reportedly has stopped operating recently.²⁶⁹ In addition, the Council of Europe and the European Bureau for Lesser Used Languages have offered channels of participation for the national minorities at the international level.

3.4 Use of channels of participation in practice

STR-T has established contacts in all the municipalities that belong to the administrative region for Meänkieli.²⁷⁰ According to Mella, formal consultations with Meänkieli speakers take place in the municipalities of Gällivare, Haparanda and Kalix, while STR-T is involved in dialogue in all the other municipalities (Kiruna, Pajala and Övertorneå). A first consultation was scheduled in Övertorneå in May 2011. Beside these municipalities, STR-T also participates in consultation with the municipality of Luleå. On the national level, STR-T also participates in consultations arranged by the ministerial departments that handle minority questions, such as the Ministry of Labour, the Ministry of Education and the Ministry of Culture. Other organs that STR-T are involved in a dialogue with, and which consults STR-T, are the County

²⁶⁵ See "Rapport om tillämpningen av lagen om nationella minoriteter och minoritetsspråk år 2010", The County Administrative Board of Stockholm and the Sami Parliament, p. 27.

²⁶⁶ See "Rapport om tillämpningen av lagen om nationella minoriteter och minoritetsspråk år 2010", The County Administrative Board of Stockholm and the Sami Parliament, p. 4.

²⁶⁷ These are the municipalities of Pajala and Övertorneå.

²⁶⁸ See Regeringens skrivelse 2005/06:95, "En nationell handlingsplan för de mänskliga rättigheterna 2006-2009", 9 March 2006, p. 53.

²⁶⁹ See E-mail reply from Peura of 19 April 2011.

²⁷⁰ E-mail reply from Maija Mella dated 20 April 2011.

Administrative Board of Stockholm, the Institute for Language and Folklore, as well as the public media service companies *Utbildningsradion* and *Sveriges Television*.

The Sweden Finnish Delegation is active in the legislative process as a consultative body, contributing with its opinion on the questions at stake. According to Peura, the Sweden Finnish Delegation also regularly participates in consultative meetings with the Minority Minister and other authorities, including the County Administrative Board of Stockholm.²⁷¹ These formal consultative meetings are described by Peura as important channels of influence. In addition, the Delegation is actively pushing questions it regards important through formal and informal meetings with politicians on both the local and the national level.

There is some concern that the financial or personal resources of national minority organizations are being overstretched by the increased demand on national minority representatives to participate in consultative meetings and processes with administrative authorities at all levels. Small national minority organizations naturally are less equipped to fully participate in the consultative processes, and for the northern-based Sami and Meänkieli, participation at the national level may come at a higher cost as the consultative meetings often take place in the capital. While both STR-T and the Sweden Finnish Delegation receive state subsidies earmarked for strengthening their participation in consultation and dialogue, the level of the subsidy has been criticised for being too low.²⁷² In response to such concerns some authorities, for example the National School Agency and the County Administrative Board of Stockholm, have reportedly started to coordinate their consultative meetings.²⁷³

3.5 Institutions responsible for minority and language policies

National minorities and minority languages was founded as a policy area of its own in 2000. At the same time, a working group was appointed to coordinate the minority policies of the government and to contribute to evaluations of the same policies.

After the adoption of a language political program in 2005, the Ministry for Culture was made primarily responsible for the Swedish language policy. The responsibility for minority languages however was transferred to the Ministry for Integration and Equality, which was formed in 2007. This department was however disbanded in 2010 and the responsibility for handling questions concerning integration and equality distributed among the Ministries of Justice, of Education, and of the Labour Market. Since 2011, it is the Ministry of the Labour Market that holds the responsibility for national minority questions. The Associate Labour Market Minister Erik Ullenhaag also has the title Minister of Integration, and is responsible for integration, measures to prevent discrimination, the protection of human rights nationally, Swedish citizenship, and minority policy.²⁷⁴

The municipalities carried a large responsibility for the implementation of the legislation concerning national minorities and minority languages.

²⁷¹ See E-mail reply from Peura of 19 April 2011.

²⁷² Delbetänkande av Utredningen om finska och de sydsamiska språken, *Rätten till mitt språk – förstärkt minoritetsskydd*, Swedish Government Official Reports No. 2005:40, Stockholm, 2005, p. 187.

²⁷³ Interview with Mats Wennerholm of 28.4.2011.

²⁷⁴ See <http://www.regeringen.se/sb/d/13490/a/155711>

With respect to the state-funded language cultivation and planning, such measures for Swedish as well as for the national minority languages were coordinated under the same institution in 2006. Since 1 June 2006, it is the Institute of Language and Folklore that oversees such language planning.

3.6 The role of the kin-state or country of origin in language maintenance

According to Peura, the Finnish Embassy in Stockholm actively contributed to the process that led to the recognition in Sweden of Finnish as a national minority language and still plays an important role in the maintenance of the Finnish language in Sweden.²⁷⁵ However, after the recognition of Finnish as a national minority language, the economic support from Finland to Sweden Finnish organizations has declined. Sources at the Finnish Embassy confirm that the embassy was in close contact with Sweden Finnish organizations and Swedish decision-makers when the Act on National Minorities and Minority Languages was prepared.²⁷⁶ The Finnish embassy in Stockholm also maintains a list over child care, pre-schools and independent schools in Sweden that offer services and education in Finnish.²⁷⁷

4 Concluding remarks

4.1 Regulation of the languages and language communities in the legal and institutional system

The languages and language communities studied in the ELDIA project are today regulated in the legal and institutional system of Sweden. However, there are no constitutional regulations specifically about Finnish and Meänkieli. The regulations that exist at the constitutional level affecting the situation of languages and language communities in Sweden include a prohibition of mandatory registering of the population on the basis of *inter alia* ethnic or linguistic belonging and an obligation on behalf of the authorities to act preventively against discrimination as well as a prohibition on discrimination. In addition, the constitution provides that the promotion of opportunities of the Sami and other ethnic, linguistic and religious minorities in Sweden to preserve and develop their own cultural and common life is a compulsory objective of governance.

The use of Finnish and Meänkieli in Sweden has been regulated mainly through the minority language laws of 2000, and the Minority Language Act which replaced these in 2010. The regulations that exist at this level create special rights for the use of these languages within specific administrative areas, but it also obliges authorities across the country to promote the opportunities of national minorities to preserve and develop their own culture and to influence questions that affect them. The latest Act enlarged the administrative area where Finnish-speakers have special rights and empowered municipalities anywhere in the country to opt to become part of the minority language administrative regions. It also shifted the

²⁷⁵ See E-mail reply from Peura of 19 April 2011.

²⁷⁶ See E-mail reply from Henrik Wilén, civil servant at the Finnish Embassy in Stockholm, of 12.5.2011.

²⁷⁷ See homepage of the Finnish embassy in Stockholm, www.finland.se

institutional responsibility for overseeing the implementation of the regulations from the County Administrative Board in Norrbotten, to that in Stockholm.

4.2 Attitudes towards the legal and institutional regulation of the languages and language communities

The introduction of legal and institutional regulation of Finnish and Meänkieli in Sweden has largely been perceived as positive in the national public discourse, with a few exceptions on the far right. Finnish and Meänkieli speakers and representatives of these two minorities towards the legal and institutional regulation tend however to perceive the regulations as not going far enough and especially as having been introduced too late. With respect to the implementation of the minority language legislation, there is also a discrepancy between attitudes held within the government and attitudes of national minority representatives and language speakers. While the government emphasises the novelty of the legislation and that it takes time for good implementation models to evolve, national minority representatives and language speakers would like to see swifter results.

4.3 The position of language diversity in the legal and political system

The objectives of the Swedish legal and political system are summarized in the 2nd paragraph of the 1st Chapter of the Instrument of Governance. It states that the individual's personal, economic and cultural well-being shall be the goals of the system.²⁷⁸ While the constitution states that the opportunities of ethnic, linguistic and religious minorities to preserve their own culture and languages shall be promoted, this is not explicitly listed as a goal of the legal and political system. To guard the linguistic diversity in Sweden is however mentioned as one of the aims of the 2009 Language Act.

In other words, language diversity is not a goal in itself of the legal and political system. Language diversity is desirable only to the extent that it furthers the personal, economic and cultural well-being of individuals. Because language is seen as an important factor in determining the well-being of individuals, Sweden has adopted a language policy and the Language Act in order to guard the status of Swedish and the national minority languages nationally and internationally.

4.4 Conclusion

While there is legislation that recognizes Finnish as a national minority language in Sweden and the right to use Finnish before administrative authorities and courts, this legislation is relatively recent. Mother tongue instruction in Finnish has been offered for a longer time within the educational system, but the percentage of students that receives such instruction is not very high. Sweden has repeatedly been encouraged by international monitoring bodies to improve the availability of mother tongue instruction, inter alia by

²⁷⁸ 2 §, 1st Chapter, Instrument of Government, (Regeringsformen), as amended through Act 2010:1408.

educating more mother tongue teachers. Still, no additional funding has been granted to the universities that offer higher level education in the national minority languages.

The physical availability of the existing regulations with respect to Finnish increased massively after the reform of the minority language legislation in 2010 that extended the territory for the Finnish administrative region. It may no longer be regarded as very low, which it should have been prior to 2010. Nevertheless, as implementing measures have yet to find their forms in several municipalities and on the national level, the availability of the existing regulations may not yet be regarded as very high. On the whole, non-discrimination regulation is available but lacking in implementation and there has been concern expressed that Sweden ought to make further efforts to make translations available of the most important statutes.

The current minority language legislation contains an important element of flexibility. Municipalities outside the minority language administrative regions may apply to become part of these administrative regions, i.e. the geographic territories of the minority language administrative regions are not fixed. This ensures a high degree of adaptability of the minority language regulations to the needs of changing societies and communities. However, some other aspects of the legislative framework that affects the Finnish language in Sweden are fairly rigid, and could become more flexible. For example, with respect to bilingual or trilingual children, the educational system only allows schools to offer instruction in two mother tongues besides Swedish to children of Roma background. Overall, the system may be regarded as highly adaptable, considering the many reforms that have been made since the 1970's both with respect to mother tongue instruction, and with respect to the status of Finnish in Sweden in general.

While the introduction of the minority language legislation has been generally perceived as positive, representatives of the Finnish minority have questioned the quality of the legislative provisions and more particularly, of the implementation measures or lack of such measures. The absence of polemic in the national media against the minority protection system suggests that acceptability of the system is still relatively high.

The language and minority legislation attempts to safeguard language diversity in Sweden. Language diversity is however not an explicit goal of the Swedish legal system as a whole, which mainly strives to further the individual's personal, economic and cultural well-being. Prevalence of trust in the rule of law is very high in Sweden when compared with other countries globally. The stability of the legal system may be regarded as very high. With respect to the legislation that concerns language matters, the extent to which the legal rules and measures are implemented in practice varies. Whereas the national minority language legislation seem to be implemented to a fairly high degree within the administrative region for Finnish, the provisions of the legislation that concern authorities across the country seem to have attracted less attention.

While there is legislation that recognizes Meänkieli as a national minority language and the right to use Meänkieli before administrative authorities and courts, this legislation is relatively recent. Mother tongue instruction in Meänkieli has been offered for a longer time within the educational system, but the percentage of students that receives such instruction is not very high. Sweden has repeatedly been

encouraged by international monitoring bodies to improve the availability of mother tongue instruction, inter alia by educating more mother tongue teachers. Still, no additional funding has been granted to the universities that offer higher level education in the national minority languages.

Unlike the situation with respect to Finnish, the physical accessibility of Meänkieli was not really improved by the most recent reform of the minority language legislation. Instead, the responsibility for monitoring the implementation of the minority language regulation moved further away from the Meänkieli administrative region. The language in itself is not considered by many speakers enough developed to be used before courts in the administrative region. Translations of Swedish statutes are not available to the same extent as in Finnish.

The fact that the geographic territories of the minority language administrative regions are not fixed does not benefit Meänkieli to the same extent as Finnish. Meänkieli speakers are so few that it would be unlikely that they could influence another municipality outside the current administrative region for Meänkieli to apply to become part of the Meänkieli administrative region. The specific concern of Meänkieli speakers is that not enough children learn Meänkieli in order for the language to survive as a spoken language. While some municipalities within the administrative region have attempted to make Meänkieli compulsory in schools in order to safeguard the survival of the language, such policies have not been upheld. There are reports that national agencies have not supported such policies. On the other hand, the mother tongue instruction reforms of the mid-1980's did take consideration to the concerns of Meänkieli speakers, and the demands to recognize Meänkieli as a language were met.

While the introduction of the minority language legislation has been generally perceived as positive, representatives of the Meänkieli minority have questioned the quality of the legislative provisions and more particularly, of the implementation measures or lack of such measures. With respect to the legislation that concerns language matters, the extent to which the legal rules and measures are implemented in practice varies. As mentioned above, whereas the national minority language legislation seem to be implemented to a fairly high degree within the administrative region for Meänkieli, the provisions of the legislation that concern authorities across the country seem to have attracted less attention.

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