



**UiT** The Arctic University of Norway

The Faculty of Humanities, Social Sciences and Education

**State Protection and Promotion of the Sami and Frisian Languages in the  
European Charter for Regional or Minority Languages Reports**

A comparative study of Germany, the Netherlands, Norway, and Sweden

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Master's thesis in Indigenous Studies, November 2023



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Foar Heit & Pake

Foar altyd yn myn tinzen



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## **Abstract**

This thesis discusses the protection and promotion of Indigenous and minority languages by analyzing the European Charter for Regional or Minority Languages (ECRML). The study is comparative in nature and focuses on the Sami languages, in Norway and Sweden, and the Frisian languages, in Germany and the Netherlands. The ECRML and its explanatory report are analyzed as well as the latest complete cycle of reports made by the states, the Committee of Experts (COMEX), and the Committee of Ministers. This limiting of the number of documents is necessary to constrain the scope of the thesis and still allow insights in the protection and promotion of the Sami and Frisian languages by these four states. The comparative nature of the study is found in the comparison of the states' approaches to the protection and promotion of the languages in relation to the ECRML. This sheds some light on the differences and similarities between the states' approaches to and compliance with the ECRML. The main goal of this thesis is to understand how the linguistic rights of the Sami and Frisians, that are stated in the ECRML, are addressed and followed up in the respective states in terms of protection and promotion in the primary educational sphere. The importance of this thesis lies in the creation of understanding of the similarities and differences in approaches that the four states employ to protect and promote the Sami and Frisian languages as well as what one can learn from these approaches in terms of state compliance with the ECRML.

*Keywords: European Charter for Regional or Minority Languages, Sami languages, Frisian languages, state compliance, protection, promotion*



## **Abbreviation list**

CoE = Council of Europe

COMEX = Committee of Experts

CRC = The Convention on the Rights of the Child

ECRML = European Charter for Regional or Minority Languages

FCNM = European Framework Convention for National Minorities

ICCPR = United Nations International Covenant on Civil and Political Rights

ILO = International Labour Organization

NIM = Norwegian National Human Rights Institution

UDHR = Universal Declaration of Human Rights

UN = United Nations

UNDRIP = United Nations Declaration on the Rights of Indigenous Peoples

UNESCO = United Nations Educational, Scientific and Cultural Organization

UNGA Minorities Declaration = United Nations Declaration on the Rights of Persons  
Belonging to National or Ethnic, Religious and Linguistic Minorities

WWII = Second World War



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# 1 Introduction

## 1.1 The Topic

Language is personal and near to one's heart. I still clearly remember the times when someone made me feel uncomfortable about the language I was speaking. High school would be one of the places I can pinpoint where I did not feel comfortable around certain people to speak Frisian. We did have Frisian at high school, but a lot of the non-Frisian students would laugh at certain words or sounds. Many in the class did not take the lessons or the language seriously and this was reinforced by us only having it for less than six months. There were also instances where people asked us to 'just talk normally', meaning that we should just speak Dutch, because Frisian is not a 'normal' language to be spoken in the Netherlands, even though it is the official second language of the state. Luckily, these incidents were isolated, but they still left their mark. During my studies at the Master program Indigenous Studies (MIS) at UiT the Arctic University of Norway, the assimilation policies that focused on the Sami and their languages were often brought up when trying to understand the current language situation of the Sami in the respective states. One of the consequences of these assimilation policies in terms of language were that the Sami felt ashamed of their languages and did not feel comfortable speaking it. This led to many Sami not speaking their mother tongue with their children and grandchildren, which endangered the Sami languages. Now, it is very hard for those who were not raised with the Sami languages to learn and speak the languages and to become active language users.

Policies of assimilation and oppression of languages are caused by inequalities in power. This begs the question why some languages are deemed more 'normal' than others and how this hierarchy of languages can have less impact? Language is personal, it influences one's way of seeing the world and how one can express what they see, hear, and feel. However, the above-mentioned incidents showcase how language is not only personal but also political. Therefore, the struggle for equity between languages should be handled on a political level as well.

With language being political, I mean that the topic belongs to the political sphere, is regulated, and has been and can be used to dominate. Power relations have and still do influence the hierarchy of languages, which results in inequality (Gorter, 2001; Shuibhne, 2002). Inequality between languages, groups and peoples in the past and present have led to

the creation of concepts that identify this unequal relation between a dominant majority and a minority or an Indigenous people (Nelde et al., 1996; Shuibhne, 2002). The Euromosaic project of the European Commission has defined minority language groups not in relation to empirical measures but to issues of power.

*“(...) they are language groups, conceived of as social groups, marked by a specific language and culture, that exist within the wider societies and states but which lack the political, institutional and ideological structures which can guarantee the relevance of those languages for everyday life of members of such groups.”* (Nelde et al., 1996, p. 1).

Minority language groups have, thus, been defined as groups of people that speak a language mainly used in the private sphere of the home or in the non-institutionalized spheres of everyday life. This speaks to the concept of recognition, which is related to minority-state relationships connected to power dynamics. Each state will have a different relationship with their minorities and, therefore, minority protection and promotion are not approached in the same manner and to the same extent globally (Henrard & Dunbar, 2008).

Protection and promotion of minority and Indigenous languages can help in battling the inequality that is present and counter the power dynamics at play. Protection can be linked to the concepts ‘negative’ (aspects of) rights and linguistic tolerance, which can be defined in short as rights and protective measures focused on protection against discrimination (Broderstad, 2022b). For promotion, the concepts of ‘positive’ (aspects of) rights and linguistic promotion can be connected and can be defined as the implementation and enforcement of rights by an actor (Broderstad, 2022b). States address linguistic tolerance and promotion differently. More discussion on these terms can be found in the theory chapter.

There are no globally applicable legally binding international documents solely focused on linguistic rights for minorities. However, on the international level, there are some documents that explicitly mention linguistic rights for minorities. Article 27 of the United Nations (UN) International Covenant on Civil and Political Rights (ICCPR) states that ethnic, religious, and linguistic minorities have the right to utilize their own language in community

with other members of the group (UN General Assembly, 1966).<sup>1</sup> The Convention on the Rights of the Child (CRC) makes a similar statement in Article 30 but specifically mentions both children who belong to a minority and Indigenous children (UN General Assembly, 1989). Another example is Article 4 in the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNGA Minorities Declaration). It states that minorities should have the opportunity to learn their language or to receive instruction in their language. The United Nations Educational, Scientific and Cultural Organization's (UNESCO) convention against discrimination in education states that national minorities have the right to carry out their educational activities and use and teach in their language (UNESCO, 1962).

Other international documents, like the Universal Declaration of Human Rights (UDHR), mention that every person has the right to speak their own language, but this is not specific to minorities but to all humans. This was in line with the trend to subsume minority rights under the newly created Human Rights framework after the Second World War (WWII), which continued until the 1990s when minority rights came back to the international legal sphere (Åhren, 2016a; Preece, 1997). Thus, most of the international documents concerning minority linguistic rights were created long after WWII, when concepts such as multiculturalism, diversity and globalization also emerged (Henrard & Dunbar, 2008). Reasons often cited for the re-emergence of minority rights are multiculturalism and diversity. The preservation of the cultures and languages are deemed highly essential in order to preserve multiculturalism and diversity, especially in the European context (Dunbar, 2001; Henrard & Dunbar, 2008).

Simultaneously, the Indigenous rights movement gained momentum in the 1970s and 80s (Fan, 2016). Some important documents often cited are José Martínez Cobo's reports for the UN's study on the 'Problem of Discrimination against Indigenous Populations' from 1981 to 1983, the International Labour Organization Indigenous and Tribal Peoples Convention n.169 (ILO 169) in 1989 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007. ILO 169 is legally binding while the UNDRIP is not (Åhren,

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<sup>1</sup> The Article addresses the rights of members of minorities in community with the other members, to enjoy their own culture, to profess and practice their own religion, or to use their own language. This is also an important legal source for Indigenous peoples as the Article through practice has become the most important international provision on the protection of Indigenous peoples against interference and on their rights to safeguard and further develop their culture (NIM - Norwegian National Human Rights Institution, 2021, p. 6).

2016b). These documents, among other things, focus on the issue of land rights, which is specifically linked to Indigenous peoples and not minorities (Åhren, 2016b), a distinction apparent in international law. On the European level, this distinction becomes convoluted, shown by Indigenous peoples being put into the minority category. Only a few legally binding documents focus on the protection of minorities and none specifically on the protection of Indigenous peoples. The European Charter for Regional or Minority Languages (ECRML) focuses on minority languages and entered into force in 1998 (Council of Europe, 1992a). Analyzing the ECRML is the goal of this thesis to understand the roles of the states in the protection and promotion of the Sami and Frisian languages.

## **1.2 Literature Review**

Valeria Cardi analyzes the relationship between different levels of protection and/or promotion of minority and regional languages and language use patterns in judicial courts. Provisions to use minority and regional languages in judicial courts can be found in the ECRML. Cardi endeavored to find out if regional and minority language protection and promotion are effective in boosting the use of the languages in judicial courts. The author utilizes the concepts of linguistic tolerance, protection from discrimination and assimilation, and linguistic promotion, ‘positive’ rights to key public services (Cardi, 2007), which are useful for my study. Cardi concludes that “higher levels of linguistic protection and promotion in the ‘legal’ domain are not effective in terms of encouraging regional and minority language use.” (2007, p. 20) and that part of this can be attributed to people’s willingness to speak the language in the judicial courts and if they perceive that that is the best language to use for that function. Cardi utilizes the same categories, protection and promotion, on the ECRML which is helpful for my understanding of them in relation to the ECRML. The similarities in tools and framing have shown me how these theoretical tools can be utilized and how my research can be framed.

Paulette van der Voet’s thesis discusses language policies in the Sami context in Norway in the educational sphere and conducts critical discourse analysis on the curricula. The author distinguishes three factors: geographical dimension of the administrative area, different discourses about the importance of Sami language education, and functional bilingualism. These three factors influence the possibility of Sami children to learn and use Sami in school. Van der Voet’s thesis discusses documents on the national level and provides

a good understanding of the difficulties that can be found closer to the ground level (van der Voet, 2019). In her theoretical framework she poses the question of whether the unequal power structures, that produce language shift and language endangerment, “are challenged in both language revitalization efforts and research about it, or that these power structures are maintained and reshaped” (van der Voet, 2019, p. 20).

Mirjam Terlaak Poot’s thesis examines national and regional policies by examining to what extent the European Union’s Multilingualisms policy and the ECRML are reflected in the documents as well as the implementation of the European policies on the school level. The focus was on secondary education. The author utilizes two case studies: the Basques and the Frisians and the theoretical framework focuses on multi-level policymaking. Most policies do not refer to the Multilingualism policy and only to some extent, do they refer to the ECRML. A comparison between the Frisian and Basque cases showed that the Basque Autonomous Community complies more often with the recommendations of the EU and Council of Europe (CoE) than the province of Fryslân. This could be explained by the difference in legal power that the province of Fryslân and the Basque Autonomous Community have. In the case of the Frisians, the Dutch government is often not actively participating in the province of Fryslân’s effort to implement the ECRML (Terlaak Poot, 2015). The structuring of the thesis and the comparative nature will be helpful for this thesis. In addition, the focus on multi-level governance in relation to the ECRML is helpful for understanding the ECRML processes as well.

The Frisian language situation in the Netherlands is also discussed by Gorter (2001), who states that “a number of structural power processes work against the use of Frisian.”(Gorter, 2001, p. 231). The general rule that everyone is free to speak their own language is limited in practice due to these power relations (Gorter, 2001). The focus on power relations and hierarchy that exists between languages constitutes a background for my understanding of the context of the ECRML.

Aikio-Puoskari examines Sami education with a historical lens by comparing Norway, Sweden, and Finland and focusing on educational policy (2009). During the discussion of the assimilation policies in the three states, the author poses the question if compulsory schooling is battling or promoting the language shift resulting from the assimilation policies (Aikio-Puoskari, 2009), which is quite similar in nature to the question posed by van der Voet. The question is somewhat answered by one of the conclusions, some regions revival of the

language is noted, in other regions language shift continues. The author also states that Sweden and Finland are tolerance-oriented in their approach to Sami education by only granting negative rights. Out of the three states, the author argues that Norway has advanced the most in “the objective of making the school thoroughly Sámi” (Aikio-Puoskari, 2009, p. 254). The comparative nature of this article is useful for this thesis, and it is interesting to see if the situation indicated by Aikio-Puoskari for Norway and Sweden has changed since the publishing of the article in 2009. In addition, the question posed by Aikio-Puoskari reminds us of the language hierarchies and power dynamics that have been intertwined with education.

My literature review has not revealed a study like the one I have conducted. Given my emphasis on the state’s conduct, the literature mentioned above reveals differences in conduct of the different states, which is relevant to my analysis.

### **1.3 Research questions**

The goal of this project is to understand how the ECRML protects and/or promotes the Sami and Frisian languages and their speakers in the educational sphere. The main question is: How are the linguistic rights of the Sami, as an Indigenous people, in Norway and Sweden, and the Frisians, as a national minority, in Germany and the Netherlands, stated in the European Charter for Regional or Minority Languages, addressed by the states and followed up in terms of protection and promotion in the primary educational sphere? The sub-questions are:

- What are the differences and similarities in how the four states implement the ECRML and address the obligations from the ECRML in terms of protection and promotion?
- What can we learn about state compliance in relation to the implementation of linguistic rights stated in the ECRML?

I am aware that including four states is almost too much to handle in a master thesis.

However, I have chosen to include them because I emphasize states’ conduct in relation to the provisions of the ECRML. Therefore, to obtain the broader picture of state compliance in relation to the languages chosen, I need to compare more than two states’ approaches. Thus, I argue that my choice to include the four states allows me to obtain insight into how the states manage the protection and promotion requirements of the ECRML without going into depth on state primary educational policies on the Indigenous and minority languages.

## 1.4 Methodology and Theory

To answer these questions, textual analysis is utilized, specifically content analysis. It is described by Boréus and Bergström as “(...) utilizing coding to systematically break down, categorize and describe the content of texts.” (Boréus & Bergström, 2017, p. 24). This means that the focus is on the content of the documents that are analyzed and coded by looking for terms that describe or encompass protection or promotion. The documents that are analyzed are the latest report of each of the four states, the subsequent reports by the Committee of Experts, the subsequent reports of the Committee of Ministers, and the ECRML and its explanatory report. These reporting cycles are monitored by the Council of Europe (CoE). All the documents are available to the public online on the website of the CoE<sup>2</sup>.

My main theoretical framework centers around the two concepts protection and promotion, which can be connected to linguistic tolerance and linguistic promotion (Cardi, 2007; Dunbar, 2001), tolerance-oriented rights and promotion-oriented rights (Skutnabb-Kangas, 2000), and ‘negative’ (aspects of) rights and ‘positive’ (aspects of) rights (Broderstad, 2022b). Protection and promotion are the main categories that are utilized to analyze the data. The other theoretical concept utilized is state compliance. State compliance as a concept is helpful to discern the role that the states play in the process of the ECRML and how they protect and promote the Indigenous and minority languages. Further elaboration on these concepts can be found in the theory chapter.

## 1.5 The Sami and the Frisians

The ECRML is ratified by 25 states and most states have selected several minority and regional languages to include (Council of Europe, n.d.-d). To limit the scope of this research, only the Sami people and the Frisians were chosen for this analysis.

### 1.5.1 The Sami and their languages

The Sami are recognized internationally as well as by the Norwegian and Swedish states as an Indigenous people and most reside in their homeland *Sápmi* (Ministry of Local Government and Regional Development, 2019; Swedish Institute (SI), 2022). The current state borders of

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<sup>2</sup> All analyzed documents can be found on the website of the CoE: <https://www.coe.int/en/web/european-charter-regional-or-minority-languages/reports-and-recommendations>



Norway, Sweden, Finland, and Russia divide *Sápmi*. Many Sami have also moved south of *Sápmi* towards the bigger cities in the south of the respective countries (Melhus et al., 2020). The following Sami languages have historically been spoken throughout *Sápmi*, namely Northern, Lule, Pite, Ume, Southern, Kildin, Inari, Skolt, Ter, Komi, and Akkala Sami, as well as many dialects<sup>3</sup>. This thesis only focuses on the Norwegian and Swedish contexts. Northern, Lule, Pite, Ume and South Sami are spoken by Sami in the parts of *Sápmi* that are part of the Norwegian and Swedish state (Ságastallamin, n.d.). In Sweden, the Sami languages are recognized as official minority languages (Riksdagen & Kulturdepartementet, 2009). In Norway, the Sami languages are considered of equal worth to the Norwegian language, which is stated in the *Sami Act* (Ministry of Local Government and Regional Development, 2007). The Sami languages covered by the ECRML for Norway are North Sami, Lule Sami, and South Sami (Norwegian Ministry of Local Government and Modernisation, 2020). The Swedish state covers the following languages: North Sami, Lule Sami, and South Sami. In the Swedish state report, however, Pite Sami is also mentioned (Ministry of Culture, 2019).<sup>4</sup> Both Norway and Sweden have Sami administrative areas, which are designated areas in the state where Sami rights are strongest (Committee of Experts of the European Charter for Regional or Minority Languages, 2020; Ministry of Local Government and Regional Development, 2007).

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<sup>3</sup> The dialects are not the focus of the thesis and, therefore, will not be discussed further.

<sup>4</sup> However, Pite Sami is not mentioned in the state report in a part that concerns primary education and was therefore mostly not included in the data chapter.

1. Lullisápmi - South Sami
2. Ubmisápmi – Ume Sami
3. Bitonsápmi – Pite Sami
4. Julevsápmi – Lule Sami
5. Davvisámegiella – North Sami
6. Anárasámegiella – Inari Sami
7. Nuortalašsámegiella – Skolt Sami
8. Áhkkisámegiella – Akkala Sami
9. Gielladasámegiella – Kildin Sami
10. Darjjisámegiella – Ter Sami

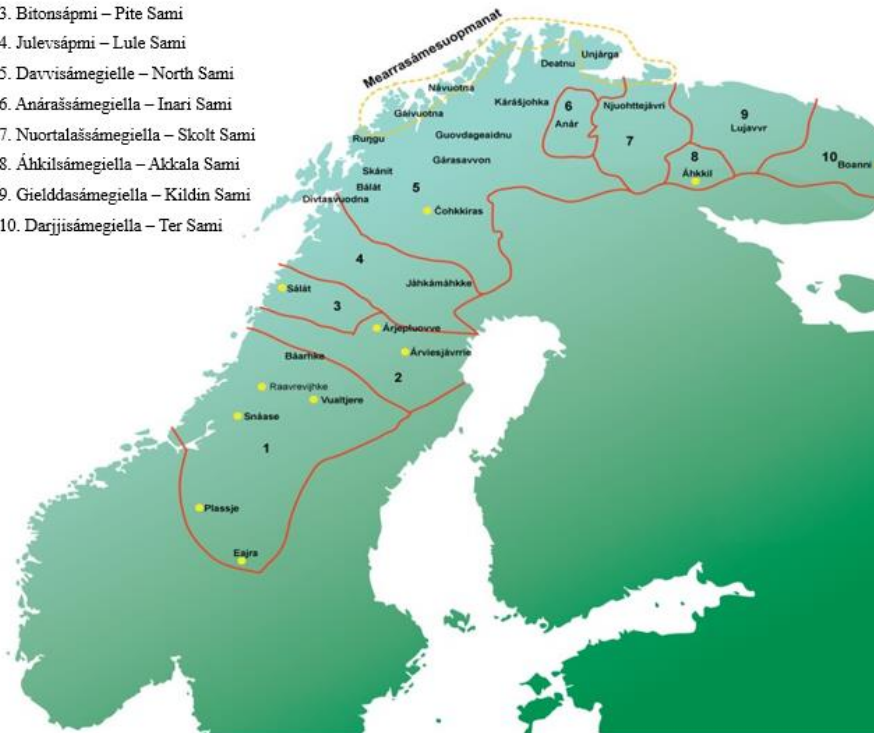


Figure 1: Map of Sami languages areas. Retrieved from: <https://www.calliidlagadus.org/web/?suopmanat> (text in upper left corner added by author).

## 1.5.2 The Frisians and their languages

The Frisians are recognized as a national minority group by both the Dutch and German states<sup>5</sup> (Eerste Kamer der Staten Generaal, 2004; Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2020; Staatsministerin für Kultur und Medien, 2021). They originally resided along the coast of the current states of the Netherlands and Germany (Döring et al., 1996; McArthur et al., 2018). In the Netherlands, West Frisian or *Westerlauwersk Frysk*, as well as many dialects of this language<sup>6</sup>, are spoken, mainly in the province of Fryslân, which is in the North of the state. In this province, *Westerlauwersk Frysk* is recognized as the second official language (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, 2016). In

<sup>5</sup> Germany often uses the term *volksgruppe* in relation to the Frisians, which is not an exact translation of national minority. However, the German state has ratified the European Framework Convention for the Protection of National Minorities and included the Frisians.

<sup>6</sup> The dialects are not the main focus of the thesis and will not be discussed further.

Germany, Sater Frisian or *Seeltersk* and North Frisian *Noardfrysk* are spoken as well as many dialects of these languages. *Seeltersk* is spoken in the municipality of Saterland in Lower Saxony in Germany. *Noardfrysk* is spoken in the region of Nordfriesland in Germany, which is in the northern part of the state Schleswig-Holstein. The region includes the North Frisian Islands and Heligoland. The Frisian languages in Germany are considered minority languages at the federal level and are protected by the non-discrimination act in the German Constitution and similar legislation meant for national minorities. Schleswig-Holstein their *Frisian Act* of 2004 does protect the Frisian minority specifically (Beauftragte für Aussiedlerfragen und nationale Minderheiten, n.d.; Federal Ministry of the Interior, 2015). All of the above-mentioned Frisian languages are covered by either the Netherlands or Germany in the ECRML (Bundesministerium des Innern, für Bau und Heimat, 2021; Dutch Government, 2019).



Figure 2: Map of Frisian languages areas. The light blue color indicates the area where *Seeltersk* is spoken, the somewhat darker blue indicates the area where *Noardfrysk* is spoken, and the darkest blue area indicates where *Westerlauwersfrysk* is spoken. Retrieved from: [https://wiki.mercator-research.eu/languages:saterfrisian\\_in\\_germany#fn\\_13](https://wiki.mercator-research.eu/languages:saterfrisian_in_germany#fn_13) (text added by the author).

## 1.6 ECRML

### 1.6.1 Structure of the ECRML

The ECRML is the only legally binding charter solely focused on minority language in the European context. The ECRML was adopted in 1992 and entered into force in 1998 (Council of Europe, n.d.-a). The states are allowed freedom to choose how far they can protect and/or promote the respective languages. This can be seen in the structure of the ECRML. It is

divided into five parts. Part I contains the general provisions, which includes detailing the definitions, undertakings, and practical arrangements as well as acknowledging the existing protection measures and obligations. Part II consists of Article 7, objectives and principles, that are general in nature to the protection and/or promotion of minority and regional languages. Part III has a total of seven articles<sup>7</sup> containing multiple provisions per article which are connected to multiple sectors of life where the language can be used. Part IV details the application of the ECRML, while part V indicates some final provisions related to the process and mechanism of the ECRML (Council of Europe, 1992a).

When signing the ECRML, the states are obligated to implement Part II. This part details the basic principles and objectives of the ECRML, such as “the facilitation and/or encouragement of the use of regional or minority languages, in speech and writing, in public and private life” (Council of Europe, 1992a, p. 3) and taking into consideration what the speakers express they need. If the state chooses, for a particular language, to include provisions from Part III, they should include a minimum of 35 provisions. In addition, from those 35 provisions at least three should be chosen from Article 8 and 12 and one from Article 9, 10, 11, and 13 (Council of Europe, 1992a). Thus, if a state ratifies the ECRML for a specific language they are allowed to pick and choose how far they are willing and/or able to protect and/or promote said language. For some languages, this means that a state has only applied Part II of the ECRML to them. While other languages have Part II and at least 35 provisions from Part III. Below I will elaborate on which of the parts of the ECRML the four states have chosen for the Frisian and Sami languages.

### **1.6.2 Mechanism of the monitoring of the ECRML**

The ECRML is monitored by the Council of Europe (CoE). The states that ratified the ECRML had to submit a report every three years initially. In 2018, a reform was introduced to submit a report to the CoE every five years so that it would align with the reports for the Framework Convention on the Protection of National Minorities (Ministers’ Deputies, 2018). The reports that are submitted for the ECRML should detail the situation in the country concerning the regional and/or minority languages and the initiatives that they have started to

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<sup>7</sup> Article 8: Education, Article 9: Judicial authorities, Article 10: Administrative authorities and public services, Article 11: Media, Article 12: Cultural activities and facilities, Article 13: Economic and social life, Article 14: Transfrontier exchanges.

oblige with the responsibilities that they have subscribed to. Once handed in, the Committee of Experts (COMEX) investigate the report and ask questions where they deem necessary and visit the respective state to evaluate the implementation of the ECRML. This results in an evaluation report that is handed to the Committee of Ministers, who make a short report with their recommendations to the state based on the report of the state and the report by the COMEX. If they so choose, the CoE can call for a round table discussion with the respective state. The CoE cannot impose sanctions on the state if their obligations are not met (Terlaak Poot, 2015). The three reports are what is called the report cycle, which most often spans one or two years (Council of Europe, n.d.-b). There is also a separate report cycle by the Secretary General every two years on the overall situation of the ECRML (Council of Europe, n.d.-c).

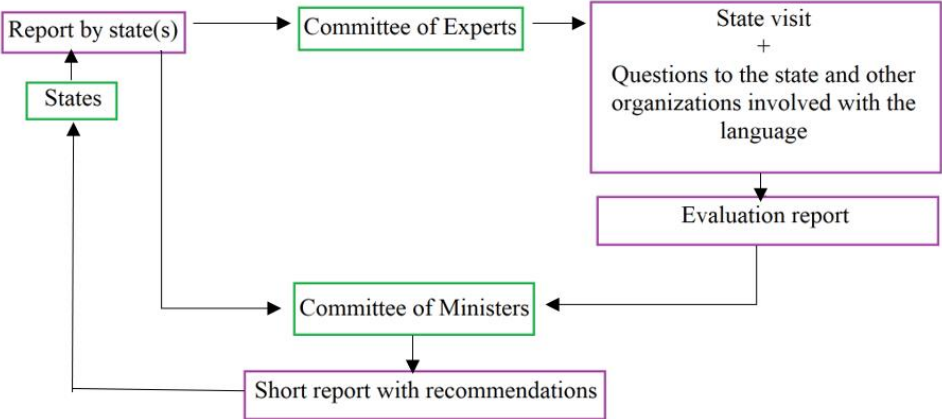


Figure 3: Simplified overview of the ECRML process

**1.6.3 Germany, the Netherlands, Norway, and Sweden**

Norway, a unitary state with a constitutional monarchy, was the first state to ratify the ECRML in 1993 and was among the first countries to sign the ECRML in 1992. The ECRML entered into force on the 1<sup>st</sup> of March in 1998. Norway started its first reporting cycle in 1999 and has recently completed its eighth cycle, which spans from 2020-2022. Currently, Norway includes the following languages in its ratification of the ECRML: Kven/Finnish, Lule Sami, North Sami, Romanes, Romani, and South Sami. For all the Sami languages the Norwegian State has chosen to include Part II and III. While for Kven/Finnish, Romanes, and Romani only Part II was chosen (Council of Europe, 2022).

Sweden, a unitary and decentralized state with a constitutional monarchy, was not one of the states to initially sign the ECRML, they signed and ratified the ECRML on the 9<sup>th</sup> of

February 2000. It entered into force on the 1<sup>st</sup> of June in 2000. Their first report cycle started in 2001. Currently, the eighth cycle of reports regarding the Swedish state is not finished. Their seventh cycle of reports spans from 2019-2020. The languages that Sweden has included are Finnish, Lule Sami, Meänkieli, North Sami, Romani, South Sami, and Yiddish. For Romani, South Sami, and Yiddish only Part II of the ECRML applies. While for Finnish, Lule Sami, Meänkieli, and North Sami Parts II and III apply (Council of Europe, 2022).

The Netherlands, a unitary state with a constitutional monarchy, was one of the states that were the first to sign the ECRML in 1992. The state ratified it in 1996 and it entered into force in 1998. The first cycle of reports was begun in 1999. The Netherlands is currently on their seventh cycle of reports, which is unfinished. Their sixth cycle of reports that is complete spans from 2019-2020. The languages that are included are Frisian, Limburgish, Lower Saxon, Romani, and Yiddish. The Dutch State only applies both Part II and III for the Frisian language (Council of Europe, 2022).

Germany, a federal parliamentary republic, was also one of the initial states to sign the ECRML. It was ratified in 1998 and it entered into force on the 1<sup>st</sup> of January in 1999. Their first cycle of reports was started in 2000 and the state has just finished its seventh cycle. This cycle spans from 2021-2022. The languages that Germany has included are Danish, Low German<sup>8</sup>, Lower Sorbian, North Frisian, Romani, Sater Frisian, and Upper Sorbian. For Danish, Lower Sorbian, North Frisian, Sater Frisian, and Upper Sorbian Parts II and III apply. For Low German and Romani only in some parts of Germany both Parts apply, in other parts of Germany only Part II applies (Council of Europe, 2022).

## **1.7 Positionality and place in Indigenous studies**

My position within this project is a bit complex. I am Frisian and have spent most of my time in Fryslân in very small towns. If and when my biases will come through, it will most often result in me taking the perspective of a Frisian who grew up in a rural area. I consider myself an insider in the context of Fryslân and in the wider identity of being Frisian. Before this project, I was not very knowledgeable on the different contexts in Germany where people speak *Seeltersk* or *Noardfrysk*. I had heard that there were Frisians in Germany, but I did not

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<sup>8</sup> Low German is protected as a regional language and not a minority language.

know much and am not able to speak or understand the languages. Even though I am an insider in the context of Fryslân, I am an outsider in the German contexts.

I am an outsider in relation to the Sami. I do have some knowledge about the situation because I am a student at the MIS program at UiT, where Sami issues are discussed quite often. However, I do not speak the languages and am not part of the community. I am part of a minority community and have experienced what linguistic rights for minorities can do for an individual and a language, and that is where my interest for the topic stems from. Knowing that you have certain rights can make you feel empowered, and this enables me to partly take an insider perspective.

Discussing one's position in relation to research is important in terms of transparency, responsibility, and reflexivity, not only to the research community but also to the Indigenous and minority communities that are discussed in this project. Olsen states that it is important to differentiate between representing an individual from a community or the voice of the community (2016). I do not represent the voice of the Frisian community; my personal experiences do not represent that. I can only highlight the Frisians' view and the Sami's view, already found in existing documents. The purpose of this project is not to focus on what the Sami and Frisians are doing in relation to linguistic rights. The focus is on the states' protection and promotion efforts of the linguistic rights stated in the ECRML.

This thesis is situated in Indigenous multidisciplinary studies. Linguistic rights, processes, and mechanisms Indigenous peoples are confronted with are experiences they share with minorities. I try to understand how the Sami and Frisian languages are protected and promoted through the ECRML process. The comparative nature of this thesis leads to a comparison between two states who claim to protect and promote the Sami Indigenous languages. The same comparison is made between two states who claim to protect and promote the Frisian minority languages. In addition, comparisons between the four states are also part of the analysis. Due to their shared experiences with linguistic rights, processes and mechanisms on the European level, it is interesting to compare and discern similarities and differences between the approaches of these states to protection and promotion. In addition, this thesis can contribute to the understanding of state compliance in relation to protection and promotion of minority and Indigenous languages.

## 2 Theory

### 2.1 Protection and Promotion

This chapter presents the main theoretical concepts utilized to analyze the data and answer the research questions. These are the concepts of protection and promotion. They provide the lens through which this thesis views the twelve reports. This is followed by the theoretical concept of state compliance, which aids the analysis by focusing on the state's conduct and their failings. It will aid the answering of how the states address and follow up on the ECRML.

As mentioned in the introduction, the concepts of protection and promotion can be connected to Heinz Kloss' distinction between tolerance-oriented rights and promotion-oriented rights (Skutnabb-Kangas, 2000). As I have understood, tolerance-oriented rights mostly deal with rights in the private sphere without active support from the state. For example, the protection implies that someone should not be discriminated against based on the language that they are speaking or communicating in. The state must ensure that this right is not violated (the "negative aspect of rights"). I place the tolerance-oriented rights or protection in this understanding of rights as they refer to legal rights mainly dealing with protection against discrimination.

The state can also play an active role by implementing positive measures (the "positive" aspect of rights) (Broderstad 2022b). These promotion-oriented rights are applicable to both the private and public sphere. Here the state must actively do something to install and enforce them. These can also be connected to a "positive" understanding of legal rights, that draws from an interpretation of international law mainly dealing with implementing positive measures (Broderstad 2022b). Kymlicka and Patten (2003) argue that there should be a further distinction made in the promotion-oriented rights of Kloss (Skutnabb-Kangas, 2000). They argue that there are two approaches within promotion-oriented rights, namely norm-and-accommodation and the official language approach. The former concerns rights that acknowledge the norm and only accommodate when necessary (Kymlicka & Patten, 2003). For example, a minority language could be used in court, only if it is absolutely necessary. The norm will still be the official language(s) of the state. The latter concerns the elevation of a language to official status in the respective state, meaning that certain rights are automatically accorded to speakers of the language. This can additionally mean that the new official language is equal to the already established official language(s) (Kymlicka & Patten, 2003).



The negative and positive rights lens, and the further distinction by Kymlicka and Patten, is helpful in the analysis of the state actions found in the ECRML reports. However, this lens can also be utilized to determine what the articles of the ECRML expect of the states. The Norwegian National Human Rights Institution (NIM) discuss negative and positive obligations in relation to the ICCPR. Here, negative obligations are defined as “states having to refrain from an act or omission in order to avoid violating a human right” (NIM - Norwegian National Human Rights Institution, 2021, p. 22). While positive obligations “mean that the state must actively take action to ensure a right” (NIM - Norwegian National Human Rights Institution, 2021, p. 23).

The questions stemming from these concepts are: what kind of understanding of rights and obligations can be identified in the ECRML reports, positive or negative? And if positive rights or promotion-oriented rights are identified, what approach do they follow, norm-and-accommodation or the official language approaches? How does the ECRML address these different understandings of rights and how are the states answerable for these rights?

## **2.2 State compliance**

There are many different notions and theories associated with state compliance and even the term compliance itself (Broderstad, 2022a; Jacobson, 1997). The goal of this thesis is not to discuss these different theories but to describe the theories that are relevant to this thesis’ research questions.

To start with the concept of state compliance in general, Jacobson has argued that it “is not an either or issue” (Jacobson, 1997, p. 570). He argues that compliance should not be a yes or no question but one should ask to what extent actors are in compliance with their obligations (Jacobson, 1997). A definition of compliance is given by Jacobson and Weiss, where they state that: “compliance refers to whether countries in fact adhere to the provisions of the accord and the implementing measures that they have instituted.” (1995, p. 123). Thus, state compliance can be viewed as a spectrum dependent on in how far states follow their obligations following from international treaties, etc. Another facet of state compliance to consider is, as Jacobson and Weiss state, that a state’s compliance with a treaty does not automatically mean that the objectives of the treaty are met (Jacobson & Weiss, 1995). This is similar to de Beco’s argument that ratification of a treaty does not mean that the situation has

improved (de Beco, 2008). Thus, state compliance with a treaty does not automatically improve a situation.

For this thesis, state compliance is measured in how far states protect and promote the Sami and Frisian languages. The approach to this measurement is connected to the violation approach discussed by de Beco on assessing state compliance by using human rights indicators. The violation approach emphasizes “the state’s failure to comply” with the obligations that it has (de Beco, 2008, p. 31). de Beco’s article also discusses the three indicators that are utilized for human rights, namely structural, process, and outcome indicators.

Structural indicators are described as showcasing a state’s intention and can measure *de jure* compliance. This indicator is often related to domestic legislation (de Beco, 2008). I argue that structural indicators can be connected to the protection category because it emphasizes the intention of the state. In addition, the concept of protection is also often related to legislation, especially legislation against discrimination, as previously discussed.

Process indicators are described as being focused on the implementation of the obligations and, thus, requires actions by the state. I argue that this can be connected to the promotion category because it moves beyond intention and focuses on active participation in the protection and promotion and realization of the minority languages.

Outcome indicators focus on the results of the efforts and the efficiency of the efforts (de Beco, 2008). Most of my data is not related to outcome indicators, however, in the shortcomings category some are present. Since de Beco states that all the indicators are interconnected and cannot be separated (de Beco, 2008), including some outcome indicators is helpful. Furthermore, de Beco states that it is possible to compare states by comparing indicators individually (de Beco, 2008, p. 46), which supports the comparative nature of this thesis.

For this thesis, the terms structural, process, and outcome indicators are utilized because of the focus on the states’ intentions, activities, and shortcomings. The twelve reports contain the intentions of the states for minority languages and the observation by the Committee of Experts on how far the states follow their self-selected obligations. For example, through the lens of structural indicator, the intent of the state to reform a law related to the minority language to aid the minority language can be highlighted, while the lens of process indicator can illuminate what measures are taken to realize these intentions, for example an increase in

funds for the education of teachers in the minority language. Outcome indicators, in this case, highlight the shortcomings that the states have and need to work on to improve.

The questions that remain are: What kind of indicators can be identified? To what degree are these indicators handled differently by the states?

### 2.3 Combining state compliance and the concepts of protection and promotion

A combination of the human rights indicators by de Beco and the concepts of protection and promotion is utilized to analyze the reports of the ECRML and comment on the state compliance of the four states. The structural and process indicators by de Beco can be categorized as either tolerance-oriented or a promotion-oriented. The latter approach can be further split into a norm-and-accommodation or official language approach. For this thesis, I would place the approaches mentioned on a spectrum, seen in figure 4, to discuss the approaches of the states to their structural and process indicators.

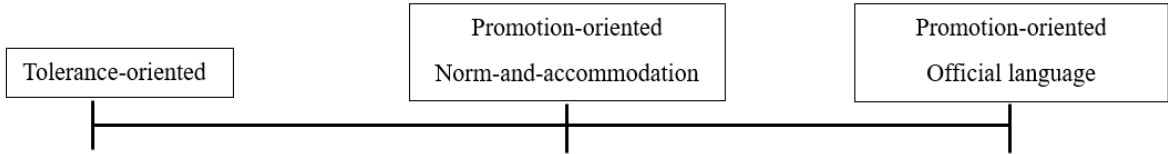


Figure 4: Spectrum of approaches the states’ intentions and actions can be categorized on

Thus, reflections are made on the states’ intentions and actions if they are more tolerance-oriented than promotion-oriented in their approach. For example, if domestic legislation makes the minority language the official language of the state, the state is employing a promotion-oriented approach, specifically an official language approach. Another state might take a less progressive approach by only adopting legislative measures without securing implementation. We can then talk about the structural indicator as tolerance-oriented. The question is then how the approaches by the state can be understood in terms of the concepts tolerance-oriented, norm-and-accommodation oriented, and official language oriented.

## **2.4 Summary**

The concepts of protection and promotion form the theoretical basis of this thesis. The terms and concepts presented, are related to protection and promotion. The negative aspects of rights, a tolerance-oriented approach to rights, and negative obligations do not require active participation by the state and mainly concern protection from discrimination. The positive aspects of rights, promotion-oriented rights and positive obligations do require continued active participation by the state. A further distinction of norm-and-accommodation and official language approaches in promotion-oriented rights are utilized together with the tolerance-oriented approach to create a spectrum on which the approaches of the states are categorized. This is used to further discern the degree of state compliance the states exhibit with the ECRML. To measure the degree of state compliance, the distinction between structural, process, and outcome indicators and their relationship are discussed.

## **3 Methods**

### **3.1 Introduction of the method**

As mentioned in the introduction, the method utilized to answer the research questions is textual analysis, specifically qualitative content analysis. This method was chosen because it seemed the most appropriate for the goals of this thesis. In general, content analysis is an appropriate method to utilize when conducting comparative research, as well as finding patterns in large bodies of text (Boréus & Bergström, 2017). This can be explained by examining the three main features of the method that are described by Schreier (2013), namely reducing data, being systematic, and being flexible. Qualitative content analysis reduces data by being selective in their focus on the data, meaning that the researcher should only focus on the aspects that can answer their research question(s). Schreier explains that this means the researcher will take the meaning of a specific part of text to a higher level of abstraction to create a (sub-)category so that other parts of the data can also fit under this. This will make it easier to compare and relate different parts of the data to each other (Schreier, 2013, p. 170). For my thesis, this is important due to the comparative nature of some of my research questions, where a comparison is made between the four states their conduct relating to the respective minority languages and the ECRML. Qualitative content

analysis is also systematic. Only the relevant parts of the material are coded. Most often this means that coding will be done at least twice, if not more, to check to accuracy of the categories applied to a specific part as well as to ensure that all the parts are coded (Schreier, 2013, p. 171). The systematic feature of the method helps to not be overloaded with information that is unnecessary to answer the research question. The third feature of qualitative content analysis, flexibility, allows the researcher to combine theory-driven and data-driven categories (Schreier, 2013, p. 171). The combination of theory-driven and data-driven categories fits this thesis because it does employ two theory-driven categories, protection and promotion, while the rest of the categories and codes are data-driven, which means that the coding frame is in tune with the material.

In addition, Schreier also presents the steps necessary to conduct the method (2013). The most important part, in my opinion, is evaluating the coding frame. Schreier uses this term to indicate the coding framework that will be developed which contains the categories and codes utilized to analyze the documents and make comparison between the documents easier. The evaluation of the coding frame can be done by conducting a trial coding to check if the coding frame is valid and consistent (Schreier, 2013). This trial coding is done by coding, with the help of the coding frame, some of the documents twice and checking if the researcher still would choose the same categories for the same parts of the documents. This is especially important to check if one's categories and codes are not overlapping and are clear (Schreier, 2013). This step in the process of the method contributes to the reliability of the study, as Boréus and Bergström (2017) argue, to make one's study reliable one should eliminate all possible sources of error and be accurate in all the steps of the study.

The trial coding and developing of codes and categories was done simultaneously. Thus, the first time of coding the documents was done with the main theory-driven categories, protection and promotion, in mind. Throughout this coding, several codes emerged that were necessary to answer the research questions. The second round of coding was done to check if any relevant parts were overlooked or coded incorrectly because the code was developed later in the process. Not all the steps that Schreier has mentioned for qualitative content analysis are followed, due to the multitude of different variables in the documents. It made more sense to get a complete coding frame, which is then checked by a second round of coding.

The focus of qualitative content analysis is not on counting or measuring of the codes and categories but on the meaning of the data and assigning codes based on those meanings

(Boréus & Bergström, 2017). For the most parts, my codes and one category<sup>9</sup> stem from the data and are, thus, inductive. Boréus and Bergström state that this can be the case for qualitative content analysis but that it is also possible to have some theory-driven coding before the data-driven categories come into being (Boréus & Bergström, 2017). The two overall main categories that are theory-driven, and thus deductive, for this thesis are protection and promotion. Sometimes it is difficult to draw the line between these two categories. Oftentimes promotion is built on protection, which makes it difficult to separate them. However, I think defining the difference between the two makes it much clearer. Promotion is continuous active participation by the state, while protection is the state creating the possibility for people to act, non-discrimination. The other category shortcomings sometimes overlap with certain protection or promotion codes because the shortcomings are related to those topics.

### **3.2 Documents**

The main documents that are analyzed are the reports part of the latest report cycle of Germany, the Netherlands, Norway, and Sweden of the ECRML. A report cycle consists of three different reports, namely a report by the respective state detailing the language situation(s), a report by the Committee of Experts (COMEX) detailing their findings and the extent to which the states have implemented the ECRML, and a report by the Committee of Ministers with the final adopted recommendations for the respective states concerning the implementation of the ECRML.<sup>10</sup> An overview of these reports can be found in the table 1 with additional information.

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<sup>9</sup> Code is the name for a specific grouping of statements from the documents, which all are about a similar theme. A category can contain many of these codes and functions as an umbrella under which these codes fall. Example: the code monetary investments falls under the category promotion, while the code promotion initiatives also falls under the promotion category but is separate from the monetary investments code.

<sup>10</sup> For the Dutch state report there were additional parts, that discussed the situation of the Frisian language. After viewing this additional document, not much new information was discovered that was not already in the state report and, therefore, the additional part was left out of the analysis.

Country code	Report	Actor	Submission/ adoption date	Time frame <sup>11</sup>	Language(s) available
DE	State report	Federal Republic of Germany	27-07-2021	12-2017 to 04-2021	English and German
DE	COMEX report	COMEX	15-06-2022	03-2022	English and French <sup>12</sup>
DE	Final recommendation	Committee of Ministers	23-11-2022	Not mentioned	English, French, and German
NL	State report	Not clearly mentioned in the report	18-06-2019	2015-2018	English and Dutch
NL	COMEX report	COMEX	05-11-2019	10-2019	English, French, and Dutch
NL	Final recommendation	Committee of Ministers	23-09-2020	Not mentioned	English and French
NO	State report	The Norwegian Ministry of Local Government and Modernisation <sup>13</sup>	14-09-2020	Not mentioned	English and Norwegian
NO	COMEX report	COMEX	17-11-2021	08-2022	English and French
NO	Final recommendation	Committee of Ministers	30-03-2022	Not mentioned	English and French
SE	State report	Not clearly mentioned in the report	18-06-2019	Not mentioned	English <sup>14</sup>
SE	COMEX report	COMEX	02-07-2020	10-2019	English and French
SE	Final recommendation	Committee of Ministers	08-12-2020	Not mentioned	English and French

Table 1: Information regarding the reports that are analyzed in terms of actor, time frame, and language(s)

These reports are all made public on the website of the Council of Europe. The state report and the report by the COMEX were not analyzed in its entirety due to time constraints. As is necessary for qualitative content analysis, only the parts concerning either the Frisian languages or the Sami languages were read and analyzed as well as the general parts where all the languages that were included for the respective states were spoken of. In addition, discussions of the articles of the ECRML that did not focus on primary education were not

<sup>11</sup> Some of the state reports refer to a time frame that the report covers. In the case of the COMEX reports, they all refer to the month and year of the on-the-spot visit.

<sup>12</sup> An executive summary is available in German.

<sup>13</sup> This ministry worked in cooperation with other concerned ministries.

<sup>14</sup> Previous and later reports were also available in Swedish, just for this report cycle they were not.

read and analyzed, due to time constraint and them not being relevant in answering the research questions.

All the ECRML documents were read in English to not have difficulties with translation after reading them. In table 1, we can see that there are some other languages in which the documents are made available. However, since I am not fluent in most of these languages it would be better and fairer to read all the documents in English. I did not experience any difficulties reading the documents in English. What was difficult was that for most of the cases I was not very familiar with the school context and how the school system functioned in some states. This issue was solved with gathering a bit more information on the school systems of the respective states.

The languages in which the reports are made available also showcase that the audience of these reports is very broad. The state reports are most often made available in the English language, for an international audience, as well as the official state languages, for the domestic audience, probably for those active in the governmental or institutional spheres.<sup>15</sup> Thus, both civil society and scholars can read the state reports as long as they are fluent in either the majority language of the state or English.

The main audience of the reports by the COMEX and the Committee of Ministers is the state, sub-national entities, and organizations involved with the implementation of the ECRML for the respective languages. However, these reports can also be read by civil society and scholars. In the cases of Germany and the Netherlands, the recommendation by the Committee of Ministers can also be read in the majority language of those states, respectively.

In terms of representation, the main institutions represented by these documents are the respective states and the Council of Europe in the form of the COMEX and the Committee of Ministers. In addition, several sub-national entities and organizations are also represented and have contributed to the reports in some way. For the Frisian languages, this meant that Frisian institutions were mentioned in the German and Dutch reports and in the German report they even had their own part addressing the Council of Europe. For the Sami languages, the Sami Parliament was mostly absent throughout the Swedish state report, while in the Norwegian report they were mentioned more often. The Norwegian report consulted the Sami Parliament

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<sup>15</sup> For the Swedish state report, the majority official language was not included. However, in other, previous and later, report cycles the state report is available in Swedish.



on the government report and the Sami Parliament could add on a shadow report. The Swedish report barely mentions the Sami Parliament. Even though the institutions are mentioned more often in the German, Dutch, and Norwegian reports, the Frisian institutions and Sami Parliaments are not authors of the reports, their actions and role are only mentioned. The main institution that is represented in the reports are the states themselves. The only exception here would be the parts in the German report where the Frisian institutions were allowed to comment, and this they wrote themselves. The four state reports are written from the perspective of an insider looking in, as the states are the actors whose actions are described in the reports. The author of these reports is often one of the ministries of the government. The reports by the COMEX and the Committee of Ministers are written by them and represent themselves and the institution that is the Council of Europe. This is written from the perspective of an outsider looking in, since they observe and ask about the situation of the language on-the-ground.

The reports are not written from the perspective of one specific moment in time. It is part of a process which spans multiple years of each report cycle. Therefore, the reports represent a certain time frame, and they are part of a larger process and, thus, previous reporting cycles. In the reports specific points already mentioned in previous reporting cycles are not discussed again. The reports are situated within a larger framework of the Council of Europe and the reports interact with one another constantly.

The above-mentioned documents are both descriptive and normative in nature. Both the states' reports and the Committee of Experts' reports describe the situation of the language that they have observed and in addition comment on what should be done about the languages' situation as well as what the rules and norms are. The only document that is purely normative in nature is the reports by the Committee of Ministers, which only mentions the recommendations for the states to improve the languages' situation. The descriptive and normative nature, the fact that the reports are part of an institutional framework, and the fact that the reports are constantly referring to the previous reports make the sources credible. The text producers, the four states, the Committee of Experts, and the Committee of Ministers, all have an obligation to the ECRML and to its implementation. There might be some discrepancy between the documents, but this does not take away the validity of each document. All documents portray the truth and observations of the actor that has written the

report. Thus, they are all written based on the truth of the specific actor(s). The goal of these documents is for the actor to report what they consider to be the truth, not “the truth”.

### **3.2.1 Working with the documents**

Transparency of the research steps is also important for the validity of the study (Boréus & Bergström, 2017). Thus, in this part I explain how I worked with the documents so that other researchers might be able to recreate it. This also contributes to the reliability of the study (Boréus & Bergström, 2017; Schreier, 2013).

The reports for each state were read in the order in which the reports in the report cycle came out. Meaning that first the state report would be read, then the report by the Committee of Experts and finally the report by the Committee of Ministers. This chronological order was, thus, followed. For the first time of coding the documents, I started with the reports from Germany because their report cycle was just completed at the end of 2022. Then I moved on to the Dutch report to have both Frisian language situations fresh in my mind and next to each other. This was then followed by the Swedish report and the Norwegian report, in that order. For the second round of coding, to check the coding frame, I started again with the German report and worked my way through in the same order. This second round of coding was done after some time had passed to be able to look at it with a fresh mind.

For the first coding process, I read through the documents and marked what I deemed as protection and promotion. In addition, I marked some general information that might be important and marked passages that dealt with shortcomings, which can be found in table 3 below. From this coding process, it also became clear that there are different codes under protection and promotion, that are described in table 2. During this process of coding, all the important passages that answer the research questions are also selected. This manner of coding is followed throughout all the reports. For the second round of coding, the important passages were selected, analyzed, and checked if there were any other categories found in these passages that I had overlooked. If no new categories were found, and everything is marked similarly, there is no need to check the coding frame for a third time and the main analysis starts.

### 3.3 Main categories and codes

The main categories of this thesis are protection and promotion. Sometimes the line between the two is a bit blurry. However, from analyzing the documents, it became clear that protection is simply providing the opportunity to strengthen the languages, while promotion is the state actively providing the resources and trying to strengthen the languages. The codes that are under protection and promotion developed during the coding process can be seen in the table 2. The other category, shortcomings, and its codes can be found in table 3. I had an additional code under the category failing to implement the ECRML called *lack in knowledge of language and culture*. Due to time and space limitations of this thesis, this code was left out. Table 2 is used as a structure for the analysis in chapter 5.

Protection	Promotion
Legislation	Monetary investments
Institutionalization	Promotion initiatives
Delegation of responsibility (to sub-national entities)	Monitoring bodies and other monitoring measures

Table 2: Protection and promotion main categories and their codes

Shortcomings
Lack of teachers, training opportunities, and teaching materials
Structural problems on implementation and legislative and enforcement failings
Lack of language as a subject or language of instruction in primary school
Should strengthen education of language at all levels
Lack of dialogue between state and speakers in terms of implementation
Non-compliance with undertakings chosen in ECRML
Loss of language as a mother tongue language
Lack of funding/promoting/creating incentives

Table 3: Shortcomings category and its codes

### 3.4 Ethical considerations

Ethical considerations in research are important (Chilisa, 2020). A part of my ethical considerations – positionality - can be found in the introduction of this thesis. Here, I discuss the four themes: responsibility, respect, reciprocity, and relevance (Olsen, 2016). In terms of reciprocity and relevance, this thesis can be useful to the language speakers and their communities. The knowledge can create more understanding on how the ECRML protects and promotes the languages and how this protection and promotion can be improved. In

addition, if there is an interest, I would happily contribute to outreach. This would also contribute to reciprocity. In terms of responsibility, the most important goal is to strengthen the Indigenous and minority languages' protection and promotion. Comparison between the four states' approaches to protection and promotion of the Sami and Frisian languages can be a possibility to learn from one another and be useful in Sami and Frisian language promotion efforts. Respect here is about valuing the Indigenous and minority languages.

### **3.5 Summary**

This chapter has presented the method, qualitative content analysis, that was utilized; the process of working with the documents; and ethical considerations. In addition, this chapter has provided an overview of the developed main categories and codes. In the next chapter, the relevant content from the twelve reports coded, is presented.

## **4 The ECRML and its responsibilities**

### **4.1 ECRML report and explanatory report**

#### **4.1.1 The concepts of regional and minority languages**

The ECRML endeavors to protect and/or promote minority and regional languages. In the ECRML, minority and regional languages are defined as:

*“traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State’s population; and different from the official language(s) of that State; it does not include either dialects of the official language(s) of the State or the languages of migrants.”* (Council of Europe, 1992a, p. 2)

The ECRML has no clear distinction between minority and regional languages since they are defined together. It does separate non-territorial languages from this definition since these languages cannot be connected to a particular region of a state (Council of Europe, 1992a). In the explanatory report of the ECRML, regional languages are considered languages spoken by a number of people “in a limited part of the territory of a State”, within this region the

language speakers can be in the majority. Minority languages are interpreted in two ways: a language that is spoken by people who are not concentrated in a specific part of the state or a language that is spoken by people concentrated in a particular part of the territory of the state but are still numerically smaller than the population that speaks the majority language (Council of Europe, 1992b, p. 3). The ECRML and its explanatory report do not mention Indigenous languages but leave enough room to categorize them under the regional and minority language category. In addition, the explanatory report emphasizes that the ECRML does not protect and/or promote linguistic minorities, only minority or regional languages (Council of Europe, 1992b, p. 2).

**4.1.2 International legal framework**

In its preamble, the ECRML situates itself in both the international and regional legal frameworks by referring to the United Nations International Covenant on Civil and Political Rights (ICCPR) and the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms (Council of Europe, 1992a, p. 1). These two documents contain the right to use a minority or regional language, both in public and private, and include the principle of non-discrimination (Council of Europe, 1992a, p. 1, 1992b, p. 1). Concepts, such as interculturalism, multilingualism, cultural diversity, democracy, sovereignty, and territorial integrity, are mentioned in the preamble of the ECRML to explain the relevance of the ECRML to the states and assure the states that their sovereignty and territorial integrity will not be changed by ratifying the ECRML.

**4.1.3 ECRML articles**

The articles of the ECMRL that are most important for this thesis are:

		Content
Article 7.1		In respect of regional or minority languages, within the territories in which such languages are used and according to the situation of each language, the Parties shall base their policies, legislation and practice on the following objectives and principles:
	c	the need for resolute action to promote regional or minority languages in order to safeguard them
	d	the facilitation and/or encouragement of the use of regional or minority languages, in speech and in writing, in public and private life
	f	the provision of appropriate forms and means for the teaching and study of regional or minority languages at all appropriate stages
Article 7.2		The Parties undertake to eliminate, if they have not yet done so, any unjustified distinction, exclusion, restriction or preference relating to the use of a regional or

			minority language and intended to discourage or endanger the maintenance or development of it. The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions is not considered to be an act of discrimination against the users of more widely-used languages.
Article 7.3			The Parties undertake to promote, by appropriate measures, mutual understanding between all the linguistic groups of the country and in particular the inclusion of respect, understanding and tolerance in relation to regional or minority languages among the objectives of education and training provided within their countries and encouragement of the mass media to pursue the same objective.
Article 8.1			With regard to education, the Parties undertake, within the territory in which such languages are used, according to the situation of each of these languages, and without prejudice to the teaching of the official language(s) of the State:
	b	i	to make available primary education in the relevant regional or minority languages
	b	ii	to make available a substantial part of primary education in the relevant regional or minority languages
	b	iii	to provide, with primary education, for the teaching of the relevant regional or minority languages as an integral part of the curriculum
	b	iv	to apply one of the measures provided under i to iii above at least to those pupils whose families so request and whose number is considered sufficient
	h		to provide the basic and further training of the teachers required to implement those of paragraphs a to g accepted by the Party
	i		to set up a supervisory body or bodies responsible for monitoring the measures taken and progress achieved in establishing or developing the teaching of regional or minority languages and for drawing up periodic reports of their findings, which will be made public.

*Table 4: Articles quoted from the ECRML that are the most important for this thesis*

In the remaining part of my thesis, I will refer to the articles of this table, both for the data and analysis chapters.

#### **4.1.4 Explanatory report on Article 7 and 8 of the ECRML**

The explanatory report of the ECRML further explains what is meant and sometimes specifies the goal of each article of the ECRML. Article 7.1 provides an overall framework for the preservation of the minority and regional languages. Article 7.1.c and d go beyond the non-discrimination principle. Survival of the languages depends on actions of the states, it is up to the state to decide how these actions take shape. Furthermore, the elaboration on Article 7.1.d emphasizes all the spheres that the language should be allowed to be utilized, in the private and public spheres, which includes “within the framework of institutions, social activities and economic life.” (Council of Europe, 1992b, p. 10). Article 7.1.f focuses on education at all

stages. The necessity to have education teaching in or of the languages depend on the case (Council of Europe, 1992b, p. 10).

The elaboration on Article 7.2 states that: “(...) the purpose of this paragraph is not to establish complete equality of rights between languages. (...) it is in fact quite compatible with the spirit of the charter that in the pursuit of policies which relate to regional or minority languages certain distinctions could be made between languages.” (Council of Europe, 1992b, p. 12). Furthermore, the report explains that positive actions may be necessary because of the differences in situation between official languages and regional or minority languages, which can result in disadvantages for the regional or minority languages. Article 7.3 puts emphasis on developing an “understanding for a situation of language plurality within a State.” (Council of Europe, 1992b, p. 12).

For Article 8,<sup>16</sup> the phrase “and without prejudice to the teaching of the official language(s) of the State” (Council of Europe, 1992a, p. 4) is explained. This was included to prevent the formation of linguistic ghettos that are not in line with the principles of interculturalism and multilingualism, found in the preamble of the ECRML (Council of Europe, 1992b). In addition, the report explains that the phrase “in a number considered sufficient” in Article 8 should be interpreted quite flexibly keeping in mind the circumstances of the regional or minority languages (Council of Europe, 1992a, 1992b). Article 8.1.h includes guaranteeing that the state provides the necessary means to educate in or about the regional or minority language, such as finance, staff, and teaching aids. Article 8.1.i acknowledges the importance of education by suggesting the creation of a specific body to monitor the progress of the minority or regional languages in the educational sphere (Council of Europe, 1992b).

In the following chapters, the content of the reports related to the four states – Germany, the Netherlands, Sweden, and Norway – are described. Only relevant content related to primary education of the minority or Indigenous languages is included. What is presented below is from the reports, my interpretation is not featured, it is only a reiteration or summary of what the reports state. The following reports of each respective state are reviewed: the state report, the report by the Committee of Experts, and the report by the Committee of Ministers.

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<sup>16</sup> Article 8.1 and its subparagraphs only relate “to the territory in which each regional or minority language is used.” (p.13).

There is diversity in the reporting styles of the states, which leads to slightly different structures in the description of the state reports. Sometimes the reporting styles of the states are not exactly followed for practical reasons.

## 4.2 Germany

### 4.2.1 Germany's 7th State Report

#### General remarks

Germany's seventh report showcases the situation of the North Frisian and Sater Frisian languages from December 2017 to April 2021. Both the federal state of Germany as well as the federal states within it "have taken on an extensive catalogue of concrete obligations," (p.3) for the minority languages and these are binding under international law.

For the Frisian case, the *Friisk Stifting* (Frisian Foundation) was established and should aid in preserving the Frisian language and promoting its education. In addition, this foundation oversees the bringing together of all funding granted by the Federal Government and the state of Schleswig-Holstein. Four Frisian associations<sup>17</sup> are represented in the foundation board with voting rights and can directly influence its funding policy. The state of Schleswig-Holstein adopted the *Language Policy Action Plan* in 2020, "with the aim of strengthening, promoting and raising public awareness of Schleswig-Holstein's unique linguistic diversity." (p.35).

There is a Consultative Committee on Issues concerning the Frisian Ethnic Group<sup>18</sup> that was established in 2004 at the federal level. This committee discusses federal policy issues that affect the Frisians. The committee is composed of several spokespeople from Frisian associations, federal government ministries, the federal states of Lower Saxony and Schleswig-Holstein, and the Secretariat for Minorities in Germany.

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<sup>17</sup> Frasche Rädj – Friesenrat/Section North e. V., Friisk Foriining, Nordfriesischer Verein e. V., and Nordfriesisches Institut e. V.

<sup>18</sup> Beratender Ausschuss für Fragen der friesischen Volksgruppe.



### **The state response to the general recommendations by the Committee of Ministers**

In the last report, the Committee of Ministers recommended that the education of the Frisian languages should be strengthened. In response, the German report details the improvements for both North and Sater Frisian. For the former, the state of Schleswig-Holstein has produced teaching and teaching materials, and is planning to create more teaching material for upper secondary level in cooperation with the *Nordfriisk Institute* (p.41). In addition, the report draws attention to teacher education and how the deployment area of teachers of Frisian is very limited, which has led to a “very low addition to the supplement to the Frisian section at the CAU<sup>19</sup>” (p.42). For the latter, in terms of legislation, primary schools are allowed to teach in minority languages in selected subjects and generally language learning should be possible at all primary schools. The Ministry of Education and Cultural Affairs organized a project from 2012 to 2019 where Sater Frisian was taught at two primary schools in various subjects in one class per school year from 1 to 4. In terms of advice and support to primary schools, “an hourly contingent of 35 hours has been available for programmes and projects” (p.44). Funding is available for training courses for teachers as well as creating teaching materials for the Sater Frisian language. Finally, schools can receive the title of Sater Frisian school if they have rendered “outstanding and long-term services” (p.45) to Sater Frisian.

The second recommendation focuses on the lack of adequately trained teachers that are available for the Frisian languages. Teacher training in North Frisian is possible at the CAU and Europa University in Flensburg (EUF). The EUF is looking into the possibility of establishing “Frisian as a supplementary subject,” which would allow students to study Frisian without having to study German (p.61). A completed certificate course in Frisian is considered a bonus when awarding trainee placements. For Sater Frisian, there are no teachers currently being trained. There is a willingness from the state to establish “a system for language offerings in schools on the basis of regional further training courses” (p.61). However, due to the low demand, no plans have been made.

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<sup>19</sup> Christian Albrechts university in Kiel.

### **Funding for the Frisian minority in the state report**

Germany's state report provides a comprehensive funding scheme for the support of the Frisian languages. A full overview of the specific funding is found in the appendix.

### **Comments on North Frisian by the state**

Several examples of legislation in Schleswig-Holstein are mentioned, namely the Schleswig-Holstein Schools Act of 2007, the decree Frisian at Schools in the District of Nordfriesland and Heligoland of 2018, the *Language Policy Action Plan* of the Schleswig-Holstein State Government of 2020, the *Frisian Act*, and the Decree of the State Ministry for Education, Science and Culture called *Frisian at Schools in Schleswig-Holstein* of 2018. The constitution of Schleswig-Holstein also guarantees cultural independence and political participation of the Frisian ethnic group. In the coalition agreement, the state of Schleswig-Holstein promises to continue the good work that has been done together with the Frisian ethnic group.

The *Friesengremium* (Frisian body) at the state parliament of Schleswig-Holstein has been active since 1988. This body is a contact point between the representatives of the Frisian minority and the politicians of Schleswig-Holstein and can help to strengthen the rights that are guaranteed in the ECRML. The body has been meeting twice a year in the state of Schleswig-Holstein “with the aim of cultivating and fostering the Frisian language, education and culture.” (p.178).

In terms of education, schools can receive a model school badge as well as a logo on their homepage to increase visibility of the Frisian language. This will be done via an award event. In terms of teacher training, the *Language Policy Action Plan* “aims to further expand the privileges for students of Frisian in order to increase enrolment” (p.184). Another initiative, mentioned before, is the bonus of having a completed certificate course in Frisian when awarding trainee placements. The report reiterates that all students who are trying to become primary school teachers have the chance to attend courses focusing on the Frisian language and the Frisians. Some numbers of schools and pupils that provide Frisian in any form are presented in the state report. In Nordfriesland, there are nine public primary schools providing Frisian as an elective subject. In the 2020/2021 school year, 53 hours of Frisian language instruction were provided by eleven teachers to 628 students. In the same school year, Frisian language instruction was provided by six teachers to 83 pupils in schools of the

Danish minority. Moreover, at the *Risem Schölj* immersion teaching in Frisian is provided. At Heligoland, no Frisian instruction is provided since no teacher is available.

### **Comments on Sater Frisian by the state**

The report acknowledges that there is a small number of Sater Frisian speakers, most are in the Saterland municipality, and thus, “promoting the Sater Frisian language enjoys high priority” (p.208). In terms of education, the Regional State Offices for Schools and Education has aided the language through “an extensive consulting and support system” (p.208), which helped with teaching materials, planning and teaching of the language. Monitoring of the teaching of and in Sater Frisian has been conducted by a supervisory body since 2011. The report by the Lower Saxony school authority informs the supervisory body of the utilization of the allotted teaching hours, activities, and other measures related to the Sater Frisian language. The body is able to create proposals for further implementation of the ECRML. In terms of teacher training, courses on Sater Frisian are made available to students who are training to become a teacher.

### **Comments by the associations in the state report**

The German state report includes comments from associations of the minority languages. A summary of the most important comments by the *Frasche Rädj* (Frisian Council) and the *Seelterbund* is presented here.

There is no current recruitment policy of the state of Schleswig-Holstein for Frisian speaking-teachers in the Frisian language areas. North Frisian at primary school is “stagnating at a low level” (p.405) and the Sedelsberg primary school has not had Sater Frisian instruction for four years. Sater Frisian activity groups struggle with either not having enough pupils interested or not providing immersion teaching even though there is interest from the pupils.

<sup>20</sup> The *Frasche Rädj* argues that teaching of Frisian should be recognized “as a regular subject at all grades” (p.406) and that this teaching should be a cohesive system starting from nursery school to university. The *Seelterbund* argues that legislation<sup>21</sup> should be renewed and that an achievable legal basis for the teaching of minority languages must be established, in terms of

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<sup>20</sup> At one primary school, Scharrel primary school, 14 pupils receive immersion teaching and there are 38 pupils in total in the Sater Frisian activity groups.

<sup>21</sup> The decree: *The region and its languages in classroom instruction*

numbers, group size, and teacher hours. Furthermore, more flexibility for class sizes for bilingual education should be allowed since it is already voluntary and dependent on parental consent.

Teacher training should be adjusted and be a “cooperative exercise involving higher education and teacher training institutions.” (p.409). In addition, education services in Sater Frisian should be strengthened at all appropriate levels. The suggestion by the COMEX of establishing a supervisory body to monitor Sater Frisian and post regular reports is supported. Funding is problematic in terms of the pace of the cash flow and there needs to be an organized competence for the design of teaching materials. The *Friesisches Forum* state that they agree with the comments made by the *Seelterbund* for Sater Frisian.

#### **4.2.2 7th Evaluation Report by the Committee of Experts**

##### **General remarks**

The report by the Committee of Experts (COMEX) is based on the on-the-spot visit between the 28<sup>th</sup> of March and the 1<sup>st</sup> of April of 2022. The COMEX commends the dynamic approach to the ECRML of the state since the state of Schleswig-Holstein took on more obligations from the ECRML for three minority languages.<sup>22</sup> This is followed by the report detailing some shortcomings of the German state in their obligations, namely education needs to be strengthened. Particularly, there needs to be an increase in the number of hours related to the minority languages and in the number of adequately trained teachers. The report states that the latter of the two is the most important obstacle to the preservation and development of the minority languages in education.

In terms of legislation, the minority languages “receive regular attention from the authorities” (p.7). This is seen in Schleswig-Holstein adopting the *Language Policy Action Plan* and Lower Saxony creating a scientific commissioner for Sater Frisian temporarily. The German federal state does not have the main competence for the implementation of the ECRML, the German *Länder* do. However, “the federal authorities maintain responsibilities, have a co-ordinating role and also provide funding, sometimes together with the *Länder*, to institutions or projects promoting regional or minority languages.” (p.7). An example is the

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<sup>22</sup> The added obligations are not relevant for this thesis, however, the comment by the COMEX on the approach of the German state is.

funding for the *Friisk Stifting*, which is provided by both the federal level<sup>23</sup> and the state of Schleswig-Holstein. Within the *Länder*, active promotion of the minority languages is made possible by a network of institutions and associations, who receive funding from different authorities as well.

The shortcomings mentioned create the need for a pro-active structured approach, since there appear to be little to no developments in some cases. The main point that should be handled is the strengthening of education and making sure adequately trained teachers are available. Currently, immersion teaching of the Frisian languages can be used, but is rarely done in practice. At least three hours per week is necessary to teach the minority language. Some cases achieve this benchmark, others do not. The *Language Policy Action Plan* of Schleswig-Holstein and the decree on *The Region and Low German and Sater Frisian in Education* of Lower Saxony do try to tackle this issue. The former tries to increase the attractiveness of teacher training, while the latter extends the existing provisions to upper secondary education. In addition, it is considered a bonus for traineeship placements to have a completed certificate course in Frisian and teaching materials have been made for North Frisian. Nevertheless, the offer of the Frisian languages at schools is decreasing. The most important factor is the lack of adequately trained teachers and most of the measures that try to address this have little or no effect at all. Another shortcoming within education is the lack of monitoring the progress of the education of the minority languages. Currently the German state does not meet the requirements of the ECRML.

### **Committee of Experts' comments on North Frisian**

The report details that nine primary schools provide some form of North Frisian education. However, not enough hours in the week are reserved, only 30 minutes to two hours per week. The COMEX emphasize that the North Frisian education is lacking in teaching materials and teachers.

In their evaluation of compliance, the report states that Articles 7.1.c, 7.1.d, 7.2, and 7.3 are fulfilled and have remained unchanged. Article 7.1.f has deteriorated and is now partly fulfilled due to the limited offer of North Frisian in education. Article 8.1.biv and 8.1.i are not

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<sup>23</sup> Specifically, the Federal Government Commissioner for Culture and Media.

fulfilled and have remained unchanged. Article 8.1.h is partly fulfilled and has remained unchanged. The recommendations for North Frisian are to strengthen North Frisian education, especially focusing on having enough adequately trained teachers and teaching materials and monitoring North Frisian education by setting up a supervisory body.

### **Committee of Experts' comments on Sater Frisian**

As mentioned, in terms of legislation, teaching of and in Sater Frisian is possible and is compulsory. However, in practice, there is only one primary school that provides immersion teaching for one subject and voluntary study groups. Two other primary schools offer only voluntary study groups. From 2012-2019, there was a project where Sater Frisian was the language of instruction for an array of subjects in two primary schools for one class per school year. Funding for a textbook was also made available in 2020 and some schools organized projects where Sater Frisian is the main language, like reading competitions.

There are many obstacles for Sater Frisian education. First, there is no teacher training. There are only some courses that can be taken by students who are training to become Low German teachers. This creates a lack of teachers of Sater Frisian. Second, all parents must agree to Sater Frisian being the medium of instruction or bilingual teaching. This leads to a lack of hours that Sater Frisian is used in the classroom. Third, there is a lack of teaching materials. These factors all contribute to the lack of Sater Frisian education, which is not in line with the ECRML.

In their evaluation of compliance, the report states that Articles 7.1.c, 7.1.d, 7.2, and 7.3 are fulfilled and have remained unchanged. Article 7.1.f is partly fulfilled and has remained unchanged due to the lack of teacher training possibilities for Sater Frisian. Article 8.1.i is not fulfilled and has remained unchanged.<sup>24</sup> The recommendations for Sater Frisian are to strengthen education of Sater Frisian at all levels of education that are appropriate and to monitor Sater Frisian education by setting up a supervisory body.

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<sup>24</sup> It should be noted that Saxony does not agree with this assessment.

### 4.2.3 Committee of Ministers report

The main points of recommendations from the Committee of Ministers for both North and Sater Frisian are to “strengthen the educational offer” and tackle the issue of the lack of adequately trained teachers (p.1).

## 4.3 The Netherlands

### 4.3.1 The Netherlands’ 6th State Report

#### General remarks

The report showcases the situation of the Frisian minority language from 2015-2018. It mentions the collaborative nature of the drafting of the report and the initiative of *taaltafels* (language round tables). The goal of the *taaltafel* initiative was to involve speakers, representatives, and organizations of the minority languages to discuss the situation. The report also discusses who has the responsibility to protect and promote the minority languages. In the Dutch state’s opinion, the subnational authorities, such as the provincial and local authorities, are closer to the actual situation and can, thus, better respond to the minority language issues. This means that subnational authorities provide grants and maintain relationships with the institutions connected to the minority language.

In terms of legislation, the *Use of Frisian Act* of 2014 is instrumental in safeguarding the language since it cements the status of Frisian as equal to Dutch in the province of Fryslân. It is detailed in this Act that the central government and provincial authority will enter administrative agreements that elaborate the joint responsibility. The current administrative agreement is the *Bestjoersôfspraak Fryske Taal en Kultuer 2019-2023*<sup>25</sup> (BFTK) and details several arrangements for the language in different spheres, like education. Furthermore, the BFTK 2019-2023 promises that a study will be conducted to examine the benefits of transforming the *Use of Frisian Act* into a framework act. The *Use of Frisian Act* caused the establishment of *DINGtiid*, which “reports, advises and issues alerts on matters

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<sup>25</sup> Administrative Agreement on the Frisian Language and Culture 2019-2023.

concerning Frisian” (p.5). They communicate with both the central government and the provincial authority.

*DINGtiid* issued a report called *The implementation of the European Charter for Regional and Minority Languages since Ratification in 1996* in 2018. Some issues that were highlighted were the need to:

- Discuss the impasse between the central government and the Council of Europe. The impasse refers to the disagreement between the Council of Europe and the central government on how the “central government implements a number of provisions” (p.6) of the ECRML. Central government blames structural problems which inhibits the implementation of the provisions.
- Arrange working visits to the province of Fryslân for central government employees before reporting to the Council of Europe.
- Identify the current shortcomings in relation to the ECRML and the causes. The issue regions should then be included in the next BFTK, which will take effect in 2024.

In response to the first point, the report states: “the Ministry has opted for a pragmatic approach in meeting its obligations under the Charter, and will continue to point to the statutory framework and administrative relations in the Netherlands.” (p.6). It is believed that the *Taalskipper* can play a role at the subnational level. The *taaltafels* and working visits once a year have been arranged to tackle the second point. The third point will be discussed by the central government and the provincial authority.

In 2016, an evaluation of the BFTK 2013-2018 resulted in a generally positive assessment. This was illustrated by the example of *Taalplan Frysk* (Frisian Language Plan), which assessed in how far Frisian schools are complying with the attainment targets for Frisian. However, this evaluation revealed that “most municipalities in Fryslân were not actively pursuing a language policy plan.” (p.7). *DINGtiid* recommended the establishment of a *Taalskipper*, who could focus on supporting the Frisian language. The province of Fryslân



fulfills this role of *Taalskipper*<sup>26</sup>. In addition, the province of Fryslân is responsible for: drafting and implementing the BFTKs in cooperation with the central government, ensuring the implementation of the *Use of Frisian Act* by the administrative bodies involved, drafting a Frisian language policy plan, and setting attainment targets for the Frisian language. The last responsibility also includes the power to grant exemptions to schools who do not meet the attainment targets. However, the central government acknowledges that they are responsible as legislator and signatory to the ECRML for the Frisian language.

*Taalplan Frysk* is set up to deal with schools who receive full or partial exemptions from the Frisian attainment targets. Once it determines which schools need the exemption, customized support is provided to the schools to improve the education of the Frisian language. The goal is that by 2030 no school will need partial or full exemption from meeting the attainment targets for Frisian. This is in line with the agreements in the BFTK 2019-2023, which strive “to create a continuous learning trajectory from preschool to higher education.” (p.10). In the BFTK 2019-2023 the role of the Education Inspectorate is more clearly defined by treating the monitoring of the Frisian subject as any other subject. Another monitoring measure is the survey that the province of Fryslân conducts every four years on the state of the Frisian language.

### **The state response to recommendations by the Committee of Ministers and the Committee of Experts**

The first recommendation by the Committee of Ministers in the last report was to “pursue a structured policy for the implementation of the Charter in consultation with speakers of the languages concerned” (p.23). The report reiterates its previous statement of who has the primary responsibility, namely the subnational authorities, with which central government remains in close consultation. The second recommendation refers to strengthening Frisian education at all appropriate stages. The report refers to the BFTK 2019-2023 and its goals.

The first recommendation by the Committee of Experts (COMEX) relates to the need for a national policy since education is the responsibility of the central government. The

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<sup>26</sup> The role of the *Taalskipper* is providing “active, structural guidance in the implementation of agreements between central government and the provincial authority concerning the Frisian language and culture.” (p.8). In addition, it connects all subnational stakeholders and coordinates efforts in consultation with the central government.

report reiterates again that the subnational authorities are primarily responsible for language policy. The current legislation provides the right to use a minority language but the actual decision to utilize the right is up to the individual schools. In Fryslân, however, primary schools are obligated to offer Frisian as a subject. The second recommendation is calling for more dialogue between the Dutch authorities and representatives of the minority languages about the implementation of the ECRML. In response reference is made to the *taaltafels*, the *Use of Frisian Act*, the BFTK, *DINGtiid*, and the Regional Language Symposium held in 2017. The third recommendation focuses on Frisian education and its supposed focus on oral use and developing a positive attitude, which is not in line with the ECRML undertaking. In response reference is made to the obligation of schools to provide Frisian language lessons and *Taalplan Frysk*. The fourth recommendation is related to the table below. The COMEX is satisfied with an increase in the budget for teaching Frisian of €90,000. However, the table showcases that Frisian education currently is not sufficient to attain the requirement of the undertaking of the ECRML. In response the report refers to the new BFTK 2019-2023 which will create the right conditions for Frisian education. Some initiatives are the development of digital teaching methods, *Spoar 8*, and the development of GRIP, a method-independent assessment and evaluation system. In addition, the report acknowledges that due to the failing market for Frisian teaching materials, the authorities should play a more active role.

<b>Number of schools</b>	<b>Time for Frisian</b>	<b>Additional information</b>
73 primary schools included in the trilingual school <sup>27</sup> network	Differences in degree to which Frisian is used as a language of instruction mostly between 1 ¼ to 3 ½ hours. In general Frisian is used 10-25% of the time.	30 are certified trilingual schools, 30 are in the process of getting a certification.
355 non-trilingual primary schools	30-40 minutes per week of teaching Frisian as a subject or using it for simple tasks.	
Total: 428 primary schools	Recommended time by COMEX for Frisian as a subject is at least 1 hour per week	

Table 5: Time of teaching in or about Frisian in primary schools in Fryslân

The fifth recommendation relates to teacher training. Primary teacher training contains Frisian lessons for the first two years, however, not all continue with Frisian and are awarded

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<sup>27</sup> Trilingual schools have Dutch, Frisian, and English as languages of instruction.

the official qualification, as can be seen in table 7. In response the report refers to the BFTK 2019-2023 and the agreements there. The report highlights the overall shortage of teachers in general and draws attention to the fact that umbrella organizations “have indicated that they do not regard increasing the number of staff qualified to teach Frisian as their highest priority at present.” (p.36). Consultations with the teaching profession are held, however, it remains up to the teaching profession to incorporate competency requirements for Frisian.

Year	2012	2013	2014	2015
Number of students	36	25	29	17

Table 6: Students for primary school teaching per year that continue to obtain the qualification for Frisian

The sixth recommendation asks for further comments on the role of the Education Inspectorate. In response reference is made to *Spoar 8, Taalplan Frysk*, and the new plans of the Education Inspectorate which were mentioned previously.

### 4.3.2 6th Report of the Committee of Experts

#### General remarks

The report is based on the on-the-spot visit to the Netherlands in October 2019. It reports first on the agreements that were made between the central government and territorial authorities, for the Frisian language, the BFTK 2019-2023. The report also remarks on the delegation of the promotion and protection of the minority languages from the central government to subnational authorities, mainly the provincial authorities. This delegation was strongly highlighted in the state report. The Frisian language is the only minority language for which the central government and provincial authorities hold joint responsibility. The Frisian language also enjoys co-official status in the province of Fryslân, which is enshrined in the *Use of Frisian Act*. Teaching Frisian at all levels of education is a current shortcoming and is connected to the freedom that is given to schools to have the ability to choose the make use of the right to teach in or on the minority languages. In the case of the Frisian language, schools are obligated to teach Frisian, however, full or partial exemptions can be granted.

In terms of legislation, the report mentions the *Bestjoersôfspraak Fryske Taal en Kultuer 2019-2023* (BFTK 2019-2023) and the *Use of Frisian Act*. It also mentions the study that will be conducted on the possibility of turning the *Use of Frisian Act* into a framework law. The establishment of *DINGtiid*, an advisory body, was due to this act as well. There is

also funding (*Mei-inoar foar it Frysk*) available from the provincial authority to implement the *Use of Frisian Act*. Extra funding has been made available, €150,000 per year, during the term of the BFTK 2019-2023 to ensure the implementation of the BFTK. The BFTK determines the utilization of the Frisian language in education, and it became apparent that the province of Fryslân tends to encourage bilingualism or trilingualism. The evaluation of the previous BFTK in 2016 was generally positive in the educational sphere as is consistent with the *Taalplan Frysk*, established by the provincial authorities. The evaluation showcased that the Education Inspectorate's role, however, should be more clearly defined. This view was shared by the Frisian authorities. Furthermore, the evaluation revealed that most municipalities did not have a language policy plan that they actively pursued. In response the role of *Taalskipper* was created in 2017, which is fulfilled by the province of Fryslân.

In the previous report by the Committee of Experts (COMEX), the need for a structured policy for the implementation of the ECRML was expressed. In the state report response, reference was made to the 2017 Language Symposium, which only five of the 142 invited municipalities attended. The COMEX would like to see an increase in awareness at the municipal level, which benefits all the minority languages under the ECRML. In a similar vein, the COMEX highlighted the necessity of a national policy since education falls under the responsibility of the central government. The Dutch authorities argue that the national education policy offers the opportunity for schools to decide to teach the minority language. The report interprets this as: “according to the authorities of the Netherlands, compulsory teaching of regional or minority languages as school subjects would not be in line with educational policy that attaches a high importance to decentralisation and to the transfer of competences to regional authorities.” (p.7). The report reiterates that it is the duty of the central government to offer minority languages. In addition, the report mentions that a review of the primary education curricula is ongoing at the national level with the objective of “general attainment targets and not a state curriculum.” (p.7). This means that the schools retain the freedom to decide to provide teaching in minority languages “in the teaching time left over and above the core curriculum.” (p.8). The authorities have also made a promise to help stimulate the market of Frisian teaching materials since there is not enough on offer.

### **Committee of Experts' comments on Frisian**

As was mentioned, full or partial exemptions for Frisian can be granted to schools, which happens quite often. In 2018, 15% of all pupils received trilingual education<sup>28</sup>. Primary schools that offer Frisian often limit this to only 45 minutes per week, which is not in line with the undertaking of the ECRML. Teacher training is provided and ensured by the central and provincial authorities, however, there is still a shortage of teachers who can teach of and in Frisian. Thus, further measures are necessary.

*Taalplan Frysk* “regulates the education strategies for every school” (p.12), which is followed by language coordinators who make sure the implementation of the goals is followed through. One of these goals is that by 2030, no partial or full exemptions will be granted, which means that Frisian is part of the curricula in all schools. Frisian cultural institutions, like *Tryater*, *Fryske Akademy*, *Tresoar*, are funded by the Ministry of Education, Culture and Science and the provincial authorities. *Afûk*, a language promotion institution, only receives support from the province of Fryslân.

In their evaluation of compliance, the report states that Articles 7.1.d and 7.1.f are unchanged and remain partly fulfilled. Articles 7.1.c and 7.2 remain fulfilled. 8.1.bii remains not fulfilled. Articles 7.3 and 8.1.h have improved and are now fulfilled, while 8.1.i has deteriorated and is now partly fulfilled. The deterioration of Article 8.1.i is caused by the neglect of evaluation of the teaching of and in Frisian. In addition, the COMEX find that the periodical intervals span several years, which is too long. Article 8.1.h is now deemed fulfilled since basic teacher training is provided. However, the report reiterates that there is still a lack of teachers. The main recommendations are to “increase the number of teaching hours of and in Frisian at primary level” (p.20), make sure that Frisian is addressed sufficiently by the Education Inspectorate, and tackle the lack of teachers by promoting participation in teacher training.

### **Comments from the Dutch authorities on the Committee of Experts' report**

Regarding the Education Inspectorate, a study in 2018 examined the quality of Frisian in primary and secondary education. Monitoring of the developments in teaching in and of

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<sup>28</sup> Education in Dutch, Frisian, and English.

Frisian will be done over the next four years, during its four-yearly reviews. In 2025, a new study on the quality of teaching in and of Frisian at schools will be conducted. Regarding the teacher training, there are provincial grant schemes available to facilitate in-service training. Schools are encouraged to take advantage of this and are facilitated in this process to boost their understanding of Frisian, as a language and in the multilingual context.

### **4.3.3 Committee of Ministers**

The only recommendation for Frisian from the Committee of Ministers is to “continue to strengthen the teaching of and in Frisian at all levels of education” (p.1).

## **4.4 Sweden**

### **4.4.1 Sweden’s 7th periodical report**

#### **General remarks**

At the start of the state report, the Swedish government acknowledges they have a special responsibility to safeguard national minorities. This is followed by an overview of important legislative developments, which include the government bill *En stärkt minoritetspolitik*,<sup>29</sup> the amended *Act on National Minorities and Minority Languages*, and the government communication *Nystart för en stärkt minoritetspolitik*.<sup>30</sup> Both the government bill and the government communication are part of the overarching minority policy strategy of the Swedish government, which enables “a systematic approach, long-term thinking and the autonomy of the national minorities” (p.2). There is a plan to create an action program for national minority languages.

In 2016, a review of the government bill related to national minority policy was started and led to the appointment of an inquiry that reviewed the *Act on National Minorities and National Minority Languages*. An interim report called *Nästa steg? Förslag för en stärkt minoritetspolitik*<sup>31</sup> was created and resulted in the submission of the government bill and government communication mentioned previously. The legislation has led to a stronger

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<sup>29</sup> A stronger minority policy (translation provided by the state report).

<sup>30</sup> New start for a stronger minority policy (translation provided by the state report).

<sup>31</sup> The next step? Proposals for a stronger minority policy (translation provided by the state report).

assertion of the right to education in minority languages. Furthermore, the government communication focuses on non-legislative aspects as well and describes “what a holistic approach to challenges and opportunities in this area involves.” (p.6). In addition, the overall structure of government agencies, who handle minority policy, will be studied to improve the monitoring system. The government bill also emphasizes that the rights of national minorities are part of a larger international framework from which the national level should draw.

### **Recommendations from the Council of Europe and measures taken by the state**

After the previous state report, the Swedish government received the following recommendations:

“1. Strengthen education (...) by adopting a comprehensive and structured approach based on the needs of the speakers and according to the situation (...). 2. Ensure that ‘mother tongue’ education meets the requirements of the Charter and offers adequate language tuition, enabling pupils to achieve mature literacy (...). 3. Increase the amount of bilingual education available in (...) Sami (...). 4. Develop a system of teacher training according to the needs of the speakers and to the situation (...).” (p.7).

The first measure discussed is an inquiry looking into how to improve national minority students’ opportunity to receive mother tongue education in school. This led to the report *Nationella minoritetsspråk i skolan*<sup>32</sup>, which determined that there should be a distinction between teaching in the national minority languages and other mother tongue tuition. In terms of legislation, students belonging to national minorities have the right to mother tongue tuition and the education provider should provide this. However, a suitable teacher must be available as a requirement to enact the legislation. The report *Nationella minoritetsspråk i skolan* proposes that national minority language teaching should not be a part of the general provisions concerning mother tongue tuition but should be introduced as a new subject – national minority language – in the *Education Act*. For this subject, a minimum of 960 hours of teaching time should be guaranteed and split equally between the stages of education.

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<sup>32</sup> National minority languages in school (translation provided by the state report).

Specifically in Sami schools,<sup>33</sup> 640 hours of teaching time is the minimum that should be guaranteed.

Bilingual education in legislation can be found in the *Compulsory School Ordinance*, where it is stated that if one or both custodians in the home speak a language that is not Swedish, teaching in years 1-6 may be organized in the different language. However, the maximum of teaching in the respective different language is half and teaching in the Swedish language should gradually increase during the education of the student (p.10). The inquiry mentioned above determined that currently bilingual education for Sami is not sufficient and action is needed. Furthermore, the removal of the requirement of daily language of interaction was proposed following the inquiry as well.

Subject teacher training for Sami is only available for teachers intending to teach years 7-9 in compulsory schools. The Swedish government remarks that there is a lack of teachers specifically for years 1-3. They also state that it is difficult to gain students for the teacher training courses. In 2018, there were no applicants for teacher training in Sami at Umeå University. It is also difficult to create a course that can be relevant for minority language teachers because they often teach a wide range of years. Adding to these difficulties, not enough students have the national minority language skills, because the current school system has not taught them those, which leads to students not meeting the requirements necessary for the teacher training courses. Thus, an action plan is needed to coordinate schools and teacher training courses. Furthermore, an inquiry into the possibility of including national minority languages as a subject in teacher training for years 4-6 was proposed. Finally, there was a proposal to look into the creation of more tailored teacher training specializing in minority languages.

### **Comments on the articles of the ECRML by the state**

For Article 7.1.f, the state report mentions that the Swedish National Agency for Education has been responsible “for questions on the national minorities and minority languages within its remit” (p.22) since 2018. Furthermore, the inquiry titled *Förbättrade möjligheter för elever*

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<sup>33</sup> Sami schools cover years 1-6.



*att utveckla sitt nationella minoritetsspråk*<sup>34</sup> determined that bilingual education for Sami is insufficient, and short-term and long-term actions are necessary.

For Article 7.2, the state report notes that they have incorporated the UN Convention on the Rights of the Child into a government bill. The act will enter into force in 2020. For Article 7.3, teaching materials and supplements have been produced by the Swedish National Agency for Education and the *Sveriges Utbildningsradio*.

For Article 8, the state report mentions the report *Nationella minoritetsspråk i skolan – förbättrade förutsättningar till undervisning och revitalisering*<sup>35</sup> that was submitted after the inquiry in 2016 and examined possibilities to improve national minority mother tongue tuition for students. The proposals from this report are being prepared by the Government Offices. Specifically for Sami schools, another report titled *Entreprenad, fjärrundervisning och distansundervisning*<sup>36</sup> proposes that distance learning could be expanded, which could lead to being able “to offer high-quality teaching with qualified teachers where there is a lack of qualified teachers or where the number of students in a teaching group is small.” (p.30). In terms of funding, the Swedish government has provided the Swedish National Agency for Education SEK 2 million each year since 2018 to combat the lack of teachers teaching in the Sami languages. Furthermore, subject teacher training in Sami at Umeå University continues to be provided as requested by the government. In 2018, the university received SEK 4 million for the subject teacher training in Sami and Mëankieli. No students applied for subject teacher training in Sami in 2018. However, some students have been taking freestanding courses in Sami. In addition, these students are also constantly informed about the possibility to take an additional teacher training course to receive a subject teacher qualification. In 2018, commissioned training that led to a qualification had 20 participants arranged by the Swedish National Agency. The training will continue until autumn 2020. However, the teaching environment is vulnerable due to the limited number of university teachers. The Swedish Schools Inspectorate, who is in charge of inspecting schools, decided in 2019 to study “the

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<sup>34</sup> Improved opportunities for students to develop their national minority language (translation provided by the state report).

<sup>35</sup> National minority languages in schools – improved conditions for teaching and revitalization (translation provided by the state report).

<sup>36</sup> Outsourcing, remote teaching and distance teaching (translation provided by the state report).

right to mother tongue teaching in national minority languages in years 7-9 in compulsory schools” (p.35).

#### **4.4.2 7th Evaluation Report by the Committee of Experts**

##### **General remarks**

The report by the Committee of Experts (COMEX) is based on the on-the-spot visit from the 9<sup>th</sup> till the 11<sup>th</sup> of October 2019. Throughout the report cycles, there has been an increase in the number of municipalities that belong to the administrative areas of Sami languages. However, Sami representatives are still concerned that many speakers of the languages are outside the administrative area. The COMEX mention that the Swedish state did not distinguish between the different Sami languages when ratifying the ECRML. The COMEX do differentiate between North, Lule, Ume, Pite, and South Sami when necessary, which is an approach that the Swedish government also takes. The Swedish government has been setting up inquiries to improve the protection and promotion of the minority languages by the Swedish government. However, this has not resulted in practical results. The Equality Ombudsman has indicated that there are several cases where national minority speakers were prohibited from speaking their language in schools. In the *Discrimination Act*, language is also not a ground for discrimination, which is not in line with the undertakings of the ECRML.

In terms of legislation, the government bill *En stärkt minoritetspolitik* strengthened the existing legislation which entailed the rights of national minorities. In addition, it reinforced existing obligations of municipalities and county councils by making the *Act on National Minorities and National Minority Languages* more stringent. The goal of this government bill is to have “a more systematic approach and a long-term protection of the national minority languages.” (p.6). The Institute for Language and Folklore has also been tasked to create an action plan for the preservation of national minority languages. The government communication *Nystart för en stärkt minoritetspolitik* of 2018 highlights the need for language course options, due to the lack of language skills in the public sector, and encouragement of the public to learn national minority languages so that the responsibility does not fall solely on the higher education sector.

### **Committee of Experts' comments on education**

In terms of education, the situation is unsatisfactory. “As indicated in the last evaluation report, a structured policy in education, teacher training and additional teaching materials are needed to ensure the protection of all minority languages.” (p.4). The current and previous reports have indicated that there is “an acute need for teachers (...) for years 1-3 in compulsory schools” (p.6), which is not helped by the lack of a developed teacher training system. Only teacher training for Sami for years 7-9 is available. The lack of qualified teachers creates and recreates the current lack of students knowledgeable of the national minority languages, who can take the teacher training courses. Thus, the current teacher training system is insufficient for creating enough primary school teachers. However, the report does mention that Umeå University continues the subject teacher training in Sami and expand this further. Even though this is difficult due to the vulnerability of the teaching environment caused by a limited number of university teachers. Concerning this issue, the Swedish Council for Higher Education made two reports: *What can Swedish higher education do for young people from Sweden's national minorities?* and *National minority courses*.

In 2019, a decision was made to create an inquiry on mother tongue education in years 7-9 of compulsory school. The report following the inquiry was published in 2020 and states that a well-functioning teacher education system should be created. Furthermore, municipalities should provide more and non-misleading information on language rights and more information on the possibility of receiving instruction in the national minority languages in grades 6-9 in school. In terms of teaching hours, receiving instruction in the national minority languages became possible in 2015, however, the students are not divided into different classes according to their language level and the classes take place after school hours. One lesson per week for national minority languages is not enough. In the previous report, a recommendation was to ensure adequate language tuition to achieve mature literacy in the national minority languages. Therefore, in 2016 an inquiry was conducted to propose measures on how to improve language tuition for national minority students. The inquiry proposed the creation of a new subject for national minority languages, which will be part of the regular curriculum. A total of 960 hours, meaning three hours per week, throughout primary school (years 1-9) were proposed. For Sami schools (years 1-6), a total of 640 hours were proposed.

The previous report by the Committee of Ministers recommended that bilingual education in Sami should be increased. The National Minority Languages at School Inquiry has also stated that the bilingual education in Sami is not sufficient and that this issue should be tackled with both short-term and long-term solutions.

### **Committee of Experts' comments on the Sami languages**

Despite this, the report does state that: "Sami can be studied, to a greater or lesser extent, at all levels of education in Sweden." (p.13). It mentions the report *Outsourcing, remote teaching and distance teaching*, which sees opportunities to expand distance learning for Sami schools. The government's 2018 appropriation letter grants the Swedish National Agency for Education SEK 2 million for commissioned training initiatives which would increase the number of qualified teachers in Sami. This started in 2018 with 20 participants and will continue till autumn 2020. The report by the COMEX also expresses concern over the potential closing of the only Sami school in the traditional South Sami area<sup>37</sup> due to monetary issues. This issue was also raised by the Civil Rights Defenders. During the visit by the COMEX, there was discussion on whether and how the school could be re-structured. The report wonders how the rights of the South Sami pupils will be guaranteed in the South Sami area.

In their evaluation of compliance, the report states that Articles 7.1.c and 7.1.d are unchanged and remain fulfilled. Articles 7.1.f, 7.3, 8.1.biv, and 8.1.h remain partly fulfilled, while Article 8.1.i has remained not fulfilled. Article 7.2 has deteriorated and is not fulfilled due to the *Discrimination Act* not including language as a ground for discrimination. The report recommends that the Swedish state implement the proposed measures of the inquiry on national minority languages at school, while cooperating with Sami speakers, and continuously report on the steps taken; develop "a structured policy concerning teacher training at all education levels" (p.31); and expand the *Discrimination Act*; monitor the teaching of Sami by establishing a supervisory body.

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<sup>37</sup> Storuman municipality.

### **4.4.3 Committee of Ministers report**

The recommendations from the Committee of Ministers are to expand the *Discrimination Act*; to strengthen education “by adopting a comprehensive and structured approach based on the needs of the speakers” (p.1) and the situation of each language; to offer adequate national minority language tuition; to increase bilingual education in Sami; and to create a functioning teacher training system which will fulfill the needs for each national minority language.

## **4.5 Norway**

### **4.5.1 Norway’s 8th periodical report**

#### **General remarks**

Both the Ministry of Culture and the Ministry of Local Government and Modernisation have responsibility in terms of the ECMRL. The former concerns themselves with Indigenous and minority languages and implementing policy related to this, while the latter has administrative responsibility for the ECRML and is currently conducting a study regarding the possibility to include Lule and South Sami under Part III of the ECRML.

#### **Comments on North Sami by the state**

For North Sami, the report details both measures specifically related to North Sami as well as all Sami languages. In the chapters for Lule and South Sami, the report often refers to the text under the North Sami chapter.<sup>38</sup> The government has “adopted a basic premise that changes in the municipal boundaries should not have a negative impact on Sami language users” (p.11) and, thus, protect the Sami languages. The report also mentions the *NOU 2016: Hjertespråket* report, which contains several proposals to increase Sami language rights through legislative amendments and proposals to further promote the Sami languages. NOK 2 million was granted to the Sami Parliament for the UN International Year of Indigenous Languages in 2019. In terms of funding, the report notes the responsibility of the Sami Parliament and the funds it receives to perform their responsibility to protect and develop the Sami languages,

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<sup>38</sup> This is the case for Lule Sami for Articles 7.1.c, 7.1.d, 7.1.g, and 7.3. This is the case for South Sami for Articles 7.1.c, 7.1.d (partly), 7.1.g, and 7.3.

which is described in the *Sami Act*. NOK 497 million was granted in 2019 and the Sami Parliament has the power to apportion these funds how they see fit.

In terms of education, an overview of the number of pupils in primary and lower secondary school is provided (table 7). Within the Sami language administrative district, the right to be taught in and of all Sami languages is granted to all students. In addition, “the local authorities in the administrative area may decide that all pupils in the municipality should be taught Sami.” (p.14). Outside of the administrative areas, “only Sami pupils have a right to be taught Sami, but both Sami and non-Sami pupils, providing the total at least ten in a municipality, have a right to be taught Sami (...), as long as there are at least six pupils left in the group.” (p.18). This right does not entail being taught in Sami, as the language of instruction, only being taught of Sami as a subject.

School year	Language	First language	Second language
2018-2019	North Sami	892	1276
	South Sami	26	85
	Lule Sami	34	81
2019-2020	North Sami	893	1293
	South Sami	28	85
	Lule Sami	33	77

Table 7: Number of pupils following the three Sami languages as a first or second language in primary and lower secondary school in the school years 2018-2019 and 2019-2020

In terms of teaching material, the Sami Parliament is responsible for the development of teaching materials from the funding provided by the Norwegian government. In 2020, NOK 15 million was available for the development of digital teaching aids. In addition, through the program *The Technological Schoolbag* the Directorate of Education announced funding in both 2018 and 2019 for digital teaching tools development, leading to the development of teaching materials in duodji and music for the Sami languages. A distance learning seminar was also arranged by the Sami University of Applied Sciences and the County Governor of Troms and Finnmark for distance-learning teachers to improve the quality and further development of distance learning. The report notes that the Sami University of Applied Sciences offers teacher education with North Sami as the language of instruction. North Sami language programs are offered at the Sami University of Applied Sciences and UiT The Arctic University of Norway, which can be combined with teacher education. Furthermore,

regulations for a separate framework plan have been introduced, regarding teacher education programs, to improve the conditions which lead to Sami students receiving instruction in the Sami languages. In addition, National Curriculum Regulations have been set for Sami primary teacher education by the Ministry of Education and Research. The program in Sami is considered equal in worth to the Norwegian program.

In terms of legislation, the Ministry of Culture is planning a draft bill that contains a new language act<sup>39</sup> and has consulted the Sami Parliament on this. The aim of this draft bill is “to strengthen the Norwegian language, thereby enabling it to serve as a foundation for use in all spheres and by all members of Norwegian society.” (p.17). In addition, the responsibility for the utilization, development, and promotion of Sami languages will be placed on public bodies. Through the *Sami Act*, the Norwegian and Sami languages are already considered equal. However, this draft bill also proposes the codification of the Sami language as Indigenous languages.

A study on Sami students’ right to instruction in and teaching of North, Lule and South Sami was conducted by the Office of the Auditor General, which covered the period of 2015-2018. The study found that there is a shortage of Sami teaching materials, which has a negative influence on the teaching of and in Sami. In addition, structural problems in distance learning, in terms of organization and execution, have led to inequalities between teaching programs.

### **Comments on Lule Sami by the state**

Nord University offers teacher education programs in Lule Sami and the university received NOK 5 million to create Lule and South Sami academic groups. In 2018, the Lule Sami primary teacher education program for years 1-7 was established. The program’s medium of instruction is Norwegian but a qualification for Lule Sami is provided. In 2020, nine students were taking South and Lule Sami teacher education programs, “and twice as many are taking the subjects in or in combination with another teacher education programme.” (p.35).

In response to the first recommendation from the previous report of the Committee of Ministers, which applies to both Lule and South Sami, reference is made to articles for North

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<sup>39</sup> This new draft bill has since been adopted.

Sami and one part of the recommendation, to protect and promote Lule Sami and South Sami in education, is not dealt with. The first recommendation from the previous report of the Committee of Experts (COMEX) was: “provide forms and means for the teaching and study of Lule Sami at all appropriate stages (...) and with sufficient capacity and availability (...) at (...) primary level.” (p.34). The state report reiterates that Nord University developed a teacher education program in Lule Sami. The second recommendation is to encourage the utilization of Lule Sami in education. The state report refers to the *Action Plan for Sami Languages*, which included measures for Lule and South Sami and ended in 2017. The funding for the follow-up measures of 2018 were transferred to the Sami Parliament. Currently, the *NOU 2016: 18 Hjertespråket* contains several measures that can strengthen Lule and South Sami. As a response to the third recommendation, to raise awareness about Lule Sami and facilitate its recognition in education, the state report refers to the draft bill mentioned previously. The fourth recommendation applies to the division of Tysfjord municipality, half of which was incorporated into Narvik municipality.<sup>40</sup> This led to consultations with multiple parties by the Ministry of Local Government and Modernisation to ensure the rights of speakers of Lule Sami. In addition, the Ministry has granted Narvik municipality funds for 2020 to ensure this.

### **Comments on South Sami by the state**

For South Sami, two municipalities have been incorporated into the Sami language administrative district,<sup>41</sup> meaning that these municipalities receive grants from the Sami Parliament to enact the provisions of the *Sami Act*. Nord University offers a South Sami primary teacher education program for years 1-7. This program’s medium of instruction is Norwegian, however, a qualification for South Sami is provided.

In response to a recommendation in the previous report of the COMEX, the state report mentions that the teacher education program in South Sami does not have many students. However, the university, in collaboration with the Sami Parliament and several

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<sup>40</sup> The restructuring of municipalities is part of a larger reform in Norway, which was started in 2014. For more information on this see (KS, n.d.; Norwegian Ministry of Local Government and Modernisation, n.d.)

<sup>41</sup> The report only mentions the incorporation of these two municipalities. The total number of municipalities in the South Sami administrative area as of now are four. For more information on the South Sami administrative area and the Sami administrative area in general, see (Pulk, n.d.).



subnational actors, are working on recruiting more students. Another response to a recommendation, focusing on administrative divisions, states that the merging of South and North Trøndelag counties “has strengthened the coordination of efforts for the South Sami language.” (p.41).

## **4.5.2 8th Evaluation report by the Committee of Experts**

### **General remarks**

The report by the Committee of Experts (COMEX) is based on the on-the-spot visit in August 2021. In May of 2021 the *Language Act* was adopted, which protects all the languages covered under the ECRML. It also “confirms the Sami languages as *indigenous languages*” (p.6). Throughout the covid-19 pandemic, online or hybrid teaching in the regional or minority languages was enacted, especially in remote areas. However, the COMEX reminds the state that on-site teaching should be preferred. In addition, the online teaching materials could be improved or newly developed based on the experience learnt from the pandemic. The report notes that, even though the languages protected only under Part II of the ECMRL are taught in the education system, these languages are at risk of being lost as mother tongues. Many students drop the languages due to the requirements at upper secondary level, which has a negative influence on the recruitment of teachers.

National legislation and policy have been reviewed by the Norwegian state, in consultation with the speakers of the languages, to comply with the ECRML. The new *Language Act* and the *Sami Act* are mentioned as legislation that support the anti-discriminatory approach of the Norwegian state. The former strengthens the Norwegian language and clearly establishes the responsibility the state has towards minority languages. The Ministry of Local Government and Modernisation has been tasked to report national policy concerning the Sami to the Norwegian parliament. In addition, an annual white paper presented to the Norwegian parliament has included a discussion on trends regarding “Sami languages, culture, way of life and services provided to Sami people” (p.7). In 2019, the topic was Sami languages and digitalization and in 2020 the title was *National minorities in Norway – a Comprehensive Policy*. The 2020 white paper was adopted by the Norwegian parliament. The COMEX state that it would be beneficial if the (minority) language issues would be brought up at more frequent intervals.

The COMEX have been informed of instances where bullying, harassment, and hate speech have been based on the grounds of minority languages by the Ombudsperson for Children. The COMEX concludes that the public should be more aware of the linguistic heritage of Norway. The COMEX looks forward to hearing more about the results of the *Action Plan against Racism and Discrimination on the Grounds of Ethnicity and Religion* (2020-2023). Moreover, the establishment of the Anti-Discrimination Tribunal (2018) is welcomed.

In terms of funding, the COMEX remarks that the system for the funding of the Sami languages is better organized than the funding for the minority groups. The funding for the Sami is grouped together in a single budget through the Sami Parliament, while minority groups and their languages can be supported through various grant schemes which fall under different state bodies.

#### **Committee of Experts' comments on education**

In terms of funding, the COMEX believe there is room for improvement in the areas of teaching materials and teacher training recruitment regarding minority languages. This can be solved by adding further funding for educational programs or awareness raising activities and/or financial incentives for teachers. The COMEX notes two issues that were brought up in terms of the continuity of minority language education since many students discontinue learning minority languages during upper secondary education. First, the requirements for students who learn Sami as a second language have higher requirements than those learning a foreign language. Second, extra credits to those studying Sami are not provided, while this is the case for those studying a foreign language. Thus, the COMEX proposes that these rules should be revisited to support the learning of the minority languages that are already vulnerable.

There are some universities in Norway which offer in person or online teaching of minority languages. There is interest for these courses, also from students with no background in these minority languages, who are learning them as foreign languages. However, the COMEX is concerned that further loss of the minority languages as a mother tongue will continue for the younger generations. Thus, more focus on teacher training in the minority languages is preferred to be able to offer the teaching of the minority language at all levels of education. The COMEX was also notified of some issues concerning the entry requirements

of teacher training at higher education level. The requirement for mathematics, which is quite a high,<sup>42</sup> leads to an insufficient number of applicants and admissions for the teacher education. The COMEX advises the Norwegian state to reconsider these requirements.

During the Covid-19 pandemic, temporary and new legislation was adopted by Norway<sup>43</sup> to remedy the consequences of the pandemic. This meant that education should continue, including teaching in and of minority languages, even during the pandemic. The report notes that Sami teachers were able to adapt quickly to the situation. There was, however, a lack of digital teaching materials because they were still under development, or they needed improvement. The situation caused by the pandemic did showcase, in the opinion of Sami speakers, that the teaching of Sami languages is possible at any time, regardless of the number of students in a classroom. Teacher education at Sami higher schools completion number were still good during the pandemic, while other study programs were affected.

Specifically for all Sami languages, the report notes that the Ministry of Local Government and Modernisation has been examining whether Lule and South Sami could be included under Part III of the ECRML. After the review and deliberation with other actors, the Norwegian authorities decided to include Lule and South Sami under Part III of the ECRML. The Norwegian authorities fund the Sami Parliament for various areas. In 2019, they received NOK 497 million. However, Sami speakers believe that this is insufficient for the Sami Parliament to fulfill their obligations for all the Sami languages. The COMEX highlight that the Norwegian state failed to provide a response to their recommendation regarding the protection and promotion of Lule and South Sami in education other than referring to North Sami.

### **Committee of Experts' comments on North Sami**

The report states that North Sami is in a satisfactory situation as far as the ECRML is concerned. They state that the number of children who have learned to speak the language is high, from which they conclude that the language shift has almost stopped. Even though only

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<sup>42</sup> The applicants are required to have received a 4 out of 6 in mathematics, while most applicants only have a basic upper secondary understanding of mathematics.

<sup>43</sup> The title of the new legislation: *Temporary Act on Adjustments to the Day Care Institutions Act, the Education Act and the Private School Act to remedy the consequences of the outbreak of Covid-19.*

about 25% of the children learn the language at the upper secondary level. A structural problem that the COMEX raises is the requirement that a class in Sami is only started outside the Sami language administrative district if there are at least ten students. The report states that this requirement should be reviewed since many Sami speakers live outside the administrative district.

In their evaluation of compliance, the report notes that Articles 7.1.c, 7.1.d, 7.1.f, 7.2, 8.1.biv, and 8.1.i have remained fulfilled. Article 7.3 has remained partly fulfilled. Article 8.1.h has deteriorated to partly fulfilled due to the lack of teachers, which is caused by recruitment problems from the discontinuation of North Sami at the upper secondary level due to the unfavorable system. For recommendations, the COMEX suggests that the Norwegian government creates incentives for students to continue to learn North Sami at the upper secondary level, since this is the recruitment base for teacher training students.

#### **Committee of Experts' comments on Lule Sami**

The population of Lule Sami speakers is quite small, which corresponds with the number of children learning the language in school being low. No students learn Lule Sami at the upper secondary level. An area of attention for the COMEX is the division of the former municipality of *Divtasvuodna* (Tysfjord) into Hamarøy and Narvik. The COMEX received concerns about the rights of the children not being met in terms of teaching in Lule Sami. Teaching provision in Lule Sami is supposed to be provided by the new municipalities.

In their evaluation of compliance, the report notes that Article 7.1.c has improved and is now fulfilled because the Norwegian state included Lule Sami under Part III of the ECRML. Articles 7.1.d and 7.3 have remained partly fulfilled. Articles 7.1.f and 7.2 have remained fulfilled. For recommendations, the COMEX would like the Norwegian state to “ensure that the new administrative division does not have a negative impact on Lule Sami in education” (p.22) and to create incentives to continue to study Lule Sami at the upper secondary level because those students will form the base from which teacher training students are recruited. In addition, further encouragement of Lule Sami in education is preferred.

### **Committee of Experts' comments on South Sami**

The report states that the situation of South Sami appears to be improving. The development of a teacher training program in South Sami under the *Action Plan for Sami Languages* is a testament of this. However, more sustainable funding is preferred by municipalities from the Sami Parliament and other authorities. The provision of in person and online teaching of South Sami in compulsory education was commendable according to the COMEX. However, further training of teachers should still be a priority. The report also takes note of the language nest project, which is successful. The COMEX highlight the value of such initiatives and would like to see encouragement of such projects from all stakeholders.

In their evaluation of compliance, the report notes that Article 7.1.c has improved to fulfilled due to the undertaking to include South Sami under Part III of the ECRML. Articles 7.1.d, 7.1.f, and 7.3 have remained partly fulfilled and Article 7.2 has remained fulfilled. For recommendations, the COMEX suggests to “provide forms and means for the teaching and study of South Sami at all appropriate stages” and to create incentives for students to continue learning South Sami at the upper secondary level since this is the recruitment base for future teachers of South Sami. In addition, encouragement of South Sami in education overall is preferred.

#### **4.5.3 Committee of Ministers report**

The recommendations from the Committee of Ministers are to “allocate sustainable means for revitalisation and development of (...) Lule Sami and South Sami (...), the most endangered minority languages” (p.1); to keep track of the demand for teaching of and in Sami languages; and to strengthen the Sami teacher training recruitment through measures (p.1).

## **5 Analysis**

### **5.1 Introduction**

To analyze the data, the main categories and codes discussed in the method chapter are employed. Throughout the discussion of the categories, comparisons between the states' responses to the ECRML are made, exploring differences and similarities in protection and promotion of the Sami and the Frisian languages. A part of my discussion is examining state

compliance with the ECRML as it appears from the reviewed reports. The first category discussed is protection with its codes: legislation, delegation, and institutionalization. The second category is promotion, and the codes are monetary investments, promotion initiatives, and monitoring bodies. States shortcomings in protecting and promoting the languages make up the third category. To reiterate, the lines between the categories can be blurry and not every action of the state can be put in only one category.

## 5.2 Protection

### 5.2.1 Legislation

Laws, acts, bills, or any other form of legislation related to the respective minority and Indigenous languages was coded as legislation. Throughout the states' reports and the Committee of Experts' reports, national legislation is mentioned.

Regarding legislation related to the Swedish state, both the state and the Committee of Experts (COMEX) reports point to an insufficient situation for the Sami languages. They also discuss other bills and reports and make proposals for the protection and promotion of the Sami languages, which need to be implemented. In the COMEX report, it is stated that the *Discrimination Act* is not in compliance with the ECRML because language is not included as a ground for discrimination. The COMEX conclude that Sweden is not in compliance with Article 7.2, which focuses on the elimination of discrimination against the use of language. This can be considered a negative obligation of the ECRML according to the NIM (2021) report's definition. Sweden is the only state in non-compliance with this negative obligation of the ECRML.

When the Swedish state comments on the articles of the ECRML and what they have done to implement these, most often reference is made to some form of legislation, in the form of an inquiry or law. Most of the legislation mentioned applies to all minority languages<sup>44</sup> Sweden has vowed to protect. Legislation specifically focusing on the Sami

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<sup>44</sup> Minority languages is the term that Sweden utilizes throughout the state report to also indicate the Sami languages. That is why minority languages are also utilized here and not indigenous language. A comment on this can be found in this section as well.

languages is almost absent in the Swedish reports. The Sami languages are also categorized under the term minority languages in legislation and the term Indigenous language(s) is not used by the state report of Sweden. Additionally, Sweden also does not differentiate between the different Sami languages, unless this is deemed necessary. The COMEX adopts this approach and does not differentiate between the Sami languages when rating the state compliance of Sweden with the ECRML. This means there is only one table of state compliance for all Sami languages in the COMEX report of Sweden. This is different from the Norwegian case, where state compliance is rated by the COMEX for each separate Sami language that is protected, resulting in three tables of state compliance. For Norway, the Sami languages are indicated as Indigenous languages, while Sweden categorizes the Sami languages under the minority language umbrella. Thus, there is a difference between Norway and Sweden in the legislative approach to protection.

The reports of Norway do address legislation, however, less focus is on the legislation. The Norwegian reports mention acts and several reports, which are utilized to protect the Sami languages. As unitary states legislation stems from the national level in both Norway and Sweden. The Sami administrative areas are where Sami language rights are strongest. Rights to education in and of Sami languages is discussed at length in and outside of the administrative areas in the Norwegian reports. For Norway, temporary legislation was also introduced to protect the Sami languages during the Covid-19 pandemic. A remarkable point is the new draft bill, mentioned in the state report, which argues that the strengthening of the Norwegian language will be beneficial to the protection and promotion of the Sami languages. In the report by the COMEX, this draft bill has been adopted and turned into the *Language Act*, which protects all languages covered under the ECRML. This new act also confirms that the Sami languages are considered Indigenous languages, which is different to the approach of the Swedish report to the Sami languages.

Most of the legislation in the Norwegian reports is authored by the Norwegian government. This is different for the German reports, where legislation mentioned often is authored by the sub-national authority and not the federal government. The legislation of the *Länder* of Schleswig-Holstein and Lower Saxony are discussed more in depth in terms of the protection and promotion of North and Sater Frisian because the *Länder* have the main responsibility for the protection and promotion of the Frisian languages, which is discussed

under delegation. According to the state report, it appears as though Schleswig-Holstein has a stronger legislative foundation than Lower Saxony, at least more legislation is mentioned for North Frisian than Sater Frisian. The comments from the Frisian associations the *Frasche Rädj* and the *Seelterbund* also discuss legislation and the *Seelterbund* discusses a lack in the legislation for Sater Frisian that should be rewritten.

As shown in the data chapter, the province of Fryslân plays an important role in terms of creating and implementing legislation that protects and promotes the Frisian language. Examples are the BFTK 2019-2023, *Taalplan Frysk*, and the attainment targets for Frisian, the former appearing to be the most important since it is the administrative agreement between the state and the province of Fryslân. Continuous reference throughout the state report is made to legislation, often in connection to promises or goals. I could not discern any further elaboration on how those goals would be accomplished by the state or the province of Fryslân in the reports. Legislation is also often referred to in order to respond to the recommendations by the COMEX. In my opinion, this indicates that the Dutch state is working on or has worked on the issues stated by the COMEX.

I have already made some comparisons related to legislation when discussing the states individually, for example, the difference between Norway and Sweden when discussing the Sami languages, both the terms that are used and the individual attention given to each language. On a territorial level, Norway and Sweden both have administrative areas for the Sami languages, which cover multiple regions in the country. These administrative areas span quite a large area in comparison to the compactness of the German and Dutch areas, the *Länder* of Schleswig-Holstein and Lower Saxony and the province of Fryslân respectively, as presented in the data chapter.

For Norway and Sweden, the state government is in charge of the legislation mentioned in the reports. For the Netherlands and Germany, sub-national authorities are in charge, the province of Fryslân and the *Länder* respectively. Thus, I argue that the main differences in legislation are the terms and attention given to the languages, in the cases of Norway and Sweden; the amount of focus on legislation in the reports, in the cases of the Netherlands and Sweden; the compactness of the areas where the legislation applies; and the authority creating the legislation.



Sweden is not compliant with the ECRML for Article 7.2.<sup>45</sup> Not including language as a ground for discrimination, limits the protection of the Sami when utilizing the Sami languages. Thus, I argue that Sweden's holds a more tolerance-oriented approach to the Sami languages, since Swedish legislation does not go beyond protection against discrimination. The tolerance-oriented approach signifies that the state is only focused on the basic protection against discrimination of the Sami people. In terms of legislation, this is exactly the approach that the Swedish state exhibits in their intentions, as seen in the data chapter. This is vastly different for Norway. I argue that Norway, in terms of legislation, is promotion-oriented in their approach and could be considered moving in the direction of the official language approach discussed by Kymlicka and Patten (2003). This approach is showcased in the recognition of the Sami languages as Indigenous languages. Norway, the Netherlands, and Germany fulfill the bundles of tolerance-oriented language rights, cf. Article 7.2. For the Netherlands, I argue that the legislation present in the province of Fryslân showcases a promotion-oriented approach and is moving toward an official language approach. For Germany, the legislation for North and Sater Frisian of Schleswig-Holstein and Lower Saxony showcase structural indicators explicitly of the *Länder's* intentions, and by extension the German state, to protect the Frisian languages. It is difficult to discern the approach of the German state because the tasks are delegated to the *Länder*. For both *Länder*, their approach is promotion-oriented, and Schleswig-Holstein is further along on the spectrum to the official language approach than Lower Saxony, which utilizes more of a norm-and-accommodation approach.

### **5.2.2 Delegation of responsibility (to sub-national entities)**

Making sub-national authorities responsible for the creation of legislation is one way to delegate the responsibilities of the ECRML. All four states delegate responsibilities of the ECRML to other authorities to various degrees. The most prominent case of delegation is the Netherlands, where discussion of the way in which the Netherlands delegate responsibilities has caused an impasse between the state and the Council of Europe. From the reports, it is unclear if this impasse has been solved or if the Netherlands and the Council of Europe are still currently at an impasse. The Netherlands' state report often mentions that even though

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<sup>45</sup> This article focuses on the elimination of discrimination against the use of the language.

the main responsibility of the ECRML rests on the state, the subnational authorities are closer to the ground and, therefore, more adept at implementing the ECRML. The report by the Committee of Experts (COMEX) draws attention to the municipal authorities' role in the protection and promotion of the Frisian language and how there is a lack of awareness of these authorities and most of them are not following a language policy plan. Thus, the delegation of responsibilities from central government to the municipalities does not appear to run smoothly. This also becomes apparent further on in the COMEX report, where the COMEX expresses the need for a national policy for education. The decision to offer minority languages is left to the provincial and regional authorities because of the national policy of the Dutch government. According to the undertakings of the ECRML, the duty of the state is to offer and provide minority language education. Furthermore, there are only general attainment targets for primary education at the national level, there is no state curriculum. Minority language education cannot be found at the national level. The Frisian education attainment targets are developed and implemented by the province of Fryslân and only apply to the province of Fryslân. However, there is still the possibility to receive a full or partial exemption from the teaching of and in Frisian, which can be granted by the province of Fryslân. In this way, delegation does not appear to be seen in a positive light by the COMEX. The way in which the Netherlands delegate responsibilities to their subnational authorities is viewed by the COMEX as not being in line with the ECRML.

For Germany, a federal state, the situation is very different from the Netherlands. The *Länder* of Schleswig-Holstein and Lower Saxony have certain responsibilities to the ECRML and can take on more responsibilities as *Länder* in the German federal state. The Committee of Experts' report on Germany highlights this by stating that the *Länder* have the main competence for the implementation of the ECRML, not the German federal state. Due to the difference in state governance, the delegation of responsibility to the German *Länder* is not an issue for the COMEX, while the delegation of responsibility to sub-national authorities in the case of the Netherlands is viewed as an issue by the COMEX.

Regarding delegation of responsibilities, the Norwegian state report mentions that a new draft bill proposes that public bodies will take on the responsibility of the utilization and development of the Sami languages. In addition, the Sami administrative area and the municipalities within also play a role. For Norway, Sweden, and Germany the COMEX does

not have any significant issues with the way in which responsibilities of the ECRML are delegated, which is the case for the way in which the Netherlands delegates their responsibilities of the ECRML. The only concern the COMEX has in terms of municipalities for Norway is the redivision of some of the municipalities and for Norway and Sweden the exclusion of some municipalities from the Sami administrative area regarding how this affects the Sami languages. In the case of South Sami in Norway, the merging of two counties – South and North Trøndelag – has had a positive influence on the coordination of the efforts.

Germany and the Netherlands as states, have claimed that they have a shared responsibility for the Frisian languages with certain sub-national authorities. As has been shown, the COMEX is not satisfied with the Netherlands in the way this shared responsibility is executed. For Germany, the COMEX does not remark negatively on the way in which responsibilities are delegated. Due to the difference in governing system, three unitary states and one federal state, different approaches to the delegation of the responsibilities of the ECRML are to be expected. However, it is interesting that the Netherlands, as a unitary state, has an issue with delegation according to the COMEX, while the other two unitary states do not exhibit a similar issue. Norway and Sweden have created the Sami administrative areas where specific legislation applies but the creation and implementation of legislation is still the main responsibility of the state. While in the Netherlands, the responsibility is shared by the state and the provincial authority. This affects the Netherlands compliance with the ECRML. Thus, I argue that the Netherlands is tolerance-oriented in their approach. The implementation of the ECRML is dependent on the state's ability to efficiently delegate the responsibilities of the ECRML. The Netherlands appears to be struggling with this delegation and is very steadfast in their approach to the issue, even though the Council of Europe argues against the efficiency of the approach. Due to these struggles with delegation of responsibilities, the approach by the Netherlands cannot be considered promotion-oriented. For the other three states, I argue that they are promotion-oriented since they do not appear to be struggling with delegation like the Netherlands appears to do.

### **5.2.3 Institutionalization**

The code for institutionalization covers the reports' discussion on institutions that were created to protect and promote the Indigenous and minority languages. In all the states, many

institutions protect and promote the Sami and Frisian languages. In this, universities play a significant role through offering language classes of the Sami and Frisian languages.

The importance of the Sami Parliaments of Sweden and Norway as the main institutions for the protection of the Sami languages is a known fact (Josefsen et al., 2016). Despite this, the Sami Parliament is not mentioned often in the Swedish state or COMEX reports, which is peculiar. In contrast, the Sami Parliament is often referred to and is discussed in relation to legislation and funding in the Norwegian reports, as shown in the data chapter. It becomes apparent from the reports on Norway that the Sami Parliament plays a significant role in the protection and promotion of the Sami languages. That the Norwegian reports more often mention the Sami Parliament than the Swedish reports does indicate the different levels of power and influence between the Sami Parliaments.

In the data chapter, the reports from the Netherlands and Germany mention institutions which can influence and advice policy for the minority languages. For the Netherlands, the main institutions for the Frisian language are located on the provincial level. The province of Fryslân as an institution plays an important role as *taalskipper* in terms of the implementation of the ECRML, while DINGtiid acts more as an advisor and mediator between the state government and the province of Fryslân. For Germany, there are institutions both at the federal level and the sub-national level, such as the Consultative Committee on Issues concerning the Frisian Ethnic Group. There are also many different Frisian associations which can influence state funding, in the form of the *Friisk Stifting*. The Frisian associations, *Frasche Rädj*, *Seelterbund*, and *Friesisches Forum* were also included in the German state report and could express their thoughts on the German policy on the Frisian language, which provides them with power to influence the ECRML process.

To summarize, all the states have institutions that protect and promote the Sami and Frisian languages. There are differences in the amount of power and resources that these institutions have and can exert as can be viewed in the differences between Sweden and Norway and Germany and the Netherlands. The reports do not mention any lack of the states in terms of institutions that protect the languages. There is only a difference in approach and power of these institutions between the four states. One difference is that the Sami, as Indigenous people, were part of the Indigenous movement in the 1970s, which eventually

resulted in the creation of the Sami Parliaments (Josefsen et al., 2016). The Frisians in Germany and the Netherlands are considered national minority groups and do not share this history. There is also a distinction between Indigenous peoples and national minorities in international law (Åhren, 2016b), which can also cause differences in power of the institutions. These questions do not fall under the scope of this thesis and will not be dealt with here. Even though Norway and Sweden both have Sami Parliaments, the separate histories of the Sami in each respective state have influenced the amount of power and resources that the institutions have. Another difference is in government systems, which can influence the power that each of the institutions of the four states exert. Following this, I argue that all states are promotion-oriented in their approach to institutions. Where on the spectrum each state falls is difficult to gauge due to the reports' lack of discussion of the power of these institutions.

#### **5.2.4 Summary of aspects discussed as protection**

The discussion of legislation, delegation, and institutionalization shows that certain states are not completely compliant with the responsibilities of the ECRML. Certain shortcomings appear when it comes to the protection of the Sami and Frisian languages. Sweden is the only state that does not fulfill the negative obligation of Article 7.2 of the ECRML by not including language as a ground for discrimination. Thus, Sweden is not compliant with the ECRML in terms of protection. The Netherlands is not compliant with the ECRML in their approach to the delegation of their responsibilities. In the protection category, Sweden and the Netherlands approaches to the legislation and delegation codes respectively, can be seen as tolerance-oriented which is less progressive than promotion-oriented. Norway and Germany do not have similar issues in terms of protection and appear to be compliant with the ECRML. I argue that these states are promotion-oriented in their approach to the protection of the languages. In figure 5, a visual presentation of the approaches by the states to the protection category is presented to ease the comparison between the four states.

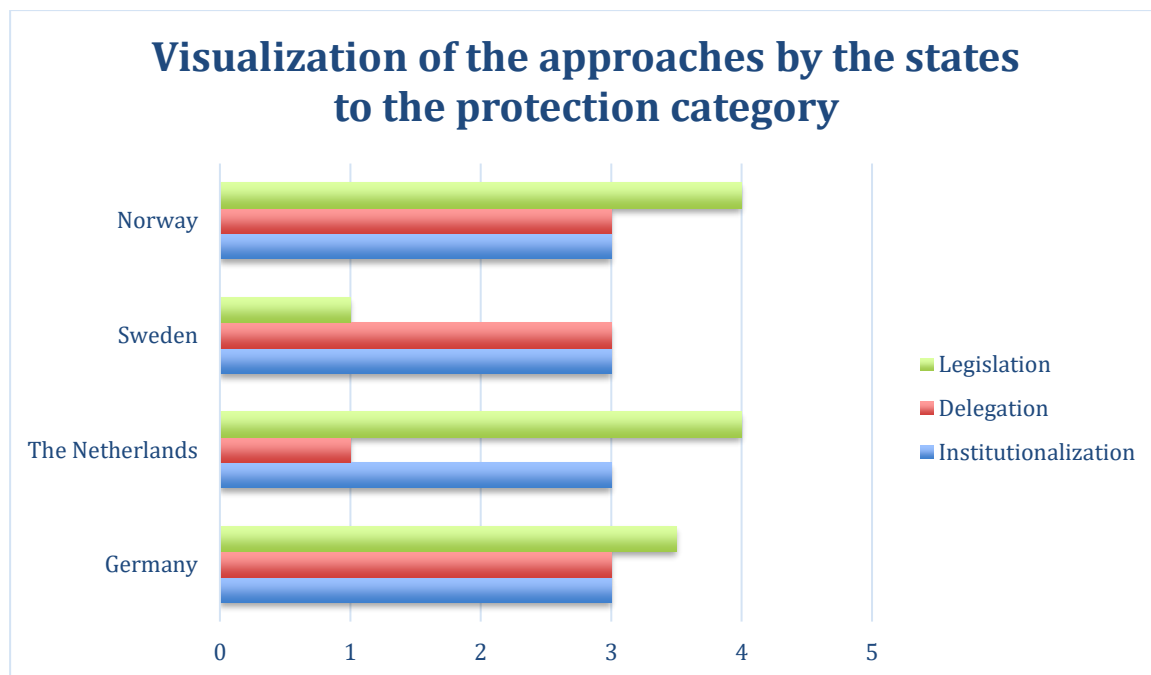


Figure 5: Visualization of the approaches by the states to the protection category. On the x-axis, 1 is tolerance-oriented, 3 is promotion-oriented norm-and-accommodation, and 5 is promotion-oriented official language. The average of the approaches is displayed if there were multiple approaches to the code due to clear differentiation between languages. For example, Germany distinguishes between North and Sater Frisian and the average of the approaches taken for both North and Sater Frisian is displayed here. The table will be too complicated and unreadable if I differentiate between all the languages for each state.

## 5.3 Promotion

### 5.3.1 Monetary investments

This code refers to any funding that the state or sub-national authorities provide to implement the ECRML. All four states provide funding for the languages in question. The reports might not have mentioned all the funding that is provided for the Sami and Frisian languages. Therefore, it is difficult to compare monetary investments in depth.

All the states have one thing in common, which is a mention in the reports on the funding for institutions that protect and promote the languages. For Sweden, the institutions that are funded are the Swedish National Agency and Umeå University. Funding to both institutions is to combat the lack of Sami teachers and funding should be invested in teacher training. Other than these two, no further discussion of funding in the Swedish reports is mentioned. The Netherlands also does not mention funding often. Other than the state government providing funds for the institutions, the only instances in which the reports

mention funding is the funds made available by the province of Fryslân and an increase in funding for the teaching of Frisian.

Germany and Norway discuss funding more often than the other two throughout both the report of the state and the Committee of Experts (COMEX). Where the states differ in their approach to funding, is that Germany has multiple sources from which the funding comes, both the federal state and the *Länder*, while Norway's discussion on funding centers around funding provided by the state government. For Germany, funding from the state government and/or the *Länder* go to institutions, associations, the Frisian ethnic group, projects, and teaching materials. However, the Frisian association the *Frasche Rädj* do state that the funding is problematic. For Norway, funding from the state government also goes to institutions and teaching materials but the report also discusses the funding from the state government to the municipalities to mitigate the consequences of the redivision of municipalities. Only the Norwegian report talks about room for improvement in terms of funding for the municipalities, teaching materials, and teacher training through adding more funds for education programs, awareness raising activities, or financial incentives for teachers. In addition, the COMEX notes that Sami speakers do not think that the funding for the Sami Parliament is sufficient.

All four states have provided funds for the promotion of the Sami and Frisian languages. There are different ways and degrees in which monetary investments are structured in the different states. The COMEX did not mention that for any state the funding of the languages was not compliant with the ECRML. The COMEX and the Sami speakers, that notified them, only indicated that Norway could improve their funding and the *Frasche Rädj* indicated that the German funding is problematic in terms of the pace of the cash flow. The two states in which funding is featured more often in the reports also are the only two where a lack in funding was pointed out in the reports. I argue that the four states are promotion-oriented in their approaches to this process indicator. However, this is more about norm-and-accommodation than official language oriented.

### **5.3.2 Promotion initiatives**

The code - promotion initiatives - can overlap with monetary investments due to the need for funds for promotion initiatives. I have defined this code as the efforts of the state or another

institution to actively organize or create something which helps to promote the Sami and Frisian languages. The state that has the most diverse catalogue of promotion initiatives is Germany. As mentioned in the data chapter, their promotion initiatives range from producing teaching materials and support systems for teaching to bonuses and titles. From these initiatives, I argue that Germany and the *Länder* are trying, to make learning and teaching of the Frisian languages more attractive to people. In addition, facilitation of teaching in the Frisian languages is also important, which is illuminated by the advice, support, and consultation offered.

This is very different from the Swedish case. Only in two instances the reports discern these efforts, namely producing teaching materials and a project of commissioned teacher training. The focus is more on the immediate issues that Sweden faces regarding education in and of the Sami languages, namely a lack of teaching materials and teachers. Norway's promotion initiatives try to tackle similar issues as Sweden's promotion initiatives. Production of teaching materials, recruitment for teacher training, and creating a seminar to improve the quality of distance learning, are efforts mentioned in the reports. I will return to these efforts under the section on shortcomings. However, Norway differs from Sweden in that it also includes a language nest project for South Sami. I argue that this promotion initiative can be considered a long-term solution by, hopefully, creating a larger pool of people who speak the language who can become teachers. The Committee of Experts (COMEX) mention that they would like to see more initiatives like the language nests from Norway to promote the Sami languages, meaning that there is room for improvement.

The Netherlands also mentions the production of teaching materials and even mentions that the government promises to stimulate the Frisian teaching material market, which is failing. Schools are encouraged to take advantage of the grant schemes that are available for teacher training. Another promotion initiative called *taaltafels* of the Netherlands was necessary to increase better communication with representatives of the Frisian language as stated by the COMEX in the state report. Similarly, DINGtiid also advised the Netherlands to organize working visits to the province of Fryslân for the relevant central government employees. The initiatives focusing on the immediate issues are quite similar to Norway, Sweden, and Germany's initiatives. However, the Netherlands is the only state which needed



initiatives, like the *taaltafel* or working visits. The COMEX does not press the other three states to create similar initiatives.

Even though the German reports contain a wide range of promotion initiatives, all of the initiatives are related to the need for more teachers, teaching materials, and education in the Frisian language. While this is similar to the Swedish, Norwegian, and Dutch case, the difference is in the multitude of initiatives Germany employs to tackle the issues, which is more expansive than the other three states. All four states are trying to tackle these issues by employing different initiatives. The only state that has an added issue they need to solve, is the Netherlands in terms of communication with the representatives of the Frisian language.

Articles 7.1.c, 7.1.d, and 7.3 from the ECRML are applicable, which can be considered as positive obligations following the definition in the NIM report (2021). All states have fulfilled Article 7.1.c, which focuses on resolute action to promote the languages to safeguard them. For North and Sater Frisian for Germany, for all Sami languages for Sweden, and North Sami for Norway Article 7.1.d, which concerns the facilitation and encouragement of the languages in all spheres of life, has been rated as fulfilled by the COMEX. Lule and South Sami for Norway and Frisian for the Netherlands are only partly fulfilled for this article. Article 7.3, which focuses on the promotion of mutual understanding, respect, and tolerance of the languages in education, has been fulfilled by Germany and the Netherlands, but only partly fulfilled by Sweden and Norway. Thus, in terms of state compliance only Germany is fully compliant with all the articles of the ECRML for promotion initiatives.

For promotion initiatives, I argue that all states take a promotion-oriented approach to these process indicators. The states' actions all showcase that they are willing to go beyond mere protection from discrimination of the Sami and Frisian languages. Among the states there are differences in the amount and scale of the promotion initiatives, meaning that on the spectrum of promotion-oriented approaches the states are all at a different point. Based on the discussed promotion initiatives, I argue that the Netherlands and Sweden only lean towards the norm-and-accommodation approach. On the other hand, Germany and Norway are moving towards the official language approach. The Netherlands and Sweden do not have initiatives that move beyond the mere necessities of the languages. Germany and Norway

either have a larger number of initiatives to cover these needs or have initiatives that are focused on the long-term thriving of the languages.

### **5.3.3 Monitoring bodies and other monitoring measures**

Monitoring bodies and other monitoring measures can be closely linked to legislation because reports made by monitoring institutions also are categorized under the legislation code.

Monitoring bodies were not addressed in the Norwegian reports as shown in the data chapter. The Norwegian reports did contain reports developed to tackle issues or find out if there were some but while coding, these were placed under the legislation code. The Committee of Experts (COMEX) report does mention that it might be beneficial to increase reporting on language issues to the Norwegian parliament. The lack of mentioning monitoring bodies for Norway, does not mean that there are none. Article 8.1.i is applicable and can be considered a positive obligation, which concerns creating supervisory bodies to monitor the languages. This article is still fulfilled for North Sami in Norway. Article 8.1.i was not applicable to Lule and South Sami.

In the Dutch reports, there was a focus on the monitoring body, the Education Inspectorate, due to changes that were necessary in the assessment of Frisian education. Even though these changes were made, the COMEX report still determined that Article 8.1.i had deteriorated and was only partly fulfilled. The German reports contain recommendations, supported by the Frisian associations, about creating a supervisory body for Sater Frisian that reports regularly. Although there has been a supervisory body for Sater Frisian since 2011. One of the main concerns that the COMEX had for both North and Sater Frisian was the monitoring of the languages. Article 8.1.i has remained unfulfilled for Sater Frisian and North Frisian. The Swedish reports only once refer to monitoring measures, when the Swedish School Inspectorate is discussed, who conducted a study. Article 8.1.i has remained not fulfilled for the Sami languages in the rating by the COMEX.

From this, Norway in the case of North Sami is compliant with the ECRML, while the other three states are to differing degrees not compliant with the ECRML. Since monitoring bodies and measures concern implementation of the ECRML, they can be categorized as process indicators from de Beco's state compliance assessment. Not at all being compliant with Article 8.1.i showcases the states' actions. For Germany and Sweden this means that the

states' actions are not complying with the ECRML and there has not been improvement since the last reports. Thus, no action has been taken even though the issue was known by the states. Therefore, this can be considered a tolerance-oriented approach of monitoring bodies and measures by the two states. For the Netherlands, the situation is different. The Dutch reports detail the state's action and working on improving their monitoring bodies and measures. Even though the COMEX deteriorated their rating of state compliance to only partly fulfilled, the response from the Dutch state showcases that the state is working on improvement, which is not the case for Sweden and Germany. Based on this, I argue that the Netherlands is possibly moving to a more promotion-oriented approach. For Norway, I argue that the state is more promotion-oriented.

#### **5.3.4 Summary of aspects discussed as promotion**

During the discussion of promotion initiatives and monitoring bodies and measures, it is apparent that some of the states' actions are not compliant with the ECRML. The discussion on monetary investments was the only code that did not lead to a conclusion where one or more of the states were not compliant with the ECRML. The Committee of Experts (COMEX) only stated that there was room for improvement in the Norwegian case and the Frisian association negatively commented on the cash flow of funding. However, the COMEX did not state that the Norwegian or German state was not in compliance with the ECRML. For promotion initiatives, Germany was the only state that was fully compliant with the articles of the ECRML and had the widest range of promotion initiatives among the states. However, all states had promotion initiatives for similar issues they were trying to tackle, namely a shortage of teachers, teaching materials, and education in the Sami and Frisian languages.

I argue that the Netherlands and Sweden employ more of a norm-and-accommodation approach, while Germany and Norway are moving towards a more official language approach. For monitoring bodies and other monitoring measures, only the Norwegian state was fully compliant with the ECRML and, thus, I argue that they could be considered promotion-oriented in their approach. The reports make clear that the Netherlands is working on improving their monitoring bodies, while the COMEX reports of Sweden and Germany show that these states are not improving their monitoring of the Sami and Frisian languages. Thus, Germany and Sweden seem to be more tolerance-oriented, while the Netherlands is

possibly moving towards a promotion-oriented approach. In figure 6, a visual presentation of the approaches by the states for this category are presented to facilitate the comparison between the four states.

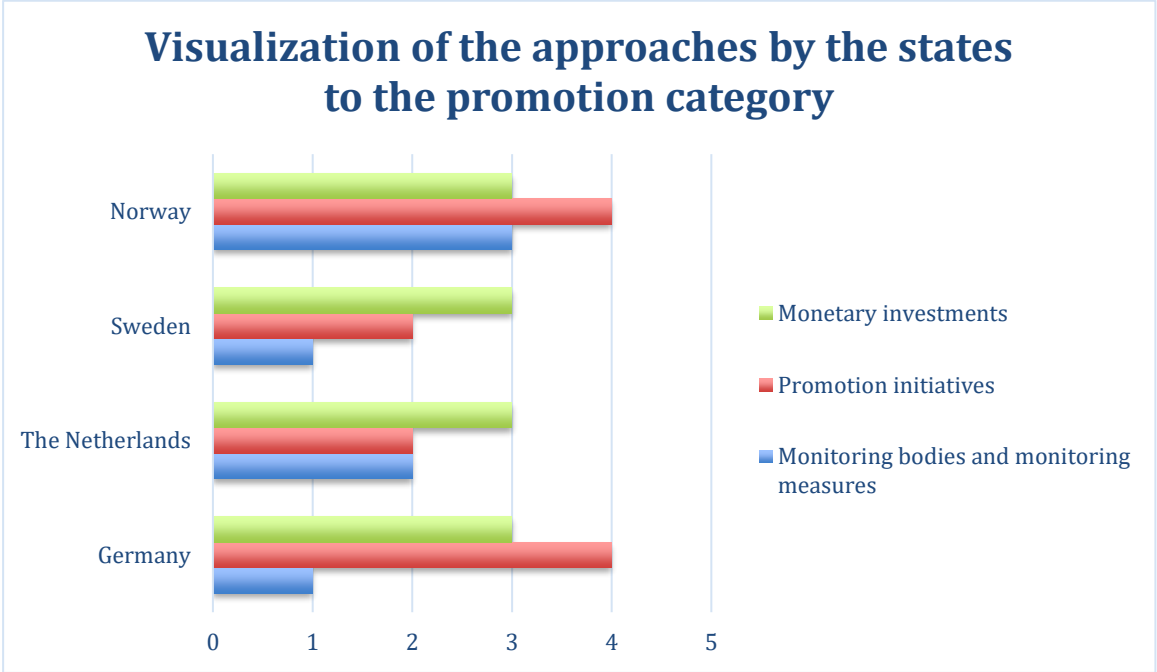


Figure 6: Visualization of the approaches by the states to the promotion category. On the x-axis, 1 is tolerance-oriented, 3 is promotion-oriented norm-and-accommodation, and 5 is promotion-oriented official language. The average of the approaches is displayed if there were multiple approaches to the code due to clear differentiation between languages. For example, Germany distinguishes between North and Sater Frisian and the average of the approaches taken for both North and Sater Frisian is displayed here. The table will be too complicated and unreadable if I differentiate between all the languages for each state.

### 5.4 Shortcomings

This section discusses the shortcomings discerned from the reports of the ECRML of the states’ protection and promotion efforts of the Sami and Frisian languages. Here I will concentrate on the codes: lack of teachers, training opportunities, and teaching materials; structural problems on implementation, and legislative and enforcement failings; lack of language as a subject or language of instruction in primary school; strengthening education of language at all levels; and loss of language as a mother tongue language. The other shortcoming codes have already been presented in the analysis above.

## **5.4.1 Lack of teachers, training opportunities, and teaching materials**

### **Lack of teachers and training opportunities**

In the case of Germany, both the German state, the Committee of Experts (COMEX), the Committee of Ministers, and the Frisian associations address the lack of adequately trained teachers for the Frisian languages. As discussed in the data chapter for Sater Frisian, the state report mentions that there were no teachers being trained at that moment, which is not surprising since the COMEX report states that there is no teacher training for Sater Frisian, only some courses. For North Frisian, the state report mentions that there is a willingness to create a system for language offerings based on regional training courses. However, this willingness has not come to fruition due to low demand. The *Frasche Rädj* association comments that they would like to see adjustments being made to teacher training. For both North Frisian and Sater Frisian, there have been cases where no teaching of the languages was possible. The COMEX report also comments on the lack of teachers and the lack of improvement by the measures that were initiated to combat the issue. The rating of compliance with Article 8.1.h, a positive obligation that focuses on the provision of training for teachers, is partly fulfilled for North Frisian and has remained so. For Sater Frisian, Article 8.1.h has not been included in the responsibilities.

Based on the data chapter for the Netherlands, the discontinuation of taking Frisian courses after two years by students training to become teachers is an issue. The state adds that there is a general shortage of teachers. Both in the state and COMEX reports, lack of teachers is noted. Nevertheless, Article 8.1.h of the ECRML has improved for the Netherlands and is now rated as fulfilled. Thus, the teacher training opportunities are present, but the COMEX states that the state should promote participation in the available programs since the lack of teachers is not remedied by only offering teacher training opportunities. From this, I argue that the COMEX asserts that the state's actions do not reflect a promotion-oriented approach to battle the lack of teachers.

Discontinuation is also an issue for the Norwegian state and there is a discrepancy between the description of the state report and the COMEX report in terms of teacher training and the lack of teachers. The state report only mentions that in the case of South Sami, not many students apply to become a teacher. The COMEX report notes that for North, Lule, and

South Sami the government should create incentives for students to continue studying the languages in secondary education, since they will become the recruitment base for teacher training students. As stated in the COMEX report, many students discontinue the languages in secondary education because the requirements are too high. The COMEX also note that the requirements in mathematics for teacher training are high, which lead to an insufficient number of applicants and admissions. Thus, the COMEX state that increased focus should be on teacher training to increase the offer of the languages at all appropriate levels. This is specifically mentioned again for South Sami. Article 8.1.h only applies to North Sami and the COMEX rated that the situation has deteriorated for this article to only partly fulfilled due to the issues described above.

For Sweden, the previous report by the COMEX recommended that a system for teacher training should be developed. The other three states do not need to develop a system for teacher training according to the COMEX. The analyzed report by the COMEX states that the current lack of a developed teacher training system leads to an insufficient number of teachers for primary education. The Swedish state mentions the difficulties in creating the right courses for teacher training programs and both the state and the COMEX note that there is a limited number of university teachers, which the state argues makes the environment vulnerable. The state also argues that the school system has not provided enough students with the right Sami language skills, which leads them to not meeting the requirements for teacher training programs. Consequently, it is difficult to gain students, seeing as in 2018 there were no students for Sami teacher education at Umeå University. The Swedish state notes that there is a lack of teachers, specifically for years 1-3. Nevertheless, Article 8.1.h remains partly fulfilled according to the rating of the COMEX. It is interesting that even though the reports mention many shortcomings, the rating of Article 8.1.h is still partly fulfilled.

A shared challenge between Germany, Norway, and the Netherlands is making Sami and Frisian attractive enough to include in one's teacher training program. There are differences in the way in which the teacher training programs are structured. Norway struggles with discontinuation in secondary education, while the Netherlands struggles with discontinuation in teacher training education. The reports for Germany do not elaborate on the cause of the difficulty of recruiting students for teacher training who take courses for the

Frisian languages. Sweden appears to have difficulty with the teacher training system design overall. All states are struggling with teaching materials in some form. However, the Norwegian and German reports discuss this more than the Dutch and Swedish reports. Furthermore, all states struggle with not having enough teachers and not attracting enough students to become teachers who can speak the Sami or Frisian languages.

All states struggle with teacher training opportunities in some form and all states are deficient in teachers for primary education that are competent in the Sami or Frisian languages. The latter could be considered an outcome indicator. Apparently, the states' intentions and actions have not led to enough teachers for the Sami and Frisian languages. Throughout the discussion, structural, process, and outcome indicators are mixed and hard to differentiate. For Germany, the overall approach to this issue for North Frisian seems to be promotion-oriented norm-and-accommodation. There is intent to improve the situation of teacher training by the state, but no actions are taken due to low demand. For Sater Frisian, the reports do not mention a similar intent to improve the offer of teacher training opportunities in Sater Frisian and, therefore, the approach can be categorized as being between tolerance-oriented and promotion-oriented norm-and-accommodation. The Netherlands appears to be doing better in terms of teacher training opportunities than Germany since the COMEX states that the opportunities are present, but they need to be promoted better. Thus, the approach of the Netherlands can be categorized as promotion-oriented norm-and-accommodation and the COMEX would like to see them move towards an official language approach. For Norway, it is difficult to make statements about the approach for each Sami language since the three languages often are named together for these issues. It appears as though the South Sami language is struggling more than the North and Lule Sami languages in terms of teacher training opportunities and lack of teachers. Norway's approach to teachers and training for the three Sami languages could be considered promotion-oriented norm-and-accommodation, since the training opportunities are present for all Sami languages, as mentioned in the data chapter. For Sweden, I argue that the approach is somewhere between tolerance-oriented and promotion-oriented norm-and-accommodation based on the lack of a developed teacher training system.

## **Lack of teaching materials**

The Norwegian state report mentions that for North Sami, there is a shortage in teaching materials which can negatively influence the teaching of the language as well as issues in the organization and execution of distance learning which creates inequalities between teaching programs. The COMEX states that there is room for improvement for online teaching materials or to create new teaching materials and incorporate what was learned from the Covid-19 situation. The German reports also discussed the lack of teaching materials for the teaching of the Frisian languages. The *Frasche Rädj* association states that there is a need for an organized competence for the teaching material design. For both North and Sater Frisian, the COMEX also notes the lack of teaching materials. For North Frisian, it is considered one of the main points that needs improvement by the COMEX. A lack of teaching materials is also noted in the Dutch reports and attention is also paid to the Frisian teaching materials market which the state promised will receive support. For Sweden, the COMEX report only mentions that there should be a structured policy for additional teaching materials.

### **5.4.2 Structural problems on implementation – legislative and enforcement failings**

The German reports detail some structural problems. First, the Committee of Experts (COMEX) state that there is a need for a pro-active and structured approach as there has been little to no improvement of the issues in some cases. A similar point was noted by the *Frasche Rädj* association, namely the need for a cohesive system from nursery to higher education. Second, they also argued that there should be a change in the recruitment policy for teachers of Frisian because now there is no policy to employ in the areas where teachers of Frisian are needed. A change in the recruitment policy would solve the issue that the state report indicated, by employing teachers who can teach in Frisian in the limited area where needed. Third, some structural problems with legislation were also described by both the *Frasche Rädj* and the *Seelterbund* associations, like the recognition of Frisian as a subject at all levels of education. Furthermore, the COMEX note that there should be a change in the regulations regarding parental consent for bilingual education for Sater Frisian. Finally, the *Seelterbund* notes that teacher training should be a cooperation between higher education and the teacher training institutions.



Like Germany, the Netherlands was also advised by the Committee of Ministers to employ a structured policy for the implementation of the ECRML and the COMEX advocated for a national policy to implement the ECRML. This leads us to another issue that the COMEX highlight, the freedom of the organizations and schools to choose to prioritize Frisian or not. For schools, this is seen in the full or partial exemptions that can be provided for not attaining the attainment targets for Frisian. For organizations, this was seen in the umbrella organization for teachers, which indicated that due to the general shortage of teachers, Frisian is not considered a priority. Similar reasoning is also present in the educational policy of the Netherlands, which does not make minority language education compulsory in favor of prioritizing decentralization and delegation to subnational authorities. However, the COMEX argues that offering minority language education is the duty of the state. Consequently, time for teaching of and in the minority languages is not part of the core curriculum.

In the state report of Sweden, like Germany and the Netherlands, the COMEX had also advised in their previous report to adopt a comprehensive structured approach to strengthen education. Where Germany and the Netherlands have a focus on legislative or policy issues, Sweden's structural issues focus on the Sami administrative areas, closure of schools, and municipalities. The COMEX report states that Sami representatives are still concerned with the number of Sami speakers living outside the Sami administrative area even though the number of municipalities within the Sami administrative area has grown. There was also an issue, according to the COMEX report, with misinformation or not enough information being provided by municipalities on "minority" language education. Finally, the issue of closing a school in the South Sami area raised concerns by the COMEX on how the state will guarantee the language rights of the South Sami.

The Norwegian reports discuss both issues relating to the Sami administrative area as well as legislative or policy issues. The former relates to the argument that administrative divisions should not impact the Sami languages negatively, which is specifically mentioned in the South Sami section of the state report. The latter discusses three issues, namely the discontinuation issue, utilization of language, and legislation outside the Sami administrative area. First, the issue with the utilization of language is showcased in both the state and COMEX report but in very different instances. In the state report, it is stated that recognition

of Lule Sami use in education should be facilitated. The COMEX report discusses information provided by the Ombudsperson for Children, who noted bullying and hate speech based on language use. The COMEX advised the Norwegian government to create more awareness in the Norwegian public of the linguistic heritage of the state. Second, the COMEX further discussed the discontinuation issue, which was discussed in the previous section as well, in relation to the difference in requirements and credits between taking a Sami language or a foreign language course in secondary education. There are higher requirements for choosing a Sami language course than a foreign language course, and students who choose a foreign language course are provided with extra credits, which is not the case for those choosing a Sami language course. The COMEX states that these rules should be revisited. Third, the legislation for Sami education outside the Sami administrative area currently states that at least 10 students are needed to gain Sami education. In the COMEX's opinion, this requirement should also be reviewed.

The only state where the COMEX did not comment that a structured or comprehensive policy or approach to education needs to be implemented was the Norwegian state. From which, I would assume that this is not necessary for Norway as it is already in place. For Norway and Sweden, the issues are situated both on the regional level, regarding the Sami administrative area and municipalities, and the national level, regarding legislation. Legislative issues were also a concern for Germany and the Netherlands. For Germany, the COMEX and the Frisian associations only discussed reviewing or revising the legislation. While, for the Netherlands, the COMEX disagreed with the red thread that runs throughout the legislation of the Netherlands, namely decentralization and delegation.

#### **5.4.3 Lack of language as a subject or language of instruction in primary school**

For Germany, the *Seelterbund* association discusses that for Sater Frisian there is a lack of pupils interested in the language or a lack of immersion teaching, even though there are pupils interested. This is reinforced by the comments from the Committee of Experts (COMEX), that notes that even though the possibility of immersion teaching is present in legislation, in practice it is rarely executed. The offer of teaching of and in the Frisian languages at schools has decreased and the benchmark of three hours per week for the Frisian languages is not met by all schools. This is the case for both North and Sater Frisian but for Sater Frisian, there is only one school that provides immersion teaching. Article 8.1.biv, which focuses on making

education in or of the minority language available in primary education to some degree for a sufficient number of pupils, only applies to North Frisian and has remained not fulfilled. Thus, the German state has remained not compliant with the ECRML.

Article 8.1.b can be considered a positive obligation according to the definition in the NIM report (NIM - Norwegian National Human Rights Institution, 2021). In comparison to Germany, the Netherlands has chosen to ratify Article 8.1.bii, which focuses on making a substantial part of primary education available in the minority language, which is stricter than Article 8.1.biv. However, the rating for this article has remained unfulfilled. The Netherlands also lacks in the number of teaching hours spent on the Frisian language, about 45 minutes per week, which the COMEX state is not in line with the ECRML. This was also already mentioned in the previous report by the COMEX. Thus, the Dutch state has not improved and has remained non-compliant with the ECRML. Another issue that the COMEX highlights is that it appears as though the focus of the teaching in and of Frisian are mainly focused on oral use and creating a positive attitude towards the language, which is also not in line with the ECRML.

Sweden and Norway are doing better on compliance with the ECRML than Germany and the Netherlands for Article 8.1.b. For Sweden, for the Sami languages, Article 8.1.biv was chosen and has remained rated as partly fulfilled by the COMEX. Norway has only ratified Article 8.1.biv for North Sami but this has been rated by the COMEX as fulfilled and has remained so. Since Norway has already fulfilled this article, there was only one instance in the state report where this code was applicable. The COMEX, in their previous report, advised the state to encourage the utilization of Lule Sami in education.

Even though, in the rating by the COMEX of Article 8.1.b, Sweden appears to be somewhat compliant, there are many instances where this code was applied. The state report mentions that an inquiry determined that bilingual education was insufficient. Advise to improve bilingual Sami education was already mentioned in the previous COMEX report as well as a statement that Sweden should offer adequate language tuition to ensure that mother tongue education requirements from the ECRML are met. The current COMEX report also stated that one hour per week of Sami in education is not sufficient. Furthermore, the classes are not divided according to the language level of the students and the classes take place after

school hours. The COMEX again advises that the Swedish state improve their bilingual Sami education.

In terms of state compliance with the responsibilities chosen from the ECRML, Norway is the most compliant, followed by Sweden who has partly fulfilled its responsibilities according to the COMEX. Germany and the Netherlands have both not fulfilled their responsibilities for Article 8.1.b. The Netherlands choosing a stricter version of the article, which creates more responsibility, has not led to a more compliant state. The COMEX has commented on Germany, the Netherlands, and Sweden on the number of hours spent per week on the languages, which is insufficient. Even though the legislation allows the teaching of the languages, there is an implementation gap. This is not the case for North Sami in Norway, but this might change due to Part III of the ECRML applying to Lule and South Sami in the next report cycle.

#### **5.4.4 Strengthening education of language at all levels**

Throughout most of the reports of the four states, the Committee of Experts (COMEX) mentions that strengthening of education at all appropriate stages is necessary. The article from the ECRML that applies is Article 7.1.f, which focuses on the “provision of appropriate forms and means for teaching and study” of the languages at all appropriate stages (Council of Europe, 1992a, p. 3). This article can be considered a positive obligation according to the NIM report definition.

For Germany, both the *Seelterbund* association and the COMEX state that strengthening of the education of the Frisian languages is necessary at all stages. A similar statement by COMEX was also present in the previous report for the German state. Nevertheless, Article 7.1.f has declined for North Frisian to only partly fulfilled and has remained partly fulfilled for Sater Frisian. Thus, the German state is not completely compliant with the ECRML. For the Netherlands, strengthening education has also been mentioned in the previous report and again in the analyzed reports. However, Article 7.1.f has remained partly fulfilled for the Netherlands. While Germany has deteriorated in this category for North Frisian, the Netherlands has remained on the same level. Like the Netherlands, Article 7.1.f has remained partly fulfilled for Sweden and the state report contains a previous statement made by the COMEX where the Swedish state was advised to strengthen education. The

Norwegian reports also mention strengthening Lule and South Sami education at all appropriate stages. For Norway, Article 7.1.f has remained fulfilled for the North and Lule Sami languages, while for South Sami the article has remained partly fulfilled.

#### **5.4.5 Loss of language as a mother tongue language**

This code was only present in the Norwegian Committee of Experts (COMEX) report. The COMEX expresses their concerns over the loss of language as a mother tongue for future generations even though these languages are present in the education system. It is noteworthy that the COMEX only expresses this concern for the Norwegian case and not for the other three states.

#### **5.4.6 Reflections on shortcomings**

From the above-mentioned shortcomings, it is apparent that there is much room for improvement in factors that contribute to the education in and of the Sami and Frisian languages in the four states. I argue that most of the states are currently in a vicious cycle in terms of lack of teachers and lack of language as a subject or medium of instruction. A clear example is provided by the Dutch case. There is a lack of teachers due to not enough students choosing to continue with the Frisian courses in their teaching education program after two years. Additionally, primary schools can still receive an exemption from attaining the attainment targets and, thus, the demand for teachers who can speak Frisian is probably low. This means that not all primary school students in Fryslân will be very familiar with the language and the pool of potential students that will choose to continue Frisian courses in their education program will be small, which could be seen in the Norwegian case. Each of the states experiences this vicious cycle in a slightly different way but the main challenge, in my opinion, is the same. The discussions under legislation, delegation, institutions, funding, promotion initiatives, and monitoring bodies and monitoring measures all either contribute to or try to combat this vicious cycle. For the Netherlands, the issues concerning delegation, mentioned both under the delegation and the structural problems on implementation and legislative and enforcement failings parts, contribute to this vicious cycle.

Furthermore, this vicious cycle is not resolved if a state tackles only one of the issues that support it. All issues need to be tackled to avoid the vicious cycle, to increase the protection and promotion the Sami and Frisian languages. A similar notion can also be found

within the recommendations of the Committee of Experts in statements such as the lack of teachers is not remedied by only offering teacher training opportunities. Furthermore, the overall structure of the ratification process of the ECRML also contains this notion, a state can only ratify either all provisions from Part II or all provisions from Part II and 35 provisions from Part III. Thus, to protect and promote the Sami and Frisian languages and be compliant with the ECRML the states need to improve the implementation of their obligations that they have selected from the ECRML and find their way out of the cycle that they are trapped in. However, both de Beco and Jacobson and Weiss (2008; 1995) have argued that state compliance with a treaty does not mean that the state is compliant with the spirit and goals of the treaty and this could also be the case for the ECRML.

## 6 Conclusion

This chapter summarizes the main findings of the analysis and tries to answer the research question and sub-questions. The states employed multiple approaches in their endeavor to protect and promote the Sami and Frisian languages and become compliant with the ECRML. Figure 7 showcase this. It is apparent that the Norwegian and German states are further in the protection and promotion of the Sami and Frisian languages process than the Netherlands and Sweden. Norway and Germany in most cases employ a promotion-oriented approach to the protection and promotion of the languages, while the Netherlands and Sweden employ a tolerance-oriented approach for certain codes. What is remarkable is that for the Netherlands and Sweden this approach applies for both structural and process indicators. It does not occur only for one code. These findings support de Beco's argument that structural, process, and outcome indicators are interconnected (de Beco, 2008). As Broderstad (2022a, p. 33) states with reference to de Beco, "while the general applicability of state compliance in terms of structural and process indicators might suggest that the right-holders' rights are respected, outcome indicators of concrete cases may assess state failure to comply with human rights". To gain understanding of the whole picture in terms of state compliance, all indicators need to be assessed. The analysis reveals that states holding a more tolerance-oriented approach are less compliant with the ECRML as the Committee of Experts (COMEX) response suggests. All aspects of protection and promotion must be improved to advance state compliance and, hopefully, the situation of the Frisian and Sami languages.

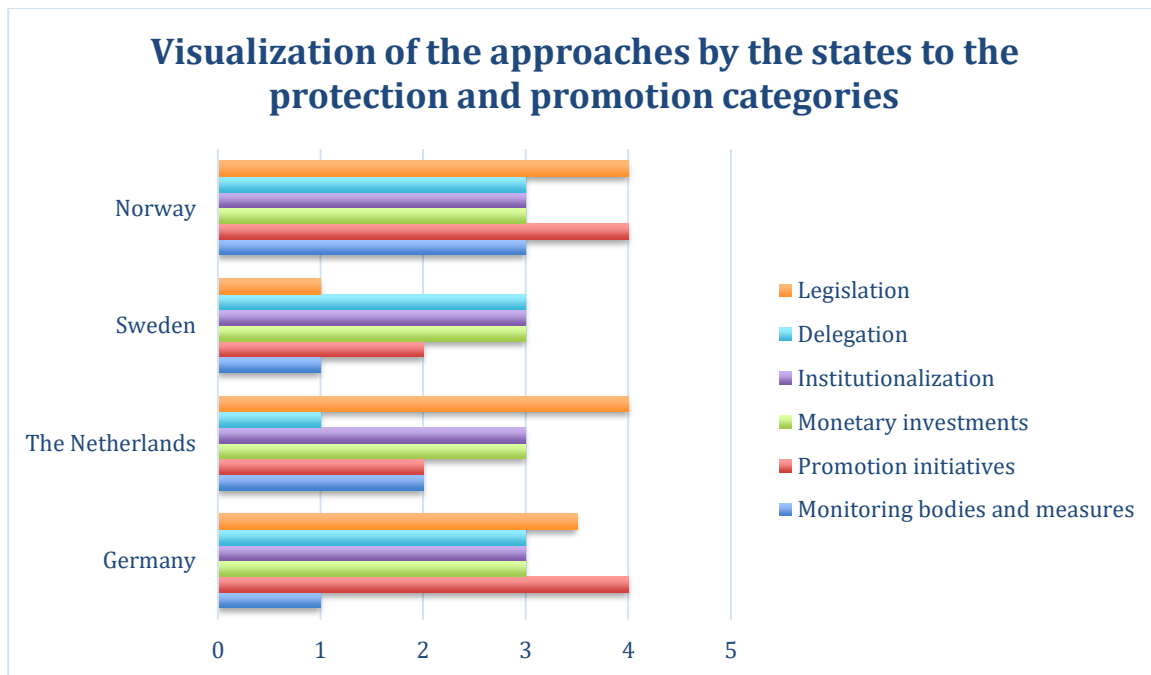


Figure 7: Visualization of the approaches by the states to the protection and promotion categories. On the x-axis, 1 is tolerance-oriented, 3 is promotion-oriented norm-and-accommodation, and 5 is promotion-oriented official language. The average of the approaches is displayed if there were multiple approaches to the code due to clear differentiation between languages. For example, Germany distinguishes between North and Sater Frisian and the average of the approaches taken for both North and Sater Frisian is displayed here. The table will be too complicated and unreadable if I differentiate between all the languages for each state.

Figure 7 is an answer to my sub-question about the differences and similarities in how the four states implement the ECRML in terms of protection and promotion. There are stark differences between certain states. Sweden and Norway have vast differences in terms of their approaches to the Sami languages, which is most prominent for legislation. By reference to Aikio-Puoskari (2009), not much has changed between Norway and Sweden since the writing of her article. The Netherlands is very different in their approach to delegation from the other three states by prioritizing decentralization and passing on many responsibilities to subnational authorities. This is similar to Terlaak Poot's (2015) comparison of the Frisian and Basque cases, which concludes that the Dutch government is non-active in their participation of the implementation. Thus, not much has changed in the Dutch case as well. The countries most similar in the different aspects of protection and promotion were Norway and Germany, which is unexpected. One could expect that Norway and Sweden would be more similar due to shared history and a similar political system. However, this is not the case. More in-depth studies are required to explain the differences and similarities.

Despite of differences in the approaches to the ECRML's obligations and implementation, all states are struggling with similar issues. As discussed, the states are all caught in a vicious cycle, though the components of this vicious cycle might differ slightly. Lack of teachers, training opportunities, teaching materials, and language as subject or medium of instruction are issues for all the states. It appears as no one has found a solution to this issue. Having legislation in place and delegating responsibilities appropriately does not guarantee that the issue will be solved, as can be seen in the German and Norwegian cases, an insight in accordance with de Beco's point on the interconnectedness between the indicators.

What can we then learn about state compliance in relation to the implementation of linguistic rights stated in the ECRML? In my opinion, one of the most important lessons is that state compliance does not immediately equal an improved situation. Norway is furthest of the four states in their protection and promotion of the Sami languages, but the COMEX is still concerned with the loss of the Sami languages as mother tongues. Furthermore, compliance with one article of the ECRML does not equal improvement of the situation of the Sami and Frisian languages. A holistic approach to the protection and promotion of the Frisian and Sami languages is necessary to improve the situation of the Indigenous and minority languages. The findings in this thesis also reaffirm that state compliance is not an either or issue as argued by Jacobson (1997), it is indeed a spectrum. Therefore, there is a need for more research on state compliance, which can form a base for monitoring of the requirements in the ECRML.

Thus, how are the linguistic rights of the Sami and the Frisians stated in the ECRML, addressed by the states and followed up in terms of protection and promotion in the primary educational sphere? As shown there are different approaches to the protection and promotion of the Sami and Frisian languages in the four states as well as different degrees of state compliance with the ECRML. Norway is the furthest in terms of state compliance rated by the COMEX, especially looking at state compliance for North Sami. This is reflected in the approaches employed by the Norwegian state, which are at least norm-and-accommodation oriented. Sweden is least compliant with the ECRML in terms of state compliance rated by the COMEX, which is also reflected in the approaches taken by the state. In terms of state compliance rated by the COMEX, the Netherlands is rated similar to Germany. However, when looking at the approaches employed by the Netherlands in the protection and promotion categories, there is a clear difference. To become more compliant with the ECRML, the



Netherlands and Sweden should work on legislation and delegation since these issues seem to obstruct the states from improving the situation of the Sami and Frisian languages, cf. chapters 5.2.1 and 5.2.2. Furthermore, all states should work on escaping the vicious cycle that they are entrapped in, by approaching the protection and promotion of the Sami and Frisian language in a holistic manner. Thus, the states need to see the larger mechanisms behind the current situation of the Sami and Frisian languages, not only try to solve separate issues, which is why there is a need for protection and promotion of these languages in the first place.

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## 8 Appendix

Budget	Provider	Receiver	Additional comments
€300,000 (before 2021), €355,000 (since 2021) annually	Federal Government for Culture and the Media	North Frisian ethnic group	There is support for a further increase in the parliament
Approximately €1.2 million annually	Schleswig-Holstein government	Frisian ethnic group	
€480,800 / €494,800 annually	Schleswig-Holstein government	North Frisian Institute	From 2021, the North Frisian Institute received €494,800.
€65,000 annually	Schleswig-Holstein government	<i>Frasche Rädj</i> (Frisian Council North Section)	
€25,600 annually	Schleswig-Holstein government	North Frisian Association	
€25,600 annually	Schleswig-Holstein government	Friisk Forining e.V.	
€500,000	Federal Ministry of the Interior, Building and Community	Projects run by the Federalist Union of European Minorities	The Friisk Forining is a member of this and represents the Frisian ethnic group
€20,000 annually	Federal Government Commissioner for Culture and the Media	Sater Frisian language in Lower Saxony	
€350,000 additional funding	Not clearly mentioned in report	University of Oldenburg	Aid with material and human resources for the Sater Frisian language
€42,000	Ministry of Education and cultural Affairs	Sater Frisian language	Budget for the production of a book called: <i>Sater Frisian for primary school</i>
€380,000 annually	Lower Saxony	Low German and Sater Frisian	€30,000 is reserved for the Oldenburgische Landschaft to promote Sater Frisian
Max. €10,000 per project Total fund: €2.9 million	Lower Saxony	Fund for regional cultural projects	In 2019, €29,000 was funded for two projects <sup>46</sup> in the Saterland municipality

Table 8: Funding for the North and Sater Frisian languages mentioned in the state report for the ECRML

<sup>46</sup>Development of CD with children's songs and expansion of Sater Frisian app with children's songs.

