

## The Aims of Åland and Finland Regarding a New Act on the Autonomy of Åland – An analysis of three parliamentary committee reports (2010–2017)

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### Abstract

The main question of this article is what intentions Åland and Finland hold regarding the self-government of Åland, and how this is mirrored in the ongoing process for a revision of the Åland Autonomy Act. This matter is studied through a comparison of three central documents in the revision process, issued by three parliamentary committees, one Ålandic, one Finnish, and one joint. The article analyses how the parties describe the background and development of Åland's autonomy, the original purpose of the autonomy, and the aims for the fourth generation of autonomy legislation. Some concrete proposals for changes in the Autonomy Act are discussed in order to see if the intentions of the two parties coincide or differ. The article concludes that the committees mainly agree on the foundations of the autonomy. The principle of protection of language and culture seems to be rather unproblematic, whereas it is unclear how far the parties are willing to go regarding the right of Åland to manage its own affairs. For instance, the committees have identified the division of legislative competences and the economic system as two crucial domains in the revision. Åland is interested to extend its mandate in those spheres further than at least the Government of Finland seems to be willing to allow.

### Keywords

Autonomy, Revision, Åland Islands, Parliament, Economy, Language,  
Cultural Guarantees, Internationalisation

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## 1. Introduction

From 2020 to 2022 the centenary of the crucial steps for the establishment of the autonomy of Åland will be celebrated. Finland and the Åland Islands will then have one hundred years of experience of balancing state sovereignty with autonomy, of continuous renegotiation of a compromise, or, to put it differently, of dealing with an institutionalized or constitutionalized conflict. At present, the parties are engaged in the process of a revision of the Act on the Autonomy of Åland, which is to lead to a fourth generation of autonomy legislation. It is hoped that a new Act will enter into force in conjunction with the centenary celebrations.

In this paper, the revision process will be studied through a comparison of three central documents in the process, issued by three parliamentary committees, one Ålandic, one Finnish, and one joint.<sup>1</sup> By analyzing these reports, a small-scale assessment is made of the status of the autonomy today. What questions are topical for the autonomy and the state at present? Are they the same questions as one hundred years ago, or has the focus shifted?

The main question of this paper, however, is what intentions Åland and Finland have regarding the self-government of Åland, and how this is mirrored in the process for a revision of the Autonomy Act.<sup>2</sup>

In order to find a context in which to study the intentions of Åland and Finland with regard to the autonomy of Åland, the present article will first briefly describe the background and development of the autonomy. The article goes on to assess how the parties describe the original purpose of the autonomy and how they describe the aims for the present revision. Some of the main concrete proposals for changes in the Autonomy Act are discussed to see if the intentions of the two parties coincide or differ in those domains. The analysis also tries to discern how the parties perceive their relationship, how they each perceive their own role and the role of their counterpart in revision negotiations. Finally, the results are discussed and some conclusions are drawn.

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1 Joint committee 2017. Åland självstyrelse i utveckling. Ålandskommitténs 2013 slutbetänkande – Ahvenanmaan itsehallinnon kehittäminen. Ahvenanmaa-komitean 2013 loppumietintö. The permanent address of the publication is <http://urn.fi/URN:ISBN:978-952-259-600-0> (accessed 1.2.2018)

State committee 2013. Betänkande från arbetsgruppen ledd av Alec Aalto: Ålands självstyrelse i utveckling – Ahvenanmaan itsehallinnon kehittäminen. 24.1.2013. [http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/76418/omml\\_04\\_2013\\_aland.pdf?sequence=1](http://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/76418/omml_04_2013_aland.pdf?sequence=1) (accessed 1.2.2018)

Provincial committee 2010. Betänkande från kommittén ledd av Gunnar Jansson: Betänkande från parlamentariska kommittén om förslag till reformering av självstyrelsesystemet och självstyrelselagen för Åland. 29.10.2010 [https://www.lagtinget.ax/sites/www.lagtinget.ax/files/gunnar\\_jansson\\_kommitten\\_2\\_2010\\_betankande.pdf](https://www.lagtinget.ax/sites/www.lagtinget.ax/files/gunnar_jansson_kommitten_2_2010_betankande.pdf)

The three reports will be further introduced later on in the paper.

2 The paper uses “Finland” as a synonym for “the state” as one of the actors, the other being “Åland” or “the autonomy”. Since the paper analyses Åland and Finland as separate actors, it uses the term “Finland” rather than “the rest of Finland” or “mainland Finland” when contrasting or describing a relationship to Åland.

## 1.1 Methodological reflections

There is of course not one single Åland opinion regarding the autonomy, based on one single perception of matters, but rather many and varied opinions, and the same holds true for Finland. The variety of actors and perspectives involved can be seen in the ongoing revision process, where at the time of writing comments on the proposed law have been submitted by ministries and other stakeholders both in Finland and on Åland.<sup>3</sup> Still, in the present article the state of Finland and the self-governed Åland Islands are considered as separate and distinct univocal actors. The three reports investigated have been presented by parliamentary committees, and hence represent a compromise of the views of the representatives of the voters in Åland and Finland respectively. For the purposes of this paper, the suggestions expressed by the committees are viewed as the official positions of Åland and the state, respectively, when their respective reports were published.<sup>4</sup> As will be clear, the two core actors have partly overlapping, partly differing intentions with regards to the self-government of Åland.

This paper uses central parts of the three committees' reports as its material to try to assess how they relate to the purpose of the autonomy and the aims for its development, especially regarding the present revision process. However, the analysis is limited to what is written in the three reports examined, and does not take into account previous positions, policies or reports formulated by the parties. Nor does the analysis engage in legal debates regarding what is to be considered as binding for the parties or what is considered to be customary law, domestic or international, or not. The analysis is thus focused on what the three reports express or do not express regarding purposes and aims for the autonomy and for the revision of the Autonomy Act.

It is outside the scope of the present paper to discuss all the proposed changes; in fact, besides discussing the perceptions of the purpose of the autonomy and the aims for the revision, it will only deal with three of the main proposals for concrete legislative changes. These proposals regard the legislative competences, the economic system and the issue of legislative control. Changes in those domains were first proposed by the provincial committee, and have been discussed or ignored by the two other committees. The aim of the analysis is to try to discern the intentions of the three committees regarding the autonomy, rather than to elaborate on the content of the suggestions as such. The international dimensions that concern, for example, international guarantees for the autonomy and the

3 Ministry of Justice. Utlåtande.fi This is the Finnish government website for comments to legislative projects (accessed 05.04.2018)

4 Information about the revision including links to all relevant reports (in Swedish) can be found at the Parliament of Finland home page: [https://www.eduskunta.fi/SV/tietoaeduskunnasta/kirjasto/aineistot/kotimainen\\_oikeus/LATI/Sidor/ahvenanmaan-itsehallintolain-uudistaminen.aspx](https://www.eduskunta.fi/SV/tietoaeduskunnasta/kirjasto/aineistot/kotimainen_oikeus/LATI/Sidor/ahvenanmaan-itsehallintolain-uudistaminen.aspx). Only one report per actor has been analyzed in this paper, why a follow-up report, issued by the Åland Parliament 2013 is not included. However, the major arguments of Åland are expressed already in the report from 2010.

relationship between autonomy law and EU law are questions that will not be elaborated upon in this paper, even though they are extensively discussed in the joint committee report.<sup>5</sup>

## 1.2 Some conceptual observations

In this paper, the terms “autonomy” and “self-government” are used interchangeably, even though autonomy might be considered a broader concept than self-government. Hannikainen maintains that in legal terminology the terms are often treated as synonyms. According to him, “the holder of the right to autonomy can exercise a certain level of self-government”. The extent of this self-government is, however, limited in comparison to the right to self-determination. Indeed, according to Hannikainen, autonomy might be perceived as a substitute for self-determination.<sup>6</sup>

Suksi characterizes the self-government of Åland as a constitutional order that creates a legal framework that is separate, exclusive and parallel to that of the state of Finland.<sup>7</sup> In a section entitled “The hierarchical position of the Autonomy Act” the joint committee report discusses the relationship between the Constitution of the Republic of Finland and the Autonomy Act of Åland, without however taking into account the international basis of the Autonomy Act, a subject dealt with earlier in the report. The joint committee report notes that even though the Autonomy Act of Åland cannot, formally, be labelled as a constitutional act, it is in some respects at the same hierarchical level as the constitution. The Autonomy Act of Åland can also be described as a ‘sui generis law’ (one of a kind), according to the joint committee report.<sup>8</sup>

Suksi has argued that Åland fulfils three of the four criteria found in the Montevideo convention that are often considered to characterize a state. Åland has 1) a permanent population, 2) a defined territory, and 3) a government. The third criterion is only partly fulfilled, since legislative and executive power in the territory is shared with the state. Regarding the fourth criterion, the capacity to enter into relations with other states, such a capacity is not developed in Åland’s case, but is mostly exclusive to the state of Finland.

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5 The relationship between EU law and the Autonomy Act is indeed a complex matter. Among others, Sjölund 2016 has shown how when Finland and Åland joined the EU, both actors (Finland and Åland) gave up elements of their own legislative competences in favor of the EU. At the time, it was concluded that the EU membership would not change the delimitation of competences between Åland and Finland, but in practice the issue has proven to be more complex. The question as to how the delimitation of competences between Åland and Finland should be interpreted when it comes to implementation of EU law has been raised on several occasions. Sjölund concludes that it is a main challenge in the current review of the Autonomy Act to ensure an advantageous development of Åland’s autonomy while ensuring respect for Finland’s responsibility under international law. Sjölund, 2016. See also Suksi 2005, p. 530.

6 Hannikainen 1998, p.79. For a discussion on the concepts of autonomy and self-government see also Lapidoth 1997, pp. 53–54.

7 Suksi 2005, p. 527.

8 Joint committee pp. 202–203.

According to Suksi, this means that Åland exercises an internal sovereignty in certain domains.<sup>9</sup> Spiliopoulou Åkermark, in turn, discusses sovereignty not as a zero-sum game, but as a resource that can be shared, and in the same vein, Lapidoth thinks that the central government and the autonomous authorities could each be the lawful bearers of a share of sovereignty.<sup>10</sup>

Suksi has described the self-governed status of Åland, as well as other autonomies, as a conflict that has been institutionalized or constitutionalized, in other words made manageable under the rule of law.<sup>11</sup> A conflict exists, since the aims and ambitions of the state and the autonomy have not been abandoned, which may thus be a source of tension. In the best case, such tensions can be dealt with through co-operation and negotiation if there is a will to consider the views of the other parties and to compromise – something that has been described by Vesa and Spiliopoulou Åkermark as “responsiveness”.<sup>12</sup>

According to Spiliopoulou Åkermark, compromise can be considered the essence of autonomy solutions. For her, the so called Åland Example starts off from the basic premise of accepting a compromise and learning to live with it.<sup>13</sup> The concept of “The Åland Example” is described by Spiliopoulou Åkermark as a notion that understands the autonomy as one component and the demilitarisation and neutralisation as another, and finally the guarantees for language and culture as a third component included in one and the same regime of Åland. The notion further considers that a conflict between Finland and Sweden over Åland was peacefully solved in the 1920’s, something that takes into account the longevity of the arrangements. The term is used to emphasize that the regime of Åland might work as a source of inspiration, a platform for constructive discussions and even concrete negotiations in crisis management elsewhere in the world.<sup>14</sup> The concept is thus rather broad, and at an overarching level it also alludes to an example of factors important when attempting to solve ethno-political conflict of sovereignty disputes – or to put it differently, an example of how a minority can live in peace within a majority, in this case, the Swedish speaking population of Åland within Finland.

Spiliopoulou Åkermark describes how the settlement of the Åland issue concerned four core problems. Firstly, the power-sharing problem was dealt with by establishing autonomy, including exclusive legislative competences. Secondly, the security problem was met through reconfirmation of the demilitarisation of Åland from 1856, to which neutralisation was added in 1921. Thirdly, the issues of identity and minority culture were met with language

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9 Suksi 2005, p. 527.

10 Spiliopoulou Åkermark 2013, p. 7, Lapidoth 1997, p. 47.

11 Suksi 2005, p. 8.

12 Spiliopoulou Åkermark 2011, p. 196.

13 Spiliopoulou Åkermark 2011, p. 20, p. 196.

14 Spiliopoulou Åkermark 2011, p. 8.

guarantees and legislative competence in relevant domains. Finally, the economic issue and the question of economic viability of the autonomy were ensured through allowing Åland the control of land and by limiting the right of establishment of business.<sup>15</sup>

The autonomy of the Åland Islands might be the oldest still functioning autonomy arrangement in the world, and has as such attracted much attention from scholars.<sup>16</sup> The autonomy, its history and institutions has often been studied in detail, but mostly in a rather static manner, where institutions and mechanisms were taken for granted and fixed.<sup>17</sup> In the publication “The Åland Example and Its Components – Relevance for International Conflict Resolution”, Spiliopoulou Åkermark et. al. go beyond a static interpretation, and study the autonomy of the Åland Islands as “a dynamic and adaptable, yet continuous regime”.<sup>18</sup> This dynamic nature, it is argued, can be observed not the least in the legislative sphere, where several major revisions of the Act on Autonomy have taken place during its history. The Act, first presented in 1920, was thoroughly revised in 1951 and in 1991 and, in addition, smaller revisions have occurred in 2005 and 2009. For this type of legal document this indicates a dynamic relationship between the two parties.

The Finnish statesman Harri Holkeri, when President of the UN General Assembly, has referred to Åland as “a way of thinking”.<sup>19</sup> Keeping the theoretical observations above in mind, this paper is in line with Holkeri’s ambition in its wish to gain an insight into the ways of thinking of Åland and Finland respectively regarding the autonomy of Åland, as well as regarding the relationship between Åland and Finland.

## 2. A background to the autonomy of Åland

Before addressing the current revision and the work of the three committees, the history of the autonomy will be discussed. The purpose of this brief historic review is to describe what the original conflict concerned, what actors were involved, and what solutions and compromises were made. How the autonomy has evolved over time, up until today, will also be discussed.

Against this background, it can later be assessed if and how the historical conflict issues, solutions, compromises, actors and purposes of the autonomy are still relevant today, and if they are visible in the present revision.

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15 Spiliopoulou Åkermark 2013, pp. 21–22. In her works from 2011, the same author uses only three “components” to describe the legal and political regime that pertains to Åland, omitting economy. Spiliopoulou Åkermark 2011, p.9.

16 In fact, Åland has been used as a model when scholars are elaborating criteria for or characteristics of autonomies, see for example Hannikainen, 1998, p.91.

17 For summaries of previous research, see Spiliopoulou Åkermark 2011, p.10–11 and Spiliopoulou Åkermark 2013, p. 16.

18 Spiliopoulou Åkermark 2011, pp. 11–12.

19 United Nations, 2001.

## 2.1 The conflict

From the year 1809, when Sweden lost Finland, including Åland, to Russia, Åland formed a part of the “Grand Duchy of Finland”, an autonomous entity within Russia. At the end of the Russian period Finland started its quest for independence, and predominantly Swedish speaking Åland had a popular movement for a reunion with Sweden. At this time there was turmoil all around, with the First World War, a revolution, and a communist takeover in Russia, and after Finland’s independence in late 1917 also a civil war in Finland. This made prospects for the future very unclear for the Ålanders. Among others, the Ålanders perceived a risk of being linguistically and culturally marginalized through Finnization in an independent Finland, and decided to more prominently claim the right to self-determination. This was in line with the thinking of the League of Nations at the time. On Åland, secret meetings were held, an address and other messages and messengers were sent to the Swedish king, a self-organised collection of signatures (sometimes referred to as a ‘referendum’) was held, and a self-constituted Ålandic Assembly was formed. The leaders of the Åland movement established bilateral contacts with several countries and engaged in various ways with the Paris Peace Conference of 1919 to promote their cause.<sup>20</sup>

While Sweden promoted the right of Ålanders themselves to decide their future status, in line with the principle of self-determination, Finland – which became independent in December 1917 – demanded that its sovereignty over the Åland Islands be recognized. In 1920, Finland proposed that Åland should become autonomous, and even adopted in the Finnish Parliament an Act on Autonomy for Åland.<sup>21</sup> The Ålanders, however, rejected the Act. Subsequently, the matter was conveyed to the Council of the League of Nations, a move which both Finland and Sweden agreed to. A Commission of Jurists established that the matter was within the jurisdiction of the League of Nations, after which a Commission of Rapporteurs was established, with the mandate to find a solution to the dispute.<sup>22</sup>

## 2.2 The solution

The Commission of Rapporteurs found the Ålanders’ fear of Finnization to be legitimate, but when summing up all arguments it still concluded that regarding sovereignty the status quo should be upheld. If a state gives guarantees for the preservation of a social, ethnic and religious identity, there is no reason for a minority to secede, according to the rapporteurs.<sup>23</sup>

Subsequently, the Council of the League of Nations on 24 June 1921 took a decision that was in accordance with the recommendations of the Commission of Rapporteurs.

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20 Stephan 2011, p. 29, Bring 2002, pp. 9–11.

21 Autonomy Act 1920.

22 Stephan 2011, p. 29, Hannikainen 1997, p. 57.

23 League of Nations 1921.

The Council established that Åland should remain part of Finland, that Ålanders should be given guarantees to protect their language and culture, and that the islands should remain demilitarised – which they had been already in 1856 after the Crimean war – and furthermore also be neutralised, meaning that they should remain outside of military action also during war time.<sup>24</sup> A separate international convention regulating the demilitarisation and now also neutralisation of the Åland Islands was signed by eleven countries later in the same year.<sup>25</sup>

The states parties to the dispute, i.e. Finland and Sweden, were assigned the task to agree on how to formulate the details of the guarantees. The agreement between the two parties was presented to the Council on June 27. This agreement was called the “Åland Agreement”, where Finland was to introduce six guarantees into its Act on Autonomy of the Åland Islands. The six guarantees stated:

- The language of instruction in Ålandic schools should be Swedish.
- The province, the municipalities in the province or private persons in the province should have the right to redemption of real estate that had been transferred to persons residing outside of the province.
- Finnish citizens moving to the province will be granted the right to franchise in municipal and provincial elections only after they have resided in the province for five years.
- The Governor of Åland shall be nominated by the President of the Finnish Republic in agreement with the speaker of the Lagting (Parliament) of the islands. If an agreement cannot be reached, the President of the Republic shall choose the Governor from a list of five candidates nominated by the Parliament of Åland, possessing the qualifications necessary for the good administration of the Islands and the security of the State.
- The Åland Islands shall have the right to use for their needs part of the taxes collected in the province.
- The Council of the League of Nations shall watch over the application of these guarantees, and the Parliament of Åland will have the right to have any petitions or claim in connection with the application of the guarantees put forward to the Council.<sup>26</sup>

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24 League of Nations 1921.

25 Convention on the demilitarisation and neutralisation of the Åland Islands 1921.

26 League of Nations, 1921



In 1922, an informal regional assembly on Åland approved the Autonomy Act as it had been amended also by a proposed Guarantee Act to be adopted by the Finnish parliaments.<sup>27</sup> After general elections had been held, the Parliamentary Assembly of Åland convened for the first time on June 9, 1922. The Finnish Parliament, in turn, introduced the guarantees in a new Guarantee Act, passed in August 1922, as a complement to the Autonomy Act from 1920.<sup>28</sup>

### 2.3 Implementation and development of the autonomy

After the autonomy was established in 1922 disappointment and frustration remained on Åland, where hopes for reunification with Sweden had been high.<sup>29</sup> To start with, the implementation of the autonomy did not go very smoothly, and Mariehamn-Helsinki could not always agree on how the autonomy should be interpreted and implemented.<sup>30</sup>

In a government bill for a revised Autonomy Act from 1946, it is said that even if Ålanders saw benefits with the autonomy, they also thought that there were many ambiguities, and that Finland was unnecessarily restrictive in assessing which Åland laws could be approved or not.<sup>31</sup>

Discussions on a major revision of the Autonomy Act had started already in 1938, but after war broke out between Finland and the Soviet Union, the question was left pending.<sup>32</sup>

In 1945, after the Second World War, the Åland Parliament raised again the question of a reunion with Sweden, claiming that the protection of their “Swedish nationality” did not function satisfactorily and that Finland lacked interest in the matter.<sup>33</sup> Sweden then issued a statement which made clear that Sweden wanted to retain status quo.

The revised Autonomy Act of 1951 might be considered a turning point, since after this Ålanders have focused on developing the self-government, and reunification with Sweden has not been called for since.<sup>34</sup> In the revised Act of 1951, The Guarantee Act was repealed, and the guarantees from 1921, except the supervisory function of the League of Nations, were incorporated in the revised Act on Autonomy.<sup>35</sup> The Act of 1951 entailed new stipulations on economic equalization, and the legislative competences of the autonomy were extended.<sup>36</sup>

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27 Åland Agreement 1921

28 Bring 2002, p. 21.

29 Bring 2002, pp. 21–22, Modeen 1973, p. 58.

30 State committee 2013, p.20, Joint committee 2017 p. 32.

31 State committee 2013, pp. 20–21. Bill RP 100/1946rd proposing a revision of the Autonomy Act fell since it was not processed on time.

32 Bring 2002, p. 24.

33 Bring 2002, pp. 25–26, Modeen 1973, p. 62.

34 Stephan 2011, p. 32, Modeen 1973 pp. 62–64.

35 Provincial committee 2010, p. 8, Stephan 2011, p. 32, Act on Autonomy of Åland 1951. The supervisory function of the League of Nations disappeared with the demise of the organization. However, the issue of restoring the international guarantees has been a recurring theme, and is one of the suggestions in the provincial committee report 2010.

36 State committee 2013, p. 21.

A second major revision of the Autonomy Act came about in 1991, and this version of the law remains in force today (1144/1991). Major changes in the revision of 1991 were that several domains of legislative competence were transferred to Åland and that a new financial system, according to which budgetary competences rest with the Åland Parliament, was introduced.<sup>37</sup> The Autonomy Act of 1991 has been adjusted several times, most notably in relation to EU matters.<sup>38</sup>

### 3. The committee reports on the third revision of the Autonomy Act

The currently proposed fourth version of the Act is meant to modernize legislation and adapt it to changes in the surrounding world. In 2013, a joint Finland-Åland parliamentary committee called the Åland committee, under the chairpersonship of former president of Finland, Tarja Halonen, was appointed and tasked with drafting a proposal for reforming the autonomy of Åland.<sup>39</sup> In its work, the committee took into account two preceding reports, one written by an Åland parliamentary committee under Gunnar Jansson, then member of the Åland Parliament and former member of the Parliament of Finland, published in 2010 (hereafter the “provincial committee” and the “provincial committee report”) and one written by a state parliamentarian working group under Ambassador Alec Aalto (hereafter the “state committee”, the “state committee report”), published in 2013.<sup>40</sup> The “joint committee” presented a final report in the form of a government proposal in June 2017.

The three reports differ in their composition, both on a general level and in terms of how topics have been systematized. While the reports mainly agree on what topics are the most important, there are also deviations. The provincial committee report introduces several topics for discussion, the state committee report discusses those suggestions and adds several new ones, while the joint committee report, which makes up the proposition, is much more extensive and adds further topics and proposals, which are dealt with in much more detail than in the preceding reports.

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37 State committee 2013, pp. 21–22. Autonomy Act 1991 Chapter 4 (Authority of Åland) section 18, chapter 5 (Authority of the state) section 29 and chapter 7 (Financial management of Åland).

38 Provincial committee 2010, p. 9, Stephan 2011, p. 47.

39 Details from the joint committee report: “On 19 September 2013, the Finnish government appointed a parliamentary committee tasked with drafting a proposal for reforming the autonomy of Åland. The committee had representatives from all parliamentary groups and the groups represented in the Lagting regional parliament of Åland. The committee was chaired by Tarja Halonen, former President of the Republic of Finland. The committee was mandated to prepare an interim report laying out the guidelines for further preparation by the end of 2014 and to present its final report in the form of a government proposal by 30 April 2017.” See the joint committee report 2017, in “description”.

40 The provincial committee has also been called “The Åland committee”, and the formal name of the state committee was “The Parliamentary Åland working group”. For clarity and coherence, in this report the committee of Parliamentarians from both the Åland and Finland Parliaments, under the lead of president Halonen, is called the joint committee, while the Åland parliamentary committee is called the provincial committee and the Finnish parliamentary committee is called the state committee.

The task of the provincial committee, pursuant to its report, was to propose a reform of the self-government system and a reform of the Autonomy Act, taking into consideration new needs, the general development of society, the globalized economy, the European integration, and the new constitution of Finland.<sup>41</sup>

The state committee in turn describes its task as assessing the Åland self-government and the potential needs for changes from the perspective of the state. In particular, the committee was to assess the proposals of the provincial committee.<sup>42</sup>

In a summary in English in its final report, the joint committee describes its task as follows:

“The main task of the committee was to propose reforms in the autonomy and the Act on the Autonomy of Åland necessitated by changes in society and to draft a proposal for up-to-date autonomy legislation. The committee was also tasked with proposing measures on how the economic autonomy of Åland could be developed. Furthermore, the committee was mandated to review the allocation of competence between Åland and the Finnish government and to propose changes in competence provisions that have involved problems of interpretation.”<sup>43</sup>

### **3.1 The origins of the autonomy and the aims of a revision**

The background of the autonomy is very briefly described in all three reports. Insofar as these texts are able convey, there is a reasonable agreement in their views of the history of the Åland Islands autonomy process.<sup>44</sup> In their chapters on the historical background, both the provincial committee report and the state committee report mention the role of the League of Nations, the guarantees for the protection of the nationality of the Ålanders<sup>45</sup>, the Åland Agreement, and the autonomy act suggested by Finland in 1920. However, there are some discrepancies in what is mentioned and what is not included in these chapters, especially regarding the demilitarisation and neutralisation of Åland. Whereas the provincial committee report starts with the demilitarisation of 1856 – which is often described as the opening for an international status of Åland – the state committee report starts in 1809 when Sweden lost its eastern half, Finland and Åland, and does not mention the demilitarisation of 1856. Returning to the demilitarisation, the provincial committee report finishes the chapter by mentioning the “Åland protocol”. This protocol is included in the accession treaty of Finland to the EU. In this protocol, the particular status of Åland under international law is mentioned. The provincial committee report explicitly highlights

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41 Provincial committee 2010, p. 3

42 State committee 2013, pp. 17–18

43 Joint committee 2017, description (in English).

44 Provincial committee 2010, pp. 7–8, State committee 2013, pp. 19–20, Joint committee 2017, pp. 31–32.

45 In Swedish: ”Garantier för ålänningarnas nationalitetsskydd”.

the interpretation that the demilitarisation and neutralisation should be considered as included in this status. The state committee report, by contrast, does not refer to the EU protocol. In the joint committee report, the protocol is later discussed in relation to the right of domicile<sup>46</sup>, but is not mentioned in the historic overview, or otherwise, in relation to the demilitarisation or neutralisation.

Besides short chapters on the background of the autonomy, and in some instances reviews of former developments, the committees mostly discuss the present and the future and do not elaborate on the past. Still, all three reports describe the origins of the autonomy in similar ways, and it is here that the original purposes of the autonomy system can be found. The reports refer to the Åland Agreement from 1921 where Finland declares its preparedness to “... assure and to guarantee to the population of the Åland Islands the preservation of their language, of their culture and of their local Swedish traditions ...”.<sup>47</sup> A sentence from the government bill for the first Autonomy Act in 1920 is also quoted in all three reports. It states that the “... Ålanders should have the opportunity to arrange their own lives as freely as is possible for a region that is not a state”.<sup>48</sup>

Moreover, the state committee and the joint committee are alluding to a sentence from the League of Nations decision of 24 June 1921, according to which “... the interest of the world, the future of cordial relations between Finland and Sweden, the prosperity and happiness of the Islands themselves cannot be ensured unless (a) certain further guarantees are given for the protection of the Islanders; and unless (b) arrangements are concluded for the non-fortification and neutralisation of the Archipelago”.<sup>49</sup> This is however not mentioned in the provincial committee report. The statement does not explicitly mention the autonomy, but it can of course be interpreted as encompassing all the components in the Åland solution, or the Åland Example, if you wish.

It will now be discussed how each committee describes the original purpose of the autonomy as well as the aims for the present revision. In these respects, the reports use a variety of formulations. For instance, terms such as purposes, aims, general aims, goals, foundations and core idea are used in relation to either “the autonomy”, “the autonomy system” or “the Autonomy Act”. Still, both the provincial committee and the joint

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46 The right of domicile is a sort of regional citizenship that will be briefly discussed later.

47 “Säkerställa och garantera Ålandsöarnas befolkning bevarandet av dess språk, dess kultur och dess lokala svenska traditioner”. The Åland Agreement. Referred to in the provincial committee report 2010 p. 7, quoted in the state committee report 2013, p. 19.

48 “Sålunda skulle ålänningarna tillförsäkras möjlighet att själva ordna sin tillvaro så fritt det överhuvudtaget är möjligt för ett landskap som icke utgör en egen stat” Government bill 1919, quoted in provincial committee 2010 p. 10, and in state committee 2013, p. 19.

49 State committee 2013, p. 19. In Swedish “Trygga freden, det framtida goda förhållandet mellan Finland och Sverige samt öarnas egen välgång och lycka”. The French version of the League of Nations’ decision uses the word “paix” (“peace”), whereas the English version uses the expression “the interest of the world”. The committees are using in Swedish the word “fred” (“peace”).

committee are rather lucid on what they consider to be the purposes of the autonomy and aims for the revision, whereas the state committee report is less explicit.

### **Origins of the autonomy – three central sentences from official documents**

*Finland declares its preparedness to assure and to guarantee to the population of the Åland Islands the preservation of their language, of their culture and of their local Swedish traditions.*

The Åland Agreement from 1921.

*Ålanders should have the opportunity to arrange their own lives as freely as is possible for a region that is not a state.*

Finnish government bill for the first Autonomy Act in 1920

*... the interest of the world, the future of cordial relations between Finland and Sweden, the prosperity and happiness of the Islands themselves cannot be ensured unless (a) certain further guarantees are given for the protection of the Islanders; and unless (b) arrangements are concluded for the non-fortification and neutralisation of the Archipelago.*

League of Nations, decision of 24 June 1921

#### *3.1.1 Provincial committee*

The provincial committee maintains that the purpose of the 1991 Autonomy Act is to guarantee the population of Åland its Swedish language, culture and local traditions, as well as to make it possible for the population to arrange their lives by themselves, within the framework of the given constitutional status.<sup>50</sup> The provincial committee does not elaborate on the question of language, culture and traditions, but repeatedly claims that the autonomy system is based on the principle that it is primarily the Ålanders themselves that are to decide how the autonomy be organized. That Åland should take responsibility and decide for itself is a recurring theme all through the report. In fact, this is one of the main arguments of the provincial committee report.<sup>51</sup>

Pursuant to the provincial committee, the aim for a new autonomy system for Åland is that the population of Åland better than previously should have the possibilities to manage their lives according to their own wishes. The foundations of the autonomy should be kept and are to be strengthened while adapting to the changes that result from internationalization and integration, as well as to general developments of society.<sup>52</sup>

The provincial committee further writes that the self-government can and should be continuously updated and developed.<sup>53</sup>

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50 Provincial committee 2010, p. 10.

51 See for example the provincial committee 2010, pp. 5, 10, 17, 21, 28.

52 Provincial committee, 2010, p. 5.

53 Provincial committee 2010, p. 10

The provincial committee's suggestion for a text for the programme of the next government of Finland summarizes rather well the aims of the committee. The text states that the current Autonomy Act is outdated both regarding structure and content and thus needs to be reformed, with focus on the financial autonomy. The division of competences between the state and the autonomy should be overhauled, as well as the system for transfer of legislative competences and the legislative control. Experiences from other autonomous areas should be considered for the Åland autonomy to be a role model for autonomous areas with legislative powers.<sup>54</sup> The provincial committee also proposes to restore a supervisory function, similar to the original right of Åland entrenched in the guarantees, to communicate complaints to the League of Nations.<sup>55</sup>

The provincial committee further argues that politics should have precedence to law in the relationship between the state and the autonomy and that control should be exchanged for political dialogue. Suspicion should be replaced with trust, and legislative fights with negotiation.<sup>56</sup> The provincial committee also points out that the autonomy system seems to be based on the premise that Åland and Finland are equal parties.<sup>57</sup>

### *3.1.2 State committee*

The mission of the state committee is to look at the autonomy from the point of view of the state, and consequently, the committee establishes aims of the state, besides those of the autonomy. Looking at the autonomy in a wider national and international perspective, the committee points out the mandate of the state and considerations such as the requirements of the EU membership and other international undertakings of the state, as well as the rights of the individual.

The state committee, after having presented the historical aims of the autonomy, does not dwell on the purposes of the autonomy much further. It refers to the words of the programme of the government of Finland, which maintains that the autonomy of Åland should be developed and protected.<sup>58</sup> The committee notes that the programme does not give any information about what "development" means in this context. The state committee has chosen to look at development from the perspective of how the autonomy is working. In this context, the committee asserts that the original aims of the autonomy have been well met.<sup>59</sup> The committee writes that development means that the responsibility of Åland is growing in terms of managing its own affairs, especially as regards the economy.<sup>60</sup> While

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54 Provincial committee 2010, pp. 11–12.

55 Provincial committee 2010, p. 37.

56 Provincial committee 2010, pp. 14, 34, 37.

57 Provincial committee 2010, p. 32.

58 Programme of the Katainen Government 22.6.2011

59 State committee 2013, p. 51.

60 State committee 2013, p. 68.

the state committee acknowledges that “development” can be understood as if the autonomy should be expanded as far as possible within the constitutional system of Finland, it also highlights that development might imply other things than only transfer of competences. Although it observes that it is natural to expand the legislative competences of Åland over time, the state committee report stresses that it needs to be ensured that such an expansion is purposive and functional from an economic and administrative point of view.<sup>61</sup>

The state committee maintains that a general aim that can be found in the motivations to the present Autonomy Act is to strengthen the autonomy without changing the constitutional status of Åland. The committee considers that this objective is still relevant and states that a continuous development of a well-functioning autonomy lies in the interests of both Åland and the state. Thus, it should be a mutual endeavor to strengthen the ties that unite Åland and Finland, and avoid border obstacles. For the Ålanders, it is extremely important that the self-government works and that the islands are well, and as Finnish citizens, the Ålanders have the right to assume that the state observes its responsibility to ensure this.<sup>62</sup>

The state committee agrees that there have been changes in the surrounding world, including in Finland, that call for changes in the Autonomy Act. Technically, parts of the law are somewhat outdated. Hence, the law needs to be modernized and made more flexible.<sup>63</sup>

The committee further mentions that Finland’s EU membership in 1995 brought a new dimension to the relationship between the state and Åland. This shift has implications for the development of the self-government, and requires that Åland’s insight and influence in EU matters must be ensured.<sup>64</sup>

The state committee assesses that cooperation between the autonomy and the state has mostly functioned without friction and in a spirit of consensus.<sup>65</sup> It supports the idea that the political dialogue in the relations between the state and Åland should be expanded, both on a governmental and parliamentary level. In addition, it needs to be assured that contact between the authorities works well. At the same time, it should be noted, claims the state committee, that the guarantees of the autonomy rest in the legislation, which should be clear and leave as little room for interpretation as possible.<sup>66</sup>

The state committee briefly mentions that for the system to work it is important that ministries and central authorities in Finland are sufficiently fluent in the Swedish language, and have knowledge about the autonomy of Åland. On the other hand, the authorities of Åland similarly need to be knowledgeable of the Finnish judiciary and society, according to this committee.<sup>67</sup>

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61 State committee 2013, p. 51.

62 State committee 2013, p. 8, 52, 68.

63 State committee 2013, p. 52.

64 State committee 2013, p. 68.

65 State committee 2013, p. 52.

66 State committee 2013, p. 52.

67 State committee 2013, p. 52.

### 3.1.3 Joint committee

The joint committee rather clearly assesses that the most important purpose of the autonomy has been, and still is, to preserve the Swedish language, culture and local traditions of the population.<sup>68</sup> It also maintains that the core idea of the self-government is that the inhabitants of Åland should be ensured the opportunity to arrange their own lives as freely as is possible for a self-governed region that is not a state.<sup>69</sup> The two principles combined can be found in a passage in a chapter where the relationship between the Åland Autonomy Act and the Constitution of Finland is described. Here, it is said that ever since the establishment of the autonomy the Autonomy Act has contained deviations from Finland's constitutions. The most important of these deviations is that Åland has its own legislative assembly with authority to establish its own laws within specified areas, as well as the fact that the inhabitants of Åland are guaranteed certain special rights for the protection of their language and their local culture. The passage further mentions that these provisions have their background in international agreements and guarantees.<sup>70</sup>

In a summary in English, the aims of the committee are described: "In the final report, the committee proposes that a new Act on the Autonomy of Åland should be introduced. The new act would be the fourth such act, replacing the previous act adopted in 1991. The intention is to introduce an up-to-date piece of legislation and to provide a basis for more flexible development of the autonomy. The main aim of the reform is to provide Åland with an autonomy that is more dynamic and that would, over the years, permit a more flexible transfer of areas of competence to Lagting.<sup>71</sup> As a result, Åland would have more say in the introduction of the reforms that are needed so that the region can adjust to continuous changes in different sectors of society. It is also proposed that the equalisation system concerning the funding of the autonomy-related costs should be made more flexible."<sup>72</sup>

The description above summarizes well the joint committee's main aims for the revision of the Autonomy Act. However, in its comprehensive final report, more aims can be discerned both regarding the long-term development of the autonomy and the relationship between the autonomy and the state.

One of the other objectives of the reform is to ensure the interaction between the Åland authorities and the government of Finland. It is emphasized that sufficient contact, sensitivity and dialogue between Åland and the state is needed in order to jointly be able to solve possible disputes. Also, because of its small size, in some instances Åland is dependent upon the expertise of state authorities.<sup>73</sup>

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68 Joint committee 2017, p. 74, p. 115.

69 Joint committee 2017, p. 68.

70 Joint committee 2017, p. 202.

71 "Lagting" is the Parliament of Åland.

72 Joint committee 2017, in section entitled "Description" (in English).

73 Joint committee 2017, p. 89.



In relation to the discussion on the financing of the autonomy, the joint committee writes that the interplay between the Parliament of Finland and that of Åland should work in a way that allows for both parties to achieve their political goals within their respective areas of competence without political friction arising and without compromising the legal security of individuals.<sup>74</sup>

In the report, the joint committee also relates to the original purpose of protecting the language and culture of Åland. Among others, the need for access to information in Swedish is discussed in relation to privatization of public services.<sup>75</sup>

The joint committee considers the possibilities to reintroduce international guarantees for language and culture. However, it maintains that there is no international organization with a suitable mandate that might work as a guarantor, which is why the proposal from the provincial committee cannot be fulfilled.<sup>76</sup>

**Summary of the committees' aims for revision**

Provincial committee	State committee	Joint committee
Give Åland better possibilities to manage life according to its own wishes. Development of autonomy.	Strengthen autonomy without changing constitutional status of Åland. Autonomy to be developed and protected.	More dynamic autonomy that permits more flexible development and transfer of areas of competence. Åland would have more say in introduction of reforms needed.
Modernize, update, adapt to internationalization, integration and general developments of society	Development might imply other things than transfer of competences. Expansion must be purposive and functional from an economic and administrative point of view.	Ensure interaction, sufficient contact, sensitivity and dialogue between Åland and the state. Both parties to achieve their political goals without political friction and without compromising the legal security of individuals.
Politics should have precedence to law in the relationship between state and autonomy, control to be exchanged for political dialogue, suspicion to be replaced with trust, legislative fights and control replaced with political dialogue.	Law needs to be modernized and made more flexible.	Financial system that ensures that the autonomy can function in accordance with its aim and provide an acceptable financial outcome for both parties. Equalisation system concerning funding of the autonomy-related costs to be more flexible.
Division of competences, system for transfer of legislative competences, the legislative control and economic system to be overhauled.	Mutual endeavor to strengthen ties that unite Åland and Finland, avoid border obstacles  Åland's influence in EU matters to be ensured.  Political dialogue in the relations between the state and Åland to be expanded, still guarantees of the autonomy rest in legislation	

74 Joint committee 2017, p. 68.

75 Joint committee 2017, p. 88.

76 State committee p. 65, Joint committee p. 110.

### 3.2 Legislative competences of Åland

Åland is the only region in Finland with exclusive legislative powers in certain domains. In those domains, its competences are not concurrent with those of the state, and state laws in the domains where Åland has legislative competence do not apply on Åland.

The original Autonomy Act from 1920 contained only one list of legislative competences, in which the state competences were listed. In principle, the autonomy had the competence to legislate in all other domains, except for a stipulation that new domains of legislation should become the competence of the state. In the long run, this meant an excavation of the autonomy.<sup>77</sup>

In the 1951 Autonomy Act the principle of enumeration was implemented, and both Finland's and Åland's legislative competences were listed.<sup>78</sup> In the Autonomy Act of 1991, the system of one list for the state and one for the autonomy remains, but the act includes also a third list, a so-called B-list, which contains six domains of state competences that might be transferred to the autonomy by ordinary state law. This technique differs from the general principle saying that changes in the division of competences can only happen by changing the Autonomy Act – which in the Parliament of Finland is done pursuant to the provision for the amendment and the repeal of the constitution, and which also requires a qualified majority in the Åland Parliament.<sup>79</sup>

#### 3.2.1 *The provincial committee*

The provincial committee suggests that the current system with two lists of legislative competences, one for the state and one for the autonomy, should be replaced with one list only, which lists the competences of the state. Those competences are foreseen to be related to national sovereignty, and all other competences should be the competence of the autonomy without being listed in the law. At the same time, the procedures for transfer of competences should be simplified. This means Åland should have the main responsibility for future transfer of competences from the state to the autonomy. The pace of factual takeover of legislation that currently is resting with the state should be decided by the Åland Parliament and the voters.

The provincial committee argues that a system with only one list should be more lucid and clear than today's system. It would furthermore be more flexible and make room for future development of competences of the autonomy, while it is too complicated to make changes of competences in current law. The committee further argues that one list should not be more complicated to interpret than two. It would also be logical to have only one

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77 Joint committee 2017, p.62. Autonomy Act 1920.

78 State committee 2013, p. 21, Joint committee 2013, p. 32, Stephan 2011, p. 34, Autonomy Act 1951.

79 Joint committee 2017, pp. 62–63.

list, since the other follows automatically. Furthermore, a simpler system has a democratic value in itself. Besides such arguments of usefulness, the committee points out that two lists are unusual internationally and also refers back to the original Autonomy Act of 1920, which had only one list of state competences. It also repeatedly points out that Åland itself is responsible for the development of the self-government and should take the main responsibility in this domain.<sup>80</sup>

### *3.2.2 The state committee*

While the state committee endorses the idea of a more flexible system for transfer of competences, it maintains that it needs to be flexible in both directions and precludes the idea that Åland alone would decide on transfer of legislative competence, since it would not be consistent with the legislative mandate of the Parliament of Finland. The state committee fears that a system with one list only might impair transparency by making it more difficult to see how the legislative power is divided, and would rather see other solutions.<sup>81</sup>

The committee claims that each transfer of competences should be based on a “real need” and a thorough evaluation of the consequences. It is also important to assess whether Åland has the capacity to deal with new competences, or for that part, those competences that it already has. The committee further brings attention to many other concerns that need to be taken into account, such as the EU membership, international cooperation, administrative costs, and linguistic rights.

Pursuant to the state committee, the need for changes in the allocation of legislative competences should consider how the self-government functions, and in this section the committee assesses that the aims of the autonomy have been fulfilled well. Furthermore, it assesses that Åland has its own particularities, and cannot be compared directly with other autonomous regions.<sup>82</sup>

### *3.2.3 The joint committee*

In its proposal, the joint committee suggests that the present delimitation of competences between Åland and the state remains unchanged. Future transfer of competences should depend on changes in society. However, such future changes of the allocation of legislative competences should be facilitated, which is why the proposition suggests simplified

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80 Provincial committee 2010, pp. 16–17.

81 The state committee suggested one list for state law that cannot be transferred, one list of current legislative competences of the autonomy, and one list of law that is currently under state authority but might be transferred. Alternatively, transfers could be made through legislation by the autonomy that is approved by the state.

82 State committee 2013, pp. 53–55

procedures for transfer of competences. The joint committee refers to the Faroe system as a model in this respect. Regarding the lists of competences, the joint committee proposes one list for state law that can be transferred only by changing the Autonomy Act, one list for state competences that can be taken over by Åland after consultation with the state, and one list of state law that can be transferred through the same procedure as for ordinary state legislation, with the consent of the Åland Parliament. The last type of list already exists in the 1991 Act, but would now be extended to many more areas.<sup>83</sup>

### The committees' proposals regarding the legislative competences

Provincial committee	State committee	Joint committee
<p>Current system with two lists of legislative competences, one for the state and one for the autonomy, to be replaced with one list only, which lists the competences of the state.</p> <p>Procedures for transfer of competences should be simplified.</p> <p>Åland should have main responsibility for future transfer of competences from the state to the autonomy</p>	<p>A more flexible system for transfer of competences needs to be flexible in both directions.</p> <p>Åland should not decide alone on transfer of legislative competence, not consistent with legislative mandate of the Parliament of Finland.</p> <p>A reform is required in order to make the Act more modern and flexible. There are several different alternatives and models to be applied in the reform. Consider making the Act more general when it comes to division of competence. Provisions on the details could be laid down in ordinary acts with the assent of the Åland Parliament.</p>	<p>Present delimitation of competences remains unchanged.</p> <p>One list for state law that can be transferred only by changing the Autonomy Act, one list for state competences that can be taken over by Åland after consultation with the state, and one list of state law that can be transferred through the same procedure as for ordinary state legislation, with the consent of the Åland Parliament.</p> <p>Future changes facilitated through simplified procedures for transfer of competences.</p>

### 3.3 The economic system of Åland

The first Autonomy Act and the Guarantee Act specified what kind of taxes Åland had a right to collect.<sup>84</sup> However, the tax system in Finland developed in such a direction that the taxes that could be collected on Åland were not sufficient to cover the cost of the autonomy. In practice, means were transferred from the state. A system of tax equalization was developed and was codified in the Autonomy Act of 1951.<sup>85</sup>

Pursuant to the 1991 Act, Åland has only limited authority to collect taxes. Instead, the state levies taxes, duties and fees on Åland, and returns to Åland a lump sum which equals

83 Joint committee 2017, pp. 90–91 as well as §§26, 28 and 30 in the proposed Autonomy Act

84 Autonomy Act 1920 chapter 5, Guarantee Act 1922 §4.

85 Autonomy Act 1951, chapter 5, §27, Provincial committee p. 22.

0.45 per cent of total Government income, excluding Government loans. In addition to this, Åland may have an additional state transfer in case the income and property tax levied in Åland during a fiscal year exceeds 0.5% of the corresponding tax in Finland. In this case, the excess is returned to Åland.<sup>86</sup>

### *3.3.1 The provincial committee*

For the provincial committee, changes in the economic system are an important part of the revision process. The provincial committee gives two independent recommendations in this domain. Firstly, it suggests that the system for tax equalization be updated. Secondly, it suggests that Åland would take over a larger share of taxation rights from the state. The provincial committee refers to the original aim, which was that the costs of the autonomy should be covered by its own revenues. The committee states that competence in the domain of taxation is to a certain extent anchored in international law, through the Åland Agreement. The Committee considers that the current tax jurisdiction of the province should be developed in order to restore this original intention. The provincial committee refers to statements from previous investigations and committees, among others a conclusion that if Åland would take over all taxation this would probably be the most cost efficient system. The committee also refers to other autonomies, and maintains that, generally, an autonomy has both taxation rights and an allowance/contribution from the state.

The provincial committee refers to the Åland Government that has assessed that even if the revenues have been sufficient for the needs of the autonomy, the current system is too closely linked to changes in the economy of Finland, and hence not necessarily in line with the needs of Åland. The Åland Government is of the opinion that the current system for calculations of the lump sum is not flexible enough in relation to the budgetary policies of the state and the changes in the size of the population of Åland.<sup>87</sup>

### *3.3.2 The state committee*

Regarding takeover of competence in the domain of taxation, the state committee is far from convinced that it should be taken over by the autonomy. The committee maintains that the autonomy has long sought for such a change, but that the state has responded in the negative. The committee thinks that the present system has mainly worked out well, even if it has its flaws. For instance, the committee notes that the system is organized in such a way that it might be perceived as if the state supports the autonomy with taxes. Another problem is that the economic pre-requisites and needs for Åland at a certain period of time may differ from that of the state as a whole, and this might not be sufficiently considered with the present system.

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<sup>86</sup> Autonomy Act 1991.

<sup>87</sup> Provincial committee 2010, pp. 22–30.

The state committee refers to the tax department of the Ministry of Finance, which has commented on the provincial committee suggestion. The Ministry assesses that the provincial committee suggestion would put Finland in a difficult position in relation to its duties in relation to other states and to the European Union. The Ministry also fears a national or international tax competition and that a transfer of taxation rights to Åland would create costs and make taxation of trade more complicated.

The state committee does not discuss the equalization system in detail, but refers to an ongoing investigation carried out by a working group appointed by the Ministry of Finance.<sup>88</sup>

### 3.3.3 *The joint committee*

As can be understood from the provincial committee and state committee reports, the autonomy and the state are rather far apart in their views on economic autonomy for Åland. The joint committee maintains that the basic idea of self-government is that the population on Åland shall be ensured at all times the opportunity to arrange for their own lives as freely as is possible for a self-governing region which is not a state. It further asserts that the design of the financial system should both ensure that the autonomy can function in accordance with this aim and provide an acceptable financial outcome for both parties. The interaction between the self-government and the state should work so that both Parliaments can achieve their political goals within their respective areas of competence without political friction and without compromising the legal security of the individuals.<sup>89</sup> The joint committee acknowledges the long-term wish of Åland to take over a larger share of the taxation, but observes that the state has not been willing to approve of this.

The committee thinks that it would be important that the economic system is flexible enough to adapt resources to changed circumstances and that it should take into consideration the earning capability and the growth in population.<sup>90</sup> The joint committee also agrees with the state committee that there is a risk that the system of transfer of funds from the state to Åland implies a risk for misconceptions. The committee observes that there is sometimes a mistaken public perception that Åland receives funds without contributing to the state's incomes.<sup>91</sup>

The joint committee describes four alternative models that might work as compromises between the state and the autonomy. In the end, the system proposed is similar as the one in the Act of 1991, although some adaptations have been made to make the system more flexible regarding the financial equalization. The system for the calculations of money

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88 State committee 2013, pp. 61–63.

89 Joint committee 2017, p. 68.

90 Joint committee 2017, p. 89.

91 Joint committee 2017, p. 68.

transferred from the state to Åland will be somewhat modified. However, the competences regarding taxation remain with the state. Such competences are listed in the proposal §30, among competences that belong to the Parliament of Finland, but can be transferred to Åland through ordinary state legislation.

It can also be noted that the words of the Act that the committee proposes does not make it any easier to understand how the system works.

### The committees' proposals regarding the economic system

Provincial committee	State committee	Joint committee
<p>Åland to take over a larger share of taxation from the state</p> <p>System for tax equalization to be updated.</p>	<p>Not convinced that competence in the domain of taxation should be taken over by the autonomy.</p> <p>No suggestions on system for tax equalization</p>	<p>Competences regarding taxation remain with state. Listed in proposed act as competences that can be transferred to Åland through ordinary state legislation.</p> <p>System for the calculations of money transferred from the state to Åland will be somewhat modified.</p>

### 3.4 Legislative control of autonomy law and state law

Åland is the only region in Finland with exclusive legislative powers in certain domains. In those domains, its competences are not concurrent with those of the state, and state laws in the domains where Åland has legislative competence do not apply on Åland. Suksi maintains that the constitution of Finland applies on Åland, but the Autonomy Act also contains deviations from Finland's constitution. The system is at times described with the term "sui generis", it is one of a kind.<sup>92</sup> In essence, Finland has two separate legal frameworks that exist side by side, but sometimes also meet, which is why it is necessary to have a system of control of where one legislative competence ends and the other starts.<sup>93</sup> The system for legislative control is asymmetric, i.e. state laws and autonomy laws are not controlled by the same procedures or organs.<sup>94</sup>

92 Joint committee report, pp 202.

93 Suksi 2005, p. 528.

94 Suksi 2005, p. 537.

#### *3.4.1 The provincial committee*

The provincial committee finds the procedures for legislative control of acts of Åland to be in order, and suggests that these procedures are kept, although with a slight adjustment in the time allowed for the procedure. However, the committee points out that the control of the allocation of legislative competences is organized asymmetrically.<sup>95</sup> That is, there is a thorough system for controlling that Åland laws stay within their jurisdiction, but there is not a corresponding system to check that state laws do not neglect or violate the jurisdiction of Åland. The committee maintains that in cases where there are competing parliamentary systems it is necessary to have independent expert organs that can determine what is established law. On this ground, the committee suggests that the roles of the Åland Delegation, as well as that of the Supreme Court, be strengthened within the legislative control system. More specifically, it proposes that the President of the Republic should have the possibility to ask the Åland Delegation for opinions regarding the compatibility of state law to the Autonomy Act.<sup>96</sup>

There is no constitutional court in Finland, instead the Constitutional Law Committee and the Parliament of Finland are to check the constitutionality of legislative proposals. The provincial committee points out that the Constitutional Law Committee has taken the role of deciding whether a piece of state legislation is consistent with the Autonomy Act. This has been questioned as it may imply that the Parliament of Finland through the Constitutional Law Committee decides on the limits of its own competence. The provincial committee argues that this asymmetry is remarkable, since otherwise the autonomy system seems to be based on the premise that Åland and Finland are equal parties. The provincial committee points out that such decisions should be referred to an independent body, and recommends that the role of the Supreme Court and the Åland Delegation should be strengthened in this respect.<sup>97</sup>

#### *3.4.2 The state committee*

The state committee does not engage in a discussion on the symmetry of control of autonomy law or state law, nor does it discuss the role of the Constitutional Law Committee in this context. It only states that it does not oppose the suggestion that the President of the Republic should have the possibility to ask the Åland Delegation for opinions regarding the compatibility of state law to the Autonomy Act, although the committee thinks it might be more natural that the Åland Delegation would give its opinions to the Supreme court.

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95 The system for legislative control of acts of Åland is rather complex, and involves the Ministry of Justice in Helsinki and the Åland Delegation, an expert body of which half of the members are appointed by the Finnish Government and half by the Åland Parliament. It can also involve the President of the Republic and the Supreme Court. For a description of the systems, see Stephan 2011, pp. 42–44.

96 Provincial committee 2010, pp. 31–33.

97 Provincial committee 2010, pp. 31–32.



This is already possible within the framework of current legislation. The state committee further discusses the compatibility of autonomy law and EU law, and thinks that this should be further investigated.<sup>98</sup>

*3.4.3 The joint committee*

Similar to the state committee, the joint committee is more concerned about the aspect of the relation between the Autonomy Act and the EU law than by the legislative control of state law in relation to the Autonomy Act. The joint committee does not discuss the provincial committee report’s questioning of the role of the Constitutional Law Committee in relation to the system of legislative control. The committee concludes that in relation to most new autonomy laws the division of competences is clear, which is why the process of legislative control can be sped up in those cases. The committee suggests that the role of the Åland Delegation – which in the proposal is renamed the Delegation for Åland issues – be strengthened. If the delegation has the opinion that there is no ground for a Presidential veto the delegation may, according to the proposal, decide that the act in question can enter into force without being referred to the President. However, the President would still have the right to decide that the law in question shall be referred to the President.<sup>99</sup>

**The committees’ proposals regarding the legislative control**

Provincial committee	State committee	Joint committee
Procedures for legislative control of acts of Åland are in order, but control of the allocation of legislative competences is organized asymmetrically	Does not oppose strengthening of the Delegation for Åland matters or the Supreme Court to check that state laws are compatible with Åland Autonomy, but thinks this is already possible.	More concerned about relation between Autonomy Act and EU law than with legislative control of state law in relation to the Autonomy Act.
Need for a system to check that state laws do not neglect or violate the jurisdiction of Åland.	More concerned about relationship between the Autonomy Act and the EU law	Role of Delegation for Åland matters to be strengthened.
Strengthen the role of the Delegation for Åland matters and of the Supreme Court in this respect.		

*3.4.4 Summary of findings in the three reports*

The present chapter has studied how the parties describe the background and development of the autonomy, the original purpose of the autonomy, and the aims for the present revision. Some of the main concrete proposals for changes in the Autonomy Act have been discussed to see if the intentions of the two parties coincide or differ in those domains.

98 State committee 2013, pp. 59–60.

99 Joint committee 2017, pp. 97–99.

To sum up, the committees mostly agree on the history and foundations of the autonomy. There is nothing in the reports that contests the guarantees found in the Åland Agreement, but rather the original purpose of the protection of the Swedish language and culture is endorsed and cherished by all. Even if the state committee is not explicit on this issue, there seems to be no doubt that this is considered as an original purpose of the autonomy. It is also clear that such issues are still very pressing.

The state committee report and the joint committee report also refer to a sentence from the League of Nations decision in 1921 regarding the link between the guarantees, the demilitarisation and neutralisation of the islands to peace. However, this sentence seems to be used mostly as a background.

All reports quote the text from the Finnish government bill for the 1920 Autonomy Act about the right of the Ålanders to decide for themselves, which indicates that these words are considered significant. However, it seems there are some differences in how these words are interpreted and variations in what weight they are given in the three reports. The words as such are not encoded in the proposed words of the new Act.

In the provincial committee report, the principle that Ålanders should decide for themselves is the most prominent argument and the reason given for why the authority of Åland should be expanded. The state committee report takes a more functional approach, assessing “needs”. Such an approach could possibly be linked to the ambition expressed by the League of Nations in 1921 to take into account the prosperity and happiness of the Islands themselves. However, such an approach raises questions on who is to define needs, and how such needs can be measured.

All the committees agree that the direction of the previous revisions has been such that the competences of Åland have been expanded, and that the general trend has been that Åland has suggested more comprehensive transfers of competences than what has finally been realized. This is true not least regarding the economic system. While development of the autonomy is a significant issue for all three committees, their views on what is the end goal for development and how much the autonomy should be developed in the present revision show some variations. At a general level, the committees are all in favor of development, but it is quite clear that the provincial committee goes the furthest, both regarding development as a purpose and aim of the autonomy and regarding the concrete proposals.

All committees agree that the foundations of the autonomy should be kept, and at the same time the autonomy should be developed. However, there may be slightly different interpretations regarding what development really implies, at what pace it should happen, and who should decide when to develop what. Whereas one of the main ideas of the provincial committee reports is that Åland should manage its own affairs as much as

possible, the state committee establishes also aims of the state, which may not always correspond with this wish from Åland. Rather than defining the exact content or an end point for development, the joint committee opens up potential for future changes and more flexible procedures.

Regarding the aims for the ongoing revision, the three committees seem to agree that there is a need for a revision of the Act on Autonomy of Åland, at least to some extent, to be in line with the developments in society and other legislation. They all ascribe to this need due to changes in the surrounding world, including domestically in Finland, developments which all call for an up-to-date legislation. All three committees also see a need for a dynamic development which provides room for greater flexibility.

The committees have identified the legislative competences and the economic system as two crucial domains in the revision. Åland would be interested to extend Åland's mandate in those spheres more than what the state is willing to allow. While the provincial committee proposes a fully residual system, that is, only state competences would be listed in the Autonomy Act, and Åland would have the authority to take over all other domains of legislation, the state committee resists and seems to prefer a subject by subject approach where the Parliament of Finland should have the last word. The joint committee proposes a compromise that goes quite far in the residual direction and allows future changes.

Regarding the economic system, Åland wants taxation rights and an update of the system for the calculations of money transferred from the state to Åland. The state committee, referring to the Ministry of Finance, is not in favor of an Åland takeover of taxation rights. The joint committee expresses understanding for the Åland situation, but in the end is not proposing a takeover, yet agrees to some adjustments in the system for economic equalization.

As regards the legislative control, the provincial committee wants a more symmetrical system which not only supervises legislation issued by the Åland Parliament, but also supervises how state law complies with the autonomy. Neither the state nor the joint committee discusses this suggestion in their reports. Instead, they highlight the issue of the relationship between EU law, Åland, and the state.

It is thus clear that, as regards these three concrete proposals for development in terms of enhancing the autonomy of Åland, the provincial committee is the most ambitious, the state committee the most restrictive, while the joint committee ends up somewhere in between the other two.

## 4. Discussion

In this section, three dimensions of interest that have been found in preceding chapters will be further discussed. Firstly, the dimension of language and culture, secondly, the dimension of development of the autonomy, and finally, the dimension of the relationship between Åland and Finland. Within these dimensions, examples of proposals from the reports that have made it into the words of the proposed Act will be given.

### 4.1 The issue of language and culture

As has been described, the original purpose of protecting the Swedish language and culture on Åland is not contested but rather cherished by all the committees, and this purpose is also explicitly entrenched in the proposed Act. In the introductory chapter of the proposed revised Autonomy Act, the heading of the first paragraph in the Act of 1991, “Autonomy of Åland”<sup>100</sup>, has been supplemented by the new heading “The autonomy and its purpose”<sup>101</sup>. The text of this paragraph has been expanded in the proposed Act. In paragraph 2 it is stated that the autonomy is to guarantee that the Swedish language and culture and the local traditions of Åland are preserved. This is a new provision in the Act, which is a codification of the principle from the Åland Agreement mentioned above. It is also stated that the official language of Åland is Swedish, which is a new way of phrasing a provision that is found also in the Act of 1991.

Interestingly, besides establishing that the original purpose of the autonomy is to preserve the Swedish language and culture, the provincial committee does not discuss the Swedish language and culture at all in its report. This may seem surprising, knowing that the issue of maintaining and developing a functional autonomy in Swedish in a state that is officially bilingual, but predominantly Finnish speaking, is perceived as a demanding task.<sup>102</sup> However, there is agreement among scholars that the legal base for the protection of the Swedish language in Finland and especially on Åland is well entrenched, and the committee might have considered language matters to be a question of implementation and policies rather than of legislation.<sup>103</sup> However, the linguistic situation may have changed

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100 In Swedish “Självstyrelse för Åland”.

101 In Swedish “Självstyrelsen och dess syfte”.

102 See for example Suksi 2005 p.533, Ahtisaari/Folktinget 2012, p.6.

103 Finland is bilingual according to the constitution. Chapter 2, Section 17 in the Constitution of Finland, that deals with issues of the right to one’s language and culture states the following: “The national languages of Finland are Finnish and Swedish. The right of everyone to use his or her own language, either Finnish or Swedish, before courts of law and other authorities, and to receive official documents in that language, shall be guaranteed by an Act. The public authorities shall provide for the cultural and societal needs of the Finnish-speaking and Swedish-speaking populations of the country on an equal basis.” The Autonomy Act of Åland 1991, Chapter 6, section 36, states that the official language of Åland shall be Swedish, which is the language to be used in State administration, Åland administration as well as municipal administration on Åland. In some debates, the protection of language and culture

somewhat, and in a negative direction since 2010.<sup>104</sup> However, language issues are discussed to some extent in the state committee report, and thoroughly in the joint committee report.

Some changes regarding language and culture have been introduced in the proposed legislation. For example, it is stipulated that the language of the air traffic control on Åland is to be Swedish and English, and that state-owned companies should use Swedish in communication with Åland.<sup>105</sup> In the Act of 1991 it is stipulated that the language for written communication between authorities in Finland and on Åland is to be Swedish. In the proposed Act, the stipulation is extended to include also oral communication, which is a codification of practice.<sup>106</sup> In addition, one of the motivations for transferring more competences to Åland is the difficulties to have service in Swedish in certain domains.<sup>107</sup>

#### 4.2 Development of the autonomy

The three committees seem to agree that the autonomy is a dynamic regime that has evolved over time in such a direction that the legislative competences as well as the capacities of Åland has grown. The joint committee writes that the previous and present Autonomy Acts have been adapted to the preparedness, knowledge and resources to manage public tasks available on Åland. It describes that over the years Åland has learnt from its experiences and developed its abilities to meet new requirements resulting from social change, internationalization and globalization.<sup>108</sup> Key objectives of the two previous revisions, in 1951 and 1991, have been to continue to ensure the Åland population the strong guarantees for their nationality that were included in the Åland Agreement, as well as to modernize the law and resolve interpretation problems that had arisen regarding the division of competences. Both revisions resulted in more legal areas being transferred to the competence of Åland.<sup>109</sup>

The committees also agree that the general trend has been that Åland has been more eager to take over new domains of competence, while the state has been more hesitant. For instance, the provincial committee report describes that the direction of the previous revisions has been such that the competences of Åland have been expanded, and also that the general trend has been that Åland has suggested more comprehensive transfers of

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has even been considered as too far reaching, as notes Hannikainen 2004, p 83. For a discussion on how questions about the balance between human rights and the mechanisms for protecting the language and culture on Åland have arisen in the debate from time to time, not least when Finland has ratified various declarations and conventions, see Öst 2011, 78–81.

104 The think-tank Agenda has published a worrying recent assessment of the situation of the Swedish language in Finland, including on Åland. See Suominen 2017.

105 Joint committee 2017, p. 75, p. 167.

106 Joint committee 2017, p. 190, §87.

107 Joint committee 2017, p. 91, 139.

108 Joint committee 2017, p. 89.

109 Joint committee 2017, p. 88.

competences than has finally been realized.<sup>110</sup> As another example, the state committee writes that over the years Åland has repeatedly wished that competence in the domain of taxation should be transferred to Åland, while the state has been negative to such proposals.<sup>111</sup>

It is evident that the provincial committee considers the principle that Åland should decide for itself to be one of the purposes of the present Autonomy Act, as well as the main principle for the development of the autonomy into the future. As a matter of fact, this principle is repeatedly stated in the report, and appears to be both the main aim for, and the main argument of, the provincial committee.

This is not the case in the state committee report, which takes a more functional stance, assessing the needs for a revision from the perspectives of functionality, adequacy and possibilities. The state committee finds it natural that the authority of the autonomy should expand over time and refers to the government program aim that the autonomy should be strengthened, but also points out that development could mean other things besides taking over competences. In its discussion on competences, the state committee report also points out that it is important to take into account the capacities of Åland. Regarding the words from the proposition of 1920, the state committee is quoting them, but does not connect to these words in the rest of the report.<sup>112</sup> It may be the case that, while the provincial committee regards the words from the proposition of 1920, that Ålanders should have the opportunity to arrange their own lives as freely as is possible for a region that is not a state, as one of the fundamental principles for the autonomy; it is less clear to what extent the other two committees are supporting such a view.

At the level of concrete proposals, the state committee precludes the idea that Åland alone would decide on transfer of legislative competences, since it would not be consistent with the legislative mandate of the Parliament of Finland. It also establishes that competences in the domain of taxation cannot be transferred to Åland to such an extent that the state would completely refrain from its possibilities to affect the substantive contents of Åland's legislation on taxation.<sup>113</sup>

As can be expected, the joint committee is balancing the views of the state and those of the autonomy. The joint committee assesses that over the years Åland has enhanced its competences, and that through a dynamic system Åland can take more responsibility for the development of the autonomy in relation to changes in the surrounding world.<sup>114</sup> Rather than proposing measures for immediate and extensive development of the autonomy, the

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110 Provincial committee 2013, p. 10.

111 State committee 2013, p. 37.

112 State committee 2013, pp. 17–18, 51, 55.

113 State committee 2013, p. 63.

114 Joint committee 2017, p. 89.

joint committee is open for possible future development, while also ensuring that the state will retain influence.

By contrast to the guarantees for language and culture, the statement from the proposal for the first Autonomy Act regarding that Ålanders should have the opportunity to arrange their own lives as freely as is possible for a region that is not a state has not been codified as such in the proposed act, but can only be discerned in parts that are specifying the authority of Åland.<sup>115</sup>

The proposed Act on Autonomy, Chapter 1, §1, para.3, in its first sentence states that legislative competence, taxation rights as well as economic self-determination belong to the autonomy within the framework of what the autonomy legislation specifies. Such a phrase has not previously been included in the Autonomy Act, but is considered by the joint committee as a fundamentally important introduction to the law.<sup>116</sup>

As concerns the concrete proposals, the fully residual system for delimitation of legislative competences proposed by the provincial committee has not made it into the proposed Act. Instead, the proposed Act contains one list of state competences that can be transferred only by changing the Autonomy Act, one list of state competences that can be taken over by Åland after consultation with the state, and one list of state competences that can be transferred through ordinary state legislation with the consent of the Åland Parliament.

However, at the time of writing it is clear that in their commentaries several ministries have objected to the expansion of competences of Åland. It will be interesting to see if in the end these objections will have an impact on the legislation.

Regarding the economic system, the proposed Act is more restrictive in granting Åland competences regarding taxation than the provincial committee had wished for. The system for the calculations of money transferred from the state to Åland will be somewhat modified. However, in the end, the words of the Act that the committee proposes does not make it any easier to understand how the system works, and the changes proposed are rather moderate in relation to the original wishes of the provincial committee. At the time of writing, however, it is said that the system proposed by the joint committee will not work in practice, which is why stakeholders are looking at possible other varieties.

As indicated, all the committees agree that the autonomy of Åland is a dynamic regime, and that it is natural that it should develop over time. Interestingly, this is encoded in the proposed legislation in a new provision, according to which the objective of the legislation is to strive for a system where the Åland autonomy can be strengthened and changed as society develops.<sup>117</sup> Pursuant to the joint committee report, the means to accomplish

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115 Joint committee 2017, pp. 114–115.

116 Joint committee, 2017, pp. 114–115. In Swedish: “Lagstiftningsrätt och beskattningsrätt samt ekonomiskt självbestämmande hör till självstyrelsen inom de ramar som självstyrelselagstiftningen anger.”

117 “Genom denna lag eftersträvas en ordning där det åländska självbestämmandet kan stärkas och förändras

dynamic development is to give the Åland authorities more leeway to determine the rate at which Åland's jurisdictions can be extended.<sup>118</sup>

#### 4.3 Relationship between Åland and Finland

In essence, all sections and themes in the three reports, at least implicitly, relate to the issue of the relationship between the state and the autonomy. The topic is introduced by the provincial committee, which expresses the wish that politics should have precedence over law in the relationship between the state and the autonomy, so that suspicion should be replaced with trust and legislative fights and control with political dialogue.<sup>119</sup> The committee also introduces “third parties” into the equation when proposing that international guarantees should be reintroduced and that the control of whether a piece of state legislation is consistent with the Autonomy Act should be referred to an independent body. Besides these claims, the provincial committee report is mostly centered around Åland as an actor, rather than on the state or other actors in a multi-level-governance system. As has been noted above, the provincial committee report repeatedly claims that Åland should have more authority, and that Åland should decide for itself.<sup>120</sup> However, the committee acknowledges that national effects of the proposed changes must be evaluated and that consultation with the state is needed.<sup>121</sup> The provincial committee report also highlights that it seems that the autonomy system is based on the idea that Åland is considered equal to the state.<sup>122</sup>

The state committee explicitly forwards the perspective of the state. It takes into account the state responsibilities in relation to international agreements, to the EU membership and in relation to individual citizens.

The state committee is in favor of enhanced political dialogue, but also points out that autonomy needs to be based in legislation. Just like the provincial committee, the state committee maintains that the autonomy of Åland should be based on trust. In the state committee this is mentioned in the context of the provincial committee proposal to restore a supervisory function, similar to the original right of Åland entrenched in the guarantees, to communicate complaints to the League of Nations. The state committee considers such international guarantees to be superfluous, and instead refers on the one hand to trust between Åland and Finland, and on the other to the constitution of Finland.<sup>123</sup>

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i takt med samhällsutvecklingen.” Joint committee 2017. Proposed Act §1.

118 Joint committee 2017, pp. 114–115.

119 Provincial committee 2010, pp. 14, 34, 37.

120 Provincial committee 2010, pp. 14, 34, 37.

121 Provincial committee 2010, p. 31, 21.

122 Provincial committee 2010, p. 32.

123 State committee 2013, p. 66.



As expected, the joint committee balances the perspective of the autonomy and that of the state. The joint committee recognizes that Åland could take more responsibility for its own development, and also stresses the importance of contact, responsiveness and dialogue in between Åland and Finland.<sup>124</sup> The committee also highlights the interests of the state, saying that both parties shall have the opportunity to achieve their political goals within their respective areas of competence, without political friction arising and without compromising the legal security of individuals.<sup>125</sup>

An illustrative passage can be found in the detailed motivations, where it is said that on the one hand, the most important instruments for the development of the self-government are different forms of consultation and cooperation between the authorities of the state and those of the autonomy, and on the other hand, the possibility of taking over areas of legislative competence.<sup>126</sup> It is difficult to assess how much weight should be given to the order of the two parts of this sentence. The part about consultation and cooperation comes first, so does this mean that it is seen as the more important of the two parts, or are they considered to be of equal importance? The paragraph highlights the question of separation and contact, or perceptions about how close or how far apart Åland and Finland should be.<sup>127</sup> The provincial committee proposals for more competences for Åland, as well as the call for trust and less control in the relationship, might be interpreted as a wish for a more separate relationship. The state committee, on the other hand, wishes to strengthen the ties between Åland and Finland. In addition, the joint committee emphasizes the need for good contacts and cooperation. Whereas the state committee thinks that it would be unnecessary to reintroduce international guarantees for Åland, the joint committee has considered the possibility of reintroducing international guarantees for language and culture. However, it has been found that there is no international organization with a suitable mandate that might work as a guarantor.<sup>128</sup>

In the introduction of the joint committee report, summarizing the proposal of the committee there is a section on “cooperation” which includes two proposals for development of the co-operation between the two parties. In this section it is firstly established that when authorities are planning for measures that are of significance for Åland there is need to inform, and if needed, also negotiate with Åland on these matters. This is encoded in the proposed Act, §50. Secondly, the joint committee suggests a mechanism to coordinate Åland issues in the government of Finland, which is encoded in §52.

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124 Joint committee 2017, p. 89.

125 Joint committee 2017, p. 68.

126 Joint committee 2017, p. 115.

127 Related concepts are “segregation” and “integration”, which are discussed in Spiliopoulou Åkermark 2013, p. 25.

128 State committee p. 65, Joint committee p. 110.

Furthermore, the provincial committee describes Åland as an equal to the state. Since Åland has exclusive legislative powers in certain domains and the relation between the autonomy Act and the constitution is so particular, the claim of the provincial committee that Åland is an equal with the state, at least within certain domains, seems to be legitimate.<sup>129</sup>

The functional approach of the state committee report, trying to assess needs, raises questions regarding what Åland really is and to what Åland can be compared, if indeed it can be compared to anything at all, or if it is a case of “*sui generis*”. As has been described, it seems that the state committee aspires to measure needs for a revision on the basis of comparisons with other entities. Even though the committee acknowledges that Åland has its own particularities, and cannot be compared directly with other autonomous regions, it compares Åland both to autonomous regions in other parts of the world and to regions without legislative power in Finland.<sup>130</sup> The provincial committee, as well as the joint committee, make comparisons to other autonomous regions, but not to other regions within Finland. Comparing Åland to regions in Finland without legislative powers would imply that Åland is qualitatively similar to any other region in Finland. By contrast, comparing Åland to other autonomies in the world would underline the uniqueness of Åland within Finland.

The functional approach of the state committee report also raises questions of who is to assess and determine the needs, as well as to assess when Åland is ready to take over one domain of competences or another. This question is clearly answered in the provincial committee report – it is Åland itself. The state committee, however, taking the state perspective, gives priority to judgements made by the state in relation to the EU, to other international undertakings and to the responsibility of the state towards the individual.

An interesting new feature in the Act proposed by the joint committee, and one which may be seen as an indication of a view of Åland as an actor that is at least in some respects equal to the state, is the stipulation regarding on what grounds a member of the Åland government can be prosecuted. The committee states that since the authority of the Åland government, within the frame of the competences of Åland, is fully comparable to that of the government of Finland, the grounds for protection of a member of the Åland Government should be similar to what applies to a member of the Government of Finland. It is said that the aim of this provision is to obstruct the possibilities to use reporting to the police of members of the Åland Government for political purposes.<sup>131</sup>

Another initiative that points in the same direction is the proposal to strengthen the mandate of the Delegation for Åland issues in the process of legislative control, as well as in dispute resolution between the autonomy and the state regarding economic matters. The

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129 See Suksi 2005, pp. 530 and 534 for a legal assessment.

130 State committee 2013, pp. 53–55.

131 Joint committee 2017, p. 121.

Delegation is a joint body with representatives of both the autonomy and the state, and may as such be considered as impartial.<sup>132</sup>

## 5. Concluding remarks

The main question in this article has been what intentions Åland and Finland, respectively, hold regarding the self-government of Åland, and how this is mirrored in the ongoing process for a revision of the Åland Autonomy Act. This has been studied through a comparison of three core documents in the revision process, issued by three parliamentary committees, one Ålandic, one Finnish and one joint. The article has analysed how the parties describe the background and development of the autonomy, the original purpose of the autonomy, and the aims for the fourth generation of autonomy legislation. Some of the main concrete proposals for changes in the Autonomy Act have been discussed in order to see if the intentions of the two parties coincide or differ in those domains. Finally, the analysis has tried to discern how the parties perceive their relationship and what is the perception of their own role and the role of one another.

The paper started out with some conceptual observations made in previous research, and will now return to some of these vantage points. This analysis can confirm the narrative of Åland as a dynamic and adaptable, yet continuous, regime. It is easy to endorse the earlier mentioned description of the autonomy of Åland as a conflict that has been institutionalized or constitutionalized – made manageable under the rule of law.

The Åland Example is a concept that relates to three or sometimes four core problems and their respective solutions, i.e. regarding power-sharing, security, identity and minority culture, and finally economy (which is sometimes excluded from the analysis). It can be noted that the three central sentences from historic documents, used by the committees to describe the origin and original aim of the autonomy, mirror three of the components of the Ålands Example. The sentences relate to minority issues, self-government and peace and security in the region.

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<sup>132</sup> Half of the members of the Delegation are appointed by the Finnish Government and half by the Åland Parliament. In addition to the members, the Delegation has a chairperson, who by tradition is the Governor. The Governor represents the state of Finland on Åland, but is appointed in co-operation with the autonomy.

### Origins of the autonomy – three central sentences from official documents

<p>Finland declares its preparedness to <i>assure and to guarantee to the population of the Åland Islands the preservation of their language, of their culture and of their local Swedish traditions.</i></p> <p>The Åland Agreement from 1921</p>
<p><i>Ålanders should have the opportunity to arrange their own lives as freely as is possible for a region that is not a state.</i></p> <p>The Government bill for the first Autonomy Act in 1920</p>
<p><i>The interests of the world, the future of cordial relations between Finland and Sweden and the prosperity and happiness of the Islands themselves cannot be ensured unless certain further guarantees are given for the protection of the Islanders and the islands are demilitarised and neutralised.</i></p> <p>League of Nations' decision of 24 June 1921</p>

The principle of protection of language and culture found in the Åland Agreement seem to be unproblematic to the committees, whereas it is more unclear how far the parties are willing to go regarding the right of Åland to manage its own affairs. For instance, the committees have identified the division of legislative competences and the economic system as two crucial domains in the revision. It is clear that Åland would be interested to extend its mandate in those spheres more than what the state is willing to allow.

It can be maintained that the principles described above are still relevant today, and that they are discussed in relation to the revision of the Autonomy Act and are covered in the proposed Act, even though external security issues are not within the competence of Åland.

In this context, it is interesting to note that a new feature in the proposed Act is that the demilitarisation and neutralisation of the islands has been mentioned. The joint committee maintains that this provision is of a declaratory nature and does not change status quo. It can however be interpreted as a codification of an understanding of the demilitarisation and neutralisation as a part of the Åland Example. In the detailed explanatory comments, the joint committee maintains furthermore that the neutralised and demilitarised status of Åland have over time become significant matters for the Ålanders, which seems to be the motivation as to why the provision is introduced in the act.

Among the conceptual observations, compromise has been discussed as the essence of autonomy solutions, and it has also been said that the Åland Example starts off from the basic premise of accepting a compromise and a learning to live with it. It is often said that after the League of Nations decision in 1921 all three parties, Åland, Finland and Sweden,

were at least partly unhappy with the solution, but they learned to live with it and have made it work since. Sweden has kept a very low profile regarding Åland, which may be one of the success factors. Finland has been very apt to stick to the rule of law and keep to its international undertakings – among others as regards Åland.

The provincial committee emphasizes the status of Åland under international law and the original agreements. It also wishes to restore the international guarantees and proposes a symmetrical legislative control of state law and autonomy law. Åland would wish to have external and impartial involvement, which is not prioritized by the state. Such proposals remind us that when the Åland matter was settled at least three parties were directly involved and concerned: Åland, Finland, and Sweden. In addition to this, the great powers Great Britain, France and Russia had an interest in the security political dimension.<sup>133</sup> In the revision process, in contrast, only two actors are involved – Åland and Finland. What actors are involved and what position they have will affect the outcome of negotiations, and probably also the quality of the compromise.

It has been mentioned several times in this paper that the joint committee report is balancing the proposals and perspectives of the provincial committee and the state committee, or in other words those of Åland and those of the state. However, there has not been any attempt to quantitatively assess how much of the provincial committee and the state committee proposals and perspectives respectively have been included in the final proposal. It is also outside the scope of this paper to do so. However, one of the premises of this paper has been to consider the state of Finland and the self-governed Åland as distinct actors. It was stated in the introduction that this is a simplistic view, since there is always more than one single actor or one single agenda. It has been found that such an assumption needs to be problematized, also in respect of the position of the actors in a process of negotiation, especially in terms of equalities or inequalities in status, resources and power.

It may be said that within the framework of the autonomy system Åland is an equal to the state. However, the revision regards the framework itself, and in this case the positions of the parties are not as easy to establish. Hannikainen points out that after all, an autonomous status only gives a partial right of self-determination, the sovereign is above the autonomy and has the highest authority.<sup>134</sup> Even if Åland is an equal to the state within the framework of the autonomy, the question remains who is to decide when the framework itself is to be changed and on what grounds the influence of the parties respectively should be determined. If needs assessments are made as a basis for deciding on changes of the system, it needs to be established who is to define those needs. It can be added that it is not enough to look only at the quality and quantity of the self-government within the autonomous

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133 For discussions on the role of external actors, including kin-states, see Ghai 2011, p. 103, and Spiliopoulou Åkermark 2013, p. 20–21.

134 Hannikainen1998, p. 86.

territory – in order to protect language and culture, it is also necessary that the state is able to accommodate the linguistic minority and provide services and communication to the extent needed.<sup>135</sup> For the autonomy, this aspect is much more difficult to influence than the content of the autonomy itself, since again, it is outside of the framework where the autonomy might be considered as an equal.

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135 Spiliopoulou Åkermark 2013, p. 24.

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Information about the revision including links to reports (in Swedish) can be found at the Parliament of Finland home page: [https://www.eduskunta.fi/SV/tietoeduskunnasta/kirjasto/aineistot/kotimainen\\_oikeus/LATI/Sidor/ahvenanmaan-itsehallintolain-uudistaminen.aspx](https://www.eduskunta.fi/SV/tietoeduskunnasta/kirjasto/aineistot/kotimainen_oikeus/LATI/Sidor/ahvenanmaan-itsehallintolain-uudistaminen.aspx) (accessed 1.2.2018)

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