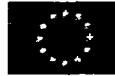


THE LEGISLATIVE ASSEMBLY OF ÅLAND PARLIAMENT OF ÅLAND

ÅLAND AND THE EU



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ÅLAND AND INTERNATIONAL AGREEMENTS

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ÅLAND AND THE EU

Åland's autonomy made it possible for the Ålanders to make their own decision about joining the European Union or not after Finland had decided to join. The Parliament of Åland resolved that Åland should also join the EU, since it was given special legal exemptions which safeguard its autonomy and the population's livelihood.

ÅLAND AND INTERNATIONAL AGREEMENTS

According to the Autonomy Act, foreign policy falls within the authority of the Republic of Finland. Åland has therefore no authority to enter into international agreements on its own.

But Åland is not totally without influence in international affairs. If an international treaty entered into by Finland contains a provision which is in conflict with the Autonomy Act or which falls within the authority of Åland, the Parliament must approve such a provision for it to be valid in Åland.

The President has to seek the consent of the Parliament to international agreements. There are about ten such cases every year. So far agreements have contained regulations for the avoidance of double taxation or regulations relating to social security. The Parliament has given its consent more or less as a matter of routine.

The Autonomy Act also contains provisions which enable the Government of Åland to approach authorities of the Republic of Finland and propose negotiations about new treaties.

ÅLAND IN THE EU

When Finland was preparing its application for membership of the EU, Åland put forward certain desiderata that it saw as important for the safeguarding of Åland's

autonomy and the future development of its economy. The negotiations between Finland and the European union resulted in a treaty of accession which, from the point of view of Åland, must be regarded as successful. In other words, Åland was given a sympathetic ear by the EU.

Åland's relation to the European Union's legal system is regulated by a special protocol, known as **the Åland Protocol**. The protocol is included in Finland's treaty of accession and is thus part of the EU's primary laws. This means that the provisions of the protocol cannot be altered by EU regulations, directives or resolutions, but that an amendment must be approved by all the membership states jointly. The Åland Protocol has thus a very strong formal position within the EU's legal system.

According to the Åland Protocol, membership of the EU does not prevent Åland from retaining its domicile status requirement for the purchase of land, for the right of establishment and for the right to provide services in Åland.

Furthermore, Åland is to be classified as a so-called third territory, which remains outside the application of the EU's harmonization directive for indirect taxation.

This exemption makes tax-free sales possible between Sweden and Åland even after the abolition of such sales in the EU in 1999. It further makes tax-free sales between Åland and Finland possible. The aim of this exemption is to maintain the future viability of the Åland economy.

The taxation provision contains two so-called safety clauses which enable the EU to take measures to annul the exemption if it no longer appears justifiable. The safety clauses in combination with the regulations requiring the right of domicile for the purchase of land and the establishment of a business make it difficult for Åland to develop into a tax haven. There is, of course, no political will in Åland to create such a situation.

The introduction to the Åland Protocol refers to Åland's position in international law as an autonomous, demilitarized, and neutral territory.

In addition to the Åland Protocol, the member states of the EU have committed themselves in a special **declaration** to respecting the regulations governing franchise and eligibility in local council elections in Åland. Furthermore, in a **unilateral declaration** the Government of Finland has confirmed Åland's special status in international law. Thus Åland's autonomy, its demilitarized status, and its neutrality have been confirmed both in the Åland Protocol and in a declaration by the Government of Finland.

ÅLAND'S INFLUENCE IN THE EU

The question of ensuring that Åland has sufficient influence in EU matters is regarded by the EU as an internal Finnish issue.

On joining the EU, Åland, like Finland, surrendered some of its legislative power. The view in Åland is that Åland, like Finland, should have been compensated for this loss of authority by being given representation in the European Parliament. However, the Finnish Parliament resolved not to allocate any of its sixteen seats in the European Parliament to Åland, a decision which Åland opinion has labelled as unacceptable.

On the other hand, Åland's participation in the national decision-making process relating to the EU is satisfactorily provided for. New rules have been introduced into the Autonomy Act which give the Government of Åland the right of access to information about business which is in preparation in the EU's institutions, if such business is of special importance to Åland. The Government also has the right to participate when such business is being prepared in the Finnish Council of State. Furthermore, the Autonomy Act empowers the Government of Åland to formulate Finland's response in so far as it concerns the application of common EU policy in Åland. The Autonomy Act also gives the Government of Åland the right to choose a representative for the EU's regional committee.

To enable Åland to participate in the Finnish Parliament's discussions of issues of European integration, the legislation on parliamentary procedure has been amended to allow Åland's member always to be present at the meetings of the Grand Committee. Each ministry also has a civil servant with special responsibility for EU parliamentary business which concerns Åland. Finally, the Government of Åland has its own special adviser at Finland's permanent representation in Brussels.

THE IMPLEMENTATION OF THE ÅLAND PROTOCOL

The question of how the exemption from the harmonization of taxation contained in the Åland Protocol is to be implemented is still open. According to the present autonomy legislation, it falls to the Republic of Finland to legislate on both direct and indirect state taxation. The Finnish parliament has not as yet resolved to use the opportunity to introduce the special legislation on taxation that the Åland Protocol allows for.

The technical solution chosen to enable tax-free sales to continue has brought with it certain disadvantages for Åland. Because Åland as a third territory is outside the taxation union, a tax border with the EU came into being which threatened to put Åland producers at a competitive disadvantage. However, a special law passed by the Finnish Parliament removed for the time being the border formalities for the trade between Åland and Finland, but in the trade with the rest of the EU the tax border involves formalities which are at variance with the trade formalities within the rest of the EU and which put producers in Åland to some extent at a competitive disadvantage.

THE EU DECISION

The decision by the Parliament of Åland to seek EU membership was preceded by an advisory referendum. In the referendum 74 % voted for membership on the conditions laid down in the Åland Protocol. After that the Parliament of Åland resolved with 26 votes to 4 to follow Finland's example and seek membership of the European Union.

ÅLAND AND THE NEW EUROPEAN CONSTITUTION

The positions of the Region of Åland in relation to the work of the European Convention

(Approved by the Committee for Autonomy Issues at the Åland Parliament on 4 August 2002)

1. Åland's primary objective

Recognition of Åland's regional legislative and administrative competence

The key problem for the Region of Åland in respect to its membership of the European Union is that the EU consists of and only recognises the Member states as parties to the EU's legislative and administrative business, and that so far the EU has regarded intra-State divisions of legislative powers as a purely internal, national concern. This is particularly inappropriate in view of the lack of legitimacy that this creates in regions with legislative power, adding to the existing lack of legitimacy in the Union.

Åland's primary objective is therefore that the EU treaties be amended to the effect that the EU recognises a regionally-based legislative and administrative authority within the EU.

Åland is thus seeking to obtain recognition of all the EU's legislative regions. In case such recognition does not prove possible, the Committee for Autonomy Issues considers that a number of provisions which relate to the special position of the Åland Islands and contain a recognition by the EU of Åland's legislative and administrative authority should be introduced. Such special treatment of the Region of Åland is warranted by the Region's special position in the Finnish Constitution, which not only delegates power to the Region of Åland but provides for a division of power between Åland and Finland. Åland also occupies a special position in international law and, as a consequence of the "Åland Protocol," also to some extent in the EU's founding treaties.

2. Key issues

The principle of subsidiarity. In future treaties the principle of subsidiarity should be binding also with respect to the legislative regions.

Regional parliaments in regions with legislative authority. The role of regional parliaments should be clarified and above all strengthened. In particular, this means that parliaments in regions with legislative powers would be given an opportunity to participate in the co-operation process between the European Parliament and the national parliaments.

Participation in the Council of Ministers and other parts of the decision-making process. The EU's legislative regions should be given representation in the Council of Ministers as well as in other parts of the decision-making process, where their representation should correspond to the extent to which their competence is affected. The legislative regions should also be given an insight into and opportunities to participate in the Commission's drafting work through consultation and by other means.

The right to take legal action before the European Court. The legislative regions should be given the right to take legal action before the European Court insofar as the case touches upon their areas of competence.

Constituencies in elections to the European Parliament. In deciding the boundaries of constituencies consideration should be given to the territorial division into legislative regions. This principle should be introduced in the treaty.

Simplification of treaties and clarification of the division of authority. The

Region of Åland is willing to support the process of simplifying treaties, provided that such amendments do not alter the status of the Åland Protocol.

The Committee of the Regions. As a consequence of the recognition of the legislative and administrative authority of regions within the EU that constitutes the primary objective of the Region of Åland, the Committee of the Regions should be accorded the status of an EU institution. The Committee of the Regions should be developed into an agency that deals with issues relating to local and regional self-government and seeks to promote the interests of the EU's regions.

The Charter of Fundamental Rights of the European Union. Any amendment that makes the Charter a binding legal instrument must not lead to a weakening of Åland's autonomy.

Defence-related issues. Åland's demilitarised and neutralised status must be retained, irrespective of the future development of European structures of defence co-operation.

3. Other

The Region of Åland advocates the establishment of a special working group for the regional dimension.

4. Åland's position in the EU

The positions of the Region of Åland in relation to the constitutional treaty that is currently being drawn up are as follows:

- 1) The Åland Protocol's status as part of the founding treaties of the EU must be retained.
- 2) The contents of the Åland Protocol must be retained, both in respect of derogations and mechanisms for change. The preamble to the Protocol, which refers to "Åland's position under international law", must be retained unaltered.
- 3) The new constitutional treaty must include an express provision stating that the treaty does not conflict with the international decisions and agreements regulating the Ålandic population's special rights, Åland's autonomy or the international agreements regulating Åland's demilitarised and neutralised status.