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Indigenous People's Collective Land Rights

- Submission by the Finnish NHRI

Please find attached the contribution of the Finnish Human Rights Centre (HRC) to the questionnaire on Indigenous peoples' collective rights to lands, territories and resources.

The HRC, its pluralistic Human Rights Delegation and the Office of the Parliamentary Ombudsman together form Finland's National Human Rights Institution (NHRI). The Institution was accredited an A-status by the GANHRI (previously ICC) in 2014. The HRC represents the Finnish NHRI in international NHRI cooperation and in the text it is referenced as "the NHRI".

Should you have any further questions, please contact leena.leikas@humanrightscentre.fi.

With regards,

Sirpa Rautio
Director

Leena Leikas
Expert

The document was signed in the electronic document management system.

Annexes

Reply of the Finnish NHRI to OHCHR questionnaire in relation to national action plans to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, dated 18 July 2017.

General info on the indigenous people Sami in Finland

The Sámi are the only indigenous people of the European Union. The Sámi live in four countries, Finland, Norway, Sweden (and the Russian Federation). There are about 10 000 Sámi in Finland. More than 60 per cent of them now live outside the Sámi Homeland, which brings new challenges for the provision of education, services and communications in the Sámi language. The total Sámi population is estimated to be over 75,000, with the majority living in Norway.

There are nine living **Sami languages**, out of which three are in use in Finland. All of the languages are endangered.

The Sámi Parliament (Sámediggi) is the supreme political body of the Sámi in Finland. It is an independent legal entity of public law which, due to its self-governmental nature, is not a state authority or part of the public administration. The Sámi Parliament functions administratively under the Ministry of Justice.

The Sámi Parliament represents the Sámi in national and international connections, and it attends to the issues concerning Sámi language, culture, and their position as an indigenous people. The Sámi Parliament can make initiatives, proposals and statements to the authorities. Its main purpose is to plan and implement the cultural self-government guaranteed to the Sámi as an indigenous people.

The rights of the Sami and the level of their implementation differ between the countries (Finland, Sweden, Norway and the Russian Federation). The Sami are often in disadvantageous and vulnerable situation.

In Finland, disagreement and tensions surrounding the Sami definition and Sami people's rights to traditional livelihoods and lands continue to exist, despite many efforts to solve them.

Currently there are **processes** underway to renew the Sami Language Act and Sami Parliament Act in Finland. In 2017 controversial agreements on Tana river fishing and Nordic Sami Convention were reached between the relevant governments. The ratification of the ILO 169 is still pending.

**Questions by the United Nations Permanent Forum on Indigenous Issues.
Replies by the HRC as a representative of the Finnish NHRI in international
NHRI cooperation.**

1. The 2017 session of the Permanent Forum featured a focus on indigenous human rights defenders. Please provide information on the work of your institution in relation to indigenous human rights defenders. What results have been achieved through such efforts and what are some lessons learned?

Continuous follow-up on Sami related issues as well as cooperation with the Sami Parliament is ongoing. However, no specific efforts have been taken with regard Sami human rights defenders.

In general, the advancement and promotion of the rights of Sami people, their culture and their languages is an important part of the NHRI work against discrimination, inequality and negative stereotypes. Sami, as a group in a disadvantageous situation, is in focus within the human rights monitoring process.

As results of the work of the Sami parliament, the NHRI and many civil society actors, several recommendations have repeatedly been issued within the UN as well as by the Council of Europe to improve the situation of the Sami. The knowledge in general on the indigenous issues is somewhat improved and continues to be in the spotlight due to increased attention to lack of information, existing stereotypes and discriminatory attitudes.

Lessons learned include improved understanding of the processes and influencing opportunities within the various monitoring systems. Further training could be useful for civil society actors on how to effectively use the tools and options available within the various processes.

2. The theme of the 2018 session will be Indigenous peoples' collective rights to lands, territories and resources. Please provide information about indigenous peoples' collective rights to lands, territories and resources in your country. Has your institution been engaged in work relating to indigenous peoples' collective rights to lands, territories and resources?

The land rights of the Sami is still an unresolved issue in Finland.

Several legislative changes concerning Sami are under preparation and discussions on multiple levels of government and with the Sami and various civil society and human rights organisations are ongoing.

The Government ordered an international comparative research¹ to gather knowledge, particularly related to land- and participatory rights of Sámi and the Sámi definition. The Director of the NHRI participated in the Steering Group of the Research project and the research seminar on the issue with the experts who participated in the research.

¹ Press summary on the report http://tietokayttoon.fi/artikkeli/-/asset_publisher/10616/raportti-saamelaisten-oikeudet-vahvistettava-perustuslain-ja-kansainvalisen-oikeuden-mukaisiksi?_101_INSTANCE_QKnBiC19Bd4C_languageId=en_US

The research report was published in January 2017. The research aims to provide new information concerning recent developments of indigenous peoples' rights in international law as well as legal solutions related to indigenous peoples in other relevant countries. It also takes critical view on outstanding issues and tries to encourage the government to take bold steps in organising the land rights issues, among others.

The research report consists of four main parts (partly in English)².

- First part (fin) takes a look at legal status of Sámi and related proposals, which are viewed from the perspective of international legal obligations.
- Second part (fin) discusses the problematics of Sámi definition in the light of international law as well as in the legal praxis of the Supreme Court of Finland. This part includes also a description of the backgrounds and reasons for the battle concerning the definition.
- Third part (en) focuses on indigenous peoples' legal status and rights in international law, with special reference to the principle of free, prior and informed consent (FPIC), as well as interpretation of land rights provisions of ILO Convention 169.
- Fourth part (en) consists of legal comparison including country reports on Norway, Sweden, Aotearoa New-Zealand, Canada and chapter on Latin America. This section includes conclusions summarizing essential elements regarding legal solutions of each selected countries that can provide best practices for advancing Sámi rights in Finland.

The Finnish NHRI held in March 2017 a discussion on the above-mentioned report within its pluralistic cooperative body, the Human Rights Delegation. A representative of the Ministry of Justice (responsible for Sami issues in general) and the researcher leading the research (a Delegation member) presented the report to the Delegation. A representative of the secretariat for the Constitutional Committee of the Finnish Parliament also participated in the discussion together with the president of the Sami Parliament (a Delegation member).

The NHRI has used the report as a reference material in its many submissions (see below) on the rights of the Sami to national and international bodies.

The NHRI has selected rights of the Sami as one of its priority topics for its work in 2018.

3. What are the three to five main activities carried out by your institution at the national and/or regional level to implement the UN Declaration on the Rights of Indigenous Peoples and the principles contained therein?

The Finnish NHRI has actively been involved in the promotion of rights of the Sami both nationally and internationally.

- Rights of the Sami included in the report and recommendations prepared by the NHRI to the UPR-process.
- Rights of the Sami included in the report and recommendations prepared by the NHRI to the CERD-committee.
- Linguistic rights of the Sami included in the report with regard Council of Europe Convention on the Regional and minority languages.

² Report

http://tietokayttoon.fi/documents/10616/3866814/4_Saamelaisten+oikeuksien+toteutuminen+kansainv%25C3%25A4linen+oikeusvertaileva+tutkimus/e765f819-d90c-4318-9ff0-cf4375e00688?version=1.0

- A statement to the Ministry of Justice on the Nordic Sami Convention, its importance and its problem areas, including insufficient use of FPIC in the negotiation process.

4. What are the main constitutional, legislative and/or administrative developments taken or planned to promote and/or implement the UN Declaration on the Rights of Indigenous Peoples in your country? Has your institution been involved in these processes, and if so how?

Several processes are ongoing, although somewhat delayed due political processes. These include changes in the Sami Parliament Act (the definition of Sami) and Sami Language Act.

5. Please provide information on any activities and programmes that your institution carries out or plans to that are specific to indigenous peoples.

The Finnish NHRI continues to make submissions on the Sami related issues when relevant and includes the rights of the Sami in its national and international monitoring and reporting.

In 2018, as part of the NHRI general Human Rights Education series, a specific theme lecture and corresponding videos are planned on the rights of the Sami.

6. Has your institution been engaged in work relating to the development or implementation of national action plans, strategies or other measures to achieve the ends of the Declaration on the Rights of Indigenous Peoples? If yes, then please provide information.

Finland does not have a specific national strategy or action plan on Sami.

Please see attached the replies by the NHRI to the OHCHR and DESA in relation to national action plans to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples (submitted in July 2017). This gives further details on the national Action Plan on Fundamental and Human Rights 2017-2019 (<http://julkaisut.valtioneuvosto.fi/handle/10024/79849>), its preparatory process, its implementation and follow up, including the role of the NHRI.

7. How does your institution address violence and discrimination against indigenous peoples and individuals, in particular women, children, youth, older persons and persons with disabilities?

The Finnish NHRI has not so far addressed violence related issues in its work specifically.

In 2018, more focus will be given to domestic violence in general and violence against women especially due to reporting on the national implementation of the Council of Europe Convention on the Violence Against Women and Domestic Violence (Istanbul Convention) as well as the UNCEDAW. The monitoring of the UNCRPD will activate in 2018 with the Government reporting to the Committee for the first time.

With regard discrimination, Finnish NHRI strongly advocates the rights of Sami in all its work and aims at removing stereotypes and improving knowledge on the Sami and the specific issues related to the implementation of their rights. Good cooperation exists with the NHRI and the Sami parliament.

In 2017 special focus was given to these issues in the participation to the CERD-reporting process, which resulted in several recommendations on the rights of indigenous peoples. The third round of the UPR process also resulted in several recommendations on these topics, partly due to the lobbying work carried out by the NHRI.
