



Expert Mechanism
on the Rights of Indigenous Peoples
by email expertmechanism@ohchr.org

IOK/7/2018

28 February 2018

Re: Study on the theme of free, prior and informed consent

Contribution from the Finnish NHRI/Human Rights Centre

The Human Rights Centre (HRC) would like to thank the Expert Mechanism on the Rights of Indigenous Peoples for the possibility to provide input for the study on the theme of FPIC and bring to your information some points, attached.

The Human Rights Center (HRC) is an autonomous and independent expert institution whose task is to promote the implementation of fundamental and human rights in Finland as well as increase cooperation and exchange of information between various actors in the field.

The HRC forms the National Human Rights Institution (NHRI), alongside with its pluralistic 38-member Human Rights Delegation and the Parliamentary Ombudsman. The Institution was established by law, effective as of 1 January 2012, and received **A-status in December 2014.** According to legislation, one of the tasks of the HRC is to participate in European and international cooperation related to the promotion and protection of fundamental and human rights. The HRC represents the Finnish NHRI in international NHRI cooperation.

Should you have any further questions, please contact
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Director

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Expert

The document was signed in the electronic document management system.

Background information on the self-government of the Sámi.

- Ø According to the Constitution of Finland (731/1999; Section 17, paragraph 3), the Sámi as an indigenous people have the right to maintain and develop their own language and culture.
- Ø Within the Sámi Home-land Area, the Constitution (Section 121, paragraph 4) guarantees the Sámi linguistic and cultural self-government, as provided by an Act.
- Ø The Act on the Sámi Parliament (974/1995) regulates the implementation of the self-government of the Sami.
- Ø For the tasks relating to their self-government the Sámi elect from among themselves the Sámi Parliament. There are about 6 000 voters in the electoral roll while there are about 10 000 Sámi in Finland in total.
- Ø The Sámi Parliament is not an authority but an independent institution, legal person, under public law. It promotes the general interests of the Sámi people.

Participation and cooperation of the Sámi Parliament

- Ø According to the Act on the Sámi Parliament, the authorities shall negotiate with the Sámi Parliament in all far-reaching and important measures that may affect may directly and in a specific way the status of the Sámi as an indigenous people and which concern certain matters mentioned in the Act in the Sámi homeland.
- Ø The Act on Sámi Parliament is in the process of being revised. The Ministry of Justice has appointed a Committee for the revision of the Act with a mandate for period of 8.11.2017 – 30.4.2018. The Ministry of Justice has appointed also a parliamentary Committee to support and inform the parties in the Parliament about the process and progress of the revision.
- Ø The main issues to be amended are the definition of Sámi and inclusion in the Sámi electors register. The participatory rights of the Sámi and the principle of free prior and informed consent (FPIC) are also under discussion, especially the duty of the authorities to negotiate with the Sámi parliament in matters that may affect the Sámi.
- Ø In the interactions with the Government, the Sámi parliament as well as several Sámi NGOs often participate in hearings, give written statements and follow actively the relevant processes. The insufficient personnel resources of the Sámi Parliament, however, do not allow full participation in all matters relevant to the Sámi and their culture.
- Ø In 2017, the Ministry of Justice, in cooperation with the Sámi Parliament, drafted a memorandum on good practices with regard to the duty to negotiate. The concepts of negotiation and free, prior and informed consent are

explained in the publication. The memorandum is to guide and help the authorities in practice to realise the obligation to negotiate.

Actualizing Sámi Rights: International Comparative Research 2017

<http://bit.ly/2stfWk9> (only partly available in English)

- Ø Finland has received repetitive recommendations from the UN committees and other international human rights monitoring bodies with regard the rights and status of Sami, including land rights, self-determination and linguistic issues and still pending process on the ratification of the ILO 169 convention.
- Ø The Government requested in 2015 that a comparative international study be conducted on the issues, in particular, related to land- and participatory rights of Sámi (including the FPIC) and the Sámi definition.
- Ø The study was initiated after a competitive selection between research groups.
- Ø The purpose of the research was 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.
- Ø The research report was published as a part of Publications of the Government's analysis, assessment and research activities.
- Ø The research consists of four main parts.
 - First part looks at legal status of Sámi and related proposals, which are viewed from the perspective of international legal obligations (in Finnish only).
 - Second part discusses the problematics of Sámi definition in the light of international law as well as in the legal praxis of the Supreme Administrative Court of Finland. This part includes also a description of the backgrounds and reasons for the discussion concerning the definition (in Finnish only).
 - Third part 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 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.
