

Mandate of the Special Rapporteur on the rights of indigenous peoples.

REFERENCE: AL Indigenous (2001-8)
FIN 1/2012

24 May 2012

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on the rights of indigenous peoples pursuant to Human Rights Council resolution 15/14.

In this connection, I am writing in relation to **allegations received that a decision by the Finland Supreme Administrative Court has the effect of diminishing Sami political representation and self-determination**. As you are aware, this communication follows up on my 2011 report concerning the situation of Sami people in the Sapmi region of Norway, Sweden and Finland (A/HRC/18/35/Add.2).

According to the information received:

The 21 members of the Sami Parliament are chosen by the Sami people through elections every four years. According to the Sami Parliament Act (974/1995, section 3) a person is eligible for voting if he or she considers him or herself as a Sami, and (1) s/he or at least one of her/his parents or grandparents speaks Sami as a first language; (2) s/he is descended from a person who has been entered in a land, taxation or population register as a mountain, forest or fishing Lapp; or (3) at least one of his/her parents has or could have been registered as an elector for an election to the Sami Parliament in 1995, or its predecessor the Sami Council, in 1973.

In order to register on the Sami electoral roll, the Sami Parliament has considered it important, and has historically required, that potential registrants meet both the self-identification and the language requirements under the Sami Parliament Act. On the basis of these criteria, the Sami Parliament of Finland declined to admit four individuals onto its electoral register. The four individuals had reportedly only met the self-identification component, but not the required language component for registration.

However, on 26 September 2011, the Finland Supreme Administrative Court (Ref. KHO:2011:81) reversed the decision of the Sami Parliament and decided that self-identification by any "lappishregister" (person with any ancestor registered as "Lapp" dating back to as far as 1763) should be a sufficient criterion for registration on the Sami electoral register.

Concern is expressed that elimination of the language requirement, and the emphasis on the non-objective criterion of self-identification, will result in an influx of registrants to the electoral roll and a diluting of Sami decision-making power within the Sami Parliament. It is also alleged that the decision of the Finland Supreme Administrative Court further interferes with Sami self-determination by failing to allow the Sami Parliament to select its own membership in accordance with its own procedures.

The Sami Parliament is a Sami representative body that is tasked, under the Finish Sami Parliament Act, “to look after the Sami language and culture, as well as to take care of matters relating to their status as an indigenous people.” Furthermore, the Act affirms that authorities shall negotiate with the Sami Parliament regarding “all far-reaching and important measures that directly or indirectly may affect the Sami’s status as an indigenous people,” including matters relating to the management, use, leasing and assignment of State lands, conservation areas and wilderness areas, among other issues.

In light of the above allegations and considering the status of the Sami Parliament as a representative body of the Sami people, I would like to draw your Excellency’s Government’s attention to article 33 of the United Nations Declaration on the Rights of Indigenous Peoples. Article 33.1 states that “Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions” and article 33.2 emphasizes that “Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures”.

Furthermore, I would be grateful for any comments by your Excellency’s Government on the above information and allegations, and would appreciate if you could bring any inaccuracies in this regard to my attention. I am especially interested in knowing how your Excellency’s Government intends to address the concerns of Sami Parliament regarding their right to determine the membership the people it represents, in light of the Finland Supreme Administrative Court’s decision, and bearing in mind article 33 of the United Nations Declaration on the Rights of Indigenous Peoples.

I would appreciate a response within sixty days. I undertake to ensure that your Excellency’s Government’s response is accurately reflected in the report I will submit to the Human Rights Council for its consideration or in any other public statement I may make in relation to this situation.

Please accept, Excellency, the assurances of my highest consideration.

James Anaya
Special Rapporteur on the rights of indigenous peoples