



## **Response by the Government of Finland to the Special Rapporteur's questionnaire on indigenous justice systems and harmonisation with the ordinary justice system**

**20 May 2019**

### ***Indigenous justice system and coordination with the ordinary justice system***

In Finland, there is no recognized indigenous justice system. In local communities there may be traditions regarding dispute resolution e.g. with regard to pastures. The Sámi Parliament is authorized by law to make some administrative decisions e.g. regarding funding allocated to the common use of the Sámi or election proceedings. Some of its decisions can be appealed to general administrative courts.

### ***Indigenous peoples in the ordinary justice system***

The Finnish justice system does not differentiate people to indigenous/non-indigenous and we do not therefore have statistics on the matter or information regarding special problems related to access to justice.

A Sámi has the right to use the Sámi language, in his or her own matter or in a matter where he or she is being heard, in courts and in state district and local authorities (such as public legal aid offices) whose jurisdiction covers the Sámi Homeland area in full or in part. When dealing with the authorities in the Sámi Homeland Area, a Sámi has the right to use the Sámi in all situations.

When the Sámi language is being used in the oral hearing of a matter, the matter shall be assigned to an official with knowledge of the Sámi language. If the authority does not have an official with knowledge of the Sámi language to take care of the matter, the authority shall arrange for interpretation free of charge, or self-see to the interpretation.

In these courts and authorities, if an application for a summons, a judgment, a decision, a record or another document in an administrative matter, a matter of administrative judicial procedure, or a criminal matter has been drafted in Finnish or Swedish, the court shall on request, free of charge, give a Sámi party to the matter an official translation into the Sámi language of such a document in so far as the matter relates to his or her rights, interests or obligations, except if the document is manifestly irrelevant to the resolution of the matter.



When dealing with the authorities in the Sámi Homeland Area, a Sámi party to a matter shall on request be issued with an application for a summons, a judgment, a decision, a record or another document in the Sámi language in so far as the matter concerns his or her rights, interests or obligations, except where the document is manifestly irrelevant to the resolution of the matter, and if a Sámi party to the matter has used the Sámi language, written or spoken, when contacting an authority dealing with the matter, the document containing a decision shall be issued in the Sámi language, to the same extent and under the same conditions, without the need for a separate request to this effect.

As regards question number 16, the Government refers to a recent judgment of 6 March 2019 by the Lapland District Court. The Court considered Sami fishing rights in the Sami defendants' home land. According to the criminal charge the defendants fished without authorization by using a lure and a rod in the Vetsijoki River, in a state-owned water area possessed by Metsähallitus, *i.e.* the national forest administration, in the western part of the river, in the area between Bajitrohci and Vuolitluovosvárjohsuolu, without a permit from Metsähallitus.

In its judgment the Court considered that it had been substantiated in the matter that fishing in the manner specified in the charge in the defendants' home river (the Vetsijoki), is an essential element of the right of the Sámi as an indigenous people to maintain and develop their own culture. Thus according to the Court it remained unsubstantiated that the defendants exceeded their fishing right based on the Constitution, because fishing in the manner specified in the charge, at least in one's home river, represents the type of fishing to which they as Sámi people have a constitutional right.

The Court referred to Article 27 of the International Covenant on Civil and Political Rights stating that the concept of culture is understood in a broad sense, comprising, among other things, the rights of indigenous peoples to lands, waters, natural resources and the traditional livelihoods developed on the basis of them. The Court also referred to other human rights provisions binding on Finland and relevant to the case, such as Article 8 of the European Convention on Human Rights, concerning the right to respect for private and family life, and Article 1 of Protocol No. 1 concerning the protection of property; Article 1 of the UN International Covenant on Economic, Social and Cultural Rights, concerning the right of self-determination of peoples; and the UN International Convention on the Elimination of All Forms of Racial Discrimination. The restrictions would not be compatible with the international human rights obligations of Finland.

The Court stated that the defendants did not fish without authorization or exceed their fishing right when fishing in the Vetsijoki River and thus rejected the charges against all defendants.

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