**Finland’s written submission to the Office of the High Commissioner for Human Rights**

**HRC 48/11, Expert workshop on possible ways to enhance the participation of indigenous peoples in the work of the Human Rights Council – 21 to 24 November 2022**

Finland expresses its appreciation to the Office of the High Commissioner for Human Rights for providing an opportunity to submit the following written contribution prior to the Expert workshop on possible ways to enhance the participation of indigenous peoples in the work of the Human Rights Council (21 to 24 November 2022).

Finland consistently, actively and visibly promotes the rights of Indigenous Peoples, including their right to participate in all decision-making concerning themselves. Finland recalls the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), under which states are committed to consultation and cooperation with Indigenous Peoples as well as that ways and means of ensuring participation of Indigenous Peoples on issues affecting them shall be established at the United Nations.

For decades, Finland has promoted the consideration of the rights of Indigenous Peoples in the UN General Assembly, the UN Human Rights Council and its Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) as well as in the UN Permanent Forum on Indigenous Issues.

**Participation venues, modalities and selection criteria**

Indigenous Peoples´ access to participation and influence is safeguarded and developed on the basis of the objectives of the UN Declaration on the Rights of Indigenous Peoples[[1]](#footnote-1) and the recommendations made by the treaty monitoring bodies. A firm commitment was made in this regard also in the Outcome document of the high-level plenary meeting of the General Assembly known as the World Conference on Indigenous Peoples. The aim is the realisation of the principle of free, prior and informed consent (FPIC) in matters of particular significance to the realisation of the rights of Indigenous Peoples.

The process to achieve this commitment in the UN has been a long one, and is still ongoing. According to Finland’s long-standing position, the international community can only succeed in protecting and promoting the rights of Indigenous Peoples and in achieving sustainable development, if we fully include Indigenous Peoples in all decision-making that concern their rights. In the discussions of the enhanced participation of Indigenous Peoples, as in all other processes and discussions, the full, equal, effective and meaningful participation of indigenous women and girls, in all their diversity, must be ensured.

Therefore, Finland continues to work towards that Indigenous Peoples’ representatives and institutions, such as the Sámi Parliament in Finland, will have the possibility to independently participate and make statements at the Human Rights Council. The Human Rights Council is truly inclusive and can give informed policy guidance only when it opens its doors for these voices. This is important in all matters, which Indigenous Peoples themselves judge to affect their interests, but especially when the Human Rights Council directly addresses Indigenous Peoples’ rights yearly in its September session and for example when EMRIP and the Special Rapporteur on the rights of Indigenous Peoples report on different countries. Indigenous Peoples’ representatives should have a right to participate in meetings of the Human Rights Council, including the interactive dialogue with the Special Rapporteur; sessions of EMRIP; and annual half-day discussion, panels and intersessional activities on the rights of Indigenous Peoples. When deciding, which meetings of the Human Rights Council should include the participation of Indigenous Peoples’ representatives and institutions, the criteria should be based on Indigenous Peoples’ own assessment on the issues that affect their interests.

Regarding the modalities of participation, the current gaps and challenges in the existing procedures and practices can be highlighted with the following practical example. When the previous Special Rapporteur on the Rights of Indigenous Peoples presented her report on the visit to Finland and other Nordic countries in 2016, the Sámi Parliament in Finland did not have the possibility to express its opinion on the report before the Human Rights Council, nor to engage in a dialogue with the Special Rapporteur. The only possibility to make sure that Sámi Parliament was heard was to annex its written statement to the written statement by the Government of Finland.

Finland is of the view that the Indigenous Peoples should have a right to speak and make statements independently as well as to make written submissions to the Human Rights Council. The applicability of the modalities of the Permanent Forum on Indigenous Issues, as a subsidiary body of the Economic and Social Council, as well as the applicability of the modalities of EMRIP could be explored[[2]](#footnote-2). The annual session of the EMRIP is open for participation for Indigenous Peoples’ organizations without a requirement to be accredited either as part of a State delegation nor as a non-governmental organization[[3]](#footnote-3) and deliver oral statements during said sessions. Furthermore, Indigenous Peoples may contribute with written inputs to the annual study prepared by the EMRIP.[[4]](#footnote-4)

As regards the selection criteria on determining the eligibility of Indigenous Peoples´ representatives for accreditation and the type of Indigenous Peoples’ institutions that may qualify for a new category of participation, Finland is of the view that the insight of the Indigenous Peoples as well as Indigenous Peoples’ institutions should guide the work in determining the selection criteria. If a new mechanism or body is to be established for the creation of a new category of participation, it is of paramount importance to include Indigenous Peoples’ representatives in the said body. State recognition of an organization as representative of indigenous peoples, should not be a prerequisite for eligibility for accreditation at the United Nations as an indigenous peoples’ representative institution.

**National examples on the participation of Indigenous Peoples in foreign policy making**

Under the Constitution of Finland, the Sámi have the right as an Indigenous People to maintain and develop their own language and culture and, in the Sámi homeland, the Sámi have linguistic and cultural self-government. Finland is committed to respecting and promoting the linguistic and cultural rights of all Sámi individuals and Sámi groups, account of international conventions and treaties. As part of this work, Finland continues the work to reform the Act on the Sámi Parliament (974/1995). The reform of the Act is necessary in response to developments in international law.

According to section 9 of the Act on the Sámi Parliament, government authorities have an obligation to negotiate with the Sámi Parliament on all wide-ranging and significant measures that may directly and specifically affect the status of the Sámi as an indigenous people. The obligation to negotiate applies to issues such as the Sámi language, culture and status as indigenous people. The obligation requires that the relevant authority provide the Sámi Parliament an opportunity to be heard and negotiate on the matter.

It is proposed that the provision on the obligation of the authorities to negotiate be revised in order to improve policy-influencing opportunities for the Sámi people. The proposed reform also includes further provisions on the consideration of the rights of the Sámi in official matters. There is also a desire to develop the provisions on the powers of the Sámi Parliament and to add a reference to the right to self-determination of the Sámi people in the purpose clause of the Act. In the future, motions supported by 250 Sámi with voting rights could be submitted to the Sámi Parliament in matters that are part of its remit.

There is a long-term practice in Finland on engaging closely with Indigenous Peoples, NGOs and civil society when preparing foreign policy decisions. Concrete examples of this practice regarding multilateral fora include:

1. Before and during the UN Human Rights Council and EMRIP sessions, the UN Permanent Forum on Indigenous Issues as well as various UNGA committees that discuss Indigenous Peoples’ rights, the Ministry for Foreign Affairs engages with the Sámi Parliament in order to hear their views about the issues at stake. Their advice is crucial for the Government.
2. Representatives of the Sámi are included in the official delegation of Finland in the meetings mentioned above, if they so wish. At the Human Rights Council, this is necessary in order to allow participation in informal negotiations on resolutions.
3. Regular meetings and phone calls are organized with the Sámi representatives in order to hear their views on policy issues that affect their lives.
4. Finland is a long-term donor to the Indigenous Peoples’ rights within the UN, including the Voluntary Fund for Indigenous Peoples.

**Conclusion**

Finland recalls the resolution A/HRC/51/18 Human Rights and Indigenous Peoples adopted at the 51. Session of the Human Rights Council and welcomes the commitment of the Member States to continue to discuss further steps and measures necessary to enable the participation of Indigenous Peoples in the work of the Human Rights Council. In moving forward, it is important to make use of the work already done by EMRIP, the Secretary-General, OHCHR and others.

We particularly welcome the Member States’ commitment to especially take into consideration the summary report of the discussion and the resulting recommendations of the expert workshop, to be prepared by the OHCHR and to be submitted to the Council prior to its 53. Session.

Finland remains convinced that including Indigenous Peoples in the work of the United Nations will strengthen the international community’s ability to build inclusive, sustainable and resilient societies for future generations in all countries.

1. UNDRIP, Article 18: Indigenous peoples have the right to participate in decision-making in matters which would affect 16 their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

   UNDRIP, Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

   UNDRIP, Article 41: The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, inter alia, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established. [↑](#footnote-ref-1)
2. The Human Rights Council resolution 6/36 establishing EMRIP, operative paragraph 9 states the following : “the meeting shall also be open to indigenous peoples’ organizations and non-governmental organizations, whose aims and purposes are in conformity with the spirit, purposes and principles of the Charter of the United Nations, based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996, and practices observed by the Commission on Human Rights, through an open and transparent accreditation procedure in accordance with the rules of procedure of the Human Rights Council, which will provide for the timely information on participation and consultation with States concerned”. [↑](#footnote-ref-2)
3. Human Rights Council resolution 6/36 operative paragraph 9 and Human Rights Council resolution 33/25 operative paragraph 13. [↑](#footnote-ref-3)
4. Human Rights Council resolution 33/25 operative paragraph 2 (a). [↑](#footnote-ref-4)