

Mandate of the Special Rapporteur on the rights of indigenous peoples

REFERENCE: OL
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14 March 2016

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 24/9.

In this connection, I would like to bring to your Excellency's Government's attention information that I have received with respect to **the Government's proposed new legislation on the Finnish Forest and Park Enterprise (Metsähallitus) to regulate the management of State owned lands and waters (H 132/2015 vp)**.

This Bill was subject to an urgent appeal by myself and the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on 15 December 2015, and was followed by a Press Release on 19 December.

With the proposed reform of the Act on Metsähallitus, most of the Sami indigenous people's traditional territory will be transferred to a new State owned company which will have the responsibility for logging carried out in the Sami homeland region.

I welcome that the Constitutional Committee of the Parliament of Finland has considered this Bill and recommended that the removed safeguards for the Sami people be re-introduced to ensure that the Bill is in line with Finland's international human rights obligations and commitments assumed with respect to indigenous peoples (PeVL 1/2016 vp).

However, the final proposal that was presented to Parliament on 10 March 2016 (MmVM 2/2016 vp) has not sought to reintroduce these safeguards, nor does it seem to establish any requirements for benefit-sharing with the Sami people. While I note that the proposed Bill establishes municipal advisory boards in the Sami homeland region with a mandate to reconcile different views on the use and management of State owned lands, it is not sufficiently clear that the Sami people will have any genuine possibilities to

influence decisions that may have a significant impact on their rights and interests, as the Bill does not provide specific information on the tasks, membership, term of office, and appointment.

Concerns have been brought to my attention about the Bill and the adverse human rights impacts it may have on the Sami people. Concern has also been raised that the Bill, in its current form, has been drafted without adequate consultations with the Sami people, through their representative body the Sami Parliament.

Without specific provisions safeguarding the rights of the Sami people, it is my view that this Bill may lead to a significant weakening of their rights over their lands and resources. Such rights are the condition *sine qua non* for their long-term wellbeing and a pre-requisite for them to be able to continue to exist as a distinct people.

Finland's obligations to safeguard and promote the rights of indigenous peoples, including its own, arise under a number of international treaties that the State is Party to, including the International Covenant on Civil and Political Rights (Arts.1 and 27) and the International Convention on the Elimination of all Forms of Racial Discrimination (Art. 5 (d) (v)).

In addition, it should be noted that Finland voted in favour of the UN Declaration on the Rights of Indigenous Peoples at the General Assembly in 2007, and re-affirmed its commitment to implement the Declaration when endorsing the Outcome Document of the High-Level Plenary Meeting known as the World Conference on Indigenous Peoples in September 2014. In voting in favour of the Declaration and endorsing the Outcome Document of the World Conference on Indigenous Peoples, Finland committed to adhering to their principles, including to 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, in accordance with the applicable principles of the Declaration.

In light of the fact that this Bill is scheduled to be discussed in Parliament as early as 16 March 2016, I respectfully urge the Government of Finland to ensure that it is not out of step with Finland's international human rights obligations.

I encourage the Government of Finland to ensure that the following safeguards are introduced in the final Bill:

- Establish that in the Sami Homeland region, all activities referred to in the Act will need to be adapted so as to secure the rights of the Sami as an indigenous people (known as *Heikentämiskielto*). Such recognition of the Sami people and their rights would be in line with similar safeguards already established in the revised Mineral Act (621/2011) and Water Act (587/2011).
- Introduce a requirement for human rights due diligence, to be conducted in consultation with the Sami Parliament and the Skolt Sami Village Council.

- Provide for meaningful and effective participation of the Sami Parliament and the Skolt Sami Village Council in land use planning in the Sami Homeland Region.

It is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify human rights concerns brought to my attention. I would therefore be grateful if you could please provide additional information and your observations on the above mentioned legislation.

I would appreciate receiving a response within 60 days.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

Victoria Lucia Tauli-Corpuz
Special Rapporteur on the rights of indigenous peoples