

Recent developments in regard to the legal status of Sámi in Finland

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1. The Reform of the Act on Sámi Parliament

In Finland, the legal status of the indigenous Sámi is governed by the Act on the Sámi Parliament. The Act contains a definition of who is considered as a Sámi person in Finland. The Sámi referred in the Sámi Act have the right to vote in the Sámi Parliamentary Elections in which Sámi Parliament is elected. The Sámi Parliament officially represents the Sámi people in Finland.

In the autumn of 2017, the Ministry of Justice appointed a committee to prepare the renewal of the Act on Sámi Parliament. The committee is chaired by the former President of the Supreme Administrative Court Pekka Hallberg. The starting point for this preparatory work is the Constitution and the international human right conventions binding on Finland. In addition, the initialized Nordic Sámi Convention and

the ILO-169 Convention, concerning the rights of indigenous peoples, which Finland has not ratified, will also be taken into account.

There are several controversial issues in the renewal process of the Sámi Parliament Act. The current law contains two Sámi definitions. On the other hand, a Sami is a person who himself, or one of his parents or grandparents have learned the Sámi language as their first language, and the descendants of such a person. The basis for the current electoral roll is an interview study made in the area of four northernmost municipalities of Finnish Lapland (Enontekiö, Inari, Utsjoki and Sodankylä) in the 1960s. In this survey a person was considered a Sámi in accordance with the above-mentioned criterion. Those - about 10,000 persons - who have today right to vote in the Sami Parliament elections, are mainly descendants of these interviewed persons.

The second Sámi definition came into the legislation in 1995 when the Sámi Act was enacted. In accordance with this definition, a Sámi is also a person if he considers himself as Sami and he is a descendent of a person who has been registered into a land, taxation or population register as a mountain, fishing or forest Lapp. The registers

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were held in Northern Finland in the 1600-1800s. This so-called Lapp definition has considered controversial over the years. Most of the elected members of the current Sámi Parliament would like to remove the Lapp definition. Minority would like to keep it.

Although the Lapp definition has been in the law more than 20 years, nearly all applications made on this basis, have been rejected. However, in 2011, the Sámi Parliament approved 11 applicants on the grounds that the ancestor of the applicants was marked into the above mentioned register in 1739.

The arguments in favor of removing the Lapp definition from the Act is justified by the reason that the ancestor of a person has been marked as Lapp too far in the past. The arguments in favor of preserving the definition refer to the fact that language criteria is not fair because many Sámi have lost their language as a result of church and state measures earlier in the history. In addition, they claim that a person must be able to show that he/she descends of the indigenous people of the region which, in fact, the earlier in the text mentioned records show. The controversial definition is one of the issues the Commission has to decide.

Another issue that will be dealt in the Committee is the quota system of the

Sámi parliamentary elections. In the Act of Sami Parliament it is stated that Sámi homeland means the municipalities of Enontekiö, Inari and Utsjoki, as well as the area of the reindeer owner's co-operation of Lapland in Sodankylä. This geographic definition is not based on any property law or legal-historical determination, but based on the earlier mentioned study, conducted in the 1960s. The coverage of the Sámi homeland region is based on the fact, that most of the people who fulfilled the required (language) criterion, lived in the region at that time.

According to the Sámi Parliament Act there shall be at least three members elected from each of the municipalities located in the Sámi homeland. This is seen as a problem in terms of equality. For example, in the elections of 2011, only 124 person were entitled to vote in Sodankylä. Nevertheless, the law required that three representatives of altogether from 21 shall be elected from Sodankylä.

On the other hand, it seems that the voters' residence do not have very strong influence on results of the election. Today about two-thirds (65%) of the Sámi live outside the Sámi homeland area, mainly in southern cities of Finland.

However, for example, in the Sámi elections of 2015, 19 Sámi Parliament members were elected from the Sámi

homeland and only two outside of this area.

The renewal of the Sámi Parliament Act has also been dealt earlier. A working group report on this was completed in 2013. In this report it was suggested that criminal liability shall also be aimed on staff and representatives of the Sámi Parliament. In addition, it was proposed, that public authorities' obligation to negotiate with the Sámi Parliament shall be extended. The current Committee which was appointed in 2017, will also take a position on these issues.

2. The ILO Convention No.169 and the Nordic Sámi Convention

In 2014, the Finnish Government submitted a proposal to the Parliament to ratify the Convention concerning Indigenous and Tribal Peoples in Independent Countries (ILO-169), but Parliament did not ratify the agreement. However, because it is a question of an international treaty, in accordance with Finnish legislation the ratification is still pending in Parliament. However, the current government has not presented ratification of the agreement.

The Nordic Sami Convention initialed at the beginning of 2017. Promulgation of the Convention requires that the Parliaments of Finland, Sweden and Norway and the Sámi Parliaments approve intent of the Convention. The

Sámi Parliament of Finland has not so far taken a definitive position on the Convention.

3. Reindeer herding – Current Challenges

The Finnish reindeer herding area comprises about one-third of Finland's surface area. In this area reindeer herding can be practiced, regardless of who owns the land. In Sweden and Norway main rule is that reindeer herding right belongs only for reindeer herding Sami i.e. persons who are Sami extraction and their parents or their grandparents have or have had reindeer herding as their primary occupation. In Finland in principle every person living in the reindeer herding area has right to practice reindeer herding.

When talking about Sámi reindeer herders in Finland, this means those persons who are marked into the Sámi Parliamentary electoral roll and who is engaged in reindeer husbandry. There is no accurate information on how many Sámi get their main livelihood for reindeer husbandry. However, it is estimated that such persons would be between 2-4 % of those who are marked into the register. The number of part-time Sami reindeer herders is considerably higher. Almost all reindeer herders listed on the Sámi electoral roll practice reindeer herding in the north of the reindeer herding area.

The reindeer herding area is divided into the areas of 54 reindeer herding co-operation. The Ministry of Agriculture and Forestry decides for every 10 years the maximum number of reindeers in a co-operation's area. Next time, the allowed number will be set in year 2020. The key criterion to a decision in wideness and condition of winter pasture areas located in a co-operation's area. Especially in the northern part of the reindeer herding area the pastures are quite worn out and the number of lichen has decreased. Pasture surveys are in progress and it is possible that maximum allowed number of reindeer in the areas of some northernmost co-operations will be decreased.

Another topical issue concerning reindeer herding is the damages caused by the predators. The biggest damages for reindeer herding are caused by the wolverine. In 2017 it was announced 3 000 wolverine-killed reindeer. Damages caused by wolverine are about 6.6 million euro/year, which is more than the total amount of damages caused by wolves, bears and lynx. Especially in the eastern and northern parts of the reindeer herding area, wolverine causes large damages.

It has been estimated, that in Finland lives approximately 220-250 wolverines. Until year 2016 the wolverine was completely protected. In 2017, the Ministry of Agriculture and Forestry

gave permission to hunt eight wolverines and this is also the case this year. It is probable that some of these licenses will be given to the areas of "Finnish arm" (Käsivarsi and Näkkälä co-operations) where the wolverine has caused large damages to the reindeer herding.

Regarding wolverine-caused damages, it has suggested, that also in Finland there should be a territorial-based compensation system. Against this it has said, that this system would be relatively expensive and it do not reduce the number of the damages. Reindeer owners' opinion have also mainly been against this kind of system.

It has also proposed that individual animals should be transferred outside the reindeer herding area. However, the authorities are holding that this is possible only if the attitudes of the local population towards this kind of project are sufficiently positive. So far no wolverine have been moved outside the reindeer herding area.

