

Sámi Parliament in Finland – Sámi Rights

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Sámi Rights in Nordic States

- The Saami are recognized in the Nordic constitutions:
 - Finland: **The Sami, as an indigenous people**, have the right to maintain and develop their own language and culture (Art 17.3).
 - Norway: The authorities of the state shall create conditions enabling **the Sami people, as an indigenous people**, to preserve and develop its language, culture and way of life. (Art 108).
 - Sweden: The opportunities of **the Sami people** and ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own shall be promoted (Art 2.7).
- ⇒ The States implement the constitutional clauses by enacting legislation on Saami
 - ⇒ Separate acts: Saami Parliament, Saami language, reindeer herding acts in Norway and Sweden
- Sections on Saami (rights) merged into national legislation: education, social and health, mining acts, environmental, etc. Acts

Supreme Court Rulings in Nordic States

- Recognition of right to land, territories and natural resource - two options to recognize Indigenous land rights: land claim settlements or court rulings
- Norway: Finnmark Act 2005 (only Finnmark) + Fosen ruling 2021: Licences for wind power development on Fosen ruled invalid as the construction violates Sami reindeer herders' right to enjoy their own culture
- Sweden: no recognition, just usufruct rights + Girjas ruling 2020: Sami administrative districts have the sole right to decide whether others should be able to hunt and fish in their district above the cultivation line based on possession since time immemorial
- Finland: no recognition, just usufruct rights + two Supreme Court Rulings on fishing 2022

Fishing Rulings of the Supreme Court

- Strategic litigation of Indigenous Rights
- The issue: whether four Sámi had committed a game offence, considering their rights as local Sámi under the Constitution of Finland and in international human rights treaties.
- The Supreme Court held that the separate fishing permit required for salmon migration areas under the Fishing Act in force at the material time in 2017, and the relevant permit procedure, gave rise to such severe restrictions to local Sámi that the application of the provision would be in evident conflict with their constitutionally protected rights (Section 106 of the Constitution). Also in this case, the Supreme Court declined to apply the provision in the Fishing Act and, accordingly, dismissed the charges for a game offence.
- The Court noted that constitutionally protected fishing rights of the local Sámi were not absolute, but that these rights could be restricted under section of the Constitution to protect migratory fish stock
- The main principle of the rulings: Sámi people have priority to the renewable natural resources when there is excess of natural resource

Implications of Fishing Cases

- Social justice struggle
- Sámi society – hope for a change
- Application of law
 - more than 30 laws enacted on Sámi livelihoods and use of nature in the Sámi Home Rule Region to implement the constitutional clause on Sámi culture
 - Since March 2022, no impact on legislation in Finland
- Cases confirm substantive right of the Sámi to their culture → specific licenses for the Sámi individuals in fishing and hunting
- Salmon Fishing Agreement between Finland and Norway, 2017
 - Salmon Fishing Ban during years 2021-2023
 - Fishing Rule renegotiated 2023, no recognition of Sámi fishing rights
 - Our proposal – a specific fishing license for the Sámi fishing rights holders