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**NOTE**

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| From:    | General Secretariat of the Council                                                                                                                                                                                          |
| To:      | Delegations                                                                                                                                                                                                                 |
| Subject: | Presentation by a representative of the Sámi Parliament in Finland (agenda item 3a) at the Working Party on Intellectual Property on 4 September 2026<br>- Written response to questions posed in the Working Party meeting |

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Delegations will find attached the written response of the Sámi Parliament in Finland to the questions raised in the Intellectual Property Working Party meeting on 4 September 2026.

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WRITTEN RESPONSE

17.09.2026

Dnro: 566/D.a.9./2026

**To: Council of the European Union Working Party on Intellectual Property**

**The Sámi Parliament in Finland**

**Written response to questions posed in the Working Party on Intellectual Property, 4.9.2026**

**1. In Finland, how is it determined where the protection of Sámi traditional knowledge (TK) and traditional cultural expressions (TCEs) ends and individual rights, including rights to innovation, begin? How is this boundary defined in national legislation?**

- In Finland, there is currently no specific *sui generis* legislation providing comprehensive protection for traditional knowledge and traditional cultural expressions within the IP system. These questions therefore need to be assessed on a case-by-case basis, whether a specific piece of traditional knowledge or a traditional cultural expression would get any protection through the existing intellectual property rights system –or not. In typical cases, an applicable form of protection does not exist.
- **Traditional knowledge of Indigenous Peoples such as the Sámi is generally collective in nature** and closely connected to Sámi culture, languages, traditional livelihoods and way of life. The need for its protection therefore relates primarily to safeguarding its intrinsic cultural and collective significance, rather than to economic interests, although economic interests may also be relevant.
  - The collective dimension of Sámi traditional knowledge is also reflected in the [Ethical Guidelines for Research Involving the Sámi People in Finland](#) and the Sámi Parliament's [FPIC procedure for research concerning Sámi cultural heritage and traditional knowledge](#), which emphasise collective self-determination and Sámi participation in decisions concerning the use of Sámi knowledge.
- This differs from the underlying **logic of industrial property rights, which primarily protect economic interests by granting time-limited exclusive rights to identifiable right holders**. Traditional knowledge therefore does not fit easily within the existing IP system, which is not currently designed to protect its collective, intergenerational and culturally embedded nature.
- The situation is more complex in relation to traditional cultural expressions, as a particular expression may, in certain circumstances, qualify for protection as a “work” or other protected subject matter under the existing copyright legislation. However, traditional cultural expressions are also typically characterised by their collective and traditional nature.
  - There are many Sámi musicians and artists who refer to or use Sámi cultural expressions in their creative activity based on customary rules that apply.
- **Some forms of indirect protection have been developed**, for example through the implementation of the Nagoya Protocol and, in Finland, through legislation concerning

genetic resources. However, this covers only a relatively narrow area of traditional knowledge.

- Furthermore, the protection of geographical indications protects traditional production methods in a certain area and could protect, for example, Sámi handicrafts.
- The relationship between the collective rights of Indigenous peoples and individual IP rights and the different forms of protection afforded to them at national and international level raises questions concerning the relationship and interface between different regulatory frameworks and practical impacts.
- **The development of international instruments is important in this respect, as the existing IP system does not provide comprehensive protection for traditional knowledge and traditional cultural expressions.**

**2. How are intellectual property rights addressed under the Constitution of Finland, and how do they relate to the constitutional rights of the Sámi? Does the Finnish IP system provide for any specific exceptions or special provisions concerning the Sámi?**

- The Constitution of Finland does not define the scope of individual categories of property or specific IP rights.
- Under **section 15 of the Constitution**, “the property of everyone is protected”. Intellectual property rights fall within the scope of the constitutional protection of property.
  - When determining the scope of the protection of property and /or protection under the Copyright act of Finland, other fundamental rights that may be relevant to the matter must also be taken into account. Balancing different fundamental rights is often difficult. The Constitution, including the legislations, should be interpreted in a manner that allows the relevant fundamental rights to be realised as fully as possible.
- Where the matter concerns the constitutional rights of the Sámi as an Indigenous People and the protection of Sámi culture **section 17(3) of the Constitution** must also be taken into account. It provides that “**the Sámi, as an indigenous people, have the right to maintain and develop their own language and culture.**”
- **Application:**
  - It is difficult to determine with certainty how the constitutional protection of IP rights and the collective rights of the Sámi would be balanced in an individual case, as Finland currently has no specific legislation establishing *sui generis* protection for traditional knowledge within the IP system.
  - In particular, it is uncertain what protection section 17(3) of the Constitution alone would provide in a specific case involving claims based, for example, on an existing patent right or copyright.
  - **This legal uncertainty is also one of the reasons why the development of international instruments concerning the protection of traditional knowledge and traditional cultural expressions is important.**

- Beyond the constitution, the [Sámi Parliament Act](#) provides procedural safeguards for Sámi participation. Under article 9 of the Act, authorities have the [obligation to cooperate and negotiate with the Sámi Parliament](#) on measures that may be of special significance to the Sámi, including matters concerning Sámi language and culture. This obligation is also relevant to the development of the IP system and measures concerning the protection of Sámi traditional knowledge and traditional cultural expressions.
- The [recommendations of the Sámi Truth and Reconciliation Commission](#) may also provide a basis for further work at the national level. The Commission has recommended strengthening Sámi intellectual property rights and developing mechanisms to safeguard Sámi traditional knowledge, cultural expressions and other intellectual property, including their fair use and the equitable sharing of benefits.

The Sámi Parliament of Finland

Pirita Näkkäläjärvi  
President

Edda Sundström  
Specialist, EU-affairs and FPIC