



ROYAL NORWEGIAN
MINISTRY OF TRADE AND INDUSTRY

Office of the United Nations
High commissioner for human rights
Special Procedures of the human rights council
Special rapporteur on the situation on human rights
and indigenous people
Palais des National
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Enquiry regarding Sami rights and draft bill concerning mining activities

Further to your letter of December 18th 2008 where the following concerns are addressed:

1. The sections of the draft bill that affect Sami rights and interests limit protections for the Sami to the county of Finnmark only.
2. The provision allows the Sami Parliament an opportunity to comment on applications for licenses in the county, and although some weight is given to Sami culture, reindeer management, and business activities when assessing these applications, it allegedly does not provide an adequate level of consultation with the Sami Parliament.
3. There is no section providing for benefit sharing when mines are located in traditional Sami lands and affect the Sami community.

Being the first country to ratify the ILO convention Norway takes a strong interest in fulfilling the obligations under the convention and international law. Norway has already adopted new legislation (the Finnmark Act and the amendments in the mining act) to ensure the Sami people their rights as indigenous people. This legislation was based on the report from the Sami Rights Committee I. The Committee carried out a thorough survey concerning Sami rights in the county of Finnmark. The report was sent on a broad public hearing, and constituted the foundation for the new Finnmark act and the amendments in

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the mining act. (Please find enclosed the Finnmark Act and the amendments of the mining act). These amendments fulfill Norway's obligations under the Convention in the county of Finnmark.

In 2001 the Norwegian Government established the Sami Rights Committee II with the mandate of carrying out a thorough survey concerning Sami rights outside the county of Finnmark. The report from the Sami Rights Committee II is at present on a broad hearing and will be followed up in the same manner as the report of the Sami Rights Committee I.

Before further addressing the issues raised, we should correct the statement that "some weight is given to Sami culture (...)". The adopted sections for the county of Finnmark require that *substantial* weight (significant emphasis) be given to Sami interests concerned. Please find enclosed the precise wording of the act.

Regarding concern no. 1:

Sami rights and interests outside the county of Finnmark are addressed in the report of the Sami Rights Committee II. The report has been sent on a public hearing. The report itself and the follow-up process will make the basis for considering future legal amendments concerning Sami rights outside the county of Finnmark.

Regarding concern no. 2:

Norway has concluded an agreement on procedures for consultations between the Central Government authorities and the Sámediggi (Sami Parliament). The agreement was signed by the Minister of Local Government and Regional Development and the President of the Sámediggi on 11 May 2005 and sets out detailed procedures for such consultations. In a plenary session on 1 June 2005 the Sámediggi endorsed the procedures. By a Royal Decree of 1 July 2005, it was confirmed that the agreed procedures would apply to the whole central government administration. Central government authorities may also be obliged to consult with other Sami interests in addition to the Sámediggi. This applies in particular to matters that directly affect Sami land use such as reindeer husbandry. The agreement embraces mineral activities such as extraction of minerals. In accordance with these procedures both Sámediggi and the Sami Reindeer Herder's Association of Norway were consulted in the preparation of the new mineral act.

As part of the ongoing follow-up of the report of the Sami Rights Committee II mentioned above, the Norwegian government will consider whether the consulting principle should be established by law.

Regarding concern no. 3:

The draft law pursues section 42 in the existing mining act providing for benefit sharing when mines are located in traditional Sami lands and affect the Sami community in Finnmark. Section 42, first paragraph, new second sentence reads as follows: "In the case of mines on *Finnmarkseiendommen's* land, the King may by regulations stipulate a larger fee". The body Finnmarkseiendommen (landowner institution in the county of

Finnmark) was established to ensure and balance the rights and interests of both the Sami people and the other inhabitants of Finnmark. Half of the board of Finnmarks-eiendommen is elected by the Sami Parliament and half by the municipality of Finnmark. Outside Finnmark the question of benefit shares will be evaluated as part of the follow-up process of the report of the Sami Rights Committee II.

We hope that this reply serves to clarify the concerns addressed in your letter of December 18th 2008.

Yours sincerely,

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