



The Sámi Parliament's 2019 Report on Natural resource extraction and Racial Discrimination



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The Sámi Parliament 2019

Contents

- I Information related to the report..... 4**
 - 1 Introduction..... 4
 - 2 Information about the Sámi community and Extractivism and Racial Equality..... 5
 - 2.1 Sets of rules that have a bearing on natural resources in Norway 5
 - 2.2 Sámi industries 8
 - 2.2.1 Reindeer husbandry 8
 - 2.2.2 Salmon fishing 9
 - 2.3 Equal treatment by the managements, courts and other law enforcement agencies 10

- II Cases in Norway 11**
 - 3 The Sámi Parliament's view 11
 - 3.1 Oil 11
 - 3.1.1 Dakota Access Pipeline case..... 11
 - 3.2 Road construction 11
 - 3.2.1 The Langsund connection case..... 11
 - 3.3 Mining 12
 - 3.3.1 Nussir and Nasafjell cases 12
 - 3.3.2 Jovsset Ante Sara case..... 12
 - 3.4 Wind power plants..... 13
 - 3.4.1 Fosen case 13
 - 3.4.2 The holy mountain Rastegáisá case 13

I Information related to the report

1 Introduction

1. The Sámi Parliament was established as a democratically elected Sámi body in 1989. Every fourth year, 39 MPs are elected. The Sámi Parliament has administrative responsibilities in addition to being a political body for the Sámi in Norway. First and foremost, this involves having authority in respect of Sámi teaching plans, elections to the Sámi Parliament, the development of the Sámi languages, the management of cultural artefacts and Sámi subsidy schemes. In 2005 the Sámi Parliament and the Government signed an agreement concerning consultation procedures in all matters that might affect Sami interests directly. The Sámi Parliament also has the right to raise objections in cases when encroachments on Sámi areas are not in keeping with Sámi interests.
2. Since 2010, the Sámi Parliament has had a regional analysis performed on the development of business and industry in Sámi areas. The assignment was carried out by the Telemark Research Institute. The analysis forms an important platform for documenting the development of the Sámi community. The analyses also indicate scenarios for developing business and industry and demographic conditions in Sámi areas.
3. The Sámi population in Norway has been subjected to a gruelling Norwegianification policy, and many still struggle with the after-effects of this State policy. The Sámi Parliament is pleased that the Norwegian Parliament has adopted a decision to set up a Truth and Reconciliation Commission for Sámi and Kvens in Norway. The stories and abuses that have taken place, and the consequences for individuals and for the community are examples of aspects that should be documented. The Sámi Parliament hopes that the process will lead to greater knowledge and tolerance for each other's history, different points of view and way of life.
4. The Sámi Parliament refers to the reports of the Special Rapporteurs on the rights of indigenous peoples, James Anaya in 2011 (A/HRC/18/35/Add.2) *on the situation of the Sami people in the Sápmi region of Norway, Sweden and Finland*, and Victoria Tauli-Corpuz in 2016 *on the human rights situation of the Sami people in the Sápmi region of Norway, Sweden and Finland* (A/HRC/33/42/Add.3).
5. The Sámi people live their lives close to and in Norwegian society. In most cases, the Sámi are at the mercy of the State of Norway to take us into consideration so that measures, programmes and public services are adapted to also include the Sámi. At the same time, the Sámi Parliament depends on the State of Norway to pave the way for the Sámi Parliament by providing good financial and legal parameters for promoting the development of the Sámi community. Accordingly, part of the Sámi Parliament's report deals with the extent to which the State of Norway satisfies the standards laid down in various international conventions and covenants, while part deals with the extent to which the State of Norway ensures that the Sámi Parliament and Sámi communities itself are able to preserve, develop and strengthen Sámi culture and the Sámi way of life connected to natural resources. In part I of this Report, the Sámi Parliament will

provide information about the Sámi community in general. Part II of the Report will provide information relating to the latest relevant cases in Norway.

2 Information about the Sámi community and natural resource extraction

2.1 Sets of rules that have a bearing on natural resources in Norway

6. **Amendments to the Constitution of Norway.** The Sámi Parliament points out that in connection with revision of the Constitution of Norway in 2014, a principle of equality was laid down in § 98, entailing that no human being must be subject to unfair or disproportionate differential treatment. The Sámi Parliament finds it necessary to point out that when there is reason to do so, there must be affirmative action in respect of the Sámi population to achieve genuine equality in Norway. The Sámi Parliament underline the need for affirmative action for ethnic groups or individuals, when needed to ensure equal conditions for groups or individuals. The Sámi Parliament is of the opinion that the Constitution recognises this, cf. § 108, which establishes an obligation for State authorities to create conditions enabling the Sámi to preserve and develop our language, culture and way of life.
7. **Equality and anti-discrimination legislation.** Act No. 51 of 16 June 2017 *relating to equality and a prohibition against discrimination* (the Equality and Anti-Discrimination Act) is especially intended to improve the position of women and minorities. In consultations on the Equality and Anti-Discrimination Act, agreement was reached that § 108 of the Constitution and Norway's obligations under international law in respect of the Sámi should be discussed. On the other hand, agreement was not reached in consultations about whether a common Equality and Anti-Discrimination Act should include a definition of indigenous peoples and whether indigenous ethnicity should be mentioned as an example of ethnicity in the text of the Act.
8. **The Sámi Act.** Act No. 56 of 12 June 1987 *concerning the Sámi Parliament and other Sámi legal matters* (the Sámi Act) establishes by law that the Sámi Parliament is the representative body of the Sámi in Norway and governs in particular the use of Sámi languages in the provision of public services. Pursuant to the Sámi Act's language rules, Sámi speakers are entitled to communicate with government authorities in Sámi. The Sámi Parliament expects to see progress in the process of making amendments to the Sámi Act and other regulations designed to strengthen Sámi language skills and a new chapter on consultation rules.
9. In May 2018, the Ministry of Local Government and Modernisation and the Sámi Parliament agreed to add a new chapter on consultations to the Sámi Act. The draft bill also incorporates ILO C 169 into the Sámi Act so that in the event of contradiction between the provisions of the Sámi Act and ILO C 169, ILO C 169 will take precedence. The Sámi Parliament approved the draft bill through its plenary decision in June 2018, and the Government is expected to present the bill to the Norwegian Parliament in autumn 2018. The bill essentially focusses on the consultation procedures, but rests on a comprehensive legislative history and annotations to the provisions. The Act is excepted from opposition proceedings pursuant to the Planning and Building Act. The Sámi Parliament has chosen to accept this because it ensues from the legislative history of the Act that the opposition scheme pursuant to the Planning and Building

Act as a whole shall ensure compliance with the same considerations as the consultation scheme, *inter alia*, for the Ministry's final processing of issues on which the Sámi Parliament has raised an objection. The Act further ascertains that directly affected Sámi stakeholders have the right to consultations and that municipalities and county municipalities are required to consult Sámi stakeholders, including the Sámi Parliament, when necessary.

10. The Sámi Parliament expects that a decision on amendments to the Sámi Act, featuring consultation provisions, will guarantee a greater degree of implementation of consultations throughout the public administration and in judicial decisions. The Sámi Parliament finds reason for the State authorities to ensure in future that directly affected Sámi interests are given real means and opportunities to participate in consultations with government authorities.
11. **The Reindeer Husbandry Act.** Act No. 40 of 15 June 2007 *concerning reindeer husbandry* (the Reindeer Husbandry Act) indicates that the reindeer husbandry industry itself should take more responsibility for resource management, *inter alia*, by drawing up rules for the use of the individual reindeer grazing districts, cf. § 57. The authorities are supposed to have duties of a more supervisory nature. Where the internal administration does not work properly, the authorities can nevertheless intervene directly using different types of sanctions, for example forced slaughter or fees.
12. The Sámi Parliament refers to the Femund case, HR-2018-872-A, in which the Norwegian Supreme Court's assessment takes the protection of Sámi culture into consideration. The judgment states that the legislative history leading to the Reindeer Husbandry Act is clearly coloured by being written at a time when views on Sámi rights were different from today. The Sámi Parliament has not endorsed the Reindeer Husbandry Act, and has repeatedly pointed out that there are formidable weaknesses in the Act and favours a comprehensive review of it.
13. **The Finnmark Act.** Act No. 85 of 17 June 2005 *relating to legal relations and management of land and natural resources in the county of Finnmark* (the Finnmark Act) was adopted by the Norwegian Parliament in 2005. The Finnmark Act establishes that the Sámi, collectively and individually, through customary use of land and waters, have established rights to land in Finnmark County. The Act was put into place through an extraordinary consultation process between the Norwegian Parliament's Standing Committee on Justice and the Sámi Parliament. The Act led to the establishment of the Finnmark Commission in 2008, which was mandated to study rights of use and ownership to the lands that were incorporated into the Finnmark Estate (FeFo) when the Finnmark Act entered into force.
14. **The Minerals Act.** The Norwegian Parliament adopted a new Act No. 101 of 16 June 2009 relating to the acquisition and extraction of mineral resources (the Minerals Act) in 2009 without the consent of the Sámi Parliament. The Sámi Parliament submitted a supplementary report on this issue in connection with the 2008-2013 Report, and ILO urged the State authorities and the Sámi Parliament to resume discussions and to include provisions in the Minerals Act that ensure the effective application of the ILO C169 Art. 14 and 15 of the Convention outside of Finnmark County.

15. Although the Minerals Act calls for the Sámi Parliament to be consulted to a certain extent, the fact that the special provisions that protect Sámi culture and livelihoods apply only in Finnmark County presents a problem. This being the case, the Minerals Act discriminates against Sámi who live in Sámi areas located outside of Finnmark County. What is more, outside of Finnmark County, the Minerals Act does not require that Sámi culture, reindeer herding, Sámi livelihoods or the Sámi way of life be taken into account when determining whether to grant exploration permits or production licences.
16. In 2018, the Ministry of Trade, Industry and Fisheries appointed an Expert Committee whose mandate was to evaluate the Minerals Act. The Committee recommends considering extensive amendments to the Minerals Act. The Committee points out that one particular problem is determining the scope of the combined effects of the different encroachments because, collectively, they may represent significant interventions on Sámi territory. The Committee maintains that it should be clarified which body should bear the ultimate responsibility for ensuring that the Sámi population, which lives off natural resources, has sufficient access to the resources needed to sustain its livelihoods, culture and languages. The Committee ascertains that sweeping amendments need to be made in the Minerals Act if it is to achieve efficient, long-term husbandry of mineral resources while safeguarding Sámi rights both in and outside Finnmark County. The Committee proposes carrying out environmental impact assessments to clarify which areas are potential sites for mineral activities and which areas are problem sites or perhaps not relevant for mineral activities. The Committee maintains that a regimen in which the choice of investigator and the design of the investigation programme must be approved by the involved stakeholders, would help promote confidence in the results of environmental impact assessments. Further, the Committee finds reason to draw up special rules for administrative procedures to protect Sámi interests in connection with mineral issues. The Committee points out that it is a work-related and financial burden for Sámi reindeer herders to take part in meetings and negotiations with mineral companies on issues related to land use. The Committee believes that a compensation scheme for this or mandatory coverage of advisers' expenses might help redress this.
17. It is necessary to revise the Minerals Act to ensure that it conforms to relevant international standards, including those requiring adequate consultations with the affected Sámi communities and their free, prior and informed consent, mitigation measures, compensation and fair and equitable benefit-sharing. In addition, applications for exploration and exploitation permits should be evaluated against already existing projects and the cumulative impact that they have on the affected communities.
18. **The Planning and Building Act.** The Norwegian Parliament adopted a new planning part of Act No. 71 of 27 June 2008 *relating to Planning and the Processing of Building Applications* (the Planning and Building Act) in 2009. The Act laid down provisions stating that the protection of the natural resource base for Sámi culture, economic activity and way of life is a duty and shall be taken into account in all planning cf. § 3-1 litra c. It more clearly delineated reindeer husbandry as an important land-use objective, cf. § 11-7, second subsection, laid down provisions on the participation of Sámi rightsholders and stakeholders, cf. § 5-1, and granted the Sámi Parliament the authority to object to land-use planning proposals, cf. § 5-4.

19. In cases in which the Sámi Parliament has lodged an objection to plans for land use, where negotiations and mediation have not led to agreement between the Sámi Parliament and municipal planning authorities, and where the Ministry of Local Government and Modernisation is the body to adopt final resolutions, the Sámi Parliament has not been consulted on the Ministry's decisions. The Sámi Parliament finds this to be at variance with the fact that consultations are supposed to take place at every stage of a case.

2.2 Sámi industries

20. The Sámi Parliament notes that Sámi industries in particular are being exposed to ever increasing outside pressures involving plans for encroachments by new industries and infrastructure. Sámi business owners risk that their collective industrial resource bases, e.g. grazing grounds, harvesting areas and fishing grounds, will be supplanted by other activities. This trend means that a growing number of Sámi business owners must fight for their rights in the courts. The Sámi Parliament recognises the need to create schemes that will improve opportunities for free legal aid for Sámi business owners who find themselves in such situations. For example, the county governor has the authority to grant free legal aid in all types of cases, even when the financial conditions for free legal aid are not satisfied.
21. The Sámi Parliament is convinced that there should be a rigorous system to ensure that enterprises that exploit natural assets are required to pay for the negative effects of their activities on the environment and for their use of natural resources. Those who are required to give up resources or by other means to bear the disadvantages caused by an activity should benefit from the resultant value creation (benefit sharing). This refers in particular to mineral deposits, which represent non-renewable natural capital. Investments in mineral extraction are formidable, indivisible and irreversible. Once mineral resources are extracted, they are gone forever. Thus, it is also imperative to weigh production today against production in future. In the opinion of the Sámi Parliament, mineral extraction must also take into account the costs to society of losing natural assets. Such calculations are not made in Norway today. The exploitation of natural resources may generate resource rent and resource rent tax. This refers to an extraordinary return beyond what is considered a normal yield in the economy otherwise. In Norway, there is resource rent tax on petroleum and hydropower, and such a tax is being considered for salmon-farming and other aquaculture. The Sámi Parliament is of the opinion that resource rent and resource rent tax should also be considered for mineral extraction in Norway.

2.2.1 Reindeer husbandry

22. Reindeer husbandry is a cornerstone of Sámi culture and way of life. Reindeer husbandry helps preserve Sámi language and traditions. In matters related to reindeer husbandry, the consultations have improved compared with the situation prior to 2013, because the Sámi Parliament and the Sámi Reindeer Herders' Association in Norway (NRL) have been brought into decision-making processes at an earlier point in time by the Ministry of Agriculture and Food. Nonetheless, agreement has still not been reached on amendments to the Reindeer Husbandry Act and on measures to improve the situation of the reindeer husbandry industry. This is considered a serious problem because reindeer husbandry is an exclusively, culture-specific Sámi industry, where the right to adopt its own ranking of priorities must be great. In 2018 the

Sámi Parliament has once again chosen not to appoint new representatives to the National Reindeer Executive since they are subject to State instruction and control, and they do not guarantee independent representation of the Sámi and the Sámi reindeer husbandry industry. For legislation and measures of direct importance to Sámi agriculture, as of today, there is almost a total absence of consultations with the Ministry of Agriculture and Food.

23. In the report *Sámi Figures Reveal 11 - annotated Sámi statistics (2018)*, it appears that there is an alarmingly high proportion of individuals in the reindeer husbandry industry in the South Sámi area who report that they have been exposed to discrimination and criminal acts because of their affiliation with the reindeer-herding industry. Almost all Sámi engaged in reindeer husbandry report negative attitudes on the part of people outside the reindeer husbandry industry and from the media. A disproportionately high percentage of Sámi engaged in reindeer husbandry are also exposed to physical exertions, injuries or accidents, compared with other exposed groups in Norway. Further, it appears that Sámi engaged in reindeer husbandry have very little confidence in the State reindeer husbandry administration. There is a high degree of consensus among the Sámi engaged in reindeer husbandry that the authorities' lack of knowledge about reindeer husbandry is leading to adverse differential treatment of reindeer husbandry and leading to requirements and orders that are not adapted to the practice of reindeer husbandry. What is more, the results show that reduced quality of life and diminished mental health are more common among those Sámi who have experienced the greatest discrimination and negative attitudes on the part of government authorities. The technical analytical group refers to the fact that the Equality and Anti-Discrimination Act requires government authorities to obtain requisite knowledge about groups' challenges, needs and views, and then to design services, offers and rules to address these challenges.
24. The Sámi Parliament is of the opinion that the material, practical and social framework conditions that impact the routine work days of Sámi engaged in reindeer husbandry must be rendered visible and that importance must be attached to the reindeer husbandry administration and to initiatives in respect of reindeer husbandry. The Sámi Parliament would like to determine whether the reindeer husbandry administration should be placed under the auspices of the Sámi Parliament.

2.2.2 Salmon fishing

25. The Sámi Parliament has this far not been consulted when it comes to growth or establishments of fish farms in Sámi areas. Sámi and others who live along the coast are entitled to fish for wild salmon in the sea against the background of their settlement of the area and based on use since time immemorial and local and Sámi customs. Sea salmon fishing makes an important contribution to engagement in mixed industries along the coast, together with other fishing, farming or reindeer husbandry. It is also a key part of the Sámi's non-monetary economy, especially in the spring of when there is little else to harvest from nature.
26. The Sámi Parliament finds that at the same time as the current wild salmon fishing regulations are very strict, the authorities have established several fish farms in the same areas, seriously jeopardising the very existence of sea salmon fishing, including the opportunity to sustain the Sea Sámi culture. The Sámi Parliament wishes to underline the severity of the situation and to draw attention to the urgent need for special measures for sea salmon fishing. Norway has stated

that the export of Norwegian seafood, which is largely based on salmon-farming, will multiply many times over in future. This raises questions about challenges such as salmon lice, fish farm escapees and the risk of salmon diseases infecting wild salmon in rivers located near fish farms.

27. The Sámi Parliament is of the opinion that better assessments must be made to determine which areas hold the greatest potential for industrial growth and which areas should give priority to the protection of wild salmon. Our experience is that it is no longer possible to maintain healthy stocks of wild salmon near large-scale salmon-farming operations. When permits are considered for the establishment of new fish farms, the rights to traditional sea salmon fishing in the areas must be taken into account, especially if the fishing grounds may be affected.

2.3 Equal treatment by the managements, courts and other law enforcement agencies

28. The State of Norway is built on the territory of two peoples, Sámi and Norwegians. A state must be based on the interpretations of the laws of both peoples. When one sees how the Norwegian authorities have treated the Sámi historically, it is not hard to understand why many in the Sámi community have viewed the courts as an agent for an unjust State Norwegianification policy that does not respect established Sámi rights, or Sámi customs or the Sámi interpretation of the law. Until fairly recently, this has been mitigated to some extent through judicial practice. The courts depend on people trusting them to adopt decisions that are fair and impartial. Accordingly, it is important that the Sámi also have confidence in the courts.
29. The establishment of the Indre Finnmark District Court has been a positive contribution to improving security under the law for the Sámi because cases can be tried in the North Sámi language and because there is greater focus on taking account of Sámi customs, Sámi interpretations of the law and the Sámi Parliament's statements. The Sámi Parliament maintains that the other courts should apply this approach as an example when dealing with cases involving Sámi parties, cf. *International Convention on the Elimination of All Forms of Racial Discrimination* (ICERD) Art. 5(a). In addition, for the courts to be able to deal with and decide Sámi matters, it is decisive that there be a good understanding of Sámi culture and intimate knowledge of Sámi law. The Sámi Parliament emphasises that it is of crucial importance that the courts have the resources required to safeguard the Sámi dimension in this work. It is necessary to consider amending the rules that apply to Sámi speakers as parties, defendants and witnesses in the legal system.
30. **The Supreme Court of Norway.** The Sámi Parliament is concerned about the lack of understanding demonstrated by the Supreme Court in linking processes and contents together in consultations on decisions that directly affect Sámi interests. The Supreme Court has recently handed down two judgments involving this. Both cases affect the Sámi's material cultural heritage pursuant to the *Covenant on Civil and Political Rights* (ICCPR), Art. 27, but also raise questions about whether substantive consultations were conducted with Sámi interests before the decisions were taken. The Sámi Parliament is of the opinion that the majority of the Supreme Court has come to an unexpected and very unfortunate result in the case between the Ministry of Agriculture and Jovsset Ante Sara about reducing the number of reindeer. The same applies to the case involving the Langsund connection. See also paragraphs 32 and 35-37.

II Cases in Norway

3 The Sámi Parliament's view

3.1 Oil

3.1.1 Dakota Access Pipeline case

31. In 2016, the Sámi Parliament got involved in the Dakota Access Pipeline (DAPL) when it came to light that many of the investors in the pipeline were Norwegian. Norwegian banks and Norwegian private pension funds alike withdrew from the project for reasons related to corporate social responsibility and the danger that the project could breach indigenous rights. One of the biggest investors is nonetheless the Norwegian Government Pension Fund Global. The Fund did not withdraw, despite strong pressure from the indigenous people involved, in collaboration with the Sámi Parliament and many environmental organisations. The Government Pension Fund Global (SPU) has been subject to ethical guidelines since 2004. Since then, the Council on Ethics has considered investments in individual companies to be at variance with the ethical guidelines for the management of the Government Pension Fund Global. The Council on Ethics advises Norges Bank on observations and on the exclusion of companies from the Government Pension Fund Global. Against the background of the DAPL matter, in 2017, the Socialist Left Party suggested that the Norwegian Parliament (Norway's national assembly) amend the *Guidelines for observations and exclusion from the Government Pension Fund Global*, so that breaches of indigenous rights were also included in the guidelines. The Sámi Parliament recommended that the Socialist Left Party propose such an amendment, and the Sámi Parliament took part in the parliamentary hearing in which we argued for our viewpoint on the matter. The majority of the Norwegian Parliament did not agree and the guidelines remained unchanged. The Government Pension Fund Global is still a major investor in DAPL.

3.2 Road construction

3.2.1 The Langsund connection case

32. In a case involving the construction of a road across reindeer-herding lands, the Supreme Court of Norway concluded that the road was justified and not a breach of international law (HR-2017-2247A). Through written pleadings, the Sámi Parliament proved to the Supreme Court that the reindeer-grazing district in question had not been consulted in the decision-making process by showing that the necessary environmental impact studies existed as a basis for dialogue, but that the process did not take place in good faith and did not lend itself for the purpose of reaching agreement. The representatives of the reindeer-grazing district were only invited on inspections of the area and then given an opportunity to express an opinion on the plans. The Supreme Court simply stated that: "*the reindeer-grazing stakeholders [have] had satisfactory opportunity to make their view known*". In this matter, the Supreme Court reduced the importance of consultations pursuant to Articles 6 and 7 of ILO C169 to a question of "making their view known", a development that the Sámi Parliament finds extremely disquieting. It is of decisive importance that environmental impact assessments be presented in such cases and that there is confidence in both the preparations for and the conclusions from environmental impact assessments.

3.3 Mining

3.3.1 Nussir and Nasafjell cases

33. In recent years, the Sámi Parliament has worked hard to deter two plans for mining in the Sámi area. This applies to the Nussir copper mine in the North Sámi area in Kvalsund Municipality in Finnmark County. It also applies to the Elkem quartz mine at Nasafjell in the South Sámi area in Rana Municipality in Nordland County. Both these mining plans will impact reindeer husbandry in the area dramatically. This is a question of the mandatory expropriation of historical rights to engage in reindeer husbandry in the area. At Nasafjell, there are reindeer husbandry activities that straddle the border between Norway and Sweden. In Nussir, there is a plan for mining tailings to be deposited in the Reppar Fjord. This will in turn affect Sea Sámi rightsholders and stakeholders, inter alia, in connection with fishing for cod and salmon.
34. The Sámi Parliament is concerned that the Norwegian authorities will allow mining that will lead to the Sámi being involuntarily forced from their traditional livelihoods, and thus deny them the use and harvesting of the sustainable resources in Sámi areas. Both of these cases are currently in the final stages of being dealt with by the Government. The Ministry of Local Government and Modernisation and the Ministry of Environment and Climate Affairs have already approved a zoning plan for the area and issued permits for the discharge of mining tailings into the Reppar Fjord. There are still two permits remaining to be issued by the authorities for operating licences for the mining company Nussir ASA pursuant to the Minerals Act and for a change in the use of outlying fields pursuant to the Finnmark Act. It is not clear when the decisions will be handed down.

3.3.2 Jovsset Ante Sara case

35. A young Sámi reindeer herder and leader of a siida unit in Norway received in 2018 a government order to reduce his reindeer herd to 75 animals pursuant to the Reindeer Husbandry Act. The case has been tested in Court in Norway. As opposed to the lower instances, the Supreme Court concluded (HR-2017-2428-A) that the cull order was valid. A majority of four justices found that the cull order did not violate the herder's rights under the UN Covenant on Civil and Political Rights (SP) Article 27. Although it was not disputed that it is not possible to earn a profit with such a low number of reindeer, the herder was not found entitled under SP Article 27 to any proceeds or profit in this case. Nor do he have any legitimate expectation of increasing his herd considerably as, accordingly to the Government, there is already too many reindeer in the district. At the same time the pasture areas are subjected to exploitations from new industries, the Nussir mine being one of them. In the judgement from the Supreme Court in Norway it is of interest that the Court states that the denial of a reindeer owner's culture and livelihood is justified in the interests of the Sámi people themselves, despite the contradictions from the Sámi Parliament in Norway and the Norwegian reindeer herders society.
36. The rules governing reduction were originally implemented in the interest of the reindeer herders as a group, and the Supreme Court found that cull was ordered on reasonable and objective grounds. It is mentioned in the ruling that the primary solution under the Reindeer Husbandry Act is that the siida itself may decide how to carry out the cull, while the smallest units may be spared by fixing a maximum number of reindeer per siida unit. The Supreme Court unanimously concluded that the siida unit's rights under the ECHR P1-1 have not been violated.

37. Despite the fact that this case was sent to the Human Rights Committee in July 2018 seeking to be handled under the complaint procedure, the Norwegian Government demanded in December 2018 that the herder has to go through with the reduction before New Year's Eve, otherwise be submitted to forced slaughter of his animals and fines. An effectuation of the demands will mean an irreparable and unnecessary harm for the complainant. It is crucial that Norway respects the international complaint mechanisms on Human Rights and halt the force slaughter of the reindeer until the Human Rights Committee has considered the individual complaint.
38. The Sámi Parliament maintains that the Supreme Court and the Norwegian Government is demonstrating a condescending attitude that we recognise from the time when the Norwegianification policy was used as an active tool to oppress Sámi culture, language and way of life. In this case, the minority opinions from the Court of Appeal and the Supreme Court took this into consideration. All the same, the majority of the Supreme Court has arrived at a result that is perceived as neither legitimate nor fair by the Sámi community. Reindeer husbandry is an exclusively, culture-specific Sámi industry, so the Sámi and the industry itself should have the authority to decide how to distribute the burden of reducing the number of reindeer. For the Sámi Parliament, it will be crucial that this case must be followed up on the international legal arena, so that the assessments of international law made by the Supreme Court majority can be reviewed.

3.4 Wind power plants

3.4.1 Fosen case

39. Due to already existing encroachments, the reindeer-herding community of Åerjel Njaarke Sitje has just four winter pasture areas left, of which Storheia is the most important. Now, yet another power plant, which is located precisely at Storheia, is in the process of being authorised by the Norwegian Government. The Sámi Parliament fears the impact that this will have on the reindeer-herding community in the area. During the consultations with the Ministry of Petroleum and Energy on the development of the Storheia wind power plant as early as in 2013, the Sámi Parliament expressed its concern that agreement needed to be reached between those in the reindeer-grazing district and the operators in the area. The Sámi Parliament refers to the consultations between the Ministry of Petroleum and Energy and the reindeer-herding Sámi in the South Group, where the South Group has not granted its consent to the development of Storheia.
40. The Sámi Parliament ascertains in its plenary decision on item 013/16 *Wind power development at Fosen* that the licences for the wind power plants and investment decisions were adopted without any free, prior informed consent from either the Sámi Parliament or the reindeer-grazing district. This case has been brought to the attention of CERD through individual communication.

3.4.2 The holy mountain Rastegáisá case

41. There are plans to develop a vast wind power plant in Tana and Lebesby, where there are also plans to run a power cable to northern Finland. These plans are currently in an early stage and applications have not yet been submitted for the initiatives. If the plans were to come to fruition, they would have consequences on the Sea Sámi population in the inner reaches of the Lakse Fjord, on Sámi reindeer herding, and on the Sámi who live in the Tana Valley. In addition of the

purely industrial consequences, the measures could also have adverse consequences on the culture in the area.