

Direct Request (CEACR) - adopted 2014, published 104th ILC session (2015)

Indigenous and Tribal Peoples Convention, 1989 (No. 169) - Norway (Ratification: 1990)

Article 7 of the Convention. Development activities.

The Government indicates in its report that the Ministry of Petroleum and Energy and its subordinate agency the Norwegian Water Resources and Energy Directorate (NVE) handle matters requiring consultations with the Sami Parliament on a regular basis. Consultations are normally related to the licensing process of hydropower plants, wind power plants or power lines conflicting with Sami interests/areas, but can also be relevant for new petroleum projects. In its communication, the Sami Parliament refers to the Goliath field in the Barents Sea, where production was scheduled for 2013 and the operational phase was programmed to last 15 years. It adds that, during the consultations in 2009, it was agreed that the operator has performed a comprehensive environmental impact assessment for Goliath. It was agreed that it was important that initiatives to boost local spin-off effects and expertise must also benefit the Sami. It was also agreed that the emergency contingency system to combat oil pollution on Goliath must maintain a very high standard. Agreement was not reached however between the Sami Parliament and the Ministry of Petroleum about an indigenous fund in connection with the Goliath field, or about whether the Sami have any special rights to petroleum resources in the Barents Sea. ***The Committee requests the Government to continue providing information on the cooperation between the Ministry of Petroleum and Energy, and its subordinate agency the NVE, and the Sami Parliament concerning oil and gas, water and energy projects.***

Articles 14 and 15.

Rights to land in traditional Sami areas south of Finnmark County. The Government indicates that it is currently working on the follow-up of the report of the Sami Rights Committee. One of the proposals of the Sami Rights Committee is a new statute on administrative procedures and consultations. In its communication, the Sami Parliament indicates that 2012 marked the commencement of consultations on consultation as well as administrative procedures legislation. It adds that the Government has not given the Sami Parliament any basis for consultations on the identification legislation and governance and administrative legislation. The Sami Parliament is concerned about the lack of legislative advancement in these efforts, and about whether this indicates little willingness to safeguard Sami rights to land and resources outside of Finnmark County. ***The Committee trusts that Articles 14 and 15 of the Convention will be duly taken into account in this process and that consultation and participation will take place in accordance with Articles 6 and 7. The Committee also requests the Government to provide further information on the measures to protect the land rights in traditional Sami areas south of Finnmark County.***

Article 15(2). Mining legislation.

The Government indicates that the Minerals Act was adopted in the spring of 2009 and entered into force on 1 January 2010. The Minerals Act establishes special rules to ensure the basis for Sami interests in Finnmark, including a duty to give notice before prospecting and exploration begin. Secondly, the Mineral Act contains special procedures pertaining to the processing of applications for permits for mineral activities in Finnmark. The Government indicates that a party that is extracting a deposit of minerals owned by the State shall pay the landowner an annual fee of 0.5 per cent of the sales value of the extracted minerals. In the case of land owned by the Finnmark Estate, an increased landowner fee of 0.25 per cent shall

be paid in addition to the ordinary landowner fee. The Committee notes that the Government presented its Strategy for the Minerals Industry in March 2013. The Ministry of Trade and Industry carried out two consultations meetings with the Sami Parliament, which gave its approval of the chapter in the strategy about mineral activities in areas where there are Sami interests. One of the measures in the Strategy for the Minerals Industry is that the Government will consider whether the Minerals Act should be amended with the inclusion of specific rules to protect Sami interests in connection with mineral operations outside of Finnmark. The Ministry of Trade and Industry initiated consultations on the matter with the Sami Parliament and the Sami Reindeer Herders' Association of Norway in the spring of 2013. In its communication, the Sami Parliament indicates that a decisive factor for its approval of the aforementioned Strategy was that the Ministry of Trade and Industry is to take the initiative for consultations on amendments to the Minerals Act to safeguard Sami interests and rights throughout the Sami territory, and to help maximize the efficiency of the process to achieve such legislative change. In its reply to the communication of the Sami Parliament, the Government indicates that the Strategy for the Minerals Industry was presented by the previous Government and is of a non-binding nature. The Government adds that it will consider whether the Minerals Act should be amended with the inclusion of specific rules to protect Sami interests in connection with mineral operations outside of Finnmark. If the Government considers amending these provisions, the Sami Parliament will be invited to consultations, according to the established consultation procedures. ***The Committee requests the Government to provide further information on the manner in which it ensures that the Sami participate in the benefits of mining activities.***

Articles 7 and 15(1). Reindeer husbandry.

The Committee notes that Act No. 40 relating to reindeer husbandry of 15 June 2007 was amended in June 2013. The Government reports that the amendment came into force on 1 January 2014 and implies discontinuing the system of area boards, and transfer of the responsibilities of the area boards to the county governors. In its communication, the Sami Parliament indicates that the winding up of regional administrative boards and the transfer of regional reindeer husbandry administration to the county governor was carried out without good faith consultations. The consultations were characterized by the Ministry of Agriculture and Food having taken a public and highly concrete position on the amendments before the consultations commenced. Consultations were concluded without the Ministry making any amendments to what had been decided in April 2011, date at which the Ministry announced on its website that the Reindeer Husbandry Act was to be amended. The Committee notes that the Sami Parliament is deeply concerned by the fact that the Government is not ensuring the implementation of the consultation obligations when decisions are taken in this area which is of such great importance to the Sami. In its reply to the communication of the Sami Parliament, the Government indicates that in 2011 a decision was made concerning a proposal of possible changes in the public administration of reindeer husbandry. The formal consultation process started a year later and the Sami Parliament and the Ministry of Agriculture and Food had several meetings during a period of one year. It was not possible to reach an agreement on the matter. The Government then made a final decision and the proposed changes to the Reindeer Husbandry Act were sent to Parliament. The Committee notes that the Ministry of Agriculture and Food invited the Sami Parliament to take part in the development of a framework for Sami and reindeer husbandry participation in the new regional administration. ***The Committee requests the Government to continue to provide information on the measures taken to ensure that the rights of the Sami to the natural resources pertaining to their lands are specifically safeguarded. Please also provide an***

evaluation of the impact of the changes eventually introduced in the public administration of reindeer husbandry.

Fishing rights of the Sami.

The Government indicates that the Marine Resources Act includes a provision on the importance of emphasizing Sami culture considerations in regulations pertaining to fishing and in the management of fishing. Furthermore, the Participation Act has been amended in 2012 to include a provision stating that the law is to be applied in accordance with the principles of public international law on indigenous peoples and minorities. Another measure includes the establishment of a local fjord fishing advisory board that will have an important advisory role in the management of the fish resources in the northern fjords. The board will consist of three members from the Sami Parliament and three members from each of the three northern counties. The Government indicates that in December 2013 the Sami Parliament and the Ministry of Fisheries and Coastal Affairs agreed on a mandate for the local fjord fishing advisory board, and the board was formally constituted in March 2014. The mandate states that the board shall strengthen the management of the fjord fisheries, having particular attention to Sami usage and the importance of this usage for local Sami communities. Moreover, the Committee notes that the Sami Parliament is represented in the delegation that is negotiating with Finland on a new agreement on fishing for salmon in the Tana river. The primary aim of the negotiations is to reduce fishing to a sustainable level. It is intended that the new fishing regulations will be in place with effect from the 2015 fishing season. ***The Committee requests the Government to provide information on the measures taken to ensure that the fishing rights of the Sami are specifically safeguarded (Article 15(1)). It also invites the Government to provide information on the measures taken, with the participation of the Sami and whenever appropriate, to ensure that traditional fishing activities are strengthened and promoted (Article 23).***

Article 28(3). Sami languages and education.

The Government indicates that in 2009 it presented an Action Plan for Sami Languages, developed in consultation with the Sami Parliament. The principle focus of the plan is to create the right conditions to increase the number of people actively using the Sami languages. In its communication, the Sami Parliament indicated that the Action Plan contains a number of good initiatives and has been a useful tool in the work to strengthen and develop Sami languages. However, the Sami Parliament recognizes a need for a more comprehensive language policy that covers society as a whole. The Committee notes that in September 2014 the Government appointed a committee to investigate schemes, rules and measures relating to the Sami languages. Consultations between the Government and the Sami Parliament resulted in an agreement on the terms of reference for the committee. ***The Committee invites the Government to continue to provide updated information on the measures taken to preserve and promote the development and practice of the Sami languages.***

Article 32. Contacts and cooperation across borders.

The Government indicates that the Nordic countries together with the three Nordic Sami Parliaments have started negotiations on the Nordic Sami Convention. The Norwegian delegation was appointed in March 2011 and the aim is to conclude the negotiations in 2016. The Norwegian Sami Parliament indicates that Norway's restrictive approach to the negotiations in terms of both form and content impedes the progress of the negotiations. In its reply, the Government indicates that, following the parliamentary elections in 2013, consultations were held with the Sami Parliament on a new mandate and an agreement on the mandate was achieved in May 2014. ***The Committee requests the Government to provide***

updated information on the measures taken to facilitate contacts and cooperation between the Sami across borders, including activities in the economic, social, cultural and environmental fields. In this regard, please provide updated information on the progress of the negotiations on the Nordic Sami Convention.