

NORWAY

F I R S T R E P O R T

for the period ending 30 June 1992, made by the Government of Norway, in accordance with article 22 of the Constitution of the International Labour Organisation, on the measures taken to give effect to the provisions of the

Convention No. 169 INDIGENOUS AND TRIBAL PEOPLES, 1989

ratification of which was registered on 19 June 1990.

I

List of Norwegian laws etc., with a bearing on the provisions of the Convention:

- The Constitution of Norway, section 110 A
- Act no. 56 of 12 June 1987 concerning the Sami Assembly and other Sami legal matters
- Act to amend Act no. 56 of 12 June 1987 (the Sami Act), Act no. 24 of 13 June 1969 (the Act on the Basic School), and Act no. 5 of 13 August 1915 (the Courts of Justice Act)
- Act no. 49 of 9 June 1978 (the Reindeer Husbandry Act)
- Act no. 47 of 15 May 1992 on Salmon Fishing and Inland Fishing etc.
- Act no. 11 of 18 May 1990 on Place Names (enclosed)
- Language rules of the Sami Act - Act no. 78 of 21 December 1990 on amendments to the Sami Act, the Basic School Act and the Courts of Justice Act (section 1-5 and chapter 3 of the Sami Act) (enclosed)

II

PART I - GENERAL POLICY

Article 1

1. The Norwegian government has decided that the Convention shall apply for the Sami population in Norway.
2. The most recent population census in which an effort was made to ascertain the size of the Sami population in Norway was the census of 1970. The Sami population in Norway is believed to be at least 40,000, depending on criteria such as language, kinship and respondents' own definitions. The Sami do not inhabit a delimited area; they share the areas they inhabit together with Norwegians. The Sami inhabit the majority of the country, in particular parts of the counties of Finnmark, Troms,

Nordland, Trøndelag and Hedmark. The largest Sami concentrations are in Kautokeino, Karasjok, Tana, Nesseby and Porsanger, all in the county of Finnmark.

3. In point 23 of the Sami political programme, adopted at the 13th Nordic Sami Conference in 1986, the Nordic Sami Council states that the Sami people must be accorded status as one of the original ethnic groups in the Nordic countries' constitutions. The Sami environmental programme, adopted at the same conference, establishes that the Sami are an indigenous people. The Sami people have accordingly defined themselves as an indigenous people in the Nordic area.

The Norwegian government has recognised the Sami as an indigenous people in Norway, inter alia by virtue of having adopted a resolution that the ILO Convention shall apply for the Sami ethnic group in Norway.

Article 2

Point 1, 2 and 3

Sami rights are incorporated primarily in section 110 A of the Norwegian constitution which reads:

"It is the responsibility of the authorities of the State to create the conditions enabling the Sami people to preserve and develop their language, culture and way of life."

Furthermore, the Act of 12 June 1987 on the Sami Assembly and other Sami legal matters (the Sami Act) sets out provisions governing elections to the Sami Assembly, as well as on the functions and authority of the Sami Assembly. The Sami Act also sets out provisions on the use of Sami in the public administration and the right to be taught Sami.

The main principle of Norwegian Sami policy is that the authorities are responsible for laying the basis for Sami people themselves to be able to strengthen and influence the evolution of Sami society. To that end the Sami Assembly, being the Sami people's main mouthpiece, is a central supplier of premises for the authorities' Sami policy.

The Sami Assembly

The Sami Assembly was established in 1989 in pursuance of the Sami Act. The Sami Assembly is a democratically elected body elected by and from among the Sami people. Direct elections to the Sami Assembly are held once every four years. Each of 13 constituencies elect three members with alternates to the Assembly. All who are entitled to vote at municipal council elections in the constituency and who are in the Sami register on election day are entitled to vote in elections to the Sami Assembly. All those who issue a statement to the effect that they regard themselves as Sami, and who have or have had parents or grandparents with Sami as their home language may request to be entered in a special Sami register in their municipality of residence. All persons who are entered in the Sami register in the constituency are eligible for the Sami Assembly. Likewise all persons who are entered in the Sami register in the constituency have the right of initiation. The Sami Assembly is the supreme authority in connection with elections to the Assembly.

The Sami Act makes provisions on the functions and authority of the Sami Assembly:

"The business of the Sami Assembly is any matter which in the view of the Assembly particularly affects the Sami people."

The Sami Assembly may on its own initiative raise and pronounce an opinion on any matter coming within the scope of its business. It may also on its own initiative

bring a matter before public authorities and private institutions etc."

The Sami Assembly has the power of decision when this follows from other provisions of the act or is otherwise laid down."

The Sami Assembly has its own administration with 15 posts in Karasjok.

The establishment of the Sami Assembly, in 1989 intensified the need for a co-ordinated policy on Sami affairs. To this end the government appointed a special co-ordinating committee for Sami affairs with representatives from appropriate ministries.

The Norwegian government has employed many instruments in addition to the body of laws and regulations, notably economic instruments, in its efforts to strengthen the Sami community. Measures taken to enhance the material basis of Sami society include:

- An annual appropriation to a special Sami Development Fund over the budget of the Ministry of Local Government. The main object of the Fund is to promote economic, social and cultural measures in the central Sami settlement areas. The Sami Assembly appoints the board of the Fund and controls the Fund's resources.

- The Reindeer Husbandry Agreement. The parties to the Main Agreement for Reindeer Husbandry of 1976 are the reindeer breeding industry - represented by the Sami Reindeer Herders' Association in Norway, which is the largest organisation representing the interests of reindeer herders in Norway - and the state, in the shape of the Ministry of Agriculture.

The most important element of the agreement is that it

entitles the industry to negotiate with the State on financial measures in support of reindeer husbandry. As from 1993 the Sami Assembly will have the opportunity to pronounce its opinion on the annual agreement.

- The government has initiated a three-year trial project involving combined livelihoods. The object is to evolve new sources of income and employment on the basis of traditional and new livelihoods in Sami settlement areas. The Sami Assembly has appointed the project board and distributes the project funds.

- Fishery regulation. As from 1992 the Sami Assembly is represented on the Board of Regulation, which is an advisory body for the Norwegian government on the distribution of fishery quotas.

In addition, arrangements are operated specifically to strengthen and develop Sami culture. They include:

- Special funds earmarked for Sami culture via the budget of the Norwegian Culture Fund. The Norwegian Council of Culture also has a sub-committee for Sami culture appointed at the proposal of Sami artists' organisations and the main Sami organisations.

Beaivvas Sami Teahter was established as a permanent theatre in 1990. As from 1992 the theatre is a permanent regional theatre in receipt of a government grant of NOK 7.5 million. The theatre's task is to spread knowledge about and stimulate interest in Sami folktales and legend. The theatre has its permanent base in Kautokeino, but will perform nationwide.

The Government is considering transferring responsibility for the distribution of funds designed to strengthen Sami culture to the Sami Assembly.

The Sami Assembly makes appointments to the Sami Education Council. The Council co-ordinates special educational measures for the Sami population, provides guidance and information to the population and acts as adviser to the government in Sami education matters.

In response to an initiative from the Sami Assembly the government has established a project designed to provide improved knowledge about the conditions of life and life situation of Sami children and young people.

Article 3

The Sami people in Norway enjoy full civic rights and are protected against discrimination on a par with other Norwegian citizens. Moreover, section 110 A of the Norwegian constitution provides for positive special treatment of the Sami people, so that measures and arrangements may be initiated which can strengthen Sami involvement in Norwegian society with a view to achieving results on a par with other Norwegian citizens.

The Criminal Code prohibits discrimination based, inter alia, on ethnic affiliation.

Article 4

The Norwegian government's obligation to safeguard the Sami people and their culture is enshrined in section 110 A of the Norwegian constitution and in the Sami Act with language rules. Alongside these acts are to be found laws and measures with a bearing on the Sami people's institutions, property, labour, culture and environment.

The Reindeer Husbandry Act of 9 June 1978 establishes that only Norwegian citizens of Sami origin are entitled to carry on reindeer husbandry in reindeer grazing areas. The right to carry on reindeer husbandry in reindeer grazing areas is a usufruct irrespective of who owns the land, unless special

legal conditions apply.

Language rules of the Sami Act

The Act came into effect on 1 January 1992.

The language rules of the Sami Act stipulate that: "Sami and Norwegian are languages of equal value. Pursuant to the provisions of chapter 3, they shall rank equally."

Administrative area: A so-called administrative area for the Sami language has been set up in connection with the implementation of the language act. This area comprises the municipalities of Karasjok, Kautokeino, Nesseby, Porsanger, Tana and Kárfjord. Most of the provisions of the language act apply solely within this area.

The object of the language rules is to preserve and develop the Sami language, in particular by increasing the use of the language in the public administration. General competence in the Sami language will improve with increased use of and instruction in the language.

The Sami Act's language rules are designed to ensure the right to:

- use the Sami language in contact with public agencies
- be addresses in the Sami language in the public administration
- receive instruction in, and through the medium of, the Sami language.

Public agencies are obligated to:

- make active use of the Sami language in announcements, information etc., to the public
- accommodate the wishes of individuals to use the Sami language in their contact with the public administration
- use the language in accordance with rules and regulations

The language rules of the Sami Act provide a wide-ranging right to use the Sami language in contact with the public administration. Anyone approaching public agencies in the administrative area is entitled to be attended to in Sami (cf. section 3-1).

The Sami Act's language rules are minimum rules. In other words, all public agencies are urged to show more consideration to Sami language users than is required by the rules of the Act. Sound administrative practice calls for approaches written in Sami to be replied to in Sami, also in cases where this is not required by law.

Persons who approach a local public agency in the administrative area are entitled to receive a reply in Sami to both written and oral approaches.

Furthermore, certain nationwide agencies with special connections with the Sami population are obligated to reply in Sami to approaches made in that language.

If the above provisions are not complied with, complaints may be made in accordance with specific rules.

Children in Sami areas are entitled to instruction in or through the medium of the Sami language. Instruction in or through the medium of the Sami language can also be made available to pupils with a Sami background who do not live in a Sami district. The municipal council in question may adopt a resolution making Sami a compulsory subject in basic schools in the municipality. This has been done by the municipal councils in Karasjok and Nesseby.

The safeguarding of Sami right of ownership to land and water will be described in part II.

The Sami Assembly plays an important role in canvassing

opinions among the Sami people on laws and measures that are introduced. See Article 2.

Where measures that may have substantial consequences for the Sami community are concerned, Sami organisations and the Sami Assembly are central bodies to be consulted for notifying the measures and, in the event, for proposing the commissioning of a report on the issue and a study of the consequences involved.

The National Defence, i.e. the Naval Defence, performs regular services for the Sami population related to the transport of reindeer in Finnmark and Nord-Troms. The support is provided over two periods a year for the purpose of moving reindeer to and from summer grazing areas.

The Place Name Act

The Act came into effect on 1 July 1991. Its practical consequences are:

Equality: The regulations to the Place Name Act stipulate that if a place or locality has a Sami and/or Finnish name in addition to a Norwegian language name, and they are in use among the local populace, both or all names shall as a rule be used.

Article 4, cf. Articles 6, 7, 32 and 33

Sami Language Council: Section 3-12 of the language rules of the Sami Act requires a Sami Language Council to be instituted. The Sami Assembly is responsible for appointing the council members, chairman and deputy chairman. .

The Sami Language Council's principal function is to advise the Sami Assembly and other public agencies in questions related to the Sami language in Norway. The Council is responsible for the preservation, development and

opinions among the Sami people on laws and measures that are introduced. See Article 2.

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The Sami Language Council's principal function is to advise the Sami Assembly and other public agencies in questions related to the Sami language in Norway. The Council is responsible for the preservation, development and

strengthening of the Sami language in Norway. The Council provides guidance in and information about Sami language matters, keeps a list of qualified translators and interpreters, develops Sami terminology, establishes the spelling of Sami words and expressions within the framework of the established Nordic orthographies and participates in national and Nordic collaboration in Sami language matters. The Language Council is required each year to draw up a report on position of the Sami language, and to send the report to the Sami Assembly.

Article 5

Section 110 A of the Norwegian constitution lays the basis for protection of Sami culture, including the Sami people's social, cultural, religious and spiritual values and practices.

The basis for protecting and reinforcing Sami values as mentioned above is laid in the kindergarten and at school. To this end arrangements exist providing for special grants to Sami kindergartens where Sami is the main language and whose activity is based on and anchored in Sami culture.

Special Sami syllabuses have been drawn up for the basic school. The object of the syllabuses is enable the basic school to preserve and further develop the distinctive qualities, language and culture of the Sami people. Everyone is entitled to be taught the Sami language. Children in Sami areas are entitled to instruction in and through the medium of the Sami language. Everyone is entitled to individual religious ministrations in the Sami language in the Church of Norway within the administrative area.

As regards the Sami language in church, section 3-6 of the Sami Act provides that everyone who so wishes is entitled to individual ecclesiastical ministrations such as christening, marriage, communion, care of the soul etc., through the medium

of the Sami language in the parishes of the Norwegian Church within the administrative area. This does not, however, apply to church services and other ecclesiastical arrangements which are open to all (cf. section 3-6).

Reindeer husbandry

In addition to being an important Sami livelihood, reindeer husbandry is vital to the preservation of Sami culture and identity. Reindeer husbandry is currently in a very difficult resource, financial and social situation. One of the main problems is over-grazing of the reindeer grazing areas, which has led to a dramatic fall in productivity.

Today the situation is such that the reindeer stock will have to be scaled back if reindeer husbandry is to provide a sustainable livelihood. The fact that a large number of persons will have to leave reindeer husbandry will have major consequences for the local labour market and will entail major social problems. With this in mind the government is to initiate a readjustment programme for Inner Finnmark. An important aim of the programme will be to give the greatest possible number of those affected by the readjustment within reindeer husbandry an opportunity to develop their own business activity, get new employment or undergo education or retraining.

In the spring of 1992, a report to the Storting (Stortingsmelding no. 28) entitled "Sustainable reindeer husbandry", dealing with reindeer husbandry policy for the future, was submitted to the Storting. The government sent the report to the Sami Assembly and the Storting simultaneously, thereby giving the Sami Assembly an opportunity to state its opinion before the Storting.

Article 6

Any prospective legislative or administrative measures which may affect the Sami people directly must be referred to the

Sami Assembly for comment. The Assembly must be given the opportunity to comment before a final decision is taken. (see Article 2).

As regards the Sami people's opportunities to participate at all levels of the decision-making process in elected assemblies, they may stand for election to popularly elected bodies at local, regional and central government level on a par with other sections of the population. Thus the Sami people may be represented on municipal councils, county councils and in the Storting.

In municipalities where a large share of the population is Sami, the latter are represented at municipal level through the ordinary political parties, and/or through special Sami electoral lists. In municipalities where Sami are in the majority, they are also in the majority in the municipal administrative bodies.

The Sami are also represented on Finnmark county council both through the ordinary political parties and through a separate Sami electoral list.

As regards Sami participation in administrative and other bodies with responsibility for legislation and pertaining to the Sami people, the Sami Assembly occupies a central position. Besides being a Sami political body and an advisory body for the authorities, the Assembly also has a number of public administrative functions. These involve inter alia deployment of the resources of the Sami Development Fund, establishment of guidelines for the Fund, as well as the role of complaints tribunal for the Fund. Furthermore, the Assembly is responsible for distributing resources to Sami organisations, to Sami home crafts etc.

As regards Sami participation in public administrative and other agencies, the Sami Assembly is empowered to nominate

persons to a number of bodies with responsibility for Sami matters, among them the Sami Education Council, the Sami Language Council and other such councils subsuming under the Sami Assembly.

Article 7

The Norwegian government views the emergence of the Sami Assembly's authority as a process which must grow out of the Assembly's own will to take on functions and responsibilities in relation to the Sami community and the Sami people, as well as out of the general view in political circles of the Sami people's position.

As from 1993 a number of functions which today belong under the central government administration will be transferred to the Sami Assembly. As a result the Assembly will control a larger share of State grants in favour of Sami interests, and in that way influence the evolution of the Sami community.

The question of Sami rights to decide priorities in relation to the land areas they inhabit or use in other ways, is being looked into by the Sami Rights Commission, set up by the Ministry of Justice to examine Sami rights to land and water and other legal issues; for more details see under part II).

The Ministry of Local Government has set up an interdepartmental working group to report on the consequences of EC membership for Sami interests. The Sami Assembly is represented in the reporting group. The Storting has stated that the rights of the Sami as a minority will have a natural place in any EC membership agreement.

The Sami Assembly may give its opinion on proposals for county plans for counties with Sami settlements. A general rule is that Sami organisations and the Sami Assembly shall be consulted in matters of importance for Sami interests.

Article 8

Section 110 A of the Norwegian constitution lays the basis for protection of Sami culture and way of life, including Sami traditions and institutions.

Sami customs, however, can hardly be applied in contravention of Norwegian law. If the law is unclear or opens the way for more than one solution, customs will be a relevant consideration.

If the existence of special Sami customs of a legal nature is established, or if such customs are cited in concrete court cases, it will normally be the legislator's task to decide, after the Sami Assembly in particular has been consulted, whether there are grounds for a law amendment.

Article 9

Criminal proceedings against Sami persons are heard by the ordinary law courts, and no special procedural rules apply for cases where a Sami person has been indicted.

Within the framework of the applicable rules, however, there will be full opportunity to take into account that the indicted person is Sami, and plan the hearing accordingly. Moreover, according to section 136a of the Courts of Justice Act, cf. section 3-4 of the Sami Act, rules governing extended use of the Sami language in the legal system apply; see below under the comment to Article 12.

There is little scope for taking into account the indicted person's ethnicity when deciding the question of guilt, since the principle of equal treatment for all is firmly enshrined in Norwegian law.

See Article 10 for assessment of sentence.

Article 10

Norwegian penal provisions generally have a wide scale of penalties, and the law courts are fairly free to assess the sentence within this scale; however they must take into account the sentences handed down by the Supreme Court in corresponding cases.

When assessing the sentence the judge may attach importance to the convicted person's social and cultural background. If the serving of the sentence will represent greater hardship for the convicted person than is usually the case, this may also be given weight. However, it is doubtful whether the fact that the convicted person is Sami is sufficient in itself to result in a milder sentence.

The Criminal Code provides that when a fine is imposed on a convicted person, special consideration shall be given to the latter's financial position and to his ability to pay based on his circumstances, regardless of his ethnic background.

Article 11

There is no basis in Norwegian law for imposing on Sami persons obligations beyond those which are prescribed by law for all Norwegian citizens.

Anyone who forces another into his service, or is an accomplice thereto, may be punished under the provisions of the Criminal Code.

There are no known examples in recent times of Sami persons who been compelled to perform forced labour, and it would appear improbable that such events have taken place. Hence no special control measures have been initiated.

Sami persons enjoy the same right as all other Norwegian citizens to have their cases heard by the law courts.

An interpreter must be used if someone who doesn't speak

Norwegian is to participate in the proceedings.

Moreover, special language rules apply for law courts in the administrative area for the language rules of the Sami Act.

Article 12

According to the Act on Free Legal Aid, the parties in civil cases may apply to the government for reimbursement of legal fees and costs incurred in the preparation of cases and gathering of evidence etc. They may also apply for exemption from court fees.

As a rule, such benefits are only available to persons. When special reasons so indicate, such benefits may also be made available to companies, associations, foundations and non-organised groups.

Free conduct of a case is generally conditional upon the applicant's financial capacity. The Ministry of Justice may in some instances that fall outside the scope of the law decide that the legal expenses involved shall be met in full or in part by the public purse. Such awards have been granted in several cases brought by Sami interests on a principled basis.

Within the framework of the same legislation the individual lawyer is empowered to give free legal advice in the absence of court proceedings.

In the past five years the Ministry of Justice has, moreover, funded a trial project which has provided free legal advice to the populace of three municipalities in Finnmark county. The Sami make up an absolute majority of the population of these municipalities.

PART II - LAND

Article 13

General

In 1980 the government appointed a Commission (the Sami Rights Commission) which among other things was to assess the Sami rights to, and use of, land and water. The Commission's brief includes the following:

"The Commission should provide a general report of the issues pertaining to the legal position of the Sami population as regards rights to, and right to use, and use of land and water. The Commission should in this connection primarily look into the conditions in Finnmark county - not only in the interior, but also in the fiords and on the coast - and should to the extent necessary report on the same issues in other parts of the country with a Sami population.

In general the report should on the one hand describe the evolution of Sami rights and the current legal situation, and on the other a reasoned assessment of what changes are desirable in the current legal situation.

...

The Commission should report, and make proposals, on how the Sami population's opportunities to utilise the natural resources in their settlement areas should be safeguarded, at the same time as the interests of the non-Sami population are recognised. The need to preserve and protect Sami culture and way of life must be the central concern. The question of local administration of the land and the natural resources should be looked into. At the same time the Commission should study how the local Sami population's land rights, if any, within their settlement area should be delimited against, and function together with, the rights and interests of the local population and other groups in general."

As the mandate shows, the Commission is required to assess both the existing legal situation as well as the need for changes in Sami rights. The Commission delivered its first interim report in 1984 on the position of the Sami in law. In

that report the issue of Sami land rights barely received mention: however, the Commission is currently preparing a detailed report on this issue.

Thus the following replies should be viewed against the background of the fact that Sami land rights have yet to be fully clarified.

Article 14

The largest continuous Sami areas are in Finnmark county. In the replies pertaining to Article 14 the greatest emphasis will therefore be placed on conditions in Finnmark.

It is assumed that the State owns about 96% of Finnmark county. According to section 2 of the Act of 12 March 1965 on state-owned Land in Finnmark Not Entered in the Land Register, such land may be sold or leased to others. The following land areas are, however, barred from sale:

- land areas which the government deems necessary grazing areas for reindeer
- land areas which are used or which are assumed would be used for roads during migrations of the Mountain Sami
- land areas which ought be in government ownership for reasons of forest maintenance, mining, fishing, outdoor recreation and nature conservation or for other reasons (cf. section 2, second paragraph).

"Other reasons" for barring the sale of state-owned land in Finnmark have referred to land areas used in reindeer husbandry for purposes other than those expressly referred to in section 2, e.g. for slaughtering and branding, mating and calving.

Although the law text does not make it clear, the same constraints apply to the leasing of such land to others.

Although the ownership right to the land areas in question is

assumed to rest with the state, the Sami are not without rights in these areas.

The local population is inter alia entitled to have deciduous forest earmarked for household firewood, and enjoys a virtual sole right to pick cloudberry. These rights accrue to the local population in general, and not to the Sami population in particular; however, when rights are reserved for the local population in areas of Sami dominance, it is in practice possible to speak of Sami rights.

Only Norwegian citizens of Sami origin are entitled to carry on reindeer herding in reindeer grazing areas. The government designates reindeer grazing areas with reference to the Nomadic Sami's long-established reindeer herding areas.

The right to carry on reindeer herding in reindeer grazing areas is a usufruct which encompasses:

- the right to stay in such areas with reindeer and the right to travel, move and make camp,
- the right to grazing for reindeer,
- the right to position installations needed for reindeer husbandry,
- the right to fuel and lumber,
- the right to hunt, trap and fish

In Sami settlement areas outside Finnmark county, ownership is more mixed, although here too much of the land used by the Sami is state-owned.

In addition to the statutory rights described above, Norwegian law courts have also awarded the Sami people rights based on long-established use.

Ratification of ILO Convention no. 169 was based on the assumption that Norwegian law met the Convention's requirement in this respect. The government's understanding of the

Convention on this point was summarised as follows:

- strongly protected usufruct must be regarded as sufficient for fulfilment of Article 14 on recognition of ownership and possession,
- the Convention provides the indigenous population with a limited right to restoration of areas which have entirely gone out of their use,
- Nomadic modes of operation do not justify demands for the explicit rights indicated by the expressions "ownership and possession" in Article 14.
- in relation to areas traditionally shared by the indigenous populations with other groups, the Convention generally speaking only demands that the State shall "safeguard the right ... to use".

On paragraph 2

The overview of present-day Sami settlements is based mainly on analyses carried out on the basis of the censuses of 1950 and 1970.

It is clear from the mandate of the Sami Rights Commission, cf. above quote, that the commission shall report on and make proposals for how best to secure the Sami population's ability to utilise the natural resources in their settlement areas, at the same time as the interests of the non-Sami population are duly recognised.

On paragraph 3

Norwegian law contains no rules specifically governing Sami claims to land or land rights. However, the Sami people, like other citizens, may submit such claims to the courts.

Article 15

In 1990 the government commissioned a professor at Oslo University to make a report on the state's obligations towards the Sami population in connection with the regulation of the fisheries. The report concluded that the State has a general legal obligation to give the Sami population opportunities to preserve and develop its culture, and that this obligation could have a bearing on the regulation of the fisheries, which are an essential basis of Sami culture in many local communities.

Against this background the Ministry has endeavoured as far as possible to accommodate the interests of Sami fishermen in the general regulatory provisions. During the moratorium on cod fishing in 1991 and 1992 (prompted by depleted fish stocks) a certain quantity of cod was reserved for vessels of a size used especially by the Sami.

According to the guidelines, studies of the consequences of measures implemented in Sami settlement areas shall focus on potential major or uncertain effects of the measure in question for the Sami population.

Article 16

Relocations of the type regulated by Article 16 have not taken place in Norway, and in the current situation such relocation is considered improbable. Norwegian law contains no rules or procedures specifically applying to relocation, or rules governing compensation in kind. However, there are no provisions of Norwegian law that prevent the Convention's provisions from being followed. Hence, should the question arise of relocation of a nature regulated in Article 16, the Convention's provisions will be duly observed.

Norwegian law is not considered to conflict with the Convention.

Article 17

Rights accruing to the Sami people pursuant to the other legislation mentioned under Article 14 must be considered common rights that cannot be transmitted.

On question 2

This question has limited relevance in Norway since the Sami have not been considered to hold ownership rights to large tracts of land, and their usufruct has only to a limited extent been transmittable. Where agreements on land in private Sami ownership or other transmittable rights are concerned, the law on agreements could be applied to any agreement that took advantage of Sami customs or lack of understanding of Norwegian law.

Article 18

This question too is of limited relevance to Norway since the Sami have not been considered to hold ownership rights to large tracts of land, and since their usufruct must largely be said to comprise common rights which also accrue to others.

In most cases, however, it would be a punishable offence for others than the rights holders to practise these rights.

Act no. 49 of 9 June 1978 (the Reindeer Husbandry Act) contains provisions regulating traffic in reindeer grazing areas, on movement of dogs in reindeer grazing areas, and on the collecting of reindeer lichen.

Article 19

Reindeer husbandry within reindeer grazing areas is confined to the Sami. Owing to poor returns, especially in Finnmark, the number of employees in reindeer husbandry will be scaled back in forthcoming years. A readjustment programme will be initiated for Inner Finnmark to facilitate this process.

Article 20

In communities where the Language Act applies, all public

service posts are advertised in both the Sami and Norwegian language. Applicants are either advised to, or must, command the Sami language. This applies to posts in the local government administration.

As a result it has become more difficult for non-Sami speakers to get a job in Inner Finnmark, with the exception of posts for which Sami-speaking candidates are in short supply, such as posts for doctors, psychologists, dentists, pre-school teachers and school teachers.

An increase in the number of applications to pre-school and school-teaching posts may be expected when the Sami College at Kautokeino produces its first two graduate cohorts.

The Norwegian Social Security is universal and compulsory, distributing social security benefits regardless of ethnic affiliation.

PART IV - VOCATIONAL TRAINING, HANDICRAFTS AND RURAL INDUSTRIES

There is a Sami upper-secondary school in both Kautokeino and Karasjok in Inner Finnmark. The schools have study lines for commercial subjects, health and care, agricultural subjects and Sami home industries/handicrafts, or "duodji". The majority of pupils at both schools are Sami speakers and instruction is provided mainly through the medium of the Sami language.

In Kautokeino a Sami College has been established which offers general education, pre-school teacher training, one year of journalist training, Sami language stages I and II, a course providing a Sami language qualification for local government personnel, and duodji stage I.

Where other schools are concerned, Sami-speakers receive extra

qualifying points when applying to higher educational institutions to study, say, medicine, psychology, law, dentistry etc.

Young people having connections with reindeer husbandry may apply for a grant of NOK 10,000 per year while attending upper-secondary school, and NOK 20,000 while undergoing higher education.

Rural economics is the area of study encompassing agriculture and the reindeer husbandry school, and the foundation course and advanced course I and II in reindeer husbandry.

The Employment Service in Inner Finnmark has arranged courses in taming reindeer which are designed to help to preserve ancient traditions and to strengthen facilities for tourists. Boat-building courses are intended to strengthen and preserve old boat-building traditions, as well as provide an incentive to set up boat-building workshops.

Article 21

The Sami population is entitled to vocational training on a par with the population of the country in general through the school system or on an apprenticeship basis in industry.

The Sami College accommodates 130 students. Sami speakers receive supplementary qualifying points when applying for admission to higher-education courses.

Article 22

Paras 1-2

Sami groups are represented on the Sami Education Council, which has a particular responsibility for developing Sami educational facilities, including vocational training.

The Employment Service runs courses in "duodji" (Sami handicrafts), boatbuilding and reindeer taming as and when

required.

Para 3

Instruction in Sami handicrafts, which have a historical and central place in the Sami cultural tradition, is now provided both by schools and on an apprenticeship basis in working life, leading to a certificate in Sami handicrafts. As mentioned above, a programme is also being planned at college level.

The vocational training programmes are based on the Sami people's economic conditions, their social and cultural conditions and practical needs. The vocational training boards in the counties in question have contributed through information drives and projects to providing the Sami population with a basis on which to assume responsibility themselves for providing instruction in duodji.

The Ministry of Local Government have contributed to funding a development centre for Sami handicrafts. The centre is intended to promote both practical skill in duodji and duodji as a trade. The Sami people's own handicraft organisation has been responsible for the project. The Sami Council has expressed a positive view of the centre.

The authorities' effort, described under Article 22.3, to develop training programmes within the duodji trade, is an important contribution to giving substantive content to this provision.

The same applies to the training programme in reindeer husbandry, comprising as mentioned a complete three-year course at the upper-secondary school in Kautokeino, and which is planned to be introduced at college level.

PART V - SOCIAL SECURITY AND HEALTH

Article 24

The Norwegian social security scheme covers all persons residing in Norway on an equal basis. Income-related cash benefits are awarded to all persons earning a pensionable income above a certain level.

Article 25

The Ministry of Health Social Affairs has set up a committee to study the question of introducing a health and social welfare plan for the Sami population of Norway. The committee, composed of eight members of which three are drawn from Sami health and social welfare organisations, is charged with ascertaining the need for special services for the Sami population.

Special services for Sami people have been established in Karasjok in the form of a centre offering specialist medical services and a child and youth psychiatry outpatient clinic. The Ministry of Health and Social Affairs meets 75 per cent of the operating costs of these institutions.

Section 3-5 of the Sami Act lays down provisions governing the use of the Sami language in the public health service. All persons who wish to use Sami in their dealings with a regional or local public health or social welfare institution in the administrative area are entitled to be attended to in the Sami language, both orally and in writing (cf. section 3-5).

PART VI - EDUCATION AND MEANS OF EDUCATION

Article 26

The Sami population, in common with other Norwegian citizens, enjoys general access to the Norwegian education system at all levels. It has not been necessary to make any changes in the legislation governing education in order to implement the Convention's provisions.

Current pupil, student and school figures are as follows:

Basic school: There are about 1,400 Sami pupils in basic schools. The number of schools providing tuition in the Sami language has grown steadily, from 25 in 1979 to 86 in 1990. The number of teachers providing instruction in or through the medium of the Sami language is about 220, of whom 141 are qualified teachers.

Upper secondary school: The State runs two upper secondary schools in Finnmark which provide instruction specifically adapted to Sami young people. Tuition is partly through the medium of the Sami language. The school has 210 pupils as well as a number of participants on various courses for the adult section of the Sami population. In total the schools have 54 teachers, and are managed by a joint board including representatives from Sami groups.

Adult education: There are two Sami organisations in this area. Of these, the Sami Study Committee, which is the National Association of Norwegian Sami's own study organisation, offers each year a range of 125 "practical courses in aesthetic subjects".

Sami college education: The Sami College in Kautokeino was established in 1989. The college currently accommodates 150 students, distributed as follows etc.:

Ninety five places in basic training for general-subjects teachers and pre-school teacher, with 80 students in the autumn of 1992.

The college also provides facilities for further education in:

- Sami language, 20 places
- Sami handicrafts (duodji), 15 places
- "preparatory" courses in Sami language (qualifying for

college/university study), 20 places.

As of autumn 1992 the college has some 130 students and 20 teachers. The students are recruited from all over Norway, and from Sweden and Finland. The language of instruction is Sami.

Article 27

1. The Sami Education Council shall:

- take the initiative for, and develop, teaching plans and syllabuses. The Council attaches much emphasis to developing plans that are able to strengthen the pupils' Sami identity
- develop textbooks and teaching aids. This is a time-consuming and resource-consuming process for which qualified personnel are in short supply.

Special syllabuses have been devised taking effect from 1989 and 1993.

In recent years a total of about 140 teaching aids have been published for Sami pupils. They are mostly books, but also include cassettes, videogrammes and slides for teaching purposes. In the upper secondary school, priority has been given to teaching aids in the subjects duodji and Sami reindeer husbandry.

Current tasks for the Council in the field of Sami education policy include:

- initiating measures concerning the guidance service for teachers of Sami pupils, and training and subsequent training of teachers and residential staff in Sami settlement areas
- developing the Sami perspective in kindergartens, schools and other educational institutions
- preserving and developing the Sami language
- attending to the Sami children's and pupils' needs and

- rights when educational matters are dealt with by local, regional and central decision-making agencies
- ensuring that the level of education in Sami areas is on a par with the level in the country at large
 - spreading information about the activity of the Council, about Sami educational facilities and about the situation in Sami schools.

The objective of Sami upper secondary schools in Finnmark county is to be resource centres for Sami upper secondary education and to accommodate the needs and requirements of pupils in the Sami community. The schools are intended to strengthen the identity of the pupils and provide them with a basis for carrying the Sami cultural heritage further. The schools have a special responsibility for providing instruction in and through the medium of the Sami language, in Sami culture, history and community life, and to equip pupils to choose an occupation and workplace anywhere in the Sami community, in the Norwegian community and in the world community.

The Sami upper secondary school and reindeer husbandry school in Kautokeino run complete three-year intermediate-level courses in Sami handicrafts (duodji) and in reindeer husbandry, the latter being a course addressed to an explicitly Sami industry. The schools also offer courses in social welfare and health subjects, and commercial and office subjects etc. The schools are engaged in a continual process geared to developing courses and activities that promote their overall objective. In order to stimulate teacher recruitment, qualified applicants are offered a relatively substantial salary increment on top of regular pay.

Folk high schools receive twice the normal State grant per pupil for Sami pupils.

In the sphere of labour market training the Ministry, in

conjunction with the Sami Education Council, has drawn up and approved syllabuses for, among others, the following six-week courses with a view to the Sami settlement areas:

- course in skills perfection in Sami language with social subjects
- procurement and storage of materials for duodji production
- preparation of reindeer hide and sewing Sami moccasins
- horn-, bone- and woodwork
- leatherwork.

There is in addition a fifteen-week course in weaving. The courses do not provide a formal qualification.

At the Sami College the main emphasis has so far been placed on the training of teachers. Instruction of interpreters and translators will start in the autumn of 1992.

Apart from one school which is a state-run Sami school, the local authorities are responsible for basic schools in Norway, including schools that offer tuition in and through the medium of the Sami language. A small number of municipal Sami schools are funded entirely by the state. The Sami upper secondary schools and the Sami College are a State responsibility.

2. There is nothing to prevent the Sami, like other Norwegian citizens, from establishing schools with State grants within the private school system in Norway, provided they meet the statutory requirements that all schools must meet in order to gain State approval.

Sami organisations provide tuition in a number of areas, offering courses in the Sami language and courses in Sami handicraft traditions, with State support.

Upon establishment, kindergartens where Sami is the main language and whose activity is rooted in Sami culture - and

this is enshrined in the kindergarten's statutes - qualify for an extra State grant to cover the cost of Sami-speaking facilities, incurred for example by taking on additional staff, by translation into Sami and by purchase of Sami games and materials.

Funds are also provided for mother-tongue coaches for Sami-speaking children in Norwegian-language kindergartens. However, neither the foreign-language or Sami-speaking children are currently entitled to mother-tongue tuition. Moreover, funds are available for various projects for reinforcing the environment in which Sami children grow up.

Articles 28-31

The Constitution requires the government to arrange conditions to enable the Sami people to preserve and develop their language, culture and way of life. The Act concerning the Basic School entitles children in Sami districts to instruction in or through the medium of the Sami language. From and including the seventh school year the pupil decides him/herself. The local council may, after the local education committee has stated its view, resolve that Sami-speaking children shall be taught Sami throughout the nine years of basic school, and that pupils whose spoken language is Norwegian shall have the Sami language as a school subject. Instruction in and through the medium of the Sami language may also be given to pupils with a Sami background outside Sami districts.

The Sami College actively spreads information about its programmes etc., in relevant areas. An important focal area for the future is electronic data processing, involving inter alia a word bank, and development and EDP-aided elaboration of Sami language teaching aids. The State is providing the project with financial support.

See also our comments under Article 26-27.

Article 30

Translation into the Sami language: The Sami Act requires all acts and regulations of particular interest to the entire, or parts of, the Sami population to be translated into Sami. Furthermore, all announcements by public agencies directed particularly to all or parts of the population in the administrative area shall be made in both Sami and Norwegian. Forms used by local government agencies serving all or parts of such an area shall be translated so that they are available in both Sami and Norwegian (cf. section 3-2).

Leave of absence: If a public agency in the administrative area requires a Sami language capability, the agency employees are entitled to paid leave of absence to learn Sami.

Public documents related to servicemen in the National Defence are published in both Norwegian and Sami.

PART VII - CONTACTS AND CO-OPERATION ACROSS BORDERS

Article 32

The principal agency for contact among Sami persons across borders is the Nordic Sami Council, which is a liaison body for the Sami people in Norway, Sweden, Finland and Russia.

The Norwegian government contributes financially to the activity of the Nordic Sami Council.

The Nordic Sami Institute is located in Kautokeino. The Institute is a Nordic Sami research institute charged with conducting research into Sami conditions based on Sami values and in accordance with Sami needs. The institute's work and activity are largely based on funds provided by the Nordic Council of Ministers.

The population in border areas (not only Sami) living up to 10 km from the Norwegian or Finnish border may cross the border

at places other than official crossing points in connection with the performance of economic activity, familial relations in the neighbouring country, and in accordance with custom and tradition.

The border between Russia and Norway remains closed, and crossing has to be applied for. In recent years the rules have been interpreted more liberally and the number of crossings has greatly increased.

The Rovaniemi process

The Rovaniemi process is geared to achieving a co-ordinated and binding environmental cooperation in the Arctic region among the Nordic countries, the USA, Canada and Russia.

Consideration of, and participation by, ethnic peoples have occupied a central position in this co-operation.

Representatives of the Norwegian Sami Council have taken part in this co-operation, and the delegations of the other participant states have included representatives from their respective ethnic groups.

United Nations Conference on Environment and Development (UNCED)

In connection with UNCED, representatives of the Sami organisations have been drawn in, both in the preparatory process and in UNCED in Rio. Sami organisations have issued statements and Sami representatives have taken part in both preparatory meetings and at the Rio conference. Representation has been supported financially by the Ministry of Environment. Moreover, the Ministry of Environment has provided the funds enabling representatives of northern Russian ethnic groups (Sami) to participate in the Rio conference at which they also held a separate meeting with the Norwegian and Swedish environment ministers.

Agenda 21 - the action plan for the 21st century that was adopted at UNCED - contains a separate chapter (26) about

ethnic groups.

The Kola area

Norway, together with Sweden, has provided financial support to the Nordic Sami Council to enable them to assume a sponsor role vis-à-vis the northern Russian ethnic group.

PART VIII - ADMINISTRATION

Article 33

The Ministry of Local Government is responsible for co-ordinating Sami matters in the central administration. The Ministry has its own section for Sami affairs. The Ministry is responsible for the Sami Council budget. It is also responsible for the Sami Council elections, both for establishing the rules and regulations, and for organising the election itself. An important part of the Ministry's coordinating responsibility is to have an eye to the objectives of the Sami Council, and follow up the Sami Council's priorities within the framework of the government Sami policy.

A special interdepartmental committee has been set up to co-ordinate government Sami policy. The Local Government Minister's political adviser on Sami affairs chairs the committee. Moreover, the Sami Affairs Section acts as secretariat to the committee.

The committee's task is to discuss both current and fundamental questions concerning government Sami policy. The committee shall also discuss initiatives from the Sami Council, Sami organisations and institutions, and draw up cohesive responses. The final decision remains with the Ministry in question.

Responsibility for the various sectors of the government Sami policy rests with the Ministry in question.

The Ministries have the following areas of responsibility:

Ministry of Agriculture

The Reindeer Husbandry Act

Reindeer husbandry policy

The Reindeer Husbandry Agreement

Ministry of Cultural Affairs

The language rules of the Sami Act

The Act on Place Names

Measures in favour of Sami culture in general

Ministry of Children and Family Affairs

Measures in favour of Sami children

Sami kindergartens

Ministry of Church, Education and Research

Basic School Act, section 40a

Sami education policy

Sami Education Council

Sami basic schools

Sami upper secondary schools

Sami College

Sami adult education

Ministry of Environment

Protection of Sami cultural relics

Administration of natural resources

Ministry of Health and Social Affairs

Psychiatric outpatient clinic for children and young people,
and Sami health service - Centre for specialist medical
services in Karasjok

Preparation of Sami health plan

Ministry of Foreign Affairs

Supports the work of the Norwegian section of the Nordic Sami

Council on international issues involving indigenous peoples.

Ministry of Justice

The Committee for Sami Rights

Furthermore, the following councils and committees are responsible for various aspects of Sami affairs:

Norwegian Cultural Council

Provides funds for Sami culture via the Norwegian Cultural Fund. The funds are apportioned upon the proposal of the sub-committee for Sami culture.

Sami Education Council

Appointed by the Sami Council

The Council is an advisory body to the Ministry

Responsible inter alia for:

- taking the initiative towards developing teaching plans and syllabuses
- developing textbooks and teaching aids
- scrutinising and approving textbooks
- taking up matters relating to guidance services, education, subsequent training of teachers and residential staff in Sami areas

Sami Language Council

Appointed by the Sami Council

The Council's tasks include:

- Protecting the Sami cultural heritage as represented by the Sami written and spoken language
- developing Sami terminology
- establishing the spelling of Sami words and expressions within the framework of the established Nordic Sami orthographies
- providing guidance and information on Sami language questions

- keeping an overview of qualified translators and interpreters
- promoting and participating in national and Nordic cooperation on Sami language issues

Reindeer husbandry administration

The reindeer husbandry administration provides administrative and technical service for the reindeer herders throughout the country, both in the Sami reindeer husbandry areas and elsewhere. The reindeer husbandry administration administers the funds made available over the government budget for implementation of the Reindeer Husbandry Agreement.

III

Affects most Norwegian government department, cf. discussion above.

IV

We are unaware of any judgments passed concerning this Convention.

V-VI

VII

This report will be communicated to the Federation of Trade Unions in Norway, the Confederation of Norwegian Business and Industry and the Norwegian Sami Council.

VIII

Oslo, December 1992

RATIFIKASJONER

169 - Urbefolkninger

Norge, Mexico, Bolivia, Colombia, Costa Rica, Paraguay, Peru
(mars 1995)