



# **The Sámi Parliament's 2018 Report to CERD**

For the period from 2014 up to and including 2018



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The Sámi Parliament 2018

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# I Information related to the various articles

## 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. 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. 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 them 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 ICERD, while part deals with the extent to which the State of Norway ensures that the Sámi Parliament itself is able to preserve, develop and strengthen Sámi languages, Sámi culture and the Sámi way of life.
3. In Part I of the Sámi Parliament's Report, the Sámi Parliament will provide information about the Sámi community in general, as related to the different articles of the Convention. Part II of the Sámi Parliament's Report will provide information relating to the Committee's latest recommendations to Norway and about Norway's reporting.

## 2 Reporting on Articles 1 to 7 of the Convention

### 2.1 Article 1, nos. 1 - 4

4. **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. Even though ICERD prohibits all forms of discrimination, not least on the basis of race and ethnic origin, it nonetheless ensues from Art. 1(4) that ICERD does not prohibit affirmative action for ethnic groups or individuals, which are needed to ensure equal conditions for groups or individuals. The Sámi Parliament is otherwise 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 their language, culture and way of life.
5. **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 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.

6. **The Population Registration Act.** Pursuant to Act No. 88 of 9 December 2016 *relating to Population Registration* (the Population Registration Act), which entered into force in October 2017, it is possible to register the use of certain Sámi languages in Norway's National Population Registry. The regulations of 14 July 2017 No. 1201, *Regulations relating to the Population Registration Act*, currently include the three official Sámi languages North, South and Lule Sámi, which have rights in the administrative area for Sámi languages pursuant to the Sámi Act. During the consultation process, the Sámi Parliament requested that the use of Ume Sámi, Skolt Sámi and Pite Sámi also be registered, but this request was not accommodated. In the consultations on the National Population Registration Act, the Sámi Parliament also did not succeed in getting support for information about individuals' oral and written knowledge of Sámi to be included in the register. In time, it will be possible to register the use of North Sámi, Lule Sámi and South Sámi in a modernised national population registry.
7. **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.
8. **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. The Sámi Parliament has not endorsed the Reindeer Husbandry Act, but has repeatedly pointed out that there are formidable weaknesses in the Act and favours a comprehensive review of it.
9. 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.
10. **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.

11. **The Kindergarten Act.** Act No. 64 of 17 June 2005 *relating to Kindergartens* (the Kindergarten Act) does not give anyone the right to attend a Sámi kindergarten, merely the right to attend kindergarten. Nor is there any requirement that there be Sámi speakers working in Sámi kindergartens. The Kindergarten Act distinguishes between kindergartens within and outside the administrative area for Sámi language. Kindergartens outside the administrative area have less clearly defined requirements for Sámi content, meaning that some Sámi children do not receive an adequate offer of Sámi kindergarten. The Kindergarten Act should require municipalities to offer Sámi-speaking kindergartens, based on a strong linguistic model, to all children whose parents so desire.
12. **Education legislation.** According to Act No. 61 of 17 July 1998 *the Act relating to primary and secondary education* (the Education Act), the right to be offered instruction in Sámi is not an individual right for pupils, but a restricted right based on geography and the number of pupils who would like to take advantage of such an offer. Pupils have an individual right to instruction in all subjects through the medium of the Sámi language only if they reside in the administrative area for Sámi language. Pupils who reside outside Sámi districts only have an individual right to instruction in Sámi as a subject, while the right to be educated in and through the medium of Sámi in all subjects depends on whether there are 10 or more pupils in a municipality who request such instruction. The Sámi Parliament supports a revision of the Education Act to strengthen Sámi pupils' rights in general and, in particular, to clarify their right to instruction in the subject of Sámi all across the country, as well as their right to instruction through the medium of the Sámi language in all subjects outside the administrative area for the Sámi language.
13. The Government has appointed a committee and announced that it will be making a comprehensive review of the Education Act. It is unfortunate that the Sámi Parliament has not garnered support for its wish that the Government allow it to appoint members to the public committee that will review the Education Act and propose legislative amendments and other measures. Sámi language and cultural expertise have not been taken into account by the legislative committee. The Sámi Parliament has been left to represent the Sámi in a reference group for the Committee.
14. According to Act No. 84 of 4 July 2003 *relating to Independent Schools* (the Independent Schools Act), independent schools are not required to provide instruction either in the subject of Sámi or through the medium of Sámi. In reality, this entails a curtailment of the choices available to Sámi pupils. Independent schools can offer courses if they have applied to do so and have received permission from the Directorate for Primary and Secondary Education. However, such schools are not required to apply for such an authorisation. The Sámi Language Committee's report entitled *NPR 2016: 18 The Language of the Heart* recommended that independent schools be required by the Independent Schools Act to provide instruction in Sámi.

15. The Sámi Parliament perceives the lack of opportunities for Sámi pupils to choose among different schools to be discriminatory. Neither the Education Act nor the Independent School Act adequately guarantees the option to have an adequate Sámi educational programme. Different practices have developed when it comes to interpretation, meaning that Sámi pupils are treated differently from region to region. The Sámi population of Norway must follow societal development trends to keep up with the majority population. This implies a settlement pattern where a very large number of Sámi children live outside the administrative area for Sámi language. The Sámi Parliament is concerned about the narrow limits that the Education Act poses for the opportunity to initiate instruction in and through the medium of Sámi outside the administrative area for Sámi language. Owing to extensive use of administrative requirements, like the requirement that there be a specific number of pupils requesting instruction in Sámi, and that there are geographical limitations before instruction can be offered, Sámi children in many parts of Norway do not qualify for instruction in and through their native language. The Sámi Parliament is of the opinion that the number pupils alone is not sufficient to determine whether it is possible to arrange instruction in and through the medium of Sámi.
16. A revised Education Act must rectify the imbalance that arises because Sámi children's right to instruction in and through Sámi and based on Sámi cultural values depends on where they live and on how many pupils want such instruction. In addition, a right to linguistic immersion sessions should be established by law for pupils who learn the subject of Sámi through distance education or who receive instruction outside the administrative area for Sámi language. There is a need to amend the Independent School Act to safeguard Sámi pupils' right to instruction in Sámi. The Sámi Parliament believes that the Independent School Act should provide legal authority so that the approval authorities can require schools to offer instruction in Sámi. The Independent School Act must at the very least grant the same rights to Sámi pupils as the Education Act does.

## 2.2 Article 2.1

### 2.2.1 C State measures and rules that maintain racial discrimination

17. **Truth and Reconciliation Commission.** 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 experience discrimination and hate speech both from Norwegian society, and also internally within the Sámi community. The Sámi Parliament hopes that the process will lead to greater knowledge and tolerance for each other's history and different points of view.
18. **Sámi kindergartens.** The Sámi Parliament is of the opinion that the current national framework plan for kindergartens protects the rights of Sámi children and the Sámi dimension to a certain extent. Among other things, it sets out that kindergartens for Sámi children shall promote children's Sámi language skills, that Sámi kindergartens shall use traditional Sámi learning and working methods, and that the provision of kindergartens for Sámi children living outside Sámi districts shall be adapted to the children's Sámi ethnicity. Nonetheless, the current framework plan is based on Norwegian values, language and way of life. In consequence, kindergartens and

kindergarten owners may face a dilemma when it comes to the choice of values and the priority of content. This makes it easier for kindergarten owners to choose not to offer Sámi content, since they need not fear consequences or sanctions. The Sámi Parliament believes that a good solution would be to have a separate Sámi curriculum to protect Sámi children's rights and ensure that Sámi children get an opportunity to practice their language and culture both when attending Sámi kindergartens and when offered special programmes in Norwegian kindergartens. See also paragraphs 11 and 57.

19. **Distribution of teaching hours by subject.** Norway has two current sets of general curricula: The National Curriculum for Knowledge and the National Curriculum for Knowledge - Sámi. The pupils who follow the National Curriculum for Knowledge - Sámi have their own distribution of teaching hours by subject that works well. Pupils who follow the National Curriculum for Knowledge and who are to have instruction in Sámi are required to follow the distribution of teaching hours by subject for the National Curriculum for Knowledge, but nevertheless to comply with the distribution of teaching hours by subject under the National Curriculum for Knowledge - Sámi, in Sámi as a subject. The fact that classes in Sámi as a subject are not part of the distribution of teaching hours by subject for the National Curriculum for Knowledge makes it challenging for schools to adapt their schedules. The consequences may be that the pupil has more total hours in school than other pupils, or that pupils who have classes in Sámi as a subject have fewer hours in other subjects during the year. Up to 5 per cent of hours from other subjects can be used for Sámi as a subject. It is up to the individual school to organise this. The Sámi Parliament finds that this can have unfortunate consequences. The Sámi Parliament admits that there is no simple solution to this problem. Moreover, the fact that Sámi children are graded on the same scale as children who have more instruction in the subjects seems like structural discrimination. Against this background, the Sámi Parliament would like a study to be conducted on the distribution of teaching hours by subject.
20. **Digitisation of Sámi languages.** All pupils are entitled to use digital technical aids throughout their entire time at school and in the world of work. The Sámi Parliament is of the opinion that Sámi pupils must have access to digital technical aids in their own first language on an equal footing with Norwegian pupils. Thus, it is important that software be developed that supports Sámi languages. Although Sámi spell checkers and Sámi keyboards already exist, no software programmes have been developed for use with a Sámi language. In public registers in Norway, e.g. the Norwegian National Population Register and the Brønnøysund Register, which manages a variety of different national registers, it is not possible to use Sámi characters, which precludes the use of Sámi names. The Sámi Parliament perceives this as helping to render Sámi languages invisible, and it sends clear signals to the Sámi population that cannot use Sámi languages in public registers. The large-scale national digitisation projects have little focus on the needs of the Sámi population, presenting a challenging situation for linguistic development. Users have high standards and expectations about what is available in digital formats. If the Sámi versions are inadequate or contain outdated information, users will not choose these alternatives. For that reason, the offer to Sámi-speakers must be on a par with other offers.
21. Giellatekno and Divvun, at the Arctic University of Norway (the University of Tromsø), routinely work to develop digital programmes to enable the Sámi languages to be used as digital languages. Giellatekno has developed digital dictionaries for the three official Sámi languages in

Norway and an online teaching programme for North, South, Lule, Enare and Kildin Sámi. Divvun has developed an auto-correct program and a Sámi keyboard for iPhones and Android telephones. These are important contributions to stimulating the use of Sámi languages in digital communication. The challenge is that these programmes are not part of the standard equipment package that comes with PCs, Macs, tablets, etc., but must be installed by the users themselves. This means that new computers/mobile phones are not equipped with Sámi keyboards as standard. The Sámi Parliament is of the opinion that collaboration with the developers of digital tools, other public players and across national boundaries is key for the development of the best possible offers for the Sámi population as a whole.

22. **Reindeer husbandry.** 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. 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.
23. In the *Report to the Sámi Parliament on Reindeer Husbandry* (2016) (white paper), the Sámi Parliament ascertained that there are several issues in the Reindeer Husbandry Act and its administration that are problematic in the light of Norway's obligations under international law. In recent years, a number of amendments have been made in the Act and the State reindeer husbandry administration without the consent of either the Sámi Parliament or the Sámi Reindeer Herders' Association in Norway (NRL). Regional administration has been transferred to the county governor, and the Norwegian Reindeer Husbandry Administration has been put under the auspices of the Norwegian Agricultural Agency. In 2015, the Government discontinued the allocation of MNOK 2 for the Sámi Parliament's earlier subsidisation of the reindeer husbandry industry. Thus, phased revisions have been made in the Reindeer Husbandry Act and changes have been made in the reindeer husbandry administration without in-depth evaluations or assessments, and without substantive consultations with the Sámi Reindeer Herders' Association

in Norway (NRL) and the Sámi Parliament. There is a need to review the administration of reindeer husbandry in Norway. Funding for a project has been set aside on the Sámi Parliament's budget for 2018. The NRL and the Sámi Parliament have reached a consensus on a mandate. The Sámi Parliament would like a committee to examine the principle and practical aspects of international law, the Reindeer Husbandry Act and the reindeer husbandry administration, and to suggest other measures to ensure processes which are supported by and have legitimacy in the reindeer husbandry industry and which strengthen land protection for the reindeer husbandry industry. The Sámi Parliament is of the opinion that the entire process of making adjustments in the number of reindeer must be evaluated and considered in the light of international law. In particular, the committee should clarify the distinction between administration under civil law and public administration.

24. **Sea salmon fishing.** Sámi and others who live along the coast are entitled to fish for 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. The Sámi Parliament finds that the current salmon fishing regulations to be very strict, and the authorities have repeatedly reduced the fishing seasons, 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.
25. **Duck hunting in the spring.** Duck hunting in the spring in the Sámi municipality of Kautokeino is an important part of Sámi culture that should be protected by special measures so that the tradition can be continued in a culturally and ecologically sustainable manner. The State of Norway should work with the Sámi Parliament to find solutions to regulate duck hunting in the spring to allow the tradition to be continued. The Sámi Parliament and the State agree that the knowledge base must be improved. The Norwegian Environment Agency has been commissioned to study the opportunities for adapting the parameters for hunting so that they are more in keeping with Sámi customs and Sámi traditions. The study was scheduled to be carried out in 2015, but no funding has yet been allocated for this work. The upshot, in actual practice, is that spring hunting has only been allowed within such strict confines that the very existence of this cultural activity is threatened.
26. **Predators.** The Sámi Parliament's opinions have not been taken into account in Norway's predator policy and the administration is creating serious problems for the Sámi grazing industry. The Sámi Parliament is of the opinion that it sends a bad signal from the Government to the grazing industry when the only solution offered is directed exclusively at increasing the number of animals herded on uncultivated grazing lands. Losses caused by predators lead to substantial financial and mental strains for the owners of the grazing animals involved. Figures from the reindeer husbandry industry and many reindeer districts show that predators take an unacceptably high percentage of the livestock. There is also a discrepancy between what business owners apply for indemnification for in connection with losses to predators and what is actually paid out. Major losses caused by predators have led many sheep farmers to quit the business. If today's predator policy and predator management continue, the entire basis for the very existence of the

grazing industry will be jeopardised. It is necessary to examine the need for changing the current predator management system, especially with a view to reducing the national population goals for the annual litters of lynx, wolverine, bear, wolves and nesting pairs of golden eagles. There should also be a programme introduced to set population goals for sea eagles.

## 2.3 Article 4

### 2.3.1 C Prohibiting racial discrimination in public undertakings

27. **THE NORWEGIAN LABOUR AND WELFARE ADMINISTRATION (NAV).** There is a shortage of linguistically and culturally adapted services at NAV, cf. ICERD, Art. 5(e)(4).

## 2.4 Article 5

### 2.4.1 A Equal treatment by the 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. See also paragraphs 47 - 51.

29. There is a need for measures to develop more expertise on the Sámi way of life, Sámi culture, Sámi customs and the interpretation of the law in the courts. This must be accomplished by including Sámi and indigenous rights in courses on jurisprudence and property law. This is only partially the case now, and there is little on offer for those who would like to become land consolidation judges by studying property law. Today, property law studies are only offered by the Norwegian University of Life Sciences, and not by the University of Tromsø - Norway's Arctic University, which offers studies in Sámi and indigenous law. It should be an explicit goal to offer a course of study in Sámi law and Sámi property law for applicants who want to become land consolidation judges. Further, the continuing education courses for judges must be improved so that they shed light on real and methodical questions related to the position of the Sámi as a people and as an indigenous people in Norway under international law and Norwegian law. It should be clear how Sámi customs and interpretations of the law can be applied to the administration of justice and what sources of law are available for reference. The Sámi Parliament often makes assessments, expresses reservations or makes specific clarifications during the drafting of legislation and regulations that affect Sámi interests. This is part of the legislative history, but it is rarely applied or assigned significance when specific problems are decided by the courts.

### 2.4.2 B Protection against violence

30. **Violence in the Sámi community.** The Sámi Parliament is concerned about the violence to which indigenous women the world over are exposed. There are special challenges involved in meeting users of Sámi ethnicity, especially in relation to taboo topics such as violence and abuse. This can

influence employees who have to address these topics in local communities to which they themselves belong. Several recommendations have been made to Norway by convention-based UN committees and by the Norwegian Institute of Human Rights about drawing up a plan of action to combat violence against women in close relationships in Sámi communities.

31. In Norway, research shows that 49 per cent of Sámi women report that they have been subjected to violence of a physical, mental or sexual nature at some point in their lives, compared with 31 per cent among the majority population in the same area. Sámi women also reported a higher incidence of sexual violence during childhood and up age 18; 17 per cent, compared with 11 per cent of the women in the general population. In most cases, it is reported that the perpetrator is known to the victim. The Sámi population in Norway generally enjoys a high standard of living and a large percentage of Sámi women have higher educations. However, the Sámi Parliament recognises that education does not protect against falling victim to violence and abuse.
32. In 2017, the Sámi Parliament was consulted about Norwegian Public Report 2017: 12 *Deceit and betrayal*. The Sámi Parliament underlined that it is of great importance that those who investigate cases have the Sámi language skills they need to deal with Sámi-speaking children and young people. The Sámi Parliament refers to police investigations in the Tysfjord matter (abuse cases), in which it appears that the public health service, schools, kindergartens, child welfare authorities and the police must assume responsibility for the fact that no one intervened at an earlier point in time.
33. The Sámi Parliament refers to the Norwegian National Human Rights Institution's (NIM) special report on *Violence and abuse in the Sámi community*, published in 2018, in which NIM concludes that the authorities must do more to prevent violence and abuse. The special report identifies weaknesses in how the State authorities fulfil their human rights obligations in respect of Sámi victims of violence. Among other things, the report points out the need for better linguistic and cultural competence in services, additional instruction about the body and sexuality in the Sámi language at school, and the need to shape attitudes and disseminate information, as well as to ensure that research is done on this topic.
34. More research-based knowledge on violence is needed in order to get a general idea about causes and appropriate measures. Measures must be developed to prevent violence in the Sámi population. In particular, there is a need for more knowledge about violence and sexual assaults against Sámi children. It is necessary to recognise that such problems exist in the Sámi community and to shed light on them in order to establish good, linguistically and culturally adapted initiatives, and to ensure that perpetrators are brought to justice for their wrongdoings. The Sámi Parliament refers to the UN Committee on the Rights of the Child's observations, cf. paragraph 33(b) in Norway's fifth and sixth report.

#### 2.4.3 C Political rights

35. The electoral system for the Sámi Parliament is a matter that most definitely affects the Sámi people, and it is an area in which it is natural for the Sámi Parliament to be entitled to set its own priorities. In its bill for a revised Sámi Act, the Sámi Parliament has assumed that it is the Sámi Parliament that will issue supplementary provisions pertaining to Sámi parliamentary elections. This would seem to be a natural consequence of the Sámi Parliament, pursuant to §2-10 of the

Sámi Act, being the supreme governing body for Sámi parliamentary elections, that it is the Sámi Parliament itself that has drawn up the proposal for a new electoral system, deals with inspections of the electoral rolls, and is the supreme appellant body if anyone feels they themselves or anyone else is wrongly registered in the Sámi Parliament's electoral roll. A relatively large proportion of the rules that apply to elections to the Sámi Parliament has been established by regulation. Today, the Sámi Parliament cannot adopt election regulations for Sámi parliamentary elections. The Sámi Parliament must go through the Ministry to amend the regulations that govern their own elections. A high degree of autonomy over the Sámi Parliament's own electoral system is not especially compatible with the Norwegian authorities' micro-management of how elections are conducted by stipulating regulations. The Sámi Parliament's request for regulatory jurisdiction has not been followed up by the Norwegian authorities.

#### 2.4.4 D Civil rights

36. **Freedom of religion and freedom of expression.** The Ministry of Culture has put forward a bill for a new Act relating to religious communities and philosophies of life. In its consultative statements on the bill, the Sámi Parliament has focussed on consideration for Sámi religious life, and on adaptations for Sámi-speakers in the Church of Norway. The Sámi Parliament believes that it is necessary to incorporate a new obligation provision into the Sámi Act, entailing that the Church of Norway should offer church services in Sámi for its congregations. The Sámi Parliament has asked for consultations with a view to promoting Sámi religious life and the use of Sámi languages in the Church of Norway in future. The Sámi Parliament is awaiting feedback from the Ministry on these issues.

#### 2.4.5 E Financial, social and cultural rights

37. **Child poverty.** Despite an extensive non-monetary economy, in the Sámi municipality of Kautokeino in Finnmark County, every fifth child lives in poverty. On average, twice as many children live under the poverty line in Kautokeino as elsewhere in Norway. Figures from Survey of Living Conditions in 2017 indicate that in the inner reaches of Finnmark County (Indre Finnmark) in general, the figure for child poverty is higher than in the rest of Finnmark County, but also compared with the rest of Norway. Children who live under the poverty line frequently have poorer health and fewer development opportunities than others.

38. **Health and care services.** The use of the Sámi language in health and care services is related to the right to equal services. This ensues from the rights that Sámi patients and Sámi children under the care of the child welfare authorities have by virtue of national legislation and international conventions. Equal health care services for Sámi patients require that service providers take the patients' cultural and linguistic background into account. Municipal health and care services are governed by Act No. 30 of 24 June 2011 *related to Municipal Health and Care Services* (the Health and Care Services Act). Sámi patients' rights to use the Sámi language, cf. §3.1 of the Sámi Act, require municipalities to ensure that Sámi patients' or users' needs for adapted services are taken into account when designing services. In a comment to the Act, it appears that also other municipalities that have Sámi populations are required to offer services adapted to Sámi language and culture. To reach the goal of ensuring equal health and social services for the Sámi population, knowledge of the Sámi language and culture must be more readily available in municipal health and care services. This expertise must be integrated into municipal health and care plans, and into the performance of services.

39. The Sámi Parliament finds that health and care services in different municipalities and regions with Sámi populations have varying degrees of awareness and knowledge of the needs of Sámi patients. Sámi-language services often depend on individuals' knowledge of and interest in adapting to meet the needs of Sámi patients. At the same time, there is a nation-wide shortage of Sámi-speaking professionals in all areas of the health services. There is a need to use Sámi in meetings with the health services in most municipalities. Among other things, the Sámi Parliament's goal to build up the use of Sámi will also increase the need for Sámi-language health services for children. Sámi children of pre-school age are entitled to have their development followed up, on an equal footing with other children. This means there must be a health centre that can communicate with children in their native language, regardless of domicile. Elderly Sámi who forget their second language should be assured of a safe old age, where their own culture and language occupy a natural position in the services they receive. Unfortunately, the Sámi Parliament experiences that many of our elderly are in social isolation for large parts of the day, since health care personnel or relatives cannot communicate in Sámi. NPR 2016: 18 *The Language of the Heart* proposes the establishment of legislation that would grant an individual right to linguistically and culturally adapted services, regardless of where the patients are located. The Sámi Parliament is of the opinion that it is also necessary to require municipalities with Sámi inhabitants to ensure that Sámi patients' rights and the need for adapted services are integrated and rendered visible in municipal health and care plans and in the performance of the services.
40. Sámi-language health services are especially important in connection with offers of treatment that require good communication to ensure high-quality service and successful treatment. This is particularly true for Sámi patients in geriatric care, mental health, substance abuse, services for children and for patients with cognitive and life-threatening diseases. The lack of opportunities to use one's native language also reduces the quality of the services, constituting a threat to patients' safety because it increases the risk of improper medical treatment. The Sámi Parliament is of the opinion that it is necessary to ensure that the Sámi people's right to linguistically and culturally adapted services is pointed out emphatically.
41. Sámi children's contact with the child welfare authorities has been less than satisfactory for a long time. Sámi children's rights as indigenous children are not well known in the child welfare system, and compliance is not good enough. Municipalities have varying degrees of awareness and knowledge about their Sámi populations and about Sámi children's rights. Further, it is also challenging to promote understanding for Sámi children's needs. There is a great need for knowledge about Sámi children's rights as indigenous children at every level of the child welfare service. Not doing so means that the decisions taken are not always in the best interest of the children.
42. The Expert Committee for Regional Reform was of the opinion that a study should be made regarding the transfer of child welfare duties that are currently the purview of the state and municipalities. The Sámi Parliament would like to have a dialogue with the Ministry before a study is commenced to ensure that Sámi perspectives are included in the study, and the Sámi Parliament also expects to be consulted about measures that might have consequences for Sámi interests.

43. Guidelines should be developed to assess Sámi children's rights and needs when child welfare measures are initiated. The development of guidelines will ensure that the quality of the protection of Sámi children's rights will not depend on individuals' knowledge, and could also play an important part in training foster parents. The Sámi Parliament is of the opinion that a Sámi national advisory body should be established and assigned supervisory responsibility for municipal child welfare services for Sámi children. Municipalities must be required to contact a Sámi supervisory body when Sámi children are assessed upon entry into the system, and the county governor's supervision and authority must be strengthened in this area.
44. **Education and instruction.** The State of Norway must ensure that the framework conditions for Sámi educational programmes are not of poorer quality than educational programmes for other pupils in Norway. The Sámi Parliament wants to ensure that one goal of education is that indigenous children should not be denied the right to their own culture, language and religion in the company of other Sámi, and that they are protected against discrimination. The school system is an important tool for revitalising and developing the Sámi language.
45. Sámi pupils with special needs are a vulnerable group in the educational system. These pupils depend on being offered schooling that is not only based on their language and cultural values, but also where the educational programme itself is specially adapted for them. The parents/guardians of children with special needs frequently report that school owners face challenges when arranging special education programmes adapted to schooling that is also in Sámi and based on Sámi culture. The Sámi Parliament emphasises the need to ensure a uniform offer for Sámi pupils with special needs or disabilities.
46. **Museums.** The North, Lule, Pite and South Sámi museums are underfunded compared with Norwegian museums, and few of them are in a position to deal with the professional responsibilities expected of modern museums. Nor is there any requirement for regional co-financing of the Sámi museums, as there is for the Norwegian museums. Sámi museums urgently need upgrading and more storage in connection with *Bååstede*, (the Return of Sámi Cultural Heritage), under which the Norwegian Museum of Cultural Heritage is returning approximately 2000 Sámi museum objects to Sámi areas and to the Sámi museums. National volunteer efforts are needed to upgrade the premises.

## 2.5 Article 6 The courts

47. 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. 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. See also paragraphs 28 and 29.

48. The Sámi Parliament ascertains with disappointment that in case 17-062459TVI-UTMA, the Uncultivated Land Tribunal for Finnmark County has placed decisive emphasis on earlier unlawful state dispositions as setting legal precedents at the expense of already accrued Sámi rights. This seems like a continuation of the State's earlier pretensions of ownership on the basis of the *terra nullius* principle. Further, the Court maintains that the Sámi reindeer herders' use of land presents an impediment to the recognition of other Sámi property rights. The Sámi Parliament underlines that its endorsement of the Finnmark Act was based precisely on the premise that the State would set aside past pretensions of ownership upon the establishment of the Finnmark Estate, in combination with surveying rights. The judgment is in direct contravention of both the Sámi interpretation of the law and the Sámi Parliament's reservation in connection with its endorsement of the Finnmark Act.
49. **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 (HR- 2017-2428-A). The same applies to the case involving the Langsund connection (HR-2017-2247A).
50. In a case involving the construction of a road across reindeer-herding lands, (the Langsund connection), the Supreme Court of Norway has concluded that the road was valid and not a breach of international law. 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 studies of the consequences of the measures 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 reindeer grazing district was only invited on inspections of the area and 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 has reduced the importance of consultations pursuant to ILO C169 Art. 6 and 7 to a question of "making their view known", a development that the Sámi Parliament finds extremely disquieting.
51. In *Jovsset Ante Sara v. the Ministry of Agriculture and Food*, the Supreme Court has not delved deeply into the importance of and the genuine carrying out of consultations in the cases, but appears rather to espouse the attitude that it is the State, and not the Sámi themselves, that knows what is best for the Sámi. The Sámi Parliament does not find this to be in accordance with the Sámi interpretation of the law. The Sámi Parliament maintains that the Supreme Court 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 be followed up on the international legal arena, so that the assessments of international law made by the Supreme Court majority can be reviewed.

## 2.6 Article 7 Measures

52. **Bullying in Sámi schools and kindergartens.** The Sámi Parliament aspires to ensure that there is no bullying at school and that school days are safe for Sámi children and pupils. Figures from the *Annual Student Survey* and the Norwegian Institute of Public Health indicate that the percentage of pupils who are insulted and bullied in Sámi areas is high compared with the rest of the country. One of the conclusions from Norwegian Public Report 2015:2 *Belonging. Instruments for a Safe Psychosocial Environment* is that there are formidable gaps in our knowledge about bullying in Sámi schools. Very little research has been done on bullying, identity or discrimination in Sámi communities, kindergartens and schools. More knowledge is needed to introduce the right initiatives to improve the psychosocial environment in schools, not least in Sámi schools. The Sámi Parliament is of the opinion that the Government must establish guidelines so that the research examines factors that may provide useful contributions to the Norwegian Government's escalation plan against violence and abuse. Otherwise, the Sámi Parliament refers to the UN Committee on the Rights of the Child's observations, cf. paragraph 29 (a) and (b) to Norway's fifth and sixth report on discrimination and online bullying of Sámi children.
53. **Intellectually disabled individuals in Sámi areas.** In 2016, the Nordic Welfare Centre, which administrates Nordic cooperation on disabilities and Sámi ethnicity, published the report *Survey of the living conditions of intellectually disabled people in Sámi areas*. As part of this work, researchers at the University of Tromsø carried out a study on *The situation of Sámi with disabilities* in 2017. Like intellectually disabled people in general, intellectually disabled people in Sámi areas experience living conditions that are not as good as those of the general population in areas such as housing, education, employment, health, social networks, recreation and opportunities to make their own choices in respect of everyday activities. They are also more susceptible to bullying and violence than others. In certain areas, there are also major differences between the living conditions of intellectually disabled individuals who are of Sámi descent and those who are not, not least in terms of mental health and bullying. They have also found gender differences as far as bullying is concerned, where women are more susceptible than men.
54. The Sámi Parliament finds that more attention should be paid to bullying, threats and violence against intellectually disabled individuals of Sámi descent on a day-to-day basis, as well as in different arenas of life and in the judicial system. There is a need for more focus on the prevention and treatment of mental health issues in intellectually disabled people of Sámi descent. There is a need to pay more attention to the organisation of housing and other services for intellectually disabled individuals, for reducing the standardisation of how people live, offering them more opportunities making their own choices and participating in society on an equal footing with the rest of the population.
55. **The lack of Sámi-speaking personnel in the provision of public services.** The police and support personnel in Norway generally lack expertise in understanding Sámi language and culture. A study from 2017, in which police and support services workers were interviewed,

identified several problems. Sámi language and cultural expertise on the part of the police and support services might help improve trust and understanding. Many people of Sámi ethnicity still do not trust the majority society. This can have a bearing on meetings between those affected by violence who are of Sámi descent and non-Sámi service providers. There is a need to further develop the skills of those providing support services and the police that serve the Sámi population. There is a special need for further developing help and treatment measures adapted to perpetrators and victims of violence in the Sámi population.

56. **Digitisation.** Digitisation is in the process of changing society in a profound manner. There is a growing need for digital services in society, and many projects and measures have been initiated to respond to this need. The lack of digital services in Sámi languages means that the Sámi languages are limited in how far they can be developed as a digital language. Digital communications are crucial, and the public sector has a responsibility to ensure that digital services are developed in Sámi languages. It is imperative to develop user-friendly net-based services adapted to the Sámi population and the Sámi languages. See also paragraphs 20 and 21.
57. **Sámi kindergartens.** At present, 91 per cent of all children in Norway aged 1-5 go to kindergarten (day-care). Of that number, fewer than 900 children are offered a place in a Sámi kindergarten. The Sámi kindergarten sector is made up of 31 Sámi kindergartens. These have different points of departure as a result of geographical affiliation, local support and language. In addition to these, roughly 30 Norwegian kindergartens offer Sámi language stimulation. There is a shortage of Sámi educational material for kindergartens. The Sámi Parliament allocates funding for the development of educational material and distributes the funding through subsidy systems. The need is not being met because insufficient funds have been set aside for the Sámi Parliament over the government budget. At the national level, the financial parameters for providing high quality kindergartens are given high priority. The challenge facing the Sámi Parliament is that funding for Sámi kindergartens is not given priority. The Sámi Parliament distributes funds through its subsidy scheme for kindergartens, development work and other administrative work. Nonetheless, the Sámi Parliament is expected to follow up all national initiatives, at the same time as promoting Sámi children's rights, all from of the same funding. The lack of Sámi kindergartens and long waiting lists to get children into Sámi kindergartens are relevant problems in many municipalities. Parents find it hard to get a place for their children in Sámi kindergartens, and some municipalities have not given priority to offering Sámi kindergartens. To preserve and develop the Sámi language in kindergartens, the Sámi Parliament believes that the State of Norway must give priority to and set aside new funding for Sámi language work. See also paragraphs 11 and 18.
58. **Sámi languages.** The Sámi Parliament is cognisant of a great need to promote the Sámi languages at different levels of society and that special emphasis should be attached to the language skills of children and young people. The Sámi Parliament favours making language-promotion efforts through a language reform featuring specific measures and priorities that take administrative and economic consequences into account. The Sámi Parliament would like to include the Sámi community and Sámi language users in these efforts through initiatives that help the Sámi languages to be more visible, and to be heard and used in the community. The Sámi Parliament needs substantially more funding over the government budget to carry out this work. See also paragraphs 7, 70 and 71.

**59.** The inclusion of new municipalities in the administrative area for Sámi language is of great importance for the Sámi population, helping to improve and develop Sámi language in Sámi areas. Eleven municipalities belong to the scheme now. In addition, the Ministry of Local Government and Modernisation sent a proposal to amend the Sámi Act's language rules out for hearing in connection with Røros Municipality's application for inclusion. Skånland Municipality has also applied for inclusion. The Sámi Parliament expects the Norwegian Government to allocate funding so that new municipalities can soon be incorporated into the scheme.

## II The Committee's recommendations to Norway

### 3 The Sámi Parliament's comments to Norway's report

#### 3.1 The Committee's recommendation, point 8

60. The Sámi Parliament believes that it is important to get statistics based on individuals in order to facilitate Sámi social planning, especially as related to public services for Sámi language users. The Sámi Parliament emphasises that the Sámi languages in Norway are endangered or seriously threatened languages, meaning that special initiatives are required urgently. Reliable statistics are a prerequisite for being able to develop indicators to determine how well the Sámi's financial, social and cultural rights under the convention are satisfied. NPR 2016: 18 *The Language of the Heart* ascertained that there are currently no official statistics on Sámi language users in Norway.
61. The Sámi Parliament undertakes a great responsibility in respect of developing the knowledge base about the Sámi community. The Sámi Parliament has an agreement with Statistics Norway on the compilation of Sámi statistics every second year. The basis for these statistics is the geographical area for the industrial development funding allocated to the Sámi Parliament. The weakness with these statistics is that they cover everyone who lives in the area whether they are Sámi, Norwegian or immigrants, and they do not cover the South Sámi area. The challenge has been to obtain a statistical sample that is representative of the Sámi population. Against this backdrop, the Sámi Parliament asked Statistics Norway to determine whether it might be possible to develop a method for compiling a statistical population that could eventually serve as the basis for statistics based on individuals. In its study, Statistics Norway determined that it might be possible. The Sámi Parliament will examine the possibilities in cooperation with Statistics Norway. The Government must ensure that the Sámi Parliament has sufficient resources to set up a statistical database. See also paragraph 35 on the Sámi parliamentary elections and 6 about the new Population Registration Act.
62. 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.

#### 3.2 The Committee's recommendation, point 10

63. In the consultations on the Equality and Anti-Discrimination Act, the Sámi Parliament asked that indigenous peoples or the Sámi be mentioned as an example of ethnicity in the text of the Act and pointed out that the Act should include a definition of indigenous peoples. The Sámi Parliament's request was not accommodated on these points, but no explanation was given. See also paragraph 5.

### 3.3 The Committee's recommendation, point 14

64. Gáldu - the Competence Centre for Indigenous Rights, was established in 2002 to add to the knowledge about and understanding of Sámi rights and the rights of indigenous peoples. Gáldu has collected, built up, systematised, maintained, processed, organised and communicated relevant information and documentation about the rights of indigenous peoples at the national and international levels. Gáldu could also point out the need for research in relevant areas. In 2017, by virtue of the Act of 1 July 2015 *relating to the Norwegian National Human Rights Institution*, Gáldu's activities were integrated into the Norwegian National Human Rights Institution (NIM). The Sámi Parliament points out that an unintentional side effect of the reorganisation is that Gáldu's former function as a central supplier of information about Sámi conditions is not currently being attended to.

### 3.4 The Committee's recommendation, point 16 a-e

65. The report published in 2015 by the Institute for Social Research entitled "*Discrimination against the Indigenous Sámi Population, National minorities and immigrants*" indicated that every fourth Sámi-speaking man and every third Sámi-speaking woman has experienced ethnic discrimination, cf. Art. 2.1 (a). No research has been done or knowledge compiled about hate talk against Sámi people. The Sámi Parliament refers to the UN Covenant on Civil and Political Rights (OHCHR) in which the Human Rights Committee's observations of 25 April 2018 to Norway, cf. CCPR/C/NOR/CO/7, express concern about the persistence of hate crimes and hate speech against Sámi in Norway. The Committee is also concerned about the lack of systematic registration of cases and the lack of data collection on hate crimes and hate speech against Sámi and minorities.
66. The Sámi Parliament finds that the Sámi experience smears and hate talk cf. Art. 4 (a) on a vast scale on the Internet and in social media in Norway. Sámi children and young people use digital meeting places actively on a routine basis. This makes Sámi children and young people vulnerable to hate speech and online harassment about their ethnicity. The Sámi political debate is polluted by hate talk based on prejudices and discrimination. In particular, newspapers' online comments are often filled with hate talk about the Sámi population regardless of which political topics are being discussed. Public exchanges about Sámi languages, rights to uncultivated lands, the Sámi flag, road signage in Sámi, etc., frequently end in hate talk aimed at the Sámi population. The reindeer husbandry industry is especially exposed to hate speech on the Internet. This hate speech receives little or no coverage from the national media, and the Sámi Parliament is of the opinion that the central authorities are not sufficiently aware of the scope of the hate speech to which the Sámi population is exposed. The Sámi Parliament is concerned that this can lead to Sámi, especially Sámi children, hesitating to participate in public debates and in Sámi politics. Despite this, the Equality and Anti-discrimination Ombud (LDO) registered few cases of discrimination against the Sámi. The Sámi Parliament is of the opinion the Ombud ought to examine why so few cases are filed by Sámi people.
67. The Sámi Parliament provided input for the Norwegian Government's strategy against hate talk in 2016. The Sámi population in Norway is protected by the Constitution's provisions regarding the right to protect and develop their culture and language. Hate talk can help put this right in jeopardy. The Sámi Parliament pointed out that hate speech against the Sámi could result in

prejudices and discrimination of the Sámi. Norway has a history of Norwegianification of the Sámi, and that may have an impact on what is being expressed through hate speech today. The Sámi Parliament supports the Norwegian Government's objective of spreading information among young people about Sámi conditions, but would comment that adults also lack knowledge about Sámi conditions, so information should also be targeted at them. Some relevant initiatives might be to render visible Sámi conditions in the media and facilitate more visible arenas for Sámi languages. It is of great importance to learn more about the Sámi at school and such knowledge should be well integrated into national teaching plans.

### 3.5 The Committee's recommendation, point 18 a-f

68. **Hate crimes.** The threshold in §185 of the penal code regarding the ban on hate talk is high, and people are rarely found guilty under this provision. The Sámi rarely report incidents and the threshold is also high for filing complaints about experienced hate crimes and discrimination. See also paragraphs 65 - 67.

### 3.6 The Committee's recommendation, point 24

69. 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.

### 3.7 The Committee's recommendation, point 28

70. **Sámi languages.** All the Sámi languages in Norway are endangered or seriously threatened languages, meaning initiatives are required urgently. The Sámi Parliament points out that there is considerable interest in the Sámi languages, at the same time as the languages are under tremendous pressure and several are in danger of dying out. The Sámi Language Committee submitted NPR 2016: 18 *The Language of the Heart*, establishing a comprehensive platform for systematic policies to strengthen, vitalise and develop Sámi languages. The Committee proposes measures that call for legislative amendments and changes in the current schemes, in addition to

proposing initiatives designed to strengthen the situation for the Sámi languages in Norway. The Sámi Parliament would like to see effective follow up of NPR 2016: 18 *The Language of the Heart* for Sámi languages, accompanied by legislative amendments and other measures. Follow-up work is being done in connection with the consultation and hearing meetings with the Ministry of Local Government and Modernisation. However, two years have passed since the report was published, but there have been no consultations thus far on either legislative amendments or initiatives for Sámi languages.

71. The Norwegian Government's action plan for Sámi languages was extended through 2017, but the Sámi Parliament has still not received any final report, or been informed about how the measures will be followed up after 2017 and pending the follow up of *The Language of the Heart*. See also paragraphs 7 and 58.
72. **Instruction in and through Sámi.** In its report NPR 2016: 18 *The Language of the Heart*, the Sámi Language Committee recommended *inter alia* that the number of pupils required to initiate instruction in Sámi be reduced to three, and that an individual right to Sámi language immersion be established by law for pupils who do not have Sámi as their first language, as well as for pupils who receive instruction in Sámi and reside outside the administrative area for Sámi language. See also paragraphs 12 - 16, 19, 44, 45, 52, 75 and 76.
73. **Teaching materials.** The Sámi Parliament wants to have Sámi teaching materials in all subjects and at all levels, in South, Lule and North Sámi, which have a scope as broad as that of teaching materials in Norwegian. The teaching materials should be of good-quality, and be compliant with the current set of general curricula and other academic standards. The Sámi Parliament is concerned about the teaching material situation and is of the opinion that the shortage of Sámi teaching materials makes pupils view Sámi language, culture and way of life as having lower status, threatening Sámi children's right to a good-quality education. The Sámi school system does not have Sámi teaching materials in all subjects and at all levels, despite Sámi children's right to instruction. The scope of digital Sámi teaching materials is severely limited and they are costly to develop. Given the current level of state allocations and the constant revisions of teaching plans, engendering a need for new teaching materials, it is not possible for the Sámi Parliament to ensure the development of a good teaching materials. This calls for a considerable increase in state allocations for the production of teaching materials. The Sámi Parliament is of the opinion that access to Sámi teaching materials must be guaranteed in the revised Education Act, just as today's legislation guarantees access to Norwegian and New Norse teaching materials.
74. The evaluation of the National Curriculum for Knowledge – Sámi (NR report no. 1/2012 *The National Curriculum for Knowledge 2006 – Sámi – towards a school based on equality?*), shows that teachers perceive the shortage of Sámi teaching materials as very demanding because the teachers have to make some teaching materials themselves, adding to their workload. In its report Norwegian Public Report 2016:18 *The Language of the Heart*, the Sámi Language Committee recommended that Nordic cooperation focus on the development of Sámi teaching materials, and that there be a review of the current regulations for the Copyright Act, so that it will be easier to share Sámi teaching materials, other teaching materials and digital lessons across borders. See also paragraph 20.

75. **Maintaining Sámi schools.** Sámi schools and youth centres are under continuous threat of being closed down. These schools are often located in sparsely populated areas and have relatively few pupils, entailing that municipal and national authorities give little priority to the Sámi schools in budgetary allocations. Examples include Hattfjelldal School in the South Sámi area and Sirbmá School in the North Sámi area. Both these schools have Sámi pupils exclusively and the teaching is based on Sámi language and culture. Continued operation of these two schools is secured for the time being. There are several examples of closures of district schools in which the majorities of the pupils were Sámi. The Sámi Parliament is critical to the Sámi demographic structure, featuring widely scattered development and low numbers of pupils, being used as an argument to close down district schools that offer instruction in and through Sámi. Schools for Sámi pupils must take into account the traditional Sámi social structure, with settlements located near traditional industries such as reindeer husbandry, farming, duodji, hunting and fishing. The closure of Sámi schools in rural areas entails a systematic scaling down of educational programmes for Sámi children and undermines efforts to maintain and promote Sámi culture and language. The Sámi Parliament is of the opinion that the Government needs to ensure sufficient budgetary allocations to school owners so that Sámi schools can remain in operation.
76. **A shortage of teachers.** The lack of Sámi-speakers teachers is alarming. The situation in the South and Lule Sámi areas is especially difficult. This is a serious problem in terms of access to and the quality of instruction in the Sámi school system and for Sámi languages. In the autumn of 2017, Sámi allaskuvla, the Sámi University of Applied Sciences, began to offer a master's programme in Sámi elementary education for grades 1-7 and 5-10. From the autumn of 2018, Nord University will also be offering a master's programme in South and Lule Sámi elementary education for grades 1-7. The Sámi Parliament believes there is a need to implement special initiatives to promote recruitment to the Sámi elementary education programmes. It has therefore given priority to providing grants for higher education in said elementary education programmes. In addition, priority is given to grants for Sámi speakers who study to be kindergarten teachers.
77. As regards the application of the Finnmark Act, see paragraphs 10 and 79-82.
78. **Protecting the East Sámi's land rights and culture.** The East Sámi are still in a highly vulnerable situation that is critical to their culture. Initiatives to protect the East Sámi's material cultural platform, as proposed by the Sámi Rights Commission and the Sámi Parliament, have not yet been followed up by the Government.

### 3.8 The Committee's recommendation, point 30 a-f

79. **The Finnmark Act.** The Sámediggi points out that in the fields the Finnmark Commission has studied, it has concluded that the local population's rights date much further back than the State's right to make dispositions in Finnmark County. At the same time, the Commission has almost exclusively concluded that the Finnmark Estate (FeFo) is the landowner and that very few individual or collective rights of use have been accrued other than those that the Finnmark Act already governs. The Commission justifies its conclusions by referring to the State's far-reaching dispositions in parts of Finnmark County and that these have supplanted the local population's right of ownership and right of use. In practice, this means that the local population is being required to bear the burden of proof for being awarded the right of ownership or use. The Sámi Parliament emphasises that the State's earlier dispositions must be seen in the light of the

Norwegianification policy previously pursued by the State. When the Sámi Parliament endorsed the Finnmark Act, it was on the condition that this policy had been abandoned and that the establishment of the Finnmark Act was to mark a historic crossroads in respect of the principles on which the management of land and resources in Finnmark County was supposed to be based. The basic tenet of the Finnmark Act is that the management of land and natural resources in Finnmark County shall focus especially on securing Sámi culture, reindeer husbandry, rough pasturing, economic activity and the Sámi way of life. This is not very well reflected in how the Act is practised today. This refers both to the application of the Act in the courts, and to practical management under the auspices of the Finnmark Estate.

80. The Sámi Parliament finds it troubling that in the *Stjernøya* case (HR-2016-2030-A), the Supreme Court has simply assumed that the Norwegian district court's judgment is in keeping with the grounds for the Sámi's acquisition of property rights, cf. Art. 5(c)(4), resulting in the Sámi not being granted such rights. The Sámi Parliament is of the opinion that such a supposition on the part of the Supreme Court is not necessarily compliant with international law, because considerable emphasis has been attached to the State's earlier dispositions of land and resources without taking into account the context of the assimilation policy that applied at the time. See also paragraphs 47 - 51.
81. FeFo is an independent legal entity that owns and manages land and resources in Finnmark County by virtue of the Finnmark Act. The Finnmark Act does not provide much clarification about what type of body FeFo is, but the Sámi Parliament is of the opinion it clearly must be assumed that it is not a type of public authoritative body, since that cannot entail recognition of Sámi property and right of use positions.
82. At present, visitors' access to hunting and fishing on the Finnmark Estate runs counter to the interpretation of the law held by the local population and the Sámi, which states that others' access to natural resources should not interfere with local use. There is dissatisfaction with today's administration because it means that in actual practice, the local population and visitors have virtually the same access to natural resources, despite the fact that the Finnmark Commission's survey found significant local rights of use. In certain areas, the local population finds its use of uncultivated land to be supplanted by other uses.
83. **Land and resource rights outside of Finnmark County.** In June 2017, in connection with the regional reform process, the Norwegian Parliament asked the Government to consider giving the Mountain Act the same scope of application in Nordland County and Troms County as south of the Nordland County border. The study is to assume that Statskog will continue to be responsible for Norway's forestry resources. Further, the report is to assume that the current Finnmark Act will continue to apply within the prevailing county borders of Finnmark County, and will not be expanded to new geographical areas. This decision came as a surprise to the Sámi Parliament and was made without any previous consultations. The Sámi Parliament sees the method as an attempt to circumvent the processes on which there has been broad agreement thus far about implementing in order to study and protect Sámi rights to land and water throughout the Sámi area. This is at variance with the understanding that was established between the Sámi organisations and the Government when the Sámi Rights Commission was appointed in 1981 and upon which Sámi policy has been based thus far. This can also be construed as an expression of

the fact that the Sámi Rights Commission II has not been followed up. A report on the introduction of the Mountain Act in Troms County and Nordland County must be a step in the follow up of the Sámi Rights Commission and be part of a comprehensive whole, under which Statskog must no longer be owner of the land. At the same time, schemes are needed to ensure genuine opportunities to establish rights of ownership and use by judgment. The Sámi Parliament has made the Norwegian authorities aware of this, and the Sámi Parliament urges prompt follow up of the Sámi Rights Council's proposal.

84. **Budgetary initiatives.** The Sámi Parliament needs a new budgeting model that will help satisfy its international commitments. In January 2018, the Ministry of Local Government and Modernisation and the Sámi Parliament agreed on new budget processes. The State's budgetary transfers to the Sámi Parliament shall generally take place through an aggregated item on the government budget. In addition, before the Government submits its annual budget proposal to the Parliament, a report is to be sent from the Government to the Parliament, outlining development trends and challenges for Sámi language, culture and way of life, where the Sámi Parliament's opinions on matters shall be included where agreement is lacking. The Government shall attach importance to planning the report so that it clearly safeguards the principle regarding the Ministry's sectoral responsibility for Sámi affairs. Influence on budgetary parameters and opportunities to rank priorities for the Sámi's own development process are largely governed by the financial parameters set by the State authorities, especially in a strong unitary welfare state like Norway. The Sámi Parliament therefore considers it profoundly important that there be latitude for consultations on its own financial, social and cultural development, and points out that the establishment of the new scheme *per se* does not guarantee this.
85. **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 draft provisions in the Minerals Act that ensure the effective application of Art. 14 and 15 of ILO 169 outside of Finnmark County. The Ministry of Trade, Industry and Fisheries has appointed a group consisting of three experts whose mandate is to evaluate the Minerals Act in 2018.
86. **Mining.** 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 is 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. The Sámi Parliament is concerned that the Norwegian authorities will give permission for mining that will lead to the Sámi being involuntarily forced from their traditional industries, and thus be denied the use and harvesting of the sustainable resources in these areas. Both these cases are currently in the final stages of being dealt with by the Government.

87. **Consultations with affected Sámi interest groups.** Even though the Finnmark Estate (FeFo) is a private rights object, it is also intended to protect and manage collective Sámi rights, which the Sámi Parliament believes must take place through an open and a close dialogue with the Sámi Parliament, but also such that there are Sámi local rights of use that FeFo has been assigned to manage, so the obligation to conduct negotiations also applies to FeFo.
88. 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. Once again in 2018, the Sámi Parliament has 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.
89. 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.
90. **Legal aid.** 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.
91. The Ministry of Justice and Public Security decided to discontinue funding for the legal aid office in Karasjok in Indre Finnmark County as from 1 July 2015. The Ministry felt that the legal aid office did not satisfy the criteria for receiving subsidies. The Ministry found that the Sámi population of Finnmark County would not get poorer access to legal counsel or have to pay more for the legal counsel they receive, cf. the Act relating to free legal aid, which is subject to financial means testing. This assumes that today's legal firms and the broad geographical distribution of lawyers in Norway will be maintained. The Sámi Parliament is of the opinion that closing the legal aid office in Indre Finnmark County will have a bearing on Sámi legal aid challenges covered by international

conventions, including ICERD. The closure of the legal aid office makes it difficult for North Sámi-speaking residents of Indre Finnmark County to understand and make themselves understood in legal proceedings.

92. **Fisheries.** In 2012, the Norwegian Parliament adopted amendments to Act No. 37 of 6 June 2008 relating to the management of marine resources in the wild (the Marine Resources Act) and Act No. 15 of 26 March 1999 relating to the right to participate in fisheries and hunting (the Participation Act) to follow up the report on the right to fish in the sea off the coast of Finnmark County (NPR 2008: 5). The Participation Act establishes the right for fishermen to fish from vessels less than 11 metres long in Sámi territories, cf. §21, third subsection. It ensues from the Marine Resources Act that in connection with all regulation of fishing, significant emphasis shall be attached to Sámi use and its importance to the local Sámi community, cf. §11, sixth subsection. In addition, a special Fjord Fishing Board was established to help strengthen fjord fishing, cf. §8, litra b of the Marine Resources Act, and regulations are supposed to establish limits on the fjords, prohibiting fishing from vessels more than 15 metres long in order to protect these fisheries for the local fjord fishing fleet. The Sámi Parliament assumes there will be a follow-up process to establish these fishing rights by law.
93. Fishermen in open groups have far smaller quotas than similar vessels in closed groups. To boost opportunities to generate income for fishermen in open groups in the Sea Sámi areas, the State authorities decided in 2012 to earmark a separate coastal fishing quota of 3 000 metric tonnes of cod, which was assigned as an extra quota to the fishermen in open groups in Sámi areas so that those fishermen could also earn a living by practising their profession. To boost profitability in the closed group, the authorities recently proposed introducing limits on fishing from vessels less than 11 metres long. This initiative will have a strong impact on Sámi fishing rights and social conditions inasmuch as the number of vessels in the closed group is expected to be reduced by about one-third, which will in turn lead people to move away, leaving the population critically low in many coastal areas. The State has not studied or by other means rendered visible what the structural proposal for vessels of less than 11 metres in length will lead to for the fishing activities of the Sea Sámi communities along the fjords and off the coast.
94. On several occasions, the Sámi Parliament has got feedback from the Fjord Fishing Board stating that their work is being hampered or impeded due to insufficient financial parameters. This means that the Fjord Fishing Board is not in a position to make the studies that are needed or to do other work required to render visible the effects on the Sámi community of the authorities' various proposals for watercourse regulation and their impact on fishing and fish farming. The Sámi Parliament has addressed the case with the Ministry of Trade, Industry and Fisheries without seeing any significant improvement in the situation.
95. In 2016, the Norwegian Institute of Human Rights (NIM) published a report on the Sea Sámi's right to fish in the sea, pointing out that fishing constitutes a crucial part of the Sea Sámi culture, meaning that extensive regulations present a formidable challenge for the survival of Sea Sámi culture. NIM recommends further that the Sea Sámi's right to fish be established by law, since it is part of their cultural practices and based on their historical fishing customs. The Sámi Parliament notes that the Norwegian Institute of Human Rights' annual report for 2017 concludes that the

current regulations are not sufficient to safeguard the Sea Sámi's human rights. However, the recommendations have not been followed up by the Government.

### 3.9 The Committee's recommendation, point 38

96. NPR 2014: 8 *Interpreting in the public sector – a question of constitutional rights and equality* puts forward a bill relating to the government authorities' responsibility to use interpreters. The Ministry of Justice and Public Security is working on this bill.
97. The Sámi Parliament had a meeting with the Ministry in March 2017, at which agreement was reached about consulting on the bill before sending it out for a hearing. A hearing on the bill for a new Act related to Interpreting was expected in 2018. However, the legislative work has now been put on the back burner at the Ministry of Justice and Public Security. The public health service, the judicial system and the police all lack people with proficiency in Sámi and there is a great need for competent interpreters in Sámi languages. An Act related to Interpreting and an authorisation scheme for Sámi interpreters must be put into place soon so that these challenges can be resolved.
98. It is a particular problem for Sámi patients that there is no access to Sámi interpreters at the main hospitals that treat Sámi patients. Hammerfest Hospital currently has an interpreter on duty during the day, and offers distance interpreting on evenings and weekends. The Sámi Parliament is of the opinion this is something all hospitals in Sámi areas must have to ensure communication between patient and physician. At present, relatives are often called upon to serve as interpreters, and that is not at all advisable from the perspective of interpreting as a profession.

### 3.10 The Committee's other recommendations, point 44

99. **Consultations with organisations in civil society.** 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.
100. 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 therefore

maintains that the Act should provide grounds at some point for the Supreme Court to reassess of the Sámi's right to consultations to achieve free and informed consent, so that there is a legal clarification that leaves no doubt about the content and objective of consultations. Further, 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.