

REPORT

for the period ending 31 August 2008, in accordance with article 22 of the Convention of the International Labour Organisation, from the Government of Norway, on the measures taken to give effect to the provisions of the

**CONVENTION NO. 169 CONCERNING INDIGENOUS AND TRIBAL PEOPLES IN
INDEPENDENT COUNTRIES (1989)**

Ratification of which was registered on 19 June 1990.

1 Part I – General Policy

1.1 White paper No. 28 (2007–2008) *Sami Policy*

This spring, the Government presented a White Paper on Sami Policy (St.meld. No. 28 (2007–2008)). This is the fourth White Paper on this issue since 1993. The purpose is to present measures taken in order to protect and develop the Sami language, culture and civil society.

Recent years have been characterized by work on issues associated with rights, infrastructure and development of institutions in Sami society. The Government will continue this work, inter alia, through follow up of part II of the Report of the Sami Rights Commission, the draft of the Nordic Sami Convention and the Procedures for Consultations between the State Authorities and the Sami Parliament, and by initiating extensive legislative work to clarify the formal status of the Sami Parliament. In addition to this, the Government has chosen to place particular emphasis on deciding how Sami considerations are to be implemented in everyday policy. By this is meant the practical integration of Sami considerations in policy shaping and in measures in all areas of society and at all levels of administration. The provision of satisfactory and equivalent services to the Sami population requires that public agencies have knowledge of Sami matters within their own sectors. This knowledge is based on the need to strengthen Sami language and the information in the Sami language provided by public administration and services. The White Paper reflects the wish of the Government to draw greater attention to the practical expression of Sami policy objectives and established rights within the arrangements and provisions of the welfare state in such a way that Sami people can feel secure that their needs will be met.

The White Paper consists of five main parts. *Part 1* presents the principles of the Government's Sami policy, the national and international legal basis, Nordic and international cooperation as well as the Strategy of the High North. *Part 2*, The Diversity of Sami Society describes the various Sami language areas, adaptation of livelihoods and settlement patterns. Attention is also given to identity issues, discrimination, homosexuality and gender equality. In *part 3*, questions relating to the public sector are discussed. The Government raises the need for knowledge of Sami language and culture in the public sector. This includes the distribution of responsibility for Sami-related issues in the various administrative sectors. *Part 4* addresses the formal status and authority of the Sami Parliament. *Part 5* is divided into chapters dealing with specific issues such as health, children and adolescents, day care facilities for children, education and research, traditional knowledge, culture, church, voluntary work, media, language and resource exploitation and wealth creation.

1.2 Consultation and participation

According to ILO Convention No. 169, article 6, the Government shall consult the peoples concerned through appropriate procedures and in particular through their representative institutions whenever consideration is being given to legislative or administrative measures which may affect them directly.

The need to build a framework for contact between the Sami Parliament and the Government became evident when working on the Finnmark Act. (Reference is made to Norway's previous report on this matter.)

A working group was appointed in 2005 with the mandate to assess how consultations between the Sami people and the state authorities should be carried out. The group was composed of representatives from the Government and the Sami Parliament. The group delivered a report in 2005 concerning procedures for consultation. The group evaluated, inter alia, how consultations should best be carried out in order to meet the provisions of articles 6 and 7 of the ILO Convention.

In order to meet these provisions, the Government and the Sami Parliament reached agreement on the "Procedures for Consultations between the State Authorities and the Sami Parliament of 11 May 2005", in the following referred to as PCSSP (enclosure No. 1). The PCSSP was approved by the Sami Parliament on 1 June 2005 and laid down by Royal Decree on 1 July 2005.

The PCSSP has several objectives. First of all, the procedures are intended to contribute to the practical implementation of the State's obligations to consult indigenous peoples under international law. Secondly, agreement shall be sought between the State authorities and the Sami Parliament whenever consideration is being given to legislative and administrative measures that may directly affect Sami interests. The third objective is to facilitate the development of a partnership perspective between State authorities and the Sami Parliament that contributes to the strengthening of Sami culture and society. Finally, the intention is to develop a common understanding of the situation and of the developmental needs of Sami society.

The scope of the agreement is extensive. The consultation procedures laid down in the PCSSP apply to the Government and its ministries, directorates and other subordinate state agencies or activities. Furthermore, they apply in matters that may affect Sami interests directly. The substantive scope of the consultations may include various issues, such as legislation, regulations, specific or individual administrative decisions, guidelines, measures and decisions. The obligation to consult the Sami Parliament may include all material and immaterial forms of Sami culture, including music, theatre, literature, art, media, language, religion, cultural heritage, immaterial property rights and traditional knowledge, place names, health and social welfare, day care facilities for children, education, research, land ownership rights and rights to use lands, matters concerning land administration and competing land utilization, business development, reindeer husbandry, fisheries, agriculture, mineral exploration and extraction activities, wind power, hydroelectric power, sustainable development, preservation of cultural heritage, biodiversity and nature conservation. It is important to underline that the agreement applies in matters concerning the material basis for the Sami culture, including land administration, competing land utilization and land rights. The obligation to consult the Sami Parliament is applicable to traditional Sami areas. Matters which are of a general nature, and are assumed to affect the society as a whole, shall in principle not be subject to consultations.

Regular half-yearly meetings shall be held between the Minister responsible for Sami affairs and the President of the Sami Parliament. Other governmental ministers may attend these meetings when required. At the meetings, the situation and developmental needs of Sami society, issues of fundamental and principle importance and ongoing processes shall be discussed. Regular half-yearly meetings shall also be held at the administrative level. Among other things, information about relevant Sami policy matters shall be provided at these meetings.

The PCSSP also contains general provisions concerning the consultation procedures. The consultations shall be undertaken in good faith, with the objective of achieving agreement to the proposed measures. Furthermore, the state authorities shall as early as possible inform the Sami Parliament about the commencement of relevant matters that may directly affect the Sami, and identify those Sami interests and conditions that may be affected.

After the Sami Parliament has been informed on relevant matters, the Parliament shall notify the state authority as soon as possible as to whether or not further consultations are required. The Sami Parliament may also independently identify matters which in its view should be subject to consultation. In cases where the state authorities and the Sami Parliament agree that further consultations are to be held, they shall seek to agree on a plan for such consultations. Sufficient time shall be allocated to enable the parties to carry out genuine and effective consultations and political consideration of all relevant proposals.

The parties have agreed that consultations shall not be discontinued as long as the Sami Parliament and the state authorities consider it possible to achieve an agreement. When a matter is submitted for consideration to the Government, the ministerial submission document shall clearly inform other governmental ministries about the concluded agreement with the Sami Parliament and, if necessary, also include information about matters where agreement has not been reached. In governmental propositions and reports to the Storting (the Norwegian Parliament) on matters where the governmental position differs from that of the Sami Parliament, the view and positions of the Sami Parliament shall be reflected in the documents.

For further information about the PCSSP, reference is made to the enclosed document on Procedures for Consultations between the state authorities and the Sami Parliament.

In 2006, the Ministry of Labour and Social Inclusion published a guide on how the procedures in the PCSSP are to be practised. Each article in the agreement is explained, and there are practical examples of how consultations have been carried out in the past. The guide also outlines when a duty to consult the Sami Parliament and/or other affected Sami entities arises, and what this duty consists of. The guide has been evaluated by the Ministry of Labour and Social Inclusion, in cooperation with the other ministries, and a revised version will be distributed.

The following report will point out that several meetings have been held between the Sami Parliament and the state authorities concerning questions in need of consultation. The Ministry of Labour and Social Inclusion is usually represented at these meetings.

Other agreements based on the PCSSP

The PCSSP is a framework agreement. This means that it is possible for the state authorities and the Sami Parliament to conclude special agreements concerning specific areas.

In the period of 2005–2007, the Sami Parliament and the Ministry of the Environment consulted on questions related to use of natural resources within the Sami area. The use of natural resources is important in regard to Sami settlements, local industries and culture in general.

The purpose of these consultations has been to agree on guidelines for the work on nature conservation in Sami areas. On 30 January 2007, the parties reached an agreement. The guidelines are based on Act No. 63 of 19 June 1970 relating to nature conservation, circulars on rules of administrative procedures, the PCSSP and international law.

The aim of these guidelines is to make sure that Sami interests are taken into consideration in the process and planning of conservation. The guidelines state the purpose as ensuring that consultations in connection with all proposals pursuant to the Nature Conservation Act concerning nature conservation in Sami areas shall be conducted in good faith and with the objective of achieving agreement between the state and the Sami Parliament, Sami interest organizations and Sami right-holders.

At the moment, the Norwegian Water Resources and Energy Directorate and the Sami Parliament are consulting on special consultation routines, but an agreement has not yet been signed.

1.3 Elections

The Sami Parliament was established in 1989 in order to be a representative body for the Sami population of Norway.

Extensive work has been carried out in order to meet the need for greater proportionality of representation in the Sami Parliament. The voting provisions in the Sami Act (enclosure No. 2) were therefore revised in June 2008. The amendments are based on recommendations from an expert commission appointed by the Sami Parliament in agreement with the Government. Among other things, the amendments involve a reduction in the number of constituencies from thirteen to seven and changes in the distribution of seats.

The draft regulations concerning elections to the Sami Parliament were circulated for a public hearing this autumn. In the view of the Government, it is important that the Sami Parliament be heavily involved in developing election rules for the Sami Parliament.

1.4 Act relating to prohibition of discrimination on the basis of ethnicity, religion, etc. (The Anti-Discrimination Act)

The Anti-Discrimination Act was adopted by the Storting (the Norwegian Parliament) in June

2005. The Anti-Discrimination Act entered into force on 1 January 2006. The UN Convention on the Elimination of All Forms of Racial Discrimination (ICERD) has been implemented by incorporating it into Norwegian law through this Act. The Act complies with the requirements of the EU Council Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

The Act applies to all areas of society except family life and personal relationships. It prohibits discrimination based on ethnicity, national origin, descent, skin colour, language, religion or belief. The Act prohibits direct and indirect discrimination. It also prohibits harassment on the same grounds and instructions to discriminate or harass. The Act also prohibits reprisals against anyone who files or intends to file a complaint about violation of the Act. This protection also applies to witnesses. Furthermore, it is prohibited to be an accessory to discrimination.

Differential treatment that is necessary in order to achieve a legitimate objective that does not constitute a disproportionate intervention for the person or persons affected is not considered to be discrimination under the Act. Nor is positive special treatment that contributes to the achievement of the purpose of the Act considered to be discrimination. The Act prescribes that such special treatment shall cease when its purpose has been achieved.

There is a general rule on shared burden of proof in all civil cases pursuant to the Anti-Discrimination Act. This means that, where there are circumstances which give reason to believe that discrimination has occurred, such discrimination will be regarded as proved unless the person who committed the act substantiates that discrimination did not occur.

The Anti-Discrimination Act also provides for penalties involving fines or imprisonment for a term not exceeding three years for gross breaches of the prohibition against discrimination committed jointly by several persons. When assessing whether a contravention is gross, particular importance shall be attached to the degree of manifest fault, whether the contravention was racially motivated, whether it is in the nature of harassment, whether it constitutes an offence against the person or serious violation of a person's mental integrity, whether it is liable to create fear and whether it was committed against a person under the age of 18.

Also other means than fines and/or imprisonment are implemented in order to prevent discrimination. An obligation to make active effort and to report was introduced in the Anti-Discrimination Act as well as in the new Discrimination and Accessibility Act. The Discrimination and Accessibility Act entered into force in June 2008. A prohibition alone is not enough to achieve the legislative purposes of these two Acts. In addition, there is a need for targeted, active efforts to prevent discrimination and ensure equal opportunities. The new section is modelled on the obligation to make active efforts and to report provided in the Gender Equality Act.

The obligation to make active efforts imposes a duty on public authorities, public and private sector employers and employer/employee organizations to make active, targeted and

systematic efforts to promote the legislative purposes of the Acts. Private sector companies which regularly employ fewer than 50 employees are exempted from the obligation to make active efforts and to report. No such exemption exists in the Gender Equality Act.

The duty to report entails a requirement to report on the measures that have been carried out and are planned in the annual report or annual budget. As opposed to the Gender Equality Act, it will not be required that the composition of the workforce as regards ethnicity/religious background or functional ability be registered. In addition, the Ministry of Children and Equality has proposed that the duty to report be based on the Accounting Act and Local Government Act, as in the case of gender equality. The requirements will enter into force on 1 January 2009.

Traditionally, questions of homosexuality have been a taboo in Sami society and there are not much knowledge about the conditions for this group. The Ministry of Children and Equality has initiated work on a survey of the circumstances of life and living conditions of homosexual and lesbian Sami people. The survey will document and analyse questions related to cohabitation and sexuality in Sami society, and how this influences Sami homosexuals' and lesbians' potential for self-expression. The survey will also suggest measures to improve the living conditions of this group.

The Ombud and the Tribunal

The Ombud and the tribunal shall monitor and contribute to the implementation of the Anti-Discrimination Act. The Anti-Discrimination Ombud Act prescribes rules regarding the organisation and activity of the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal.

The Ombud is an independent public administrative agency administratively subordinate to the King and the Ministry. The Ombud shall work to promote genuine equality irrespective of gender, ethnicity, national origin, descent, skin colour, language, religion or belief in all areas of society. In the sphere of working life, the Ombud shall also work to promote equal treatment irrespective of political views, membership of an employee organisation, sexual orientation, disability or age. The Ombud shall also work to promote equal treatment irrespective of homosexual orientation in the housing sector.

The Equality and Anti-Discrimination Ombud shall also have competence in Sami issues. In order to ensure that the Ombud has permanent collaboration with the Sami community on matters of equality and diversity, the Government in co-operation with the Sami Parliament will arrange for the establishment of a post with a basis in the Sami community to work on such matters. Such work shall be carried out in co-operation with the Sami Parliament.

The Tribunal shall deal with cases that are brought before it pursuant to the Ombud's administrative decisions and/or cases that are brought up before the Ombud. But the Tribunal may not annul or alter administrative decisions made by other public administrative agencies. Administrative decisions made by the Tribunal are not binding on the King or ministries.

1.5 Crime and punishment

The Ministry of Justice and the Police passed a White Paper this September on crime and punishment (White Paper No. 37 (2007–2008)). Among other issues, the paper addresses the importance of knowledge in Sami language and culture in Norwegian prisons.

Norwegian legislation does not permit documentation of the ethnicity of offenders in criminal records. The criminal justice system has therefore no statistics on the number of Sami persons convicted of criminal offences. However, article 110 a of the Norwegian Constitution and the Sami Act, together with international law, provide a right for Sami offenders to use their native tongue.

The criminal justice system has prisons in both Troms and Finnmark Counties, where inmates can use their native tongue among other Sami inmates and relatives. The right to use their mother tongue also applies when serving community sentences and programs aimed at rehabilitating offenders, such as treatment for drug abuse. Offenders also have the right to use Sami language in dealings with the criminal justice system. The criminal justice system therefore needs to have employees who are proficient in the Sami language and have knowledge of Sami culture. In some cases, interpreters have been used, but the Government is not satisfied with this solution. The Government holds the view that correct communication is important and that interpreters are not capable of safeguarding this public interest in a satisfactory manner.

In order to meet the above-mentioned needs, an education programme has been established to provide prison officers with knowledge of Sami language and culture. Owing to recruiting difficulties, the education programme has been made available for distance learning and is available via the Internet. In May 2008, about 15 students attended the education programme in cooperation with prisons in Tromsø and Vadsø.

Pursuant to article 8 of the ILO Convention, due regard shall be paid to Sami customs when applying national laws and regulations. The Government will initiate a study of the conditions of Sami inmates in Norwegian prisons. The purpose is to identify other matters that must be addressed in the future criminal justice system. The study will also investigate whether there is a need for a specially adapted Sami criminal justice system, with a thorough knowledge of Sami language and culture. The study will also give an assessment of the need for a special handbook establishing guidelines to assist the criminal justice system. It will be natural to cooperate with the Sami Parliament and other Sami institutions in this study.

1.6 Indre Finnmark District Court

The Indre Finnmark District Court was established with effect from 1 January 2004 as a separate Sami court. The Indre Finnmark District Court is at the same time an ordinary court that is to serve all of the inhabitants of the affected municipalities equally in accordance with current regulations. The court is bilingual, and judges and officials have been appointed who

are proficient in both Sami and Norwegian. The judicial district includes the municipalities in the administrative area for the Sami language in Finnmark, and is located in Tana.

In many cases, Sami customary law and interpretation of the law will be a relevant source of law. This applies, for example, to the determination of rights of use, interpretation of agreements and determination of the content of obligations in accordance with contract law. Sami culture, commercial activities and land use are associated with a markedly oral tradition, and Sami practice is only to a small extent laid down in written documentation. This creates particular challenges for the courts when assessing evidence in the form of documents and testimony.

1.7 East Sami Museum

The planning of the museum began in autumn 2004. The East Sami Museum will be a major centre for the revitalization of East Sami and Skoltesami language and culture, and for cultural exchange and cross-border cooperation with Skoltesami in Finland and Russia. The museum will open in 2009.

1.8 Sami People's Day established as an official flag day

Sami People's Day, 6 February, was established as an official flag day from 2004. The Government has called upon all central government and public agencies to raise the Sami flag together with the Norwegian flag on this day.

2 Part II – Land

2.1 Act relating to legal relations and management of land and natural resources in the county of Finnmark (The Finnmark Act)

The Finnmark Act was adopted by the Storting in June 2005. The Act came into force on 1 July 2006. A translation of the Act is attached as enclosure No. 3. The work on the Finnmark Act is based on the need to clarify the state's relationship to the Sami people and the need to recognize the Sami people's right to use and exploit natural resources in accordance with their culture. This work has been in progress since 1980, when the Government appointed the Sami Rights Committee. Over the years, this Committee has presented several comprehensive reports on the legal status of the Sami people in national and international law, on the natural resource base for Sami culture and on Sami land and water rights in Finnmark. These reports have laid an important foundation for the Government's work on the Finnmark Act.

Consultations with the Sami Parliament

The Government presented its draft of the Finnmark Act to the Storting on 4 April 2003. In the two years during which the Storting's Standing Committee on Justice worked on drafting the statute, the Committee held open hearings in June 2003 and visited Finnmark in the

autumn of 2003. The Committee also held four formal consultations with the Sami Parliament and the Finnmark County Council to discuss the Government's Bill, and the committee received several rounds of written comments from these two bodies. Never before has there been so much transparency in connection with the preparation of a Bill by one of the Storting's Standing Committees. Furthermore, the final Bill prepared by the Standing Committee on Justice was sent to the Sami Parliament and the Finnmark County Council for comment. A unanimous Sami Parliament and a large majority of the Finnmark County Council endorsed the Bill prepared by the Standing Committee on Justice, which was then finally adopted by the Storting. In the Government's opinion, the process mentioned is a clear indication that the Finnmark Act does not entail any limitation of the control and decision-making powers of the Sami population over the management of land and natural resources in Finnmark County.

The Finnmark Act in accordance with the Convention

Section 1 of the Finnmark Act establishes the purpose of the Act, which is to create the necessary conditions to ensure that land and resources in Finnmark County are managed in a balanced and ecologically sustainable way in the best interests of the population of the county, and particularly as a basis for Sami culture, reindeer husbandry, the use of uncultivated land, the exercise of commercial activities and social life.

Under section 3 of the Act, the statute applies with such limitations as follow from ILO Convention No. 169. It is also to be applied in accordance with the rules of international law regarding indigenous peoples and minorities and the provisions of treaties with foreign states concerning fishing in boundary watercourses.

Before decisions are made regarding a change in the use of uncultivated land, both public authorities and the Finnmark Estate (see below) must assess the significance of the change for Sami interests. The Sami Parliament may issue guidelines on which this assessment must be based, but the guidelines are not binding for the weighing of Sami and other interests. "Changes in the use of uncultivated land" mean measures that will have noticeable physical and practical consequences for the utilization of uncultivated land areas. Typical examples will be the construction of houses and cabins, road construction, the start-up of mining operations and the construction of windmill parks.

The Finnmark Act establishes that the Sami people have acquired rights to land in Finnmark through long-standing use of land and water (section 5). The Act does not interfere with any collective or individual rights that the Sami or other people have acquired through custom or immemorial usage. This also applies to the rights acquired by persons engaged in reindeer husbandry based on such grounds or pursuant to the Reindeer Husbandry Act. Other inhabitants of Finnmark may also have acquired such rights. A commission has been established to survey land rights in Finnmark. A special tribunal that will rule on disputes regarding such rights is also to be established. Chapter 5 in the Act concerns the two new bodies. (See below for more information on the Commission and its work.)

Section 5 was adopted in order to ensure loyal compliance with the obligations under international law to recognize the rights of indigenous peoples in the areas that they have

traditionally inhabited and used, in particular article 14 of the ILO Convention. However, it must be emphasized that the Finnmark Act is ethnically neutral in the sense that the legal position of an individual is not dependent on him or her being Sami, Norwegian, Kven, or a member of another population group.

The Finnmark Estate

Around 95 per cent of the land in Finnmark was earlier managed by Statskog SF, a state-owned enterprise. When the Finnmark Act came into force, this area, which totals almost 45,000 km², was placed under local ownership through Finnmarkseiendommen/Finnmárkkuopmodat (the Finnmark Estate). The Finnmark Estate is a private landowner which has the same relationship to the public authorities as other landowners. The Finnmark Estate is headed by a board consisting of six persons: three board members appointed by the Sami Parliament and three by the Finnmark County Council. All the board members must be resident in Finnmark. In the vast majority of cases, board decisions are made by an ordinary majority vote. If the vote is tied 3 – 3, the chairman of the board has the casting vote. The board chooses its own chairman and deputy chairman. If none of the members receives a majority vote, the decision as to which of the six members are to be chairman and deputy chairman is made by the Finnmark County Council in odd-numbered years and the Sami Parliament in even-numbered years.

In cases relating to a change in the use of uncultivated land, special voting rules also apply to the board of the Finnmark Estate (section 10). If a vote culminates in a 3 – 3 tie, the vote of the chairman of the board is not sufficient to enable a decision to be made if those who cast a negative vote cite the protection of Sami interests as justification of their stance. In such cases, four votes are required to be able to adopt a decision to change the use of uncultivated land. And even if four members vote in favour of the decision, the minority may demand that the Sami Parliament approve the decision. Only if five members cast a positive vote will the decision of the board be final. Provisions have also been made to protect the interests of the majority in such cases. If the minority demands that the case be brought before the Sami Parliament, and the latter does not approve the majority's decision or does not deal with the case within a reasonable period of time, a collective majority of the board members may demand that the Finnmark Estate submit the case to the King. The King then decides with final effect whether the decision of the board majority is to be approved. In this way, a balance has been created between the rights of the majority and those of the minority, while ensuring that Sami interests are safeguarded in cases that may have great significance for their interests.

In instances where a case concerning a change in the use of uncultivated land *only* has significance for areas in either inner or outer Finnmark, special rules also apply. Such cases must be dealt with at once in accordance with the rules for voting on cases regarding a change in the use of uncultivated land as described above. If only three board members vote in favour of the change, three members may demand that the case be dealt with one more time. The second time only five board members take part in the voting. If the case only concerns areas in inner Finnmark, one of the members appointed by the County Council does not participate. Conversely, if the case only concerns areas in outer Finnmark, one of the members appointed

by the Sami Parliament does not participate. The same minority and majority guarantees as mentioned above also apply in such cases.

All the inhabitants of Finnmark are entitled to exploit the natural resources on the land of the Finnmark Estate, through activities such as hunting, fishing or cloudberry picking (Chapter 3). The extent of each person's right depends on how closely linked he or she is to the resource. For instance, persons have a greater right to exploit natural resources in the municipality in which they are resident. The Act gives the local population, without treating inhabitants differently on the basis of ethnicity, greater rights to exploit renewable resources in the county than is the case at present. At the same time, it assures those residing outside the county the same right to exploit natural resources as they have traditionally held on state land in Finnmark, i.e. to hunt and trap small game, fish and pick cloudberry for their own household.

The Finnmark Act contains no provisions on sea fishing. In June 2005, the Storting therefore adopted a resolution requesting the Government to carry out a study as soon as possible of the rights of Sami and other people to fish in the sea off the Finnmark coast, including a minimum quota for boats under ten meters in length, and to present a follow-up case on this issue to the Storting. (See below for more information on this work.)

The Finnmark Commission

In the autumn of 2007 and winter of 2008 the Ministry of Justice held consultations with the Sami Parliament and the County Council of Finnmark regarding the composition of the Finnmark Commission. The Commission was appointed by Royal Decree of 14 March 2008. Chapter 5 of the Finnmark Act ("Survey and recognition of existing rights") entered into force on the same day.

The Finnmark Commission will investigate the rights to the land that the Finnmark Estate has taken over from Statskog SF. The Commission shall not assign rights that do not already exist. The investigation shall be conducted on the basis of current national law as this has been developed through long legal usage.

The Commission is unlikely to find that individual rights of ownership have been acquired to any extent. It is more probable that various forms of rights of use exist, for example the right to use an area for reindeer husbandry, limited felling of trees, cutting of peat or the like.

Before the Finnmark Commission begins its investigation of an area, it shall make an announcement requesting potential right-holders to make themselves known to the Commission. The announcement shall be made in local media and in other appropriate ways. The Commission will issue more detailed information concerning the procedure for notification of claims.

The purpose of the Commission is to obtain a more rapid and complete clarification of rights in Finnmark than could be achieved through the ordinary courts, whereby each individual claimant would have had to initiate legal proceedings in order to put forward his/her claim.

This is often costly, and may have resulted in only those persons who could afford litigation obtaining clarification of their acquired rights to land in Finnmark.

The Finnmark Commission is not a court, and is therefore not dependent on the parties initiating legal action in order to be able to investigate an area. The Commission is itself responsible for investigating rights in respect of the land of the Finnmark Estate. The Commission also holds responsibility for ensuring that the matter is sufficiently elucidated, as opposed to ordinary legal proceedings, where it is the parties that are responsible for providing the court with all necessary information.

The Commission may appoint representatives for various interest groups that may monitor the Commission's work. In this way, it is ensured that the interests of the parties are safeguarded without the need for each party to be represented by his own lawyer or the like. The costs of the parties' representatives will be covered by the state. The arrangement constitutes a form of legal aid provided by the state.

When the Commission has completed its investigation of an area, it will issue a report indicating who, in the view of the Commission, owns the land and whether there are others who have rights of use there. The Finnmark Estate is obliged to issue a written statement concerning its views on the Commission's report.

The Finnmark Estate shall also arrange for official registration of the identified rights that it agrees exist. If the parties do not agree that the Finnmark Commission's conclusion is correct, they may request the Commission to mediate between them.

If there is still disagreement concerning rights in areas investigated by the Finnmark Commission, the parties may bring the case before the Uncultivated Land Tribunal for Finnmark. This is a special court that passes legally binding judgments. It is up to the private parties to request that the case shall be reviewed by the Tribunal. The Tribunal will only consider disputes concerning rights to the land of the Finnmark Estate. Judgments of the Uncultivated Land Tribunal may be appealed. In such cases, appeals are made directly to the Supreme Court.

The Uncultivated Land Tribunal for Finnmark

According to section 36 of the Finnmark Act, a special court (the Uncultivated Land Tribunal for Finnmark) shall be established, which shall consider disputes concerning rights that arise after the Finnmark Commission has investigated a field.

The members of the Uncultivated Land Tribunals shall be appointed by the King. The Uncultivated Land Tribunal shall consist of a chairman, a vice-chairman, three permanent members and two deputy members. The chairman, the vice-chairman and one of the other members shall fulfil the requirements of the Courts of Justice Act regarding Supreme Court judges. The same applies to one of the deputy members, who shall function as a deputy for these three members.

Matters pertaining to the jurisdiction of the Uncultivated Land Tribunal, may not be brought before the ordinary courts or the Land Consolidation Court unless the Uncultivated Land Tribunal has rejected a case pursuant to section 40 or the limit for instituting legal proceedings pursuant to section 38, first paragraph, has expired, and the Uncultivated Land Tribunal shall not consider the case pursuant to section 38, second paragraph.

However, the Uncultivated Land Tribunal for Finnmark has not yet been appointed, since no disputes can be brought before the court before the Commission has issued its first report on existing rights. It will be established in due course.

There are several characteristic aspects of this tribunal. First of all, according to section 43, first paragraph, the state shall cover the costs of the Uncultivated Land Tribunal's own activities. The state shall also cover the necessary costs of the parties in cases concerning claims for rights opposed by the Finnmark Estate. Secondly, decisions of the Uncultivated Land Tribunal may be appealed to the Supreme Court. Thirdly, the Uncultivated Land Tribunal shall of its own motion obtain the report of the Finnmark Commission and use this as a basis for its consideration of the case. However, the parties are responsible for giving an account of the actual circumstances and evidence significant for deciding the case.

For a more detailed description of the Finnmark Act, reference is made to the enclosed translation of the Act and of Chapters 1 and 7 of Proposition No. 53 (2002–2003) to the Storting. Reference is also made to Norway's fifth periodic report to the UN Human Rights Committee under the CCPR (submitted ultimo November 2004), paragraphs 238-266 (enclosure No. 4).

2.2 The Sami Rights Committee South of Finnmark County

The Sami Rights Committee was reappointed by Royal Decree of 1 June 2001 according to a recommendation by the Ministry of Justice and the Police.

The Committee's task was to report in general on the questions relating to the Sami population's legal position as regards the right to and disposition and use of land and water in traditional Sami areas from and including the county of Troms and southwards. In practice, this includes the Troms, Nordland and Nord-Trøndelag counties, parts of the Fosen peninsula and the inner areas along the Swedish border in Sør-Trøndelag County, the North-Eastern parts of Hedmark County and some areas of Trollheimen and its surroundings.

According to the mandate, the Committee was partly to give an account of historic relationships and of the current law as regards the use of land and water in these areas and partly a reasoned assessment of desired changes to the prevailing law.

The main report of the Sami Rights Committee was presented in December 2006. It comprises an introductory part, a part with descriptive presentation of the prevailing law in some areas of importance for the Committee's draft legislation, and the Committee's considerations and draft legislation. A summary of the report is enclosed (see enclosure No. 5).

The report has been circulated for a broad round of consultation with a deadline of 15 February 2009.

2.3 The Reindeer Husbandry Act

A new Reindeer Husbandry Act was passed on 15 June 2007. Implementation of the new Act has been a major task of vital importance.

The new Act is based upon recommendations from the selected committee for a new Reindeer Husbandry Act, which delivered its recommendations in 2001 (NOU 2001: 35). The recommendations were then circulated for public consultation, and consultations were held both with the Sami Parliament and the Sami Reindeer Herder's Association of Norway. The Norwegian Parliament then passed the Act in June 2007, and it entered into force on 1 July 2007.

Special attention should be drawn to the preamble of the Act (article 1) and its clause relating to international law (article 3).

Principles in the new Act

In the preamble, the following is said about the Sami reindeer husbandry industry:

“In the Sami reindeer husbandry area, the Act shall provide ecologically, economically and culturally sustainable reindeer husbandry based upon the Sami culture, tradition and common law to the benefit of the reindeer husbandry actors themselves and the society in general. To achieve these objectives, the act shall provide the basis for a sustainable organization and management of the reindeer husbandry industry. The latter shall thus be preserved as an important basis for Sami culture and society.

The Act shall contribute to protection of the Sami reindeer husbandry area as the most important resource base for reindeer husbandry. The responsibility to protect the area rests with both the holders of reindeer husbandry rights, other right-holders and the authorities.

[...]

The act shall safeguard animal welfare for domesticated reindeer both within and outside the Sami reindeer husbandry area.”

In White Paper No. 25 (2006–2007), the following has been emphasized in relation to the above-mentioned preamble:

“The law shall have its basis in Sami culture, tradition and common law. As a genuine Sami industry and way of life, it is important to emphasize that the laying down of this legal framework must be deeply rooted in reindeer husbandry and its fundamental manifestations.

The concept of sustainability is hereby understood as the prerequisite for a vital and vigorous reindeer husbandry industry over time. This relates above all to ecological, economical and cultural factors. There are also other factors which may be relevant in this connection, such as gender equality, belief in the future and safeguarding of future recruitment to the industry. In addition to this, safeguarding of the reindeer husbandry area (land use management) will be of fundamental importance, as is further described below. And finally, good animal welfare is also an important aspect.

Providing for sustainable reindeer husbandry should benefit the society as a whole. Reindeer husbandry is part of Norwegian society. Thus, a sustainable Sami reindeer husbandry industry would benefit society in general, among other things, as a consequence of good use of resources in mountain regions and outlying field areas, thereby contributing to a positive diversity. At the same time, society in general constitutes an important part of the general external conditions for the reindeer husbandry industry. This implies that the reindeer husbandry industry must be sensitive to the interests of society in general. Similarly, the latter must be conscious of and show the necessary respect for the special needs of the reindeer husbandry industry.

The Act should also provide for an appropriate organization and management to achieve the overall objectives. This involves the provision of a well functioning public management capable of handling the varied and complex problems in reindeer husbandry in a satisfactory manner.

The second paragraph of the preamble deals with the protection of the reindeer husbandry areas, which are increasingly put under pressure. Developing a general land management policy for reindeer husbandry is the biggest challenge so far for the safeguarding of sustainable reindeer husbandry in the long term perspective. If the reindeer husbandry industry no longer has access to satisfactory seasonal grazing land, the traditional nomadic reindeer husbandry will gradually disappear.

The responsibility for safeguarding these areas lies both within the reindeer husbandry industry itself, other right-holders and the authorities. The Ministry considers this to bind the Norwegian state, and further, that state authorities through laws, regulations and directives may provide for the safeguarding of the interests of the Sami reindeer husbandry industry also by other actors, including municipal and regional authorities.”

The Reindeer Husbandry Act in accordance with international law

The relation to international law is dealt with in article 3, with the following wording:

“The law shall be applied in accordance with the rules of international law concerning indigenous peoples and minorities.”

During the consultation process, both the Sami Parliament and the Sami Reindeer Herder’s Association of Norway asked that the new Reindeer Husbandry Act should include wording identical to that of the Finnmark Act, stating that the Act applies *with the limitations* that follow from ILO Convention No. 169. The following has been noted in the White Paper in relation to the above-mentioned demand regarding international law and in particular ILO-169:

“The Ministry has considered this proposal. We have reached the conclusion that the proposed wording should not be included in the Reindeer Husbandry Act as it may question the scope of the act. Reindeer husbandry regulations and the protection of these are safely embedded in Finnmark. Thus, it was the need for clarification in relation to other legal relations which led to this particular highlighting of ILO Convention No. 169 in the Finnmark Act. The legal protection of reindeer husbandry is based upon both national law and relevant parts of international law, and is applicable for the entire Sami reindeer husbandry area in Norway. This legal protection, and in particular the protection of the reindeer husbandry areas, is not weakened by the fact that the Act does not refer to the international law as a whole. The Sami Parliament has stated that the legal protection offered reindeer husbandry by international law will be undermined if this link to international law is not put into the Reindeer Husbandry Act in the same way as in the Finnmark Act. The Ministry wishes to emphasize that this is not the case. The legal protection enjoyed by the reindeer husbandry industry will not, and may not, be set aside by the Reindeer Husbandry Act. National law will be in accordance with this legal protection. Thus, this implies that the new law must be applied in accordance with international law, including ILO Convention No. 169.”

The new Act is based upon internal self-governance within the industry, something which is demonstrated in several ways. One central element of the Act is the preparation of rules concerning land use for the different reindeer grazing land districts, including regulations concerning grazing land use and number of reindeer. These rules form the central framework within each district.

Norwegian state authorities carry the main responsibility for a sustainable reindeer husbandry industry. This responsibility is mainly safeguarded through consecutive approval of decisions made by the industry itself, notably the land use rules. National authorities may, however, issue orders and carry out sanctions against illegal conditions in the name of public interest.

The new Act represents a good tool to safeguard the basis for a sustainable Sami reindeer husbandry industry in the future, based upon Sami culture, tradition and common law, as well as national and international commitments in relation to indigenous peoples and minorities.

2.4 The Planning and Building Act

The Ministry of Local Government and Regional Development is responsible for the building part of the Planning and Building Act. A new parliamentary Bill (Ot.prp. No. 45 (2007–2008)) was proposed in spring 2008 because the Planning and Building Act has undergone a thorough review over the last few years.

The main focus has been the structure of the Act itself, ensuring a more user-friendly system and securing the process of law. Furthermore, the new proposed Act stresses the importance of responsibility and control as a means to improving the quality of newly constructed buildings. As such, the new Act contains no amendments from the existing Act affecting the application of the ILO Convention.

The Planning part of the above-mentioned Act has, however, some significant amendments. In article 5-4, the Sami Parliament is empowered to raise objections in planning matters of importance for Sami culture and economic life. In article 3-1, it is emphasized that it is also a

planning matter to secure the natural resources as a basis for Sami culture, trade and economic and social life.

2.5 The Mining Act of Mining Claimable Minerals

In order to fulfil the obligations under article 15 of ILO Convention No. 169, the following amendments have been adopted to Act No. 70 of 30 June 1972 relating to mining, which covers claimable minerals:

In chapter 2, a new section 7 a reads as follows:

“Special provisions concerning preliminary examination of minerals in Finnmark

In connection with preliminary examination of minerals in the county of Finnmark, a person wishing to conduct such preliminary examination of minerals shall not later than one week prior to the commencement of such preliminary examination provided written notification to the Sami Parliament, the landowner and the appropriate area and district boards for reindeer husbandry. If the person wishing to conduct such preliminary examination intends to make an impact on the land, the location of such impact shall be indicated.”

In chapter 3, a new section 22 a reads as follows:

“Special provisions concerning licensed prospecting in Finnmark

Applications for licensed prospecting in the county of Finnmark may be rejected if general considerations contraindicate granting of the application. When considering such application, significant emphasis shall be placed on due consideration of Sami culture, reindeer husbandry, commercial activity and social life. If the application is granted, conditions may be stipulated in order to safeguard such considerations.

When considering the application the Commissioner of Mines shall give the Landowner, the Sami Parliament, the County Governor, the county authority, the municipality and the appropriate area and district boards for reindeer husbandry an opportunity to comment.

If the Sami Parliament or Finnmarkseiendommen as landowner opposes granting of the application, the application shall be decided by the Ministry.

If the Ministry grants the application in cases mentioned in the third paragraph, an appeal to the King by the Sami Parliament or by Finnmarkseiendommen as landowner will have suspensive effect.”

In chapter 4, a new section 39 b reads as follows:

“Special provisions concerning patenting of claims in Finnmark

In connection with applications for patenting of claims in the county of Finnmark, the provisions of section 22a shall apply correspondingly. In cases mentioned in section 22a, third paragraph, the Ministry shall decide whether patenting of claim proceedings shall be held before or after the Ministry considers the application.”

Section 42, first paragraph, new second sentence, reads as follows:

“In the case of mines on Finnmarkseiendommen’s land, the King may by regulations stipulate a larger fee.”

The Directorate of Mining handles mining applications in accordance with the new provisions.

Consultations with the Sami Parliament

Consultations concerning the Mineral Act have taken place between the Government, the Sami Parliament and the Sami Reindeer Herder’s Association of Norway. The consultations were conducted in accordance with the Procedures for Consultations (PCSSP) between the state authorities and the Sami Parliament, thus the consultations have been conducted in good faith, with the objective of achieving agreement to the proposed measures. However, an agreement could not be reached. Consultations on the topic have therefore been concluded. The different views of the parties will be reflected in the Proposition to the Storting.

2.6 Act relating to Wild Marine Resources

An Act relating to Wild Marine Resources was adopted by the Parliament in spring 2008. The Act will replace the Sea-Water Fisheries Act of 1983.

The objective of the new Act is to ensure a sustainable and socioeconomically profitable management of wild marine resources and the corresponding genetic material, as well as to contribute to employment and settlement in coastal communities. It contains several important amendments to the existing Sea-Water Fisheries Act.

Some of the main objectives of the management of wild marine resources are laid down in section 7 of the new Act. One of these main objectives is that management measures shall contribute towards sustaining the Sami culture. This represents a strengthening of this objective in relation to the Sea-Water Fisheries Act.

In contrast to the existing Sea-Water Fisheries Act, it is stated that the new Act will apply to all wild marine resources. The Sea-Water Fisheries Act has mainly been applied to resources exploited by traditional fisheries. Furthermore, the new Act will apply to both harvesting and other kinds of exploitation of the resources covered by the Act.

The new Act authorizes regulation also of other activities than the actual harvesting. Among other things, it lays down rules relating to bio-prospecting.

The new Act states that wild marine resources belong to the Norwegian Community. This does not establish state ownership in legal terms, but is a clear expression of the state’s responsibility and right to manage the resources to the best of the Community. The travaux préparatoires to the Act state that the Norwegian Community consists of the Norwegian people, the Sami people and all other inhabitants of Norway.

When preparing the Act relating to wild marine resources, the Government found that it would not be appropriate to discuss international law and Norway’s obligations to indigenous

peoples, since the Committee on Coastal Fisheries would submit a thorough examination of these issues.

It was therefore clearly stated that, when the report from the expert committee was delivered, it would be thoroughly scrutinized, and a Bill from the Government would then be submitted to the Storting.

As a consequence, the Government clearly stated in the travaux préparatoires that, as regards international law, the new Act would provide a temporary measure, and that possible amendment to this Act or other fisheries-related Acts would be considered in the process of preparing a proposition to the Parliament on the above-mentioned matter.

Consultations with the Sami Parliament

Three rounds of consultations were carried out with the Sami Parliament before the Act was submitted to the Storting. The consultations were carried out in accordance with the Procedures for Consultations between state authorities and the Sami Parliament (PCSSP).

At the request of the Sami Parliament, the first two rounds of consultations were carried out at an administrative level, while the third consultation was held at a political level. Agreed minutes were kept of all three consultations, in accordance with the procedures.

The consultations, although an overall agreement was not achieved, were carried out in good faith. The rounds of consultations are reflected in the travaux préparatoires to the new Act. Comments from the Sami Parliament on the proposed Act and on reasons why an agreement was not achieved are also reflected in the travaux préparatoires.

2.7 The Committee on Coastal Fisheries off Finnmark

When adopting the Finnmark Act, the Storting also requested the Government to prepare a report on Sami and other people's rights to fish in the sea off the county of Finnmark and to submit a proposition on this matter to the Storting.

An expert committee was appointed by Royal Decree on 30 June 2006. The committee was headed by the former Chief Justice of the Supreme Court, Dr. Carsten Smith. The Committee delivered its report to the Minister of Fisheries and Coastal Affairs on 18 February 2008.

The Committee's report has been circulated for a broad round of hearing with a deadline of 1 December 2008. The final proposition to the Storting will also take into consideration comments received in connection with this consultation.

The Committee has summarized its proposals in 12 main points. The Committee's main points are reproduced in the Sami Parliament's report to ILO in the chapter "The report from the Coastal Fisheries Committee". Reference is made to the Sami Parliament's supplementary report for these main points.

2.8 Petroleum and Energy

The Ministry of Petroleum and Energy and its subordinate agency the Norwegian Water Resources and Energy Directorate will on a regular basis handle matters requiring consultations with the Sami Parliament. Consultations are normally related to the licensing process of hydro power plants, wind power plants or power lines conflicting with Sami interests/areas, but can also be relevant for new petroleum projects.

In the relevant period the Ministry has consulted the Sami Parliament once concerning the development of a new hydro power plant. The consultation was related to a potential conflict between a new water basin and a reindeer path, used for moving reindeer herds. The consultations are not yet finalized.

The Ministry participated at an administrative consultation meeting between the Sami Parliament and relevant ministries in November 2006, where the Ministry informed the Sami Parliament about plans and procedures concerning two new petroleum projects, “Snøhvit” and “Goliat”.

The Norwegian Water Resources and Energy Directorate and the Sami Parliament are now consulting on a common agreement for consultation routines. The agreement is expected to be approved in the Sami Parliament during autumn 2008.

3 Part III – Recruitment and Conditions of Employment

The Norwegian Labour and Welfare Service is undergoing major changes during the period 2006–2010. The reform, called the NAV reform, gathers the former National Insurance Administration and the former Public Employment Services into a single agency. The NAV reform also includes a new interaction between the state services and the municipal social welfare system. These services will now be co-located at NAV offices in all municipalities. The NAV office is based on an equal partnership between the state and local authorities. The office will offer one door for all NAV services. The Ministry of Labour and Social Inclusion has instructed that, on the establishment of local NAV offices in the regions with Sami population, particular attention is to be paid to the need for administrative knowledge of Sami culture and language. In order to better attend to the responsibilities of the Employment and Welfare Service concerning Sami culture and language, administrative resources in the local offices within the Sami regions in Finnmark have been strengthened.

In order to ensure that the Sami people have full access to important rights within the National Insurance Scheme in Norway, administrative steps have been taken to enhance the publication of information concerning welfare benefits in the Sami language. The Employment and Welfare Service is responsible for the translation and publication of important statutes and regulations within its area of responsibility and, in the Letter of Allotment, is encouraged to ensure that information in greatest demand is also available in the Sami language on its web pages.

4 Part IV – Vocational training, handicrafts and rural industries

One element that characterizes indigenous peoples is the link between the indigenous peoples and their traditional land areas. In former ILO Reports, the Government has underlined that it

is essential for sustaining Sami culture that the Sami people is able to retain its form of affiliation with the relevant land areas. The Government and the Sami Parliament has from 2008 implemented a programme on generating values in Sami districts, where people combine different sources of livelihood as part of the provisions safeguarding Sami language, culture and community life.

The Government and the Sami Parliament have held consultations concerning the programme. The Government has acknowledged that the Sami Parliament must have an important role in the programme. The parties shall in cooperation develop the content of the programme as well as the procedures for administering the programme.

In order to foster Sami culture and way of life, the main goal of the programme is to promote the way of living combining different modes of livelihood that has traditionally been prevalent in the northern rural areas. One important goal is to promote the development of tourism and small-scale entrepreneurship rooted in and based on local Sami culture.

The programme is thus intended to help boost the development of business and industry in Sami areas in order to promote and support Sami culture and way of life by producing and offering to the public products and services that are of importance to, or are related to, Sami culture.

The programme is to promote entrepreneurships, newly-founded and small and medium-sized enterprises that seek to grow. One important goal is to link customer enterprises to know-how and to help in building networks for innovation projects. As part of the programme, the Sami Parliament will provide funding in close cooperation with other agencies working in rural areas of Norway.

The possibility of developing tourism as a part of a rural combination of livelihood is being introduced as part of the programme. The Government and the Sami Parliament agree that a development of tourism in Sami areas must be on Sami terms, and that this must be done in close cooperation with the Sami Parliament.

The Government focuses on protecting Sami people's traditional knowledge as this is understood in article 8 j in the United Nation's Convention on Biological Diversity. This knowledge refers to the long-standing traditions and practices of local communities and indigenous peoples. It is crucial in fulfilling Norway's obligations towards the Sami people as expressed in the Sami Act and the Norwegian Constitution.

The Sami University College has in 2008 started a pilot project on mapping, storage and use of Sami traditional knowledge, as agreed between the Government and the Sami Parliament. The Sami University College has also organized seminars on Traditional Knowledge. It also cooperates with the International Centre for Reindeer husbandry.

The Sami Parliament has a representative in the Norwegian delegation attending the Conference of Parties and the Working Groups on ABS (Access and Benefit-sharing) and article 8 j.

5 Part V – Social Security and Health

5.1 Health Services

Pursuant to article 25 of the ILO Convention, the Government shall ensure that adequate health services are made available to the peoples concerned.

In Norway, state ownership of hospitals and other specialized health care services is organized through four regional health authorities (RHA) under the Ministry of Health and Care Services. In order to fulfil the obligations of the Convention, the Ministry has instructed the RHAs to establish a formalized forum for contact with the Sami Parliament to discuss issues related to health services for the Sami population. In 2007, as part of its administrative follow-up of the hospital sector, the Ministry consulted with the Sami Parliament before writing its 2008 Letter of Allotment for the RHAs. A similar consultation was carried out in connection with the national health plan in 2006.

The Government aims that health services shall, as far as possible, be community based. The RHA for northern Norway is therefore responsible for maintaining the funding of the specialist physicians centre and the psychiatric institutions in inner Finnmark. These institutions are integral parts of the general health service, but have a special responsibility for the Sami population. These psychiatric institutions will strengthen their national responsibilities for the Sami population through the plan for strengthening of psychiatric services in Norway.

Important development work is carried out by a unit at Tromsø University Hospital called the “Sami Services Centre”. The interpretation service and other arrangements for Sami patients are still inadequate in the hospitals. For this reason, the RHAs have been instructed to ask for and stress the right and need of Sami patients for adapted services. To ensure the service needs of the Sami population, it is important that the RHA for northern Norway in particular ensures that its health personnel have sufficient knowledge of the Sami language and culture.

The Government has also established a web page that aims to simplify electronic contact with the public sector. The web page provides public information concerning health and other topics in the users’ native language.

5.2 Act relating to Place Names

With effect from 1 January 2006, Act No. 11 of 18 May 1990 relating to Place Names was amended. Consequently, the regulations to the Act were also amended, with effect from 1 January 2007. The purpose of the amendments was to provide for the right of individuals and local communities to be heard in the decision process relating to the spelling of place names. At the same time, linguists’ assessments concerning the spelling of the names in question are to be taken into account.

The amendments include a new objects clause that specifically addresses minority rights, outlining in particular the special duty of safeguarding Sami and Kven place names in compliance with national statutory law and international treaties. Likewise, the amendments

include a clause regarding the application of place names in minority languages, the purpose of which is to ensure that names adopted in compliance with statutory rules are applied in a public context.

Place names are an important part of the Norwegian intangible cultural heritage. From a cultural policy point of view, it is therefore important that the legislation pertaining to this field serves the objective of preserving the authentic place names as a conveyor of intangible cultural heritage, and also provides guidelines as to the public application of such names.

Consultations with the Sami Parliament

In connection with the Ministry of Culture and Church Affairs' work on a White Paper to the Storting on scenic art, the Ministry has consulted and reached an agreement with the Sami Parliament.

In connection with the draft amendments to the Cultural Heritage Act concerning export and import of cultural objects, consultations have been held with the Sami Parliament. In some questions, agreement has not been reached between the Government and the Sami Parliament. An account of the Sami Parliament's point of view has been given in the Bill.

In May 2008, the Ministry of Culture and Church Affairs consulted the Sami Parliament about draft amendments to the regulations on press subsidies for Sami newspapers. The background for the proposed amendments was the increase in the budget for press subsidies and the merger of two of the three newspapers receiving such subsidies.

6 Part VI – Education and Means of Communication

According to Article 28 No. 3, measures shall be taken to preserve and promote the development and practice of the indigenous language.

The Government has taken several steps to develop and promote use of the Sami language in everyday life. Section 1-5 of the Sami Act states for instance that the Norwegian and Sami languages shall be accorded equal status. Some of the sections in the Sami Act are limited to a special administrative area, and give unique linguistic rights to the Sami people in the area concerned. These rights concern the public sector, and imply that the Sami people have the right to use their language in all contact with public sectors, such as the judicial system, the health system, etc.

The special administrative area for Sami language constitutes, together with the Sami Act, a set of minimum rules. However, the public sector is encouraged to make further improvements in contacts and cooperation between the Sami population and Norwegians in general. This applies particularly to language questions. For instance, the public sector is encouraged to reply in Sami to incoming letters written in Sami.

The Sami Act identifies the special administrative area for Sami language. Today the administrative area consists of the municipalities of Karasjok, Kautokeino, Nesseby, Porsanger and Tana in Finnmark County, and Kåfjord in Troms County. The most recently added areas are Tysfjord in Nordland County in 2005 and Snåsa in Nord-Trøndelag County in

2008. The municipality of Lavangen in Troms County has decided to apply for incorporation in the special administrative area for Sami language. As a conclusion, Southern, Northern and Lule Sami languages are represented in the special administrative area.

The Government tries to promote development in use of the Sami language and to identify new areas for this. Technology is used actively in this work. In order to ease the use of Sami punctuation, the Ministry of Labour and Social Inclusion has developed a special website called www.samit.no. The purpose is to establish a tool, where the public sector and others can seek assistance and support in these matters.

The Knowledge Promotion reform

Knowledge Promotion is the latest reform in the 10-year compulsory school and in upper secondary education and training in Norway. It introduces changes in substance, structure and organisation from the first grade of the 10-year compulsory school to the final grade of upper secondary education and training.

The goal of Knowledge Promotion is to help all pupils to develop fundamental skills that will enable them to participate actively in our knowledge society. The Norwegian school system is inclusive; there must be room for all. Everyone is to be given the same opportunities to develop their abilities. Knowledge Promotion, with its special emphasis on learning, is intended to help ensure that all pupils receive a differentiated education.

The reform took effect in autumn 2006 for pupils in grades 1–9 of the 10-year compulsory school and for pupils in their first year of upper secondary education and training (i.e. the 11th grade).

Learning about Sami language, social life and culture is obligatory in Norwegian elementary and secondary education. A new curriculum has been developed. One of the inputs to the process has been the inclusion of knowledge of the traditional minorities in Norway, their language, culture and social life.

All upper secondary schools in the county of Finnmark and some schools in the counties of Troms and Nordland offer Sami as a separate subject. Even some pupils in the south of Norway have special courses in Sami in the upper secondary education. In Sami primary schools and the two Sami upper secondary schools, most subjects are taught in Sami and the pupils follow the Sami subject curricula in these subjects.

A new Sami curriculum: Knowledge Promotion – Sami

Parallel to Knowledge Promotion and built on the same principles, a new curriculum for Sami pupils called *Knowledge Promotion – Sami* has been developed and introduced in the Sami areas within the administrative area for Sami language. Seventeen parallel subject curricula or subject curricula for specific Sami subjects have been developed. This is a result of close cooperation between the Sami Parliament, the Norwegian Directorate of Education and Training and the Ministry of Education and Research. Most of these subject curricula are now in use at Sami primary- and lower secondary and upper secondary schools. Among them are the language subject curricula for Sami as a first language and Sami as a second language, which according to the Act of Education article 6-4 have been issued by the Sami Parliament. The latter is a level-based syllabus with elements from the Common European Framework of Languages, CEFR.

The other subject curricula in *Knowledge Promotion – Sami* are the common core subjects for primary and lower secondary level: Sami Food and Health, Sami Music, Duodji (handicraft), Sami Natural Science, Sami Social Studies, Sami Christianity, Religion and Ethics and Norwegian for pupils with Sami as their first language. For the upper secondary level the following common core subjects have been developed: Sami History, Sami Geography and Sami Religion and Ethics.

All the subject curricula mentioned above are parallel subject curricula issued by the Ministry of Education and Research. In addition, the Sami Parliament has issued the following curricula for specific Sami subjects: Sami History and Society, Sami Music and Drama and Sami Visual Culture in the programmes for general studies and Design and Duodji and Reindeer herding for vocational programs.

A new reform with many new subject curricula creates a natural demand for new teaching materials and further teacher training. This is a challenge for the whole Sami community. The Sami Parliament is responsible for the development of teaching materials in Sami in all Sami subjects in *Knowledge Promotion – Sami*. The Sami Parliament is therefore developing a strategic plan for the production of textbooks and other materials – both electronic and printed – in the subjects of *Knowledge Promotion – Sami*. At the moment, the possibilities of translating Norwegian teaching materials for Knowledge Promotion into Sami are subject to discussion. A strategic plan is presented by the Sami Parliament to the Ministry of Education and Research for the period 2009–11.

The Government has also initiated a plan of action concerning the Sami language. The Government has invited the Sami Parliament to participate in the framing of the plan. The Government and the Sami Parliament will seek to identify the most important target areas, thus securing the Sami language as a dynamic cultural bearer.

7 Part VII – Contacts and Co-operation across Borders

According to article 32, the Government shall take appropriate measures, including by means of international agreements, to facilitate contact and cooperation between indigenous and tribal peoples across borders, including activities in the economic, social, cultural, spiritual and environmental fields.

Draft Convention on Nordic Sami Cooperation

In 2002, an expert group was appointed by the Ministers of Sami affairs in Finland, Norway and Sweden and the presidents of the Sami Parliaments in these countries. The expert group submitted on 16 November 2006 a draft convention on Nordic Sami cooperation.

The draft convention consists of 51 articles divided into seven chapters. The overall objective of the draft convention is to affirm and strengthen the rights of the indigenous Sami people, with particular emphasis on securing and developing the Sami language, culture, livelihoods and society. The draft convention recognizes the Sami people as the indigenous people of the three countries, and as one people residing across national borders. The draft convention contains a set of minimum standards, based on existing and emerging international human rights standards.

The draft convention was circulated for a broad round of hearing in February 2006, with a deadline of 12 June 2006. Comments on the draft convention were requested from Sami organisations, institutions, municipalities, and county authorities.

Further work on the draft convention is in progress.

Forum for Nordic cooperation

A forum for Nordic cooperation on Sami issues between the ministries in Norway, Sweden and Finland and the presidents of the Sami Parliaments in Norway, Sweden and Finland was established in 2000. The forum has regular meetings where Sami questions of common concern are discussed. The purpose of the forum is to strengthen and develop Sami language, culture, local industries and society. The forum is informal, but is closely associated with the Nordic Council of Ministers.

The forum for Nordic cooperation states that the indigenous peoples must be heard and exert an influence on development in northern areas. This is an important aspect when working on possible solutions in education, science, local industry programs, etc.

The forum has established a language award, called Gollegiella. The purpose of the award is to recognize efforts made to preserve and develop Sami language. The award was first handed out in 2004, and will be distributed every second year.

In 2004, the ministries and the presidents started to examine the possibilities to establish contact with Russian state authorities and Sami people in Russia. This work has resulted in a decision to set up an indigenous peoples' programme for the Murmansk region. The Murmansk programme sets goals for economic and social development for the indigenous peoples in the northernmost parts of Murmansk for the period 2005 – 2008.

United Nations Declaration on the Rights of Indigenous Peoples

The UN General Assembly adopted a joint declaration on indigenous peoples on 13 September 2007. The declaration was drawn up in close collaboration between states and various indigenous groups. The declaration contains important guidelines for further work on understanding the rights of indigenous peoples, although it is not a binding document in international law. It contains both provisions concerning fundamental needs such as food, health and education and provisions concerning the use of traditional resources and land areas.

The Norwegian authorities have played an active part in the work on the declaration since it started in 1984. The Government's goal has been to arrive at a declaration that can help strengthen the legal protection afforded to the world's indigenous peoples. In its work, the Government has cooperated closely with the Sami Parliament, which has been represented at all times within the Norwegian delegation to the negotiations on the Declaration on the Rights of Indigenous Peoples in the UN.

The Declaration is an important document, even if many of the obligations in the Declaration are already implemented, such as the Finnmark Act and the PCSSP. The Declaration indicates that states shall recognize the importance of indigenous rights.

8 Final Comments

Reference is made to previous reports on articles that have not been mentioned in this report.

This report will be published on the Governments web pages.