



SOCIETY FOR  
THREATENED  
PEOPLES

# Turbines Need Sami Consent!

Norway: the construction of a wind power plant on the Sami winter pastures in Storheia

December 2018



## AN OVERVIEW

Fosen is a peninsula on the West coast of Norway, some 15 kilometers north of Trondheim. In 2016 construction began of Norway's largest onshore wind project, Fosen Wind, comprising a total of six plants. Completion is scheduled for 2020. The largest of the six wind power plants is to operate in Åfjord, in the area called "Storheia" (which translates as 'large heath'). Storheia is the main winter pasture area of a southern Sami reindeer-herding community, the Åerjel Njaarke Sijte. The wind turbines will make it impossible for them to use some 44% of their winter pastures. As a consequence, the few remaining families may have to give up their traditional trade.

The Sami culture is closely connected with the breeding of reindeer; this nurtures and preserves both their identity and their language. However, due to the impact of economic projects, forest industry and climate change, in Norway only about 10 percent of the Sami people are still breeding reindeer. Norway can look back on a history of suppression and colonization of the Sami people, which has weakened their culture and identity.

This is why the construction of the wind turbines in Storheia represents a threat to reindeer breeding for the Sami people and therefore, to their culture. In the opinion of the Society for Threatened Peoples, this project would clearly violate international agreements and human rights conventions. More specifically, it would represent a violation of land rights pursuant to Articles 14 and 15 of Convention 169 of the International Labor Organization (ILO) and a non-compliance with the right to self-determination pursuant to Article 27 of the International Covenant on Civil and Political Rights. In addition, it does not comply with Article 5 letter d number 5 in conjunction with Article 2 section 1 letter a of the International Convention on the Elimination of All Forms of Racial Discrimination. Accordingly, the Southern Sami community have filed legal complaints both at a national as well as at an international level. The legal proceedings are pending.

The project will be realized through the Fosen Vind DA consortium. This is 52.1% owned by Statkraft (the Norwegian State Energy Company) and for 40% by Nordic Wind Power DA, a consortium of European investors founded by Credit Suisse Energy Infrastructure Partners AG. Its members include BKW Energy, which is taking part in the project with 11.2 %<sup>1</sup>. Among its owners, 7.9% is Trøndenenergi (local electricity plant).

With the campaign entitled "Turbines Need Sami Consent!", the Southern Sami people and the Society for Threatened Peoples are looking for Statkraft and Nordic Wind Power DA (and CS and BKW, as well), to stop the project and withdraw the investment. In addition, for all future investments, all stakeholders should commit to UN's "Free, Prior and Informed Consent" (FPIC), thus ensuring that the rights of indigenous people are taken into account and that their participation and decision-making powers are guaranteed. This also applies to renewable energy projects.

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<sup>1</sup> BKW beteiligt sich an Windkraftprojekt in Norwegen (BKW participates in a wind power project in Norway), Berner Zeitung, February 23, 2016: <https://www.bernerzeitung.ch/wirtschaft/unternehmen-und-konjunktur/BKW-beteiligt-sich-an-Windkraftprojekt-in-Norwegen-/story/15166157>.

## Key figures



According to estimates, Norway is home to around **40,000 to 70,000 Sami**, the only recognized indigenous people in Europe. A minority of them live in Norway, the Southern Sami, around 600 to 1000 people. They have their own language which, however, is only spoken by **300 to 500 people** and is considered critically endangered according to UNESCO.<sup>2</sup>



Of all Sami people, only about **10 percent** are still actively breeding reindeer today.



In total, in Storheia, 80 wind turbines, more than **60 kilometers** of roads and a high-voltage power line are planned.



The entire project would cause the Southern Sami people to lose some **44% of their winter pastures**.



Credit Suisse and BKW are involved in the project, as members of the European consortium of investors Nordic Wind Power DA, which controls **40 percent** of the project.

## COLONIALISM IN NORWAY

To this day, most Sami people live in a region which they call Sapmi. Sapmi stretches across four states, from the west coast of Norway to Russia's Kola peninsula. The Roman writer Tacitus first mentioned the Sami in his 98 AD Germania work.<sup>3</sup> The Sami people also appeared in Runic writings by the Vikings. It is thought that they moved further north during the Middle Ages in order to escape conflicts with the Vikings.

During the 19th and 20th centuries, along with the independence movement, nationalism also developed in Norway, which accepted no culture other than the "real Norwegian" one. Furthermore, the Norwegian government wanted to acquire the resources in the north of the country. In addition, there was an element of "social Darwinism": the Sami people suddenly were considered backward and unable to possess their own land. Sami children were taken away from their families and put in re-education homes. Pasturing rights of reindeer breeders were also increasingly restricted. In 1848, Norway declared, for the first time in a law<sup>4</sup>, that the Sami people were nomads and that the land that they used did not belong to them, but to the State. Previously, until the 18th century, the government had acknowledged the claim of Sami people, arising from common law, to the Sapmi land and its resources.<sup>5</sup>

In 1997 the Norway government formally apologized to the Sami people for the "Norwegianization policy". However, it insists that the Sami people have no rights to the land they use as pastures as, due to their nomadic lifestyle, they never established a right to the land. The Sami people are not recognized as the owners of the land. From the point of view of the authorities, the construction of the wind turbines on the Winter pastures in Storheia does not constitute a true expropriation, as "only" the right of use of the land would be taken away. For the same reasons, the Åerjel Njaarke Sijte unlike landowners in the region, was never offered a profit share by Fosen Vind DA for the exploitation of the land. The Southern Sami people consider this another attempt by the government to acquire the Sapmi land without the consent of the Sami people. The President of the Sami Parliament, Aili Keskitalo, refers to this today as "green colonialism".<sup>6</sup>

<sup>2</sup> Moseley Christopher (ed.): Atlas of the World's Languages in Danger, 3rd edn., UNESCO Publishing, Paris, 2010. Online Version: <http://www.unesco.org/culture/en/endangeredlanguages/atlas>.

<sup>3</sup> Tacitus P. Cornelius: De origine et situ Germanorum Liber, Translation into German by Manfred Fuhrmann, Reclam, Stuttgart 1997, p. 58.

<sup>4</sup> Angaaende Naadigst Proposition Til Norges Riges Storting om Udfaerdigelse af en Lov om Ophaevelse af §38 i Lov af 20de August 1821 o Det Beneficerede og Statens Gods.

<sup>5</sup> Ahrén Mattias: Indigenous Peoples' Culture, Customs, and Traditions and Customary Law: The Sami Peoples' Perspectives, Arizona Journal of International and Comparative Law, Januar 21, 2004, p. 74.

<sup>6</sup> Wing Trevelyan: Climate Change, Green Development, and the Indigenous Struggle for Cultural Preservation in Arctic Norway, Climate Institute, 2017, <http://climate.org/climate-change-green-development-and-the-indigenous-struggle-for-cultural-preservation-in-arctic-norway/>.

## LEGAL SITUATION OF THE SAMI PEOPLE IN NORWAY

Today, the lifestyle, language and culture of the Sami people are protected in the Norwegian Constitution and also by several international agreements and conventions. Based on the 1987 Sami Act, in 1989 a 'Sametings' (a Sami Parliament) was created, which, to this day, acts as the parliamentary representation of the Sami people, with the aim of preserving and defending the position of Sami people, inscribed in the Constitution, as well as their culture and their language. Norway ratified the European Convention on Human Rights (ECHR) and Article 92 of the Grunloven (Norway Charter of fundamental rights) guarantees the protection of human rights. Also, the Committee on the Elimination of Racial Discrimination (CERD) and the UN Pact are recognized in Norway. Norway is also the only country in Scandinavia to have ratified the ILO Convention 169 on Indigenous rights. In Norway, reindeer breeding is an exclusive right of the Sami people.<sup>7</sup>

## IMPLICATIONS OF THE PROJECT

### Impact on reindeer breeding

Reindeer need lots of space. Reindeer farming traditionally leaves them semi-wild and lets them partially move from pasture to pasture by themselves, or they are guided over established paths. Depending on the season, they have different needs for food.<sup>8</sup> Depending on weather conditions, other grazing lands may be necessary. In Storheia, there are many winter pastures sheltered from the wind, which offer food even in extreme winter conditions. Reindeer even move to this area by themselves. Storheia is so essential in extreme Winter conditions that the area, in mild Winter conditions, is not even used by the Årjel Njaarke Sijte, in order to spare the pastures for tougher winters to come.

Climate change, colonists, forestry and mining projects already significantly reduced the number of winter pastures for the Årjel Njaarke Sijte, making reindeer breeding harder.<sup>9</sup> They are left with only four winter grazing areas, one of which is Storheia.<sup>10</sup> As a consequence, the number of reindeer are reduced to such an extent that breeders can now hardly survive on traditional reindeer breeding.<sup>11</sup>

The wind turbines in Storheia will be built on about one third of the grazing area. However, that's not all: reindeer are shy, and avoid people as much as they can. Scientific studies<sup>12</sup> have shown that reindeer, for this reason, avoid wind turbines and associated buildings within a large radius. Therefore, this may also lead to many of the traditional and central pathways toward further grazing areas running through Storheia being cut off. Should these paths disappear completely, it may be necessary for the members of the Sijte to transport their reindeer via ship or truck from pasture to pasture in the future. Only very few scientific studies<sup>13</sup> conclude that reindeer are not affected by wind turbines in their behavior. Whether these studies are directly applicable to the situation in Storheia is disputed by the community of reindeer breeders.<sup>14</sup> The Årjel Njaarke Sijte expects that, as a consequence of the wind power project, it would no longer be able to use the entire Storheia area, losing therefore 44% of their winter pastures.

However, not only the wind turbines, but also the associated infrastructure, may have a negative impact on reindeer. Indeed, construction of a high-voltage power line is planned in Storheia. Studies have shown that reindeer avoid cables as they perceive their UV light, and are disturbed by it.<sup>15</sup> Also the planned roads are changing the migration paths of reindeer. In the winter the animals follow the roads, they may get lost or run over.

7 Lov om reindrif (Law on reindeer breeding) of June, 15 2007, §9 in conjunction with §32, [https://lovdata.no/dokument/NL/lov/2007-06-15-40#KAPITTEL\\_2](https://lovdata.no/dokument/NL/lov/2007-06-15-40#KAPITTEL_2).

8 Jernsletten Johnny-Leo L. Klokov Konstantin: Sustainable Reindeer Husbandry, Summary Reports, 2002, p. 17 f., [http://www.reindeer-husbandry.uit.no/online/Final\\_Report/final\\_report.pdf](http://www.reindeer-husbandry.uit.no/online/Final_Report/final_report.pdf).

9 Individual complaint brought by the Årjel Njaarke Sijte at the UN Committee on the Elimination of Racial Discrimination, 2018, Ziff. 1.11., p. 5 f..

10 Individual complaint brought by the Årjel Njaarke Sijte at the UN Committee on the Elimination of Racial Discrimination, 2018, Ziff. 1.8., p. 5.

11 Individual complaint brought by the Årjel Njaarke Sijte at the UN Committee on the Elimination of Racial Discrimination, 2018, Ziff. 2.39, p. 23 f..

12 Skarin Anna, et al.: Out of sight of wind turbines – Reindeer response to wind farms in operation, 2018, <https://onlinelibrary.wiley.com/doi/abs/10.1002/ece3.4476>; Report of the Swedish Environmental Protection Department Skarin Anna, et al.; Naturvårdsverket, Vindkraft och renar – en kunskapsöversikt, 2013.

13 Colman Jonathan, et al.: Is a wind-power plant acting as a barrier for reindeer Rangifer tarandus tarandus movements?, Wildlife Biology, p. 439-445; Flydal Kjetil, et al.: Effects of wind turbines on area use and behavior of semi-domestic reindeer in enclosures, International Journal of Ecology, 2009, p. 1-14.

14 Individual complaint brought by the Årjel Njaarke Sijte at the UN Committee on the Elimination of Racial Discrimination, 2018, Ziff. 1.20., p. 9.

15 Cressey Daniel: Why Reindeer Steer Clear of Power Lines, Nature magazine, March 14, 2014. <https://www.scientificamerican.com/article/why-reindeer-steer-clear-of-power-lines/>.

In the future, reindeer herders would suffer a greater workload and additional costs, given that, for example, they would have to look for new pastures, buy food or transport the reindeer by trucks. The loss of pastures may lead to having to shrink the herds, which may force the remaining Sijte breeder families to give up their lifestyle. Continuously more herders are giving up due to the burden, which makes the work of the remaining herders all the more difficult, as there is always fewer people who can rely on each other. For reindeer breeders, fewer pastures also mean fewer options for adaptation in the future, should the climate change. In harsh winters, the Åerjel Njaarke Sijte has no other alternative than the Storheia well-sheltered winter pastures.



A reindeer herder of the South Sami with his animals.

In a judgment of June 28, 2018, the District Court of Inntrøndelag established compensation for the Åerjel Njaarke Sijte during the operational phase. However, the reindeer breeder community is demanding a reassessment as they question the validity of the concession and of the expropriation as a whole. The Southern Sami concerned aim at stopping the construction, as they cannot buy unspoiled land and the areas concerned cannot be used by them any longer. The last remaining breeder families expect that, in the longer term, they would have to give up breeding.

### **Impact on the cultural rights of the Sami people**

Article 27 of the International Covenant on Civil and Political Rights and Article 108 of the Norwegian Constitution guarantee the Sami people their right to practise their culture and lifestyle as well as speak their own language.

Reindeer breeding is practiced by the Southern Sami people, by the so-called Sijtes. Often it's a group of families working together. Each Sami Sijte has its own territory, which through historical use they have established as being their own. In Storheia, the Southern Sami Åerjel Njaarke Sijte has been practicing its traditional reindeer breeding since the 16th century.<sup>16</sup> The Southern Sami people live scattered between Norway and Sweden and there are 750 km between the southernmost and the northernmost Southern Sami village in Norway.<sup>17</sup> They

<sup>16</sup> Naturvernforbundet: Vindindustriell kystnasjonalpark?, <https://naturvernforbundet.no/trondelag/vindkraft/category1424.html>.

<sup>17</sup> Lyngsnes Kitt Margaret: "I Really Want to Save Our Language": Facing the Challenge of Revitalising and Maintaining Southern Sami Language through Schooling, 2013, p. 229, <http://dx.doi.org/10.5539/ies.v6n3p228>.

do not represent the majority of the population in any municipality and the Southern Sami language is spoken only within the family.<sup>18</sup>

Reindeer husbandry represents a common, trans-national culture, similarly for the Sami people who today carry out other activities.<sup>19</sup> Handed down from generation to generation, the breeding of reindeer is reflected in countless expressions of the language, thus becoming an important vehicle of self-perception and identity. That is why reindeer breeding is crucial for the Southern Sami people, as through it they can preserve their culture. If their winter pastures are further reduced, then the Åerjel Njaarke Sijte will no longer be able to carry out its breeding in the traditional way and it fears that, as a consequence, its culture will also be lost.

## LACK OF PARTICIPATION DURING THE LICENSING PROCESS

The land rights of the Sami people are protected by Article 14 and 15 of the ILO Convention 169 and Article 5 letter d number 5 in conjunction with Article 2 section 1 of the International Convention on the Elimination of All Forms of Racial Discrimination. Pursuant to such Articles, the rights of indigenous people to the ownership of their land must be respected, and they must be consulted in relation to any decision on the management of the land and its resources.

In order to construct and operate a wind power plant, Norway requires a license from the Norwegian Water and Energy Directorate (NVE). Before granting the license for Fosen, the NVE requested an Environmental Impact Assessment, which should have also taken into account the impact on reindeer breeding, in line with the OECD Guidelines for Multinational Enterprises.

During the planning phase, various distributions and combinations of wind turbines in Fosen were considered. Storheia did not appear as a location in all the plans. Also, in the 2008 Environmental Impact Assessment, Storheia was not considered as a potential location. It was even argued that a wind power project there would severely threaten reindeer breeding.<sup>20</sup> A year later, the project was adapted, and a wind power plant was then planned in Storheia. The Environmental Impact Assessment was adapted accordingly in the addendum. Indeed, the experts had come to the conclusion that the entire Fosen wind power project would not be financially viable without the sub-project in Storheia, as the minimum of 800 MW could not be reached. The impact on Storheia was then deemed acceptable. Furthermore, the construction of the high-voltage power line was not possible without Storheia. Reindeer breeders do not consider the arguments put forward to show that reindeer breeding will not be affected are legally sound.<sup>21</sup>

As regards Fosen Vind, the Sami people were contacted before the beginning of the licensing process, to inform them of the project. Storheia was not decided as a location until the 2008 Environmental Impact Assessment. The government insists that sufficient consultation was carried out and refers to a 2013 meeting. By that time, however, the plans had already been finalized and the Environmental Impact Assessment adapted without including the Sami people in relation to Storheia. The Åerjel Njaarke Sijte therefore, regard the consultation as insufficient, as they had no influence whatsoever on the final decision. This was agreed by the NVE and confirmed by the Norwegian Ministry of Petroleum and Energy. The number of turbines in Storheia was reduced from 88 to 80, as a gesture toward the Southern Sami people.

18 Lyngsnes Kitt Margaret: "I Really Want to Save Our Language": Facing the Challenge of Revitalising and Maintaining Southern Sami Language through Schooling, 2013, p. 229, <http://dx.doi.org/10.5539/ies.v6n3p228>.

19 Jernsletten Johnny-Leo L., Konstantin Klovov: Sustainable Reindeer Husbandry, Summary Reports, 2002, p. 91, [http://www.reindeer-husbandry.uit.no/online/Final\\_Report/final\\_report.pdf](http://www.reindeer-husbandry.uit.no/online/Final_Report/final_report.pdf).

20 Individual complaint brought by the Åerjel Njaarke Sijte at the UN Committee on the Elimination of Racial Discrimination, 2018, No. 1.15., p. 7.

21 Individual complaint brought by the Åerjel Njaarke Sijte at the UN Committee on the Elimination of Racial Discrimination, 2018, No. 1.17., p. 7.

## THE COMPLAINTS OF THE SOUTHERN SAMI PEOPLE

In 2013 Fosen Vind DA was granted the license for the wind energy project. On August 25, 2014 Fosen Vind DA filed an application at the District Court of Inntrøndelag for the expropriation of the land from the landowners and of the reindeer breeders' rights of use. The Åerjel Njaarke Sijte filed an appeal against it, however on August 15, 2017 Fosen Vind DA's claim was accepted. The circumstances of the expropriations, however, had not been established, due to the fact that the Sami people, at the same time, demanded a decision from the Supreme Court on the legality of such expropriations. This was rejected in May, through separate proceedings. The District Court, at first instance, then established the expropriation conditions, including the compensation amounts. However, Southern Sami people have again lodged an appeal against such conditions, as well as against the legality of the concession and of the expropriation. The proceedings are pending.



A representative of the Southern Sami on a construction site of the project in Storheia.

At the same time as requesting the expropriation procedure, Fosen Vind DA also asked the government for early access to Storheia, to start construction. They were granted permission without waiting for the outcome of the above-mentioned proceedings. Against this decision, the Åerjel Njaarke Sijte again lodged a complaint with the Court of first instance, which, in December 2017, confirmed the government's decision. Both the Court of Appeal and the Supreme Court dismissed the complaints of the breeding community and construction began.

On the international level, the reindeer breeding community has filed an individual complaint at the UN Committee on the Elimination of Racial Discrimination, as they consider this as a violation of their rights, pursuant to Article 5 letter d number 5 in conjunction with Article 2 section 1 of the Convention on the Elimination of All Forms of Racial Discrimination.

## CONCLUSION: RENEWABLE ENERGY AGAINST SELF-DETERMINATION OF SAMI PEOPLE

Norway hopes to reduce climate change by switching to renewable energy. In contrast to less sustainable energy processes, wind turbines require much more space. The Sami people have the right of use of about 40% of Norway, mainly Northern and Central Norway, for their reindeer breeding. That is where, however, there is also the greatest energy potential to construct onshore wind turbines: lots of wind, high altitude, cold air and sparsely inhabited regions. For this reason, the Norwegian government is issuing more and more licenses for the development of wind turbines in the area.

When the Sami people defend themselves against wind energy projects in their grazing areas, they are accused of being selfish. Projects that contribute to the reduction of climate change are considered more important than the Sami people's right to self-determination over their territory. The two elements would be perfectly compatible; however, a real dialogue on an equal footing is a prerequisite.

Norway already produces more energy than it needs. In 2017, 148 TWh of electricity were produced and 133 TWh consumed.<sup>22</sup> This is especially disproportionate if we consider the fact that the construction of a wind power plant in Storheia is putting the culture of Southern Sami people under such threat. In 2015, Statkraft itself realized that there was no additional energy demand in Norway and wanted to end the Fosen Vind project<sup>23</sup>. It was only after that investors such as Credit Suisse, along with Norwegian politicians applied pressure and that the project was resumed by Statkraft after 20 days.<sup>24</sup> The surplus energy is meant to be sold to various European countries. This suggests that at the heart of the project economic interests are more important than ecological interests.

Desisting from constructing a wind power plant in Storheia would allow Southern Sami people to carry on with reindeer breeding. In addition, this would provide a chance for the Norwegian government to show that it actually recognizes the Sami culture and interests.

## CLAIMS

### Requests to Statkraft and Nordic Wind Power DA (including CS and BKW):

- The Southern Sami community along with the Society for Threatened Peoples are calling on Statkraft to halt the project and to adequately compensate the Sami communities which were affected during the current construction phase.
- The Southern Sami Community along with the Society for Threatened Peoples are calling on Nordic Wind Power DA to withdraw its investments from the Storheia wind power project, in the absence of a friendly solution with the indigenous community concerned.
- The Southern Sami Communities along with the Society for Threatened Peoples call on Statkraft and Nordic Wind Power DA to carry out and publish an independent environmental and social impact assessment for future projects.
- In future projects, the land rights of Sami people must be recognized. This implies adequate compensation in the case of an agreement on land use rights, for example through profit-sharing.
- The Society for Threatened Peoples requires the actors involved to commit themselves to UN's "Free, Prior and Informed Consent" (FPIC) in all future investment projects and to ensure that the rights of indigenous people as well as their participation to the process are taken into account. This also applies to renewable energy projects.

<sup>22</sup> Statnett annual report 2017: <http://www.statnett.no/Global/Dokumenter/0m%20Statnett/Finans/Årsrapport/Statnett%20Annual%20Report%202017.pdf>.

<sup>23</sup> Statkraft press release of June 4, 2015: <https://www.statkraft.com/media/news/News-archive/20151/statkraft-halts-wind-power-planning-in-central-norway/>.

<sup>24</sup> Løsnes Aron B.: *Saami Reindeer Herders Fight Wind Farm Project*, Arctic Deeply, 2016, <https://www.newsdeeply.com/arctic/articles/2016/04/20/saami-reindeer-herders-fight-wind-farm-project>.

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The Society of Threatened Peoples (STP) is an international human rights organisation that supports minorities and indigenous peoples. It documents human rights abuses, informs and sensitises the public, and represents the interests of victims against authorities and decision makers. It supports local efforts to improve the human rights situation for minorities and indigenous peoples, and works together, both nationally and internationally, with organisations and people that are pursuing similar goals. The STP has advisory status both at the Economic and Social Council (ECOSOC) of the UN and at the Council of Europe.



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Thank you very much!

