



# THE EXPLORATION OF MINERAL RESOURCES IN THE SÁMI AREAS OF THE NORDIC COUNTRIES

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# THE SÁMI AREAS OF THE NORDIC COUNTRIES

- The Exploration of Mineral Resources is a growing interest in the resource rich North of the Nordic Countries. The area is also the traditional territory of the Sámi people where the traditional Sami industries practiced are protected by national legislations and international conventions.
- For example, the Finnish Mining Act contains special provisions related to procedures to be applied in the Sami Homeland, Skolt area, and special reindeer herding area.

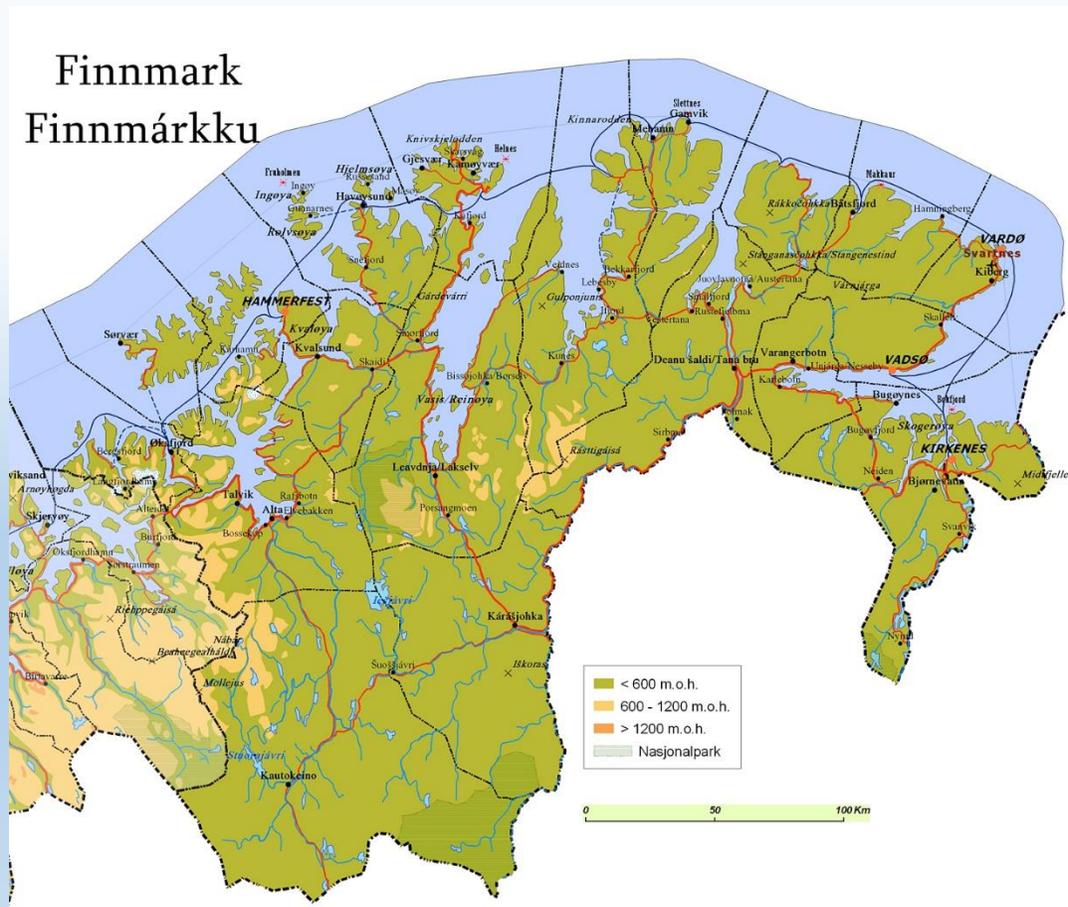
# THE SÁMI AREAS OF THE NORDIC COUNTRIES

Sami (previously known as Lapps, a name they consider derogatory) are the indigenous inhabitants of northern Norway, Sweden and Finland, and the far north-west and north-east of Russia.

- In Norway they are concentrated mainly in Finnmark County, where there are some 25,000 out of an estimated 40,000 Norwegian Sami.
- In Sweden: estimated 20 000 sami people
- In Finland: 8 000 sami people
- In Russia: 2 000 samis



# THE SÁMI AREAS OF THE NORDIC COUNTRIES



- FINNMARK COUNTY
- The Minerals Act  
Section 10. Duty to give notice
- In the case of a search in Finnmark, the searching party shall in addition give written notice to the Sameting (the Sami Parliament),

# THE SÁMI AREAS OF THE NORDIC COUNTRIES

- The Sami Homeland
- The Mining Act

## Section 1

The activities referred to in this Act shall be adapted in the Sami Homeland so as to secure the rights of the Sami as an indigenous people.



# THE CONSTITUTIONAL FRAMEWORK

- The Constitution of Finland
- Section 17 - Right to one's language and culture

The Sami, as an indigenous people, as well as the Roma and other groups, **have the right to maintain and develop their own language and culture.** Provisions on the right of the Sami to use the Sami language before the authorities are laid down by an Act.

The traditional means of livelihood of the Sami, including reindeer herding, fishing and hunting, is part of the Sami culture, the right to which is protected in section 17.3 of the Constitution and article 27 of ICCPR (The United Nations International covenant on civil and political rights)

# THE CONSTITUTIONAL FRAMEWORK

- The Constitution of Norway
- Article 108: Right to culture - Protection of language use

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

# THE CONSTITUTIONAL FRAMEWORK

- The Constitution of Sweden
- Art. 2. Public power shall be exercised with respect for the equal worth of all and the liberty and dignity of the individual.

The opportunities of the Sami people and ethnic, linguistic and religious minorities to preserve and develop a cultural and social life of their own shall be promoted.

- Freedom of trade Art. 17.

The right of the Sami population to practise reindeer husbandry is regulated in law.

ICCPR (The United Nations International covenant on civil and political rights)

## Article 27

In those States in which ethnic, religious or linguistic minorities exist, **persons belonging to such minorities shall not be denied the right**, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.

## Indigenous and Tribal Peoples Convention, 1989 (No. 169)

- Norway is the only country from the region that has ratified **ILO 169 Convention**
- The challenge is how to improve the living and working conditions of indigenous and tribal peoples so they can continue to exist as distinct peoples, if they wish to do so.
- Article 4 (1) Special measures shall be adopted as appropriate for safeguarding the persons, institutions, property, labour, cultures and **environment** of the peoples concerned.
- **2. Such special measures shall not be contrary to the freely-expressed wishes of the peoples concerned.**

**Acts and Regulations** - the general regulatory requirements, laws

Consequently in national legal systems in Finland, Norway and Sweden, the exploration permits in the Sami areas will be examined in relation to the rights of Sami.

How the sustainable co-existence of both activities involved, the traditional Sami reindeer herding and mining, is possible.

Requires early dialogue and balancing the interests of all stakeholders involved.

## Acts and Regulations

- Several acts regulate the same area.
- One needs to see the different acts together in order to see the entire picture.
- how Sami people are currently protected against the harmful impacts of mining in Finland, Norway and Sweden by way of legal tools
- As a distinct Sami livelihood however, reindeer herding has remained the unique economic and cultural emblem for the Sami people.
- In Finland, approximately 10 % of Sami practice reindeer herding, which is seen as a fundamental part of Sami culture.

## Case law - An exploration permit in the Sami Homeland

- **Lätäs 1** (first case of the Sami Homeland in Finland)
- the party concerned: Geological Survey of Finland (GTK)
- The Finnish Safety and Chemicals Agency (Tukes)
  - An exploration permit 2016
  - Appeal: Administrative court 2017
  - Court decision 2018?



# Case law - Lätäs 1 case in the Homeland in Finland

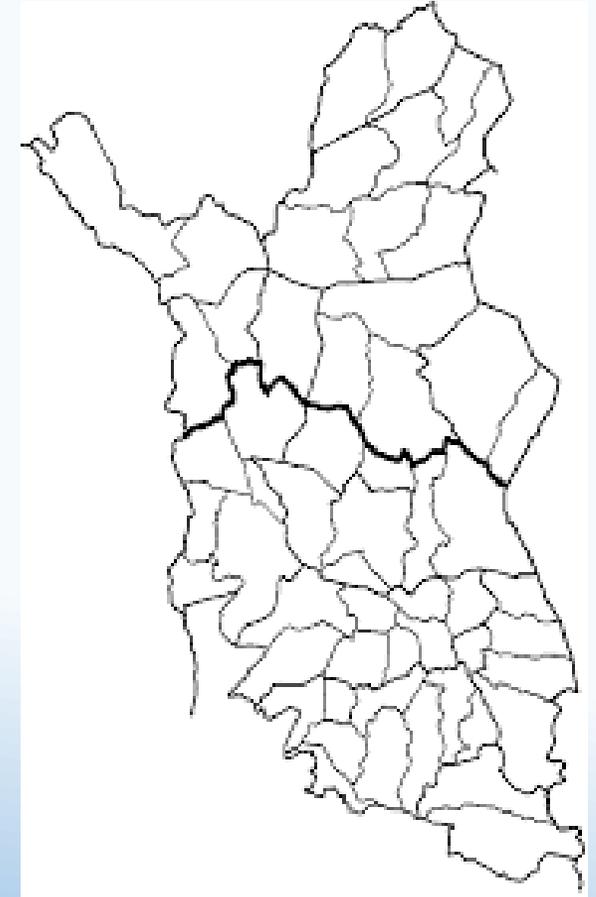
- Mining Act - Section 45

Criteria for permit consideration

An exploration, mining, and gold panning permit will be granted if the applicant proves that the conditions set for it in this Act are met and there is no impediment stipulated in this Act to the granting of the permit.

# Reindeer Husbandry Act (Finland)

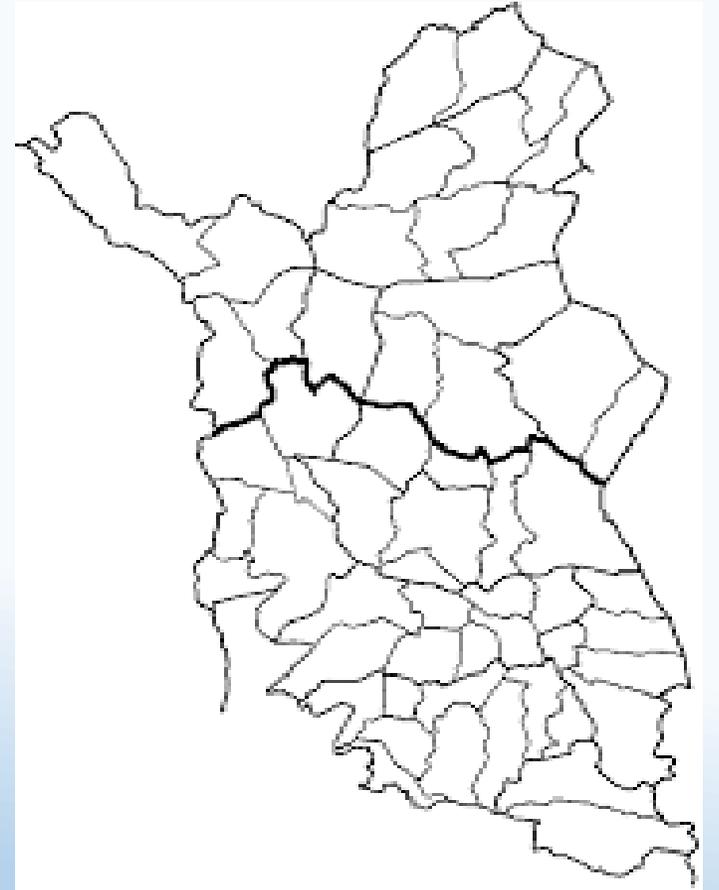
- Shareholders: Reindeer owners
- Reindeer herding co-operative (Siida)
- The land in this area may not be used in a manner that may significantly hinder reindeer herding (Section 2.2)



# The Special reindeer area (in Finland)

- Mining Act - Section 50
- Obstacles to granting of a permit in the Sami Homeland, the Skolt area, or a special reindeer herding area
- An exploration permit must not be granted in the Sami Homeland if:

land use would substantially undermine the preconditions for engaging in traditional Sami sources of livelihood or otherwise to maintain and develop the Sami culture



## Summary / provoke thoughts

Whatever the scope of the project, it is important that communities and companies have an ongoing dialogue. The major community input during exploration is usually through communication with the company carrying out the project.

Early discussion with Sami community members is in everyone's interest. It allows the community and the company to learn about each other's resources and priorities. The company can explain what the project involves, where it is located, and who will be doing the work. By listening and sharing information, the parties can identify potential problems or conflict areas,

## Summary:

When considering initiation of mining activities in the Sami areas, it is useful that all relevant parties have equal access to a solid knowledge base and to the status of expertise appropriate to the activities.

This will provide a common basis for assessing the opportunities and challenges related to the activities.

Companies that operate in Sami areas should use more local professionals to understand that the exploration of Mineral Resources in the Sami Areas are not only pure jurisdiction or economy, it is also broader understanding of local conditions and substance of the way of life in the Sami Areas in order to get sustainable access to have mining activities in these areas.

Thank you for your attention!

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