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YOUR REF./DATE:

OUR REF.:

PLACE/DATE:
Oslo, 23.11.2012

Dear Mrs. Bangstad,

We thank you for having promptly brought the correspondence received from the Jijnjevaerie Saami Village to our attention, as well as for the possibility given to us to submit preliminary remarks on the admissibility of the issue raised.

Accordingly, we would like to share the following preliminary views:

As the Jijnjevaerie Saami Village points out, the issues raised in their submission to the National Contact Points (NCPs) have been fully considered by the Swedish judiciary system. The County Administrative Board, the Environmental Court and the Environmental Court of Appeal (hereafter: the Court) have reviewed the matter and have provided similar rulings on the case. We note that both the issues raised and the proponent of the submission before the three national courts are in essence the same as the one presented to the NCPs.

Statkraft acknowledges the contribution and the important role that NCPs play in promoting the voluntary principles and standards contained in the OECD Guidelines for Multinational Enterprises (the Guidelines). At the same time, we note that under the Guidelines NCPs are non-judicial grievance mechanisms. If NCPs were to review the decision made by courts on identical issues raised by the same proponent, it would de facto play a judicial grievance mechanism role. For this reason alone, we believe that this case should not be declared admissible by the NCPs.

Moreover, Statkraft has complied with all applicable laws and procedures, as recognised by all national judicial instances that reviewed the matter. Necessary Environmental Impact Assessments and Social Impact Assessments were undertaken. Extensive information was provided and consultations took place. It is our belief that the project in question is sustainable and adequately takes into account environmental, social and human rights issues. Impacts have been assessed, avoided, and where avoidance was not possible, minimised and mitigated and compensation measures have been established.

In their determination of admissibility, NCPs take into account the relevance of applicable law and procedures, including court rulings, and we very much trust that the NCPs will take into account both applicable laws and procedures and the above-mentioned Court ruling.

In addition, it is our understanding that NCPs were established in order to promote the Guidelines and be a forum for discussion, possibly with a view to identifying consensus-based solutions among different parties and thereby avoiding judicial remedies. In that sense, reviewing an OECD country highest specialised court's decision does not seem to respond to the intention behind the establishment of NCPs. It is therefore our opinion that the consideration of the issues raised would not contribute to the purposes and effectiveness of the Guidelines.

We also note that Sweden – an OECD member supporting the Guidelines – is a country where democracy, the rule of law, the judiciary, human rights, including indigenous rights, and the environment are upheld and has been recognised internationally for doing so. Some of the criticism contained in the communication sent by the Jijnjevaerie Saami Village is of a general nature and directed at the Swedish State. We will not take a position on this, while recognising the right of the Jijnjevaerie Saami Village to pursue the appropriate judicial avenues at their disposal in this regard.

Based on the above, it is our view that NCPs are not the correct entities to assess the alleged violations and that the case should not be further examined by the NCPs. Statkraft stands ready to provide additional views on the admissibility of the submission, including on the materiality and substantiation of the issues raised.

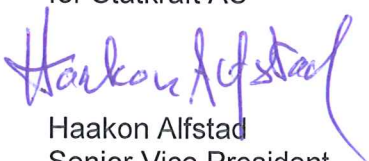
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As the history of the concerned project shows, extensive engagement with individuals, communities, authorities and other stakeholders took place. Mutually supported outcomes related to impact mitigation were reached with individuals and communities concerned, including other Indigenous Villages. We have worked towards achieving similar outcomes with the Jijnjevaerie Saami Village. We have in particular engaged on the implementation of the measures described by the Court and have faced difficulties in doing so. We have brought this to the attention of the County Administrative Board (Länsstyrelsen) and this situation is currently under consideration.

If the case were to be declared not admissible, as we believe it should, this would not alter Statkraft's commitment towards stakeholder engagement, human rights and the environment. We are encouraged to note that the Jijnjevaerie Saami Village is willing to engage in renewed dialogue and we remain ready to discuss how best to implement the measures listed in the Court ruling. Such dialogue on the implementation of the measures listed by the Court could naturally take place under the County Administrative Board process.

We thank you in advance for conveying our preliminary views to the Swedish and Norwegian NCPs and remain ready to engage in dialogue.

Yours sincerely,
for Statkraft AS



Haakon Alfstad
Senior Vice President
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