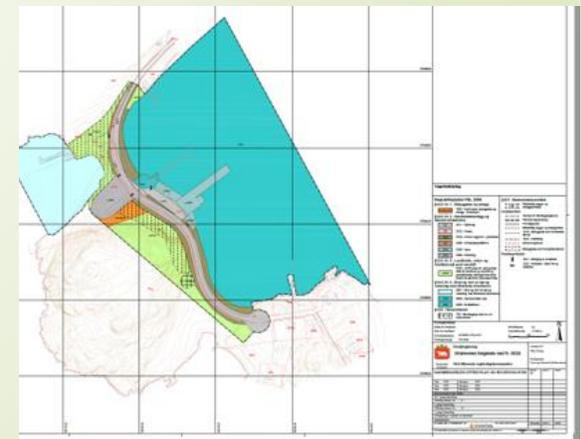




## A “little” Information about the consultation system in Norway.

- Kjetil Romsdal
- 66 years old and retired now since september 2023, but I still work a little as politician.
- Married to Lill- Ann, two adult boys and four grandchildren
- I have worked nearly my whole life with different types of infrastructure. Drinkingwater-, wastewaterproject, waste managements and roads.



# Political positions

## The Sami parliament



**Finnmark fylkeskommune**  
Finnmárkku fylkkagielda  
Finmarkun fylkinkomuuni



# Sami parlament.

3

- Established in 1985 after the government had forced through a big damproject in my home town Alta.
- It was many big demonstrations locally, because of the fear for the famous salmon river in Alta
- Slowly the demonstrations turned over to become a battle for human rights for the sami people
- It ended up with 9-10 sami people hunger striking outside the nasjonal parlament in Oslo
- That was a turning point for how we was handling issues related to the sami people in Norway.



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# Political positions

## Finnmark County Council



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# What is it about ?



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- Definition
- We don't have no clear definition of what consultations are.
- But it is about involvement in public decisions that affect an indigenous people collectively, locally, regionally or nationally.
- Indigenous peoples should have the opportunity to give their consent to decisions that affect them
- Assumes democratic decision-making systems, and mutual recognition between public authority and indigenous peoples
- Indigenous people in this context are the reindeer owners/ herders
- About 5- 10% of the sami people are directly involved in the reindeer business.



# Background



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- International Legal Basis:
- ILO 169, art. 6 (2) (1990) - Good faith, adapted to the circumstances, with a goal of consensus/consent.
- UN Convention on Civil and Political Rights (1966) art. 27, cf. Art. 1 - Effective participation to ensure the maintenance and further development of culture.
- UN Declaration on the Rights of Indigenous Peoples (2007) - Consultations to achieve free, prior and informed consent.
- Consultation Procedures 2005, Draft Law on Consultations 2018, Hearing on 29.02.2020, decision in June 2021, implemented in July 2021.



# Implementation



- **What are consultations?**
- What consultations are **not**:
- Veto power - No agreement, no decision.
- Consultation and input, "making their views known" - The state, county or municipality has a proposal and asks for opinions that they sovereignly decide how to take into account.
- Only about implementation/adaptation of already (actually) made decisions.
- Unilaterally controlled process from the state, county or municipal side in form, progress and conclusion.
- What consultations **are**:
- Good faith - Information and argumentation must be early, complete and real. The evaluation criteria must be known. The authority must be flexible so that interests can be reached in ways other than originally intended. Not deceive, threaten, pressure, lock.

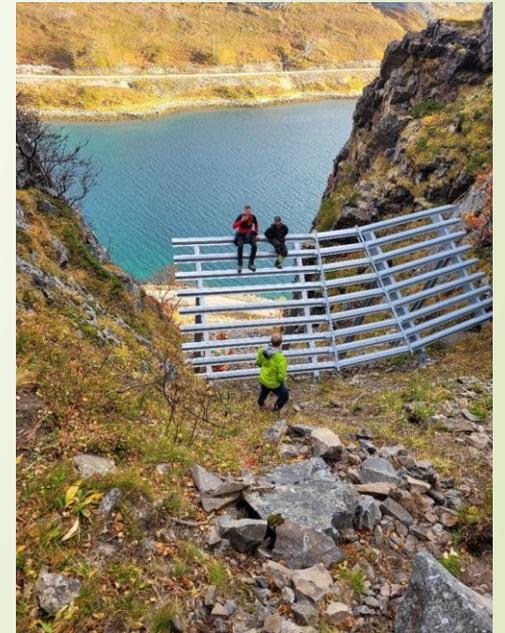
# Implementation

8



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- ▶ Achieve consensus - Understand and be understood. Ask, listen, explain. Pay attention to interests, not positions. What are our interests, what are the other party's interests? Acknowledge the other party's interests when you understand them. Interests may overlap. What is the alternative to consensus?
- ▶ Provide factual arguments/reasons for new/changed laws and measures. Differentiate between the issue and the person. Use and request objective criteria. Shared perception of reality.
- ▶ Document written justifications and assessments, the process (meeting minutes) that demonstrates that the parties are actively trying to reach consensus.





# Implementation

- What is consultative?
- Scope; laws, regulations and other decisions or measures that may directly affect Sami interests
- Laws and measures considered for implementation by the state/public authorities.
- That "affects the Sami directly". Consultations to clarify if it affects. Need not only affect the Sami, but must have a specific effect on Sami culture, etc.
- Not for decisions the Sami Parliament, NRL or other Sami organizations want or believe must be implemented.
- Not for the Sami Parliament where it has veto power under the Planning and Building Act.

# Implementation



**Finnmark fylkeskommune**

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- **Geographical scope;**
- The entire country for matters related to sami culture - language, education, culture, etc.
- Matters related to the natural environment only in traditional Sami areas or with implications for these areas. Area, wildlife, conservation, land rights.
- **Who is subject to consultation?**
- In the exercise of public authority.
- The state (ministry, directorate, agency) is under international law obliged to consult and ensure that county and municipal authorities fulfill the consultation obligation.
- Municipal consultation requirements can be organized in various ways.
  - Sami committees
  - Municipal district committees
  - Planning and Building Act - participation § 5-1
  - Annual dialogue meetings



# Implementation

- The Sámi Parliament as a representative body for the Sámi people - in local issues of general interest/principled significance.
- Other organized Sámi interests directly affected
  - Reindeer herding districts, siidas
  - Local Sámi associations
  - Sámi parent network
  - Community organizations, etc.
- Factors for determining who is representative:
  - Who has rights in the area
  - Who is directly affected, how are they affected
  - Does the issue have principled aspects



# Implementation

- Consultations should take place as early as possible when the state/public authority is considering initiating/opening a case for decision, and it should happen at all stages of a case.
- To know when we must understand state decision-making processes;
  - Laws and regulations: Investigation, hearing, submission, R-note, decision, Parliamentary committee, hearing, recommendation, decision
  - Individual decisions: Notification, investigation program, investigation, application/proposal, hearing/public consultation, decision, appeal, input, decision.
  - Cases under the Planning and Building Act
  - Other types of decisions; school structure, language offerings, kindergarten offerings.

# Implementation



- How is it consulted?
- The working method is clarified early on.
- Timeframe.
- Foundational document from public authority. Preliminary proposal evaluations.
- Interest note - own assessments from the Saami party.
- Meetings, working groups. Protocol/minutes from consultation meetings.
- Consent/Non-consent - how is this expressed?



# Implementation

- When do consultations satisfy the parties involved?
- The process is the agreement; it's difficult to achieve agreement without a proper and documented process.
- The process and substance are interconnected; there must be a real willingness to find a common solution. Arguments matter.
- Approaching broadly provides more alternative outcomes - it's easier with comprehensive legislation than individual cases.
- Single decisions are difficult - either yes (with conditions) or no. It quickly becomes a "tug of war" with winners and losers. Few exit options. Consultations are "captured by the process" - both participation and non-participation legitimizes the government's conclusion regardless.



# Implementation

- ▶ Achieve consensus - Understand and be understood. Ask, listen, explain. Pay attention to interests, not positions. What are our interests, what are the other party's interests? Acknowledge the other party's interests when you understand them. Interests may overlap. What is the alternative to consensus?
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