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## **Controversial Wind Power Plant in Norway: The Society for Threatened Peoples files OECD-complaint against BKW for violation of indigenous peoples' rights**

**BKW Energie Ag (BKW), with its headquarters in Berne, Switzerland, is involved in the construction and operation of Europe's largest onshore wind power plant in Norway. In the view of the indigenous population, the Southern Sami community and the Society for Threatened Peoples (STP), the wind power project under construction in the Fosen peninsula violates the territorial and cultural rights of the affected indigenous community and is contrary to international agreements and human rights conventions. As BKW has so far shown no willingness to negotiate, the STP is today submitting a complaint with the Swiss National Contact Point for the OECD Guidelines for Multinational Enterprises.**

A massive wind energy plant is being built on the Fosen peninsula in western Norway. BKW, together with four institutional investors, holds a 40 percent stake in the operating joint venture company, Fosen Vind DA. BKW owns these shares through Nordic Wind Power DA, a European consortium of investors founded by Credit Suisse Energy Infrastructure Partners AG. The total investment costs amount to around EUR 1.1 billion, which are covered by the three partners Statkraft (52,1%), Nordic Wind Power DA (40%) and TrønderEnergi (7,9%).

### **BKW's human rights due diligence is not satisfactory**

A total of six wind farms will be connected to the grid between 2018 and 2020 as part of this project. Storheia, one of the concerned regions that has also given the name to the biggest of the six independent wind parks, is of great importance to the Southern Sami.

"The wind turbines threaten reindeer husbandry and thus our culture", says Arvid Jåma, representative of the affected Southern Sami community. Because of this wind



power project, a large part of crucial winter pasture lands has been destroyed. The loss of this land will probably mean that the last remaining breeder families will have to give up their livelihood and culture. “Our concerns were not addressed, even though we were in Switzerland already in 2018 and personally requested BKW to use its direct influence as an investor to stop the construction of the plant until a mutually acceptable solution with our community is found. To the best of our knowledge, this has not happened,” adds Jåma.

In December 2018, the UN Committee on the Elimination of All Forms of Racial Discrimination (CERD) called on the Norwegian government to suspend the project until a solution is found with the concerned Southern Sami community, a request that was ignored by both the Norwegian State and the investors. Despite increasing protests by Sami and environmental organisations as well as ongoing and unsolved legal procedures, the construction of the wind power plant in Storheia was completed in autumn 2019.

### **Canton of Berne shares responsibility**

The Canton of Berne owns 52.54% of BKW. The canton is therefore responsible for ensuring that the company fulfils its human rights due diligence obligations. This has also been acknowledged by the Bernese cantonal government, which, in its response to a postulate, emphasised that it considers the recognition and fulfilment of international agreements to be of central importance. It further stated that entities with public majority shareholdings are under a particular obligation to comply with national and international environmental and human rights standards in their business activities. Following consultations with BKW, however, the government council sees no need for action in the "Fosen Vind DA" case, arguing that BKW already complies with national legislation.

“The Fosen case shows how important it is for Swiss companies to take their responsibility for respecting human rights and environmental standards more seriously, including towards indigenous communities,” says the representative of the Green party in the cantonal parliament, Natalie Imboden, who submitted the postulate in question. “In Norway, construction projects can be implemented despite ongoing



court proceedings. Should the complaints of the concerned Southern Sami community be successful, this will not only result in reputational damage but also bear financial risks. In the case of BKW, these will also affect the Canton of Berne. This calls for action.”

### **Transition to clean energy should not be at the expense of indigenous peoples**

On 20 December 2019, the nuclear power plant Mühleberg, which was operated by BKW, was shut down. BKW will invest in alternative sources of energy in the future, which will also include wind power plants abroad.

“In view of the climate crisis, we welcome BKW’s readiness to invest in renewable energy,” says Angela Mattli, campaign coordinator at the STP. “But sustainability also involves respect for human rights. It is unacceptable that the transition to clean energy occurs at the expense of indigenous communities. This contradicts the principle of climate justice.”

Because BKW has thus far neither taken concrete steps to fulfil its human rights due diligence in the "Fosen Vind DA" project nor has it leveraged its direct influence as an investor to bring about a mutually acceptable solution, the STP today filed a complaint with the Swiss National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises.

### **The STP wants to achieve the following with this complaint:**

- 1) that BKW adapts and implements its internal guidelines and improves its human rights due diligence. In addition to robust exit clauses, BKW should commit to the UN principle of "Free, Prior and Informed Consent", in order to ensure a genuine consultation process with indigenous communities affected by the company’s investment projects.
- 2) that BKW introduces a grievance mechanism for local and indigenous communities.

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3) that BKW respects the land rights of indigenous communities in this as well as in future projects.

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