

Northern Lights on Indigenous intangible heritage: a changing legal landscape in Sápmi

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ABSTRACT

This article explores recent developments in legal analysis related to the UNESCO 2003 Convention for the Safeguarding of the Intangible Cultural Heritage in general, and to the safeguarding of Indigenous intangible cultural heritage in particular, with reference to the debates on the protection of Sámi intangible cultural heritage in Nordic countries used as a case study. I reflect upon existing and prospective conjunctions of fields of law, arguing that the experiences in Nordic countries are of interest to global legal scholarship, which is constantly developing in the field of intangible cultural heritage law. I argue that there is a changing legal landscape that can be observed, where the UNESCO 2003 Convention meets the protection of intellectual property rights, human rights, the rights of Indigenous peoples, and more. I ground my reflection on the observations of intangible cultural heritage-related

regional debates among the representatives of communities and government bodies in Nordic countries – Finland, Sweden and Norway – with a particular focus on the intangible cultural heritage and rights of Sámi people, and a qualitative study of Nordic and, more specifically, Sámi legal scholarship, policymaking, selected litigation processes and governmental reporting. As this regional case study shows, it is taking time to advance legal thinking and decision-making on the safeguarding of Indigenous intangible cultural heritage, which gives space for dialogues, negotiations and exchanges.

Keywords

heritage law, Indigenous peoples, intangible cultural heritage, intellectual property, international law, legal scholarship, Sámi, Sápmi, traditional livelihoods

Introduction: Northern Lights and intangible heritage law

A late winter's evening in 2021 in Sápmi – a territory in Northern Europe traditionally inhabited by the Sámi people. Guests have gathered here from near and far for a conference scheduled to start the next morning on the future regional protection of Sámi traditional knowledge and cultural practices. The event has been organised under Finland's Presidency of the Nordic Council of Ministers. The conversations that evening have been convivial, accompanied by yoiking – the singing of traditional Sámi songs. As the evening draws to a close, Northern Lights appear over frozen Lake Inari. The phenomenon draws

the curious foreign guests outside, whereas Sámi people, for whom the phenomenon is well-known, mostly remain seated at their tables, taking time for talking and laughing together.

I use this personal encounter as a beginning for my deliberations here, introducing a regional case study with an interest in legal and policy developments at the conjunction between the Convention for the Safeguarding of the Intangible Cultural Heritage (hereinafter 'the Convention'; UNESCO 2003) and the protection of the rights of Indigenous peoples. Several legal scholars who were involved in the drafting of the Convention have

reflected on their experiences, and on the difficulties they encountered with regard to negotiating that particular attention be paid to Indigenous peoples (Kuruk 2004; Blake 2020). Broader critical reflections on the draft Convention were also provided in legal scholarship while the Convention was still in the process of being negotiated (Lankarani 2002). However, it is mainly a decade after the Convention was adopted in 2003 – that legal aspects related to the conjunction between safeguarding intangible cultural heritage and protecting the rights and interests of Indigenous peoples have started to be questioned in the scholarly literature, beginning with the positioning of the Convention in international law (Lixinski 2013) and leading up to a critical analysis of contemporary interpretations of the concept of intangible cultural heritage (Waelde et al. 2018) and a full legal commentary of the Convention prepared by lawyers together with scholars from other disciplines (Blake and Lixinski 2020). The impact that global policies on sustainable development have had in bringing international attention to the safeguarding of

Indigenous intangible cultural heritage is also analysed (Vaivade 2024).

There has been interest in comparing legal developments at the domestic level, and a range of experiences from various countries have been addressed (Petrillo 2019; Cornu et al. 2020). Some of these studies concerned the populations of Indigenous peoples. However, as a bibliography on legal aspects related to the safeguarding of intangible cultural heritage (Martinet 2018) shows, publications on protecting Indigenous intangible cultural heritage have often addressed experiences within states that are not a party ('State Non-Party') to the Convention, such as Australia and Canada. A similar observation can be made regarding experiences in New Zealand and the United States. With regard to States Parties, experiences in Latin America (Yap 2021; Bary and Lobato 2014) and in Asia (Van Uytsel 2016) have been explored. Furthermore, a broader overview of global international law developments has been provided



Figure 1
Lake Inari, the largest lake in Sápmi, in the afternoon light, before Northern Lights appeared over it that same evening, Finland, 10 November 2021.
Photographer: Anita Vaivade.

concerning the conjunction between intangible cultural heritage safeguarding and the protection of the rights of Indigenous peoples, especially in connection to the adoption in 2007 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP; United Nations 2007; Lixinski 2016; Vrdoljak 2018).

In this context, the region of the Nordic countries in Northern Europe and the legal and policy developments therein is of interest for advancing global legal scholarship related to intangible cultural heritage safeguarding. First, the territory of Sápmi, traditionally inhabited by Sámi peoples, spreads across the national borders of three States Parties to the Convention – Norway has been a State Party since 2007, Sweden since 2011 and Finland since 2013 – and a State Non-Party to the Convention, Russia. Second, consideration of future domestic and cross-border regional normative instruments is evolving by and with the active participation of Sámi people. Hereafter, some of such legal and policy developments in the relevant Nordic countries will be considered.

A selection of intangible cultural heritage-related regional debates in Nordic countries – Finland, Sweden and Norway – will be reviewed here, with a focus on Sámi people and debates on their rights. A qualitative study of Nordic and Sámi legal scholarship, policymaking, selected litigation processes and governmental reporting has been carried out. This study is based on publicly available material only and on my own participation and observations made during several public regional debates. The analysis provided gives an external insight. However, from the point of view of research ethics in Indigenous studies, and Sámi related research in particular, I sought to limit my analysis to research on law and policy, without entering in the research on Sámi heritage. Although such a distinction can be difficult to make, I analyse the case of Sámi intangible cultural heritage protection, as a researcher interested in the change the Convention brings to diverse legal landscapes. Therefore, this analysis can be considered only as complementary to the research carried out and views expressed in the Nordic and Sámi legal scholarship.

Intangible heritage in Nordic and Sámi legal scholarship

Direct interest in intangible cultural heritage safeguarding, as linked to the UNESCO Convention, has

been scarce in Nordic legal scholarship, although the implementation of the Convention at the national level has been studied (Sikora 2019). However, a reflection on the Convention – and beyond it – can be found in Sámi legal scholarship – a ‘knowledge field within Nordic legal scholarship and with specific correlations to international indigenous legal scholarship’, whose object of study is Sámi law spanning the areas of the ‘history of law, constitutional law, public international law, property law, administrative law and environmental law’ (Svensson 2015, 209). Cultural heritage law could be added to this list, although it spreads across the same named areas of law. In Sámi legal scholarship, in relation to the UNESCO Convention, the focus has been on intellectual property rights (Nuorgam 2017; Ween 2018). Some publications have elaborated on case studies, such as the protection of a Sámi sun symbol in the context of Convention-related debates on commercialisation and misappropriation of intangible cultural heritage (Deacon 2020).

There is a rich scholarly literature that elaborates on legal issues related to the safeguarding of Sámi intangible cultural heritage as a subject matter, without referring to ‘intangible cultural heritage’ as a concept. Such an approach – looking beyond the use of the concept of intangible cultural heritage – opens a much broader field for legal analysis (Cornu et al. 2020). For instance, there has been extensive Sámi legal scholarship on the protection of practices of traditional livelihoods such as reindeer herding, on the protection of intellectual property (e.g. in the field of crafts), and on Sámi self-governance in decision-making on heritage management with regard to heritage sites and natural resources, respecting customary Sámi law, and more. (For insights into recent scholarship that addresses these and other issues, see Allard and Skogvang 2015; Elenius et al. 2017; Eriksen et al. 2019; Keskitalo 2019.)

Sámi legal scholarship on these issues is nuanced and elaborate, as well as evolving. It explores practices and possibilities, as well as epistemic strategies (Johansson et al. 2024) of the Sámi to defend their rights and interests as an Indigenous people, in the context of a political and legal past and with an outlook into future decision-making. Making conjunctions between these concerns and considerations and the UNESCO Convention – in other words, seeing such interconnections as a single legal landscape that encompasses a range of distinct normative instruments with their own legal vocabularies and

implementation mechanisms and practices – is recent, as is the adoption of the Convention itself, and some of such developments are discussed in this article.

Below, I discuss two sets of recent processes, both having mobilised legal expertise to study possible protection of the intangible cultural heritage of Sámi people, and both being grounded in a dialogue between Sámi representatives and governmental bodies. First, there have been initiatives based on Sámi agency with direct interest to reflect upon the Convention and its possible usefulness for Sámi peoples. Second, and complementarily, an initiative was brought forward by the Finnish Government, in close cooperation with Sámi partners, to consider future legislative steps in the field of Sámi intellectual property protection. This initiative had its roots in another setting of intergovernmental cooperation – the work at the World Intellectual Property Organization (WIPO) on an eventual future normative instrument designed to protect traditional knowledge and traditional cultural expressions. Third, and finally, I discuss insights into the latest reports of Finland (2022), Norway (2021) and Sweden (2022) on the implementation of the UNESCO Convention, and the way some legal issues related to Sámi peoples' intangible cultural heritage, and domestic litigation cases, are addressed therein. I follow a historical sequence of gradually unfolding these processes related to the Convention, while acknowledging that the three sets of developments addressed here took place in parallel. Before addressing the three processes and sets of issues, I propose first a brief contextual insight.

Initiating a novel debate within a legal landscape

The engagement of Sámi organisations in a dialogue on the UNESCO Convention, among themselves and with the three Nordic national governments, as well as with UNESCO as an organisation, has been undertaken after all three Nordic countries had completed the ratification of the Convention and thereby had undertaken commitments stipulated therein. Although Indigenous communities are mentioned in the Preamble to the Convention only, there are broad and encompassing responsibilities defined for States Parties to safeguard intangible cultural heritage present in their respective territories. Such responsibilities include, among others: taking the necessary safeguarding measures and identifying intangible cultural heritage elements 'with the participation of communities, groups

and relevant non-governmental organizations' (Article 11); drawing up intangible cultural heritage inventories (Article 12); fostering studies and adopting general policies and appropriate legal measures (Article 13); ensuring 'recognition of, respect for, and enhancement of the intangible cultural heritage in society'; and promoting 'education for the protection of natural spaces and places of memory whose existence is necessary for expressing the intangible cultural heritage' (Article 14).

Furthermore, the decision-making and heritage governance is to be carried out through a participatory process; namely, each State Party 'shall endeavour to ensure the widest possible participation of communities, groups and, where appropriate, individuals that create, maintain and transmit such heritage, and to involve them actively in its management' (Article 15). Policymaking and legislative choices of the States Parties at the domestic level remain decisive in the implementation of the Convention, and such choices are expected to be made with the participation of the respective communities, groups and individuals. In other words, the participatory approach is at the heart of the Convention. The importance of these participatory processes, and other aspects, has been further developed within the Ethical Principles for Safeguarding Intangible Cultural Heritage (UNESCO 2015).

The first cross-border conference regarding Sámi intangible cultural heritage was held in May 2018 in Sámi Cultural Centre Sajos in Inari, Finland. The conference was organised by Sámi parliaments in Finland, Sweden and Norway, as well as by the Sámi Artists' Council, Saami Council² – a pan-Sápmi non-governmental organisation, Sámi Duodji-Samesløjdstiftelsen, and Taika – Arts Promotion Centre Finland (Sámediggi 2018). The conference programme indicated a clear initial interest in legal and ethical issues with regard to the safeguarding of intangible cultural heritage – such as the protection of intellectual property, including a copyright debate with regard to Sámi yoiks, the Sámi Duodji trademark, and the repatriation of Sámi cultural objects. The encounter with the UNESCO Convention, in the Sámi context, became part of a broader range of legal and ethical issues at stake with regard to Sámi and their intangible cultural heritage. There is a diversity of legal issues that accompanies further debates on Sámi intangible cultural heritage, touching upon the Convention either directly or indirectly. This diversity returns to the issues of affirming and exercising Sámi

self-governance with respect to their culture. Thereby, the past and its legacies ground the decisions to take for the future.

This initial dialogue was further substantially encouraged through capacity-building efforts. A 'Workshop on Sami Intangible Cultural Heritage' was held in 2019 in Karasjok, Norway, with the participation of Sámi representatives from across Sápmi. There was a strong focus on intellectual property protection in the workshop's programme and deliberations. As recalled in its report, commercialisation of traditional knowledge was discussed as part of a broader discussion on sustainable economic development. The use of the Sámi Duodji collective trademark was debated, as were possible broader benefits of engaging with UNESCO (Deacon and Smeets 2019, 15, 20–21).

These issues were also addressed later in a policy document developed by the Sámi Parliament in Norway, the most well-resourced of the Sámi parliaments as self-governance institutions³ and also the most active in advancing a pan-Sápmi reflection on the UNESCO Convention.⁴ The document was titled 'Sami Intangible Cultural Heritage and the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage – Follow-up and Opportunities' (Sámediggi n.d.). The document drew attention to the issues of over-commercialisation and appropriation, the ownership of Sámi communities' cultural heritage, the interconnections between intangible and tangible heritage, natural heritage and language, inventorying approaches and eventual priorities for pan-Sápmi cooperation, including in establishing an inventory of intangible cultural heritage, consolidation of the opinions of the Sámi parliaments, the Sámi peoples' own definition of their living heritage, museum work, ethical guidelines, strengthening of the Indigenous voice at UNESCO, and more.

Sámi communities in Nordic countries are considering the most appropriate and beneficial ways, as well as the risks, of eventually engaging in intangible cultural heritage inventorying – a practice that is expected from each State Party to the Convention. With some exceptions of Sámi heritage expressions inventoried,⁵ the main question has remained whether, and how, to establish a pan-Sápmi inventory of their intangible cultural heritage. Thereby, the cross-border existence of Sámi culture would be acknowledged, while also recognising local varieties in terms of Sámi languages and cultural expressions.⁶

Reflecting on the use of Sámi cultural resources

In order to address some of these and other questions of topicality and importance for Sámi, in 2020 the Sámi Parliament in Norway launched a project titled 'Intangible Cultural Heritage in Sápmi (Imkas)'. It had as its objective to address 'the use, protection and management of the Sámi cultural heritage and traditional knowledge' as 'collective cultural resources of the Sámi', and to do that 'from the point of view of Sámi needs and values, rather than from external definitions' (Nuorgam and Adams 2021, 2). The analysis being based on Sámi needs and values as a starting point is an important and necessary approach for evaluating the eventual utility of normative instruments to respond to those needs and values. Such a clearly stated approach from the side of Sámi gave a solid basis for analysis by the legal scholars involved in the project. After carrying out an analysis and providing a needs assessment that pointed to the need for institutional and other clarity around the governance of Sámi cultural heritage resources, the authors of the project report recommended that the work should be continued, and '[t]he overall goal must be to promote and develop the individual and collective intellectual property rights of the Sámi people' (Nuorgam and Adams 2021, 2). Furthermore, it was deemed that strengthening understanding at the national level was a precondition to later 'provid[ing] the support necessary for pan-Sápmi approaches' (Nuorgam and Adams 2021, 5). The recommendations spoke of 'intangible cultural properties', which directly reflects the legal approach of the study to advance a 'rights- and ownership-based approach' where collective properties would be coordinated collectively at a pan-Sápmi level (Nuorgam and Adams 2021, 2, 6).

The property-oriented terminology chosen for this analysis and legal reflection indicates the priorities that were clearly identified as needing to be addressed in terms of safeguarding Sámi intangible cultural heritage, whether or not such processes related to the implementation of the UNESCO Convention. Furthermore, the international debates on the implementation of the Convention more broadly have continuously been accompanied by concerns about intellectual property protection (Vaivade 2021; Bortolotto, Ubertazzi 2023), even if the Convention does not address these issues directly. The Imkas report was presented at the Conference on Protection of Nordic Indigenous Traditional Knowledge and Intellectual Property, held in Inari, Finland, in November 2021 – the

same event when guests were treated to the sight of the Northern Lights. This leads me to address another set of initiatives of legal advancements and the engagement of legal scholarship.

Towards a regional protection of Sámi intellectual property

The named conference was organised within the framework of a broader project, part of Finland's presidency of the Nordic Council of Ministers in 2021 (Finland 2023a). The project had the ambition, through a range of preparatory meetings, webinars and discussions, to move forward with the initiative driven by the Government of Finland to discuss an eventual development of a future regional instrument in the Nordic countries to protect Sámi traditional knowledge and traditional cultural expressions. In such a context, and as a preparatory stage before this project was undertaken, a preliminary legal scholarly study on the intellectual property protection needs of the Sámi people was commissioned by the Ministry of Education and Culture of Finland (Mattila 2018). The initial preparatory online conference, as part of the project, was organised in October 2020. It became a rich exchange, engaging legal professionals from the field of intellectual property protection, as well as Sámi representatives and other stakeholders. This national and regional work was mostly related to a broader international debate and negotiations within the WIPO concerning eventual future protection of traditional knowledge and traditional cultural expressions. Nevertheless, the reference to the UNESCO Convention has also been part of this project and part of the respective debates and interventions.

These debates on a possible regional protection of Sámi traditional cultural expressions witness a thematic interconnection between the work done at both UNESCO and WIPO. Historically, decades earlier, intergovernmental reflections on the possibility of protecting traditional cultural expressions took place through direct cooperation between the two organisations (Martinet 2020). While their activities later diverged, thematic and needs-based interconnections can now be observed at the regional level in Nordic countries, as well as elsewhere where the interest of Indigenous peoples and other communities is to protect their cultural expressions. The project of the Government of Finland was to continue until the end of 2023.

The expectation was that this common Nordic work would also continue during the following presidency of the Nordic Council of Ministers in 2022, that of Norway. However, Norway chose a slightly broader and less law-oriented approach to continuing the debate. In November 2022, another regional conference took place in Trondheim, Norway. The Nordic Conference on Sámi Intangible Cultural Heritage (Norway 2022) addressed legal issues related to Sámi heritage in the context of commercialisation and with regard to creative industries such as the film and music industries. Despite this, it did not revive the initial debate launched by Finland on a possible future regional treaty among the Nordic countries to protect Sámi traditional knowledge and traditional cultural expressions.

It is to be noted, however, that the debated task of a treaty drafting was and continues to be challenging. There is already a long experience of drafting the Nordic Saami Convention (Bankes and Koivurova 2013; United Nations 2016), which still has not been ratified by the Nordic countries who were themselves involved in negotiating the text. Therefore, there is some cautiousness evident around the possibility of reaching a regional agreement related to Sámi. Nevertheless, the debates already provide a platform for advancing arguments and common thinking on these issues in the region and, significantly, among Sámi organisations and within their own activities.⁷

Reporting on the protection of traditional livelihoods

A reflection on the legal issues related to the safeguarding of Indigenous intangible cultural heritage is also part of periodic reports by Finland, Sweden and Norway as States Parties to the Convention. According to the regional principle of reporting, 2021 was the first cycle for States Parties in the European region to report simultaneously. The reports received from Finland, Sweden and Norway were all prepared in collaboration, to some degree, with Sámi representatives. These reports do not enter into a detailed debate on the protection of Sámi rights; however, they do raise issues of intangible cultural heritage safeguarding that have been identified as topical and relevant to Sámi, including with direct or indirect references to relevant litigation cases.

Finland's report made reference to a then still ongoing case regarding Sámi salmon fishing rights in the Deatnu

(in Northern Sámi language) or Teno River, a waterway bordering Finland and Norway. The report stated: 'Fishing on the Teno River is an integral part of the lifestyle of the Sámi population in the area, and restrictions on fishing endanger their right to maintain the life they have preserved [for] hundreds of years' (Finland 2022, 200). It was also recognised in the report that '[t]he Teno dispute is an example of the many complicated dilemmas the Sámi people face when trying to stand up for their rights' (Finland 2022, 201). This case was later decided by the Supreme Court of Finland in favour of the Sámi people (Hofverberg 2022).

Conflicts between Sámi traditional cultural practices and existing regulations were also recognised in Norway's report, which underlined, in particular, 'Sámi hunting and fishing traditions, as well as the use of uncultivated land for husbandry and gathering' (Norway 2021, 124). It was acknowledged in this regard that '[m]any of these practices and approaches are heading for extinction, since they often conflict with the majority society's regulations regarding the use of uncultivated land' (Norway 2021, 124). Similar conflicts related to legal regulations were stated also by Sweden – in particular, in relation to the use of natural resources. The report observed that '[t]he Sami's traditional lands are being exploited at an increasing rate, which contributes to conflicts between the Sami and other interests' (Sweden 2022, 115). In the case of both Norway (Hofverberg 2021; Ravna 2022) and Sweden (Hofverberg 2020; Allard and Brännström 2021; Ruin 2021), there have been recent litigation cases decided by their respective Supreme Courts in favour of Sámi rights to continue their traditional practices and thereby to secure their livelihoods.

According to Sámi legal scholars and activists, abovementioned three decisions of the respective Supreme Courts in Finland, Norway and Sweden are a visible change in litigation practices at the national level in those countries, which may affect further defence of Sámi rights and interests with regard to their traditional cultural practices and livelihoods (University of Helsinki 2022). These and other cases have been discussed by Sámi legal scholarship, although without making a connection to the UNESCO Convention. There are thereby parallel terminologies in this field. The Convention is not used as an argument in the abovementioned domestic litigation cases on Sámi rights, which are based instead in domestic law, international human rights law and international

customary law on the rights of Indigenous peoples. Nevertheless, the conceptual or thematic connections between such litigation cases and the Convention are evident, and periodic reports are a testimony to that. Intangible cultural heritage safeguarding as a subject matter is thus a meeting point of several legal terminologies that are gradually becoming intertwined.

The recognition of existing conflicts in governmental reports is, to some extent, already a step forward in addressing, and eventually reconsidering, the existing legal regulations and their impact on the safeguarding of intangible cultural heritage. In addition to these concerns, the three reports reveal a much broader range of aspects where initiatives have been taken to safeguard Sámi intangible cultural heritage. These include pan-Sápmi cooperation and the importance of its development as a crucial tool for dealing with Sámi heritage in the cross-border area of Sápmi, along with the issues of ownership, repatriation, and research ethics and education. The functioning of Truth and Reconciliation Commissions has also been mentioned as part of the present processes that relate to the safeguarding of Sámi intangible cultural heritage.

UNESCO's regional analysis in recent years has paid separate attention to the experiences of Indigenous peoples, as a UNESCO's priority area, in Latin America and the Caribbean (UNESCO 2021a), Europe (UNESCO 2022) and the Arab States (UNESCO 2023c). However, only limited attention is currently being paid to this particular aspect. Therefore, after all the regional analyses are completed, there is an interest in a thematic global analysis regarding the safeguarding of the intangible cultural heritage of Indigenous peoples. In such a case, the content of reports could be analysed in-depth and in detail, contributing significantly to an exchange of experiences worldwide in this field, and thereby giving an input also into global fulfilment of the human rights of Indigenous peoples.

Conclusions

'It takes time!' This has been reiterated by Sámi people at various discussions in recent years where intangible cultural heritage governance has been debated, including its legal aspects and a possible policy and legislative path to choose with regard to Sámi interests. Time is needed for studying, analysing, taking positions and negotiating.

The cross-border legal analysis and negotiations carried out by and with Sámi are of particular interest for reflecting upon the role the UNESCO Convention can play – currently as well as prospectively – in domestic and regional legal developments with regard to safeguarding the intangible cultural heritage of Indigenous peoples. There is a gradually changing legal landscape that can be seen in the Nordic countries in this field, based on legal analysis, negotiations, as well as litigation later reflected in governmental reports on intangible cultural heritage safeguarding.

Legal scholarship has been mobilised in all of the reviewed advancements – both those undertaken from the perspective of the Sámi that reflect upon their need to protect their cultural resources and control their use, as well as those undertaken from the governmental side to advance reflections on future legislative developments. These need to be considered in the context of existing legal systems, as well as bearing in mind global intergovernmental negotiations, including the ones taking place at WIPO. Furthermore, embarking on a litigation path is a legal commitment requiring arguments well-grounded in national and international law, and time and other resources to go through such a process. These experiences then have become reflected upon and addressed in governmental narratives on intangible cultural heritage safeguarding. Sami legal scholarship, whether or not with reference to the UNESCO Convention, has had a focus on defending the human rights of Indigenous Sámi people to their traditional cultural practices and nature-related livelihoods. The safeguarding of Indigenous intangible cultural heritage, as can be seen from observing the debates on Sámi heritage, can indeed be in conjunction with intellectual property protection, the protection of human rights of Indigenous peoples, and more.

Such points of conjunction have been explored recently by UNESCO as part of a Draft Guidance Note on Economic

Dimensions of Intangible Cultural Heritage Safeguarding (UNESCO 2023b), developed through expert consultations. The UNESCO Intergovernmental Committee for the Safeguarding of the Intangible Cultural Heritage took note of it and acknowledged the guidance note ‘as a useful reference document addressing the main issues at stake’ (UNESCO 2023a). This document brings attention, as part of a range of issues, to the specificity of safeguarding the intangible cultural heritage of Indigenous peoples. It states in its introduction that ‘differences in context, and the specificity of the relationship of individuals and groups of practitioners and entrepreneurs within different communities, including Indigenous Peoples, should be recognized’ (UNESCO 2023b, 2). The document references the UNDRIP, along with the UNESCO Policy on Engaging with Indigenous Peoples (UNESCO 2018), among other international instruments, and states that the experiences of Indigenous peoples ‘can be very relevant in different contexts, to communities safeguarding their intangible cultural heritage and engaging in economic activities depending on it’ (UNESCO 2023b, 3). The consideration of intangible cultural heritage as a resource that can be used in economic contexts, has thus served as a context for underlining the necessity for specific attention to be paid to those policy and legal measures, and the practice of their implementation, which concern the intangible cultural heritage of Indigenous peoples, including the Sámi people.

The legal landscape introduced in this article is, like the Northern Lights over Lake Inari, ever-changing. There is a possibility that a path can be found where *sui generis* legal regulations might be developed at the conjunction between intangible cultural heritage safeguarding and intellectual property protection. Whether that will lead to a novel Nordic regional normative instrument is a question for the future. Nevertheless, the debates that have been held and the preparatory work that has been done lead to an assumption that a change in this legal landscape can be expected. 🇳🇴

ENDNOTES

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2. Saami Council is the official name of this organisation, using another spelling for Sámi in English.
3. Sámi parliaments across Sápmi are elected bodies with different legal statuses, functions and rights in each country where they have been established – Finland, Sweden and Norway (United Nations 2016) – and which collaborate through the Sámi Parliamentary Council. The differences in their statuses and resources influence the possibilities and the ambitions of their work with the UNESCO 2003 Convention. Nevertheless, in all three countries Sámi parliaments are involved in dialogues with relevant governmental institutions, and they collaborate among themselves on these matters. Debates on Sámi self-governance bodies are also related to discussions on ethnicity and to the identification of Sámi in the respective countries. These discussions include debates on the right to vote for electing members to a Sámi Parliament and on the duties to consult with Sámi, as discussed in the debates on a new Sámi Parliament Act in Finland (Sámiráddi 2023).
4. It is relevant to note also the engagement of the representatives of the Sámi Parliament in Norway in the work of the governmental delegation of Norway at UNESCO intergovernmental meetings related to the Convention. Indigenous representation in governmental delegations thus far has been a rather rare phenomenon in such a context.
5. At the national level, the intangible cultural heritage inventory of Finland includes 'Sami handicrafts tradition', presented by a non-governmental organisation Sámi Duodji (2019). Furthermore, the recently internationally inscribed element 'Nordic clinker boat traditions' is also related to Sámi culture and their traditional skills, inventoried in the Nordic countries concerned (UNESCO 2021b).
6. An early example, promoted at the UNESCO level, of cross-border efforts to safeguard Indigenous cultural expressions has been a sub-regional project, 'Safeguarding intangible cultural heritage of Aymara communities in Bolivia, Chile and Peru', inscribed on the Register of Good Safeguarding Practices (UNESCO 2009).
7. For example, a pilot project prepared by the Saami Council for the project 'Creative and living cultural heritage as a resource for the Northern Dimension Region. LIVIND' (2021–2024), led by the Finnish Heritage Agency, is in the field of advancing their common work on intellectual property protection regarding Sámi intangible cultural heritage; namely, 'to raise awareness among the Sámi community on the way intellectual property tools can be utilised in Sápmi in a manner that creates value for communities' (Finland 2023b).

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