

To

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Primeminister

Minister of Culture

The National Association of Swedish Tornedalians - Tornionlaaksolaiset

**Letter regarding the discriminative treatment
of Tornedalians, Kvens and Lantalaiset by the
Swedish state**

2022-11-18

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Svenska Tornedalingars Riksförbund
Tornionlaaksolaiset

The National Association of Swedish Tornedalians (STR-T) and the Association of Swedish Kvens and Lantalaiset (SK-LT) are writing to the Council of Europe concerning the serious exclusion of the minority Tornedalians, Kvens and Lantalaiset on important issues which affect it, state disregard for the Minority's legal rights, and assimilatory treatment of the Minority.

Background to the letter

Tornedalians, Kvens and Lantalaiset are the minority in Sweden which is least known to the general public, as confirmed by the report *Minority in History* from *Forum for Living History*. This and a number of other factors lead in many contexts the Minority to be excluded from important issues that affect our minority – issues that affect conditions for the Minority to firstly retain and develop our culture, secondly to strengthen its status in majority society, thirdly to change negative attitudes to do with the Minority and fourthly to succeed in revitalising the language. Through its work with minority policies, STR-T has too often experienced that the rights of Tornedalians are overlooked and ignored by the state and public authorities in Sweden. The Minority is not made participatory in issues where it should be a natural partner, and exclusion is so commonplace that it is experienced as increasingly systematic. In this letter, the Association chooses to focus on an ongoing issue where representatives for the Minority were excluded and treated in an assimilatory way by being equated with the majority population – the rest of Swedes.

Exclusion on the issue of reindeer land

In spring 2021, the Swedish state commissioned a parliamentary committee to review the Reindeer Husbandry Act. This was pursuant to the outcome of the Girjas case between the state and Girjas Sámi District, in which the Sámi district was given *fructus* rights to hunting and fishing in the area in question. The current parliamentary committee which is addressing the so-called *reindeer land issue* includes in the expert and specialist groups different organisations that are affected by the issue. Most are Sámi representatives, but there are also representatives for forestry companies, and for angling and hunting organisations. In the committee's expert group there is a representative for concession reindeer husbandry (*See Annex 1*), which is pursued in Tornedalen; but there is no representation for the minority Tornedalians, Kvens and Lantalaiset. The Meänkieli-speaking minority Tornedalians, Kvens and Lantalaiset is not even mentioned in the directive despite the direct impact the investigation has on the Minority, particularly in the Orefields. STR-T is extremely concerned about the far-reaching exclusion and its future consequences. The investigation has a great deal to do with the culture, history and traditions of the Meänkieli-speaking minority. (*See Annex 2*)

The Association's inclusion work

Since the decision to set up the Reindeer Land Commission was made public, STR-T has been sending letters to the government in which the Association makes clear its request to participate (*See Annex 3*). As recently as 12 May 2022 the Association received an invitation to meet those with political power and specialists on the committee on 15 September 2022 to put its position on the issue. Before that, at its own request, the Association was able to meet the Chair and Commission Secretary of the Reindeer Land Committee on two occasions, where the travel costs were borne by the Association itself. In June, the government adopted an additional directive in which Tornedalians were also mentioned. The Association feels this is a step in the right direction, at the same time as there is disappointment at the design. In the additional directive the Minority is equated with the rest of the population such as Swedish hunters, anglers and others domiciled locally. In the additional directive our *rights* are expressed as *needs* – a significant difference. There has been no consultation on the additional directive with the Minority. The draft came to our notice after having been published in the media, which we feel smacks of nonchalance.

The impact of the Reindeer Husbandry Act on the Minority

The Minority has been, is and will be greatly and directly affected by the Reindeer Husbandry Act and its future design. The Reindeer Husbandry Act affects conditions for the Minority to retain and develop its culture and its traditions. The Reindeer Husbandry Act today gives Sámi districts the right to prevent landowning Lantalaiset from among other things constructing, hunting and marsh haymaking on land that they have handed down for generations and once belonged to their ancestors. Many times this has been done with reference to the disruptive impact of the activity on reindeer husbandry. The Association has heard accounts of when individuals have arbitrarily used the Reindeer Husbandry Act to prevent Tornedalians, Kvens and Lantalaiset from exercising their culture when using their own ancestral land.

This has created resentment and conflicts, which have escalated over time. STR-T and SK-LT has been the recipient of accounts from Kvens, Lantalaiset and Tornedalians, above all in the Orefields, testifying to the increasingly bitter and aggressive relations between land-owning Lantalaiset/ Kvens/ Tornedalians, individual Sámi, and Sámi districts. Threats of violence and damage to property occur.

Contravention of the Framework Convention

The Framework Convention for the Protection of National Minorities ratified by Sweden SÖ 2000:2 is designed to protect the continued existence of the national minorities, and retain and develop human rights and the fundamental freedoms. The parties signing the agreement must expressly *“not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity”*.

Cmt. By excluding the national minority Tornedalians, Kvens and Lantalaiset from the review of the Reindeer Husbandry Act, the state signals that it does not respect the right of the Minority to its ethnic and cultural identity. By overlooking the Minority on this issue, it is depriving it of conditions to be able to express, preserve and develop its identity.

The parties signing the agreement *“consider that the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society”*.

Cmt. That the state, in reviewing a law affecting the Minority's opportunities to exercise and develop its culture and cultural heritage, keeps it outside the work, disregards the history of the Minority in the investigation and shows no interest in a broader dialogue with the Minority, contravenes the above-presented wording in the Framework Convention. The cultural diversity striven for in writing does not in practice take in a national minority in the area in question and the action contributes to division and the creation of severe conflicts between the minorities.

The government's discriminative treatment of the Tornedalians, Kvens and Lantalaiset on the reindeer land issue contravenes several sections of the Framework Convention for the Protection of National Minorities, which Sweden has ratified. (See Annex 4)

The Girjas judgment as starting point

That the government has written the directive to the Reindeer Land Commission based on the Girjas judgment and has adopted the Girjas area as a template for the entire reindeer husbandry area of Sweden is regarded by STR-T as astonishing. A disputed Supreme Court judgment containing a distortion of history and historical facts of doubtful veracity is being used as a norm in an issue that is crucial to land use in approximately 40% of Sweden by area. Put mildly, this is quite remarkable. (See Annex 5)

During the ongoing investigation, a further Sámi district (Talma Sámi District) has sued the Swedish state regarding discretionary powers over hunting and fishing. The lawsuit contains the same distortion of history that can be read in the Girjas judgement, among other things that the population of Lapland in the 16th century comprised solely Sámi people. This statement is false, as research can corroborate. This indicates systematic exclusion and marginalisation of an entire ethnic group.

Effect on language revitalisation

The Meänkieli language today lives on in a society under a constant existential threat. With a non-functioning educational chain, the survival of the language is today completely dependent on the personal actions of language bearers and parents for its transfer to future generations. The language lives most clearly in close-to-nature settings linked to the Minority's culture: hunting, reindeer husbandry and fishing. Today, Meänkieli is a natural language for the older generation to use for communication during for example reindeer roundups and hunting. Many Meänkieli words used for example in reindeer husbandry have no counterpart in Swedish, a natural reason why the language is much used in round-ups, calf marking and counting. In hunting, communication in Meänkieli is still a natural occurrence in the geographic language area, which includes Tornedalen and parts of the Orefields. It has been the main language in hunting-related contexts and lives on among the older generation. Many place names and names of more localised forest areas are in Meänkieli and are used by local hunters. This means that also the younger generation involved in these cultural activities becomes familiarised with the language and develops its own linguistic ability. It also strengthens the identity and raises status to spend time in a setting where the language is living.

To exclude the national minority Tornedalians, Kvens and Lantalaiset from issues that so clearly affect the Minority has a highly negative impact on the Minority's own image of its rights to its culture and its language. It has a strongly negative effect on the Minority's self-esteem and thereby also the Minority's affirmation of its culture and its language. The efficacious assimilation policy in Sweden has washed away both cultural and linguistic knowledge among the Minority. It has also considerably weakened the Minority's self-esteem and created confusion over identification issues. In connection with the continued work of the Truth and Reconciliation Commission, the Association has noticed an awakening and newly-aroused interest among the younger generation to seek their identity and their roots. This language and culture strengthening process is negatively affected by the exclusion of the Minority by the majority population and the rest of the population concerning the important issues that affect the Minority. In the long term, this exclusion also means suppressing the development of the Minority's language, Meänkieli.

Assimilative treatment

The Tornedalians were recognised as a national minority in 2000. The fact that the state, which initially committed a grave error by excluding this minority upon the drafting of the Reindeer Husbandry Act, now has an opportunity to work to correct that error, but actively chooses to again exclude this ethnic group, is astounding and incomprehensible. This action means it is treating the national minority Tornedalians, Kvens and Lantalaiset as Swedes in general without acknowledging the rights and the legal protection that apply to the Minority. The action is a strong indication that the assimilation policy lives on in 2022. This is ongoing at the same time as the same state is investigating violations and abuse of the said population which took place in the 19th and 20th centuries. STR-T sees many areas and issues being dealt with today that affect the Minority, where the Minority is neglected and excluded. STR-T wishes to clearly state that the far-reaching exclusion of our minority that is occurring today on issues that have a strong impact or are even crucial to the future of our Minority's conditions to retain and develop its cultural heritage, is assimilative and abusive of the Minority. The state has an opportunity to redo and do right, but chooses to remain stuck in a rut, neglecting and demeaning a national minority with a strong legal history – part of Sweden's history.

The government has failed

In drafting the committee directive to the Reindeer Land Commission, and in its further actions on this issue, the Swedish government has failed in its commitment to protect Sweden's national minorities. The government has contravened its own legislation and is acting in conflict with the international agreement regarding the protection mentioned. The government has also through nonchalant actions failed in its striving to safeguard human rights.

STR-T's aims

In the experience of the National Association of Swedish Tornedalians (STR-T), representatives of the organisation have in the few dialogue meetings with officials from the government offices and the meeting with political members on the reindeer land issue that have taken place so far been met in a positive and respectful spirit. STR-T is critical to the lack of attention subsequent to the meetings. Inclusion in the additional directive is neither adequate nor satisfactory. As experts in the field, strongly affected by the consequences of the investigation, it is incomprehensible and completely unacceptable that the Minority has not been given a seat in the Reindeer Land Committee. STR-T is critical of the time consumed and the need for lobbying for the opportunity to put its views concerning exclusion on the issue. STR-T is also critical to the discriminative and nonchalant approach to the Minority and its rights which the government has shown when drafting the committee directive and during the commission work. STR-T does not in any way want the *fructus* rights to hunting and fishing to fall to the Meänkieli-speaking minority, any other population or economic association where the activity is linked to ethnicity.

With reference to the material put forward, the National Association of Swedish Tornedalians (STR-T) wants the government to rectify the mistakes made through the exclusion of Tornedalians, Kvens and Lantalaiset from the review of the new Reindeer Husbandry Act and wishes to submit the following points:

- Tornedalians, Kvens and Lantalaiset are not to be equated with the rest of the Swedish population in the committee directive in the way done today according to the draft. We are a national minority with special legal protection, and this should also be stated in the directive. The directive is to take into consideration our minority's *rights* and not solely *needs* as written in the additional directive.
- As a national minority which both historically and currently is strongly affected by the Reindeer Husbandry Act and its design, a seat in the specialist group of the parliamentary committee is self-evident and a demand from STR-T as a representative of the Minority.
- STR-T considers it crucial that the following errors in the committee directive be rectified: the Girjas judgment as a partisan starting point. This since the judgment contains distorted, one-sided and questionable historical details as its basis, and for its lack of overall perspective.
- STR-T wants the investigation to adopt a broader and more realistic historical approach, where the history of all the involved ethnic groups is included.

STR-T demands compliance with the Minority's legal right to protection as regards conditions for retaining and developing its cultural heritage and its traditions. To jeopardise the protection in this way is without doubt dereliction of the commitments the government has underwritten. Failure to

see, disregard of, and assimilation of the Minority must be spotlighted and must end. The state bears the responsibility for and power over conditions for the Minority's survival, as well as a responsibility to promote it. The Association has communicated this in its letters to officials in the government offices and to politicians holding power on the reindeer land issue.

STR-T with its limited resources has invested a great deal of funds and time in lobbying work to gain participation on the issue in question. It has naturally meant that other vital issues have been put on the backburner, such as education issues and revitalisation work.

Other exclusion

STR-T experiences exclusion and marginalisation of Tornedalians, Kvens and Lantalaiset on many issues that affect the Minority. One example is the total exclusion from work concerning the Convention on Biological Diversity (CBD), which the Swedish Environmental Agency and the Sámi Parliament have been commissioned to coordinate. The Sámi Parliament also has the responsibility to coordinate national minority policy and this issue affects Tornedalians, Kvens and Lantalaiset at least as much as other groups granted scope and participation in it. It addresses traditional knowledge, biological diversity and agriculture, something strongly associated with the Minority's culture and history. Almost 40 organisations, public bodies, municipalities and regions have been invited to participate on the programme board that addresses the convention, but none of them represent the national minority Tornedalians, Kvens and Lantalaiset.

The Association has received a reply from the Sámi Parliament to the effect that that authority considers itself to have sufficient competence already in the composition it has chosen. This is an active choice by one national minority to exclude another national minority on an issue which greatly affects the Minority and within which the Minority has considerable competence and know-how – something which the excluding minority is well aware of. This freezing-out of Tornedalians, Kvens and Lantalaiset shows that power and decision-making on an important issue that affects two minorities must never be given to one involved party. Decisions important to the minorities must rest with an independent party, as on the reindeer land issue, where the investigation on *fructus* rights to hunting and fishing is ongoing.

The Association has found it very difficult to find a space in the media in which to spotlight the ongoing exclusion of the Minority on the issue. Many times, the Minority is met by the silence and indifference of journalists. The Association sees possible reasons for this firstly in a lack of knowledge, and the marginalisation of the Minority in society, secondly fear among individual journalists and publishers of the Sámi group striving for sole rights on the issue. The Meänkieli-speaking minority's situation is part of a vicious circle, where limited awareness of the Minority contributes to uncertainty, and to unwillingness among the media to highlight the situation of the Minority, which in turn hampers the spread of knowledge.

An appeal to the Council of Europe

With reference to the described nonchalant treatment of the national minority Tornedalians, the situation is alarming and deteriorating with the passage of time. The National Association of Swedish Tornedalians (STR-T) and the Association of Swedish Kvens and Lantalaiset (SK-LT) is now appealing to the Council of Europe for help and time is limited. STR-T is appealing for support in its struggle to have the Minority's cultural and linguistic rights recognised; for an end to disregard towards and systematic exclusion of the Minority on important issues which affect it. This is to avoid being prevented by Swedish law from, in co-existence with other ethnic groups, living in line with its culture and identity as one of Sweden's five national minorities, now and in the future.

Pajala 18 november 2022

Ms Inger Junkka
Chair, STR-T

Mr Terje Raattamaa
Chair, Swedish Kvens – Lantalaiset

Ms Eva Kvist
Executive Manager, STR-T

The National Association of Swedish Tornedalians - Tornionlaaksolaiset

Annex 1-5

**Letter regarding the discriminative treatment of Tornedalians, Kvens
and Lantalaiset by the Swedish state**

2022-11-18

Concession reindeer husbandry

Concession reindeer husbandry in Sweden is a form of reindeer husbandry that gives the land owners in the so-called concession area, which as regards geography mostly comprises Tornedalen (the Torne River Valley), the right to own reindeer. There are eight reindeer husbandry areas, nowadays called Sámi districts, within the concession area. Each Sámi district has a concession holder who leads reindeer husbandry work within the area in question. Under the Reindeer Husbandry Act this person shall be a Sámi by birth.

As regards in particular concession reindeer husbandry in Tornedalen, it is made clear through several century-old documents that this has historically been an industry and the cultural heritage of the population of Tornedalen. Farmers owned reindeer which they could leave in the care of Sámi herders. The farmers paid tax for, and with, reindeer calves. Estate inventory proceedings, court records and various other records indicate strong property rights as regards land and livestock. Today's concession reindeer husbandry is built on the same principles, but through the discriminative Reindeer Husbandry Act, it is under Sámi control. Tornedalians, Kvens and Lantalaiset are permitted to keep reindeer in an organisation controlled by an ethnic group other than the ethnic group which is involved in it possessing expertise and know-how on the conditions for pursuing it in the area in question. There are no causes or historical reasons why one minority's practising of its cultural heritage should be owned and controlled by another minority, which in practice gains no benefits from controlling it.



The history, culture and traditions of the Meänkieli-speaking minority

The national minority that is today generally referred to as *tornedalingar* (*Tornedalians*) also encompasses the Kven and Lantalaiset identities. The common denominators are the language, culture and traditions. We are the "Meänkieli-speaking people" with Kven roots, and brothers and sisters in both Norway and Finland. The designation Tornedalians was given to the Minority by the state and today the name is perceived as discriminative of the Meänkieli speakers who belong to the same minority but have their origins and livelihood outside the geographical area of Tornedalen. For that reason, many Meänkieli speakers in the Orefields for example, prefer to call themselves Lantalaiset and/or Kvens. In historical documents in the National Archives this ethnic group is referred to among other things as *the Finnish speaking people in the North*, among other sources in documents from the time of King Gustav Vasa, in the 16th century.

Unlike the Sámi, the Tornedalians, Kvens and Lantalaiset have historically had more "legs" as regards their livelihood. Agriculture, forestry, hunting, fishing, reindeer husbandry and trading are the main areas that have provided people's subsistence, and they form part of the Minority's cultural heritage and traditions. Being an animal, the reindeer has of course been unaware of the demarcations drawn up by mankind, and has historically existed below the cultivation line as well as in the mountains. The minority Tornedalians, Kvens, Lantalaiset shares many common denominators with the Sámi minority. Both minorities have lived close to nature, in the past and present using the resources that nature has to offer. In Tornedalen the reindeer has been used by the domiciled population as a pack animal and for food. There are documents in the National Archives from the 14th century that mention that farmers in Northern Österbotten, which includes Tornedalen, used and owned reindeer, since they paid tax on revenue from reindeer husbandry in the form of every tenth reindeer calf.

When the Reindeer Grazing Act was introduced in the late 19th century, the Minority was not an acknowledged national minority. There was no widespread common designation and the Minority was regarded as neither Swedish, Finnish nor Sámi. The term *finnar* (Finns) occurred to some extent and was probably associated with the Kven language, closely related to standard Finnish. The Minority were people who in the vernacular came to be described among other things as "*grey zone people*" when it came to the struggle for acknowledgement of our minority's history.

The fact that the Minority was not seen as a separate people or separate minority is probably a contributory factor to its not being included in the Reindeer Grazing Act upon its introduction, despite the strong cultural ties of the Minority to reindeer husbandry, hunting and fishing. Historically, these two national minorities – the Tornedalians and the Sámi – have coexisted on good terms. They have, within so-called friend-guest relations, shared house space when nomadic Sámi were given shelter by Lantalaiset during reindeer migrations between foraging areas. Sámi children played with Lantalaiset/Kven children. The elderly and the sick were allowed to stay on with the host family to avoid worsening sickness and death in the tough conditions moving reindeer herds could bring. Kvens/Lantalaiset in turn were favoured among other things by trade with the Sámi.



Exclusion of our minority in the introduction of the Reindeer Husbandry Act was thus an erroneous action by the Swedish state and a mistake with consequences. Exclusion would successively create and worsen conflicts between two minorities which had historically coexisted on good terms and came to limit one minority's full right to conditions for retaining and developing its cultural heritage – an act which in practice and ultimately constitutes a crime against human rights. Tornedalians, Kvens and Lantalaiset have a long legal history stretching back to time immemorial. To date, no records have been found that refute the Minority's existence for several centuries and more in Northern Sweden. The minority fulfils the criteria for an indigenous people. The minority's history has not been investigated. There are historical documents such as court records, tax registers, estate inventory proceedings and so on, some in the National Archives, that confirm the existence of our minority, its land ownership rights and its links to reindeer husbandry and land use stretching back centuries.

Archaeologists have made sensational finds, among other things at excavations in Vivungi, Kiruna Municipality, 150 kilometres from Pajala town, which reveal that advanced steel and iron manufacturing took place 2,000 years ago – something traditionally linked to the agricultural society. Similar finds has also been made in Sangis, Kalix municipality. Through this it can now be shown that hunter-gatherer cultures in Northern Fennoscandia possessed iron and steel manufacturing techniques which it was previously thought were imported by miners in the 17th century. To bring about a summarising historical narrative produced through independent research has not been in the state interest despite the question marks, issues and conflicts between minorities which over the years have become increasingly evident.

Setting up a Truth and Reconciliation Commission for Tornedalians, Kvens and Lantalaiset is a step in the right direction, but the investigation covers only a fraction of the Minority's history and mostly deals with events in later times, the late 19th and the 20th century. Due to the severely limited allocation of resources to the commission and the far too pressing schedule, STR-T fears additionally that the final findings of the commission will have shortcomings.



The Association's inclusion work

- 2020-10-25 The Association submits a letter presenting the interest of STR-T in the reindeer land issue and demanding an opportunity for active participation in the commission on behalf of the minority Tornedalians, Kvens and Lantalaiset.
- 2021-06-01 The Association submits a letter demanding to be able to nominate to the committee representatives for the Minority, and a call for a response to demands put forward earlier for inclusion in the committee directive.
- 2021-10-11 STR-T addresses the exclusion of Tornedalians, Kvens and Lantalaiset on the reindeer land issue in consultation with the then Minister for Culture and Democracy, Amanda Lind.
- 2021-10-22 The Association submits an open letter to the then Prime Minister Stefan Löfven and then Minister of Enterprise and Innovation, Ibrahim Baylan, with a demand for dialogue on the issue with those holding political power.
- 2021-11-22 A meeting with the Chair of the Parliamentary Committee Eric M Runesson, principal secretary Lisa Englund Krafft and Commission Secretary Elisabeth Rahlén is held in Garnisonen in Stockholm; this at the request of the Association.
- 2022-02-08 The Association meets, at its own request, the Chair of the Reindeer Land Committee, Commission Secretary Maja Martinsson and Magdalena Pucher in connection with its visit to Kiruna.
- 2022-02-21 The Association sends a request to the then Prime Minister and Minister for Enterprise and Innovation for dialogue with political representatives on the reindeer land issue.
- 2022-03-04 A digital meeting is held in which the Association is able to put his views on the issue to officials at the Ministry of Enterprise and Innovation. STR-T also receives acknowledgement and an apology for poor handling of the Association's request for dialogue.
- 2022-03-18 The Association submits a request for dialogue to all members of the parliamentary committee.
- 2022-04-21 Secretary of State Oskar Magnusson calls to notify that a draft for a new additional directive has been presented and that it includes among others Tornedalians.



- 2022-05-12 The Association receives an invitation to dialogue with the committee in Stockholm.
- 2022-06-16 The government adopts the additional directive.
- 2022-09-15 The Association is able to present its position on the issue to the members of the parliamentary committee and its opinion on the exclusion of the Minority on the issue in question at a physical meeting in Stockholm.
- 2022-09-19 Inquiry secretaries Maja Martinsson and Magdalena Pucher came on an two days long investigative trip to learn about the Minority's culture. STR-T together with SK-LT organised net fishing, capercaillie hunting with a dog, visits to a heritage museum and moose hunting in the Orefields and Tornedalen. The visit was an initiative from the Reindeer Land Committee itself.
- 2022-11-01 Member of the parliamentary committee and the Moderate Party, Mattias Karlsson, came to Lannavaara at the invitation of STR-T and SK-LT to take part in a dialogue meeting between the Truth and Reconciliation Commission for Tornedalians, Kvens and Lantalaiset and the association SK-LT. During the meeting there was a presentation of the historical property division that impacted the Meänkieli speaking minority, reindeer husbandry among the Lantalaiset, alienation, coexistence and the Verdi system of friend-guest relations. Afterwards, Mattias Karlsson also took part in a separate meeting with SK-LT and STR-T.



Framework Convention articles contravened by the government's actions

Sect. I

Article 3

2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present Framework Convention individually as well as in community with others.

Cmt. The Framework Convention for the Protection of National Minorities clearly states that national minorities shall be able to exercise their rights. This includes the right to exercise their culture and traditions.

Sect. II

Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.

Cmt. What is now happening, contrary to promoting such conditions, is rendering them more difficult.

2. "...the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation."

Cmt. Tornedalians, Kvens and Lantalaiset are concerning the issue in question not treated by the state as a national minority, since they are excluded from the investigation process of the issue in question and from the directive upon which it is based. The additional directive to the Reindeer Land Committee (N 2021:02) Committee Directive 2022:58, equates the Meänkieli-speaking minority with parts of the excluded majority population and continues to overlook the special rights of the national minority. On this issue, the Minority is treated as a Swedish entity not particularly affected by the design of the Reindeer Husbandry Act and without the legal protection for national minorities that the Minority is covered by. This despite the fact that those factors in the Minority's culture and traditions are not only associated with the parts investigated by the Reindeer Land Committee, indeed they *are* the Minority's culture and traditions.

This treatment of the Minority indicates an ongoing modern-day Swedification process, where the state through deliberate disregard is pursuing assimilation of an already severely impacted minority. Instead of protecting the Minority from assimilation it is subjecting it to assimilation. This is taking place at the same time as a Truth and Reconciliation Commission appointed by the government is investigating historical violations and abuse of Tornedalians, Kvens and Lantalaiset. It is worth noting in this context that also a number of parties belonging to the Swedish majority population, but with a special interest in the issues dealt with by the commission, are considered more entitled to a seat in the parliamentary committee than a national minority, whose prospects of retaining and developing its cultural heritage and traditions are considerably impacted by the design of the Reindeer Husbandry Act.



Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

Cmt. The review of the Reindeer Husbandry Act is a major public issue for the Minority and greatly affects it.

Article 16

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

Cmt. The conflicts that exist today among the two northern national minorities spring from state intervention in the lifestyle of the population, as well as the granting and removal of rights through legislation that came to give a certain ethnic group a monopoly on reindeer husbandry and discretionary powers regarding land use. These conflicts are further exacerbated by the systematic exclusion of the Minority on issues closely affecting it by public bodies and society in general. The Convention on Biological Diversity is a further issue affecting the Minority from which it is totally excluded. Coordinating responsibility for this lie with the authority representing the Sámi minority, the Sámi Parliament.

The conflicts that are now successively escalating, and the fact that a minority is denied the right and opportunity to exercise its cultural heritage in areas of significance to that minority will in all probability change the proportions of the population in the areas in question.



Distortion of history in the Girjas judgment

That the review of the Reindeer Husbandry Act is based on the so-called Girjas judgment is highly remarkable and extremely concerning in view of the shortcomings in verification of sources and the lack of historical research upon which the findings are based. These shortcomings indicate arbitrariness in drawing conclusions. Here follow excerpts and sections from items in *The Supreme Court judgment, Case number T 853-18*, containing partly errors that lack historical support which through basic investigative efforts might have been discounted, partly details which show disregard of historical facts regarding the existence and rights of the other ethnic group, the national minority, which is greatly affected by the issue of reindeer land, and partly items indicating that one or more ethnic groups have been excluded from the judgment as to who *de facto* possesses the right to hunting, fishing and land use in the area.

6.

According to the Sámi district, sole rights to hunting and fishing are a direct result of the Reindeer Husbandry Act.

Cmt. The Sámi district asserts a monopoly on reindeer husbandry with reference to the Reindeer Husbandry Act, where under Section 1 the right to reindeer husbandry resides with the Sámi population and is based on custom since time immemorial. The Reindeer Husbandry Act was introduced without consideration to the customs and traditions linked to reindeer husbandry and land use acquired by the Tornedalian, Kven and Lantalaiset people. For the committee directive to ignore the errors historically committed by the state upon the introduction of the Reindeer Husbandry Act must not give the state a free hand to continue committing errors and the same mistake. Today, in 2022, the state is aware of the long existence of the national minority Tornedalians, Kvens and Lantalaiset in Northern Sweden. There is awareness of the cultural and historical common denominators existing between the two national minorities, the Sámi and the Tornedalians. There is also awareness of the violations and abuse to which the minorities have been subjected. There is knowledge of the conflicts created, and their escalation, to which the state through its actions on the issue has contributed and continues to contribute on a daily basis. All this notwithstanding, it has chosen to exclude one minority from the investigation and has ignored the serious consequences the actions have brought to date, and will continue to bring.

29.

Hunting rights and fishing rights are usually sole rights, in that a rights holder's discretionary powers over hunting or fishing normally mean that no one else has corresponding discretionary powers. It is however not impossible that discretionary powers over hunting and fishing in a given area can fall to several parties at the same time, for example because of legislation or ancient custom.

Cmt. This item in the judgment determines that it is not possible to exclude others from discretionary powers over hunting and fishing in a given area, which indicates awareness of the lack of relevant historical facts in the investigation.



39.

One question in the case is thus whether the rights which the Sámi district asserts constitute sole rights in relation to the state. Since the Sámi district has put the case before the state only, the court findings in the case have legal force only with respect to the state. The court therefore has no reason to address the right of the Sámi district in relation to others.

Cmt. It is clear that the judgment does not encompass the full historical aspects. This point alone is reason enough not to base a review of future legislation on the Girjas judgment.

48.

The 19th century also saw the completion of property division, i.e. the partitioning of private homesteads from what was considered Crown land. In Jämtland and Härjedalen counties, property division took place mainly during the first half of the 19th century. It was done in a way that favoured the agricultural population at the expense of the Sámi.

Cmt. In connection with the work of the Truth and Reconciliation Commission, a great deal of testimony and many accounts have emerged about how the minority Tornedalians, Kvens and Lantalaiset were deprived of land through property division. This subject came up in several of the Commission's so-called coffee meetings and in contact with board members of the Commission and with STR-T. Property division was a violation and an abuse of landowners and farmers with far-reaching consequences for the victims. That property division should have taken place for the benefit of farmers is not probable regardless of which geographical area it concerns. To describe in a state judgment a violation as a benefit for the victim seems startling and distasteful. The statement in the judgment does not explain in what way confiscation of another's property which this action meant might have been advantageous to the person deprived of their property.

74.

The law did not define who was a "Lapp" in a legal sense. The context of the regulations however gives reason to suppose that the term applied solely to Sámi who practised reindeer husbandry.

Cmt. There is uncertainty surrounding the historical term *Lapp*. That Lapp refers to Sámi is in certain respects implicit. There are however opinions that in some contexts it refers to people practising reindeer husbandry regardless of their ethnicity. Another opinion is that the term in some respects refers to being domiciled in Lapland regardless of either links to reindeer husbandry or ethnicity. In other words, it is not completely established that the term Lapp refers to Sámi in every historical context. Among other things there are books based on academic dissertations with content that corroborates this. Which ethnic group the terms refer to has not been investigated and it should therefore be interpreted with caution and in a broader perspective.



92.

In the cited regulation in the Instrument of Government it is prescribed that the possibilities of the Sámi people and ethnic, linguistic and religious minorities to retain and develop their own cultural and community life are to be promoted...

... The interests of the Sámi to be able to retain their culture, regardless of reindeer husbandry, shall in such deliberations be given added weight. It is above all in such deliberative processes that a regulation of this type can be crucial.

Cmt. The judgment refers to Ch. 1 Sect 2 of the Instrument of Government, which expressly includes other ethnic, linguistic and religious minorities. The judgment, however, actively chooses not to address other ethnic groups' rights with reference to the fact that the case concerns only relations between the Sámi district and the state.

162.

... The outcome is dependent on conditions in the past which are largely difficult to investigate. The difficulties in investigating are accentuated by the history of the Sámi having long been undocumented in any written Sámi sources. It is evident that through history, the state has had considerably greater opportunities to document conditions in the past. A certain evidentiary alleviation is therefore necessary for a Sámi district to have reasonable possibilities to assume the rights which may be linked to areas traditionally used by the Sámi.

Cmt. That the judgment permits a certain evidentiary alleviation also means a greater risk that partisan and challengeable information can stand unchallenged regardless of its veracity and that it will thus through ratification in the judgment come to be regarded as factual. See also Cmt. comment on Item 163.

163.

It may be accepted that certain omissions in the investigation into conditions in the area in question during a certain era have been compensated by reasonable assumptions, based mainly on what is known about the conditions in other parts of Lapland or during preceding and succeeding eras. This means furthermore that one cannot demand through investigation precise identification of the individuals who have attained rights of the type addressed here.

Cmt. The Girjas judgment expressly accepts shortcomings in the historical details upon which the conclusions presented have been based. This, in addition to the fact that the judgment expressly fails to address the full historical aspects, but only conditions between Girjas and the state, means that the basis for the conclusions is extremely vague. To permit a state judgment which has drawn conclusions on such deficient historical material and partisan suppositions to provide the basis for an investigation which is to amend a law which will change the way of life of several groups in society, including two national minorities in a vast geographical area, is highly irresponsible and will bring consequences for all involved.



166.

It is of particular significance that the area in question is among the most remote parts of Lapland, which, one might suppose, Sweden's exercise of power reached later than other areas, where competition between the interests of the Sámi and those of other ethnic groups was probably less than in other parts of Lapland.

Cmt. It is remarkable that in the Girjas case it has been chosen not to investigate the actual conditions in a broader perspective, given the knowledge of other ethnic groups' long existence, but to choose an easier path by supposing that things are as indicated in the tendentious information that has been presented. This has been at the expense of an entire ethnic group which through the judgment is consigned to the backwaters of history.

167.

Within the research into the history of Lapland that has been carried out in the past century there are considerable differences of opinion concerning, among other things, what rights the Sámi have acquired through history. This too gives cause for caution in evaluating the cited research material.

Cmt. A further point that confirms awareness that the historical information produced, which forms the basis for the conclusions presented, is weak.

168.

Neither does the investigation permit any conclusions as to whether other ethnic groups occurred in the area.

Cmt. This indicates that there can be others who have the same or more rights to land use in the area, but that one consciously does not investigate that aspect. The Girjas judgment does not take into consideration other ethnic groups' right regardless of whether or not they are based on custom since time immemorial.

173.

As regards the population of Lapland in general, there is every indication that at the end of the 16th century it comprised solely Sámi people. There is no reason to suppose that it was any different in the area in question. It is certainly clear that Lapland was also visited by coastal farmers and by the so-called Birkarl²⁹ traders. The extent to which they came as far inland as the area in question – and the extent to which this was other than temporary – cannot be said; geographical conditions make it more likely that such visits were few. There were no settlers at all in the area in the 16th century.

Cmt. That the population of Lapland during the period mentioned comprised solely Sámi is completely incorrect. It is astonishing that in a state judgment one can affirm information that distorts history in this way. On this point, it is admitted that the extent of the Birkarls' and coastal farmers' presence here cannot be determined, at the same time as it is asserted that these people were in the area as *visitors*. Whether the Birkarls were domiciled or who they were has not been investigated – they are described as "a type of trader".



181.

It appears that at least until the 16th century, the main industry of the Sámi was hunting and fishing, with a certain element of reindeer husbandry. It is clear that also Birkarls and coastal farmers in the 16th century pursued hunting and fishing in Lapland. The extent of and conditions for pursuing such hunting and fishing are unclear but it may be assumed that it normally took place with the consent of the Sámi.

Cmt. On this point there is uncertainty regarding the extent of the hunting and fishing that the coastal farmers and Birkarls carried out in the area and it is built on partisan assumptions, where also the source of the information can be questioned.

227.

The Sámi district has in the case claimed to have the right to make available hunting and fishing in the area and this right constitutes a sole right in relation to the state. The findings of the Supreme Court are that the Reindeer Husbandry Act does not give the Sámi district such a right (cf. 42 pp.) but that a corresponding right – pertaining to the area in question – has been established through the rights which Sámi individuals have earlier acquired through custom since time immemorial (cf. 125 pp.).

Cmt. The judgment states that the right is based on custom since time immemorial, which means that it has been earned by the Sámi people and thus not by the Sámi district. It also states that it is in the relation between the Sámi district and the state that the case is tried. In other words, the court has made a decision based on a people's custom since time immemorial with only a selected part of history as the basis, and one where an entire ethnic group with its rights connected to custom since time immemorial has been disregarded.

The veracity of the information which the judgment ratifies is highly questionable, as is the use of the information with reference to history, in the judgment. Uncertainty surrounding the unresearched history concerning other ethnic groups which may have the same or better rights to hunting, fishing and the use of land areas should be taken into consideration in work with investigations based on information from the judgment. One should also include the fact that the judgment deals with only one particular area and that the review of the Reindeer Husbandry Act addresses a wider area, where there are historical differences. It is clear that in the Girjas case one has touched upon only selected parts of history without any attempt to investigate the big picture. The fact that the history as described and verified in the court is based on reasonable assumptions without a holistic perspective and partisan information from the ethnic group which the appellant represents, is objectionable. Both the professionalism and credibility are highly questionable.

In view of this, there are thereby also strong reasons to question the fact that the committee directive for the review of the Reindeer Husbandry Act is to be based on this judgment and its conclusions.

