

HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

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Excellency,

I write to inform you that in the course of its 106th session, the Committee on the Elimination of Racial Discrimination considered information received under its early warning and urgent action procedure, related to the situation of the Sami indigenous peoples in Jokkmokk, Sweden.

According to the information before the Committee, on 22 March 2022, the Swedish Government decided to grant a mining exploitation concession to the British company Beowulf Mining and their fully-owned Swedish subsidiary Jokkmokk Iron Mines AB, at Kallak/Gállok, in the Municipality of Jokkmokk, county of Norrbotten, to the south of the Laponia World Heritage site.

The information received alleges that the Swedish Government took the decision on this mining concession without consulting or seeking the free, prior and informed consent of the Sami communities which could be significantly affected by the project. It is reported that the County Administration Board, the National Heritage Board as well as the Swedish Environmental Agency and the Sami Parliament expressed strong concerns regarding the irreparable environmental damage and cultural impact this project would cause, if realised.

The information further indicates that the proposed mine site is located in an area where it will cut off the traditional migratory routes used by the reindeer, thus endangering the traditional way of life and culture of the Sami communities that inhabit the area, as they depend on reindeer husbandry for their survival. It is also reported that the UNESCO World Heritage Site Committee concluded that the impact on site is considered to be large/very large.

The Committee is aware that on February 2022, the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on the enjoyment of a safe, clean, healthy and sustainable environment urged the Swedish government not to issue the licence for the mine as it will generate vast amounts of pollution and toxic waste, and endanger the protected ecosystem, including reindeer migration, to the detriment of local Sami communities. Similarly, in their communication to the Swedish Government, the Special Rapporteurs recalled the State party's international obligations concerning the protection of the rights of indigenous peoples, including those under the Convention on the Elimination of All Forms of Racial Discrimination. The Committee notes the Swedish Government's reply of 4 April 2022 to the communication sent by the Special Rapporteurs.

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However, according to the allegations received, before the decision on the concession was adopted, the Swedish Government announced pursuing the consideration of the project despite the Special Rapporteurs' communication. Furthermore, it is reported that in the assessment of the matter, the Government did not take into account the concerns expressed by the Special Rapporteurs, including on the lack of consultation with Sami communities. Paragraph 32 of the Swedish Government's reply to the communication by the Special Rapporteurs seems to confirm this allegation.

With regard to the decision to grant the concession, the information received notes that, in balancing the interest of mining and the interest of reindeer herding, the Swedish Government concluded that the socioeconomic benefits of the mine outweigh the disadvantages of environmental harm and for reindeer herding. It is alleged that in this assessment process, the Swedish Government did not take into account the rights of Sami indigenous peoples, in particular their land rights and the right to free, prior and informed consent, as constitutionally protected rights. Paragraphs 13 and 14 of the Swedish Government's reply to the communication by the Special Rapporteurs seems to confirm this claim.

The Swedish Government formulated twelve conditions for the approval of the concession, among others: ensure that the operation use as little land as possible; the conduct of mining activities during periods with least impact on reindeer herding; the compensation for reindeer communities; the building of fences and bulwark to protect the reindeer; the restoration of the area after any mining operations. The Government has reportedly not consulted with the relevant Sami communities on these conditions.

The Committee is seriously concerned about the allegations received, in particular about the lack of consultation with Sami communities that could be affected by the mine concession and the absence of consideration of international human rights obligations and standards in this regard. While noting the positive development of the adoption of the *Act on consultation in matters of special importance to the Sami people*, which entered into force on 1 March 2022, the Committee profoundly regrets that this Act would only be applicable in new cases concerning exploitation concessions, and did not and will not lead to a constructive dialogue with Sami indigenous peoples in the case of the Kallak/Gállok project.

The abovementioned allegations, if verified, could amount to a breach of the State party's duty to respect and protect the rights of the Sami indigenous peoples, in particular the right to be consulted and to free, prior and informed consent. In this regard, the Committee recalls its general recommendation No. 23 (1997) on the rights of indigenous peoples, in which it calls upon States parties to ensure that no decision directly relating to the rights or interests of indigenous peoples is taken without their informed consent.

The Committee would also like to remind the State party of the Committee's recommendations on the rights of Sami indigenous people made in paragraph 17 of its concluding observations of June 2018 (CERD/C/SWE/CO/22-23). Furthermore, the Committee recalls its Opinion of 18 November 2020 (CERD/C/102/D/54/2013) regarding a similar case concerning the Rönnbäcken mines in Sweden, in which it considered that the State party did not comply with its international obligations to protect the concerned Sami reindeer herding community against racial discrimination by adequately or effectively consulting the community in the process of granting the concessions.

In accordance with Article 9 (1) of the Convention and article 65 of its Rules of Procedure, the Committee would like to receive a response to the above allegations before 15 July 2022. In particular, the Committee requests the State party to provide information on:

- (a) The measures adopted to consider suspending or revoking the mining concession that affects the Sami communities in Kallak/Gállok until free, prior and informed consent is granted by these indigenous peoples following the full and adequate discharge of the duty to consult;
- (b) The efforts undertaken to engage in consultations with the Sami communities that could be affected by the exploitation concession at Kallak/Gállok;

- (c) The measures taken to ensure that the conditions that apply to the approval of the concession protect the interests of the indigenous peoples effectively, in particular through consultation with representatives of the affected indigenous peoples during the process of developing and determining these conditions;
- (d) The process of consultation that is required under these conditions, and on how far this process allows the affected indigenous peoples to effectively influence the mining activities;
- (e) Whether the affected indigenous communities are consulted in the environmental examination process under the Swedish Environmental Code or any other administrative procedures, required for the approval of the mining activities;
- (f) The steps taken to refrain from approving projects and granting mining permits or concessions without obtaining the free, prior and informed consent of the affected indigenous peoples;
- (g) The measures adopted to consider providing for the applicability of the *Act on consultation in matters of special importance to the Sami people* with regard to the further steps of the procedure that could lead to the approval of the mining operations.

In this regard, the Committee encourages the State party to consider seeking assistance from the United Nations Expert Mechanism on the Rights of Indigenous Peoples (EMRIP) that is mandated by the Human Rights Council (resolution 33/25, paragraph 2), to provide States with technical advice on the rights of indigenous peoples and facilitate dialogue between States, indigenous peoples and/or the private sector.

Allow me, Excellency, to reiterate the wish of the Committee to continue to engage in a constructive dialogue with the Government of Sweden, with a view to assisting it to implement the Convention effectively.

Yours sincerely,



Verene Shepherd
Chair

Committee on the Elimination of Racial Discrimination