



**Joint submission to the UN Universal Periodic Review of
SWEDEN**

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Presented by:

Civil Rights Defenders, Sweden

Supported by:

The Order of the Teaspoon, Sweden

É Romani Glinda, Sweden

The Afro-Swedish National Organisation, Sweden

The Muslim Human Rights Committee, Sweden

The Pan African Movement for Justice, Sweden

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Introduction

1. In accordance with Human Rights Council Resolution 5/1 of June 18, 2007, this joint submission is presented by Civil Rights Defenders¹ and supported by the following human rights organisations: the Order of the Teaspoon², É Romani Glinda³, the Afro-Swedish National Organisation⁴, the Muslim Human Rights Committee⁵, and the Pan African Movement for Justice⁶, as well as the following Sami representatives: Peter Rodhe, Chair of the National Association of Samiland⁷, Helena Dådning, Chair of Landsförbundet Svenska Samer⁸, Marie Persson Njajta, Founder of the Stop Rönnbäck Nickel Mining Project in Ume River, Tärnaby⁹, Marianne Gråik, Member of a Reindeer Herding District and Åsa Simma, Theatre Manager, Giron Sámi Teáhter¹⁰. This submission is intended to supplement the report drafted by the government of Sweden, which is scheduled for review by the Human Rights Council during its 35th session.
2. **The submission focuses on Sweden's failure to comply with its international human rights obligations, especially regarding:**

1. Discrimination, including

1.1 The Equality Ombudsman

1.2 Vulnerable EU Citizens

1.3 Racial/Ethnic Profiling in Police Work

1.4 Counter-Terrorism

2. Racism and Hate Crime, including

2.1 General Comments

2.2 Hate Speech and Neo-Nazi Activities

3. The Rights of the Indigenous Sami People

4. The Right to Non-Refoulement for Young Unaccompanied Asylum Seekers

Methodology

3. In its work to identify human rights issues and deliver change, Civil Rights Defenders works in close dialogue with organisations and individuals representing groups affected by human rights violations. In some instances, this dialogue is informal. In other cases, we work with formalised expert groups. For example, Civil Rights Defenders is conducting its work on indigenous rights collaborating with a Sami expert group. The expert group consists of almost ten Sami representatives with a wide range of experiences and perspectives on Sami rights issues. Based on discussions and decisions in meetings approximately four times per year, the role of the expert group is to advise Civil Rights Defenders on priorities in its work regarding Sami rights issues.
4. The following submission is based on information gathered from these contacts, legal analyses conducted by Civil Rights Defenders, contacts with the academia and international criticism directed towards Sweden. The organisations supporting this submission are some of the civil society actors that Civil Rights Defenders works closely with.

1. Discrimination

1.1 The Equality Ombudsman

5. The latest recommendations include several proposals on effective measures to combat discrimination. A key issue is the mandate and work of the Equality Ombudsman. The Government has referred to a public survey on amendments in the legislation on discrimination as a means to strengthen the work of the Ombudsman.¹¹ In reality, however, the Ombudsman has chosen not to use the most powerful tool at its disposal, litigation in individual cases. Only very few complaints from individuals are dealt with at all and 7 cases resulted in court decisions, while the Ombudsman decided to support the complainant only in 5 additional cases.¹² These figures should be compared with the first years of the Equality Ombudsman office, 2009 and 2010, with 12 (11 in 2010) judgments and 36 (38 in 2010) cases that were settled.¹³ This development has created massive criticism from civil society organisations, as it leaves individuals that face discrimination without protection and redress and also subverts the importance of the legislation against discrimination.

Recommendations:

- **Make sure that the Equality Ombudsman works to ensure that individuals who have been discriminated get redress.**

1.2 Vulnerable EU-citizens

6. Discrimination and hate crimes against the Roma were highlighted in the latest recommendations. Furthermore, the UN Human Rights Committee, in its most recent concluding remarks on Sweden, recommended that the Government take all measures necessary to ensure equal access by Roma to education, employment, housing and health care and that all individuals within its jurisdiction, including Roma EU-citizens, enjoy equal rights without discrimination.¹⁴ The Government has, so far, not taken any measures in this regard.
7. A big concern is the situation for Roma and other vulnerable EU-citizens who travel to Sweden from countries such as Bulgaria and Romania to make their living. Many live in destitute in Sweden and support themselves through panhandling. Homelessness is widespread amongst individuals belonging to the group, and many have previously resided in temporary settlements in the outskirts of Swedish cities.¹⁵ Many municipalities have refused to provide these settlements with water and sanitation facilities, giving rise to unsanitary living conditions. During the past years, the authorities have made efforts to routinely and forcibly evict Roma EU-citizens from their temporary settlements.¹⁶ No alternative housing is offered to those evicted. The evictions have been criticized by the former UN Special Rapporteur on minority issues.¹⁷ Although individuals belonging to the group have proven to be especially vulnerable to hate crimes,¹⁸ the authorities make no efforts to protect them from such attacks.
8. The Government has consistently avoided its responsibility to grant the group its core rights under international human rights law and has instead adopted a repressive

approach, with the aim of ensuring that members of the group do not travel to or remain in Sweden. For example, the stance of the Government is that this group does not have the same right to subsidized healthcare as others in Sweden and that their children are not entitled to Swedish education.¹⁹

9. Several municipalities have recently proposed legislation that bans panhandling within their municipalities, effectively limiting the freedom of speech and freedom of movement of individuals belonging to the group in question.²⁰ A national prohibition on panhandling is promoted by several political parties and the Supreme Administrative Court has found local bans to be in line with national legislation, without assessing their compliance with Sweden's obligations under international human rights standards.²¹
10. Another concern is the exposedness for discrimination and hate crimes of individuals belonging to this group. Their socially disadvantaged situation and the harassments they experience from responsible authorities make it more likely that such crimes remain unreported. Civil Rights Defenders recently started a project together with a grassroots organization, in order to improve the trust towards the police within this group.²² The tentative interviews show that a large percentage of the persons concerned have continuously faced various kinds of abuses, but have not thought about reporting them to the police.²³ Recently, a homeless EU-citizen was killed by two teenagers and it turned out that there had been an online hatred discussion about the victim going on for a long time, without any interference from officials.²⁴

Recommendations:

- **Ensure that vulnerable EU citizens are granted their fundamental rights to health care, primary education, social services and protection against hate crime and forced evictions.**
- **Refrain from imposing legislation that prohibits panhandling and take measures to counteract that such legislation is imposed locally on a municipal level.**
- **Ensure that the police and other officials secure the rights of vulnerable EU citizens as victims of crime by using early warning mechanisms and other effective tools for crime prevention.**

1.3 Racial/Ethnic Profiling in Police Work

11. The need for the Swedish Government to address the issue of racial/ethnic profiling has been raised by the Committee on the Elimination of Racial Discrimination, which in 2018 recommended the Government to ensure that fundamental legal safeguards are effectively applied to prevent and combat racial/ethnic profiling by police of all vulnerable groups, particularly Afro-Swedes, persons of African descent, Muslims and Roma.²⁵
12. Racial/ethnic profiling in police work has received increased attention in Sweden over the past few years. While the Government has pointed out the Police as a key stakeholder in combatting hate crimes, and the Equality Ombudsman in the fight against discrimination, discriminatory practices by the Police itself is a matter of big concern. In December 2017, Civil Rights Defenders in cooperation with the Department of Criminology at the University of Stockholm published an academic study²⁶ that highlights

racial/ethnic profiling as a structural problem that affects minority groups and their trust in the law enforcement.

13. The Government is, however, not taking any measures to counteract racial/ethnic profiling, nor is it taking measures to prevent any discrimination in the administration of justice as previously recommended by the Committee on the Elimination of Racial Discrimination. Acts and negligence committed by the Police and other actors within the judicial system still fall outside of the scope of the Discrimination Act²⁷, making it difficult to investigate racial/ethnic profiling by the Police and other discriminatory practices and provide redress for victims.
14. One clear example that points to the problem of racial/ethnic profiling is the judgement by the Svea Court of Appeal in Stockholm in April 2017,²⁸ where the State was found responsible of discrimination and illegal registration on ethnic grounds in connection to a police register containing personal data of 4700 persons of Roma origin, among them small children and elderly. Civil Rights Defenders brought the case before court and the Police was ordered to compensate each of the persons in the register with 4000 Euros.²⁹ The Police could not explain why the register had been created and no person was found liable for it. Consequently, no measures have been taken by the Police or the Government to address the root causes within the Police in order to prevent such acts from reoccurring. As is pointed out below,³⁰ the national plan to combat racism, similar forms of hostility and hate crime also ignores the work that needs to be done within the criminal justice system, in order to assure non-discriminatory practices.

Recommendations:

- **Initiate and support studies on racial/ethnic profiling in Sweden for more knowledge and to better understand the mechanisms behind the use of the practise.**
- **Address requirements on accountability from the Police to review and make efforts to transform the working methods of the Police, with the aim of effectively eradicating methods that constitute racial/ethnic profiling.**
- **Develop the use of social justice markers within the judicial system, in order to monitor disparate outcomes for ethnic, national and religious minorities within the judicial system and counteract racial/ethnic profiling.**
- **Extend the scope of the Discrimination Act to also include the judicial system or otherwise create possibility for redress in cases of racial racial/ethnic profiling, so that religious, national and ethnic minorities can exercise their right to a fair trial and their rights to an effective remedy on equal terms.**

1.4 Counter-Terrorism

15. The Human Rights Council did not put forward specific recommendations regarding counter-terrorism in its review of Sweden in 2015. However, the recommendations concerning effective measures to ensure equal treatment and non-discrimination are relevant, since efforts to combat terrorism primarily target the Muslim minority in Sweden,³¹ entailing a risk of discrimination based on ethnicity and/or religion.

16. The UN Human Rights Committee and the Committee on the Elimination of Racial Discrimination have put forward recommendations in their concluding observations in 2016 and 2018, requesting Sweden to ensure that counter-terrorism legislation and practices are in full conformity with fundamental human rights, including the principle of non-discrimination and the right to liberty and security.³² Sweden has been requested to ensure that the principles of necessity and proportionality are strictly observed in the application of arrest powers under the terrorism legislation, and that effective measures are taken to prevent different treatment by law enforcement officials of criminal suspects by reason of their religion and/or ethnicity, including by providing appropriate training on cultural awareness and the inadmissibility of racial/ethnic profiling.³³
17. Since these recommendations, the Government has taken no steps to ensure that profiling is not used by law enforcement in efforts to combat terrorism, and that fundamental human rights are not violated. On the contrary, the Government has in the past years, in an attempt to strengthen, extend and make counter-terrorism legislation more effective, adopted new legislation that does not sufficiently protect fundamental rights.
18. While Civil Rights Defenders sees a need for effective ways to combat terrorism, we note with concern that new legislation in this field comes about hastily and that there is a lack of thorough analysis of the implications on fundamental human rights, including the rights to freedom of thought, freedom of movement, freedom of expression, freedom of association and the right to equal treatment. As shown in the previously mentioned study commissioned by Civil Rights Defenders, counter-terrorism activities by law enforcement agencies is one of the areas where minorities, particularly the Muslim minority, experience racial/ethnic profiling.³⁴
19. Civil society actors, the Swedish Bar Association, academic institutions and courts regularly raise concerns that the legislation is not sufficiently clear and precise to comply with international standards, however, with little effect. There is also concern about the large number of anti-terrorism laws, making it difficult to get a good overview and understanding of the actions criminalized and to what extent the legislation in its entirety conforms with human rights standards.
20. Civil society groups have also expressed concern that these measures may further stigmatize Swedish Muslims in general and that, in order for the police to identify perpetrators of these new crimes, Muslims would become the target of both racial/ethnic profiling and secret surveillance.
21. It is difficult to provide a comprehensive overview of the effects of the counter-terrorism legislation on minority communities. However, it can be noted that it is almost exclusively debated and applied in the context of Muslims and Islamic terrorism. When right-wing extreme groups commit similar type of crimes, they are not seen or prosecuted as acts of terrorism.
22. The Equality Ombudsman issued a report in 2015 that examines the representation of Muslims in Swedish news media.³⁵ While the report does not say anything specifically about whether or how the application of counter-terrorism legislation play a role in shaping the representation of Muslims in news media, it is interesting in this context to note the conclusions of the report – that stereotypical representations of Muslims are

highly present in Swedish news media and that Muslims are mentioned primarily in connection to themes such as security, terrorism or military action. Muslims are also most often represented as offenders and rarely as victims or agents of change.³⁶

Recommendations:

- **Take steps to ensure that counter-terrorism legislation and practices are in full conformity with fundamental human rights, including the right to liberty and security, and that it does not have an adverse effect on minority communities in terms of racial/ethnic profiling or stigmatization.**
- **Ensure that counter-terrorism legislation and its implementation are comprehensively reviewed from a rights perspective and that the combined effects on fundamental rights of individuals suspected of terrorism-related crime are assessed.**
- **Until a review is conducted, further legislation should not be put in place.**

2. Racism and Hate Crime

2.1 General Comments

23. A significant number of the recommendations for Sweden from the 2015 UPR, the UN Human Rights Committee in 2016 and the Committee on the Elimination of Racial Discrimination in 2018 concern the need to strengthen efforts to combat and eliminate discrimination and hate crimes, particularly racism and xenophobia against Muslims, Afro-Swedes, Roma, Jews and the indigenous Sami.³⁷
24. The number of reported hate crimes in Sweden remains high. According to the Swedish National Council for Crime Prevention, xenophobia and racism were the most prevailing motives for hate crimes during 2013–2016. The latest numbers indicate that approximately 145 000 individuals had experienced 225 000 hate crimes. Out of these, only 17 % were reported to the police. Additionally, an estimated 47 000 individuals experienced 81 000 hate crimes with an anti-religious motive during the same period. However, only 26 % were reported to the police.³⁸ Out of the number of hate crimes reported in 2015 and processed until January 2017, only 4 % could be tied to an identified perpetrator through an indictment, the issuance of a summary sanction order, or the issuance of a waiver of persecution. A preliminary investigation had been initiated in 49 % of all reported cases of hate crime, whereas 47 % of the cases had been closed without the initiation of a preliminary investigation.³⁹
25. Sweden has developed a strategy to combat hate crime, which was initiated in June 2015 and included, inter alia, training of police officers in identifying and processing hate crime. In its internal evaluation of the project, the Police Authority, however, noted that prosecutors participating in their surveys did not experience any improvement of quality in the investigations into hate crimes. Responses were received from thirteen different specialist prosecutors. Most had not perceived any effect on the level of ambition, nor an improvement in the communication between the Police Authority and the Prosecution Authority in regard to cases of hate crime.⁴⁰ Furthermore, a survey conducted by the National Council for Crime Prevention shows that the majority of employees at five

out of seven Police districts which had undergone education on hate crime in 2015 still experienced that they lacked the ability to detect, investigate and prosecute hate crimes.⁴¹ Thus, it is clear that further efforts need to be made to properly train staff on how to effectively investigate hate crime in order to close the gap between reported incidents and convictions.

26. After the internal evaluation, in 2017, an additional 10 million SEK was provided to the Police Authority for improving their work on hate crimes.⁴² In 2018, the Government also directed the Police Authority to report back on what had been done and was in process regarding the work against hate crimes. From the report from the Police, in March 2019, it is clear that the three special hate crime units are still understaffed and, in any case, small – 26 staff out of 20 000 police officers in Sweden.⁴³ Also, resources are concentrated to the three major cities, Stockholm, Gothenburg and Malmö, and necessary expertise and staff is lacking in the rest of the country.
27. The Government has in submissions to UN Treaty Bodies, explained these numbers with the fact that the proportion of cases of damage/graffiti reported as hate crime has risen between 2008 and 2015 and that person-based clearance for damage/graffiti is more difficult than for assault where witnesses can often provide evidence.⁴⁴ However, the increase of damage/graffiti reported as hate crime and the decrease in assault reported as hate crime is not dramatic to the extent that it can stand as a sole explanation for the poor person-based clearance in reported cases of hate crime.
28. Also, the indigenous Sami population experiences everyday discrimination, hate crimes and prejudiced behavior by the non-Sami. The European Commission against Racism and Intolerance (ECRI) has recently recommended Sweden to conduct widespread awareness-raising activities aimed at conveying to the general public the unique value of the indigenous Sami culture as an integral part of Scandinavia and its cultural heritage.⁴⁵ In 2018, an Academic survey was published on racism against Sami, which is now subject for review. It is obvious that there is a need for more knowledge about the mechanisms behind racism towards this indigenous group.⁴⁶
29. In November 2016, the Government adopted a national plan to combat racism, similar forms of hostility and hate crime⁴⁷. Civil Rights Defenders has taken part in the civil society reference group for implementation of the plan and has constantly highlighted the need for a more challenging and adequate approach in relation to the responsible authorities. While the plan aims at creating conditions for authorities and other society actors to combat racism and hate crime, it completely ignores racism and discrimination within authorities and the role they play as part discriminatory structures in society. One example of such discriminatory practices is racial/ethnic profiling within the police.⁴⁸

Recommendations:

- **Expand existing training programs on hate crime for police employees and make training on the legislation and implementation of legislation on hate crime mandatory in all areas of law enforcement, including the Police, prosecutors and the judiciary.**
- **Institute hate crime units in all police regions and allocate sufficient resources for such prioritization to effectively be made.**

- **With respect to Sami free, prior and informed consent, take measures to prevent acts of hate crime, discrimination and racism directed against the Sami, including through educating the general public about the Sami past and present conditions and the implications of their status as an indigenous people, acknowledging the collective human rights of the Sami as part of ensuring non-discriminatory treatment.**
- **Make further efforts in building trust with populations vulnerable to ethnically motivated hate crimes and in building their capacity to properly report hate crimes.**
- **Revise the National plan to combat racism, similar forms of hostility and hate crime, to point out the accountability of the responsible authorities to review and address internal practices that may result in discrimination.**

2.2 Hate Speech and Neo-Nazi Activities

30. Hate speech is in focus for many of the recommendations, encouraging the Government to take effective measures to combat hate speech, including by prosecuting the perpetrators. Swedish law prohibits hate speech and defines it as publicly making statements that threaten or express disrespect for an ethnic group or similar group in relation to race, skin color, national or ethnic origin, faith or sexual orientation.⁴⁹ However, there are still clear obstacles that prevent the effective prosecution of hate speech.
31. Hate speech manifested in printed and verbal recorded media or any other constitutionally protected media can only be brought to prosecution by the Attorney General.⁵⁰ The most recent annual report by the Chancellor of Justice shows that only 12 cases related to freedom of speech and press out of a total of 263 reported cases resulted in the opening of a preliminary inquiry. Out of the 12 cases, 5 concerned agitation against nationality or a certain ethnic group. Only 4 of these were further brought to prosecution.⁵¹
32. In Sweden there has been an increase in far-right organisation activities in the streets and online.⁵² The most prominent extreme far-right organisation, The Nordic Resistance Movement, has performed a large number of marches and manifestations in several Swedish cities over the past few years. During these marches, the participants wear symbols that were used by Waffen-SS in Nazi-Germany, perform variations of the infamous “Hitler salute” and chant white supremacist slogans.⁵³ Reactions from the authorities have so far been meek, with a relatively low number of interferences against acts which are within the scope of what characterizes as agitation against racial, ethnic and national minorities under the Swedish penal code.
33. According to the jurisprudence of the Swedish Supreme Court and the Swedish Court of Appeal, nonverbal expressions such as symbols and attire that make reference to ideologies promoting racial discrimination and racial superiority may be determined as acts of agitation under the law. The authorities apply a rather narrow interpretation of the law and the courts’ jurisprudence. While it is likely that the Police would intervene if an individual wears attire adorned with the swastika, it is unwilling to take action when more contemporary expressions making reference to racial superiority and racial discrimination are being used. Thus, members of organizations such as the Nordic Resistance Movement, may march on the streets in uniform attire and shields adorned with the symbol of the organisation without the interference of the Police.

34. In addition, the Police Authority claims that the Public Order Act⁵⁴ does not allow for banning demonstrations that promote and incite racism and racial discrimination. The result of the authorities' inaction is that far-right and Nazi organizations can engage in propaganda activities unpunished, in violation of the Convention on the Elimination of All Forms of Racial Discrimination. Last year, a party organization with connection to the neo-Nazi movement ran for parliamentary elections.
35. Sweden has continuously referred to the hate crime legislation as an effective means to prevent any racist activities, claiming that "Swedish criminal law means that in practice it is impossible for groups that advocate racial discrimination to operate without their members committing a crime."⁵⁵ However, the Police focuses primarily on ensuring "public order" during neo-Nazi demonstrations, not on interrupting hate speech or similar offences committed by those taking part in the demonstration.
36. It should also be noted that the UN Human Rights Committee in its most recent concluding observations expressed criticism towards Sweden for continuous cases of reported hate speech, including on the internet, against ethnic, national and religious minorities.⁵⁶

Recommendations:

- **Investigate and analyze the barriers to legal action in cases involving hate speech, in particular the role of the Chancellor of Justice as the sole prosecutor in cases involving agitation against religious, national and ethnic minorities in constitutionally protected media, and consider other means for handling such cases.**
- **Take steps to ensure that acts of agitation against ethnic, religious and national minorities are investigated and brought to prosecution.**
- **Take steps to ensure that organisations promoting racial superiority and racial discrimination may not arrange and participate in demonstrations, manifestations and other propaganda activities that promote such ideas.**
- **Take steps to properly enforce the legislation prohibiting agitation against racial, religious and ethnic minorities and adapt its interpretation of the legislation in a way that conforms with the modern-day situation.**
- **Urgently initiate an enquiry to identify legal changes necessary to effectively eliminate propaganda activities of neo-Nazis.**

3. The Rights of the Indigenous Sami People

37. During the 2015 UPR review, Sweden received 12 recommendations regarding the indigenous Sami people. The recommendations concerned discrimination and effective protection (6), ratification of the convention ILO 169 (3), self-determination and participation (2), hate crimes (1) and living conditions (1). Since then, the Government has taken measures to improve Sami participatory rights through a government inquiry on a consultation system for the Sami people. Furthermore, it has amended the law regulation conditions for Sweden's national minorities which concerns the Sami. The Government has also increased its allocation to the Sami Parliament and there are some discussions taking place regarding the establishment of a truth commission.

38. Based on our engagement with Sami experts, and legal analyses of national and international standards, including considering the authoritative international criticism throughout the last years,⁵⁷ we can conclude that the situation of the Sami People constitutes one of Sweden's most serious human rights issues. The measures taken by the Government have had limited effect upon the daily suffering of many Sami due to unprotected rights. At the same time, the Swedish Government is supporting indigenous groups' land rights claims globally through foreign aid.⁵⁸
39. Most recommendations (6) from the 2015 UPR review concern discrimination and effective protection. To begin with, the Government still has taken few measures in consultation and cooperation with the Sami to ensure that historical state oppression and human rights violations towards the Sami People are investigated and addressed. This has resulted in a situation where the general public and duty bearers are unaware of the past and present conditions of the Sami People. The general legislation regulating Sami everyday life is not based upon the indigenous legal status (or indigenous rights) of the Sami which leads to legislative structural discrimination and situations of indirect discrimination compared to other segments of society. One example is the Sami being treated as a national minority, which leads to a general lack of human rights protection.⁵⁹
40. The legal categorization between reindeer herding and non-reindeer herding Sami came into full effect in 1928 and has never been adequately dealt with by the Government, which has created internal conflicts and hindered a Sami rights movement. Until this day, the Sami reindeer herding districts are the only Sami communities with some, albeit extremely limited, recognized land rights.⁶⁰ The non-reindeer herding Sami communities, such as the hunting and fishing Sami communities, have no recognized rights connecting their traditional lands. Consequently, their land use, and hence all layers of Sami culture, are not considered in the context of land exploitation or decision-making processes overall. The lacking protection for non-reindeer herding Sami communities lead to serious health effects.
41. The Sami reindeer herding districts are equally under an immense psychosocial and economic pressure from defending Sami rights in courts due to e.g. private lawsuits, increased exploitation projects in reindeer herding lands, and a non-implemented governmental predator policy.
42. There are no concrete signs of the Government investigating or recognizing Sami land rights claims. In addition to hindering cultural expressions and livelihoods, one consequence of this situation is that the burden of proof concerning land rights lies exclusively with the Sami party in legal proceedings concerning land use, something which the Human Rights Committee addressed during its review of Sweden in 2016.⁶¹ This forces reindeer herding districts to battle the Government in costly legal proceedings. Due to Sweden and Norway applying different legal instruments, the conditions for Sami groups that have reindeer grazing lands based on customary land use across the Swedish borders are arbitrary.
43. Two recommendations during the 2015 UPR review concerned self-determination and participation. Increased allocations to the Sami Parliament have not increased its effective influence in decision-making processes at any state level.⁶² Effective participation in line with the principle of Free Prior and Informed Consent (FPIC) is core to fulfill

Sami rights to self-determination and land rights. Civil Rights Defenders has together with Sami representatives criticized the ministry memorandum on a general consultation system for the Sami since it is not based upon the international legal standard of FPIC and the memorandum has so far not lead to a bill.⁶³

44. In cases where the law recognizes a right to consultation (samråd), there are serious obstacles for the Sami to effectively participate due to legislation not guaranteeing effective influence, together with lacking resources such as time and legal aid. In reality, reindeer herding districts may have as many as 20 ongoing administrative and legal processes affecting their land use without any external resources allocated to them. Non-reindeer herding communities are normally not recognized as formal parties (sakägare) with a right to consultation (samråd) in decision making processes that affect their traditional lands because of national legislation lacking protection of their land use. All mentioned circumstances put obstacles to pursuing livelihoods and cultural manifestations as Sami.
45. There is little legislation that protects Sami collective cultural heritage. The Sami People witness their cultural heritage, e.g. Sami names, craft and arts craft (duodji), being exploited by non-Sami state and private actors, including for commercial purposes.⁶⁴
46. The Sami People are disadvantaged compared to the majority population in Sweden concerning their language use. For instance, in practice many Sami children do not have access to education in and on Sami languages in school.⁶⁵ The Sami Education Board, provider of Sami-oriented education including Sami languages, is underfunded.⁶⁶
47. Regarding the Nordic Sami Convention⁶⁷, the Sami Parliament last year asked for renegotiation of some articles in the draft convention. The Government has yet to give its response to this request.
48. In the 2015 UPR review, three (3) recommendations concerned ratification of ILO Convention No. 169. Sadly, Sweden's ratification of the ILO 169 has been a lingering issue for decades despite the Government indicating the opposite.⁶⁸ After the latest UPR review, most political parties, including the parties presently forming the Government, voted against a ratification of ILO 169 and there is no action taken towards a ratification.

Recommendations:

- **Strengthen Sami self-determination by ensuring the right to free, prior and informed consent in legislation.**
- **Take concrete measures to recognize Sami rights to traditional lands, territories and resources in legislation.**
- **Make sure Sami rights are protected in decision-making processes concerning land exploitation and other issues affecting traditional lands of the Sami People.**
- **Take measures in consultation and cooperation with the Sami People to resolve the legal discriminatory division between Sami groups.**
- **Provide the Sami parties with legal aid in administrative and legal proceedings.**
- **Revise the burden of proof for Sami land rights claims.**

- **Increase public funding to the Sami Education Board in order to protect Sami-oriented education, including Sami languages.**
- **Give protection to Sami cultural heritage.**
- **Establish a truth commission in full consultation and cooperation with the Sami.**
- **Ensure the timely adoption of a Nordic Sami Convention in line with international law.**
- **Ratify ILO Convention No. 169.**

4. The Right to Non-Refoulement for Young Unaccompanied Asylum Seekers

49. The Swedish asylum system lacks adequate procedural guarantees for accessing international protection and protection against *refoulement* for unaccompanied asylum-seeking minors with little evidence in support of their claim who have undergone a medical age assessment. Since March 2017, more than 10 000 asylum seekers have undergone medical age assessment due to a lack of evidence supporting their claim to be minors.⁶⁹

50. The method, a medical examination of wisdom teeth and knee joints that lacks satisfactory scientific support, has been heavily criticized by national and international experts stating the margin of error being too uncertain.⁷⁰ In spite of this, the results are generally considered to have high evidentiary value by the Swedish Migration Agency and Swedish migration courts. In contrast, second opinions and other evidence such as statements from schoolteachers are normally considered to have low evidentiary value. In addition, the principle of the benefit of the doubt regulated in international, EU and national legislation is rarely applied in practice. Ultimately, these circumstances lead to such a large burden of proof that minors risk being treated as adults, which in many cases leads to a rejected asylum application and a real risk of ill-treatment upon return to their country of origin.

51. After handling many individual cases containing medical age assessments, on May 6, 2019, Civil Rights Defenders filed an individual complaint before the Chancellor of Justice asking for damages due to international protection and protection against ill-treatment being rendered ineffective, violating the applicant's human rights.⁷¹

Recommendations:

- **Stop medical age assessments based on methods that experts claim generate uncertain results.**
- **Make sure international protection and protection against ill-treatment are accessible in practice for all asylum seekers, including unaccompanied minors.**
- **Do not deport individuals whose asylum applications might have contained wrongful age assessments.**
- **Make sure compensation, such as amnesty, is given to individuals whose asylum applications might have contained wrongful age assessments or other aspects of uncertainty.**

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- ¹ Civil Rights Defenders (CRD) is an independent expert organisation founded in Stockholm, Sweden in 1982, with the aim of defending human rights, in particular people's civil and political rights, and to support and empower human rights defenders at risk. For more information, see www.crd.org.
- ² Teskedsorden (The Order of the Teaspoon) is a Swedish non-profit organisation that was founded in 2006. The Order of the Teaspoon's work is based on the motto: A voice for diversity. We work to prevent people from being discriminated because of political or religious beliefs, ethnicity, gender or sexual orientation. For more information, see www.teskedsorden.se.
- ³ É Romani Glinda (The Roma Mirror) is a non-profit Roma organisation founded in Sweden to improve the living conditions of Roma in Sweden and Europe through a range of activities targeting both Roma and non-Roma groups. For more information, see www.romaniglinda.se.
- ⁴ Afrosvenskarnas Riksorganisation (The Afro-Swedish National Organisation) is an independent non-governmental organisation with the purpose to promote the equal rights and social wellbeing of people of African descent living in Sweden.
- ⁵ Muslimska Mänskliga Rättighetskommittén (The Muslim Human Rights Committee, MHRC) is an independent organisation established in 2007 in Sweden, Stockholm, in the wake of the war on terror. The aim of the MHRC is to draw the attention to the violation of human rights committed in the war on terror and we advocate for due process and rule of law and the raise of islamophobia and afrophobia.
- ⁶ Afrosvenskarnas Forum för Rättvisa (The Pan-African Movement for Justice, PAMJ) is a civil society and non-governmental organisation with the aim of creating socio-economic and political equity for people of African descent. For more information, see www.afrosvenskaforum.org.
- ⁷ Riksorganisationen Same Ätnam (The National Association of Samiland, RSÄ) is a Sami organisation, formed in 1945 in order to strengthen Sami culture. For more information, see <http://www.sameatnam.se/>.
- ⁸ Landsförbundet Svenska Samer is an association working for Sami ethnic, cultural, social, economic and legal interests. For more information, see www.landsforbundetsvenskasamer.com.
- ⁹ The Stop Rönnbäck Nickel-Mining Project in Ume River, Tärnaby is a network opposing a large-scale nickel-mining project in Ume River in the mountains of Tärnaby, a project related to extremely high risk and situated on traditional Sami land. The network has been filing complains, raising awareness and knowledge on the mining situation in Sweden and is collaborating with other mining struggle groups and organisation.
- ¹⁰ Giron Sámi Teáhter is the Sami People's theater in Sweden, established in 1992. Giron Sámi Teáhter's mission is to carry out professional performing arts based on the Sami culture and identity and to promote the Sámi languages by raising current issues. For more information, see www.samiteahter.org/eng/.
- ¹¹ See Sweden's national mid-term report, chapter 1.2.
- ¹² See the annual report of the Equality Ombudsman from 2018, available at: <http://www.do.se/globalassets/om-do/diskrimineringsombudsmannens-arsredovisning-20182.pdf>.
- ¹³ See the annual reports of the Equality Ombudsman from 2009, available at: <http://www.do.se/globalassets/om-do/arsredovisning-2009.pdf>, and from 2010, available at: <http://www.do.se/globalassets/om-do/arsredovisning-2010.pdf>.
- ¹⁴ Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 15.
- ¹⁵ Socialstyrelsen (The National Board of Health and Welfare), *Homelessness 2017 – Extent and Nature*, 2017, p. 72. Available at: <https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/ovrigt/2018-6-19.pdf>.
- ¹⁶ Sydsvenskan, *Nu rivs Sorgenfrilägret (The Sorgenfri camp is being demolished)*, 3 November 2015, available at: <https://www.sydsvenskan.se/201511-03/nu-rivs-sorgenfrilagret>.
- ¹⁷ See the letter from the Special Rapporteur on minority issues to the Swedish Minister for Foreign Affairs, dated 30 October 2015, available at: <https://crd.org/wp-content/uploads/2015/11/Brev-från-Specialrapportören-2015-10-301.pdf>.
- ¹⁸ Polismyndigheten (The Police Authority), *Nationell lägesbild – Brottslighet med koppling till tiggeri och utsatta EU-medborgare i Sverige (National situation – Criminality with connection to panhandling and vulnerable EU migrants in Sweden)*, 2015, available at: <https://polisen.se/siteassets/dokument/manniskohandel/rapport-tiggeri-nat-lagesbild-151202.pdf>; Kommissionen mot Antiziganism (The Commission against Antiziganism), *Studie om hatbrott och andra allvarliga kränkningar riktade mot utsatta romska EU-medborgare (Study on hate crimes and other serious violations aimed at vulnerable Roma EU citizens)*, October 2015, available at: <http://motantiziganism.se/wp-content/uploads/2016/01/Tiberiu-Lacatus-Studie-om-hatbrott-och-andra-allvarliga-krankningar-riktade-mot-utsatta-romska-EU-medborgare.pdf>.
- ¹⁹ Nationella samordnaren för utsatta EU-medborgare (National Coordinator for Vulnerable EU Citizens), *Framtid sökes – slutredovisning från den nationella samordnaren för utsatta EU-medborgare (Future sought – final presentation from the National Coordinator for Vulnerable EU Citizens)*, Socialdepartementet (Ministry of Health and Social Affairs) SOU 2016:6, February 2016. Available at:

https://www.regeringen.se/4905f7/contentassets/b9ca59958b5f43f681b8ec6dba5b5ca3/framtid-sokesslutredovisning-fran-den-nationella-samordnaren-for-utsatta-eu-medborgare-sou-2016_6.pdf

²⁰ Svenska Dagbladet, *Fler kommuner vill införa tiggeriförbud* (*More municipalities want to impose local bans on panhandling*), 18 December 2018, available at: <https://www.svd.se/fler-kommuner-vill-infora-tiggeriforbud>.

²¹ Judgement no. 2149-18 from the Supreme Administrative Court of Sweden, delivered on 17 December, 2018. Available at: <http://www.hogstaforvaltningsdomstolen.se/Domstolar/regeringsratten/Avgoranden/2018/2149-18.pdf>.

²² For more information about the project, see <https://crd.org/sv/2019/04/02/nystartat-eu-projekt-ska-motverka-hatbrott-mot-utsatta-eu-medborgare/>.

²³ See the intermediary report *Gypsy, go home! – Hate crime against Roma EU-migrants who make a living on the streets of Malmö, Sweden*, May 2019, available at: <https://crd.org/wp-content/uploads/2019/06/Report-Gypsy-Go-home-ENGLISH-FINAL-to-be-published.pdf>.

²⁴ Dagens Nyheter, *Mördad hemlös uppges ha trakasserats i två år* (*Murdered homeless man allegedly harassed for two years*), 2 September 2018, available at: <https://www.dn.se/nyheter/sverige/mordad-hemlos-uppges-ha-trakasserats-i-tva-ar/>.

²⁵ Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22–23, 6 June 2018, para. 27.

²⁶ See Civil Rights Defenders' report *Randomly Selected – Racial/Ethnic Profiling in Sweden*, December 2017. Available at: <https://crd.org/wp-content/uploads/2019/03/CRD-Randomly-selected.pdf>.

²⁷ Diskrimineringslagen (Discrimination Act), SFS 2008:567.

²⁸ Judgement no. T 6161-16 from the Svea Court of Appeal, delivered on 28 April 2017. Available at: https://crd.org/wp-content/uploads/2019/02/2738_001.pdf.

²⁹ Decision no. 2503-17-4.3.1 from the Chancellor of Justice, given on 24 May, 2017. Available at: <https://www.jk.se/beslut-och-yttranden/2017/05/2503-17-431/>.

³⁰ See section 2.1, para. 29, below.

³¹ See Civil Rights Defenders' report *Randomly Selected – Racial/Ethnic Profiling in Sweden*, December 2017, pp. 9–10. Available at: <https://crd.org/wp-content/uploads/2019/03/CRD-Randomly-selected.pdf>.

³² Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 23; Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22–23, 6 June 2018, para. 21.

³³ Ibid.

³⁴ See para. 12 and footnote 31 above.

³⁵ The Equality Ombudsman, *Representation, stereotyper och nyhetsvärdering – Rapport från medieanalys om representationer av muslimer i svenska nyheter* (*Representations, stereotypes and news value – Report from media analysis of representations of Muslims in Swedish news*), Report 2015:1, 2015, available at: <https://www.do.se/globalassets/publikationer/rapport-representationer-stereotyper-nyhetsvardering2.pdf>.

³⁶ Ibid., pp. 67–70.

³⁷ Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 17; Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22–23, 6 June 2018, para. 11.

³⁸ Brottsförebyggande rådet (National Council for Crime Prevention), *Hatbrott 2016* (*Hate Crime 2016*), Report 2017:11, 2017, p. 8. Available at: https://www.bra.se/download/18.4c494ddd15e9438f8ada9786/1513175214923/2017_11_Hatbrott_2016.pdf

³⁹ Ibid., p. 11.

⁴⁰ Polismyndigheten (The Police Authority), *Åtterrapporering till regeringen angående polisens åtgärder rörande hatbrott* (*Feedback report to the government concerning police measures against hate crimes*), 27 February 2017. Available at: <https://polisen.se/siteassets/dokument/regeringsuppdrag/aterredovisning-till-regering-om-hatbrott-2017.pdf>

⁴¹ Brottsförebyggande rådet (National Council for Crime Prevention), *Hatbrott 2015* (*Hate Crime 2015*), Report 2016:15, 2016, pp. 127–128. Available at: https://www.bra.se/download/18.3c6dfe1e15691e1603eb65e3/1474958157817/2016_15_Hatbrott_2015.pdf

⁴² Polismyndigheten (The Police Authority), decisions Noa 167/17 and 170/17.

⁴³ Polismyndigheten (The Police Authority), *Åtgärder mot hatbrott – Redovisning av regeringsuppdrag* (*Measures against hate crime – Presentation of mandate from the government*), March 2019. Available at: <https://polisen.se/siteassets/dokument/regeringsuppdrag/atgarder-mot-hatbrott-redovisning-av-regeringsuppdrag>.

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⁴⁵ European Commission against Racism and Intolerance, Council of Europe, ECRI Report on Sweden (*fifth monitoring cycle*), CRI(2018)3, 27 February 2018, paras. 8 and 31. See also paras. 30 and 40.

⁴⁶ SVT Nyheter, *Ny kartläggning – två av tre samer utsatta för rasism (New survey – two out of three Sami subjected to racism)*, 2 October 2018, available at: <https://www.svt.se/nyheter/lokalt/norrboten/ny-kartlaggning-tva-av-tre-samer-utsatta-for-rasism>.

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⁴⁹ Brottsbalken (the Swedish Penal Code), SFS 1962:700, Chapter 16, 8 §.

⁵⁰ Yttrandefrihetsgrundlagen (the Fundamental Law on Freedom of Expression), SFS 1991:1469, Chapter 7, 1 §; Tryckfrihetsförordningen (the Freedom of Press Act), SFS 1949:105, Chapter 9, 2 §. Furthermore, see the Swedish Government Official Reports, *Ny yttrandefrihetsgrundlag?*, SOU 2010:68, p. 48, available at: <https://www.regeringen.se/contentassets/f3cb89eb3f59402a95d2cc52fb9275c8/ny-yttrandefrihetsgrundlag-sou-201068>.

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⁵⁴ Ordningslagen (Public Order Act), SFS 1993:1617.

⁵⁵ See *inter alia* Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under article 9 of the Convention, Twenty-second and twenty-third periodic reports of States parties due in 2016, Sweden, UN doc. CERD/C/SWE/22–23, para. 95 and 98.

⁵⁶ UN Human Rights Committee, *Concluding Observations on the Seventh Periodic Report of Sweden*, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 16.

⁵⁷ Please see statements and recommendations made by, for instance, **regional bodies** such as Committee of Ministers, Council of Europe, Resolution CM/ResCMN(2013)2 on the implementation of the Framework Convention for the Protection of National Minorities by Sweden, 11 June 2013; Advisory Committee on the Framework Convention for the Protection of National Minorities, Council of Europe, Fourth Opinion on Sweden – adopted on 22 June 2017, ACFC/PO/IV(2017)004, 16 October 2017; European Commission against Racism and Intolerance, Council of Europe, ECRI Report on Sweden (*fifth monitoring cycle*), CRI(2018)3, 27 February 2018; and **international bodies** such as UN Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22-23, 11 May 2018; UN Committee on Economic, Social and Cultural Rights (CESCR Committee), Concluding observations on the sixth periodic report of Sweden, UN doc. E/C.12/SWE/CO/6, 14 July 2016; UN Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016; and two UN Special Rapporteurs on the Rights of Indigenous Peoples, James Anaya, *The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland*, UN doc. A/HRC/18/35/Add.2, 6 June 2011, and Victoria Tauli-Corpuz, *Report of the Special Rapporteur on the rights of indigenous peoples on the human rights situation of the Sami people in the Sápmi region of Norway, Sweden and Finland*, UN doc. A/HRC/33/42/Add.3, 9 August 2016.

⁵⁸ Svenska Dagbladet, *Samerna och den svenska dubbelmoralen (The Sami and the Swedish double standard)*, 10 February 2019, available at: <https://www.svd.se/samerna-och-den-svenska-dubbelmoralen>.

⁵⁹ See Sweden's national mid-term report, chapter 3.

⁶⁰ According to Swedish case law, the traditional use of land by Sami reindeer herding communities results in property rights to such areas. See Supreme Court cases *Skattefjällsmålet*, NJA 1981 p. 1, and *Nordmalingsmålet*, NJA 2011 p. 109. For land rights of indigenous peoples under international law, see, *inter alia*, the UN Committee on the Elimination of Racial Discrimination General Recommendation 23 on indigenous peoples, HRI/GEN/1/Rev.6 at 212 (2003) para. 5.

⁶¹ See Human Rights Committee, UN Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 38.

⁶² See Sweden's national mid-term report, chapter 4.

⁶³ See Sweden's national mid-term report, chapter 4 and the Government Offices of Sweden, *Konsultation i frågor som rör det samiska folket (Consultation regarding issues concerning the Sami people)*, Ds 2017:43, available at: <https://www.regeringen.se/4a7446/contentassets/1e0ebad4101a4d4e92eb5dd25d3575c7/konsultation-i-fragor-som-ror-det-samiska-folket-ds.pdf>; information by the Sami Parliament on Sami and non-Sami perspectives on the ministry memorandum Ds 2017:43, available at: <https://www.sametinget.se/118626>; Civil Rights Defenders' consultation response, available at: <https://crd.org/wp-content/uploads/2018/06/Yttrande-o%CC%88ver-promemorian-konsultation-i-fra%CC%8Agor-som-ro%CC%88r-det-samiska-folket-Ds-2017-43-kopia.pdf>; Sveriges Radio, *Sametinget förkastar förslaget om konsultationsordning (The Sami Parliament rejects the proposal on consultation system)*, 1 December 2017, available at: <https://sverigesradio.se/sida/artikel.aspx?programid=2327&artikel=6833750>.

⁶⁴ Please see Saami Council, *The Rovaniemi Declaration of the Saami Conference*, 29–31 October 2008, paras. 13–25, available at: http://www.saamicouncil.net/fileadmin/user_upload/Documents/Julggástusat/SR_mall-Rovaniemi_Declaration.pdf.

⁶⁵ See (in Swedish) Sami Parliament, *Action Plan on Sami languages*, adopted May–June 2016, available at: https://www.sametinget.se/handlingsprogram_sprak; and Saami Council, *The Rovaniemi declaration of the Saami Conference*, 29–31 October 2008, paras. 24–25, available at: http://www.saamicouncil.net/fileadmin/user_upload/Documents/Julgg%C3%A1tusat/SR_mall-Rovaniemi_Declaration.pdf.

⁶⁶ Please see 2017 report from the Swedish National Audit Office (Riksrevisionen), available at: https://www.riksrevisionen.se/download/18.78ae827d1605526e94b2e14b/1518435475718/Summary%20RiR%202017_15.pdf.

⁶⁷ Den samiska parlamentarikerkonferensens deklaration om nordisk samekonvention antagen i Umeå 2014 (*Declaration from the Sami Parliamentarian's Conference on the Nordic Sami Convention adopted in Umeå 2014*), available at: <http://www.sametinget.se/72947>.

⁶⁸ See Sweden's national mid-term report, chapter 4.

⁶⁹ Statistics regarding medical age assessment from 2017 and 2018 can be found on the webpage of Rättsmedicinalverket (National Board of Forensic Medicine), see <https://www.rmv.se/om-oss/forskning/aktuell-statistik/>.

⁷⁰ See the Asylum Information Database (AIDA), coordinated by the European Council on Refugees and Exiles (ECRE), Country Report: Sweden, 31 December 2018, pp. 40–44. Available at: http://www.asylumineurope.org/sites/default/files/report-download/aida_se_2018update.pdf.

⁷¹ The case was filed in collaboration with the Swedish Refugee Advice Centre. For more information about the case in English, see <https://www.ecre.org/sweden-case-against-the-state-on-medical-age-assessment-before-chancellor-of-justice/>.