



**EUROPEAN TRIBUNAL IN DEFENSE OF AQUATIC ECOSYSTEMS**  
**LAKE VÄTTERN VS. SWEDISH STATE, TASMAN METALS, AHLSTRÖM- MUNKSJÖ**  
**ASPA BRUK, LUNDIN MINING ZINC MINE, SWEDISH ARMED FORCES AND**  
**VÄTTERNVÅRDSFÖRBUNDE**

**FINAL VERDICT**

In the case of Lake Vättern and the Rights of Nature Network Sweden (hereinafter "the plaintiffs") versus the Swedish State, Tasman metals, Ahlström-Munksjö Aspa Bruk, Lundin Mining Zink mine, the Swedish Armed Forces and Vätternvårdsförbundet (hereinafter also "the defendants"), the European Tribunal in Defense of Aquatic Ecosystems (hereinafter "the Tribunal"), by virtue of the hearing held on 27 March 2021<sup>1</sup>, has delivered the following judgment:

**I. Law applicable to the European Tribunal in Defense of Aquatic Ecosystems**

1. The Tribunal is established to promote universal respect for the rights set forth in the Universal Declaration of the Rights of Mother Earth (hereinafter "the Declaration") in order to foster harmonious coexistence between human beings and other entities

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<sup>1</sup> Watch the Tribunal hearing again: <https://www.facebook.com/102874091171981/videos/249721506633391>

of the community of life.

2. The Declaration was approved by the Peoples' Conference on Climate Change and the Rights of Mother Earth, which met in the city of Cochabamba, Bolivia, from 19 to 22 April 2010. At this conference, 142 countries were represented by official delegations, groups and social movements. This Declaration is the first international civil society instrument to consider Nature as a subject of rights, thus going beyond the anthropocentric paradigm of environmental protection.
3. The Declaration recognises, in Article 2, that Mother Earth has the right to live, to be respected, to regenerate, to continue its life cycles and processes without human disturbance, to maintain its identity and integrity as a collective of distinct, self-regulating and interrelated beings, to have access to water as a source of life, to enjoy full health, to be free from contamination, pollution and toxic wastes, as well as the right to its full and prompt restoration.
4. Similarly, the Tribunal considers the relevant European instruments for the protection of Nature, environment and biodiversity, such as the Water Framework Directive (2000/60/EC).

## **II. Competence**

5. The Tribunal shall have the competence to promote the respect and recognition of the rights established in the Universal Declaration of the Rights of Mother Earth, in order to promote harmonious coexistence between human beings and the rest of the living community within the European Union. This competence is based on Article 3 II B of the Universal Declaration of the Rights of Mother Earth, providing that "human beings, all States and all public and private institutions have the duty to recognize and promote the full and complete application of the rights and obligations set out in this Declaration".
6. To this end, it is the responsibility of this tribunal to investigate and adjudicate on any violation of the rights, or breach of the responsibilities established in the Declaration, whether committed by the State, private or public legal entities, and/or individuals.

### **III. Procedural background of the case**

7. On the occasion of the call for applications for the European Tribunal for the Defence of Aquatic Ecosystems launched by the European Hub of the Global Alliance for the Rights of Nature at the end of 2019, the Rights of Nature Network Sweden submitted an application relating to the Lake Vättern pollution case in Sweden.
8. During the hearing process, the Tribunal listened to the allegations made by claimants on behalf of Lake Vättern. In particular, it heard about the impacts of industrial discharges and military activities on the health of the lake and on all the human and non-human beings who depend on it.
9. On the basis of the evidence provided and in response to the request of the plaintiffs, the Tribunal decided to accept the Lake Vättern case as a potential case of wrongful failure of the Swedish State to act and violations of the rights of aquatic ecosystems, the European requirements of the Water Framework Directive, and other legislation for the protection of nature, committed by private and public persons.
10. On March 1st 2021, the Secretariat of the Tribunal (hereinafter "the Secretariat"), in communications addressed to Tasman Metals AB, the Zinc mine (Zinkgruvan Mining), the lake Vättern Union (Vätternvårdsförbundet) and the Swedish Armed Forces (Försvarsmakten) invited the accused parties to participate in the Tribunal (see attached letter). Only one defendant responded and declined the invitation, the Vätternvårdsförbundet (see attached letter).
11. The Tribunal, composed of Judges Valerie Cabanes, Cormac Cullinan, Tom Goldtooth and Lisa Mead, set the hearing, which was held virtually due to the outbreak of COVID 19, for 27 March 2021.
12. In a hearing that lasted two hours, the Tribunal considered oral and written evidence presented by Pia Björstrand, lawyer and co-founder of Swedish Earth Right Lawyers, , Eva Charlotta Helsdotter, expert and Carina Gustafsson, as witness.

### **IV. The facts**

13. Lake Vättern is located in the south-central region of Sweden. The Lake is 135 km long, 31 km wide and 128 metres deep, just at the southern end of Visingsös Island. Lake Vättern marks the border between the regions of East and West Gothia. At the southern end of the lake is the Småland region and at the northern end is the Närke region.
14. Lake Vättern has always been the source of life for the vast areas around it. The lake itself was created about 650 million years ago, when the Baltica craton broke away from the continent called Rodinia and a fault line was formed in the bedrock. On the island of Visingsö, there are several graves dating back to the Stone Age. The lake has not only supplied people, animals, plants and trees with drinking water, it has also transported goods and people and contributed to the production of food for countless generations. The lake also has an effect on the climate of the region. Thanks to access to clean, crystal-clear water for many generations, the lake's inhabitants have enjoyed good health and economic activities have also flourished.

## **V. Causes of damage**

15. The Network recalled in its written conclusions that the causes of the pollution of Lake Vättern go back a long way, in particular due to paper production. In 1862, the Munksjö paper mill was founded on the inlet in the middle of the town of Jönköping at the southern end of Lake Vättern. The inlet is connected to Lake Vättern by a short canal. This paper mill is no longer in operation.
16. In 1917, the Aspa Bruk paper mill was established on the northwest shore of Lake Vättern, near the town of Askersund. The owner at the beginning and for a long time was Munksjö AB. The mill is still in production and is called Ahlstrom-Munksjö Aspa Bruk AB.
17. In addition to the paper-making activities, military activities also constitute a strong presence around the lake. Since the Second World War, the Swedish army has used the lake as a firing range for military aircraft and land-based weapons. This activity is still active and has even increased. Until the 1970s, and perhaps until even more

recently, the military disposed of used ammunition directly in the lake.

18. New activities now threaten the lake. Since 2009, the mining company Tasman metals AB has been trying to obtain the necessary administrative permits to start a rare-earth metals mine near the lake.

## **VI. Legal framework applicable to the present case**

19. This Tribunal refers to what is written in the Universal Declaration of the Rights of Mother Earth, which is applicable to the protection of rivers and streams impacted by human, industrial, military and mining activities, in that it provides for the right of the entities that make up the community of Life to live and exist; the right to be respected; the right to the regeneration of their biocapacity and the continuity of their vital cycles and processes, free from human disturbance; the right to maintain their identity and integrity as distinct, self-regulating and interrelated beings; the right to water as a source of life; the right to full health; the right to be free from contamination, pollution and toxic waste; and the right to full and prompt redress for violations of the rights recognized in this Declaration resulting from human activities.

20. The Water Framework Directive, a European reference text, will also be taken as a reference by the Tribunal in that it guarantees a high level of protection of aquatic ecosystems at Community level. The Tribunal underlines what is established in its Preamble:

*"(1) Water is not a commodity like any other but a heritage that must be protected, defended and treated as such.*

*(33) The objective of good water status should be pursued for each river basin so that measures for surface water and groundwater belonging to the same ecological and hydrological system are coordinated.*

*(34) For the purposes of environmental protection, it is necessary to ensure greater integration of the qualitative and quantitative aspects of both surface water and groundwater, taking into account the natural conditions of water circulation in the*

*hydrological cycle.*

*(40) In the field of pollution prevention and control, Community water policy should be based on a combined approach aimed at reducing pollution at source by setting emission limit values and environmental quality standards.*

#### *Article 1*

##### *Object*

*The purpose of this Directive is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater, which:*

*(a) prevent further deterioration, preserve and enhance the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on them;*

*(b) promote sustainable water use, based on the long-term protection of available water resources;*

*(c) aims to enhance the protection of the aquatic environment and to improve it, in particular through specific measures designed to progressively reduce discharges, emissions and losses of priority substances, and the cessation or phasing out of discharges, emissions and losses of priority hazardous substances;*

*(d) ensure the gradual reduction of groundwater pollution and prevent its further pollution; and*

*(e) helps to mitigate the effects of floods and droughts,*

*and thus contributes:*

*- to ensure an adequate supply of good quality surface water and groundwater for sustainable, balanced and equitable water use,*

*- to significantly reduce groundwater pollution,*

*- to protect territorial and marine waters,*

*- to achieve the objectives of relevant international agreements, including those aimed at the prevention and elimination of pollution of the marine environment by Community action under Article 16(3), to cease or phase out discharges, emissions and losses of priority hazardous substances posing an unacceptable risk to or via*

*the aquatic environment, with the ultimate aim of achieving concentrations in the marine environment close to background levels for naturally occurring substances and close to zero for man-made synthetic substances. ”*

21. The Tribunal would like to mention that the Management Plan<sup>2</sup> for the South Baltic Sea River Basin District, in which Lake Vättern is included, is the reference text, transposing the obligations of the Water Framework Directive. This document mentions :

*"A time for better water:*

*Water is the world's most important food and it is difficult to do without the ecosystem services provided by the natural waterscape. They contribute to flow regulation, water purification, fish production and are important recreational environments, to name but a few.*

*Without water of sufficient quality and quantity, society cannot build social or economic well-being. Water scarcity threatens millions of already vulnerable people around the world, while others suffer from torrential rains and floods. In Sweden, we have generally enjoyed relatively abundant water, but 2016 was a wake-up call for many people especially in the south-eastern parts of the country where groundwater levels on Öland and Gotland were historically low, and even on the mainland many municipalities were approaching the limit of accessibility.*

*A crisis situation for drinking water supply.*

*In such situations, it is easy to see how important this work is. Protect, maintain, restore and plan for the sustainable and equitable use of water. Ecosystems are perhaps the best investment we have made, both for ourselves and for the environment, for future generations. This is urgent. By 2027, the problems should be solved. “*

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<sup>2</sup> Read the South Baltic Sea Basin Management Plan 2016-2021:  
<https://www.vattenmyndigheterna.se/download/18.7a5be1516b993d4f9b8de67/1566388184957/S%C3%B6dra%20C3%96stersj%C3%B6n%20Del%201%20F%C3%B6rvaltningsplan%20-%20Introduktion.pdf>

22. The management plan has just been consulted and will therefore soon be renewed for the period 2021 to 2027.

23. The <sup>3</sup>new document states :

*"Water for all*

*Our water is essential for life.*

*Clean water is not only an environmental issue, but also a social issue - perhaps the most important. Water cannot usually be replaced by anything else. It is not just about being able to bathe in fresh water. Without clean water, industry and food production come to a halt. Problems such as drought and floods are no longer phenomena that occur "elsewhere". In many places, it has become part of everyday life. This is why the EU decided (the Water Directive) and why the water authorities wrote what you are reading now.*

*The Water Directive begins by stating that :*

*"Water is not just any commodity but a heritage that must be protected, defended and treated as such.*

*Taking care of water is also profitable for society. Actions to create clean water often pay off more than they cost. Similarly, prevention is often cheaper than fixing environmental problems after the fact.*

*Water considerations must therefore permeate all societal development. "*

24. More generally, Article 191 of the Treaty on the Functioning of the European Union (ex Article 174) provides that Community policy on the environment shall contribute to the pursuit of the objectives of preserving, protecting and improving the quality

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<sup>3</sup> Read the Southern Baltic Sea Basin Management Plan 2021-2027:  
<https://www.vattenmyndigheterna.se/download/18.5df150191754f287d9176f0/1607351460351/F%C3%B6rslag%20till%20f%C3%B6rvaltningsplan%202021-2027%20S%C3%B6dra%20C%96stersj%C3%B6n.pdf>



of the environment and making prudent and rational use of natural resources, and shall be based on the precautionary principle and on the principles that preventive action should be taken and that environmental damage should, as a priority, be rectified at the source, as well as the polluter pays principle.

## **VII. Considerations of the Tribunal in relation to the facts presented**

25. The European Tribunal rules on the existence of a violation of the Rights of Nature.
26. From these facts it appears that Lake Vättern and the natural entities that depend on it, have suffered a violation of their right to water as a source of life, their right to full health and their right to be free from contamination, pollution and toxic waste. Indeed, Lake Vättern is Sweden's second largest lake and one of Europe's largest freshwater resources. Today, about 250,000 people get their water from Lake Vättern, and with the developing climate crises and rising sea levels, it is possible that the lake will also have to supply fresh water to the Stockholm area, which today has about 2.3 million inhabitants.
27. Almost the entire lake is a Natura 2000 area (>95%) and there are about 130 entities and areas adjacent to Lake Vättern or in its catchment area that are listed as Natura 2000 areas. These include the Eastern Vättern Steppes (Östravätternbranterna), which is also part of the UNESCO Man and the Biosphere Programme (MAB)<sup>4</sup>.
28. The lake is clear and oligotrophic. The renewal time is relatively long, over 60 years. The lake is also home to many unique ice age species.
29. Chemical, physical and biological data from Lake Vättern show that the lake is severely polluted. Anthropogenic activities, such as mining, pulp and paper industries, military activities, agriculture, forestry, traffic, old and new landfills, sewage and storm water systems, have deteriorated the water quality, to the extent that the current recommendation is not to consume fish from the lake.<sup>5</sup>

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<sup>4</sup> More info at: <https://fr.unesco.org/mab>

<sup>5</sup> <http://www.livsmedelsverket.se/livsmedel-och-innehall/oonskade-amnen/miljogifter/dioxiner-och-pcb> This is a long text in Swedish about the danger of eating fish from Lake Vättern and the Baltic sea, more often than 1-2 per year for pregnant women and children. The advisory explains the dangers of PCB and Dioxins that have accumulated in fish, for instance.

30. The sources of pollution are :

- Mining (Zinkgruvan mining AB and old mine deposits)
- Pulp and paper industries (Munksjö Aspa Bruk Ab, Munksjö Paper AB)
- Military industry (Karlsborg, use of the lake as a military exercise area and dumping of munitions)
- Wastewater treatment plants
- Runoff (from the E4 road, other roads and municipalities)

31. A metal balance study made for the years 2010-2012 showed that the annual deposition of arsenic was 653 kg, copper 4240 kg, nickel 1774 kg, lead 1478 kg and zinc 24600 kg.



32. This map shows the sources of pollution in the Lake Vättern catchment area. The yellow dots mark existing industrial activities and the red dots mark old tailings

dams and mine waste. The pictures on the right show the Zinkgruvan tailings dam, the Aspa pulp production, the Zinkgruvan mine and the Munksjö paper mill. (Vätternvårdsförbundet report no. 123<sup>6</sup>).

33. According to a recently published underwater documentary filmed in Lake Vättern<sup>7</sup>, it has been revealed that many areas, for example in the northern part of the lake, are suffering from oxygen deprivation and algal blooms, especially near the pulp and paper mill. Until the last few years, algae blooms, especially toxic green and blue-green algae, had rarely been heard of. Insufficient legal protection and unregulated industries contribute to the deterioration of Lake Vättern's health. It follows from these findings that the facts constitute a violation of Nature's right to water as a source of life, the right to full health, the right to be free from contamination, pollution and toxic waste within the rights encompassed by the Universal Declaration of the Rights of Mother Earth. Furthermore, This pollution also appears to be inconsistent with the Water Frameworks Directive and the South Baltic Sea Management Plan.
34. With regard to the pollution caused by the activities of the Swedish armed forces, the applicants report several types of direct and indirect pollution affecting the lake and its constituent entities.
35. For military exercise purposes, heavy ammunition is fired into the lake, disturbing aquatic and bird life in and around the lake.
36. In addition, munitions release toxins into the water, which has a negative impact on the ecosystem.
37. In addition, intense aircraft noise disturbs the habitats of humans and other species.
38. The Karlsborg airfield, used for military purposes and located on the western bank of the Vättern, is contaminated with perfluoroalkyl substances (PFAS), hazardous

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<sup>6</sup> Read the report [http://www.vattern.org/wp-content/uploads/2016/12/Rapp-123-\\_Metaller-i-V%C3%A4tterns-avrinningsomr%C3%A5de.pdf](http://www.vattern.org/wp-content/uploads/2016/12/Rapp-123-_Metaller-i-V%C3%A4tterns-avrinningsomr%C3%A5de.pdf)

<sup>7</sup> Watch the documentary : <https://youtu.be/MNre2K1N8fs>

materials that threaten the water of the Vättern and its fish<sup>8</sup>. In November 2020, the court<sup>9</sup> ruled in favour of the municipalities and local residents opposing the drainage of the airfield land in order to avoid pollution.

39. The pollution related to military activities is directly attributable to the defence policy of the Swedish State. It constitutes a serious infringement of the health of the lake, and of the rights of all its constituent entities to maintain their identity and integrity as distinct, self-regulating and interrelated beings and to have access to water as a source of life.

40. Furthermore, the Tribunal notes that the Applicant has pointed out that high levels of dioxins and PCBs are present in salmon, white fish and char caught in Lake Vättern and make the fish unfit for consumption, according to the recommendations of the national food administrations.

41. The Swedish National Food Authority warns in particular:

*"These fish contain high levels of dioxins and PCBs. Therefore, do not eat them more often than a maximum of 2-3 times/year:*

*Wild salmon and trout from the Baltic Sea, Gulf of Bothnia, Lake Vänern and Lake Vättern. Salmon caught in rivers are also covered by the feeding advice.*

*Herring from the Baltic Sea and the Gulf of Bothnia. Herring and herring are the same fish species. Herring is called south of Kalmar, north of Kalmar it is called herring. Pickled herring sold in shops comes from the Arctic Ocean or the west coast and contains lower levels of these environmental toxins.*

*Wild whitefish in Lake Vänern and Lake Vättern*

*Lake Vättern wild char*

*This advice applies to those who want to become pregnant in the future,*

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<sup>8</sup> More information: <https://www.livsmedelsverket.se/en/production-control-and-trade/drinking-water-production-and-control/t?AspxAutoDetectCookieSupport=1>

<sup>9</sup> See the article: <https://www.svt.se/nyheter/lokalt/vast/pfas-oro-for-vattern-domstol-vill-stoppa-dranering-i-karlsborg>

*children, teenagers, pregnant women and nursing mothers. The rest of us can only eat these fish once a week at most."*

42. The Tribunal can therefore only find that the Swedish State was aware of the pollution of Lake Vättern and the contamination of the fish whose health depends on the health of the lake.
43. Consequently, the Tribunal finds again that the rights of Lake Vättern and all the living beings in it to maintain their identity and integrity as distinct, self-regulating and interrelated beings and their right to have access to water as a source of life have been violated.
44. In addition, there are concerns about future pollution. In 2009, the mining company Tasman metals Ltd, based in Vancouver, British Columbia, Canada, established a Swedish subsidiary, Tasman metals AB, and started the application process to establish Europe's first ever rare-earth metals mine 1.5 km from the shoreline, and 120 metres above lake level, just north of the small town of Gränna<sup>10</sup>. The company has exploration permits and is in the process of applying for a mining title.
45. The industrial exploitation of rare-earth metals is expected to involve an open pit of 1 km<sup>2</sup> and 250 metres in depth, but the whole industrial area will be much larger. The applicants warned that the mining area is located in the catchment area of Lake Vättern. They believe that there is an imminent risk of soil and water pollution.
46. There are seventeen rare-earth elements. At Norra Kärr, the minerals contain cerium (Ce), dysprosium (Dy), erbium (Er), europium (Eu), gadolinium (Gd), holmium (Ho) lanthanum (La), lutetium (Lu), neodymium (Nd), praseodymium (Pr), samarium (Sm), terbium (Tb), thulium (Tm), ytterbium (Yb) and yttrium (Y). The minerals also contain the radioactive elements thorium (Th) and uranium (U).
47. The extraction of metals will be done through industrial processes requiring the use of sulphuric and hydrochloric acid, and through magnetic separation. This process is resource-intensive. For example, to produce 1 kg of neodymium, 2.7 tonnes of raw ore are required (see figure below). The waste will include not only acids and metals,

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<sup>10</sup> Read : <https://www.politico.eu/article/swedish-ground-zero-for-eu-strategic-materials-plan/>

but also the radioactive elements uranium and tellium.

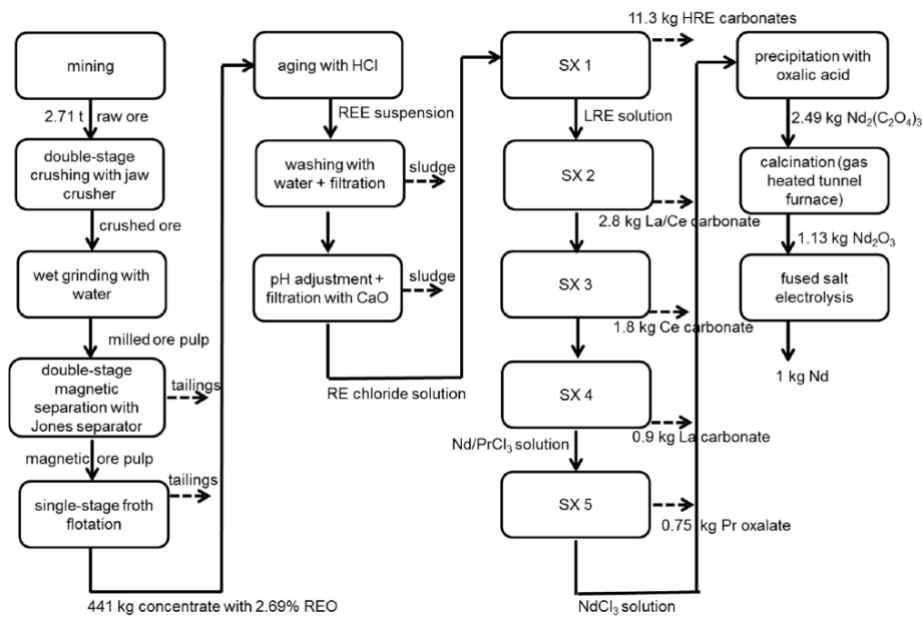


Figure: Extraction of 1 kg of neodymium from 2.7 tonnes of raw ore. (Schreiber et al n2016)

48. The proposed mining project could result in a discharge of polluted water from the mine pit, tailings dams and other industrial activities, which would severely impact drinking water wells drilled in the area.
49. Furthermore, the company's proposed location for the tailings dam is on the watershed, which would result in polluted water being discharged into Lake Vättern and Lake Adelövsån, and then into Lakes Roxen and Motala ström.
50. The areas and water systems to the east of the planned mine are also at risk of contamination. These water systems lead to the Baltic Sea, which is already in a very poor ecological state.
51. The planned tailings dam and waste rock could pose a threat to the ecosystem. If leakage were to occur, it would release heavy metals and radioactive metals from the mine sand as well as toxins from the mining process. As the waters of Lake Vättern have a renewal period of more than 60 years, a leakage of pollutants could have impacts for almost a hundred years, even though the extraction operations are only planned for a maximum of 20 to 30 years, an enormous environmental risk for a short-term economic activity.
52. In summary, the ecosystem of Lake Vättern has suffered for decades from pollution

that is now being exacerbated by ongoing and planned activities. As the facts set out above have shown, the cumulative effects of the activities have resulted in the violation of Lake Vättern's right not to be contaminated. Furthermore, as the data on toxins in fish indicate, the toxic pollution of Lake Vättern has resulted in Lake Vättern no longer being able to regenerate and restore its natural life cycles.

53. Lake Vättern has the right to exist and function according to the natural cycles of the water system that have sustained the lake and its surroundings since time immemorial.

54. These facts show that Lake Vättern, the flora and fauna, contaminated by pollution from human, industrial, military and mining activities, are victims of a violation of their right to full and prompt reparation for violations of the rights recognised in this Declaration resulting from human activities, in that the State has not currently allowed the restoration of the degraded ecosystems.

55. The violation of all these rights recognised in Article 2 of the Universal Declaration of the Rights of Mother Earth therefore requires effective action by the Swedish State to restore Lake Vättern and prevent future pollution.

### **VIII. Considerations of the Tribunal on the conduct of the State in relation to the facts presented**

56. While fault can also be attributed to those responsible for the pollution, it is primarily the Swedish state that must be held responsible in this case.

57. The Swedish state has failed to prevent damage and protect Lake Vättern. In so doing, it has allowed damage to be caused to the lake's ecosystem. As the claimant has shown, the activities of the State itself, through its Ministry responsible for the Swedish Defence Forces, are partly responsible for the damage to Lake Vättern. Even if at the time of the illegal dumping of weapons in the lake, this conduct was not subject to legal sanctions, it is undeniable that, in view of the pollution caused to the ecosystem and their duration, this damage can still be brought before this Tribunal.

58. In addition, the state continues to authorize further violations of the rights of the lake

and its living entities, despite opposition from Nature associations. The decision of the Skaraborgs County Administrative Council in 2016 to extend the Swedish Armed Forces license to shoot directly into Lake Vättern has been appealed by several municipalities in the Vättern region, numerous individuals and environmental organizations, before the Vänersborg Land and Environmental Court, which then referred the case to the Swedish government. In its judgment, the Vänersborg Land and Environmental Court stated that a full, accurate and final judgment of the risk of damage must be made before any authorization can be granted. An activity can only be authorized if there is no scientific doubt that conservation objectives will not be damaged or made impossible. The court also concluded that the Swedish armed forces had not submitted a comprehensive study of the chemical impact of the proposed shooting, making it difficult to determine the true environmental damage. Despite this lack, which is a fault of the Swedish Defense Forces as a claimant, the court recommended that the permit be issued, with some reservations. The case is currently being examined by the Swedish government.

59. This violation of the rights of the lake should no longer be authorized, and the applicants firmly oppose the policy pursued by the State and by the armed forces, which the plaintiffs argue demonstrates their ignorance and failure to protect Lake Vättern.
60. The plaintiffs raise the issue of the state's failure to combat the pollution affecting the lake. The state has the responsibility to protect Nature as well as the health and safety of the population within its territory, and yet has not been able to contain this ecological and social crisis, in view of the potential impacts of Lake Vättern's pollution on drinking water resources and contaminated fish stocks.
61. Indeed, the Swedish State is aware of the pollution of the lake. It has scientific analyses and reports from local institutions highlighting the contamination of the fish and their unsuitability for human consumption. However, the Swedish state is the only one able to put in place adequate logistical and human resources to overcome this situation.



62. According to the doctrine of the Rights of Nature and in the case before the Tribunal, this means protecting the integrity of aquatic ecosystems, not only for their own sake, but also for the benefit of all living organisms in the area. The functioning of the water cycle implies that the pollution affecting Lake Vättern has a direct impact on all the terrestrial and aquatic environments depending on it.
63. The violation of all the rights recognised in Article 2 of the Universal Declaration of the Rights of Mother Earth therefore requires effective action by the Swedish State to restore the lake.
64. Furthermore, the state also has a responsibility to take preventive action against future threats.
65. As mentioned above, in the case of the Norra Kärr mining operation, the inability of the Chief Inspector of Mines to properly review concessions and permits indicates a fundamental flaw in the Swedish Mining Act and calls for a revision of the Act by the Swedish Parliament.
66. In view of this, it is undeniable that the means should have been and must now be reinforced to deal with the damage caused by the pollution, and that the State is indeed in a situation of deficiency.

## **IX. Considerations of the Tribunal on the conduct of the polluting enterprises in relation to the facts presented**

67. The secondary aggressors are companies, such as Tasman Metals Ab, which obtain permission to damage Lake Vättern through their mining activities.
68. As detailed by the applicants, there are numerous threats to the integrity of the ecosystem of Lake Vättern. Affected communities and their legal representatives have exhausted all or almost all local legal remedies in their efforts to protect the lake's ecosystems.
69. The decision to grant the mineral exploration permit to Tasman Metals AB to Norra Kärr in 2013 was appealed to the Supreme Administrative Court (Högsta Förvaltningsdomstolen) which overturned the decision and sent it back to the Chief

Inspector of Mines for a full review of environmental threats. The Court said the Chief Inspector of Mines did not take into account the environmental impact of planned mining facilities in the area (such as dams, pit location) in his review, as well as the impact on Nature and the surrounding protected areas (Natura 2000). The environmental impact study submitted by Tasman Metals AB, approved by the Chief Inspector of Mines, was inadequate. The Court also said that the chief mining inspector's postponement of the review of the impact of the facilities and related activities to another ongoing legal proceeding was a violation of the Minerals Act. In fact, cumulative environmental damage and effects should have been taken into account at first instance.

70. In November 2020, the case was subject to a second examination by the General Inspectorate of Mines. The Jönköping County Administrative Council recommended that the permit be refused because the environmental impact assessment provided is inadequate. The Östergötland County Administrative Council will review the request with the Chief Mining Inspectorate, as the activities will affect a Natura 2000 area in Östergötland County.

71. Likewise, the applicants refer to the 2017 granting of a mining exploration permit issued to the company European Cobalt. This was appealed by a number of people living in the region in 2019, but the Court of Appeal (Förvaltningsrätten) dismissed most of these proceedings.

72. It is therefore clear that on several occasions the State and the instruction services in charge of mining activities have failed in their duty to protect Nature and in particular aquatic ecosystems, neglecting the procedures supposed to guarantee an environmental analysis before any project authorization. The rights of the lake have thus been directly affected by the extractivist policy of the mining companies supported by the public authorities.

## **X. Considerations of the Tribunal on the conduct of the Lake Vättern Union (Vätternvårdsförbundet) in relation to the facts presented**

73. Finally, the plaintiffs denounce the role played by the Vätternvårdsförbundet, a legally obscure alliance of undertakings and government representatives, which instead of fulfilling its role of protection, facilitates the damage caused to Lake Vättern.

74. Indeed, the Lake Vättern Union (Vätternvårdsförbundet) announces that it is an association which "*works to preserve the unique identity of the lake and to coordinate measures, monitoring programs and research in and around the lake. Vättern.*" The association is made up of member organizations, many of which are authorities, state officials, individuals and companies with a vested interest in the operation of Lake Vättern. Its activities are fully funded by its members<sup>11</sup>. An organization such as Vätternvårdsförbundet does not protect Lake Vättern from collusion between representatives of municipalities and the state and those of the private sector.

75. This collusion constitutes a violation of the provisions on objectivity contained in the instrument of government (Regeringsformen, 9§ RF), the administrative law (Förvaltningslagen 5§ FL) and the law on municipalities (Kommunallagen, 6 kap 28§ KLI) which require that any question or matter before an agency, authority or court be dealt with impartially and objectively.

76. However, there is currently no independent and impartial review of the management of Lake Vättern. The role of Vätternvårdsförbundet and the leverage effect in the decision-making and consultation processes relating to decisions concerning Lake Vättern is questioned by the requesting associations, who stress that there are no guarantees for the protection of the interests of the lake.

## **XII. DECISION**

77. The European Tribunal in Defense of Aquatic Ecosystems rules on behalf of all those animals, fish and plants that have no voice, the inhabitants of Lake Vättern, both human and non-human, who make up the living community of the lake whose

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<sup>11</sup> See structure : <https://www.vattern.org/vatternvardsforbundet/omforbundet/>

rights have been violated by pollution from human, industrial, military and mining activities;

78. The Tribunal states that, in the Lake Vättern vs. Swedish State, Tasman Metals, Ahlström-Munksjö Aspa Bruk, Lundin Mining Zinc Mine, Swedish Armed Forces and Vätternvårdsförbundet case, there is a clear violation of the Rights of Nature.

79. Lake Vättern is not simply a “natural resource” that is available for human beings to use and abuse. It is a living community that has evolved over many millions of years and that has sustained, and continues to sustain, humans and other beings physically (e.g. by providing water and a mode of transport). The Tribunal also heard evidence about the presence and sense of place associated with the Lake, and its place in the mythology, history and culture of Swedish people.

80. Despite the well-developed system of environmental laws in Sweden, the health of Lake Vättern continues to be harmed and threatened by activities that are permitted by law. The Tribunal is of the opinion that the health of Lake Vättern would be better protected if the personality of the lake as well as its inherent rights were recognized as recognized in Article 2 (1) (c) of the Declaration. From this point of view, it goes without saying that authorizing activities likely to pollute the lake and fire missiles or artillery shells into the lake are not only attacks against the physical body of the lake, but also a lack of respect towards it as a community made up of living entities. In order to live harmoniously within the Earth community, humans must relate to other beings in a manner that respects their rights to play their unique roles within that community. Changing the legal status of Lake Vättern from an object or natural “resource” to that of an entity with legally enforceable rights would promote harmonious coexistence between the inhabitants, the companies and the lake.

81. With regard to this pollution, the Tribunal therefore found the Swedish State liable for wrongful failure to act.

82. The Tribunal enjoins the State to adopt the following measures:

1. Recognition of Lake Vättern as a subject of rights, in accordance with the Association's Declaration of the Rights of Lake Vättern<sup>12</sup> and the Universal Declaration of the Rights of Mother Earth, with the right to protection, conservation, maintenance and restoration, the right to life, to the continuity of its vital cycles and processes, without suffering from human pollution. The State will be responsible for establishing a legal status guaranteeing its intrinsic rights.
2. Strengthening nature protection laws, especially the mining code, so that other polluting activities cannot threaten the rights of the lake in the future.
3. That the Swedish state redress the harm suffered by the communities that have been affected by the above activities, and that it provide a guarantee of the right to be fully involved in the protection of the rights of the lake, either by reforming the statutes of the Lake Vättern Union (Vätternvårdsförbundet) or by establishing a Council of Lake Guardians to enable the legal representation of its fundamental interests by the affected residents.
4. That the Swedish state implement a programme to restore all natural water functions, organism populations, soil and terrestrial and aquatic sub-ecosystems of Lake Vättern.
5. That the Swedish state provide the means for sufficient monitoring of the health of Lake Vättern, with adequate testing of pollutants, also at depth and near the lake bed, and increases the number of substances tested in order to take all measurements to establish the right conditions for the fauna and flora to flourish. All necessary measurements to restore the damaged aquatic ecosystems to a healthy state in the future should be defined with competent scientists.
6. That the polluting industries operating in the vicinity of the lake be ordered to install state-of-the-art purification facilities/treatment plants.

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<sup>12</sup> See the Declaration <http://www.naturesrattigheter.se/deklaration-vattners-rattigheter/>

7. That Sweden adopt measures, such as the establishment of an ombudsman for the Rights of Nature, to ensure that the Rights of Mother Earth are respected, protected and adequately implemented in accordance with the Universal Declaration of the Rights of Mother Earth in Swedish legislation.

This decision is certified by:

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