



16 March 2010

Ministry of Integration and Gender Equality  
Sweden

To the Human Rights Committee

**Information on Sweden's follow-up to the recommendations contained in paragraphs 10, 13, 16, and 17 of the concluding observations adopted on 7 May 2008**

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The Committee considered the sixth periodic report of Sweden (CCPR/C/SWE/6) at its 2612nd and 2613rd meetings (CCPR/C/SR.2612 and 2613), held on 25 March 2009, and adopted the following concluding observations at its 2625th meeting (CCPR/C/SR.2625), held on 2 April 2009.

In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, in its concluding observations the Committee requested Sweden to provide information, within one year, on Sweden's implementation of the Committee's recommendations contained in paragraphs 10, 13, 16, and 17.

**General comments**

Sweden considers the monitoring procedure to be an important tool in following up the measures taken to promote and protect human rights in the world. The efforts made by the Human Rights Committee to receive, gather, evaluate and draw conclusions from information on the situation relating to civil and political rights in monitored states is of considerable value in the development of this work. Sweden appreciates a continued dialogue and exchange of information and views regarding the protection of human rights in Sweden.

## **Information on Sweden's follow-up to the recommendations contained in paragraphs 10, 13 16 and 17**

### **Paragraph 10**

In paragraph 10, the Committee notes that the State party has ratified the Convention on the Rights of Persons with Disabilities in December 2008, and has taken steps to increase awareness among persons with disabilities about their rights. The Committee is concerned about reports of physical abuse of disabled persons who reside in institutions and sheltered housing. The Committee is also concerned that persons with disabilities often face difficulties in obtaining adequate services and housing through their municipalities, and face difficulties when they attempt to change their residence to another municipality. The Committee also regrets that the employment rate for persons with disabilities has decreased in recent years (arts. 2, 3 and 7).

Ongoing initiatives to promote the rights and inclusion of persons with disabilities and to prevent discrimination from occurring:

- To fight violations and bad practice in institutions and special housing schemes for persons with disabilities, the national system for supervision has been strengthened.

- To improve accessibility for persons with disabilities within the building sector and in public planning, improvements has been made when revising national legislation. For example, the monitoring and supervision of the building process has been strengthened. The demands on all actors to remove easily removable obstacles in public places and places where the public has access, have also been clarified and included in the legislation.

- A person with a disability cannot be refused the right to change her or his home or place of residence. Under existing legislation, a person also has the right to receive support wherever she or he chooses to live. If this right is denied, the decision can be appealed to a court. To facilitate a change of residence, an individual with a disability and in need of support also ha the right to apply for services and receive a decision before the actual relocation.

- The employment rate has decreased considerably due to the effects of the global economic crisis. However, the Government has reiterated that

reintegrating the most marginalised groups into the labour market must remain a priority. A number of schemes are in place to support this.

In addition, the Government – through dialogue with trade unions, employers, civil society and organisations of persons with disabilities – is working to promote new opportunities for persons with disabilities. By presenting successful strategies for changing negative attitudes and dispelling ignorance about persons with disabilities, and by providing innovative ideas and examples of good practice, the objective is to tear down barriers and create new and more opportunities.

#### New discrimination act

The Discrimination Act (Swedish Code of Statutes 2008:567) provides protection on the grounds of disability and covers areas such as working life, education, goods and services, social protection and health care. The Act entered into force on 1 January 2009. Before this, there were numerous laws against discrimination. The new Act will contribute to more effective and more comprehensive protection against discrimination in Sweden.

In the area of working life, discrimination includes failing to implement reasonable accessibility measures that could contribute to a person with a disability being able to gain access to working life on equal terms as people without such a disability. Failure to implement accessibility measures should be regarded as discrimination. The discrimination prohibition also applies when an employer in connection with employment, promotion or education/training for promotion, through implementing support or adaptation measures, can create a situation for a person with a disability that is comparable with that for people without such a disability, and it may reasonably be required that the employer implements such measures.

In the higher education system, similar protection applies. The demand for reasonable accommodation is limited to the accessibility of buildings in which education takes place.

The Committee that reviewed Swedish discrimination legislation suggested that reasonable accommodation should apply to all the areas covered in the Act. The Government regards accessibility for persons with disabilities as an important issue, but considers the analysis of reasonable accommodation to be inadequate. The Government is of the view that this is a complex issue and therefore requires closer examination. The possibility of adding the demand for reasonable

accommodation to all areas of the Act has recently been examined and a proposal is being prepared within the Government.

When the Discrimination Act entered into force, a new agency – the Equality Ombudsman – was established to monitor compliance with the Act. The Government decided on extra financial support to the Ombudsman to be used to inform people about the Act and its contents. To this end, the Equality Ombudsman has produced information and guidance materials about the Act and has created a website ([www.do.se](http://www.do.se)).

### **Paragraph 13**

In paragraph 13, the Committee recommends the State party to take effective measures to ensure that fundamental legal safeguards are guaranteed in practice to all persons held in custody, in particular the right to have access to a medical doctor, and to promptly inform a close relative or a third party concerning their arrest. Furthermore, it should also ensure that the information leaflet on fundamental safeguards is made available at all places where persons are deprived of their liberty.

#### Information leaflet

In its 2004 appropriation directions, the Government instructed the National Police Board, in cooperation with the Swedish Prosecution Service, to produce an information leaflet on the fundamental rights afforded to a person who is suspected of a crime and who has therefore been detained and deprived of his or her liberty. The information leaflet is of key importance in cases where a suspect is deprived of his or her liberty and is taken to a police station for further questioning. It is primarily in these situations that a suspect has a particular interest in being able to protect his or her interests and where there is a considerable need to ensure that the detainee feels safe and secure.

When handing over the information leaflet, it may be necessary in many cases to provide supplementary oral information. The leaflet should therefore be regarded as additional service to a detained suspect and not as fulfilment of the statutory obligation to inform as laid down, for example, in the Code of Judicial Procedure or the Ordinance on Preliminary Investigations; nor should it be regarded as a replacement for these obligations.

The information sheet outlining the rights of persons deprived of their liberty by the police was finalised and made available to the police authorities in December 2008. It is currently available in 40 languages.

### The right to notify family members

According to new legislation (law no. 2008:68) regarding the duty of notification, as soon as a person is taken into custody, at least one of his or her closest relatives, or any other person with a particular relationship to him or her, should be notified. Notification shall take place as soon as possible without being to the detriment of the investigation. The investigation leader decides at what moment in time it is appropriate to make such a notification, considering the status of the investigation. If the person who is deprived of his or her liberty opposes it, notification should only take place if there are extraordinary circumstances, such as the person being a minor or seriously mentally ill. If the deprivation of liberty ceases, there is no duty of notification. If, for example, it has not been possible to reach a relative and the person is released, the police are not obliged to make a notification.

### The right to see a doctor

All detainees are screened upon arrival in remand prison. The screening form includes health questions, such as current use of medication, diseases, etc. This routine is used to enable staff to detect serious illnesses or risk of suicide, etc. and to provide the detainee with medical treatment as soon as possible.

Prison and remand prison inmates have the same right to health and medical care as any other citizen in the country. Within the Swedish Prison and Probation Service, all operational localities have a medical service that functions like any other such service available to the public. Since it is safer to bring a doctor to a correctional facility or prison than to allow the inmates to travel to the nearest medical centre/hospital, the Swedish Prison and Probation Service has chosen to employ its own nurses and use its own consulting physicians. This primarily means general physicians, but since such a large percentage of inmates have various kinds of mental disorders or addictions, a number of psychiatrists are also needed. If a detainee needs medical attention other than that offered in the detention units and the prison, he or she will be given an appointment with a specialist within the general medical services. In case of an emergency, a referral by a general physician is not required (which is otherwise part of the standard system for all citizens). This also applies to emergency psychiatric treatment.

Medical staff is available for medical check ups every week within the facilities of the Swedish Prison and Probation Service, and outside normal work hours it is possible to have telephone consultations or to contact the general medical services outside the prisons. If a detainee requests to see a physician, it is the employed nurse that makes a

preliminary examination to determine the nature of the medical problem and the urgency of the matter. It is then the physician's responsibility to determine whether specialist care is needed. However, all staff undergoes training in dealing with various types of emergencies. All staff is expected to be able to assess whether transport by ambulance is necessary.

### **Paragraph 16**

In paragraph 16, the Committee notes that the State party has not ruled out the possible future use of diplomatic assurances to permit the sending of persons to places where they may face treatment contrary to Article 7 of the Covenant. The Committee has also requested that the State party should ensure that no individuals, including persons suspected of terrorism, are exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment. The State party should further recognise that the more systematic the practice of torture or cruel, inhuman or degrading treatment, the less likely it will be that a real risk of such treatment can be avoided by diplomatic assurances, however stringent any agreed follow-up procedure may be. Furthermore, it should exercise the utmost care in the use of such assurances and adopt clear and transparent procedures allowing review by adequate judicial mechanisms before individuals are deported, as well as effective means to monitor the fate of the affected individuals.

### The procedure for 'security cases'

The procedure for 'security cases' was altered as of 1 January 2010 by amendments to the Aliens Act (2005:716) and the Act on Special Control of Aliens (1991:572). Under the Aliens Act, 'security cases' are now tried the same way as ordinary asylum cases, i.e. decisions by the Migration Board can be appealed to one of the migration courts and, if leave of appeal is granted, to the Migration Court of Appeal. On the other hand, a decision by the Migration Board in a 'qualified security case', under the Act on Special Control of Aliens, can still be appealed to the Government. In such cases, the Migration Board should, if a decision by the Board is appealed, hand over the case to the Migration Court of Appeal for an assessment. The Court is asked in particular to examine if there is a risk that the individual will be subjected to torture, the death penalty and other serious violations if returned. The Migration Court of Appeal will submit its assessment to the Government. In situations where, according to the Migration Court of Appeal, there is an absolute impediment to enforcement, the Government is obliged to respect the assessment by the Court.

### Diplomatic assurance

As the Committee is well aware, Sweden has no established practice of using diplomatic assurances in asylum cases with security aspects. The issue of diplomatic assurances has not been raised in any other cases than of the two Egyptian nationals Ahmed Agiza and Mohammed Alzery. It is the policy of the Swedish Government that considerations of future use of diplomatic assurances will be limited to exceptional asylum cases.

### **Paragraph 17**

In paragraph 17, the Committee remains concerned that some asylum seekers have been detained for lengthy periods. The Committee also notes that asylum seekers said to be a risk to themselves or a threat to others have been placed in remand prisons that also house criminal suspects and convicted criminals. The Committee is further concerned that asylum seekers have been deported before the final resolution of their claims to refugee status. The Government should ensure that asylum-seekers have the right to access adequate information in order to answer arguments and evidence utilized in their case.

### **Committee of independent inquiry**

The Government has appointed a committee of independent inquiry to carry out a thorough examination of the legal framework on detention under the Aliens Act. Apart from reviewing the formal laws and regulations, and proposing necessary amendments, the committee is free to present any possible suggestions aimed at improving the current system of detention.

An alien may be detained if (1) the alien's identity is unclear on arrival in Sweden or when he or she subsequently applies for a residence permit and he or she cannot establish the probability that the identity he or she has stated is correct, and if (2) the right of the alien to enter or stay in Sweden cannot be assessed anyway.

An alien may also be detained if (1) it is necessary to enable an investigation to be conducted on the right of the alien to remain in Sweden, or (2) it is probable that the alien will be refused entry or expelled, or (3) the purpose is to enforce a refusal-of-entry or expulsion order.

The majority of aliens detained are persons who are about to be expelled and where there are reasons to assume that the alien may otherwise go into hiding.

Detained aliens are kept in special premises – detention centres – run by the Swedish Migration Board. The detention centres are specially designed not to look like institutions for correctional treatment. The detainees enjoy a considerable degree of freedom within the centres and they have substantial access to contacts with the outside world. They also have access to a range of activities. Against this background, detainees who are considered to be a danger to themselves or other persons may be transferred to a correctional institution, remand centre or police arrest facility. This is not applicable to children.

An alien may not be detained for investigation for more than 48 hours. In other cases, an alien may not be detained for more than two weeks, unless there are exceptional grounds for a longer period. If, however, a refusal-of-entry or expulsion order has been issued, the alien may be detained for not more than two months unless there are exceptional grounds for a longer period.

#### New provisions

In accordance with the European Union Directive 2008/115/EC concerning the return of illegally staying third-country nationals, Sweden will adopt new provisions concerning a maximum detention period of six months. The detention period may be extended to 18 months under certain circumstances, in accordance with Article 15 of the Directive. The new provisions are expected to enter into force in December 2010.

Refusal of entry with immediate enforcement is possible if it is obvious that there are no grounds for asylum and that a residence permit is not to be granted on any other grounds.

#### Access to information

As a main principle, the asylum seeker has access to all information presented in his or her case. If there are extraordinary circumstances, the asylum seeker can be denied total access. This exception is used only if there are extraordinary reasons of public or individual interests. If denied full disclosure of a document, the asylum seeker is informed of the content but not the specific details, provided that this does not seriously damage the interests protected by the secrecy provisions. As a minimum, the asylum seeker is always granted sufficient information so that he or she is able to pursue his or her claim.