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**Advance Unedited Version**Distr.: General  
24 June 2016Original: English  
English, French and Spanish only

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**Committee on Economic, Social and Cultural Rights****Concluding observations on the sixth periodic report of Sweden<sup>\*</sup>**

1. The Committee on Economic, Social and Cultural Rights considered the sixth periodic report of Sweden on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/SWE/6) at its 24th and 25th meetings (E/C.12/2016/SR.24 and 25) held on 7 and 8 June 2016, and adopted the following concluding observations at its 49th meeting, held on 24 June 2016.

**A. Introduction**

2. The Committee welcomes the timely submission of the sixth periodic report of the State party as well as the submission of the written replies to the list of issues (E/C.12/SWE/Q/6/Add.1). The Committee also appreciates the constructive and frank dialogue that it had with the State party's high-level and multi-sectoral delegation. The Committee further acknowledges the additional information provided in writing.

**B. Positive aspects**

3. The Committee welcomes the legislative, institutional and policy measures taken to promote economic, social and cultural rights in the State party, including:

(a) The amendment to the constitutional law, Instrument of Government, establishing that the Sami constitute "a people", in 2011;

(b) The adoption of the new Patients' Law strengthening the position of patients and their own choices, in 2015;

(c) The appointment of a National Coordinator to address the situation of young people not in education, employment or training, in 2015;

(d) The adoption and implementation of the Swedish Strategy for Roma Inclusion (2012-2032);

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<sup>\*</sup> Adopted by the Committee at its fifty-eight session (6 – 24 June 2016).



(e) The development of a new National Strategy on Violence against Women.

4. The Committee also appreciates that the State party devoted 1.4% of its gross national income in 2015 to official development assistance (ODA).

## **C. Principal subjects of concern and recommendations**

### **Domestic application of the Covenant**

5. The Committee notes the information provided by the State party's delegation on the existence of an internal dialogue concerning the incorporation of the Covenant in domestic law. The Committee however remains concerned about the timeline of this process, and that presently several Covenant rights are still not incorporated in domestic law, thus rendering them non-justiciable in domestic courts.

**6. The Committee reiterates its previous recommendation (E/C.12/SWE/CO/5, para 13) that the State party take the necessary legislative measures to incorporate the Covenant in its domestic legislation and thus facilitate the application of the Covenant rights in domestic courts. The Committee also recommends that the State party raise awareness on the content of the Covenant rights and their justiciability, in particular among judges, lawyers and law enforcement officials, and among rights holders. The Committee draws the State party's attention to its general comment no. 9 (1998) on the domestic application of the Covenant.**

### **Devolution of obligations**

7. The Committee notes the information about the division of responsibilities between national, county and municipal authorities in the State party. The Committee is, however, concerned about the limited awareness of local authorities regarding their obligations for the realization of Covenant rights.

**8. The Committee reminds the State party that its government bears the responsibility for the implementation of the Covenant at all levels, including county and municipal. The Committee therefore recommends that the State party ensure that all public authorities, including local ones, are fully aware of their obligations under the Covenant, and to this end encourages the State party to issue and disseminate the necessary information and guidance to local authorities. The Committee refers to its general comment No. 3 (1990) on the nature of States parties' obligations.**

### **National human rights institution**

9. The Committee, while appreciating commitments made by the State party with regard to the establishment of a national human rights institution in accordance with the principles relating to the status of national institutions (Paris Principles), remains concerned that existing equality bodies are mandated to cover only specific areas, and that the Equality Ombudsman has limited mandate and independence, and thus only partially complies with the aforementioned Principles and therefore is accredited with "B" status.

**10. The Committee recommends that the State party expedite the process of establishing an independent human rights institution in full conformity with the Paris Principles and ensure that due attention is given to economic, social and cultural rights in its mandate and that the institution has the necessary human and technical resources to fulfil its mandate. The Committee also recommends that the State party ensure that existing equality bodies, including the Equality Ombudsman, cover all relevant areas related to economic, social and cultural rights, and that the latter fully conforms with the Paris Principles.**

### **Swedish National Pension Funds' investments**

11. The Committee is concerned about the lack of a systematic control by the State party of the investments made abroad by enterprises domiciled under its jurisdiction, including by the Swedish National Pension Funds, which weakens the ability of the State party to prevent negative impacts of such investments on the enjoyment of economic, social and cultural rights by local populations. While noting the information about the existence of the Ethical Council within the Swedish National Pension Funds and the continuous dialogue between the Funds and companies including on ethical and environmental issues, the Committee remains concerned about the level of effectiveness of the existing monitoring and remedial mechanisms (art. 2).

12. **The Committee recommends that the State party fully exercise its regulatory powers and strengthen its oversight on investment decisions made by the Swedish National Pension Funds and other investors acting abroad, with a view to ensuring that such decisions respect and protect human rights. It further recommends that the State party ensure that the Swedish National Pension Funds and other investors domiciled in the State party:**

- (a) Undertake a systematic and independent human rights impact assessment prior to making investment decisions;**
- (b) Establish effective monitoring mechanisms to regularly assess the human rights impact of such projects and to take remedial measures when required;**
- (c) Guarantee that there are accessible complaint mechanisms for violations of economic, social and cultural rights, linked to investment projects.**

### **Sami land rights**

13. The Committee is concerned that the Sami people still encounter obstacles in the full enjoyment of their indigenous rights, including the access to their ancestral lands and maintenance of their traditional ways of living. This situation is further exacerbated by the increasing extractive and development projects carried out on or nearby Sami lands (arts. 1 and 2).

14. **The Committee recommends that the State party redouble its efforts to resolve the remaining disputes related to Sami lands. In particular, it recommends that the State party:**

- (a) Ensure that all Sami, including non reindeer-herding, enjoy equal access to water and land, and, to that end, introduce the necessary legislative changes to avoid unnecessary distinctions among the Sami people in such access;**
- (b) Reconsider its position on the burden of proof in court cases concerning Sami land rights with a view to assisting them in providing the necessary evidence and thus strengthening their ability to effectively claim their rights, as well as undertake to further facilitate Sami access to legal aid;**
- (c) Ensure, in law and in practice, that necessary efforts are made to obtain the free, prior and informed consent of all Sami people on decisions that affect them, and provide legal assistance in that regard;**
- (d) Review relevant legislation, policies and practices regulating activities that may have an impact on the rights and interests of the Sami people, including development projects and extractive industries operations, and in particular the Mineral Act, the Mineral Strategy, as well the Environmental Code;**

(e) Expedite the negotiations leading to the adoption of the Nordic Sami Convention, and in case of further delays adopt the necessary legal solutions at the domestic level;

(f) Consider ratifying the ILO Convention No. 169 on Indigenous and Tribal Peoples.

#### **Sami parliament**

15. The Committee, while welcoming the State party's efforts to increase resources allocated to the Sami Parliament, remains concerned about the Sami Parliament's limited powers especially on issues related to land rights.

16. **The Committee recommends that the State party continue increasing the resources allocated to the Sami Parliament and necessary to discharge its role effectively. The Committee also recommends that the State party follow-up on the decision voted by the Sami Parliament in 2014 on establishing a truth commission on the treatment of the Sami people throughout Sweden's history.**

#### **Anti-discrimination legislation**

17. The Committee is concerned that the Discrimination Act (2009) contains a closed list of prohibited grounds of discrimination, and that social status as well as political opinion are not included in that list (art. 2, para 2).

18. **The Committee encourages the State party to revise the Discrimination Act so as to bring it in line with article 2, para 2, of the Covenant. The Committee also recommends that the State party include social status and political opinion into the list of prohibited grounds of discrimination. The Committee refers to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

#### **Discrimination against the Roma and other vulnerable groups**

19. The Committee is concerned about persisting societal discrimination against the Roma, despite many measures undertaken to address that, including the long-term Roma inclusion Strategy and other projects. The Committee is also concerned that vulnerable foreigners including citizens of other EU countries, and in particular the Roma, face major obstacles in accessing basic social services and social assistance benefits in the State party (art. 2, para 2).

20. **The Committee recommends that the State party step up its efforts to enhance the actual enjoyment of the Covenant rights by the Roma, as a follow up to its acknowledgment of the findings of the Governmental (2014) White Paper on abuses and rights violations against the Roma. The Committee further recalls that the Covenant rights carry core obligations of an immediate nature and that the State party must meet these core obligations by ensuring the minimum essential level relating to the right to housing, health, social security and education are respected, protected and fulfilled. To this end, the Committee recommends that the State party take measures to facilitate access to basic services by vulnerable foreigners, including citizens of other EU countries, notably of Roma origin.**

#### **Discrimination against ethnic and religious minorities**

21. The Committee is concerned that people of African descent and Muslims face discrimination in the State party in many areas covered by the Covenant, combined with inadequately targeted measures to address this. The Committee is also concerned at the

increasing incidents of hate speech and violence against persons belonging to these groups (art. 2, para 2).

22. **The Committee recommends that the State party study the root-causes leading to the long-standing discrimination against persons of African descent and Muslims, and based on its findings develop programmes and policies in consultations with the concerned communities, aimed at combatting ethnic and religion-based prejudices and disparities in access to health, education, housing and work. The Committee also recommends that the State party take into account the recommendations put forward by the UN Working Group of Experts on People of African Descent in 2015, and expedite the adoption of, and effectively implement, the National Plan against Racism and Hate Crimes.**

#### **Unemployment**

23. The Committee is concerned that despite many measures undertaken by the State party, unemployment still disproportionately affects persons with disabilities, youth, Roma, and ethnic minorities (art. 6).

24. **The Committee recommends that the State party effectively implement existing measures such as initiatives introduced in the Budget Bill 2016 aimed at assisting persons with disabilities to obtain work, as well as the appointment of a National Coordinator to address the situation of young people not in education, employment or training. It also calls on the State party to consider adopting other targeted measures to reduce the vulnerability to unemployment by all above-mentioned groups, among others through introducing temporary special measures and strengthening financial incentives for employers, such as tax incentives.**

#### **Employment of women**

25. The Committee is concerned that despite the progress achieved in the area of women's employment, gender wage gap persists in the State party, notably as women are concentrated in low paid jobs and remain overrepresented in part-time work arrangements (arts. 3 and 7).

26. **The Committee recommends that the State party promptly reintroduce the annual pay surveys as indicated during the dialogue, and take effective measures, including the adoption of temporary special measures, so as to achieve substantive equality between men and women in access to, and choice of, work, and in the enjoyment of just and favourable working conditions, and that it continue its efforts towards more equal sharing of family responsibilities between men and women.**

#### **Just and favourable conditions of work**

27. While welcoming the increasing budget to the Swedish Environment Authority and the development of a new working environment strategy, the Committee is concerned at the surge in occupational diseases and stress related illnesses and the decline in the number of labour inspectors. The Committee appreciates the information that sexual harassment is criminalised under the Discrimination Act, but remains concerned about the lack of information on the prosecution and convictions of concerned perpetrators (art. 7).

28. **The Committee recommends that the State party step up its efforts in addressing the surge in occupational and stress related diseases, and to this end implement effectively the working environment strategy and increase the number of, and resources allocated to, labour inspectors. The Committee further recommends that the State party effectively investigate, prosecute and sanction individuals for acts**

**of sexual harassment. The Committee refers to its general comment No. 23 (2016) on the right to just and favourable conditions of work.**

#### **Social security**

29. The Committee is concerned about the cutbacks in the allocation of funds for personal assistance benefits for persons with disabilities, depriving these persons of the necessary services and assistance (art. 9).

**30. The Committee recommends that the State party reconsider financial cuts and the eligibility criteria for the provision of personal assistance benefits to persons with disabilities whose rights should prevail over financial considerations. To that end, the Committee also recommends that the State party introduce the necessary amendments to the Social Code and the Act on Support and Service for Persons with Certain Functional Impairments. The Committee refers the State party to the letter concerning austerity measures, which was sent to all States parties to the Covenant by the Chairperson of the Committee in 2012, and to its general comment no. 19 (2007) on the right to social security.**

#### **Refugees and asylum seekers**

31. While welcoming the State party's generosity in receiving a substantial number of asylum seekers and migrants, as well as the many measures taken to accommodate the rights of unaccompanied children, the Committee notes with concern the newly adopted Act (2016) on asylum seekers and refugees which bears in some aspects restrictive features. It is particularly concerned that the draft law will aim at restricting the right to family reunification by asylum seekers and refugees. The Committee is also concerned that adult asylum seekers have restricted access to health care services (arts. 2, 10 and 12).

**32. The Committee recommends that the State party revise the new Act in question. It urges the State party to apply a definition of 'family members' and of 'economic dependency' sufficiently broad to protect the family reunification by refugees, asylum seekers, and beneficiaries of subsidiary protection. The Committee also recommends that the State party take steps to ensure that all asylum seekers have access to adequate health-care services, and reminds the State party that health facilities, goods and services should be accessible to everyone without discrimination, in line with articles 2 and 12 of the Covenant. The Committee draws the State party's attention to its general comment no. 14 (2000) on the right to the highest attainable standard of health.**

#### **Harmful practices**

33. While appreciating legislative amendments introduced in 2014 aimed at strengthening the protection against early and forced marriages, the Committee is, however, concerned about the lack of information on judicial cases concerning early and forced marriages, which reportedly have taken place in the State party. The Committee is also concerned that incidents of violence against women and children remain widespread and that despite many measures taken to address this problem, reporting and prosecution rates remain low. Furthermore, the Committee is concerned that the definition of rape in the Criminal Code has not been amended (art. 10).

**34. The Committee recommends that the State party effectively enforce relevant criminal provisions and ensure that all cases of violence against women and children are promptly and thoroughly investigated, that perpetrators are brought to justice and that victims have access to effective remedy, compensation and means of protection. The Committee also recommends that the State party accelerate the**

revision of the definition of rape in the Criminal Code so as to integrate the element of the victim's consent in the definition. The Committee further recommends that the State party continue public awareness-raising campaigns on all forms of violence against women and children, including against women belonging to ethnic minorities, as well as provide systematic training for the members of the judiciary and law enforcement personnel in this regard.

#### Poverty

35. The Committee is concerned about the increased number of children living in poverty in the State party, and that refugees, asylum seekers, Roma and Afro-Swedes are particularly affected by poverty (art. 11).

36. **The Committee recommends that the State party step up its efforts in addressing poverty, including by effectively implementing the relevant employment and social protection policies and programmes referred to during the dialogue, while paying particular attention to groups exposed to continuing poverty.**

#### Right to housing

37. While welcoming the increased resources dedicated to housing on the basis of the 2016 Government bill, the Committee remains concerned about the shortage of housing in the State party, especially in main cities, the limited access to affordable tenancies and the lack of social housing, generating homelessness. The Committee is also concerned about the persistence of de facto residential segregation affecting in particular Afro-Swedes, Muslims, and Roma (art. 11).

38. **Recalling its general comment no. 4 (1991) on the right to adequate housing, the Committee recommends that the State party step up its efforts in addressing the housing shortage. Among others, the Committee recommends that the State party:**

(a) **Increase the availability of affordable tenancies and consider allocating resources to social housing so as to meet the demand, particularly of those most in need;**

(b) **Include statistical information on the extent of homelessness, disaggregated by age, sex, urban/rural population and ethnic groups and the measures taken to address homelessness and the results achieved, in its regard, in the next periodic report under the Covenant;**

(c) **Take targeted measures with a view to ending de facto residential segregation, affecting in particular Afro-Swedes, Muslims, and Roma.**

#### Forced evictions

39. The Committee is concerned about the increased incidence of forced evictions affecting Roma individuals living in informal settlements. The Committee is also concerned about the proposed legislative amendment on eviction procedures, which reportedly would further weaken the vulnerable position of those subject to eviction and expedite the eviction process from informal settlements (art. 11).

40. **The Committee recommends that the State party address the root-causes leading to Roma vulnerability to forced evictions. It should among others facilitate access to adequate housing by Roma and take effective steps to remove discriminatory obstacles in such access which could also prevent the expansion of informal settlements. The Committee recommends that the State party ensure that the legal framework governing forced evictions establishes appropriate procedures to be followed prior to an eviction and takes into account the Committee's general**

**comment no. 7 (1997) on forced evictions. The Committee, in particular, recommends that the State party ensure that forced eviction is considered only as a last resort and that in all such cases affected individuals are provided with long-term housing solutions.**

#### **Drug use**

41. The Committee commends the State party on the introduction of harm-reduction strategies related to drug users. The Committee is however concerned at the restricted access to opioid substitution therapy by prisoners, the prevalence of Hepatitis C among drug injectors, and at the increase in overdose deaths rate (art. 12).

42. **The Committee calls on the State party to intensify its efforts with regard to preventing drug abuse, including through education and awareness-raising programmes, and expansion of the provision of drug substitution therapy, particularly in prisons. The Committee also encourages the State party to continue expanding the needle exchange programme. Furthermore, the Committee recommends that the State party widely disseminate the 2015 Guidelines on Hepatitis C Prevention and take measures to ensure that drug injectors are tested for Hepatitis C and provided the necessary treatment on the basis of general principles applicable to the therapy of this sickness. Finally, that State party should strengthen overdose prevention programmes.**

#### **Mental health**

43. The Committee is concerned about the insufficient use of alternative treatments for persons with psychosocial disabilities in the State party, and the prevalence of compulsory admission of such individuals in a psychiatric institution. The Committee is also concerned that these persons enjoy limited opportunity to appeal against decisions of compulsory admission. Furthermore the Committee is concerned about the use of coerced treatment against persons, particularly women, during compulsory care (art. 12).

44. **The Committee recommends that the State party:**

**(a) Take measures to provide alternative forms of mental health treatment, in particular outpatient treatment;**

**(b) Guarantee full respect for human rights of patients in psychiatric institutions, including through independent and effective monitoring of treatments, and effective judicial review of confinement to psychiatric institutions;**

**(c) Ensure that treatments are provided on the basis of free and informed consent, unless exceptional circumstances require otherwise, taking into account the (2003) WHO Guidance package on mental health, legislation and human rights.**

#### **Minority and indigenous languages**

45. The Committee is concerned about the limited educational opportunities provided to indigenous children and children belonging to minorities aimed at achieving proficiency in their mother tongue. The Committee is also concerned at the shortage in indigenous and minority languages teachers (arts. 13 and 14).

46. **The Committee recommends that the State party take immediate steps to provide indigenous children and children belonging to minorities with educational opportunities through which they can develop their mother tongue skills. The Committee also recommends that the State party broaden the access to bilingual education in areas populated by indigenous peoples and minority groups, and increase the availability of Sami and minority languages teachers, including through**



substantially increasing resources for training of teachers in national minority languages.

#### **Cultural rights**

47. The Committee regrets the lack of information on the right to enjoy the benefits of scientific progress and its applications (art. 15).

48. **The Committee requests that the State party include in its next periodic report information on measures taken to guarantee the right of everyone to enjoy the benefits of scientific progress and its applications, in conformity with article 15, paragraph 1 (b) of the Covenant.**

#### **D. Other recommendations**

49. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

50. **The Committee recommends that the State party consider ratifying the Convention on the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.**

51. **The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights, in order to facilitate the assessment of progress achieved by the State party in the compliance of its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).**

52. **The Committee requests that the State party disseminate the present concluding observations widely at all levels of society at national, provincial and territorial levels, particularly among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee also encourages the State party to continue its engagement with non-governmental organizations and other members of civil society throughout the entire reporting process under the Covenant, including the preparation of the next periodic report and the implementation of the concluding observations.**

53. **The Committee requests the State party to submit its seventh periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 30 June 2021. It also invites the State party to update its common core document, as necessary, and in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).**