

## SWEDEN

### Follow-up - State Reporting

#### i) Action by Treaty Bodies, Including Reports on Missions

CCPR A/58/40 vol. I (2003)

### CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

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#### Overview of the application of the follow-up procedure

265. At its seventy-first session, in March 2001, the Committee began its routine practice of identifying, at the conclusion of each set of concluding observations, a limited number of priority concerns that had arisen in the course of the dialogue with the State party. The Committee has identified such priority concerns in all but one of the reports of States parties examined since the seventy-first session. Accordingly, it requested that State party to provide, within one year, the information sought. At the same time, the Committee provisionally fixed the date for the submission of the next periodic report.

266. As the Committee's mechanism for monitoring follow-up to concluding observations was only set up in July 2002, this chapter describes the results of this procedure from its initiation at the seventy-first session in March 2001 to the close of the seventy-eighth session in August 2003. These are described session by session, but in future reports this overview will limit itself to an annual assessment of the procedure.

<u>State party</u>	<u>Date information due</u>	<u>Date reply received</u>	<u>Further action</u>
...			
<i>Seventy-fourth session (March 2002)</i>			
...			
Sweden	3 April 2003	6 May 2003	At its seventy-eighth session, the Committee requested its Special Rapporteur to clarify certain issues with the State party arising from its response.

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260. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table. Of the 27 States parties (detailed below) that have been before the Committee under the follow-up procedure over the last year, only one (Republic of Moldova) has failed to provide information at the latest after dispatch of a reminder. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

261. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

<u>State party</u>	<u>Date information due</u>	<u>Date reply received</u>	<u>Further action</u>
...			
<i>Seventy-fourth session (March 2002)</i>			
Sweden	3 April 2003	6 May 2003	At its seventy-eighth session, the Committee requested its Special Rapporteur to clarify certain issues with respect to paragraph XX of the Committee's concluding observations with the State party arising from its response.
		1 December 2003 (further reply consequent to consultations)	At its seventy-eighth session, the Committee requested its Special Rapporteur to clarify certain issues with respect to paragraph XX of the Committee's concluding

18 June 2004 (further reply submitted at request of the Special Rapporteur)

observations with the State party arising from its response.

25 June 2004 (further reply provided)

At its seventy-ninth session, the Special Rapporteur met with a delegation of the State party to discuss these issues. The Committee decided to fix the date for the next report as provisionally decided.

At its eightieth session, the Committee considered the further reply and requested the Special Rapporteur to maintain contact with the State party on the issue in question.

Clarification of certain points was requested by the Special Rapporteur. The Special Rapporteur will keep the matter under review.

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233. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the comprehensive table presented below. Since 18 June 2004, 15 States parties (Egypt, Germany, Kenya, Latvia, Lithuania, Morocco, the Netherlands, the Philippines, Portugal, the Russian Federation, Serbia and Montenegro, Slovakia, Sweden, Togo and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only six States parties (Colombia, Israel, Mali, Republic of Moldova, Sri Lanka and Suriname) have failed to supply follow-up information that had fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

224. The table below details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided to take no further action prior to the period covered by this report.

<u>State Party</u>	<u>Date Information Due</u>	<u>Date Reply Received</u>	<u>Further Action</u>
...			
<i>Seventy-fourth session (March 2002)</i>			
Sweden	3 April 2003	6 May 2003	At its seventy-eighth session, the Committee requested its Special Rapporteur to clarify certain issues with respect to paragraph 12 of the Committee's concluding observations with the State party arising from its response.
		1 December 2003	At its seventy-ninth session,

(further reply consequent to consultations)

the Special Rapporteur met with a delegation of the State party to discuss these issues. The Committee decided to fix the date for the next report as provisionally decided.

18 June 2004  
(further reply submitted at request of the Special Rapporteur)

At its eightieth session, the Committee considered the further reply and requested the Special Rapporteur to maintain contact with the State party on the issue in question.

25 June 2004 and 21 October 2004  
(further replies provided submitted at request of the Special Rapporteur)

Clarification of certain points was requested by the Special Rapporteur.

27 October 2004  
(further reply provided submitted at request of the Special Rapporteur)

The Committee requested the State party to fully address the issues in its next report.

**CCPR, CCPR/C/SR.2709/Add.1 (2010)**

Human Rights Committee  
Ninety-Eighth session

Summary record (partial) of the 2709th meeting  
Held at Headquarters, New York,  
on Wednesday, 24 March 2010, at 10 a.m

...

**Progress report of the Special Rapporteur for follow-up on concluding observations  
(CCPR/C/98/2/CRP.1)**

1. **Mr. Amor**, speaking as Special Rapporteur for follow-up on concluding observations, introduced his report, which related to concluding observations the Committee had adopted from the eighty-fifth through the ninety-fourth sessions. He reviewed, country by country, the status of the response to the concluding observations and the action he had recommended to be taken in each case.

2. Again, the Committee was being handicapped by the lack of translation services. In a number of instances, information received from States parties still required translation, and he had recommended that it should be reviewed at the next session. Tunisia, having just submitted overdue information, now fell into that category and the report would have to be amended accordingly. On the other hand, the response of the United Nations Interim Administration Mission in Kosovo (UNMIK) had just been translated, and the report would be amended to recommend simply review at the next session. Furthermore, Sweden had just sent in its replies, well ahead of schedule, and would have to be included in the report as well, with a recommendation for review at the next session.

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11. *The recommendations contained in the report of the Special Rapporteur for follow-up on concluding observations, as orally amended, were approved.*

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**CCPR, CCPR/C/SR.2738/Add.1 (2010)**

Human Rights Committee  
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting  
Held at Palais Wilson, Geneva,  
on Wednesday 28 July 2010, at 11:25 am

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**Follow-up to concluding observations on State reports and to Views under the Optional Protocol**

*Report of the Special Rapporteur for Follow-up on Concluding Observations (CCPR/C/99/2/CRP.1)*

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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52. A follow-up report had been received from Sweden on 18 March 2010 on the information requested in relation to its sixth periodic report. It was recommended that a letter should be sent to the State party welcoming the degree of cooperation it had shown and requesting additional information on paragraphs 13, 15 and 16 dealing with the risk of torture in deportation cases, the length of pretrial detention and the treatment of asylum-seekers.

53. **The Chairperson** proposed that the Committee should adopt that recommendation.

54. *It was so decided.*

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## Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,<sup>16</sup> the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,<sup>17</sup> an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>18</sup> Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.<sup>19</sup>

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).



207. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

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#### **Ninety-fourth session (October 2008)**

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#### **State party: Sweden**

**Report considered:** Sixth periodic report (due 1 April 2007) submitted on 20 July 2007.

#### **Information requested:**

Para. 10:

- (a) Increase efforts to inform persons with disabilities about their rights, means of protecting them and remedies available to them if their rights are violated;
- (b) Provide updated information on the impact of awareness-raising programmes. Indicate how the access of persons with disabilities to social services and goods is ensured in practice at the level of municipalities as well as other levels. Supply detailed information on the implementation of the State party's disability policy in its next periodic report;
- (c) Take effective measures to increase the employment rate for persons with disabilities, including those with a reduced work capacity (arts. 2, 3 and 7).

Para. 13: 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. Ensure that the information leaflet on fundamental safeguards is made available at all places where persons are deprived of their liberty (arts. 6, 7, 9 and 10).

Para. 16: Ensure that no individuals, including persons suspected of terrorism, are exposed to the danger of torture or cruel, inhuman or degrading treatment or punishment. Recognize 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. 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 individuals concerned (art. 7).

Para. 17: Permit detention of asylum-seekers only in exceptional circumstances and limit the length of such detentions; avoid placing asylum-seekers in remand prisons. Consider placement

alternatives for asylum-seekers and ensure that asylum-seekers are not deported before a final decision concerning their applications has been taken. Ensure that asylum-seekers have the right to access adequate information in order to respond to arguments and evidence utilized in their case (arts. 13 and 14).

**Date information due:** 1 April 2010

**Date information received:**

*18 March 2010* Follow-up report received (paras. 10-13: response largely satisfactory; para. 16: response incomplete; para. 17: responses incomplete in parts, recommendations not implemented in parts, no response on certain points).

**Recommended action:** While taking note of the cooperativeness of the State party, the Committee should send a letter indicating that the procedure is complete with regard to the issues concerning which the information supplied by the State party was considered to be largely satisfactory: rights of persons with disabilities (para. 10); and fundamental legal safeguards for persons held in custody (para. 13). The letter should also include a request for additional information on certain issues: diplomatic assurances (para. 16); detention and placement of asylum-seekers, and access to information (para. 17). Lastly, it should highlight the points concerning which the Committee considers that its recommendations have not been implemented: limit the length of detention of asylum-seekers (para. 17).

**Next report due:** 1 April 2014

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<sup>16</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40, vol. I (A/58/40 (vol. I)).*

<sup>17</sup> *Ibid., Sixty-Fourth Session, Supplement No. 40, vol. I (A/64/40 (vol. I)).*

<sup>18</sup> The table format was altered at the ninetieth session.

<sup>19</sup> As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

## **Follow-up - Reporting**

### **ii) Action by State Party**

#### **CCPR CCPR/CO/74/SWE/Add.1 (2003)**

##### Comments by the Government of Sweden on the Concluding Observations of the Human Rights Committee (CCPR/CO/74/SWE)

[6 May 2003]

1. In its concluding observations (CCPR/CO/74/SWE) the Human Rights Committee has requested the Government of Sweden to provide it with relevant information, in particular as regards: (a) measures taken under the international campaign against terrorism and their conformity with the Covenant (ICCPR) and (b) the practise and tradition of Sweden's observance of the principle of non-refoulement, in particular when expelling a person to another country on the basis of assurances as to that person's treatment by the receiving State.<sup>2</sup> The Committee has, furthermore, requested the Government of Sweden (c) to undertake an educational campaign through the media to protect persons from foreign extraction, in particular Arabs and Muslims, from stereotypes associating them with terrorism, extremism and fanaticism. The Government of Sweden hereby submits the information requested by the Committee.

Counter-Terrorism Measures taken in conformity with the International Covenant on Civil and Political Rights<sup>3</sup>. Sweden has ratified all international criminal law conventions for the suppression of terrorism.<sup>4</sup> The last Convention ratified is the International Convention for the Suppression of the Financing of Terrorism. Sweden ratified the Convention on 6 June 2002 and on 1 July 2002 a new act on penalty for financing serious crimes entered into force. According to the act it is punishable to collect, provide or receive money or other funds with the intention that they should be used or in the knowledge that they are to be used in order to commit such serious crimes, which in international conventions are classified as terrorism. Attempt to commit such crimes is also punishable. Banks and financial institutions are - in the same way as regarding suspected money laundering - obliged to observe and to the police report such transactions which can be suspected to comprise funds which will be used to finance serious crimes.<sup>5</sup> Within the EU a framework decision on combating terrorism was adopted in June 2002. The framework decision contains a definition of what kind of acts which will be regarded as terrorist crimes. In order to fulfil the obligations laid down in the framework decision the Government has presented a bill to the Swedish Parliament (Riksdag) where it - among other things - proposes a new act with a specific terrorist crime. The Riksdag has adopted the bill and the new legislation will enter into force in July 2003.<sup>6</sup> The Swedish Constitution contains rules of procedure concerning the adoption of new legislation. When preparing new legislation necessary information and opinions shall always be obtained from the public authorities concerned. Organizations and private persons shall be afforded an opportunity to express an opinion where necessary (The Instrument of the Government, chapter 7, section 2).<sup>7</sup> The Council on Legislation, comprising justices of the Supreme Court and of the Supreme Administrative Court, shall give its opinion on draft legislation. The Council's scrutiny shall, among other things, relate to the way in which the draft law is in accordance with the fundamental laws and the legal system in general (see the

Instrument of the Government, chapter 8, section 18).<sup>8</sup> According to the Constitution, no act of law or other provision may be adopted if it contravenes Sweden's undertakings under the European Convention for the Protection of Human Rights and Fundamental Freedoms (see the Instrument of the Government, chapter 2, section 23). One of the obligations, which the Council on Legislation has to fulfil, is to make sure that new legislation does not conflict with the Convention. It goes without saying that the Council would also react if it finds that a proposed legislation would contravene any other international undertakings made by the Swedish Government in the human rights field, e.g. the ICCPR.Observance of the Principle of non-refoulement<sup>9</sup>. The basic provisions concerning the rights of aliens to enter and to remain in Sweden are found in the 1989 Aliens Act. The Act defines, inter alia, the conditions under which an alien can be refused entry or be expelled from the country.<sup>10</sup> An alien, who is considered to be a refugee or otherwise in need of protection, is, with certain exceptions entitled to a residence permit in Sweden. However, a residence permit may be refused if, inter alia, there are exceptional grounds for not granting a residence permit. Such exceptional grounds consist of an assessment of what is known about the alien's previous activities or out of concern for national security. It should be pointed out that this provision corresponds to the 1951 Convention relating to the Status of Refugees.<sup>11</sup> An alien may be expelled as a consequence of not having been granted a residence permit. Already at the time of the decision-making as well as at the actual enforcement stage, regard must, however, be had to the risks the alien may face upon his/her return to the country of origin. Hence, an alien must never be sent to a country where there are reasonable grounds for believing that he/she would be in danger of suffering capital or corporal punishment or of being subjected to torture or other inhuman or degrading treatment or punishment or if he/she risks persecution.<sup>12</sup> In addition to the above legislation the Government of Sweden also has to abide by Security Council resolution 1373 (2001) whereby all States are requested to deny safe havens to those who finance, plan, support, or commit terrorist acts, or provide safe havens. Further, according to the resolution, all States must take appropriate measures in conformity with the relevant provisions of national and international law, including international standards of human rights, before granting refugee status, for the purpose of ensuring that the asylum-seeker has not planned, facilitated or participated in the commission of terrorist acts. Moreover, all States must ensure, in conformity with international law, that refugee status is not abused by the perpetrators, organizers or facilitators of terrorist acts.<sup>13</sup> In one specific and, indeed, an exceptional case, the Swedish Government has expelled two persons to their country of origin on the basis of assurances as to these persons' treatment by the receiving State. Without these guarantees expulsion to the country in question would not have been an alternative.

14. Prior to the decision of expulsion, which was taken 18 December 2001 and which was enforced shortly thereafter, assurances regarding the treatment of the persons to be expelled were obtained from the receiving State. The Government of Sweden demanded that the persons in question would be afforded a fair trial, that they would not be subjected to torture or other inhuman treatment and that they would not be sentenced to the death penalty or executed. Furthermore, the understanding between the two Governments was that the trial to come would be monitored by Sweden and that Sweden would be granted permission to conduct regular visits to the prison where the persons were held. On the basis of these assurances the Government of Sweden made the assessment that the assurances obtained provided an adequate guarantee of safety in accordance with international law and that Sweden, thus, did not act in breach of its commitments under international law.<sup>15</sup> The Swedish Government has established a mechanism

for the monitoring of the case. The Swedish ambassador to the receiving State has visited the persons in question on a regular basis (more or less monthly) in the prison where they are held. In addition the Swedish Ambassador meets, on a regular basis, with the relevant authorities. Further, a senior official from the Ministry for Foreign Affairs has been appointed this year to co-ordinate all actions and measures as regards this case including participating in visits to the prison and in meetings with the relevant authorities on a regular basis. Needless to say, the Government of Sweden will continue the monitoring of this case as well as the future trial.<sup>16</sup> The actual case is an exceptional one and for the Government of Sweden the very first case where persons have been expelled to a country on the basis of a guarantee from that country. It is the opinion of the Swedish Government that the assurances obtained from the receiving State are satisfactory and irrevocable and that they are and will be respected in their full content. The Government has not received any information which would cast doubt at this conclusion. Further, a satisfactory monitoring mechanism is put into place and has been functioning for more than a year at this moment in time.<sup>17</sup> In this context, the Government, finally, wishes to draw the Committee's attention to the interim report (A/57/173, 2 July 2002) submitted by Mr. Theo van Boven, Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment. In his report, the Special Rapporteur appealed to all States "to ensure that in all appropriate circumstances the persons they intend to extradite, under terrorist or other charges, will not be surrendered unless the Government of the receiving country has provided an unequivocal guarantee to the extraditing authorities that the persons concerned will not be subjected to torture or any other forms of ill-treatment upon return, and that a system to monitor the treatment of the persons in question has been put into place with a view to ensuring that they are treated with full respect for their human dignity" (para. 35).

#### Media Educational Campaign

18. Protecting people of foreign extraction from stereotyping and consequent discrimination is of utmost importance to the Swedish Government. However, it is the experience of the Government that there are more effective ways than media campaigns in trying to achieve this crucial objective.

19. In very general terms, general efforts to combat racism and xenophobia to a large extent also have an impact on islamophobia. An effective - and implemented - legal framework, together with the work of the Swedish Integration Board and the Ombudsman against Ethnic Discrimination form the basis for the Government's efforts to prevent and counteract islamophobia. In 2001, the Government adopted a National Action Plan against racism, xenophobia, homophobia and discrimination, which is now being broadly implemented. The following examples from the implementation of the Action Plan may be of interest in this context:

- (a) The Swedish Integration Board has set up a web-based "knowledge bank" with information about experiences and methods, in Sweden and in other countries, to be used in work against racism, xenophobia and ethnic discrimination;
- (b) The Swedish Integration Board in cooperation with the Swedish Association of Local Authorities has developed an advisory and support service for local authorities and others in need of support in their work to combat racism and other forms of intolerance;
- (c) The Ombudsman against Ethnic Discrimination and the National Integration Office has assisted in the setting up of a network of different local anti-discrimination offices. State funding has been provided for this purpose;

(d) The Government has decided to fund local work by youth organizations to combat racism, xenophobia and discrimination during 2001-2003.<sup>20</sup> Two bodies are set up specifically to counter racism and other forms of intolerance. In June 2003 a new authority, Forum for Living History, will be set up. Its activities aim at encouraging people to work actively for the equal value of all people and to support activities in favour of democracy and human rights in contemporary times with a perspective of history, the Holocaust and Swedish contemporary history. Its main areas of work will be awareness-raising, culture and education. To encourage and support the work of NGOs in the area, the Government has decided to fund an independent "Centre against racism and related intolerance", which is to be run by an association of NGOs. The new Centre will commence operating by 2003. One of the explicit tasks of this Centre is to work against islamophobia.<sup>21</sup> In January 2002 the Government adopted and presented to the Parliament the Written Communication A Swedish Human Rights Action Plan (2001/02:83), which applies to 2002-2004. The Plan describes, inter alia, Sweden's responsibilities and the role of various actors regarding work on human rights issues. It also describes certain priority issues, such as the rights of national minorities and the fight against racism, xenophobia and ethnic discrimination. In order to improve the promotion and protection of human rights the Action Plan underlines the importance of education and information about human rights.<sup>22</sup> The above-mentioned Forum for Living History will have a broadly defined mandate closely in line with the underlying intentions of the Swedish Human Rights Action Plan. The Forum will have an important role when it comes to the implementation of the Action Plan, especially regarding education and information about human rights as well as facilitating the creation of meeting points for NGOs, national authorities, municipalities and other relevant actors.<sup>23</sup> The Government's web site for human rights ([www.manskligarattigheter.gov.se](http://www.manskligarattigheter.gov.se)) is an important part of the Government's efforts to disseminate knowledge of human rights. On this web site one can find information about human rights as well as relevant documents, such as international human rights instruments, Swedish country reports to and concluding observations from treaty bodies etc.

**CCPR CCPR/CO/74/SWE/Add.2 (2003)**

Comments by the Government of Sweden on the Concluding Observations of the Human Rights Committee (CCPR/CO/74/SWE)

[1 December 2003]

Information requested the Human Rights Committee through its Special Rapporteur for follow-up on Concluding Observations

1. Additional information requested by the Human Rights Committee concerning the judicial procedures which the two persons expelled to Egypt are facing, or may face.
2. As regards Mr. El Zari you have already been informed that he was released from prison 12 October 2003 following a court decision. The Egyptian Ministry of Justice informed the Swedish Embassy in Cairo<sup>29</sup> October 2003 that Mr. El Zari was released pending the outcome of ongoing investigations which encompasses approximately 200 suspects. It is thus not yet decided if Mr. El Zari will be facing charges and be tried in court. The Swedish Embassy in Cairo has been in contact with Mr. El Zari after his release from prison.
3. With regard to Mr. Agiza, at present serving a prison sentence in the Tora Masra prison in the outskirts of Cairo, it is established that he submitted a petition in February 2002 to have his case and sentence reviewed. According to our information, such a petition is decided upon by the President of the Republic of Egypt. There are, according to our information, four options available: the petition could be rejected; amnesty could be granted; the prison sentence could be reduced; and lastly, the case could be referred to a court for a new trial.
4. The Swedish Embassy in Cairo has raised the matter regarding the petition with the Egyptian authorities several times and, referring to the guarantees issued by the Egyptian Government, urged them to speedup the process. The Embassy was informed last week that the case was prepared by the Ministry of Defence and has finally been submitted to the President's office. The Swedish Embassy will continue to monitor this matter and if necessary raise it again with the pertinent authorities. Likewise the Embassy's visits to the prison will continue.

**CCPR CCPR/CO/74/SWE/Add.3 (2004)**

**COMMENTS BY THE GOVERNMENT OF SWEDEN ON THE CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE (CCPR/CO/74/SWE)**

[18 June 2004]

Update on the case of the expulsion of two Egyptians from Sweden to Egypt in December 2001.

1. Since the meeting between you and representatives from the Swedish Ministry for Foreign Affairs in November 2003 and the written information provided after that meeting the monitoring process has continued on a regular basis.

2. The Swedish Embassy in Cairo has continued its visits to Mr Agiza on a monthly basis. Mr Agiza has suffered several medical problems over the time and has received medical treatment and medication as appropriate. For some time however, his treatment was interrupted as he was transferred from the Masra Torah prison in Cairo to the Abou Zaabal prison (February 19, 2004) outside Cairo. The Swedish Embassy visited Agiza on March 8, 2004, at the Abou Zaabal prison and did then immediately contact the responsible Ministry to underline the importance that Mr Agiza is given adequate medical treatment and medication. Mr Agiza was returned to the Masrah Tora prison in April 4, 2004. At the last visit by the Swedish Embassy, which took place June 2, this year, Mr Agiza informed that his health had improved and that medical treatment had been resumed. Mr Agiza did not voice any complaints during the visit. He informed that his resumed studies of law were going well.

3. As regards Mr Agiza's legal situation it can be noted that he was granted a new trial, which took place in April this year before a Military Court. On April 27, 2004, Mr Agiza was convicted and sentenced to life imprisonment for having held a leading position in a terrorist organisation. His lawyers and some international NGO:s have voiced serious concerns regarding the conduct of the trial.

4. In order to discuss this matter as well as allegations regarding torture and maltreatment the Swedish Government on May 18, 2004, sent a Special Envoy, Ms Lena Hjelm-Wallén, former Swedish Minister for Foreign Affairs and Deputy Prime Minister, to Egypt. The Director General for Legal Affairs, Ministry for Foreign Affairs, Sweden, Mr Carl-Henrik Ehrencrona accompanied Ms Hjelm-Wallén. During the visit to Cairo Ms Hjelm-Wallén met with the Egyptian Deputy Minister of Justice as well as with representatives of the General Intelligence Service, GIS, including its Minister.

5. During discussions the Swedish Government voiced its concerns regarding the treatment of Mr Agiza and Mr El Zary while in detention in the first weeks following their return to Egypt, of torture and the shortcomings as to the recent retrial of Mr Agiza. The Swedish Government asked that an inquiry be carried out as to the torture allegations and that such an inquiry should include international medical expertise. The Egyptian Government dismissed the torture allegations claiming them to be unfounded but agreed to undertake an investigation of the matter. The modalities for such an investigation are presently being discussed. The Swedish Government



has stressed the importance that the allegations are examined impartially and independently in accordance with the principles of the rule of law.

6. In this context it should be noted that a complaint has been submitted on behalf of Mr Agiza to the Committee against Torture. The Committee on 19 May 2004 declared the complaint admissible in part and decided that the Committee will take it up for consideration at its 33rd session to be held from 15-26 November 2004.

7. With regard to the trial, conviction and sentence to life imprisonment the Egyptian Government has refuted the criticism voiced by NGO:s and others claiming that Mr Agiza was the first ever who had been given a retrial, that the trial had been public and that Agiza was defended by one of the best lawyers in Egypt. The Egyptian Government also pointed out that the new petition launched by the defence lawyer did not include any references to procedural shortcomings but only asking for a reduction of the prison sentence.

8. On June the 12, 2004, the Director General for Legal Affairs visited Cairo again for discussions with Agiza's defence lawyer in order to seek clarifications regarding the alleged shortcomings and regarding the future legal process.

9. As regards Mr El Zary, who was released from prison in October 2003, the Egyptian Government informed that the investigation was not yet concluded but Mr El Zary was free without any restrictions. The Swedish Embassy in Cairo has had several contacts with him over the phone and has also visited him in his hometown.

10. As for the continued monitoring of this case the Swedish Embassy in Cairo together, as appropriate, with representatives from the Ministry for foreign Affairs, will continue the monthly visits to prison and to make sure that Mr Agiza receives the necessary medical attention and treatment. The Embassy will also, on a regular basis, keep in touch with Mr El Zary.

## **CCPR, CCPR/C/SWE/CO/6/Add.1 (2010)**

### **Information received from Sweden on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/SWE/CO/6) [18 March 2010]**

1. The Committee considered the sixth periodic report of Sweden on 25 March 2009, and requested that Sweden provide information, within one year, on its implementation of the Committee's recommendations contained in paragraphs 10, 13, 16, and 17 of its concluding observations (CCPR/C/SWE/CO/6).

#### **General comments**

2. 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 of the concluding observations**

#### Paragraph 10<sup>1</sup>

3. Sweden has taken the following **ongoing initiatives to promote the rights and inclusion of persons with disabilities and to prevent discrimination from occurring:**

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

(b) National legislation has been revised with a view to encouraging the building sector and public planning to improve accessibility for persons with disabilities. For example, the monitoring and supervision of construction have been strengthened. The requirements for all actors to remove easily removable impediments to access to public places and to places where the public has access have also been clarified and included in the legislation.

(c) A person with a disability cannot be refused the right to change her or his home or place of residence. Under the 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 in court. To facilitate a change of residence, an individual with a disability and in need of support also has the right to apply

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<sup>1</sup> For the wording of recommendations refer to the relevant paragraph in the concluding observations (CCPR/C/SWE/CO/6).

for services and to be informed of any decision before the actual relocation.

(d) The employment rate has decreased considerably due to the effects of the global economic crisis. However, the Government has reiterated that reintegrating the most marginalized groups into the labour market must remain a priority. A number of schemes are in place to support this.

4. In addition, the Government – through dialogue with trade unions, employers, civil society and organizations 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**

5. 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.

6. 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 with 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.

7. 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.

8. 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 request for reasonable accommodation to all areas of the Act has recently been examined and a proposal is being prepared by the Government.

9. 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**

#### **Information leaflet**

10. 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 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.

11. 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; and it should not be regarded as a replacement for these obligations.

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

#### **The right to notify family members**

13. According to the 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 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**

14. 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.

15. 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.

16. 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**

### **The procedure for "security cases"**

17. 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**

18. 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**

### **Committee of independent inquiry**

19. 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.

20. An alien may be detained if (a) 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 that the identity he or she has stated is correct, and if (b) the right of the alien to enter or stay in Sweden cannot be assessed in any way.

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

22. 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.

23. 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 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.

24. 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**

25. 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.

26. 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**

27. 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.