

SWEDEN

Follow-up - State Reporting

i) Action by Treaty Bodies, including reports on missions

CERD, A/65/18 (2010)

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Chapter IV. Follow-up to the consideration of reports submitted by States parties under article 9 of the Convention

53. In 2010, Mr. Amir served as coordinator and Mr. Thornberry as alternate coordinator for follow-up to the consideration of reports submitted by States parties.

54. Terms of reference for the work of the coordinator on follow-up⁴ and guidelines on follow-up to be sent to each State party together with the concluding observations of the Committee⁵ were adopted by the Committee at its sixty-sixth and sixty-seventh sessions, respectively.

55. At the 2009th meeting (seventy-sixth session) and the 2048th meeting (seventy-seventh session), held on 11 March and 26 August 2010 respectively, the coordinator and alternate coordinator on follow-up presented a report on their activities to the Committee.

56. Since the closing of the seventy-fifth session, follow-up reports on the implementation of those recommendations regarding which the Committee had requested information were received from the following States parties: Azerbaijan (CERD/C/AZE/CO/6/Add.1), Chile (CERD/C/CHL/CO/15-18.Add.1), Montenegro (CERD/C/MNE/CO/1/Add.1) and Russian Federation (CERD/C/RUS/CO/19/Add.1).

57. At its seventy-sixth and seventy-seventh sessions, the Committee considered the follow-up reports of Austria, Canada, Chile, Germany, Montenegro, Republic of Moldova, Russian Federation, Sweden and Togo and continued the constructive dialogue with these States parties by transmitting comments and requesting further information.

⁴ For the terms of reference of the work of the coordinator on follow-up, see *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, annex IV.

⁵ For the text of the guidelines, see *Official Records of the General Assembly, Sixty-first Session, Supplement No. 18 (A/61/18)*, annex VI.

Follow-up - State Reporting

ii) Action by State Party

CERD, CERD/C/SWE/CO/18/Add.1 (2009)

Information provided by the Government of Sweden on the implementation of the concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/SWE/CO/18)

[23 July 2009]

Information on Sweden's follow-up to the recommendations contained in paragraphs 15, 16, and 20 of the concluding observations adopted on 15 August 2008

1. The Committee on the Elimination of Racial Discrimination considered the seventeenth and eighteenth periodic reports of Sweden (CERD/C/SWE/18), submitted in one document, at its 1894th and 1895th meetings (CERD/C/SR.1894 and CERD/C/SR.1895), held on 11 and 12 August 2008. At its 1901st and 1902nd meetings (CERD/C/SR.1901 and CERD/C/SR.1902), held on 15 August 2008, it adopted its concluding observations.

2. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, in its concluding observations the Committee requested Sweden to provide information, within one year, on Sweden's follow-up to the recommendations contained in paragraphs 15, 16, and 20.

General comments

3. Sweden considers the monitoring procedure to be an important tool in following up the measures taken to promote the equal rights of all people irrespective of ethnic origin and in the ongoing work to counteract ethnic discrimination in Sweden. The efforts made by the Committee on the Elimination of Racial Discrimination to receive, gather, evaluate and draw conclusions from information on the situation relating to ethnic discrimination in Sweden is of considerable value in development of this work. Sweden welcomes the concluding observations and appreciates a continued dialogue and exchange of information and views.

Information on Sweden's follow-up to the recommendations contained in paragraphs 15, 16, and 20

Paragraph 15

4. In paragraph 15 the Committee has, while welcoming Sweden's efforts to combat hate crimes through new tracking methods in the judicial system and other means, recommended that Sweden replicate best practice examples, such as the hate crime unit in Stockholm. The Committee has also requested that Sweden provide orientation courses in order to sensitize prosecutors to the general importance of prosecuting racist acts, including hate speech.

Furthermore it has suggested that Sweden should introduce a common definition of hate crime to be used by all the authorities involved in combating such crimes.

Training for police officers related to hate crimes

5. In 2008 the police authorities in Stockholm decided to make their hate crime hotline services (which previously operated in the form of projects) permanent. In 2008, more than 90 per cent (more than 5,000) of their employees completed an interactive hate crime training course, held by the police authorities in Stockholm.

6. In the planning documents for the Police Service for the period 2010-2012 the National Police Board stresses the importance of developing work to combat hate crimes in both criminal investigations and crime prevention, based on the core values of the Swedish Police.

Training for prosecutors related to hate crimes

7. A special training unit is responsible for the training required at the Swedish Prosecution Authority. The courses held can be divided up into basic courses, which all prosecutors participate in, and advanced courses, which only some prosecutors attend. Hate crimes are dealt with in the basic courses for all prosecutors. Topics included in the section regarding hate crimes include, inter alia, the crimes and the investigative methods.

8. The Swedish Prosecution Authority has also produced a manual to guide and support prosecutors when dealing with preliminary investigations involving hate crimes (R ätsPM 2008:2 Hets mot folkgrupp). This manual was published in 2008 and contains a revision and supplement of the memorandum that it replaced.

Common definition of hate crimes

9. Today the concept of hate crimes is used increasingly often as a generic term referring to crimes of a racist, xenophobic and homophobic nature. Such crimes involve a violation of human rights and run contrary to fundamental social values that regard all human beings as being equal.

10. Noting that the Committee has suggested that Sweden should introduce a common definition of hate crime, Sweden would like to provide the following clarification.

11. Since the mid-1990s, Sweden has taken an increasingly serious view of hate crimes. In 1994, a highly significant step was taken with the introduction into the penal code of a clause that opened the way for stiffer sentences in connection with acts involving the motives associated with hate crimes. According to the clause, if a motive for the crime was to aggrieve a person, ethnic group or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief or other similar circumstance, this is to be regarded as an aggravating circumstance in assessing penal value. The clause also includes crimes carried out against persons as a result of their sexual orientation. Besides viewing hate crimes more seriously, the clause was intended to focus attention on the motives associated with hate crimes early on in the criminal investigation process. The seriousness with which hate crime is viewed has also been

emphasized by Sweden in non-legislative ways. Since the mid-1990s crimes of this type have been given a high priority by justice system agencies.

12. The National Police Board and the Swedish Prosecution Authority have produced manuals to provide guidance and support in combating hate crimes. The guidelines describe, for example, conditions to be taken into account when considering a committed crime as a hate crime. The guidelines indicate that a hate crime does not necessarily have to be directed at an individual as a consequence of race, colour, nationality or ethnic origin, religious belief, sexual orientation or some other similar circumstance. Crimes directed at persons supporting the human rights of minorities in various ways can also constitute a hate crime.

13. The statistics on hate crime that the National Council for Crime Prevention (BRÅ) presents every year (see the seventeenth and eighteenth periodic reports of Sweden, paragraphs 25-32) are also based on this definition. From 2008 the statistics on hate crime are also broken down into xenophobic crimes among different minority groups and against the majority group.

Paragraph 16

14. While noting relevant studies undertaken by Sweden, the Committee has expressed its concern about discrimination in the judicial and law enforcement systems against persons of non-Swedish background. The Committee has encouraged Sweden to develop and strengthen its programmes aimed at combating discrimination in the judicial and law enforcement systems. In this regard, Sweden has been encouraged to implement the recommendations contained in the study entitled "Discrimination in the Criminal Justice Process" by the National Council for Crime Prevention in 2006, in particular by providing effective interpretation and translation facilities to all persons appearing before institutions of law and justice, and by actively recruiting staff with foreign backgrounds into the law enforcement authorities and the judiciary.

The right to an interpreter

15. If a party, a witness, or any other person who shall be heard by the court is incapable of understanding or speaking Swedish, an interpreter shall be engaged by the court. A formal request for interpretation is not necessary. During the preliminary investigation, the same rules regarding interpretation are applied by analogy. In practice, this means that interpreters are provided for persons who request one, or who are in need of interpretation help.

16. In the report entitled "Discrimination in the Criminal Justice Process" produced by the National Council for Crime Prevention, a lack of adequate interpretation is stated as one of the major reasons why individuals of foreign origin do not enjoy equal procedural rights. The right to free assistance from an interpreter is indeed of importance in order for such individuals to enjoy equal procedural rights, and the issue is considered on a regular basis in the Ministry of Justice and government agencies concerned. However, it should be noted that the report from the National Council for Crime Prevention cannot be used as a basis for a comprehensive assessment of the quantity and quality of access to interpretation during police questioning and court proceedings more generally. In Sweden's opinion, the report can be used as a basis for exemplifying the ways in which individuals from a foreign background experience

discrimination during the legal process, for example in relation to situations where interpretation is necessary. The report should not be used to draw conclusions as to the existence of a more general quantitative or qualitative lack of interpretation in the Swedish justice system.

17. At present Sweden is considering commissioning an evaluation of the use of interpreters in the justice system. As a starting point, the evaluation should include an investigation of what problems are linked to a lack in interpretation in the different parts of the justice system, i.e. in the operations of police, prosecutors, courts and the prison and probation service. The evaluation should also include an assessment of what measures can be taken to increase the number and level of use of authorized and specialist interpreters in the justice system. The evaluation should also assess the quality of and potential for improvement in interpreter services and the procedures for the use of interpreters in the justice system.

18. It should be added that translation and interpretation do not involve any extra costs to anyone who is a party in the case. These costs are met by the court. The National Courts Administration has been allocated extra funds by the Government to be able to meet such costs.

Examples of measures taken to counteract discrimination in the judicial and law enforcement systems

19. Active recruitment efforts are an ongoing focus in the judiciary and, to date, this has led to a gradual increase in the share of employees with foreign backgrounds in the Swedish Courts, the Swedish Prosecution Authority and the National Police Board.

20. The National Courts Administration has been assigned to give an account of what measures have been taken to increase the share of employees with foreign backgrounds within the Swedish Courts, and what measures have been taken to prevent and handle discrimination discovered in their operations. A similar assignment has been given to the Swedish Prosecution Authority.

21. Increasing the ethnic and multicultural diversity in the prosecutor and judge professions is a long-term undertaking; dependant on the diversity of those finishing law school and law clerk training. A Master of Laws degree is required for both the judge and the prosecutor professions. Consequently, an interest in the judge and prosecutor professions must be established as early as at upper secondary school. The proportion of students with foreign backgrounds has increased constantly in programmes leading to a Master of Laws degree since the end of the 1990s and is now reaching 15 per cent of the total number of students in programmes leading to the Master of Laws degree.

22. The equal treatment plan of the Swedish Prosecution Authority for 2009-2011 establishes that the authority shall work to ensure that, in the long term, the proportion of employees, inter alia prosecutors, with foreign backgrounds will correspond to the share of the population with foreign backgrounds. According to the plan, every Local Public Prosecution Office shall, during 2009, inform pupils at upper secondary schools with a large amount of pupils with foreign backgrounds about the profession of prosecutor.

23. To increase ethnic multicultural diversity in the police force, *the National Police Board* has been instructed to report the numbers of employees with foreign backgrounds in the police authorities to the Government. Active measures are being taken to increase the number of applicants with foreign backgrounds to the National Police College. In May 2009 the Government also instructed the National Police Board to carry out a project intended to promote gender equality and ethnic and cultural diversity in the Police. The project will offer chiefly women and people with foreign backgrounds short-term employment in the Police. One of the objectives of this project is to increase the interest of these groups in the police profession, and to provide them with the knowledge that is needed to apply to the Police College.

24. In the annual appropriation directions for the Police for 2009, the Government Offices have set up an objective that the Police are to prevent the occurrence of discrimination at work and provide equal opportunities for all employees. One important part of the efforts made by the Police is the implementation of a nationwide policy and an action plan to promote diversity and the human rights perspective adopted by the National Police Board. The policy document states that a zero tolerance approach will prevail and no forms of discrimination or harassment are permitted in the organization or in contacts with the public. The National Police Board has to report to the Government Offices the number of employees who have received special training on issues of ethnic and cultural diversity.

25. At the beginning of 2009 the National Police Board adopted new core values for the police force. One important part of the core values is the principle of equal treatment. The core values are based on contributions from nearly 20,000 employees in the Police. The employees gave their contributions during 2008, when they met in teams to discuss their mission, ways of working and values.

26. The long-term objective is that Police core values should be used to make the Police better and that they will characterize the entire organization. In 2009 the Police are focusing on using their core values to discuss how they can develop their ways of working and interact with one other, their colleagues and the public.

27. The Swedish Prison and Probation Service has been instructed to report on a yearly basis to the Government the number of employees who have undergone training in anti-discrimination and diversity issues. The National Courts Administration has intensified work on diversity issues. The actions taken include establishing a project group with the assignment of developing a diversity policy, education material and other types of support for diversity work. Court personnel undergo training in anti-discrimination and diversity issues. Such training is provided for all categories of personnel and includes both basic training and supplementary training.

28. In 2008, the Swedish Prosecution Authority has joined a network for equal treatment issues. In the network, seven governmental authorities and companies are represented through their officials in charge of equal treatment and diversity issues. The purpose of the network is to share good practices and knowledge and to exchange ideas in the area of equal treatment.

Paragraph 20

29. The Committee has expressed its particular concern about past court rulings that have

deprived Sami communities of winter grazing lands and has recommended that Sweden grant necessary legal aid to Sami villages in court disputes concerning land and grazing rights. It has also invited Sweden to introduce legislation providing for a shared burden of proof in cases regarding Sami land and grazing rights and has encouraged Sweden to consider other means of settling land disputes, such as mediation.

30. Noting that the Committee states in paragraph 20 that the court rulings have deprived Sami communities of winter grazing lands Sweden wants to clarify that the courts have come to the conclusion that such winter grazing has never existed outside the reindeer grazing mountains, which, together with grazing that had taken place during the twentieth century, could create a right to use the relevant properties on the basis of prescription from time immemorial. The conclusion that the courts system has deprived the Sami communities of winter grazing area is not in accordance with the facts. The facts are that the courts have come to the conclusion that no winter grazing rights exist and such rights have never existed in the disputed area.

31. Regarding the issue of burden of proof the European Court of Human Rights in its decision on admissibility of Application No. 39013/04 has stated that since the landowners had to show their title to the property in question it must be considered legitimate and reasonable that the burden of proof in regard to the occurrence of winter grazing on that property was placed with the Sami villages, as the claimants to the right to such grazing. It is a basic principle in the Swedish legal system that the claimant of a certain right also has the burden of proof for his/her claim.

32. The issue of legal aid might be considered if Sweden appoints a governmental inquiry on the establishment of an institute for the investigation and mediation of disputes and land claims in the reindeer breeding area. The establishment of such an institute would, among other things, address the issue of legal costs as well as lengthy proceedings.

33. Sweden would like to add that the duties of the Equality Ombudsman include investigating complaints of, among others, ethnic discrimination and the Ombudsman can bring cases to court without any costs for the claimant. The Ombudsman has brought one case of a Sami village against a municipality to court.

34. Regarding the conflict on the extent of winter pasture in the county of Härjedalen, Sweden has supported the negotiations between landowners and Sami villages in various ways, for example by a Government appointed mediator.