



Comments by the Government of Sweden on the concluding observations of the human rights committee : Sweden. 14/05/2003. CCPR/CO/74/SWE/Add.1. (Follow-up Response by State Party)

Convention Abbreviation: CCPR
HUMAN RIGHTS COMMITTEE

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.
2. 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
3. Sweden has ratified all international criminal law conventions for the suppression of terrorism.
4. 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.
5. 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.
6. 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).
7. 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).

8. 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

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

15. 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.

16. 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.

17. 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.

20. 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.

21. 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.

22. 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.

23. The Government's web site for human rights (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.