



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

Concluding observations on the sixth periodic report of Sweden*

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 (see 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 multisectoral delegation. Furthermore, the Committee 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) which established that the Sami constitute "a people", in 2011;
- (b) The adoption of the new Patients' Law, strengthening the position of patients and their rights to make 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 strategy for Roma inclusion for 2012-2032;
- (e) The development of a new national strategy on violence against women.

* Adopted by the Committee at its fifty-eighth session (6-24 June 2016).



4. The Committee also appreciates the fact that the State party devoted 1.4 per cent of its gross national income in 2015 to official development assistance.

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 about the existence of an internal dialogue concerning the incorporation of the International Covenant on Economic, Social and Cultural Rights into domestic law. However, the Committee remains concerned about the timeline for this process, and that, at present, several Covenant rights are still not incorporated into domestic law, thus rendering them non-justiciable in domestic courts.

6. **The Committee reiterates its previous recommendation (see E/C.12/SWE/CO/5, para. 13) that the State party take the necessary legislative measures to incorporate the Covenant into 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 about 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 as to their obligations in regard to 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 the county and municipal levels. The Committee therefore recommends that the State party ensure that all public authorities, including local authorities, are fully aware of their obligations under the Covenant, and to that 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 for the promotion and protection of human rights (Paris Principles), remains concerned that existing equality bodies are mandated to cover specific areas only, 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 that the State party ensure that due attention is given to economic, social and cultural rights in the institution's 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 areas relevant to economic, social and cultural rights, and that the Equality Ombudsman fully conforms with the Paris Principles.

Swedish National Pension Funds' investments

11. The Committee is concerned about the lack of 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 from 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 of 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 also 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 in case of violations of economic, social and cultural rights arising from investment projects.**

Sami land rights

13. The Committee is concerned that the Sami people still encounter obstacles to the full enjoyment of their indigenous rights that include access to their ancestral lands and maintenance of their traditional ways of living. This situation is exacerbated by the increase in extractive and development projects being carried out on or near to 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, the Committee recommends that the State party:

- (a) Ensure that all Sami, including non-reindeer-herding Sami, enjoy equal access to water and land, and, to that end, that it 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 Sami in providing the necessary evidence and thus strengthening their ability to claim their rights effectively, and undertake to further facilitate Sami access to legal aid;**
- (c) Ensure, in law and in practice, that the 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 that regulate activities that may have an impact on the rights and interests of the Sami people, including development projects and the operations of extractive industries, and in particular the Minerals Act, the Minerals Strategy and 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 Indigenous and Tribal Peoples Convention, 1989 (No. 169).**

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, which are necessary in order for it 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 the history of Sweden.**

Anti-discrimination legislation

17. The Committee is concerned that the Discrimination Act (2008) contains a closed list of prohibited grounds of discrimination, and that social status and 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 into line with article 2, paragraph 2, of the Covenant. The Committee also recommends that the State party include social status and political opinion in 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 Roma and other vulnerable groups

19. The Committee is concerned about persistent societal discrimination against Roma, despite the many measures taken to address it, including the long-term Roma inclusion strategy and other projects. The Committee is also concerned that vulnerable foreigners, including citizens of other European Union countries, and in particular 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 actual enjoyment of the Covenant rights by Roma, as a follow-up to its acknowledgment of the findings of the 2014 government white paper on abuses and rights violations against Roma. The Committee also recalls that the Covenant rights carry core obligations of an immediate nature and that the State party must meet those core obligations by ensuring that the minimum essential levels relating to the rights to housing, health, social security and education are respected, protected and fulfilled. To that end, the Committee recommends that the State party take measures to facilitate access to basic services by vulnerable foreigners, including citizens of other European Union countries, notably those 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. Moreover, the Committee is concerned that the targeted measures to address this situation are inadequate. The Committee is also concerned at the increasing incidence 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 that have led to the long-standing discrimination against persons of African descent and Muslims, and, based on its findings, develop programmes and policies in consultation with the communities concerned aimed at combating ethnic- and religious-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 in 2015 by the Working Group of Experts on People of African Descent and that it expedite the adoption of, and implement effectively, the National Plan against Racism and Hate Crimes.**

Unemployment

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

24. **The Committee recommends that the State party ensure the effective implementation of existing measures, such as the initiatives introduced in the Budget Bill 2016 aimed at assisting persons with disabilities in obtaining work, and the appointment of a national coordinator to address the situation of young people who are not in education, employment or training. It also calls on the State party to consider adopting other targeted measures to reduce the vulnerability of members of all the above-mentioned groups to unemployment, including the introduction of temporary special measures, and the strengthening of 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, a 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, that it 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 a more equal sharing of family responsibilities between men and women.**

Just and favourable conditions of work

27. While welcoming the increasing budget for the Swedish Work 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 at the decline in the number of labour inspectors. The Committee appreciates the information received that sexual harassment is criminalized under the Discrimination Act, but remains concerned about the lack of information on prosecutions and convictions of the perpetrators (art. 7).

28. **The Committee recommends that the State party step up its efforts to address the surge in occupational and stress-related diseases, and to this end implement effectively the working environment strategy and increase the number of labour inspectors and the resources allocated to them. The Committee also 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 such persons of necessary services and assistance (art. 9).

30. **The Committee recommends that the State party reconsider the 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 to the Act concerning 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 Chair of the Committee in 2012, and to the Committee's 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 act on asylum seekers and refugees, newly adopted in 2016, which in some respects contains restrictive features. It is particularly concerned that the new act will restrict the right to family reunification for asylum seekers and refugees. The Committee is also concerned that adult asylum seekers receive 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" that is sufficiently broad to protect the family reunification of 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 nevertheless concerned at the lack of information on judicial cases regarding early and forced marriages that have reportedly taken place in the State party. The Committee is also concerned that incidents of violence against women and children remain widespread and that despite the numerous measures taken to address the 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 enforce effectively the 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 remedies, 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 into 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, and that it 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 through the effective implementation of 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 government bill of 2016, 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, which generate homelessness. The Committee is also concerned about the persistence of de facto residential segregation, which particularly affects 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 other measures, 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 on the measures taken to address homelessness and the results achieved in that 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 persons 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 other measures, 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 the individuals affected are provided with long-term housing solutions.

Drug use

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

42. The Committee calls upon the State party to intensify its efforts in 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 that it take measures to ensure that drug injectors are tested for hepatitis C and are provided with the necessary treatment on the basis of general principles applicable to the therapy for this sickness. Finally, the Committee recommends that the State party strengthen its 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 about the prevalence of compulsory admissions of such individuals to psychiatric institutions. The Committee is also concerned that these persons enjoy limited opportunity to appeal against decisions for 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 the human rights of patients in psychiatric institutions, including through independent and effective monitoring of treatments and through the effective judicial review of orders for confinement to a psychiatric institution;

(c) Ensure that treatments are provided on the basis of free and informed consent, unless exceptional circumstances require otherwise, taking into account the World Health Organization's 2003 guidance package on mental health, legislation and human rights.

Minority and indigenous languages

45. The Committee is concerned about the limited educational opportunities available to indigenous children and children belonging to minorities to achieve proficiency in their mother tongue. The Committee is also concerned at the shortage of teachers of indigenous and minority languages (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 that allow them to 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 that it increase the availability of Sami and minority language teachers, including by substantially increasing the resources for training 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 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 complying with 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 present 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).
