



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Information received from Sweden on follow-up to
the concluding observations on its eighth periodic
report****

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** The present document is being issued without formal editing.



1. The Swedish Government is grateful to the Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment for the constructive dialogue held on 9 and 10 November last year on our eighth periodic report and for the concluding observations following that dialogue.
2. In the concluding observations (CAT/C/SWE/CO/8), which were adopted on 26 November 2021, the Committee requested Sweden to provide follow-up information regarding three specific concluding observations (paragraphs 10, 16 and 22) on the eighth periodic report (CAT/C/SWE/8). The Committee also invited Sweden to inform about its plans for implementing, within in the coming reporting period, some or all of the remaining recommendations.
3. The Swedish Government hereby submits its follow-up information.

Definition and criminalization of torture

Follow-up information related to paragraph 10 of the concluding observations (CAT/C/SWE/CO/8)

4. Sweden firmly condemns torture and does not in any way accept, allow, or condone such actions.
5. As mentioned in the report, it is the view of the Swedish Government that the Convention's requirements are fully met by Swedish laws and regulations, including the Swedish penal legislation. Torture can be defined under several categories under Swedish law, inter alia assault, rape, kidnapping or crimes against humanity or war crimes. Sweden's fifth report gave a full account of the relevant legislation (see CAT/C/5/Add.1, paras.1-7). Since then, Sweden has extended both the criminalised area and its jurisdiction. A stricter minimum penalty has also been introduced for several serious offences that can constitute acts of torture, including gross assault. In certain cases, acts of torture are punishable under the Act on criminal responsibility for certain international crimes (2014:406), thus, they are subject to universal jurisdiction and are, in the main, not subject to any statute of limitations.
6. As is also stated in the report, the Ministerial Memorandum *A specific provision on torture?* that was presented in September 2015, proposes that torture be criminalised as a specific crime. It is also proposed that the crime is made subject to universal jurisdiction and be exempt from the statute of limitations. The memorandum has been circulated for formal consultation and the proposal is being considered by the Government Offices. Thus, the question is under consideration.
7. In addition, the Government in September 2020, appointed an inquiry to make an overview of the statutes of limitations in a criminal law context. In November 2021 the Inquiry presented its report, proposing that for some very serious offences the statute of limitations should be completely abolished. It is also proposed that the statutory limitation period for other serious offences, such as gross assault and gross rape, is extended. The report has been circulated for formal consultation and is currently being considered by the Government Offices.
8. Furthermore, a new legal amendment entered into force on 1 January 2022, stating that Swedish courts have full jurisdiction with respect to acts covered by the term torture under Article 1 of the Convention even if the crime has been committed outside of Sweden (universal jurisdiction).

Imposition of restrictions, including solitary confinement

Follow-up information related to paragraph 16 (a) of the concluding observations

9. According to Swedish law, restrictions may be used on detained persons only when necessary, with regards to the criminal investigation (i.e. if there is a risk that the suspect will remove evidence or in other ways impede the matter). The assessment of whether to impose restrictions may be based only on the circumstances of the individual case. Furthermore, the

prosecutor is obliged to examine whether it is still necessary to impose restrictions on the suspect during the entire period of detention.

10. On 1 July 2021 legislative amendments following the Government Bill: *More efficient handling of pre-trial detentions and less isolation* (prop. 2019/20:129) entered into force. The court must now determine not only if restrictions may be imposed on a detained person, but also what type. This means that the prosecutor is required to explain to the court the need for each specific restriction. The assessment made in the bill is that this helps to ensure that no other restrictions are imposed than those absolutely necessary in the specific case. According to the Swedish Prosecution Authority, it is still too early to assess whether and to what extent the new legislation has affected the use of restrictions imposed on detained persons.

11. Legislative amendments entered into force on 1 January 2022 following the Swedish Parliament's approval of the Government Bill: *Increased possibilities to use early documented interrogations* (prop. 2020/21:209). These amendments increase the possibilities to use interrogations that have been documented during the preliminary investigation at the main hearing; such evidence is normally not allowed due to the principles of oral proceedings, immediateness and concentration in Swedish procedural law. The assessment made in the bill is that the legislative amendments could contribute to a diminished need to safeguard evidence by imposing restrictions on the suspect.

Follow-up information related to paragraph 16 (b) of the concluding observations

12. As stated above (16 a), the legislative amendments that entered into force on 1 January 2022 could contribute to a reduced use of restrictions imposed on the suspect. A reduced need for restrictions could lead to less isolation for both minors and adults.

13. Following the amendments that entered into force on 1 July 2021, suspects under the age of 18 who are detained now have a legal right to meaningful contact with another person for at least four hours every day. This would mean that minors no longer will be isolated under conditions amounting to solitary confinement. In order to follow up on the new legislation, a new system for daily measurement has been developed by The Swedish Prison and Probation Service. According to the Swedish Prison and Probation Service it is however too early to draw any firm conclusions from the data.

14. In addition, other measures regarding isolation are underway. According to the Swedish Prison and Probation Service, work to expand and enhance activities with the aim to reduce isolation has priority and the ongoing work to develop a support system for measurement of isolation breaking actions continued the past year. The system will be adapted in a way that only measures meaningful human contact as isolation breaking actions.

Follow-up information related to paragraph 16 (c) of the concluding observations

15. A regulation¹ entered into force on 1 July 2022 which stipulates that if an inmate or any other person covered by the activities of the Swedish Prison and Probation Service (SPPS) is caused serious bodily injury or death that can be assumed to be due to the actions or omissions of the agency's employees, contractors or hired personnel, the SPPS must make a report to the Police Authority. Thus, an investigation into the circumstances of the injury/death will be carried out.

16. Such a report must also be made if the person has died and there are grounds for a forensic examination according to section 13 or 14 of the law (1995:832) on autopsy etc.

Non-refoulement

Follow-up information related to paragraph 22 (a) of the concluding observations

17. The protection of the right to seek asylum is fundamental. The Swedish asylum system contains effective guarantees for a legally secure process and the rules are in accordance with

¹ Ordinance (2022:302) on the obligation of the Prison Service to notify in certain cases.

international law. Every asylum seeker in Sweden must receive an individual examination of their application. The Swedish Migration Agency's decision making must be foreseeable, uniform and keep a high level of quality.

18. When a person applies for asylum, the Swedish Migration Agency must inform the applicant about the asylum procedure as well as the applicant's rights and obligations. The Swedish Aliens Act (2005:716), which came into force on 31 March 2006, contains rules that are relevant for the asylum procedure. These rules include the right to a public counsel (chapter 18), the right to an oral hearing (chapter 13 and 16), and the right to appeal a decision (chapter 14).

19. A public (legal) counsel must be appointed in cases where refusals of entry or expulsion orders are decided by the Migration Agency, unless it must be assumed that there is no need for assistance. A public counsel must also be appointed, unless it is considered unnecessary, if a decision to suspend the enforcement of the order is issued by the Migration Agency or a migration court or the Migration Court of Appeal, or if a new review has been granted.

20. The Migration Agency cannot make a final decision in an asylum case without an oral hearing – an asylum interview - with the asylum seeker. The only exception to this is when the applicant is declared a refugee. The procedure of an appeal in a migration court is written, as a principal rule. An oral hearing may take place regarding a limited issue if it is beneficial for the examination of the case, or if it would promote a quick decision. However, if the applicant requests it, an oral hearing must be held before the court unless the hearing is unnecessary, or there are special reasons against it.

21. The amendments of the rules of safe country of origin as a prerequisite for immediate removal entered into force on 1 May 2021. The amendments are an implementation of the corresponding rules in the Asylum Procedure Directive (Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, recast). The prerequisites for immediate removal are laid down in the Aliens Act (chapter 8). An asylum application rejected as a refusal of entry may in some cases be combined with a decision by the Migration Agency ordering that the applicant can be removed before the decision becomes final. In those cases, it must be obvious that the application is unfounded and that a residence permit should not be granted on any other grounds. When an immediate removal is under consideration, the Migration Agency must inform the applicant and an oral hearing is mandatory. In the government's bill (prop. 2020/21:71) with proposals for amendments of legislation on immediate removal it is stressed that the requirement for oral hearing, the obligations to investigate and to communicate with the applicant must be maintained by the Migration Agency.

Follow-up information related to paragraph 22 (b) of the concluding observations

22. As mentioned above, the Migration Agency cannot make a final decision in an asylum case without an oral hearing with the asylum seeker.

23. According to the Migration Agency's legal standpoint on medical examinations of injuries an asylum seeker who claims to have injuries from torture or other treatment that may cause eligibility for protection and submits a medical certificate indicating that he/she may have been exposed to such treatment, should be granted a further medical investigation of the injuries at the expense of the state. However, exceptions can be made for example if the injuries are not questioned and if the Migration Agency will grant refugee status or subsidiary protection status. The asylum seeker has the burden of proof, but the investigation responsibility is shared between the applicant and the Migration Agency. The Agency's responsibility for investigation entails that it must refer the applicant to a forensic expert or specialist in torture injuries, and the state will cover the cost. If the Migration Agency finds that further investigation shall not be at the expense of the state, the individual asylum seeker is allowed to submit an investigation at his/her own expense within a reasonable time.

Follow-up information related to paragraph 22 (c) of the concluding observations

24. As described in Sweden's 8th periodic report, page 22, the Swedish Migration Agency's decision on an expulsion order, or a refusal of entry, may be appealed to a migration

court. The same applies for the Migration Agency's decision not to grant a new review where non-refoulement has been referred as impediment to enforcement.

25. When a decision on immediate removal is appealed, the relevant migration court must on its own initiative assess the need for suspending the enforcement of the decision. During the time of assessment, the enforcement of the decision on removal may not take place. If the court decides not to suspend the enforcement, the enforcement of the decision on immediate removal may be carried out. The migration court's review shall be carried out urgently.

Follow-up information related to paragraph 22 (d) of the concluding observations

26. The rules on impediment to enforcement of decisions on removal (refusal of entry or expulsion) are laid down in chapter 12 of the Aliens Act (2005:716). The individual, foreseeable, and real risk of torture and other ill-treatment is examined and the existence of a consistent pattern of violation of human rights in the country of origin is taken into consideration among other circumstances. The Swedish Migration Agency's officials have access to a wide range of information from different sources about the situation for human rights, security and levels of conflict in countries of origin. The individual assessment of the risk for a returnee must be forward-looking and, as reiterated, the Migration Agency's decision-making should be foreseeable and uniform and keep a high level of quality. In order to enable this, the Swedish Migration Agency publishes legal position papers, e.g. on the Agency's interpretation on how officials should make individual assessments under different circumstances, some of them are mentioned above. Another example of a legal position paper relates to the human rights and security situation in Afghanistan after the Taliban takeover and the examination of possibilities to obtain a residence permit due to impediments to enforcement of expulsion orders (RS/089/2021 version 2.0).

Plans for implementing recommendations within the coming reporting period

Follow-up information related to paragraph 31 of the concluding observations

27. To maintain and further strengthen the independence of the Department of Special Investigations which was set up in 2015, the department continuously strive to increase its operational abilities and resources to minimize the need of assistance from other parts of the Swedish Police Authority. During 2021 – 2022 the department has taken following measures for this purpose.

- A unit for analysis of film, images and sound recordings has been established. The importance of this kind of analysis has increased in criminal investigations and will continue to do so. The department has had this kind of ability in the past, but with the new unit and increased resources the department will be self-sufficient in this field and thus in no need of assistance from other parts of the Police Authority;
- The department has strengthened and developed the unit for surveillance operations as part of reinforcing independence – and quality. The outcome of the taken measures is that the department is nearly completely self-sufficient in this field as well. In the few cases when external assistance is required, despite the additional resources, the department turns to the Swedish Security Service and not to the Police Authority;
- The department has further strengthened its abilities to obtain digital documents and information needed for the conduct of criminal investigations, without the assistance of other parts of the Police Authority. Today, the department has direct access to practically all necessary digital systems operated by the Police Authority.

28. The Swedish Government would also like to add some follow-up information on the Internal Criminal Investigations Network (ICIN), which the Department of Special Investigations initiated in 2019. ICIN has currently 25 member organisations from 22 countries and has its mandate within Europol. The network enables the department to exchange knowledge and discuss joint problem areas and solutions independently of the Police Authority. A similar network exists between the units of special investigations in the Nordic countries.

Follow-up information related to paragraph 33 of the concluding observations

29. In September 2021 the Swedish Police Authority was given an assignment from the Swedish Government regarding hate crimes and other crimes that threaten the democracy. The assignment involves carrying out competence-enhancing initiatives within the Police Authority as well as reporting results of the work carried out to strengthen the criminal investigation capacity and the investigation of these crimes, with a special focus on internet related crimes. The assignment also involves describing how conditions for cooperation are created with other authorities and organisations and how the police conduct a structured dialogue with groups that are exposed to these types of crimes. The results of the assignment will be presented by the Police Authority to the Swedish Government in December 2023.

Follow-up information related to paragraph 42 of the concluding observations

30. The Swedish Police Authority are currently carrying out an extensive development work to make data available, both in follow-up systems and on the internet. The general development work is carried out to increase the ability to follow up measures carried out in connection with the investigative work.
