



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

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## Committee against Torture

Forty-fifth session

1-19 November 2010

### List of issues prior to the submission of the combined sixth and seventh periodic reports of Sweden (CAT/C/SWE/6-7)\*

### Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

#### Articles 1 and 4

1. Further to its previous concluding observations (CAT/C/SWE/CO/5, para.9), please inform the Committee of any steps taken by the State party to incorporate into domestic law the crime of torture and to adopt a definition of torture that covers all elements contained in article 1 of the Convention.<sup>1</sup>
2. In its previous concluding observations (CAT/C/SWE/CO/5, para.10), the Committee noted with concern that the offence of torture, which as such does not exist in the Swedish Criminal Code, is punishable under other provisions of the Criminal Code, and is, therefore, subject to the statute of limitations. Please inform the Committee of any steps taken by the State party to review its rules and provisions on the statute of limitations and bring them fully in line with its obligations under the Convention.

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\* The present list of issues was adopted by the Committee at its forty-fifth session, according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

<sup>1</sup> A/HRC/W.6/8/SWE/3, para. 3.

## Article 2<sup>2</sup>

3. Further to the Committee's previous concluding observations (CAT/C/SWE/CO/5, paras. 5(b) and 11), please provide information on the implementation of the 2008 legislation on fundamental safeguards, including access to a lawyer and notification of custody (law no. 2008:67). Please elaborate on any steps taken or envisaged to introduce a legal provision on access to a doctor and to ensure that notification of custody is provided systematically and without delay.<sup>3</sup> Please also indicate the steps taken to ensure that persons in custody benefit from an effective right of access to a lawyer, as from the very outset of their deprivation of liberty and throughout the investigation phase, the whole of the trial and during appeals.

4. In its previous concluding observations (CAT/C/SWE/CO/5, para. 5 (a)), the Committee noted with satisfaction the 2006 amendment of the Swedish Aliens Act, which introduced a new appeal system, included an explicit provision on non-refoulement and provided for the granting of refugee status to persons claiming fear of persecution on grounds of gender and sexual orientation. Please provide updated information on the implementation of these amendments and provide information on the number of persons who have been granted refugee status due to their claim of fear of persecution on grounds of gender and sexual orientation. Please also elaborate on effective steps taken by the State party to ensure that evidence is not withheld from the asylum-seeker in asylum deportation cases on national security grounds.<sup>4</sup>

5. The Committee, in its previous concluding observations (CAT/C/SWE/CO/5, para. 12), noted with concern that pre-deportation detention was common and it regretted that there were no absolute limits on the length of time that an asylum-seeker could be detained. The Committee also expressed its concern at information that asylum-seekers who were a risk to themselves or others were sometimes placed in remand prisons. Similar concerns were expressed by the Human Rights Committee in March/April 2009 (CCPR/C/SWE/CO/6, para. 17). Please provide updated information on measures taken to ensure that detention of asylum-seekers is used only in exceptional circumstances or as a measure of last resort, and then only for the shortest possible time. Has the State party considered other placement alternatives for asylum-seekers who are in need of care that are suitable for their particular condition? Please also provide information on the findings of the committee of independent inquiry appointed to carry out a thorough examination of the legal framework on detention under the Aliens Act. Has the State party considered the imposition of maximum limitations on such detention?<sup>5</sup>

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<sup>2</sup> The issues raised under article 2 could imply also different articles of the Convention, including but not limited to article 16. As general comment No. 2, paragraph 3, states "the obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter "ill-treatment") under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture.... In practice, the definitional threshold between ill-treatment and torture is often not clear." See further Chapter V of the same general comment.

<sup>3</sup> Response of Sweden to the concluding observations of the Committee against Torture (CAT/C/SWE/CO/5/Add.1), pp. 1-3; concluding observations of the Human Rights Committee (CCPR/C/SWE/CO/6), para. 13.

<sup>4</sup> A/HRC/W.6/8/SWE/3, paras. 40 and 42

<sup>5</sup> Information received from Sweden on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/SWE/CO/6/Add.1), paras. 19-27; A/HRC/W.6/8/SWE/3, para. 43.

6. In light of the previous concluding observations (CAT/C/SWE/CO/5, para. 23) where the Committee expressed its concern about the persistence of violence against women and children, including domestic violence and crimes committed against women and children in the name of honour, please provide updated information on the steps taken by the State party to prevent, combat and punish such violence, including in the context of the implementation of the 2007 action plan to combat men's violence against women, violence and oppression in the name of honour and violence in same-sex relationships (Govt. Comm. 2007/08:39). Further to the concluding observations of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW/C/SWE/CO/7, para. 29) and of the Human Rights Committee (CCPR/C/SWE/CO/6, para. 8), please also provide information on steps taken to ensure the availability of a sufficient number of shelters, equipped to accommodate women with special needs, including women with disabilities, throughout the territory of the State party, and their adequate financing.

7. Please comment on reports that the number of cases of sexual violence has increased almost by 50 per cent between 1995 and 2008 and that immigrant, refugee and minority women, as well as women with disabilities, are particularly vulnerable to such violence. Please elaborate on measures taken to prevent and combat such violence. Furthermore, please provide information on the outcome of the Government's evaluation of the application of the 2005 legislation on sexual crimes, including whether this legislation has strengthened women's and children's protection from sexual abuse.<sup>6</sup>

8. Please provide updated information on any new legislation and/or measures adopted to prevent and combat trafficking in women and children, including for sexual purposes, and to provide assistance to the victims. Has the State party adopted a national programme for combating trafficking in human beings?<sup>7</sup> Please elaborate on the implementation of these measures, including resources available, and provide information on the impact and effectiveness of the implemented measures in reducing cases of human trafficking. Please also provide statistical data on the number of women and girls who have been trafficked to, from and through Sweden since the consideration of the fifth periodic report in 2008 as well as statistical data on the number of complaints relating to human trafficking, and on the related investigations, prosecutions, convictions and sanctions, as well as compensation provided to victims.

9. Please provide information on the implementation, including results achieved and challenges identified, of the common Action Plan developed by the Border Control Police, the Migration Board and the Social Services which aims to minimize the risks of unaccompanied asylum-seeking children disappearing and becoming victims of trafficking<sup>8</sup>. In the light of the recommendation of the Committee on the Rights of the Child (CRC/C/SWE/CO/4, para. 63), please indicate if the State party has conducted a thorough evaluation of trusteeship for unaccompanied children and/or formulated national guidelines and clear directives defining the work of a trustee.<sup>9</sup>

10. Please provide updated information on any steps taken towards the establishment of an independent national institution with a broad human rights mandate, in accordance with the Paris Principles.<sup>10</sup>

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<sup>6</sup> CCPR/C/SWE/CO/6, para. 3(e); A/HRC/W.6/8/SWE/3, paras. 19-20.

<sup>7</sup> Concluding observations of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW/C/SWE/CO/7), paras. 30 and 31.

<sup>8</sup> Concluding observations of the Committee against Torture (CAT/C/SWE/CO/5), para. 5(e); A/HRC/W.6/8/SWE/3, paras. 44-46.

<sup>9</sup> CCPR/C/SWE/CO/6, para. 12.

<sup>10</sup> *Ibid.*, para. 4.

### Article 3

11. In its previous concluding observations (CAT/C/SWE/CO/5, para. 13), the Committee welcomed the inclusion in the Aliens Act of a new ground for issuing a residence permit whereby an alien will normally be granted such a permit when the Committee, or another international complaints body, has found the State party to be in breach of its treaty obligations. Please provide updated information on examples of application of such ground and indicate whether it has been applied in the case of a breach of the Convention.

12. Further to the Committee's previous concluding observations (CAT/C/SWE/CO/5, para. 13) and the State party's follow-up replies (CAT/C/SWE/CO/5/Add.1, pp. 4-6), please provide an update on recent measures taken to implement the Committee's decision as well as the Views of the Human Rights Committee concerning Mr. Agiza and Mr. Alzery. Please indicate if the Government has made its decision on the appeals lodged by Mr. Agiza and Mr. Alzery regarding the residence permit issues. Has the State party undertaken an in-depth investigation into the reasons for their expulsion and prosecuted those responsible, as appropriate, as recommended by the Committee? Please elaborate on measures being taken or envisaged to prevent similar incidents from occurring in the future. Further to the concluding observations of the Human Rights Committee (CCPR/C/SWE/CO/6, para. 16), please inform the Committee if the State party has reconsidered its position regarding the possible future use of diplomatic assurances.<sup>11</sup>

13. Please comment on reports that the State party continues to forcibly return lesbian, gay, bisexual and transgender (LGBT) people to countries where homosexual or other "unnatural acts" by law can result in the death penalty or imprisonment or other persecution.<sup>12</sup> Please inform the Committee of effective measures taken to ensure the full compliance with article 3 of the Convention in such cases.

14. Further to the agreement signed by the State party to repatriate Iraqi refugees displaced by conflict, please provide information on the number of Iraqi refugees currently living in Sweden, the number of such refugees repatriated thus far, the estimated number of such refugees intended to be repatriated, and on steps being taken to ensure that any such repatriation conforms with the State party's obligations under article 3 of the Convention.<sup>13</sup>

15. Further to the Committee's previous concluding observations (CAT/C/SWE/CO/5, para. 14), please provide information on the status and content of the Memorandum of Understanding between the State party with the Government of Afghanistan in connection with the State party's participation in the International Security Assistance Force (ISAF) operation. With regard to the possible transfer of detainees within a State party's effective custody to the custody of any other State, please elaborate on effective measures taken by the State party to ensure that it complies fully with article 3 of the Convention in all circumstances.

### Articles 5, 7 and 8

16. Since the examination of the fifth periodic report, please indicate whether the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution

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<sup>11</sup> CCPR/C/SWE/CO/6/Add.1, para. 18; A/HRC/W.6/8/SWE/3, para. 51.

<sup>12</sup> A/HRC/W.6/8/SWE/3, para. 50.

<sup>13</sup> Ibid, para. 41.

proceedings as a result. If so, please provide information on the status and outcome of such proceedings. In any such cases, please also indicate which sections of the Swedish Penal Code were affected or abridged.

## **Article 10**

17. Please provide updated information on educational and training programmes developed and implemented by the State party to ensure that all relevant personnel, including law enforcement officials, prison staff as well as Swedish embassy staff are fully aware of the State party's obligations under the Convention, that breaches will not be tolerated and will be investigated, and that any offenders will be prosecuted. Please indicate if the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol) has become an integral part of such training. Furthermore, please indicate if the State party has developed a methodology to assess the effectiveness and impact of training/educational programmes on the reduction of cases of torture, violence and ill-treatment, and, if so, please provide information on the content and implementation of such methodology as well as on the results of the implemented measures.

18. Please provide the Committee with the education and training materials currently used for training law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. How often are these materials reviewed (e.g., for effectiveness), updated and distributed? Please provide information on any training regarding suicide prevention in light of reports that suicides and suicide attempts in prisons have increased.

## **Article 11**

19. In its previous concluding observations (CAT/C/SWE/CO/5, para. 7), the Committee noted with satisfaction that the Government had allocated additional resources to the Prison and Probation Administration to create better facilities, both in prisons and remand prisons, and to build a number of new prisons and remand prisons to increase their capacity. Please provide updated information in this respect as well as information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rate for the reporting period.

20. The Committee, in its previous concluding observations, expressed its concern at information that between 40 and 50 per cent of remand prisoners are subjected to restrictions, and that such prisoners are currently unable to effectively challenge and appeal decisions to impose or maintain specific restrictions (CAT/C/SWE/CO/5, para. 16). Please inform the Committee of measures taken to further reduce the imposition of restrictions as well as their length. In its follow-up replies (CAT/C/SWE/CO/5/Add.1, pp. 6-8), the State party has provided information on the imposition of restrictions on remand prisoners, including the outcome of the Prosecution Authority's account of the number of persons in detention in 2008 and the number of cases where restrictions have been imposed. Please indicate if the State party has now initiated the gathering of official statistics on the use of restrictions? What is the status of the proposal that the court should always decide on specific restrictions and that such decision should be subject to appeal? Has a bill to this effect been presented to the Parliament (Riksdag)?

21. Noting the concerns of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT/Inf (2009) 34) regarding the lack of

access to medical care in some prisons, please advise the Committee on the measures in place to ensure that medical services in remand prisons are sufficient to serve inmate populations.<sup>14</sup> In addition, please respond to reports that access to a doctor is restricted in some prisons through measures, including requiring grounds for medical care, before prison staff provides appropriate forms. What procedures are used by prison staff to screen medical requests?<sup>15</sup>

22. Please provide information on steps taken by the State party to review its use of physical restraints in psychiatric institutions and hospitals and to further limit the use of solitary confinement as a measure of last resort and for as short a time as possible under strict supervision. Please also inform the Committee if the State party has established a reporting system to monitor the use of electroshock therapy in psychiatric institutions?<sup>16</sup> Please further indicate if the on-line register for compulsory mental care and forensic mental care which was being prepared by the National Board of Health and Welfare has been completed, and provide information on its content and implementation.

23. Noting the concerns of the CPT regarding access to psychological and psychiatric care for prisoners in some prisons and the negative effects of isolation on prisoners subject to restrictions, please advise the Committee on the measures in place to ensure that remand prisoners have access to psychological and psychiatric care.<sup>17</sup>

24. Please provide information on the measures in place to ensure that prison staff is able to promptly and effectively transfer mentally ill prisoners to appropriate care facilities.<sup>18</sup>

25. In the State party's follow-up replies (CAT/C/SWE/CO/5/Add.1, p. 8), reference is made to a committee appointed to review the Swedish legislation on compulsory mental care and forensic mental case, including the regulation concerning physical restraints and solitary confinement. Please indicate if the committee has finalized its work and if so, please elaborate on its findings.

## Articles 12 and 13

26. In its previous concluding observations (CAT/C/SWE/CO/5, para. 18), the Committee expressed its concern at information that the basic precepts of independence, effectiveness and promptness might not have been observed in all cases of complaints of police misconduct. Please elaborate on steps taken by the State party to ensure prompt, impartial and effective investigations into all allegations of torture and ill-treatment committed by law enforcement officials, and inform the Committee whether the State party has reconsidered the possibility of establishing an independent body.<sup>19</sup> Please also provide updated information, including statistics, on the number of complaints of alleged torture and ill-treatment, their investigation and prosecution and results of all the proceedings, both at the penal and disciplinary levels. This information should be disaggregated by sex, age and ethnicity of the individual filing the complaint.

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<sup>14</sup> CPT/Inf (2009) 34, paras. 65-69.

<sup>15</sup> Ibid.

<sup>16</sup> CCPR/C/SWE/CO/6, para. 11; concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/SWE/CO/5), para. 24.

<sup>17</sup> CPT/Inf (2009) 34, para. 68.

<sup>18</sup> Ibid.

<sup>19</sup> CCPR/C/SWE/CO/6, para. 15.

27. Further to the Committee's previous recommendations (CAT/C/SWE/CO/5, para. 24), please provide detailed information on steps taken to establish an effective system to gather all statistical data relevant to monitoring the implementation of the Convention at the national level, including complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, violence against women and children, including domestic violence and violence committed in the name of honour, as well as on compensation and rehabilitation provided to the victims.<sup>20</sup>

28. The Committee, in its previous concluding observations, expressed its concern at allegations that a prisoner was tortured by French soldiers in the presence of Swedish soldiers during the international UN/EUFOR Operation Artemis in the Congo in 2003 and that the State party did not call for a prompt and impartial investigation in this respect (CAT/C/SWE/CO/5, para. 19). Please provide detailed and updated information on any on-going or envisaged investigations into this matter and inform the Committee of effective steps taken to ensure that such incidents do not occur in the future.

#### **Article 14**

29. Please provide details on steps taken to ensure that appropriate treatment and rehabilitation services, including medical and psychological assistance, are provided to victims of torture and other ill-treatment, trafficking, domestic and honour-related violence throughout the country. Further to the Committee's previous recommendations (CAT/C/SWE/CO/5, para. 20), please provide disaggregated information as to how often these different kinds of services have been utilized and what resources are allocated to victims of torture or ill-treatment for psychiatric services.

30. In its previous concluding observations (CAT/C/SWE/CO/5, para. 20), the Committee noted with concern that there has been no case decided by or is currently pending before any Swedish courts concerning claims for compensation or other kinds of redress to victims of torture. Please provide updated information, if available, on redress and compensation measures ordered by the courts and actually provided to victims of torture, or their families, since the examination of the fifth periodic report in 2008. This information should include the number of requests made, the number granted, and the amounts of compensation ordered and those actually provided in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice?

#### **Article 15**

31. In the light of the Committee's previous concluding observations (CAT/C/SWE/CO/5, para. 22), please indicate if the State party has included or envisages to include a specific provision in its domestic legislation ensuring that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, as required by article 15 of the Convention.

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<sup>20</sup> A/HRC/W.6/8/SWE/3, para. 6.

## Article 16

32. Please provide information on the number of reported hate crimes in the State party, including racial hate crimes, as well as information about complaints, investigations and punishments of such crimes since the consideration of the previous periodic report in 2008. Has the State party evaluated the effectiveness of the hate crime hotline, as recommended by the Human Rights Committee (CCPR/C/SWE/CO/6, para. 19)?<sup>21</sup> Please also provide updated information on effective measures taken to combat discrimination against vulnerable groups, including Roma, as well as racial discrimination, xenophobia and related violence, to ensure prompt, impartial and thorough investigations into all such motivated violence and to prosecute and punish perpetrators in all cases with appropriate penalties which take into account the grave nature of their acts.<sup>22</sup>

33. Please comment on the concerns expressed by the Committee on the Rights of the Child (CRC/C/SWE/CO/4, paras. 70 and 71) that under current rules, it is possible to isolate children in youth detention centres if they display violent behaviour or are affected by drugs to the extent that they jeopardise the general order. In this respect, please provide information on the steps taken to implement the Committee's recommendations, i.e. to review the current practice of solitary confinement, including amendment of current legislation, as appropriate; to limit the use of this measure to very exceptional cases; to reduce the period for which it is allowed and seek its eventual abolition; and to ensure that all children who have been taken into custody are provided with adequate legal representation. Information before the Committee indicates that the Government has commissioned the Swedish Standards Institute (SIS) to evaluate the situation and identify potential deficiencies. Please provide more information about the outcome of such evaluation.<sup>23</sup>

## Other issues

34. In its previous concluding observations (CAT/C/SWE/CO/5, para. 25), the Committee was concerned that the mechanisms designated by the State party as national preventive mechanisms (NPMs) under the Optional Protocol to the Convention, i.e. the Parliamentary Ombudsman and the Chancellor of Justice, are reactive, not preventive, in nature, that neither organizations have multi-professional staff and that the Government has not allocated any additional resources which would allow these institutions to deal with the new tasks. Please explain if the State party has reconsidered the designation of the existing institutions as NPMs, in particular considering the reluctance of the Parliamentary Ombudsman to assume such function. Please also provide information on the additional human, financial and logistical resources granted to the existing NPMs to conduct their preventive mandate under the Optional Protocol.

35. Please inform the Committee if the State party has enacted legislation implementing the provisions of the Rome Statute of the International Criminal Court, including the list of crimes, in domestic law.

36. Please provide updated information on the legislative, administrative and other measures taken by the State party to respond to any threats of terrorism. Please describe if, and how, these measures have affected human rights safeguards in law and practice and

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<sup>21</sup> Concluding observations of the Committee on the Elimination of All Forms of Racial Discrimination (CERD/C/SWE/CO/18), paras. 14 and 15; E/C.12/SWE/CO/5, para. 16.

<sup>22</sup> CAT/C/SWE/CO/5, para. 21; A/HRC/W.6/8/SWE/3, paras. 4 and 23.

<sup>23</sup> A/HRC/W.6/8/SWE/3, para. 17.



how the State party has ensured that such measures comply with all its obligations under international law. Further to the concluding observations of the Human Rights Committee (CCPR/C/SWE/CO/6, para. 18), this information should also include the implementation of the Law on Signals Intelligence in Defence Operations (2008:717).<sup>24</sup> Please describe the relevant training given to law enforcement officers; the number and types of convictions under such legislation; the legal remedies available to persons subjected to anti-terrorist measures in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

**General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

37. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the consideration of the previous periodic report and the relevant parts of the follow-up information submitted, including any relevant jurisprudential decisions.

38. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level since the previous periodic report and the relevant parts of the follow-up information submitted, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

39. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report and the relevant parts of the follow-up information submitted, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.

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<sup>24</sup> CCPR/C/SWE/CO/6, para. 18.