

**INTERNATIONAL
CONVENTION
ON THE ELIMINATION
OF ALL FORMS OF
RACIAL DISCRIMINATION**



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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Twenty-seventh session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

Sixth periodic reports of States parties due in 1983

Addendum

SWEDEN 1/

[7 February 1983]

1. The present sixth periodic report contains comments on the views expressed by members of the Committee on the fifth report, as they appear in the report of the Committee to the thirty-sixth session of the General Assembly of the United Nations (document A/36/18, paragraphs 340 to 347). Information is also given on certain new developments which have occurred after the submission of the fifth periodic report to the Committee.

2. As from 1 January 1983, section 8 of chapter 16 of the Swedish Penal Code, which deals with agitation against an ethnic group, has been amended in order to extend the protection to groups such as immigrants. It was previously held that immigrants could not be regarded as "a group of a certain race, skin colour, national or ethnic origin or religious creed" within the meaning of the text of the law (cf. paragraph 11 in the fifth periodic report). Insofar as an act was directed against all immigrants, and not only against immigrants belonging to a specific ethnic or other group, it could not be punished under section 8 of chapter 16 in its wording before 1 January 1983.

1/ For previous reports submitted by the Government of Sweden and the summary records of meetings of the Committee at which these reports were considered, see:

- (1) Initial report - CERD/C/R.50/Add.2 (CERD/C/SR.158-159);
- (2) Second periodic report - CERD/C/R.77/Add.1 (CERD/C/SR.241);
- (3) Third periodic report - CERD/C/R.98/Add.1 (CERD/C/SR.332);
- (4) Fourth periodic report - CERD/C/48/Add.1 (CERD/C/SR.436-437);
- (5) Fifth periodic report - CERD/C/75/Add.1 (CERD/C/SR.530).

The sixth periodic report of Sweden contains five appendices. Appendix I is reproduced as an annex to this document; appendices II to V mentioned also in the report are available in English in the files of the Secretariat for consultation.

On this point, the protection afforded by the Penal Code has now been extended. A corresponding amendment has been made to the Freedom of the Press Act in the enumeration of punishable statements. As a result of this amendment, acts constituting offences under chapter 16, section 8, of the Penal Code can be punished even when they have been committed by way of statements in a newspaper, or any other printed publication.

3. At the same time, an amendment was made to section 5 of chapter 5 of the Penal Code on defamation. This offence is as a rule to be prosecuted only by the person aggrieved and not by a public prosecutor. From 1 January 1983, however, it may be subject to public prosecution, when the defamation alludes to someone's race, skin colour, national or ethnic origin or religious creed, provided that the person aggrieved reports the defamation for prosecution and that prosecution is called for in the public interest. As an example has been mentioned in the travaux préparatoires that prosecution should be instituted when somebody has been repeatedly defamed by allusion to his race or a similar characteristic at his place of work or in his residential area.

4. A translation of the new wording of chapter 16, section 8, and of chapter 5, section 5, of the Penal Code is annexed as appendix I to this report.

5. In previous reports (see, in particular, paragraph 2 of the fourth and fifth reports), certain information was given about the situation of the Lapps, who call themselves Samis. In the Committee a number of observations were made in regard to this issue (document A/36/18, paragraph 342), and the Swedish Government now wishes to submit the following supplementary information.

6. What is said in paragraph 2 of the fifth periodic report is still valid with the following changes and additions. With regard to the case concerning the claims of the Samis under private law to certain land in northern Sweden, it should now be mentioned that the judgment of the Supreme Court was delivered in February 1981. The Court found that the Samis could not be held to have title to the so-called "tax mountains" in the northern part of the Province of Jämtland. Nor were they considered to hold any other right over those mountains, except what follows from the Act of 1971 on reindeer breeding.

7. In September 1982, a Government Commission was entrusted with the task of investigating the possibilities of strengthening the legal position of the Samis in regard to reindeer breeding. The Commission shall also consider the need for a special Sami organ to represent the Samis on various matters. Furthermore, the Commission shall propose measures in order to preserve and develop the Sami language.

8. The fifth periodic report contained some information on the situation of gipsies in Sweden (paragraph 3). The Committee raised some additional questions in this regard. It should first be noted that gipsies in Sweden do not have any special legal status. Insofar as they are Swedish citizens, they have the same rights and obligations as other Swedish citizens. If they are not Swedish citizens, they have the same status as other aliens in Sweden. As regards housing, employment and education, special efforts have been made by the authorities over the last decades to assist the gipsies, and as a result of those efforts, their situation has improved considerably.

9. Some members of the Committee requested clarifications in regard to the legislation which prohibits new Swedish investments in South Africa and Namibia (paragraph 343 in the Committee's report). The Act, which became effective on 1 July 1979, restricts Swedish investments in South Africa and Namibia, the purpose being to increase international pressure on the South African regime and to combat its racial policy. Sweden seems to be the only country so far which has used legislation to restrict the commercial operations of its companies in South Africa and Namibia, and the Swedish Government hopes that other States will follow this example.
10. According to available information, only twelve Swedish companies were operating through subsidiaries in South Africa and Namibia during the fiscal year of 1981. The 1979 Act prohibits any new Swedish investments to be made in those countries. It is true that exemptions may be granted for a particular investment or for investments in a particular company during one year, but such exemptions may not enable a company to extend its operations in South Africa and Namibia. Every year the Swedish Government presents a white paper to Parliament on the business activities of Swedish companies in South Africa and Namibia. So far no violations of the law have been discovered which necessitated prosecution or other action.
11. At the request of the Swedish Parliament an investigator was appointed by the Government in 1980 to review the application of the 1979 Act and to examine the possibilities of extending its scope to other fields, for instance to the field of transfer of technology. In 1981 the investigator was replaced by a Government Commission. The intention is that the Commission will conclude its work before the end of 1983. It may then make proposals for amendments to the 1979 Act which would make that Act even more effective.
12. It appears from the Committee's report (paragraph 344) that some members of the Committee expressed concern that the legislation existing in Sweden failed to declare illegal organizations of racist intent. The legal situation in Sweden as regards article 4, paragraph (b) of the Convention has been explained in previous reports. The question of prohibiting such organizations has been examined again in recent years but the outcome was that no need for such a prohibition was felt for the time being. The Swedish Commission on Ethnic Prejudice and Discrimination, the Government and the Parliament concurred in this view. It should be noted that individuals within a racist organization make themselves guilty of a criminal offence for any public statement which threatens or expresses contempt for a group of a certain race, skin colour, national or ethnic origin or religious creed (cf. section 8 of chapter 16 of the Penal Code in appendix I). The Minister of Justice has stated, however, that this question might be discussed anew on a future occasion. The development in Sweden as regards racist organizations has to be taken into consideration. At present there are no such organizations of any importance in Sweden and, consequently, no need for a prohibition, but if the situation should change, the question of introducing a prohibition into Swedish law would no doubt be further considered.
13. The Committee has also asked for further information as regards immigration into Sweden (paragraph 345 in the Committee's report). The Government Commission, which was established in 1980, to review questions concerning immigration and the position of immigrants in Sweden has delivered a preliminary report in October 1982 on Swedish immigration policy. However, this report does not contain any proposals. It is expected that the Commission will present proposals later this year.

14. As regards Swedish policy in regard to immigrants in Sweden, reference is made to the extracts from the Swedish report regarding the application of ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation (appendix II). */

15. As regards the question "whether the Government intended to establish a policy of voluntary return", it should be noted that issues relating to the return of foreign workers to their countries of origin have, generally speaking, not been an important part of the general Swedish policy debate on immigration and on the position of immigrants in the Swedish society. The reason is the basic principle introduced by the Government and Parliament in 1968, which is that the legal position of foreign workers in Sweden should not be made dependent on economic trends. This implies that a foreign worker, once he has been granted a labour permit, should enjoy basically the same rights as Swedish workers, and that labour permits, for humanitarian and egalitarian reasons, should not be withdrawn during recessions. The notion of foreign workers as "guest-workers" was rejected already at the end of the 1960s. Thus, a State interest in return migration has never come to expression, although some voluntary return migration in fact takes place. However, there are no economic or other incitements to induce immigrants to return to their countries of origin. Further information about Swedish policy in this regard is contained in the Swedish report to an expert meeting held under the auspices of the OECD (appendix III). */

16. Another question of the Committee deals with "the position of aliens with regard to contributions to be paid for their entitlement to the old-age pension". The individual pays no special contributions for a retirement pension in Sweden. The employers, however, pay contributions to the national basic pensions scheme as well as to the national supplementary pensions scheme. This applies equally to Swedish citizens and to foreigners.

17. In the fifth periodic report information was given on the Swedish welfare programmes for refugees (see in particular, paragraph 8 of that report). The Committee has asked for further information concerning special education and cultural development for refugees coming from Viet Nam, and especially for their children. This information is contained in the report (appendix IV) */ "A new wave on a Northern shore; The Indochinese refugees in Sweden", especially the chapters "School and language" and "Cultural patterns and collective concerns".

18. When dealing with questions of immigration it should be mentioned that the Swedish Commission on Ethnic Prejudice and Discrimination has issued several reports in 1981 and 1982. Different aspects of prejudice and discrimination regarding immigrants and ethnic minorities are dealt with in these reports. Unfortunately, they are only available in Swedish. In December 1982, however, a Fact Sheet was published by the Swedish Institute on "Ethnic Conflicts in Sweden". It was written by the Executive Secretary to the Swedish Commission on Ethnic Prejudice and Discrimination. For the Committee's information, a copy of the leaflet is contained in appendix V. */

*/ Appendices II to V are available in English in the files of the secretariat for consultation.

19. The work of the Swedish Commission on Ethnic Prejudice and Discrimination is not yet completed. The Commission plans to issue several new reports. It will also deal with the problem of unlawful discrimination in the labour market. The provision on unlawful discrimination in section 9 of chapter 16 of the Penal Code is not applicable to the labour market. It was left to the parties in the labour market - on the basis of voluntary and joint efforts - to prevent discrimination. The Commission has the intention to put forward a proposal for legislation against ethnic discrimination in the working life. The amendment, however, will relate to the labour law and not the provisions of the Penal Code.
20. In 1982, the Swedish Supreme Court passed a judgment in a case regarding agitation against an ethnic group. The accused, who was the manager of a camping-ground, had put up a sign at the entrance with the text "Gipsies may not enter the camping". The Supreme Court found that the text expressed contempt for an ethnic group in accordance with section 8 of chapter 16 of the Penal Code and that the accused was guilty of an offence under that provision.
21. In another case the Chancellor of Justice instituted criminal proceedings against the responsible editor of two programmes of the local radio of Stockholm on the charge of agitation against an ethnic group. Certain pejorative expressions regarding members of a racial group had been used in the programmes, and the Stockholm District Court sentenced the editor to two months' imprisonment. An appeal against the judgment of the District Court has been lodged with the Svea Court of Appeal.
22. In December 1982 the Chancellor of Justice instituted another prosecution against a person for press libel (agitation against an ethnic group). The accused, who was charged with anti-Semitic statements in printed publications, was at that time already detained on remand as being suspected of agitation against an ethnic group. The detained person is now undergoing a forensic psychiatric examination.
23. In the report of the Committee (paragraph 346) more information has been requested as to the outcome of the proceedings against a person accused of distributing a publication of an anti-Semitic character. The prosecution has so far not led to a trial, as the accused person - in spite of considerable efforts - has not yet been located.
24. A decision was taken by the Chief State Prosecutor on 1 November 1982 to the effect that cases regarding the offences of agitation against an ethnic group (section 8 of chapter 16 of the Penal Code) and unlawful discrimination (section 9 of chapter 16 of the Penal Code) shall be dealt with by prosecutors at a high level. Those prosecutors have also been called upon to work for a uniform adjudication.
25. In paragraph 5 of the fourth Swedish periodic report, it was indicated that proposals had been made for a further extension of the constitutional protection of the right to Swedish citizenship. These proposals resulted in a constitutional amendment which entered into force on 1 January 1980. The Committee has asked for the text of the amendment (paragraph 345 in the Committee's report).
26. As was mentioned in the fourth periodic report, the right to Swedish citizenship is dealt with in the 1951 Citizenship Act. According to this Act, a person cannot lose his Swedish citizenship except in certain specific situations, the most common one being when the person concerned acquires, upon request, the citizenship of another State. Another case of loss of Swedish citizenship relates to a person, who was born outside Sweden and has never resided in Sweden. Such a person may lose his Swedish citizenship at the age of 22.

27. The right to Swedish citizenship is also protected by the Constitution. In section 7 of chapter 2 it was formerly provided that no Swedish citizen who is or has been a resident of Sweden may be deprived of his citizenship except when he is or at the same time becomes a national of another State. The new wording of this section reads: "No citizen who is or has been resident in Sweden may be deprived of his citizenship except when, at the same time, upon express consent or by taking up a public function, he becomes a national of another State. Notwithstanding this, it may be prescribed that a child under the age of eighteen shall follow his parents or one of them in regard to his citizenship. It may further be prescribed, in accordance with an agreement with another State, that anyone who from his birth is also a citizen of another State and is a permanent resident of that State loses his Swedish citizenship at the age of eighteen or later."

28. The purpose of this amendment was to give a better protection to the Swedish citizenship, especially in respect to persons who came to Sweden as refugees or for other reasons and who have become Swedish citizens without losing their previous citizenship of another State.

APPENDIX I

THE PENAL CODE OF SWEDEN

Chapter 16, Section 8

If a person publicly or otherwise, in a statement or other communication which is disseminated among the public, threatens or expresses contempt for an ethnic group or any other similar group of persons by allusion to race, skin colour, national or ethnic origin or religious creed, he shall be sentenced for agitation against an ethnic group to imprisonment for at most two years or, if the offence is petty, to pay a fine.

Chapter 5, Section 5

Offences referred to in Sections 1-3 are not to be prosecuted except by the person aggrieved. However, defamation or grave defamation can be prosecuted by the public prosecutor if the person aggrieved reports the offence for prosecution and such prosecution is, for special reasons, found to be called for in the public interest. On the same conditions public prosecution can be instituted for defamation against a person in or for his exercise of public authority or against a person by allusion to his race, skin colour, national or ethnic origin or religious creed.