



**International covenant  
on civil and  
political rights**

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**HUMAN RIGHTS COMMITTEE**  
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**REPLIES TO THE LIST OF ISSUES (CCPR/C/SWE/Q/6) TO BE  
TAKEN UP IN CONNECTION WITH THE CONSIDERATION  
OF THE SIXTH PERIODIC REPORT OF THE GOVERNMENT  
OF SWEDEN (CCPR/C/SWE/6)\***

[19 January 2009]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## **Constitutional and legal framework within which the Covenant and the Optional Protocol are implemented**

### **Question 1**

1. With regard to the reservation made by Sweden, reference is made to the view expressed by Sweden in the sixth periodic report (CCPR/C/SWE/6, paras. 94, 136 and 146). The Swedish position remains unchanged and there are at present no plans to reconsider it.

### **Question 2**

2. In recent years, reference to the Covenant has been made in, for example, the following cases:

- In a criminal case that primarily concerned whether a person who had had a tax surcharge imposed in taxation proceedings could also be convicted for a tax crime based on the same factual circumstances, the Supreme Court stressed that the principle of *ne bis in idem*, laid down in national law in Chapter 30, Section 9 in the Code of Judicial Procedure, was such an important rule of law principle that it had a place among the fundamental human rights. The Supreme Court went on to state that the principle could be found in article 14, paragraph 7 of the International Covenant on Civil and Political Rights (Reports of judgments of the Supreme Court [NJA 2000 p. 622]). A similar statement was made in a concurring opinion expressed by one of the judges of the Supreme Court in NJA 2004 p. 840, No I.

- In another case concerning the principle of *ne bis in idem* (this time regarding whether a tax surcharge could be imposed on a person convicted for a tax crime concerning the same factual circumstances, that is following his conviction in a penal case), the Supreme Administrative Court referred to the Covenant as an example of where this fundamental principle could be found (Reports of Judgments of the Supreme Administrative Court [RÅ 2002 ref. 79]).

3. The Supreme Court also referred to article 14, paragraph 7 of the Covenant in another criminal case in which it was applying the principle of *ne bis in idem* (NJA 2007 p. 557).

4. Furthermore, the Aliens Appeals Board (which has since been replaced by two levels of appeal courts through the 2005 Aliens Act) has made reference to article 13 of the Covenant when holding that an asylum-seeker always has the right to have his or her application for asylum examined in two instances (Aliens Appeals Board decision adopted on 16 July 1999 [UN 365-99]).

5. In connection with the application of Chapter 2, Section 8 of the Instrument of Government regarding every citizen's freedom of movement within the Realm and freedom to depart the Realm, the Court of Appeal in Stockholm (Svea Court of Appeal) stated that this was also a human right which could be found in article 12 of the Covenant (Reports of Judgments from the Courts of Appeal [RH 26:84]). The Court of Appeal thus held that the travel restrictions imposed on the two suspects awaiting trial violated the fundamental rights contained in the

Instrument of Government considering the length of time that the travel restrictions had been in force and could be expected to remain in force.

6. When examining a complaint against social services regarding the death of a child taken into compulsory care, the Swedish Parliamentary Ombudsmen made a general reference to the Covenant as containing rules of relevance in determining whether or not a child may be taken into compulsory care. Specific reference was then made to several articles in the Convention on the Rights of the Child (the Parliamentary Ombudsmen Annual Report 1994/95 p. 301).

7. There are not so many examples of substantial references to the Covenant. It is far more frequent in Swedish jurisprudence that reference is made to the European Convention on Human Rights and to the European Court's case-law. The European Convention forms part of Swedish domestic law and it provides essentially the same or even stronger protection than the Covenant.

### **Question 3**

8. On 1 March 2007 the Swedish Government decided to repeal the decision of the former Government of 2001 in view of the violations of Mr Alzery's human rights as established by the United Nations Human Rights Committee. The Government referred Mr Alzery's request for a residence permit to the Migration Board, which on 10 May 2007 rejected the application. Mr Alzery currently has an appeal pending against the Migration Board's decision. The Government will decide in the matter as a last instance, since the case still is regarded as a security case under the Aliens Act. There are still some questions to be addressed before the Government can make a decision.

9. In the Government's decision of 2007, Mr Alzery's claim for compensation was referred to the Chancellor of Justice. Mr Alzery received SEK 3 160 000 in a settlement reached on 2 July 2008 between him and the Chancellor of Justice on behalf of the Swedish Government.

10. As indicated in the Government's latest communication to the Committee in this case, the Committee will be provided with more detailed information about the follow up of the Committee's views, adopted on 25 October 2006, as soon as the Government has made its decision on the appeal lodged by Mr Alzery regarding the residence permit issue.

### **Question 4**

11. The merger of the various anti-discrimination ombudsmen in the Office of the Ombudsman against Discrimination is one of the measures in the new Discrimination Act. The Paris Principles has been taken into account in the Act and in most aspects the new institution will be in line with the Paris Principles. For example, the legislative history of the Act refers directly to the Paris Principles when giving the Ombudsman its broad mandate. The Paris Principles are also referred to when deciding to regulate the competence of the Ombudsman in a legislative text.

12. With respect to Sweden's ratification of the new United Nations Convention on the Rights of Persons with Disabilities, an independent mechanism to promote, protect and monitor the implementation of the convention will be established, taking into account the Paris Principles.

This will be done either within the framework of existing institutions or by establishing a new institution. The Delegation for Human Rights in Sweden will also, in its final report (March 2010) present proposals on how the public sector can be offered continued support in its work towards achieving full respect for human rights in Sweden after the Delegation has completed its mandate. In this context, an independent institution for human rights in accordance with the Paris Principles may be discussed.

## **Counter-terrorism measures and respect of guarantees contained in the Covenant**

### **Question 5. Measures on counter-terrorism adopted at the national level pursuant to Security Council Resolution 1373**

13. The sanctions regime established by Security Council resolution 1373 has been implemented by the EU Member States through a legislative package consisting of two common positions (2001/930/CFSP and 2001/931/CFSP) and one Council Regulation (No 2580/2001). The Council Regulation is directly applicable in the Member States. There is no Swedish national freezing mechanism – judicial or administrative – operating alongside the one common to the EU countries.

14. Council Regulation (EC) No 2580/2001 provides for a freezing of all funds, other financial assets and economic resources belonging to persons, groups and entities that are suspected of committing, attempting to commit, participating in or facilitating the commission of terrorist acts, or belonging to persons, groups and entities that are owned or controlled by or acting on behalf or at the direction of such persons, groups and entities. In addition, it establishes that no funds, other financial assets and economic resources may be made available to them, whether directly or indirectly. It also provides for humanitarian exemptions allowing the use of funds in certain circumstances.

15. Individuals to be targeted by the sanctions are included on lists in annexes to the Common Position (2001/931/CFSP) and the Council Regulation (names marked with an asterisk in the Common Position are, however, not subject to the financial sanctions). These lists are established by unanimous decision of the Council of the European Union. The Council reviews the list at regular intervals and at least every six months.

16. A review of the Council's working methods and procedures for listing and de-listing was carried out in 2007. Concrete improvements were agreed in order to establish a clearer and more transparent procedure. Sweden took an active part in this review.

17. The improved procedures mean that individuals, groups and entities whose assets are frozen in accordance with the Regulation (EC) No 2580/2001 are to be informed of the decision and given reasons that are sufficiently detailed that they are able to understand the grounds for the decision. They are also to be given the opportunity to submit information in support of a request to be removed from the list, and to be informed of the option of instituting an action against the Council decision at the Court of First Instance of the European Communities. The working methods and procedures for EU decisions on sanctions against terrorism are now public.

18. Penalties for infringements of the prohibitions in EC regulations implementing Security Council resolution 1373 or other sanction regimes are established in Section 8 of the Swedish Act (1996:95) on Certain International Sanctions. A person who intentionally violates such a prohibition can be sentenced to a fine or imprisonment for at most two years or, for a gross offence, to imprisonment for a maximum of four years. Violations through gross carelessness carry a penalty of a fine or imprisonment for a maximum of six months. In minor cases, no penalties are imposed. No freezing measures under the EC legislation implementing resolution 1373 have been reported in Sweden. To the Government's knowledge, no charges have been brought under this Act in relation to the prohibitions contained in the relevant EC Regulation.

19. The system of preventive restrictive measures described above should be distinguished from the general Swedish system of criminal law and criminal procedure, which includes certain crimes relating to terrorism and measures such as confiscation and forfeiture. The penal law system, which of course provides full due process guarantees, essentially consists of national legislation, although some of the crimes and offences may be formulated in response to obligations to criminalize certain conduct under international agreements or mandatory Security Council resolutions, including in the area of combating international terrorism. There are certain such obligations, apart from the preventive system of restrictive measures, contained in resolution 1373. The EU Member States have underlined their commitment to fulfilling these obligations through Common Position 2001/930/CFSP.

20. Among crimes in Swedish penal law thus related to the subject of resolution 1373 is the Swedish Act (2002:444) on Criminal Responsibility for the Financing of Particularly Serious Crimes in Certain Cases etc, which was adopted in order to implement the International Convention for the Suppression of the Financing of Terrorism. The Act criminalizes conduct whereby a person collects, provides or receives funds or other assets with the intention that they will be used or with the knowledge that they are intended to be used to commit a "particularly serious crime". The concept 'particularly serious crime' includes the offences contained in the Act on Criminal Responsibility for Terrorist Offences. The basic 'financing of terrorism' offence carries a penalty of imprisonment for a maximum of two years. If the offence is considered gross, the penalty is imprisonment for between six months and six years.

21. The Act on Criminal Responsibility for Terrorist Offences in Sweden has existed since 2003. The Act fulfils the commitments ensuing from the European Union's Framework Decision of 13 June 2002 on combating terrorism. The Act contains a list of certain actions that may lead to penalties under the Swedish Penal Code or other statutes. Under special circumstances these offences are instead to be considered terrorist offences. According to the special Act, an action is to be regarded as a terrorist offence if it might seriously damage a State or an intergovernmental organization. It must also be undertaken for certain specific purposes, such as serious intimidation of a population or a section of the population or to compel a government to take a certain decision. Under these circumstances, the acts that constitute terrorist offences include murder, kidnapping, sabotage, hijacking, spreading poison or a contagious substance and unlawful handling of chemical weapons. The penalty for terrorist offences is imprisonment for a maximum of ten years, or for life. The attempt to commit, preparation of or conspiracy to commit a terrorist offence or failure to disclose such an offence is also punishable.

22. To the Government's knowledge, there have been no charges or prosecutions in Sweden for terrorist offences or terrorist financing offences by suspects/defendants linked to persons,

groups or entities subject to sanctions under Security Council resolution 1373. However, there is one criminal case relating to an organization listed under resolution 1267. On 3 October 2005, the Svea Court of Appeal (case number B 3687-05) convicted two defendants of the preparation of terrorist offences and of gross devastation endangering the public, and the financing of particularly serious crimes, since the two defendants had received funds from and provided funds to the organization Ansar al-Islam. This organization, was considered to be a terrorist organization since it is listed as such by the United Nations and the EU under resolution 1267.

### *The Council on Legislation*

23. The Government is in principle obliged to refer major items of draft legislation to the Council on Legislation, whose members are drawn from the Supreme Court and the Supreme Administrative Court. The Council's scrutiny concerns: (a) the manner in which the draft law relates to the fundamental laws and the legal system in general; (b) the manner in which the different provisions of the draft law relate to one another; (c) the manner in which the draft law relates to the requirements of the rule of law; (d) whether the draft law is so framed that the resulting act of law may be expected to satisfy the stated purposes of the proposed law; (e) what problems are likely to arise in applying the act of law.

24. This means that the Council on Legislation scrutinises proposed legislation not only in relation to national law but also, where necessary, in relation to Sweden's international obligations. The Council on Legislation is a consultative, not a decision-making body. The Government and the Riksdag are not obliged to follow its advice.

### **Non-discrimination, equal rights of women and men, rights of children, and equality before the law (arts 2, 3, 7, 24 and 26)**

#### **Question 6**

25. The Government has invested SEK 100 million to increase women's entrepreneurship through greater advice, funding for innovation, work on role models, research, etc. The Government's objective is for 40 per cent of new business starters to be women by 2010.

26. The Government has tasked the Swedish Government Agency for Innovation Systems (Vinnova) with designing and carrying out a three-year research programme on female entrepreneurship. As part of this assignment the Agency is to provide funds to research projects and incoming applications are to be assessed by experts from the research and business worlds. The different programmes will analyse the situation at an individual level or look at the structural problems persistent in industry. The programmes will look at both obstacles for female entrepreneurs and the prerequisites for growth within gender-segregated industries.

27. The Government is implementing reforms to increase equality between women and men in line with the objectives of the European Youth Pact and the European Pact for Gender Equality.

28. Under the Higher Education Act (1992:1434) higher education institutions should always observe and promote equality between women and men in their activities. The Higher Education

Ordinance (1993:100) states that if a higher education institution has decided that positive discrimination may be applied in connection with a particular position or type of position as a stage in its efforts to promote gender equality at work, certain criteria must be applied.

29. The Government requires universities and university colleges to submit annual reports on measures taken to provide equal gender ratios in, for example, fields of postgraduate studies with unequal gender distribution. They are also required to comment on the recruitment and promotion of teachers and the recruitment of deans, heads of departments and directors of studies, etc.

30. The Government has set objectives for gender distribution among newly recruited professors for each university and university college. Such objectives have existed since 1997. There are currently objectives for the period 2005–2008, and these vary between 15 and 36 per cent, depending on the proportion of women in the field. In 2006 the Government appointed an Inquiry Chair to review the current academic career system and stressed that the inquiry should particularly consider increased gender equality in academia. The report was submitted in December 2007 and is currently being considered by the Ministry of Education and Research.

31. The Swedish Government is making efforts to increase the number of females in executive positions in the courts; executive development programs and individual training programmes are arranged to identify and develop female employees with executive potential. The National Courts Administration is instructed to present the proportions of male and female executives in its Annual Report. Further, the National Courts Administration supports a network of female Heads of Court (IDA). The network is engaged in exchange of experience, local events and a mentorship programme within the Swedish Courts. The network plays an important role in the gender work.

32. The Swedish Prosecution Authority has an overall skills management aim to achieve equal gender distribution in the recruitment of prosecutors and to increase the number of female managers. In 2007, the proportion of female managers in the Swedish Prosecution Authority was 51 per cent.

33. The Swedish Government is not in favour of setting quotas for women in higher positions within the private sector. It is mainly the responsibility of the private sector to make sure that there is an equal number of women and men on the boards of private companies. The Government has a responsibility to support both men and women and make it easier for them to reconcile their family and work responsibilities, firstly through paid parental leave which allow parents to take care of their children during the first phase of childhood, and secondly through highly subsidised child-care services and out-of-school activities that facilitate full-time employment until children enter their teens. The Government has enhanced families' freedom of choice by giving parents greater power over their lives. Women and men should be able to combine working life and family life on equal terms. Through a family policy reform, the Government has made it easier for both parents to participate in working life and take care of their children. The reform includes a gender equality bonus to promote more gender-equal parental benefit claims, the possibility for municipalities to introduce a child-raising allowance, increased educational emphasis in pre-schools and a child-care voucher system to increase

parents' possibilities to choose the arrangements that best suit their child. The latter two parts of this reform will be implemented gradually, starting on 1 January 2009.

### **Question 7**

34. Combating violence against women, as well as violence and oppression in the name of honour and violence in same-sex relationships, is a top priority for the Swedish Government. In November 2007 an action plan to combat these forms of violence was adopted (Government communication 2007/08:39).

35. Alongside the more general provisions in the Swedish Penal Code on offences such as gross assault, assault and harassment, there has been a specific provision on gross violation of a woman's integrity in Chapter 4, Section 4a of the Penal Code since 1 July 1998. The main purpose of this provision is to reflect the penal value of long-term and repeated violations in situations where a series of punishable, but individually relatively minor, offences are committed. This enables the court to make a comprehensive assessment of the woman's situation, making it possible to considerably increase the penalty for systematic violence against women who have a close relationship with the perpetrator. The punishment is imprisonment for a minimum of six months and a maximum of six years.

36. In order to assess how the provision on gross violation of a woman's integrity has been applied and whether it has had the intended effect, the Government has announced an evaluation of this provision.

37. Cases where a woman is subjected to violence and her child witnesses the assault can be covered by a special ground for tougher penalties that was introduced on 1 July 2003. Under this provision, when assessing the penal value of a crime it is seen as an aggravating circumstance if it is likely to harm the security and trust of a child in its relationship to a person close to it (see Chapter 29, Section 2, point 8 of the Swedish Penal Code).

38. In the summer of 2008, the Government issued terms of reference for an inquiry to evaluate the application of the 2005 sexual crimes reform. The purpose of the evaluation is to follow up how the provisions have worked in practice and whether the intention of the reform has been achieved. The remit includes examining and deciding whether the current requirement of coercion as a basis for criminal liability for rape should be replaced with a requirement of absence of consent. The inquiry is to deliver its report no later than 29 October 2010.

39. The Government is allocating more than EUR 80 million to implement the action plan on combating violence against women, as well as violence and oppression in the name of honour and violence in same-sex relationships over the period 2007–2010. The action plan includes 56 measures through which the Government is creating the potential for a higher and more enduring level of ambition on the part of government agencies and regional and local authorities. NGOs also have an important role to play and measures will be taken to better enable their involvement in the future. The action plan covers six key areas: (a) increased protection and support to victims of violence; (b) greater emphasis on preventive work; (c) higher standards and greater efficiency in the judicial system; (d) better measures targeting violent offenders; (e) increased

cooperation and coordination at regional and local level; (f) enhanced knowledge and competence.

40. Since 2007, the Government has allocated additional resources (SEK 20 million) to the Swedish Prison and Probation Service to deal with men convicted of sexual offences and men convicted of violent offences in close relationships.

41. As a result of the Government's action plan to combat men's violence against women, violence and oppression in the name of honour and violence in same-sex relations (Government communication 2007/08:39), the Swedish Prison and Probation Service has been tasked with implementing a special package of measures to increase initiatives for the treatment of those convicted of sexual offences and men convicted of violent offences in close relationships. The initiatives should focus on the continued development of existing treatment programmes, improved risk assessments, extending treatment measures to those who are not native speakers of Swedish, improving controlled release from prison, etc. An additional SEK 30 million has been allocated for this purpose in 2008–2010.

42. The Stalking Inquiry submitted its report in October 2008 and it proposes the introduction of a new offence, unlawful harassment. The proposal implies the possibility to take account of the fact that criminal acts have been committed within a pattern of systematic harassment. According to the proposal, a person convicted of unlawful harassment can be sentenced to a maximum of two years in prison. For serious cases it is proposed that the penalty should be imprisonment for a minimum of six months and a maximum of four years. The Stalking Inquiry also proposes that the current legislation on restraining orders should be replaced with new legislation on non-contact orders. The new legislation is clearer. Structured threat and risk assessments should form the basis of decisions on non-contact orders.

43. It should be possible to combine a non-contact order with electronic monitoring. It is proposed that the individual who has been issued a non-contact order could be monitored electronically and his or her location pinpointed so as to determine whether he or she enters the area covered by the non-contact order. This monitoring should be carried out by the police. Electronic monitoring increases the opportunities for the police to warn the protected person if the order has been breached and to take action against the individual under the order. According to the Inquiry, opportunities to secure evidence of a breach of a non-contact order will also increase. Decisions to impose non-contact orders with electronic monitoring should be taken by the courts.

44. According to the Stalking Inquiry it should also be easier to supply a person with fictitious personal data than is currently the case. Another measure proposed by the Inquiry is that trained protection officers for victims of crime should be available in all municipalities. A protection officer should be a link between victims of crime, public authorities and voluntary organizations. The report is currently being circulated for comments and preparation will then continue in the Government Offices.

45. During 2007–2008 State funding (SEK 109 million each year) has been allocated to municipalities to develop and strengthen sheltered housing for women subjected to violence. This investment will continue in 2009.

### Question 8

46. The abovementioned action plan contains a number of measures that aim to counter violence in the name of honour. For example, the county administrative boards are tasked with countering violence and oppression in the name of honour by supporting sheltered housing and the development of routines and knowledge within social services. The National Board for Youth Affairs is tasked with charting the prevalence of arranged marriages against the will of a party. The National Board for Youth Affairs is also providing training programmes on violence in the name of honour, targeting staff responsible for coordinating and developing leisure activities, social services and education.

47. In an evaluation report on the Government measures to combat violence in the name of honour between 2003–2007, the overall conclusion is that the Government measures have helped establish the issue of violence in the name of honour as a social problem. A new policy area has been established, with responsibility shared between authorities, municipalities and NGOs.

48. In 2003, the Government tasked the National Board of Health and Welfare with implementing the national action plan against female genital mutilation. In 2006, the Board reported back to the Government. Since then, the Board has taken on the overall responsibility for the issue of female genital mutilation, as stated in the action plan (i.e. responsibility for spreading knowledge, follow-up nationally and internationally, and updating of the knowledge bank; see below). One of the outcomes of the national action plan was the development of a knowledge bank of good examples and experiences from preventive work taking place at both national and international level. Compiling models of good practice for the prevention and eradication of female genital mutilation was an activity proposed in the action plan.

49. Another important result is the joint written declaration by the Swedish Imam Council, the Coptic Orthodox Church, the Catholic Church and the Swedish Christian Council, whereby all of these faith communities clearly distance themselves from all forms of female genital mutilation. The National Board of Health and Welfare has also produced guidance regarding female genital mutilation and disseminated it to the police authorities and prosecutors. The Board has also produced educational material adapted to schools, health and medical services and social welfare services and a web-based databank with facts and information about female genital mutilation. A leaflet directed at girls who have suffered or are at risk of female genital mutilation has been distributed to primary and secondary schools.

### Question 9

50. Swedish law contains no specific penal provisions regarding marriage entered into under duress or with a person under the age of 18 (known as a “child marriage”). However, anyone forcing someone else into marriage can be convicted of other crimes, such as unlawful coercion, under the Penal Code. As regards child and forced marriage, there may also be criminal liability under other provisions, such as the provisions on unlawful threat and trafficking in human beings. Provisions on sexual crimes may also be relevant.

51. In April 2008 the Commission of inquiry on trafficking in human beings etc. presented a report to the Government. The commission analysed whether the current penal legislation offers satisfactory protection against child and forced marriage. The commission came to the conclusion that there is no need to criminalise any more acts of a less serious nature that may precede a forced marriage. Nor does the commission consider that there is any need to introduce special classifications for the offences referring to forced marriages that are not child marriages.

52. However, the commission does consider that there is a need to introduce a penal provision aimed at those marriages involving a child that are not regarded as forced marriages. The commission therefore proposes a provision whereby a custodian who allows a child under the age of 16 who is a Swedish citizen or resident in Sweden to enter into a marriage that is valid in the country where the ceremony is performed should be sentenced to imprisonment for a maximum of two years for the offence of allowing a child marriage. The report has been circulated for consultation and is now being processed within the Ministry of Justice.

### **Question 10**

53. In 2005–2008, the Office of the Disability Ombudsman organised information campaigns and seminars to increase knowledge of the discrimination laws. The goal was to reach persons with disabilities. The Office's website contains information on issues to do with discrimination against persons with disabilities.

54. The Delegation for Human Rights in Sweden arranged an awareness-raising project on anti-discrimination in schools. The main goal was to draw the attention of students from 12 to 16 years of age in schools to the laws on discrimination.

55. Organizations for persons with disabilities are key actors in raising awareness about their rights and protective legislation. The Swedish Government gives substantial economic support to a large number of organizations for persons with disabilities. These grants are intended to support the organizations' activities to improve living conditions for their members and to promote and protect their rights (SFS 1994:951).

56. The Swedish Inheritance Fund is another important source of support for non-profit organizations and voluntary associations involved in developing new ideas for activities aimed at children, young people and persons with disabilities.

### **Question 11**

57. In order for persons with disabilities to be able to move around freely and choose where they live, housing, public spaces and transport must be accessible. It also requires that those persons who need support receive it when, for example, changing their place of residence. This is regulated in various areas of Swedish legislation. Swedish building legislation contains regulations that demand compliance with substantial technical requirements concerning accessibility and functionality for persons with impaired mobility and impaired ability to orient themselves when erecting or modifying building structures.

58. There is also a requirement for existing buildings that contain premises to which the public have access and existing public places that easily eliminated obstacles to the accessibility and functionality of the premises or places for persons with impaired mobility and impaired ability to orient themselves must be removed. The municipal planning and building committees supervise compliance with this legislation, and individuals can contact them in cases of non-compliance.

59. It is possible to apply for a grant to cover the costs of adaptations to make a home accessible for persons with disabilities. Home adaptation grants are given for those measures that are needed to make a home fully functional for the individual in question.

60. The Act concerning Support and Service for Persons with Certain Functional Impairments governs support in the form of personal assistants and group housing, etc. Under the Act, a person who wishes to change their place of residence can apply for an advance decision on their right to assistance in the municipality to which they want to move. The Social Services Act governs support such as special housing and domestic assistance. Under the Act, individuals have the right to support in the municipality in which they live.

61. The Swedish national action plan for disability policy contains a goal that public transport should be accessible by 2010. To speed up this work, the Swedish Government, in cooperation with the Swedish Association of Local Authorities and Regions (SALAR), has drawn up a strategy for how to achieve accessibility by 2010.

62. In order to deal with the existence of unimplemented decisions that in practice deny many citizens their right to freedom of movement, the Government has extended, in two stages, the county administrative boards' possibilities to impose penalties on municipalities that fail to enforce judgements within a reasonable period of time.

## **Question 12**

63. With regard to the proportion of disabled persons in the labour force, there is a substantial difference between those with a reduced work capacity and those whose capacity to work is not reduced. For example, the employment rate is higher among persons with disabilities but without a reduced work capacity, than among those without disabilities.

64. In 2006 the proportion of persons with disabilities active in the labour force was 67 per cent, compared with 78 per cent of the overall population and 80 per cent of persons without disabilities. A considerably smaller proportion of persons with a reduced work capacity are active in the labour force, with fewer than six in ten (57 per cent) participating. This should be compared to the fact that more than eight in ten persons with disabilities but without a reduced work capacity are active in the labour force (83 per cent). Since 2000, persons with disabilities but without a reduced work capacity have been active in the labour force in the same or greater proportions as persons without disabilities. This suggests that disabilities in themselves do not affect participation in the labour force. The decisive factor is whether or not the disability reduces the capacity to work.

65. Over half of all persons with a reduced work capacity (52 per cent) and eight in ten persons with disabilities but without a reduced work capacity (80 per cent) are employed. In the population as a whole and among persons without disabilities, three in four (75 per cent and 77 per cent respectively) are employed. Just as for the level of participation in the labour force, disabilities in themselves do not negatively affect levels of employment.

66. The trend for unemployment among persons with disabilities and reduced work capacity is an upward one, whereas the trend for other reported groups is now stagnant or in decline. Irrespective of how healthy the labour market is, there will always be a group of persons who find it harder to get into the labour market. This group includes persons with various kinds of disabilities. Despite several good years for the labour market, persons with disabilities have not benefited from this development. It was not until 2007 that the number of openly unemployed persons with disabilities registered with the Swedish Public Employment Service dropped. In March 2008, 18 700 persons with disabilities were registered as openly unemployed with the Public Employment Service, which is a full 23 per cent less than a year ago.

### **Question 13**

67. Under the Social Services Act, everyone who works in social care for the elderly or persons with disabilities, regardless of whether the enterprise is publically or privately run, has a personal responsibility to ensure that persons receive good care and live in safe conditions. Anyone who notices or learns of a serious problem with the care of an individual has an obligation to report it immediately (Lex Sarah contained in the Social Services Act and the Act concerning Support and Service for Persons with Certain Functional Impairments from 2005). The obligation to report applies to both professional carers and volunteers. The matter should be reported to the social welfare committee or, in the case of a private enterprise, to the person responsible for the enterprise. The person responsible for the enterprise must rectify the problem without delay. If it is not rectified immediately, the board or whoever else is responsible for the enterprise has an obligation to report it to the supervisory authority.

68. A proposal is currently being prepared in the Government Offices to regulate coercive measures in special housing to protect persons with dementia. There is a need for legislation because coercive measures are used in practice in a way that is incompatible with current legislation, and the major purpose is to limit the use of coercion. The committee tasked with reviewing the regulations under the Act concerning Support and Service for Persons with Certain Functional Impairments, which submitted its final report on 28 August 2008, proposed that the Government should speedily investigate equivalent regulation of protective measures in enterprises engaged in support, service, social and health care for persons with disabilities. The committee's proposal is currently under preparation at the Government Offices.

69. An investigation of the current supervisory system for social services has shown shortcomings. The Government therefore intends to return to the Riksdag in 2009 with a bill for supervisory reform in the social field. The basis of the reform should be that supervision of social services and health and medical care are merged and coordinated by the National Board of Health and Welfare, that the child aspect of supervision is strengthened, that supervision is clarified and that its effectiveness is increased. The Government is also considering strengthening supervision by introducing additional powers. If so, these would be used as a final

measure when nothing else will rectify the problem. Supervisory functions must also be exercised more often. The Government will therefore consider whether requirements for how often supervision should be exercised should be introduced in some cases.

70. On 1 September 2008 a new, open form of medical care was introduced: open compulsory mental care under the Compulsory Mental Care Act (1991:1128) and open forensic mental care under the Forensic Mental Care Act (1991:1129). The new form of care can be given outside of medical institutions and is conditional on the patient needing to observe special conditions in order to receive the necessary mental care. The intention behind the new form of care is that there should be as few restrictions as possible to an individual's freedom while at the same time giving the health and medical care system a framework to control care outside of medical institutions via set care conditions. This provides better conditions for gradual release and rehabilitation for life outside the medical institution that is tailored to the individual. It is anticipated that the need for repeated admissions to compulsory care will decrease. The restrictions on self-determination, integrity and dignity that the above conditions impose on the patient must be weighed against the possible positive effects for the patient's health and quality of life when he or she is given care in society instead of in a medical institution.

#### **Question 14**

71. The Swedish Government is not considering a mandatory reporting system to monitor the use of electroshock therapy within psychiatric institutions. The Compulsory Mental Care Act and the Forensic Mental Care Act stipulate that coercive measures should be used as careful as possible and with the highest possible consideration for the patient. Coercive measures are regulated in law. However the legislation does not regulate treatment methods within compulsory care beyond in general terms, as stated above. Instead the legislation, e.g. the Health and Medical Services Act (1982:763), states that the patient shall be given individualised information concerning his or her state of health and the treatment methods available. The bill that preceded the legislation on compulsory and forensic care (1990/91:58) stresses the provision in the Health and Medical Services Act that says that care shall as far as possible be designed and conducted in consultation with the patient.

72. The bill also states that care shall be given in accordance with science and proven experience. This restriction limits the accepted treatment. The progress of science and proven evidence is constantly developing and existing treatment methods can be reassessed. This makes it unhelpful to regulate treatment methods in law. Such a regulation could hinder the use of treatment methods that correspond to new evidence and proven experience.

73. Swedish health care is supervised by the National Board of Health and Welfare. This supervision of course includes compulsory and forensic mental care, which must be safe and given in accordance with applicable legislation.

#### **Question 15**

74. During 2006 and 2007 a high number of unaccompanied asylum-seeking children, primarily from China, disappeared from the Swedish Migration Board's special units for

children without custodians. As a result of this, the Border Control Police, Migration Board and Social Services have drawn up a common action plan to handle such situations. The aim of the action plan is to minimize the risk of unaccompanied asylum-seeking children disappearing and becoming victims of trafficking. The action plan lists the measures to be taken by first and foremost the Border Control Police to investigate whether an unaccompanied child is a victim of trafficking, and the measures to be taken when a child has arrived to the housing in a municipality. The action plan emphasizes the importance of co-operation between the authorities and that a plan is established between the responsible officials and the persons in charge in order to have a flexible co-operation and exchange of information between the authorities. The action plan has proven to be an effective tool as cooperation between the authorities has led to the prosecution of the perpetrators in several cases as well as a drop in the number of unaccompanied asylum-seeking children from China.

### **Question 16**

75. According to the Swedish Education Act, all children and young people should have equal access to education. All children should enjoy this right, regardless of sex, place of residence, or socioeconomic background. Consideration shall also be given to pupils with special needs.

76. The Discrimination Act, prohibiting discrimination on grounds of sex, ethnic origin, religion or other belief, sexual orientation or disability in pre-schools, schools and municipal adult education has been in force since 1 April 2006. The Act gives children and pupils legal protection against discrimination and other degrading treatment, such as bullying. The Act covers all activities regulated in the Education Act – pre-school activities and school-age childcare, compulsory school, upper secondary school and municipal adult education.

77. The Act also contains requirements concerning active measures to combat bullying and other kinds of degrading treatment. Educational institutions must make active, targeted efforts to prevent and combat all forms of degrading treatment. Every institution will be required to have an equal treatment plan describing planned measures. The Act gives children and pupils increased rights to damages for both discrimination and other degrading treatment. Damages may be awarded if people in positions of responsibility in the institutions do not adhere to obligations contained in the Act. At the National Schools Inspectorate there is a Child and School Student Representative for equal treatment with special responsibility for the Act.

78. The democratic task of schools and preschools is threefold. The first part is to teach the pupils democracy and fundamental values, which is to a large extent done in the school's conventional teaching. The second part is that schools and pre-schools shall themselves operate democratically, whereby both staff and pupils are empowered and participate in schoolwork and the learning/teaching environment. The third part of the democratic task is to foster democratic members of society able to live and function in a democratic society.

79. The fundamental values system should permeate all activities in schools and pre-schools. This applies to relations between people and how we treat one another, as children, youths and adults. Work with fundamental values is a continually ongoing process that covers all situations in the school. Schools and pre-schools have an important task in counteracting all types of abusive treatment. All school staff must, according to the Education Act, actively work to

counteract negative attitudes and prejudice and to combat traditional gender-patterns. All school staff must be active in working consciously to promote understanding for other people.

80. The Living History Forum (see question 24) has a particular responsibility to promote democracy, tolerance and human rights, and focuses much of its work on children and youth.

81. The Swedish Government decided in June 2008 to invest SEK 110 million in various actions to promote better gender equality in Swedish schools. Focus is on research and educating teachers in gender equality.

82. In order to promote mutual understanding between all linguistic groups in Sweden and particularly to work for respect, understanding and tolerance the Government has undertaken several measures to promote respect and understanding and to raise awareness of national minorities. For example, the curriculum for nine-year compulsory school and upper secondary school states that the school is responsible for ensuring that after completing nine-year compulsory school every pupil has knowledge of the national minorities' culture, language, religion and history.

83. Another example came in December 2000, when the Government launched a national information initiative on the Sami as Sweden's indigenous people and Sami culture, of which language forms an essential part. The aim was to increase awareness of the Sami as Sweden's indigenous people and of Sami culture in Sweden. Another aim was to prevent and combat discrimination. Between 2001 and 2004, the Government made a total of SEK 20 million available for this information initiative.

**Prohibition of torture and cruel, inhuman or degrading treatment, prohibition of slavery, security of the person and the right not to be subjected to arbitrary detention, conditions of detention, expulsion of aliens and right to a fair trial (arts. 6, 7, 8, 9, 10, 13 and 14)**

**Question 17**

84. Chapter 23, Section 10 of the Swedish Code of Judicial Procedure stipulates that any person questioned by the police during a preliminary investigation has a right to have counsel present when giving a statement to the police, provided that this is not to the detriment of the investigation. The right to counsel encompasses, among others, those who are not yet reasonably suspected of having committed a crime but who may become a suspect.

85. As regards the appointment of a public defence counsel, the following should be noted. Chapter 2, Section 3a of the Swedish Code of Judicial Procedure provides that if a suspect under arrest or detained so requests, a public defence counsel – who will receive reasonable compensation from public funds – shall be appointed to him/her by the court. Even if the suspect does not request a public defence counsel, the court shall appoint one if it considers the suspect to be in need of one. The court should consider the appointment of a public defence counsel without delay.

86. According to new legislation that entered into force on 1 April 2008 (Chapter 24, Section 21a of the abovementioned Code) the closest relatives, or any other person with a particular relationship to a person under arrest or detained, shall be notified of the arrest or detention as soon as it is possible without being to the detriment of the investigation. It is the investigation leader who decides at what moment in time it is appropriate to make such a notification, considering the status of the investigation. If the person who is deprived of his or her liberty opposes it, notification should only take place if there are extraordinary circumstances, such as the person being a minor or seriously mentally ill. If the deprivation of liberty ceases, there is no duty of notification. If, for example, it has not been possible to contact a relative and the person is released, the police are not obliged to make a notification.

87. If a party, a witness, or any other person who is to be heard by the court is incapable of understanding or speaking Swedish, an interpreter should be engaged by the court. A formal request for interpretation is not necessary. During the preliminary investigation the same rules regarding interpretation are applied. In practice, this means that interpreters are provided for persons who request one, or who are in need of interpretation.

88. According to the Aliens Act a public counsel shall be appointed for a person who has been held in detention for more than three days. A public counsel shall always be appointed for children held in detention if they do not have a custodian in the country.

### **Question 18**

#### *Effective access to a doctor*

89. Prison inmates have the same right to health and medical care as any other citizen in the country. Since it is safer to bring a doctor to a correctional facility or prison than to allow the inmates to travel to the nearest medical centre/hospital, the Swedish Prison and Probation Service has chosen to employ its own nurses and use its own consulting physicians. This primarily means general physicians, but since such a large percentage of inmates have various kinds of mental disorders or addictions, a number of psychiatrists are also needed.

90. During 2008 the Swedish Prison and Probation Service has taken many and extensive measures to improve suicide prevention and measures to deal with acute illnesses seen in prison inmates. Several million Swedish kronor have been allocated to suicide prevention efforts. For example, over 3 000 employees have participated in an extra, one-day training programme covering issues related to suicide and acute physical illnesses.

*Improved conditions of detention, including prevention of violence among prisoners and ensuring drug-free prisons*

91. The treatment of detained persons is regulated under the Act on the Treatment of Persons Arrested or Remanded in Custody. To avoid isolation and other negative consequences of longer periods spent in a remand prison, the Act contains regulations on such matters as social support, the possibility to associate with other remand prisoners and opportunities for physical activities. The Act states that, as far as it is possible, remand prisoners are to be offered some form of work or occupation during their time on remand.

92. A prisoner is normally allowed to associate with other prisoners during the daytime and have access to television, newspapers and other distractions in his room. These activities can in certain cases be restricted by a decision of the court, along with the remand prisoner's possibilities to stay in contact with the outside world through letters, telephone calls and visits. Even in cases when a prisoner's contact with other prisoners is restricted by a decision of the court, the remand prison can arrange work, education and physical activities on an individual basis.

93. As a result of the Government's focus on measures to combat alcohol and substance abuse, the Prison and Probation Service has established addiction care teams at almost all remand prisons. The teams use the remand period to try to motivate clients to control their addiction, help them get placed in a prison that focuses on treatment, or in treatment under contract care that can help the client recover from the addiction.

94. When starting to serve a sentence in prison, a risk and needs assessment is made. This assessment then forms the basis for decisions made and the activities offered to the prisoner. Prisoners serving a sentence in prison are obliged to take part in prison activities during the daytime. Activities offered are vocational work, education, crime and drug rehabilitation programmes, or other structured activities including self-management.

95. The special anti-drug action in the prison and probation sector has been evaluated by the National Council for Crime Prevention and shows a clear and statistically validated reduction in reoffending among those inmates who have participated in substance misuse care. The evaluation shows that one year after completing their sentence, the reoffending figures for those who have received this treatment are eight percentage points lower than for others.

96. An increasing prison population in the first years of this decade created difficulties for the Prison and Probation Service in offering clients a place in a prison corresponding to their individual risk and needs. Since 2005 a number of new prisons and remand prisons have been built to help the Prison and Probation Service cope with the needs of an increasing prison and remand prison population. Between 2004 and 2007 the Prison and Probation Service has created 1 583 new places. The plan covering the years 2008 to 2011 provides that around 1000 new places will be created.

97. The new establishments brought into use have also given the Prison and Probation Service the possibility to build units corresponding to the needs of disabled prisoners and prisoners in

need of extra care. In a new prison, Salberga, which opened in 2007, a unit with both rooms and staff equipped to take care of those extra needs was built within the prison.

98. In order to strengthen the prisoners' possibilities to maintain close contact with their families while serving a prison sentence, the Prison and Probation Service has taken action in several areas – work that has been carried out in close cooperation with and is officially approved by the Children's Ombudsman.

### **Question 19**

99. An example of the impact of human rights training for police officers in reducing the use of force against suspects is the special policing tactics (For further information regarding this policing tactics see Sweden's sixth report CCPR/C/SWE/6, paras. 62 and 63). The number of reports against police officers in connection with major demonstrations has been reduced in 2007. Although it is too early to draw firm conclusions about the impact, experience so far indicates that these new policing tactics, focusing on dialogue and de-escalation, seem to be positive in reducing the force used by police officers.

100. The employees at the different local police authorities have had continuing professional development in subjects concerning ethnic and cultural diversity and human rights. The National Police Board is involved in new human rights education. The goal is to increase knowledge of ethnic and cultural diversity, human rights and the importance of professional treatment in view of individuals' different cultural backgrounds. This will contribute to reducing the number of reports of discriminatory treatment.

101. The Prison and Probation Service tries to prevent discrimination and harassment by creating an open and non-discriminating working environment, where everyone has the opportunity to contribute and develop his or her skills. One part of the basic education is information about rules and regulations on discrimination and theories about what causes discrimination. The Prison and Probation Service introduced a new training programme for staff in prisons and remand prisons in 2006. This training programme is compulsory for service in prisons and remand prisons. In cases where the Swedish Parliamentary Ombudsman has forwarded criticism stemming from complaints from individuals and cases initiated by the Ombudsman herself, it has been decided that the Prison and Probation Service must review its methods and practices on a regular basis. During 2008 a total of 800 employees (10 per cent) of the Prison and Probation Service participated in education on discrimination and other human right issues.

### **Question 20**

102. According to the records, 214 complaints were filed against the police in connection with the events at the Gothenburg Summit in 2001. Of these complaints, three cases were prosecuted. All three officers tried were acquitted.

103. The Special Investigator appointed by the Government to analyse the system for investigating complaints against police officers presented her report in January 2007. The

Investigator proposed a new special authority for internal investigations, but concluded that the drawbacks of such a system outweigh the benefits.

104. The Swedish Government stated, in line with the Investigator's conclusion, that a well functioning and transparent body could be established within the Swedish Police Services if it was designed in such a way that it can be clearly separated from ordinary operational activities within the police organization. The Government will give the National Police Board, the National Prosecution Services and the Swedish National Economic Crimes Bureau the task of proposing a organizational solution in which the responsibility for investigations of complaints against police officers is located within the National Police Board.

105. In addition, measures have been taken regarding the procedure to be followed in cases of complaints of misconduct by police and prison staff. In December 2005, amendments were made to the Police Ordinance to ensure that the investigation of complaints against police employees is independent, prompt and effective. According to these amendments, criminal charges brought against police employees are to be immediately handed over to a prosecutor at the National Police-related Crimes Unit, which is a special unit of the Swedish Prosecution Authority, for preliminary investigation. The same applies if a person has been seriously injured either by actions taken by a police employee on duty or during a stay in police custody.

106. The National Police-related Crimes Unit was established in 2005. It is a separate unit with the task of investigating complaints against police officers and employees within the public prosecution service. The National Police-related Crimes Unit has specially appointed prosecutors to work with this kind of case. The interrogation of a police employee is to be conducted by the leader of the preliminary investigation or a police officer who works at one of the special police units. The interrogation must not under any circumstances be conducted by a police officer who works at the same police authority as the person being questioned. Cases of complaints against police employees are handled in separate records within the police authorities. Such cases are to be handled with all possible speed.

### **Question 21**

107. Sweden has no established practice of using diplomatic assurances concerning persons expelled from Sweden for security reasons. The only time diplomatic assurances have been used in such cases were in the well-known cases of the two Egyptian citizens Ahmed Agiza and Mohammed Alzery. Other than in those cases, the issue has not been raised and Sweden has not obtained or tried to make use of diplomatic assurances in any other case concerning persons expelled from Sweden for security reasons. However, it cannot be excluded that making use of diplomatic assurances might be necessary in expulsion cases in exceptional circumstances.

### **Question 22**

108. Accelerated procedures, i.e. when certain claims are treated faster than others, are used in cases where the asylum claims are clearly without grounds, known as manifestly unfounded cases (under Chapter 8, Section 6 of the Swedish Aliens Act [2005:716]). In such cases the Migration Board reaches a decision within three months. In these cases the Migration Board has

the right to deport the person regardless of whether the decision has gained force of law. However, the asylum-seeker still has a right to appeal the decision to the migration courts and to the Migration Court of Appeal. The remedy shall have suspensive effect if asylum-seekers submit an arguable claim that the execution of the negative decision could lead to the risk of the death penalty, torture etc.

109. With reference to the Secrecy of Aliens in Chapter 7, Section 14 in the Swedish Secrecy Act (1980:100) the migration courts often decide to hold oral proceedings behind closed doors in asylum cases and to classify some information in judgements, often based on the political activity, religious belief or sexual orientation of the aliens. Information on the asylum-seeker's identity may also be classified. Since the introduction of the reform in March 2006, resulting in a more transparent asylum procedure, there has been a difference in the migration courts' practices concerning the application of the provisions in the Secrecy Act. A Special Investigator was appointed by the Government in August 2007 to evaluate the reform. He presented a first report concerning the Swedish Secrecy Act in June 2008. The Special Investigator proposed changes to the Secrecy Act to give the courts greater possibilities to classify information concerning the asylum-seeker's identity. As a result of this change the courts will have greater possibilities to account for the court's findings without the risk of exposing the asylum-seeker to any danger. This satisfies the interest of maintaining transparency in the activities of the courts and at the same time preserves the secrecy of asylum-seekers' claims.

110. The Swedish National Courts Administration has conducted an inquiry among staff at the migration courts and the Migration Court of Appeal. According to the inquiry, no request from an applicant regarding a closed hearing has ever been denied. However, it may be noted that the court must estimate whether the circumstances put forward during a closed hearing should remain secret. In some cases the courts have found that there is no reason to keep the information secret.

111. As a main principle, the asylum-seeker has access to all information presented in his/her case. If there are extraordinary circumstances the asylum-seeker can be denied total access. This exception is used only if it is extremely urgent due to public or individual interests. If denied full disclosure of a document, the asylum-seeker is informed of the content but not the specific details, provided that this does not seriously damage the interest protected by the secrecy provisions. As a minimum the asylum-seeker is always granted sufficient information to enable him/her to pursue his/her claim. The possibility to withhold certain information mainly applies in situations concerning personal security, where police methods, analyses and gathered information must be protected or if the information originates from a preliminary police investigation.

**Right to privacy and family, freedom of religion, freedom of thought and expression, and prohibition of hate crimes (art. 17, 18, 19 and 20)**

**Question 23**

*Measures to prevent serious crimes*

112. In November 2007, the Riksdag adopted an Act (2007: 979) on the Use of Measures to Prevent Certain Serious Crimes. The Act came into force on 1 January 2008.

113. The police are able to use four different measures (covert interception of telecommunications, covert telecommunications surveillance, covert camera surveillance and covert monitoring of post) in their task of preventing criminal activity if this includes certain serious crimes involving public danger, crimes of lese-majesty, crimes against the security of the State or terrorist crimes. The measures may also be used to prevent murder, manslaughter, gross assault, kidnapping or unlawful deprivation of liberty with the intention of forcing a public body or journalist to take measures, refrain from measures or take revenge for measures.

114. The measures may only be used if, with regard to the circumstances, there is special reason to assume that a person is going to commit a criminal activity which includes one of the abovementioned crimes, the measure is of particular importance to prevent such a crime and the reasons for the measure outweigh the consequences of the intrusion or other detriment to the person in question or to an opposing interest.

115. The Act governs the telecommunication addresses on which covert interception of telecommunications and covert telecommunications surveillance may be used and the places in which covert camera surveillance may be used.

116. In addition to this, the Act contains several safeguards to guarantee that the measure is used correctly and only when it is absolutely necessary. Only a court of law can permit the use of these measures and this upon a request made by a public prosecutor. The court's decision should specify the duration, which may not be longer than necessary or exceed one month. The decision can be prolonged. Conditions for satisfactory controls by the courts are improved by the stipulation that public counsels are to watch over the individuals' integrity. There are also restrictions relating to the use of accidentally discovered information relating to other impending crimes and committed crimes.

117. A person who has been subject to a measure because the criminal authorities have tried to prevent murder, manslaughter, gross assault, kidnapping or unlawful deprivation of liberty should normally be notified about the measure. The notification can be postponed if the information is classified as secret. If the information is still classified as secret a year after the case in which the measure was conducted is closed, the notification may be omitted. Instead the Commission on Security and Integrity Protection shall be notified about the omitted notification.

### *Covert bugging*

118. In November 2007, the Riksdag also adopted an Act (2007:978) on Covert Bugging. Covert bugging may be used in preliminary investigations concerning: (a) crimes punishable by imprisonment for at least four years; (b) certain other serious crimes, such as aggravated drug crime and trafficking, if it can be assumed in view of the circumstances that the offence will carry a penalty of more than four years' imprisonment; (c) attempt, preparation or conspiracy to commit such a crime. It may only be used if someone is reasonably suspected of one of these crimes, the measure is of particular importance to the investigation and the reasons for the measure outweigh the consequences of the intrusion or other detriment to the suspect or to an opposing interest. Covert bugging is thus only permitted to investigate a criminal offence, not to prevent it.

119. Covert bugging may only be conducted in a place where there is special reason to assume that the suspect will spend considerable time. Some places and conversations are especially protected against covert bugging. For example, covert bugging may never be carried out in newspaper offices, law offices or places used for confession. A conversation between a counsel for the defence and his or her client, or a conversation where a journalist is not allowed to reveal his or her source of information, may never be subject to covert bugging.

120. In addition to this, the Act contains several safeguards to guarantee that the measure is used correctly and only when it is absolutely necessary. For example, covert bugging may only be carried out if authorised by a court of law following a request made by a public prosecutor. The court's decision should specify the duration, which may not be longer than necessary or exceed one month. The decision can be prolonged. Conditions for satisfactory controls by the courts are improved by the stipulation that public counsels are to watch over the individuals' integrity. There are also restrictions relating to the use of accidentally discovered information relating to other crimes.

121. A person who has been subject to covert bugging should normally be notified about the measure. The notification can be postponed if the information is classified as secret. If the information is still classified as secret a year after the case in which covert bugging was used is closed, the notification may be omitted. Instead the Commission on Security and Integrity Protection shall be notified about the omitted notification.

### *Enhanced supervision of the use of coercive measures*

122. In November 2007, the Riksdag adopted an Act (2007:980) on Supervision of Certain Crime-Fighting Activities. The Act came into force on 1 January 2008. At the same time a new commission – the Commission on Security and Integrity Protection – was established. The Commission shall supervise the use by crime-fighting agencies of covert surveillance and qualified assumed identities and associated activities. This supervision shall aim in particular at ensuring that these activities are conducted in accordance with laws and other regulations. At the request of an individual, the Commission is obliged to check whether he or she has been the subject of covert surveillance and whether the use of covert surveillance and associated activities complied with laws and other regulations. The Commission shall notify the individual that the check has been carried out.

*Proposed legislation on covert surveillance*

123. Signals intelligence may be collected as part of defence intelligence operations under the Defence Intelligence Act, that is to say, in support of Swedish foreign, security and defence policy and otherwise so as to chart external threats to the country. Due to technological developments, the Government proposed legislation that allows the collection of communications transmitted via cable. On 18 June 2008, the Riksdag approved the Government's proposal for a new Signals Intelligence Act, but stated that the Government was expected to return as soon as possible with certain additions concerning issues such as the forms for issuing permits and certain enhanced control mechanisms. The Government plans to submit proposals to this effect.

124. Intelligence collection via cable may only apply to signals that are transmitted beyond the Swedish border. In addition, this intelligence is always to be collected in an automated way with the help of search terms. Search terms are to be designed and used in such a way that they cause as little infringement as possible of people's personal integrity. Search terms may not be directly attributable to a specific natural person as long as this is not of exceptional importance to operations. The purpose of operations is specifically to chart phenomena that are of interest to defence intelligence, not to chart the actions of individual people. One consequence of this is that it is clearly stated in the Act that directions for signals intelligence may not apply exclusively to a natural person.

125. The Swedish Intelligence Commission is to verify compliance with the Act and there is to be a Privacy Protection Council at the National Defence Radio Establishment with the task of conducting continuous supervision of the measures taken to safeguard privacy protection in signals intelligence collection. The members of this Council are to be appointed by the Government.

126. The Swedish Intelligence Commission is to verify compliance with the Act – in particular concerning search terms, the destruction of data and the rule that only permissible data is reported. The Commission will have the power to decide that certain intelligence gathering must cease or that information gathered must be destroyed if the intelligence has not been gathered in accordance with the law. There is also to be a Privacy Protection Council at the National Defence Radio Establishment with the task of conducting continuous supervision of the measures taken to safeguard privacy protection in signals intelligence collection. The members of this Council are to be appointed by the Government.

**Question 24**

127. The Swedish Security Police monitors and counters Swedish extremist environments that could pose a threat to democracy. The Government has invested substantial resources in the Security Police over the last few years with a view to increasing counter-subversion measures to monitor and counter Swedish extremist environments.

128. The Living History Forum is an agency with a special national responsibility to promote democracy, tolerance and human rights, using the Holocaust as its starting point. The Living History Forum's aim is to increase willingness to work for the equal dignity and rights of all people. The Living History Forum as a whole focuses on reducing intolerance in Swedish society. Its work is done against a historical backdrop, including the Holocaust and other crimes against humanity.

129. The Forum regularly measures intolerance among young people in Sweden against various minority groups. This gives an overall picture of the situation and any changes to it, and provides agencies and other actors in this area with both knowledge and a basis for measures. A new survey will be published at the end of 2009/beginning of 2010. The most recent survey, published in 2004, also looked at neo-Nazi activities and the spread of 'white power' music. The Living History Forum website has a special section containing material concerning 'white power' music. Material is also planned for 2009 on organised intolerance, which will look at this aspect, among others.

130. The Living History Forum also works very actively to disseminate information and knowledge about intolerance against the Roma, Jews, Muslims and LGBT people. Seminars for teachers will be held in 2009, along with debates and other seminars, and material will be produced to complement earlier publications. There will be a particular focus on disseminating knowledge of the historical and current situation of the Roma. A number of interviews with Roma people will be published in which they talk about their experiences of both the Nazi regime in Germany and the oppression and intolerance they suffered in Sweden in the twentieth century.

131. The number of legal proceedings for agitation against a national or ethnic group is small in comparison to the number of cases reported. In Sweden's latest report to CERD reference is made to the fact that many of these offences concern graffiti, messages and various types of offensive conduct that can never be connected to an individual or even a group of individuals, meaning that there is usually no real possibility of investigating these crimes (CERD/C/SWE/18, paras. 18–32). As yet there has been no evaluation of the hate crimes line.

### **Rights of persons belonging to minorities (art. 1 and 27)**

#### **Question 25**

132. The municipalities in Sweden have a large degree of autonomy. This means that it is not possible to prescribe in detail how they should deal with a matter. In terms of the exercise of public authorities in a municipality, they are of course bound by the same rules that apply to all authorities in Sweden. The issue of effective Sami participation in the decision-making process is being considered in the bill on Sami policy due in March 2010.

133. The Government has given the Sámi Parliament the task of compiling a draft handbook for how municipalities and other public administrations can draw more attention to the Sámi language in practice, improve the Sámi language skills of employees and increase the general public's use of Sámi in contacts with municipalities and other administrations. The handbook was presented to the Government in January 2008. The Sámi Parliament has also initiated a drive

to establish contact with municipalities in the South Sámi region in order to disseminate information about Sámi as a national minority language and offer the municipalities support and help on the issue.

### **Question 26**

134. The Sami Parliament has taken over a large number of tasks related to the administration of reindeer husbandry from the Swedish Board of Agriculture and the county administrative boards. The Sami Parliament is now the central administrative authority for reindeer husbandry. This means that the Board no longer handles any tasks in this area. The county administrative boards still decide on the maximum number of reindeer permitted and various land leases. A proposal to transfer these tasks as well received strong criticism at consultation, and it was judged that they were difficult to transfer because many aspects involve the exercise of public authority in relation to third parties. This would mean that the organization of the Sami Parliament would probably have to be changed to permit influence from non-Sami. This was seen as too great a change, and in any case there was no complete proposal concerning this part of the inquiry. The first step was therefore the reform that was implemented. This will be evaluated, and then hopefully be followed by further reforms intended to increase Sami influence in issues that directly affect them.

135. The Ministry of Agriculture deals with Sami issues because it deals with reindeer husbandry issues. Just like farming, reindeer husbandry is regarded as an agricultural industry. Reindeer husbandry is also perhaps the most important component of the Sami culture, together with language. Reindeer husbandry issues have formed the bulk of the subject matter of Sami policy inquiries in areas such as hunting and fishing, the boundaries for reindeer husbandry areas, etc. Land issues can be regarded as the most difficult to resolve in the area of Sami policy, and this is why it has been deemed appropriate for the same authority to deal with reindeer husbandry issues and Sami issues. However, the Ministry of Agriculture has no responsibility for Sami school issues or for language issues or Sami culture. These are handled by the relevant ministries.

### **Question 27**

136. The Boundary Delimitation Committee's report and the Hunting and Fishing Rights Inquiry will be dealt with in the upcoming Sami Bill. The annual meeting of the Finnish, Norwegian and Swedish ministers responsible for Sami issues and the presidents of the Sami parliaments was held in Helsinki on 12 November 2008. Matters discussed at the meeting included the continuing preparation of a Nordic Sami convention. It was agreed to continue the process during the Norwegian Presidency in 2009. A proposal will then be drafted on how to negotiate a Nordic Sami convention. Emphasis will be placed on the process, participation and basis for negotiation, as well as the timetable of topics for negotiation.

## Question 28

137. The Government presumes with respect to this question that the Committee is referring to the specific national minority language legislation, the Acts (1999:1175 and 1999:1176) concerning the right to use Sámi, Finnish and Meänkieli in dealings with public authorities and courts. These language laws came about as a consequence of Sweden's ratification of the European Framework Convention for the Protection of National Minorities (Framework Convention) and the European Charter on Regional or Minority Languages (Language Charter). The Swedish Government's work to improve the implementation of the Language Charter and the Framework Convention is an ongoing process.

138. The language laws concern the right to use Sámi, Finnish or Meänkieli in dealings with public authorities and courts on matters related to the exercise of public authority and also the right to pre-school and elderly care wholly or partly in one of these three languages. The application of these laws is limited to certain geographical areas where Sámi, Finnish and Meänkieli have a long tradition, the administrative districts consisting of seven municipalities in Norrbotten, namely Arjeplog, Gällivare, Jokkmokk, Haparanda, Kiruna, Pajala and Övertorneå.

139. The Norrbotten County Administrative Board has the task of monitoring the application of these Acts and is also responsible for distributing government grants to municipalities and county councils in accordance with the Ordinance (2000:86) on government grants for measures to support the use of Sámi, Finnish and Meänkieli. The County Administrative Board reports annually to the Government on how government funding is being distributed to municipalities and county councils and on the results and costs of regional initiatives.

140. Information to the general public concerning these Acts is given on the Norrbotten County Administrative Board website, the Government's website and the Government's human rights website. The Government has also produced a brochure on the Acts and a fact sheet on the national minorities and minority languages, both of which are still being distributed free of charge.

141. In the budget bill for 2009 the Government proposes that a Government bill on a reformed policy on national minorities will be presented to the Riksdag in March 2009. The aim is to present solutions for improved possibilities for the use of national minority languages with public authorities and courts.

142. Alongside this, children from the national minorities have the right to study their minority languages in school, no matter where in the country they live. Mother-tongue instruction and bilingual instruction play an important role in supporting and strengthening the minority languages.

143. The Sámi people are acknowledged both as a national minority and as an indigenous people. Within a certain geographical area, Sámi children have the right to undertake their compulsory school attendance in Sámi schools instead of regular compulsory schools. The education in Sámi schools has a Sámi angle and comprises years 1–6. The education corresponds to the first six years of compulsory school. Sámi children can also obtain an integrated Sámi education in their compulsory school if they wish.

144. In order to increase the number of minority language teachers, the Swedish Government has commissioned the Teacher Education Inquiry (U2007:10) to propose new degree requirements for the teacher education degree for teachers of minority languages. Luleå University of Technology has a special assignment to offer teacher education directed towards Sámi, Meänkieli and Finnish language teaching in primary and secondary school. The teacher education directed towards minority language teaching is a specialisation within the ordinary teacher education programme. This means that the Government has gone one step further and decided that this education is especially important.

145. As an addition to the Sámi, Finnish and Meänkieli language education being offered as a special assignment by certain universities, in 2006 the Government initiated and financially supported higher education in Jiddish and Romani chib. As a result, higher education in all minority languages is now being offered by several different higher education institutions.

### **Dissemination of information relating to the Covenant and the Optional Protocol (art. 2)**

#### **Question 29**

146. Information about the Covenant and the Optional Protocol can be found on the Swedish Government's human rights website at [www.manskligarattigheter.se](http://www.manskligarattigheter.se). The website includes various forms of information regarding human rights issues including Swedish reports to the various international bodies that review individual States' observance of human rights as well as concluding observations from such bodies. A project was started in 2006 aimed at further adapting the website for people with disabilities and translating sections to minority languages spoken in Sweden. The website is an important tool for the Swedish Government to spread information about human rights issues. More than 50 000 people visit the website each month, including public officials, students and the public at large. Sweden is one of the most computer dense countries in the world. A computer can be found in private homes always as often as a radio or a television set. Of persons born in Sweden 84 per cent use the Internet on a regular basis. The corresponding number for persons born outside of Europe is 75 per cent. Human rights issues are addressed on a regular basis within the National Police, the National Courts Administration and the Prison and Probation Service in their education programmes. Education in human rights is obligatory for all new prosecutors. In addition, the Centre of Excellence in Malmö has arranged seminars on Human Rights issues.

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