

## INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS



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### CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

#### Initial reports of States Parties due in 1977

#### Addendum

SWEDEN

[ 21 March 1977 ]

1. It should be recalled that the Swedish instrument of ratification relating to the Covenant was deposited on 6 December 1971. The Covenant entered into force for Sweden on 23 March 1976.

The Swedish ratification did not require the enactment of new legislation. Reservations were, however, made to the third paragraph of article 10, the seventh paragraph of article 14 and the first paragraph of article 20. The scope of these reservations will be further clarified in this report.

It should, furthermore, be recalled that Sweden has, in accordance with article 41 paragraph 2 of the Covenant, recognized the competence of the Human Rights Committee to receive and consider communications to the effect that a State Party may claim that Sweden is not fulfilling its obligations under the Covenant. Sweden has also ratified the Optional Protocol to the Covenant, thereby recognizing the competence of the Committee to receive and consider communications from individuals who claim to be victims of a violation by Sweden of any of the rights set forth in the Covenant. The recognition was made on the understanding that the Committee shall not consider any communication from an individual, unless it has ascertained that the same matter is not being examined or has not been examined under another procedure of international investigation or settlement.

2. Before comments are made on the implementation of the individual rights contained in Part III of the Covenant, some remarks will be made with regard to the general provisions of articles 2 and 3 of the Covenant.

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(i) In respect of the first paragraph of article 2, it should be mentioned that chapter 1 section 9 of the Swedish Constitution contains a prohibition against discriminatory treatment by courts and administrative authorities. The provision reads (translation into English):

"Courts as well as administrative authorities and others performing tasks within the public administration shall in the exercise of their functions have regard to the equality of all persons before the law and maintain impartiality and objectivity."

This provision is supplemented by a provision in chapter 2 sections 15 and 20 of the Constitution prohibiting the enactment of any laws and regulations which would treat citizens and aliens differently by reason of their race, colour or ethnical origin. Section 15 reads (translation into English):

"No law or other regulation may imply that a citizen is treated unfavourably because he, by reason of his race, colour or ethnical origin, belongs to a minority."

According to section 20, aliens in Sweden have the same status as Swedish citizens with regard to the protection offered by section 15.

(ii) As to the second paragraph of article 2, Sweden basically adheres to the principle that international agreements do not automatically become part of Swedish law. This also applies to the Covenant.

The traditional technique used in Sweden to implement an international agreement is to lay down equivalent provisions in an independent Swedish statute. However, this is not necessary in cases where Swedish law already contains provisions which satisfy the requirements of the agreement. As regards the individual rights contained in Part III of the Covenant, the Swedish Government, when submitting the Covenant to the Parliament for approval, took the view that existing Swedish law, save on the three points where a reservation was made, was in full accord with the obligations which were to be assumed by Sweden under the Covenant. This view was shared by the Parliament.

In this connection, it should also be noted that, according to chapter 8 section 3 of the Constitution, provisions concerning the relations between private subjects and the community which concern obligations incumbent upon private subjects or which otherwise interfere in the personal or economic affairs of private subjects shall be laid down by law. Such provisions are, among others, provisions on criminal offences and the legal effects attached to criminal acts.

(iii) With regard to the third paragraph of article 2, reference may again be made to chapter 2 section 9 of the Constitution which prohibits

discriminatory treatment by courts and administrative authorities; the text is reproduced under (i) above.

Swedish law offers a variety of remedies for the protection of the interests of the individual. Chapter 11 section 1 of the Constitution provides that the Supreme Court is the highest court of general jurisdiction, and the Supreme Administrative Court is the highest administrative court. The right to have a case tried by the Supreme Court or by the Supreme Administrative Court may be restricted by law. According to the same section, a court other than the Supreme Court or the Supreme Administrative Court cannot be instituted except through a law. Moreover, chapter 2 section 11 of the Constitution lays down a prohibition against the institution of a court for an act already committed or for a particular dispute or otherwise for a particular case.

The existing Swedish courts of general jurisdiction are the courts of first instance, the courts of appeal and the aforementioned Supreme Court. As courts for administrative matters, regional administrative courts and general administrative courts of appeal have been instituted in addition to the aforementioned Supreme Administrative Court. There are also courts relating to special matters, insurance and unfair competition.

In this connection it might be appropriate also to explain in a few words the judicial mechanism existing in Sweden to ensure the effective exercise of the right of individuals to seek redress.

If a person alleges that he has been subjected to illegal practices, his allegations can be submitted to a public prosecutor for an investigation. However, the public prosecutor is also as a rule obliged *ex officio* to undertake such an investigation if there are reasonable grounds to believe that an offence has been committed. If the public prosecutor arrives at the conclusion that an offence has been committed, he will normally institute criminal proceedings before a court. If he decides not to prosecute, the alleged victim is free to institute criminal proceedings on his own.

A person who considers that he has been subjected to illegal practices by a public official can also submit a complaint to the Parliamentary Ombudsman, who will then investigate the matter and, if need be, take appropriate action against the official concerned including the institution of criminal proceedings. He may also, *inter alia*, propose a settlement of a claim for damages. Complaints may likewise be submitted to the Chancellor of Justice, who is appointed by the Government but whose functions are in this respect similar to those of the Parliamentary Ombudsman.

According to chapter 22 section 1 of the Code of Judicial Procedure an individual may, in connection with criminal proceedings for an offence, bring an action for damages in consequence of the offence. If the individual claim for damages is based on an offence in respect of which the public

prosecutor makes an investigation ex officio, he is obliged at the request of the party concerned to prepare and present that party's claim, provided that this can be done without inconvenience and the claim is not considered ill-founded (section 2). In case an action for damages may be based on the offence, the investigating officer or the public prosecutor shall so inform the party concerned well in advance of the bringing of criminal charges against the suspect (section 2). If the action for damages is not taken up together with the criminal proceedings, either because the public prosecutor decides not to bring action for the damages or because the court decides that the matter be dealt with separately, the civil claim shall be dealt with in accordance with the rules governing civil proceedings (sections 1 and 5). If a separate action for damages is brought against the suspect in the criminal proceedings the court may, on the other hand, decide that the civil and criminal proceedings be joined together (section 3).

(iv) In respect of article 3 of the Covenant reference should be made to chapter 2 section 16 of the Constitution, which lays down the principle of equality between men and women. The provision reads (translation into English):

"No law or other regulation may imply that a citizen is treated unfavourably by reason of sex, unless the provision is part of the efforts to achieve equality between men and women or relates to compulsory military service or a corresponding compulsory service.."

According to section 20 of the same chapter aliens have the same status as Swedish citizens with regard to the protection offered by section 16. In this connection reference should also be made to the protection from discriminatory treatment by courts and administrative authorities offered by chapter 1 section 9 of the Constitution (see (i) above).

3. Chapter 2 of the Constitution guarantees certain freedoms and rights. The various provisions will be reproduced in connection with the separate articles in the Covenant under 4 below.

Some of the rights are what may be called "unwavering" rights, i.e. rights that cannot be restricted by a law adopted by the Parliament. Other rights may be restricted by law or, where authorized by law, by other regulations. The extent to which such restrictions are permissible is determined by chapter 2 section 12 of the Constitution, which reads (translated into English):

"The rights and freedoms set out in section 1, paragraphs 1-5, and in sections 6 and 8 as well as in section 11, second paragraph, may to the extent permitted by sections 13-16 be limited by law or, with authorization by law, by other regulation in accordance with chapter 8, section 7, first paragraph, subparagraph 7, or section 10.

A limitation referred to in the first paragraph is permitted only to the extent necessary to satisfy a purpose which is acceptable in a democratic

society. The limitation shall never go beyond what is necessary in view of its purpose, nor shall it extend so far that it constitutes a threat against the free formation of opinions as one of the cornerstones of democracy; a limitation shall not be made solely on the ground of political, religious, cultural or any other such opinion."

4. The following comments deal with the manner in which Swedish law ensures the implementation of the individual rights and freedoms recognized in Part III of the Covenant.

Article 6. The use of the death penalty in peace-time was abolished in 1921. The corresponding reform with regard to war-time was realized in 1973. The Swedish Constitution now contains the following general prohibition against the death penalty in chapter 2 section 4 (translation into English):

"The death penalty shall not occur".

The right to life is also protected by provisions in chapter 16 of the Penal Code on crimes against life and health, in particular the provisions on murder (section 1), manslaughter (section 2) and infanticide (section 3).

It should be recalled that Sweden has ratified the Convention on the Prevention and Punishment of the Crime of Genocide.

Article 7. The basic provision on the protection from torture and other cruel, inhuman or degrading treatment or punishment is to be found in chapter 2 section 5 of the Constitution, which provision reads (translation into English):

"Every citizen is protected from corporal punishment. He is also protected from torture and from being medically influenced for the purpose of extorting or preventing statements."

According to section 20 of the same chapter, aliens in Sweden have the same status as Swedish citizens with regard to the protection offered by section 5.

Protection from torture and other cruel, inhuman or degrading treatment or punishment is also offered by certain provisions of the Penal Code, in particular the provisions on assault (chapter 3 section 5), aggravated assault (section 6), unlawful coercion (chapter 4 section 4) and unlawful threat (section 5).

Furthermore, in addition to these provisions of a basic and general nature, there are also provisions of a certain relevance in inter alia the Act (1974:203) on institutional treatment of offenders and the Act (1976:371) on the treatment of detained and arrested persons and others. A detained person shall be treated in such a way that harmful effects of the deprivation of liberty is avoided, and the convicted prisoner shall be treated with respect for his human dignity.

Article 8. The provisions in chapter 2 of the Swedish Constitution on the protection of every citizen from corporal punishment (section 5; reproduced under article 7 above) and on the protection of every citizen in relation to the community from forced corporal interference also in other cases than those referred to in sections 4 and 5 (section 6) constitute, together with the safeguards surrounding cases of deprivation of liberty (section 8; see under article 9 below, the constitutional guarantees against slavery and the slave-trade, servitude, and forced or compulsory labour. These provisions are mutatis mutandis applicable to aliens in Sweden (section 20). The freedom of movement guaranteed by section 8 (see under article 12 below) is no doubt also a guarantee for the rights set out in article 8. Further protection is offered by chapter 4 of the Penal Code on crimes against liberty, in particular the provisions on kidnapping (section 1), unlawful deprivation of liberty (section 2) and placing a person in a distressful situation (section 3).

In Sweden, duty according to law to perform work is prescribed for certain situations, but this duty is in conformity with the provisions of paragraph 3(b) and (c) of the article. In the first place, it is connected with certain forms of deprivation of liberty. Secondly, it occurs as a civic obligation with a view to protecting either the country or the community against certain dangers or to ensuring that certain more qualified tasks will be discharged.

A duty to work in connection with deprivation of liberty occurs above all during the enforcement of a sentence on imprisonment. According to section 12 of the Act (1974:203) on institutional treatment of offenders, a convicted prisoner is obliged to perform the work he is requested to do. When someone, in connection with a sentence on probation, conditional release from prison, youth imprisonment or internment, is subjected to care outside the institution, provisions may be made also with regard to his employment (chapter 26 section 15, chapter 28 section 6, chapter 29 section 7 and chapter 30 section 10 respectively of the Penal Code).

Two other forms of deprivation of liberty also entail a duty of work. The Act (1964:450) concerning anti-social behaviour which is prejudicial to the community, thus, provides for intervention in case of a person failing to endeavour to the best of his ability to gain an honest living and leading such an asocial life so as to be manifestly prejudicial to public order or security. The ruling to admit a person to an occupational institution is made by the court at the request of the public prosecutor (section 2). In such an institution there is a duty to work (section 20). The other form relates to the Temperance Act (1954:579). Alcoholics can on certain conditions be forcibly committed to public institutions for treatment after a ruling by the regional administrative court. Anyone admitted to such an institution is obliged to discharge the work allotted to him in keeping with the treatment he is undergoing (section 43).

The most prominent form of civic duties is the military service. According to the Conscription Act (1941:967) Swedish men between the ages of 18 and 47 years are liable to military service. The Act (1966:413) on service by conscientious

objectors enables conscripts to perform their service without bearing arms, if the use of arms against other persons is contrary to the sincere personal convictions of the conscripts and would entail severe problems of conscience for them (section 1). The non-combatant conscripts shall serve in a manner useful to society (section 2). The other laws providing for a general obligation to discharge certain vital functions are the 1960 Civil Defence Act (section 12), the 1959 National Service Act (section 8), the 1973 Fire Prevention Act (section 12) and the 1960 Act on protective measures in connection with accidents in atomic energy plants (section 6).

There is an obligation for all citizens to assume certain qualified positions of trust, although volunteers can as a rule be recruited to these positions. In principle, however, an obligation exists to accept above all certain municipal duties. The Local Government Act (1953:753) entitles persons aged 60 and over to decline membership of a local council. Otherwise, membership may only be declined on account of some impediments recognized by the council. The same applies to memberships of local boards and committees, for instance child welfare committees, temperance and election boards. There is also, in principle, a duty to accept positions as lay judges and public trustees as well as the guardianship of minors or trusteeship on behalf of persons incapable of managing their own interests. The respective laws lay down the conditions on which a person may decline to accept these tasks.

#### Article 9.

(i) The basic protection of the rights referred to in this article is offered by chapter 2 sections 8 (first sentence) and 9 of the Constitution. Section 8 reads (translation into English):

"Every citizen is in relation to the community protected from being deprived of his liberty. He is also otherwise ensured the freedom to move within the country and to leave it."

In accordance with section 20 of the same chapter aliens in Sweden enjoy the same status as Swedish citizens with regard to the protection from being deprived of their liberty, unless otherwise provided by law. The basis for such exceptions is to be found primarily in the Aliens Act (1954:193). Section 1 of the Act provides, however, that in the application of the Act, due care shall be taken so that the alien is not restricted in his freedom to a greater extent than is deemed necessary in each case.

Under certain circumstances deviations may be made from the norms laid down in section 8 (see under 3 above). Such restrictions have to be based on law and consequently they are - as are the exceptions permitted by section 20 - in full accord with the first paragraph of article 9.

Section 9 reads (translation into English):

"If an authority other than a court has deprived a citizen of his liberty by reason of an offence or suspicion of an offence, he shall have the possibility of having the case considered by a court without undue delay. This does not, however, apply in cases of the transfer to the Realm of the enforcement of a sanction on deprivation of liberty, which has been pronounced in another State.

If a citizen has forcibly been taken into custody for any other reason than the one referred to in the first paragraph, he shall likewise be allowed to have his case considered by a court without undue delay. In that case, equal to the consideration by a court shall be consideration by a board, if the composition of the board is determined by law and the chairman of the board shall be or have been a permanent judge."

With regard to the right referred to in the first paragraph of section 9, aliens in Sweden enjoy the same status as Swedish citizens. The same applies to the right referred to in the second paragraph of the same section, unless otherwise provided by law. Such exceptions from the general rule are laid down in the Aliens Act (1954:193).

The provisions of chapter 4 of the Penal Code referred to under article 8 above constitute a further safeguard of the rights inscribed in Article 9 as do the provisions of chapter 15 of the Penal Code, in particular the provisions on perjury (section 1), false prosecution and unjustified prosecution (section 5), false accusation and unjustified accusation (section 6), false incrimination and careless incrimination (section 7) as well as tampering with evidence (section 8).

(ii) Anyone arrested on a criminal charge shall, according to chapter 24 section 9 of the Code of Judicial Procedure, be informed of the offence he is suspected of having committed. The preliminary investigation having proceeded so far that someone is suspected on reasonable grounds of having committed the offence, he shall be informed accordingly (chapter 23 section 18). Formal charges must not be brought against the suspect before he or his defender has had a possibility to study the results of the preliminary investigation.

If anyone has been forcibly taken into police custody for a reason other than a criminal charge, he shall as soon as possible be informed of the reasons for his arrest (section 6 of the Act (1973:558) on provisional custody).

(iii) Chapter 24 section 7 of the Code of Judicial Procedure provides that the taking into police custody of a person suspected of having committed an offence shall be promptly reported to the competent arresting authority. Upon the completion of the interrogation, this authority shall decide whether to release him or not. No one is obliged to remain in police custody without a formal warrant of arrest for more than six hours or, under special circumstances, twelve hours (chapter 23 section 9). A request for the formal



detention of the suspect shall be submitted to the court not later than the day following the arrest, under special circumstances within five days of the day of the arrest. If that is not done, the person interrogated shall be released.

A person awaiting trial on a criminal charge shall be detained in custody, if the court is satisfied that he is suspected on reasonable grounds of having committed an offence of a certain gravity, in general an offence with regard to which imprisonment for one year or more may be imposed, and that the other requisites of the Code of Judicial Procedure are fulfilled. The court will, thus, take into consideration inter alia the nature of the offence, the risk of the suspected person absconding for the purpose of evading prosecution or punishment or destroying evidence or if there are reasons to believe that he will continue criminal activities (chapter 24 section 1). Special provisions apply in respect of young and sick persons as well as of pregnant women and women who have recently given birth to a child (section 3).

The system of bail or other financial guarantees for the purpose of securing appearance at trial, etc., does not exist in Sweden.

(iv) An appeal may be lodged against a decision by a court to detain a person in custody on a criminal charge. In respect of other forms of deprivation of liberty, which are not decided upon by a court proper, appeals may be lodged with an administrative court or with such a board as referred to in the second paragraph of section 9 of the Constitution.

(v) As regards the right to compensation for a victim of unlawful arrest or detention reference should be made to the Act (1974:515) on compensation in case of deprivation of liberty. Section 1 provides for the award of compensation out of public funds where a person, on account of suspicion of having committed an offence, has been formally detained by virtue of a decision of a court, arrested or subjected to an injunction to leave the jurisdiction and is subsequently acquitted or the charge dropped or the preliminary proceedings terminated without charges being brought or, on appeal, a decision on formal detention, arrest or injunction to leave the jurisdiction is reversed or replaced by a less far-reaching measure. According to section 2 compensation shall be paid to a person who has been deprived of his liberty and who is later acquitted or adjudged a more lenient sentence than the one he has already served. The Act also provides for compensation in case of unjust administrative deprivation of liberty. A prerequisite is that it is apparent that the deprivation of liberty was unfounded (section 3). Compensation may be refused, if the person concerned contributed through his own acts towards the repressive measures being taken against him (section 4). Compensation is paid for expenses, lost income, encroachment on business and sufferings (section 5).

Article 10. As an introduction it should be stated that the article corresponds in essential parts to the Standard Minimum Rules for the Treatment of Prisoners that were adopted in 1955 by the first United Nations Congress on the Prevention of Crime and the Treatment of Offenders. The principles forming the basis of these rules had already prior to their adoption been guiding the correctional treatment of offenders in Sweden.

A reservation has, however, been made with regard to the third paragraph of article 10.

(i) Section 1 of the Act (1976:371) on the treatment of detained and arrested persons and others stipulates that anyone who is detained on account of a suspicion of having committed an offence shall not be subjected to more far-reaching restrictions of his liberty than are required in view of the purpose of the detention as well as order and security. The detained person shall be treated in such a way as to prevent harmful effects of the deprivation of liberty. To the extent it can possibly be done, measures shall be taken to give the detainee personal support and other assistance which he may need. Such measures, however, may be taken only with the consent of the detainee. The provisions of section 1 are equally applicable to inter alia arrested persons (section 17).

According to the Act (1974:203) on institutional treatment of offenders, a convicted prisoner shall be treated with respect for his human dignity (section 9). It is added that due account shall be taken of the special difficulties caused by institutional treatment. A similar provision applies to persons in work institutions (section 20 of the Act (1964:450) on anti-social behaviour which is prejudicial to the community).

With regard to persons subjected to institutional psychiatric care, the treatment shall be adapted to the purpose of the care or, in appropriate cases, to the protection of the interned person or his neighbourhood (section 13 of the Act (1966:293) on the provision of institutional psychiatric care). Section 43 of the Temperance Act (1954:579) provides that the treatment of the patient shall be adapted to the main purpose of bringing him back to a sober life.

(ii) The provision that accused persons, as a rule, shall be segregated from convicted persons and that they shall be subject to separate treatment appropriate to their status as unconvicted person is in full accord with Swedish law and practice. The treatment of detained and accused persons, on the one hand, and of convicted prisoners, on the other, are governed by separate laws. The aforementioned Act (1976:371) on the treatment of detained and arrested persons and others takes account of recent experience, and its aim is to facilitate the situation of detained and arrested persons in various respects.

As to the treatment of accused juvenile persons reference should be made to the Act (1964:167) containing special provisions on young offenders, section 7 of which provides that no-one under 18 years of age shall be formally detained unless special reasons so warrant. Furthermore, according to the second paragraph of section 3 of the Act (1976:371) on the treatment of detained and arrested persons and others a detained or accused person shall be kept apart from other persons in the same situation that may exert an improper influence on him.

(iii) The Act (1974:203) on institutional treatment of offenders contains a number of provisions aiming at the reformation and social rehabilitation of prisoners. Section 4 contains a general statement to the effect that the institutional treatment shall be planned in such a way as to promote the adaptation of the inmate to society and prevent harmful effects of the deprivation of liberty. To the extent possible and taking into account the requirement of the protection of the community, the planning should from the outset be aiming at measures preparing the inmate for life outside the institution. Section 9 has been referred to under (i) above. Moreover, according to section 10 an inmate shall be given suitable work which shall as far as possible promote his adaptation to working life after release. If the inmate is in need of training or education or of medical-psychological or other special treatment, he shall if possible be given such assistance during working hours.

Section 11 of the same Act provides that an inmate may, for the purpose of facilitating his adaptation to society, be permitted to work or participate in training, education or other special activities outside the institution during working hours. Furthermore, an inmate shall be given the possibility to practise physical training (section 13) and also the opportunity of suitable leisure activities (section 14). He shall be encouraged to engage in such personal interests as may contribute to his development.

With respect to juvenile offenders it should be noted that, according to chapter 26 section 4 of the Penal Code, a person under 18 years of age may not be sentenced to imprisonment except for very strong reasons. Furthermore, imprisonment may be imposed on a person over 18 but under 21 years of age only when the deprivation of liberty is particularly justified in order to promote general obedience of the law or else when imprisonment is found more appropriate than another sanction. Section 8 of the Act (1974:203) on institutional treatment of offenders provides that an inmate, who has not reached the age of 21 years, should as a rule be kept separated from such inmates as may negatively affect his adaptation to society.

It should be clear from what has been said that in regard to young persons deprived of their liberty the provisions of the Covenant have a limited application to conditions in Sweden. Nonetheless, the possibility that, in exceptional cases, it may be in the interests of a juvenile offender to be

placed together with adult offenders cannot be ruled out. Sweden has, therefore, not been prepared to refrain from such criminological methods of treatment that would imply the mixing of juvenile and adult offenders. In view of this attitude, a Swedish reservation to the third paragraph of article 10 was considered necessary.

Article 11. The system of imprisonment on the ground of inability to fulfil contractual obligations does not exist in Sweden.

Article 12.

(i) The freedom of movement of Swedish citizens is protected by chapter 2 sections 7 and 8 of the Constitution. These provisions read (translated into English):

"Section 8. No citizen shall be exiled or prevented from entering the country.

No citizen who is or has been residing in the Realm shall be deprived of his citizenship, unless he is or at the same time becomes a citizen of another State."

"Section 8. Every citizen is in relation to the community protected from being deprived of his liberty. He is also otherwise guaranteed freedom to move within the Realm and to leave the Realm."

The rights and freedoms set out in section 8 may be restricted as provided by section 12 (see under 3 above). It should, moreover, be noted that while aliens enjoy the constitutional protection from being deprived of their liberty (see under article 9 above), they are not formally covered by the second sentence of section 8.

(ii). Although not guaranteed by the Constitution, the freedom of movement for aliens in Sweden is very wide. Both Swedes and aliens are allowed to move freely throughout the country. However, there are certain limitations. According to the Ordinance (1976:10) on restricted areas, etc. (issued by virtue of section 14 of the Aliens Act (1954:193)), the freedom of movement of aliens may, for military considerations, be restricted within certain areas. Exceptions from the principle of freedom of movement are naturally also made for citizens and aliens serving prison sentences or otherwise lawfully deprived of their liberty, as well as persons who by virtue of law are confined to a certain area by reason of suspicion of an offence.

Section 70 of the Aliens Act (1954:193) refers to the special case when the country is at war or under threat of war or other extraordinary circumstances prevail. The Government may then issue special regulations governing arrangements to be made for taking care of aliens in institutions or other

accommodation. If such regulations are issued under circumstances other than those just specified, they have to be submitted to the Parliament for approval within one month.

(iii) Both Swedish citizens and aliens are in principle at liberty to leave the country. A general exception is, of course, made in respect of persons serving prison sentences or otherwise lawfully deprived of their liberty or confined to a specific area. Furthermore, the Proclamation (1941:836) on the duty of Swedish citizens to hold a passport when going abroad enjoins Swedes going to a country outside the Nordic area to hold a Swedish passport. A passport may, according to the Proclamation (1940:471) on the issuing of passports within the country for Swedish citizens, be refused in certain cases, e.g. when the issuing authority knows or has reason to suspect that the applicant is pursuing relations with a foreign power or conducting other activities constituting a danger to the security of the State. A passport may also be refused inter alia if the applicant is awaiting trial for an offence or he has to start serving a previously imposed sentence.

(iv) As has been previously mentioned the Constitution guarantees every Swedish citizen protection from being prevented to enter Sweden. With regard to aliens no arbitrary refusals can be made. The grounds for decisions to refuse aliens leave to enter Sweden are specified in the Aliens Act (1954:193). Such a decision may be appealed against to the Central Aliens Authority, the decision of which in its turn may be appealed against to the Government.

Article 13. The grounds on which an alien staying in Sweden may be refused leave to remain in the country are laid down in the Aliens Act (1954:193). The removal of an alien is ordered by the Central Aliens Authority, the expulsion by courts of general jurisdiction, and the deportation by the regional administrative courts. Both in respect of expulsion and of deportation the Government may, in one exceptional case, directly order the measure of coercion to be taken.

A decision by the Central Aliens Authority may be appealed against to the Government, while the appeal against decisions by ordinary courts and regional administrative courts is governed by the Code of Judicial Procedure and the Act (1971:291) on the administrative procedure respectively (see 2 (iii) above).

As to the right of the alien to submit the reasons against his expulsion Swedish law provides for the hearing of the persons concerned, as well as of other persons, if necessary, in connection with the investigation preceding the decision to remove, expel or deport him from the country. Furthermore, inquiries may be held - and are usually held - during the subsequent examination of the case.

According to the Legal Aid Act (1972:429) an alien has the right to the assistance of a lawyer appointed ex officio in a case involving his removal or deportation in accordance with the Aliens Act (1954:193). An order of expulsion

is always made together with the pronouncement of a sentence for an offence, and the general rules concerning the assistance of a public defender apply in this case.

The extradition of aliens who are suspected, accused or convicted of a punishable offence in a foreign state is governed by the Act (1957:668) on extradition of offenders. The person whose extradition has been requested is entitled to a public defence counsel.

Article 14.

(i) With regard to the rights set out in the first paragraph, reference should be made to chapter 1 section 9, chapter 2 section 11 and the second paragraph of section 1 of chapter 11 of the Constitution.

Section 9 of chapter 1, which provision has been reproduced under 2 (i) above, enjoins the courts to have regard to the equality of all persons before the law and to maintain impartiality and objectivity. As already mentioned under 2 (iii) above, chapter 11 section 1 provides that a court must be instituted by law.

Section 11 of chapter 2 stipulates (translation into English):

"A court shall not be established for the purpose of dealing with an offence already committed, nor for a certain dispute or otherwise for a certain case.

The proceedings before a court shall be public."

The guarantee for the legal security of the individual laid down in the second paragraph of section 11 may be restricted in the manner set out in section 12 of the same chapter. Chapter 5 section 1 of the Code of Judicial Procedure contains the main rule as to the exceptions permitted from the principle of the openness of court proceedings, and these exceptions clearly fall within the scope of the exceptions permitted by the Covenant.

Aliens in Sweden enjoy the same protection as Swedish citizens with regard to the protection against secret trials, unless otherwise provided by law. Under the Aliens Act (1954:193) and the Act (1957:668) on the extradition of offenders, which both only relate to aliens the court may order the proceedings to be held in camera, if the circumstances so warrant.

According to the principle of Swedish law regarding access to public documents every judgement shall be available to the public, but the Act (1937:249) on restrictions of the right of access to public documents empowers the courts to order that judgements delivered in camera be kept secret. Although it is thus formally possible to withhold judgements in certain cases, it should be noted that Swedish courts as a rule make public at least the verdict itself even in those cases where the proceedings have been held in camera.

(ii) With regard to the second paragraph, the right of everyone charged with a criminal offence to be presumed innocent until proved guilty according to law is a fundamental principle in Swedish law. One of its consequences is to be seen in the strict rules of evidence applied in criminal proceedings, together with the rule that the burden of proof in all respects is upon the prosecution. If the evidence produced leaves any room for doubt, such doubt shall be to the advantage of the accused in accordance with the maxim in dubio pro reo. Another consequence of the principle that the accused may not be regarded as guilty until convicted is that the use of procedural compulsion must be confined within narrow limits.

(iii) The third paragraph specifies certain minimum guarantees to be accorded to persons facing criminal charges.

Anyone arrested on a criminal charge shall, according to chapter 24 section 9 of the Code of Judicial Procedure, be informed of the offence he is suspected of having committed.

The preliminary investigation having proceeded so far that someone is on reasonable grounds suspected of having committed the offence, he shall be informed accordingly (chapter 23 section 18). Formal charges shall not be brought against the suspect before he or his defender has had a possibility to study the results of the preliminary investigation. If it can be done without detriment to the investigation, the suspect or his defender may already during the investigation be informed of what has transpired during the investigation (section 18). After charges have been brought against the suspect, he or his defender may, upon request, obtain copies of the minutes or other notes from the investigation (section 21). Chapter 45 section 9 provides that the accused person shall be handed the writ containing the formal charge against him, the request that such a writ be issued as well as the documents annexed to that request. If the suspected or accused person does not understand or speak the Swedish language, an interpreter shall assist during the preliminary investigation and the proceedings before the court.

With regard to the rights referred to in sub-paragraphs (b) to (d) it is clearly the responsibility of the court, in deciding the dates of the main proceedings, to ensure that time and facilities for the preparation of the defence are not lacking. If the accused person is arrested or formally detained, the main proceedings shall take place within one week after the date when formal charges were brought against him, unless the court considers that the material at hand should be supplemented or other circumstances warrant a delay (chapter 45 section 14).

A writ in a criminal case shall always be notified to the accused in person. He is, therefore, always aware of the proceedings instituted against him, and he has always the right to attend the proceedings. If he has been ordered to

appear in person but fails to do so, a new date for the main proceedings is, as a rule, set and the accused is ordered to appear in person under the penalty of a fine. In certain cases the proceedings may, however, take place in the absence of the accused person (chapter 45 section 15), namely if only a fine will be imposed or the accused has absconded after having been served the writ. In both cases there is the additional requisite that the charges can be adequately substantiated in his absence.

In the preparation and conduct of his defence, the accused person may, according to chapter 21 section 3 of the Code of Judicial Procedure, be assisted by a defence counsel, who is appointed by him or, if he is under 18 years of age or mentally disordered or defective, by the person responsible for his care. If the accused has not appointed counsel or if counsel appointed by him is rejected and it appears that assistance is needed to protect his rights in view of the nature of the case or for other reasons the court shall appoint a public defence counsel for him. If the suspect is arrested or formally detained, a public defence counsel shall also otherwise be appointed on his request.

In connection with the notification to a person that he is on good grounds suspected of having committed an offence, he shall be notified of his right to be assisted during the preliminary investigation by a defence counsel and, on certain conditions, to have a public defence counsel appointed ex officio on his behalf (section 12 of the Proclamation (1947:948) on preliminary investigation). If, while in custody, an arrested or detained person requests the appointment of a public defence counsel, the manager of the place of custody shall immediately notify the court, the officer in charge of the investigation or the public prosecutor accordingly (section 13 of the Proclamation (1976:376) on the treatment of detained and arrested persons, etc.).

A public defence counsel is paid out of public funds (chapter 21 section 10 of the Code of Judicial Procedure). Counsel other than a public defence counsel is reimbursed by his client, but according to section 36 of the Act (1972:429) on legal aid the suspect may on certain conditions be granted compensation for the costs, in whole or in part.

Counsel for an arrested or detained person must not be denied the right to visit his client. He shall be entitled to communicate with him in private. As for counsel other than a public defence counsel this right applies if the person in charge of the investigation or the public prosecutor gives his consent, or the court considers that a meeting in private can take place without impairing the investigation or endangering order or security at the place of custody (chapter 21 section 9 of the Code of Judicial Procedure).

The right of the accused to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him is clearly complied with in



Swedish law. The suspect may already during the preliminary investigation have witnesses heard by the court on his behalf, if the evidence to be taken may be of importance for the investigation and there is a risk that it will not be possible to take the evidence during the main proceedings of the case (section 11 of the Proclamation (1947:948) on preliminary investigation and chapter 23 section 15 of the Code of Judicial Procedure). It is for the parties involved in criminal proceedings to bring the evidence before the court. The court may, however, reject a request for evidence to be taken if it considers, inter alia, that what a party wishes to prove is without significance to the case or that the evidence offered is not required or would clearly be of no effect (chapter 35 section 7 of the Code of Judicial Procedure). The same rule governs the right of the accused person (and the public prosecutor) to examine witnesses of the opposite party.

The right to have the free assistance of an interpreter if the accused person cannot understand or speak Swedish is inscribed in chapter 5 section 6 of the Code of Judicial Procedure. According to section 8 compensation to the interpreter shall be paid out of public funds.

The right of the accused person not to be compelled to testify against himself or to confess guilt is inherent in the fundamental principle of a fair trial. It should, furthermore, be observed that the accused is not required to take the oath before making a statement before a court, nor is there in criminal cases a procedure which corresponds to the interrogation of a party under a declaration of truth which may take place in civil cases. An express provision as to the procedure during the preliminary investigation is contained in chapter 23 section 12 of the Code of Judicial Procedure. The interrogating officer must not use false information, promises, threats, coercion or other improper measures for the purposes of obtaining a confession. The interrogated person must not be refused his meals or the necessary rest.

The general rule embodied in the fourth paragraph of Article 14 is in full accord with the principles applied in Sweden. The right according to the fifth paragraph of everyone convicted of a crime to have his conviction and sentence reviewed by a tribunal according to law corresponds in general to the rules of the Swedish criminal procedure. Under 2 (iii) above an account has been given of the organization of inter alia the judicial system in Sweden. It should, however, be mentioned that, in a few exceptional cases, the Supreme Court functions as a criminal court of first instance (chapter 3 section 3 of the Code of Judicial Procedure), namely for the prosecution of cabinet ministers, justices of the Supreme Court and of the Supreme Administrative and other high officials within the judiciary on account of an offence committed in the exercise of their duty. However, the rules of the Code of Judicial Procedure on special remedies, such as the request for a new trial, apply also in those cases.

As to the right to compensation according to the sixth paragraph, reference is made to the comments on the fifth paragraph of article 9.

What is stated in the seventh paragraph corresponds to the main principle of the legal validity of judgements which is also applied according to Swedish law. In certain cases, however, a request for a new trial may be granted also to the detriment of the convicted person (chapter 58 section 3). Sweden has accordingly made a reservation to that effect.

Article 15. The principle of legality inscribed in this article has been affirmed in chapter 2 section 10 of the Constitution, which reads (translation into English):

"A penalty or other penal sanction shall not be imposed on account of an act which was not subject to any penal sanction at the time it was committed. Nor shall a more severe penal sanction be imposed on account of the act than that which was prescribed at that time. What has thus been provided with respect to penal sanctions shall likewise apply with respect to confiscation or any other legal effects attached to criminal acts."

The legality principle has long been an established feature of Swedish law, but it was not until the entry into force of the Constitution on 1 January 1975 that it was expressly affirmed. The principle has, however, been reflected in the promulgation statutes of the 1864 Penal Code and of the present Penal Code. The relevant provision of the statutes now in force is section 5 which also provides that if, when judgement is delivered, another law implies than was the case when the offence was committed, the new law shall be applied if it serves either to mitigate or to eliminate the penalty. This principle as well as the principle that a heavier penalty shall not be imposed than the one applicable at the time when the criminal offence was committed are designed to implement a changed and more humane view on certain types of offences. The principle that more lenient rules shall be applied also to offences committed before their enactment shall not, however, apply regarding an offence which has been punishable during a certain period of time or account of special circumstances during that period. Thus, a person in breach of rationing regulations during a crisis cannot subsequently be acquitted because the crisis has abated and the rationing regulations have been repealed.

Article 16. The right of everyone to recognition everywhere as a person before the law corresponds to the general principles of Swedish law. This right is implicit in inter alia chapter 1 section 9 of the Constitution (see 2 (i) above).

Article 17. Under article 8 above reference has been made to chapter 2 section 6 of the Swedish Constitution. The full text of this provision reads (translation into English):

"Every citizen is in relation to the community protected from forced corporal interference also in other cases than those referred to in sections 4 and 5. He is also protected from bodily search, search of his home and similar encroachments as well as from encroachment on his correspondence or other confidential dispatches and from secret eavesdropping or recording of a telephone conversation or other confidential communications."

The rights guaranteed in section 6 may be restricted as set out in section 12 (see 4 above).

Unless otherwise provided by law, aliens in Sweden enjoy the same protection as Swedish citizens with regard to the rights referred to in section 6.

This basic protection of the rights and freedoms set forth in article 17 of the Covenant is supplemented by provisions of the Penal Code. In particular, mention should be made of the provisions in chapter 4 on breach of domiciliary peace (section 6), breach of postal secrecy and telesecrecy (section 8) and unlawful listening (section 9a) as well as in chapter 5 on defamation (section 1), grave defamation (section 2) and insulting conduct (section 3).

Moreover, the postal secrecy and the telesecrecy are protected by instructions to post office and telegraph office employees. The Data Act (1973:289) has made any application of computer techniques to data concerning identifiable individuals subject, in principle, to official authorization. Such authorization is given by the Data Inspection Board. The Credit Information Act (1973:1173) aims at safeguarding the integrity of the individual against improper credit information activities. The Act makes the conduct of credit information activities subject to authorization by the Data Inspection Board. It further provides that credit information may only include such information as is necessary for the appraisal of the credit-worthiness. Information on religious and political beliefs, race or colour shall under no circumstances be furnished.

In certain situations the right to respect for private and family life, home and correspondence is subject to restrictions in view of other interests considered to be of over-riding importance. These restrictions are determined by law. This is the case when the question arises of the application of several of the procedural means of coercion in criminal law, e.g. the seizure of letters, telegrams or other consignments in the custody of the postal or telegraph authorities as well as telephone-tapping (chapter 27 of the Code of Judicial Procedure) and the search of premises (chapter 28).

The conditions for using these means of coercion are laid down in the Code of Judicial Procedure. Generally there must exist a suspicion that a criminal offence of a certain degree of gravity has been committed.

There is also an Act (1975:1027) on the securing of evidence in fiscal procedures. Measures which may be taken in accordance with this Act aim at the securing of material that physical and legal persons liable to taxes and charges

have to produce for examination by virtue of special regulations. The measures are called seizure, sealing and search. For the search of material in private quarters, the consent of the Regional Fiscal Court is required. In other cases, the decision may be taken by the person in charge of the investigation. Such a decision may, however, be appealed against to the Regional Fiscal Court.

Furthermore, there is special legislation which in respect of certain specific offences allows the use of such means of coercion as are dealt with in chapters 27 and 28 of the Code of Judicial Procedure to a larger extent than under the provisions of that Code. However, such legislation is enacted for a limited period of time and can only be renewed after a new decision has been taken by the Parliament. This means that the application of these special laws is subject to continuous parliamentary control and supervision. The legislation referred to here comprises the Act (1952:98) containing special provisions on means of coercion in criminal matters, the Act (1969:36) on telephone-tapping in connection with the investigation of serious offences involving narcotic drugs and the Act (1975:1360) on coercive measures in the search for wanted persons in certain cases. As for the last-mentioned Act, with consent of the court, telephone-tapping may be effected in the case of an alien who cannot be expelled from the country but who, for well-founded reasons, is believed to belong to an organization or group which, as far as is known, may outside its home-country use violence, threat or coercion for political purposes. A further requisite is a suspicion that such an act might be committed in Sweden. The court may also for the same purpose authorize the use of other coercive measures against the alien.

Persons serving sentences of imprisonment, youth imprisonment or preventive detention are subject to restrictions in their right of free correspondence with others. According to the Act (1974:203) on Institutional Treatment of Offenders letters to and from an inmate in a penal institution may be opened and read under certain circumstances, e.g. for reasons of security (section 26). Random checks of correspondence may also be made. Letters between an inmate and a Swedish public authority or a lawyer shall, however, always be forwarded without being checked (section 25).

The Act (1966:293) on the provision of institutional psychiatric care also foresees the possibility, under certain circumstances, of checking the patients' correspondence as well as of withholding letters to and from the patients. A refusal by the superintendent to forward a letter addressed to an authority shall, however, be submitted to the discharge board for approval.

Article 18. The basic provisions regarding the protection of the right to freedom of thought, conscience and religion are to be found in sub-paragraph (6) of the first paragraph of section 1 and in section 2 of chapter 2 of the Constitution. These provisions read (translation into English):

"Section 1. Every citizen shall in relation to the community be guaranteed

6. the freedom of religion: the freedom to join with others in religious communities and to practise one's religion, "

"Section 2. Every citizen shall in relation to the community be protected from being obliged to make known his opinion in political, religious, cultural or in other respects. He is also in relation to the community protected from being compelled to take part in any meeting having the purpose of creating public opinion or any demonstration or any other expression of opinion or from belonging to a political association, religious community or any other union for any of the opinions referred to in the first sentence."

Unless otherwise provided by law, aliens in Sweden have according to section 20 the same status as Swedish citizens with regard to the rights and freedoms laid down in sub-paragraph 6 of the first paragraph of section 1 and the first sentence of section 2. (There is at present no separate statute limiting the freedom of religion of aliens.) With regard to the rights and freedoms laid down in the second sentence of section 2, aliens in Sweden enjoy without restriction the same protection as Swedish citizens.

The freedom of religion has been further dealt with in the Act (1954:680) on freedom of religion, which provides that everyone shall be free to practise his religion, insofar as he does not disturb the peace of the community or provoke public indignation by so doing. Everybody is at liberty to attend religious assemblies and gather with others for that purpose. The only regulations governing public religious services are those applying to public meetings in general.

No one shall be obliged to belong to any particular religious denomination, and any undertaking to join or belong to a religious community shall be without any legal effect. The 1951 Act also ensures the right of all religious communities to carry on activities in Sweden.

Certain aspects of religious freedom have been raised in the course of the debate, which for many years has been in progress in regard to the status of the established Church of Sweden. It has been argued that the 1951 Act does not fully implement the principle of freedom of religion in Sweden. It has also been said that equal facilities are not afforded to all religious communities, as long as the Church of Sweden - due inter alia to civil functions also performed by the Church - has another relationship with the State than other communities. This question has after the enactment of the 1951 Act, been the subject of exhaustive enquiries by two Government Commissions. Proposals have been put forward regarding fundamental changes of the legal position of the Church of Sweden, but no decision on this complex issue has so far been taken.

Another question that has attracted a great deal of attention is that of religious instruction in schools. Such instruction is in principle compulsory for pupils in the comprehensive as well as in the secondary school. The instruction shall be carried out in an objective and neutral manner (the subject on the curriculum is called "religious knowledge") and should for that reason not be contrary to anybody's conscience or religion. Moreover, exemption from instruction in religious knowledge may be granted in certain circumstances. Firstly, the Government can, on the basis of section 27 of the School Act (1962:319), allow a certain religious community to organize religious instruction instead of the school. Secondly, an administrative practice has developed which allows the Government to exempt individual pupils, at the request of their parents, from instruction in religious knowledge according to the school curriculum. In both cases it is required that the pupils be given an equivalent religious instruction outside school hours.

The Act (1966:413) on Service by Conscientious Objectors gives conscripts the possibility of performing their compulsory military service without carrying arms. A precondition for the application of the Act is that the use of arms against other persons is contrary to the sincere personal convictions of the conscript and would cause him severe problems of conscience. A special problem is that posed by the "absolute objectors", i.e. persons refusing for reasons of conscience not only to carry arms but also to perform any kind of civilian substitute service. Most absolute objectors belong to the sect of Jehova's Witnesses. The question whether such persons are to be called up for service is to be decided upon the merits of each particular case, and the authorities may refrain from ordering them to perform service.

Another example of the implementation of the principle of freedom of religion is the possibility of exemption - on the ground of religious convictions - from compulsory vaccination against smallpox (Act (1958:428) on vaccination against smallpox).

Article 19. The basic provisions on the protection of the right to hold opinions without interference and of the right of freedom of expression are contained in sub-paragraphs (1), (2) and (4) of the first paragraph as well as in the second paragraph of section 1 and in section 2 of chapter 2 of the Constitution. Section 2 has been reproduced under article 18 above; the relevant parts of section 1 read (translation into English):

First paragraph: "Every citizen shall in relation to the community be guaranteed

(1) the freedom of expression: the freedom to communicate information and express ideas, opinions and feelings either orally, in writing, in pictorial representations or in any other way;

(2) the freedom of information: the freedom to obtain and receive information as well as otherwise to acquaint oneself with other persons' expressions,

"\_ " " " " " " " " " " " "

(4) the freedom of demonstration: the freedom to arrange and take part in demonstrations on public grounds,

"\_ " " " " " " " " " " " "

Second paragraph: "With regard to the freedom of the press the Freedom of the Press Act shall apply. In this Act there are also provisions on the right to have access to public documents."

The rights and freedoms guaranteed in sub-paragraphs (1), (2) and (4) of the first paragraph of section 1 may be restricted as set out in section 12 (see 3 above). Moreover, section 13 and the first paragraph of section 14 further regulate the scope of the restriction, to which the freedom of expression, the freedom of information and the freedom of demonstration may be subjected. These provisions read (translation into English):

"Section 13. The freedom of expression and the freedom of information may be restricted in the interests of the security of the Realm, of the economic well-being of the people, of public order and safety, of the reputation of an individual, of the sanctity of private life as well as of the prevention and combating of crime. Furthermore, the freedom to communicate in trade activities may be restricted. Otherwise, the freedom of expression and the freedom of information may be restricted only if special important reasons so warrant.

In judging what restrictions may be made by virtue of the first paragraph, special account shall be taken of the importance of the widest possible freedom of expression and freedom of information in political, religious, trade union, scientific and cultural affairs.

As restrictions of the freedom of expression and the freedom of information shall not be considered the issuing of directions, which without regard to the contents of the expression further regulate certain ways of imparting and receiving expressions."

"Section 14. The freedom of assembly and the freedom of demonstration may be restricted only in the interests of the security of the Realm, of order and safety at the meeting or the demonstration or of the traffic or of counter-checking epidemics.

"\_ " " " " " " " " " " " " " " " " "

With regard to the rights set out in the second sentence of section 2 aliens in Sweden have the same status as Swedish citizens. Unless otherwise provided by law, this is the case also with the rights and freedoms set out in sub-paragraphs

(1), (2) and (4) of the first paragraph as well as in the second paragraph of section 1 and in the first sentence of section 2 (section 20).

The 1949 Freedom of the Press Act, which is an integral part of the Constitution, sets out the principle that everybody shall have free access to public documents, i.e. documents in the custody of government or local authorities. This principle is, however, subject to certain exceptions which are laid down in the Act (1937:249) on restrictions of the right of access to public documents. Unless there is an express legal provision to the effect that a particular document shall be withheld from the public, an authority shall not refuse to give anybody access to the document.

With regard to the freedom to impart information, the printed word is particularly well protected by the 1949 Freedom of the Press Act. The following definition of the concept of freedom of the press is contained in chapter 1 section 1 of the Act which reads as follows (translation into English):

"Freedom of the press means the right of every Swedish national, without any hindrance raised beforehand by any authority or other public body, to publish any written matter, thereafter not to be prosecuted on account of the contents of such publication otherwise than before a legal court, and not to be punished therefor in any case other than such where the contents are in contravention of the express terms of law, enacted in order to preserve general order without suppressing general information."

No previous censorship or publication ban is allowed. Action against the author or the publisher of printed materials may only be taken after their publication and then only where the contents are at variance both with the Penal Code and with the specific provisions of the Freedom of the Press Act regarding the acts that constitute offences against the freedom of the press.

The right of everyone who furnishes information to the press to remain anonymous is also an important principle, which facilitates for the press and the public to obtain important information.

Radio and television are monopolies in Sweden and freedom of expression has, therefore, a slightly different meaning in regard to these mass media. The Radio Act (1966:755) provides that an enterprise nominated by the Government, i.e. the Swedish Broadcasting Corporation (Sveriges Radio), shall be exclusively entitled to decide what programmes shall be broadcast to the public. Furthermore, the Act (1966:78) implementing the provisions of the European Agreement for the prevention of broadcasts transmitted from stations outside national territories makes it possible to intervene against certain broadcasts transmitted from outside Swedish territory.

Broadcasts not intended for the general public do not enjoy the same liberty as that provided for the press. The Radio Act requires (1966:755) special



permission for the possession or use of radio transmitters in Sweden. On the other hand, anybody is entitled to possess and use a radio receiver.

Radio broadcasts are just as immune as the printed record from censorship in advance, and the State may not prohibit a broadcast on account of its contents. Intervention after the broadcasting is only allowed in case an offence has been committed corresponding to that of an offence against the freedom of the press. A Government Commission has in 1975 submitted a report which contains proposals for a new Mass Media Act having the status of a constitutional act and aimed at replacing the present Freedom of the Press Act and at affording constitutional protection not only to the printed word but also to the freedom of expression in other mass media, in particular radio and television. The proposals of the Commission in this respect have not been realized, but the Government has decided to have the question further elucidated (see under 5 below).

On the basis of the said report, important improvements of the protection offered by the Freedom of the Press Act have, however, been decided by the Parliament in 1976. The new provisions, which will enter into force on 1 January 1978 imply mainly, on the one hand, an extension of the protection of the freedom of expression which the Act offers also to mimeographed, photocopied or works reproduced in similar manners and, on the other hand, a strengthening of the protection of any person who acquires or gives information intended for publication.

Cinema performances are still subject to advance censorship. The Ordinance (1959:348) on Cinema Performances enumerates various circumstances constituting grounds for not allowing films to be shown in Sweden. Such grounds are that a film is "conducive to coarseness" or "dangerously inflammatory". A proposal presented a few years ago by a Government Commission called for the abolition of censorship of films for adult exhibition while censorship in respect of children's films should be retained. This proposal has not, however, been carried through.

The freedoms set out in article 19 are in general restricted only by special provisions designed to safeguard public or private interests. A statement may, thus, be punishable according to the Penal Code as defamation (chapter 5, section 1), perjury, untrue statement by a party, false certification (chapter 15, sections 1, 2 and 11 respectively), agitation against an ethnic group, unlawful discrimination (chapter 16, sections 8 and 9 respectively) or violation of duty to maintain silence (chapter 20, section 3). As another example, it may be mentioned that, according to the Act (1970:412) on improper marketing, it is an offence if a tradesman when marketing a product or services intentionally uses misleading statements or representations which refer to his own trade or that of others and which are likely to influence the demand for the product or the services.

The special exemption in section 20 of chapter 2 of the Constitution referring to aliens relates principally to section 34 of the Aliens Act (1954:193) which empowers the Government to expel an alien where this is required for reasons of

state security or otherwise in the interests of the state. Such an expulsion may theoretically occur even in a case where there would be no interference on the part of the public against a Swedish citizen having exercised his freedom of expression in a similar manner. It should, however, be added that the said section 34 has hardly ever been applied.

Finally, it should be mentioned that the question of registration of persons on account of their political opinions has been widely debated in Sweden. As a result of this debate, chapter 2 section 3 of the Constitution stipulates that annotations about a citizen in public records shall not be made without his consent solely by reason of his political opinion. This prohibition does not, however, exclude the possibility of registration, in the interests of the protection of the democratic society, of what may be called security risks. This registration is taking place for the purpose of preventing and revealing crimes against the security of the Realm and has not caused any objections by the Parliament.

#### Article 20.

(i) The provision in the first paragraph constitutes a further restriction of the freedom of expression dealt with in article 19. Before the Swedish ratification of the Covenant the feasibility of making war propaganda an offence was discussed, but the Government decided not to submit a Bill on the subject to the Parliament in view of the difficulties to delimit the area of the punishable offence and, also, in view of the risk that a penal provision might be detrimental to the free debate.

Consequently, Sweden has made a reservation to the first paragraph of article 20.

(ii) With regard to the second paragraph, reference can be made to chapter 1 section 9 and chapter 2 section 15 of the Constitution, which have been reproduced under 1(i) above. Further protection is offered by chapter 16 of the Penal Code on crimes against public order, in particular section 5 (inciting rebellion), section 8 (agitation against ethnic group) and section 9 (unlawful discrimination).

Article 21 and article 22. The rights and freedoms set out in these articles are closely related to one another and will, therefore, be dealt with together.

The basic provisions on the protection of the right of peaceful assembly and the right to freedom of association are to be found in chapter 2 of the Constitution: sub-paragraphs (3) and (5) of the first paragraph of section 1, section 2 and section 17. These provisions read (translation into English):

Section 1. Every citizen shall in relation to the community be guaranteed

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(3) the freedom of assembly: the freedom to arrange and participate in meetings for information, expression of opinion or any other similar purpose or for the performance of artistic works;

"- " -" -" -" -" -" -" -" -" -" -" -" -"

(5) the freedom of association: the freedom to join with others for public or individual purposes,

"- " -" -" -" -" -" -" -" -" -" -" -" -"

Section 2 has been reproduced under article 18 above.

"Section 17. Any trade union or any employer or association of employers shall have the right to take strike or lock-out actions or any similar measures, except as otherwise provided by law or ensuing from a contract."

The rights and freedoms set out in sub-paragraphs (3) and (5) of the first paragraph of section 1 may be restricted in accordance with chapter 2, section 12 (see under 3 above). Moreover, section 14 of the same chapter further regulates the extent to which the freedom of assembly and the freedom of association may be restricted. This provision reads (translation into English):

"Section 14. The freedom of assembly and the freedom of demonstration may be restricted only in the interests of the security of the Realm, of order and safety at the meeting or the demonstration or of the traffic or of counter-checking epidemics.

The freedom of association may be restricted only in respect of unions, the activities of which are of a military or similar purpose or which imply persecution of a group of people of a certain race, of a certain colour or of a certain ethnic origin."

With regard to the rights and freedoms set out in sub-paragraphs (3) and (5) of the first paragraph of section 1 and in the second sentence of section 2 aliens in Sweden enjoy the same status as Swedish citizens unless otherwise provided by law. There is complete equality between aliens and Swedish citizens in respect of the rights and freedoms set out in the first sentence of section 2 and in section 17.

Both the freedom of assembly and the right to freedom of association are, basically, unrestricted in Sweden. It should, however, be mentioned that the Public Meetings Act (1956:618) lays down an obligation to obtain the permission from the authorities for certain public meetings or, in certain cases, to report

to the authorities about such meetings. If a meeting which is arranged for the public or to which the public has access, is to be held in a public place, police permission must be obtained. The reason for this requirement lies in the need to ensure that the meeting does not obstruct the traffic, that order is maintained and that the meeting does not entail any breach of the law. On the other hand, the police authorities must not make a substantive evaluation of the object of the assembly. The law explicitly states that the police, in considering applications of this kind, shall take into account "the importance in the public interest of the maintenance of the right of assembly". In exceptional circumstances, e.g. in times of war or when there is a risk of serious contagion, the right to hold public meetings may be restricted. The police is, moreover, empowered to break up meetings where unlawful actions occur or where serious disorder arises or again where the participants are in serious danger.

The Act (1951:680) on Freedom of Religion also contains provisions safeguarding the right to hold religious meetings. These provisions entitle anyone to participate in a religious meeting and join together with others for religious purposes. Public acts of worship are subject to no restrictions other than those applying to public meetings in general.

As to the right to freedom of association, everyone is free to form or join an association without interference by the authorities, except where this is expressly prohibited. One instance of such a prohibition is provided for by chapter 18 section 4 of the Penal Code dealing with unlawful military activity. It is, thus, a punishable offence to form or participate in an association which is deemed either to constitute, or to be readily capable of developing into, a coercive organization, such as a military troop or a police force.

In the labour law field, on the other hand, the right to organize is safeguarded by the Act (1936:506) on the Right to Organize and Negotiate. This Act is designed to prevent employers and employees from infringing each other's basic rights in the field of labour law.

Article 23. Chapter 8 section 2 of the Constitution provides that provisions relating to the personal status of private subjects or to their personal and economic relationship shall be laid down by law. Such provisions are inter alia provisions concerning the right to a family name, or concerning marriage and parenthood, heritage and wills or other family affairs.

(i) The right to family life can be said to be an inherent part of the right to privacy. Swedish law is based on the assumption that the family shall live together. The basic rule is that the parents, if they live together, shall have joint responsibility for their children. In certain cases, however, there are cogent reasons for not respecting the principle of the unity of the family. One of the parents may be deprived of his liberty by a court judgement or on some other legal ground or it may be necessary, in the interests of the child, to entrust one of the parents or some other

person with the custody of the child. It may also be necessary to subject a child to special institutional care. In these and other cases a decision to interfere in the unity of the family must, however, always be based on specific legal provisions, e.g. the Family Code and the Child Welfare Act (1960:97).

(ii) The provisions on the impediments to marriage are to be found in chapter 2 of the Marriage Code. No person under the age of 18 years must contract a marriage without the permission of the Office of the County Governor (section 1). Anyone declared legally incompetent must not contract a marriage without the consent of the legally appointed guardian. If such a consent is refused, the court may upon request permit the marriage if it finds the reasons for the refusal ill-founded (section 2). Marriage is not permitted between persons in lineal descent or ascent or between brother and sister; the Government may, however, permit marriage between half-brother and half-sister (section 3). A married person must not contract a second marriage as long as his first marriage has not been dissolved (section 4).

(iii) The marriage ceremony shall be performed in the presence of relatives or other witnesses. The man and woman shall appear together before the celebrant and shall upon his question give their affirmative answer to the marriage whereupon he shall declare them husband and wife (chapter 4 section 8 of the Marriage Code).

(iv) As has been previously pointed out (see 2 (iv) above), chapter 2 section 16 of the Constitution provides that no law or other regulation may imply that a citizen is treated unfavourably by reason of sex, unless the provision is part of the efforts to achieve equality between men and women. This provision is, *mutatis mutandis*, applicable to aliens (section 20). Reference should also be made to the protection against discriminatory treatment on account of inter alia sex by courts and administrative authorities afforded by chapter 1 section 9 (see 2 (i) above).

The specific provisions on the rights and responsibilities of spouses as to marriage, during marriage and at its dissolution are contained in the Marriage Code. The rights and responsibilities with regard to children who have not reached the age of 18 years are, however, governed by the Family Code. In the case of dissolution of the marriage, the court shall decide on the custody of children. This decision shall be based on what is considered to be the best interests of the child. If the parents agree to have joint custody of the child also after the dissolution of the marriage the court shall decide accordingly unless such an arrangement would be manifestly contrary to the best interests of the child.

It should be added that the provisions of the Family Code on children also apply in cases where the parents live together - or subsequently separate, as the case may be - without being formally married.

Article 24.

(i) As to the protection of the child on the part of his family, society and the State, reference may, mainly, be made to the comments on the relevant parts of article 23. Of a particular interest may also be the declaration of principle contained in section 1 of the Child Welfare Act (1960:97) which reads (translation into English):

"The purpose of the care of society for children and youth (child welfare) is to promote a favourable development of the young persons and also appropriate conditions otherwise during their childhood and youth."

Each municipality shall provide for the child welfare within its region under the supervision of the Office of the County Governor.

(ii) As to the registration of a newly-born child, the Ordinance (1967:198) on national registration stipulates that the registration office shall be notified of the birth. If the child is born in a hospital or a private nursing home or if a midwife is assisting at the birth outside such an institution, the notification shall be made immediately. Otherwise the notification shall be made within one month (section 30).

As to the name of the child the Act (1963:521) on names provides that a child shall, if it is alive, be given a first name within six months after the birth (section 23).

If the parents are married, it acquires at the birth the father's family name (section 1). Otherwise it acquires the mother's family name (section 2).

(iii) The Swedish Citizenship Act (1950:382) provides (section 1) that a child acquires Swedish citizenship by birth in the following cases:

1. if the father is a Swedish citizen and married to the mother of the child;

2. if the father is deceased, but at the time of his death was a Swedish citizen and married to the mother of the child;

3. if the mother is a Swedish citizen and married to the father of the child or is his widow, but the father is stateless or the child does not acquire its father's citizenship by birth;

4. if the mother is a Swedish citizen and not married to the father of the child, nor is his widow.

Any foundling discovered in Sweden shall be deemed to be a Swedish citizen until other status is established.

Article 25. The Swedish democracy is founded on freedom of opinion and on universal and equal suffrage and shall be realized through a representative and parliamentary policy and through local self-government (chapter 1 section 1 of the Constitution). The Parliament shall be constituted through free and direct elections with use of secret ballots (chapter 3 section 1). The right to vote in the elections for the Parliament is guaranteed in Sweden. Provisions regarding the suffrage of Swedish nationals not having their residence in Sweden shall be laid down by law. A person who has not reached the age of 18 years on or before the day of the elections or who has been declared by court order to be under legal disability shall not have the right to vote (chapter 3 section 2).

Ordinary elections for the Parliament shall be held every third year (chapter 3 section 3). The Government may order extra elections to be held between ordinary elections (chapter 3 section 4). Only a person who fulfils the requirements for the right to vote and who is legally competent can be a member of the Parliament or a substitute for such member (chapter 3 section 10).

When appointments to posts within the State administration are made, attention shall be paid only to objective factors such as service merits and competence (chapter 11 section 9). Certain posts are, however, reserved for Swedish nationals.

Although not laid down in the Constitution, the basic rules concerning the right to vote and to be elected in municipal, county and ecclesiastical elections correspond to those governing the elections to the Parliament. It should, however, be mentioned that in 1976 a reform was introduced that granted to aliens the right to vote and to be elected in municipal, county and ecclesiastical elections, provided that they had been residing in Sweden for at least three years before the election.

Also in respect of appointments to municipal and county posts the guiding principles are objective factors such as service merits and competence.

Article 26. The principle of the equality of all persons before the law is inscribed in chapter 1 section 9 of the Constitution which also prohibits any discriminatory treatment by courts and administrative authorities. Reference should also be made to chapter 2 sections 15 and 16 on the non-discriminatory nature of laws and regulations. These provisions have been reproduced under 2(i) and (iv) above. Furthermore, the freedoms of opinion and of religion are guaranteed by the Constitution (see comments on articles 18 and 19 above). Additional protection is offered by the provisions of the Penal Code on inciting rebellion, agitation against ethnic group and unlawful discrimination (chapter 16, sections 5, 8 and 9 respectively) as well as by the Freedom of the Press Act which provides (chapter 7 section 4) that any representation which is punishable under law shall be considered as an unlawful statement in printed matter if it involves inter alia threats against, or contempt for a group of people of a particular race, skin colour, or national or ethnic origin, or of a particular religious confession.

Article 27. Section 2 of chapter 1 of the Constitution provides inter alia that the possibilities of ethnic, linguistic and religious minorities to maintain and develop a cultural and community life of their own shall be promoted.

Ad articles 26 and 27. The obligations under these articles relate closely to those of the International Convention on the Elimination of all Forms of Racial Discrimination. This Convention has been ratified by Sweden, and the Swedish Government has submitted reports in accordance with article 9 of the Convention. The third report was submitted on December 30, 1976.

5. The new Swedish Constitution that entered into force on 1 January 1975 contained for the first time in the Swedish constitutional history, apart from the provisions on the Freedom of the Press Act and the rules relating to the access to public documents, an extensive regulation of human rights and fundamental freedoms. On 1 January 1977 the protected area was further enlarged. A completely new chapter on rights and freedoms then entered into force. During the last few years, work has also progressed in respect of the strengthening of the protection offered by the Freedom of the Press Act (see under article 19 above).

In connection with the debate on the reform relating to the provisions on rights and freedoms that entered into force on 1 January 1977, the Parliament expressed the opinion that the reform work should be continued in this field. The possibilities of according a more complete constitutional guarantee to, in the first place, the freedoms of expression, information, assembly, demonstration and association should be considered.

The Minister of Justice has recently announced that a Parliamentary Commission will soon be established for the purpose of elaborating a new Constitution on the Freedom of Expression. It will base its work on the proposals submitted in 1975 by the previously mentioned Government Commission on mass media (see under article 19 above). The work may be expected to result in rules implying that those parts of the freedoms of opinion which are particularly important for democracy in Sweden will be afforded a constitutional protection of the same strength as that at present afforded to the printed word.

This work will, however, of necessity be time-consuming and the Government has, therefore, decided to establish a separate Parliamentary Commission charged with the task of submitting proposals for the strengthening of the protection of rights and freedoms in the Constitution. In the first place, this Commission should endeavour to elaborate special rules governing the procedure in connection with the enactment of legislation restricting such rights and freedoms. One solution to this problem may be to create rules implying that restrictions of rights and freedoms cannot be decided as speedily as ordinary law.

Another main task for the Commission should be to consider the question of the right of courts and administrative authorities to examine the constitutionality of laws and regulations in the light of the protection that the Constitution offers to basic human rights and fundamental freedoms.



Translation in excerpt

THE SWEDISH PENAL CODE

CHAPTER 3. Of Crimes Against Life and Health

"Section 5. A person who inflicts bodily injury, illness or pain upon another or renders him unconscious or otherwise similarly helpless, shall be sentenced for assault to imprisonment for at most two years or, in case the crime was petty, to pay a fine."

"Section 6. If the crime mentioned in Section 5 is considered grave, the sentence shall be for aggravated assault to imprisonment for at least one and at most ten years.

In judging the gravity of the crime, special attention shall be paid to whether the deed involved a mortal danger or whether the offender had inflicted grievous bodily injury or severe illness or had otherwise shown great ruthlessness or brutality."

CHAPTER 4. Of Crimes Against Liberty and Peace.

"Section 1. If a person seizes and carries away or confines a child or some other person with the intent of injuring him in body or health or forcing him into service, or to practice extortion, he shall be sentenced for kidnapping to imprisonment for a fixed period of at least four and at most ten years, or for life.

If the crime is less grave, imprisonment for at most six years shall be imposed."

"Section 2. A person who, in a case other than those stated in Section 1, deprives some one of his liberty by carrying him away or confining him or otherwise, shall be sentenced for unlawful deprivation of liberty to imprisonment for at least one and at most ten years.

If the crime is less grave, a fine or imprisonment for at most two years shall be imposed."

"Section 3. A person who otherwise, by unlawful compulsion or deceit, accomplishes the entry of some one into military or labour service or other similar condition of restraint or induces some one to go to or remain in a place abroad where he can be in danger of being exposed to persecution or exploited for immoral purposes or otherwise land in distress, shall be sentenced for placing a person in a distressful situation to imprisonment for at least one and at most ten years.

If the crime is less grave, a fine or imprisonment for at most two years shall be imposed."

"Section 4. A person who, by assault or otherwise by force or by threat of a criminal act, compels another to do, submit to or omit to do something, shall be sentenced for unlawful coercion to pay a fine or to imprisonment for at most two years. If some one with such effect exercises coercion by threat of prosecuting or accusing another of a crime or of giving detrimental information about another, he also shall be sentenced for unlawful coercion, provided that the coercion is wrongful.

If a crime referred to in the first paragraph is grave, imprisonment for at least six months and at most six years shall be imposed. In judging the gravity of the crime, special attention shall be paid to whether the act included the infliction of pain to force a confession, or other torture."

"Section 5. If a person raises a weapon against another or otherwise threatens to commit a criminal act, in a manner suited to evoke in the threatened person a serious fear for his own or some one else's safety as to his person or property, he shall be sentenced for unlawful threat to pay a fine or to imprisonment for at most two years."

"Section 6. A person who unlawfully intrudes or remains where another has his living quarters, whether it is a room, a house, a yard or a vessel, shall be sentenced to pay a fine for breach of domiciliary peace.

If a person, without authorization, intrudes or remains in an office, factory, other building or vessel or a storage area or other similar place, he shall be sentenced for unlawful intrusion to pay a fine.

If the crime mentioned in the first or second paragraph is grave, imprisonment for at most two years shall be imposed."

"Section 7. A person who manually molests or by discharge of a firearm, throwing of stones, making loud noise or other heedless conduct harrasses another, shall be sentenced for molestation to pay a fine or to imprisonment for at most six months."

"Section 8. If a person unlawfully obtains access to a communication which, in the form of mail or as telephone conversation, telegram or other telecommunication, is being transmitted by a public agency of communication, he shall be sentenced for breach of postal- or tele-secrecy to pay a fine or to imprisonment for at most two years."

"Section 9a. A person who, in a case not covered by Section 8, unlawfully and secretly by means of technical devices for the reproduction of sounds listens to or records private talks, conversations between others or negotiations at a meeting or any other gathering to which the public is not admitted and in which

he is not participating or which he is attending without proper authorization, shall be sentenced for unlawful listening to pay a fine or to imprisonment for at most two years."

#### CHAPTER 5. Of Defamation

"Section 1. A person who points out some one as being a criminal or as reproachable for his mode of life or otherwise gives information likely to expose him to the disesteem of others, shall be sentenced for defamation to pay a fine."

If he was in duty bound to express himself or if, considering the circumstances, the giving of information on the matter was defensible, and if he proves that the information was true or that he had reasonable grounds for it, no punishment shall be imposed."

"Section 2. If the crime mentioned in Section 1 is regarded as grave, a fine or imprisonment for at most two years shall be imposed for grave defamation."

In judging the gravity of the crime, special attention shall be paid to whether the information, because of its content or the scope of its dissemination or otherwise, was likely to result in serious damage."

"Section 3. A person who vilifies another by an insulting epithet or accusation or by other outrageous conduct toward him, shall be sentenced for insulting conduct to pay a fine, if the act is not punishable in accord with Section 1 or 2."

If the crime is grave, a fine or imprisonment for at most six months shall be imposed."

#### CHAPTER 15. Of Perjury, False Prosecution and other Untrue Statements

"Section 1. If a person, under legal oath or affirmation instead of oath, gives untrue information or withholds the truth he shall be sentenced for perjury to imprisonment for at most four years or, if the crime is petty, to pay a fine or to imprisonment for at most six months."

If the crime is grave, imprisonment for at least two and at most eight years shall be imposed. In judging the gravity of the crime, special attention shall be paid to whether it was done with the intent that an innocent person be punished for a grave crime or that very considerable harm be inflicted upon some one."

"Section 2. A person who, during a hearing in a judicial proceeding, after declaring that he will tell the truth gives untrue information or withholds the truth, shall be sentenced for untrue statement by a party to imprisonment for at most two years or, if the crime is petty, to pay a fine or to imprisonment for at most six months."

"Section 5. If some one institutes the prosecution of an innocent person with the intent that such person be convicted, he shall be sentenced for false prosecution to imprisonment for at most two years or, if the crime is petty, to pay a fine or to imprisonment for at most six months.

If the crime is grave, imprisonment for at least six months, and at most four years, shall be imposed. In judging the gravity of the crime, special attention shall be paid to whether the prosecution had concerned a serious crime or had involved misuse of an official position.

A person who institutes prosecution although he lacks probable cause for so doing shall be sentenced for unjustified prosecution to pay a fine or to imprisonment for at most six months."

"Section 6. If some one denounces an innocent person for prosecution with the intent that such person be convicted, he shall be sentenced for false accusation to imprisonment for at most two years or, if the crime is petty, to pay a fine or to imprisonment for at most six months.

If he did not realize but had reasonable grounds for assuming that the accused was innocent, he shall be sentenced for unjustified accusation to pay a fine or to imprisonment for at most six months."

"Section 7. A person who, in a case other than those referred to in Section 6, before a prosecutor, police authority or other authority, untruthfully charges another with a criminal act, alleges some compromising circumstance, or denies an exonerating or extenuating circumstance, shall, if the authority has to receive reports of this kind, be sentenced for false incrimination to imprisonment for at most two years or, if the crime is petty, to pay a fine or to imprisonment for at most six months.

If he did not realize but had reasonable grounds for assuming that the information was untrue, he shall be sentenced for careless incrimination to pay a fine or to imprisonment for at most six months."

"Section 8. If a person tampers with or removes evidence with the intent that an innocent person be convicted, or if he with such intent invokes false evidence, he shall be sentenced for tampering with evidence to imprisonment for at most two years or, if the crime is petty, to pay a fine or to imprisonment for at most six months.

If the crime is grave, imprisonment for at least six months and at most four years shall be imposed."

"Section 11. If, in a certificate or other document, a person gives untrue information about his identity or about other than his own concerns, or if a person for the sake of appearances prepares a document concerning judicial act,

he shall, if the action jeopardizes proof, be sentenced for false certification to pay a fine or to imprisonment for at most six months. If the crime is considered grave because it involves misuse of official position or for other reasons, imprisonment for at most two years shall be imposed.

A person who invokes or otherwise uses a false document referred to in the first paragraph shall, if the act jeopardizes proof, be sentenced, as there provided, for using a false document."

#### CHAPTER 16. Of Crimes Against Public Order.

"Section 5. A person who, orally, before a crowd or congregation of people, or in a publication distributed or issued for distribution, or in other message to the public, urges or otherwise attempts to entice people to commit a criminal act, evade a civic duty or disobey public authority, shall be sentenced for inciting rebellion to pay a fine or to imprisonment for at most six months.

If the crime is considered grave because the offender tried to induce the commission of a serious crime or for other reasons, imprisonment for at most four years shall be imposed. No responsibility shall be imposed where the crime is petty. In deciding whether the crime should be considered petty, special consideration shall be given to whether there was only insignificant danger that the urging or the attempt might be followed."

"Section 8. If a person publicly or otherwise in a statement or other communication which is spread among the public threatens or expresses contempt for a group of a certain race, skin colour, national or ethnic origin or religious creed, he shall be sentenced for agitation against ethnic group to imprisonment for at most two years or, if the crime is petty, to pay a fine."

"Section 9. If a businessman, in the conduct of his business, discriminates against someone on the ground of his race, skin colour, national or ethnic origin or religious creed by refusing to deal with him on the same conditions the businessman applies to others in the conduct of his business, he shall be sentenced to unlawful discrimination to pay a fine or to imprisonment for at most six months.

The provisions in the first paragraph concerning businessmen shall be applied correspondingly to a person who is employed in a business or who acts on behalf of a businessman as well as to a person who has a position as a civil servant in which he has to deal with the public.

An organizer of a public assembly or entertainment or an assistant to such organizer may be sentenced for unlawful discrimination if he discriminates against someone on the ground of his race, skin colour, national or ethnic origin, or religious creed by refusing to allow him to enter the assembly or entertainment on the same conditions which apply to others."

## CHAPTER 20. Of Crimes in Office

"Section 3. If a person discloses what he is duty bound to keep secret in accordance with laws and regulations or if he unlawfully makes use of such secret, he shall, if the act is not otherwise separately made subject to punishment, be sentenced to pay a fine or to imprisonment for at most one year.

Anyone committing an act as referred to in the first paragraph by negligence, shall be sentenced to pay a fine."

## CHAPTER 26. Of Imprisonment

"Section 15. When there are reasons to believe that the parolee for his adaptation in society needs the support of special directives with respect to what he has to observe during the parole period, such directive may be issued for a certain period of time or until further notice. A special directive may refer to :

1. place of residence or lodging for a certain period of time, at most one year at a time;
2. training or employment;
3. medical care, treatment for alcoholism or other care or treatment in or outside a hospital or other similar establishment.

If the parolee has been enjoined to make compensation for damage caused by his crime, directives may be issued governing the time and manner of meeting this obligation to the extent the such directives cannot, in view of the parolee's financial situation and other circumstances, counter-act his adaptation in society."

## CHAPTER 28. Of Probation

"Section 6. Provisions of Chapter 26, Sections 12-17, shall correspondingly apply to a person sentenced to probation. A probation officer may also be assigned and directives based on Chapter 26, Section 15, issued by the court when sentencing to probation."

## CHAPTER 29. Of Youth Imprisonment

"Section 7. With respect to care outside the institution, the provisions of Chapter 26, Sections 12-17, shall have corresponding application. A parole officer may also be assigned and directives in accord with Chapter 26, Section 15, issued by the youth imprisonment board when it orders care outside the institution."

CHAPTER 30. Of Internment

"Section 10. With respect to the care outside the institution, the provisions of Chapter 26, Sections 12-17, shall have corresponding application. A parole officer may also be assigned and directives in accord with Chapter 26, Section 15, issued by the internment board when it orders care outside the institution."