



**International Convention
on the Elimination
of all Forms of
Racial Discrimination**

PROVISIONAL
For participants only

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fourth session

PROVISIONAL SUMMARY RECORD OF THE 1018th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 3 March 1994, at 10 a.m.

Chairman: Mr. GARVALOV

CONTENTS

Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention (continued)

Eleventh periodic report of Sweden

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Eleventh periodic report of Sweden (CERD/C/239/Add.1)

1. At the invitation of the Chairman, Mr. Lindholm, Mr. Sjöström and Mrs. Fridström (Sweden) took places at the Committee table.

2. Mr. LINDHOLM (Sweden), noting that a year had passed since the drafting of his country's eleventh periodic report, said that he wished to apprise the Committee of some new developments. In December 1993, the Government had submitted a bill to Parliament on measures to counteract racist crimes and ethnic discrimination in working life. That bill, a copy of which was available to the Committee, was based largely on proposals put forward by the Commission appointed to study measures to counteract ethnic discrimination. It was expected to be considered by Parliament in the spring and come into force on 1 July 1994.

3. The Commission and the Government were of the opinion that Swedish legislation satisfied the requirements of the International Convention on the Elimination of All Forms of Racial Discrimination. As the Government considered it advisable to strengthen the protection against offences committed out of racist or similar motives, it was proposing a change in the Penal Code. The new provision introduced new grounds for increasing the severity of the punishment if the motive of the crime was to offend a person or a group because of race, skin colour, national or ethnic origin, religious creed or any similar circumstance. The Government was not proposing new penal provisions on organized racism and support to organized racism, as it considered, inter alia, that such provisions would not contribute to the struggle against racism and other false doctrines.

4. In the same bill, the Government was proposing special provisions that prohibited ethnic discrimination in working life, which should apply to the entire labour market and protect both job applicants and persons already employed. The idea was to prohibit inadmissible treatment that was ethnically and not objectively motivated. It was further proposed that the current rules in the 1986 Act to Counteract Ethnic Discrimination, and the new provisions on ethnic discrimination in working life, should be included in a new act, the 1994 Act to Counteract Ethnic Discrimination. The chief sanction against breaches of the discrimination prohibitions was to be compensation. It was also proposed that the Ethnic Discrimination Ombudsman should have a litigating role.

5. According to a preliminary survey presented in November 1993 by the Centre for Research in International Migration and Ethnic Relations at the University of Stockholm, on the attitudes of Swedes to immigration and immigrants and on the attitudes of immigrants to Sweden and the Swedes, xenophobia had not increased in Sweden. The Government proposed spending SKr 32 million on measures to combat xenophobia and racism. It further announced that a special commission would soon be set up to combat xenophobia and racism.

6. With reference to paragraph 26 of the report (CERD/C/239/Add.1), it should be noted that Mr. Rami had again been prosecuted for the same kind of offence and that Radio Islam had ceased to broadcast. The case was still pending. Mr. Rami's deputy had been sentenced to four months in prison. Regarding the suspension of a broadcasting permit referred to in paragraph 28, as of 1 April 1993 the maximum time for such a suspension had been increased from one year to five years.

7. The figures provided in paragraph 45 could be updated. In 1992, five persons had been convicted of agitation against an ethnic group and two persons had been convicted of unlawful discrimination. The new Sami parliament had been functioning since August 1993.

8. As part of the gradual abolition of measures taken against South Africa, the ban on trade had been lifted and visa requirements for South African citizens had been repealed in September 1993.

9. Approximately 36,500 residence permits had been issued in 1993 to asylum-seekers, 30,300 of whom were from the former Yugoslavia (about 28,700 from Bosnia and Herzegovina).

10. Mr. RECHETOV (Rapporteur for Sweden), after welcoming the presence of such a high-level Swedish delegation, said that Sweden had deeply-rooted democratic traditions and was a model of highly sophisticated social development, which the countries of Eastern Europe would do well to emulate. He nevertheless wished to raise some questions with the delegation and to offer some friendly criticism.

11. With reference to paragraph 9 of the report, and in particular to the first sentence of that paragraph, he wished to address what was to his mind the fundamental question of the prohibition of racist organizations. Why did the authors of the report on organized racism feel that it was not necessary at present to prohibit organizations that were none the less defined as racist throughout the report, arguing, with reference to article 2 of the Convention, that circumstances in Sweden did not justify such a prohibition? Clearly, it was difficult to prove the racist nature of the activities of such organizations, and there was no reason to condemn an entire organization because of a racist statement by one of its members or its leader. However, he took issue with the legal argument advanced by the authors of the report, which risked being exploited by other States, namely, that to prohibit an organization was incompatible with the respect of certain human rights, particularly the rights to freedom of association and of expression. International humanitarian law did not preclude the imposition of some restrictions - which should, of course, be minimal and provisional - on human rights in the interest of higher values. The purpose of the protection of human rights was to ensure respect for human dignity and to protect human beings against any form of discrimination. When a racist organization used those fundamental rights to freedom of association and expression to attack the dignity of a group of persons or an ethnic group, it was no longer really a question of rights. An organization that based its activities on racist theory and practice should not have the status of a social or political organization. The report on organized racism brought to mind the fact that the objective of the Convention was to eliminate all forms of discrimination,

but, also according to the report, the prohibition of racist organizations could not be a part of legislation aimed at eliminating those forms of discrimination, and the Government decided what steps to take to meet the requirements of the Convention. It was none the less obvious that the question of the prohibition of racist organizations was directly tied to the purposes of the Convention, article 4 of which clearly presented prohibition as one of the means of eliminating forms of discrimination. As far as he knew, Sweden had never made any reservations to the Convention.

12. The proposed measures for preventing discrimination in the workplace were very useful since it was the law, rather than labour contracts, that should guarantee fundamental protection against ethnic discrimination. With regard to paragraph 15 of the report, according to which the prohibition of discrimination should not address indirect discrimination, the difference between direct and indirect discrimination was sometimes very difficult to define. He did, however, welcome the fact that the Ethnic Discrimination Ombudsman would be playing a more active role in future.

13. Concerning the new Freedom of Expression Act referred to in paragraph 23, and the restrictions allowed in that regard, it seemed that the provisions of the Act were being fully implemented in practice. He referred in particular to the Radio Islam case and the case of the revisionist statements (para. 30).

14. Concerning racist attacks, he was surprised by the number of cases that had still not been closed by the police. Some of the sentences seemed rather lenient. How much had the Swedes found guilty of painting racist slogans on a car belonging to an immigrant (para. 40) been fined? As to the vehicular assault committed by a Swede against two refugees, that was quite simply attempted murder (para. 43). The idea of a municipality organizing a referendum on accepting refugees (para. 46) at first seemed democratic, but what would the Swedish Government do if the local population refused to accept refugees?

15. The creation of a Sami assembly, the Sameting, was to be welcomed. However, its Chairman was not elected, but was appointed by the Government (para. 55), and its functions were also determined by the Government. It was thus more of a Swedish administration than a parliament exercising powers comparable to those of parliaments established in other Nordic countries, such as Finland, to represent indigenous peoples.

16. It appeared from the last sentence of paragraph 57 of the report that 267 Sami children had attended school in the 1991/92 school year. For a total Sami population of 17,000 to 20,000, the number of children enrolled in school was extremely low.

17. The legal regime applicable to reindeer-herding had been approved by Parliament on 15 December 1992 (para. 65). Had the steps it called for been implemented fully or only partially? In that connection, he wished to know how many of the total number of Sami in Sweden would acquire reindeer-herding rights. The new law provided that the right of reindeer-herding was "of a collective nature" (para. 61). According to information provided to the Committee, the immemorial rights to reindeer-herding were defined as individual rights. Furthermore, the Supreme Court of Sweden had refused to

recognize the collective nature of those rights. How could the collective nature of the rights of the Sami to reindeer-herding be reconciled with the fact that those rights were subject to expropriation (para. 63)? How could the rights of an entire people be expropriated? If, as it had been indicated to the Committee, non-Sami could be authorized to hunt on Sami grazing land and to fish in lakes previously reserved for the Sami, what would become of the Sami? He would welcome clarification on the subject. The Swedish Parliament did not as yet have even one representative of the Sami as such. On the Sami question in general, the Government's attitude still appeared to be rather paternalistic. The Sami people still did not have the right to express themselves or to take decisions on matters that affected them.

18. Again according to information made available to the Committee, Sweden had reportedly taken a negative attitude towards accession to ILO Convention No. 169 concerning indigenous and tribal peoples. The Sami people perceived that as a reluctance to grant them the status of indigenous people. Their representatives were attempting to have their language recognized as a national language on an equal footing with Swedish.

19. In a reply given to the Sub-Commission on Prevention of Discrimination and Protection of Minorities, Sweden had stated that there were no obstacles to the organization of minorities in Sweden. There should therefore be no problem to deal with in that regard. It none the less appeared from the economic and social indicators provided in the report (para. 74 et seq.) that the Sami and other minorities were not on an equal footing with the rest of the Swedish population. With regard to the direct representation of minorities in the national Parliament, Sweden affirmed that that would be contrary to the Constitution. Having their own representative to the national Parliament would, however, provide a guarantee for those minorities and their status in the country.

20. Mr. LECHUGA HEVIA said that he would like to know exactly what was meant by the first sentence of paragraph 9. He did not see how an association could have a "racist attitude" that could be reflected in any other way than by the racist activities prohibited by the Convention.

21. Mr. SONG said that he would like to know whether the first sentence of paragraph 22, according to which the settlement of disputes between employers and employees did not lie within the competence of the Ethnic Discrimination Ombudsman, ruled out any possibility of settling disputes outside of the courts. He also wished to know what link there was between the Sameting and the other Swedish authorities. Did the creation of the Sameting mark the beginning of a transition towards Sami autonomy? It was stated in paragraph 61 that the right of reindeer-herding was "not a right conferred upon the Sami by the State". It therefore seemed that such rights should be protected. However, according to paragraph 63, they were subject to expropriation. What would happen to the Sami economy if the reindeer-herding rights were annulled on certain lands? Like Mr. Rechetov, he was concerned about what would become of the Sami if the non-Sami were authorized to hunt on reindeer grazing lands and to fish in lakes previously reserved for the Sami. He asked for clarification on those matters.

22. Mr. de GOUTTES joined Mr. Rechetov in praising Sweden as a model of democracy and of the rule of law. He also commended it for the regularity with which it submitted its periodic reports, a point worth stressing. The eleventh periodic report had been submitted barely three years after the tenth report; accordingly, it emphasized only new developments. Those developments raised certain questions. According to the report (para. 6 et seq.), the Commission set up to study measures to counteract ethnic discrimination had presented its first report in September 1991. There were very interesting proposals in that report, such as to include a new provision on "organized racism and support to organized racism" in the Penal Code and to make racist motives for a crime general grounds for increasing the severity of the punishment. What further action had the Government actually taken on those proposals?

23. It was remarkable to note that the bill on Sami affairs, approved by Parliament on 15 December 1992, included several of the Committee's proposals (para. 54). That was a comment the Committee rarely had an opportunity to make. The bill created a Sami assembly of 31 members, the Sameting. The first elections had been scheduled for May 1993 (para. 55); the Swedish delegation had stated that they had already taken place and that the Sameting was now functioning. How had it actually been set up? What were the first lessons to be learned from its functioning? Why was it the Government that appointed its Chairman (para. 55)? Was that information, as noted by Mr. Rechetov, correct? Might that not affect the representativeness and independence of the body?

24. The Ethnic Discrimination Ombudsman had "not yet been given a litigating role" (para. 21). That was to be regretted. Was the initiative in litigation to combat racism to be taken only by the victim, who was frequently ill at ease and ill-informed of his rights? Or did the litigating role belong also to associations and non-governmental organizations protecting the interests of groups such as immigrants or the Sami?

25. Concerning the practical examples and cases of racist incidents or offences mentioned in the report (para. 36 et seq.), like Mr. Rechetov, he noted that with only a few exceptions, the sentences were rather light, mostly involving fines. Did that mean that the courts were hesitant to pronounce sentences in that area? Had firm instructions been given to the judges? What sort of sentences were being pronounced in cases of persecution of a population group (para. 45)? The severity of the sentence was an important indication, as it reflected the seriousness with which the judges viewed that type of offence.

26. The report provided a good deal of information on the situation of the Sami but dealt only briefly with that of other ethnic groups, including immigrants from the former Yugoslavia, Turkey, Iran and neighbouring Nordic countries (Norway, Finland, Denmark). He would like more information on their number, status, professional integration and any signs of social non-integration - problems of delinquency, drug abuse, alcoholism, inner-city ghettos and the like.

27. Sweden had made a declaration under article 14 of the Convention, recognizing the Committee's competence to receive and consider individual

communications. Had the Government taken the necessary steps to publicize that communications procedure and inform all the population of the possibility of bringing individual complaints to the Committee?

28. Mrs. SADIQ ALI endorsed the praise given to Sweden by Mr. de Gouttes. She wished to know to whom the National Board of Immigration communicated its findings (para. 20), how it functioned and to what extent it had helped to prevent ethnic conflicts. Concerning the implementation of article 2, paragraph 1 (e), of the Convention, had Sweden taken steps to encourage integrationalist multiracial organizations and movements and other means of eliminating barriers between the races?

29. No information had been provided on the implementation of article 7 of the Convention, under which States parties undertook to adopt measures, particularly in the fields of teaching and education, with a view to combating racial prejudices. She recalled that in its decision 2 (XXV) of 17 March 1982, incorporated into the general guidelines regarding the form and contents of reports submitted by States parties (CERD/C/70/Rev.3), the Committee had defined the obligations of States concerning the preparation of reports for each of the subjects mentioned in article 7 (education and teaching, culture, information, press and electronic media) and had given examples. The Committee would also like to know to what extent law enforcement personnel, including the police and judges, received instruction on human rights and the Convention as a part of their professional training.

30. Mr. DIACONU commended Mr. Rechetov, the country rapporteur, for his analysis of the report of the State party. Sweden submitted its reports with great regularity. It was a very developed and democratic country that many other countries considered as a model. However, a profound misunderstanding persisted between it and the Committee. The Committee had been unable to convince Sweden that it should adopt legislation to prevent all dissemination of ideas based on racial superiority or hatred and all incitement to racial hatred or discrimination and declare illegal and prohibit organizations carrying out such activities. It should be recalled that in its General Recommendation VII, concerning article 4 of the Convention, the Committee had stressed that the provisions of that article were mandatory and that the prohibition of the dissemination of ideas based on racial superiority or hatred was compatible with the right to freedom of opinion and expression.

31. International treaties did not have the force of law in Sweden unless they had been incorporated into national legislation. That was not the case of the Convention, and the courts could therefore not base their decisions on its provisions. Given the rising number of racist or xenophobic acts committed in Sweden, as in other western countries, the adoption of legislation seemed increasingly necessary.

32. While Sweden, more than many other States, was taking steps to eliminate or avoid discrimination in the workplace and in health care and had an exemplary health-care and welfare system, some organizations and media might, through publications and demonstrations, act in a manner contrary to that of the Government or society. Other western countries that were as committed as Sweden to freedom of information and association, even those which had made

reservations concerning article 4 of the Convention, had adopted legislation to deal with the problem. He would like to have the opinion of the delegation on the subject.

33. According to some sources, foreigners comprised 10 per cent of the population in Sweden. Were there programmes to help ethnic groups preserve their language, culture and identity? Some political party leaders were engaging in racist propaganda that was offensive to foreigners. How did the Government intend to deal with such attitudes?

34. In 1993, the Government had given the local administrations responsibility for dealing with refugees. Similar decisions had been taken by other countries in the region. Had those measures had beneficial effects? Had they caused the number of acts of racial discrimination and xenophobia to decline?

35. As the question of the Sami had already been raised, he would merely say that he hoped it would be handled in the best possible manner.

36. Mr. VALENCIA RODRIGUEZ said that according to some media and non-governmental organizations, there was a resurgence in acts of violence and racial discrimination in Sweden, with grave political and social repercussions. That made it all the more important to consider the country's report.

37. The Government in May 1990 had set up a commission to study measures to counteract ethnic discrimination. That Commission had suggested that it should be possible to introduce restrictions on freedom of association in cases of persecution of groups other than ethnic groups, such as immigrants or refugees. It had further proposed that a new provision on organized crime and support to organized racism should be included in the Penal Code. Had the Government adopted those or other recommendations of that Commission?

38. According to paragraph 9 of the report, an organization could adopt a racist attitude but would not be prosecuted unless it had participated in particular types of racist crimes. That called for some clarification. What was meant by the term "indirect discrimination" in paragraph 15? Paragraph 17 stated that the Commission studying measures to counteract ethnic discrimination proposed that the name of the Act to Counteract Ethnic Discrimination should be changed to make it clear that the Ethnic Discrimination Ombudsman was to take action against racism and xenophobia; apparently, that was not among his present functions.

39. According to paragraph 24, an offence under the Freedom of the Press Act and the Freedom of Expression Act must also be punishable under the Penal Code if sanctions were to apply. He wondered whether the provisions of the Penal Code were sufficient to meet the obligations arising under the Convention.

40. What had been the most noteworthy results of the allocation of SKr 6.5 million for fiscal year 1992/93 to promote good ethnic relations and reinforce immigrant organizations (para. 32 of the report)?

41. Paragraphs 36 et seq. referred to cases of discrimination and the administrative and legal steps taken. Were those the only cases of discrimination reported, or were there others? Generally speaking, had there recently been an increase in acts of racial discrimination? Had the authorities intensified their efforts to deal with the problem?

42. Paragraphs 53 and 55 demonstrated the will of the Swedish Government to improve the situation of the Sami. The creation of the Sameting was very positive, although it was known that there had been some opposition. What were the reasons? Even if there were no more than 20,000 Sami in Sweden, a new study of their continuing complaints should be recommended, as they were not entirely satisfied with the changes made to the reindeer-herding and hunting and fishing rights they had enjoyed since time immemorial. The Sami language should also be recognized as an official or at least a national language.

43. Paragraph 78 dealt with the wage gap between Swedes and immigrants. Even if that gap could be explained, an attempt should be made to implement the universal standard of equal pay for equal work. What had been the practical results of the specific efforts made to integrate refugees and immigrants into the workforce? He commended Sweden for the regularity with which it submitted its reports.

44. Mr. BANTON referred to a note he had just distributed (without a symbol), in which he analysed the report of Sweden and presented his comments. He recalled that, during consideration of the latest report of Austria, he had said that the Austrian definition of an illegally discriminatory act made the burden of proof extremely difficult in so far as it was necessary to prove that the act in question had been motivated solely by a desire to discriminate. He had then called the attention of Austria to the manner in which Australia had changed its own definition. In Australia, it was sufficient that a principal motive was discriminatory. The Swedish Parliament was now considering a bill under which an act would be illegal if it was discriminatory under the terms of the Convention; that was a very important point. Religion was one of the possible grounds for discrimination in that bill, along with the grounds cited in article 1, paragraph 1, of the Convention. According to the bill, recruiting employers could not ignore a given candidate on any of those grounds. To do so would constitute indirect discrimination. Indirect discrimination would therefore be what was meant in article 1, paragraph 1, of the Convention, by the "effect" of discrimination.

45. Concerning the implementation of article 2 of the Convention, Sweden should indicate the lessons to be drawn from the policies it had followed. As Mr. de Gouttes had said, the presentation of indicators would be useful. He noted in particular that the percentage of immigrants exercising their right to vote had declined: did anyone know why? He also hoped that in its twelfth periodic report, Sweden would re-examine the question of the Sami.

46. With regard to article 3 of the Convention, in Sweden as in some other countries, the Government gave parents greater opportunities to select schools for their children. That was commendable, but might result in greater ethnic segregation. Could the delegation provide clarification?

47. Concerning article 4 of the Convention, it would be useful for the Committee to reaffirm jointly the opinion given in 1986 individually by three of its members. He was willing to join such an initiative, as long as it could also be recognized that Sweden had the right to another opinion, assuming it were reasonable, on the interpretation of the Convention. Meeting the objectives was more important than the means used to attain them, and legislation was not always needed, as indicated in article 2, paragraph 1 (d), of the Convention.

48. He commended Mr. Rechetov for his presentation on the report of Sweden, although he did not entirely share his views. It was perhaps not necessary, for example, for the Sami to be collectively represented in Parliament. Perhaps they should first be asked what they thought of the matter. It might be difficult to prohibit an organization on the grounds that its real motivations were racist, as those motivations were not always easy to discern.

49. He wished to know what follow-up had been given to the incident at Jönköping and if that case was typical. According to reports received by the Committee, in certain European countries there appeared to be difficulties with legal proceedings. Critics in some States claimed that prosecutors were often slow in recognizing racist motivations and initiating prosecutions in such cases. It would be interesting for Sweden to deal with that question in detail in its next report. He would like to hear the observations of the delegation on the demonstration against immigrants in Gothenburg. Was it true that the Government had decided in the autumn of 1993 to limit police powers to forbid demonstrations in public places? Did the experience at Gothenburg suggest that the decision should be reviewed?

50. Referring to the observations of Mr. de Gouttes and Mr. Rechetov on the sentences pronounced against delinquents, he said that it was very difficult to draw conclusions from any one particular sentence. Especially in cases of adolescent delinquents, the choice of possible sentences might be quite limited by law. It would be interesting to know what guidelines were given to judges concerning racist motivations as grounds for imposing heavier sentences. Did the Government believe that those guidelines were being properly observed?

51. He also wished to know whether there were any noteworthy new developments regarding the employment in Sweden of nationals from the Baltic countries.

52. He would appreciate information on how the observance of the right to equal treatment in health-care services, as called for in article 5 (e) (iv) of the Convention, was monitored.

53. The Commission on Human Rights had just appointed a Special Rapporteur on racism, and many suggestions were being made in the Commission and elsewhere on the question of what should be done to reduce racial discrimination, particularly in Europe. Many stressed the importance of education but expressed themselves in very general terms. It should be noted that it was very difficult to educate young people, particularly in underprivileged neighbourhoods, with a view to preventing them from adopting racist attitudes. Sweden's action in that field could be of interest to other countries. Apparently, the new generation of adolescents in Sweden was less kindly

disposed than the previous generation to new immigrants, which did not mean that they were less well disposed to immigrants already settled in the country. In some European countries there was a very regrettable trend to measure the extent of racism by attitudes towards immigrants, whereas a very clear distinction should be made between new immigrants and foreigners who were already settled in the country. Perhaps there were lessons to be learned from the Swedish experience as to the most fruitful methods of education and those which should be avoided.

54. Mr. SHAHI said that Mr. Rechetov, the country rapporteur, had analysed the report of Sweden exhaustively and other members of the Committee had already asked very pertinent questions. He thought highly of the report and hoped that the rise in xenophobia and racism in Europe and elsewhere would not lead Sweden to abandon its enlightened policy of combating racial discrimination or its liberal immigration policy.

55. He wondered whether the adoption of the provisions recommended by the Commission set up to study measures to counteract ethnic discrimination, which was discussed in paragraphs 7 to 11 of the report, would make it possible to meet the obligations arising from article 4 and even article 2. It seemed to him that, on the basis of article 4 of the Convention, racist positions in themselves should be prohibited by law. In studying the recommendations of that Commission, the Government could perhaps give closer consideration to the proposals in paragraph 8 of the report.

56. In paragraph 26, reference was made to court cases against Radio Islam and to the conviction of the programme's editor. Without wishing to question the verdict rendered by the courts, he would like to know what parts of the programme had led to the conviction.

57. According to paragraph 55, the first elections to the Sameting had been scheduled for May 1993. Could the delegation indicate what the outcome had been? Also with regard to the Sami, had the Government exercised its authority to cancel reindeer-herding rights on certain lands, as mentioned in paragraph 63?

58. Paragraph 75 of the report stated that in 1991, the unemployment rate had been 4.4 per cent for citizens from the Nordic countries and 8.5 per cent for foreigners from other countries. That disparity was perhaps understandable, but further information would be welcome. Was it possible that a certain amount of racial preference affected the equal treatment of foreigners when it came to the right to work?

59. Mr. FERRERO COSTA, also referring to the obligation of States parties to ensure the full implementation of article 4 (b), said he hoped that the delegation would take due note of the Committee's position in that regard, particularly as it represented a country which had a distinguished human rights record. Today, it seemed that Sweden was not immune to the general phenomenon of renewed racism in Europe: hostile acts against refugee camps, increased violence against foreigners, a rise in the number of right-wing racist organizations. The current climate made the implementation of article 4 (b) particularly timely, as had already been explained by Mr. Rechetov, Mr. Banton and other members of the Committee.

60. The question of the implementation of article 4 (b) was not new. It had already been raised during consideration of the ninth periodic report (CERD/C/184/Add.1), at which time Sweden had expressed a position which had not changed since, namely, that the question of the prohibition of racist organizations would be considered or was under consideration. That reply had been considered sufficient to determine that Sweden was complying with its obligations under article 4 (b), and made it possible not to cut off dialogue with the Committee. Today, in its eleventh periodic report, Sweden referred to the proposals by the Commission created in May 1990 to review the Act to Counteract Ethnic Discrimination. Those proposals did not attack the root of the problem covered by article 4 (b); they dealt with persons, not organizations, and contained totally inadequate measures, judging by what was said about them in paragraph 9 of the report. Once again, the State party was replying that the report of the Commission in question had been referred to several authorities and organizations for comment, and that the Government was considering further action based on the proposals put forward by that Commission (para. 11).

61. Sweden's interpretation of the obligations arising under the Convention did not correspond to the provisions of article 4 (b), which dealt with "organizations" engaging in activities that incited racial discrimination, and not with their members. To defend its position, Sweden claimed that to prohibit such organizations was contrary to freedom of association and expression. However, article 4 (b) was mandatory in nature; it did not affect freedom of association, but complemented it by maintaining everyone's right to equality and not to be subject to discrimination.

62. The Committee had already given its views in a General Recommendation on the implementation of article 4 of the Convention, recalling that the provisions of article 4 (a) and (b) were "mandatory requirements" and that they were compatible with freedom of expression and association, rights which were expressly set forth in article 5 of the Convention (HRI/GEN/1, General Recommendation VII relating to the implementation of article 4 of the Convention, 1985). Those views had again been recalled by the Committee in March 1993, in its General Recommendation XV, in the following terms: "When the International Convention on the Elimination of All Forms of Racial Discrimination was being adopted, article 4 was regarded as central to the struggle against racial discrimination. At that time, there was a widespread fear of the revival of authoritarian ideologies. The proscription of the dissemination of ideas of racial superiority, and of organized activity likely to incite persons to racial violence, was properly regarded as crucial. Since that time, the Committee has received evidence of organized violence based on ethnic origin and the political exploitation of ethnic difference. As a result, implementation of article 4 is now of increased importance."

63. While he agreed with Mr. Banton that the Committee should reaffirm that position, he did not consider that Sweden had the right to another point of view simply because it might have arguments that merited consideration. To tolerate the activities of illegal organizations by invoking freedom of association, contrary to the obligations arising under the Convention, was to allow two possible interpretations of that instrument. In his opinion, however, there was only one interpretation of article 4 (b). He therefore

called on the Swedish authorities, whose country was considered a model society because of its democratic values, to confront the new reality and new problems of Europe and reconsider their position.

64. The CHAIRMAN, speaking as a member of the Committee, also commended the State party for the quality of its periodic report, the regularity with which its reports were submitted and the active participation of the delegations present during the Committee's consideration of the reports.

65. If all States parties were conscientious in carrying out their obligations under article 4 of the Convention, the Committee would not have found it necessary to adopt the General Recommendations referred to, which represented its collective opinion. It was understandable that it might be difficult for a State party faced with racist violence linked to the activities of certain organizations to take steps that might be contrary to other commitments in order to be in conformity with the Convention. It was because of the interpretation given to freedom of association and expression that some States believed they could not prohibit the establishment and existence of organizations whose activities were based on national, ethnic or religious differences and which might lead to a racist ideology. By contrast, there were also States parties which prohibited the creation of such organizations in both their constitutions and their legislation. Still other States parties did not take a stand either way.

66. In any event, the States parties to the Convention should bear in mind that article 4 could be interpreted in one way only, as expressed by the Committee in its General Recommendations. The Swedish delegation should communicate the position expressed by the Committee members to the authorities for consideration. That was all the more important given that Sweden was considered by many countries as a model in the field of respect for human rights.

67. A second matter to which he wished to draw the attention of the delegation concerned his own country. Many Bulgarians had left their country in the late 1980s to settle in Sweden. There had been more than 6,000 of them at the time of the major changes in Bulgaria. The Swedish authorities in 1990 had decided that most of those Bulgarian immigrants did not meet the requirements for obtaining residence permits in Sweden, explaining that many of them were asylum-seekers whose requests were inadmissible as they did not risk persecution in their own country. The great majority (approximately 75 to 80 per cent) of those immigrants were of Turkish or Gypsy origin. Bulgaria had thus been faced with the following problem: a European country was asking it to agree to the return of Bulgarians who could not claim immigrant status. The question was whether Sweden was refusing to receive them because they were illegal immigrants or because of their ethnic origin.

68. That example illustrated what were called the new and more subtle forms of racial discrimination. It was very difficult to distinguish between stricter regulation of immigration justified by unassailable reasons and the expulsion of immigrants because of their ethnic origin under the pretext of those stricter measures. This was a very sensitive problem for Europe to deal with when it was already in the midst of transformation and conflicts were erupting in some countries of the region. How could it be explained to

populations that the legitimate concerns of the countries of immigration had to be taken into account? None the less, it was the prerogative of States to authorize and contain immigration.

69. Mr. ABOUL-NASR said that he wished to express his position on the question of the interpretation of the Convention. It had been said that the only correct interpretation was that given by the Committee in a collective opinion. That was not his view, however; the Committee could interpret its mandate as it saw fit, and States parties might have another interpretation. The Committee had not been vested with the role of interpreting the Convention but could do so when required by its own functioning as a committee. States parties also had the right to interpret the Convention as it concerned them. Any dispute between States parties in that regard could be taken to the International Court of Justice. It was not for the Committee to pass judgement on the interpretations given to the Convention.

70. Mr. YUTZIS said that, according to information available to him, Sweden had not been spared by the rise of parties of the extreme right, and in the September 1991 parliamentary elections, the "New Democracy" (Ny Demokrati) Party had received 7 per cent of the vote. The approximately 1 million foreigners living in Sweden - of Turkish, Albanian or Somalian origin, or from countries of the former Yugoslavia - were said to be increasingly fearful. According to an observer from Sweden who had studied the revival of the extreme right in that country, in terms of the number of inhabitants, there was more racist violence in Sweden than in Germany, and that was not even counting the minor incidents that occurred in restaurants or cafes.

71. Abuses attributable to the extreme right had doubled in recent years. According to the police, in 1993 there had been 72 racist attacks, most of them attributed to clandestine groups. A leader of the "New Democracy" Party was calling for 60,000 foreigners who were allegedly "destroying Swedish culture" to be sent back to their countries of origin, and for the majority of teachers to be dismissed so that young people could rediscover the cultural values of the 1930s. During a poll held in Swedish schools in September 1991, that same party of the extreme right had received 30 per cent of the votes.

72. None of that was consistent with the information provided in the report of Sweden. The situation was further aggravated by the apparent laxity shown by the Swedish authorities in dealing with the problem. To claim, as the State party had done, that an organization could not be convicted, but only the perpetrators of acts of persecution, made no sense. He asked for clarification from the delegation on the statistical indicators it had just provided, as well as on the composition of the sectors most affected by an unemployment rate which sometimes reached 13 per cent. It would be surprising if foreigners were not paying the price of recession, even in Sweden. The reply could be furnished either orally or in the next report of Sweden.

The meeting rose at 1.05 p.m.