



International Convention on the Elimination of All Forms of Racial Discrimination

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Seventy-third session

SUMMARY RECORD OF THE 1895th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 12 August 2008, at 10 a.m.

Chairperson: Ms. DAH

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The meeting was called to order at 10.20 a.m.

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

Eighteenth periodic report of Sweden (*continued*) (CERD/C/SWE/18;
HRI/CORE/1/Add.4/Rev.1; list of issues and written replies by the State party,
documents without reference distributed in the meeting in English only)

1. *At the invitation of the Chairperson, the members of the delegation of Sweden resumed their places at the Committee table.*
2. Mr. EHRENKRONA (Sweden) said that Sweden disseminated its periodic reports and the Committee's concluding observations widely by making them available online on the Government website devoted to human rights matters, which received about 500 000 visitors each year, out of a total population of about 9 million people.
3. The Government's position on the criminalization of racist organisations had not changed since the submission of its previous report: it was not convinced that such a measure would make it possible to combat racism and xenophobia effectively, and it was preferable to punish manifestations of racism and xenophobia when they took the form of threats, hate speech and other forms of violence. His delegation was of the view that the fact that the presence of racial motivation was treated as an aggravating circumstance for sentencing purposes provided the best way to combat such phenomena.
4. Various arguments could be raised against the criminalization of racist organizations, such as the fact that such a step could infringe on the freedom of expression; that it was difficult to determine at what stage a racist group had enough structure to qualify as a racist organization and be banned; and that banned groups could regroup and operate in the shadows, which made them even harder to monitor and thereby more dangerous. The same arguments applied to so-called terrorist organizations.
5. He said that Sweden should have entered a reservation to article 4 (b) of the Convention at the time it had ratified the Convention. The fact that Sweden had not declared organizations that incite racial discrimination illegal nor banned them did not prevent it from fulfilling its obligations under article 4.
6. Ms. BJÖRNSSON (Sweden) said that the new Discrimination Act, which had been adopted by Parliament in June 2008 and was to enter into force on 1 January 2009, combined into a single legal instrument the seven earlier laws prohibiting the various forms of discrimination. The new Act was consistent with the Council of Europe's Directive of 29 June 2000 on the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin. She added that various actors had participated in the drafting of the Act, including local elected officials, academics and members of trade unions and non-governmental organizations (NGOs).
7. The new Discrimination Act provided, among other things, for the appointment of a single ombudsman, who would exercise all the functions now shared by the earlier four ombudsmen responsible for combating discrimination, namely, the Ombudsman against Ethnic Discrimination, the Ombudsman for

Equality of Opportunity, the Ombudsman for Disability Matters and the Ombudsman against Discrimination based on Sexual Orientation. That would ensure protection against the five types of discrimination covered by the earlier provisions, namely, racial or ethnic origin, religion or other beliefs, sex, sexual orientation and disability, and would also punish discrimination based on age or gender identity. The Act would be applied in various areas, including employment, education, the establishment of private companies, membership in professional organisations, whether of employers or employees, the provision of health services and the appointment to posts in the civil service. The Act also stipulated that anyone who had been the victim of discrimination or had suffered injury could claim compensation and that discriminatory contracts would be declared null and void.

8. She said that one of the big innovations in the new Act was the fact that someone submitting a complaint against discrimination could now be represented in court by an NGO. She added that the provisions on reversing the burden of proof that had already been in force in the earlier discrimination legislation had also been included in the new Act.

9. The new Act also imposed on employers and school directors an obligation to ensure that there was equal opportunity in employment regardless of ethnic origin.

10. Mr. WILHELMSSON (Sweden) said that the official who had been the Ombudsman against Ethnic Discrimination had been appointed the new Ombudsman against Discrimination. The one hundred civil servants who had worked for the earlier four specialized ombudsmen would initially be assigned to work for the new Ombudsman until she proposed her own new organization chart. In any event she would continue to rely on jurists to consider complaints and on people who were able to form links with the most vulnerable groups in society.

11. He said that members of the Ministry of Integration and Gender Equality were awaiting with interest an outline of the revised system for protection against discrimination, which his delegation would certainly submit, along with all relevant information, to the Committee during the presentation of its next periodic reports.

12. Mr. LINDSTRÖM (Sweden) said that Sweden had definitely taken measures to combat hate crimes. Training and seminars had been set up on the problems of racism and human rights for students at police and prosecutor training schools. A special unit had also been established in the Stockholm police to combat racist crimes and others would be set up throughout the country, if the results were convincing.

13. Changes had been made in the system for gathering police statistics in order to simplify follow-up procedures. The rise in the proportion of racist crimes to the total number of crimes was most likely due to the fact that the new system made it possible for victims to submit complaints against such crimes, which had not been the case before.

14. The so-called cleared cases were those involving crimes that had led to police or court action, those that had been dropped for lack of proof and those where the suspect was under 15 years of age.

15. An investigation into structural discrimination based on ethnic or religious allegiance had been carried out in 2003 and had revealed the Swedish criminal justice system was hampered by discriminatory mechanisms identical to those found

in other West European countries. Like other studies, that investigation had concluded that people who were not ethnically Swedish suffered discrimination at all levels of the criminal justice system, that the number of offences committed by members of the law enforcement forces was remarkably high, that discrimination was especially frequent when the police were dealing with offenders who were minors or relatively young and that people who were not ethnically Swedish encountered discrimination particularly in situations that involved their word against that of another or where the alleged victim confronted the alleged perpetrator of a crime.

16. An investigation carried out in 2006 by the National Council for Crime Prevention on the problem of discrimination in the criminal justice system had come to the conclusion that people who were not ethnically Swedish needed to be recruited into the judicial system, that legal professionals should be better trained in discrimination matters, that interpreters knowing the languages of the alleged victims should be hired, that closer links should be established with organizations representing people of non-Swedish ethnic origin and that the legislation on discrimination should be revised, which had been done.

17. On the subject of the xenophobic letter sent by a lay judge to the Prime Minister and published in the Swedish press, he said that the head of the organization for which lay judges worked and the president of the court that had heard the case had condemned the letter in question. There was no reason to think that the letter expressed the views of the organization or of representatives of the criminal justice system.

18. Mr. KEMAL, Country Rapporteur, wished to obtain the delegation's assurances that the various activities formerly carried out by the Swedish Integration Board, which had been closed, would continue to be provided by other services that now had the authority to perform those functions.

19. Stressing that the NGOs were particularly concerned by the fact that, under the new system of financing, the Government could, in 2008, draw on funds allocated to the fight against discrimination in order to finance measures aimed at protecting fundamental rights in fields not related to racial discrimination, he asked whether the new measures in question were in fact aimed at combating that type of discrimination and whether it was true that the NGOs could be deprived of their financing in 2008.

20. Mr. DIACONU was concerned by information that small far-right groups were becoming more numerous and that there were now many new Internet sites disseminating racist propaganda in the country. He cited the initiative taken by some large Swedish newspapers to publish the names of 62 people of the far right who, according to those press articles, posed a threat to democracy and the rule of law. He requested the delegation's views on that unprecedented initiative that testified to the existence of a malaise in the society.

21. Mr. AMIR shared Mr. Kemal's concern at the closing of the Swedish Integration Board and wondered what the consequences of that would be. Noting that Sweden was often thought of as a model country with regard to tolerance and the fight against racism and racial discrimination, he was concerned by the resurgence of far-right movements in the country. Although there could be no democracy without freedom of expression, that freedom should not be invoked as

grounds for tolerating racist propaganda and xenophobia coming from far-right organizations.

22. Mr. LAHIRI sensed, from what the delegation had said during the previous meeting, that Sweden was against the adoption of special measures. He stressed that that position was contrary to the Committee's view and that there was European jurisprudence that stated that, in situations where there was flagrant injustice, simple equality of treatment could constitute discriminatory practice in as much as it perpetuated the injustice. Turning to the new procedure for financing NGOs, he expressed concern that the change might lead to inequalities by setting effectiveness as the most important criterion in deciding on resource allocation, which could lead to competition among NGOs for financing. He also asked why Sweden was so reluctant to gather data broken down by race and ethnic origin.

23. Mr. WILHELMSSON (Sweden) said that the compilation and gathering of statistics based on race was not allowed in Sweden for historical and ethical reasons. That principle applied to all statistical data, whether official or not. He said that the Government had consulted the Roma and the Samis, and they had always firmly opposed the compilation of statistics based on ethnic origin. Sweden was aware of the need to know the situation of national minorities as exactly as possible but had other means besides compiling statistics to study, for example, the extent of ethnic discrimination in Sweden. The Government relied on the method known as situation testing, for example, and on scientific studies. To that end, in studying discrimination in the labour market, Sweden collaborated closely with the International Labour Organization on studies on the access of foreigners to employment. Preliminary results had shown that discrimination in employment was less significant than in other countries, but the Government was still not satisfied with the situation and wanted to make more progress in that area.

24. Mr. TERNBO (Sweden) said that the Swedish Constitution did not explicitly mention the Sami minority but still guaranteed, in its first article, the protection of all national minorities. It provided that people belonging to minorities could not be deprived of the right to have their own cultural life, to profess and practice their own religion and to use their own language. A study was under way to see whether special provisions regarding the Samis should be included in the Constitution. The Swedish Parliament often referred to the Samis as an indigenous people. A draft convention between the Nordic countries and the Samis sought to harmonize the situation of the Samis in Finland, Sweden and Norway. The Nordic Expert Group, which included representatives of the three countries and of Sami organizations, was working hard on drafting the convention and further negotiations were expected. Sweden had already carried out all the legal analyses needed for the adoption of the draft convention and most matters had been settled, except for a few questions relating to land rights and the possibility of granting veto power to the Sami Parliament. With regard to suits involving landowners, no Sami village had been sued since 1998 and there was nothing to indicate that other legal actions would be brought. Contrary to some reports, Swedish courts did not always rule in favour of landowners in cases involving reindeer grazing rights. Like all other citizens, the Samis were entitled to financial assistance in settling their land suits. However, only individuals could claim such assistance and Sami associations, as legal entities, could not submit such claims. Legal assistance was indeed particularly important, as, in most of the land suits, the burden of proof was on the Samis to prove that they had the right to use land traditionally used for reindeer raising.

25. The recommendations in the report of the Boundary Inquiry Commission and the report of the Sami Hunting and Fishing Rights Inquiry would be taken into account in drafting a law on the Samis, which would be submitted to Parliament in March 2010. The legislative and other sorts of work on the issue had been significantly delayed by the change in Government following the 2006 elections and by the many amendments and changes demanded by the parties concerned, once the reports and studies had been presented. Consultation with the landowners and the Sami villages was required for any mineral prospecting, road building and other projects. Aware of the negative impact that mineral and forest exploitation could have, Sweden intended to protect the interests of the Sami communities.

26. Sweden had voted in favour of the United Nations Declaration on the Rights of Indigenous Peoples but had felt it necessary to explain its vote in the General Assembly so as to express its divergent views on the articles dealing with land rights and consultation with indigenous peoples. It was nevertheless true that no effort would be spared to implement the Declaration, which had already been translated into Swedish and Sami.

27. The Boundary Commission had sought to delimit precisely the areas devoted to raising reindeer throughout the year and the winter grazing areas. Its report had been published in 2006 and contained a proposal on the establishment of a cooperative association to regulate hunting and fishing. Fifty per cent of the seats on the association would be reserved for Samis and the rest divided among landowners, local civil servants and representatives of forest exploitation companies. The report would be taken into account in the future draft law on policies to benefit the Samis.

28. The report on hunting and fishing rights in reindeer breeding areas had been the subject of much criticism on the part of stakeholders, in particular with regard to the equality of Samis and non-Samis in terms of hunting and fishing rights, for which reason the draft law had little chance of being adopted. For that reason, Government authorities had decided to support local initiatives developed in collaboration with the competent authorities.

29. Ms. TEKIN BEFRITS (Sweden) said that the Swedish Government was concerned by the difficult situation of the Roma living in Sweden and was aware of their high unemployment and school-leaving rates. For that reason the Government had established a Delegation for Roma Issues, a body consisting of civil servants and representatives of the Roma, with responsibility for gathering information on the situation of the Roma and for formulating proposals on the subject. In the spring of 2008, the Delegation had established a working group consisting of civil servants from the National Agency for Education and representatives of the Roma with experience in education; the group's mission was to make proposals on measures to improve the school attendance rate of Roma children.

30. Under national education policy and languages, children whose mother tongue was not Swedish and who use that language daily at home were entitled to receive education in their language, provided there were at least five students of that language. However, ever since Sweden had ratified the European Charter for Regional or Minority Languages, students whose mother tongue was one of the five recognized national minority languages in Sweden, namely, Finnish, Romany, Tornedal Finnish, Sami or Yiddish, were entitled to receive instruction in their

language, even if they did not use it daily at home. No minimum number of students was required for such a class.

31. With regard to the National Action Plan for Human Rights 2006-2009, she said that several of the measures called for in that document had already been implemented. A seminar had been organised in February 2008 to inform NGOs, municipalities, universities and all other stakeholders that had participated in drafting it of the progress achieved. The ordinance on anti-discrimination clauses in State contracts and the compilation by the National Crime Prevention Board of statistics on racist crimes were among the follow-up measures that had been taken.

32. Ms. BJÖRNSSON (Sweden) said that, as was indicated in paragraphe 62 of the report (CERD/C/SWE/18), the Government Council for Contacts with Religious Communities had been established on 2000 and was chaired by the minister responsible for issues related to religious communities. The Council had 18 members, including representatives of the Christian, Jewish, Muslim and Buddhist communities, as well as Government representatives. It met three or four times a year; the most recent meeting had been in March 2008.

33. Mr. WILHELMSSON (Sweden) said that in 2006, in conformity with one of the measures provided for in the National Action Plan for Human Rights, the Government had launched, with the participation of seven Government bodies, a pilot project in the context of which applications for hiring in the civil service should be submitted anonymously. Applications should therefore contain no information that might reveal the ethnic or national origin of the candidate, in particular his or her name, so as to eliminate any risk of discrimination, at least at the preliminary stage of the recruitment process. The Swedish Government had requested the Agency for Public Management to prepare a report evaluating the project, which was to be issued soon. Given the Committee's interest in that pilot project, a summary of the report would be sent to the Committee as soon as the results of the assessment were available.

34. Mr. PROSPER wished to know how the Swedish Migration Board fitted into the Government structure and how integration issues would be handled by that body, given that it had absorbed the earlier Integration Board.

35. Mr. AVTONOMOV asked whether the Ombudsman against Ethnic Discrimination was appointed by the Government or by the Parliament. Furthermore, given that there were Samis not only in the Scandinavian countries but also in Russia, he asked why the Russian Samis had not been included in the preparation of the draft Nordic Sami convention. He took note of fact that the State party's reluctance to gather statistics broken down by ethnic origin was linked to concerns on the part of the minorities as to how such information might be used, but stressed that statistics disaggregated for national or ethnic origin, when they were used advisedly, were very useful to States parties, as they enabled them, in particular, to detect the existence of structural discrimination and thereby to combat racial discrimination effectively.

36. Mr. PETER said that he was not convinced by the delegation's argument that the diversity of foreign languages in Sweden was too broad to make it possible to ensure an interpreter for all suspects in a proceeding. In his view, that position ran counter to the right to a fair trial and he hoped that the State party would make

arrangements so that any foreigner who did not know Swedish would be assisted by an interpreter at his trial.

37. With regard to the letter with racist content that had been addressed to the Prime Minister by a lay judge, he disagreed with the delegation's effort to minimize the importance of that incident on the grounds that it had involved a low-level official. In fact, the State party needed to pay close attention to signs of that sort, as the opinions of lay judges, who were closer to the population, could reveal the attitudes of the population and tendencies that needed serious attention.

38. Mr. THORNBERRY, returning to the question how the burden of proof was divided in suits involving land rights where non-indigenous people and Samis were in dispute, reminded the delegation that international law placed the land rights regimes established by States on an equal footing with those arising out of the customs of indigenous peoples, which had consequences on the assignment of the burden of proof.

39. With regard to the argument that Sami villages were considered to be legal entities and therefore lacked the right to legal aid, he said that such communities constituted a special type of legal entity and that the State party could consider establishing a fund to cover their legal costs, given that they were usually in a weak position. He also wished to know the scope of the protection provided in the ordinance on anti-discriminatory clauses in State contracts.

40. Mr. SICILIANOS wished to know why the Swedish Integration Board had been closed and why the Government no longer subsidized the Centre Against Racism, which it had established in 2004. He also asked the delegation for the exact references of the report on discrimination in the administration of justice, which was of great interest to the Committee in view of its General Recommendation XXXI on the prevention of racial discrimination in the administration and functioning of the criminal justice system. He also requested more details on the new legislation on discrimination, which did not seem to authorize the adoption of special measures with respect to employment in the private sector but allowed them in other areas.

41. Mr. DIACONU stressed that the State party should endeavour to preserve linguistic and cultural diversity, so that Sami children could receive instruction in Sami and about Sami culture in all parts of the country, which did not seem to be the case yet. According to a study carried out by the Swedish School Board, school textbooks contained offensive and discriminatory stereotypes referring to Samis. Their contents needed to be thoroughly revised to eliminate any prejudicial references to that minority.

42. Mr. WILHELMSSON (Sweden) explained that the changes in the mechanism for financing NGOs did not affect the size of the allocation they were to receive, which remained unchanged in 2008. He said that the closure of the Swedish Integration Board (CERD/C/SWE/18, para. 55) was the result of the Government's desire to rationalize the programmes aimed at combating discrimination and that the ombudsmen against discrimination (ibid., para. 52) had a very broad mandate that included, to a great extent, the activities of the former Integration Board.

43. The Swedish Migration Board (ibid., para. 16) was a government agency within the Ministry of Justice whose task was to consider, in the first instance, cases that arose under the Act on Special Control in respect of Aliens. It also examined decisions on the granting of applications for asylum and residence permits.

44. Responding to Mr. Diaconu's comments on racist crimes linked to the "white power" movement (ibid., para. 20), he said that the Government was very concerned by the relatively recent phenomenon of the dissemination of racist and xenophobic ideas by criminal groups. He added that in the summer of 2008, the Government had launched several programmes aimed at combating organized crime and that the police had been instructed to establish reporting units throughout the country in order to gather information on criminal groups. The National Council for Crime Prevention (ibid., para. 25) and all employees of local governments were involved in those projects.

45. Mr. LINDSTRÖM (Sweden) said that he was unable to provide any specific explanations for any changes in public attitudes towards immigrants; he stressed that only a minority of the population shared the hate-ridden attitudes towards immigrants that extremist groups espoused. The problem was certainly troubling but should not be exaggerated.

46. Responding to Mr. Peter's concern at the shortage of interpreters in courts, he said that the accused had the right under Swedish law to receive assistance from an interpreter and that that was what happened in most cases. He added, however, that the country was now faced with many new languages, in particular African ones, that the certified Swedish court interpreters did not know.

47. Ms. BJÖRNSSON (Sweden), responding to Mr. Sicilianos, said that the new legislation prohibited the implementation of special measures in both the public and the private sectors. In response to Mr. Diaconu, she said that the report of the Government investigation into Sami education had indeed included strong criticism of the information published in text books about the Samis and other national minorities, and in that connection the Ministry of Education had decided to allocate 10 million crowns for publications in Sami and other national minority languages.

48. Mr. TERNBO (Sweden) said that Sweden was in no way opposed to having the Russian Federation participate in the work on the draft Nordic Sami convention (ibid., para. 71) and added that the negotiations on the draft between Sweden, Norway and Finland would probably be very lengthy owing to the fact that the three countries had very different Sami policies, in particular with regard to land rights. He pointed out that under the current legislation the burden of proof was shared in cases relating to land disputes with the Sami.

49. Mr. KEMAL, Country Rapporteur, welcomed the quality of the dialogue between the Committee and the Swedish delegation. The positive aspects of the report included the adoption of the National Action Plan for Human Rights 2006-2009 (ibid., para. 129), which clearly stressed measures to combat discrimination; the adoption of the Discrimination Act in 2008, which had merged the earlier legislation into a single text and broadened the scope of protection by prohibiting discrimination based on sex, age or sexual preference; the adoption in 2006 of the Act on Special Control in respect of Aliens (ibid., para. 16), which, by establishing a right of appeal before an independent body, had eliminated the gaps in the earlier legislation that allowed for the expulsion of aliens without notice; and the strengthening of the role of the Ombudsmen against Discrimination.

50. He also welcomed the fact that Sweden had recently ratified other international human rights instruments, such as the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2005,

and the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2007. He also welcomed the recognition by the State party of new forms of racism and racial discrimination in Swedish society and its will to attack those new forms.

51. He noted, however, that certain aspects of the fight against racial discrimination needed special attention on the part of the Swedish authorities. First of all, the issue of the Sami people was, in his view, far from solved and it seemed that that indigenous people would find it increasingly difficult to maintain their lifestyle in the face of industrialization and pressure from the mining companies, unless it was adequately protected. He had taken note of the delegation's explanation of the reasons why the Swedish State had not prohibited organizations inspired by racial superiority theories but stressed that, even if such a prohibition would not in and of itself solve the problem of racism, the fact of granting them legal recognition amounted to tolerating their activities, namely the dissemination of ideas based on racial superiority, which ran counter to article 4 of the Convention.

52. He was also concerned by several pieces of information that revealed the existence of discriminatory practices in the justice system and the police. In the field of health care, it also seemed that minorities and migrants generally did not enjoy access to health care in conditions equal to those available to Swedes and that very little research had been carried out on the specific health care problems encountered by the Samis owing to their life style. It also seemed that immigrants and minorities experienced discrimination in employment, whereas it was in the interest of the Swedish taxpayer that such people not remain unemployed and could contribute to the economic enrichment of the country. Special attention should also be devoted to the problems experienced by the Roma, who felt particularly marginalized socio-economically.

53. The CHAIRPERSON welcomed the quality of the dialogue between the Swedish delegation and the Committee. She said that the Committee had completed the first part of its consideration of the seventeenth and eighteenth periodic reports of Sweden.

54. *The delegation of Sweden withdrew.*

The meeting rose at 1 p.m.