

850th meeting

Monday, 21 August 1989
at 3.15 p.m.

Chairman: Mr. LAMPTEY

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued) */

Eighth and ninth periodic reports of Sweden (CERD/C/158/Add.7 and
CERD/C/184/Add.1)

1. The CHAIRMAN stated that Mr. Braunschweig had informed him that for
health reasons, he could not attend the rest of the session.

At the invitation of the Chairman, Mr. Corell and Mr. Ekman (Sweden) took
places at the Committee table.

2. Mr. CORELL (Sweden) introducing the two reports of his country, said that
the eighth report (CERD/C/158/Add.7) which had been submitted in
September 1987, gave an overall picture of how the Convention was applied in
Sweden and the ninth (CERD/C/184/Add.1), submitted in January 1989, contained
information that updated the eighth.

3. Both reports dealt primarily with the treatment of immigrants in Sweden.
In 1988, refugees had accounted for almost half the immigration into the
country, the other half being composed of members of the families of persons
already living in the country. The small percentage remaining consisted of
people taking up residence in Sweden for various reasons such as work or
study. About 20,000 persons requested asylum in Sweden every year. It was
the European country which, in proportion to its population, took in the
largest number of refugees. It was also one of the countries that made the
greatest financial efforts to ensure that refugees got the same treatment as
other categories of the population.

4. Since the submission of the seventh report of Sweden
(CERD/C/131/Add.2/Rev.1) in March 1986, an Ombudsman against Ethnic
Discrimination had been appointed and an Advisory Committee on Questions
concerning Ethnic Discrimination created under the Act against Ethnic
Discrimination which had come into force on 1 July 1986. Their functions were
described in detail in paragraphs 9 to 22 of the eighth report. A Special
Commission against Racism and Xenophobia had also been appointed and its
duties were described in paragraph 23 of the same report. It had completed
its work in March 1987 and submitted its final report to the Government. In
that report it reiterated the principle of equal treatment for immigrants and
Swedes. It laid particular stress on the importance of continued efforts to
provide employment and housing for immigrants and asked that high priority be
given to education concerning ethnic relations. The Commission also suggested
various legislative measures. Its report had been transmitted to various
authorities, organizations and institutions and their comments were being
studied by the Government.

*/ Resumed from the 848th meeting.

5. Under an amendment to the Penal Code which had come into force on 1 January 1989, racist statements were now punishable even if they had not been made in public. Particulars on that subject were given in paragraph 7 of the ninth report. Under an amendment to the Act on Damages, which had come into force on 1 July 1986, victims of discrimination could be awarded damages for mental suffering in addition to compensation for economic loss. He cited a judgement delivered by the Supreme Court on 28 January 1989 whereby a person who had been racially insulted, Reyna Hernández by name, had been awarded damages.

6. With respect to discrimination on the labour market, he emphasized that the Act concerning Security of Employment prohibited discharge on grounds of ethnic origin; information on that subject was given in paragraph 47 of the eighth report. Furthermore, a court could invalidate a compact or a collective agreement between an employer and a trade union if it was in any way discriminatory: that matter was also dealt with in paragraph 47 of the eighth report.

7. The National Labour Market Board, pursuant to the 1986 Act against Ethnic Discrimination, had adopted a programme on immigrants which was described in paragraph 54 of the report. In fact, the Ombudsman against Ethnic Discrimination in the labour market had never established that such discrimination had in fact occurred. For their part, concerned organizations such as the Swedish Trade Union Confederation, the Federation of Salaried Employees in Industry and Services, the Swedish Employers' Association and the Swedish Immigration Board had published a booklet entitled "Immigrants in the Company" to combat that type of discrimination. Copies of the booklet had been distributed to Committee members. He added that the possibility of enacting special legislation against discrimination on ethnic grounds in the labour market had been considered but it had been decided that many relevant problems had already been resolved by the existing legislation and by the Act against Ethnic Discrimination, which had since been promulgated. The Special Commission against Racism and Xenophobia had suggested again that new legislation should be brought in but the Government had not yet taken a decision on that suggestion.

8. With regard to the situation of the Sami (Lapps), he referred to paragraphs 55 and 56 of the eighth report. He described the efforts of the Government of Sweden to compensate the Sami for the effects of the radioactive fall-out caused by the Chernobyl accident. Other measures besides the compensation included the transport of thousands of reindeer to uncontaminated areas. Special measures had also been taken on behalf of the Sami in the area of education and were described in paragraphs 144 and 145 of the eighth report. The Sami Law Commission appointed in 1983 had submitted its report to the Government in June 1989, recommending that a body elected by the Sami should be established to represent them in various areas and also that their traditional reindeer herding rights should be strengthened. Another recommendation was that the special status of the Sami as an ethnic minority and indigenous people should be codified in the Constitution.

9. The eighth report, paragraphs 59-76, gave an account of the measures taken by Sweden to restrict contacts with South Africa. In particular, an act prohibiting all trade with South Africa had entered into force on 1 July 1987; investments and loans had been restricted since 1979; since July 1986, no patents or manufacturing rights could be transferred to South African

companies; restrictions regarding air traffic and shipping had been in force since 1985; the export of weapons and ammunition to South Africa had been banned since 1977, and in 1985 that embargo had been extended to data processing equipment, cross-country vehicles and motor fuel; contacts in sport, culture and science had been restricted in accordance with the recommendations of the Nordic Programme for Action against South Africa (the 1982 and 1986 regulations requiring visas for South African nationals should be mentioned in that connection). He added that a considerable proportion of Sweden's bilateral development assistance went to the front-line States, to the Southern African Development Co-ordination Conference, and for humanitarian assistance to the African National Congress, South West Africa People's Organization and the victims of apartheid.

10. The position of the Government of Sweden concerning the banning of racist organizations was described in paragraphs 99-102 of the eighth report. The Special Commission against Racism and Xenophobia had proposed bringing in new legislation against that kind of organization but had submitted no draft so far. The proposals of the Commission had been referred to various organizations for their comments; the subject was therefore under debate.

11. In conclusion, he assured members that his delegation would do their best to answer questions about his country's two reports.

12. Mr. YUTZIS, rapporteur appointed for the preliminary examination of the eighth (CERD/C/158/Add.7) and ninth (CERD/C/184/Add.1) periodic reports of Sweden, said that the contacts he had had in Sweden in the past, in particular with the Lutheran Church and the University of Uppsala, had prepared him for the preliminary examination entrusted to him by the Committee. He stressed that the content of both reports and the participation of the delegation of Sweden testified to that country's interest in applying the Convention. Both reports met the requirements of that instrument and could even be called a model of presentation.

13. He would deal together with matters concerning articles 2 and 4. With respect to article 3 one must, he felt, recognize the positive nature of the measures taken by the Government of Sweden, in co-ordination with other Nordic countries, vis-à-vis South Africa in regard to weapons, the transfer of technology, trade relations, cultural and sporting relations, assistance to the victims of apartheid and to the liberation movements, etc. However, the updated report 28/ submitted by the Special Rapporteur, Mr. Ahmad Khalifa, to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-first session revealed that the number of Swedish companies still trading with South Africa was relatively high. It would be desirable for the Committee to obtain fuller information on the efforts made to continue reducing such relations; statistics would be helpful in that regard.

14. With respect to article 4 of the Convention, he stressed that freedom of association in Sweden was seen from the viewpoint of a liberal system of law. It was considered as a natural right of the individual; some other legal systems, for example those based on Napoleonic Law (like that of his own country, Argentina) were more interventionist. In any case, the information provided in the reports submitted by it showed that Sweden was applying article 4 of the Convention almost to the letter. The measures reported in paragraphs 95-106 of the eighth report could be deemed satisfactory by the

Committee. Racist organizations were not banned but they were subjected to tight restrictions; in the future Sweden might, however, go still further and forbid such organizations. Paragraph 100 of the report cited an explanation by the Minister of Justice on the subject: in the second paragraph of that explanation it was stated that groups which conducted racist activities were met by "strong demonstrations of abhorrence which ... are probably considerably more important and effective than legislation". He felt bound, however, to point out that the values of a society could vary and that, for example, changed economic circumstances could alter attitudes. It was well known that when there was a crisis on the labour market, foreigners were often taken as the scapegoats. Too much reliance should therefore not be placed upon public opinion; legislative measures constituted much safer guarantees.

15. With reference to article 5 of the Convention, he asked whether the right to work was in fact recognized in Swedish legislation or whether that right was merely governed by market laws, which of course operated in response to changing short-term interests. Since the representative of Sweden had spoken of a new legal provision to combat discrimination in regard to dismissal, he would like to know whether Swedish legislation also contained any measures to provide protection against discrimination in regard to recruitment and whether everyone had access to the labour market under the same conditions.

16. With respect to the education of foreigners' children, he inquired whether there was any horizontal follow-up and how many of them completed primary, secondary and university studies. He also asked what was the situation of immigrants and refugees in particular with regard to housing. It would be helpful for the committee to be informed of the conclusions contained in the report of the Special Commission against Racism and Xenophobia because that would give it a clearer idea of the situation in the various areas which had been mentioned. Finally, he would especially like to know what was the attitude of the Swedes towards immigrants in neighbourhoods where there was a very high concentration of foreigners.

17. Concerning the application of article 6 of the Convention, he had tried to understand what role was played by the Ombudsman against Ethnic Discrimination in the field of employment and gathered that it was relatively limited. Paragraph 17 of the eighth report of Sweden stated that the main task of the Ombudsman was to combat ethnic discrimination against job-seekers, but paragraph 15 said that he was not empowered to institute legal proceedings. Article 6 of the Act against Ethnic Discrimination of 1 July 1986, which dealt with the Ombudsman's work methods, implied that his role was essentially a negotiating one. That article did not impose any real obligation on the employer to provide any information that the Ombudsman might need, because it said that "an employer must not be unnecessarily burdened with this obligation". He saw that as an indirect way of protecting the employer.

18. He welcomed the fact that the eighth report of Sweden provided additional information on the legal, judicial and administrative measures that had been taken to implement article 7 of the Convention as well as on the attitudes of the Swedes towards immigrants and on the measures taken to combat racist activities. He none the less noted from paragraph 83 of the report that in recent years various expressions of hostility had been observed, and from paragraph 92 that a number of decisions had recently been made in the district courts concerning racist items in local radio broadcasts. He would like to

know what were the underlying reasons that had led local radio stations to broadcast racist statements; he was most surprised that incidents of that kind could occur in a country like Sweden where legislation to combat discrimination was so advanced.

19. In conclusion, he thanked the Government and its representatives for the quality of the information supplied.

20. Mr. PARTSCH, referring again to what was said in the eighth report (CERD/C/158/Add.7) about the provisions of article 4 (b) of the Convention, expressed strong disagreement with the claim made by the Minister of Justice that the obligation imposed by the Convention to ban organizations with racist aims had in all essential points been complied with. Admittedly, freedom of association was sacred and should never be unduly restricted (in that connection it would be interesting to draw the attention of the Swedish Minister of Justice to the reservations entered by Austria, France and Italy). However, a balance had to be maintained between that freedom and the fight against racial discrimination. As long as Sweden had not found the means to put a stop to the activities of associations that encouraged racial and ethnic discrimination, the Committee would consider that it was not fully applying the provisions of the International Convention on the Elimination of All Forms of Racial Discrimination.

21. He had been very interested to learn that the Special Commission against Racism and Xenophobia had already drafted its report and submitted proposals, though the executive had not yet taken a decision on them. He was glad it had been decided to use the more appropriate term "ethnic discrimination", instead of "racial discrimination" because "race" was generally used to refer to differences in colour, whereas in reality ethnic discrimination went much further than racial discrimination.

22. Mr. ABOUL-NASR stressed that, subject to the reservations enumerated in article 1, paragraph 2, the Convention asserted the right to equal treatment. However, he had noted that the table of contents of the booklet "Immigrants in the Company", distributed by the representative of Sweden, listed on the one hand a chapter 3, dealing with the employment of persons from other Nordic countries, and on the other hand a chapter 4, which dealt with the employment of persons from non-Nordic countries. It would appear that those two categories of persons did not enjoy identical treatment in the matter of employment and he would like to know why. If such a distinction did in fact exist, how could it be justified in terms of the Convention? Was it a distinction based on race? What authority was empowered to decide that one country was Nordic and another was not? On what criteria was that distinction made? Why should Finland, Germany or Iceland not be considered Nordic countries? In short, was there a difference in treatment between nationals of the Nordic countries and those of other European or non-European countries? Were foreigners or immigrants treated in exactly the same way in respect of entry into the country, visas, the right of abode or the right to work, whether they came from France, from Spain or from Tunisia to work in Sweden? When the eighth report of Sweden referred to nationals and non-nationals it sometimes used the term "foreign" and sometimes the terms "immigrant" or "refugee". Was each of those categories treated differently, or were such persons all considered as non-nationals and given identical treatment?

23. In conclusion, he congratulated Sweden, which had always been one of the most committed countries to the defence of human rights and the struggle against racial discrimination, for the considerable success it had already achieved in applying the Convention.

24. Mr. SONG Shuhua congratulated Sweden on its excellent eighth (CERD/C/158/Add.7) and ninth (CERD/C/184/Add.1) reports, both of which followed the pattern of presentation recommended by the Committee and contained much interesting information.

25. Concerning paragraph 83 of the eighth report, which dealt with immigrants and asylum-seekers, the reaction of the Swedish population to the arrival of such persons was difficult to determine. Some Swedes seemed rather in favour of discrimination whereas others were against it. He asked what measures, apart from those already adopted by the Government, were currently under study, because legislation influenced public opinion and the latter should be reflected in the legislation.

26. He appreciated the fact that the eighth report spoke of both racial discrimination and ethnic discrimination. Had any further measures been considered since the adoption of the eighth and ninth reports of Sweden to deal with cases of ethnic discrimination?

27. Referring to paragraphs 144 and 145 of the eighth report, which dealt in particular with the education given to Sami children to take account of their cultural specificity, he asked who supervised that teaching and whether it was imparted by the Sami themselves or by other persons. He would also like to know the percentage of Sami in the local administration of the region inhabited mainly by them. Lastly, he asked what was the population growth rate of the Sami, Chinese and Gypsy minorities in comparison with that of the Swedish population.

28. The eighth report said that economic development affected certain traditional trades and customs of the Gypsy population which had lost their market value, for example fortune-telling. How could the Government assist that population? Were there special schools where Gypsies could be given an education that would equip them to enter other professions? He would like to know what measures had been adopted in that connection and how the problem of the disappearance of the traditional occupations of the Gypsy population was being tackled.

29. Regarding paragraph 63 of Sweden's eighth report, where specific mention was made of South Africa and of Namibia, he felt that the two countries should not be placed on the same footing. He hoped that the next periodic report of Sweden would take account of the recent change in the situation.

30. Mr. RESHETOV said that, like Mr. Yutzis, he had for a long time been closely observing developments in the human rights situation in Sweden. The eighth (CERD/C/158/Add.7) and ninth (CERD/C/184/Add.1) periodic reports had greatly interested him, not least because of the spirit of self-criticism that they displayed. He had found the items of information about the Ombudsman against Ethnic Discrimination and the Special Commission against Racism and Xenophobia (CERD/C/158/Add.7, para. 10 et seq. and para. 23 et seq. respectively) particularly useful.

31. He noted from paragraph 93 of the eighth report that the Penal Code of Sweden made incitement to rebellion within the armed forces a punishable offence. He asked whether in Sweden there was any provision for replacing, where appropriate, military obligations by civilian service for conscientious objectors. A bill to that effect was now under study in the Soviet Union.

32. He agreed with Mr. Partsch regarding the refusal of the Swedish authorities to ban organizations with racist aims, as mentioned in paragraph 101 of the eighth report. He too felt that Sweden had not really fulfilled its commitments in that respect, for it seemed to him that, as was moreover shown by legal practice in, for example, Norway or the Federal Republic of Germany, States parties were bound to adopt legislation prohibiting the very existence of racist organizations. The question was a serious and complex one but, in the interest of eliminating racial discrimination, the State had to set reasonable bounds to freedom of association and expression.

33. Lastly, he drew attention to paragraphs 143-145 of the eighth report, dealing in particular with the teaching of their mother tongues to immigrant children. Paragraph 143 said that such teaching was not compulsory and he wondered whether the decision was left to the immigrants themselves. Paragraphs 144 and 145, which dealt with teaching given in the Sami language, said that such teaching was optional and that a number of Sami schools had even had to close because there were not enough pupils. He well understood that parents, in the interest of having their children integrated into Swedish life, should prefer them to be fluent first of all in Swedish, but it would be regrettable to encourage that trend if as a result the teaching of Sami would lapse. The day might come when the demand for it would become greater.

34. Mr. BESHIR also wished to congratulate the delegation of Sweden on having submitted two excellent periodic reports (CERD/C/158/Add.7 and CERD/C/184/Add.1). Sweden was unquestionably fulfilling its commitments under the Convention. It should be especially congratulated on never having compromised with a principle dear to it: that of granting political asylum to all who asked, despite the problems that attitude might entail for it.

35. Paragraph 92 of the eighth report mentioned some racist incidents that had occurred in connection with local radio broadcasts, who had actually been the guilty parties? The report which had just been published by the new Special Commission against Racism and Xenophobia would be invaluable to the Committee, which should ask to have the text of it.

36. There must exist in Sweden groups or non-governmental organizations that were active in promoting communication between the different ethnic groups, which sometimes came into conflict with one another. Had those organizations observed, for example, any anti-Swedish sentiment among certain ethnic groups? How, in their opinion was communication established between the different ethnic groups?

37. Regarding the Ombudsman, he asked how he was appointed and whether the appointment decision was political or purely administrative.

38. Mr. BANTON found with regret that in its eighth periodic report (CERD/C/158/Add.7) Sweden could have responded better to the questions asked when the seventh report (CERD/C/131/Add.2/Rev.1) had been considered. Those

questions related in particular to the training given to public officials, including the police, to cases where the social services removed children from the care of unfit parents (were such cases more frequent among children belonging to ethnic minorities?), to the educational attainments of children belonging to minorities, and to the housing conditions of immigrants. The reply given at the time had been that Swedes were not officially classified by ethnic origin and that such information could therefore not be provided, which was hardly convincing because the Swedish authorities were well informed about such matters and could find answers even if they could not obtain them from national registration data.

39. Like Mr. Yutzis before him, he found that Swedish legislation offered good protection against wrongful dismissals which might stem from racial discrimination but was still inadequate in respect of discrimination at the time of recruitment. He cited two cases where the court in the United Kingdom had delivered a judgement in favour of a black job-seeker because the employer's refusal to hire him appeared to be racially motivated. If the Swedish law did not provide similar remedies for job-seekers who felt they had been victimized and did not ensure just and adequate compensation for victims of discrimination, Sweden was not fulfilling its commitments under article 5, paragraphs a and e (i) and article 6 of the Convention.

40. Section 6 of the Swedish Act against Ethnic Discrimination which had come into force in 1986 (CERD/C/158/Add.7, annex I) stipulated only that the employer, if asked to do so by the Ombudsman against Ethnic Discrimination in the labour market must attend discussions and provide information; he was not even required to give the information under oath. The position of the Ombudsman against Ethnic Discrimination could be compared to those of the ombudsman for consumer affairs, for economic competition and for sex discrimination. Unlike the other three ombudsmen, however, he was not authorized to bring those accused of infringements to court. Victims of ethnic discrimination did not have as easy access to the labour court as the victims of sex discrimination, although the incidence of ethnic discrimination could well be higher. He supported Mr. Yutzis on that point and could not understand why, when human rights standards in Sweden were so high, the Swedish Government was reluctant to take legislative and judicial action to ensure equality of recruitment conditions.

41. The report of the Special Commission against Racism and Xenophobia whose forthcoming publication was announced in paragraph 3 of the ninth report had now come out and he had read it. It raised a number of questions that he hoped would be addressed in the tenth periodic report of Sweden. To ensure the effective application of article 4 of the Convention, the majority of the Commission's members recommended that the Government should adopt far more comprehensive legislation, but a minority maintained that it could be dangerous to drive racist organizations underground. The obligations stemming from article 4 of the Convention would therefore certainly be debated within the reporting State.

42. With respect to discrimination on the labour market and the damages to be paid to any victims, the Commission stated that article 5 of the Convention required the enactment of special legislation only if conditions in the country necessitated it to fulfil the aims of the Convention. As long ago as 1979 Mr. Partsch had expressed the opposite view in an article published in an international law journal. Article 5 of the Convention did admittedly

refer back to article 2 which gave the State party some latitude, but article 5 also made equality before the law mandatory. The evidence of racial discrimination on the Swedish labour market showed that the situation in the State party was such as to require the adoption of explicit legislation. The new Special Commission against Racism and Xenophobia was, furthermore, of the same opinion and had formulated a recommendation to that effect. Abundant information had been collected showing that in Sweden persons belonging to ethnic minorities had never been able to obtain employment corresponding to their qualifications.

43. Several members of the Committee had referred to the cases of incitement to racial hatred which had been observed in certain local radio broadcasts. In its report the Special Commission against Racism and Xenophobia mentioned that a number of cases had been duly brought before the courts, which had pronounced sentences of two months' imprisonment, in two cases and four months' in a third.

44. In 1987, Sweden had encountered a problem new to it when a local community had refused to allow 15 refugees to be resettled on its territory. The mass media had given the incident wide coverage, and that had perhaps led the public to believe that hostility towards foreigners was more frequent than social science research had shown it to be. Since many countries were increasingly reluctant to accept refugees and migrant workers, it would be helpful to the Committee if in its next periodic report Sweden could say what lessons it had been able to learn from that type of incident, with particular reference to the influence of the mass media and of political leaders.

45. In its report, the Special Commission against Racism and Xenophobia also gave figures on delinquency which showed that, quite apart from acts of racial discrimination and incitement to racial hatred, racially motivated offences were being committed throughout the country. There again it would be useful if in its next periodic report Sweden could state whether criminal proceedings under the present law were effective in reducing the incidence of such offences and whether the new legislation would be conducive to progress in that area.

46. In paragraph 57 of its eighth periodic report, Sweden declared that "racial segregation and apartheid do not exist in Sweden", as if segregation was the same as apartheid. The Committee itself was divided on the scope to be given to article 3 of the Convention, under which States parties condemned segregation and apartheid and undertook to eradicate practices of that "nature". For some, who subscribed to a narrow interpretation, practices of that "nature" meant cases where segregation was applied by the State, so that States would not be required to report on other forms of segregation such as residential segregation. For others, who advocated a broader interpretation, segregation took many forms ranging from the kind wholly conceived and practised by the State itself to the kind exemplified by certain religious communities that practised self-segregation. In the view of those who advocated the broader interpretation, apartheid would not have lasted so long if the State had not been in a position to exploit the differences that existed between groups within the same population, and also to exploit the relationships between the groups in regard to the division of labour and to economic processes. He personally felt that the State was required to report on such matters, in particular when certain forms of segregation were likely to be conducive to discrimination.

47. He cited the instance of a Stockholm suburb where a few years ago 65 per cent of the population had been of foreign descent. In the primary schools the percentage of Swedish children was declining yearly. That was an obvious case of residential segregation resulting from the operation of the housing market, which assigned some residential areas to well-to-do families and others to families that were less so, the latter being immigrant families. In that particular suburb, some 100 languages were now spoken. The Swedish Minister of Education in particular must be watching the situation with some concern, because the settlement problems of a community of first generation immigrants could sometimes be transmitted to the second generation. It was also the type of situation that the Committee ought to be monitoring. However, in Sweden social science research was of very high quality and the possible adverse consequences of residential segregation would not be overlooked. That was another of the points on which he hoped Sweden would provide information in its next periodic report.

48. Mr. FOIGHEL stressed that Sweden addressed all international problems from a humanitarian point of view. He had himself benefited from that tradition, for he had been accepted as a refugee by Sweden between 1943 and 1947. The Government of Sweden had obtained appreciable results in regard to the application of the Convention.

49. The Committee had been informed that there were 20,000 asylum seekers in Sweden. He wondered whether that figure related to the year 1988 only, how many asylum seekers had been granted refugee status and, of those accorded the right of permanent residence, how many had been accepted under the policy of reuniting families.

50. The relationships between the Ombudsman against Ethnic Discrimination and the courts were not very clear to him. He would have liked to know whether the Ombudsman took the place of the courts, whether his activities complemented theirs or whether, on the contrary, a person who considered that he had suffered injury laid the matter before a court after the Ombudsman had given his opinion. Another possibility was that the institution of Ombudsman was designed only to give citizens fuller protection, or that it merely constituted a new procedure, additional to the existing ones, for demanding redress.

51. The amendment to chapter 6, section 8 of the Penal Code, whereby any "racist statement" was henceforth a punishable offence, raised questions in regard not only to freedom of association but also to the principle of freedom of expression. It was in fact very difficult to reconcile the need to safeguard freedom of expression with the penalization of a racist statement. He would be grateful if the delegation of Sweden could state whether the question had been debated in Parliament when the draft amendment had been considered.

52. Mr. SHAHI thanked the delegation of Sweden for the very informative presentation of its eighth and ninth reports (CERD/C/7/158/Add.7 and E/CERD/C/184/Add.1) which described the very progressive measures taken in Sweden to implement the Convention.

53. He wondered what exactly were the powers of the Ombudsman against Ethnic Discrimination and in particular whether they did not overlap those of the Advisory Committee on Racial Discrimination. That Committee apparently

functioned as an appeals body but the demarcation line between the competence of the two institutions was not very clear to him. The same question arose with respect to the Special Commission against Racism and Xenophobia.

54. Mr. YUTZIS wished to supplement his statement by some comments relating to article 5 of the Convention, and more precisely to paragraphs 128-130 of the eighth report (CERD/C/158/Add.7), concerning the place of religious education in compulsory schooling. That question could be an important one for ethnic groups or for individuals belonging to minorities. It was surprising to read in paragraph 128 that "the religious heritage which many immigrants bring with them is a valuable contribution to these questions". If the questions referred to concerned Swedish culture, that statement needed some clarification. Furthermore, in paragraph 130 it was stated that a pupil could be excused religious instruction, but subject to certain conditions, for example if he could prove that the community to which he belonged provided him with the required education. It was difficult not to wonder about the compatibility of such a condition with the principle of freedom of religion.

55. Mr. PARTSCH, speaking on a point of order, submitted that consideration of religious discrimination was not within the terms of reference of the Committee.

56. The CHAIRMAN replied that, since religious education had been addressed in the report of Sweden, Committee members were at liberty to make comments on the subject. Mr. Partsch himself had raised questions which other members might have considered to be outside of the province of the Committee.

57. Mr. YUTZIS pointed out that, on the one hand, the Convention contained a provision guaranteeing freedom of thought and expression - which included freedom of religion - and that on the other hand it dealt with that question only in so far as it related to specific minority groups. Thus, among the refugees resident in Sweden there must surely be South Americans who were Catholics and Africans who might be Muslims or animists, for example. Since the Swedish Government had seen fit to devote three paragraphs of its eighth periodic report to the matter, the Committee was entitled to ask for further particulars, especially concerning the information given in paragraph 130, which seemed at first sight to indicate that rather stringent conditions were applied.

The meeting was suspended at 5.25 p.m. and resumed at 5.40 p.m.

58. Mr. CORELL (Sweden) said first of all that he did not have the necessary information to provide the details requested concerning trade relations between Swedish companies and South Africa. That information would therefore be given in the next periodic report.

59. Regarding article 4 of the Convention, it must be realized that Sweden had a very liberal policy in respect of freedom of association. The only condition that had to be met by any group of persons wishing to form an association was to draft statutes and appoint a governing body in order to obtain legal personality. The discussions that had taken place in Sweden about the desirability of expressly forbidding the formation of racist organizations were particularly interesting. For example, those against prohibition pointed to the fact that one of the main principles governing social life in Sweden was opposition to any interference in the creation and

existence of associations. In any case, however, the Government was aware of the problem and, by establishing its Special Commission against Racism and Xenophobia, had demonstrated its determination never to lose interest in the matter.

60. The amendment to chapter 16, section 8 of the Penal Code whereby any racist statement, even one made within an organization, was now a punishable offence, had given rise to rather divergent comments. It must be realized that the effect of that legislation was to prevent any racist activity within organizations or groups, without however banning the organization as such. Such a provision could be regarded as complying with article 4 of the Convention.

61. Regarding article 5, one member had expressed concern as to whether the right to work was guaranteed as such, for example whether it could be invoked in a court. The right to work was not strictly speaking stipulated in Swedish legislation but, like any other country, Sweden endeavoured to guarantee employment for all its nationals. The economic situation was not always such that full employment could be ensured, but Sweden's unemployment rate was very low in comparison with other countries. In any case, it was stipulated in the Constitution that the Government was responsible for guaranteeing the right to work, housing and education.

62. With respect to housing conditions, one member had pointed out that 130 languages were spoken in the suburbs of Stockholm, but the delegation of Sweden could not say whether it considered that as a positive or a negative factor. Sweden, a small country of 8 million inhabitants had in the last 20 years, taken in a considerable number of immigrants whom the authorities had done their best to spread out over the country without, however, exerting any pressure on them. That being so, the immigrants favoured the big cities, particularly as they wanted to be close to their compatriots, which was why Stockholm's suburbs had a very large number of immigrants.

63. The institution of Ombudsman against Ethnic Discrimination had been the subject of several questions, particularly concerning its responsibilities, which some members appeared to think were limited. In setting up that institution the Swedish authorities had not intended to give the person concerned the same powers as the parliamentary ombudsman or the ombudsman to combat discrimination against women. It had been designed simply as a means of dealing with questions that generally arose in employers' and employees' organizations, so as to determine whether the present legislation was adequate or whether other, stricter measures should be taken. If the Ombudsman against Ethnic Discrimination, unlike the other ombudsmen, did not have the absolute right to demand information, it was because there were certain areas where secrecy was necessary, for example foreign affairs, defence and some industrial sectors.

64. The powers of the Ombudsman were enumerated in annex I of the eighth periodic report (CERD/C/158/Add.7), which showed how they differed from those of the Advisory Committee on Questions concerning Ethnic Discrimination.

65. The purpose of local radio stations was to give the many small associations of every kind existing in Sweden a means of expressing themselves. There was no censorship in Sweden and any association which so requested could be allocated a frequency to broadcast on medium waves. It was regrettable that some associations should have used the air waves for broadcasts that were incompatible with the law, making those in charge guilty of a penal offence.

66. He would answer the other questions at the next meeting.

The meeting rose at 6 p.m.