

CERD/C/SR.901
19 March 1991

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Thirty-ninth session

SUMMARY RECORD OF THE 901st MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 13 March 1991, at 10 a.m.

Chairman: Mr. SHAHI

later: Mr. FERRERO COSTA

CONTENTS

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

Tenth periodic report of Sweden

The meeting was called to order at 10.10 a.m.

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

Tenth periodic report of Sweden (CERD/C/209/Add.1)

At the invitation of the Chairman, Mr. Corell, Ms. Orlov-Baumann and
Mr. Dahl (Sweden) took seats at the Committee table.

1. Mr. CORELL (Sweden), introducing the report, stressed his Government's intention of complying with its obligations under the Convention in full. It was probably fair to say that the overall assessment made by the Committee after it had considered Sweden's eighth and ninth periodic reports had demonstrated that his country's efforts to implement the Convention had been both ambitious and successful. Some members of the Committee, however, had expressed views implying that Swedish legislation did not fully meet the requirements of the Convention. Naturally, if any doubts on that score still existed, his Government would do its utmost to dispel them.

2. In 1987, the Swedish Government had decided to set up a Commission against Racism and Xenophobia with the task of examining what further measures should be taken to combat racism and xenophobia and to promote such measures. The mandate of the Commission had been described in Sweden's eighth periodic report, and some of the legislative measures proposed by it had been mentioned in the introductory statement which he had made when presenting that report in the Committee. The Commission had submitted its final report to the Government in March 1989. The Government had examined the report and, in May 1990, had decided to appoint a special expert to consider three specific questions and present his conclusions to the Government by the end of 1992 at the latest. The three questions, which were all related to issues that had been raised during the Committee's consideration of Sweden's eighth and ninth periodic reports, were the following.

3. First, the expert was instructed to consider, as a matter of priority, possible legislation aimed at strengthening protection against racist organizations. The legislation would not involve a direct ban on the existence of those organizations as such but would be directed at the behaviour of individuals. The expert was also to consider the possibility of outlawing the organization of, participation in, and support for, racist activities. A formal ban on racist organizations should be considered only if other alternatives were judged to be inadequate. The expert intended to present his conclusions on that question in September 1991.

4. Second, the expert was requested to examine the possibility of introducing legislation against ethnic discrimination in the labour market, to consider the need for a specific Act against such discrimination and to submit a proposal to that end.

* Resumed from the 897th meeting.

5. Third, the expert was requested to review the Act against Ethnic Discrimination, which had been described in Sweden's eighth periodic report, as had the terms of reference of the Ombudsman against Ethnic Discrimination appointed pursuant to the Act. The review of the Act should be seen in the light of views expressed by the Ombudsman to the Government in November 1989 and of the Government's evaluation of the first three years of his activities. According to the Ombudsman, the Act against Ethnic Discrimination should not refer specifically to the labour market as it did at present, but should deal with life in society in a broad sense. When drawing up the expert's terms of reference, the Government had noted that the Ombudsman had, in fact, been concerned with life in society at large, and that should be reflected in the Act governing his activities.

6. There had been further important developments since the Committee's consideration of Sweden's eighth and ninth periodic reports. The issue of the expression of racist opinions in programmes on local radio had been touched upon during the presentation of those reports. A group of officials from the Ministry of Justice had for some time been examining the question of expanding the constitutional protection of the freedom of speech. The Commission against Racism and Xenophobia had proposed that the group should be asked also to consider questions concerning violations of restrictions on the freedom of expression in local radio broadcasts. It had further been proposed that the group should examine solutions that would permit a more rapid review of the right of transmission in cases of such violations. In a Bill submitted to Parliament in February 1990, the Government had indicated that it shared the views expressed by the Commission. In a recent court case, the responsible programme producer had been convicted of agitation against an ethnic group. As a result of the verdict, the broadcasting permit had been suspended for 12 months. The judgement had been upheld in a court of appeal, and the case was now pending before the Supreme Court.

7. In the Bill of February 1990, the Government further took the view that organizations and other persons that were prepared to help in shaping public opinion with a view to promoting good ethnic relations should be given greater possibilities of obtaining public funds for specific projects. An ordinance to that effect had been issued in June 1990, under which the Swedish Immigration Board had been given greater possibilities of granting public support for specific immigrant projects designed to further good ethnic relations and to strengthen immigrant organizations. In line with a proposal made in the same Bill, special funds were to be allocated to promoting good ethnic relations in schools and in teacher-training programmes. Parliament had also decided that research on such matters as ethnic relations and discrimination on ethnic grounds should be encouraged and intensified.

8. Reliable statistics on the frequency of racist offences and offences originating in ethnic antagonism in general were of considerable value for a correct assessment of the problem of ethnic discrimination and for the preparation of countermeasures to be taken by society. For that purpose, the offences of unlawful discrimination and agitation against an ethnic group had been listed separately in the official crime register since 1 January 1991. Furthermore, in the Bill of February 1990, the Government

had stated that consideration should be given to the possibility of indicating in the register the extent to which offences in general had their origin in racism or xenophobia.

9. A government committee set up in 1982 to examine the possibilities of strengthening the position of the Sami population had recently concluded its work. The questions examined included the legal position of the Samis in matters relating to the reindeer-breeding industry, the need for a popularly elected body to represent the Sami population in various contexts, and the position of the Sami language. That Committee's report and the specific proposals made by it were currently being considered by the Government.

10. The Committee on the Elimination of Racial Discrimination (CERD) could rest assured that its overall positive assessment of Sweden's eighth and ninth periodic reports had in no way weakened his Government's ambitions to intensify its campaign against ethnic discrimination of any kind. He was confident that Sweden's tenth periodic report would convince the Committee that those ambitions were still high.

11. Mr. WOLFRUM, country rapporteur, noted that Sweden's tenth periodic report had been drafted in accordance with the Committee's guidelines, was very comprehensive and contained valuable information. It also provided evidence that the elimination of racial discrimination played an important role in Swedish foreign and domestic policy.

12. Paragraph 1 of the report indicated that the population of Sweden had been very homogeneous until the First World War. That statement, however, failed to take account of the Sami and Finnish minorities, which had always represented a significant part of the population. As in the two previous reports, the report before the Committee focused mainly on the treatment of immigrants or on general measures taken for their protection, whereas less attention was paid to the Samis. The figures given indicated that the traditional pattern of immigration into Sweden had changed. Whereas in former times immigrants had come largely from other Nordic countries, since the early 1980s the number of applications for political asylum had increased dramatically. It could be assumed that the new form of immigration, which confronted the Swedish population with cultures and religions different from its own, might result in tension. For example, more than 100 languages were spoken in Stockholm and in some schools foreigners were in a majority.

13. Paragraph 4 of the report indicated that the basic approach of the Swedish Government in its efforts to eliminate racial discrimination was to tackle the problem as part of the country's general immigration policy. However, that policy had recently become more restrictive. Only citizens of Nordic countries could settle in Sweden without prior permission. Everybody else needed, in advance, a visa and a work permit. In 1989, apparently only 160 citizens of non-Nordic countries had been granted permission to immigrate into Sweden. The preferential treatment accorded to citizens of Nordic countries had already been questioned in the Committee, and he reiterated the comments made in that respect on previous occasions. He wondered whether a statement made in a report by the European Parliament to the effect that immigration had been restricted as a result of growing racist tendencies was correct.

14. Sweden accepted 1,250 refugees per annum after consultations with the High Commissioner for Refugees. Apart from that, other individuals might apply for asylum. It would be of interest to know how many refugees had been granted asylum in 1989 and 1990.

15. In paragraph 6 of the report, mention was made of the Act against Ethnic Discrimination. It was his impression that the Act added little to existing legislation. It did not fully extend the prohibition of racial discrimination into the employment field in that it did not provide effective protection against racial discrimination in recruitment, special training or promotion. He would therefore like to know whether there were any effective measures against discrimination in recruitment.

16. Chapter 1, section 9, and chapter 2, section 15, of the Constitution contained the most important provisions as far as the implementation of the Convention was concerned, requiring respect for the equality of everyone before the law and prohibiting discrimination against a citizen on the grounds of his belonging to a minority or on account of his race, colour or ethnic origin. He would like to know how chapter 2, section 15, of the Constitution was enforced and what remedies there were to secure protection against a statute or regulation which led, directly or indirectly, to discriminatory treatment. Paragraph 16 of the report was rather vague in that respect and did not mention any legal remedies to nullify a statute or regulation which did not conform to the Constitution.

17. By means of chapter 16, section 8, of the Penal Code and the Freedom of the Press Act, Sweden had undertaken to prohibit the dissemination of statements or communications threatening or expressing contempt for an ethnic or other group by making allusion to race, colour, national origin or religious creed. Furthermore, chapter 16, section 9, of the Penal Code made ethnic discrimination in business a punishable offence. Those provisions covered article 2 (d) and article 4 (a) of the Convention, but there seemed to be no fully equivalent prosecution of organizations. The information provided in that respect in paragraphs 76 *et seq.* of the report, apart from prohibiting extreme cases, indicated that Swedish policy was aimed at silencing racist associations rather than prohibiting them. Freedom of association was apparently held in higher esteem in Sweden than freedom of opinion or expression or freedom of the press. The Swedish representative might wish to inform the Committee whether that was correct. Some information would also be appreciated on the background of the Sweden Democrats and similar organizations.

18. As far as the dissemination of racist ideas was concerned, the report mentioned only one case involving the mass media, in paragraph 33. He would like to know whether that case had finally been decided by the Supreme Court and what, in the view of the Swedish Government, the relationship was between freedom of expression as referred to in article 5 (d) (viii) of the Convention and the prohibition of racial discrimination. Why had the literature distributed by Dietlieb Felderer, which included neo-Nazi and anti-Semitic tracts, not been prohibited, as well as a journal called Revisionist History? Paragraph 37 of the report contained a reference to hostility between different ethnic groups. Could the representative of Sweden inform the

Committee how often the respective provisions of the Penal Code had been used in that connection and give some information on the relevant cases?

19. Paragraphs 37-40 of the report showed that the Swedish Government had made considerable efforts to integrate immigrants into Swedish life while, at the same time, preserving their cultural identity. Such a policy was exemplary, particularly as far as efforts in the school sector were concerned, and they fully implemented article 2, paragraphs 1 (e) and 2, of the Convention. It was therefore extremely puzzling to note that Sweden had recently made a severe cut in the budget for educating children in their mother tongues. Did that represent a change of policy towards immigrants, and had the cuts been negotiated with immigrant groups? It would also be interesting to know how many immigrants completed primary, secondary and university studies, and who was responsible for operating immigrant broadcasting services. There seemed to be a licensing system, but was every minority association eligible for a licence?

20. In the section on the implementation of article 2, paragraph 2, of the Convention, the report mentioned the efforts made in respect of the Sami population. It was quite astonishing to learn that attempts to strengthen the legal position of the Samis had been initiated only in 1990. First of all, it would be helpful if the Committee could be given some information on the report of the government committee on the Samis mentioned in paragraph 43. Were the three points referred to in paragraphs 43-45 - namely, the use of the Sami language in contacts with "certain public authorities", the inclusion of a reference to the Samis in the Constitution, and the establishment of a representative elected body - the only considerations?

21. He would be particularly interested in knowing the position of the Samis vis-à-vis the land used for reindeer husbandry. Was it State property, the private or collective property of the Samis, or property privately owned by somebody else? Was it true that problems had arisen when Samis had tried to cross State-owned land? He would also like to know the relevance in that respect of the codicil which formed part of the 1751 border treaty between Denmark/Norway and Sweden, according to which special status should be granted to a Lapp who paid taxes for his plot of land.

22. Paragraphs 46 and 47 were not quite clear. Further information was needed on the Natural Resources Act and its relevance to the Samis. The reference to pasture rights presupposed that the area was owned by non-Samis. Why had the traditional rights of Samis not been taken into account when the land had been purchased by somebody else?

23. He would also like to know what had happened to the Sami Court established by the 1751 codicil and to the former Sami Ombudsman? What was the status of the Sami language in the courts and before the public authorities? Immigrants were provided with an interpreter, but did Samis benefit from the same arrangement?

24. In paragraph 108 the report referred to the Sami School Ordinance, according to which Sami children had the right to attend Sami schools instead of ordinary schools. What were the specific features of those schools, and what was their standard compared with that of ordinary schools? How many

Sami children who had studied at Sami schools went on to higher education, including university? Was there not a danger that special schools for Samis might lead to segregation?

25. It would also be interesting to know the present social situation of the Samis as compared with that of the rest of the population, especially in terms of average income and the average unemployment rate, as well as whether Samis were employed in the higher levels of the civil service.

26. The report made several references to reindeer-herding, which was governed by the Reindeer Husbandry Act. In several instances it was pointed out that reindeer-herding was essential for upholding Sami culture. What was not mentioned was that of the 15,000 to 20,000 Samis, only 2,500 might engage in reindeer-herding. In that connection, he wished to draw the attention of the Committee to the case decided by the Human Rights Committee in 1988 (CCPR/C/33/D/197/1985) in which the Reindeer Husbandry Act had been criticized, since it resulted in providing for two different groups of Samis, a privileged group engaged in reindeer husbandry and a non-privileged group unable to participate in reindeer husbandry and excluded from the activities of the Sami communities. Under article 1, paragraph 1, of the Convention, "racial discrimination" included any distinction or exclusion which had a discriminatory effect. He would therefore like to know how the effects of the Reindeer Husbandry Act could be justified.

27. It was equally questionable whether the provisions whereby Sami villages themselves decided upon the membership of the village and an appeal could be granted only if there were special reasons for allowing such membership were in conformity with the Convention. Since membership of Sami villages seemed to be the only way of participating in Sami cultural activities, the Swedish Government should reflect on whether such a "closed shop" system was really justifiable. CERD had generally taken the view that membership of a given ethnic group should, in general, be based upon self-identification only.

28. The Swedish representative might wish to expand upon the reference to a Sami "representative elected body" contained in paragraph 45 of the report and to inform the Committee whether the Swedish Government endorsed transboundary cooperation among Samis living in Sweden, Norway, Finland and even the Soviet Union.

29. In paragraphs 50-74, the report provided detailed information concerning the attitude of Sweden towards South Africa and the policy pursued in that regard. The results of trade policy were explained in paragraph 64. In brief, Sweden had implemented article 3 of the Convention to the widest extent possible.

30. Some comments required to be made about the Ombudsman against Ethnic Discrimination, established by the Act to Counteract Ethnic Discrimination. It would be desirable for the Committee to have an English translation of the report of the Ombudsman which had been submitted in November 1989. The status of the Ombudsman against Ethnic Discrimination seemed, however, to be inferior to the status of the Ombudsmen for consumer affairs, for economic competition and for sex discrimination. Unlike the other three Ombudsmen, he was not authorized to bring those accused of infringements to court nor could he

require information to be given to him under oath. Those deficiencies in the powers and functions of the Ombudsman were relevant to the issue of labour relations.

31. In general, Swedish legislation offered protection against wrongful dismissals; no such protection existed, however, against discrimination which might stem from unfair treatment at the time of recruitment. Nor did the Ombudsman provide protection in such cases. That situation was not in full conformity with the commitments made under article 5 (e) (i). The information given in paragraph 103 was insufficient. The same view had been taken by the Special Commission against Racism and Xenophobia in 1987. Further information should be given in the next report on the situation of immigrants with regard to employment, unemployment, wages and skills.

32. He had some questions on the referendum held in Sjöbo in which 67.5 per cent had voted in favour of ending the acceptance of further refugees. He would like to know whether the referendum represented an exceptional case or whether there had been other similar incidents which would indicate a growing negative climate vis-à-vis refugees in Sweden. He requested the representative of Sweden to inform the Committee about the violent racial incidents in Eskilstuna, Lesjöfors, Överum and Jönköping in 1989. A refugee in Jämtland had nearly been killed after a bomb under his car had exploded. An Eritrean family in Småland had been attacked in the middle of the night when a Ku Klux Klan-type gang of Swedish youths had burned a cross on their front door. He would like to know whether the perpetrators of those incidents had been prosecuted.

33. In spite of the many questions he had asked, he would nevertheless like to congratulate the representative of Sweden on the very comprehensive and informative report and introduction and on the high standard achieved in Sweden in protecting and fostering ethnic minorities.

34. Mr. LECHUGA HEVIA observed that changes in the ethnic composition of the population had led to changes in the social atmosphere and that the Government had been concerned to solve the problem resulting from that change. Success in that respect had not, however, been achieved. In that connection, he would like to know the position on the Bill which the Government had submitted to Parliament in February 1990 on the basis of the report presented by the Special Commission against Racism and Xenophobia. He would also like to know whether the case mentioned in paragraph 33 of the report was the only instance of a conviction for the offence of agitation against an ethnic group. Were there any instances of agitation against groups other than Jews?

35. He would also welcome information on how the health, mortality, employment and educational levels of the Sami population compared with those of the Swedish population as a whole.

36. Mr. SONG Shuhua welcomed the report, which was of excellent quality and consistent with the guidelines. It reflected a frank attitude on the part of the Government of Sweden. Compared with the eighth and ninth reports, the current report had less information on the Samis but more on the question of immigrants. The ethnic composition of the population had changed substantially since 1914 and approximately 8 per cent of the population was

made up of persons who had been born abroad. In general, the Swedish attitude towards foreigners was friendly. He would welcome information on developments in connection with the review of the Act to Counteract Ethnic Discrimination mentioned in paragraph 36.

37. He was encouraged by paragraph 45 regarding the proposal for a special law containing provisions to further Sami culture and society, primarily through the establishment of a representative elected body. He would like to know whether there were forms of employment other than reindeer-herding which were available to the Sami population. To what extent were the Samis represented in the Swedish Parliament?

38. He was not sure that he had grasped the meaning of paragraph 85 regarding protection against any "enforced encroachment on (the) body". Paragraph 87 referred to the use of force by the police in certain carefully defined circumstances. He wondered whether such use of force was acceptable in a democratic society.

39. He would also welcome information on the growth of other sectors of the immigrant society, such as the Turks and Spaniards, and particularly the comparative growth rates of such groups compared with the Swedish population as a whole.

40. Mr. VIDAS welcomed the report, which continued the constructive dialogue between the Committee and the Government of Sweden. The establishment by the Government in May 1990 of a Commission to Study Measures against Ethnic Discrimination, referred to in paragraph 8, represented a major positive development. He hoped that the report which the Commission was to submit in 1992 would prove helpful to other Governments in a similar situation. In its report to the General Assembly, the Committee should single out that development as an important step which might well be of interest to other countries.

41. The Committee had not yet received a reply from the Swedish Government to its inquiry whether incidents of children being removed from unfit mothers occurred more frequently among ethnic minority children. He would welcome a reply in the next report.

42. Mr. BANTON said that the Committee welcomed the success of its continuing dialogue with Sweden. There had been criticisms in the past and it was very reassuring to hear from the representative of Sweden how he had recognized the continuity of those criticisms. He hoped that the representative of Sweden had noted that Mr. Wolfrum, who had not been a member of the Committee when the previous reports of Sweden had been considered, had independently reinforced the points which had been made on previous occasions.

43. One point to which the Committee had drawn attention was the relevance of residential segregation for inter-group relations, and it had expressed regret at the lack of information concerning the relative educational attainments of ethnic minority schoolchildren. Paragraph 16 might have exaggerated popular knowledge about the provisions of the Swedish Constitution. In their study of black/white relations in the United States of America, Gunnar Myrdal and his wife had been astonished when they had visited the United States to see how

the Constitution was a living reality in the minds of the people, to an extent they had not been prepared for. Things had changed in the past 50 years but the ordinary public in Sweden were really not as well acquainted with their constitution as was the case in the United States.

44. With reference to paragraph 36, it would seem that the Special Commission against Racism and Xenophobia had not been advised to consult with immigrant associations who, after all, represented the victims of discrimination.

45. The guidelines contained in the brochure referred to in paragraph 39 were admirable but perhaps the time had come to ask how well they were observed in practice. That might well be a topic for research. It was not, however, sufficient to remove formal barriers and the question arose as to what formal barriers Parliament had in mind and whether they had been removed.

46. Paragraphs 44 and 45 possibly constituted the most important feature of the report and the potential of the developments referred to was huge. With reference to what was said in paragraph 40 regarding the framework of fundamental norms which applied in Sweden, the Swedish Government could, of course, declare what those norms were and insist that new immigrants observe them.

47. He was surprised at the lack of information on the Ivan Kitok case, since the Committee's guidelines asked for details of judicial decisions and the Kitok action must have started several years before the Human Rights Committee had become aware of it in 1985. He could sympathize with the philosophy behind the 1971 Reindeer Husbandry Act, which sought to integrate the Samis, like other people, into Swedish society on the basis of their occupations and what was necessary to pursue a livelihood. The criticisms by the Human Rights Committee of certain features of that Act and its application to Ivan Kitok were fully justified. It would be interesting to learn whether Ivan Kitok had been granted membership of the Sörkaitum Sameby.

48. Paragraph 80 related to article 4 (b), which was mandatory and not subject to any "due regard" clauses. In that connection, he hoped that members of the Swedish delegation, if they did not already have it, would obtain a copy of the special study of article 4 prepared by the Committee. It contained the full reasoning adopted by CERD in that respect and would be of value to anyone in Sweden considering further action.

49. Paragraph 107 must be of interest to the Committee, as it dealt with the learning of the mother tongue. Like Mr. Wolfrum, he would like to know if there had been any change of policy. A feature of Swedish political life had been the continuing stress on consultation before action, but the budgetary reductions had come as a bombshell and had been made without any consultation. Was there a policy decision behind that action? The changes had caused much concern in Sweden and did not appear to have been handled in the usual manner.

50. During the Committee's consideration of the ninth report, he had referred to the crime statistics produced by the Commission against Racism and Xenophobia. Those statistics were now to include separate statistics on offences against minority groups. He would like to know whether criminal proceedings under the current law had been effective in reducing the incidence

of such offences and whether new legislation would make any difference. There seemed to be many such incidents, many of which involved bombing and incendiarism, as had been the case in Kimstad, Sjöbo, Kungälv, Mariestad, Bocksjön, Laholm and Västeras. Those episodes illustrated the magnitude of the problems faced not only by the Swedish Government but by the European Parliament, particularly as the phenomenon was expanding in many European countries and would pose problems when the Committee came to discuss the reports of the European countries.

51. Mr. RESHETOV welcomed the high quality of the report and the willingness of the Government of Sweden to pursue dialogue and to try to answer the Committee's questions.

52. He wished to make five points. The first related to paragraph 33, from which he had noted that there had been a recent judicial decision on the Radio Islam case which had illustrated how use had been made of the judicial mechanism to cope with racial discrimination. Similar problems had arisen in the Soviet Union involving, in particular, incidents of anti-Semitism. He would be interested to know whether other similar groups existed in Sweden. Such groups were becoming more organized and better financed, which facilitated dissemination of their views. Their actions involved racial discrimination against other national groups.

53. With reference to immigration policy, Governments and society as a whole bore a great responsibility in ensuring, as far as possible, that immigrants were welcomed and given the necessary civil status. Paragraph 38 of the report referred to the provision of official support for immigrants; he asked for more specific information on the subject in view of the growing problems concerning the situation of immigrants in various parts of the world, especially the highly developed European countries. In dealing with immigration policy, Governments should adopt a humanitarian and not purely legalistic approach.

54. Like other members, he appreciated the information provided about measures taken to enable the Sami population to preserve its national identity and language, but he still had the impression that the Swedish authorities were adopting a somewhat paternalistic approach, rather than aiming at the assimilation of the Samis, with due respect for their specific features and the preservation of their identity.

55. With regard to measures against organizations promoting and inciting racial discrimination, he referred to paragraphs 76-80 of the report and said that national legislation must be enacted against organizations which, through acts or publications, were clearly racist in outlook in order to ensure that they ceased to operate. Any failure to do so would represent a breach of article 4 (b) of the Convention.

56. Sweden's democratic tradition evidenced, for instance, by the right of foreigners to take part in municipal elections, was well known. However, when

the Swedish authorities expressed opinions about situations or events outside Sweden, they should consistently ensure that they were abiding by the same principles concerning universal respect for human rights within their own borders.

57. Mr. YUTZIS requested clarification of the term "unlawful discrimination" in paragraph 20 of the report, since his understanding was that discrimination, as opposed to certain forms of distinction, was always unlawful.

58. In connection with the part of the report dealing with article 2, paragraph 1 (a)-(d), of the Convention, he questioned the logic of paragraphs 32 and 33, since the emphasis seemed to be on extending constitutional protection for freedom of speech in participatory local radio broadcasting, whereas the case mentioned related to restrictions on the expression of racist opinions on such programmes.

59. On the subject of freedom of conscience and religion and with reference to paragraphs 101 and 102 of the report, he wished to know who decided that students at the various levels of compulsory schooling could be exempted from official religious instruction, and what were the criteria for such exemptions. In the same connection, he would be interested to know whether the question of providing alternative religious instruction had arisen because there was some questioning of the official teaching of religion or whether it was a measure specifically aimed at the ethnic communities.

60. Mr. ABOUL-NASR expressed reservations about the statement in paragraph 34 of the report that under Swedish labour legislation, all persons were regarded as equal, irrespective of their ethnic background or nationality. He took it that the statement referred to persons with a Nordic background, or possibly to all persons with a permanent right of residence, since others were apparently treated differently. Still on the subject of labour, he understood that in Sweden, as in many other countries, salary deductions were made at source for various social benefits, such as pensions. He wished to know whether the amounts paid into pension funds and the like were returned to the persons concerned in the event of their departure from the country for any reason.

61. He asked for further information on paragraph 33 and what the specific charges and verdict had been in the Radio Islam case. Speaking from personal experience, he said that pronouncements against Jews were taken more seriously and were more severely punished in general than equally prejudicial expressions of anti-Arab feeling. He also had some reservations about the term anti-Semitism, since the Arabs were Semites as well and there was more discrimination against Arabs in the world today than against Jews.

62. Mr. CORELL (Sweden), replying to questions raised by Committee members, said that the large number of questions and comments contributed to the dialogue between his Government and the Committee. The Swedish population had indeed, until very recently, been fairly homogeneous. In reply to Mr. Wolfrum and Mr. Song Shuhua, he said the reason why the report had dealt at length with immigrants and only briefly with the Sami population was that the latter numbered only 20,000, of whom 2,500 or so were engaged in their traditional

occupation of reindeer-herding. By contrast, every eighth Swede today was an immigrant or the descendant of an immigrant. That did not, of course, mean that the Sami population should be, or was, disregarded. In the previous few years a number of books had been published by the Sami Commission. Although they were not in English, two summaries in English would be forwarded to the Committee for information.

63. In response to the comments made by Mr. Wolfrum and Mr. Aboul-Nasr about preferential treatment for citizens from Nordic countries in regard to employment opportunities, he reminded the Committee that the Nordic countries worked in close cooperation and shared a wide range of common interests, including what might be termed a common labour market, meaning that all citizens of a Nordic country could work freely in the others. Any group of countries wishing to conclude cooperation agreements of that kind would be entitled to do so. The European Community (EC) was a case in point, and a careful study of EC policies and future arrangements should prove that a similar development was taking place there. In case the Committee was concerned about the common Nordic labour market - what about the EC?

64. Mr. Wolfrum had asked why in 1989 only 160 persons from non-Nordic countries had been granted permission to enter Sweden to seek work. In fact, the figure for 1989 had been 167, and in 1990 it had risen to 263. However, seen in isolation, the figure gave a false impression, as did the figure of 1,250 as Sweden's refugee quota. In fact, that was only a small part of the general picture: in 1989, a total of 44,672 people had been granted entry into Sweden. Of those, 24,800 had been refugees or persons of similar status, and some 18,000 had been relatives of persons already settled in the country. In 1990, the total had been 37,883, of whom some 13,000 had been refugees and some 22,000 persons with relatives in the country. It would thus be seen that the total number of immigrants in relation to Sweden's population of only 8.5 million was far higher than any other country in Europe. It should also be noted that Sweden was the chosen destination of refugees from many parts of the world, which could be taken as an indication of Sweden's position in regard to the Convention.

65. Mr. Wolfrum had also asked whether there were measures to protect immigrants applying for work in Sweden. The same point had been raised at the time Sweden's previous report had been considered, and the reply then had been that there were no special measures in that regard, since the principle of equal treatment in the labour market applied. In the same context, Mr. Banton had asked how the guidelines relating to the employment of immigrants, referred to in paragraph 39 of the report, operated. The real issue seemed to be whether discrimination could occur at the stage when an immigrant was seeking employment. It was interesting to note Mr. Peter Nobel's, 'the Ombudsman, statement that if legislation had been enacted to cover such a situation, he could not foresee that any successful prosecution could have been brought under it judging from the cases he had experienced so far. However, Sweden was indeed studying the problem posed by the fact that once in employment the worker was protected, but when he was applying for employment he received no protection under specific legal' rules.

66. On Mr. Wolfrum's question as to what provision was made for scrutinizing legislation, he pointed out that the relevant chapter of the Constitution was not chapter 1, but chapter 2. Where the drafting of bills was concerned, the Legal Counsel in fact took great pains to advise the Minister concerned on the requirements of the Constitution vis-à-vis the bills, since if a bill, once drafted, was found to be in violation of the Constitution, the situation would be most embarrassing. The bill was first scrutinized by the Law Council, consisting of two judges of the Supreme Court and one judge of the Supreme Administrative Court, and examined again in Parliament by the Standing Committee on Constitutional Matters.

67. Where existing laws were concerned, chapter 11, article 14 of the Constitution laid down that if a court or any other public body considered that a provision conflicted with a provision of fundamental law or with a provision of any other superior statute, or that if procedure prescribed had been set aside in any important respect when the provision had been introduced, the provision could not be applied. There was thus well-established machinery for scrutinizing both proposed and existing legislation, although the possibilities of disregarding laws decided by Parliament and decrees decided by the Government were limited.

68. The important question of the relationship between freedom of speech and freedom of association had also been raised; the Government sought to strike a fair balance between the two. In Sweden, the right of association had very old traditions, and went back to well before the founding of the League of Nations. It had been through Sweden's freedom to form associations that the democratic tradition had taken root in the country.

69. Although the right to freedom of expression could be exercised freely, any violation of the law against incitement to racial discrimination was, of course, punishable. The difficult question then arose whether the association within which such a violation had been committed should be banned. The Government was now investigating whether regulations could be formulated to penalize racist offences without actually imposing a ban on the organization concerned. He urged the Committee to have confidence that Sweden was making genuine efforts to examine that problem and to achieve a proper balance.

70. Several members had asked questions about the regulations governing television and radio broadcasting by immigrant or minority groups. Under the Community Radio Act of 1982, such groups had to apply to the Community Broadcasting Commission to be granted air time, and once permission had been granted, they were subject to the same laws as those which governed other activities. He had been somewhat surprised at the questions raised on that point: he had thought the Committee would be aware that one of the cornerstones of freedom of expression was that there should be no prior censorship. Sweden's position was no different from that of other States parties to the International Covenant on Civil and Political Rights, in that, while there was full freedom of expression, individuals were held responsible for how they used that freedom either on the air or in print. Under the Freedom of the Press Act, which also applied to broadcasting, possible offences included expressions of contempt for a population group by allusions to race, skin colour, national or ethnic origin, or religious faith.

71. In reply to the point raised by Mr. Aboul-Nasr, such offences were considered as particularly severe and were dealt with by a very high-ranking prosecutor, the Chancellor of Justice, whose task it was to bring them before the courts. In the particular case referred to in paragraph 33 of the report, he would inform the Committee of the judgement of the Supreme Court once it was handed down.

72. Mr. Wolfrum had asked for figures for the budgetary allocation for teaching minority groups foreign languages. In fact, the Swedish Ministry of Finance exercised tight control over budgeting in many areas; he was unable to supply precise statistics. However, the restrictions applied generally, and there was no question of singling out the means for the education of minority groups. Similarly, he was unable to say exactly how many immigrants were currently receiving primary, secondary and university education; they were given the same opportunities for schooling as all other Swedes. It might be that they were not represented at university level to the same extent as students of Swedish nationality, since it was only natural that they would take longer to be assimilated into Swedish society. Many immigrant children were also too young to have reached university level.

73. It was also difficult for him to reply to the question as to what extent Samis or immigrants were able to participate in Swedish life, and how many of them held senior positions. All that could be said was that they were given the same opportunities as everyone else; it was the aptitude of the individual concerned that was the sole criterion.

74. Mr. Wolfrum had expressed astonishment on learning that efforts to strengthen the legal status of the Sami people had been initiated only in 1990. That reaction seemed to be based on a misunderstanding. In fact, the Sami question had been a concern of the Swedish authorities for many years; it was natural that the main body of legislation relating to them should concern reindeer-herding, since that was their traditional occupation and way of life. He would be glad to hand to the Chairman summaries in English of the two main reports of the Swedish Sami Committee, which contained a substantial amount of information.

75. Land used for reindeer-herding could be State property, collective property or private property; herding rights were the same, irrespective of who owned the land, and were governed only by geographical location. Such rights were not affected by transfer of land ownership or title, were not limited in time and were not subject to any agreement. No rental was payable to the owner of the land or to anyone else, and herding rights could be abrogated only by Government decision; expropriation could be carried out only in accordance with the relevant legal provisions, in other words through a court ruling followed by appropriate compensation.

76. The Lapp codicil was no longer effective, because the subject of reindeer-herding with which it was chiefly concerned was now governed by a convention between Norway and Sweden, and its other provisions now had modern equivalents. The special Sami courts had ceased to function in the early

nineteenth century, and any matters relating to the Samis were now dealt with by ordinary courts. A joint Swedish/Norwegian Act had been adopted in the 1880s giving the Samis the right to move their reindeer from one country to the other; when the union between Sweden and Norway had ended, that Act had been replaced by a convention. The current convention dated from 1972 and would remain in force until 2002, and only if no new convention were adopted to take its place would the original Lapp codicil again emerge from the mists of time and re-enter into force.

77. A member had asked why Sami rights had not been taken into consideration when their land had been acquired by others. That question, too, was difficult to answer, since Sami lands had come under Swedish jurisdiction as early as the fourteenth century. All that could be said was that the rights of the Samis had been a constant concern of the Swedish Government for many years.

78. He pointed out that there were many competing interests in the Sami land area, which made up one third of Sweden and in which most hydroelectric power plants were located. The shores of the lakes which had been dammed to provide hydroelectric power were sometimes traditionally used for reindeer calving lands. It would be seen that it was difficult for the Government to strike a fair balance since the power produced supplied the whole country and only some 2,500 Samis lived off reindeer-herding.

79. On the question of provision of interpreters in court, Samis were given the same assistance as anyone else with language difficulties in such circumstances.

80. There were five Sami schools in Sweden for pupils aged between one and six years. The law required that the curriculum of such schools should be the same as in ordinary schools, except that the teaching should be in both Swedish and Sami, that the subject of Sami should be taught, and that issues of importance for the culture and living conditions of the Sami people should be addressed. Should a Sami school be closed for lack of pupils, the funds allocated to the school would be handed over to the Sami school board, which could use them to further Sami education elsewhere in the school system. In the budget for 1991, the Government was proposing that all members of school boards for Sami schools should be nominated by the Sami people themselves; Parliament was expected to take a decision on that proposal shortly.

81. On the question of the average income of a Sami, he again had no precise figures, but pointed out that while only some 2,500 to 3,000 were dependent on reindeer-herding, the vast majority of Samis lived all over Sweden and were engaged in many different kinds of work. Some of the Committee's questions had given him the impression that they believed the Samis led lives radically

different from those of most Swedes, whereas in fact, in most cases, it was difficult for Swedes themselves to tell whether or not an individual was of Sami origin.

82. In reply to the question whether Samis were employed in the higher levels of the civil service, he again stressed that applicants for such posts were never asked about their racial origins; appointments were made solely on the basis of merit.

83. The CHAIRMAN thanked the Swedish representative for the extensive information he had given and for the very fruitful dialogue he had engaged in with the Committee.

The meeting rose at 1.05 p.m.