



Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION

Fourth periodic reports of States parties due in 2000

Addendum

SWEDEN*

[21 August 2000]

* For the initial report of Sweden, see CAT/C/5/Add.1; for its consideration, see CAT/C/SR.10 and 11 and Official Records of the General Assembly, Forty-fourth session, Supplement No. 46 (A/44/46), paras. 39-75. For the second periodic report, see CAT/C/17/Add.9; for its consideration, see CAT/C/SR.143, 144, 144/Add.2 and Official Records of the General Assembly, Forty-eighth session, Supplement No. 44 (A/48/44), paras. 365-386. For the third periodic report of Sweden, see CAT/C/34/Add.4; for its consideration, see CAT/C/SR.291 and 292 and Official Records of the General Assembly, Fifty-second session, Supplement No. 44 (A/52/44), paras. 214-226.

Introduction

1. The Swedish Government submitted its initial report in October 1988 (CAT/C/5/Add. 1), its second periodic report in September 1992 (CAT/C/17/Add.9), and its third periodic report in November 1996 (CAT/C/34/Add.4) pursuant to Article 19 of the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment.

2. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Sweden from 15 to 25 February 1998. The Committee's report includes recommendations, comments and requests for information. The report has been made public.

I. INFORMATION ON MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

3. The information provided in Sweden's three previous reports still applies with reference to articles 1, 6, 7, and 10 to 15 of the Convention.

Article 2

4. The provision of the Penal Code mentioned in the initial report (CAT/C/5/Add.1, para. 26), concerning acts committed by someone on the order of a person whom he has the duty to obey (former chapter 24, section 6) is regulated in the Penal Code, chapter 24, section 8. The content of the provision has not been changed.

Article 3

5. As stated at the time of Sweden's third periodic report (see CAT/C/SR.291, paras. 3-4, 6-7) new legislation has been in force since 1 January 1997. A parliamentary committee has reviewed the rules on appeals procedure in the Aliens Act and recommended changes as regards those rules in 1999. The recommendations have not yet led to any amendments to the Act.

Article 4

6. Any act by which severe pain or suffering – physical or mental – is intentionally inflicted on a person by, or at the instigation of or with the consent or acquiescence of, a public official or other person acting in an official capacity for any such purposes or reasons mentioned in article 1 would constitute a criminal offence under Swedish law. Thus, all acts of torture as defined in article 1 of the Convention are offences under Swedish criminal law. The same applies to attempts to commit such acts and to complicity or participation in such acts.

7. References to relevant provisions in the Swedish Penal Code have been made in Sweden's previous reports (see for example CAT/C/5/Add.1, para. 90). One later amendment and some further considerations may now be mentioned.

8. The provision on interference in a judicial matter (chapter 17, section 10 of the Penal Code) was amended in 1997. A person who, by violence or threat of violence, assaults someone because he has, in court or before another authority, filed a complaint, pleaded a cause, testified, or otherwise made a statement at a hearing, or to prevent him from so doing, shall be sentenced for interference in a judicial matter to a fine or imprisonment for at most two years. The same shall apply to a person who by some other act, or by threat of such act, causes suffering, injury or inconvenience, or who assaults someone because the latter has testified or made some other statement at an official hearing, or does so to prevent the making of such a statement. If the crime is gross, imprisonment for at least one year and at most six years shall be imposed. Whether the penalty scale is to be further increased is now being considered by a parliamentary committee.

9. The Government will this year appoint a commission with the task of deliberating on the Swedish penal legislation on, for example, crimes against humanity. The commission will also consider questions of jurisdiction and whether the statute of limitation could be abolished for certain crimes.

Article 5

10. Chapter 2, section 3 of the Penal Code (see CAT/C/5/Add.1, para. 46) was amended in 1999. The amendments made were due to the ratification of the Comprehensive Nuclear Test-Ban Treaty. The amended provision, which entered into force on 1 May 1999, reads as follows:

“Even in cases other than those listed in Section 2, crimes committed outside the Realm shall be adjudged according to Swedish law and by a Swedish court:

1. If the crime was committed on board a Swedish vessel or aircraft or was committed in the course of duty by the officer in charge or a member of its crew;
2. If the crime was committed by a member of the armed forces in an area in which a detachment of the armed forces was present, or if it was committed by some other person in such an area and the detachment was present for a purpose other than an exercise;
3. If the crime was committed in the course of duty outside the Realm by a person employed in a foreign contingent of the Swedish armed forces;
4. If the crime committed was a crime against the Swedish nation, a Swedish municipal authority or other assembly, or against a Swedish public institution;
5. If the crime was committed in an area not belonging to any state and was directed against a Swedish citizen, a Swedish association or private institution, or against an alien domiciled in Sweden;

6. If the crime is hijacking, maritime or aircraft sabotage, airport sabotage, an attempt to commit such crimes, a crime against international law, unlawful dealings with chemical weapons, unlawful dealings with mines or a false or careless statement before an international court; or

7. If the least severe punishment prescribed for the crime in Swedish law is imprisonment for four years or more.”

11. As stated during the examination of Sweden’s third periodic report (see CAT/C/SR.291, para. 5), new legislation on detention has been in force since 1 October 1997.

Article 8

12. On 18 July 1997, Sweden ratified the 1995 European Union Convention on Simplified Extradition Procedure between the Member States of the European Union. When depositing the instrument of ratification, Sweden declared that the Convention, before it entered into force, should apply provisionally in Sweden’s relations with other Member States which had made the same declaration. As a result of the ratification of the Convention, the Swedish Act on Extradition was amended by decree 1997:209.

13. Sweden is at present considering ratifying the Convention on extradition between the Member States of the European Union, which is drawn up on the basis of article K.3 of the Treaty on European Union. According to the Convention, the contracting parties shall not, as a general rule, consider political crimes as non-extraditable among themselves.

Article 9

14. In March 2000, the Swedish Government presented a bill to the Riksdag on a new Act on Mutual Legal Assistance in Criminal Matters. It is proposed that the new legislation shall enter into force on 1 October 2000. The new Act will replace the 1946 Act concerning Taking of Evidence at the Request of a Foreign Court, the 1975 Act concerning the Use of Certain Coercive Measures at the request of a Foreign State and the 1991 Act with Certain Provisions on International Cooperation in Criminal Matters.

15. Pursuant to the proposed Act on Mutual Legal Assistance in Criminal Matters, a Swedish court or prosecutor will be able to assist with various measures necessary for the preliminary investigation or trial in a foreign State, for example, hearing by prosecutors, taking of evidence by courts, hearing by video conference, hearing by telephone conference, search, seizure and attachment, interception of telecommunications, secret tele-surveillance and secret camera-surveillance, and transfer of persons in custody.

16. The new Act does not require reciprocity. Assistance can be furnished irrespective of whether an agreement on mutual legal assistance has been concluded or not.

17. Rules on service of documents are not included in the new Act and continue to be regulated by a special decree.

18. In addition to the European Convention on Mutual Assistance in Criminal Matters of 1959, Sweden is also a party to the 1978 Additional Protocol to the 1959 Convention, the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the 1990 European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

Article 16

19. Since the previous report, submitted in 1996, there has been one case of gross sexual exploitation committed by a male prison guard against a woman prisoner. The prison guard was sentenced to imprisonment for 18 months and dismissed from his job.

20. A few policemen have, since the submission of the previous report in 1996, been sentenced by the court to fines; some of them were also dismissed from their jobs. All the cases concerned petty assault, except for two which concerned professional misconduct.

21. Since the submission of the previous report, the Swedish police have revised the rules for seizing suspects.

22. In a bill presented to the Riksdag (1999/2000:44), the Government has proposed some amendments to the Act (1991:1128) on involuntary psychiatric care and the Act (1991:1129) on forensic psychiatric care. As regards transition from voluntary to involuntary care (1991:1128), the Government proposed examination by two physicians and tightening up the requirement of adjudication by a court of law. The Government also proposed that patients who come to be considered for involuntary psychiatric care should have increased access to "a supportive person". As regards treatment during involuntary care, the Government proposed that a general provision should be enacted whereby coercive measures may be used only if the patient cannot be induced through individualized information to participate of his own free will. Coercive measures may not be used to a greater extent than is necessary in order to render the patient capable of voluntary participation in the requisite care and of receiving the support which he needs. The use of coercive measures shall be reasonable in proportion to what should be achieved through the measure taken. Less intrusive measures are to be employed if sufficient. Coercive measures shall be exercised as gently as possible and with the greatest possible consideration towards the patient, so that he will not be subjected to any unnecessary infringements of his dignity and privacy.

II. ADDITIONAL INFORMATION REQUESTED BY THE COMMITTEE

23. In reply to the question from Mr. Burns on whether chapter 8, section 1 of the Swedish Aliens Act, as amended in January 1997, also applied to terrorists (see CAT/C/SR.291, para. 12), Sweden would like to state that the protection given under this provision is absolute, thus including criminals and terrorists.

24. In reply to the question from Mrs. Iliopoulos-Strangas on what criteria were used to determine whether statements made by an alien to substantiate his fears of returning to his country of origin were reliable and reasonable (see CAT/C/SR.291, para. 16), Sweden would like to refer to the third periodic report (CAT/C/34/Add.4, paras. 4-6). No aliens will be expelled

unless there has been an oral hearing in the first instance. The Swedish authorities deal with cases individually and will in each case base the assessment on all known facts, including submitted medical reports.

III. COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

25. Sweden would like to offer the following comments with regard to the Committee's conclusions and recommendations on Sweden's third periodic report (Concluding observations of the Committee against Torture: Sweden, A/52/44, paras. 214-226).

Concerning the incorporation of the definition of torture in Swedish domestic law (A/52/44, paras. 219, 223 and 224)

26. All acts of torture as defined in article 1 of the Convention are offences under Swedish criminal law. The same applies to attempts to commit such acts and to complicity or participation in such acts. The offences are punishable by appropriate penalties which take into account their grave nature. Thereby, Sweden is of the view that she has fulfilled her obligations under article 4.

Concerning the information on cases of ill-treatment by the police (A/52/44, paras. 221-222)

27. In pursuance of article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, a delegation of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment carried out a visit to Sweden from 15 to 25 February 1998. This visit formed part of the CPT programme of periodic visits for 1998, and was the second periodic visit to Sweden to be carried out by the CPT.

28. During its stay in Sweden, the CPT visited different police establishments and prisons and one detention centre. The CPT was interested in, inter alia, investigating conditions of detention and safeguards against ill-treatment of detained persons. On 24 July 1998, the CPT presented a report (CPT [98] 24) to the Swedish Government containing recommendations, comments and requests for information based on the Committee's findings during its visit to Sweden. At the request of the CPT, the Swedish Government, on 3 February 1999, presented the CPT with an interim report containing responses to the CPT recommendations, comments and requests for information concerning the issue of humane treatment of persons in detention. On 25 February 1999, the Council of Europe published the CPT report and the Swedish Government's interim report (CPT/Inf [99] 4). On 29 September 1999, the Swedish Government also submitted a follow-up report on the previous interim report.

29. More information concerning the issue of the humane treatment of persons in detention can be found in the above-mentioned reports.

Concerning the use of “restrictions” (A/52/44, paras. 220 and 225)

30. New regulations from 1 January 1999 give a detained person a right to a hearing on certain kinds of restrictions. These regulations complement the compulsory court proceedings for the issue of detention orders and the requirement of general permission to impose restrictions. Appeals can be made against both kinds of decision to a higher court without time-limit. The prisoner can also demand a review of the detention order at any time. Court detention orders which are based on a risk that the person might otherwise remove evidence or obstruct the criminal investigation are necessary in order for the prosecutor to be able to decide to impose specific forms of restriction on the person who is deprived of his or her liberty. For such restrictions to be imposed, the court’s permission is, in principle, required. The prosecutor is obliged continuously to review the restrictions and to allow individual exceptions whenever possible. Chapter 24, section 5a of the Swedish Code of Judicial Procedure now reads as follows:

“If the court decides to detain a person, order that a person shall remain in detention or consents to an extension of time to institute a prosecution, it shall simultaneously, at the request of the prosecutor, consider whether the detained person’s contact with the outside world may be restricted. Permits for such restrictions may only be issued if there is a risk that the suspect will remove evidence or in other ways impede the inquiry into the matter at issue.

“If it is necessary by reason of subsequently occurring circumstances, the prosecutor may issue a decision involving restrictions on the detained person’s contact with the outside world, even if the court has not issued permission for restrictions. If the prosecutor issues such a decision, he shall, on the same day or not later than the following day request the court to consider the matter under the first paragraph. When such a request is presented to the court, the court shall as soon as possible and not later than within one week hold a hearing concerning the issue. The court procedure is subject to the provisions applicable to detention hearings.

“A permit for restriction lapses if the court does not allow an extension of the permit in conjunction with the court ordering that a person shall remain in detention, or grants an extension of the time for instituting a prosecution.”

31. In order to clarify and emphasize the obligation to cite the reasons for imposing restrictions, a specific provision has been adopted (chapter 24, section 14, Swedish Code of Judicial Procedure). This provision reads as follows:

“The person who requests the detention and, unless there are exceptional reasons, the arrested person shall attend the detention hearing.

“The person who requests the detention shall state the grounds upon which the request is based. The same applies as regards a request for a permit for restrictions under section 5a. The arrested person and his defence counsel shall be afforded an opportunity

to be heard. Apart from what is contained in the documents from the preliminary investigation and the other statements of the parties, an investigation into the offence may not be presented unless there is special reason for so doing.”

32. Since the above-mentioned visit by the CPT, a provision has been included in the Decree on the Treatment of Detained Persons (1976:376) according to which prosecutors are to document the circumstances which lead to a decision to impose restrictions. This provision entered into force on 1 January 1999. The detained person is to be informed of the contents of the documentation to the extent that this is possible without it being detrimental to the investigation. The reasons which the prosecutor has to document for the court in the case of certain restrictions largely correspond to those which he or she must cite when motivating a detention because of a risk that the suspect may remove evidence or in some other way obstruct the criminal investigation and in support of general permission for imposing restrictions.

33. In order to improve conditions in remand establishments, an amendment to the Act on the Treatment of Detained Persons (1976:371) entered into force on 1 January 1999. This entails the provision that remand prisoners should, as a rule, be given the opportunity to spend time together with other prisoners.

Concerning the methods used for crowd control (A/52/44, paras. 222 and 226)

34. The Swedish police are allowed to use dogs in different situations, i.e. when a crowd must be dissolved in order to prevent disturbance of the public order or security. According to the Swedish Police Act, the police must always apply the principles of “proportionality and need” when any such action is taken. The principle of need means that the police can take action only if it is necessary in order to prevent a disturbance, etc. The principle of proportionality means that the damage or inconvenience that the action might have for an opposite interest must not be in disproportion to the purpose of the action. Since the submission of the previous report in 1996, there has been no known case of a policeman being convicted of causing bodily injury to a person who was bitten by police dogs.
