

TREATY BODY MONITOR

International Service for Human Rights



Human Rights Monitor Series

COMMITTEE FOR THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION 73RD SESSION SWEDEN, 17-18TH REPORT 11-12 AUGUST 2008

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Key facts¹

Date of Ratification	Reservations	Individual Communication Declaration Art 14	Additional ratified core treaties
1971	None	Yes	CEDAW, ICCPR, ICESCR, CAT, CRC

Type of report	Date submitted	Report submitted on time	NGO / NHRI consultation/input	List of issues provided / Written replies to issues rec'd	Last appearance before Committee
17-18 th	22 December 2006	Yes	Yes ²	Written replies dated 27 June 2008	8 March 2004

¹ The information in these two tables is sourced from the Office of the High Commissioner for Human Rights (OHCHR), and is available at www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx

² www2.ohchr.org/english/bodies/cerd/cerds73.htm

Information submitted to the Committee

State report³

Sweden submitted its report early, for which it was applauded by the Committee. The 25-page State report is comparatively short but provides a sound coverage of the general discrimination situation in Sweden and is supported by relevant statistical information. The report is noticeably brief on the issues of the Roma and Sami populations - two concerns that formed a large component of the oral discussions between the delegation and the Committee. This lack of significant coverage may suggest some reluctance in acknowledging the extent of the problems and is not reflective of a self-critical approach. Overall, though, the Committee commended Sweden for its succinct report, which, in its view, demonstrated a strong methodology.

List of issues⁴

The list of issues submitted to Sweden by the country rapporteur, Mr Kemal, sought further information regarding legislative changes, including: the effectiveness of the *Equal Treatment of Students in Higher Education Act 2001* and whether it is applicable to all institutions of higher education; and the *Prohibition of Discrimination Act 2003* and the reasons for the high rate of dismissed cases. The list of issues also queried the need to close the Swedish Integration Board in 2007, and the discontinuation of funding for the umbrella organisation, the Centre against Racism. More detailed information was requested on the anti-discrimination clauses in procurement contracts, the new methods of tracking hate crimes, the post-appeal procedure in deportation cases, the reports of the Boundary Commission on hunting and fishing rights, and the current status of progress towards ratification of the International Labour Organization *Convention 169*.⁵ The settlement and integration of immigrants was also raised as an issue for further clarification. With respect to Sweden's Roma population, the list of issues sought further information regarding the possible introduction of special measures in the field of employment, and strategies to improve the overall situation of Roma in the community. Several issues were raised regarding Sweden's Sami population, including land rights and reindeer breeding rights, access to health care, mother-tongue tuition, and the draft Nordic Sami Convention.

Sweden provided a timely and comprehensive written reply to the list of issues.⁶ This 21-page document served as a basis for the oral presentation. Unfortunately the written replies were not made publicly available until the conclusion of the session.

NGO parallel reports⁷

The following organisations submitted parallel reports to the Committee: the Centre Against Racism (*Centrum mot racism*, CMR), United Nations Association of Sweden, and Sami Council Sweden. These reports all expressed concerns about the situation of Sweden's Sami population and made various recommendations in this regard, including: constitutional protection for the Sami as an indigenous people, the transfer of land user rights to the Sami Parliament, more involvement of the Sami people in decision-making, ratification of ILO *Convention 169*, and ratification of the Nordic Sami Convention.⁸ While the issue of the

³ The State party report (CERD/C/SWE/18, 7 May 2007) is available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

⁴ The list of issues is available at www2.ohchr.org/english/bodies/cedaw/docs/pswg.doc

⁵ International Labour Organization *Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries* is available at www.unhcr.ch/html/menu3/b/62.htm

⁶ Sweden's written reply is available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

⁷ The parallel reports are available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

⁸ NGO Report by The United Nations Association of Sweden (p. 25); NGO Report by the Saami Council Sweden (p. 1-10); NGO Report by CMR (p. 9-10). All available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

Sami did not receive significant attention in the State report, thorough responses were provided in the written replies to the list of issues, as well as in the dialogue with the Committee.

The CMR and United Nations Association of Sweden expressed concern about the rise of hate crimes, identified the need to replicate across Sweden the Stockholm Hate Crime Unit, and urged the provision of greater protection for vulnerable groups in society (such as the Roma and immigrants), and of more translators to ensure their adequate access to the judicial system. These issues were all canvassed in the State report as well as in the dialogue that took place with the Committee.

The NGO briefing proved to be a constructive dialogue between the Committee and relevant stakeholders, and provided the former with a useful insight into the concerns relevant to Sweden. All three of the NGOs who submitted alternative reports were present to reiterate their issues of interest and recommendations.

Themes and issues

Sweden's delegation was headed by Mr Ehrenkrona, Director General for Legal Affairs, Ministry of Foreign Affairs, who had also represented Sweden in 2004 before the Committee. Delegates represented a broad spectrum of Government agencies: Mr Dahlgren and Mr Berg, Ambassador and Counsellor, Permanent Mission of Sweden to the UN Office in Geneva; Ms Stein, Ministry for Foreign Affairs; Mr Ternbo, Ombudsman; Mr Lindström, Ministry of Justice; Mr Wilhelmsson, Ms Tekin Befrits and Ms Björnsson, Ministry of Integration and Equality Affairs; and Ms Stenson, Permanent Mission of Sweden to the UN Office in Geneva.

An engaging and fruitful dialogue took place between the Committee and the Swedish delegation. The head of delegation, Mr Ehrenkrona, asserted that promoting human rights was a 'cornerstone' of Government policy, and welcomed the recommendations of the Committee. The delegation highlighted the new *Anti-discrimination Act*, and the merging of the current system of four Ombudsmen into a single united authority. It detailed why the majority of discrimination cases were dismissed, expressed appreciation for NGOs' role in human rights promotion, spoke about the tracking of 'hate crimes' through the criminal law system, and outlined further details on the situation of the Sami and Roma populations.

The delegation cooperated enthusiastically with the Committee and responded thoroughly to the questions raised. Sweden managed the time constraints efficiently, which enabled a variety of questions to be discussed. The responses were clustered into two rounds, each addressing different topics, which enabled a structured dialogue to take place. The Committee appeared satisfied with Sweden's responses. A considerable number of questions were raised by the Committee regarding the Roma. Responses to these questions were notably brief, compared to issues pertaining to the Sami minority.

Status of the Convention under Domestic Law

The Convention is implemented into domestic law through legislation and constitutional protections against ethnic discrimination. The *Penal Code* criminalises discrimination on the grounds of race, colour, national or ethnic origin or religious belief. Crimes committed with a racist motive are considered aggravating circumstances under the *Penal Code*. Other legislation implementing the Convention includes the *Measures to Counteract Discrimination in Working Life Act 1999*, *Equal Treatment of Students in Higher Education Act 2001*, *Prohibition of Discrimination Act 2003* and the *Act Prohibiting Discrimination and Other Degrading Treatment of Children and School Students 2006*.

Legislative changes relevant to the application of the Convention include amendments to the *Aliens Act 2006*, which now grants asylum seekers a right of appeal to an independent body.

New Discrimination Act

Sweden has merged seven anti-discrimination acts into one piece of legislation which will come into force on 1 January 2009. The new legislation incorporates the relevant European Union directives,⁹ and combines the current system of four anti-discrimination Ombudsmen into one unified office. Furthermore, the new act identifies the five grounds for discrimination that appeared in the previous legislation – ethnic affiliation, religion or belief, gender, sexual orientation and disability - and adds two additional grounds, namely age and gender identity. The legislation will apply to work, education, the labour market, memberships of organisations, goods, services, housing, meetings, public events, social welfare, insurance, unemployment services, health, compulsory military service and public appointments. It extends the scope of the previously existing acts by providing additional legal protections against all forms of discrimination. The Committee¹⁰ responded positively to the new legislation and praised the extensive scope of protection that it provides. This was reiterated in the Committee's concluding observations.¹¹

Sami Minority¹²

Issues concerning the Sami minority formed a core theme of the discussion between the Committee and the delegation. These included land rights, indigenous recognition, the draft Nordic Sami Convention, mother-tongue tuition and access to legal aid.

Committee member, Mr Thornberry, put forward a sensitive question to the delegation. Namely, he queried whether Sweden had applied the doctrine of *terra nullius*¹³ or a similar legal 'fiction' of 'empty lands' to the territory of the Sami, and whether Swedish land law could trace its origins to this doctrine. Mr Thornberry also expressed his disappointment that Sami and Roma land rights disputes had reached the European Court of Human Rights, and that Sweden had not been able to resolve these disputes domestically. The country rapporteur, Mr Kemal, raised concerns about the progress of the Boundary Commission in implementing legislation concerning adequate reindeer breeding areas. He restated the claims of some NGOs¹⁴ that Sweden could be on the verge of destroying its Sami culture. Limited responses were provided by the delegation to these questions. Sweden stated that since 1998 there have been no legal disputes between property owners and Sami villagers, as the Boundary Commission's work had yielded positive outcomes.

Mr Sicilianos questioned whether it was appropriate to call Sweden's Sami population a 'national minority' rather than an indigenous people. The delegation responded that whilst the Sami constituted the indigenous population of Sweden, they were willingly recognised as a national minority as well as indigenous peoples. Committee members Mr Kemal and Mr Sicilianos asked about the progress in ratifying the International Labour Organization's *Convention 169*.¹⁵ In response, Sweden stated that the Convention needed to be carefully considered as it would affect one third of Sweden's territory. It added that ratification was not possible at the present time.

⁹ Directive 2006/54/EC on the implementation of the principle of equal treatment of men and women in matters of employment and occupation, Directive 2004/113/EC on the implementation of the principle of equal treatment of men and women in the access to and supply of goods and services, Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation, and Directive 2000/43/EC on racial equality.

¹⁰ Mr Kemal.

¹¹ Paragraph 4 of the concluding observations (CERD/C/SWE/CO/18, 21 August 2008), available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

¹² Also called Saami.

¹³ *Terra nullius* derives from Roman Law and is the Latin expression for 'land belonging to no one', or 'empty land'.

¹⁴ For example, the NGO Report by the United Nations Association of Sweden (p. 19), available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

¹⁵ International Labour Organization *Convention 169 Concerning Indigenous and Tribal Peoples in Independent Countries* is available at www.unhcr.ch/html/menu3/b/62.htm

Another topic of discussion was the progress of the draft Nordic Sami Convention, which is a regional mechanism providing legal protection for the Sami populations in Sweden, Finland and Norway. Sweden stated that it had some problems with the draft Convention's land-related articles, as well as the provision that would allow the Sami veto powers in relevant parliamentary decisions. Sweden reported that Finland was also considering the legal consequences of the draft, and for this reason the Convention had not yet been ratified. The delegation characterised the draft as a working document with considerable scope for change. Mr Avtonomov asked the delegation why Russia was not included in this regional mechanism, to which the delegation replied that this could be a worthwhile inclusion. It undertook to forward the suggestion to the relevant bodies.

Committee member Mr Avtonomov inquired about the right of the Sami population to attend school in its own language. The delegation conceded that the Government was experiencing difficulties in recruiting teachers fluent in the Sami language. The Government's policy was that pupils wishing to learn in another language had to demonstrate that a language other than Swedish was spoken by a parent and used on a daily basis. In addition, there must be at least five pupils in the municipality wishing to be taught in that language. Noting this, new rules had been introduced for Sweden's five national minority languages whereby the conditions had been softened - the language need not be spoken at home on a daily basis, and one student in the municipality wishing to learn in the language was sufficient.

Country rapporteur, Mr Kemal, posed questions regarding the high burden of proof and cost of litigation which are hampering Samis' access to the courts and their prospects for successful claims. Committee member, Mr Cali Tzay, further expressed concerns about the lack of financial support provided to the Sami for accessing the justice system. Another Committee member, Mr Peter, recalled that 'justice is not always cheap' and emphasised to the delegation the importance of providing interpreters in court. In response, the delegation affirmed that the Sami population has the same right of access to legal aid as all other Swedes. It added that the demand for interpreters is very high in a variety of different proceedings. Sweden undertook to consider the recommendations of the Committee. The Committee's concluding observations recommended the collection of more comprehensive statistical information regarding the Sami and the intensification of efforts to combat hate crimes.¹⁶

Roma Minority

The issue of Sweden's Roma population proved to be another contentious area of discussion. The delegation described the high rates of discrimination faced by the Roma community and stated that additional funding was being devoted to address these issues. Mr Kemal recalled recommendations made by the Committee in 2004, in particular the need for an intensification of efforts to improve the Roma situation. He noted, however, that Roma were still adversely affected by prejudice and discrimination, and referred to statistics which showed that 80-90% of Roma are unemployed and that 40% of Roma children do not attend school.¹⁷ Committee member, Mr Thornberry, expressed his disappointment at these 'distressing figures' and asked whether schools attended by Roma students were found inside or outside the community. He put forward the suggestion of providing intra-community schooling, which would allow students to be educated in their own communities rather than having to travel to other municipalities.

The delegation voiced its concerns about the situation of the Roma community, and assured the Committee that the issue was taken very seriously. A working group on Roma education, including Roma representatives, had been set up by the Swedish Government and the delegation noted that its results and proposals were being eagerly awaited. In the written replies to the list of issues, Sweden asserted that it had no intention of introducing special measures for national minorities to increase their employment opportunities.¹⁸ Despite the

¹⁶ Paragraphs 10 and 15, concluding observations (CERD/C/SWE/CO/18, 21 August 2008), available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

¹⁷ NGO Report *The United Nations Association of Sweden*, p. 27, available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

¹⁸ Written Replies, p. 8, available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

attention given to this issue during the session, Sweden's State report had dedicated only four paragraphs to the Government's policy regarding the Roma issue. However, Sweden's extensive written reply to the list of issues outlined the Government's strategies to improve the situation of the Roma community.¹⁹ The replies detailed the DO (Ombudsmen) project which has received additional funding to address Roma issues,²⁰ as well as the 'Delegation for Roma Issues', which was appointed in 2006 to research and submit proposals on how the situation of the Roma can be improved.

Immigration and Employment

The delegation emphasised that Sweden's central policy on integration revolves around the notions of employment and Swedish language skills. Sweden has a long history of immigration: in the oral presentation by the delegation, it was stated that there had been a 47% increase in immigration in 2006, totalling 100,000 immigrants. An 11% gap exists in unemployment rates between Swedish and foreign-born citizens in Sweden. The delegation elucidated strategies for creating favourable conditions for employment and detailed the role of situation testing through anonymous job applications, which sought to promote non-discriminatory recruitment that 'focuses on skills and qualifications and promotes diversity'.²¹ A number of employment schemes were detailed in Sweden's report such as a 'workplace introduction' scheme, subsidies, and 're-entry jobs'.²² Mr Kemal encouraged the use of anti-discrimination practices and initiatives in the labour market. However, he queried whether the influx of immigrants was 'too much of a good thing'. Sweden had, he acknowledge, accepted more refugees than the United States of America and Canada,²³ and he referred to a town colloquially called "Little Baghdad" to which 6,000 Iraqis had emigrated.

While recognising Sweden's long history of supporting developing countries, Committee member, Mr Cali Tzay, acknowledged concerns raised in NGO reports that suggested immigrants are not on a 'level playing field' when accessing the job market. While stressing that the level of discrimination in job applications was one of the lowest compared with other States, the delegation insisted that the Government was far from satisfied and would continue to fight discrimination in the labour market.

Criminal Proceedings

The delegation reported that in 2007, the National Police Board had commissioned hate crime 'marking' on police reports. This involves police officers clearly indicating if a crime is considered a hate crime, and following the outcome of the prosecution of the crime through the judicial system, so as to collate thorough data on the status of racially-motivated crimes in Sweden. The head of delegation further outlined measures to increase training for police officers in recognising and addressing hate crimes, as well as educational manuals for changing racist and xenophobic attitudes in schools. The list of issues had also inquired about the progress of hate crime tracking, to which Sweden's written replies outlined the progress and strategies in place in this regard. 3,200 hate-motivated crimes had been identified in 2006. Country rapporteur, Mr Kemal, commended the new tracking of hate crimes, and the establishment of the Stockholm hate crimes unit, but encouraged Sweden to duplicate this initiative nationally. Committee members, Mr Sicilianos and Mr de Gouttes, also congratulated the delegation on the implementation of hate-crime tracking. The delegation admitted that more research needed to be undertaken on hate crimes in Sweden.

¹⁹ List of Issues, question 17, available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

²⁰ Written replies to the list of issues, p. 15, available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

²¹ State party Report (CERD/C/SWE/18, 7 May 2007), paragraph 112, p. 22, available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

²² State party Report (CERD/C/SWE/18, 7 May 2007), paragraphs 102-107, p. 20, available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

²³ No time frame was specified by Mr Kemal in this remark.

Other issues

Other issues mentioned by the Committee included NGO funding, the closure of the Integration Board, the Swedish National Action Plan and lack of statistics on the ethnic composition of the population. Mr Kemal expressed concern about the reduction in NGO funding. The delegation reassured the Committee that funding levels would remain the same as in previous years, and that funding was not youth focused or targeted, but impartial. Mr Kemal questioned the closure of the Swedish Integration Board and urged the delegation to ensure that its functions would be continued. The delegation referred in its written report and oral statements to the National Action Plan for Human Rights 2006-2009, whose long term task was to secure human rights in Sweden.²⁴ The country rapporteur welcomed this Action Plan and encouraged future reporting on its outcomes. The Committee also urged the delegation to obtain statistical information on the ethnic composition of the Swedish population as well as the use of mother-tongue languages.

Conclusions and next steps

In its concluding remarks, the delegation expressed its gratitude for the constructive dialogue and was receptive to the recommendations of the Committee. Other treaty bodies have made similar recommendations relating to issues raised by the Committee. For example, the Human Rights Committee acknowledged in 2002 the limitations of the Sami Parliament and the need for greater access for foreigners to the labour market.²⁵ The Committee on Economic, Social and Cultural Rights in 2001 also requested Sweden to ratify ILO *Convention 169*.²⁶

The Committee requested that Sweden submit its 19th to 21st periodic reports in a single document by 31 July 2012.

²⁴ State party report (CERD/C/SWE/18, 7 May 2007), paragraphs 47 and 129-131 on pages 12 and 24, available at www2.ohchr.org/english/bodies/cerd/cerds73.htm

²⁵ Concluding observations of the Human Rights Committee (CCPR/CO/74/SWE, 24 April 2002), available at [www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.74.SWE.En?OpenDocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.74.SWE.En?OpenDocument)

²⁶ Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.70, 30 November 2001), available at daccessdds.un.org/doc/UNDOC/GEN/G01/464/49/PDF/G0146449.pdf?OpenElement

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