



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 1619th meeting

Held at the Palais Wilson, Geneva, on Thursday, 26 February 2004, at 10 a.m.

Chairperson: Mr. Yutzis

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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 6) *(continued)*

Fifteenth and sixteenth periodic reports of Sweden (CERD/C/452/Add.4) (continued)

1. *At the invitation of the Chairperson, the members of the Swedish delegation took their places at the Committee table.*
2. **Mr. Ehrenkrona** (Sweden) said that his country did not have any official statistics on the number of persons belonging to ethnic minorities living in his country since it refused to carry out a census of the population along ethnic lines. The data submitted in the report were therefore estimates based in particular on the number of persons holding a residence permit or on the mother tongue of persons following classes in Swedish for immigrants. The fact that Sweden did not allow people to be registered according to ethnicity had not prevented the setting up of a Council for Roma Issues, within which the Roma community was very well represented.
3. The number of Muslims residing in Sweden was not known either; all that was known was that some 300,000 persons had been born in countries with a majority Muslim population. Whatever the case, Muslims in Sweden originated from some 40 countries with different cultures and did not represent a uniform group.
4. In 1995, the Government had launched a minorities policy and Sweden was party to the Council of Europe Framework Convention for the Protection of National Minorities as well as to the European Charter for Regional or Minority Languages. However, the group of Muslims living in Sweden did not meet the criteria to qualify as a national minority.
5. Concerned to treat all citizens and residents on an equal footing, the Government had realized the need to combat the resurgence of Islamophobia observed since the terrorist attacks against the United States of America. To that end, it had made comprehensive efforts to combat racism, xenophobia and discrimination, pursued mainly through the Swedish Integration Board and the Ombudsman against Ethnic Discrimination and backed by effective legislation.
6. Schools had a crucial role to play in the fight against discrimination: by instilling basic values in the new generations it served to combat discrimination based in particular on ethnic origin or religious belief or to combat any manifestation of violence within the child protection and education systems themselves. In the same way, the national centre known as the Living History Forum was currently conducting in schools an enquiry into the attitudes of young people with a view to collecting their opinion on xenophobic, Islamophobic and anti-Semitic crimes and acts of propaganda committed in schools. The results that enquiry, based on a questionnaire and an in-depth interview, would be made known in the autumn of 2004.
7. Other initiatives had been taken to combat Islamophobia and the Swedish Institute had been established in 2000 in Alexandria with the aim of encouraging exchanges between Sweden and the countries of the Middle East and North Africa in the field of science and culture. In addition, the new Swedish centre established in the Swedish Consulate-General in Istanbul was an important element of dialogue between Sweden and the Muslim countries. The Government had also set up, following the opening of a dialogue between Muslims and the National Integration Board, a regional working group including representatives of Muslims, the police, the County Administrative Board and local anti-discrimination offices. Finally, it had initiated a dialogue with the Commission for State Grants to Religious Communities, in which representatives of Sweden's Imam Council participated actively.

8. Mr. Ehrenkrona informed members of the Committee that he could make available to them the report of the National Integration Board, of which a summary existed in English.

9. Mr. Ehrenkrona explained that to be granted the status of “national minority” a group must satisfy certain criteria, including a sense of religious, linguistic and/or cultural belonging, the individual or collective determination to preserve one’s identity and the existence of ancient links with Sweden. That was the reason why the Jews, who had been present on Swedish soil since the seventeenth century, were regarded as a national minority in contrast to the Arabs who had immigrated over the past few decades. However, the latter enjoyed numerous rights within Swedish society and the Swedish Government spared no effort to ensure that their cultural identity was preserved, for example by enabling Arab pupils to receive instruction in their mother tongue, by part financing their organizations and by granting them the right to be assisted by an interpreter, in particular before the courts.

10. Mr. Ehrenkrona said that the seven local development agreements concluded between the Government and the local authorities focusing on 24 distressed urban areas (para. 103) were official in character since they had been endorsed by a governmental decision. On the other hand, the Swedish legal system did not provide for any appeal procedure in the case of non-fulfillment of commitments by local government. The development agreements had had positive results since they had enabled unemployment rates to fall and the inhabitants of those areas to be less dependent on social welfare, even if their wages remained much lower than the national average.

11. Since the poor had difficulty in gaining access to credit and rarely had access to property, the new law against discrimination applied also to the banking and housing sector.

12. The Council for Roma Issues was a government advisory body. Its main responsibility was to be proactive in national efforts to promote the situation of Roma in Swedish society. Its activities took account in particular of the fact that the Roma were a national minority and that their language was a minority language.

13. A process had begun to encourage Roma women to create networks and participate in the activities of Roma organizations traditionally dominated by the men of that community. To strengthen the position of women and increase their participation in community life, an informal group composed of representatives of government agencies and Roma women had been set up.

14. Initiatives had been taken in support of Roma children in the educational field. In particular, they were able to receive instruction in their mother tongue, Romani, and for those of Finnish origin in both Finnish and Romani.

15. **Ms. Abrahamsson** (Sweden) said that since the reversal of the burden of proof in the new law against discrimination that came into force in July 2003, it was for the defendant to furnish proof that he had not committed the offences of which he was accused.

16. She said that the entry into force of the law on the equal treatment of students in higher education (in March 2002) was too recent for its implementation to be evaluated, and that Sweden would be sure to provide information on the subject in its next periodic report.

17. Under his mandate for publicizing the law on ethnic origin, the Ombudsman responsible for combating ethnic discrimination had met with representatives of the administration, staff and students and had encouraged them to take measures to prevent any act of discrimination or harassment in the university. As of 31 December 2003, the Ombudsman had registered 24 complaints concerning acts of that kind.

18. Ms. Abrahamsson emphasized that the Action Plan against Racism, Xenophobia, Homophobia and Discrimination was subject to regular monitoring, in which the Swedish Integration Board played a strategic role. Further information on the networks of local anti-discrimination offices and the “Exit project” (paras. 33 and 34), as well as the independent Centre against Racism and Related Intolerance (para. 35), would be communicated to the Committee during the consideration of Sweden’s next periodic report.

19. **Mr. Ehrenkrona**, referring to the question of discrimination in the restaurant sector, explained that refusal to admit a person to a restaurant or a place of entertainment on grounds relating to ethnic origin, belief or sexual orientation was punishable under the law. However, complaints against discrimination often came up against the problem of burden of proof. The new law against discrimination established the principle of a shared burden of proof. That said, the Government considered that every legal means should be employed to combat discrimination. For example, under the law on alcohol, acts of discrimination fell into the category of crimes that could cause the revocation of a licence or a refusal to grant a licence to serve alcoholic beverages.

20. On the question of the organization of the functions of the Ombudsman against Ethnic Discrimination, Mr. Ehrenkrona pointed out that a multi-stakeholder committee was to study the possibility of combining the functions of the different Ombudsmen in a single office and the question of whether the Ombudsmen should be placed under the jurisdiction of the Government or of Parliament. The Committee would submit its initial report to Parliament on 1 July 2005.

21. Regarding the measures taken to promote ethnic diversity at work, and in particular the question of why ethnic diversity was encouraged more strongly in the public sector than in the private sector, Mr. Ehrenkrona explained that ethnic diversity was lower in the public sector because the criteria for qualification were stricter and were coupled with requirements concerning citizenship and total fluency in the Swedish language, which limited the number of foreign employees. Since the problems arose in particular in the public sector, that sector was the main focus of the promotion measures.

22. Concerning the role of the police in combating racially and xenophobically motivated offences, Mr. Ehrenkrona pointed out that the Government was taking measures to prevent and punish such acts, in particular by ensuring that judicial officials were aware of the reasons for the offences as well as the situation of the groups that were targeted since such information could help to combat prejudice. The police generally acted firmly to deal with racist incidents and had taken measures to address any gaps that might exist nationally or locally, including the organization of training courses and a programme by the National Police Board on the way of dealing with racist elements. The Board had also underlined the need for the police authorities to deal with such offences as a matter of priority.

23. The Police Security Service was responsible among other things for collecting information on organizations, groups or individuals involved in racist or xenophobic networks that threatened society, including extreme right-wing organizations. Its sources of information were the customs authorities, foreign security services, the Internet and relevant publications. It processed and analysed information and transmitted it to the relevant police authorities as well as to the National Criminal Investigations Department. The police security service closely monitored the propaganda activities of the “White Power” movement, which made wide use of the Internet and music.

24. Replying to the question concerning the link between the reduction in the number of racially motivated offences and the measures taken by the authorities, the Swedish representative confirmed that the statistics revealed a fall of 15 per cent in that type of offence. However, it was difficult at that stage to demonstrate that the fall was the result of measures taken by the authorities.

25. Concerning the amendment of the Fundamental Law on Freedom of Expression, Mr. Ehrenkrona said that the amendment had improved the chances of combating “White Power” music. The prevention of racially motivated offences committed by “White Power” was one of the police’s priorities. Finally, while one of the tasks of the police was to facilitate exercise of the right to demonstrate, the National Police Board was finalizing a unified directive applicable to serious disturbances of public order.

26. With regard to recruitment to the forces of law and order, Mr. Ehrenkrona noted that the National Police Board had recommended that the composition of personnel in the police force should reflect the country’s population structure. Various measures had been taken to increase the number of foreign students in the National Police Academy. Information campaigns were organized as well as Open Days at the Academy. A commission had moreover been given the task of submitting an action plan proposing measures to ensure an appropriate working environment for all employees and for preventing harassment.

27. As to whether it was possible to appeal against a Government decision to expel a foreigner on the grounds that he or she represented a threat to public order and security, Mr. Ehrenkrona confirmed that the law empowered the Government to expel a foreigner who could reasonably be thought to pose a threat to security, such a decision not being subject to appeal. The system had been criticized, some arguing that it was rather for the courts to take that kind of decision. However, it was generally recognized under international law that the State had fairly wide discretionary powers when it came to controlling the entry and length of stay of aliens in its territory. However, a bill on foreigners would shortly be submitted to Parliament and the question would be considered in the light of the new directive adopted by the European Union in that field. The State party would revert to the matter in its next report.

28. With regard to the monopoly of the Ministry of Justice in prosecuting violations of freedom of expression and freedom of the press, the representative said that the Ministry of Justice did indeed have exclusive competence, which also applied to the offence of agitation against an ethnic group where committed through the media.

29. As to whether it was possible to institute class action on the grounds of discrimination, Mr. Ehrenkrona replied that the law on group proceedings provided that in special circumstances a group of persons who had a common claim related to discrimination could institute such actions. Group proceedings could be instituted by a public authority in the name of a group of individuals. A prior condition to the launching of such proceedings was that the claim should be based on facts common to all the members of the group. It was also possible to institute group proceedings on financial grounds, an action that was less costly and more easily dealt with. The law on group proceedings had so far hardly been applied and never to discrimination cases.

30. Concerning the measures taken to prevent and eliminate female genital mutilation, the representative said that the law had punished that kind of act since 1982, irrespective of whether the victim was consenting, with a sentence of up to four years imprisonment, and even up to ten years where there were aggravating circumstances. The Swedish courts had jurisdiction in the matter, even if the offence had been committed abroad by a Swedish national or in Sweden by a foreigner legally resident in Sweden. The agreement of the Prosecutor-General had to be sought to institute proceedings. In June 2003, Sweden adopted a national action plan to eliminate female genital mutilation, which included a range of measures aimed at preventing the crime and providing victims with appropriate support. The action plan focused on relevant groups such as professionals in the areas of education, health and social services as well as municipalities and NGOs. Sweden had also organized an international conference on the prevention and elimination of female genital mutilation, held in Stockholm on 10 and 11 November 2003. The communiqué adopted on that occasion was at the disposal of the Committee.

31. With regard to the equality of rights between the Sami population and the majority Swedish population, the representative Sweden explained that the Sami traditionally practised hunting, fishing and reindeer herding in the Northern region of the country, Norrland, which covered a series of lands of interest to the State, the large forestry companies and small farmers. When the question of deforestation arose, the decision was always taken in cooperation with the forest contractor and the owner of the reindeer herds. The large forestry companies could accommodate the interests of the reindeer breeders by staggering their felling activities. The situation was different, on the other hand, for the small farmers since their mode of life was fairly close to that of the reindeer herders. Conflicts therefore arose when the farmers and breeders needed the same plot of land. The legislation on reindeer breeding sought to restore the balance by attempting to settle the conflicts of interest that could arise.

32. Another controversial question with regard to the Sami arose from the fact that Sweden had not ratified ILO Convention No. 169 concerning indigenous and tribal peoples — a complex question since reindeer herding was practised over a large area of the country. The Sami Parliament wanted Sweden to ratify the Convention. Those who opposed ratification mainly referred to the disputes that arose when land was used in animal-raising areas. The Government considered that the measures it was currently taking were a prerequisite for ratification of the Convention and would lead to a reduction in the conflicts between landowners and the Sami. The Reindeer Breeding Policy Committee had been tasked with submitting proposals in that regard. The Government was thus favourable to a ratification of the Convention that did not harm the interests of agriculture and forestry. For that purpose, there was a need for a clearer definition of the external boundaries of the territories that the Sami used in common with the other interested parties. The Boundary Commission proposed to carry out a study of the scope of the Sami's hunting and fishing rights and to allow them to exercise their rights as they saw fit. It proposed strengthening the Sami's control over their natural resources, which were mining resources. The Government would resume consideration of the question when those difficulties had been smoothed out.

33. Set up in January 2002, the Boundary Commission was scheduled to complete its work in December 2004. It was responsible for formulating proposals on defining the scope of the Sami's reindeer breeding, hunting and fishing rights in the lands they traditionally occupied. It was composed of agricultural and forestry experts together with Sami representatives appointed by the Sami Parliament.

34. Swedish legislation granted the Sami the right to use their language in judicial and administrative procedures in the geographical regions where they were in a majority. In the other regions, they had the right to an interpreter. The same provisions applied to the Finno-Swedish population.

35. The State party had undertaken an extensive information campaign on the indigenous populations in general and the Sami in particular. A study carried out following that campaign had shown the majority of Swedes to have a very positive opinion of the Sami and to be curious about their traditions. Mention should also be made of the creation by the Sami Parliament of a national information centre on the Sami. The Sami Parliament played a key role in national political life since it decided among other things on the allocation of public funds among the various Sami communities and the payment of compensation to reindeer breeders.

36. Mr. Ehrenkrona said that Swedish legislation did not specifically prohibit propaganda organizations furthering and inciting racial hatred and discrimination but that it considerably restricted their scope for action and was able to curb their activities. The law only condemned acts and could not therefore punish the mere fact of being a member of a racist organization or of subscribing to racist remarks.

37. **Mr. Lindgren Alves** was surprised that Sweden, which was at the forefront of the fight against racial discrimination and the promotion of human rights, authorized racist organizations. He considered that the position of the State party in that regard was contrary to the provisions of article 4 (b) of the Convention.

38. **Mr. Boyd** asked which bodies were responsible for investigating discriminatory practices in the field of housing and property ownership and what the scope of the problem was. He would also like to have details of the awareness-raising programmes on racial discrimination organized for the law enforcement agencies.

39. **Mr. de Gouttes** asked whether the Swedish courts recognized the legitimacy of “testing” as proof in matters of racial discrimination. The practice consisted in checking whether a discotheque or other public place was operating a policy of admitting people on the basis of their facial characteristics. The expert also wished to know whether Sweden had taken legislative or other measures to combat the dissemination of racist ideas on the Internet and if the principal of freedom of expression restricted the possibility of prosecuting the authors of racist comments on the Internet.

40. **Mr. de Gouttes** welcomed the enactment of the law on group prosecutions whereby an association representing several individuals could institute proceedings whose legal effects would cover all those involved even if they were not formally parties to the proceedings, and asked whether associations had to be authorized for that purpose.

41. **Mr. Herndl** expressed surprise at the fact that the State party had not entered any reservations to article 4 of the Convention if it did not wish to prohibit organizations of a racist nature. Since the illegal aims of that type of organization were stated in their statutes, he was likewise surprised that the public authorities could approve such statutes. He urged the State party to adopt legislation that was less lax in that regard.

42. **Mr. Shahi** too expressed surprise that in Sweden incitement to racial hatred on the Internet escaped any kind of judicial control. He noted that the Committee had agreed in the past that the dissemination of messages of a racist character on the Internet should be an offence punishable by law no less than their dissemination through other media.

43. **Mr. Shahi** also asked the delegation to make clear whether half of Swedish territory was devoted to reindeer herding.

44. **Mr. Thornberry** welcomed the indication by the delegation that Sweden intended to amend its legislation before ratifying ILO Convention No. 169 concerning indigenous and tribal peoples in independent countries. He was however concerned at the slowness of the procedures initiated and the proliferation of committees and commissions created for that purpose. There was a worrying risk that the instrument concerned would never be ratified, which would have harmful consequences for the relations between the Sami community and the rest.

45. With regard to the application of article 4 of the Convention, **Mr. Thornberry** noted that the Convention did not recommend punishing racist ideas or thoughts but rather racist acts or behaviour based on racial superiority. The Convention limited itself in fact to underlining the link that commonly existed between people coming together in the same organization with the aim of making propaganda inciting to racial hatred.

46. **Mr. Thornberry** said that the main argument advanced for not condemning such practices was protection of the freedom of expression, in particular since the freedom of all to express themselves promoted new forms of knowledge and furthered social progress. However, it was not certain in the case of Sweden that the information circulated by racist organizations contributed to progress since it threatened the most vulnerable communities in the country.

47. **Mr. Avtonomov** did not understand why Sweden had not entered any reservations to article 4 of the Convention at the time of ratification if it refused to apply the provisions in the name of respect for the principle of freedom of expression. Article 4(b) of the Convention was aimed precisely at avoiding any conflict between freedom of expression and the prohibition of racist propaganda. The expert was of the opinion that the Committee should consider taking measures against parties that had not entered reservations to that article yet did not comply with its provisions.

48. **Mr. Kjaerum** argued that some sources of information tended to suggest that conflicts existed between, on the one hand, mining and forestry interests and, on the other, reindeer breeders, Sami for the most part. He asked the delegation to confirm or repudiate the allegation that decisions made in the case of disputes would generally be unfavourable to the Sami. He also wished to know the percentage of Sami in a position to use their language, particularly in their dealings with judicial bodies and other administrative entities.

49. **Mr. Sicilianos** (Rapporteur for Sweden) wished to know how the State party took account in practice of the interests of the child in the case of a conflict between parents and children and whether there were any special classes in the Swedish school system for Gypsy children.

50. **Mr. Ehrenkrona** (Sweden) expressed his appreciation of the quality of the dialogue with members of the Committee concerning the application of article 4 of the Convention. He said that the Swedish authorities were of the view that the question of racist propaganda could be solved other than by purely and simply banning organizations of a racist character. The problem was complex since if such organizations were forbidden it would also be necessary to declare illegal, for example, those disseminating pornographic images involving children or those transmitting ideas contrary to women's rights. The Swedish legislator seemed to have considered, in that particular case, that the best way of proceeding was not to ban certain organizations but to ensure that they did not pursue any activity enabling them to achieve their declared aims.

51. The representative added that Swedish constitutional law on freedom of expression clearly established that criminal responsibility with regard to the dissemination of information did not rest with the author but with the person responsible for the organ distributing it. Thus, in the written press, it was the editor-in-chief who was considered responsible for the publication of information regarded as constituting an offence and not the journalist who had written the incriminated article. Similarly, with regard to the Internet, it was the person in charge of the server that was recognized as guilty of the offence, which was clearly not without posing extremely complex legal questions.

52. Responding to Mr. de Gouttes, Mr. Ehrenkrona said that it was perfectly possible in Sweden for a group criminal action to be taken by non-accredited organizations, which could simply consist of a group of complainants, the only conditions being that the group complaint should represent common claims and referred to identical facts.

53. The representative of Sweden said that there were no special schools for ethnic groups in his country but that the Swedish school system was an integrated one that enabled minorities to receive instruction in their mother tongue, including in Romani language.

54. **Ms. Abrahamsson** (Sweden) said, in response to the question by Mr. de Gouttes on the practice of "testing", that the Ministry of Integration had recently discussed with a number of representative of human rights organizations the possibility of introducing the practice, which had long been discredited. Sweden was currently studying the possibility of specific applications.

55. With regard to use of the Sami language, the 20,000 or so Sami who lived in Sweden had a perfect mastery of Swedish. It was for that reason that they tended to express themselves in the official language of the country rather than in Sami. However, Sami schools had been set up and the authorities hoped to develop the use of the Sami language further.

56. **Mr. Sicilianos** (Rapporteur for Sweden) expressed his appreciation of the fruitful dialogue held the Swedish delegation. He noted that almost all the members of the Committee had spoken during the debate and that the delegation had responded to practically all the questions posed to it. Points of disagreement had been clarified and the Committee now understood much better the position of the State party on the application of the provisions of article 4 (b) of the Convention. The discussion that had taken place had also served to clarify certain sensitive questions concerning the Sami, a number of technical issues relating to procedural rights, and important questions concerning the role of the police.

57. **The Chairperson** declared that the Committee had thus completed consideration of the fifteenth and sixteenth periodic reports of Sweden.

58. *The Swedish delegation withdrew.*

The meeting rose at 12.45 p.m.