CIVIL RIGHTS DEFENDERS

SWEDEN'S COMPLIANCE WITH THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CAT)

JOINT NGO SUBMISSION FOR THE UN COMMITTEE AGAINST TORTURE REVIEW OF SWEDEN DURING ITS 70TH SESSION

Submitted by:

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Stockholm 2020-09-23

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INTRODUCTION

1. The following report is submitted by Civil Rights Defenders, a Sweden-based international human rights organisation, with contribution from 21 civil society organisations in Sweden. The purpose is to provide the UN Committee Against Torture (the Committee) with input regarding Sweden's compliance with the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, for the Committee's review of Sweden during its 70th session in November 2020.

GENERAL OBSERVATIONS

2. Overall, the human right situation in Sweden is viewed positively in comparison with many other countries. There are, for example, oversight mechanisms safeguarding the freedoms of opinion, assembly, speech and religion. Sweden has also acted on earlier the criticism from the Committee by taking measures to address many of its previous recommendations. For example, Sweden has strengthened its efforts to safeguard fundamental legal rights at the very outset of deprivation of liberty, in particular, the use of pretrial detention as a measure of last resort (including the consideration of alternative measures to its use). At the same time, significant human rights concerns persist in Sweden, in particular with regards to the use of human rights-based working institutions or a human rights-based interpretation of national law, as well as ensuring that victims of human rights violations have access to legal remedies. A more pressing issue is that Sweden has totally ignored a number of the Committee's previous recommendations. Among those are the recommendations to include torture as a separate and specific crime in Swedish legislation, and to limit the length of pretrial detention. This report aims at directing the Committee's attention to some of these concerns in the hopes of highlighting their importance. The report does not claim to be exhaustive. As such, Civil Rights Defenders and the undersigned organisations (the signatory organisations) do not contend that the issues addressed below include all human rights concerns under the Convention in Sweden. The issues addressed in this report have been selected because these are areas in which the signatory organisations possess specific expertise.

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ARTICLE 1

QUESTION 2

3. The signatory organisations confirm that a memorandum is currently being considered by the Swedish Government. The memorandum proposes that torture should be defined as a specific crime. Notwithstanding the proposal, Sweden still lacks such legislation. The Government argues that the existing laws are sufficient for Sweden to fulfil its international commitments, but the memorandum clearly lays out strong reasons for adding a specific torture crime.[1]

4. The signatory organisations contend that the existing legislation does not sufficiently fulfil Sweden's international obligations. The enactment of a law criminalising torture as a separate and specific crime would also create an opportunity to address related issues, such as expanding the elements relating to complicity, participation, and responsibility of perpetrators of torture. The establishment of such a definition and separate legislation will allow for a more thorough implementation of the Convention and fairer restitution for victims.

SUGGESTED RECOMMENDATIONS, QUESTION 2

The Government must:

- Strengthen its efforts to criminalise torture and to define torture as a separate and specific crime, consistent with Article 1 of the Convention.
- Include an in-depth intersectional analysis addressing gender- and disability-specific forms of torture in the preparatory works to the proposal of legislation criminalising torture, as a means of ensuring better legal protection for particularly vulnerable victims of torture.

ARTICLE 2

QUESTION 3(A)

5. The signatory organisations are pleased to see that the Government has addressed the criticism from the Committee and amended the Swedish Code of Judicial Procedure (1942:740), resulting in clarifications of a suspect's rights to a lawyer and to converse with the lawyer in a separate room, as well as to contact the lawyer and to have the lawyer present during hearings. The changes make clear that the rights apply to the suspect and not the lawyer, and that the rights also apply to persons under arrest.

6. In November 2019, the Government introduced further amendments regarding access to a lawyer outside of office hours. The new rules stipulate that a lawyer must be on call in the evenings between 5 p.m. and midnight every day of the year. This rule is intended for particularly urgent situations where a public lawyer must be immediately appointed. A decisive factor in determining whether a situation is particularly urgent is if the prosecutors on duty believe that it is necessary for the police to interview a suspect during the evening, and that waiting until the morning would be an unreasonable delay. Circumstances that would likely fall into this category of "urgent' situations include cases where the suspect is a

child, hearings to determine whether detention shall continue or not, or if a critical hearing wherein a decision likely to impact the outcome of a case will be made.[2]

7. However, individuals have the right to waive access to a lawyer. This means that "vulnerable persons" are not explicitly protected by law from being able to waive their right to a lawyer as recommended by the EU Commission[3] A related challenge is that the Swedish judicial system has not established a way to assess whether a person is unable to understand and to effectively participate in criminal proceedings due to their mental or physical condition or disabilities. Such a finding would prevent the person from being able to waive the right to a lawyer, and also ensure that they receive necessary reasonable accommodation related to the criminal procedure, something which is essential to be guaranteed the right to a fair trial. See further items 12 -13.

8. It is more difficult for minors to waive the right to a lawyer. According to paragraph 24 of the Swedish Young Offenders Act (1964:167), a public lawyer shall automatically be appointed for a suspect who has not reached the age of eighteen years, but the law also stipulates that it is not necessary if it is obvious that the child does not need one.[4] The same protection does not exist for elderly persons or persons who may be in need of reasonable accommodation or other forms of support.

9. To be able to guarantee every individual the right of access to a lawyer, there is a need to better understand situations in which suspects, whether minors or adults, waive their right to a lawyer and why they have done so. Furthermore, the signatory organisations agree with the Swedish Parliamentary Ombudsman that in situations where, objectively, an interrogation should not take place without a lawyer present, the suspect or his/her relatives should not make the assessment of the need for legal assistance. Rather, this assessment should be made by the police and prosecutors. The ultimate responsibility for the decision, and to ensure the suspect's right to a fair trial, lie with the interrogators and investigators, not the suspect.[5]

QUESTION 3(B)

10. The legal requirements are fulfilled as access to a medical examination is guaranteed by national law. In practice, however, access to medical resources is often limited and individuals in pre-trial institutions are at risk of having to wait longer than acceptable to receive a medical assessment. This is noteworthy not least because many persons in prison have psychiatric difficulties and mental illness.[6]

11. One reason cited for this undue delay is that medical personnel are only available during office hours. Another is the staff are over-burdened.[7] In some detention centers, the on-call doctor's agreement did not cover emergency medical assessments. Instead, the staff were advised to contact the Swedish health care guide 1177, which should not be considered a substitute for a medical examination. The limited access to medical resources has also led to situations where an unreasonably long time elapsed before a medical examination could be carried out.[8] (see also the response to question 21).

QUESTION 3(C)

12. In general, the laws in Sweden are satisfactory in that they guarantee to persons who have been deprived of their liberty the right to information and the right to be informed of the charges against them. One concern, however, is the system's ability (or inability) to

identify whether suspected or accused persons are in need of reasonable accommodations while in detention. Such knowledge is essential to ensuring that individuals receive information about their rights and the charges against them in a way that they can understand, as well as to ensure the right to a fair and objective trial. Following CPT's visit to Sweden in 2015, CPT stated that the procedure for screening newly arrived persons at police detention facilities continued to leave much to be desired.[9] Although there is an initial security assessment in police custody, this is only a basic and routine procedure which is more useful in identifying acute health conditions rather than identifying needs in relation to the criminal procedure. In the case of pre-trial detention, the subsequent medical examination is much more thorough and includes a review of the detainee's health care history and test results, as well as an evaluation on further contact with a physician and co-ordination of medical documents and measures.[10] The examination conducted during pre-trial detention is carried out by a nurse, though a doctor, psychiatrist or psychologist can be consulted during a subsequent examination.[11] However, because the medical examination available to individuals in police custody or in pre-trial detention has no relation to the criminal proceedings, it does not in fact safeguard the detainee's procedural rights as recommended by the EU Commission.

13. In past years, some institutions screened and assessed convicted prisoners for ADHD. The results were positive, showing a lower rate of recidivism. Despite this, few such screenings are carried out today [12] The signatory organisations believe it could be possible to utilise and further develop existing screenings to identify individuals in need of reasonable accommodations.

14. With regards to the right to information, the signatory organisations would like to see information on rights or local institutional procedures made available in more places of detention. The Parliamentary Ombudsmen have on various occasions criticised the Swedish Migration Agency's detention centers for not providing such information in written format to detainees. Even though written materials in multiple languages are available, these are not always used by staff.[13] The Swedish Prison and Probation Service has also been criticised for not providing information to detainees regarding their rights. For example, a number of shortcomings in the staff instructions on how information should be provided were discovered, as was the fact that the available information booklet was not being used and there were no special information available for immigration detainees held in pre-trial detention.[14]

SUGGESTED RECOMMENDATIONS, QUESTION 3

The Government must:

- Establish a method to identify if a person needs special support to be guaranteed the right to a fair trial,
- Establish routines to ensure that each individual who has been deprived of their liberty receives information on their rights and the charges against them in a format they can understand and are also held in humane conditions when they are deprived their freedom of liberty.

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QUESTION 4

15. The Equality Ombudsman (DO) was introduced to ensure the effective enforcement of the Discrimination Act. However, we believe that the work of the DO has developed in a way that limits the impact of its authority. Most notably, the number of cases investigated and taken to court by the DO has decreased significantly since the merger of multiple ombudsmen into one in 2009. This development has also resulted in a lack of trust in the DO among groups in society that are particularly vulnerable to discrimination.

16. The Ombudsman has chosen not to use the most powerful tool at its disposal, i.e., litigation in individual cases. Very few complaints from individuals are dealt with at all: seven cases resulted in court decisions, while the Ombudsman decided to support the complainant in only five additional cases.[15] These figures should be compared with those from the first years of the Equality Ombudsman office (2009 and 2010), with twelve judgments (eleven in 2010) and 36 (38 in 2010) cases that were settled.[16] This development has been met with massive criticism from civil society organisations as it leaves individuals facing discrimination without protection and redress, and subverts the importance of the legislation against discrimination. As a new director of the DO was appointed in August 2020, we want to emphasise that a new director should be a new start for the authority, one that puts application of the law at the forefront and understand that laws must be seen to be effective in order to increase trust in the authority.

17. The need for the Swedish Government to address the issue of racial/ethnic profiling has been raised by the Committee on the Elimination of Racial Discrimination, which in 2018 recommended that the Government ensure that fundamental legal safeguards are effectively applied to prevent and combat racial/ethnic profiling by police of all vulnerable groups, particularly Afro-Swedes, persons of African descent, Muslims, and Roma.[17] During the Universal Periodic Review of Sweden in 2020, several states also recommended that the Swedish government take measures to combat ethnic and racial profiling through, e.g., the adoption of efficient policies.[18]

18. Racial/ethnic profiling in police work has received increased attention in Sweden over the past few years. While the Government has highlighted the police as a key stake holder in combatting hate crimes, and the Equality Ombudsman in the fight against discrimination, discriminatory practices by the police themselves is a matter of great concern. In December 2017, Civil Rights Defenders, in cooperation with the Department of Criminology at the University of Stockholm, published an academic study[19] highlighting racial/ethnic profiling as a structural problem that affects minority groups and their trust in the law enforcement.

19. However, the Government is not taking any measures to counteract racial/ethnic profiling, nor is it taking measures to prevent discrimination in the administration of justice, as previously recommended by the Committee on the Elimination of Racial Discrimination.

20. Swedish law on paper prohibits discrimination by public authorities. However, due to the limited scope of the relevant provision in the Discrimination Act and the manner in which the legislative materials have been interpreted, it is unlikely that the provision covers discriminatory acts committed by the police or other judicial officers during the course of duty. In practice, though, the law has yet to be tested. This means that acts and negligence committed by the police and other actors within the judicial system still fall outside of the scope of the Discrimination Act[20]. It makes it difficult to investigate police

racial/ethnic profiling and other discriminatory practices, or to provide redress for victims. It also makes it more difficult to investigate and provide redress for other forms of discrimination, such as discrimination based on gender, disability, age, and sexual orientation.

21. Sweden has still not established an independent national human rights institution (NHRI) despite accepted recommendations from the recent UPR review in 2015, and from the UN human rights Committees.[21] Sweden ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in 2008, and as such also has a legal obligation to implement an independent NHRI according to CPRD Article 33 (2). In the Government declarations from 10 September 2019, the Swedish Prime Minister stated that an Independent Institution for Human Rights will be set up in 2021. During the UPR review in Geneva on 27 January 2020, Åsa Lindhagen confirmed that the institution would be put in place the next year. Nevertheless, as of the date of production of this alternative report, neither a governmental bill nor the budget for 2021 have been presented to the public. It is of utmost importance that the institution secures its independent mandate and is allocated sufficient resources, including financial resources, to carry out its work in accordance with the UN Paris principles.

SUGGESTED RECOMMENDATIONS, QUESTION 4

The Government must:

- Ensure the Equality Ombudsman works to ensure that individuals who have been discriminated against can obtain redress.
- Address requirements regarding police accountability to review and make efforts to transform the working methods of the police, with the aim of effectively eradicating methods that constitute racial/ethnic profiling.
- Develop the use of social justice markers within the judicial system in order to monitor disparate outcomes for ethnic, national, and religious minorities within the judicial system and counteract racial/ethnic profiling.
- Extend the scope of the Discrimination Act to also include the judicial system, including the police, or otherwise create the possibility of obtaining redress in cases of discrimination to ensure each and every individual can exercise the right to a fair trial and their rights to an effective remedy on equal terms.
- Establish an NHRI in accordance with the UN Paris Principles and secure its independence by placing it under the Parliament 's jurisdiction.
- Establish the NHRI by law and promptly enact measures to ensure that it is constitutionally protected. Ensure the NHRI is allocated sufficient resources to carry out its mandate in an efficient manner.
- Include in the NHRI’s mandate the possibility for it to intervene in national legal proceedings that concern human rights violations, and to represent individuals in international legal proceedings.

QUESTION 5

22. Since 2011, the Office of the Parliamentary Ombudsmen has had a unit that functions as the National Preventive Mechanism (NPM), in accordance with the Optional Protocol to the UN Torture Convention (OPCAT). All inspections are documented with a protocol. The inspections can lead to the Ombudsman making a special statement in the minutes or taking their own initiative, such as opening a new case to further investigate within the Office of the Parliamentary Ombudsmen. The activities are then summarised in reports.[22] The inspections executed by the Office of the Parliamentary Ombudsmen are very welcomed by the signatory organisations as they enable a more transparent insight into the various institutions, and their work pushes for further improvements.

23. There is currently a new dialogue forum between the Office of the Parliamentary Ombudsmen, specifically the OPCAT unit, and civil society organisations regarding the situation and rights of people deprived of their liberty in various institutions. The signatory organisations are very positive toward this initiative, which invites various organisations to share their perspectives on these matters, enabling greater control of the state's actions and in the long run, ensuring that the work carried out within these institutions is done in accordance with human rights standards. This is a vital exchange of knowledge for both the Office of the Parliamentary Ombudsmen and the organisations. It provides the Office of the Parliamentary Ombudsmen with new perspectives in order for them to carry out their mandate as the national preventive mechanism under OPCAT in the most optimal way possible, and it allows the organisations to have greater insight into the institutions and to influence the work in question.

24. During 2019 the OPCAT unit carried out a total of 35 inspections of different institutions. However, to ensure the possibility of further inspections and the involvement of civil society, it is vital to secure financing for these initiatives.[23] The signatory organisations welcome the additional financial support received by the Parliamentary Ombudsmen as of 2018, while at the same time emphasise that sufficient means are necessary to enable more effective and extensive controls of institutions in Sweden.

SUGGESTED RECOMMENDATIONS, QUESTION 5

The Government must:

- Ensure that the Office of the Parliamentary Ombudsmen, including the OPCAT-unit, receive sufficient resources and fulfil the necessary preconditions in order to continue enabling effective and extensive controls of institutions in Sweden.

QUESTION 6

25. Women and children with disabilities are more likely to be subjected to violence and abuse than those without disabilities.[24] Support material has been developed to raise awareness among staff who encounter people with disabilities in their work. However, the fact that this group is at greater risk of exploitation and violence remains.[25] [26] Systematic collected and divided data needed to conduct an intersectional analysis is also lacking, as is data about sexual and reproductive rights, and in-depth information regarding the prevalence of sexual abuse.[27] It is not possible to analyse the occurrence, or follow the development, of violence against women with disabilities based on the equality indicators that exist.[28]

26. One situation in which disabled children and women are at risk of being exposed to abuse is when they use mobility services (färdtjänst). In several cases, sexual violations were reported but the travel service personnel who perpetrated the abuse were able to continue working because their license to drive for mobility services had not been retracted. In some cases, the perpetrator (the driver) continued to work with the abuse victim after changing employers.[29] The police authority and the courts are under an extended obligation to notify the Swedish Transport Agency of persons convicted of crimes such as sexual offenses to prevent such situations from occurring.[30] However, the problem remains that alleged perpetrators who have been reported but not yet convicted can continue to work as drivers in mobility services, and thereby continue to work with their victims during the course of the investigation.

27. Another area of risk is in group homes for persons with severe disabilities. The National Board of Health and Welfare has highlighted information indicating that violence or threats of violence against individuals has occurred in at least 40 percent of housing for adults with severe disabilities, and that many municipalities lack routines for how to handle such situations.[31]

28. In 2017 it was reported that an absolute majority of psychiatric compulsory care institutions did not have routines for how to deal with situations when patients have been subjected to sexual abuse or harassment. [32] As of August 2020, the signatory organisations have not been able to find any updated information regarding the existence of such routines or plans. Sweden also lacks data on the frequency of such abuse and harassment in closed institutions.

29. With regard to youth care institutions, the organisation Skyddsvärnet has interviewed children and juveniles housed in youth care institutions who have been exposed to sexual abuse in these institutions. The interview report does not describe how common such abuse is, but does show that:

    - The abuse occurs when the perpetrator is alone with the young person, for example, on outings or when the youth is placed in a single room;
    - Both boys and girls are exposed to sexual abuse; and
    - The State Institution Board, the Inspection for Care and Care and the Ombudsman for Justice have been unsuccessful in detecting cases of abuse by staff, which is why it is also extremely difficult for children and young people to receive support;
    - Although institutions for juveniles have routines for how to deal with sexual crimes and other forms of abuse against the children in their care, the children who have been interviewed have given examples of situations where the routines have not been followed in practice;
    - Many of the staff lack a post-secondary education. Many have no experience of working with vulnerable young people. As a result, the staff tend to have little knowledge of how to deal with girls who have experienced or been exposed to sexual abuse prior to being placed in the institution, and who therefore are likely to be experiencing trauma and difficulties in having positive relationships with males.[33]

30. Despite support for local women's shelters, many municipalities lack solutions for women with disabilities who are exposed to domestic violence, or who are otherwise in need of protection.[34] The women's shelters are often inaccessible to people with special needs,

such as the need for an interpreter or a physical aid such as a wheelchair, or to women with psychosocial disabilities. According to the shelters, it is hard to ensure appropriate accessibility due to lack of competence, education, and resources, which results in women with such specialised needs being denied room in the shelter and the help they need.[35]

31. The Swedish Agency for Participation identified areas of development for the national strategy to prevent and combat male violence against women with disabilities in 2017. The areas are: increased and effective prevention of violence, improved detection of violence and stronger protection and support for vulnerable women and children, more effective law enforcement, and improved knowledge and methodology development.[36] Within these areas, specific recommendations were made, some directly to the government. The Government has taken steps in the right direction, but the perspectives of women with disabilities are often overlooked.

SUGGESTED RECOMMENDATIONS, QUESTION 6

The Government must:

- Ensure every institution, including special homes for persons with disabilities, have routines and plans to ensure support and protection for persons who have been exposed to a crime, but also to prevent such crimes.
- Ensure all staff in compulsory care institutions receive training about rights and risk factors for sexual abuse, and the variety of related trauma.
- Consider all the recommendations from the Swedish Agency for Participation to ensure that all necessary measures are taken to combat violence against women with disabilities.
- Ensure that the necessary data and statistics are gathered in order to make it possible to further study these issues and develop an intersectional analysis of the risk of exposure to violence and abuse.

ARTICLE 3

QUESTION 8

32. The Temporary Aliens Act (*lag (2016:752) om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige*) has been extended until July 2021, at which point it will have been in force for a total of five years. It was passed with the explicit purpose of decreasing the number of asylum seekers in Sweden after 2015, when more people fled grave human rights violations in countries such as Syria and Afghanistan.[37] In June 2019, a Parliamentarian Committee was established in order to investigate and make proposals on Sweden's future migration politics (see further below). The plan is that the result of the investigation, including the Committee's proposals, will be publicly presented in September 2020.[38]

33. Before the Temporary Aliens Act was passed, and throughout the whole time the law has been in force, a broad alliance of civil society actors[39], academics[40] and lawyers[41] has consistently pointed out a number of serious flaws that altogether question the Act's

legitimacy. To increase the Committee's overall understanding of Sweden's relation to its absolute international obligation not to remove persons to situations where there is a real risk of ill-treatment, it is relevant for us to broaden the context by commenting on the Temporary Aliens Act, which was part of a general change in Sweden's legislative landscape within migration law and related legislation on economic and social rights for asylum seekers.

34. A few examples of these flaws concern the overall technically complicated, and in some respects incomplete, legislation that in combination with the unclear guidance provided to the Swedish Migration Agency (SMA) and courts on its implementation, has resulted in increasingly unpredictable and arbitrary outcomes in individual cases.[42] Furthermore, the Temporary Aliens Act is not based available knowledge, including empirical knowledge about reasons for migration, inclusion of migrants in society, and trauma rehabilitation (also relevant for Article 14).[43] Also, there has been an insufficient human rights analysis of the Temporary Aliens Act and its implementation by the Government, including adequate impact analysis on the situation of persons with migrant backgrounds in Sweden. Since the Temporary Aliens Act negatively affects fundamental human rights in connection to family reunification and children, for example, this is especially serious. In the context of family reunification, it also carries discriminatory effects against LGBTIQ+ persons, as well as groups that tend to have difficulties meeting high income and housing requirements due to age or disability (including severe PTSD), and that have work contracts that do not provide sufficient income. Other legal amendments have led to lost economic benefits and housing rights. According to the Swedish Red Cross, the Temporary Aliens Act and other legislative amendments have led to a humanitarian deterioration for individuals with experience from the Swedish asylum process, which hinders inclusion in society, trauma rehabilitation, medical care in some instances, and increased exploitation in the work market and by criminal networks.[44] Another humanitarian consequence is the increased expulsion of seriously sick asylum seekers, including children, which raises concerns about ill-treatment in connection to health.

35. The Swedish Government's statement that Swedish legislation substantially prohibits non-refoulement is correct. However, there are several issues, primarily due to flaws in the procedure, that lead to non-compliance with non-refoulement in practice in individual cases, and which conflicts with the right to an individualised assessment.[45] Consequently, Sweden has been found to have violated basic human rights in individual complaints tried before the European Court of Human Rights and UN committees.[46] However, as described below, these flaws are to be considered structural within the Swedish asylum system.

36. Asylum seekers who identify as LGBTIQ+ are one of the most vulnerable groups in the asylum process, especially those identifying as transsexual. Asylum seekers with claims based on sexual orientation, gender identity, and/or gender expression often experience difficulties due to the arbitrary and generally high requirements of the SMA and courts, which seriously calls into question Sweden's compliance with non-refoulement and rule of law principles. The investigations and credibility assessments of the identity of LGBTIQ+ asylum seekers, and those seeking asylum reasons for reasons connected to their LGBTIQ+ identity, are, in practice, often based on Westernised definitions of being LGBTIQ+, together with subjective and stereotypical expectations of LGBTIQ+ personalities, lives, and relationships.[47] One core example of this is the de facto =requirement of the credibility assessment to have the asylum seeker identify and describe an inner emotional process of identity development leading to the realisation of

being LGBTIQ+. However, not all asylum seekers with claims concerning sexual orientation, gender identity, and/or expression have the ability to reflect on or further articulate their thoughts and feelings about these matters.[48] The Swedish asylum system's handling of such cases in this regard has created concrete obstacles for LGBTIQ+ asylum seekers in proving their accounts, which is discriminatory. Another example is the system's knowledge gaps in terms of LGBTIQ+ vocabulary (including among interpreters) and country-specific information that result in arbitrary outcomes. Among other things, the treatment of asylum seekers with LGBTIQ+ claims in Sweden results in insufficiently individualised assessments in breach of UNHCR guidelines and persons with international protection needs being removed to countries where they are at risk of irreparable harm. In its own quality report from 2017, the SMA states that as many as 25% of the LGBTIQ+ cases had an outcome that was incorrect or questionable. Only 12% were changed by the migration courts.[49]

37. Civil Rights Defenders has, together with many other civil society actors such as the Swedish Bar Association, addressed inadequate procedural guarantees against refoulement of asylum-seekers who undergo medical age assessments or whose age is otherwise assessed by the SMA and courts.[50] Since March 2017, more than 10,000 asylum seekers have undergone medical age assessments due to difficulties in proving their age.[51] The assessment method, a medical examination of wisdom teeth and knee joints, has been heavily criticised by national and international experts who argue that the margin of error is too uncertain.[52] In spite of this, the results are generally given high evidentiary value by the Swedish Migration Agency and Swedish Migration Courts. In contrast, second opinions and evidence such as statements from schoolteachers or medical staff are normally considered to have low evidentiary value, and the personal, family, and cultural background of the individual is rarely considered, which conflicts with general principles pronounced by the Committee on the Rights of the Child.[53] In addition, the principle of the Benefit of the Doubt, included in international[54], EU[55] and national[56] law, is rarely implemented, despite objective obstacles outside the asylum seeker's control to providing proof of identity or other evidence. During the asylum procedure, many unaccompanied minors have also turned 18 years old according to their own accounts, since the SMA did not prioritise these cases.[57] Altogether, these factors result in assessments that are far from individualised, severely challenge rule of law principles, and put such a large burden of proof on minors, especially unaccompanied minors, that they face an overwhelming risk of being treated as adults at the time of the decision.[58] Consequently, since 2017 as many as thousands of asylum seekers may have had their asylum applications wrongly rejected and were thus subjected to a real risk of ill-treatment upon return to their country of origin.[59] Sweden's behaviour also strongly conflicts with the views of the European Court of Human Rights and the Committee on the Rights of the Child, which have declared that a child's submission on age is to be handled quickly, fairly, and in good faith by national migration authorities.[60] In June 2020, an independent investigator was appointed by the Government to analyse available methods for future medical age assessments for the National Board of Forensic Medicine.[61] However, despite strong demands from civil society, there will be no investigation into the *past* use of unreliable methods, and age assessments in general, in light of non-refoulement principles. The idea of establishing a truth commission or other effective remedies for asylum-seeking minors who might have received arbitrary decisions on expulsion are also not included in the investigation, or the responsibility of the SMA and the Migration Courts, which have implemented the result from the National Board of Forensic Medicine. In June 2020, the Swedish Chancellor of Justice decided to

reject an application for damages in one case and refrained from criticising the National Board of Forensic Medicine, the SMA, or the migration courts for their use of arbitrary age assessments. Civil Rights Defenders and the Swedish Refugee Law Center, who represented the client, were critical towards the outcome.[62]

38. In addition to facing arbitrary age assessments, young unaccompanied asylum seekers who sought asylum during 2015 have faced a range of procedural obstacles that may have resulted in the loss of protection status and actual refoulement in certain cases, as well as great humanitarian suffering for those who stayed in Sweden, including undocumented minors(see above).[63] The long wait between the filing of an asylum application and the decision being finalised is frequently more than three years, which creates obstacles to providing evidence of protection needs. The retroactive implementation of the Temporary Aliens Act to 25 November 2015, an arbitrarily drawn time limit, hit this group of asylum seekers especially hard since many unaccompanied asylum seekers with similar backgrounds and needs were arbitrarily excluded from legislation that provided more rights, such as temporary study permits to finish high school studies. At the same time, these temporary residence permits and the extremely difficult-to-meet requirements for work permits (or other permits) do not compensate for, and cannot be considered as effective remedies for, the loss of protection status, lost rights and in many cases, a permanent residence permit. Rather, the study permits have, in most cases, only postponed the expulsion by a few years.

39. In Europe and in Sweden, a growing number of NGOs and other actors (such as Amnesty, Swedish Red Cross, Save the Children, and the Swedish Church)[64] are demanding that the authorities cancel forced deportations to Afghanistan due to the general security situation there, and the many shortcomings in the asylum process that Afghan asylum seekers have experienced in the past years. Afghanistan is considered to be one of the most dangerous countries in the world for children; however, Sweden still expels young asylum seekers and families with children to Afghanistan. Since an agreement with Afghanistan in 2016, the number of expulsions carried out has increased in parallel with a general deterioration in the country‘s security situation.[65] In the latest Universal Periodic Review of Sweden, Afghanistan recommended that Sweden respect the principle of non-refoulement.[66] The reality is that Sweden rejects asylum applications by Afghans at a higher level than other EU countries on average.[67] In cases where an Afghani asylum seeker has feared returning to their home province, the SMA and Migration Courts have gone against the UNHCR‘s views by considering Kabul to be a reasonable internal flight alternative, despite the ongoing armed conflict and deteriorating humanitarian situation for internally displaced persons and returned asylum seekers.[68] There are also general shortcomings in the assessments of internal flight alternatives, especially with regards to the reasonableness criteria.

40. In 2019 Sweden was found by the Human Rights Committee to have violated the ICCPR (articles 6 and 7) after an individual complaint by an Afghan atheist living in Sweden.[69] The case demonstrates several structural shortcomings in the assessment of claims on the grounds of atheism or religion with regards to Afghanistan. In its decision, the HRC highlighted the complainant’s multi-faceted vulnerability and criticised Sweden for having assessed each alleged ground for protection separately rather than together as part of a larger picture, which would have shown an aggravated risk.[70] Many cases lack an adequate holistic assessment of the applicant’s personal risk factors and fail to properly assess the applicant’s vulnerability in the context of overall security risks. Furthermore, the HRC has stated that atheists or perceived atheists risk persecution in Afghanistan.

Despite this, the SMA has not changed its legal stance and continues to differentiate between Afghan converts and atheists, generally rejecting asylum claims on the ground of atheism. In a communication to the HRC, the Swedish Government stated that it did not find it necessary to take any general measures as a result of the HRC's views.[71]

41. In addition, a report on the handling of asylum applications involving claims of conversion to Christianity (independent of the country of origin) clearly reveals arbitrariness in the credibility assessment. Among other concerns, there are misunderstandings within the SMA about the Christian faith and how it can be demonstrated, which in practice results in such methods as using unreasonable knowledge tests for asylum seekers. Moreover, the report claims that such credibility assessments testing "genuine faith" unfairly favour individuals with a high intellectual capacity, who are able to articulate their inner emotional process of conversion and explain the faith itself.[72]

42. Independent of the asylum seeker's grounds for their asylum application, there is a structural issue in that credibility assessments include the applicant meeting requirements that are not supported by current scientific and behavioural research, including psychological research on memory. Examples of such requirements include "secondhand information", "speculation," and "lacking subjective fear", together with prejudice regarding the culture of the asylum seeker (see above regarding LGBTIQ+ cases in particular, see below regarding cases involving PTSD).[73]

43. The asylum process lacks the overall flexibility needed to meet the individual needs of vulnerable persons, which results in discrimination. According to the Convention on the Rights of Persons with Disabilities, to which Sweden is party, asylum seekers with disabilities have the right to equal access to the asylum process and to justice. In order for an individual to exercise these rights, the SMA is obligated to ensure that the asylum process, including the interview, can accommodate the applicant's specialised needs.[74] However, asylum seekers with post-traumatic stress disorder (PTSD) who have medical difficulties in giving detailed and coherent accounts of earlier events, especially traumatic events that may be of particular relevance to the asylum assessment, generally face an unequal path to asylum compared to other asylum seekers. Severe PTSD is rarely explicitly treated as a disability by the SMA and courts, either during the asylum process or in the decision. There are rarely medical investigations into the extent of a disability in relation to the asylum procedure, in breach of UNHCR Handbook para. 208.[75] The credibility assessment is often based upon the same requirements (coherence and a detailed account) that constitute the very symptoms of PTSD, which immediately creates an enormous disadvantage for an asylum seeker with PTSD. This behaviour leads to a disproportionate burden of proof being placed on the applicant that may result in refoulement in certain cases.[76] Furthermore, there are cases where disability, including severe PTSD, is not included in the SMA's and courts' assessments of the individual's international protection needs, despite its utmost relevance for the actual situation after return to their country of origin, especially to situations of armed conflict.

44. As noted by the Committee on the Rights of the Child, there are shortcomings in the identification and recognition of child-specific forms of persecution, and the Committee has recommended an amendment to the Aliens Act.[77] Moreover, there is insufficient individual investigation into and consideration of children's asylum claims. In 2016, the Swedish Migration Agency removed its units specialising in children's asylum claims.

45. Sweden's legislature is working to pass a list of safe third countries, which the SMA will be responsible for updating.[78] However, civil society actors and legal scholars have highlighted several serious flaws in the proposal, which is about to become a government bill, that may undermine the rule of law and protections against non-refoulement in individual cases. Among other concerns, in order to uphold an adequate individual assessment, the legislative proposal needs to include additional procedural guarantees, such as the possibility for a court to independently assess security risks in individual cases despite the country list, the right to remain in Sweden until the appeals process has been exhausted, and the right to information on the legal implications if the asylum seeker's country of origin is included in the list. It must also be procedurally possible for the judicial system to re-examine the SMA's inclusion of countries on the list. Furthermore, according to the proposal, the Government is ultimately responsible for the list, which means that the SMA does not have complete independence in formulating the list.[79] This raises concerns about the lack of guarantees that political considerations will not play a role in determining which countries to include in the list. Such considerations would contradict the principles of non-refoulement and asylum law and pose a risk to protections against ill-treatment in asylum cases.

46. The lack of experience and/or expertise among key actors such as public defenders and interpreters in this area of law is another concern that often seriously aggravates the situation in individual cases.

47. As mentioned above, at the time of writing there is a Parliamentarian Committee working on Sweden's future migration politics. During the course of its work, leaked draft proposals and debates in the media have revealed political proposals including quotas or volume goals for asylum seekers. Quotas, or volume goals, conflict with the basic principles of the right to international protection and will inevitably influence the behaviour of entities within the Swedish administrative system, making legal implementation of migration laws more restrictive. Furthermore, quotas or volume goals may, together with restrictive migration policies in general, escalate existing xenophobia and Islamophobia in public opinion, along with feelings and acts of racism, especially against people with a non-European background.

SUGGESTED RECOMMENDATIONS, QUESTION 8

The Government must:

- Guarantee safe, fair, and individualised assessments of LGBTIQ+ claims without discrimination.
- End the current method for medical age assessment and ensure that such assessments are based on methods and conducted within a procedural framework in line with the rule of law and children's rights.
- Follow the UNHCR guidelines on Afghanistan and the views of the Human Rights Committee in *Q.A. v. Sweden,* and provide protection for vulnerable individuals, including unaccompanied minors that have entered adulthood.
- Guarantee non-arbitrary, fair, and individualised credibility assessments strictly based on available research on memory.

- Make sure that there are procedural guarantees for asylum seekers, such as the implementation of the Benefit of the Doubt Principle, to prevent an unreasonable burden of proof in individual cases.
- Guarantee that the asylum process accommodates the needs of asylum seekers with disabilities, including PTSD, and that disability is included in the assessment of international protection needs.
- Ensure that child-specific forms of persecution are recognised and individually assessed, both for children in families and unaccompanied children.
- Make sure that Sweden's future legislation on migration is based on knowledge, including empirical knowledge and impact analysis, human rights law, and the understanding that asylum seekers are rights bearers.

QUESTION 9

48. Since the Committee's last review, Sweden has not satisfactorily addressed structural issues regarding the investigation and documentation of torture and the identification of torture victims among asylum seekers. In a unique report[80] from 2015, the Swedish Red Cross reviewed Swedish asylum decisions in cases where the applicant told the SMA about experiences of torture or trauma. The Swedish Red Cross criticised Sweden for demonstrating insufficient knowledge about torture-related trauma and the consequences for the individual at all times during the asylum process and brought to light several concrete examples of procedural challenges that are still relevant today. Concerns were raised about the lack of knowledge of and guidelines for identifying an asylum seeker with torture-related trauma (which is considered a disability), and inadequate routines and resources to accommodate individual needs during asylum procedures, such as interviews, (see further above under Question 8 on PTSD). Another example concerns the failure to observe the Benefit of the Doubt Principle in relevant cases, to reduce the burden of proof on the asylum-seeker. Furthermore, there are knowledge gaps regarding the nature of the state's obligation to shift the burden of proof when there are indications of torture, in line with the judgment of the European Court of Human Rights in *R.C. v. Sweden*.[81] In cases involving claims of torture, the SMA generally requires medical certificates that meet a certain standard. In many cases, however, the asylum seeker is not informed in a timely manner about the types of evidence needed to shift the burden of proof to the state. Such a shift in the burden of proof would, among other things, require the state to initiate a torture investigation if it continues to question the asylum claim. In reality, adult asylum seekers often encounter difficulties in obtaining the necessary medical certificates since they only have a very limited right to public health care (only in situations where health care "cannot be deferred"). Most often the documentation from a torture investigation becomes very important in lending credibility to earlier experiences of torture. However, few torture investigations are initiated and paid for by the SMA if it still questions the claim of earlier torture, which conflicts with EU law[82] and the Istanbul Protocol. The SMA has also questioned the medical considerations in torture investigations. Altogether, these structural flaws lead to an increased burden of proof for torture victims compared to other asylum seekers in the asylum process, which may lead to wrongful expulsions.[83] Notably, despite the Red Cross report and recommendations from the Committee, the SMA has not updated its regulations on the treatment of torture victims since 2012.

SUGGESTED RECOMMENDATIONS, QUESTION 9

The Government must:

- Strengthen the knowledge within the administrative and judicial systems regarding the nature and consequences of torture and trauma, and the state's related legal obligations.
- Ensure that torture investigations are actually initiated by the SMA or courts when the credibility of the asylum-seeker's verbal account is questioned, or in other situations where such an investigation would be relevant.
- Ensure that victims of torture or trauma have access to health care in practice and are provided with trauma care and the medical certificates necessary in the asylum process.

QUESTION 10

49. Since the last review, we have no new information on the existence of any diplomatic assurances given in decisions on expulsions that have been carried out. However, the Migration Court of Appeals has made statements in individual cases of expulsion according to the Act Concerning Special Controls in Respect of Aliens (*lag (1991:572) om särskild utlänningskontroll*) in which *future* diplomatic assurances have played a substantial role in the Court's assessment of the prohibition against non-refoulement. The Migration Court of Appeals considered that the principle of non-refoulement would be respected in the case of an expulsion.[84] The cases concerned imams from different countries such as Iraq and Russia, where it was alleged that they had engaged in behaviour connected to terrorism. So far, no diplomatic assurances are known to have been given in any of these cases.

SUGGESTED RECOMMENDATIONS, QUESTION 10

The Government must:

- Ensure that actual or future diplomatic assurances do not play a substantial role in decision-making on removal in the administrative and judicial systems.

ARTICLE 10

QUESTION 14

50. The signatory organisations welcome the investment in training for law enforcement regarding persons with psychosocial disabilities and urge the police authority to continue its efforts to ensure that all Swedish police officers have relevant knowledge in how to deal with persons with such disabilities. However, the trainings still lack a human rights perspective, and do not always involve people who have themselves had encounters with the police. The inclusion of both perspectives in training programs is important in improving knowledge and understanding of different groups, as well as in decreasing the risk of disproportional and unnecessary violence.

51. In 2016, an inquiry report (SOU 2016:39) was presented, dealing with how the basic education requirements for becoming a police officer could be transformed into an appropriate university education. The signatory organisations are very critical of the fact that the report did not consider the need for development in relation to Sweden's international commitments, or the criticism Sweden has received from the UN and the Council of Europe.[85] So far, no further action has been taken, nor has the inquiry report led to any changes.

SUGGESTED RECOMMENDATIONS, QUESTION 14

The Government must:

- Ensure that law enforcement training, as well as for the law enforcement but also the fundamental police education program, includes education on the provisions of the Convention, as well as the opportunity for law enforcement officers and students to hear directly from individuals with psychosocial and other disabilities about their personal experiences during encounters with the police.

ARTICLE 11

QUESTION 18 AND 19

52. The Government submitted a bill proposing a more effective procedure for arrests and reduced isolation (Prop. 2019/20:129) in March 2020. The proposed time limit for pretrial detention is six months for adults and three months for minors, regardless of the crime. However, in exceptional circumstances the court can still decide that the time may be exceeded. The bill does not include an absolute time limit. The new provisions are therefore not in line with international standards.

53. The Government bill (prop. 2019/20:129) introduces isolation-reducing measures for minors with a right to four hours of contact with a staff member or another person each day. The decision does not consider CRC's recommendation to prohibit the use of solitary confinement in all circumstances in the Concluding Observations on the Fifth Periodic Report of Sweden (2015). The committee states that: "The Committee is seriously concerned about the practice of solitary confinement of children in conflict with the law in remand prisons and police cells and about the large number of children in the latter, as well as about the coercive and involuntary treatments inflicted on children with disabilities" "the Committee urges the State party to:

> *"(a) Immediately remove all children from solitary confinement, and revise its legislation to prohibit the use of solitary confinement in all circumstances"*

54. The Prison Service's measurements of isolation-reducing measures from 2018 show that the extensive international criticism directed against Sweden does not appear to have had any significant impact on the degree of isolation of detainees. The report shows., for instance, that 83 percent of detainees with restrictions were considered isolated. Even more noteworthy is that the survey shows that 33 percent of detainees who were not notified of restrictions or privacy placement decisions also were isolated. A report from the National Preventive Mechanism on the use of isolation in pre-trial detention from 2020 shows that the situation continues to be very critical.[86]

CIVIL RIGHTS DEFENDERS

SUGGESTED RECOMMENDATIONS, QUESTIONS 18 AND 19

The Government must:

- Undertake necessary legislative measures to introduce a maximum time limit for pre-trial detention.
- Prohibit the use of solitary confinement of children in all circumstances.
- Consider all the recommendations from the Parliamentarian Ombudsmen to guarantee adult detainees a certain amount of isolation-reducing measures per day.

QUESTION 21

55. Civil Rights Defenders has conducted a study on Access to Justice for Victims of Violent Crime Suffered in Pre-Trial Detention and detention of migrants in Sweden.[87] A general observation from the interviews with various stakeholders is that detained individuals are not seen as crime victims in situations where they have been subjected to violence. This frequently leads to the victims not being afforded their rights as a victim as stipulated in the EU victim directives. In interviews with victims in immigration detention, all respondents who had been subjected to violence in detention indicated that staff at the detention centre admitted that they had the right to report the incident but did not take any special actions when the crime was reported. For example, injuries were not documented, and doctors were not summoned.[88] The study therefore concluded that the current procedures for documenting injuries suffered by individuals in detention are inadequate.

SUGGESTED RECOMMENDATIONS, QUESTION 21

The Government must:

- Make sure that staff members in detention facilities have the appropriate knowledge of victims' rights, as well as the understanding that a detainee can be a victim of a crime.
- Clarify (1) the obligation of the Migration Detention and the Prison and Probation Service to report offences that take place in detention facilities, and (2) the guidelines on responsibility towards crime victims, such as proper documentation of injuries, in order to clearly delineate the roles and responsibilities of each government authority and other stakeholders, including healthcare professionals and the police.

QUESTION 22

56. There are currently no further time limits for how long a migrant with an expulsion decision in custody can be detained. According to the Aliens Act (2014:655) chapter 10 § 9, the authority has an obligation to re-evaluate the detention decision after two weeks, counted from the day of the enforcement of the decision. If there is a decision about expulsion or deportation, a re-evaluation of the decision should be conducted two months after enforcement. There are however no further time limits on how long a migrant can be detained in custody Even if there are obligations to regularly retry these decisions, the signatory organisations believe this is not in accordance with international standards.

57. Reports from the Office of the Parliamentary Ombudsmen state that it is common for security placements to be made due to the Swedish Migration Agency's limited resources; that detainees with mental health problems are placed in detention mainly because the personnel at the institutions do not have the skills to handle them; and that it often takes longer than ideal before the Swedish Migration Agency visits detainees placed there in order to reassess the placement decisions. Furthermore, in the majority of cases from the Migrations Agency's detention centers, such ongoing reconsiderations were not carried out. The Office of the Parliamentary Ombudspersons has also concluded that this is a result of the lack of a statutory legal requirement for reconsideration of security placement, and that this leads to faults in the supervision of these cases as there are no clear routines.[89]

58. Besides the fact that this causes many individuals to be held in detention centers for longer than necessary, not having such a statutory requirement makes it less likely that the state can ensure that detention of migrants is only used as a last resort, as the decisions are not based on the facts and actual circumstances of the case. According to Swedish law, the alternative to detention is supervision, which per the Aliens Act (2014:655) chapter 1 § 8 must be chosen instead of detention if it can be deemed a sufficient measure. In a report from the Red Cross in which they examined 953 decisions and judgements regarding detention, they concluded that supervision as an alternative is rarely used to the extent possible, and that the Swedish Migration Agency is not willing to use this alternative, leading to arbitrary decisions regarding detention.[90]

SUGGESTED RECOMMENDATIONS, QUESTION 22

The Government should:

- Ensure in law and in practice that detention of asylum seekers is used only as a last resort and where necessary, and for as short a period as possible.

QUESTION 23

59. The number of children in compulsory psychiatric care is constantly increasing. According to the National Board of Health and Welfare, 301 children were cared for under the Psychiatric Compulsory Care Act (LPT) in 2018, compared with 207 children in 2011.[91] In 2018 there were 174 incidents of children in compulsory psychiatric care being physically restrained, spread out over 46 patients under 18 years old. In 2017, the figures were 378 incidents in total, spread over 51 patients.[92] It is also important to note the existing problem of cases being underreported,[93] which is why the actual figures are estimated to be even higher. Reasons for this include lack of transparency and working methods that do not promote alternatives to coercive and restrictive methods. The relevant legislation is not interpreted in accordance with a human rights-based approach.[94] When it comes to monitoring the treatment of patients in compulsory care, a wider range of indicators must be developed. It is necessary to include not only health-related indicators but also human rights indicators to help assess whether the individual's human rights are being safeguarded. For instance, to be able to understand the consequences of the use of coercive measures, it is also important to know in how many of those cases the individual had received information on their right to appeal the decision, but also to what extent they received the information in a language or in a format they could understand. In this way, potential abuse can be properly monitored, remedied, and prevented.

60. In 2018, the National Board of Health and Welfare conducted a study on the prevalence of documented psychiatric diagnoses and clinical symptoms among young people being treated in an investigative or treatment department within the National Board of Institutions (SiS). The survey showed that the prevalence of psychiatric conditions is high among young people in institutions. On average, seven out of ten adolescents fulfil the criteria for at least one psychiatric diagnosis, and every other youth has at least two concurrent diagnoses.[95] This calls for care based on the individual needs and for alternatives to coercive and intrusive methods.

61. Due to the inquiry report (SOU 2017:111) mentioned in the government's report (para. 143), a government bill on improvements for children in psychiatric compulsory care (Prop. 2019/20:84) was presented in February 2020. The proposal includes a stricter prerequisite, which means that the use of physical restraints on a child should only occur if there is a risk of immediate danger to the patient, not to the staff or other patients. It must also be obvious that alternative measures would not be sufficient. The signatory organisations welcome these improvements, but the proposal continues to allow the use of physical restraints and solitary confinement of children. This is not in accordance with the recommendations from the Committee on the rights of the child, on the fifth rapport of Sweden. The regulations have been tightened with a special provision introducing time limits of one hour for the use of physical restraints and two hours for solitary confinement. However, an extension of the decision to use such methods can be granted based on an assessment by only one chief physician, and such an extension can be granted unlimited times. There is thus no ultimate time limit. Thus, the regulations are still not in accordance with international standards.

62. The Health and Social Care Inspectorate (IVO) has repeatedly reported missing and/or late assessments of physically restraining individuals and stated that care in connection with long-term use of physical restraints needs to be safer.[96] The statistics show patients being belted for more than 4 hours and even more than 72 hours.[97] It has also been observed that the statistics are not reliable, with hundreds of cases of the use of physical restraints going unreported.[98]

63. When it comes to the use of bed restraints for adults, several inspections have noted that the clinics' procedures are unclear as to the circumstances in which such measures may be used. One clinic's procedural description contained wording that in the opinion of the Parliamentary Ombudsmen could be interpreted as meaning that the use of bed restraints is possible for disciplinary reasons. The OPCAT report for 2015 -2017 also reveals that the Parliamentary Ombudsmen have observed cases where patients have been held in isolation/solitary confinement for many years,[99] as well as cases where patients have been subjected to far more coercive measures than the law allows.[100]

64. There is still no ban on children being treated together with adults. This is not in accordance with Article 11 of the CAT, nor with Article 37(c) in the Convention on the Rights of the Child, which states that every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so.

65. The proposal (Prop. 2019/20:84) introduces the right to one hour of outdoor exercise for children placed in compulsory care. This is a step in the right direction. Such a right is, however, still not afforded to adults. The Parliamentary Ombudsmen recommend at least one hour of daily outdoor exercise but have observed that there are cases where the

opportunities for this are limited, and moreover that such a right has been made conditional depending on the patient's behaviour.[101]

66. The signatory organisations would also like to draw attention to the overuse of prescription medication among children who are placed in institutions for children and in foster homes. In a report from the National Board of Health and Welfare states, the authority notices that the use of psychoactive drugs is up to 30 times higher among placed children compared with peers in the population. A conclusion from the National Board of Health and Welfare is that the social service staff is not prepared enough for the fact that many of the placed children have psychiatric problems. Another conclusion is that the social services must support the children in their contacts with the healthcare. Children and young people with high use of different psychotropic drugs have great need of continuity in treatment and closeness to specialists. Despite this, children and juveniles in institutions or in foster homes do not have access to this to the same extent as other peers. In another report, the authority describes crucial shortages in cooperation between social services, psychiatric services, for children and juveniles, and the healthcare providers, which further exacerbates the situation of overuse of drugs among the children.

67. The signatory organisations emphasise the importance of Sweden ensuring that all staff at compulsory care institutions receive adequate training in how to apply a human rights-based approach in their work. During its inspections, the Parliamentarian Ombudsman has observed that there have been cases in which coercive measures have been misused due to the staff's lack of knowledge of alternative methods. The Parliamentary Ombudsman has also observed that conflict management training plays an important role in reducing the use of coercive measures.[102]

68. That a human rights based approach decreases the use of coercive measures is also confirmed from a pilot project at the Angered Hospital and parts of the psychiatric clinic at Sahlgrenska University hospital who, during the period of 2012–2015, were selected to incorporate human rights into their regular work. During the pilot project, staff reduced the use of belts from about four times per month to four times per year. Now the working method has been established in those institution and still gives the same result.[103]

69. Statistics show that women are more likely to be subjected to coercive and intrusive measures during compulsory care, such as forced medication, ECT (electro-convulsive treatment), and isolation.[104] The use of such measures against women is even more common when it comes to minors (in 2016, 84% of reported incidents were against girls).[105] When it comes to ECT-treatment, 62% out of the patients registered in 2017 were female.[106] Yet little or nothing has been done to stop this culture that allows women to be subjected to coercive and intrusive methods.

70. Some reporting on the use of electro-convulsive treatments (ECT) in Sweden is already in place but it is lacking in effectiveness. An investigation conducted by the National Board of Health and Welfare shows that only half of the incidents of ECT use are registered, and the reporting system as such is inaccurate. One of the most common critiques of the use of ECT is the lack of information about the treatment and the consequences thereof, and the lack of informed consent by the individual regarding participation in the treatment. The Patient Act (2014:821), which aims to strengthen the position of the patient, does require health care services to ensure that patients are involved in decisions and able to give free and informed consent regarding their care.[107]

However, written informed consent is still not always sought for before resorting to ECT-treatment in Sweden. This was criticised by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2016.[108] However, no further measures have been taken by the Swedish Government.

71. Furthermore, a report from the Swedish Agency for Health and Care Services Analysis (2017:2) clearly shows that the Patient Act has not increased the patient's level of involvement or use of informed consent in relation to treatment.[109]

SUGGESTED RECOMMENDATIONS, QUESTION 23

The Government must:

- Ensure that Sweden fully respects the human rights of persons in compulsory care and addresses the criticism directed at Sweden by the Committee in the previous session, in particular, the recommendation to "Use restraints and solitary confinement as a measure of last resort and for the shortest possible time and under strict medical supervision" for both minors and adults.
- Ensure that all staff at Swedish compulsory care institutions receive training in how to apply a human rights-based approach in their work.

QUESTION 24

72. Data from the National Board of Health and Welfare from 2018 regarding the number of people in various types of care shows: 12,186 were treated in closed psychiatric compulsory care; 1,773 were treated in closed forensic psychiatric care; 1,223 people were treated in open psychiatric compulsory care; and 519 people were treated in open forensic care. In studying this data, one interesting observation is that the number of people treated in the first three types of care has increased over the last seven years, while the number treated through open psychiatric care through LRV has decreased during the same period.[110] This may be an indicator that less-invasive options such as open care is not used to the extent possible, and that alternative methods are insufficient.

73. Additionally, many patients are being held in closed forensic care for a longer period of time than necessary. According to the annual report from 2019, the number of patients deemed to be ready for open forensic care but still being treated in closed care in 2019 was 9.5%.[111] This is a decrease of 0.5% from the prior year. However, the accuracy of the data is rather uncertain as Sweden does not have a clear definition of when a patient should be considered ready for open forensic psychiatric care. There is also no consensus on how long it is acceptable for a patient who has been deemed ready for open forensic care to remain in closed care before this is considered a problem. In cases where the patient is deemed ready for open care, but such a transition is not possible in practice, various causes prevent the move: lack of housing and lack of collaboration between the authorities, among others. The most common reason is lack of accommodations. This cause has been stated increasingly for each year since 2009 and was it amounted to about 60 percent in 2018.[112] This reveals the challenges in caring for patients using alternative forms of treatment, and together with the inadequacies in collaboration between relevant stakeholders, this causes patients to be held in closed care for longer than necessary.

CIVIL RIGHTS DEFENDERS

SUGGESTED RECOMMENDATIONS QUESTION 24

The Government must:

- Ensure that when the legal grounds for deprivation of liberty are no longer present, the individual must immediately be released. The Government must ensure that after release, individuals receive adequate support to reintegrate into society.

QUESTION 25

74. The signatory organisations confirm the information in the Governmental report but emphasise that the SU is not objective or independent enough to fulfil Sweden's obligations under international law.

75. The signatory organisations believe that the SU's mandate needs to include a clearer human rights-based approach in preventive and detection activities, that is based on both Swedish law and Sweden's obligations under international law. SU should also have a stated mission of reviewing the police, based on both human rights conventions by which Sweden is bound and relevant recommendations from the monitoring committees.

SUGGESTED RECOMMENDATIONS, QUESTION 25

The Government must:

- Establish an independent body to ensure prompt, impartial, and effective investigation of all allegations of ill-treatment and excessive use of force by law enforcement officers.
- Ensure that the new authority is tasked with training the police on their international human rights obligations in order to ensure better implementation of international standards.

ARTICLE 14

QUESTION 27

76. See answer above under Article 3, question 8.

ARTICLE 16

QUESTION 29

77. A significant number of the recommendations for Sweden from the 2020 UPR, the UN Human Rights Committee in 2016, and the Committee on the Elimination of Racial Discrimination in 2018, concern the need to strengthen efforts to combat and eliminate discrimination and hate crimes, particularly racism and xenophobia against Muslims, Afro-Swedes, Roma, Jews and the indigenous Sami.[113]

78. The number of reported hate crimes in Sweden remains high. According to the Swedish National Council for Crime Prevention, xenophobia and racism were the most prevalent motives for hate crimes during 2013–2016. The latest numbers indicate that approximately 145,000 individuals had experienced 225,000 hate crimes. Out of these, only 17% were reported to the police. Additionally, an estimated 47,000 individuals experienced 81,000 hate crimes with an anti-religion motive during the same period. However, only 26% were reported to the police.[114] Out of the number of hate crimes reported in 2015 and processed through January 2017, only 4% could be tied to an identified perpetrator through an indictment, the issuance of a summary sanction order, or the issuance of a waiver of persecution. A preliminary investigation was initiated in 49% of all reported cases of hate crime, whereas 47% of the cases were closed without the initiation of a preliminary investigation.[115]

79. Sweden has developed a strategy to combat hate crimes, which was initiated in June 2015 and included, *inter alia*, training of police officers in identifying and processing hate crimes. In its internal evaluation of the project, the Police Authority, however, noted that prosecutors participating in their surveys did not experience any improvement of quality in the investigations into hate crimes. Responses were received from thirteen different specialist prosecutors. Most had not perceived any improvement in the communication between the Police Authority and the Prosecution Authority regarding cases of hate crimes.[116] Furthermore, a survey conducted by the National Council for Crime Prevention shows that the majority of employees at five out of seven police districts that had received education on hate crimes in 2015 still felt that they lacked the ability to detect, investigate, and prosecute hate crimes.[117] Thus, it is clear that further efforts need to be made to properly train staff on how to effectively investigate hate crimes in order to close the gap between reported incidents and convictions.

80. After the internal evaluation, in 2017 an additional 10 million SEK was provided to the Police Authority for improving their work on hate crimes.[118] In 2018, the Government also directed the Police Authority to report back on what had been done and what was in process regarding the work against hate crimes. From the report from the police in March 2019, it is clear that the three special hate crime units are still understaffed and, in any case, small: 26 staff out of 20,000 police officers in Sweden.[119] Also, resources are concentrated in the three major cities, Stockholm, Gothenburg, and Malmö, and the necessary expertise and staff is lacking in the rest of the country.

81. The Government has in submissions to UN Treaty Bodies explained these numbers by the fact that the proportion of cases of damage/graffiti reported as hate crimes has risen between 2008 and 2015, and that person-based clearance in cases of damage/graffiti is more difficult than those of assault, where witnesses can often provide evidence.[120] However, the increase of damage/graffiti reported as a hate crime, and the decrease in assault reported as a hate crime, is not so dramatic to the extent that it can stand as the sole explanation for the poor person-based clearance in reported cases of hate crimes.

82. Furthermore, the indigenous Sami people are subjected to everyday discrimination, hate crimes, and prejudiced behaviour by the non-Sami. After the Supreme Court verdict in January 2020 where the reindeer herding district of Girjas won a major battle against the state over hunting and fishing rights, more hate crimes have been reported, such as the torturing of reindeer and death threats against reindeer herders.[121] A few years ago, the European Commission Against Racism and Intolerance (ECRI) recommended that Sweden conduct widespread awareness-raising activities aimed at conveying to the

general public the unique value of the indigenous Sami culture as an integral part of Scandinavia and its cultural heritage.[122] In 2018, an academic survey on racism against Sami was published, and is now subject to review.[123] Hence, a lot needs to be done to combat racism, discrimination, and ill-treatment against the Sami, whose indigenous rights are not adequately protected by Swedish legislation. However, few measures have been taken by the Government to address ill-treatment against the Sami People.

83. In November 2016, the Government adopted a national plan to combat racism, similar forms of hostility, and hate crimes.[124] Civil Rights Defenders has taken part in the civil society reference group for implementation of the plan and has consistently highlighted the need for a more challenging and adequate approach in relation to the responsible authorities. While the plan aims to enable authorities and other civil society actors to more effectively combat racism and hate crimes, it completely ignores racism and discrimination within the authorities, and the role they play as part of discriminatory structures in society. One example of such discriminatory practices that need to be addressed is racial/ethnic profiling by the police.

84. The provisions in Sweden's Penal Code (cha. 16 sec. 8) concerning agitation against national and ethnic groups does not ban describing people with disabilities in an offensive manner. The provision covers sexual orientation, religion, ethnicity, and transgender identity but not disability, which means that persons with disabilities do not receive the same protections under the law as other groups facing discrimination.

SUGGESTED RECOMMENDATIONS, QUESTION 29

The Government should:

- Expand existing training programs on hate crimes for police employees and make training on the legislation and implementation of legislation on hate crimes mandatory for all areas of law enforcement, including the police, prosecutors, and the judiciary.
- Institute hate crime units in all police regions and allocate sufficient resources for such prioritisation to effectively be made.
- With respect to the Sami People's right to free, prior and informed consent, take measures to prevent acts of hate crimes, discrimination, and racism directed against the Sami, such as educating the general public about the Sami's past and present conditions and the implications of their status as an indigenous people, and acknowledging the collective human rights of the Sami as part of ensuring non-discriminatory treatment.
- Make further efforts to build trust among populations vulnerable to ethnically motivated hate crimes, and to increase their ability to properly report hate crimes.
- Revise the national plan to combat racism, similar forms of hostility, and hate crimes to emphasise the accountability of the responsible authorities to review and address internal practices that may result in discrimination.
- Put forth legislation that gives people with disability protections against hate crimes.

CIVIL RIGHTS DEFENDERS

OTHER AREAS OF CONCERN

Non-vital and irreversible surgery and other medical treatments are still performed on intersex children without them first giving sufficient informed consent and receiving impartial counselling.[125] The Swedish health care system cannot currently guarantee that these patients ever give sufficient informed consent. Previous treatment guidelines advised that information about the diagnosis and early operations be withheld from the patient. [126] For example, for a group where early genital surgery might be introduced,[127] the approaches to this type of surgery vary between medical teams and surgeons.

Some work actively with parents in order to postpone the decision about undergoing surgery, while others put less emphasis on this and perform the operations relatively early in the child's life. This difference is important as it affects the individual's future ability to make informed decisions based on their gender identity and priorities in life. Recent key publications describe the scientific evidence as insufficient to guide decisions on gender assignment and early genital and gonadal surgery with any certainty. The decisions are made jointly by the medical teams and the parents and are described by the teams as sometimes difficult to make.[128]

SUGGESTED RECOMMENDATIONS

The Government must:

- Protect children's right to bodily integrity, autonomy, and self-determination by ensuring via legislation or otherwise that non-vital surgical or other medical procedures on intersex infants and children are not performed before they are able to provide their informed consent, in accordance with the conventional interpretations by the Committee on the Rights of the Child;
- Take the necessary legislative, administrative, and/or other measures to guarantee respect for the physical integrity and autonomy of intersex persons, and ensure that no one is subjected during infancy or childhood to unnecessary medical or surgical procedures;
- Guarantee counselling services for all intersex children and their parents in order to inform them of the consequences of unnecessary surgery and other medical treatment;
- Ensure that full, free, and informed consent is respected in connection with medical and surgical treatments for intersex persons, and that non-vital, irreversible medical interventions are postponed until a child is mature enough to participate in decision-making and give full, free and informed consent;
- Provide adequate redress for the physical and psychological suffering caused by such practices carried out on intersex persons.

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1 Department of Justice. Ds. 2015:42*, Ett särskilt tortyrbrott?* 2015, https://www.regeringen.se/4a4af2/contentassets/740d39e2a0c640158b74198b7e760ce0/ds-2015-42-ett-sarskilt-tortyrbrott.pdf, *p. 183.*

2 Advokaten (the Magazine for the Swedish Bar Association), issue 2, 2020, *Erfarna brottmålsadvokater behövs för ny kvällsjour.*

3 EU Commission's recommendation of 27 November 2013 on procedural safeguards for vulnerable persons suspected or accused in criminal proceedings (2013/C 378/02), no 11.

4 Act on Certain Provisions on Young Offenders (1964:167), para 24.

5 Parliamentary Ombudsman, *decisions no 2502-2015; 2470-2015 and 2943-2015*, 17 June 2016. See also the Parliamentary Ombudsman directors' report 2013/14, Vällingby 2013, page 133.

6 58 percent of the clients at the institutions of Swedish Prison and probation Sericehave some kind of addiction, www.kriminalvarden.se/globalassets/publikationer-och.kartlaggningar/kos_2019-pdf

The prevalence of ADHD is approximately 25 percent, prevalence of comorbidity is also high. International studies also show that 60-70 percent have some kind of personality disorder. Seminarium om psykisk ohälsa 27 april 2016. Faktablad från Kriminalvården.

7Parliamentary Ombudsman, *inspection protocol no 6889-2013*, 26 May 2014, available at: https://www.jo.se/Global/NPM-protokoll/NPM-protokoll%206889-2013.pdf

8 The Parliamentary Ombudsmen (JO), National Preventive Mechanism – NPM, Report from the OPCAT unit for 2018, p. 35.

9 Committee for the Prevention of Torture (CPT), *Report to the Swedish Government on the visit to Sweden carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment from 18 to 28 May 2015*, page 5.

10 The Swedish Prison and Probation Service, *Initial hälsoundersökning*, internal regulations about healthcare 2016.

11 Email correspondence between Lars Håkan Nilsson and Civil Rights Defenders.

12 Dagens Nyheter (DN), *Intagna ska undersökas för ADHD-diagnos*, 21 Augusti 2019. Fångar testas sällan för ADHD, https://sverigesradio.se/artikel/7274979

13 The Parliamentary Ombudsmen, Protokoll, Opcat-inspektion av Migrationsverkets förvarsenhet i Kållered, Göteborg, den 22–23 februari 2017, dnr 1000–2017, p. 5, 14.

14 The Parliamentary Ombudsmen, Protokoll, Opcat-inspektion av Kriminalvården, häktet Gävle, den 30 och 31 januari 2017, dnr 418–2017, p. 10.

15 See the annual report of the Equality Ombudsman from 2018, available at: http://www.do.se/globalassets/om-do/diskrimineringsombudsmannens-arsredovisning-20182.pdf.

16 See the annual reports of the Equality Ombudsman from 2009, available at: http://www.do.se/globalassets/om-do/arsredovisning-2009.pdf, and from 2010, available at: http://www.do.se/globalassets/om-do/arsredovisning-2010.pdf.

17 Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22–23, 6 June 2018, para. 27.

18 Human Rights Council, Draft report of the Working Group on the Universal Periodic Review, A/HRC/WG.6/35/L.9, 30 January 2020, para. 6.115; para. 6.132.

19 See Civil Rights Defenders' report *Randomly Selected – Racial/Ethnic Profiling in Sweden*, December 2017. Available at: https://crd.org/wp-content/uploads/2019/03/CRD-Randomly-selected.pdf.

20 Diskrimineringslagen (Discrimination Act), SFS 2008:567.

21 Human Rights Council, Report of the Working Group on the Universal Periodic Review: Sweden, A/HRC/C/29/13, 13 April 2015, paras. 145.10-145.16; See also recommendations from UN human rights Committees, Human Rights Committee (HRC), Concluding observations on the seventh periodic report of Sweden, CCPR/C/SWE/CO/7, 25 April 2016, paras. 8-9; The Committee on the Elimination of Discrimination against Women, Concluding observations on the combined eighth and ninth periodic reports of Sweden, CEDAW/C/SWE/CO/8-9, 10 March 2016, paras. 20-21; The Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations on the sixth periodic report of Sweden, E/C.12/SWE/CO/6, 14 July 2016, paras. 9-10; Committee on the Rights of Persons with Disabilities (CRPD), Concluding observations on the initial report of Sweden, CRPD/C/SWE/CO/1, 12 May 2014, paras. 61-62; Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, CERD/C/SWE/CO/22-23, 6 June 2018, paras. 8-9; Committee on the Rights of the Child (CRC), Concluding observations on the fifth periodic report of Sweden, CRC/C/SWE/CO/5, 6 March 2015, paras. 11-12.

22 The Parliamentary Ombudsmen, Information about Opcat-unit, https://www.jo.se/sv/Opcat/Om-Opcat-enheten/.

23 The Parliamentary Ombudsmen, Protocols, https://www.jo.se/sv/Opcat/Opcat-protokoll/.

24 En systematisk kunskapssammanställning om utsattheten för våld och kränkningar mot flickor

och pojkar med funktionsnedsättning (2016). Stiftelsen Allmänna Barnhuset.

http://www.allmannabarnhuset.se/wp-content/uploads/2016/09/Om-barn-medfunktionsnedsättning-i-Sverige-och-derasutsatthet-för-våld-och-kränkningar.pdf

25 Myndigheten för delaktighet, *Mäns våld mot kvinnor med funktionsnedsättning* (The Swedish Agency for Participation, *Men's Violence against Women with Disabilities*) (2017), https://www.mfd.se/contentassets/bf6a1232cfac4da2ab2fc19ea7477adf/2017-29-mans-vald-mot-kvinnor-med-funktionsnedsattning.pdf, p. 19 and 25.

26 Mäns våld mot kvinnor med funktionsnedsättning. Myndigheten för delaktighet 2017.

http://www.mfd.se/globalassets/dokument/publikationer/rapporter/2017/2017-29-mans-vald-mot-kvinnor-med-funktionsnedsattning.pdf

27 Folkhälsomyndighetens studie om Sexuella och Reproduktiva rättigheten. Fokus saknas nästan helt på funktionsnedsättning, trots att studien säger sig fokusera på jämlikhet. https://www.folkhalsomyndigheten.se/publicerat-material/publikationsarkiv/s/sexuell-och-reproduktiv-halsa-och-rattigheter-i-sverige-2017/?pub=60999

28 System för uppföljning och analys av jämställdhetspolitiken, rapport från Jämställdhetsmyndigheten 2018. https://www.jamstalldhetsmyndigheten.se/system-for-uppfoljning-och-analys-av-jamstalldhetspolitiken-20185

29 Eneroth, Skriftlig fråga till statsråd, *2017/18:358 Övergrepp i samband med färdtjänst*, (Written question to a minister, *2017/18: 358 Abuse in connection with transport service*) https://data.riksdagen.se/fil/3E306E24-31EA-4A59-94CB-DE292944611F.

30 Näringsdepartementet, *Transportstyrelsen ska få mer information om dömda förare (*The Ministry of Industry, *the Transport Agency should receive more information about convicted drivers), https://www.regeringen.se/pressmeddelanden/2018/06/transportstyrelsen-ska-fa-mer-information-om-domda-forare/.*

31 Insatser och stöd till personer med funktionsnedsättning, Lägesrapport 2019, Socialstyrelsen, https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/ovrigt/2019-3-7.pdf

32 Feministiskt perspektiv, *Patientsäkerheten hotas av dålig beredskap mot övergrepp,* (Feminist perspective, the safety for the patient *is threatened by poor preparedness for abuse*) (2017), https://feministisktperspektiv.se/2017/07/25/patientsakerheten-hotas-av-dalig-beredskap-mot-overgrepp/.

33 ungdomars berättelser om sexuella övergrepp och trakasserier på statliga ungdomshem, Skyddsvärnet, Ung Inlåst, 2020, https://www.mynewsdesk.com/se/foereningen-skyddsvaernet-i-stockholm/pressreleases/ny-rapport-personal-begaar-oevergrepp-paa-unga-i-samhaellets-tvaangsvaard-3006047?fbclid=IwAR2_D5uRp7JIL0fC6ZyLr0IwaJYcapkrnQrbO8C8M8KcivuRI_naDHrkF08

34 Länsstyrelserna, *Kartläggning av skyddat boende för särskilt utsatta personer (2016),* (the County Administrative Boards, Survey of protected housing for particularly vulnerable persons), p. 22 ff. https://www.lansstyrelsen.se/download/18.570d3e071634a145608673/1542289074938/Rapport%202016-23%20Kartläggning%20av%20skyddat%20boende%20för%20särskilt%20utsatta%20personer.pdf.

35 Länsstyrelserna, *Kartläggning av skyddat boende för särskilt utsatta personer (2016),* (the County Administrative Boards, Survey of protected housing for particularly vulnerable persons), p. 18, 25, 32, 35. https://www.lansstyrelsen.se/download/18.570d3e071634a145608673/1542289074938/Rapport%202016-23%20Kartläggning%20av%20skyddat%20boende%20för%20särskilt%20utsatta%20personer.pdf.

36 Myndigheten för delaktighet, *Mäns våld mot kvinnor med funktionsnedsättning* (The Swedish Agency for Participation, *Men's Violence against Women with Disabilities*) (2017), https://www.mfd.se/contentassets/bf6a1232cfac4da2ab2fc19ea7477adf/2017-29-mans-vald-mot-kvinnor-med-funktionsnedsattning.pdf, p. 5.

37 Government bill, prop. 2015/16:174, p. 21. https://www.regeringen.se/contentassets/075968fdd8c94788977dba14bae16444/forslag-om-att-tillfalligt-begransa-mojligheten-att-fa-uppehallstillstand-i-sverige-prop.-201516174. See AIDA Report, https://www.asylumineurope.org/sites/default/files/report-download/aida_se_2019update.pdf

38 Originally, the investigation would have been presented on 16 August 2020 but political negotiations have partly failed. See Ministry of Justice, Den framtida svenska migrationspolitiken, Dir. 2019:32. https://www.regeringen.se/rattsliga-dokument/kommittedirektiv/2019/06/dir.-201932/

39 There are a number of consultation responses from Swedish civil society actors and volunteers to the bills for the passing and extension of the Temporary Aliens Act. See, inter alia, in connection to the extension of the Temporary Act in 2019 that included amendments on inter alia family reunification: Amnesty Sweden, at https://www.regeringen.se/495170/contentassets/e96731d263df43c39569a3a9998d6741/amnesty-international.pdf; Swedish Refugee Law Center, at https://sweref.org/remissvar-o%CC%88ver-utkast-till-lagra%CC%8Adsremiss-fo%CC%88rla%CC%88ngning-av-lagen-om-tillfa%CC%88lliga-begra%CC%88nsningar-av-mo%CC%88jligheten-att-fa%CC%8A-uppeha%CC%8Allstillsta%CC%8And/; Swedish Red Cross, at https://www.rodakorset.se/om-oss/fakta-och-standpunkter/remissvar/forlangning-av-den-tillfalliga-utlanningslagen/#:~:text=Sammanfattning%20av%20Svenska%20R%C3%B6da%20Korsets,som%20lagen%20givit%20upphov%20till.; Civil Rights Defenders, at https://crd.org/sv/2019/03/19/yttrande-over-forlangning-av-lagen-om-tillfalliga-begransningar-av-mojligheten-att-fa-uppehallstillstand-i-sverige-utkast-till-lagsradsremiss/; the volunteer network Vi står inte ut (We can't stand it), at https://www.mynewsdesk.com/se/number-vistaarinteut/documents/civilsamhaellets-roest-88873. See also UNICEF, The Swedish Red Cross, Save the Children, Amnesty International Sweden, The Swedish Church, Swedish Refugee Law Center, Civil Rights Defenders, Caritas Sweden, The Swedish Network of Refugee Support Groups and Sveriges Stadsmissioner, *To the Members of the Parliamentarian Committee on Sweden's Future Migration Politics* (*Till ledamöterna i den parlamentariska kommittén om en framtida migrationspolitik*), March 2020. https://crd.org/wp-content/uploads/2020/03/till-ledamoterna-i-den-parlamentariska-kommitten-om-en-framtida-migrationspolitik.pdf

40 See, inter alia, the consultation response by Uppsala University Law Faculty to the extension of the Temporary Act in 2019, at https://www.regeringen.se/494f8b/contentassets/e96731d263df43c39569a3a9998d6741/uppsala-universitet.pdf. See also the report by the academics' and civil society platform Asylkommissionen (Asylum Commission), at https://liu.se/nyhet/asylkommissionen-skickar-skuggdirektiv-till-regeringen. See in English, at: https://liu.se/en/research/asylum-commission.

41 See, inter alia, the consultation response by the Swedish Bar Association to the extension of the Temporary Act in 2019, at https://www.regeringen.se/494f84/contentassets/e96731d263df43c39569a3a9998d6741/sveriges-advokatsamfund.pdf.

42 One outstanding example regards the interpretation of Sweden's "convention commitments" in cases that include serious health issues or other humanitarian issues for asylum seekers and other migrants. See Rebecca Thorburn Stern, *Innebörden av "svenskt konventionsåtagande" — svårare att tolka än man tror*, Svensk Juristtidning, 2020, s. 120–136. https://svjt.se/svjt/2020/120;

43 Instead there is substantial reason to think that political events in Europe, especially the closing of external and internal borders that have led to less asylum seekers in Sweden after 2015. Swedish Red Cross, Humanitarian Consequences of the Temporary Act (*Humanitära konsekvenser av den tillfälliga utlänningslagen)*, in Swedish, 3 October 2018, p. 56. https://www.rodakorset.se/globalassets/rodakorset.se/dokument/om-oss/fakta-och-standpunkter/rapporter/konsekvenser-av-den-nya-lagen-181206.pdf

See also the report by the academics' and civil society platform Asylkommissionen (Asylum Commission), at https://liu.se/nyhet/asylkommissionen-skickar-skuggdirektiv-till-regeringen.

44 Swedish Red Cross, Humanitarian Consequences of the Temporary Act (*Humanitära konsekvenser av den tillfälliga utlänningslagen)*, in Swedish, 3 October 2018. https://www.rodakorset.se/globalassets/rodakorset.se/dokument/om-oss/fakta-och-standpunkter/rapporter/konsekvenser-av-den-nya-lagen-181206.pdf; See also, The Swedish Red Cross, The Humanitarian Situation in Sweden For Unaccompanied Children and Young Persons (*Den humanitära situationen för ensamkommande barn och unga i Sverige*), 30 January 2020. In Swedish: https://www.rodakorset.se/globalassets/rodakorset.se/dokument/om-oss/fakta-och-standpunkter/rapporter/humanitara-situationen-ensamkommande-roda-korset.pdf

45 See last review of Sweden, CAT/C/SWE/CO/6-7 12, December 2014, para. 11, where the Committee Against Torture noted Sweden's individualized assessments of asylum applications.

46 See European Court of Human Rights, J.K. and others v. Sweden, Application no. 59166/12, 23 August 2016; European Court of Human Rights, F.G. v. Sverige, Application no. 43611/11, 23 March 2016. These leading cases are fundmental for the understanding of the obligation of non-refoulement for CoE member states. According to the EctHR, article 3 of the Convention includes both a procedural and a substantial obligation. See also Human Rights Committee on articles 6 and 7 of the ICCPR in *Q.A. v. Sweden*, Views adopted 30 October 2019, UN doc. CCPR/C/127/D/3070/2017.

47 See a study regarding claims by unaccompanied children, Hedlund & Wimark (2018), Unaccompanied Children Claiming Asylum on the Basis of Sexual Orientation and Gender Identity, Journal of Refugee Studies. https://doi.org/10.1093/jrs/fey026. Also this behavior is in breach of the SMA's own regulation, see Swedish Migration Agency, Rättsligt ställningstagande angående utredning och prövning av den framåtsyftande risken för personer som åberopar skyddsskäl på grund av sexuell läggning, könsöverskridande identitet eller könsuttryck, SR 38/2015, 2015-10-02. https://lifos.migrationsverket.se/dokument?documentSummaryId=35821

48 Another example that affects the credibility is the questioning of lesbian or bisexual women with children, which demonstrates a knowledge gap when it comes to the reality and society's expectation of women, especially in countries with strong conservative values and gender discrimination, which the SMA then reproduces.

49 Swedish Migration Agency, Analysrapport. Tematisk kvalitetsuppföljning av asylärenden där hbtq-skäl prövats, 1.3.4-2017-93317, 2017, p. 12.

50 Civil Rights Defenders, the Swedish Bar Association and the Refugee Law Center, Op'ed in Svenska Dagbladet, 8 May 2019. https://www.svd.se/fler-bor-granskas-for-aldersbedomningarna

51 Statistics on medical age assessment between 2017-2019 can be found on the webpage of National Board of Forensic Medicine (Rättsmedicinalverket). https://www.rmv.se/om-oss/forskning/aktuell-statistik/

52 Civil Rights Defenders, at: https://crd.org/sv/2019/05/06/staten-jk-anmals-for-brister-i-medicinsk-aldersbedomning/. For a recent scientific article: Petter Mostad and Fredrik Tamsen, Error rates for unvalidated medical age assessment procedures, International Journal of Legal Medicine 133(2), 2019, pp. 613–623.

53 See Committee on the Rights of the Child, General Comment no. 6, pp. 66-72.

54 UNHCR, 2019. Handbook on procedures and criteria for determining refugee status and guidelines on international protection under the 1951 Convention and the 1967 Protocol relating to the status of refugees. United Nations High Commissioner for Refugees, paras. 203-204.

55 Article 25(5) in revised Asylum Procedure Directive (Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection). The general principle is regulated in Article 4(5) in revised Qualifications Directive (Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted).

56 Inter alia, Sweden's Migration Court of Appeal, MIG 2007:12. https://lagen.nu/dom/mig/2007:12

57 This information is supported by witness accounts from staff employed by the SMA during 2015 to 2018 and elaborated in the application for damages in one individual case before the Chancellor of Justice by Civil Rights Defenders and Refugee Law Center in May 2019. About the case, in Swedish, at: https://crd.org/sv/2019/05/06/staten-jk-anmals-for-brister-i-medicinsk-aldersbedomning/

58 Advokaten, Åldersbedömningar utreds och JK-anmäls, No. 5 2019. https://www.advokaten.se/Tidningsnummer/2019/nr-5-2019-argang-85/aldersbedomningar-utreds-och-jk-anmals/. See also critical statements regarding lacking rule of law due to the medical uncertainty connected to the method in Svenska Dagbladet, 3 November 2018, made by a lawyer in the context of criminal proceedings, https://www.svd.se/rmvs-besked-vacker-fragor-inte-bara-markligt--absurt; and statement from the latest Secretary General of the Swedish Bar Association who pronounces that the result from the National Board of Forensic Medicine weighs too heavily in the assessment on age by the SMA and courts, https://www.advokatsamfundet.se/Nyhetsarkiv/2017/juni/anne-ramberg-alderbedomningarna-ar-inte-rattssakra/

59 See statement in 2018 made by the latest Secretary General of the Swedish Bar Association in Advokaten, Många kan ha felbedömts som vuxna, No. 8 2018. https://www.advokaten.se/Tidningsnummer/2018/nr-8-2018/manga-kan-ha-felbedomts-som-vuxna/.

60 European Court of Human Rights, Abdullahi Elmi and Aweys Abubakar v. Malta, Application No. 25794/13 and 28151/13, 22 November 2016, paras. 145-148; Committee on the Rights of the Child, General Comment no. 6, p. 70.

61 Department of Justice, Committee Directive (*Utökat kunskapsunderlag om Rättsmedicinalverkets metod för medicinsk åldersbedömning i asylprocessen)*, Dir. 2020:64, 11 June 2020. https://www.regeringen.se/rattsliga-dokument/kommittedirektiv/2020/06/dir.-202064/

62 See at https://crd.org/sv/2020/06/30/civil-rights-defenders-kritisk-till-jk-beslut-om-medicinska-aldersbedomningar/.

63 The number of unaccompanied minors seeking asylum has decreased from around 34,000 in 2015 to 902 in 2019 (2017: 1336; 2018: 944).

64 Amnesty and the Red Cross, https://www.amnesty.se/aktuellt/stoppa-tvangsutvisningarna-till-afghanistan-debattartikel/; Swedish Church, https://www.svenskakyrkan.se/pressmeddelande/utvisningar-av-barnfamiljer-till-afghanistan-behover-stoppas?publisherId=1344892&releaseId=3265894&channels=3116725,3240407; Save the Children, https://www.helahalsingland.se/artikel/radda-barnen-kraver-amnesti-for-ensamkommande-barn. See also European Council on Refugees and Exiles, *No Reasons for Returns to Afghanistan: ECRE'S RECOMMENDATION FOR A SUSPENSION OF RETURNS TO AFGHANISTAN DUE TO THE SECURITY SITUATION THERE AND THE UNFAIRNESS OF ASYLUM DECISION-MAKING IN EUROPE*, 2019. ecre.org/wp-content/uploads/2019/02/Policy-Note-17.pdf

65 Ref.

66 Sweden accepted the recommendation. https://www.regeringen.se/49be62/contentassets/49b69f19914542d2ab6c00d1e2ed56b2/response-from-the-swedish-government-regarding-upr-recommendations.pdf

67 Bernd Parusel, *Afghan Asylum Seekers and the Common European Asylum System*, 2018. https://www.bpb.de/gesellschaft/migration/laenderprofile/277716/afghan-asylum-seekers-and-the-common-european-asylum-system

68 UNHCR, *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan*, 30 August 2018, p. 114. https://www.refworld.org/docid/5b8900109.html [accessed 16 June 2020]. Compare the legal stance by the SMA, SR 03/2019. https://www.migrationsverket.se/download/18.748d859516793fb65f9132b/1550071361697/RCSR%200319%20rev190212.pdf

69 HRC, *Q.A. v. Sweden*, Views adopted 30 October 2019, UN doc. CCPR/C/127/D/3070/2017.

70 See paras. 9.6-9.8. See also European Asylum Support Office, *Country of Origin Information Report: Afghanistan security situation*, June 2019.

71 Ministry for Foreign Affairs, Communication No. 3070/2017, Q.A. v. Sweden, 2 June 2020, UDFMR2017/29/HRC.

72 Pingst, *Inquiry into the Asylum Processes of Religious Converts in Sweden Stockholm*, March 20, 2019. An English summary (including link to full report in Swedish) is available at: https://www.pingst.se/content/uploads/2019/03/Konvertitutredning_summary_in_english.pdf.

73 Swedish Refugee Law Center, *Tillförlitliga kriterier? En granskning av Migrationsverkets tillförlitlighetsbedömningar av asylberättelser*, 11 June 2019. https://sweref.org/wp-content/uploads/2020/06/Tillfo%CC%88rlitliga-kriterier-webb.pdf; Daniel Hedlund, *Constructions of credibility in decisions concerning unaccompanied minors*, International Journal of Migration, Health and Social Care 13(2), 2017, s. 157–172.

74 See, inter alia, articles 2, 5, 9 and 13 of the CRPD.

75 UNHCR, 2019. Handbook on procedures and criteria for determining refugee status and guidelines on international protection under the 1951 Convention and the 1967 Protocol relating to the status of refugees. United Nations High Commissioner for Refugees.

76 The Committee for the Rights of Persons with Disabilities has several cases against pending against Sweden. This behavior is also in breach of the UNHCR Handbook, paras. 209-212.

77 Committee on the Rights of the Child, Concluding observations on the fifth periodic report of Sweden, 6 March 2015, CRC/C/SWE/CO/5, para. 49. https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC/C/SWE/CO/5&Lang=En

78 Ds 2020:2, Uppenbart ogrundade asylansökningar och fastställande av säkra ursprungsländer. https://www.regeringen.se/rattsliga-dokument/departementsserien-och-promemorior/2020/01/ds-20202/

79 Inter alia, consultation responses by Uppsala University Law Faculty and Swedish Refugee Law Center that point to these issues. Uppsala University at https://www.regeringen.se/4959fa/contentassets/1900ae1cd73d4123be4dbeaa79e2801b/uppsala-universitet-juridiska-fakulteten.pdf; Swedish Refugee Law Center, at https://www.regeringen.se/4959aa/contentassets/1900ae1cd73d4123be4dbeaa79e2801b/asylrattscentrum.pdf. Similar views are expressed by Amnesty and others, see at https://www.regeringen.se/remisser/2020/02/remiss-av-ds-20202-uppenbart-ogrundade-asylansokningar-och-faststallande-av-sakra-ursprungslander/.

80 Swedish Red Cross, *Tortyrskador i asylprocessen under lupp*, 2015, 2:a upplagan, In Swe: . https://www.transkulturelltcentrum.se/globalassets/verksamheter/transkulturellt-centrum/kunskapsstod/publicerat-av-centret/rapport-rk-tortyrarenden-under-lupp.pdf.

81 European Court of Human Rights, R.C. v. Sverige, Applicaton No. 41827/07, 9 March 2010.

82 Article 18 of the recast Asylum Procedure Directive.

83 Swedish Red Cross, *Tortyrskador i asylprocessen under lupp*, 2015, 2:a upplagan, In Swe: . https://www.transkulturelltcentrum.se/globalassets/verksamheter/transkulturellt-centrum/kunskapsstod/publicerat-av-centret/rapport-rk-tortyrarenden-under-lupp.pdf.

84 It is the Swedish Security Service that applies before the Migration Agency to expel certain individuals that the Security Service considers posing a serious security threat to Swedish society. If the Migration Agency's decision is appealed the Government takes the final decision, which includes a statement by the Migration Court of Appeal on the individual circumstances including obstacles against expulsion such as circumstances of relevance for the non-refoulement prohibition.

85 Committee against Torture, Concluding observations on the sixth and seventh periodic reports of Sweden, para 14; Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, 2016, para 24 – 25; the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report to the Swedish Government on the visit to Sweden, 2015.

86 Rapport från opcat-enheten 2020

87 Civil Right Defenders, Country Study Sweden, Access to Justice for Victims of Violent Crime Suffered in Detention, February 2020, p. 6.

88 Civil Right Defenders, Country Study Sweden, Access to Justice for Victims of Violent Crime Suffered in Detention, February 2020, p. 94-96.

89 The Office of the Parliamentary Ombusmen Protocol Dnr 939-2018*, Inspection of the Migration Agency, the detention unit in Kållered, Gothenburg, March 13-14, 2018,* https://www.jo.se/Global/Inspektionsprotokoll/Inspektionsprotokoll%20939-2018.pdf, p. 1 and 25, The Office of the Parliamentary Ombusmen Protocol Dnr 665-2018, *Inspection of national facility and detention coordination at Migration Agency's detention unit in Märsta, November 13, 2018,* https://www.jo.se/Global/Inspektionsprotokoll/Inspektionsprotokoll%206665-2018.pdf, p. 7.

90 Red Cross, *Förvar under Lupp – en studie av rättssäkerheten för asylsökande i förvar, 2012, http://d20tdhwx2i89n1.cloudfront.net/image/upload/ffiesvu23cq2djwms3gx.pdf.*

91 The National Board of Health and Welfare*, Statistics database for psychiatric compulsory care*, https://sdb.socialstyrelsen.se/if_tvangsvard/resultat.aspx.

92 The National Board of Health and Welfare*, Statistics database for psychiatric compulsory care*, https://sdb.socialstyrelsen.se/if_tvangsvard/resultat.aspx.

93 SOU 2017:111, *For the best of the child? Government inquiry on coercive measures against children in psychiatric compulsory care*, p. 97.

94 The Swedish Disability Rights Federation, *Respect for rights? Report on how Sweden lives up to the Convention on the Rights of Persons with Disabilities 2019,* p. 48.

95 The National Board of Health and Welfare, *Care for children and young people in HVB based on their overall needs*, Annex 2 https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/ovrigt/2019-2-12.pdf.

96 The Health and Social Care Inspectorate (IVO), What IVO has seen 2018 p. 61; The Health and Social Care Inspectorate (IVO), What IVO has seen 2019 p. 113.

97 The National Board of Health and Welfare*, Statistics database for psychiatric compulsory care*, https://sdb.socialstyrelsen.se/if_tvangsvard/resultat.aspx.

98 SVT Nyheter, Hundratals bältesläggningar försvinner i statistiken (Hundreds of cases of belting disappear in the statistics), https://www.svt.se/nyheter/granskning/ug/stort-morkertal-kring-ingrepp-i-tvangsvarden.

99 The Parliamentary Ombudsmen (JO), National Preventive Mechanism – NPM, Report from the OPCAT unit for 2015–2017, p. 37.

100 The Parliamentary Ombudsmen (JO), National Preventive Mechanism – NPM, Report from the OPCAT unit for 2018, p. 63.

101 The Parliamentary Ombudsmen (JO), National Preventive Mechanism – NPM, Report from the OPCAT unit for 2015–2017, p. 39.

102 The Parliamentary Ombudsmen (JO), National Preventive Mechanism – NPM, Report from the OPCAT unit for 2018, p. 64.

103 A Human Rights-Based Approach to Psychiatry: Is It Possible? – Health and Human Rights Journal, available at: https://www.hhrjournal.org/2020/06/a-human-rights-based-approach-to-psychiatry-is-it-possible/

104 Socialstyrelsen (The National Board on Health and Welfare), *Statistik om psykiatrisk tvångsvård enligt lagen om psykiatrisk tvångvård (LPT) år 2013*, available at: https://www.socialstyrelsen.se/SiteCollectionDocuments/statistik-om- psykiatrisk-tvangsvard-enligt-lpt-2013.pdf and Socialstyrelsen*, Bättre vård – mindre tvång?*, 2013, available at: https://www.socialstyrelsen.se/publikationer2013/2013-11-27

105 SOU 2017:111, p. 113.

106 Kvalitetsregistret ECT, *Årsrapport 2017*, available at: https://registercentrum.blob.core.windows.net/ect/r/ECT-A-rsrapport-2017-Utan-data-fr-n-patientregistret-HJeI-MAQGm.pdf.

107 The Patient Act (2014:821) (Chapter 4 Paragraph 2 and Chapter 5).

108 CPT/Inf (2016) 1 para. 110.

109 Vårdanalys, *Lag utan genomslag, Utvärdering av patientlagen 2014-2017*, available at: https://www.vardanalys.se/rapporter/lag-utan-genomslag/.

110 Statistics from The National Board of Health and Welfare, *Statistical Database for psychiatric compulsory care 2011-2018 ages 0-75+,* https://sdb.socialstyrelsen.se/if_tvangsvard/val.aspx.

111 Rättspsyk, *Årsrapport 2019 – Nationellt rättspsykiatriskt kvalitetsregister*, https://registercentrum.blob.core.windows.net/rattspsyk/r/Arsrapport-2019-rygqgg6dUU.pdf

112 Rättspsyk, *Årsrapport 2018 – Nationellt rättspsykiatriskt kvalitetsregister*, https://registercentrum.blob.core.windows.net/rattspsyk/r/Arsrapport-2018-SkgEcT541B.pdf.

113 Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016, para. 17; Committee on the Elimination of Racial Discrimination, Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22–23, 6 June 2018, para. 11.

114 Brottsförebyggande rådet (National Council for Crime Prevention), *Hatbrott 2016* (*Hate Crime 2016*)*,* Report 2017:11, 2017, p. 8. Available at: https://www.bra.se/download/18.4c494ddd15e9438f8ada9786/1513175214923/2017_11_Hatbrott_2016.pdf.

115 Ibid., p. 11.

116 Polismyndigheten (The Police Authority), *Återrapportering till regeringen angående polisens åtgärder rörande hatbrott* (*Feedback report to the government concerning police measures against hate crimes*), 27 February 2017. Available at: https://polisen.se/siteassets/dokument/regeringsuppdrag/aterredovisning-till-regering-om-hatbrott-2017.pdf

117 Brottsförebyggande rådet (National Council for Crime Prevention), *Hatbrott 2015* (*Hate Crime 2016*), Report 2016:15, 2016, pp. 127–128. Available at: https://www.bra.se/download/18.3c6dfe1e15691e1603eb65e3/1474958157817/2016_15_Hatbrott_2015.pdf.

118 Polismyndigheten (The Police Authority), decisions Noa 167/17 and 170/17.

119 Polismyndigheten (The Police Authority), *Åtgärder mot hatbrott – Redovisning av regeringsuppdrag* (*Measures against hate crime – Presentation of mandate from the government*), March 2019. Available at: https://polisen.se/siteassets/dokument/regeringsuppdrag/atgarder-mot-hatbrott--redovisning-av-regeringsuppdrag.

120 See *inter alia* Committee on the Elimination of Racial Discrimination, Consideration of reports submitted by States parties under article 9 of the Convention, Twenty-second and twenty-third periodic reports of States parties due in 2016, Sweden, UN doc. CERD/C/SWE/22–23, para. 19.

121 *Inter alia*, an article by the Swedish Radio, 29 January 2020, at https://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=7394922.

122 European Commission against Racism and Intolerance, Council of Europe, ECRI Report on Sweden *(fifth monitoring cycle)*, CRI (2018)3, 27 February 2018, paras. 8 and 31. See also paras. 30 and 40.

123 SVT Nyheter, *Ny kartläggning – två av tre samer utsatta för rasism* (*New survey – two out of three Sami subjected to racism*), 2 October 2018, available at: https://www.svt.se/nyheter/lokalt/norrbotten/ny-kartlaggning-tva-av-tre-samer-utsatta-for-rasism.

124 The Government Offices of Sweden, *A comprehensive approach to combat racism and hate crime – National plan to combat racism, similar forms of hostility and hate crime*, 2016, available at: https://www.regeringen.se/492382/contentassets/173251a50a5e4798bcafc15ba871a411/a-comprehensive-approach-to-combat-racism-and-hate-crime.

125 The Swedish Board of Health and Welfare, *Care and treatment of persons with intersexual conditions - Mapping early care* (2017), https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/ovrigt/2017-1-24.pdf.

126 Ibid., p. 9 f.

127 Children born with a female karyotype (46,XX) and masculinized external genitalia.

128 Such treatment can, according to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, constitute a violation of the obligation to take effective legislative, administrative, judicial or other measures to prevent acts of torture (Art. 2 CAT) or other forms of cruel, inhuman or degrading treatment (Art. 16 CAT, General Comment 2).