



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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REFERENCE: CAT/Follow-up

26 April 2023

Excellency,

In my capacity as Rapporteur for Follow-up to Concluding Observations of the Committee against Torture, I have the honour to refer to the follow-up to the examination of the eighth periodic report of Sweden, in accordance with the Guidelines for follow-up to concluding observations (CAT/C/55/3).

At the end of its 72nd session held from 8 November to 3 December 2021, the Committee transmitted its concluding observations to your Permanent Mission. The Committee's concluding observations (CAT/C/SWE/CO/8, para. 45) requested the State party to provide within one year further information on the specific areas of concern identified in paragraphs 10, 16 and 22 of the concluding observations.

On behalf of the Committee, allow me to express appreciation for your letter of 2 December 2022 providing your Government's response to the above-mentioned paragraphs (CAT/C/SWE/FCO/8) and to make the following comments:

Definition and criminalization of torture and the statute of limitations (para. 10 of the Committee's concluding observations)

The Committee notes the reiterated view of the State party that the Convention's requirements are fully met by the country's laws and regulations, including the Swedish penal legislation, and that torture can be defined under several categories under the State party's laws, including assault, rape, kidnapping, crimes against humanity or war crimes. It also acknowledges the measures taken to expand the State party's jurisdiction for certain crimes that could constitute torture and to introduce a stricter minimum penalty for several serious offences that may amount to torture.

.../...

H. E. Ms. Anna Jardfelt
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While noting that the ministerial memorandum “A specific provision on torture?” proposing that torture be criminalized as a specific crime and be exempt from the statute of limitations is still under consideration by Government offices, and that Swedish courts have now full jurisdiction with respect to acts of torture as defined in article 1 of the Convention, the Committee remains concerned that the crime of torture, as defined in article 1 of the Convention, still has not been incorporated into domestic legislation (3/B2).

Imposition of restrictions, including solitary confinement (para. 16 of the Committee’s concluding observations)

The Committee welcomes the measures taken by the State party, including the adoption of recent legislative amendments, to reduce the use of restrictions on detained persons and to ensure that they are imposed only as an exceptional measure based on concrete individual grounds, when strictly necessary in the interest of criminal investigations or order and security. It also notes the steps taken to reduce the use of isolation measures, including by expanding and enhancing activities, and to develop a support system for daily measurement of isolation breaking actions. Furthermore, it notes with appreciation the recent entry into force of Ordinance (2022:302), which aims at ensuring that investigations into the circumstances of serious bodily injuries or deaths in custody that can be assumed to be due to the actions or omissions of the Swedish Prison and Probation Service’s employees, contractors or hired personnel are duly carried out. However, the Committee regrets the lack of information on the specific steps taken to limit solitary confinement measures in pretrial detention, to abolish the use of solitary confinement for minors, to adopt legislation to enable adult detainees to associate with others in alignment with legislation for minors, and to carry out thorough investigations of incidents of suicide or suicide attempts, while ascertaining whether there is a link between the use of measures of physical restraint or solitary confinement and incidents of suicide or suicide attempts in places of detention (2/D).

Non-refoulement (para. 22 of the Committee’s concluding observations)

The Committee notes the information provided by the State party that all asylum seekers have the right to have their application examined individually through a fair procedure and to be informed about their rights. It also notes that, in case of a decision of immediate removal of an applicant, as provided for in the amendments of the rules of safe country of origin as a prerequisite for immediate removal, the Swedish Migration Agency must inform the applicant and an oral hearing is mandatory. It further notes that an asylum seeker who claims to have injuries from torture or other treatment that may lead to eligibility for protection and submits a medical certificate indicating that he or she may have been exposed to such treatment, should be granted a further medical examination carried out by a forensic expert or specialist in torture injuries at the expense of the State. Moreover, it notes that the Swedish Migration Agency’s decision on an expulsion order, or a refusal of entry, may be appealed to a migration court and that the relevant migration court is responsible for assessing appeals against a decision on immediate removal, with an automatic suspensive effect. Additionally, it notes that the human rights and security situation in the country of origin of an applicant is taken into consideration by the Swedish Migration Agency when assessing the risk that he or she may be subjected to torture if returned to his or her country, and that such assessments are usually based on legal position papers. However, the Committee regrets the lack of information on the specific measures taken to guarantee that all foreign nationals at risk of deportation, including those from “safe” countries of origin, have access to fair procedures, including a detailed and thorough interview to assess the risk

that they may be subjected to torture and ill-treatment in their country of origin in view of their personal circumstances. It is also concerned that a rejection of an asylum application which amounts to a refusal of entry may in some cases be combined with a decision by the Swedish Migration Agency to remove the applicant before the decision becomes final (3/B1).

Implementation plans (para. 45 of the Committee's concluding observations)

Lastly, the Committee appreciates the additional information provided by the State party on the implementation of the other recommendations contained in paragraphs 31, 33 and 42 (B).

The Government of Sweden is encouraged to provide additional information, if there is any, which would further contribute to the Committee's analysis of the progress made regarding the specific issues of concern cited above. This additional information may be provided in any subsequent report by the State party pursuant to the Committee's request in its concluding observations on the eighth periodic report of Sweden or other future periodic reports.

The Committee looks forward to a continued constructive dialogue with the authorities of Sweden on the implementation of the Convention.

Accept, Excellency, the assurances of my highest consideration.



Bakhtiyar Tuzmukhamedov
Rapporteur for follow-up to concluding observations
Committee against Torture