



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

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Committee against Torture

Concluding observations on the eighth periodic report of Sweden*

1. The Committee against Torture considered the eighth periodic report of Sweden¹ at its 1842th and 1845th meetings,² held on 9 and 10 November 2021, and adopted the present concluding observations at its 1868th meeting, held on 26 November 2021.

A. Introduction

2. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure and submitting its periodic report thereunder, which is in conformity with the guidelines on the drafting of periodic reports, as this improves the cooperation between the State party and the Committee and focuses the examination of the report and the dialogue with the delegation.

3. The Committee further expresses its appreciation for the dialogue with the State party's delegation, and the oral and written responses provided to the questions posed and concerns raised during the consideration of the report. The Committee is encouraged by the State party's strong commitment to a rules-based international order and to preventing and eradicating torture.

B. Positive aspects

4. The Committee welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, such as:

(a) The transposition of the Convention on the Rights of the Child into Swedish national law, in January 2020;

(b) The adoption of the law on the creation of a national human rights institution, in June 2021.

(c) The adoption of the Act on Criminal Responsibility for Genocide, Crimes against Humanity and War Crimes (2014:406), in 2014; the Committee notes that crimes under that Act are subject to universal jurisdiction and that most are not subject to any statute of limitations;

(d) The introduction of stricter minimum penalties for several serious offences that can constitute acts of torture, including gross assault;

(e) The implementation in 2019 of Directive (EU) No. 2016/1919, on legal aid, and Directive (EU) No. 2016/800, on procedural safeguards for children in criminal

* Adopted by the Committee at its seventy-second session (8 November–3 December 2021).

¹ CAT/C/SWE/8.

² See CAT/C/SR.1842 and CAT/C/SR.1845.



proceedings, of the European Parliament and of the Council, bringing to six the number of European Union directives in this area that have entered into force in Sweden, governing procedural rights for detainees and outlining the rights to interpretation and translation, to information, to access to a lawyer, to legal aid and to the presumption of innocence, and procedural safeguards for children suspected of or accused in criminal proceedings;

(f) The broadening of the mandate of the Equality Ombudsman to combat discrimination and to work for equal rights and opportunities, following the strengthening of provisions on protection from discrimination contained in the Discrimination Act (2008:567).

5. The Committee commends the State party's initiatives to amend its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

(a) The adoption, in 2016, of a national strategy for human rights, providing a comprehensive framework for systematic work on human rights;

(b) The adoption, in 2018, of a new strategy for global gender equality and women's and girls' rights (2018–2022);

(c) The adoption, in 2016, of a 10-year national strategy to prevent and combat men's violence against women;

(d) The steps taken to integrate, as governing principles in Sweden, the Principles on Effective Interviewing for Investigations and Information Gathering (the Méndez Principles, launched in June 2021), which are aimed at ending accusatory, coercive and other confession practices during investigations.

6. The Committee welcomes the creation of a national human rights institution with a broad mandate to monitor and report on how human rights are respected and implemented in Sweden. It notes that in October 2016, the Government had presented a strategy for national efforts on human rights to the parliament of Sweden. It also notes that, in the strategy, the Government made the assessment that a national institution for human rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), should be established in Sweden and that the parliament should be the body responsible for such an institution. The Committee further notes that the parliament concluded that there were organizational and other reasons for not placing a Swedish institution for human rights under the parliament. The national human rights institution was therefore created under the Government through the law adopted in June 2021 and will begin operation in January 2022. The Committee welcomes the clarifications that the national human rights institution has been created by law, that it will have an independently appointed board and that it will initially be allocated SKr 50 million in the government budget in 2022.

7. The Committee recommends that the State party periodically review the relevant legislation governing the institution with a view to continuously strengthening the institution's mandate and independence in order to ensure that it can operate effectively.

C. Principal subjects of concern and recommendations

Pending follow-up issues from the previous reporting cycle

8. In its previous concluding observations,³ the Committee requested the State party to provide information on its implementation of the Committee's recommendations on: fundamental legal safeguards for persons deprived of their liberty; the imposition of restrictions, including isolation in detention; and the investigation of acts of torture, ill-treatment and hate crimes. While noting with appreciation the replies submitted by the State party⁴ and referring to the letter dated 29 August 2016 from the Committee's Rapporteur for follow-up to concluding observations addressed to the Permanent Representative of Sweden

³ CAT/C/SWE/CO/6-7, para. 22.

⁴ CAT/C/SWE/CO/6-7/Add.1.

to the United Nations Office and other international organizations in Geneva,⁵ the Committee considers that the recommendations set out in paragraphs 7, 8 (a), 14 and 15 (a) of its previous concluding observations have not yet been fully implemented. Those issues are covered in paragraphs 12, 16, 31, and 33 (b) of the present concluding observations.

Definition and criminalization of torture and the statute of limitations

9. With reference to its previous concluding observations,⁶ 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; that the understanding of the Government is that there is no obligation under the Convention for a State party to incorporate a specific provision on torture into its domestic legislation, and that the view of Sweden remains that the Convention's requirements are fully met by the country's laws and regulations, including the State party's penal legislation. The Committee takes note of the delegation's assertion that torture can be defined under several categories under the country's laws, for example: assault, bodily injury, sexual offences, kidnapping, crimes against humanity or war crimes.⁷ It also notes that there have been recent legal changes to sentences for crimes that could constitute torture, and maximum limits for sentencing have increased. The Committee is encouraged that in a ministerial memorandum issued in September 2015 it was proposed that torture be designated as a specific crime, that the memorandum has been circulated and that the proposal remains under consideration. It is also encouraged that there is a specific reference to article 1 of the Convention in legal amendments, which will enter into force on 1 January 2022, that expand jurisdiction for certain crimes that could constitute torture. The Committee notes that it is envisioned that the statute of limitations for certain crimes will be abolished, and that a report on this is due to be published on 17 November 2021 (arts. 1–2 and 4).

10. While noting that advances have been made in this regard, the Committee reiterates its recommendation to the State party to promptly define and criminalize torture in domestic law, in full compliance with articles 1 and 4 of the Convention. In this regard, the Committee draws the attention of the State party to general comment No. 2 (2007) on the implementation of article 2, in which the Committee states that by naming and defining the offence of torture in accordance with the terms of the Convention, as distinct from other crimes, States parties will directly advance the overarching aim of the Convention to prevent torture, inter alia, by alerting everyone, including perpetrators, victims and the public, to the special gravity of the crime of torture, and by strengthening the deterrent effect of the prohibition itself.

Fundamental legal safeguards

11. While appreciating the efforts made by the State party to ensure that procedural safeguards are fully satisfied in practice, especially in regard to minors and adults in detention, the Committee remains concerned that persons deprived of their liberty are not always afforded all fundamental legal safeguards from the very outset of deprivation of liberty in practice, such as the rights to access to a lawyer, to an independent medical examination and to notify a relative or a person of their choice. The Committee is concerned at reports that the right of notification of custody may be unduly delayed in the interests of the investigation and that access to health care for persons in police custody can be delayed for several days following arrest given that the exam takes place on the first working day following arrest (art. 2).

12. Recalling its general comment No. 2 (2007), the Committee recommends that the State party take the measures necessary to ensure that all persons deprived of their liberty are afforded, both in law and in practice, all fundamental legal safeguards from the very outset of deprivation of liberty, in particular the right to access to a lawyer, the

⁵ See https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/SWE/INT_CAT_FUL_SWE_25023_E.pdf.

⁶ CAT/C/SWE/CO/6-7, para. 6.

⁷ See also CAT/C/5/Add.1, paras. 1–7.

right to a medical examination by an independent doctor, preferably of their own choice, and the right to notify a relative, in accordance with the international standards.

Pretrial detention

13. The Committee notes with concern that pretrial detention is still frequently used in Sweden, and that according to the information contained in the State party's report,⁸ its use increased by 5 per cent between 2014 to 2017. Nevertheless, the Committee notes as a positive development that maximum time limits for pretrial detention are now stipulated in law – nine months for adults and three months for minors – with any further extensions permitted only in exceptional circumstances, and that a decrease in pretrial detention would therefore likely be observed in the coming years. The Committee also notes the State party's assertion that detention and restrictions should only be used when necessary and proportionate and that the reasons for the detention should be reviewed regularly. In that connection, the Committee notes the information provided by the State party's delegation that, in recent years, efforts had been made in the area of restrictions for remand prisoners, including the drafting of a bill containing proposals on how to limit restrictions and shorten detention periods. The Committee also welcomes the ongoing work to digitalize records in the context of measures taken to reduce the negative effects of isolation in detention, and notes that this work should also improve overall data collection (arts. 11 and 16).

14. The State party should use pretrial detention as a measure of last resort, in particular for minors. It recommends that the State party: (a) consider alternative measures to reduce the use of pretrial detention, and ensure that all decisions imposing such detention are based on objective criteria and supporting facts; (b) introduce systematic collection of data on the use of restraints and coercive measures in prisons and pretrial detention; and (c) continue its efforts to assess the use of pretrial detention, with a view to revising the regulations governing such detention and adopting the measures, including with respect to training for judges, necessary to ensure that pretrial detention is imposed only exceptionally and for limited periods, and to promote the use of alternatives to pretrial detention, such as electronic monitoring.

Imposition of restrictions, including solitary confinement

15. The Committee remains concerned that solitary confinement still remains in frequent use. However, it notes legislative progress in this regard, in particular with respect to the limits in place for minors and legislation giving children under the age of 18 the right to associate with others for four hours per day. Moreover, the Swedish Prosecution Authority is working with the Prison and Probation Service to limit solitary confinement measures in pretrial detention. The Service has developed a special handbook on association with other inmates and segregation in remand prison, and allocated personnel resources to facilitate day-to-day work with regard to isolation-breaking measures (arts. 11 and 16).

16. The State party should:

(a) Use restrictions on remand prisoners only as an exceptional measure based on concrete individual grounds, only when strictly necessary in the interest of criminal investigations or order and security;

(b) Abolish the use of solitary confinement for minors, and adopt legislation to enable adult detainees to associate with others in alignment with legislation for minors;

(c) Carry out thorough investigations of incidents of suicide or suicide attempts, and ascertain 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.

⁸ CAT/C/SWE/8, table 7.

Detention of asylum seekers

17. While welcoming certain safeguards included in the Aliens Act, in particular with regard to children, the Committee remains concerned that: (a) the use of detention remains, in practice; (b) there are reports that the detention of asylum seekers is not always used only as a measure of last resort and that the limitations are not consistently for the shortest possible time; and (c) some asylum seekers are still placed in remand prisons for security or other exceptional reasons (arts. 11 and 16).

18. The Committee notes that the temporary act of 2016 governing asylum seekers is no longer in force, replaced by amendments to the Aliens Act in July 2021. It also notes that there are specific obligations mentioned in the Act with regard to the Convention on the Rights of the Child and the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights); however, many of the provisions of the temporary act remain in force.

19. The Committee welcomes the establishment by the Migration Agency of a database on jurisprudence, which includes case summaries from the Committee against Torture. The Committee is encouraged that the Swedish Red Cross will provide a training programme for Migration Agency personnel on the identification of torture and trauma victims. It notes that improvements have been made to migration detention facilities. It also notes that Sweden does not accept asylum claims at its diplomatic missions overseas but accepts resettled refugees through the resettlement programme of the Office of the United Nations High Commissioner for Refugees.

20. The State party should take all measures necessary to ensure that the detention of asylum seekers is used only as a last resort and, where necessary, for as short a period as possible, the duration of which should be prescribed by law, and without excessive restrictions. The Committee recommends that appropriate measures be implemented to guarantee the right to seek asylum and to ensure the fulfilment of obligations under article 3 of the Convention for asylum seekers in difficult circumstances.

Non-refoulement

21. The Committee takes note of the information provided by the delegation that there is a regular review of international case law, in particular that of the European Union and the United Nations, by State officials concerning issues related to asylum and non-refoulement. The Committee also welcomes the State party's practice of not accepting diplomatic assurances from other States parties regarding safe return (art. 3).

22. The State party should:

(a) **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;**

(b) **Ensure that all credibility assessments are undertaken by trained professionals in a non-arbitrary way, and also ensure the identification of torture victims;**

(c) **Ensure that all foreign nationals at risk of deportation are able to seek an independent and effective individual review of the deportation decision, with automatic suspensive effect;**

(d) **Refrain from deporting foreigners to countries of origin in which the presence of armed conflict with widespread civilian casualties and the absence of the rule of law, in practice, strongly indicate that those persons would be subjected to torture or ill-treatment upon their return.**

Coronavirus disease (COVID-19) and detention

23. With respect to COVID-19 pandemic measures in remand facilities and the wider penal system, the Committee notes that the infection rate has been relatively low, and that no deaths have been reported. It also notes that all inmates have been, and will continue to be,

offered vaccines against COVID-19. The Committee further notes reports that there was a lack of personal protective equipment in detention facilities at the outset of the pandemic and that restrictions had been imposed on day releases. The Committee further notes that compensatory measures were put in place to mitigate the situation, including the possibility for detainees to have video calls with family members. At no stage was access to legal counsel, State officials or medical care suspended (arts. 11 and 16).

24. The State party should:

- (a) **Ensure that all prisoners and detainees continue to be offered COVID-19 vaccines;**
- (b) **Integrate lessons learned from the COVID-19 pandemic by trying to limit detention and prison admissions and making greater use of non-custodial measures, such as alternatives to remand prison, parole and early release, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).**

Unaccompanied and undocumented children

25. The Committee takes note of the additional resources provided to municipalities receiving unaccompanied minors and measures taken to combat trafficking. However, the Committee remains concerned at the vulnerable situation of unaccompanied asylum-seeking minors, the children of immigrants in an irregular situation, and undocumented children (art. 16).

26. The State party should strengthen protection measures for unaccompanied and undocumented children seeking asylum and migrant children, including improved monitoring of the persons into whose care a child is placed and collection of data on all placements.

Use of coercive and intrusive measures in psychiatric hospitals

27. The Committee is concerned at reports by the Parliamentary Ombudsmen and non-governmental organizations that some young people in residential care are exposed to violence by staff, including reports that children can be restrained for long periods of time. It is also concerned at reports that staff are not sufficiently trained and that children suffer physical and mental harm. The Committee notes the Government's concern regarding these allegations and appreciates its commitment to investigate further (art. 12).

28. The Committee values the steps taken by the Government to reduce the use of coercive measures, including allocation of funding and training of staff, to ensure the safety of patients, including minors in psychiatric institutions and hospitals. However, the Committee remains concerned about:

- (a) The continued use of coercive and intrusive measures, such as physical restraints and solitary confinement, including for young patients;
- (b) The lack, to date, of a comprehensive collection of data on coercive measures used, for example on restraints (art. 16).

29. The State party should:

- (a) **Use restraints and solitary confinement as a measure of last resort, for the shortest possible time and under strict medical supervision;**
- (b) **Ensure ongoing monitoring of the conditions in psychiatric institutions;**
- (c) **Continue to train all medical and non-medical staff on methods of non-violent and non-coercive care;**
- (d) **Ensure the comprehensive and systematized collection of data on coercive measures used.**

Investigations

30. While acknowledging that a special investigations department was established in 2015 as an independent body within the Police Authority, with the mandate to independently conduct investigative work and gather information in cases of allegations of ill-treatment and excessive use of force by police officials, the Committee remains concerned about the perceived lack of independence of the department. In this regard, the Committee takes note of the explanations offered by the State party's delegation regarding the safeguards in place to ensure the independence of the department, in particular that the department's budget and caseload had increased annually since 2016 and that there are no plans to change the current structure of the department, which includes a staffing structure that is separate from the Police Authority. The Committee notes the five specific outcomes of investigations conducted by the special investigations department that were highlighted by the delegation (arts. 12–13 and 16).

31. The Committee urges the State party to continue to ensure prompt, impartial and effective investigation by the special investigations department into all allegations of ill-treatment and excessive use of force by law enforcement officials and to review possible changes that could be made to address any perceived lack of independence.

Hate crimes

32. While acknowledging the legislative and other measures taken by the State party to combat hate crime, such as the national plan to combat racism, published in February 2017, the Police Authority's assessments of threats to religious buildings and communities, a forum on holocaust remembrance and combating antisemitism, and new pledges to encourage the remembrance of the Holocaust and to combat antisemitism, anti-Gypsyism and other forms of racism (art. 16), the Committee is concerned by reports it has received regarding threats to minorities and marginalized individuals.

33. The Committee recalls its position that the special protection of minorities or marginalized individuals or religious groups especially at risk is a part of the obligation of the State party to prevent torture or ill-treatment.⁹ In this respect, the State party should continue its efforts to prevent and prosecute criminal acts motivated by discrimination, intolerance, hatred or negative stereotype by:

(a) **Ensuring effective investigation, prosecution and punishment of perpetrators;**

(b) **Collecting detailed information and statistics on the number and type of hate crimes, on the administrative and judicial measures taken to investigate and prosecute such crimes and on the sentences imposed.**

Gender-based violence

34. The Committee welcomes the broader legal definition of consent in rape cases and increases in the minimum penalty for sexual abuse and gross sexual abuse. It also notes that stricter penalties came into force on 1 July 2017 for certain serious violent offences. The legislative amendments included tougher scales of penalties for offences under the act prohibiting the genital mutilation of women (1982:316). The Committee notes reports that the numbers of domestic abuse crimes and sexual offences are increasing, while low prosecution and conviction rates in these cases have been recorded. The Committee is concerned about sexual and gender-based violence against women refugees and asylum-seeking women. (arts. 2, 4, 12–13 and 16).

35. The State party should continue its ongoing efforts to combat all forms of violence against women, including domestic violence and rape, especially in cases involving actions or omissions by State authorities or other entities which engage the international responsibility of the State party under the Convention. In particular, it should:

⁹ General comment No. 2 (2007), para. 21.

- (a) **Review the system for receiving and dealing with such complaints to ensure a gender-sensitive response;**
- (b) **Ensure adequate protection and assistance for the victims;**
- (c) **Improve support for victims and family members whose identity is protected following trials;**
- (d) **Ensure that all cases are thoroughly investigated, that the alleged perpetrators are prosecuted and, if convicted, punished appropriately, and that the victims or their families receive redress, including adequate compensation and appropriate rehabilitation;**
- (e) **Continue to provide ongoing training on gender-based violence and domestic violence issues for law enforcement personnel, judges, lawyers, medical personnel and social workers who interact with alleged and actual victims, in order to prevent and prosecute cases of gender-based violence.**

Trafficking in persons

36. While taking note of the significant efforts made by the State party to combat trafficking in persons and to assist victims of trafficking since the previous review period, the Committee regrets the lack of standardized data. The Committee notes that the statistical information provided on the number of offences, investigated offences, prosecutions initiated and conviction decisions indicates that the rise in investigations and prosecutions is not proportionate to the rise in reported offences. It also notes that the figures on prosecutions initiated and convictions appear relatively low (arts. 2, 12–14 and 16).

37. **The State party should enhance its efforts to combat trafficking in persons by prosecuting and punishing perpetrators, providing adequate protection and redress to the victims and preventing the return of trafficked persons to their countries of origin where there is a substantial ground to believe that they would be in danger of torture or ill-treatment.**

Training

38. The Committee acknowledges the efforts made by the State party to develop and implement, and allocate resources for, human rights training programmes for law enforcement officials, military personnel, the coast guard and officials in the Migration Agency, including those deployed internationally, that contain modules on international law and interviewing techniques. Nonetheless, it is concerned by the lack of information on evaluations of the impact of those programmes, as well as the lack of specific training on the content of the Convention.

39. The Committee also regrets the lack of specific training provided to law enforcement officials, judges, prosecutors, forensic doctors and medical personnel dealing with detained persons on how to detect and document physical and psychological sequelae of torture and ill-treatment (art. 10).

40. **The State party should:**

- (a) **Further develop mandatory training programmes to ensure that all public officials are well acquainted with the provisions of the Convention;**
- (b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Protocol);**
- (c) **Develop a methodology for assessing the effectiveness of training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation and investigation of such acts, as well as the prosecution of those responsible;**
- (d) **Highlight best practices in training nationally and internationally and the sharing of expertise.**

Data collection

41. While noting that some statistics have been provided and that progress on digitalization is being made at the national, regional and local levels, which should lead to more effective data collection, the Committee regrets the continued overall lack of comprehensive and disaggregated data, which has made it somewhat challenging for the Committee to monitor and assess the implementation of the Convention by the State party at the national level (arts. 2, 12–14 and 16).

42. The State party should ensure that its new digital systems have the capacity to compile statistical data on the length of pretrial detention, solitary confinement, use of force, and complaints, investigations, prosecutions and convictions in cases of torture and ill-treatment by law enforcement and prison personnel; on gender-based violence, including domestic violence and trafficking; on hate crimes; on the use of coercive measures; and on the means of redress provided to victims, including compensation and rehabilitation.

Redress, including compensation

43. The Committee takes note of the extensive information provided by the State party's delegation indicating that legislative arrangements regarding redress are in compliance with the requirements under the Convention. It also appreciates the information provided on five cases of investigation undertaken by the special investigations department, of which four concerned police officers or custody guards and one concerned a prison officer, between 2018 and 2020. Nevertheless, it observes the need for ongoing systematic documentation of redress and compensation awards, for example on the number of requests for compensation, the number of cases where compensation has been granted, and the amounts ordered and provided in each case, in order to facilitate assessment of the situation in a comprehensive manner (art. 14).

44. The State party should ensure comprehensive data collection on all redress, including compensation and rehabilitation, provided in cases pertaining to the Convention and ensure this information is readily available.

Follow-up procedure

45. The Committee requests the State party to provide, by 3 December 2022, information on follow-up to the Committee's recommendations on the definition and criminalization of torture, on the imposition of restrictions, including solitary confinement, and on ensuring identification of torture victims in deportation proceedings, individual review of deportation decisions, and non-refoulement (see paras. 10, 16 and 22 above). In that context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations of the concluding observations.

Other issues

46. The State party is requested to widely disseminate the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations and to inform the Committee about its dissemination activities.

47. The Committee requests the State party to submit its next periodic report, which will be its ninth, by 3 December 2025. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The State party's replies to that list of issues will constitute its ninth periodic report under article 19 of the Convention.