



Church of Sweden 

Joint Written submission by Church of Sweden* and the Christian Council of Sweden** for Sweden's Third Universal Periodic Review

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* Church of Sweden is an evangelical Lutheran Church with around 6 million members. It has a three-fold structure – at the local, regional (diocesan) and national level. As a part of its mission, CoS works with i.e. Human Rights issues, national minorities and indigenous people, contacts with civil society, policy issues and sustainability.

** The Christian Council of Sweden is a platform for 29 churches and Christian denominations. The churches are working together in faith and action in different areas on Christian values and human rights, especially in order to give voice to the voiceless. As an ecumenical organisation the CCS takes responsibility in coordinating the chaplaincy work among prisoners and arrested.

I. Summary

1. Church of Sweden, (hereinafter CoS) is a faith-based organization. The Christian Council of Sweden (hereinafter CCS) is a platform for churches. The work of CoS and CCS is based on a Christian view of the human being, which defends the inherent dignity of every person, as all humans are created as an image of God. Human rights are a concrete manifestation of human dignity. Therefore, CoS believes that it is a Christian duty to safeguard human rights and avoid their violation, as well as to work towards upholding them.
2. Sweden has a longstanding commitment to human rights and has ratified the main international instruments enshrining FoRB. During the previous UPR-cycle, Sweden accepted 24 out of 27 recommendations relevant for FoRB. Among these were recommendations on hate crimes, racism and harassment due to ethnicity and religious reasons against individuals belonging to certain religious groups as well as towards the groups as such, in particular Jews and Muslims; as well as other cases of discrimination and prejudice of individuals by reason of their ethnicity and religion.¹
3. According to its national mid-term report (8 May 2018), Sweden has adopted a number of measures against racism, hate crimes and discrimination against national minorities. Despite those measures, CoS and CCS note that many challenges related to FoRB addressed during the previous UPR-cycle still remain and have an impact on many Swedes. For this reason, CoS and CCS are convinced of the need for Member States to reiterate previous recommendations on FoRB as well as propose new ones on this particular topic.
4. CoS and CCS are concerned about the extended praxis of considering converted asylum seekers as not genuine Christian and the consequent denial of their asylum-claims. These asylum-seekers risk deportation to their country of origin and, in most cases, also persecution due to their new religion, which eventually would amount to a breach of the principle of *non-refoulement* and customary international law binding upon Sweden.
5. CoS and CCS would like to emphasise that the right of the child to family life, including access to family reunification is a human right. A clear policy ensuring to harmonise the newly extended Swedish Act of Provisional Limitations of the Possibility to obtain Residence Permit in Sweden from 2016 with its international human rights obligations is still a pending issue for the Swedish Government.
6. For many years the Sami people in Sweden have unsuccessfully requested the Swedish state to identify and make an inventory of Sami human remains aiming to their repatriation and reburial. Although the state has made certain inventories, remains have only been repatriated to the Sami in a few cases. CoS and CCS believe the state should take its responsibility in this matter by the repatriation of all human remains and the celebration of conciliation ceremonies of reburial in accordance to relevant Sami traditions.

II. Freedom of Religion and Belief

7. Protection of FoRB in Sweden is not provided by a sole law, but divided into different legal provisions, e.g. the Swedish Constitution - Regeringsformen (1974:152, Chapter 2, 1 § 6); the Swedish Discrimination Act (2008:567, Chapter 1, 1 §) and the Penal Code in the case of hate crimes and punishable discrimination (1962:700 Chapter 16, 8 and 9 §§).
8. During its previous Universal Periodic Review, (UPR) in January 2015, Sweden received 27 recommendations from different Member States, specifically referring to issues of

¹ For further information on the recommendations accepted by Sweden, see Sweden's national mid-term report, Chapter 11, Appendix, 8 May 2018.

discrimination and hate crimes against religious groups or minorities, urging Sweden to take measures to fight those crimes. Sweden accepted 24 of them.

III. Discrimination, harassment and hate crime against religious and ethnical minority groups

9. In its Mid-Term Report, Sweden informed on measures taken to address discrimination and harassment against minorities, including amendments to the Discrimination Act.² However, despite specific recommendations on addressing this topic, that report did not include information on any concrete measures that specifically address fighting discrimination and harassment against persons on the basis of FoRB. Discrimination, harassment and hate crimes due to religious issues was only addressed as part of Sweden's strategy on ethnicity or racial minorities. This indirect approach to FoRB-based discrimination and harassment is not comprehensive and, consequently, risks to be ineffective.
10. The Joint Submission for Sweden's Third Universal Periodic Review in 2020, coordinated by the United Association of Sweden of June 2019 -also supported by CoS- includes a general analysis of hate crime, racist hate speech and racist and extremist organisations. Nevertheless, no considerations are made on violation of FoRB as a specific human rights violation.
11. In addition to the situation described by the aforementioned civil society Joint Submission, it is generally perceived that persons belonging to religious groups, namely Muslims and Jews, are exposed to specific FoRB-based discrimination, harassment and hate crime in Swedish society.
12. Since 2017, the Swedish Equality Ombudsman has received 490 discrimination complaints on grounds of religion or other belief, which is 7.5 per cent of the total complaints received by that Authority. The workplace was identified by the claimants as the most common environment for discrimination or harassment based on FoRB, followed by schools or educational establishments, where reported cases concerned children and other students. As official data clearly confirm, discrimination and harassment based on religion or belief is an actual problem affecting many right-holders in Sweden.

13. Possible recommendations:

- **Ensure that Freedom of Religion and Belief is addressed comprehensively and not subsumed in general anti-discriminatory measures by including it as a specific ground for discrimination in Governmental analysis and the implementation of related policies, according to Sweden's international commitments based on previous UPR recommendations.**
- **Continue strengthening efforts to combat religious intolerance in law and practice.**
- **Pursue strategies and policies to prevent specific religiously motivated discrimination against Muslims, Jews and other religious minorities in all spheres of public life, including the workplace and schools.**
- **Fight impunity on hate crimes and discrimination of religious minority groups, by effective investigation, prosecution and punishment.**
- **Continue efforts to promote respect, protection and fulfilment of religious, cultural and linguistic diversity in Swedish society.**

² Idem, Section 1.2.

- **Increase knowledge and expertise on the application and implementation of legislation on religiously motivated hate crimes and discrimination of persons due to their religion or belief.**
- **Strengthen the capacity of public servants when it comes to Swedish legislation on religiously motivated hate crimes and discrimination of persons due to their religion or belief, to respond to those cases more effectively.**

IV. Asylum on grounds of religion – the question of Christian converts

14. In its Mid-Term Report, Sweden has not specifically mentioned the issue of refugees nor asylum-seekers, but accepted several recommendations on the issue.
15. The Joint Submission for Sweden's Third Universal Periodic Review in 2020, coordinated by the United Association of Sweden, addresses the current situation for asylum-seekers in Sweden, including a general description of problems related to access to health and widespread social discrimination.
16. The number of asylum-seekers arriving to Sweden peaked in 2015, following the trend observed in Europe. Together with civil society, CoS played a major role in the reception of asylum-seekers.³ Once in Sweden, a significant number of Muslim asylum-seekers from Asia have converted from Islam to Christianity and claimed asylum based on religion *sur place*.
17. The right to freedom of thought, conscience and religion is recognised and protected by international human rights law. It includes not only the freedom of having or adopting a religion or belief of one's choice without coercion, but also the right of leaving one's current religion or changing to another religion or belief.⁴
18. According to UNHCR, asylum applications based on religion can be among the most complex, and credibility becomes a central issue in religion-based asylum processes.⁵
19. The religion-based asylum process in Sweden faces significant challenges and risks to fail to comply with relevant international human rights standards. As other churches in Sweden, CoS has received an increasing number of testimonies from priests from all over the country pointing at repeated flaws in the asylum procedure before the Swedish Migration Agency (MA). According to these testimonies, MA tends to lay excessive focus on the asylum seekers' intellectual ability to reason and make individual reflections on their declared religious belief rather than focusing on the individual's own way of experiencing their declared religious belief which becomes detrimental to many asylum-seekers, mostly to those who have a lower educational level.
20. Other frequent problems faced by religion *sur place* asylum processes are the harmful consequences of systematic inaccurate translation. A significant number of the legal interpreters used by MA make continuous errors, lack sufficient knowledge or use wrong references to Christian terms, which plays against the asylum seeker's credibility before the MA. In addition to this, the credibility assessments made by the MA case officers are often based on the officers' own subjective understanding or perceptions on Christian religion rather than on current research on religion and conversion.
21. Another problem in the asylum process consists in the manner in which MA case officers apply available national guidelines on the asylum process, disregarding or attaching

³ <https://www.svenskakyrkan.se/analys/time-of-encounters>

⁴ See, for instance, ICCPR, art. 18; ECHR art. 9; CRC, art. 14 and EU Charter of Fundamental Rights, art. 10.

⁵ <https://www.unhcr.org/publications/legal/40d8427a4/guidelines-international-protection-6-religion-based-refugee-claims-under.html>

unreasonably low weight to the written statements and testimonies from Churches certifying the seriousness of a particular asylum seeker's conversion.⁶

22. In association with other churches, CoS and CCS have raised concerns before the Swedish Government and the MA against the extended praxis of considering converted asylum seekers as not genuinely Christian and the consequent denial of their asylum-claims. MA's decisions regarding asylum based on religion *sur place* risk to become arbitrary, since they are solely based on the individual assessment by the migration case officers, disregarding the official certification by the Church recognising a particular individual as member of the Church and, consequently, as a genuine Christian.⁷ Due to the denial of their asylum applications, these particular asylum-seekers risk deportation to their country of origin and, in most cases, also persecution due to their new religion, which eventually would amount to a breach of the principle of *non-refoulement* and customary international law binding upon Sweden.
23. On 14 March 2019, the Swedish Government decided to adjust its policy guidelines to the Migration Agency, instructing it to ensure legal quality and uniform application of the law in asylum cases based on religious conviction.⁸ CoS acknowledges this as a positive step, but considers that stronger measures still must be taken by the Swedish government to ensure that the right of the individual to change religion and the principle of *non-refoulement* is effectively upheld.

24. Possible recommendations:

- **Take effective measures to harmonise the credibility assessment made by Swedish migration authorities in cases of religious motivated asylum applications with the relevant UNHCR guidelines.**
- **Ensure that interpreters used by the Swedish Migration Agency are certified by competent national authorities for interpreters, including their expertise in relevant terminology in order to avoid faulty assessment/decisions, and in summary, ensure the interpreters act professionally and with objectivity.**
- **Ensure that interpreters used by the Swedish Migration Agency are properly certified and thereby skilled in relevant religious terminology in order to guarantee that interpreters accurately and objectively transmit the asylum applicant's statements in their communication with the authorities during asylum processes.**
- **Increase asylum case official's knowledge and expertise on the application and implementation of migration legislation in order to ensure that the evidence assessment of written evidence, i.e. statements from churches, are given proper relevance as a proof in the migration process.**
- **Take measures to effectively protect asylum seekers' human right to leave their present religion, or change their religion for another religion or for a non-religious one, without risking persecution in their home country, upholding the principle of *non-refoulement*.**

⁶ <https://lifos.migrationsverket.se/dokument?documentSummaryId=42454> 3.3.4

⁷ See press release from CCS: <https://www.skr.org/pressmeddelande/kyrkoledare-samtalade-om-konvertiter-med-morgan-johansson/>

⁸ The Government's annual instruction letter to the Swedish Migration Agency 2019, see page 3, point 6, special aims within the asylum process: <https://www.esv.se/statsliggaren/regleringsbrev/?RBID=19895>

V. Asylum-seeking children's right to family life and reunification

25. In its Mid-Term Report (p. 17), Sweden informed about the Rights of the Child and the implementation of accepted recommendations on the incorporation of the International Convention on the Rights of the Child, CRC, into domestic legislation. Sweden also accepted recommendations urging Sweden to consider a ratification of the third optional protocol to the CRC, as well as the recommendation⁹ on prioritizing family member tracing when dealing with asylum-seeking unaccompanied children and ensure all relevant processes are in the child's best interests. Although, Sweden has not specifically mentioned the issue of refugees nor asylum-seekers.
26. Regarding the existing problems in the asylum process for asylum-seeking minors, CoS wishes to lay special focus on the right of the child to a family life, which includes the right to family reunification in Sweden for asylum seeking families in those cases when a parent has arrived alone to Sweden and left his or her family behind.¹⁰
27. On 18 June 2019, the Swedish Parliament extended the application period of the Swedish Act of Provisional Limitations of the Possibility to obtain Residence Permit in Sweden from 2016 (2016:752), hereinafter called the Provisional Act¹¹, until 19 July 2021. According to its original provisions, this Act restricted family reunification to persons granted refugee status, and excluded cases concerning persons granted subsidiary protection status in Sweden from the right to family reunification. As a consequence of such provisions, many persons were denied the possibilities of legal reunification with their minor children and partners that still remained in their country of origin, in most cases for several years.
28. CoS and CCS welcome the recent amendment made by the Government to the Provisional Act, allowing also persons with subsidiary protection status to accede to family reunification. We believe this change is a response to urgent legal and humanitarian challenges, but falls short to meet current needs in his topic. According to the Swedish Refugee Law Center,¹² the main reason to restore family reunification in a wider range of cases, is a ruling by the Swedish Migration Court of Appeal (MIG 2018:20, p. 13 ss.) in which the Court stated that by not granting family reunification (to the parents and sibling of a minor with temporary residence permit in Sweden) Sweden would fail to comply with relevant international human rights standards binding upon the state, in particular the European Convention on Human Rights (ECHR) art. 8, and several provisions from the UN Convention on the Rights of the Child (CRC). Based upon that ruling, it could be affirmed that family reunification is a necessary measure to ensure for Sweden, in order to comply with its International human rights obligations on the issue.¹³
29. Nevertheless, we note that the amended Provisional Act still contains significant barriers hindering family reunification in all cases.¹⁴ Given its practical impact, we would like to bring to attention the requirement placed upon the applicant to demonstrate sufficient financial

⁹ Recommendation by the United Kingdom, A/HRC/29/13, 145.136, 2nd UPR cycle

¹⁰ For General analysis on problems related to the rights of the child in Sweden, see Joint Submission for Sweden's Third Universal Periodic Review in 2020, coordinated by the United Nations Association of Sweden

¹¹ In Swedish, "Lagen om tillfälliga begränsningar av möjligheten att få uppehållstillstånd i Sverige")

¹² <https://sweref.org/kommentar-till-forlangningen-av-den-tillfalliga-lagen/>

¹³ For further information, see the analysis by the Swedish Refugee Law Center after the approval of the extension of the Provisional Act on the issue: <https://sweref.org/migrationsrattens-framtid-en-redogorelse-de-juridiska-riskerna-med-att-forlanga-den-tillfalliga-lagen/>

¹⁴ For further information, see CoS referral of report for consideration to the Justice Department on the extension of the Provisional Act: <https://www.svenskakyrkan.se/nyheter/yttrande-om-forlangning-av-den-tillfalliga-lagen> See also the op-ed published in the newspaper Göteborgs-Posten on 17 June 2019 by several civil society organizations and churches criticizing the extension of the Provisional Act: <https://www.gp.se/debatt/l%C3%A5t-den-tillf%C3%A4lliga-asyllagen-bli-just-tillf%C3%A4llig-1.15670172>

means to fully maintain –according to Swedish standards- all family members as a precondition for family reunification, which in practice is usually an extremely difficult condition to meet for most applicants. In addition to the financial means, the Act provides only a three month period for the applicants to request an exception to this rule, which many do not get to know about in time.

30. CoS and CCS would like to emphasise that the right of the child to family life, including access to family reunification is a human right solidly protected by human rights law binding upon Sweden, e.g. ICCPR (article 23 and rights of the Child, article 24) and ECHR (article 8). This human right is also enshrined in the CRC, which soon shall be directly applicable as a national law in Sweden. According to the CRC, in all actions concerning children by *inter alia* legislative bodies, the best interests of the child shall be a primary consideration (art. 3.1), for which States Parties shall ensure that a child shall not be separated from his or her parents against their will (art. 9.1). A clear policy ensuring to harmonise the newly extended provisional Act with its international human rights obligations is still a pending issue for the Swedish Government.
31. Based on the above, CoS and CCS consider that Sweden must take additional measures in order to guarantee a child's right to family life and to family reunification with its family in Sweden.¹⁵

32. Possible recommendations:

- **Harmonise the Amended Provisional Act, particularly its current requirements for family reunification, with the human rights obligations binding upon Sweden to uphold the rights of the child enshrined in the CRC, and in particular with the best interests of the child and right of the child not to be separated from its parent against their will.**
- **Guarantee the right of the child to reunification with his or her family in Sweden in accordance with current international conventional obligations of Sweden.**
- **Take legal measures in order to limit the effects of the financial requirement so it will not apply for persons with refugee status or subsidiary protection status in Sweden who are applying for family reunification with their minor children, based on the principle of the right of the child not to be separated from its parent against their will and the best interests of the child.**

¹⁵ For further information, see the op-ed by CCS in Aftonbladet, 21 June 2018:
<https://www.aftonbladet.se/debatt/a/wEQPOM/vi-ser-dagligen-hur-familjer-slits-isar>

VI. Minorities and indigenous rights

33. In its Mid-Term Report, Sweden included information related to the implementation of recommendations concerning the human rights of minorities and indigenous, in particular about the rights of the Sami people (see p. 9). In particular, Sweden committed to conducting a deeper dialogue with the Sami Parliament and strengthen Sami self-determination, as well as taking measures to consult the Sami people in matters concerning land and water management. Sweden was also recommended by several states to ratify the Convention concerning Indigenous and Tribal peoples in Independent Countries (ILO 169).
34. The Joint Submission for Sweden's Third Universal Periodic Review in 2020, coordinated by the United Nations Association of Sweden, addresses the current situation for the Sami people in Sweden. In addition to recommendations already included in the Joint Submission, and laying a particular focus on the recommendation to give protection to Sami languages and cultural heritage, CoS would like to present some additional observations concerning the right to repatriation of human remains of persons belonging to the Sami people, prior to proposing specific recommendations on this topic.
35. The United Nations Declaration on the Rights of Indigenous Peoples (A/61/295 of 13 September 2007, UN DRIPS), supported by Sweden, recognises e.g. the right of indigenous peoples to repatriation of their human remains in its article 12.¹⁶ Although non-binding, said Declaration sets out international human rights standards for indigenous people's rights:

“Article 12. 1. Indigenous peoples have the right to manifest, practice, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains. 2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.”
36. To date, human remains belonging to the Sami people are still held by eleven state-owned museums in Sweden and considered by Swedish law to be state-owned movable property. In addition to these collections, there are also undisclosed inventories kept by private museums and institutions. Sami people remains were collected through exhumations, barter or purchased (including demanded by craniologists abroad), and often were obtained through illegal grave plundering in particular during the 19th Century, a practice that even occurred during the early 20th Century in Sweden, when remains of the Sami people were given commercial value. The interest on Sami people remains was built upon a racial ideology predominating in Sweden until the late 1930s, according to which the Sami were labelled and treated as an inferior race¹⁷, legitimising widespread discrimination, marginalisation, social and cultural oppression against the Sami people in Sweden.¹⁸
37. Since 2007, the Sami Parliament (Sametinget) has consistently and unsuccessfully requested the Swedish state to take its responsibility in this matter and explain why the remains became part of museum collections, as well as to repatriate their ancestors' remains. Swedish politicians have publicly apologised for this practice, but scientific investigations on skulls from the ancient settling Rounala, (current Kiruna, in northern Sweden) have continued without disruption to date. These remains are still deposited in the Ájtte museum in

¹⁶ https://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

¹⁷ <https://www.dn.se/debatt/krav-pa-aterlamnande-av-kvarlevor-maste-respekteras/> Op-ed by the Swedish Archbishop and Sami representatives in one of the main Swedish newspapers.

¹⁸ <https://www.svenskakyrkan.se/filer/Band%202.pdf> See more in this issue, in the Church of Sweden White book on the Sami, Book II, p. 994, Article by Carl-Gösta Ojala, “Svenska kyrkan och samiska mänskliga kvarlevor” (Church of Sweden and Sami Human Remains)

Jokkmokk, in accordance with the Swedish Government decision to reject their repatriation to the Sami.¹⁹

38. The Sami have demanded the Swedish state to identify and inventory the Sami human remains aiming to their repatriation and reburial. Although the state has made certain inventories, remains have only been repatriated to the Sami in few cases.
39. In November 2017 and in April 2019, CoS has invited representatives from the Sami parliament, the Swedish Ministry of Culture, museum representatives and other public authorities to round table dialogues on repatriation of Sami people human remains. According to the Sami, the denial of repatriation of Sami remains is an open wound in their society, and a continued expression for the oppression of the Sami people. The dialogue shows that significant barriers for repatriation still exist, since each museum is said to bear individual responsibility on the issue as there is no compulsory nor joint regulation on the matter. The human remains deposited in Swedish museums and institutions are still state property.
40. According to the International Council for Museums, ICOM, Code of Ethics for Museums subscribed by all Swedish Museums, museums must work in close collaboration with the communities of origin of their collections. Should the belongings have been transferred in violation of the principles of international and national conventions, and shown to be part of that people's cultural heritage, the museum concerned should, if legally free to do so, take prompt and responsible steps to co-operate in its return (6.3 ICOM Code of Ethics for Museums).²⁰
41. On 9 August 2019, on the commemoration day of Indigenous Peoples, the Swedish municipality of Lycksele will hold a repatriation and reconciliation ceremony of Sami remains belonging to 25 individuals, returned in 2013 by the National Historical Museums in Stockholm to the regional Museum of Västerbotten, in northern Sweden. These remains had been exhumed during the 1950s and stored in cellars during decades.²¹
42. Although an important step towards a hopefully more positive State practice, CoS and CCS consider that the Lycksele ceremony, which is a part of a special joint project, is still not sufficient to uphold the Sami people's right to get Sami human remains repatriated.

43. Possible recommendations:

- **Harmonise current domestic law, as well as enact and enforce relevant domestic law for ensuring repatriation and reburial of all Sami human remains, ensuring the Sami's meaningful participation in any process concerning the repatriation of Sami remains.**
- **Guarantee prompt repatriation of all Sami human remains held by the Swedish State to the Sami people, according to International law obligations and in particular, the mentioned article 12 of UN DRIPS.**
- **Provide effective reparations, including satisfaction and guarantees of non-recurrence, to the Sami people for the systematic seizure of Sami human remains by namely the repatriation of all human remains and the celebration of conciliation**

¹⁹ The Swedish laws regulating these issues, The Museum Act (2017:563) and its enforcing regulation "Museiförordningen" (2017:564) restrict the possibility of donating museum objects to others than to public activity (5 §), other private museums, or to cultural heritage activities (6 §). This regulation, together with other acts as the Funeral Act and its regulation and the Cultural Environmental act (1988:950) (Kulturmiljölagen) makes the possibilities of returning human remains to the Sami more difficult.

²⁰ <http://archives.icom.museum/ethics.html#intro>

²¹ <http://www.lycksele.se/kommun-och-politik/projekt-och-samarbete/repatriering/>

ceremonies of reburial in accordance to relevant Sami traditions, such as the ceremony of Lycksele.