

Several landmark decisions and discussions on principally important human rights issues characterized developments in Sweden in 2006.

The Swedish government presented its second National Action Plan for Human Rights¹, which primarily focused on combating racism and xenophobia but also brought attention to other issues, such as the rights of the disabled; the rights of the child; national minorities and the Sami; human trafficking; violence in the name of honor; and the right to work, housing, health and education. At the time of adoption of the plan of action, the government also established a temporary Delegation for Human Rights.

The United Nations (UN) Special Rapporteurs on the right to health, on violence against women, and on torture, Paul Hunt, Yakin Atatürk, and Manfred Nowak, respectively, visited Sweden,² while the UN Human Rights Committee,³ the UN Committee against Torture⁴ and the European Court of Human Rights (ECtHR)⁵ decided upon cases concerning Sweden. In addition, Sweden submitted reports to four UN treaty bodies: the Committee against Torture; the Committee on Economic, Social and Cultural Rights; the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child regarding child soldiers.⁶ None of these reports were, however, examined in 2006. At the regional level, Sweden submitted regular state party reports to the Council of Europe concerning its implementation of the European Social Charter⁷ and the Convention on the Protection of National Minorities.⁸

Sweden supported the adoption of new UN human rights conventions and declarations, such as the Convention on the Rights of Persons with Disabilities, adopted on 13 November. It had, however, yet to sign and ratify several important treaties already in force, including the In-

ternational Convention on the Rights of All Migrant Workers and Their Families, the International Labour Organization (ILO) Convention Number 169 on the Rights of Indigenous People and Optional Protocol Number 12 to the European Convention for Human Rights (ECHR), which establishes a general prohibition against discrimination.

Anti-terrorism measures

The cases of Ahmed Agiza and Mohammed Alzery, two Egyptian nationals who in December 2001 were expelled from Sweden to Egypt with the assistance of the US Central Intelligence Agency (CIA) and thereafter handed over to Egyptian security forces,⁹ remained of concern. The attention given to these cases has been instrumental in exposing the post-September 11 practice of rendering terrorist suspects to countries where they are at risk of torture.

In February, the Secretary General of the Council of Europe Terry Davis requested all member states to report on any involvement by their officials in secret or unlawful detentions or transportations of individuals.¹⁰ The request for information only concerned developments as of 1 January 2002 - two weeks after Agiza and Alzery were returned to Egypt. This loophole was used by the Swedish government to avoid accounting for its cooperation with the CIA in the *refoulement* of Agiza and Alzery. However, Sweden was criticized for this case in a parallel investigation into CIA flights and secret detentions undertaken by the Parliamentary Assembly of the Council of Europe, led by the Swiss parliamentarian Dick Marty.¹¹ The European Parliament's Temporary Committee on the alleged use of European countries by the CIA for the transportation and illegal detention of prisoners (TDIP) also criticized Sweden in late 2006 for violations of the rights of the two Egyptians.¹²

In another major development, the UN Human Rights Committee made a decision in the case of *Mohammed Alzery v. Sweden* in October.¹³ The Swedish Helsinki Committee (SHC), who represented Alzery before the committee, argued that the Swedish authorities had violated article 7 (prohibition against torture) of the International Covenant for Civil and Political Rights (ICCPR) by expelling Alzery, using so-called diplomatic assurances and failing to ensure a prompt and independent investigation into allegations that Alzery was subjected to ill-treatment during the execution of the expulsion order.¹⁴ The SHC also claimed that the Swedish authorities had violated article 13 (the right to bring forward information against an expulsion and to appeal against an expulsion decision) and article 2 (the right to an effective remedy) of the ICCPR, as well as ICCPR Optional Protocol 1 (which grants individuals the right to submit complaints to the Human Rights Committee). SHC also argued that the expulsion would be a violation of article 14 since Sweden knew that there was a real risk that Alzery would not receive a fair trial upon return, and because the assurances would not protect him from such a violation.

In its decision, the Human Rights Committee held Sweden responsible for violations of article 7 of the ICCPR on three counts: for *refouling* Alzery, for the ill-treatment suffered by Alzery at Bromma airport and for failing to conduct a full criminal investigation into the circumstances of the expulsion. Sweden was, further, criticized for expelling Alzery without allowing him to appeal the expulsion decision or turn to the Human Rights Committee. The committee did, however, not find any violation of article 13 and did not consider it necessary to separately consider whether there had been a violation of article 14.

On 7 December, a dual Swedish-Moroccan citizen, Mohammed Moumou, was

included on the sanction's list managed by the UN Security Council Committee charged with blocking funding to the Al Qaida and the Talibans and associated organizations and individuals.¹⁵ He was the fourth Swedish citizen to be blacklisted by this committee; three others were included on the list in 2001. While two of these men were "de-listed" in 2002, one of them remained on the list until the summer of 2006, when his name was suddenly deleted from it. Prior to this, he had unsuccessfully turned to the European Community Court of First Instance, claiming that the listing violated his fundamental human rights.¹⁶ The new government that took office in Sweden after the September parliamentary elections claimed that the Swedish authorities had consistently criticized the lack of legal certainty of the UN sanctions list but nevertheless declared that the government did not oppose naming Moumou on the list. According to the SHC, the process for including individuals on the sanctions list did not meet requirements of legal certainty and due process since those listed had no right to access the evidence used against them as terrorist suspects or to contest or appeal this decision.¹⁷

Respect for private and family life

One of the most widely discussed human rights issues during the year was a number of government bills to extend the use of secret surveillance. The government, *inter alia*, proposed to allow telephone tapping for preventive reasons as well as for bugging of conversations with the help of hidden microphones. The proposal was criticized by NGOs, such as the SHC and the Swedish Bar, as well as by the Law Council¹⁸ and some parliamentarians raised privacy concerns with regard of the bill. Due to these concerns, on 31 May the parliament decided to postpone the decision on the bill by at least one year and insisted that safeguards against abuse of power be

introduced into the bill, including an obligation for police to inform those subject to secret surveillance whenever this is considered safe for investigative reasons. In November, such a proposal was put forward in a governmental report.

In a landmark case concerning private life and national security, the ECtHR examined the powers of the Swedish Security Police (Säpo) to compile, register and save information about individuals.¹⁹ The applicants – a journalist (and his diseased father), a peace activist, a political activist and a member of the European Parliament – had requested access to their files kept by Säpo but were refused on grounds of national security. Säpo had been collecting information about the applicants for many years although none of them had been considered to pose a threat to national security. The peace activist was allowed to see only documents concerning her compiled prior to 1976 but not a new file opened in 2001 following a bomb threat against her. The other applicants, who were members of left-wing parties and had openly criticized neo-Nazi groups, were only allowed to see parts of their files.

The ECtHR found that article 8 of the ECHR (right to respect for private and family life) was applicable in the case since the Säpo files concerned private life, but reached different conclusions with regard to different complainants: It held that maintaining a file on the peace activist did not violate article 8 since it was opened for the purpose of protecting her life, which was considered a legitimate aim. It found, however, that maintaining files on the other complainants was in violation of article 8 because this measure was not “necessary in a democratic society” - it had been undertaken merely because of their political activities for 30 years or more. As regards the refusal to grant the applicants full access to their files, the court did not find any violation of article 8 and accepted the

government’s reasons citing national security reasons. The court, further, found that the registration of information about the applicants had violated articles 10 (freedom of expression) and 11 (freedom of association and assembly) of the ECHR, since the information concerned political opinion, membership in political parties and political activities. In addition, it held that there had been a violation of article 13 (the right to an effective remedy) in particular since none of the relevant national authorities²⁰ were competent to order the deletion of the files.

International humanitarian law

Accountability for war crimes

Swedish legislation provides for universal jurisdiction over severe crimes but this jurisdiction has never been exercised on non-Swedish nationals.

On 10 January the conflict between diplomatic immunity and Sweden’s engagement in the fight against impunity became evident in the context of a joint Swedish and Russian military training called “Snowflake.” Russia sent Lieutenant General Vjatjeslav Ivanovič Sucharev, against whom there were convincing evidence of being responsible for war crimes in Chechnya. The SHC reported Sucharev to the police but, following consultations with the Ministry for Foreign Affairs, the prosecutor’s office decided not to proceed with an investigation or to prosecute.²¹

In the fall of 2006, Swedish courts, for the first time, applied regulations in the criminal code provisions concerning international crimes: a Swedish citizen and former mercenary was convicted for war crimes committed in Bosnia in 1993.

SOURCES FOR FURTHER INFORMATION:

- ◆ Swedish Helsinki Committee, at www.shc.se

Publications:**On human rights and anti-terrorism measures:**

- ◆ For other reports and statements concerning diplomatic assurances and Sweden's involvement in the rendition of Ahmed Agiza and Mohammed Alzery, see the website of the Swedish Helsinki Committee, www.shc.se
- ◆ See also IHF website: terrorism and the ban of torture, www.ihf-hr.org
- ◆ Amnesty International, *Partners in crime: Europe's role in US renditions*, 14 June 2006, at <http://web.amnesty.org/library/Index/ENGEUR010082006?open&of=ENG-SWE>
- ◆ Amnesty International, *Sweden: The case of Mohammed El Zari and Ahmed Agiza: violations of fundamental human rights by Sweden confirmed*, 27 November, at <http://web.amnesty.org/library/Index/ENGEUR420012006?open&of=ENG-SWE>
- ◆ Human Rights Watch, *Sweden Violated Torture Ban in CIA Rendition: Diplomatic Assurances Against Torture Offer No Protection From Abuse*, 10 November 2006, at www.hrw.org/doc?t=europe&c=sweden
- ◆ *Views of the UN Human Rights Committee in the case of Mohammed Alzery v. Sweden*, Communication 1416/2005, 25 October, 2006, at [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/13fac9ce4f35d66dc12572220049e394?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/13fac9ce4f35d66dc12572220049e394?Opendocument)
- ◆ For documents of the EU Temporary Committee on the alleged use of European countries by the CIA for the transport and illegal detention of prisoners, see www.europarl.europa.eu/comparl/tempcom/tdip/working_docs/default_en.htm
- ◆ EurActiv.com: "EU nations knew about US jails, claims report," 29 November 2006, at www.euractiv.com/en/security/eu-nations-knew-us-jails-claims-report/article-160102
- ◆ For documents from the Council of Europe Committee on Legal Affairs and Human Rights, see www.coe.int/T/E/Com/Files/Events/2006-cia
- ◆ Swedish Government Report 2006:98, *Ytterligare rättssäkerhetsgarantier vid användandet av hemliga tvångsmedel mm*, ("Further legal safeguards when using secret measures"), 10 November 2006, at www.regeringen.se/sb/d/6155/a/72206

On discrimination, see the websites of:

- ◆ Ombudsman against Ethnic Discrimination (www.do.se), Ombudsman against Discrimination on Grounds of Sexual Orientation (www.homo.se), Disability Ombudsman (www.ho.se), and Ombudsman on Equal Opportunities (www.jamombud.se)
- ◆ Decisions by the Parliamentary Ombudsman, at www.jo.se/Page.aspx?Language=en
- ◆ Centrum för Rättvisa (Center for Justice), at www.centrumforrattvisa.se

On hate speech and freedom of expression:

- ◆ See relevant court cases and judgments at the website of the Swedish Helsinki Committee, www.shc.se

General governmental information:

- ◆ The government's website on human rights at www.manskligarattigheter.se

Endnotes

- ¹ At www.manskligarattigheter.gov.se/extra/pod/?id=3&module_instance=5&action=pod_show&navid=9&subnavid=3&subnavinstance=5.
- ² Reports on these visits are due to be presented to the Human Right Council in 2007.
- ³ The committee considered the case of *Mohammed Alzery v. Sweden*, in which it found violation of articles 2 and 7 of the International Covenant for Civil and Political Rights (ICCPR) and article 1 of the Optional Protocol 1 to the ICCPR. See also the section on Anti-terrorism measures.
- ⁴ The committee considered the cases of *M R A v. Sweden*, communication no. 286/2006, 22 November 2006; *A. H v. Sweden*, communication no 265/2005, 21 November 2006; and *M Z v. Sweden*, communication no. 356/2004, 17 May 2006, and found no violations of the torture convention in any of them. The decisions are available at www.ohchr.org/.
- ⁵ Judgements by the court where Sweden was found to have violated the European Convention for Human Rights included: *Helborg v. Sweden*, application no. 47473/99, (violations of article 6:1 and article 1 of Optional Protocol 1), *Segerstedt Wiberg and others v. Sweden*, application no. 62332/00 (see below under "Rights to respect for private and family life") and *Klemeco Nord AB v. Sweden* 73841/01 (violation of article 6:1). For a full account of the cases, see www.echr.coe.int/ECHR/.
- ⁶ The reports can be found at www.ohchr.org.
- ⁷ Conclusions by the Council of Europe on this report are available at www.coe.int/T/E/Human%5FRights/Esc/.
- ⁸ See also the section on Anti-terrorism measures in part two of this report.
- ⁹ For more background information, see IHF, *Human Rights in the OSCE Region: Report 2006 (Events of 2005)*, at www.ihf-hr.org/cms/cms.php?sec_id=71.
- ¹⁰ The request was made under article 52 of the European Convention for Human Rights.
- ¹¹ Council of Europe Committee on Legal Affairs and Human Rights, *Alleged secret detentions and unlawful inter-state transfers involving Council of Europe member states* (Explanatory memorandum), Rapporteur: Dick Marty, Switzerland, ALDE. AS/Jur (2006) 16 Part II, June 7, at 2006.assembly.coe.int/CommitteeDocs/2006/20060606_Ejdoc162006PartII-FINAL.pdf.
- ¹² The report was due to be finally approved by the Committee in January 2007 and thereafter to be considered by the European Parliament. Document number 2006/2200 (INI) of November 24 2006.
- ¹³ Communication 1416/2005, October 25, 2006, at [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/13fac9ce4f35d66dc12572220049e394?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/13fac9ce4f35d66dc12572220049e394?Opendocument).
- ¹⁴ For more background information, see the chapter on Sweden in IHF, *Human Rights in the OSCE Region: Report 2006 (Events of 2005)*.
- ¹⁵ The committee was established through Resolution 1267. Documents found on www.un.org/Docs/sc/committees/1267Template.htm.
- ¹⁶ *Ibid.*
- ¹⁷ According to media reports, the UN Security Council adopted a new procedure for how to make decisions about whom to include on the sanction's lists on 19 December 2006. The new procedure was criticised by Denmark and Greece for being inadequate.
- ¹⁸ See IHF, *Human Rights in the OSCE Region: Report 2006 (Events of 2005)*.

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- ¹⁹ *Segerstedt-Wiberg and others v. Sweden*, application number 62332/00, 6 June 2006.
- ²⁰ The chancellor of justice, the parliamentary ombudsman, the Data Inspection Board or the Records Board, which supervises the Security Police's compliance with the Police Data Act.
- ²¹ Swedish Helsinki Committee, "Misstänkt krigsförbrytare ställs inte inför rätta i Sverige" ("Suspected war criminal avoids investigation"), 26 January 2006, <http://shc.mediaonweb.org/en/1/60/339/>