Questionnaire re. General Assembly resolution 68/268 –Swedish response

Sweden thanks the OHCHR for its questionnaire dated 16 December 2021 and welcomes the opportunity to comment on the state of the human rights treaty body system, and in particular on the implementation of General Assembly [resolution 68/268](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/268).

The treaty body system is a cornerstone of international human rights protection and crucial for monitoring States’ compliance with their human rights obligations. Sweden remains committed to preserving the integrity and independence of the treaty body system, and support all efforts to increase its efficiency, accessibility and impact.

Sweden welcomes the 2020 co-facilitation process on treaty body review and the recommendations made in the report by the treaty body review co-facilitators Morocco and Switzerland (A/75/601) and in the “Position paper of the Chairs of the human rights treaty bodies on the future of the treaty body system” (Annex III, A/74/256). Sweden is convinced that these recommendations, if fully implemented, would go a long way towards allowing the treaty bodies to function more effectively.

Nevertheless, the treaty bodies still face numerous challenges. COVID-19 has resulted in a dramatic increase in the backlog of reviews and individual communications. More than ever, immediate efforts by the Treaty Bodies Chairpersons are needed to align working methods, and harmonize and simplify reporting procedures, as identified in the “Position paper of the Chairs of the human rights treaty bodies on the future of the treaty body system” from July 2019.

Furthermore, and irrespective of the review process, the General Assembly should agree to provide additional resources to the treaty bodies to address their increased workload, in line with GA resolution 68/268. Increased availability and predictability of resources from the regular budget is necessary to ensure that the treaty bodies have the capacity to function efficiently and discharge their mandates with sufficient support from the Secretariat.

In addition to these general observations, Sweden would like to submit the following more specific comments on the state of the treaty body system, as seen from the perspective of a State Party:

## Efforts to strengthen national implementation of international human rights treaties

*National implementation*Sweden acknowledges the important role played by the treaty bodies in supporting national implementation of international human rights treaties. Over the past years, the Swedish Government has taken a number of steps to strengthen the protection of human rights in Sweden, that are in line with concluding observations from treaty bodies and recommendations received during the Universal Periodic Review, including:

* On January 1, 2022 an independent national human rights institution was established, in accordance with the Paris Principles. The NHRI will monitor and report on how human rights are respected in Sweden and present proposals on how to enhance compliance with Sweden’s human rights obligations.
* In November 2021 the Government appointed a Truth Commission to investigate and review, from a historical perspective, the policies that the Sami people have historically been subjected to by the Swedish State and their consequences for the Sami people.
* New national centers for the preservation and revitalisation of minority languages have been established and funded.
* Two new bills strengthen the rights of the child in relation to domestic violence and in custody hearings: the first bill criminalises the act of letting a child witness crimes against family members or other persons with a close relationship to the child. The second bill includes a number of measures to strengthen the right of the child to be heard, and for their views to be given due weight, in custody hearings.
* An all-party Committee has considered the introduction of specific criminal liability for participation in a racist organisation and a ban on racist organisations. The government is now reflecting on the Committee's proposals.

## State reporting – Swedish views and experiences

## *The simplified reporting procedure[[1]](#footnote-1)*

Sweden has continued to accept the use of the simplified reporting procedure when it has been offered, and all reports to the treaty bodies in recent years have been compiled using this procedure. While the introduction of the simplified procedure is a positive step, that in many cases has contributed to more focused and constructive dialogue discussions, Sweden believes that additional steps are needed to fully harness the potential of this procedure to bring about reviews that are focused, and allow for in-depth discussions on key issues, while avoiding unnecessary work, both for the reporting State and the treaty bodies.

Firstly, as there are still considerable differences in working methods, reporting requirements and structure of the dialogues between the various treaty bodies, further efforts by the Treaty Bodies Chairpersons are needed to align, harmonise and simplify procedures.

In particular, Sweden would welcome further implementation of the proposal in the Chairpersons’ Position Paper on the Future of the Treaty Body System from July 2019 to limit the list of issues to 25-30 questions, avoiding convoluted questions or sub-questions to the extent possible. Most recent lists of issues received by Sweden have included over 100 questions and sub-questions. Providing comprehensive replies to so many questions has sometimes proved challenging, especially as many treaty bodies impose strict word limits on replies.

In addition, Sweden would welcome further coordination between the treaty bodies regarding their lists of issues prior to reporting in order to avoid or reduce overlap. Reducing overlap also means reducing the risk of inconsistency and fragmentation of the resulting concluding observations, which facilitates effective national implementation.

Finally, Sweden would welcome if all treaty body dialogues would be more clearly structured around the list of issues, and the replies provided by the reporting State. Some treaty body dialogues are still structured according to the articles of the convention, and preparing for such a dialogue often requires producing the equivalent of a regular State Party report, which means that some of the rationale behind the simplified reporting procedure is lost.

*Common core document*As recommended, Sweden has submitted a ‘’common core document’’ providing general and factual information on the implementation of all the treaties to which Sweden is a party. In our experience so far, however, this document is rarely referred to in practise, and has been of limited value in most recent dialogues.

*Review cycles and multi-annual calendars*Protracted proceedings and back-logs are still issues of concern in terms of State Party reviews, a situation that has been exacerbated by the COVID-19 pandemic. To address the situation, Sweden welcomes the recommendation to establish review cycles for all State Parties according to a coordinated multi-annual calendar for all the Committees as well as the Universal Periodic Review-process. A more predictable and coordinated calendar would enhance planning for all involved and would, crucially, ensure that dialogue sessions with treaty bodies would take place shortly after the submission of a national report.

*Use of information and communication technologies*

The COVID-19 pandemic has highlighted the need to strengthen the capacity of the treaty bodies to engage and interact online. In 2021 Sweden participated in a hybrid dialogue, in which some national experts participated online, while others were present in Geneva. This proved a very positive experience. Sweden would encourage the further development of alternative digital and hybrid formats, in order to enable wider participation and facilitate the sharing of best practice. Treaty body members should also be allowed to participate online.

*Accessibility for different stakeholders*An increased use of information and communication technologies by the treaty bodies would have the additional benefit of facilitating interaction with a wider range of relevant stakeholders, including with civil society, national human rights institutions and human rights defenders.The special needs of persons with disabilities and the need to guarantee the safety of all those interacting with the treaty bodies, need to be important considerations in the development of any new digital or online tools.

In Sweden, the Government has developed guidelines to ensure a common routine for preparing reports to the treaty bodies and following up concluding observations. Open consultations with civil society are organised when national reports are being prepared and before dialogues with the treaty bodies. Consultations with civil society are also organised to follow up on the concluding observations.

## Individual communications

The current alarming backlog in the review of individual communications, exacerbated by the COVID-19 pandemic, has a serious impact on victims and rights-holders, putting into question the credibility of the system. To strengthen the protection of rights-holders and victims of human rights violations, Sweden strongly supports the standardization and centralization of communications management, as recommended in the 2020 Treaty Body review process.

A modern, digital case management system and an online submission platform would, when paired with clear admissibility criteria, enhance the efficiency and transparency of the system. The introduction of a case management system for the Petitions Team of OHCHR, where both States and petitioners can access information about the progress of the communications, would benefit all parties involved in the litigation of individual cases before the treaty bodies.

The introduction of an obligatory, online submission platform would have the additional benefit of ascertaining that all necessary information and documents are submitted at the initial stage of the proceedings, reducing the need to spend time and resources asking for clarifications and additional submissions. It would also facilitate the assessment of whether the communication reaches the threshold for being communicated to the relevant State Party. The online submission platform should include clear and comprehensive instructions, to enable petitioners to submit communications that meet the necessary requirements. Expertise and inspiration in this regard can be sought from other human rights mechanisms, such as the European Court of Human Rights.

Sweden believes that it is imperative, and urgent, that the OHCHR allocates the necessary financial, human and technical resources to allow the Petitions Unit to introduce a modern case management system, and systematically manage the growing number of communications it receives, while at the same time reducing the existing backlog. The current protracted proceedings leave the complainants in a situation of legal uncertainty for a very long time, which raises human rights concerns as well as concerns regarding the credibility of the treaty body system in general. Protracted proceedings also tend add to the workload for all parties involved.

In the meantime, Sweden welcomes the establishment of pre-sessional working groups on communications, as they reduce the time spent on communications in plenary, and the introduction of methods to process repetitive complaints more swiftly.

Sweden further welcomes the amended Rules of Procedure of the Human Rights Committee concerning individual communications, that seek to make proceedings more predictable and reduce turnover times by, inter alia, setting limits to the number of written observations that the parties may submit and allowing the Committee to set a date for when the exchange of observations should be concluded. Sweden regrets, however, that we have so far not seen the effects of these amendments in the Committee’s procedural practice. We are convinced that an adequate application of these rules would contribute to make the workload of the Committee more reasonable and strengthen the credibility of the treaty body system in general.

As emphasised in its response to the questionnaire of 2019, Sweden further supports efforts to:

* Develop a methodology to identify structural problems that underlie repetitive cases, thereby reducing the number of cases that must be examined in detail.
* Prioritize cases that involve allegations of serious breaches of human rights.
* Facilitating access to comparative jurisprudence from other, and especially regional, human rights mechanisms to enhance quality of the treaty bodies legal analysis and harmonize their decisions and views with those other human rights mechanisms. Sweden emphasises that such harmonization is also of the utmost importance in order to maintain, and further strengthen, the general credibility of the treaty body system.

**1.4 Nomination and selection of treaty body members**

A transparent and credible process for nominating and selecting treaty body members is crucial for preserving and strengthening the independence and integrity of the treaty bodies and ensuring diversity in terms of gender, geography, background and expertise, as well as the participation of persons with disabilities.

The guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines) remain important. Sweden will continue to oppose the establishment of a code of conduct for treaty body members that would impair their independence or interfere with the exercise of their functions.

1. The simplified reporting procedure means that that a State Party reply to a list of issues submitted by the treaty bodies constitutes the State Party report and replaces the regular, periodic reporting requirements [↑](#footnote-ref-1)