

## **SWEDEN/SUEDE**

- 1) What mechanisms have been put in place at national level to ensure the compatibility of legislation (whether draft legislation, laws in force or administrative practice) with the Convention? How do these work (whether or not they are systematic, the competent authorities and any consultations – whether optional or mandatory)? What are the advantages of the mechanism chosen?**

The Swedish Instrument of Government, states that no act of law or other provision may be adopted which contravenes Sweden's undertakings under the Convention. Accordingly, Swedish legislators are bound by constitutional law to ensure that Swedish legislation is in conformity with the Convention. It is thus an obligation incumbent upon all relevant actors within the legislative process to have due regard to the Convention in their work. Such actors are:

- the inquiry committees, which have the task of studying a certain issue or set of issues and putting forward proposals for new and amended legislation; - the Government Offices (Regeringskansliet), which has the task of preparing government decisions inter alia regarding proposals for new and amended legislation; - the parliamentary committees, which have the task of preparing parliamentary decisions; - the Council on Legislation (Lagrådet); - the Government; and - the Riksdag (parliament) (Chapter 2, Section 19 of the Instrument of Government).

With certain exceptions, the Government or a parliamentary committee is required to refer draft legislation to the Council on Legislation. This is a body whose members are former or current justices of the Supreme Court and the Supreme Administrative Court. One of their tasks is to ensure the constitutionality of draft bills, which, as set out above, includes their compatibility with the Convention. Although the Council's pronouncements are not binding, they are usually adhered to.

The government bill submitted to parliament will, if relevant, include a discussion of the proposed new legislation's compatibility with the Convention, thereby ensuring that the parliament is informed in this respect.

Moreover, if a national court finds that a provision conflicts with a rule of fundamental law or other superior statute, the provision shall not be applied. The same applies if a procedure laid down in law has been disregarded in any important respect when the provision was made. In the case of review of an act of law, particular attention shall be paid to the fact that the Riksdag (parliament) is the foremost representative of the people and that fundamental law takes precedence over other law (Chapter 11, Section 14 of the Instrument of Government).

- 2) What obstacles have been encountered in establishing or applying these mechanisms? How have these been overcome?**

In the process of ensuring the compatibility of legislation with the Convention, it is difficult to foresee all situations which could entail a potential violation of the Convention. In the legislative process, one way to prevent a potential violation of the Convention has been to emphasise in the preparatory works that no legislative provision is meant to contravene the obligations contained in the Convention. In this manner, new jurisprudence settled by the Court is also taken into account when the new domestic legislation is applied.

**3) Is there any assessment (or planned assessment) of the appropriateness and effectiveness of the mechanisms in question? If so, how does this work? What obstacles have been encountered in setting up or carrying out such an assessment?**

The government has recently announced that it will deliver to the Riksdag (parliament) a strategy for the systematic work for human rights in Sweden. One important aspect of this coming strategy is to suggest the establishment of an independent national institution to promote and protect human rights in accordance with the Paris principles. The next step in this process is to deliver to the parliament such a strategy. It is then up to the Parliament to decide on the establishment of an independent national institution to promote and protect human rights.