

Sweden

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
---	--	---	---	--------------------------------

Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?
 Fully satisfactory Adequate Insufficient Absent

Please explain your reply.

In many aspects Sweden had already prior to 2010 taken important measures to secure equal rights and opportunities for LGBT-persons. For example Sweden already had an extensive law against discrimination on grounds of sexual orientation and gender identity in place. Swedish legislation also provides protection against hate motivated crimes. Efforts to secure the human rights of LGBT-persons in Sweden have been, and are being, carried out through a number of different initiatives in various sectors of society.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?
 a. b. c. d. e.

Please explain and, if appropriate, provide examples of any such measures found:

The Swedish Government Offices have carried out a mapping exercise in order to identify remaining barriers that prevent LGBT-persons from enjoying equal rights and opportunities in Sweden. In relation to this exercise Swedish LGBT-organizations have been invited to give their view on the existence of such barriers and specifically how they perceive Sweden's compliance with the Council of Europe Recommendation CM/Rec(2010)5.

Are there measures in place to redress any such discrimination?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices:

The Discrimination Act (2008:567) prohibits discrimination on grounds of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

Under Chapter 1 Section 2 of the Instrument of Government, public institutions are to "combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the private person". According to Chapter 2, Section 12 of the Instrument of Government, no act of law or other provision may imply the unfavourable treatment of anyone because they belong to a minority group by reason of ethnic origin, colour or other similar circumstances or on account of their sexual orientation. Also, the European Convention for the Protection of Human Rights and Fundamental Freedoms is legally binding in Sweden.

SWEDEN

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?
- a. b. c. d. e.

If appropriate, please provide examples of measures adopted or in preparation.

An interdepartmental working group was set up in November 2011 and assigned to review the situation of LGBT-persons in Sweden and to propose measures to further strengthen equal rights and opportunities for LGBT-persons in Sweden. The Recommendation CM/Rec (2010)5 is referred to in the task assigned to the working group and has been used as a tool for assessment.

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?
- a. b. c. d. e.

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

- a. b. c. d. e.

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices:

The Equality Ombudsman collects and analyses complaints made to the Ombudsman on discrimination on grounds of sexual orientation and gender identity. However, according to the Equality Ombudsman the number of complaints does not reflect the prevalence of discrimination. The majority of people who have experienced discrimination do not file a complaint.

The Swedish National Institute of Public Health collects statistics on experiences of degrading treatment based on sexual orientation through their national public health survey, "Health on Equal Terms", which is conducted on a yearly basis. During 2013 the Government has assigned the Institute to collect and analyze how health and health determinants for LGBT-persons have developed in recent years. Exposure to violence and discrimination are among the aspects that should be included in the report. The report shall be presented 1 December 2013.

The Swedish National Council for Crime Prevention collects and presents annual statistics based on police reports including where a homophobic or transphobic motive has been identified. Details on homophobic hate crime such as type of offence committed, method used, location of the crime, relationship between victim and offender and number of solved crimes are included in the report from the Council. Self-reported exposure to homophobic or transphobic hate crimes and harassment through the Swedish crime survey is also presented in the statistics.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

- a. b. c. d. e.

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Equality Ombudsman does not only handle complaints regarding discrimination. The Ombudsman is also assigned to raise awareness and disseminate knowledge and information about discrimination and the prohibition against discrimination, both among those who risk discriminating against others and those who risk being discriminated against. The Swedish Government also provides specific funding for organisations working against discrimination. Currently there are 16 organisations spread throughout the country that receive such funding.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

None.

7. Has the Recommendation, including its Appendix, been translated in all your national languages?

- a. b. c. d. e.

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

The Recommendation and its appendix are available both in English and in Swedish at the Swedish Government's website on human rights (<http://www.manskligarattigheter.se/en/human-rights/what-rights-are-there/enjoyment-of-human-rights-by-lgbt-persons>). The Swedish Government Offices distributed the Recommendation during the Stockholm Pride Festival and it has been sent out to LGBT-organisations.

Section II – Implementation of the specific provisions in the Appendix

I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In 2007 the Government's appropriation direction stated that the National Police Board, together with the Prosecution Authority, should ensure that possible motives for hate crime are identified and investigated as early as possible in the criminal investigation. As a result the police have introduced a new field in the police computer system for registering reported hate crime, with the aim of improving the possibility to solve such crimes. The reporting system, which was introduced at police authorities nationwide, is mandatory and means that the police report must include information as to whether the crime in question is a suspected hate crime or not.

SWEDEN

The Stockholm County Police have established a special police unit focused on investigating hate crimes. In 2012, the police authority in Malmö has established a similar unit. Within the Police's basic training more focus is devoted to the subject hate crime and in particular how to identify hate crimes.

The National Police Board has decided to carry out an inspection of the police's ability to detect and investigate hate crimes. Results will be released in March 2013 and as a consequence necessary measures might be adopted.

The Prosecutor General has stated guidelines for action against hate crimes. According to the guidelines all crimes where there may be a hate crime motive should be investigated and given priority. Preliminary investigation on hate crimes should not be considered to be of a simple nature and should always be led by a prosecutor as soon as anyone reasonably suspected of the crime has been identified.

To support the prosecutors in their work, there is a page on the Prosecution Authority's intranet with information on hate crimes and a compilation of court decisions regarding hate crimes. This page is continuously updated.

The Prosecution Authority's basic training for all prosecutors includes a section regarding hate crimes. Each public prosecution office has a prosecutor who is specialized in dealing with hate crime-related cases.

At three places in the country there are prosecution development centres. Their task is to conduct methodological and legal development within different criminal areas and to be responsible for the overall knowledge within their areas of responsibility. Legal follow-up and inspections are also conducted in these places. One example of this is the fact that all appeals made against prosecution decisions are handled by the development centres.

The prosecution development centre in Malmö (UC Malmö) has special responsibility for judicial monitoring and supervision of hate crimes. The prosecution development centre is also responsible for method development in the area.

Furthermore, it is noted that the public prosecution office is planning for a conference on hate crimes in 2013.

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?

- a. b. c. d. e.

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to the Penal Code, it is to be considered an aggravating circumstance when assessing penal value if the motive of a crime was to aggrieve a person, an ethnic group, or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief, sexual orientation or other similar circumstance. The phrase "other similar circumstance" is intended to cover e.g. gender identity.

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The overall aim of the Swedish Crime Victim Compensation and Support Authority is to look after the rights of all victims of crime and to draw public attention to their needs and interests. For good practise regarding this, see answer to question 12. The Swedish police are improving the information to crime victims in general to clarify their rights to assistance and support from authorities and other organizations.

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Swedish Crime Victim Compensation and Support Authority is responsible for issues concerning victims of crime in general and the Government has assigned the authority with different tasks targeting the treatment of crime victims in general. The training that the authority provides is specifically addressed to lawyers and staff in the criminal justice system. There are different programs that all substantially focus on the treatment of particular vulnerable victims. The programs that are developed are also applicable to the treatment of LGBT-persons.

13. Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The basic training for prison and probation officers within the Swedish Prison and Probation Service contains education on discrimination and diversity issues, the laws and regulations on human rights as well as theories of the mechanisms of discrimination.

According to the new Act on Imprisonment (Swedish Code of Statutes 2010:610) every prisoner shall be treated with respect for his or her human dignity and with understanding for the special difficulties associated with the deprivation of liberty.

According to Chapter 6, Section 7 of the Act, a prisoner may be held separately from other prisoners if this is necessary for example in order to prevent the prisoner from seriously molesting another prisoner. Molestation refers to reckless conduct directed toward another person, including sexual molestation or repeated insults.

14. Have appropriate measures been taken to combat all forms of “hate speech” against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation ?
- a. b. c. d. e.

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

- a. b. c. d. e.

SWEDEN

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

A person who, in a disseminated statement or communication, threatens or expresses contempt for a national, ethnic or other such group of persons with allusion to race, colour, national or ethnic origin, religious belief or sexual orientation shall be sentenced for *agitation against a national or ethnic group* to imprisonment for at most two years or, if the crime is petty, to a fine. If the crime is gross, imprisonment for at least six months and at most four years shall be imposed. In assessing whether the crime is gross, special consideration shall be given to whether the message had a particularly threatening or offensive content and was disseminated to a large number of people in a way that was intended to arouse considerable attention.

A person who orally, before a crowd or congregation of people, or in a publication distributed or issued for distribution, or in other message to the public, urges or otherwise attempts to entice people to commit a criminal act, evade a civic duty or disobey public authority, shall be sentenced for *inciting rebellion* to a fine or imprisonment for at most six months. A sentence for inciting rebellion shall also be imposed upon any person who orally before a gathering of members of the armed forces or by other communication with members of the armed forces urges or otherwise attempts to entice them to an act or omission in dereliction of their service duty. Punishment shall not be imposed in petty cases. In assessing whether the crime is petty, special consideration shall be given to whether there was only an insignificant risk that the enticement or attempted enticement would in fact have effect. If the crime, in view of the fact that the offender attempted to instigate the commission of a serious crime or in view of other circumstances, must be regarded as gross, imprisonment for at most four years shall be imposed.

A person who raises a weapon against another or otherwise threatens to commit a criminal act, in such a manner that the nature thereof evokes in the threatened person a serious fear for the safety of his own or someone else's person or property, shall be sentenced for *unlawful threat* to a fine or imprisonment for at most one year. If the crime is gross, imprisonment for at least six months and at most four years shall be imposed.

A businessman who in the conduct of his or her business discriminates against a person on grounds of that person's race, colour, national or ethnic origin or religious belief by not dealing with that person under the terms and conditions normally applied by the businessman in the course of his or her business with other persons, shall be sentenced for *unlawful discrimination* to a fine or imprisonment for at most one year. The provisions relating to discrimination by a businessman shall also apply to a person employed in a business or otherwise acting on behalf of a businessman and to a person employed in public service or having a public duty. A sentence for unlawful discrimination shall also be imposed on any organiser of a public assembly or gathering, and on any collaborator of such organiser, who discriminates against a person on grounds of his or her race, colour, national or ethnic origin or religious belief by refusing him or her access to the public assembly or gathering under the terms and conditions normally applied to other persons. A sentence for unlawful discrimination shall also be imposed on any person designated above who, in the manner there indicated, discriminates against another on grounds of that person's sexual orientation. A person who is not regarded as the perpetrator shall, if he induced another to commit the act, be sentenced for instigation of the crime.

One important part of the efforts made by the Police is the implementation of a nationwide policy and an action plan to promote diversity and equality adopted by the National Police Board. The policy document states that a zero tolerance approach should prevail and that no forms of discrimination or harassment are permitted in the organization or in contacts with the public.

According to Chapter 2, Section 17 in the Discrimination Act discrimination is prohibited when a person, who is wholly or partly subject to the Public Employment Act, assists the public by providing

information, guidance, advice or other such help, or has other types of contacts with the public in the course of her or his employment.

The Swedish civil servants are to be guided by certain principles inter alia the principle of objectivity, impartiality and equal treatment. Public power should also be exercised with respect for the freedom and equality of all persons.

II. Freedom of association

15. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. b. c. d. e.

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

Freedom of association is guaranteed in the Swedish Constitution (Chapter 2, Section 1 of the Instrument of Government), and the statute incorporating the European Convention for the Protection of Human Rights and Fundamental Freedoms into Swedish law. According to the Instrument of Government, freedom of association may be limited only in respect of organisations whose activities are of a military or quasi-military nature, or constitute persecution of a population group on grounds of ethnic origin, colour, or other such conditions. Furthermore, according to Chapter 2, Section 12 of the Instrument of Government, no act of law or other provision may imply the unfavourable treatment of anyone because they belong to a minority group by reason of ethnic origin, colour or other similar circumstances or on account of their sexual orientation. All courts and other public bodies are required, if called upon by the parties, to review statutes in the application of law. If such a body finds that a provision conflicts with a rule of fundamental law, for instance the prohibition against discrimination, of other superior statute, the provision shall not be applied (Chapter 11, Section 14 and Chapter 12, Section 10 of the Instrument of Government).

16. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

See answer to question 19.

17. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?

a. b. c. d. e.

SWEDEN

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

LGBT-organisations are invited to give their view through government consultations on issues that might affect the rights and equal opportunities of LGBT-persons. For instance, LGBT-organizations are regularly consulted on bills or other proposals that might affect LGBT-rights. The Swedish Government provides specific funding for LGBTQ NGOs working with LGBTQ rights.

Good example: When The National Board for Youth affairs was assigned by the government to analyse the health situation among young lesbian, gay, bisexual and transgender persons, the Swedish Youth Federation for Lesbian, Gay, Bisexual, Transgender & Queer (LGBTQ) Rights was consulted and they contributed with different analyses to the report, for example about discrimination of young LGBTQ- persons in working life and by making a specific survey using the largest LGBTQ online community (www.gruiser.com) in order to collect information about exposure to violence and sexual abuse. A summary of the whole report about young LGBTQ-persons is translated into English and available at this link:

<http://www2.ungdomsstyrelsen.se/butiksadmin/showDoc/ff8080813957d6510139dd835261001e/wwwOmUngaHbtqHALSAENG.pdf>

In 2010, The National board for Youth Affaires, got a new assignment to develop guidelines for leisure-time activities in how to work with inclusion and against discrimination of young LGBTQ-persons. In this assignment LGBTQ-NGOs were consulted and also used as trainers.

III. Freedom of expression and peaceful assembly

18. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. b. c. d. e.

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. b. c. d. e.

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

Freedom of expression and freedom of information, as well as freedom of peaceful assembly, are all guaranteed in the Swedish Constitution. These freedoms are also covered by the law incorporating the European Convention for the Protection of Human Rights and Fundamental Freedoms into Swedish law. They may be limited only through a statute adopted by the Parliament. The limitations must satisfy a certain purpose acceptable in a democratic society and may never go beyond what is necessary with regard to that purpose, nor may it be carried so far as to constitute a threat to the free shaping of opinion.

The constitutional prohibition against discrimination naturally covers also the freedom of expression and information and the freedom of peaceful assembly.

19. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The police have the task to ensure that all citizens are able to access their constitutional rights. They maintain dialogues and communications with LGBT-organizations before, during and after an event. The police have developed a method employed at large gatherings of people, which focuses on dialogue, communication and transparency, rather than conflicts and the use of batons and riot shields.

It is the local police authorities' task to protect participants in peaceful demonstrations. At major events, there is a national reinforcement organisation that can be deployed all over the country. It consists of police officers, divided among the three metropolitan counties, who have been specially trained in the new police tactics. The special police tactics comprises several individual components, of which the training of personnel is the most central. The training includes topics such as mental preparations, communication, law, spotting dangers and preventing injuries.

IV. Right to respect for private and family life

20. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to Chapter 2, Section 12 of the Instrument of Government, no act of law or other provision may imply the unfavourable treatment of anyone because they belong to a minority group by reason of ethnic origin, colour or other similar circumstances or on account of their sexual orientation. In modern times, there has been no need to take measures to ensure that criminal law provisions do not lead to a discriminatory application. There are no known criminal provisions which may have such an effect.

21. Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?
- a. b. c. d. e.

Please provide examples of exceptions to this principle, if any:

According to the Personal Data Act (SFS 1998:204) it is prohibited to process personal data relating to health and sexual life. There are some exceptions to this rule though. For example, this prohibition does not apply in the case of necessary processing in order to protect vital interests of the registered person or someone else and the registered person cannot provide his/her consent, or to establish, exercise or defend legal claims. Neither does it apply within health and hospital care, if it is necessary for preventive medicine, medical diagnosis, care or treatment, or the administration of health and hospital care. These types of personal data may also be processed for research and statistics provided that the treatment is necessary and provided the public interest in the project manifestly exceeds the risk of improper violation of personal integrity.

SWEDEN

22. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. b. c. d. e.

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to the Swedish Gender Reassignment Act (1972:119) sterilization is a requirement for gender reassignment. The Government considers that the sterilization requirement must be regarded as outdated in the perspective of a modern society. Therefore a governmental proposal to abolish the present sterilization requirement will be presented to the Parliament this spring (2013). The proposal with changes in the Swedish Gender Reassignment Act is suggested to enter into force 1 July 2013.

The Swedish Government has given The National Board of Health and Welfare the assignment of coordinating an inter-agency cooperation in order to reduce the administrative burden on persons who have changed gender and a report will be presented in late 2013.

23. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

24. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?

a. b. c. d. e.

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

a. b. c. d. e.

Please provide examples:

Since April 2009 it is no longer possible to register a partnership in Sweden. From that point of time same-sex couples may enter into marriage. Partners who registered before April 2009 may by a simple application to the Tax Authority transform their partnership into a marriage. It is a voluntary transformation, thus some same-sex couples in Sweden still live in registered partnerships.

25. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to the Children and Parents Code, every decision regarding parental responsibility and adoption has to be taken primarily in the child's best interest and be advantageous to the child. In connection with the adoption of the 1993 Hague Convention on Protection of Children and Co-operation in respect of Inter-country Adoption Sweden also adopted a special national act which states that the Convention is to be considered a national act of law. The law regulates different public actors' responsibility for the different articles and points out the central authority under the Convention.

Since 1 February 2003 registered partners and married same-sex couples have the same possibility as married heterosexual couples to adopt.

The authorized inter-country intermediation organizations must accept all persons who have obtained permission under Chap. 6 Section 12 of the Social Services Act (2001:453) to receive a foreign child into their home with a view to adoption, including same sex couple applicants. If the association has decided to refuse adoption intermediation in a particular case, the applicants shall be informed of their possibility of having the decision reviewed by the Swedish Inter-country Adoptions Authority (MIA).

V. Employment

26. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

- a. b. c. d. e.

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

- a. b. c. d. e.

If so, are there measures in place concerning in particular:

i) Access to employment

- a. b. c. d. e.

ii) Promotion, dismissals, pay and other working conditions

- a. b. c. d. e.

iii) Prevention and punishment of harassment

- a. b. c. d. e.

iv) Protection of privacy of transgender persons

(in accordance with paragraph 30 of the Appendix to the Recommendation)

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Chapter 2, Section 1 of the Swedish Discrimination Act (2008:567) prohibits an employer from discriminating against a person who is an employee, is enquiring about or applying for work, is applying for or carrying out a traineeship, is available to perform work or is performing work as temporary or borrowed labour. The preparatory work to the Discrimination Act clarifies that the prohibition covers all possible scenarios that can arise between an employer and an employee or someone enquiring about work.

In addition, Section 4 of the same Chapter stipulates that if a job applicant has not been employed or selected for an employment interview or if an employee has not been promoted or selected for

training for promotion, the person in question is entitled upon request to receive written information from the employer on the merits of the person who was selected.

An employee is protected against harassment based on sexual orientation and transgender identity or expression when at work. An employer is obliged under Chapter 2, Section 3 of the Discrimination Act to investigate circumstances surrounding alleged harassment in connection with work. The failure to protect the privacy of an employee could amount to harassment under the Discrimination Act.

VI. Education

27. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?
- a. b. c. d. e.

If so, are there measures in place concerning in particular:

- i) Anti-discrimination training or support and teaching aids
 - a. b. c. d. e.
- ii) Information, protection and support for pupils and students
 - a. b. c. d. e.
- iii) Objective information on sexual orientation and gender identity in school curricula ?
 - a. b. c. d. e.
- iv) School equality and safety policies and action plans
 - a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Discrimination Act (2008:567) explicitly bans discrimination in the educational system related to a person's sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. In addition to prohibiting discrimination the Discrimination Act also obliges pre-schools, schools and universities to actively prevent discrimination due to gender, ethnicity, religion or other belief, disability and sexual orientation. The Equality Ombudsman (DO) is a government agency that registers and investigates complaints based on the law's prohibition of discrimination and harassment.

In June 2011, the Government gave the National Agency for Education an assignment to undertake a renewed effort to strengthen the school's values and work against discrimination and degrading treatment. The National Agency is to compile and disseminate the best practices on preventive work and work procedures for reporting and following up cases of discrimination and other degrading treatment. The Authority shall also provide education for teachers. The education should emphasize knowledge about methods that do not work, the importance of a gender perspective in the choice of actions against bullying, and the situation for young LGBT-persons.

The National Agency for Education also has an assignment regarding gender equality that mandates the Agency to provide training for teachers and other staff in sex and relationships education and develop support materials in this area. The mandate clearly states that sex and relationship education should provide support and information to develop and strengthen pupils' self-esteem and identity, and respect for other people's bodily integrity. This applies to all children and young people regardless of their sexual orientation or gender identity. The Agency shall also provide

training for school staff on honorary problems. Honour-related violence and oppression are suffered by girls and women and boys and men, including young LGBT-persons.

Sweden has a highly decentralized education system with a high level of school autonomy.

Therefore, school policy and practices vary from school to school. Education in Sweden is steered by goals/learning outcomes defined at a central level. The Government has the overall responsibility for education and sets the framework for education at all levels, but the municipalities and independent schools (friskolor) are responsible for providing and operating schools. The measures mentioned in question ii and iv are the responsibility of municipalities and independent schools, although all schools must have an annual plan for the work against discrimination. Regarding question iii human sexuality and identity is for instance part of the syllabuses of biology and the curriculum clearly states that teaching should be objective. But the syllabuses do not state exactly what the education shall cover. This is instead up to the professionals to decide.

According to the Swedish Discrimination Act an education provider is to conduct goal-oriented work in order to actively promote equal rights and opportunities for the students, so called active measures.

In this regard an education provider has for instance to draw up a plan each year containing the measures needed to provide equal rights and opportunities for the students regardless of sex, ethnicity, religion or other belief, disability or sexual orientation and measures needed to prevent harassment. The government has appointed an inquiry with the remit of reviewing questions concerning active measures. The inquiry is to deliver its report no later than 1 November 2013.

VII. Health

28. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?

a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Swedish Health and Medical Services Act (1982:763) states as follows: Health and medical services are aimed at guaranteeing the entire population good health and care on equal terms. Care shall be provided with due respect for the equal worth of all people and the dignity of the individual. Priority shall be given to those who are in the greatest need of health and medical care. Chapter 2, Section 13 of the Discrimination Act prohibits discrimination based on inter alia sexual orientation and transgender identity or expression with regard to health and medical care and other medical services.

Responsibility for health and medical care in the Swedish health system is divided between the central government, county councils and municipalities. The Health and Medical Services Act sets out the respective responsibilities of county councils and municipalities for health and medical care. The Act is designed to give county councils and municipalities considerable freedom with regard to the organisation of their health services. The state is responsible for the overall health and medical care policy.

The Government and its national agencies play an important role in policymaking and overseeing the functioning of the health care system. The Government is of the opinion that good health care should be given to all on equal terms. This applies to the population in general and irrespective of sexual orientation, gender identity or gender expression. The Government is undertaking several efforts in this field. One of these efforts is the work with open comparisons that openly accounts for differences within the health care and public health system. Another effort is the implementation of a national medical strategy. The Government also has, in order to improve the treatment in the

SWEDEN

health care system of groups that are at risk of being exposed to discrimination, commissioned the Swedish National Board of Health and Welfare to produce a training programme on discrimination in the health care system and the importance of information that is adjusted to the needs of a specific group.

National studies have shown that LGBT-persons to a greater extent than the population at large suffer from mental illnesses. The risk of committing suicide and actual attempts to commit suicide are twice as common among LGBT-persons as compared to the population at large. Young LGBT-persons are particularly affected. The Government decided earlier this year a strategy (PRIO) for measures against mental ill-health. The plan contains several measures to bring about concrete and durable changes for persons with different types of mental illness and the Government intends to allocate some 870 MSEK during 2012-2016 for this purpose. A prioritized field is to reduce the incidence of suicide attempts and suicide among children and young people.

The Government has also identified a need for action to increase equality and the quality of care regarding gender reassignment procedure. Therefore, The National Board of Health and Welfare has been given the task to produce information both for transgender patients and health care professionals, and to coordinate an inter-agency cooperation in order to increase the awareness, equality and quality of care for people who have already, or will, change their gender.

29. Has homosexuality been removed from the national classification of diseases?

- a. b. c. d. e.

30. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

- a. b. c. d. e.

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

A person who applies for gender reassignment undergoes an assessment by a psychiatrist about the applicant's prerequisites for the actual treatment. Certain conditions also have to be fulfilled according to the Gender Reassignment Act (1972:119). These conditions include inter alia the requirement that the applicant has perceived since a long time that he or she belongs to the other sex. He/she also has to be 18 years old. If the applicant fulfils the conditions and is granted gender reassignment the costs, with the exception of plastic surgery for cosmetic reasons, are covered by the health insurance.

The Swedish Government has given The National Board of Health and Welfare the assignment of coordinating an inter-agency cooperation in order to reduce the administrative burden on persons who have changed gender. A report will be presented in late 2013.

VIII. Housing

31. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property,?

- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to Chapter 2, Section 12 of the Discrimination Act discrimination based inter alia on sexual orientation and transgender identity or expression is prohibited on the part of a natural or legal person who supplies goods, services and housing outside the private and family sphere.

32. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

According to Chapter 2, Section 13 of the Discrimination Act discrimination based inter alia on sexual orientation and transgender identity or expression is prohibited with regard to social services.

IX. Sports

33. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Sports in Sweden fall under the responsibility of the sports movement itself. All organised sport in Sweden is gathered under the umbrella organisation The Swedish Sports Confederation. The confederation has a specific policy on the fight against discrimination on grounds of sexual orientation or gender identity. An action plan is also attached to this policy.

X. Right to seek asylum

34. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Swedish Aliens Act includes well-founded fear of persecution based on gender, sexual orientation or other membership of a particular social group as a ground for recognition of refugee status. The grounds for asylum are always assessed on an individual basis.

The Swedish Migration Board is the first instance for decisions on asylum applications. Decisions may be appealed to a migration court and subsequently to the Migration Court of Appeal.

35. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?
- a. b. c. d. e.

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Aliens Act includes general rules on impediments to enforcement of refusal-of-entry and expulsion (Chapter 12). Such decisions may never be enforced to a country where there is a fair reason to assume that the individual concerned would be in danger of suffering capital or corporal punishment, torture or other inhuman or degrading treatment or punishment.

The Government has instructed the Migration Board, in the yearly appropriation directions, to give special attention to LGBT issues. The Migration Board has reported on how it maintains and develops its competence in this area. Several projects and activities of the Migration Board are set to enhance the Board's competence in LGBT issues.

In 2009 and 2011, the Migration Board issued legal statements regarding the application of legislation in cases where grounds for asylum are related to LGBT issues.

In the appropriation direction for 2013, the Government instructed the Migration Board to develop and report on methods and tools for a systematic follow-up of the quality of the application of law at the Board and to report on how the Board ensures a uniform application of the law in cases where sexual orientation or gender identity are referred to as grounds for asylum. The Migration Board will report to the Government no later than 14 June 2013.

XI. National Human Rights Structures

36. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

- a. b. c. d. e.

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

- a. b. c. d. e.

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

The Swedish Equality Ombudsman has been mandated through the Discrimination Act to supervise the compliance with the act. In this regard the Ombudsman can bring a court action on behalf of an individual who consents to this.

A natural or legal person who is subject to the prohibitions of discrimination is obliged, upon the request of the Ombudsman, to provide the Ombudsman with information about circumstances that are of importance for the supervision exercised by the Ombudsman. The Ombudsman should also be given access to workplaces and other premises for the purpose of investigations that may be of importance to the supervision exercised by the Ombudsman.

A natural or legal person who does not comply with such a request may be ordered by the Ombudsman to fulfil his or her obligation subject to financial penalty.

XII. Discrimination on multiple grounds

37. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

- a. b. c. d. e.

Section III - Follow-up

38. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix ?

The Council of Europe should continue to periodically examine the implementation of this Recommendation.

39. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

Yes. Lesbian, gay, bisexual and transgender persons are unfortunately still subject to homophobia, transphobia and other forms of intolerance and violence. Specific action is therefore still required in order to ensure the full enjoyment of human rights of these persons. Sweden welcomes a continued broad approach of future examination.

40. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

No.