EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

9 January 2014

Case Document No. 6

Federation of Catholic Family Associations in Europe (FAFCE) v. Sweden
Complaint No. 99/2013

SUBMISSIONS OF THE GOVERNMENT ON THE MERITS

Registered at the Secretariat on 19 December 2013

REGERINGSKANSLIET

A2013/1371/IE

19 December 2013

Ministry of Employment Sweden

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Complaint no. 99/2013
Federation of Catholic Family Associations in Europe
V.
Sweden

OBSERVATIONS OF THE GOVERNMENT OF SWEDEN ON THE MERITS

1. Introduction

1. These observations on the merits of the complaint introduced by the Federation of Catholic Family Associations in Europe, hereinafter 'FAFCE', are submitted on behalf of the Swedish Government, hereinafter 'the Government'.

2. Domestic law and practice

2. According to the **Instrument of Government (1974:152**, hereinafter 'the Instrument'), which forms part of the Swedish Constitution, the public institutions in Sweden shall promote the opportunity for all

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persons to attain participation and equality in society and for the rights of the child to be safeguarded. The public institutions shall 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 concerning the individual personally (Chapter 1, Section 2, fifth paragraph).

3. The Instrument protects *inter alia* the fundamental freedom of worship, that is, the freedom to practice one's one religion, alone or in the company of others (Chapter 2, Section 1). This protection is afforded to all Swedish citizens and foreign nationals within the Realm (Chapter 2, Section 25).

4. Since 1995, the **European Convention on Human Rights** (hereinafter 'the Convention'), as well as the Additional Protocols to the Convention ratified by Sweden constitutes an integral part of Swedish legislation. Since the Convention has the status of law in Sweden, it can be applied directly by courts and public authorities in this country (see Govt. bill 1993/94:117, page 33). The case-law of the European Court of Human Rights is of direct relevance to the interpretation of the provisions of the Convention. As is evident from Swedish case-law, questions relating to the Convention are frequently examined and ruled on by Swedish courts.

5. Sweden ratified the revised **European Social Charter**, hereinafter 'The Charter' in May 1998. The ratification means that Sweden has an obligation according to public international law to secure that the Charter is respected in law and in the application of the law. The Charter is, unlike the Convention, not incorporated into Swedish legislation. However, in accordance with the principle of treaty conform interpretation of national law, public institutions for example courts and legislators, have a far-reaching obligation to interpret national laws in accordance with the provisions in the Charter and thereby avoid conflicts between national law and the Charter. The Government is of the strong opinion that Swedish legislation is in conformity with the provisions of the Charter.

Health and medical services

6. The Swedish healthcare system is governed by extensive regulations. Among these regulations, the **Health and Medical Services Act (1982:763)**, hereinafter 'the HMSA', is of particular importance. The HMSA contains fundamental regulations that apply to health and medical services in Sweden. It defines, *inter alia*, certain responsibilities that apply to County Councils and municipalities. However, the County Councils and municipalities have been given considerable freedom with regard to the organisation of their health and medical services.

7. The overall objective of health and medical services is good health and care on equal terms for the whole population. Such care and services shall be provided so that the equal value of all human beings and the dignity of the individual are respected (Section 2 in the HMSA).

8. According to the HMSA, the County Councils and to some extent municipalities shall provide health and medical services to people living in Sweden (primarily Sections 3, 3 b, 3 c, 3 d, 17 and 18). While the aforementioned provisions in the HMSA do not apply to private providers of health care, other provisions in the Act do.

9. The HMSA states that health care and medical services shall be of a high standard and satisfy the patient's need for security, be easily accessible, be based on respect for the patient's right to self-determination and integrity, and promote good communication between the patient and health care personnel (Section 2 a).

10. Furthermore, the HMSA establishes obligations for health care providers to provide patients with individually tailored information about their health condition and alternative treatments (Section 2 b). When alternative forms of treatment, which are in accordance with science and proven experience are available, the County Council shall allow the patient to choose the one that he or she prefers. The County Council shall provide the patient with the chosen treatment if this appears justifiable given the illness or injury and the cost of treatment (Section 3 a, first paragraph). Also the County Council shall give a patient with a life-threatening or particularly serious illness or injury the possibility of obtaining, within his or her own County Council area or outside it, a second opinion if a medical decision may entail special risks for the patient, or is of great importance for the patient's future quality of life. The patient shall be offered the treatment the second opinion may lead to (Section 3 a, second paragraph).

11. Thus the HMSA establishes obligations that apply to health care providers. The provisions in the HMSA are supplemented by other regulations containing provisions that apply to providers of health and medical services. The HMSA is also supplemented by regulations containing provisions that apply to health care staff (see below).

12. The **Patient Safety Act (2010:659)**, hereinafter 'the PSA', contains fundamental provisions necessary to uphold patient safety. The PSA contains, *inter alia*, provisions that apply to health care providers and provisions that apply to health and medical staff.

13. In Chapter 3 of the PSA there are provisions which contain several obligations regarding systematic patient safety work by health care providers. For example, health care providers shall plan, manage and control their activities in a manner that results in the requirement for

good care referred to in the HMSA being maintained. They shall take the measures necessary to prevent that patients contract health care injuries. Furthermore, health care providers shall investigate incidents within the activity that have caused or could have caused a health care injury and provide patients and their close relatives with an opportunity to participate in patient safety work. Also, health care providers are under an obligation to notify the **Health and Social Care Inspectorate**, hereinafter 'the Inspectorate', as soon as possible if there is reasonable cause to fear that a person, who is licensed to practice a profession within the health and medical services and who is active or has been active at the health care provider, may constitute a danger to patient safety.

14. Health and medical staff shall perform their work in compliance with science and proven experience. A patient shall be provided with professional and careful health and medical care that satisfy these requirements. The care shall as far as possible be structured and implemented in consultation with the patient. The patient shall be shown consideration and respect (Chapter 6, Section 1 of the PSA).

15. A person who belongs to the health and medical staff is personally responsible for how they perform their work tasks. This responsibility does not entail any restriction on the healthcare provider's responsibility under PSA or other statute (Chapter 6, Section 2 of the PSA).

16. Health and medical staff shall contribute to maintaining a high level of patient safety. Therefore, such staffs is required to report any risks of healthcare injuries and incidents that have caused or could have caused a healthcare injury to the healthcare provider (Chapter 6, Section 4, first paragraph of the PSA).

17. The person responsible for providing health and medical care to a patient shall ensure that the patient is provided with individually adapted information about his or her health status, the methods of examination, care and treatment available, his or her freedom to choose healthcare provider and providers within the publicly funded health and medical services, and also the healthcare guarantee (Chapter 6, Section 6, first paragraph of the PSA).

18. When there are several treatment alternatives that are in compliance with science and proven experience, the person who is responsible for the health and medical care of a patient shall assist in the patient being given an opportunity to choose the alternative that he or she prefers (Chapter 6, Section 7, first paragraph).

Abortion

19. The content of the **Abortion Act (1974:595)** as presented by FAFCE in the complaint appears to be correct. The government would, however, like to supplement the presentation as follows.

20. The Swedish legislation on abortion derives from the right to planned parenthood. Consideration is taken, for social and humanitarian reasons, to the stress and pressure that an unwanted pregnancy and an unwanted child entail for the woman or both parents. Consideration is also taken to the child's right to be whished and welcomed. Furthermore, the legislation is a manifestation of the basic principle of a woman's right to decide what to do with her own body. The legislation is based on the assessment that the individual woman is the one who is best suited to evaluate her situation and her capacity to raise a child. However, this does not imply that the woman alone has the responsibility for taking a stand (see Govt. bill 1974:70 page 61). Since it is stated in national law that the woman shall be offered counselling before and after an abortion, the society guarantees the woman help and support in the case of an abortion matter. See also paragraph 24 below.

21. Furthermore, the Swedish legislation on abortion is also based upon the ambition to minimize health risks for women that involuntarily become pregnant. In relation to this, it may be mentioned that in countries where legal abortion is severely restricted there are extensive illegal abortion practices. That was the case in Sweden before the Abortion Act entered into force in 1975 and that is still the case in large parts of the world. The World Health Organization estimates that some 70 000 women die each year as a result of unsafe abortions and many more are seriously injured. This is primarily the case in Africa and Latin America where there are strict regulations on abortion. Young women are risking both their health and their lives by being dependent on uneducated abortionists who are using risky techniques, often under unsanitary conditions. In countries where abortions are legal and carried out by safe methods complications are rare also in developing countries. (Swedish Government Official Reports 2005:90 page 25).

22. A central basis of the Swedish legislation on abortion is also the balance between, on the one hand, the woman's right to abortion and, on the other hand, the circumstance that the foetus during the pregnancy gradually develops. It has to be taken into consideration that every abortion is linked to certain more or less serious risks for the woman (see Govt. bill 1974:70 page 62). It ought to be pointed out that an abortion is considered as a last resort and that it is not to be considered as an alternative to contraceptives with the purpose to exercise birth control first. (See Govt. bill 1974:70 page 2).

23. The Government would like to emphasize that after the end of the eighteenth week of pregnancy, an abortion may be performed only if the

National Board of Health and Welfare, hereinafter 'the Board', grants the woman permission to undergo the procedure. Such permission may only be granted if there are exceptional grounds for an abortion However, even if there are exceptional grounds, an abortion may never be granted if there is reason to assume that a foetus is viable (Section 3 of the Abortion Act).

24. If a woman has requested an abortion she shall be offered counselling (Section 2 of the Abortion Act). The regulations of the Board (SOSFS 2009:15) on abortion specify that the health care provider is responsible for ensuring that a woman is offered counselling before and after an abortion (Chapter 3, Section 2). The Government has obtained an example of current care provider routines in the case of abortion, from Karolinska University Hospital (S2013/8379/FS). The document states that patients are to be offered psychosocial counselling and contact with a social worker and are to be given counselling on contraception. A special note is made in the case of persons under the age of 18 that the patient is to be encouraged to talk with their parents or guardians.

25. The Board has adopted regulations and general advice (SOSFS 2012:20) on prenatal diagnosis and preimplantation genetic diagnosis. These regulations state that the health care provider is responsible for ensuring that prenatal diagnosis is only offered if the medical usefulness outweighs the foreseeable risks. Prenatal diagnosis may not be offered for the purpose of taking pictures or recording films of a foetus if there is no medical purpose. Neither may prenatal diagnosis be offered for the purpose of determining the sex of a foetus, unless one of the genetic parents has a known hereditary sex-linked illness. If a foetus's sex becomes apparent in the course of an examination, information about the sex may only be disclosed when the pregnant woman requests this in accordance with Chapter 4, Section 1, third paragraph of the **Genetic Integrity Act** (2006:351).

Supervision and prosecution

26. The Inspectorate is responsible for supervision of the health and medical services and their staff. Therefore it is primarily this government agency which ensures that health care providers and medical staff comply with existing legal obligations in the field of health care and medical services.

27. If the Inspectorate learns that someone has breached a provision relating to an activity that is subject to their supervision, the Inspectorate must take action to ensure that the provision is complied with and, if necessary, report the breach for prosecution (Chapter 7, Section 23 of the PSA). Individuals, e.g. patients, can also report breaches to the police.

28. The Inspectorate can decide on various measures to be taken against a health care provider or a member of the medical staff that fails to comply with obligations in the field of health care and medical services (Chapter 7 of the PSA). If the Inspectorate considers that a health care provider is not performing its obligations under Chapter 3 of the PSA and that there is reason to fear that this failure entails a danger to patient safety or the safety of others, the Inspectorate may order a health care provider or unit to perform its obligations, except where manifestly unnecessary. A provisional financial penalty may be set out in this order and licences to practise and other authorisations to pursue a profession within the health and medical services can be revoked (Chapter 7, Section 24 of the PSA). Furthermore, if health and medical care staff can reasonably be suspected of having committed an offence in professional practice for which imprisonment is prescribed, e.g. causing a person's death or causing bodily injury or illness (Chapter 3, Sections 7 and 8 of the Penal Code [1962:700]), the Inspectorate or the Medical Responsibility Board shall report the matter for prosecution (Chapter 7, Section 29, second paragraph and Chapter 9, Section 17 of the PSA).

29. As can be concluded from what has been stated above, providers of health and medical services and health and medical staff that breach the regulations when performing their tasks will have to suffer any consequences that may follow, e.g. fines, reprimands, written warnings, transfer to other working tasks, dismissal, revocation of a licence to practise or even prosecution.

30. The instruction for the **Parliamentary Ombudsmen** (1986:765) prescribes that the main task of the Parliamentary Ombudsmen is to ensure compliance with the law. The Ombudsmen are specifically tasked with ensuring that public authorities, including government agencies, and courts abide by the provisions of the Instrument concerning impartiality and objectivity and that the public sector does not infringe on the basic freedoms and rights of citizens. The Ombudsmen's supervision includes ensuring that public authorities deal with their cases and in general carry out their tasks in accordance with existing legislation

31. The Parliamentary Ombudsmen's enquiries are prompted both by complaints filed by the public and by the Ombudsmen themselves. Regular inspections are made of various public authorities and courts in the country.

32. The Parliamentary Ombudsmen have the authority to issue statements if the measures taken by a public authority or a public official are in conflict with an existing law or other statute or are incorrect or inappropriate in some other way. The Ombudsmen have the right to issue advisory opinions intended to promote uniform and appropriate application of the law. In the role of extraordinary prosecutor, the Ombudsmen may initiate legal proceedings against an official who,

disregarding the obligations of his office or his mandate, has committed a criminal offence other than an offence against the Freedom of the Press Act (1949:105) or the Fundamental Law on Freedom of Expression.

33. Prosecution for misuse of office or gross misuse of office may be brought against a person who, in the exercise of public authority, by act or by omission, intentionally or through carelessness, disregards the duties of his office (Chapter 20, Section 1 of the Penal Code [1962:700]).

Labour law

34. Any person who enters into a contract of employment in Sweden does so voluntarily. The ordinary employment contract is largely governed by mandatory legislation and collective agreements. The purpose of a majority of the provisions in the legislation and collective agreements is to protect the employee in various ways. In the health and medical services, the contents of employment contracts are also influenced by provisions in the various legal regulations that apply to such services and to the staff who work in them. Other legal rules, such as provisions in the **Discrimination Act (2008:567)**, are also relevant to the relationship between an employer and an employee.

35. The key commitment of the employee in an employment relationship is the personal obligation to work. The obligation to work means that the employee is required to perform a certain amount of work of a certain quality and to carry out this work with a normal degree of care and skill.

36. It is the contents of the employment contract that, in the first instance, determine the work the employee is obliged to perform. The terms and conditions of an employment contract are determined by laws and collective agreements. Where an employment contract does not give a clear answer to the question of the scope of an employee's obligation to work, a basic principle has been developed through case-law according to which an employee is obliged to perform all types of work on behalf of an employer that are naturally associated with the employer's business and can be deemed to fall within the framework of the employee's general professional qualifications. The requirement of being naturally associated with the employer's business means that the employee's duties must fall within the scope of application of the relevant collective agreement. An employee therefore has an extensive obligation to work within the limits set by the employment contract and is obliged, in principle, to perform all working duties that are compatible with the applicable collective agreement and the employee's own qualifications.

37. Furthermore, the employer has the right to direct and allocate the work an employee is obliged to perform (the right to direct work). Based

on this right to direct work, the employer has the right to determine how the work is organised, the methods to be used and modes of production, and the right to transfer employees, i.e. to give them new and different working duties within the framework of their obligation to work. The employer must be able to demonstrate acceptable grounds for particularly far-reaching transfers of employees that are undertaken on personal grounds.

38. However, in principle, the employer and the employee can freely enter into agreements concerning changes in the employment contract, taking into account binding rules in laws and collective agreements. The consent of both parties is required to change the contents of the employment contract. If the employer and the employee do not agree, the remaining course of action open to the employer is to give the employee notice of termination, often combined with an offer of re-employment on changed terms and conditions. When it comes to terminations on personal grounds, which is the case when the employee refer to conscientious objection, the Labour Court's case law reveals that the employer first and foremost has to offer the employee other work tasks that are objectively equivalent to the former tasks, or at least does not result in a wage cut. This notice of termination can always be tried in court.

39. The question of refusal to work on religious grounds has been examined within the framework of the Convention. In several decisions, the European Commission of Human Rights has determined that employees had to accept restrictions that follow from an employment contract. The employee exercises her or his freedom of religion by accepting employment with the associated rules (X v Denmark, case no 7374/76 and Ahmad v UK, case no 10358/83). In a situation where an employee changes opinions during an ongoing employment relationship, the case-law indicates that the conduct of the business is to take priority (cf. Louise Stedman v UK, case no 29107/95). There are also examples of the application of the right to manifest one's religion as stated in the Convention within the work sphere in the case-law of the European Court of Human Rights (see for example Eweida and Others v. the United Kingdom, application nos. 48420/10 and others, specifically the judgment in relation to the fourth applicant).

Discrimination

40. The purpose of the Discrimination Act is to combat discrimination and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age (Chapter 1, Section 1). The Discrimination Act contains provisions that prohibit discrimination and reprisals, provisions on active measures, supervision, compensation and invalidity of contracts and legal proceedings.

41. The provisions against discrimination and reprisals in the Discrimination Act derive to a large extent from European Union Directives on discrimination implemented in Swedish legislation.

42. The prohibition of discrimination in the Discrimination Act applies, *inter alia*, in working life and in education. Thus, an employer may not discriminate against a person who, with respect to the employer, is an employee, is enquiring about or applying for work, is applying for or carrying out a traineeship, or is available to perform work or is performing work as temporary or borrowed labour (Chapter 2, Section 1 of the Discrimination Act). A natural or legal person conducting activities referred to in the Education Act (2010:800) or other educational activities (an education provider) may not discriminate against any child, pupil or student participating in or applying for the activities. Employees and contractors engaged in the activities shall be equated with the education provider when they are acting within the context of their employment or contract (Chapter 2, Section 5 of the Discrimination Act). There are also, as previously mentioned, provisions that prohibit reprisals (Chapter 2, Sections 18–19 of the Discrimination Act).

43. Discrimination with regard to health and medical care and other medical services is also prohibited (Chapter 2, Section 13–13 b of the Discrimination Act).

44. In the Discrimination Act there are provisions on the obligations for employers and education providers to investigate and take measures against harassment (Chapter 2, Sections 3 and 7).

45. In the Discrimination Act there are also provisions on active measures in working life and in education. Employers are to implement such measures as can be required in view of their resources and other circumstances to ensure that the working conditions are suitable for all employees regardless of sex, ethnicity, religion or other belief (Chapter 3, Section 4). Employers must also take measures to prevent and hinder any employee being subjected to harassment or reprisals associated with sex, ethnicity, religion or other belief, or to sexual harassment (Chapter 3, Section 6). An education provider is to take measures to prevent and hinder any child, pupil or student who is participating in or applying for participation in the education provider's activities from being subjected to harassment associated with sex, ethnicity, religion or other belief, disability or sexual orientation, or to sexual harassment (Chapter 3, Section 15).

46. Natural or legal persons who violate the prohibitions of discrimination or reprisals or who fail to fulfil their obligations to investigate and take measures against harassment or sexual harassment under the Discrimination Act shall pay compensation for discrimination

for the offence resulting from the infringement (Chapter 5, Section 1 of the Discrimination Act).

47. The Discrimination Act also contains provisions on invalidity of discriminatory provisions in individual contracts or collective agreements and of discriminatory rules or similar provisions at the workplace (Chapter 5, Section 3).

48. If a person who considers that he or she has been discriminated against or subjected to reprisals demonstrates circumstances that give reason to presume that he or she has been discriminated against or subjected to reprisals, the defendant is required to show that discrimination or reprisals have not occurred (Chapter 6, Section 3 of the Discrimination Act).

49. The **Equality Ombudsman** is to supervise compliance with the Discrimination Act. The Equality Ombudsman is in the first instance to try to induce those to whom the Act applies to comply with it voluntarily (Chapter 4, Section 1 first paragraph of the Discrimination Act) The Equality Ombudsman may bring a court action on behalf of an individual who consents to this (Chapter 6, Section 2 of the Discrimination Act).

Other appeals by students

50. The Higher Education Act states that a special appeals board shall hear appeals against certain decisions relating to the higher education sector (Chapter 5, Section 1, first paragraph). The Higher Education Ordinance (1993:100) states that certain decisions of a higher education institution may be appealed to the Higher Education Appeals Board. This applies inter alia to decisions to reject a student's application for exemption from a compulsory element of a course or study programme and to decisions to reject a student's request to be issued with a degree certificate or a course certificate (Chapter 12, Section 2, point 4 and Chapter 12, Section 2, point 6). Such appeals do not have to be based on discrimination grounds.

51. As can be seen from the decision of the Higher Education Appeals Board of 15 August 2003 (reg. no 42-300-03), in a case in which a veterinary student wanted to avoid carrying out certain obligatory practice operations on animals for reasons of conscience, the general principles on which the Appeals Board assessed the issue of exemption were as follows: *"Two general principles apply when considering exemption from elements of a course or programme: first, that no exemption should be granted from the knowledge required in the course or programme, and second, that the greatest possible account should be taken of students' ethical and religious convictions. Every case must be considered on the basis of its own conditions, and this means taking account of a range of circumstances such as the gravity of the reasons adduced by the student, the possibility of*

alternative instruction, the importance of this element of the course or programme for the professional activity envisaged, etc." The decision also states: "If equivalent knowledge can be obtained by means of alternative instruction and if the performance of the assignment is only of subsidiary importance for the future professional activity, it should generally be possible to grant the student's appeal. However, ultimately the educational requirement will always need to be weighed against the student's reasons of conscience, and this is the task of the Appeals Board."

3. On the merits

A. The allegations that relates to conscientious objection and discrimination

52. In the complaint, FAFCE alleges, *inter alia*, that Sweden, in violation of Article 11 of the Charter, has failed to enact a comprehensive and clear legal and policy framework governing the practice of conscientious objection by healthcare providers in Sweden. Furthermore, FAFCE alleges that Sweden, in violation of Article 11 of the Charter, has failed to ensure that health care workers, physicians and medical students who claim their right to conscientious objection are not treated in a discriminatory way.

53. The Government holds that the above mentioned allegations do not fall within the scope of Article 11 of the Charter.

54. Article 11 of the Charter refers to an obligation to take appropriate measures to ensure the effective exercise of the right to protection of health. The Government can not see that the allegations referred to in paragraph 52 are in any way related to the right to health in Article 11 of the Charter and has not seen any supportive argumentation for this. The allegations are therefore to be considered out of scope in this regard.

55. These allegations are rather connected to Article 9.1 of the Convention of Human Rights and Fundamental Freedoms, which it is not for the Committee to interpret and apply.

56. According to Article 9.1 of the Convention everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance. The European Court of Human Rights has jurisdiction which extends to all matters concerning the interpretation and application of the Convention.

57. The Charter is to be regarded as a complement to the judicial protection provided under the Convention. In that way Article 11 of the Charter complements Articles 2 and 3 of the Convention, as interpreted by the European Court of Human Rights in its case-law. There is no support in the Court's case-law for Article 11 of the Charter to supplement Article 9 of the Convention.

58. The Government holds that Article 11 of the Charter does not supplement Article 9 of the Convention and that it is not within its scope to guarantee the rights set forth in Article 9.

59. If the committee would find that Article 11 of the Charter could be interpreted in the way the complainant holds, the Government would like to present the following arguments in support of its position that the Article has not been violated.

60. In the context of the Convention, the Government holds that the term 'law' should be regarded as a concept which comprises statutory law as well as case-law. In this connection, the European Court of Human Rights has always understood the term 'law' in its 'substantive rather than its 'formal' sense. The term has thus included both enactments of lower rank than statutes and unwritten law.

61. As can be concluded from relevant case-law from the European Court of Human Rights, the rights guaranteed under Article 9 of the Convention do not protect every act motivated or inspired by a religion or belief.

62. The case-law from the European Court of Human Rights makes it clear that measures taken at national level that interfere with the rights protected under Article 9 of the Convention must be justified in principle and be proportionate. When an interference with the rights protected under Article 9 of the Convention has occurred, e.g. in a workplace, and interference is not directly attributable to the State, the State authorities must ensure that the aforementioned rights are sufficiently secured within the domestic legal order. The Court leaves to the States parties to the Convention a certain margin of appreciation in deciding whether and to what extent interference is necessary. The Court generally allows the national authorities a wide margin of appreciation when it comes to striking a balance between competing Convention rights. This margin of appreciation equally applies to tasks performed by private care providers.

63. In Sweden, a woman is entitled to an abortion as stated in the Abortion Act. The person responsible for directing work at a clinic that performs abortions must therefore ensure that there are employees who are willing to help patients who come to the clinic to have their abortion performed in accordance with their legal right. This means that the

abortions must be carried out and moreover that this must be done in accordance with the regulations applying to health and medical services and health and medical staff. The fundamental principle applicable here is the patient's right to good care.

64. It is reasonable to assume, as a rule, that a person who believes on religious grounds, for example, that abortions should not be performed will not actively seek employment in a service in which he or she has to participate in performing abortions, but will instead seek a position in some other part of the health and medical services. If this does nonetheless occur, the issue of any scruples as regards performing abortions can and should be discussed with the employer so as to avoid problems arising later on.

65. The Swedish health care system is largely publicly funded and decentralised. Thus most hospitals in Sweden are run by the County Councils, but a few hospitals are privately run. Non-hospital health and medical services can also be provided by County Councils and by private physicians and private clinics. Private health care providers sometimes provide health care which is publicly funded.

66. In Sweden, health and medical services are sometimes provided on the basis of religious or other spiritual beliefs. For example, Ersta Hospital (a part of Ersta diakonia), the Betania Foundation (associated with the Methodist Church) and the Josephina Foundation (associated with the Catholic Church) all provide health care based on Christian values. Another example is the Vidar Clinic (Vidarkliniken) which practises anthroposophic medicine. This complementary medicine is based on the spiritual philosophy of anthroposophy and combines elements of conventional medicine with homeopathy and naturopathy. As far as the Government is aware both Ersta Hospital and the Vidar Clinic provide publicly funded health and medical services.

67. However, the possibility cannot be excluded of a person employed at a unit where abortions are performed experiencing a change of attitude towards her or his working responsibilities, for one reason or another. For example, a doctor at an abortion clinic who has not previously been opposed to abortion may become opposed to it. In such a case, the question may arise of whether it is reasonable for the employer to demand that in spite of this the doctor should continue to participate in abortions.

68. As already stated above the County Councils have been given considerable freedom with regard to the organisation of their health and medical services. This also applies to services responsible for performing abortions. How work is organised at a care unit, the size of the care unit and a number of other factors together determine the options available to the management to address various problems that may arise in the

unit's activities. For example, if it is possible to give an employee who no longer wants to carry out certain tasks other responsibilities, the issue can be solved in a simple manner.

69. In cases where an employer cannot resolve an issue by mutual agreement with an employee, the employer has to solve the problem in accordance with the rules that apply in such a situation. If the employee considers that the employer is not following the applicable rules, he or she can have the matter examined by a court, as explained above.

70. In preparing its response to this complaint, the Government has addressed enquiries to the relevant employer organisation (the Swedish Association of Local Authorities and Regions) and trade unions (the Swedish Association of Health Professionals and the Swedish Medical Association), i.e. the parties in the labour market that deal with most labour law matters arising in the health and medical services. Enquiries have also been made to the Swedish Society of Obstetrics and Gynecology. None of those asked could give any examples of formal matters in which freedom of conscience had been cited in abortion care (A2013/4473/ARM). Therefore, this part of the complaint seems to be of mainly theoretical interest.

71. The Government holds that the legislation in force in Sweden and national case-law, which in part have been presented in this document, clearly show that the rights enshrined in Article 9 of the Convention are sufficiently secured within the domestic legal order in Sweden. Furthermore, the domestic legal order of Sweden adequately protects against discrimination on grounds of e.g. religion.

72. The Government holds that Sweden adequately protects the rights stipulated in Article 11 of the European Social Charter and invites the Committee to declare that there has been no violation of any of the invoked Articles of the Charter with regard to the allegations stated in paragraph 52 above.

B. The alleged failures to prevent serious incidents and deficiencies

73. In the complaint FAFCE submits, *inter alia*, that Sweden fails to prevent serious incidents when pregnant women are incorrectly informed by physicians during ultrasound examinations that the foetus is no longer alive. Furthermore, FAFCE submits that Sweden fails to prevent serious deficiencies where abortion is recommended by physicians, though the foetus later, after a second ultrasound, is found to be viable. FAFCE holds that the aforementioned failures constitute instances of non-compliance with Article 11 of the Charter.

74. In this regard, it is again questionable if Article 11 of the Charter is applicable at all. According to Article 11 of the Charter, State Parties undertake with a view to ensuring the effective exercise of the right to protection of health, inter alia, to prevent as far as possible epidemic, endemic and other diseases, as well as accidents. From the allegations and examples put forward by the applicant, the Government fails to see any supportive arguments by the applicant of an infringement of Article 11.

75. As the Government understands it, all incidents described in the complaint submitted by FAFCE refer to ultrasound examinations where misinterpreted ultrasound findings have led to incorrect assessments concerning the viability of the foetus. This in turn is said to have resulted in incorrect decisions concerning treatment or incorrect treatment recommendations to speed up the miscarriage that sooner or later would have occurred if the findings of the examination had been correct. As much as such incidents are regrettable, there is no indication that the doctors have not acted in good faith or contrary to generally accepted medical expertise and science. Furthermore, the given examples do not provide support for an infringement of the right to health.

76. If the Committee would find Article 11 applicable, the Government would like to present the following arguments in support of its position that there has been no violation of the Article. .

77. As previously stated above, health and medical staff are to perform their work in compliance with science and proven experience. What constitutes science and proven experience in a specific area within health and medical care at a particular time is determined by experts. In this connection, it is not only scientific findings in Sweden that are of interest.

78. The **Swedish Society of Obstetrics and Gynaecology** has a number of working and reference groups that compile evidence-based descriptions of examinations and treatment options within various areas of their speciality. Each working group consists of experts in the field who work on a voluntary basis.

79. The Society's working and reference group for ultrasound diagnostics has produced a report 'Gynaecological ultrasound diagnostics' (*Gynekologisk ultraljudsdiagnostik*, Report no. 42, 2000, pages 36–42). It describes examination techniques and findings in association with normal and pathological pregnancy, including 'non-viable pregnancy'. Regarding the question of what constitutes science and proven experience, attention should also be called to the guidelines of the Royal College of Obstetricians and Gynaecologists (UK). If the person conducting a gynecological ultrasound examination follows the

available evidence in the field, he or she can avoid making mistakes in distinguishing between viable and non-viable foetuses.

80. In cases where mistakes have been made in health and medical care, the supervisory authority can make decisions regarding various consequences. As is made clear in paragraph 28 above, such consequences are directed at both care providers and health and medical staff. In certain cases, the issue of criminal liability may be arising.

81. Not all cases reported to the Inspectorate lead to demands that measures are to be taken. For example, a health care-related injury may have arisen without any error having been made on the part of the health service. In some cases where errors have been made, the care provider, for example, has already taken measures when the matter is assessed by the supervisory authority. In such a case, should the supervisory authority consider that the measures already taken are appropriate and adequate, there is no reason to demand that additional measures be taken. The supervisory authority shall only demand that measures be taken if there is reason to do so. In order to determine whether there is reason to take any measure, the matter must be examined by investigating and analysing all circumstances that may be relevant.

82. In Sweden, high priority is given to patient safety. As shown by what has previously been reported, Sweden has a well-developed patient safety system whose main purpose is to prevent errors and injuries to patients in health and medical services as far as possible. The system also makes it possible to detect and remedy the errors that, despite everything, are still committed within those services. The Government contends that there is no doubt that Sweden has the legislation necessary to maintain a high degree of patient safety.

83. The Government holds that Sweden adequately protects the rights stipulated in Article 11 of the Charter and invites the Committee to declare that there has been no violation of any of the invoked Articles of the Charter with regard to the allegations stated in paragraph 73 above.

C. The allegations that relates to unlawful permits to late term abortions in cases when the foetus is viable and the failure to protect foetuses/infants born viable

84. The Complainant submits that Sweden allows the Board to unlawfully permit late term abortions in cases when the foetus is viable. Furthermore the Complainant submits that Sweden fails to protect infants/foetuses born viable.

85 The Government considers that Article 11 of the Charter may be applicable to the arguments put forward by the applicant only with

regard to the rights of a pregnant woman and of an infant/foetus born viable. With regard to an unborn foetus, the Government refers to the case-law of the Court, from which it is clear that the State has a margin of appreciation as to determining when the right to life begins. According to Swedish legislation, the right to life begins at the time of birth. However, based primarily on moral consideration, Swedish law does not permit abortion on viable foetuses.

86. The European Court of Human Rights has ruled on the subject of abortion and the question of when life begins in several cases concerning the application of provisions of the Convention. Article 2 of the Convention states that everyone's right to life shall be protected by law and that no one shall be deprived of his or her life intentionally, save in a specified situation As the Court has stated, the article is silent as to the temporal limitations of the right to life and does not define "everyone" whose "life" is being protected by the Convention. The Court has in neither of the examined decisions or judgments set a temporal limit as to when "life" begins or answered the question whether foetuses under certain circumstances are protected by Article 2. It has stated that the issue of when the right to life begins comes within the margin of appreciation which the Court generally considers that States should enjoy in this sphere, notwithstanding an evaluative interpretation of the Convention, a "living instrument which must be interpreted in the light of present-day conditions". The reasons for that conclusion are, according to the Court, firstly, that the issue of such protection has not been resolved within the majority of the Contracting States themselves and, secondly, that there is no European consensus on the scientific and legal definition of the beginning of life. The Court has also observed that there is no consensus at the European level on the nature and status of the embryo and/or foetus. However, the Court has considered that there is indeed a consensus amongst a substantial majority of the Contracting States towards allowing abortion. (See for example Vo v. France, application no 53924/00, paragraphs 75, 82 and 84 and R.R. v. Poland, application no. 2761/04, paragraph 186.)

87. It is also important to stress that Sweden has an obligation to secure everyone's right to respect for his or her private life according to Article 8 of the Convention. The European Court of Human Rights has in its case-law found, citing with approval the case-law of the former European Commission of Human Rights, that legislation regulating the interruption of pregnancy touches upon the sphere of private life since whenever a woman is pregnant her life becomes closely connected with the developing foetus. The Court has stated that Article 8 cannot be interpreted as meaning that pregnancy and its termination pertain uniquely to the woman's private life and cannot be interpreted as conferring a right to abortion. The woman's right to respect for her private life must be weighed against other competing rights and freedoms, including those of the unborn child. (See for example Boso v.

Italy, application no. 50490/99, paragraph 2, Tysiac v. Poland, application no. 5410/03, paragraph 106, Vo v. France, application no 53924/00, paragraphs76, 80 and 82 and A, B and C v. Ireland, application no. 25579/05 , paragraphs 213 and 214.)

88. It is the Government's firm opinion that the right to health under the Charter should not be given a wider interpretation than the right to life under Article 2 of the Convention. Consequently, it falls within the margin of appreciation of each State to define to what extent the unborn foetus can enjoy the right to health. It is the Government's opinion that Article 11 of the Charter is not applicable in this case on unborn foetuses.

89. With regard to the pregnant woman, the Government can not see any supportive arguments for an infringement of the right to health in this case, as late term abortions would only be performed on the woman's own request, taking into consideration her rights to life, health and private life. The complainant would rather seem to argue that the right to health concerns the unborn foetuses and infants/foetuses born viable.

90. With regard to the right to health for an infant/foetus born viable, it is made clear in the Abortion Act that permission to carry out an abortion may not be granted if there is reason to assume that the foetus is viable. However, if a woman's life or health is in danger, permission to terminate the pregnancy may be given (Section 6 of the Abortion Act). In the latter case, the Government would like to stress that all measures are taken for saving the lives of both the child and the mother.

91. The assessment of whether or not a foetus is viable is a medical one, and will always be subject to changes over time. The limits for when a foetus can be considered viable must gradually be adapted as progress is made in fields such as obstetrics and neonatal intensive care. These assessments are a necessity in all legislation regarding abortion that doesn't allow totally free abortion. Since the Government, for reasons stated in paragraph 20-22, wants to secure the right to abortion, there will always have to be assessments of viability.

92. Before the Board's Legal Advisory Council takes a decision on an application for an abortion, it is determined how far the pregnancy has progressed. The primary assessment of whether or not a foetus is viable is carried out at the women's clinic where the woman has applied for an abortion and is based on clinical findings, gynaecological examination, the results of ultrasound examination and, where applicable, other prenatal diagnoses. The limit for viability currently in effect in Sweden is 22 weeks + 0 days. This is based on a Swedish study that covered all children born in Sweden before the 27th week of pregnancy over a period of three years (Jama 2009; June 3; 301(21) 2225–33), known as the EXPRESS study. It should be noted that since practically all the

women in the study were examined using ultrasound in the 18th week after their last menstruation, the Swedish EXPRESS study provides a very good measurement of the length of pregnancy period at childbirth.

93. Since the beginning of the 1990s, one abortion method used in Sweden has been to administer anti-progesterone pills followed by a prostaglandin, administered either orally or vaginally. This therefore involves a non-invasive procedure in which the termination process is faster, is less stressful for the woman and where complications are rare. The drawback with this procedure is that if the abortion occurs late in the term, the foetus can display certain reflex signs of life, such as gasping for breath. However, the fact that a foetus displays reflex signs of life does not mean that the foetus is viable.

94. In 2010, 2011 and 2012, a total of 55 applications for abortions were received where the pregnancy period exceeded 22 weeks of pregnancy (22+0 days). Permission for abortion was granted in nine cases, and permission to terminate the pregnancy was granted in four cases. The Government would once again point out that permission to terminate the pregnancy may be given (Section 6 of the Abortion Act) after week 22 (thus when the foetus may be viable) if a woman's life or health is in danger. In these cases all measures for saving both the child's and the mother's lives are taken.

95. In all cases where permission for an abortion was granted, it was considered that survival outside the uterus was not possible due to foetal abnormality. In two cases, the foetus lacked the cranial vault (acrania), and in one case the reason was a chromosomal disorder (trisomy 18). In two cases, multiple deformities were involved. In two cases, the reason was pronounced hydrocephalus in combination with, in one case, a lack of amniotic fluid, and in the other, a spina bifida condition. A complicated heart defect was discovered in one case and in one case a lack of closure of the abdominal wall. In all cases, with the exception of the two involving acrania, the extent of the deformity and its importance to the viability of the foetus were assessed by ultrasound specialists and doctors specialising in the relevant field before the application to the Board was made. In the four cases where permission to terminate the pregnancy was granted, the foetus was considered viable. Accordingly, the legal requirements for an abortion were not met, and consequently permission for an abortion was not granted.

96. The Government holds that the national legislation on abortion is in accordance with the Charter. In applying this legislation in cases of late abortions a careful examination is carried out in which the mother's right to have an abortion is balanced against the degree of development of the foetus and the risks involved for the mother's life and health. The Government is not aware of any case in which the Board has granted permission for an abortion in conflict with national legislation.

97. The Government holds that Sweden adequately protects the rights stipulated in Article 11 of the European Social Charter and invites the European Committee on Social Rights to declare that there has been no violation of any of the invoked Articles of the Charter with regard to the allegations stated in paragraph 84 above.

D. The alleged failure to draw up official guidelines on how to reduce the extremely high number of abortions performed on the youngest age group, without parental or informed consent or supportive consultation.

98. FACFE submits that the failure to draw up official guidelines on how to reduce the extremely high number of abortions performed on the youngest age group, without parental or informed consent or supportive consultation, constitute an instance of non-compliance with Article 11 of the Charter.

99. At the outset, the Government questions the applicability of Article 11 to this issue. The judgements from the European Court of Human Rights, mentioned in paragraph 86 should serve as guidance of whether also unborn foetuses are protected by article 11 of the Charter. The Government would like to point to the statements made by the Court in this matter. The Court has stated that the issue of when life begins should be left to each State's margin of appreciation. In this context the Government would like to stress that there is no European consensus on the legal or scientifical definition of when life begins. There is, however, a substantial majority consensus among the states in Europe on allowing abortions.

100. If the committee finds that article 11 is applicable in the way the complaint claims the Government, disputes the complaint with reference to what follows in paragraphs 101-114.

101. Abortion is a procedure or measure that is undertaken due to an unwanted pregnancy. The object of the measures carried out in Sweden is to prevent the underlying issue of unwanted pregnancies and the Board therefore does not prepare any national guidelines for efforts to prevent abortions.

102. The existing action plans and strategies in Sweden are thus intended to reduce the number of unwanted pregnancies and consequently also abortions. The preventive work focusing on reducing the number of unwanted pregnancies is extensive and conducted on many different levels by many actors. The work is conducted at both national and regional levels. Non-profit actors, such as the Swedish Association for Sexuality Education, also make valuable contributions in the area. The

fundamental provisions of importance to this preventive work are contained in the Abortion Act and in the Board's regulations on abortion. There are also provisions of relevance in the Education Act.

103. The provisions concerning a woman's right to counselling before and after an abortion are found in the Abortion Act (Sections 2 and 8). The legislative history to the Abortion Act (Govt. bill 1974:70) makes clear that counselling should be given by a professional with skills in behavioural sciences, such as a social worker. The Board's regulations on abortion (SOSFS 2009:15) contain provisions on the health care provider's responsibility to ensure that a woman who requests an abortion receives the information she needs (Chapter 3, Section 1). There are also provisions on counselling before and after an abortion and contraceptive counselling (Chapter 3, Section 2). Furthermore, there are provisions containing requirements on health care provider procedures concerning how to determine whether information is to be provided to parents or guardians when a woman under the age of 18 requests an abortion, and whether a report is to be sent to the social welfare committee or an equivalent body when a woman under the age of 18 requests an abortion (Chapter 3, Sections 3 and 4).

104. Health care providers have written routines on counselling before and after an abortion that are to be used in the event of an abortion. One example of such routines has been obtained from Karolinska University Hospital in light of this complaint (S2013/8379/FS). These routines make clear that support such as psychosocial telephone counselling is to be provided. In addition, psychosocial and contraceptive counselling is to be provided in connection with the patient's appointments. Special routines apply for patients under the age of 18, including requirements concerning the involvement of a social worker and on reporting suspicions of a minor being at risk of harm to the social services.

105. Under the Education Act, all pupils in preschool class, compulsory school and upper secondary school are to have access to school health care services, including school doctor, school nurse, psychologist and social worker, as well as staff with special needs skills. In addition, the Education Act states that health services for pupils primarily shall be preventive and health promotive, and that the pupils' progress to the targets of the education shall be supported.

106. Since 1955, sex and relationship education is compulsory in Swedish schools. Questions concerning sexuality, relations and sex have been given greater and clearer scope than previously in the new curricula, the Curriculum for the compulsory school, Preschool class and the Recreation centre (Lgr11), and the Curriculum for the upper secondary school (Lgy11). Sex and relationship education is not an independent subject, but an integrated part in many of the course and subject Curriculums. The principal for compulsory school has an especial

responsibility to integrate interdisciplinary fields of knowledge, such as sex and relationship, into different subjects. In the same way, the principal of upper secondary school shall assure that the pupils gets sex and relationship education.

107. County Councils and municipalities conduct extensive public health efforts in the area of sexual and reproductive health and rights (hereafter referred to as 'SRHR'). In different ways, these actors help achieve the overall public health objective of creating conditions in society that enable the entire population to enjoy good health on equal terms.

108. Within their areas of responsibility, which includes schools and health and medical services, County Councils and municipalities enjoy local self-government. The aim of this local self-government is to create conditions for local democracy and support from the citizens. It also creates the freedom to make decisions at the local level to promote the development of a well-functioning society and to make use of and conserve common resources. One consequence of this self-government is that there are certain variations in how work on SRHR is conducted.

109. Self-government means that the County Councils and municipalities each design their SRHR activities, with associated action plans and strategies. An example of self-government in the area of SRHR is youth clinics, which are not part of any national assignment, but nonetheless found in most County Councils and municipalities.

110. The preventive work against unwanted pregnancies is also conducted in accordance with a number of different national, regional or local policy documents. Special coordination functions at County Councils are charged with coordinating governance signals to create effective measures. Most County Councils have a region-wide action plan in all or part of the SRHR area. The majority of these action plans contains activities aimed at reducing the number of unwanted pregnancies. Teenage girls are listed in most of the action plans as the most prioritised prevention group in these efforts.

111. Each County Council has one or two coordinating midwives and one or two HIV/STI coordinators who have the overall perspective of the measures in the SRHR area. A coordinating function of this kind is necessary since many different actors are involved in the work, primarily school health and welfare services, young people's clinics, SESAM clinics (sexual counselling for young adults), antenatal clinics, maternity care, women's clinics and non-profit organisations.

112. Government inquiries have shown the existence of certain shortcomings in coordination between the different actors in the SRHR area. The Government therefore decided in 2012 to give the Board, the Swedish Institute for Communicable Disease Control and the Swedish

National Institute of Public Health the task of drafting a proposal for a national strategy document for SRHR (S2009/4860/FS). One of the most important goals of this task is to improve and facilitate coordination in SRHR work.

113. Since 2006, the Government has allocated a total of SEK 95 million to County Councils and municipalities for preventive work targeting HIV/STI. This work is based on the Government Bill 'National Strategy to Combat HIV/AIDS and Certain Other Communicable Diseases' (Govt. bill 2005/06:60), which also emphasises the importance of integrating HIV/STI prevention with the preventive work focusing on unwanted pregnancies. Following a national agreement on the subsidisation of contraceptives in June 2013, the Swedish Association of Local Authorities and Regions made a decision on a common recommendation for the subsidisation of contraceptives. The recommendation means that women up to the age of 25 are to be able to purchase contraceptives at a cost to themselves of no more than SEK 100 per year.

114. The Government holds that Sweden adequately protects the rights stipulated in Article 11 of the Charter and invites the Committee to declare that there has been no violation of any of the invoked Articles of the Charter with regard to the allegations stated in paragraph 98 above.

E. The alleged failure to actively prevent eugenic and sex-selected abortion

115. FACFE submits, inter alia, that the Sweden fails to actively prevent eugenic and sex-selected abortion and that this failure constitutes an instance of non-compliance with Article 11 of the Charter.

116 Also in regard to this complaint, the Government questions whether the article is applicable, with reference to what has been said above in paragraph 99.

117. If the committee would find that article 11 is applicable in the way the complainant claims the Government would like to add the following. As a rule, Swedish abortion legislation means that a woman has the right to take her own decision on abortion up until the eighteenth week of pregnancy, and she does not need to give any reasons for her decision. As is clear from the regulations described above and the general advice on prenatal diagnosis and preimplantation genetic diagnosis adopted by the Board, prenatal diagnosis may not be offered for the purpose of determining the sex of the foetus, unless one of the genetic parents has a known hereditary sex-linked illness. If a foetus's sex becomes apparent in the course of an examination, information about the sex may only be disclosed when the pregnant woman requests this in accordance with Chapter 4, Section 1, third paragraph of the Genetic Integrity Act.

118. It is not possible to check whether a woman who wants to have an abortion has gained knowledge of the foetus's sex through prenatal diagnosis carried out in another country.

119. Consequently, the risk of an abortion being performed for sex-selective reasons that are not linked to medical factors cannot be entirely excluded. A clear indication of the occurrence of sex-selective abortions in Sweden would be if there was an imbalance between the sexes of new-born children at population level for which there is no other explanation. The Swedish Medical Birth Register shows no such imbalance.

120. The most important way to combat the incentive for sex-selective abortions and economic needs for having a child of a certain sex is to create a society with equal opportunities for men and women, girls and boys. The overarching goal of Sweden's gender equality policy is that women and men are to have the same power to shape society and their own lives (Govt. bill 2005/06:155). This means that Sweden stands up for the right and opportunity to decide over one's own body, sexuality and reproduction. Four sub-targets guide the Swedish gender equality policy. The first sub-target is equal division of power and influence. Women and men must have the same rights and opportunities to be active members of society and shape the conditions for decision-making. The second sub-target is economic equality. Women and men must have the same opportunities and conditions as regards education and paid work which give economic independence throughout life. The third sub-target is equal distribution of unpaid housework and provision of care. Women and men must have the same responsibility for housework and have the opportunity to give and receive care on equal terms. The fourth sub-target is that men's violence against women must stop and that women and men, girls and boys, must have the same right and opportunity to physical integrity.

121. Sweden actively counteracts sex-selective abortions that are motivated by reasons other than those of a purely medical nature in ways described above.

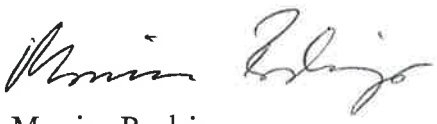
122. The Government holds that Sweden adequately protects the rights stipulated in Article 11 of the Charter and invites the Committee to declare that there has been no violation of any of the invoked Articles of the Charter with regard to the allegations stated in paragraph 112 above.

4. Conclusion

123. A finding of a violation of the Charter in this case would necessitate a very wide interpretation of the Charter without clear support in its wording and without being in conformity with the intentions of Sweden

as a State Party when acceding to the Charter. Such an interpretation would give the right to health a much wider scope than the right to life in the European Convention of Human Rights as interpreted by the European Court of Human Rights. The position of the Government concerning the merits in this case is that the case reveals no violations of any of the invoked Articles of the Charter.

Yours sincerely,



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