

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



Contact: John Darcy
Tel: 03 88 41 31 56

Date: 02/05/2018

DH-DD(2018)450

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1318th meeting (June 2018) (DH)

Communication from the authorities (13/04/2018) concerning the case of X v. Sweden (Application No. 36417/16).

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

* * * * *

Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1318^e réunion (juin 2018) (DH)

Communication des autorités (13/04/2018) concernant l'affaire X c. Suède (requête n° 36417/16) (**anglais uniquement**)

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



Government Offices of Sweden

13 April 2018
UDFMR2016/20/ED

Ministry for Foreign Affairs

DGI

13 AVR. 2018

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Information concerning the case of X. v. Sweden (Application no. 36417/16)

With reference to the judgment by the European Court of Human Rights in the case of X. v. Sweden (app. no. 36417/16) on 9 January 2018 (final on 9 April 2018) – where the Court held that, in the present circumstances, the implementation of the expulsion order against the applicant would give rise to a violation of Article 3 of the Convention – the Government would like to inform the following.

The Government notes that the present case raises important issues relevant to Sweden's national security.

Following the indication to the Government under Rule 39 of the Rules of Court made by the Court, the Swedish Government decided on 22 September 2016 to stay the enforcement of its decision to expel the applicant.

On the same day as the Chamber judgment was published, the Swedish Security Service was informed of the judgment and, subsequently, also the Swedish Migration Agency.

According to Chapter 5, Section 4 of the Swedish Aliens Act (2005:716), if an international body that is competent to examine complaints from individuals has found that a refusal-of-entry or expulsion order in a particular case is contrary to a Swedish commitment under a convention, a residence permit shall be granted to the person covered by the order, unless there are exceptional grounds against granting a residence permit. In the present case, the decision to expel the applicant was issued under the Aliens

Controls (Special Provisions) Act (1991:572) and the aforementioned provision in Chapter 5, Section 4 of the Aliens Act applies to matters under the Aliens Controls (Special Provisions) Act.

According to Section 10, first paragraph of the Aliens Controls (Special Provisions) Act, if expulsion has been decided under the Aliens Controls Act but impediments as stated in Chapter 12, Sections 1, 2 or 3 of the Aliens Act prevent the enforcement of the order or if there is some other special reason why the order should not be enforced, the responsible authority (in this case the Government) shall either decide to stay the enforcement of the expulsion order or to grant the alien a temporary residence permit.

According to Section 10, second paragraph of the Aliens Controls (Special Provisions) Act, if the responsible authority has decided to stay the enforcement of an expulsion, the decisions on expulsion and stay of enforcement shall be reconsidered by the authority when there is reason to do so. As long as an expulsion order decision is still valid but it has not been possible to enforce it, the Swedish Security Service shall inform the deciding authority before the end of each calendar year following the year in which the order was made whether or not there are grounds for reviewing the order.

If the alien has been granted a temporary residence permit, the Swedish Migration Agency shall reconsider the expulsion order decision when the residence permit expires (Section 10, third paragraph of the Aliens Controls (Special Provisions) Act).

In this connection, the Government would like to emphasise that no revocation of the decision to stay the expulsion order may take place without a new assessment having been made under the special procedure provided for under Section 10, paragraph 4 and Section 3, paragraph 3 of the Aliens Controls (Special Provisions) Act. In addition, in conjunction with such a review by the Government, an opinion from the Migration Court of Appeal has to be obtained. If the Migration Court of Appeal were to find that there are still impediments to enforcement of the expulsion order, the Government may not deviate from that assessment. In delivering its opinion on the matter, the Migration Court of Appeal will consider whether there are impediments to enforcing the expulsion of the applicant under Chapter 12, Section 1 of the Aliens Act.

Following the judgment by the Court in the case at hand, a procedure regarding the applicant has been initiated. The issue of whether to impose a duty to report on the applicant (a duty to report to the Police Authority at specific times) is presently being processed within the Government Offices. Furthermore, and as part of that procedure, decisions will also be taken on the issue of residence permit and stay of enforcement.

Consequently, the expulsion of the applicant may not be enforced as long as impediments to enforcement exist. Hence, the Government holds that under the present circumstances, the applicant does not run the risk of being expelled to Morocco, *i.e.* in line with the Court's judgment and with Swedish international commitments.

The Swedish Government will keep you informed of any significant development concerning the applicant's situation. The Government would also like to provide you with assurances that, should the review result in a decision to expel the applicant in compliance with the Convention, such decision will not be enforced until the Committee of Ministers has had time to assess the new information.