



PERMANENT MISSION OF SWEDEN
TO THE UNITED NATIONS

New York

The Permanent Mission of Sweden to the United Nations presents its compliments to the Secretary-General of the United Nations and, with reference to its note no. LA/COD/59/1 of 20 January 2011 has the honour to provide the following information and observations.

The fight against impunity is a common goal shared by the Member States of the United Nations, with the aim to ensure that individuals who commit international crimes such as genocide, crimes against humanity, war crimes and torture are brought to justice and that redress is provided for the victims.

States have a right and an obligation to either prosecute or extradite persons suspected of having committed genocide, crimes against humanity, war crimes or torture. Rights and obligations regarding prosecution and extradition derive from various legal bases for the exercise of jurisdiction. Far from all indictments against foreign nationals in national fora are based on universal jurisdiction.

Cases regarding national prosecution of international crimes have a global reach. Crimes such as genocide, crimes against humanity, war crimes and torture fall under universal jurisdiction. The exercise of universal jurisdiction or other jurisdictional grounds is a matter of national competence, based on principles of international law. The development and outcome of pending or new indictments is depending on the circumstances in the individual cases. It is of utmost importance that the Rule of Law governs national judicial systems, to ensure an impartial and fair trial for all parties involved in an investigation or prosecution regarding international crimes. It shall be noted that prosecution over crimes against international law that have been

Secretary-General of the United Nations
NEW YORK

committed outside of Sweden require the authorization of the Swedish government.¹

Sweden exercises universal jurisdiction over crimes against international law (i.e. criminal jurisdiction based on the nature of the crime, irrespective of its location and of the nationality of the alleged perpetrator or victim).² Crimes against international law are defined as “a serious violation of a treaty or agreement with a foreign power or an infraction of a generally recognised principle or tenet relating to international humanitarian law concerning armed conflicts”³ in the Swedish criminal code. Thus, treaties as well as customary international law concerning international humanitarian law are applicable in the determination of whether a crime against international law has been committed. In addition to crimes against international law, Sweden also exercises universal jurisdiction, *inter alia*, over the crime of genocide, by virtue of the 1964 Genocide Act.

In order to initiate proceedings for international crimes which are not implemented into Swedish national law, the offence in question must fall within the scope of Sweden’s national criminal law. Since 1986, Sweden is party to the Convention against Torture. An act of torture can constitute a crime under the Penal Code, most likely extremely gross assault. If the least severe punishment for a crime is imprisonment for four years or more, as in the case of extremely gross assault, Swedish courts have universal jurisdiction.

In 2002, the Swedish Commission on International Criminal Law presented a report concerning international crimes and Swedish jurisdiction.⁴ The Commission was formed in order to review Swedish legislation on criminal responsibility for international crimes and jurisdiction over such crimes, with respect to a Government resolution on 12 October 2000 concerning the Rome Statute. In its report, the Commission puts forward a proposal for a new Act on International Crimes, granting universal jurisdiction over new provisions on genocide, crimes against humanity and war crimes. Sweden ratified the Rome Statute subsequent to its adoption in 1998 and the proposal of

¹ Chapter 2 Section 5.2 Swedish Criminal Code.

² Chapter 2 Section 3.6 Swedish Criminal Code. There is no double criminality requirement.

³ Chapter 22 Section 6 Swedish Criminal Code.

⁴ *International crimes and Swedish jurisdiction*, Swedish Government Official Report, 2002:98.

the Commission is to some extent based on the provisions of the Statute.

Sweden has to this date not had any case in its national courts concerning international crimes based on universal jurisdiction, i.e. where the alleged crime was committed outside Swedish territory and neither the alleged perpetrator or victim was Swedish.

The Permanent Mission of Sweden to the United Nations avails itself of this opportunity to renew to the Secretary-General of the United Nations the assurances of its highest consideration.

New York, 18 April 2011

