



THE EUROPEAN ASSOCIATION OF  
JEHOVAH'S WITNESSES

16 July 2019

**From the European Association of Jehovah's Witnesses**

**Contribution for the  
35<sup>th</sup> Session of the UPR (Jan–Feb 2020)**

**Sweden**

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REGISTERED CHARITY NO. 1085157

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## SUMMARY OF THE SUBMISSION

This submission to the Human Rights Council on Sweden highlights human rights issues and the current failures to implement accepted recommendations during the previous review.

Jehovah's Witnesses in Sweden, and as a worldwide organisation, respectfully request the government to:

- (1) Ensure that the religious community 'Jehovas vittnen' is not discriminated against and that it enjoys the same access to public funding as other registered religious communities
- (2) Ensure that the relevant decisions of the Supreme Administrative Court of Sweden are implemented
- (3) End oppressive controls of aspects of peaceful religious worship
- (4) Abide by their commitment to uphold the fundamental freedoms guaranteed by the Constitution, the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR) for all citizens

## I. INTRODUCTION

1. The European Association of Jehovah's Witnesses is a charity registered in the United Kingdom. It provides support to Jehovah's Witnesses facing human rights violations in various parts of the world.
2. Jehovah's Witnesses have been in Sweden for more than 120 years. There are currently more than 22,000 active adherents and more than 34,000 attend religious services. On 13 March 2000, Jehovah's Witnesses were registered as a religious community.
3. Jehovah's Witnesses practise their religion freely in Sweden and are able to engage in public outreach activity. Since 2017 the Government has reintroduced military national service as compulsory, and Jehovah's Witnesses are still exempted as conscientious objectors.
4. However, since an initial application for state grants was made in August 2007, Jehovah's Witnesses' religious community has been discriminated against by the denial of the state grants made available under statutory law and government regulation. The government has failed to implement three separate Supreme Administrative Court findings and relies on improper, ever-changing criteria.
5. Additionally, the activities of Jehovah's Witnesses have been arbitrarily constrained by the classification of certain peaceful features of their worship as licensable activities.

## II. ISSUES

### a. Denial of Government Grants - Financial aid to religious communities

6. In an application dated 6 August 2007, Jehovah's Witnesses of Sweden ("Jehovas vittnen") applied to Sweden's Ministry of Culture to be registered to receive state grants, pursuant to Swedish statutory laws SFS 1999:932 and Government Regulation 1999:974. More than 40 other religious organizations received similar grants.
7. To decide whether or not a religious group may receive a grant, the Ministry of Culture relies on recommendations from the Commission for State Grants to Religious Communities (SST), made up of representatives of the religious communities that have already been declared eligible for state grants. This violates the State's obligations of neutrality and impartiality under Article 9 of the ECHR, summarised by the European Court of Human Rights (ECtHR) in the case of *Metropolitan Church of Bessarabia and others v. Moldova* (application no. 45701/99 §123, 13 December 2001):

...the Court observes that the State's duty of neutrality and impartiality, as defined in its case-law, is incompatible with any power on the State's part to assess the legitimacy of religious beliefs, and requires the State to ensure that conflicting groups tolerate each other, even where they originated in the same group. In the present case, the Court considers that by taking the view that ... recognition depends on the will of an ecclesiastical authority that had been recognised—the Metropolitan Church of Moldova—the State failed to discharge its duty of neutrality and impartiality.
8. On 26 February 2008, the Ministry of Culture provided Jehovas vittnen with a copy of the SST's Statement of Opinion dated 20 February 2008. The SST recommended that the application be rejected because, among other things, Jehovah's Witnesses do not vote. The SST described Jehovah's Witnesses as a "sect", a pejorative and discriminatory term.
9. On 17 June 2009, the Ministry of Culture rejected the application for state grants. Relying on the SST's opinion, the decision stated that the application was denied because Jehovah's Witnesses do not contribute "to the maintaining and strengthening of the fundamental values upon which society is based".
10. On 16 September 2009, Jehovas vittnen applied to the Ministry of Culture to reconsider its decision, and on 13 November 2009, the applicant submitted supporting information on how Jehovah's Witnesses have contributed "to the well-being of their neighbourhood and to peaceful relations". On 10 December 2009, the Ministry of Culture rejected the application. On 9 March 2010, Jehovas vittnen filed an appeal with the Supreme Administrative Court on the basis of the law SFS 2006:304, which provides for a review of state decisions that violate Article 6 of the European Convention on Human Rights.
11. On 2 March 2011, the Supreme Administrative Court annulled the government's 17 June 2009 decision.
12. In response, on 16 May 2012, the Ministry of Health and Social Affairs (the government department then handling applications for state grants) issued a new decision, rejecting the application for state grants for the sole reason that Jehovah's Witnesses do not participate "in

political elections”, thus relying for the third time on the 20 February 2008 SST opinion. On 3 August 2012, Jehovas vittnen again appealed to the Supreme Administrative Court.

13. On 8 November 2013, the Supreme Administrative Court granted the appeal and reversed the 16 May 2012 decision of the Ministry of Health and Social Affairs. The Supreme Administrative Court concluded that the “right to vote is merely a right, not an obligation”, and reiterated that the state may not make an “assessment or evaluation” on religious doctrine and must “remain neutral and impartial”.
14. On 10 June 2014, the Ministry of Health and Social Affairs provided Jehovas vittnen with the 2 June 2014 SST opinion, which again recommended that the application be rejected. The SST based its opinion “mainly” on information from “defectors” who claimed to have been Jehovah's Witnesses. There is no evidence that the SST conducted a similar survey of disgruntled former members when approving the applications of the 40 communities that receive state grants, nor did it assess their beliefs and doctrines.
15. On 21 August 2014, the applicant submitted to the Ministry of Health and Social Affairs a detailed reply, proving that the SST opinion ignored the clear direction of the Supreme Administrative Court and, instead, was based on religious bigotry, gross misinformation, innuendo, and biased and misleading conclusions.
16. On 28 January 2016, the government rejected, for the fourth time, the application to be registered to receive state grants. The government relied on the opinion of the SST and concluded that Jehovah's Witnesses should not receive state grants because of their religious beliefs concerning blood transfusions. In reaching this conclusion, the government engaged in an impermissible assessment of religious beliefs in violation of the protected right to freedom of religion. In *Jehovah's Witnesses of Moscow and others v. Russia* (no. 302/02, §§ 132, 10 June 2010), the ECHR concluded:

“... the situation of a patient seeking a hastening of death through the discontinuation of treatment is different from that of patients who – like Jehovah's Witnesses – just make a choice of medical procedures but still wish to get well and do not exclude treatment altogether.”

17. On 20 February 2017, the Supreme Administrative Court again cancelled the decision of the Government, concluding *inter alia*: “an individual who chooses to exercise his right to refuse a particular medical treatment cannot be said to be acting in a manner inconsistent with the fundamental values of society. On the contrary, in our democratic society, respect for individual privacy and autonomy must allow for a patient to refuse treatment, even if it appears medically necessary and even if this choice may seem irrational. Whether the choice is based on religious beliefs or other reasons is irrelevant in this case”. The Supreme Court directed the Government to make a new lawful decision.
18. On 24 March 2017, the applicant applied to Sweden's Chancellor of Justice for damages for violation of its Convention rights. The applicant sought pecuniary damages of SEK 16,264,328 (for the grants it was entitled to for the 2008-2016 calendar years) and non-pecuniary damages of SEK 1,000,000, plus legal costs and expenses. The applicant also requested the Chancellor of Justice to direct the Government to approve the application for State grants.

19. On 29 March 2017, the applicant wrote to the Minister of Culture, demanding *inter alia* that the Government make a new decision approving the application for State grants in harmony with the Supreme Administrative Court's 20 February 2017 judgment. The Minister of Culture did not respond.<sup>1</sup>
20. On 20 June 2017, the Chancellor of Justice rejected the 24 March 2017 application, concluding that it was "too early" to decide if damages against the Government were warranted because the Supreme Administrative Court had (for the third time) "referred the case back to the Government" to make a new decision. The Chancellor of Justice ignored the applicant's arguments that the Government's ten-year delay in approving the request for State grants was itself a serious Convention violation. The Chancellor of Justice also stated it did not have jurisdiction to order the Government to approve the request for State grants, concluding that it "cannot interfere in the handling of a specific case by a Government agency and cannot advise the agency on how to act in a specific case".
21. On 22 June 2017, the Government briefly responded to the applicant's 12 June 2017 letter, dismissively stating that the 6 August 2007 application "is currently being handled by the Government offices".
22. The applicant has been waiting for over 12 years to receive State grants like all other religions. The Supreme Administrative Court ruled three times in favour of the applicant and cancelled the Government's discriminatory and unlawful refusals for State grants. In profound disregard of the rule of law and the prohibition on discrimination, the Government continues to refuse to afford the applicant the same State grants provided to all registered religions.

#### **b. Oppressive Control of Aspects of Religious Worship**

23. The beliefs and practices of Jehovah's Witnesses involve annual conventions at which thousands of adherents gather peacefully for a programme of religious education and worship. It is identical in all lands where such conventions are held and in recent years has involved numerous religious video presentations, either free-standing with a religious theme or by way of illustration of religious matters being developed in the course of a lecture.
24. It is the practice of Jehovah's Witnesses for families, including children, to manifest this aspect of their religion by attending religious gatherings and worshipping together. Persons of all ages are present, with children being accompanied by parents or other adults acting *in loco parentis*.
25. Such a manifestation of religious belief is protected by *inter alia* Chapter 2, Article 1 of the Constitution of Sweden; Articles 17, 18, 19, 21 and 22 of the Covenant; and Articles 8, 9, 10, 11 and 14 of the European Convention on Human Rights.
26. While primarily aimed at Jehovah's Witnesses, such gatherings are open to the public, and the public are actively invited to attend. There is no admission charge or solicitation of donations. Such events are purely occasions of religious instruction, not gatherings for the purpose of public entertainment.

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<sup>1</sup> On 12 June 2017, the applicant again wrote to the Minister of Culture, repeating its demand

27. From 29 June to 1 July 2018, such a gathering was held in Stockholmsmässan, Mässvägen 1, Älvsjö, Stockholm City, under the chairmanship of Mr Jan Kraft, a religious minister of Jehovah's Witnesses. Some 9,500 persons attended each day of the convention. The programme was identical to that used internationally, including the use of some 75 video presentations of varying lengths between 1 and 45 minutes.
28. All of the videos shown during the convention were teaching tools in support of a Bible-based talk or theme. Some illustrated the beauty of God's creation, and others depicted a Bible scene or a Bible character. Some showed in a practical way how to solve a modern-day problem using Bible principles, and others simply displayed the lyrics of Bible-based religious songs, which believers in attendance sang as part of their worship. For believers with a hearing disability, videos of Bible-based talks and Scripture readings were played in Swedish Sign Language. The entire program provided Bible-based guidance to parents, teenagers and children on how to lead a happier life and enjoy a positive hope for the future.<sup>2</sup>
29. The videos are also available for streaming and download from the official website of Jehovah's Witnesses<sup>3</sup> as well as on the TV channel of Jehovah's Witnesses in the section "Video on Demand",<sup>4</sup> both in Swedish and in Swedish Sign Language. The same videos were shown at thousands of religious conventions of Jehovah's Witnesses held in hundreds of countries during the 2018 calendar year.
30. The Sweden authorities were well aware of the religious convention attended by Mr Kraft. He had given notice of the convention to the police and specifically informed them that, as in previous years, videos with a Biblical content would also be shown during the convention.
31. On 3 April 2019, Mr Jan Kraft was convicted by the Södertörn District Court, Division 3, in case no. B 12729-18, of 'violation of the act on age-limits for films to be shown in public settings, 11 § 1 p Act (2010:1882)', because of not having submitted these video presentations for prior censorship by the Swedish Media Council, and he was sentenced to pay a fine of SEK 43,800 (EUR 4,140). The decision ignored the right to freedom of religion and freedom of expression guaranteed under the Covenant.
32. Furthermore, in violation of the prohibition on discrimination, the decision convicting Mr Kraft also ignored the fact that the Act on Age Limits (2010:1882) provides numerous exemptions. For example, it exempts videos advertising a product or a service; videos at a trade fair, an exhibition or a sporting event; videos in museums; videos reproducing a public opera, theatre or music performance or a sporting event, etc.; all such videos benefit from a presumption of harmlessness, and they can be shown in public to children of all ages. Comparatively, there is no difference with the religious educational videos shown during religious services by Jan Kraft. Much to the contrary, the videos shown during the religious convention on Biblical subjects were family oriented and were not in any way harmful to children.
33. The European Court of Human Rights has stated in *Hasan and Chaush v. Bulgaria* (no. 30985/96 § 78, 26 October 2000):

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<sup>2</sup> See videos from the 2014-2018 conventions on <https://tv.jw.org/#sv/categories/VODProgramsEvents>.

<sup>3</sup> <https://www.jw.org/sv/publikationer/filmer/>

<sup>4</sup> <https://tv.jw.org/#sv/categories/VideoOnDemand>

“...but for very exceptional cases, the right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs or the means used to express such beliefs are legitimate.”

34. A requirement for prior censorship of an aspect of peaceful religious worship as conducted internationally by Jehovah's Witnesses on the ground that persons under the age of 15 will be present constitutes an improper state evaluation of religious beliefs and the means used to express such beliefs, and hence an oppressive control of religious manifestation in violation of fundamental rights protected by the Swedish Constitution, the Covenant and the European Convention on Human Rights.

### **III. IMPLEMENTATION OF ACCEPTED RECOMMENDATIONS**

35. Following its previous review in 2015, Sweden supported specific recommendations.
36. The discriminatory denial of state grants on the same terms on which grants were accorded to other religious communities and the interference with meetings for family worship that follow Jehovah's Witnesses' international practice in the lawful manifestation of religious belief are in contradiction to the following recommendations accepted by Sweden during the previous UPR review cycle in 2015.
37. Indonesia recommended that Sweden “[c]ontinue strengthening efforts to combat ... religious intolerance in law and practice.”<sup>5</sup>
38. Pakistan recommended that Sweden “[t]ake steps for elimination of religious and racial discrimination.”<sup>6</sup>
39. Trinidad and Tobago urged Sweden to “[t]ake effective measures to ensure the right of a person to enjoy freedom of religion and religious belief.”<sup>7</sup>

### **IV. CONCLUSION**

40. Jehovah's Witnesses in Sweden, and as a worldwide organization, express concern at the contravention of the Constitution, the ICCPR and the ECHR in the discriminatory denial of state grants, which are accorded to other religious communities as provided for by law but which were denied on the same terms to Jehovah's Witnesses. Also, they express concern about the interference with meetings for family worship that follow the international practice of Jehovah's Witnesses in the lawful manifestation of religious belief.

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<sup>5</sup> (A/HRC/29/13 par. 145.47)

<sup>6</sup> (A/HRC/29/13 par. 145.83)

<sup>7</sup> (A/HRC/29/13 par. 145.121)