



REGERINGSKANSLIET

Stockholm, 14 January 2015 UF2014/73936/UD/FMR

**Ministry for Foreign Affairs
Sweden**
Director-General for Legal Affairs

Special Rapporteur on the promotion and protection of
the right to freedom of opinion and expression;
Special Rapporteur on the situation of human rights
defenders; and
Special Rapporteur on torture and other cruel, inhuman
or degrading treatment or punishment
Office of the High Commissioner
for Human Rights
United Nations
CH-1211 GENEVA 10
Switzerland

Communication from Special Procedures: Joint Urgent Appeal

Reference: SWE 1/2014

Sirs,

1. I have the honour of referring to your letter of 19 November 2014 in which the Swedish Government is invited to submit certain additional observations regarding the situation of Mr Saif Ur Rahman Shirzad, a national of Afghanistan, currently staying in Sweden, where he has applied for asylum and a residence permit. More specifically, the Government is asked to provide additional information about, inter alia, the facts of Mr Shirzad's case and the steps taken to assess the potential risks related to the expulsion of Mr Shirzad in view of the new allegations on the situation of Mr Shirzad.

2. Initially, the Government would like to reiterate the following. In cases concerning asylum seekers, the personal circumstances are generally of a sensitive nature and for that reason, much of the information regarding an asylum seeker's case is confidential under domestic law (see, e.g., Chapter 21, Section 5 and Chapter 37, Section 1 of the Public Access to Information and Secrecy Act). This case is no exception. For that reason, the Government would like to suggest that Mr Shirzad is not mentioned by his full name in your official report to the Human Rights Council for its consideration of this Joint Urgent Appeal.

3. As concerns the questions put forward in your letter of 19 November 2014, the Government would like to submit the following.

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Additional information and comments on the newly provided allegations and the steps taken to assess the potential risk related to the expulsion of Mr Shirzad, in particular considering the newly provided information that his brother, as well as other journalists on the same newspaper where they worked, is being granted refugee status in Sweden on similar accounts. (Questions nos. 1 and 2)

4. As you are already well aware, Mr Shirzad has applied for a re-examination of his application for asylum and residence permit claiming that there were impediments to the enforcement of his expulsion order within the meaning of Chapter 12, Section 19 of the Swedish Aliens Act. In support of his request for a re-examination, Mr Shirzad has invoked essentially the same circumstances as have been supplied to the Special Rapporteurs. He has also submitted several new documents in support of his request. In accordance with Chapter 12, Section 19, third paragraph of the Aliens Act, the application automatically resulted in a suspension of the enforcement of the decision on expulsion.

5. On 18 December 2014, the Migration Board granted Mr Shirzad a re-examination of his case pursuant to Chapter 12, Section 19 first paragraph of the Aliens Act. The Migration Board found that there were new circumstances in the case which could be assumed to constitute a lasting impediment to the enforcement of Mr Shirzad's decision on expulsion. Following the decision on re-examination, a legal counsel will be appointed for Mr Shirzad and a new investigation and assessment of his need of protection in Sweden will be conducted. The re-examination granted will take into account both the new circumstances which prompted the granting of a re-examination, as well as the reasons for protection invoked by Mr Shirzad previously in the proceedings.

6. The re-examination by the Migration Board will result in a decision whether Mr Shirzad will be granted a residence permit in Sweden. Furthermore, if Mr Shirzad is not granted a residence permit, the Migration Board's decision is subject to appeal to the Migration Court and to the Migration Court of Appeal. It is further pertinent to clarify that it follows from Chapter 12, Section 19, third paragraph of the Aliens Act that any decision on expulsion of Mr Shirzad will not be enforced until there is a final and non-appealable decision in the re-examination proceedings. Hence, should the Migration Board find that there is no impediment to enforcing Mr Shirzad's decision on expulsion, he can appeal to the migration courts without risk of being expelled while his appeal is pending.

7. For a more comprehensive account of the rules regarding impediments to the enforcement of refusal-of-entry and expulsion orders that have become final

and non-appealable, the Government wishes to make a reference to paragraphs 20–25 in the Government’s observations dated 14 June 2013 in response to the previous joint urgent appeal regarding Mr Shirzad [SWE 2/2013]).

Provide information regarding measures available for the protection of journalists who claim to be victims of persecution in their country of origin (Question no. 3)

8. In response to this question, I wish to refer to the Government’s letters of 24 May 2013 and 14 June 2013 in response to the previous joint urgent appeal regarding Mr Shirzad (SWE 2/2013). In those observations, extensive accounts of the relevant provisions in the Aliens Act are provided in order to demonstrate that the Act contains both procedural and material safeguards for the protection of those seeking asylum in Sweden and who claim to be victims – or at risk – of persecution and torture. It should be clarified that the Aliens Act provides protection for anyone who is at risk of persecution or torture regardless of the reason therefore. The Government also accounted for how the Aliens Act is compatible with international norms and reflect the same principles as those laid down in article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and in article 7 of the International Covenant on Civil and Political Rights.

9. To sum up, the independent migration authorities are currently re-examining the potential risk related to the expulsion of Mr Shirzad and hence his need of protection in Sweden based on the new circumstances and documents invoked. The enforcement of his decision on expulsion is stayed pending the final outcome of that re-examination.

Please accept, Sirs, the assurances of my highest consideration.

A handwritten signature in blue ink, appearing to read 'Anders Rönquist', followed by a flourish.

Anders Rönquist
Ambassador