



REGERINGSKANSLIET

Ministry for Foreign Affairs
Sweden

Director-General for Legal Affairs

Stockholm,
10 January 2017

UF2016/21015/UD/FMR

Mr Michel Forst
Special Rapporteur on the situation of
human rights defenders
Office of the High Commissioner
for Human Rights
United Nations
CH-1211 GENEVA 10
Switzerland

Communication from Special Procedures

Reference: SWE 2/2016

Dear Sir,

1. I have the honour of referring to your letter of 30 November 2016 in which the Swedish Government is invited to submit observations regarding allegations of an attempted intrusion on 5 April 2016 by two people using a car registered to the Embassy of the Socialist Republic of Vietnam in Stockholm to a human rights defenders conference held in Stockholm and organised by Civil Rights Defenders. In response to the invitation, I have the honour, on behalf of the Swedish Government, to submit the following.
2. A representative of the organisation Civil Rights Defenders informed the Ministry for Foreign Affairs about the above-mentioned incident on 7 April 2016, as well as of the organisation's intention to contact the Swedish Police Authority. Accordingly the representative filed a police report concerning the incident the following day, and the Police Authority decided to initiate a preliminary investigation. Subsequently, the case was handed over to the Swedish Security Service due to the fact that the alleged crime was 'unlawful intelligence targeting of persons'. The Swedish Security Service in turn referred the preliminary investigation to the Public Prosecutor. On 25 April 2016 the Prosecutor decided to close the investigation on the basis that there was no reason to assume that a crime had been committed that would fall under public prosecution. The incident has not been considered to warrant any further measures.
3. Article 41 of the Vienna Convention on Diplomatic Relations establishes that it is a duty of all persons enjoying privileges and immunities to respect the laws and regulations of the receiving State. On Sweden's

Diplomatic Portal¹, the Ministry for Foreign Affairs clarifies that it will not accept criminal acts committed by diplomatic mission staff or their family members even though they may enjoy criminal immunity. The measures taken by the Ministry in a specific case depends on the seriousness of the alleged crime based on the available information. As regards the incident on 5 April 2016, no reports of criminal acts committed by diplomatic mission staff have been submitted to the Ministry.

4. As a general background, the Ministry wishes to provide the following information on the protection of human rights defenders under Swedish law and Sweden's human rights policy. In general, it may be noted that freedom of assembly and freedom of association are fundamental rights and freedoms in Sweden and as such protected by the Swedish Instrument of Government, which is part of the Swedish constitution. The Instrument of Government, Chapter 2, states that everyone shall be guaranteed these rights and freedoms in his or her relations with public institutions. It is further stated that freedom of association is the freedom to associate with others for public or private purposes. Freedom of assembly is the freedom to organise or attend meetings for the purposes of information or the expression of opinion or for any other similar purpose, or for the purpose of artistic work. Only to the extent provided for in certain articles of the Instrument of Government may freedom of assembly and freedom of association be limited in law. The limitations referred to may be imposed only to satisfy a purpose acceptable to a democratic society and the limitation must never go beyond what is necessary with regard to the purpose which occasioned it.

5. The above-mentioned rights and freedoms are also protected by the European Convention on Human Rights, which is part of Swedish law. According to the Instrument of Government, no act or law or other provision may be adopted which contravenes Sweden's undertaking under the Convention.

6. It is the responsibility of the Swedish Police Authority to guarantee and protect the constitutionally protected freedom of assembly. Furthermore the Swedish Security Service has the responsibility to prevent and counter unlawful intelligence activities against dissidents in exile and others. The Police Authority and the Security Service are cooperating closely in these matters.

¹ www.government.se/diplomaticportal

7. The Swedish Government attaches great importance to the work of human rights defenders. It is of utmost concern that we now see a global trend where civil society space diminishes and human rights defenders actions are curtailed. In a recent communication to parliament on human rights, democracy and the rule of law in Swedish foreign policy the Government has made it very clear that it intends to protect, support and promote a wide spectrum of human rights defenders who find themselves under threat.

8. In a similar vein we note with concern increased limitations of the freedom of expression in a number of countries worldwide, and Sweden will continue to give attention to and act against attempts to unlawfully limit the freedom of expression. Sweden is an active supporter of the UN resolutions on protecting and promoting human rights defenders, including the mandate of the Special Rapporteur. There is agreement to keep the issue of protecting human rights defenders high on the EU's agenda. The EU has developed guidelines on human rights defenders, to be used as a practical tool when conducting dialogues in third countries.

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

A handwritten signature in blue ink, appearing to read 'Elinor', followed by a large, stylized loop.

Elinor Hammarskjöld

Ambassador