



Ministry for Foreign Affairs
Director-General for Legal Affairs

The Special Rapporteurs and
Independent Experts signatories
to the Joint Communication AL
SWE 3/2021

Office of the High Commissioner
for Human Rights
Palace of Nations
CH-1211 GENEVA 10
Switzerland

Communication from Special Procedures

Reference: AL SWE 3/2021

Mesdames and Sirs,

1. I have the honour of referring to your letter of 14 October 2021 in which the relevant Special Rapporteurs and Independent Experts bring to the attention of the Swedish Government the alleged consequences of the fact that Mölnlycke Health Care AB (Mölnlycke) stopped selling certain medical dressings to Iran.
2. In response to the invitation from the Special Rapporteurs and Independent Experts to submit observations on certain questions related to the abovementioned issues, I have the privilege, on behalf of the Swedish Government, to submit the following.
3. Initially, the Government wishes to express its concern about the situation raised in the present Communication for patients suffering from EB in general, and in Iran, specifically, and appreciates that the signatories raise the question of business and human rights from a broader perspective.
4. At the outset, it must be emphasised that business and human rights is a prioritised issue for the Government and one in which Sweden has taken a number of measures during the last years. The adoption of the UN Guiding Principles on Business and Human Rights (UNGPs), means that since 2011, there has been a global undertaking to promote respect for human rights within business. These

guiding principles are fundamental to Swedish policy in this field and the Government's view is that business and human rights should be mutually reinforcing. In 2015, the Government prepared a new and more ambitious policy for corporate social responsibility (CSR), linked to trade and business policy and promotion through the export strategy. The Government has thus expressed a clear expectation on Swedish enterprises to respect human rights in their operations both in Sweden and abroad. Sweden was the sixth country in the world to adopt a national action plan for business and human rights in line with the UNGPs.

5. As regards the OECD Guidelines for Multinational Enterprises (the OECD Guidelines), it may be noted that if a company is believed to have breached the guidelines, this may be reported to the National Contact Point (NCP) for the OECD Guidelines. Sweden's NCP is a three-party collaboration between the state, the industry organisations and the trade unions, chaired by the Ministry for Foreign Affairs. The NCP cannot review court rulings but can issue recommendations and mediate between parties.

6. Furthermore, the Government is working for ambitious EU legislation on mandatory human rights and environmental due diligence and is currently participating actively in developing EU policy on sustainable business. For example, in February 2021, Sweden submitted its response to a consultation by the EU Commission and expressed support for the development of broad, horizontal legislation aligned with the UNGPs and the OECD Guidelines. The Government also expressed support for implementing a system for follow-up and enforcement, including access to an effective remedy.

7. In its replies to two other joint communications from Special Procedures in 2021, the Government has in more detail outlined the policies and general measures taken by Sweden in regard of business and human rights. Therefore, the Government wishes to refer the relevant Special Rapporteurs and Independent Experts to the communications AL SWE 2/2020 and AL SWE 2/2021 for more details in this regard.

8. In relation to the allegations in the letter on Sweden's responsibility for Mölnlycke's specific actions, the Government finds it pertinent to clarify that it is not for the Government to conduct human rights *due diligence* within the framework of human rights and business, as suggested in the letter (see e.g. Question 1). According to the UNGPs, in order to identify, prevent, mitigate and account for

how they address their adverse human rights impacts, *business enterprises* should carry out human rights due diligence (see UNGP17). This type of due diligence is thus not a task for the Government as such.

9. As regards the specific situation addressed in the present joint communication, the Government would like to submit the following.

10. The US decided on 8 May 2018 to re-impose sanctions concerning Iran simultaneously with its withdrawal from the Joint Comprehensive Plan of Action. The re-imposition of such sanctions with extra-territorial application triggered an update of the EU Blocking Statute¹. The Statute constitutes a unified EU action against the unlawful effects of extra-territorial application of legislation of third countries. Its main purpose is to protect EU operators engaging in lawful international trade or movement of capital as well as related commerce activities with third countries in accordance with EU law.

11. The Government would like to emphasise that whether Mölnlycke has decided to halt the export of the medical dressings to Iran due to problems with interpreting the US Sanctions regime or whether due to other pure business related considerations, is a matter for Mölnlycke and not for the Government to clarify. In this regard, it must be noted that EU operators are free to conduct their business at their own discretion, in conformity with EU law and national law. This means that they may choose to initiate, continue or end their business with third countries, regardless of, for example, sanctions imposed.

12. In 2019, the matter regarding Mölnlycke was brought to the attention of the Swedish Embassy in Tehran by the Iranian NGO EB Home, which criticised the fact that Mölnlycke had stopped exporting the medical dressings to Iran. UNICEF also recommended the Swedish Embassy to contact Mölnlycke in order to secure that Mölnlycke was aware of the humanitarian exemption and to explore future options for deliveries of the dressings to Iran. As a result of these contacts, the Swedish Embassy informed the Iranian Director General for Sustainable Development in November 2019 that it would contact Mölnlycke in order to receive more information on the situation on Mölnlycke's decision to temporarily

¹ Commission Delegated Regulation (EU) 2018/1100 of 6 June 2018 amending the Annex to Council Regulation (EC) No 2271/96 of 22 November 1996 protecting against the effects of the extra-territorial application of legislation adopted by a third country, and actions based thereon or resulting therefrom

leave the Iranian market. At the same time, it was emphasised that the Swedish Government may not influence the decisions of a private company.

13. The Swedish Ministry for Foreign Affairs contacted Mölnlycke in November 2019. As a result, the situation was temporarily solved in 2020 when UNICEF, in co-operation with the Iranian Ministry of Health, imported a one year supply of the medical dressings to Iran. This action was made possible through the actions of the Swedish Embassy and the assisting co-financing of the German Government and UNICEF.

14. The matter was brought up again in the spring of 2021, when the Iranian High Council for Human Rights, of which the current Iranian Deputy Foreign Minister, Mr. Ali Bahgeri Kani, was then the president, held a meeting for the diplomatic staff and international organisations in Tehran. The purpose of the meeting was to inform of the negative effects of the sanctions allegedly preventing Iranians to enjoy their human rights. In June 2021, EB Home and the Iranian Centre for International Criminal Law (ICICL) announced in media that 30 children had died due to the lack of medication and that the pain suffered had increased with 70 percent for the children that could not get hold of the medical products. The Swedish Embassy, having received no request for procurement of the dressings, then contacted UNICEF again. Similarly, UNICEF confirmed that they had not been approached by Iranian authorities regarding the matter.

15. According to information from UNICEF in November 2021, there seems to be a shortage of medical dressings at the moment in Iran. UNICEF is now awaiting a request from the Iranian Ministry of Health for assistance in procuring more dressings. UNICEF has reassured the Swedish Embassy that if they receive a request for deliveries, they would be prepared to act again, provided that the financing will be secured. If requested, the Swedish Government stands ready to assist UNICEF in finding a temporary solution to purchase the needed medical products, if obstacles remain.

16. In summary, the Government wishes to emphasise that business and human rights is a prioritised issue for the Government and one in which Sweden has taken a number of measures during the last years. The Government has taken specific measures to provide assistance to EB patients in Iran. The signatories of the present communication can rest assured that Sweden intends to remain active on these issues.

17. The Government remains at the disposal of the relevant Special Rapporteurs and Independent Experts, should any further information be requested.

Please accept, Mesdames and Sirs, the assurances of my highest consideration



Carl Magnus Nesser
Ambassador, Director-General for Legal Affairs