



Vienna

Vienna, 2 June 2011

**Statement by Ambassador Veronika Bard-Bringéus of Sweden in
the OSCE Permanent Council on 2 June 2011 in response to
remarks made by the Russian Federation on 26 May 2011**

Mr Chairperson,

I would like to respond to and clarify some of the issues raised by my Russian colleague one week ago in the Permanent Council relating to the rule of law and the Swedish legal framework.

Let me first of all say that Sweden welcomes this dialogue on the principles of the rule of law in the Permanent Council. The OSCE provides an important and unique forum for dialogue and peer review as regards participating States' implementation of OSCE commitments.

Let me now respond to the questions asked by my Russian colleague.

Firstly, regarding legal counsel, Sweden introduced in 2008 new legislation according to which everyone has a right to have counsel present when being questioned by the police, provided that this is not to the detriment of the investigation. This right applies to everyone being questioned by the police. The new legislation was introduced in part following criticism from The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Sweden is open to scrutiny by international organisations and remains ready to discuss our legal framework.

Secondly, as to the question posed by the Russian delegation on how long a person can remain in custody in Sweden; as a general rule a person is not obliged to stay for questioning for more than six hours. In order to keep a person in custody for more than twelve hours, an order of detention (by the district court at the request of the public prosecutor) or arrest (by the public prosecutor) is required. The prerequisite for detention or arrest is in principle that the person is *suspected on probable cause of a crime*. In some cases it is enough that the person is reasonably suspected of having committed the offence. In urgent cases the police may apprehend a person without a formal decision. A decision to apprehend a person is normally based on an assessment that there are grounds to institute detention. When a preliminary investigation has advanced so far that a person is reasonably suspected of having committed the offence, he or she shall be notified of his or her right to a defence counsel and of the conditions under which a public defence counsel may be appointed. The right to a defence counsel coincides with the formal notification of suspicion.

Thirdly, as *reasonable suspicion is required for apprehension or arrest*, the apprehended or arrested person shall be informed of his or her right to defence counsel during the preliminary investigation and of the conditions under which a public defence counsel may be appointed. Chapter 23, Section 18 in the Judicial Code of Procedure states that the suspect and his defence counsel, to the extent possible and without impediment to the investigation, *shall be informed continuously of developments in the investigation*. They shall also have the right to state what inquiries they consider desirable and otherwise consider to be necessary. A notice concerning these matters shall be delivered or sent to the suspect and to his defence counsel after which they shall be afforded reasonable time for counselling. The decision to prosecute may not be made before this is done.

The new regulation as regards the duty of notification means that as soon as a person is apprehended, at least one of his or her relatives or persons particularly close to him or her should also be notified. The notification shall take place as soon as possible, once it has been determined that notification will not be to the detriment of the investigation.

Fourthly, regarding the question of translation; if a party, witness, or any other person who shall be heard by the court does not understand or speak Swedish, an interpreter is regularly engaged to

assist the court. This also applies during the investigation phase. If required, the court provides for the translation of documents filed with or dispatched from the court.

Fifthly, on the issue of lay judges - in Sweden there is a long tradition of lay judges participating in the judiciary. At a hearing in a criminal case the court of first instance consists of one trained judge and three lay judges. The system of lay judges aims to ensure that the court's decision is in line with the general values of society. It also contributes to maintain the public's confidence in the judiciary as well as meeting the public's interest in insight into the judiciary.

The composition of the lay judges appointed shall reflect the society as a whole. In other words the lay judges shall be representative of the public with regards to age, gender and ethnicity. Currently that aim is met with regards to gender and ethnicity but not age. The Swedish Government is currently considering measures to increase the number of younger lay judges.

Mr Chairperson,

Finally, this dialogue initiated by the Russian Federation on the rule of law demonstrates that the Human dimension of the OSCE is a matter that concerns us all. This year we celebrate the 20th Anniversary of the Moscow declaration that says – and I quote *”commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating states and do not belong exclusively to the internal affairs of the State concerned”*. This fundamental principle was reconfirmed at the level of Heads of State and Governments at the OSCE summit in Astana in 2010. This was an important achievement.

The rule of law as well as human rights and democratic principles should be at the forefront when the OSCE advances its agenda for the future. This is something Sweden and the European Union have advocated and shall continue to advocate.

I thank my Russian colleague for his questions!