



REGERINGSKANSLIET

Ministry for Foreign Affairs
Sweden
Director-General for Legal Affairs

Stockholm
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Mr Seong-Phil Hong
Chair-Rapporteur for the Working Group on
Arbitrary Detention
Office of the High Commissioner
for Human Rights
United Nations
CH-1211 GENEVA 10
Switzerland

Comments by the Government of Sweden re Opinion No. 54/2015

Reference: G/SO 218/2

Sir,

1. The Government acknowledges receipt of Opinion No. 54/2015, adopted by the Working Group on Arbitrary Detention on 4 December 2015. In accordance with the Methods of work of the Working Group, I have the honour, on behalf of the Swedish Government, to submit the following comments and information in respect of the aforementioned opinion.
2. In its opinion, the Working Group considers that the current situation of Mr. Assange, staying within the confines of the Embassy of the Republic of Ecuador in the United Kingdom, has become a state of an arbitrary deprivation of liberty in contravention of international human rights obligations.
3. To begin with, the Government notes that one of the five members of the Working Group has expressed an individual dissenting opinion, arguing that Mr. Assange fled the bail in June 2012 and since then stays at the premises of the Ecuadorian Embassy using them as a safe haven to evade arrest. According to the dissent, such premises of self-confinement cannot be considered as places of detention for the purposes of the mandate of the Working Group. In addition, it is contended that the Working Group is not competent to consider situations that do not involve deprivation of liberty and that issues related to fugitives' self-confinement, such as asylum and extradition, do not fall into the mandate of the Working Group (see, for instance, E/CN.4/1999/63, para. 67).

4. The Government does not agree with the assessment made by the majority of the Working Group. As elaborated in the Swedish Government's communication to the Working Group, the main reasons for this are the following.

5. In light of the safeguards contained in the Swedish extradition and EAW procedures against any potential extradition in violation of international human rights agreements, the Government reiterates its position that Mr. Assange does not face a risk of *refoulement* contrary to international human rights obligations to the United States from Sweden (see paras. 8–10 of the Government's observations). In any case, no request for extradition regarding Mr. Assange has been directed to Sweden. Moreover, Mr. Assange has chosen, voluntarily, to stay at the Ecuadorian Embassy and Swedish authorities have no control over his decision to stay there. Mr. Assange is free to leave the Embassy at any point. Thus, he is not being deprived of his liberty there due to any decision or action taken by the Swedish authorities. The Government therefore refutes the opinion by the Working Group that Sweden has violated articles 9 and 10 of the Universal Declaration of Human Rights and articles 7, 9(1), 9(3), 9(4), 10 and 14 of the International Covenant on Civil and Political Rights.

6. Furthermore, in Sweden any decision regarding the preliminary investigation, for example regarding detention in *absentia*, is taken by independent judicial authorities. The Swedish Government may therefore not interfere in an ongoing case handled by a Swedish public authority. This follows from the Swedish Instrument of Government and basic principles of the rule of law. The Swedish Office of the Prosecutor and the courts are thus independent and separated from the Government.

7. As to the request by the Working Group that the Government of Sweden and the Government of the United Kingdom assess the situation of Mr. Assange (para. 100 of the opinion), it should be emphasised that regular contacts between the two countries take place, primarily in order to facilitate the preliminary investigation by the Swedish Office of the Prosecutor. It should also be pointed out that an agreement on mutual legal assistance in criminal matters between Ecuador and Sweden entered into force on 22 December 2015.

8. It may finally be noted that the Government has transmitted the opinion of the Working Group to the Office of the Prosecutor and relevant courts, for their information.

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

A handwritten signature in blue ink, appearing to read "Anders Rönquist".

Anders Rönquist
Ambassador