**8 February 2016**

**From The European Association of Jehovah’s Christian Witnesses**

**Submission to the UN Human Rights Committee (CCPR)**

**Seventh periodic report pursuant to article 40 of the Covenant**

**SWEDEN**

**(116th Session of the Human Rights Committee, 7 – 24 March 2016)**

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| SUMMARY OF THE SUBMISSION This submission to the CCPR in connection with Sweden’s seventh periodic report (CCPR/C/SWE/7) highlights that Jehovah’s Witnesses suffer discrimination on the ground of their religious beliefs by the Swedish government. These discriminatory governmental acts also result in violation of their freedom of religion.  The government has pejoratively labelled Jehovah’s Witnesses as a sect. It discriminates against Jehovah’s Witnesses by refusing to register the Religious Community of Jehovah’s Witnesses in Sweden to receive state grants under the law providing for financial aid to religious communities while allocating such grants to more than 40 other registered religions.  The government also discriminates against members of the religious order of Jehovah’s Witnesses in comparison to members of other religious orders in Sweden. The administrative practice of the Tax Department in Sweden is to exempt members of religious orders from taxation on support received from their order. However, the Tax Department has arbitrarily decided that Jehovah’s Witnesses who are members of the Religious Order of Special Full-Time Servants (approximately 115 members) must pay tax on the modest financial assistance received. The tax authorities are arbitrarily imposing an “employer/employee” relationship where none exists, including for members in their 80s and 90s who are housebound due to advanced age.  Jehovah’s Witnesses in Sweden and as a worldwide organization respectfully request the government of Sweden to:   1. Register Jehovas vittnen to receive grants under the law providing for financial aid to religious communities; 2. Permit members of the Religious Order of Jehovah’s Witnesses to benefit from the same tax exemption granted to other religious orders in Sweden on the modest financial assistance they receive. |

# I. Introduction

1. The European Association of Jehovah’s Christian Witnesses is a charity registered in the United Kingdom. It provides support to Jehovah’s Witnesses facing fundamental human rights violations in various parts of the world.
2. This submission is based on the reports submitted by victims to the national office of Jehovah’s Witnesses in Sweden.
3. Jehovah’s Witnesses have been present in Sweden since 1898. For nearly 120 years, Jehovah’s Witnesses in Sweden have publicly shared their religious beliefs with neighbours and friends from door to door and on the streets, as is their religious practice worldwide. There are more than 22,000 Jehovah’s Witnesses in Sweden today.
4. In the year 2000, it became possible for religious groups other than the Church of Sweden to be registered as religious communities instead of voluntary associations, which was their previous legal status. In the year 2000, Jehovah’s Witnesses applied for registration as a religious community, and this application was approved on 13 March 2000.
5. This submission provides information in connection with the consideration of the 7th periodic report of Sweden (CCPR/C/SWE/7). It predominantly focuses on the rights protected under Articles 18, 26, and 27 of the ICCPR.

# II. Prohibition of Discrimination and Freedom of Religion - Alleged Violations of the International Covenant on Civil and Political Rights (ICCPR – Articles 18, 26 and 27)

1. **Government Grants - Financial aid to religious communities**
2. In an application dated 6 August 2007, Jehovah’s Witnesses of Sweden (“Jehovas vittnen”) applied to Sweden’s Ministry of Culture to be registered to receive state grants, or support, which the government made available to religious communities pursuant to Swedish statutory laws SFS 1999:932 and Government Regulation 1999:974. Similar grants have been given to more than 40 other religious organizations.
3. According to § 2 of the law SFS 1999:932, the stated purpose of the grants is “to help create conditions in which religious communities can pursue active and long-term activities of a religious nature in the form of services, pastoral care, religious instruction and care.” In addition, § 3 states regarding the conditions for receiving state grants, “Government grants may only be awarded to a religious community that contributes to maintaining and strengthening the fundamental values upon which society is based, and is stable and plays an active role in the community.”
4. To decide whether or not a religious group may receive a grant, the Ministry of Culture relies on recommendations from the Commission for State Grants to Religious Communities (SST) which is a commission set up by the government. This commission is made up of representatives for the religious communities that have already been declared eligible for state grants. A reading of the legislation on state grants reveals that much of the decision-making with regards to grants to religious organizations rests with the SST. Two members of the SST visited the offices of Jehovah’s Witnesses in December 2007 regarding their application for a state grant.
5. On 26 February 2008, the Ministry of Culture provided Jehovas vittnen with a copy of the SST’s Statement of Opinion dated 20 February 2008. In its opinion, the SST recommended that the application be rejected because, among other things, Jehovah’s Witnesses do not vote. The SST described Jehovah’s Witnesses as a “sect”, a pejorative and discriminatory term which the SST has not used in reference to the 40 religious communities which receive state grants
6. In its response, Jehovah’s Witnesses explained their international organizational structure, which is operated under the direction of the ecclesiastical Governing Body, as well as the Biblical bases for the doctrinal matters criticized by the SST, including their neutrality in political matters.
7. On 17 June 2009 the Ministry of Culture rejected the application for state grants. Relying on the SST’s opinion, the decision stated that the application was denied because Jehovah’s Witnesses do not contribute “to the maintaining and strengthening of the fundamental values upon which society is based”
8. On 16 September 2009 Jehovas vittnen applied to the Ministry of Culture to reconsider its decision and on 13 November 2009 the applicant submitted supporting information on how Jehovah’s Witnesses have contributed “to the well-being of their neighbourhood and to peaceful relations”. On 10 December 2009, the Ministry of Culture again rejected the application. On 9 March 2010 Jehovas vittnen filed an appeal with the Supreme Administrative Court on the basis of the law SFS 2006:304 which provides for a review of state decisions, which violate Article 6 of the European Convention on Human Rights.
9. On 2 March 2011, the Supreme Administrative Court annulled the government’s 17 June 2009 decision because it was illegal. The Court stated “the reasons for a rejection must be described in a decision so that it is possible to verify that no irrelevant reasons have been presented during the decision-making.” The Court added that “this does not justify an exhaustive examination and assessment of the doctrine and teaching of the religious community in relation to the common values of the society.”
10. In response, on 16 May 2012, the Ministry of Health and Social Affairs (the government department then handling applications for state grants) issued a new decision rejecting the application for state grants, for the sole reason that Jehovah’s Witnesses do not participate “in political elections”, thus relying for the third time, on the 20 February 2008 SST opinion. On 3 August 2012 Jehovas vittnen again appealed to the Supreme Administrative Court.
11. On 8 November 2013 the Supreme Administrative Court granted the appeal and reversed the 16 May 2012 decision of the Ministry of Health and Social Affairs. The Supreme Administrative Court concluded that the “right to vote is merely a right, not an obligation” and reiterated that the state may not make an “assessment or evaluation” on religious doctrine and must “remain neutral and impartial”. The Supreme Administrative Court concluded, however, that it did not have the authority to order the government to approve the application for state grants and once again referred the case back to the government.
12. On 10 June 2014 the Ministry of Health and Social Affairs provided Jehovas vittnen with the 2 June 2014 SST opinion, which again recommended that the application be rejected. The SST based its opinion “mainly” on information from “defectors” who claimed to have been Jehovah’s Witnesses. There is no evidence the SST conducted a similar survey of disgruntled former members when approving the applications of the 40 communities that receive state grants, nor did it assess their beliefs and doctrines.
13. On 21 August 2014 the applicant submitted to the Ministry of Health and Social Affairs a detailed reply proving the SST opinion ignored the clear direction of the Supreme Administrative Court and, instead, was based on religious bigotry, gross misinformation, innuendo, and biased and misleading conclusions. The Ministry of Health and Social Affairs did not respond to that reply.
14. Over the next 18 months, Jehovas vittnen repeatedly wrote to the government requesting that it implement the decision of the Supreme Administrative Court and make a new decision on the application. The government replied that it did not know when it might make a decision.
15. On 28 January 2016, the government rejected, for the fourth time, the application by Jehovas vittnen to be registered to receive state grants. The government relied on the opinion of the SST which was critical of the religious beliefs of Jehovah’s Witnesses. The government concluded that Jehovah’s Witnesses should not receive state grants because of their religious beliefs concerning blood transfusions. In reaching this conclusion, the government engaged in an impermissible assessment of religious beliefs in violation of the right to freedom of religion. In *Jehovah’s Witnesses of Moscow and others v. Russia* (no. 302/02, §§ 132, 141,10 June 2010) the European Court of Human Rights concluded:

“… the situation of a patient seeking a hastening of death through the discontinuation of treatment is different from that of patients who – like Jehovah’s Witnesses – just make a choice of medical procedures but still wish to get well and do not exclude treatment altogether.”

“… [the state’s actions] amounted to a declaration that their religious beliefs relating to the sacred nature of blood were illegitimate. However, the Court reiterates that the State does not have the right under the Convention to decide what beliefs may or may not be taught because the right to freedom of religion as guaranteed under the Convention excludes any discretion on the part of the State to determine whether religious beliefs of the means used to express such beliefs are legitimate (see *Manoussakis and Others,* cited above, § 47).”

1. **Tax Exemption for Special Full-Time Servants of Jehovah's Witnesses**
2. Approximately 115 Jehovah’s Witnesses in Sweden are members of the religious order known as the Worldwide Order of Special Full-Time Servants of Jehovah's Witnesses (“the Order”). This is a tiny fraction, less than 1 percent, of all of the Jehovah’s Witnesses in Sweden. Members of the Order lead a consecrated life of worship and devotion. On a daily basis they participate in community prayers, community meals, labour and work, private prayer and meditation, and the study of the Bible. They do not carry on any activities for monetary compensation.
3. Jehovas vittnen provides members of the Order with room and board and a small allowance to care for their most basic needs. Although the members of the Order live in a monastic setting and are not salaried, they are being taxed as if they were employees contrary to members of other religious orders in Sweden that are exempt from such taxes.
4. In contrast, the Swedish Tax Agency (Skatteverket) does not require members of the more than 40 other religious orders to pay tax on the financial assistance they receive from their respective orders.
5. All the members of the Order applied to the Swedish Tax Agency for exemption from taxation for the years 2004 to 2012, on the basis that they were members of a religious order and were not employees.
6. They provided the Tax Agency with jurisprudence establishing a clear practice of granting tax exemption to members of more than 40 other religious orders in Sweden.
7. The Tax Agency ignored that evidence and rejected the applications, concluding without any evidence or explanation that members of the Order “must be classified as income giving activity of a permanent character which is to be counted as work.” Not only was there no evidence in support of this arbitrary conclusion, the Tax Agency failed to consider that some members of the Order were housebound (some were bedridden) due to advanced age and clearly are not “employees” of the Order. All their appeals were rejected. In its 10 June 2011 decision and reconsideration, the Tax Board made a similar decision regarding the Religious Community, deciding that it was an “employer” because of the support it provided to its members. The Religious Community filed several appeals, exhausting its domestic remedies, but the appellate courts rejected all appeals.
8. The members of the Order and the Religious Community decided to submit their case before the European Court of Human Rights (ECHR) (*Alnashi v. Sweden*, no. 77019/12 and *Roslund v. Sweden*, no. 3710/14).
9. In 2014, the ECHR declared both applications inadmissible, without addressing the merits. An application is now being filed with the Human Rights Committee.

# III. Conclusions and Recommendations

1. Jehovah’s Witnesses in Sweden and as a worldwide organization express concern for the discrimination suffered by Jehovah’s Witnesses in Sweden as exposed above in the submission; discrimination based solely on their religious beliefs. They respectfully request the government of Sweden to take the necessary steps to
2. Register Jehovas vittnen to receive grants under the law providing for financial aid to religious communities;
3. Permit members of the religious Order of Jehovah’s Witnesses to benefit from the same tax exemption granted to other religious orders in Sweden on the modest financial assistance they receive.