QUESTIONNAIRE ON THE IMPLEMENTATION OF CULTURAL RIGHTS AND SUSTAINED OR EMERGING ISSUES

1. **The general recognition of cultural rights in national legal and policy frameworks**
2. **What steps have been taken to implement the recommendations made by the Special Rapporteur, including in country and thematic reports, and to follow up on those reports? What mechanisms are utilized to investigate cases raised by the Special Rapporteur through the communications procedure and to ensure that they are resolved in accordance with the concerns that she has highlighted and with relevant international standards? What has been the outcome of any such cases?**

New national cultural policy objectives were established in 2009. Freedom of expression lies at the core of Swedish cultural policy and the national cultural objectives. Culture should be a dynamic, challenging and independent force based on freedom of expression. The objectives also state that everyone is to have the opportunity to participate in cultural life. Creativity, diversity and artistic quality are to be integral parts of society’s development. A free and vibrant cultural life is a prerequisite for a sustainable democracy - and vice versa.

2011 Sweden implemented the collaborative cultural model which is a model for allocating State allowances to regional cultural activities. The purpose of the collaborative cultural model is to contribute to achieving national cultural policy goals, as well as providing opportunities to regional priorities and variations. One positive effect of this model is that the national cultural objectives has been integrated in the regions' culture policies. The model has also led to policies and dialogues regarding working conditions for artists in the regions.

1. **Please elaborate on any development, since 2009, in the legal definition and protection of cultural rights in your country, and on whether or not your country is considering the development of existing legal and institutional protection in the near future, and if so whether and how the mandate's work has been or will be incorporated in any such development.**

See 1.1.

1. **Please provide information regarding developments in relevant local and national legal, administrative and policy frameworks to improve the exercise of cultural rights as defined by the mandate. You might consider, for example, policies or measures taken:**
2. **to strengthen the protection of the principles of equality and nondiscrimination in the exercise of these rights and ensure the enjoyment of these rights for all on an equal basis, including women and persons with disabilities;**

Sweden has adopted national gender equality objectives. Gender mainstreaming is the main strategy to implement gender equality and achieve the national gender equality objectives in Sweden. There is a program to strengthen gender mainstreaming of government agencies. The Swedish Arts Council, The Swedish Arts Grants Committee, Swedish Performing Arts Agency and Public Art Agency Sweden are all part of this program and have within the strategy created action plans to mainstream a gender equality perspective in every part of their work. This has amongst other things led to a deeper understanding of the situation of female artists and raised awareness of how equal or unequal the support system is.

The Swedish Arts Grants Committee continually registers and analyzes working conditions and the working environment for artists. The statistics covers gender differences.

In January 2018, a new government agency for Gender Equality was established in order to further strengthen the effective and strategic governance in the field of gender equality policy in Sweden.

When it comes to parental leave Sweden has some months earmarked to each parent to promote an equal parental leave.

Sexual harassment is a form of discrimination and prohibited according to the Discrimination Act. In working-life, employers and education providers are required to work actively to prevent discrimination and promote equal rights. In Sweden, this requirement is known as the concept of “active measures”.

From 2017, the rules regarding “active measures” in the Discrimination Act were strengthened. For example, the requirements on employers and education providers were extended to cover all the discrimination grounds in the Discrimination Act.

The Government has strengthened the work against discrimination. The Equality Ombudsman’s appropriations were raised by SEK 10 million a year in 2016 and received an additional 10 million from the year 2018.

In December 2017, as a reference to the #metoo petitions, the government presented ten concrete action points to prevent sexual harassment in the cultural sphere. For example, The National Theatre Institutions, such as the Royal Dramatic Theatre and The Swedish Opera, is to make visible their preventive work against sexual harassment and other forms of discrimination and the Swedish Arts Council is to raise the issue in dialogue with the regions.

The Swedish Arts Council and the Swedish National Heritage Board are responsible for disability policy in the field of culture. Cultural institutions all over Sweden receive support in their efforts to produce plans to improve the opportunities for people with disabilities to access various buildings and to take part actively in cultural life on the same terms as able-bodied persons.

1. **to increase access to cultural life and the diversity of cultural resources and spaces for cultural interactions;**

From 2015 there are free admission to national museums which are also government agencies.

The Museum Act (Museilag 2017:563) from 2017 clearly states that the museums are stakeholders within the society and is to contribute in line with their expertise to the common development. Each museum is free to choose their method to be relevant and to reach out to all audiences.

The introduction of free access to digital archival information (non-confidential) at the National Archives.

1. **foster participatory approaches and a wide array of cultural initiatives;**

2011 Sweden implemented the collaborative cultural model which is a model for

allocating State allowances to regional cultural activities. The purpose of the collaborative cultural model is to contribute to achieving national cultural policy goals, as well as providing opportunities to regional priorities and variations, see above.

1. **strengthen the conditions, including in public institutions, for people to contribute to cultural life;**

The Government has increased the compensation and support system for artists with 115 million kronor from 2018 which is a historically large sum.

From 2015 there are free admission to national museums which are also government agencies.

1. **enable participation of all concerned in decision making processes that have an impact on cultural rights.**

See above, iii.

1. **Please indicate any change or development in the monitoring of human rights obligations relating to cultural rights, for example in the interaction with UN Treaty bodies, the Universal Periodic Review, regional human rights mechanisms or any relevant national mechanisms, and what role, if any, the mandate's work may have played in this regard.**

The goal for Sweden’s human rights policy is to ensure full respect for Sweden’s

international commitments on human rights. The Government Offices of Sweden have

strengthened our internal efforts with convention monitoring. The new procedures mean

that all of Sweden’s convention commitments are dealt with in a similar way and that

recommendations and observations from the various monitoring bodies are analyzed and

the need for remediation or action programs is considered. Sweden also has an open

dialogue with the Council of Europe on these matters.

**II. Specific Issues Highlighted by the Mandate's Work**

1. **Please indicate any developments in regard to the legal, administrative and policy measures in your country and any examples of good practice that integrate a cultural rights approach or that implement recommendations made by the Special Rapporteur. In this regard, what has been done to ensure:**
2. **The right to access and enjoy cultural heritage (thematic reports A/HRC/17/38 and A/71/317). This may include for example the procedure to access, identify and nominate heritage resources, the mechanisms to ensure stakeholders' participation in its interpretation, or any legal, financial, social, educational or institutional measures to ensure its preservation, conservation and transmission in all its diversity, as well as any development aiming at avoiding, preventing and protecting heritage resources from intentional destruction.**

The governmental bill Cultural Heritage (Kulturarvspolitik), aims to take a holistic approach on cultural heritage as its own policy area. The policy aims to contribute that the common cultural heritage will be accessible to all, that the public conversation is widened and deepened, and to encourage co-creation and participation. The new policies that are being presented is linked to several already existing international policies and implemented conventions, recommendations and programmes, such as the UNESCO 2015 Recommendation and other UNESCO heritage programmes and recommendations, including World Heritage, Historical Urban Landscape, Intangible Cultural Heritage and Diversity of Cultural expressions. The bill also stakes that what is to be valued as cultural heritage must be understood as an open process, shaped by an ongoing dialogue in society between all its stakeholders and the profession.

Cultural heritage protection and management in Sweden aims to preserve and manage sites of historical, architectural or archaeological significance and to empower cultural heritage as a force in the evolution of a democratic, sustainable society. The renewed national cultural environment goals (from 2014) are:

* + a sustainable society with a great diversity of cultural heritage sites which are to be preserved, used and developed,
  + people’s participation in cultural heritage management and their potential to understand and take responsibility for the cultural heritage,
  + an inclusive society with the cultural heritage as a shared source of knowledge, education and experiences,
  + a landscape management perspective in which cultural heritage is utilized in the development of society.

The Museum Act (Museilag 2017:563) states that it is the profession that will determine how the contents of the museum's activities are to be designed. This means that no politicians can make decisions on what to collect, preserve and display, neither themes and perspectives in any exhibition. Although the big public museums have it in their specification to consociate with other governmental bodies and the civil society.

To stimulate participation and co-creation of players in the non-profit sector, a new state grant has been established in 2017 to be distributed to non-profit cultural heritage work in Sweden, such as the Swedish Local Heritage Movement. This is one way of trying to ensure stakeholders’ participation in the interpretation of the cultural heritage.

An increase of appropriations to the conservation of the cultural heritage by SEK 25 million a year. This means that the Government will improve conditions to enable cultural environment initiatives to address important objectives. Examples include the establishment of cultural reserves and making cultural environments accessible.

In January 2011 Sweden ratified the UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage. The Institute for Language and Folklore is the coordinating state agency responsible for work with the Convention in Sweden. The Institute has developed an organization which includes a central coordinating authority and four “nodes” for different areas (oral traditions and rituals; handicraft; music and performances; and nature), each of these with its own broad network of different organizations, associations and non-profit organizations within the domains of the Convention. These nodes and their networks are all involved in the procedure to access, identify and nominate intangible cultural heritage resources.

As part of the work with the convention the Institute for Language and Folklore, in 2015, launched an inventory of intangible cultural heritage in Sweden. The inventory is an online, living document, constantly updated. Anyone who is interested can submit proposals to the inventory. The overall aim with the inventory is to make the diversity of intangible cultural heritage in Sweden visible and to stimulate participation and co-creation. Several elements of traditions of the national minorities are now represented in the Swedish inventory and the work is ongoing.

Sweden’s ratification of the Second Protocol to the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

1. **The full enjoyment by all of the right to benefit from scientific progress and its applications (thematic report A/HRC/20/26). Elaborate in particular on measures providing incentives to ensure broad access of persons from marginalized groups to information and applications and to eliminate barriers to scientific communication and collaboration.**

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1. **The right to freedom of artistic expression and creation (thematic report A/HRC/23/34). Please indicate if your country has recently adopted any official policy, including restrictions regarding form, content and spaces of display where relevant, relating to the arts and artistic freedoms or if it has changed its public support to foster more freedom of artistic expression for all in accordance with the recommendations of the mandate.**

Sweden has extensive legal freedom of expression, based in the constitution. Freedom of expression and artistic freedom is also at the core of Swedish cultural policy. The national cultural policy objectives from 2009 state that "culture should be a dynamic, challenging and independent force based on freedom of expression".

The Government also launched an Action Plan in July 2017 “Defending free speech – measures to protect journalists, elected representatives and artists from exposure to threats and hatred" to safeguard democratic dialogue against threats and hatred against artists, journalists and politicians. With the action plan, the Government has increased the efforts to prevent and deal with threats and hatred against journalists, politicians and artists, as these actors play a particularly vital role for the democratic discussion.

The Swedish Minister for Culture and Democracy adopted together with her Nordic Colleagues a declaration "on Promoting Diversity of Cultural Expressions and Artistic Freedom in a Digital Age" in Helsinki on 2 May 2016.

1. **That women equally enjoy cultural rights (thematic report A/67/287). Please elaborate on measures taken to strengthen and protect the right of women to have access to, participate in and contribute to all aspects of cultural life, as well as any particular effort to increase their ability to actively engage in debates and decisions concerning the identification and interpretation of cultural heritage and the cultural traditions, values or practices that are to be kept, reoriented, modified or discarded.**

See 1.3.i.

1. **That the writing and teaching of history and memorialization processes of the events of the past (thematic reports A/68/296 and A/HRC/25/49) contribute to the promotion of mutual respect and understanding, the development of inclusive societies conscious of their diversity and to sustainable peace, vi.**

The government bill Kulturarvspolitik (2016/17:116) marks a couple of premises for the continuing work with cultural heritage:

* + The individual and societal values of cultural heritage are of different kinds and change as the cultural heritage itself changes. It is important that different uses of cultural heritage can be given the opportunity to develop in parallel.
  + Cultural heritage carries collective memories and provides an inexhaustible resource for education, knowledge and artistic experiences. For society, it is important that public heritage work can contribute to a comprehensive understanding of the past.
  + Cultural heritage plays an important role in identify formation and for communities. Cultural heritage can, however, be equally well used to criticize existing communities and individual liberation.

The National Historical Museums and the National Museums of World Culture will over a period of four years actively work to improve the prospects for a knowledge-based and reflective historiography. The way people use history and cultural heritage is an important force in the democratic development of society.

1. **That commercial advertising and marketing practices do not affect negatively the enjoyment of cultural rights (thematic report A/69/286). Please indicate if your country has recently adopted specific regulations on advertising and marketing methods aimed at protecting human rights, online and offline, in public spaces and in educational settings.**

The overall principle within the cultural policy in Sweden is "arm's length distance". The

Government determines the overall funding to artists, but it is the profession that decides

to what and to whom funding is allocated. This means that the authorities within the

cultural field which allocate grants and funding to artists do so with the help of peer

review groups consisting of people from the artistic field with the competence to analyze

the quality of the art/performance etc. These groups are changed regularly and they also

have very strict policies regarding corruption and bias issues.

1. **That intellectual property regimes, in particular copyrights and patent policies, are in line with both the right of everyone to benefit from the protection of the moral and material interests resulting from scientific, literary and artistic production of which he or she is the author and the right of everyone to access and enjoy cultural heritage and the benefits of science and its applications (thematic reports A/HRC/28/57 and A/70/279). Please elaborate on any development aimed at reviewing these regimes to take into consideration the recommendations of the mandate.**

A human rights impact assessment is a natural part of the national legislative process and national courts and administrative bodies should interpret rules, including copyright and patent rules, consistently with human rights standards. When it comes to transparency in law-making, the principle of public access to official documents, protected by the Constitution, gives everyone access to information about the work done by the Swedish parliament, the Government and other public bodies. As regards public participation in law-making, proposals are always referred for consideration to the relevant bodies. In the field of copyright and patent policy, good practice is that these referral bodies should include special interest groups, representing e.g. right holders or minority groups, whose activities may be affected.

Intellectual property law is to great extent harmonized at International and EU level. In the field of copyright policy, national legislation is largely based on various EU directives. At EU level, the European Commission has recently presented a regulation and directive on copyright in the Digital Single Market. One of the objectives of the proposals, which addresses some of the issues mentioned in the recommendations, is to modernize the EU rules applicable to key exceptions and limitations in the areas of teaching, research and preservation of cultural heritage, focusing on digital and cross-border uses.

On 1 October 2018, the EU ratified the Marrakesh treaty. At EU level, a directive and a regulation have been adopted for the implementation of the treaty in EU law. Sweden has implemented the directive into Swedish legislation by amendments in the Swedish Act on Copyright in literary and artistic works. The amendments took effect October 11, 2018. The national implementation is one example where the balance between cultural participation, human rights and protection of authorship has been considered, and where Sweden – to balance these interests – has chosen a model where uses permitted under the directive are subject to an existing compensation scheme (within the limits provided for in the directive).

Sweden, within the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Tradition Knowledge and Folklore, is continuing negotiations about a possible international legal instrument, or instruments, for the protection of traditional knowledge, traditional cultural expressions and genetic resources.

Copyright training and know how are important parts of the information and educational task of artists' associations and collecting societies. The Swedish Patent and Registration Office provides information and support in copyright issues for the public and professionals.

The state inquiry on working conditions for artists which was reported on 28 March 2018 makes suggestions regarding copyright. The report is now being processed by the Government.

1. **That various forms of fundamentalism and extremism do not infringe on the enjoyment of cultural rights (thematic reports A/HRC/34/56 and A/72/155). Please elaborate on any efforts to mitigate the negative impact of such ideologies and the movements which espouse them, and ensure respect, protection and realisation of human rights in general, and of cultural rights in particular, for all, and indicate if any specific attention has been dedicated to the impact on the cultural rights of women**

As stated above freedom of expression is based in the constitution. If the question is about state censorship Sweden has two organs controlling this. The Chancellor of Justice (JK) is to act as the Government's ombudsman in the supervision of authorities and civil servants, represent the State in legal disputes, primarily actions for damages against the State and ensure that the limits of the freedom of the press and other media are not transgressed and to act as sole prosecutor in cases concerning offences against the freedom of the press and the freedom of expression. The Parliamentary Ombudsmen (JO) are appointed by the Swedish Riksdag (parliament) to ensure that public authorities and their staff comply with the laws and other statutes governing their actions.

If you as an artist are being limited by threats and hatred there is no specialized body established to receive complaints and monitor violations of artistic freedom except for the general bodies aimed to serve everybody in Sweden (e.g. the police when it comes to threats etc.). The Swedish Arts Grants Committee has however been assigned to develop methods of supporting artists who are exposed to threats and hatred based on their artistic activities.

The Swedish Center for Preventing Violent Extremism (CVE) is responsible for strengthening and developing preventive work against violent extremism. The primary aim of the center is to prevent ideologically motivated criminality and terrorism in Sweden. The center is placed under the auspices of Brå, the Swedish National Council for Crime Prevention, and was established on January 1, 2018.

The Swedish Defence Research Agency is assigned by the Government to map and analyze violent extremist propaganda online. These mappings have increased the knowledge about content, symbols and rhetoric used by these groups.

The Living History Forum is a Swedish public authority which, using the Holocaust and other crimes against humanity as a starting point, works with issues on tolerance, democracy and human rights.

The Swedish Agency for Youth and Civil Society has published the guide “Crack the code!”, a guide for local public stakeholders and civil society on how to develop cooperation in the difficult and important task of safeguarding democracy and prevent violent extremist movements that promote and use violence to achieve their goals.

1. **That artistic and cultural initiatives which contribute to creating, developing and maintaining societies that respect human rights are supported and not hindered (thematic report A/HRC/38/55). Please indicate any recent changes aiming at supporting, promoting and facilitating these initiatives, the free exercise by artists and cultural workers of their cultural rights and their access to public space.**

As mentioned above, new national cultural policy objectives were established in 2009. Freedom of expression lies at the core of Swedish cultural policy and the national cultural objectives. Culture should be a dynamic, challenging and independent force based on freedom of expression. The objectives also state that everyone is to have the opportunity to participate in cultural life. Creativity, diversity and artistic quality are to be integral parts of society’s development. A free and vibrant cultural life is a prerequisite for a sustainable democracy - and vice versa.

The Swedish Arts Council has, since 2011, been assigned by the Government to promote an increased number of Cities of Refuge in Sweden. Sweden now has the most cities with Cities of Refuge for threatened writers and artists in the world, 24. The Swedish Arts Council also has the task to finance a national coordinator of Cities of Refuge programme.

The Swedish Arts Grants Committee has also been assigned to develop methods of supporting artists who are exposed to threats and hatred based on their artistic activities in Sweden

1. **The full implementation of the universality of human rights, including cultural rights, and the promotion of cultural diversity in accordance with international standards, including by making a clear distinction between cultural rights and cultural relativism and promoting the message that cultural rights are not a justification for violence or discrimination but rather to be enjoyed in the context of the universal human rights framework (thematic report A/73/227).**

Swedish cultural policy and the cultural policy objectives correspond with the goals and the purposes of the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions. The objectives of cultural policy thus form a starting point for Sweden’s work to protect and promote the diversity of cultural expressions within Sweden and in the international arena. Digital developments have a major impact on the development of the cultural sphere and its opportunity to reach more people. Results have been achieved in several cultural areas.  By development of digital services and meeting places, access to culture has been improved and is still improving and new ways for cultural interaction, debate and creativity are created.

1. **In light of your country's experience, please indicate the main difficulties or obstacles preventing the respect, protection and realisation of cultural rights in the areas listed above as well as the impact the mandate may have had in addressing these. Kindly make any relevant suggestions for how the mandate can further address these going forward.**

Issues regarding copyright and ensuring artists compensation for their work are important challenges. Artists' associations describe an imbalance when it comes to compensation and income for artistic work where artists tend to receive less and large companies/publishers receive more. We have for example seen a development towards artists selling their copyright to have their work published or released.

Related to this is the digitalization which has affected and further will affect every artistic field. This is a complex challenge which contains many different questions. It has for example led to a complete change of the traditional revenue streams for many artists. Digitalization is also an important issue when it comes to cultural heritage and cultural diversity.

Another challenge worth mentioning is the urbanization and the concentration of artists in large cities. There are differences between countryside and city when it comes to work possibilities and infrastructure. This challenge is also related to the national cultural objectives and that everyone is to have the opportunity to participate in cultural life.

Lately, we have seen examples of authors and artists who have faced hatred and harassment because of their artistic practice. Insecurity and fear may lead to self-censorship which is a threat to freedom of expression for artists in Sweden, as elsewhere. If voices are silenced, it is not only a tragedy on a personal level, in the larger perspective it is a threat to the sustainability of our societies. This is also one important challenge.

Another challenge is sexual harassment within the artistic field. In Sweden, the #metoo movement gained momentum as the first collective professional call for action – (under the hashtag “Tystnad Tagning”/“Silence - action”) – published in a national newspaper on 8 November 2017.

Another challenge that the artist associations and the state inquiry on working conditions for artists emphasize is the importance of intermediators and organizers when it comes to working conditions for artists. The artists' associations highlight the needs to strengthen organizations that arrange concerts and dance performances, art galleries and professional organizations for musicians, artists, writers, crafts practitioners and photographers, etc.

## **III. Lessons learned and the way forward**

l . **Has your country undertaken any assessment of the implementation of law, policies, plans and/or programmes that address the exercise of cultural rights and if so, does your country have examples of good practices and lessons learned? How has the work of the mandate affected any such processes and measures?**

See answer 1.1.

1. **Please indicate how your country cooperates with other stakeholders to increase the implementation of cultural rights at the local, sub-national and national levels, as well as at the regional and international levels.**

Sweden is deeply involved in cooperation at all levels. See answers above.

1. **Are there new and emerging issues related to cultural rights that need to be addressed at the national, regional and international levels?**

See answer II.2 above.

1. **What could the Special Rapporteur do to enhance follow up, implementation and effectiveness?**

See answer II.2 above.