

# **To the Committee on the Rights of Persons with Disabilities**

## **Proposals on questions for the List of issues of Sweden**

The Swedish Disability Federation represents 38 member organisations with nearly 400 000 individual members.

The Swedish Disability Federation welcomes the opportunity to give the following information to the committee and hope it will be useful for the adoption of the list of issues of Sweden.

Since the ratification of the CRPD, several actions have been taken in Sweden, especially with regard to children and youth with disabilities. However, even though several important measures have been carried out, the understanding of the aim and the usefulness of the CRPD in the various decision-making processes have not taken root.

In this document, the Swedish Disability Federation focuses on issues we believe are of importance from a holistic perspective. Most of the aspects/questions concern several rights in the Convention.

### **Inadequate interpretation of the Convention (articles 1, 2,3 and 4)**

The CRPD has not been incorporated into Swedish law. Interpretation conforming to the convention shall be used instead.

As seen in article 13 in the alternative report authorities' and courts' lack of interpretation that conforms with the treaty, inadequate knowledge about disability, its consequences and individuals' human rights are significant reasons that explain why individuals cannot receive the support and service they are entitled to. The evaluation of the National Disability Strategy, 2013 shows that only 29 per cent of judges and 44 percent of preparing lawyers are familiar with the CRPD. The Swedish Disability Federation refers to the recommendations under articles 2, 3, 5 and 13.

1. What steps will Sweden take to ensure that the judicial system interprets the national laws in a manner that complies with the convention?
2. What measures are planned to ensure that the definitions in article 2 apply in the national legal framework?

### **Shortcomings in the Swedish translation**

There are several shortcomings in the Swedish translation of the CRPD. For instance, the concept "*augmentative and alternative communication*" has (in article 24 and 21) been translated to "*förstorande och alternativ kommunikation*" (which, means "magnifying and alternative communication"). This is a misinterpretation which makes the reader believe the text only concerns visual aids.

3. When and how will Sweden review the shortcomings in the translation?

### **Co-operation with the disability movement, Article 4:3**

The Swedish Disability Federation refers to the items 24 – 31 in the alternative report. Still, the disability movement is not often seen as experts. The cooperation on all levels of society, especially on the national level, must be developed.

4. How will the Government ensure that the various official experts and public actors in society interacts with the disability movement:
  - By requirements for collaboration with the organisations of persons with disabilities in the Directive for inquiries?
  - By collaboration with the organizations of persons with disabilities when drafting inquiry directives which concerns persons with disabilities?
  - By setting requirement for interaction with disability movement in the appropriation directions for the Government authorities?
5. How will the Government promote active involvement of persons with disabilities in all decision-making processes:
  - By regulations stipulating that each authority shall bear the costs for the involvement of the disability movement (like travel expenses, costs related to consultative meetings, individual's loss of income)?
  - By giving the organisations of people with disabilities and their representatives sufficient financial means so they can afford to acquire necessary knowledge and share related data needed to assist the authorities in an appropriate way?
  - By always paying a fee when representatives from the disability movement are consulted as experts?

### **Equality and non-discrimination, Article 5**

#### **Article 5 1. Equality before the law**

As can be seen in items 34-41 in the alternative report, there are some regulations which are inconsequent with the CRPD. In other areas of rights, laws must be strengthen to give individuals the same protection as the CRPD. (See items 42, 118, 124 - 126, 145- 148).

6. What measures will the Government take to harmonize the national laws with the CRPD?

#### **Article 5 2. Protection against Discrimination**

Item 42 in the alternative reports shows that the Discrimination Act and The Law of the European Convention on Human Rights and Fundamental Freedoms together contain prohibition against discrimination relating to most of the articles in the CRPD. However, article 9 lacks any protection against discrimination. The European Convention's protection is in some respects narrower than its writings, for example in Article 29.

7. What measures will the Government take to prohibit discrimination on the grounds of disability in those areas that are currently not covered by the Swedish anti-discrimination acts?

The evaluation of the national disability strategy ( 2013) shows that the situation for foreign born persons with disabilities is very much neglected.

8. What measures are planned to tackle intersectional discrimination against foreign born persons with disabilities?

### **Women with disabilities, Article 6**

The Swedish Disability Federation refers to the parallel report of Forum Women and disability and agrees with the organisation's conclusion that the gender perspective often is absent in statistics and inquires relating to people with disabilities. The Swedish Disability Federation also agrees with the conclusion that clearer assignments should be given to the Equality Ombudsman and Handisam, the Governmental authority for coordination of disability policies. Local authorities and other performers must also focus on the implementation of the gender perspective.

9. What measures will the Government take to ensure that a gender perspective will permeate all studies and research related to persons with disabilities,

### **Children with disabilities, Article 7**

Since 2011, several inquiries concerning the situation of children and youth with disabilities have been undertaken. The Swedish Disability Federation welcomes these studies. However, the studies show the situation for children and youth with disabilities is very much neglected. During 2013, the Swedish Government is developing a Government bill concerning youth. It will be adopted by the Parliament during the first quarter of 2014.

The Swedish Disability Federation welcomes this youth bill but fears that it does not cover all rights of the CRPD. The existing proposal only deals with mental health, livelihood and influence.

10. What areas of rights in the CRPD will be treated in the new youth bill?
11. What methods will the Government use to ensure the full implementation of the rights of the CRPD that are not covered by the bill?

The Swedish Government has also set up an inquiry about the status of the Convention on the rights of the child (CRC) in Sweden. The inquiry will look at the enjoyment of the various rights and analyze the weaknesses but also whether the CRC shall be incorporated into Swedish law or not. The assignment will be completed in 2015. The Swedish Disability Federation refers to article 7 in the alternative report and will underline that the shortcomings of the regulatory framework, or its implementation, as seen in articles 9, 12, 19, 20, 24, 26 and 30 need to be addressed in order that children with disabilities will have equal opportunities

as other children to participate in society. The Swedish Disability Federation will also underline that the full understanding of article 7 point 3 is still missing especially when it comes to children in the need of alternative communication.

12. How will the Government and the investigator of the status of the CRC treat the information and proposals from the disability movement?
13. In what way will the Government and the investigator interact with the disability movement in the development of the bill of youth and the inventory of the status of the CRC?

Today, statistics for children with disabilities is gender neutral, which means that unequal differences in for instance school between girls and boys with disabilities are not addressed.

14. What measures will the Government take to ensure that a gender perspective should permeate all studies and research related to children with disabilities?
15. What measures will the Government take to ensure that the perspective of boys and girls with disabilities are addressed in general studies on the situation of children in Sweden?
16. What specific steps will the Government take to ensure that the gender perspective is highlighted in the case studies related to school and education?

### **Accessibility, Article 9**

The Swedish Disability Federation is especially critical to how the Government has dealt with the question of inadequate accessibility and complying with the laws connected to accessibility. Much of the work and the decisions that are necessary to achieve better accessibility for persons with disabilities have been postponed to a later date.

### **Buildings**

Many of the laws concerning accessibility relate only to persons with reduced mobility and orientation capacity. This excludes all others who are covered by the Convention.

The current regulatory framework concerning accessibility in buildings for persons with limited mobility and orientation capacity is essentially good. The problem is that the rules are not abided by. (For statistics, see item 128 – 132).

### **Transportation**

As may be seen under item 137-138 the work to make the public transportation accessible is very slow and the regulations are not always followed. In some areas, the lack of accessibility has become even worse. The transport administration's evaluation of the implementation of the disability policy strategy (2013) shows for instance that the percentage of wheelchair space has been reduced from 73 to 68 during the last two years. The disability movement refers to the comments under item 139.

## **Information and communication**

The Swedish Disability Federation refers to items 145- 149 which describes gaps in the legislation. Still, no regulatory framework has been initiated.

## **Media**

Since the alternative report was published, the Swedish broadcasting Authority has published requirements for accessibility. Two years later, only 2 of 14 providers of program services meets all the requirements <sup>1</sup>

17. What legislative measures for accessibility, will the Government take to better harmonize the national legislation with the CRPD in terms of accessibility?
18. What other measures is planned to be taken to promote accessibility?

## **Lack of compliance with laws.**

Several articles in the alternative report include statistics that show that the legislation concerning accessibility is not always abided by. In 2011, the Parliament decided that the failure to take measures for accessibility by the law must be regarded as discrimination. During 2012 the parliament once again asked the Government to hurry up and change the legislation. But, still the Government has not implemented this decision.

19. How does Sweden deal with neglect to take measures for accessibility stipulated in law?
20. Are there any sanctions, if so, within with areas and how are they monitored?
21. What actions will the Government take due to the decision taken by the parliament that lack of taking measures for accessibility shall be considered as discrimination?

## **Public procurement**

In the official report, item 58, the Government describes the regulations regarding public procurement. In item 99, the Government highlights public websites and states that knowledge and skills acquired in terms of accessibility and usability must be strengthened in relation to the public procurement of e-services.

22. How does the Government ensure that the regulations concerning public procurement is used as described in point 58 in the official report?
23. What measures will the Government take to tackle the lack of knowledge and acquisition competence regarding accessibility and usability?

## **Lack of efficient legal remedies, Article 13**

As may be seen in the evaluation of the development of the disability strategy (2013), only 29 per cent of judges and 44 percent of preparing lawyers are familiar with the CRPD. The evaluation also shows that less than half of the judges know which

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<sup>1</sup> Redovisning tillgänglighet period 1, 2013, <http://www.radioochtv.se/Tillstand-och-registrering/TV/Nya-krav-pa-tillganglighet-i-tv-pa-svenska/>

support a court can offer a person with a disability. Among other lawyers in the courts is the knowledge even lower. Knowledge of the support that the court can give to a person in order to obtain access to documents is also very low. Only 4-6 percent of the lawyers know that this support exists.

Because the lack of knowledge among court personnel, the need for advocacy is of particular importance for persons with disabilities who wish bring a case to court.

The item 10 and 228 in the alternative report shows that there is a lack of efficient legal remedies.

To enable persons to pursue cases in courts, some may receive legal aid. The provisions of the Legal Aid Act regulate this and aim to help persons who cannot find legal assistance elsewhere.

Legal protection normally covers precise disputes in general courts. It does not, usually cover administrative cases. For example support and services to persons with disabilities. This could lead to that people are not able to take their cases to court.

When it comes to discrimination, the Equality Ombudsman (DO) can at no cost pursue cases where individuals feel they have been discriminated against. DO can however only pursue cases handled in the Anti-discrimination Act and the Parental Leave Act, mainly discrimination related to economic, social and cultural rights. Many civil and political rights are written into the European Convention for the Protection of Human rights and Fundamental freedoms. The European Convention has been incorporated into Swedish law and can be invoked in a court of law. DO can, within the framework of a charge revoke the European Convention, but cannot pursue a case that rests only on it.

24. What measures will Sweden take to ensure that individuals receive support and access to efficient legal remedies in connection with all rights in the CRPD?

25. What measures will Sweden take to promote adequate knowledge about different disabilities and its consequences and individuals' human rights among staff in the courts and authorities?

## **Living independently, Article 19**

The items 316 - 318 in the alternative report describe both judicial and administrative limitations of the statutory right to receive assistance.

"The Swedish Social Insurance Inspectorate reported in December 2012 that the number of people being newly granted personal assistance has declined since 2008 and that more and more get their assistance withdrawn after reconsideration."<sup>2</sup>

26. How will the Government deal with the fact that the court made a narrower interpretation of the individual's right to assistance than is provided for by both the CRPD as in the Swedish law?

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<sup>2</sup> <http://www.regeringen.se/sb/d/15508/a/194574>

27. Which steps has the Swedish government undertaken to monitor the living conditions of persons in need of personal assistance, in particular their ability to study or work, raise children and take part in society in all fields at all levels?

### **Education, Article 24**

As shown in the alternative report, lack of accessibility to the schools' premises is a major reason for why pupils with various disabilities cannot participate fully in education.

28. Are there national guidelines for accessibility in schools which take into account the diversity of pupils? Describe how the national guidelines contain demands on schools to find long-term solutions that cover a diversity of pupils and teachers.
29. The alternative report shows that a lack of knowledge among teachers is a great reason for why pupils with various disabilities do not receive assistance to participate in education. What steps does the Government take to increase teachers' knowledge about pupils with disabilities and disabled elements?

### **Health, Article 25 and Right to life, Article 10**

The latest report from the Swedish National Institute of Public Health shows it is still ten times more likely to persons with disabilities to perceive themselves as having poor health compared with the general population. The causes are often barriers in society, poor finances, difficulties in obtaining education and work, and inaccessible environments which make it more difficult to exercise.

30. How will the Commission ensure that the structural perspective related to persons with disabilities will regularly be taken into account in the field of public health?
31. In what areas does the Government plan to take action during 2014?

The report "Young adults with activity compensation - risk of suicide attempts" shows that the risk of suicidal behavior is higher among young adults with activity than among other young adults of the same age, i.e. 19-23 years. The difference persists over time despite the number of young adults with activity more than doubled 1995-2005. This should be seen against the background that suicide rates have decreased in all other age groups in Sweden, except among the very young adults. The authors conclude that young adults with activity at elevated risk of suicidal behavior, which indicates a strong need for better preventive measures in the form of regular follow-up and individualized action plans.

31. What are the reasons for the increased risk of suicide among young people in receipt of activity compensation?
32. What measures will the Government take to reduce the suicidality among these young people?

### **Employment, Article 27**

In Sweden, the employment rate for people with reduced work ability due to disabilities, has gradually declined since 1998 and is in March 2013 historically low at 44 percent. Regardless of economic conditions during the past 15 years, the employment rate for persons with disabilities has continued to decline, which indicates structural problems. Today, one in four job seekers who are registered in the Employment Service has a disability.

33. What steps is the Government planning to take to tackle the structural barriers that exclude persons with disabilities from the labour market?
34. What steps is the Government planning to take to break the negative trend with falling employment rates for persons with reduced work ability due to disabilities?

The government inquiry of labor market programs for persons with disabilities (2012), shows shortcomings in the Swedish Public Employment Service. The methods of employment rehabilitation lack evidence base. Only a few come to work or study and a large number go around in different actions. The advisers who work with persons with disabilities have far fewer resources than those working with other groups of job seekers.

The time to have a disability identified and thus have access to various efforts, has increased and is now up to an average of 270 days. Handisam's evaluation of the national disability strategy (2013) shows that it takes on average 86 days longer for a person of foreign origin to get a code of disability than for a Swedish person.

35. What measures will the Government take to overcome the Employment Service's major shortcomings for job seekers with disabilities?
36. How will the Government ensure that the efforts that the Employment Service provides job seekers with disabilities will be quality assured, and that the expertise of different disabilities is ensured within the agency?

The Swedish Social Insurance Agency report, "Ten years with activity compensation" (2012) shows that very few young people with reduced work capacity aged 19-29 have jobs. Despite the wording of Article 27, paragraph g, the proportion of young people with disabilities is lowest in the public sector. Of 12,938 young people with reduced work capacity were only 155 people employed by Government authorities and county councils! Most of the young people with disabilities were found in small, private companies.

37. What measures will the Swedish Government take to ensure that more young adults with disabilities get jobs in the public sector?

### **Article 33 National implementation and monitoring**

As may be seen under point 585, the report from the Delegation of human rights in



Sweden gives proposals on “A New structure for protection of human rights”, SOU 2010:70.

In 2011, the civil society and the authorities had opportunities to submit comments and suggestions on the proposals. Since then the work appears to have been down. The Disability Federation will not be informed about the work and does not know whether and how the work is progressing

38. How will Sweden ensure an independent monitoring in the manner described by Article 33?

39. How is the Government planning to ensure adequate knowledge on various disabilities and disability rights in the future institution of human rights?

Finally, the Swedish Disability Federation would like to refer to its recommendation no 5 and suggest the committee to ask the Government to account for how the various recommendations from the disability movement have been handled.

If you have questions, please contact:

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Best regards,

**THE SWEDISH DISABILITY FEDERATION**

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President

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<sup>i</sup> Law 1994:1219 – The European convention concerning protection of human rights and fundamental freedoms