



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### **Concluding observations on the fifth periodic report of Sweden adopted by the Committee at its 68<sup>th</sup> session (12 – 30 January 2015).**

#### **I. Introduction**

1. The Committee considered the fifth periodic report of Sweden (CRC/C/SWE/5) at its 1936th and 1938th meetings (see CRC/C/SR 1936 and 1938), held on 13 and 14 January 2015, and adopted, at its 1983rd meeting, held on 30 January 2015, the following concluding observations.

2. The Committee welcomes the submission of the fifth periodic report of Sweden and the written replies to the list of issues (CRC/C/SWE/Q/5/Add.1), which provided a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

#### **II. Follow-up measures undertaken and progress achieved by the State party**

3. The Committee welcomes the adoption of the following legislative measures:

(a) The legislative changes made to the Swedish Social Services Act and the Care of Young Persons (Special Provisions) Act, in November 2013;

(a) The amendments to the legislation on sexual crimes against children, in July 2013;

(a) Protection against age discrimination in the Discrimination Act was strengthened by a legislative amendment to include more sectors of society, in January 2013; and

(a) The Education Act of July 2011.

4. The Committee also notes with appreciation the ratification of:

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<sup>1</sup> CRC/C/SWE/Q/5/Add.1, para. 108.

<sup>2</sup> CRC/C/SWE/Q/5/Add.1, para. 112.

- (a) Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, in June 2013;
- (b) Hague Convention No. 34 on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, in September 2012;
- (c) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in June 2011; and
- (d) Council of Europe Convention on Action against Trafficking in Human Beings, in May 2010.

5. The Committee also welcomes the following institutional and policy measures:

- (a) The creation of the Commission against anti-Gypsyism in March 2014;
- (b) The National Action Plan against Trafficking, Exploitation and Sexual Abuse of Children for 2014 and 2015, of February 2014;
- (c) The Long-term strategy to promote equal rights and opportunities regardless of sexual orientation, gender identity or gender expression of December 2013;
- (d) PRIO mental ill health action plan of May 2012;
- (e) The strategy for Roma Inclusion 2012 – 2032; and
- (e) The policy on democracy and human rights in development co-operation of 2012.

### **III. Main areas of concern and recommendations**

#### **A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)**

##### **The Committee's previous recommendations**

6. The Committee recommends that the State party take all necessary measures to address its previous recommendations made upon the consideration in 2009 of the fourth periodic report of the State party (CRC/C/SWE/CO/4), that have not been implemented or insufficiently implemented and, in particular, those related to the legal status of the Convention and its optional Protocols (para.9), asylum-seeking and refugee children (para. 60) and sexual exploitation, including child pornography (para. 66).

##### **Legislation**

7. The Committee takes note of the efforts taken by the State party to address the Committee's previous concern at the continuous lack of formal recognition of the Convention as Swedish law, and especially the information provided in its written replies that an inquiry was set up in March 2013 to analyse how the application of laws and other regulations comply with the Convention.

8. **The Committee urges the State party to accelerate the inquiry set up in March 2013 and take all necessary measures to ensure that national legislation is brought into full conformity with the Convention and that the Convention should always prevail when domestic law provisions are in conflict with the law enshrined in the Convention.**

### **Allocation of resources**

9. The Committee notes with concern that the national budget does not include specific budgetary allocations for the implementation of the Convention.

10. **The Committee recommends that the State party:**

(a) **Provide specific information in terms of figures and percentage of the national budget regarding the implementation of the Convention in its next periodic report to the Committee;**

(b) **Adopt a child rights based approach in the elaboration of the State budget, by implementing a tracking system for the allocation and the use of resources for children throughout the budget; and**

(c) **Undertake impact assessments on how “the best interests of the child” is taken into consideration in investments or budget cuts in any sector, and ensure that the impact of such investment or budget cuts on girls and boys are measured.**

### **Coordination**

11. The Committee is concerned about the remaining disparities regarding the implementation of the Convention between the different municipalities, counties and regions, which lead to an inequitable access to support and services for children.

12. **The Committee recommends that the State party establish a high level mechanism with a clear mandate and authority to ensure equal access of all rights at regional and local level, and ensure the provision of the necessary human, technical and financial resources for its effective operation.**

### **Independent monitoring**

13. The Committee reiterates its appreciation for the many activities undertaken by the Children’s Ombudsman for the implementation of children’s rights (CRC/C/SWE/CO/4, para. 15), but also reiterates its concern that this office cannot receive individual complaints from children, or on behalf of children.

14. **In the light of its general comment No. 2 (2002) on the role of independent human rights institutions, the Committee recommends that the State party take all appropriate measures to ensure that the Ombudsman has full mandate and appropriate resources to receive, investigate and address complaints by children in a child-sensitive manner, ensure the privacy and protection of victims, and undertake monitoring, follow-up and verification activities for victims. The Committee furthermore recommends that the State party reinforce the independence of the Ombudsman.**

## **C. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

15. The Committee commends the State party for its efforts in addressing various forms of discrimination, including its comprehensive anti-discrimination legislation, the long-term strategy to promote equal rights and opportunities regardless of sexual orientation, gender identity or gender expression, and the Commission against anti-Gypsyism. The Committee is however concerned that:

(a) Certain groups of children continue to face discrimination, in particular children from disadvantaged and marginalized families as well as children of migrant families, including African and Afro-Swede children;

(b) The term “race” has been deleted in the new Anti-Discrimination Act and the Instrument of Government, and that there is no explicit legal provisions declaring illegal and prohibiting organizations promoting and inciting racial hatred, as already pointed out by the Committee on the Elimination of Racial Discrimination (CERD/C/SWE/CO/19-21, Paras. 6 and 13);

(c) There are cases of Roma children discriminated by their schoolmates; and

(d) There are cases of LGBT children experiencing bullying, intimidation and violence.

**16. The Committee encourages the State party to strengthen its efforts and measures to effectively combat all forms of discrimination and to:**

(a) Amend its legislation to enforce the prohibition of discrimination associated, *inter alia*, with ethnicity and to declare illegal and prohibit organizations promoting and inciting racial hatred;

(b) Place particular focus on preventive activities against discrimination and, if necessary, take affirmative action for the benefit of children in vulnerable situations, including children from marginalized and disadvantaged families, a migration background, Roma and LGBT children; and

(c) Undertake awareness-raising programmes, including campaigns, especially targeted at children including adolescents, to eliminate all forms of discrimination.

**Best interests of the child**

17. While noting with appreciation that the right of the child to have his or her best interests taken into consideration is contained in certain laws, the Committee remains concerned that inadequate weight is given to this right, especially in asylum procedures where children are involved. Furthermore, the Committee is concerned about:

(a) The lack of a mandatory child rights impact assessment regarding all measures that concern children; and

(a) Insufficient training conducted for relevant professionals on best interests determination.

18. In the light of its general comment No 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee reiterates its previous recommendations (CRC/C/SWE/CO/4, para. 28) that the State party strengthen its measures to raise awareness and practical application of the principle of the best interests of the child, and ensure that article 3 of the Convention is duly reflected in its legislation and administrative measures. It also recommends that the State party:

(a) Undertake mandatory child rights impact assessments to determine the impact of any proposed policy, legislation, regulation, budget, international cooperation or other administrative decision which affect children and the enjoyment of their rights; and

(a) Ensure that the principle of the best interests of the child forms the basis and guides the process of all decisions, especially in asylum cases involving children,

**including by providing regular training to staff at the Migration Board and the social welfare authorities, and increase training on best interests determination.**

#### **Respect for the views of the child**

19. The Committee, while noting as positive the measures contained in the Social Services Act or the Education Act to implement the right of the child to be heard, notes with concern that this right is insufficiently implemented in practice, in particular as concerns custody, residence and visitation, social services investigations or in the asylum procedure. The Committee is also concerned that according to the Aliens' Act (Chapter 1, Section 11) a child shall only be heard if this is not inappropriate.

20. **In the light of its general comment No. 12 (2009) on the right of the child to be heard, the Committee recommends that the State party take measures to strengthen this right in accordance with article 12 of the Convention and to ensure the effective implementation of legislation recognizing the right of the child to be heard in relevant legal proceedings, including by establishing systems and/or procedures for social workers and courts to comply with the principle. The Committee furthermore calls upon the State party to take prompt legal measures to modify Chapter 1, Section 11 and abolish the exception of inappropriateness and ensure that a child is heard whenever a decision affecting him or her is made.**

#### **Right to life, survival and development**

21. The Committee is concerned about the increasingly high rate of suicide among persons with disabilities, including children, in the State party, as already pointed out by the CRPD (CRPD/C/SWE/CO/1, Para. 29)

22. **The Committee urges the State party to adopt all necessary measures to prevent, identify and address the root causes of suicide in children with disabilities.**

### **D. Civil rights and freedoms (arts. 7, 8, and 13-17)**

#### **Access to appropriate information**

23. While noting with appreciation the measures taken by the State party to inform children and their parents on the use of information and communications technology (ICT), such as the “Digital Tourist” touring conference or the yearly “Safer Internet Day”, the Committee is concerned that insufficient training is provided to pupils at schools and parents on the risks connected to the use of ICTs.

24. **In light of the recommendations of the Day of General Discussion on Digital Media and Children’s Rights, the Committee recommends that the State party:**

(a) **Increase its efforts to develop regulations to protect the privacy of children and adequately train children, teachers and families on the safe use of ICTs, in particular on how children can protect themselves from paedophiles, from being exposed to information and material harmful to their well-being and from online bullying;**

(b) **Undertake awareness raising efforts amongst children on the severe effects online bullying can have on their peers; and**

(c) **Strengthen the mechanisms to monitor and prosecute ICT related violations of children rights.**

**E. Violence against children (arts. 19, 24, para.3, 28, para. 2, 34, 37 (a) and 39)**

**Torture and other cruel or degrading treatment or punishment**

25. The Committee is seriously concerned about the practice of solitary confinement of children in conflict with the law in remand prisons and police cells and the high number of children in the latter, as well as about the coercive and involuntary treatments infringed on children with disabilities in mental health care settings, in particular the use of straps or belts for up to two hours, and of seclusion.

26. With reference to the Committee's general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and to general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee urges the State party to:

- (a) Immediately remove all children from solitary confinement, and revise its legislation to prohibit the use of solitary confinement in all circumstances;
- (b) Fully legally ban the use of straps or belts as well as of seclusion in mental health care settings and in any other institution;
- (c) Ensure that children in all care institutions have access to an independent complaints mechanism, that the conditions in these institutions are regularly and effectively monitored, and that reports of cruel, inhuman and degrading treatment of detained children are promptly and impartially investigated ;
- (d) Provide training to medical and non-medical staff on methods of non-violent and non-coercive care; and
- (e) Unify the reporting mechanisms of the police concerning children detained in police cells.

**Abuse and neglect**

27. The Committee welcomes the appointment in 2012 of a national coordinator to combat domestic violence. The Committee is however concerned about the significant rise in child abuse, especially of children up to six years of age, and regrets that only a few reports result in prosecution. Furthermore, the Committee notes with concern that:

- (a) Child victims of abuse and neglect frequently experience difficulties in accessing rehabilitation services and mental health care notably due to the lack of clarity in the care chain in large parts of the State party; and
- (b) Schools and institutions personnel are not properly trained to recognize the early signs of abuse and neglect, a situation which results in only a few cases being reported to social services.

28. The Committee recommends that the State party take all necessary measures to create a coherent and coordinated child protection system and to further strengthen awareness-raising and education programmes, including campaigns, with the involvement of children, in order to encourage reporting of child abuse and violence cases, and to formulate a comprehensive strategy for preventing and combating child abuse and neglect, and to:

- (a) Ensure the allocation of adequate human, technical and financial resources to implement long-term programmes for addressing the root causes of violence and abuse;

- (b) Provide staff in schools and institutions with regular continued training on how to detect and recognize signs of maltreatment of children;
- (c) Encourage community-based programmes aimed at preventing and responding to domestic violence, child abuse and neglect, including by involving former victims, volunteers and community members, and providing training and support to them;
- (d) Establish a national database on all incidences of domestic violence against children, and undertake a comprehensive assessment of the extent, causes and nature of such violence; and
- (e) Ensure that children who have suffered violence and abuse have sufficient access to adequate physical and psychological care.

#### **Sexual exploitation and abuse**

29. The Committee appreciates the measures taken by the State party against sexual exploitation and abuse, in particular that the scope of the crime of gross child sexual abuse has been broadened, the penalty increased and that the period of limitation for child sexual exploitation has been extended. However, the Committee is concerned about the persistence of child prostitution and child pornography in the State party and the lack of data on sexual exploitation of children, including on children trafficked to and within the State party for sexual purposes, or sexually abused or exploited by Swedish nationals abroad;

30. **The Committee recommends that the State party strengthen its efforts to eliminate sexual exploitation and abuse and to:**

- (a) Establish a mechanism of systematic data collection disaggregated by age, sex, ethnic origin, national origin, geographic location, and socioeconomic status; and
- (b) Increase the development of programmes and policies for the prevention, recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children.

#### **Freedom of the child from all forms of violence**

31. The Committee while appreciating the measures undertaken by the State party to combat bullying, notes with concern that school action plans in this regard, are reportedly rarely based on a survey of needs, that the number of pupils subjected to some form of harassment by other pupils is increasing, including online bullying and that private online actors are not sufficiently involved in combatting bullying and harassment online.

- (a) **The Committee recommends that the State party intensify its efforts to combat all forms of bullying and harassment, including online bullying and bullying by mobile telephone and in particular:**
- (b) **Increase the involvement of private online actors and improve the capacity of teachers and all professionals working at schools and students to accept diversity at school and improve their conflict resolution skills, as well as ensure the participation of children in the initiatives aimed at eliminating bullying; and**

**Ensure that all schools carry out periodic surveys among students, staff and parents on their experiences with bullying and harassment, and base their action plans to combat bullying on these.**

### **Helplines**

32. The Committee notes with appreciation that many of the State party's municipalities have a 24-hour helpline staffed with qualified social workers, but that a significant number of municipalities only have the capacities to offer a helpline service during the day.

33. **The Committee encourages the State party to increase the allocation of human, technical and financial resources to helplines to ensure a nationwide 24-hour service.**

## **F. Family environment and alternative care (arts. 5, 9-11, 18 (paras. 1 and 2), 20-21, 25 and 27 (para. 4))**

### **Children deprived of a family environment**

34. The Committee appreciates the various measures taken by the State party to facilitate contact between children and their incarcerated parents, including visiting apartments in several prisons. The Committee is however concerned that the "principle of closeness" only constitutes one factor among others to be taken into consideration, instead of being mandatory, which can lead children to travel long journeys to visit their parents, with some families not being able to undertake these journeys because of economic constraints. The Committee is also concerned that having to travel a long journey does not automatically constitute a justification to extend the duration of the visit in some prisons.

35. **The Committee recommends that the State party take all necessary measures to ensure that children can maintain personal relations and direct contact with parents in prisons and reintroduce the systematic application of the principle of closeness. The Committee also encourages the State party to continue increasing child-friendly visiting possibilities in prisons.**

36. The Committee is concerned at reported instances of arbitrary interferences in the family life of Afro-Swedes and Africans and removal of children by social welfare authorities, as already pointed out by the United Nations' Working Group of Experts on People of African Descent after their visit to the State party.

37. **The Committee recommends that the State party ensure that practices involving the removal of children from their families are fully regulated and that removal is always subject to a thorough investigation, in accordance with the best interests of the child and used as a measure of last resort.**

## **G. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) and 33)**

### **Children with disabilities**

38. While welcoming the new provision in the Act No. 1993:387 regarding subsidies and services to certain disabled persons (LSS) which provides that a child with disability shall have the opportunity to present his or her views about any intervention affecting him or her, the Committee is concerned that children with disabilities are not systematically heard regarding issues that concern them and lack opportunities to express themselves, as highlighted by the CRPD (CRPD/C/SWE/CO/1, para. 19). The Committee is also concerned that:

(a) No separate statistics are kept on crimes against children with disabilities, and that children with disabilities are exposed to higher rates of violence than their non-disabled peers;

(b) Although the number of children having access to inclusive education is very high, the Education Act enables schools to deny a place to pupils with disabilities when this would involve ‘significant organizational or financial difficulties’, provided the municipality can offer an equal alternative;

(c) The Education Act provides that children with disabilities need to achieve the *minimum knowledge requirements*; and

(d) Parents, as well as staff working with children with disabilities, are insufficiently informed and trained on the special needs of these.

**39. In the light of its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability and in particular to:**

(a) Ensure that existing safeguards on the right of children with disabilities to be consulted in all matters concerning them are effectively implemented;

(b) Collect data on children with disabilities who have become victims of crimes, and provide the Committee with information on its findings in its next report; develop research as well as a collection of data and statistics on violence against children with disabilities; and reinforce its strategy and initiatives for the sensitization and training of parents and staff working with children as well as for awareness-raising among the general public;

(c) Ensure that all children have access to schools without discrimination and to this end, abolish the provision of the Educational Act which conditions the acceptance of a child with disabilities, and allocate sufficient human, technical and financial support to ensure that no schools are confronted with organizational or financial constraints hampering proper inclusive education;

(d) Take prompt legal measures and allocate all necessary resources to ensure that every child with disabilities is given the possibility and all the necessary assistance to reach the highest education level according to the child’s individual capacities; and

(e) Develop awareness-raising and education programmes for parents and teachers on how to recognize and address the special needs of children with disabilities.

### **Health and health services**

40. While welcoming the provision of equitable health care for asylum-seeking children the Committee is concerned that considerable disparities regarding physical and mental ill-health of children continue to exist between children from different economic backgrounds.

**41. The Committee draws the State party’s attention to its general comment No. 15 (2013) on the right of the child to health, and recommends that the State party strengthen its efforts to improve the health status of children from disadvantaged and marginalised groups and allocate sufficient financial, human and technical resources to ensure their right to health without discrimination.**

### **Mental health**

42. The Committee notes with concern:

(a) The significant increase in the number of children diagnosed with so-called learning or behavioural disorders, in particular Attention Deficit/Hyperactivity Disorder (ADHD); and

(b) The rise in the prescription of amphetamine and amphetamine-like psychostimulant drugs, mostly in form of methylphenidate, without proper consideration to their secondary effects and the addiction resulting from these drugs.

**43. The Committee urges the State party to establish a system of independent expert monitoring of the diagnosis of ADHD and other behavioural specificities, and of the use of drug treatments for these children; and to:**

(a) Undertake independent research on diagnosis methods used in the determination of child mental health problems; and

(b) Ensure that appropriate and scientifically-based psychological counselling and specialised support for children, their parents and teachers is given priority over the prescription of drugs in addressing ADHD and other behavioural specificities.

44. The Committee is concerned that while the rates of mental health and psychosocial disorders are high among young people, school health services are under-resourced to address them in a timely and appropriate manner and that access to school psychologists and the psychosocial support system involves a long waiting period.

**45. The Committee recommends that the State party increase the resources available for school health services to ensure that children have access to and receive appropriate psychosocial and mental-health support and psychiatric health care in a timely manner, as already recommended by the CRPD (CRPD/C/SWE/CO/1, para. 18).**

#### **Standard of living**

46. The Committee notes with concern that:

(a) A relatively high number of children are living in poverty;

(b) While children in situations of migration are subject to economic difficulties to a greater extent than children resident in the State party, the daily allowance for asylum seeking persons remains low and has remained unchanged since 1994;

(c) Unlike general child allowance, allowance decreases for the third child of asylum seeking families and the following children; and

(d) In 2013, reportedly hundreds of children were affected by eviction, particularly because of back rent.

**47. The Committee recommends that the State party increase the allocation of human, technical and financial resources, and examine the root causes of poverty, with a view to strengthening the strategies and measures to:**

(a) Strengthen and increase programmes to support families in need, in particular single-parent families and those in difficult socio-economic or other circumstances;

(b) Increase daily allowance for asylum seeking persons and take prompt legal measures to ensure that allowance is not reduced for families with more than two children; and

(c) Ensure that families are not forcibly relocated or evicted and ensure that the right of the child to adequate housing is always respected.

**I. Special protection measures (arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40)**

**Asylum-seeking and refugee children**

48. The Committee is concerned about reported cases of asylum-seeking children sent back to their country of origin in violation of the principle of non-refoulement. The Committee furthermore notes with concern that:

- (a) Unaccompanied and asylum-seeking children are at particular risk of sexual exploitation and/or abuse, with many cases of unaccompanied children disappearing every year, most of these cases being insufficiently investigated;
- (b) Child-specific forms of persecution such as the risk for children of becoming the victims of forced labour, child marriage, trafficking, female genital mutilation or being recruited as a child soldier, not being explicitly contained in the Aliens Act as grounds for obtaining asylum;
- (c) Children who have been placed in out-of-home care due to neglect and/or domestic violence, may be deported together with their parents in accordance with the Alien Act;
- (d) The Act on Guardians for Unaccompanied Children, Section 3 which provides for the appointment of a guardian for the child “as soon as possible”, does not set any timeframe, which in some cases leads children to wait for several weeks before a guardian is appointed;
- (e) Guardians are not always properly trained and not always accompanied by an interpreter when meeting the child;
- (f) Reported cases of lengthy waiting periods being imposed on children until determination of their asylum claim; and
- (g) Reports according to which many unaccompanied and asylum-seeking children are not provided with winter clothes, personal hygiene articles and school materials.

49. **The Committee urges the State party to take prompt measures to ensure that if children are to be returned to their country of origin, the principle of non-refoulement is always respected. Furthermore, the Committee recommends that the State party:**

- (a) **Investigate all cases of disappearance of unaccompanied children and take all necessary measures to increase their protection;**
- (b) **Revise the Alien Act in order to explicitly include child-specific forms of persecution, such as the risk of becoming the victim of forced labour, child marriage, trafficking, female genital mutilation or being recruited as a child soldier, as grounds for obtaining asylum;**
- (c) **Ensure that no child is deported back with parents or guardians he or she was taken away from because he or she suffered violence and/or abuse whilst in their care, and undertake a best interests determination for any decision concerning this child;**
- (d) **Ensure by law that each unaccompanied child is immediately appointed a guardian, who is adequately trained and receives regular continued training, and that the child has regular meetings with his or her guardian and that in case of language problems an interpreter is appointed to enable effective communication between them; and**

(e) Ensure a speedy processing of asylum applications and that all asylum-seeking children are fully provided with basic necessities, in particular adequate clothing and personal hygiene articles, as well as all necessary school materials.

#### **Children in migration situations**

50. The Committee notes with concern that children who are considered as being “in transit” face difficulties to access education and that the rate of school dropout is higher for children with a migration background.

**51. The Committee recommends that the State party amend its legislation to ensure that children considered as being “in transit” are provided with full access to education, take all necessary measures to effectively reduce dropout rates among these and provide opportunities for those who have dropped out of school to re-access schooling.**

#### **Follow up to the Committee’s previous concluding observations and recommendations on the Optional Protocol on children in armed conflict**

52. The Committee welcomes the adoption of the Act on criminal responsibility for genocide, crimes against humanity and war crimes of July 2014, establishing the recruitment and use of children under the age of 15 years in armed conflict as a war crime. The Committee however, remains concerned that volunteers under the age of 18 taking part in the Total Defence-oriented youth activities of the voluntary defence organizations undertake firearms training. Furthermore, the Committee notes with concern that:

(a) Insufficient safeguards are in place to ensure that no arms are exported to countries where children are or might be recruited or used in hostilities; and

(b) Mechanisms of systematic data collection on refugee, asylum seeking and migrant children who have been recruited or used in hostilities abroad have not been established.

**53. The Committee reiterates its previous recommendations (CRC/C/OPAC/SWE/CO/1, para. 15) that the State party raise the minimum age of volunteers participating in firearms training provided by voluntary defence organizations from 16 to 18 years in order to fully respect the spirit of the Optional Protocol and to provide full protection for children in all circumstances. It recommends that the State party provide all voluntary defence organizations providing firearms and military-type training to persons under the age of 18 with adequate information and training on the provisions of the Optional Protocol as well as other relevant international standards. The Committee furthermore urges the State party to:**

(a) Fully prohibit the export of arms, including small arms and light weapons, when the final destination is a country where children are known to be, or may potentially be, recruited or used in hostilities; and

(b) Systematically collect data on refugee, asylum-seeking and migrant children within its jurisdiction who have been recruited or used in hostilities abroad.

#### **Follow up to the Committee’s previous concluding observations and recommendations on the Optional Protocol on the sale of children, child prostitution and child pornography**

54. The Committee, while welcoming the National Plan of Action 2014 -2015 against Trafficking, Exploitation and Sexual Abuse of Children, as well as the Common Action

Plan developed by the Border Control Police in Stockholm, reiterates its concern (CRC/C/OPSC/SWE/CO/1) that:

- (a) The State party's legislation fails to specifically define and prohibit all the offences, as provided for in articles 1, 2 and 3 of the Optional Protocol and that the criminal code of the State party does not cover all the offences included in the Optional Protocol;
- (b) The State party's jurisprudence and legislation is not consistently providing adequate protection for child victims above the age of 15;
- (d) Knowledge on how to identify and address risk factors related to the offenses covered by the Optional Protocol, as well as on how and where to report and handle cases of such violations, including those involving foreign victims, remains low among professionals working with or for children; and
- (e) The State party's declaration on article 2 (c) of the Optional Protocol, wherein it states that it interprets the words "any representation" in the article as merely pertaining to "visual representation" of child pornography, hinders the full implementation of the Optional Protocol for dealing with all forms of child pornography.

**55. The Committee urges the State party to take all necessary measures to ensure that its penal law fully complies with the provisions of the Optional Protocol, including by:**

- (a) Ensuring that all the offences, as provided for in articles 1, 2 and 3 of the Optional Protocol and all forms of child pornography are criminalized as previously recommended and that sexual exploitation is punished with sanctions commensurate to the gravity of the crimes;
- (b) Ensuring that all victims of child abuse, including those above the age of 15 years are provided with adequate legal protection;
- (c)
- (d) Ensuring systematic training on the Optional Protocol for all professionals working with and for children; and
- (e) Consider withdrawing its declaration on article 2 (c) of the Optional Protocol.

#### **Administration of juvenile justice**

56. The Committee whilst recognizing the efforts made to guarantee the rights of children in conflict with the law, is however concerned that:

- (a) Children deprived of their liberty are not always informed of their rights and the reasons for having restrictions imposed on them, nor afforded all fundamental legal safeguards from the very outset of deprivation of liberty, such as the rights to access to a lawyer, to independent medical examination and to notify a relative or a person of their choice as already pointed out by the Committee against Torture (CAT/C/SWE/CO/6-7, para. 7);
- (b) Children continue to be subjected to pre-trial detention, with insufficient efforts taken to find alternatives to detention, and that there is a lack of general and formalized routines on how to handle children in pre-trial detention, as raised in the 2013 Annual Report of the Swedish Ombudsman for Children;
- (c) The length of the deprivation of liberty including pre-trial detention is not regulated by law; and

(d) There are disparities regarding access to education between different remand prisons.

**57. In light of its general comment No. 10 (2007) on children's rights in juvenile justice, the Committee urges the State party to continue bringing its juvenile justice system fully into line with the Convention and other international standards and. In particular, the Committee urges the State party to:**

(a) Ensure that children immediately have their rights explained in a manner that is understandable to them, as well as the reasons for their detention, in particular the right to immediate access to a lawyer, right to a medical examination by an independent doctor, preferably of their choice, and right to notify a relative and consulate authorities if appropriate and ensure that no statement given in the absence of a legal advisor can be used during proceedings;

(b) Promote alternative measures to custody and detention, and ensure that detention, including custody and pre-trial detention is used as a last resort, for the shortest possible period of time and that it is reviewed by a judge on a regular basis with a view to withdrawing it;

(c) Include a maximum duration of deprivation of liberty in all settings into all relevant legislation; and

(d) Ensure that all children in detention have an equal statutory right to education.

#### **Child victims and witnesses of crimes**

58. The Committee is concerned that while children who have witnessed violence and other forms of abuse in close relationships have the status of a victim of crime, they cannot have the standing of aggrieved party in the legal process, which means that they are not offered their own aggrieved party counsel, cannot be heard by the police without the permission of a guardian and face difficulties in receiving compensation. Furthermore, the Committee notes with concern that many processes which involve child victims are protracted.

**59. The Committee recommends that the State party ensure that the best interests of the child are a primary consideration in the treatment afforded by the criminal justice system to child victims and witnesses and:**

(a) Provide appropriate support services to child victims and witnesses throughout the legal process, legal representation, information and access to compensation for damages, and ensure that the child has the possibility to have the standing of aggrieved party in the legal process if he or she so wishes; and

(b) Take every necessary measure to prevent protraction of processes involving child victims.

#### **J. Ratification of the Optional Protocol on a communications procedure**

60. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## **K. Ratification of international human rights instruments**

61. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the core human rights instruments to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,

## **L. Cooperation with regional bodies**

62. The Committee appreciates the cooperation of the State party with the Council of Europe and the European Union and recommends that the State party continue cooperating with the Council of Europe on the implementation of children's rights, both in the State party and in other Council of Europe member States.

# **IV. Implementation and reporting**

## **A. Follow-up and dissemination**

63. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the fifth periodic report, the written replies to the list of issues of the State party and the present concluding observations be made widely available in the languages of the country.

## **B. Next report**

64. The Committee invites the State party to submit its combined sixth and seventh periodic report by 1 March 2021 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr.1) and should not exceed 21,200 words (see General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

65. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I) and General Assembly resolution 68/268 (para. 16).