

# Sweden - List of issues submissions consolidated from Swedish civil society organisations working with child rights

## Report prepared by

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## **Introduction**

This report is the result of cooperation and teamwork between 21 organizations coordinated by UNICEF Sweden. The process started in February 2019. During the spring 2019 the organizations worked in smaller groups based on expertise and interest to identify the most burning questions for children's rights in Sweden.

The organizations who work directly with children have consulted members, groups or individuals of children in the process. The quotes in the report comes from Save the Children Youth, The Swedish Youth Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex rights (RFSL Youth) and the organization Dandelion Children. The participation of child- and youth organizations has been extra valuable in the production of the report.

After a recommendation from Save the Children Youth - Sweden, the report is aimed at having a gender non binary language in order to not exclude the children not identifying themselves as neither "he" or "she".

Most of the sources used in this report are only available in Swedish. When a source is available in English, it is stated in the footnote.

### **A. General measures of implementation (art. 4, 42, 44(6))**

#### **The legal status and implementation of the Convention**

Following a decision from the Swedish parliament 2018, the CRC is incorporated into national law since 1<sup>st</sup> January 2020, alongside continued transformation. This decision is highly welcomed and in line with the Committee's recurring recommendation to Sweden. However, the Convention will gain legal status as national law and will not take precedence over other national legislation in situations of law conflict. Furthermore, the optional protocols that Sweden have ratified are not incorporated. The European Convention on Human Rights is incorporated into national legislation with a specific constitutional status saying that no law may be announced that violates the convention.

We also note with concern that the capacity building initiatives that have been presented to national and local authorities are to be implemented on a short term basis. Long term capacity building and education initiatives is key in order to reach the desired sustainable impact.

*Q: Please provide information on what effective measures Sweden will take to guarantee that the Convention and its optional protocols will prevail when provisions of domestic law conflict with the Convention?*

*Q: What measure will Sweden take to promote long-term capacity building activities to ensure that the CRC is fully implemented in all issues concerning children at local and national level?*

#### **Access to effective and child friendly remedies**

Children in Sweden lack sufficient avenues to exercise their rights to effective remedies on a local, national and international level. Despite the recommendations from the Committee the Swedish government has not stated any plans on ratifying the Optional

Protocol on a communications procedure or on investigating the question further by appointing an inquiry.

In addition, no actions are taken by the government to introduce a national complaints mechanism for children, nor to provide the Ombudsman for Children with the mandate and resources to receive individual complaints. The Swedish government has proposed that Sweden should establish a national institution for human rights. However, according to the proposal the institution will not be able to receive individual complaints.

*Q: Please provide information on what steps Sweden are taking towards ratifying the third Optional Protocol on a communications procedure including a time frame for ratification?*

*Q: Please present how the government will ensure that children have access to effective remedies at local, national and international level when their rights are violated?*

*Q: What measures are the government taking in order to extend the mandate of the Ombudsman for Children to receive, investigate and support individual complaints from children?*

### **The Ombudsman for Children**

According to the government's annual letters of appropriation to the Ombudsman for Children, the budget has not been modified significantly although the number of activities and responsibilities continue to increase. This is worrying especially as the CRC has recently been incorporated into Swedish law and support is continuously requested from authorities at all levels. It is of significant value that the Ombudsman receive appropriate resources in order to be able to fulfil their mandate to effectively support the implementation of the CRC at all levels.

*Q: Please provide information on how the Swedish Government will ensure that the Ombudsman for Children has appropriate resources to effectively support the implementation of the CRC as national law?*

### **Inequality in implementation of child rights (access to rights)**

Today, one of the factors that determine how likely you are to be able to exercise your rights is your physical address. Growing up in disadvantaged suburbs or municipalities implies a risk of being denied access to your rights<sup>1</sup>. This fact is supported by statistics from state reports as well as by NGOs and the youth movement. As an example, statistics from the national Swedish helpline for Children (Bris) show that access to human rights for children are often determined by the capacity of each municipality, county or region. Children seeking support from Bris due to a lack of (or inadequate) support systems rose

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<sup>1</sup> For example:

Government Agency Statistics Sweden (SCB) 2018, *Välfärd – statistik om välfärd, arbetsmarknad, utbildning och befolkning*, 2018:1, page 32;

Swedish Government Official Report SOU 2017:47, *Nästa steg på vägen mot en mer jämlik hälsa*, page 32f; The Ombudsman for Children (2018) *Utanförskap, våld och kärlek till orten – Barns röster om att växa upp i utsatta kommuner och förorter*;

Government agency Health and Social Care Inspectorate (IVO), 2017. *Tillsynsrapport 2016*. Page 6f.

by an alarming 36% during the period of 2016-2018.<sup>2</sup> The difficulty in accessing rights for children came from all types of local services such as health and medical, asylum, justice and legal systems as well as education and social services.

There is no monitoring system at national level to measure equality within the social service system for children. Monitoring at local, regional and national level is crucial to identify the differences in access and quality and to take action in order to create equality.

Sweden's 290 municipalities enjoy a great degree of autonomy. As a consequence, not all municipalities have the capacity, funds, organisation or knowledge, to ensure each child the support or service that they have the right to. In regard to the implementation of the Convention, local and regional disparities remain vast, which has a direct and unacceptable effect on the child's ability to seek help.<sup>3</sup> The local authority's self-governance can never be an excuse for the state to not live up to its obligations of the provision of equal access to support and services.

*Q: What steps are taken by the State party in combating the regional disparities which effects the access of rights for children throughout the country?*

*Q: Please provide information on how the government will develop and ensure national monitoring within specifically the social service system concerning regional differences in the access to rights amongst children?*

### **Child rights budgeting**

Official budgets in Sweden, both on the national and local level, lack specific budgetary allocations for the implementation of the CRC. In addition, Sweden has yet to adopt a child rights-based approach in the preparation of the State budget. Without such a tool it is not possible for Sweden to assess how "the best interests of the child" is taken into consideration in relation to investments or cuts in the state budget. A child rights-based budget is a way to promote reporting tools, spread knowledge of the Rights of the Child and ensure transparency in relation to how much of total funds is being dedicated to the needs of children.

*Q: When and how does Sweden plan to adopt a budget tool which clearly displays how state funds are directly or indirectly affecting the rights of the child?*

## **B. Definition of the child (art.1)**

### **Age assessment procedures in the asylum process**

The definition of a child is essential in order for the right individuals to get access to the rights. If you are denied your identity as a child, you are denied the rights of the child.

Age assessments of asylum seekers are permitted where there is 'reasonable doubt' about an individual's age. The medical age assessment is not obligatory but a refusal to

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<sup>2</sup> The Swedish national helpline Children's Rights in Society, Bris (2019) *Hur har barn det?*

<sup>3</sup> The Swedish Agency for Health and Care Services Analysis (Vårdanalys) (2018). *Lika läge för alla? Om omotiverade skillnader inom den sociala barn- och ungdomsvården.*

participate without an acceptable reason will lead to the prediction that the person is 18 years or older.

Sweden has used different medical assessment methods to assess the age of asylum seekers. The current method, with dental and knee x-rays, have shown a high margin of error and the quality of the procedure has been questioned by experts from many different fields.<sup>4</sup> The value of non-medical methods such as psychological and social assessments have not been considered credible despite the recommendation of holistic assessments presented by the Committee.

According to statistics from the Swedish Migration Agency there has been a significant increase in the number of unaccompanied minors whose age has been changed to over 18 without medical age assessments or other investigations, due to being considered an "obvious case". In a report examining a sample of 145 cases, the Swedish Migration Agency found that the child's age had not been investigated sufficiently in the majority of cases due to the pressures on asylum systems.<sup>5</sup>

*Q: Please provide information on how the Swedish government will ensure that age assessment procedures are child sensitive according to the Committee's recommendations, respecting the rule of law and the principle of the benefit of the doubt?*

### C. General principles (art. 2, 3, 6 and 12)

#### NON-DISCRIMINATION

##### **Discrimination - Gender-based violence against girls**

Swedish data show that one in four girls and young women aged 16-24 years have been victims of emotional, physical or sexual violence perpetrated by their partner or former partner; the dynamics of power and control is as dangerous as those found in adult relationships.<sup>6</sup> Yet testimonies of girls suggests that their victimisation are too often dismissed by adults (*"jealousy is harmless when you are young", "he does this because he is in love with you"*)<sup>7</sup>.

Research has highlighted the need to raise awareness of gender-based violence against girls under 16 years of age. In addition, the attitudes and behaviours that foster an acceptance of abusive relationships need to be challenged early and long term<sup>8</sup>. However, access to gender-based violence perpetration interventions tailored to boys and young men are limited.<sup>9</sup>

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<sup>4</sup> Paediatricians, pathologist and other professionals in the field, including the Swedish National Council on Medical Ethics.

<sup>5</sup> Migrationsverkets rättsavdelning, 2016-11-28: *Analysrapport, Tematisk kvalitetsuppföljning av åldersbedömning i samband med beslut om uppehållstillstånd.*

<sup>6</sup> The Swedish national council for Crime Prevention (2017). *Kærestevold... Finland, Sverige og Danmark* and (2018), *Brott i nära relationer bland unga.*

<sup>7</sup> The national helpline at [ungarelationer.se](http://ungarelationer.se) [1000mojligheter.se/English](http://1000mojligheter.se/English).

<sup>8</sup> The Swedish Agency for Youth and Civil Society, MUCF (2013) *Unga och våld - en analys av maskulinitet och förebyggande verksamheter.*

<sup>9</sup> Swedish Association of Local Authorities and Regions (2018). *Changing violent men - Improving the quality of batterer interventions.* English version available at <https://webbutik.skl.se>.

*Q: What steps is the State party taking to ensure the adoption of effective measure to prevent gender-based violence against girls?*

### **Discrimination - Economic inequality**

For many years the government and specifically the Ministry of Health and Social Affairs have had ambitious indicators for target fulfilment within the Swedish economic family policy. The governmental objectives to be measured is that the economic family policies should contribute to a good standard of living among all families with children and decrease the economic differences between households with and without children. However, since 1998 we can see that the social transfers no longer have the impact they used to have. The economic inequalities and the relative poverty are increasing among families.<sup>10</sup> The difficulties faced by families that are the worst off can be linked to a decreased investment in family politics on a national level.<sup>11</sup>

Results from Save the Children's study "Young voices" show that more than one third of the responding children have felt anxiety for their family's economy.<sup>12</sup> During 2018, the government decided on minor improvements concerning the child benefit and maintenance support. However, these improvements do not reach all children living in economically challenging contexts, such as children that are asylum-seekers, dependent on social benefits or who live with parents that are obliged to wage seizure. As an example, the daily allowance for asylum-seekers has not changed since 1994 and currently corresponds to less than half of the subsistence allowance for a family with two adults and two children.

Living in conditions that differ dramatically from mainstream society contributes to, for example, shaping a child's expectations for the future and their perception of their own belonging to society.<sup>13</sup>

*Q: What measures will the government take in order to stimulate equality and reduce economic hardship among children and families?*

*Q: What concrete actions will the government take to minimize the considerable economic disparities, and its severe consequences, between different groups of children?*

### **Discrimination - Children in foster homes and alternative care**

Children in foster homes and alternative care are a marginalised and discriminated group in relation to their basic needs and rights, such as the right to a safe family environment, health care, continuous schooling and standard of living. The National Board of Health and Welfare concludes that mortality is almost five times higher among children and

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<sup>10</sup> Swedish Social Insurance Agency (2017) *Barnhushållens ekonomi*; Statistics Sweden (2019) *Income report 2017* [Andelen med låg ekonomisk standard ökar](#), English Summary.

<sup>11</sup> Save the Children Sweden (2019) *Välfärd inte för alla*.

<sup>12</sup> Save the Children Sweden (2019) *Ung Röst*.

<sup>13</sup> The Ombudsman for Children (2018) *Utanförskap, våld och kärlek till orten*.

young people who have been placed in foster care or alternative care compared to other children.<sup>14</sup>

During 2018, 12% of girls and 3% of boys aged 15-16 years in out-of-home care were given psychotropic medication, compared to 2% resp. 1% of other children. Around 30% of these children started their use of medication during their placement.<sup>15</sup> Children in placement emphasize the need of additional support - the placement itself is not enough.

Moreover, many municipalities lack procedures for medical and dental examination of children in foster care. In a recent state funded study, less than half of the municipalities that participated in the study had this in place.<sup>16</sup>

*Q: What measures is the state party taking to ensure the right to equal education for children in foster homes and alternative care?*

*Q: What steps does the State intend to take in order to monitor and systemize the work nationally for children in foster homes and in alternative care, to ensure that they get access to the same healthcare as other children?*

## **THE BEST INTEREST OF THE CHILD**

### **Systematic assessment of the best interest of the child**

Assessments of the best interest of the child has been identified by the government as an area in need of improvement. This after a national inquiry revealed that the best interest of the child is not used as a systematic procedure in decision-making processes, in budgeting, legislation nor case management. There is rarely an explanation of how decision makers have taken the best interest of the child into consideration in the process. There are examples of how consequence analyses are based solely on legislative history, policies, or guidelines, without any independent assessment concerning the individual case or the voice of the child. Used this way, the best interest of the child as a procedure, results in severe shortcoming in the application of the law in relation to the general principle of the best interest of the child.<sup>17</sup>

One example of the clash between national legislation and article 3 is that in the Swedish social services act, guardians' consent is almost always needed in order for children to be granted support. This is a fundamental paradox within the Swedish social childcare system; the rights and power of parents and other guardians still has priority over the rights of the child in investigation processes, even when children are at risk of harm due to problems within the home situation.<sup>18</sup>

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<sup>14</sup> The National Board of Health and Welfare (2013) Öppna jämförelser och utvärdering. *Rekommendationer till kommuner och landsting om hälsa och utsatthet.*

<sup>15</sup>The National Board of Health and Welfare (2019) Öppna jämförelser 2019 - Social barn- och ungdomsvård

<sup>16</sup> Statens beredning för medicinsk och social utvärdering, Organisatoriska modeller för att barn och unga i familjehem och på institution ska få hälso-och sjukvård och tandvård, 2018.

<sup>17</sup> National inquiry SOU: 2016:19, *Barnkonventionen blir svensk lag.*

<sup>18</sup>Heimer, Näsman & Palme Stiftelsen Allmänna Barnhuset (2017) *Rättighetsbärare eller problembärare? Barns rätt att komma till tals och socialtjänstens insatser.* Maskrosbarn (2016) *Jag är bara en påse med pengar*

As previously recommended by the Committee, article 3 needs to be duly reflected in all regulations and administrative acts. During the present review of the social services act this particular question is being discussed, as it has been for years among professionals and children's rights organizations.

*Q: How does the Swedish government plan to adapt relevant policy and legislation, in particular the Social Services Act, in order to ensure that the principle of the best interest of the child is a primary consideration in all actions concerning children?*

### **Best interest of the child after family reunification**

If the family of an unaccompanied minor is granted residence permit in Sweden, all support provided to the unaccompanied child ends upon the arrival of the parents. In reality, this occurs without a best interest determination being made. Previous studies from the National Board of Health and Welfare (2013) conclude that ending both support from social services and the guardian imply very negative consequences for the child. The children are left with all the responsibility for managing contacts with authorities, such as looking for housing for the family or finding a school.<sup>19</sup> This affects the rights of the child in various ways, among them psychological health, school results and the right to play. Since the increase of unaccompanied minors in Sweden 2015 there has been no major research done on this matter.

*Q: How will the Swedish government ensure that the best interest of the child is a primary consideration for authorities before, during and after family reunification?*

*Q: Please provide information on how Sweden plan to assess, map and meet the rights of unaccompanied minors reunited with their families in Sweden?*

## **THE RIGHT TO FORM AN OPINION, EXPRESS IT AND HAVE IT CONSIDERED**

### **Create possibilities to fulfil the right to participation**

The right to participation requires knowledge and resources. In its previous concluding observations, the Committee recommended Sweden to amend the legal provision to ensure that a child is heard whenever a decision affecting the child is made.

A research study<sup>20</sup> shows how children's participation in social services is weakened in each step of the investigation process, leading to interventions that are poorly adapted to problems that emerged early in the investigations. In an often quoted government investigation it is stated that on average social welfare officers spend about 2% of their working hours on direct contact with children.<sup>21</sup>

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*Kvinnofridsbarometern 2019: En undersökning av kommunernas arbete mot mäns våld mot kvinnor och våld i nära relation [www.unizon.se](http://www.unizon.se).*

<sup>19</sup> *Arvidsson & Taubert (2017) You have to become everything – you have to be mother, father, sibling, husband": A phenomenological study of family reunification for unaccompanied minors in Sweden*

<sup>20</sup> *Heimer, Näsman, Palme (2017) Allmänna Barnhuset. En politik för barns bästa eller familjepolitik? Målkonflikter i Socialtjänstens arbete med utsatta barn.*

<sup>21</sup> *Report from a state inquiry (2017) Barnets och ungdomens reform – Förslag för en hållbar framtid.*



The rights to participation and having your voice heard in matters affecting you is also week for other groups in extra need of support from society, like children with disabilities, children exposed to domestic violence and refugee and migrant children. Resources, priorities and knowledge need to increase to fulfil the right to participation for all children.

*Q: Please explain how the Swedish Government will ensure that sufficient resources are allocated to ensure that Article 12 can be complied with within the Swedish social childcare system?*

*Q: Please provide information on what measures the government is taking to make sure that the right to participation is fulfilled also for children who need extra support to be able to exercise this right?*

### **Children with disabilities and article 12**

Children with disabilities are very often not involved in matters concerning their needs and their situation and rarely get the opportunity to make their voices heard. Their views are not given due weight and their rights might not be met. In general, there is a lack of adequate information and support to make their voices heard despite the fact that they want to.<sup>22</sup>

Children are not involved in planning their own personal support, something that clearly have an impact on their everyday life.<sup>23</sup> Furthermore, children with disabilities can be deprived the right to participate in judiciary processes as they are not considered credible victims or witnesses.<sup>24</sup>

Children with multiple disabilities who lack the ability to communicate through verbal speech need special attention and equal access to complementary communication. Professionals too often lack the expertise regarding alternative communication. There is a need to further develop the possibilities for hearing and deaf children to learn sign language as to access communication on equal terms. This also applies for children with language disorders and autism where communication via sign language is a good option.<sup>25</sup>

*Q: How can Sweden ensure that children with disabilities are given a real possibility to express their views in all matters concerning them?*

*Q: When will Sweden ensure that all children, regardless of their disability, get access to a language and the right communication support in order to make their voice heard?*

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<sup>22</sup> Handisam (now Myndigheten för delaktighet) (2014). *Barn äger*  
Handikapptförbunden (now Funktionsrätt) (2011). *Lyssna på oss!*  
Autism- och aspergerförbundet (2018) *Samtal med barn med autism*  
The National Agency for Special Needs Education and Schools (2019). *Barnpanelsrapport. Vad säger elever med funktionsnedsättning om trygghet, studiero och studiemotivation?*

<sup>23</sup> Barnrättighetsutredningen, *Barnkonventionen blir svensk lag*. (SOU 2016:19).

<sup>24</sup> Katrin Lainpelto (2016). *Does knowledge about a Neuropsychiatric disorder influence evaluation of child sexual abuse allegations?*

<sup>25</sup> The National Board of Health and Welfare, (2019) *Uppföljning av barnkonventionens genomslag vid tillämpning av LSS*.

## **Asylum seeking children and article 12**

There are serious restrictions both in legislation and practice for asylum seeking children to exercise their right to be heard in the asylum process.

The Aliens act includes an exception clause allowing for children to be denied their right to be heard if hearing the child is considered inappropriate. In an annual report from the Swedish Ombudsman for Children, the majority of the children interviewed experienced not being questioned or asked relevant questions in order to determine their need for asylum and protection.<sup>26</sup> This is also confirmed in a recent government inquiry.<sup>27</sup> This practice not only deprives the child the right to be heard but also limits the possibility to detect child specific forms of persecution.

*Q: What measures is the Swedish government planning to take in order to guarantee the right to be heard for children in the asylum process?*

## **Climate change and child participation**

Children and young climate strikers inspired by Greta Thunberg do not have their concerns and demands properly addressed. In the initiatives proposed by the government children have not been prioritized or addressed as a special target group. Sweden needs to have a more ambitious and holistic climate policy in order to achieve the targets set up in the Paris Agreement.<sup>28</sup>

Climate change and environmental degradation pose an increasing threat to children's rights. The climate crisis increases social and economic inequalities, poverty and vulnerability to disasters, and can induce migration and displacement. Children are disproportionately impacted and the most marginalized – children with disabilities, children on the move, girls, indigenous children and others – are often more vulnerable to different environmental hazards.

Sweden has not ratified the third optional protocol on a communications procedure and is therefore not an official receiver of the complaint filed by young climate activists, including Greta Thunberg in 2019. This is both ironic and disturbing, and should lead to action from the government.

*Q: How will the Swedish government ensure meaningful participation of children and young people in decisions related to national actions against climate change?*

## **D. Civil rights and freedoms**

### **The right to information and protection**

As technology continues to develop, so does children's use of internet and its apps and platforms. This increases the need for high-quality education for children on safe use of

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<sup>26</sup> The Ombudsman for Children (2017) "Vi lämnade allting och kom hit" - röster från barn och unga på flykt, s. 28.

<sup>27</sup> Swedish Government Official Report, SOU 2016:19 *Barnkonventionen blir svensk lag*, s. 174.

<sup>28</sup> [www.fridaysforfuture.se](http://www.fridaysforfuture.se)

information and communications technology, the content available there and the consequences it may cause.

Easy access to violence, pornography and other materials not intended for children means that society needs to take responsibility in educating children and providing protection against harmful information. Safeguarding issues need to be discussed and investigated further.

With online harms on the rise and younger children victimised<sup>29</sup>, there is a need for all schools to provide good quality training on the safe use of information and communications technology. Training delivered at schools is of varying quality and provided on an ad hoc basis<sup>30</sup>, despite recommendations made by the Committee in 2015.

*Q: What effective steps is the State party taking to investigate and prevent the potential harm to children from being exposed to harmful content while using information and communications technology?*

### **E. Violence against children**

#### **The definition of violence against children in Swedish law**

Current Swedish legislation implies that certain forms of violence such as neglect and psychological violence against children are not considered a specific crime. A legal proposal has been presented widening the scope suggesting that letting children witness domestic violence in certain situations is unlawful. There are however still many gaps between the CRC definition of violence against children and Swedish legislation. This leads to a lack in both social and legal protection for children experiencing domestic violence.

*Q: What further legislative actions will the state take to ensure that national legislation is consistent with the definition of violence against children according to the CRC and that children are protected from all forms of violence?*

#### **Violence as a public health issue**

A national research study show that 44 percent of children aged 15-18 have experienced violence by an adult within or outside of their home at some point in their life.<sup>31</sup> A child who has experienced violence is statistically more likely to have lower quality of life, achieve poorer school results and become exposed to suicidal thoughts, self-harm, mental or physical illness both as a child and in adulthood. When a child experiences violence it is not only the child who suffer and have his or her rights violated but the entire society experiences a setback.

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<sup>29</sup> The Public Health Agency of Sweden (2019). *Sexuell och reproduktiv hälsa och rättigheter i Sverige 2017*  
Unizon (2016). *Pornography and prostitution*.

Donevan, M., & Mattebo, M. (2017). *The relationship between frequent pornography consumption, behaviours, and sexual preoccupancy among male adolescents in Sweden*.

Friends (2016). Friends nätrapport 2016

<sup>30</sup> The Swedish Schools Inspectorate (2018). *Sex- och samlevnadsundervisning*

<sup>31</sup> Landberg, Jernbro & Jansson. *Våld löser inget! Sammanfattning av en nationell kartläggning om våld mot barn*. Stiftelsen Allmänna Barnhuset, 2018.

The Committee has previously recommended Sweden to formulate a comprehensive strategy for preventing and combating child abuse and neglect and allocate adequate human, technical and financial resources for the implementation of long-term programmes to address the root causes of violence and abuse. The work done since the last report is not enough and the issue needs to be strengthened by giving it higher political priority, publicity and resources.

To ensure that violence against children receive sufficient human, technical and financial resources, Sweden should give all forms of violence against children, including sexual exploitation, the status of public health issue.

*Q: Please provide information on what effective measures the state is taking to eliminate all forms of violence against children in Sweden?*

*Q: What measures will the state take to raise public awareness about children's right to freedom from violence?*

*Q: Please describe any new initiatives the state party is taking, such as giving violence against children the status of a public health issue, to ensure that the work to combat all forms of violence against children, including sexual exploitation, have resources, priority and knowledge?*

### **Children at higher risk of experiencing violence**

Most of society's efforts to protect children from violence are induced when violence has already occurred. Children are often placed in state care, such as foster care or institutions in order to be protected. But in some many cases children continue to experience violence of different forms when in state care. In a national research study on pupils placed in foster homes or institutions 83 percent reported that they had been exposed to at least one form of child abuse, as opposed to 42 percent of the pupils who lived at home.<sup>32</sup> This shows the sometimes-devastating consequences experiencing violence in childhood have and point at the need to work with preventive measures.

Other groups identified as vulnerable to violence of all forms are children with disabilities, young children, children who don't identify as male or female, children with separated parents that have not agreed on living arrangement and children who are controlled by family or relatives and therefore have little control over their own life. In addition, the knowledge on your rights and where to turn when your rights are violated needs to be increased in these groups.

*Q: What measures will be taken to further educate the childcare centers, family centers, parents and foster parents, student health in schools and increase the knowledge on the impact of violence in children's lives?*

*Q: What steps are taken to inform children about the right to freedom from violence and where to turn if you experience violence of any kind?*

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<sup>32</sup> Jernbro, Carolina & Jansson. Staffan. *Violence against children in Sweden 2016. A national survey.* Stiftelsen Allmänna Barnhuset.

*Q: What specific measures are taken to protect the most vulnerable children against violence?*

### **Preventive measures child sexual exploitation**

Preventive measures for adults with a sexual interest in children such as treatment programs for paedophilia and anonymous helplines are vital in order to prevent sexual abuse of children before it occurs.

Spokespersons for the Swedish Police and the detention services stress the need for easy access to specialised treatment for adults with a sexual interest in children that are at risk of committing offences. In Sweden the national helpline, PrevenTell, has recently been evaluated and the report concludes that in addition to a national helpline, measures are needed to raise the motivation of the target groups to seek treatment.<sup>33</sup> Treatment needs to be available throughout Sweden and scientifically proven to help individuals. Today there are only four regions in Sweden with treatment programs for the target group and the treatments and assessments differ between regions. A national and sustainable perspective on the issue is needed, such as developing a national research center.

*Q: How will Sweden ensure that the preventive measures for adults with a sexual interest in children are evidence-based, easily accessible, sustainable and available throughout Sweden?*

### **Protection of sexual exploitation**

Every child has the right to be equally protected from sexual exploitation, regardless of the age of sexual consent and/or sexual maturity. The crime “exploitation of a child for sexual posing” does not protect children above 15 years old in the same way as children under 15, since it requires that the posing is aimed to “hurt the child’s health or development”.<sup>34</sup>

Furthermore, in the crime ‘Exploitation of a child through the purchase of a sexual act’ the arguments from the perpetrator that they believed the child was 15 years old or above are in general accepted by the courts.<sup>35</sup> More responsibility needs to be put on the offender to ensure that the person is not a child, for example by imposing strict liability on the adult with regard to the age of the child.

*Q: When will Sweden ensure a legislation providing full and equal protection from sexual exploitation to all children under 18, as well as legislation that puts the responsibility on the offender?*

## **F. Family environment and alternative care**

### **Family’s and children’s experience in homelessness and housing exclusion**

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<sup>33</sup> The Swedish Agency for Health and Care Services Analysis (Vårdanalys) (2019) [Stegvis skillnad](#)

<sup>34</sup> Swedish Penal Code (1962:700), chapter 6 section 8

<sup>35</sup> Ecpat Sweden (2017) [Barnpornografibrottet - det straffrättsliga skyddet mot dokumenterade sexuella övergrepp mot barn](#)

A consequence of poverty is that the number of families evicted and families with children in homelessness increases. Particularly vulnerable are lone mothers with a foreign background, unaccompanied children and young people. Several civil society organizations report on how society has changed since it is no longer mental health and addiction problems that are the main causes of homelessness and housing exclusion, but rather low income combined with the lack of affordable housing.<sup>36</sup>

*Q: How will the government ensure that families with children are not evicted and that the right to adequate housing is respected?*

### **Family unity**

The right to family reunification has been severely constrained by the temporary Aliens Act. Several reports show that negative reunification decisions lead to an increased risk of serious mental illness and that lack of decision evidence entails a risk of inconsistent application of the law. The Migration Court of Appeal - in a judgment concerning a Syrian family - further confirms that the legal restriction is contrary to the provisions of the CRC.<sup>37</sup>

The Swedish Government has responded to the criticism and temporarily reintroduced right to family reunification for a wider group of asylum seekers. However, the law is insufficient as many practical obstacles including stricter financial supporting requirements remain.

*Q: What active measures is the Swedish government planning to take in order to guarantee the effective right to family reunification for all children in law and practice?*

### **Children of incarcerated parents**

Children of incarcerated parents is a vulnerable group. They are more likely to develop poor psychological health and to engage in criminal activities if they do not get timely support compared to other groups.<sup>38</sup> But there are gaps in the protection of these children. For example, a child whose parents are sentenced to forensic psychiatry has a legal right to counselling and support. But the child of a parent who is convicted and incarcerated does not have the same legal right to help.

A national report shows that 79 percent of the municipalities in Sweden lack specific supportive mechanisms for children of incarcerated parents and 94 percent do not work with preventative measures.<sup>39</sup> In addition, there is a need for capacity building within the social services and increased collaboration between different authorities. The existing support is most commonly given by NGO's and only accessible in a few municipalities.<sup>40</sup>

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<sup>36</sup> Save the Children Sweden (2017) *En plats att kalla hemma*  
Stockholm City Mission (2017) *Hemlöshetsrapporten 2017 - antalet barn i hemlöshet ökar*

<sup>37</sup> MIG 2018:20

<sup>38</sup> Michelsson, BUFFF (2013) *Barn till frihetsberövade föräldrar - En kunskapsöversikt.*

<sup>39</sup> The National Board of Health and Welfare, 2018. *Barn till frihetsberövade föräldrar - Kartläggning och analys.*

<sup>40</sup> FoU i Väst, 2018. *På båda sidor av muren men alltid på barnets sida - Utvärdering av Solrosen. En verksamhet som stödjer barn, unga och föräldrar med frihetsberövad familjemedlem.* L. Lindahl

There are no national guidelines or action plan for how the support should be designed, how to safeguard equality and ensure that the rights of the child are fulfilled. Furthermore, the lack of adequate and reliable data renders these children invisible.

*Q: Please explain how the government will ensure that children with incarcerated parents or close relatives have access to adequate and equal support as other groups in need of support from society?*

## G. Disability

### Personal assistance

One of the most burning child rights issues in Sweden the last years is the right to personal assistance for children with disabilities. The purpose of personal assistance according to Swedish national law (LSS) is to help children and adults with disabilities in most need of support by providing equal living conditions and ensuring full participation in society.<sup>41</sup> The support is given by the state or the municipality, depending on the scope of the needs.

However, the right to personal assistance has severely eroded. In short, the situation has developed from 2016 when the guidelines for the Swedish Social Insurance Agency was called to stop the increasing number of hours of state-provided personal assistance.<sup>42</sup> These guidelines, in combination with a new interpretation of a few court cases, has led to the development of a new restrictive practice.

One alarming consequence is that children who don't receive state-provided personal assistance are to a larger extent ending up in institutions.<sup>43</sup> The National Board of Health and Welfare states that it is important to take necessary measures in order to enable children with disabilities to live at home.<sup>44</sup> This has effect on the right to family, education, development and health for the affected child. The cutbacks also risk to severely affect the economy of families with children with disabilities as the parents are unable to work to the same extent as before.<sup>45</sup>

Today there are about 1 700 people less who have state-provided personal assistance compared to before the cutbacks began.<sup>46</sup>

In a political agreement made by the government and the two budget cooperation parties in January 2019 (Januariöverenskommelsen) it is stated that assistance should be approved to every person (children and adults) who are entitled to it. It is also stated that *breathing* and *nasogastric tube feeding* should be considered "a basic need" and thereby be something a child can be granted personal assistance for, something that has led to a

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<sup>41</sup> Socialdepartementet. *Prop. 1992/93:159 Stöd och service till vissa funktionshindrade*

<sup>42</sup> Regeringen. *Regleringsbrev för budgetåret 2016 avseende Försäkringskassan*

<sup>43</sup> The National Board of Health and Welfare (2019) - *Insatser och stöd till personer med funktionsnedsättning Lägesrapport 2019*

<sup>44</sup> The National Board of Health and Welfare. *Pressmeddelande Karin Flyckt, sakkunnig på The National Board of Health and Welfare. Karin Flyckt, Specialist at The National Board of Health and Welfare).*

<sup>45</sup> The National Board of Health and Welfare (2019) - *Insatser och stöd till personer med funktionsnedsättning Lägesrapport 2019*

<sup>46</sup> Swedish Social Insurance Agency. *Statistik om assistansersättning från Försäkringskassan - Antal assistansberättigade och antal timmar, 1994–.*

new law since November 2019. A new enquiry to look at the responsibility of parents led by the former Ombudsman for Children has also been appointed.

However, in spite of these intentions, the system is scattered and lack a holistic and rights-based approach. The law today is not used in line with the original intentions, and we see a clear step back for the implementations of children's rights in Sweden.

*Q: In addition to the reforms mentioned above, when and how will the Swedish State ensure that the rights given to children with disabilities through personal assistance are restored in accordance with the UNCRC?*

### **Habilitation for children with disabilities**

There is a great variation of access to habilitation, rehabilitation and assistive devices for children with disabilities in Sweden<sup>47</sup> and there are no national guidelines about the right to habilitation support for children in place. Furthermore, the habilitation centers need to develop a more holistic approach and identify mental illness as a condition for children with disabilities.<sup>48</sup>

In Sweden, the administrative responsibility is divided between the municipalities and the regions when it comes to assistive devices needed for learning at school (municipality) versus aid needed for leisure time (regions). This is a time-consuming obstacle and a problem both when it comes to access and continuity. There is also a problem with coordination between schools and regions. Fees vary in different regions and children often lack involvement and the right to try out if an aid works or not before it is assigned.<sup>49</sup>

*Q: How will the Swedish state ensure that children with disabilities get equivalent access to habilitation, rehabilitation and assistive devices and that they also are ensured the adequate aid and support?*

### **Knowledge and education for adults in relation to children with disabilities**

Parents and school staff in many cases do not have sufficient knowledge and education about the needs and rights of children with disabilities.

Regarding parents, there are no national guidelines that guarantee structured parental education within habilitation. We also see major regional differences in Sweden regarding what is offered<sup>50</sup> and some groups, like parents who are newly arrived in Sweden, are less likely to participate. One example is the important sign language, where not enough parents participate in education provided.<sup>51</sup>

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<sup>47</sup> Swedish Government Official Report SOU 2017:43. *På lika villkor! – delaktighet, jämlikhet och effektivitet i hjälpmedelsförsörjningen.*

<sup>48</sup> The Ombudsman for Children (2016). *Respekt – yearly report.*

Granlund, Child, Forte (2018). *Article Ensamheten bland barn med funktionsnedsättning – hur kan vi bryta den?*

<sup>49</sup> Swedish Government Official Report SOU 2017:43 *På lika villkor! – delaktighet, jämlikhet och effektivitet i hjälpmedelsförsörjningen.*

<sup>50</sup> Norlin (2019). Thesis: *Mothers and Fathers of Children with Developmental Disabilities: Coparenting, Well-being and Empowerment.* Available in English.

<sup>51</sup> The National Agency for Special Needs Education and Schools (2017). *Varför används inte alla TUFF-timmar?*



The knowledge among school staff needs to develop in order to assure good quality of education for every child in accordance with the Committee's previous recommendations. Some measures are planned, but they are far from enough. There is a need for skill-developing education among school staff and school leaders. Today the lack of financial and personal resources is often used as an argument to not prioritize the participation in available education for school staff.<sup>52</sup>

*Q: Please explain what further measures the state is taking to develop national knowledge and education programs for parents and school staff on how the needs of children with disabilities are discovered and met?*

### **The right to best attainable health - Mental health**

During the period 2016-2018 the national children's helpline Bris had over 28 000 contacts from children relating to mental health, making it the most common reason to contact the helpline. The calls span from anxiety, depression, eating disorders, self-harm and even to suicide. Almost all these children described the difficulty to be taken seriously by the adults around them. Children talked about the difficulty in knowing where to seek help and the lack of possibilities to receive the help that they actually need.

Statistics from Bris show that the degree of seriousness relating to children's mental health issues has increased and the age of children calling about these issues is falling.<sup>53</sup> Reports from governmental organisations and universities show similar trends.<sup>54</sup>

The public health authority's report on health inequalities shows the connections between gender, economy and deterioration of mental health at young age. Economic hardship is most common in households with many children, single women and foreign-born parents.<sup>55</sup>

The levels of suicide amongst adults in Sweden are declining, but not among children. According to statistics from Bris during 2016-2018, contacts from children with thoughts of suicide increased by a staggering 66%.<sup>56</sup>

A research study mapping self-harm, suicide attempts, suicide and other mortality among unaccompanied children and youth shows that 12 unaccompanied asylum-seeking children and youth aged 10 - 21 committed suicide in Sweden in 2017.<sup>57</sup> This means that this group have a suicide number of 51.2 per 100,000 people. The corresponding number for the general population at the same age was 5.2 per 100,000. The research points to significant shortcomings in the authorities' actions. Regarding care, it appears that the concerned group have received little to no psychological care.

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<sup>52</sup> The Swedish Schools Inspectorate (2012:11), *Inte enligt mallen*.

Riksorganisationen Unga Synskadade (nu Unga med synnedsättning) (2012) *På lika villkor*.

<sup>53</sup> The Swedish national helpline Children's Rights in Society, Bris (2019) *Hur har barn det?*

<sup>54</sup> Bremberg S. (2015) *Mental health problems are rising more in Swedish adolescents than in other Nordic countries and the Netherlands*. Acta Paediatrica. Available in English.

The National Board of Health and Welfare (2017) *Utveckling av psykisk ohälsa bland barn och unga vuxna till och med 2016*.

<sup>55</sup> The Public Health Agency of Sweden (2019) *Ojämlighet i psykisk hälsa i Sverige*

<sup>56</sup> The Swedish national helpline Children's Rights in Society, Bris report 2019: *Hur har barn det?*

<sup>57</sup> Karolinska institutet, (2018) *Kartläggning av självskadebeteende, suicidförsök, suicid och annan dödlighet bland ensamkommande barn och unga*

*Q: Please provide information on what preventive measures the government is taking to end the deterioration of mental health among children.*

*Q: Please explain what active measures the government will take to ensure that every child affected receives adequate support and care?*

*Q: How will the government, region and municipality contribute to reducing the serious consequences of mental health and social exclusion for children with a low economic standard?*

*Q: What measures is the government taking to combat the alarming development of mental illness and suicide among vulnerable groups such as unaccompanied minors?*

## **H. Education, leisure and cultural activities**

### **Access to quality education for all children**

The quality of the education in the Swedish school system today is not equal. Children from disadvantaged families, children in migration, children with disabilities, children in families with poor economic standards and children of parents with substance abuse or mental illness are more likely to be denied equal access to good quality education. According to national regulations, the Swedish school system shall be compensatory, which means taking into consideration the needs of all pupils and weigh up differences in their prerequisites by allocating resources. In practice the compensatory measures are not enough. This has been confirmed in the latest PISA results.<sup>58</sup>

Children of parents with substance abuse or mental illness leave compulsory school without upper secondary school grades to a greater extent than the rest of the population. About one-third of children whose one parent has a substance abuse finish high school without full grades.<sup>59</sup> As for children who have been placed in community care an alarming 40% finish compulsory school without complete grades. Children with disabilities have the right to adequate support, assistive devices or enough environmental adaptation in schools. As this right is seldom fulfilled, they are exposed to exclusion and discrimination.<sup>60</sup> Schools in general are not pedagogically, socially or physically available to children with disabilities.<sup>61</sup> In addition, governmental funds with the aim to create a more equal education does not include investment in children with disabilities.<sup>62</sup> Lastly, despite previous recommendations from the Committee, the

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<sup>58</sup> Results from PISA 2018 [https://www.oecd.org/pisa/publications/PISA2018\\_CN\\_SWE.pdf](https://www.oecd.org/pisa/publications/PISA2018_CN_SWE.pdf)

<sup>59</sup> Institutet för socialt arbete vid Stockholms universitet (2013) *Barn som anhöriga – hur går det i skolan, 2013:3*

<sup>60</sup> Autism- och Aspergerförbundet (2018) *Skolenkät*

Riksförbundet Attention (2017) *Skolenkät*

The Swedish Schools Inspectorate (2018) *Årsrapport. (Annual report) (sid 15)*

The Swedish Schools Inspectorate (2014) *Skolsituationen för elever med ADHD (School situation for pupils with ADHD)*

<sup>61</sup> The National Agency for Special Needs Education and Schools (2017). *Villkor för utbildning. (Conditions for education)*,

Swedish National Agency for Education (2016). *Tillgängliga lärmiljöer? Rapport 440.*

The Ombudsman for Children (2016). *Respekt – yearly report.*

The Swedish Schools Inspectorate (2016). *Oroväckande resultat kring elevhälsan*

Brännström, K. Jonas, (2019) *Hear, listen and understand.*

<sup>62</sup> Swedish National Agency for Education (2019) *Om statsbidrag för skolan*

Education Act still enables municipalities to deny a place to pupils with disabilities if it would involve “significant organizational or financial difficulties”.

*Q: What measures will the government take to ensure that every child, including children with disabilities, children with parents with substance abuse or mental illness and children in state care, have equal access to good quality education?*

*Q: Please provide information on when the Swedish government plan to make the right to good quality education available to every child by removing the possibility to deny children with disabilities from the Education Act.*

### **Violence in schools**

*“I hear a lot of racist things at my school, from both teachers and students”*

- Quote from child member of Save the Children Youth Sweden.

Schools are obliged under law to have active ongoing measure to prevent and investigate discrimination, harassment and violence. Despite this, a report from the Swedish National Council for Crime Prevention<sup>63</sup> show that the school environment is the most common crime scene for both mild and severe abuse. A large proportion of those who have been subjected to sexual violations and threats state that it has occurred in the school environment. Generally, a greater percentage of children with a foreign background, children who live in apartments, children with disabilities and children with separated parents state that they are victims of various types of offences.

The Ombudsman for Children’s report “Respekt” from 2016<sup>64</sup> states that children with disabilities are more often exposed to violations and harassment than other children. For some children violations is a constant part of everyday life. Several studies confirm what children say about their exposure to violence in school.

*Q: In addition to what has already been done, what active measures is the state going to take to ensure that children, especially children with disabilities, children with a foreign background and other children at risk, are not subjected to violence, abuse, bullying and discrimination in the Swedish school?*

### **Discrimination in the education system**

*“We had a teacher who always used the N-word, he refused to change. A group of children told the school principal but the principal said “but that is that teacher, he is like that”. The school principal just did not care. The school principals need more knowledge”*

- Quote from child member of Save the Children Youth Sweden.

Testimonies from children tell that racism in Swedish schools are common. Children also tell stories of teachers and other school staff who do not take action against those who have expressed themselves racist, or even exercise racism themselves. Children from the Swedish national and ethnic minorities experience discrimination. Situations where

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<sup>63</sup> The Swedish National Council for Crime Prevention (2018) *Skolundersökning om brott* [www.bra.se/download/18.62c6cfa2166eca5d70e1094/1544004050335/2018\\_15\\_Skolundersokningen\\_om\\_brott\\_2017.pdf](http://www.bra.se/download/18.62c6cfa2166eca5d70e1094/1544004050335/2018_15_Skolundersokningen_om_brott_2017.pdf)

<sup>64</sup> The Ombudsman for Children (2016) *Respekt – yearly report*.

children are exposed to racism are not handled in accordance with the discrimination law, and the students are too often left to handle the consequences themselves. The National plan against racism and similar forms of hostility and hate crime from 2016 claims that “the school plays an important role in preventing racism and violent extremism”. However, more needs to be done and the work against racism in school needs better coordination.<sup>65</sup>

*Q: Please explain how the government will act to eradicate racism and discrimination in the Swedish schools?*

### **Sex and relationship education**

Recent reports indicate that Sex and Relationship Education (SRE) in schools are of varying quality and content. As a result many children are not getting the SRE they need.<sup>66</sup> Changes to SRE are, however, in motion.<sup>67</sup> Children have the right to an SRE education that is inclusive and reflect the reality of children’s lives online and offline. This includes promoting discussions about consent, boundaries, reciprocity, relationships and personal rights.

LGBTQI people and perspectives need to be visible in SRE. The importance of this is stressed by the fact that the LGBTQ group in general have a higher rate of mental illness and a higher rate of suicide attempts compared to an age-matched group of hetero youths.<sup>68</sup>

As many children encounter online pornography from an early age and such exposure may create unrealistic norms and assumptions<sup>69</sup>, age-appropriate SRE based on critical analysis without shaming of the children is vital.

Sex education has the potential to build resilience, promote gender equality and LGBTQI rights, and to contribute to the prevention of sexual abuse.

*Q: What steps is the State party taking to ensure that the SRE content in the curriculum is relevant to children’s lives and experiences by covering LGBTQI issues, consent and a critical analysis of norms, including a critical analysis of pornography?*

### **The right to leisure**

Children and young people value their right to leisure time and recreational activities high. They want activities that give them the opportunity to socialise with other, are fun

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<sup>65</sup> The Equality Ombudsman (2018): *ATT FÄRGAS AV SVERIGE: Upplevelser av diskriminering och rasism bland ungdomar med afrikansk bakgrund i Sverige.*

Teskedsorden (2018) *FÖRLÅT RÄCKER INTE, Rasism och främlingsfientlighet i skolan – en nulägesbild med förslag till åtgärder*

<sup>66</sup> The Swedish Schools Inspectorate (2018). *Sex- och samlevnadsundervisning* [Sex and relationship education].

The Public Health Agency of Sweden (2017). *Sexualitet och hälsa bland unga i Sverige - UngKAB15 – en studie om kunskap, attityder och beteende bland unga 16-29 år*

The Public Health Agency of Sweden (2019). *Sexuell och reproduktiv hälsa och rättigheter i Sverige 2017.*

<sup>67</sup> The Swedish National Agency for education (2019). *Konsekvensutredning avseende förslag till ändringar i läroplaner vad gäller kunskapsområdet sex och samlevnad*

<sup>68</sup> Forte (2018) [Hälsa och livsvillkor bland unga hbtq-personer](#)

<sup>69</sup> Unizon (2016). *Pornography and prostitution*

and opens opportunities for developing new skills. But the access to leisure activities is highly dependent on the child's background, and if the child has a disability or not.<sup>70</sup>

Children with disabilities, children living in poor socio-economic situations and children in other vulnerable groups in Sweden in general do not have the same opportunities to leisure, to engage in play, recreational activities and cultural life. Lack of leisure time contributes to mental illness, bad health and poor school results.<sup>71</sup>

Leisure time activities are not always adapted for children with different needs, for example children with little or no knowledge of Swedish. There is a lack of provision of appropriate and equal opportunities within the municipalities. Support that is needed to include children with disabilities, such as personal assistance, transportation services and interpretation is not always given.<sup>72</sup>

When municipalities make financial cutbacks, we often see that arenas that children and youth use to exercise the right to a meaningful leisure time are at risk.

*Q: How will the Swedish state ensure that all children have the equivalent and equal right to leisure time?*

### **The right of indigenous Sami children to their culture and language (article 30)**

Self-determination and use of traditional lands are intertwined with the cultural and language survival of the indigenous Sami People, including Sami children. Lacking protection of Sami rights in Swedish legislation and practice is regularly pointed out by international human rights mechanisms as a serious human rights concern.<sup>73</sup> The situation is particularly severe in the context of natural resource extraction and activities

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<sup>70</sup> The Swedish Agency for Youth and Civil Society, MUCF (2019.) *En meningsfull fritid för alla unga*.

<sup>71</sup> The Public Health Agency of Sweden (2012). *Hälsa och välfärd hos barn och unga med funktionsnedsättning*.

The Swedish Agency for Youth and Civil Society, MUCF (2012.) *Fokus 12. Levnadsvillkor för unga med funktionsnedsättning*.

The National Board of Health and Welfare. (2013). *Hälsa, vård och omsorg för barn och unga*.

Granlund Mats, Child, Forte (2018). *Ensamheten bland barn med funktionsnedsättning – hur bryter vi den?*

<sup>72</sup> The Ombudsman for Children (2007). *Fritid för barn och unga med funktionshinder*.  
(*Leisure time for children and youth with disabilities*.)

<sup>73</sup> Please see statements and recommendations made by **regional bodies** such as Committee of Ministers, Council of Europe, Resolution CM/ResCMN(2013)2 on the implementation of the Framework Convention for the Protection of National Minorities by Sweden, 11 June 2013; Advisory Committee on the Framework Convention for the Protection of National Minorities, Council of Europe, Fourth Opinion on Sweden – adopted on 22 June 2017, ACFC/PO/IV(2017)004, 16 October 2017; European Commission against Racism and Intolerance, Council of Europe, ECRI Report on Sweden (fifth monitoring cycle), CRI(2018)3, 27 February 2018; and **international bodies** such as UN Committee on the Elimination of Racial Discrimination (CERD), Concluding observations on the combined twenty-second and twenty-third periodic reports of Sweden, UN doc. CERD/C/SWE/CO/22-23, 11 May 2018; UN Committee on Economic, Social and Cultural Rights (CESCR Committee), Concluding observations on the sixth periodic report of Sweden, UN doc. E/C.12/SWE/CO/6, 14 July 2016; UN Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, UN doc. CCPR/C/SWE/CO/7, 28 April 2016; and two UN Special Rapporteurs on the Rights of Indigenous Peoples, James Anaya, The situation of the Sami people in the Sápmi region of Norway, Sweden and Finland, UN doc. A/HRC/18/35/Add.2, 6 June 2011, and Victoria Tauli-Corpuz, Report of the Special Rapporteur on the rights of indigenous peoples on the human rights situation of the Sami people in the Sápmi region of Norway, Sweden and Finland, UN doc. A/HRC/33/42/Add.3, 9 August 2016.

connecting to physical planning where Sami land rights generally are disproportionately affected and there are few possibilities for Sami children to concretely influence the decision-making processes.

The recent legislative initiative regarding a Sami consultation system does not comply with the binding international standard of Free Prior and Informed Consent and was criticised by the Sami youth organization Sáminuorra.<sup>74</sup>

In practice many Sami children do not have access to education in and on Sami languages in school.<sup>75</sup> Furthermore, the Sami Education Board, provider of Sami-oriented education including Sami languages, is underfunded.<sup>76</sup>

*Q: What measures will be taken by the Government in order to protect the rights of Sami children in connection to Sami land rights, especially in the context of natural resource extraction and activities connecting to physical planning?*

*Q: How will Sweden make sure that the legislative initiative on a consultation system is in line with the CRC and Sweden's obligation of Free Prior and Informed Consent?*

## I. Special protection measures

### Humanitarian protection for children in migration

In recent years, there have been several changes in national legislation regarding asylum and protection. The Swedish Government decided in November 2015 to introduce a temporary Aliens Act with the purpose of reducing the number of asylum-seekers.<sup>77</sup> It was passed in July 2016 and has been prolonged until 2021. A new permanent asylum legislation is to be developed in parallel.

The temporary Aliens Act has affected both unaccompanied children and children with families seeking asylum negatively in many ways. The change from permanent residence permits to temporary has had a negative impact on children and their well-being. In addition, the possibility for children to be granted protection for humanitarian reasons has been restricted. The previous amendment initiated 2014 to enable for children to be granted a residence permit in cases of *particularly distressing circumstances* widened the scope of the provision for children. Under this provision, the state of health, the level of integration and the situation in the country of origin of the child was taken into consideration. This provision has now been limited to only cover situations when an

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<sup>74</sup> See the legislative initiative regarding a Sami consultation system at <https://www.regeringen.se/4adab6/contentassets/35e06037e8e345c8a83c169f0eac9c97/utkast-till-lagratsremiss-en-konsultationsordning-i-fragor-som-ror-det-samiska-folket.pdf>.

<sup>75</sup> Sami Parliament, *Action Plan on Sami languages*, adopted May–June 2016, available at: [https://www.sametinget.se/handlingsprogram\\_sprak](https://www.sametinget.se/handlingsprogram_sprak); and Saami Council, *The Rovaniemi declaration of the Saami Conference*, 29–31 October 2008, paras. 24–25, available at: [http://www.saamicouncil.net/fileadmin/user\\_upload/Documents/julgg%C3%A1%C5%A1tusat/SR\\_mall\\_-\\_Rovaniemi\\_Declaration.pdf](http://www.saamicouncil.net/fileadmin/user_upload/Documents/julgg%C3%A1%C5%A1tusat/SR_mall_-_Rovaniemi_Declaration.pdf).

<sup>76</sup> See the 2017 report from the Swedish National Audit Office (Riksrevisionen), available at: [https://www.riksrevisionen.se/download/18.78ae827d1605526e94b2e14b/1518435475718/Summary%20RiR%202017\\_15.pdf](https://www.riksrevisionen.se/download/18.78ae827d1605526e94b2e14b/1518435475718/Summary%20RiR%202017_15.pdf).

<sup>77</sup> Temporary Aliens Act 2016:752

expulsion would be in breach of a “Swedish convention obligation”. Various reports<sup>78</sup> including reports from the Swedish Migration Agency demonstrate that the law has had serious consequences in particular for children who are seriously ill and in need of medical treatment.

*Q: What measures will be taken by Sweden to assure that national legislation provides the possibility for asylum seeking children to be granted protection for humanitarian reasons as a durable long-term solution?*

*Q: How does Sweden intend to secure that their obligations under the CRC are fulfilled for all children including refugee and migrant children seeking protection?*

### **Transition into adulthood and reception conditions**

The temporary Aliens Act combined with other changes in practice adversely affects unaccompanied minors seeking protection in Sweden. They as a group do not receive care and protection on the same terms as other children looked after by the social services. This has been noted by the Health and Social Care Inspectorate (IVO), the Parliamentary Ombudsmen (JO) and in a report from the National Board of Health and Welfare.<sup>79</sup>

The restrictions in the asylum reception system have had especially harsh consequences for unaccompanied youth that have turned 18 who are still in the asylum process. They lose the accommodation provided by the municipality and instead have to move to the Swedish Migration Agency's accommodation centres in various parts of the country, or to arrange accommodation themselves. Moreover, they lose their legal guardian, which further complicates the situation.

As for those who have received a final rejection of their asylum application, they are left with practically no possibility of sustaining a livelihood or housing. It is a major concern and stress for unaccompanied minors and other children in the asylum process as they know this is waiting for them on the day they turn 18.

The risk that children in Sweden are exploited through crime, abuse and sexual exploitation needs to be investigated and the government needs to develop an action plan for phasing out from childhood into adulthood as this is currently lacking with devastating consequences for individuals.

These children and young people are not treated equally as Swedes. The previous recommendations of the Committee on the CRC emphasized the need for particular focus on preventive activities against discrimination and, where necessary, to take affirmative action to protect children in vulnerable situations.

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<sup>78</sup> Rådgivningsbyrån för asylsökande och flyktingar, 2018, [I strid mot ett svenskt konventionsåtagande?](#), The red cross, (2018), [HUMANITÄRA KONSEKVENSER AV DEN TILLFÄLLIGA UTLÄNNINGSLAGEN](#)  
Barnrättsbyrån, 2018, [SVEKET](#)

<sup>79</sup> The National Board of Health and Welfare (2017) [Analys av situationen i socialtjänsten 2017](#)  
The National Board of Health and Welfare 2017 [Analys av situationen i socialtjänsten våren](#)  
The National Board of Health and Welfare 2019 [Unga som fått uppehållstillstånd enligt den nya gymnasielagen](#)

*Q: How will the Swedish government ensure that unaccompanied minors are not discriminated by e.g. the social services and that they receive care and protection on equal terms as other children in Sweden?*

*Q: What measures does Sweden plan to take to assure a smooth transition into adulthood and assure that unaccompanied minors and young people are being treated with respect for their individual rights?*

*Q: Please provide information on what measures Sweden plan to take to minimize the risk that children and young people who have received a final asylum settlement decision end up in exploitation and homelessness?*

### **Child specific forms of persecution**

The Swedish Aliens Act has not been amended to explicitly include child-specific forms of persecution as previously recommended by the Committee. When the Qualification Directive was implemented in Sweden the government saw no need to take measures regarding the directive's explicit reference to child-specific forms of persecution. It was referred to, for instance, measures taken by the Swedish Migration Agency such as the handling of asylum claims for unaccompanied minors at specific child units with qualified and specialised staff. In 2016 the Swedish Migration Agency changed their work model and removed the specialised child units.

Reports show serious shortcomings in the processing of children's asylum applications. Children in families are, to a large extent, not seen as individuals in the process and therefore their reasons are not individually assessed. A report from Save the Children in 2016 show that a residence permit because of the child's own asylum claim was not granted in a single case of the cases examined.<sup>80</sup> Even if, in comparison, asylum claims from unaccompanied minors to a larger extent are individually assessed, they experience similar difficulties when child-specific persecution or experiences of persecution are not always properly recognized.<sup>81</sup>

The Swedish Migration Agency's Handbook on migration issues gives examples of what may be violations of children's rights and child-specific or child-related persecution. However, there is no specific legal position as guidance for the case officers on the assessment of children's asylum claims. Furthermore, there are very few decisions from the Migration Court of Appeal concerning children and child-specific persecution, and they do not offer clear guidance.

*Q: How will the government ensure that child-specific forms of persecution are recognized and individually assessed in asylum cases?*

### **Discrimination of LGBTQI in the asylum process**

*"They did not believe me, and they said that I couldn't describe my feelings. And that wasn't strange. I didn't feel safe. "*

- A young LGBTQI person shares the experience of not being believed in by the Swedish migration agency, quote from RFSL Youth.

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<sup>80</sup> Save the Children Sweden (2016) *Barns egna asylskäl – om rätten att bli sedd som individ*

<sup>81</sup> The Ombudsman for Children, 2017, "Vi lämnade allting och kom hit", *Röster från barn och unga på flykt*, s.28 ff.



The current implementation of the Swedish Aliens Act is discriminating children of certain vulnerable groups. This becomes clear when examining the credibility assessment of LGBTQI claims. A research article<sup>82</sup> concluded that case officers at the Swedish Migration Agency are guided both by homonormative as well as homonationalist views in their decision-making process. This issue is not only found in Sweden.<sup>83</sup>

It is clear that this situation is affecting vulnerable groups' access to justice and particularly children. This is also the experience of the Swedish Youth Federation for Lesbian, Gay, Bisexual, Transgender, Queer and Intersex peoples' rights (RFSL Youth). There is an urgent need of an overview of how the legal application within the asylum system can be improved when it comes to LGBTQI-cases concerning children. This implies a severe violation of the prohibition of discrimination in the CRC and the principle of non-refoulement.

In a report from The Swedish Migration Agency from 2017 looking at the quality of LGBTQI-cases, it is stated that as many as 25% of the cases had an outcome that was incorrect or questionable.<sup>84</sup> Children and youth identifying as LGBTQI are at risk to not have access to their rights in the asylum process, with the risk of devastating consequences.

*Q: How does Sweden plan to make the legal application of asylum rights equal according to the prohibition of discrimination stated in the CRC, including the rights of LGBTQI children?*

### **Groups of high risk of being sexually exploited**

Unaccompanied migrant children are identified as a vulnerable group at particular risk for exploitation in prostitution, exploitation for remuneration and/or for sexual exploitation. In addition, professionals who work directly with this group confirm that these children may have experience of exploitation in prostitution, of sex for remuneration and/or sexual exploitation. However, none of this is mentioned in, "The needs of unaccompanied children and youths"<sup>85</sup> from The National Board of Health and Welfare, nor in the national mapping of unaccompanied minors that disappear from The Country Administrative Board.<sup>86</sup>

*Q: When will Sweden produce a national survey of unaccompanied minors that are subjected to sexual abuse or are sexually exploited in prostitution or for remuneration?*

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<sup>82</sup> Hedlund & Wimark (2018), Unaccompanied Children Claiming Asylum on the Basis of Sexual Orientation and Gender Identity, *Journal of Refugee Studies*, fey026, Available in English <https://doi.org/10.1093/jrs/fey026>

<sup>83</sup> In a study from an LGBTQI organisation in The Netherlands it was stated that the assessment is mainly based on presumed, set processes of awareness and self-acceptance and the asylum seeker's capability to speak about this in detail. Jenssen, Sabine (2019), *Pride or Shame? Assessing LGBTI asylum applications in the Netherlands following the XYX and the ABC judgements.*

<sup>84</sup> Swedish Migration Agency (2017) *Analysrapport. Tematisk kvalitetsuppföljning av asylärenden där hbtq-skäl prövats.*

<sup>85</sup> The National Board of Health and Welfare (2015). *Sex mot ersättning - Utbildningsmaterial om skydd och stöd till barn och unga.*

<sup>86</sup> Länsstyrelsen (2016). *På flykt och försvunnen - en nationell kartläggning om ensamkommande barn som avviker (Displaced and missing - a national survey of unaccompanied minors who disappear).*

*Q: What measures will the State take to make sure that the rights and needs of unaccompanied migrant children are fulfilled?*

*Q: Please specify the measures of protection the state is planning to take in order to protect unaccompanied migrant children and youth from sexual exploitation and abuse?*

### **Legal guardian**

All unaccompanied asylum seeking children arriving in Sweden have the right to a legal guardian. However, no specific time frame is regulated in law, sometimes leading to children waiting for several weeks before a guardian is appointed. The formal qualifications for guardians are very broadly defined in the national legislation, leading to a wide variety in quality. The absence of a cap on the number of children a single guardian may support has led to guardians taking on responsibility for far more children than they can care for properly, which has resulted in children being neglected and missing out on information.

*Q: Please inform the Committee how Sweden will guarantee that each unaccompanied child is immediately appointed a legal guardian who is qualified and adequately trained?*

### **Return procedure and detention**

Sweden, as many other countries, has an explicit aim to increase the return of rejected asylum-seekers to their countries of origin, including children. Meanwhile, no proper follow up of returns is carried out. Research from UNICEF International on returns and Save the Children on returns to Afghanistan demonstrates that existing safeguards of children's rights are not being fully implemented.<sup>87</sup> Best interest procedures are inconsistently applied throughout the return procedure. In addition, a study from the Swedish Red Cross<sup>88</sup> shows that children are still put in detention prior to return, often without a proper legal assessment. In 2018, 13 children were detained for migration related purposes, three of them unaccompanied children. There were 53 detention decisions for children in 2017. Alternatives to detention are rarely analysed and applied despite studies showing that detention negatively affects the wellbeing of children.

According to the Aliens Act, no refusal decision shall be taken if that decision cannot be enforced due to practical obstacles. A return decision concerning an unaccompanied child cannot be enforced before the responsible authority is satisfied that the child will be returned to an adequate reception. The authorities however tend to apply a high standard of proof when assessing the credibility of a child's statement concerning a lack of family and relatives in the country of origin. The Swedish Migration Agency's work to ensure adequate reception is initiated in the return proceedings. Where the authorities in the asylum procedure have assessed that the child has family members to return to, that assessment is upheld in the return proceedings. In practice, the responsibility of family tracing and establishing contact with family and relatives falls heavily on the child. Rather than the authorities having to show that adequate reception is available, the burden of

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<sup>87</sup> Save the Children (2018) [From Europe to Afghanistan: Experiences of child returnees](#)  
UNICEF Sweden, (2019), [Child-Sensitive Return Upholding the best interests of refugee and migrant children in return and reintegration decisions and processes in Sweden](#).

<sup>88</sup> Red Cross Sweden (2018) [BARN I FÖRVAR](#)

proof has been shifted on to the child, who is to show that this is not the case. It is very difficult, if not impossible, for a child to prove that they have no contact with family members or that family members have deceased or fled. The return proceedings thus risk to continue indefinitely.

*Q: How will the Swedish government ensure that the best interest of the child is duly assessed and determined prior to returning any asylum-seeking child to his or her country of origin?*

*Q: How will Sweden ensure that no more children, regardless of their migration status, are put in detention and that the use of alternatives to detention is increased?*

*Q: What active measures will Sweden take to avoid that children end up in a limbo-situation where they have to live with a return decision that is not enforceable but are not granted a residence permit?*

### **Accompanied children in trafficking**

A recent report about children exploited in trafficking<sup>89</sup> states that children who have a close relationship to a victim of trafficking or to a trafficker are at greater risk of being exploited in trafficking or other sexual exploitation themselves. These children are labelled in the statistics as “accompanied children” and include children who have witnessed their mother/parent being sexually exploited, children who are threatened, children who has a price on his or her head and children that are born into sexual exploitation or as a result of it. The rights of these children are violated or is at high risk of being violated.

These children should have the legal status of a victim of crime and have the right to specialised protection, support and access to rehabilitation in order to not be exposed to the risk of being (re)trafficked and sexually exploited, to recover and to be integrated in the society. There is a need to appoint a national inquiry to investigate this issue, including the right to victim protection for the child. Furthermore, the civil society-developed, national support program for every child in trafficking and accompanied children need to receive adequate support and funding from public sources.

*Q: Please provide information on how the State party will ensure the basic rights of accompanied children directly or indirectly exploited as victims of trafficking for sexual purposes?*

### **Knowledge and training for professionals on child sexual exploitation**

Children who are sexually abused, who are sexually exploited in prostitution or through sex for remuneration have the right to protection and rehabilitation.

Professionals who encounter these children should be required to have adequate knowledge of exploitation and the specific needs for children from marginalized groups, such as LGBTQI children, girls, children who are exploited in prostitution through sexual

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<sup>89</sup> Länsstyrelsen (2018:3). *De kan alltid hitta mig - en studie om människohandel och utsatta barns livsvillkor.*

exploitation for remuneration and/or through sexual exploitation and unaccompanied minors.<sup>90</sup>

Children who have been exploited have the right to a response that does not revictimize them. Children who have been sexually exploited often state that school personnel could have discovered the abuse and may have been able to stop the exploitation.<sup>91</sup>

Children are let down twice by the adult world: first by the perpetrator and then by the adults around them who do not respond to the signs of abuse.

Practical and relevant child abuse-related training for university graduates whose work will involve children, is needed. There is also a need for ongoing specialised training to build professional preparedness for those working with children, along with access to professional support and network resources.

*Q: How will the State party ensure that professionals in the school system and the relevant public authorities acquire knowledge of the CRC and the Optional protocol on sale of children as well as practical knowledge in order to respond to the rights of marginalized groups of children, based on an intersectional- and gender power perspective, and all forms of discrimination?*

*Q: Please explain what active measures the State party will take to provide specialised training to professionals working with children to identify and respond to sexual abuse?*

### **Access to justice for children**

The importance of child participation and child friendly processes has been highlighted concerning children affected by violence.<sup>92</sup> Despite this specific right, many children in legal processes connected to violence testify about precarious, incomprehensible and unpredictable processes.<sup>93</sup> One example is that the police and the prosecutors should handle serious crimes against children within 90 days. In 2016 and 2017, every third child had to wait longer than 90 days for a decision on a possible prosecution.<sup>94</sup>

Children are often expected to participate on the same terms as adults with insufficient adjustments to their age and other prerequisites. Instead of being supported and protected during the process, children are deprived of their right to participate according to the general principles for quality in participation.

*Q: Based on a child rights perspective, how will the state ensure that all juridical processes within the court system and the social authorities are understandable, predictable and safe to children?*

### **Solitary Confinement**

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<sup>90</sup> The National Board of Health and Welfare (2015). *Sex mot ersättning - Utbildningsmaterial om skydd och stöd till barn och unga*.

<sup>91</sup> The hearing report from the Swedish Network on the Rights of the Child, 2015.

<sup>92</sup> Council of Europe 2010 [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#).

<sup>93</sup> The Swedish national helpline Children's Rights in Society, Bris (2019) *Hur har barn det?*

<sup>94</sup> Save the Children Sweden (2018) *När förundersökningen drar ut på tiden*.

Statistics from The Swedish National Board of Institutional Care and its Annual report 2018, concludes that although seclusion and the practice of solitary confinement are to be used very restrictively, there has been an increase in the use over the last 4 years (seclusion 789 in 2014 to 978 in 2018, solitary confinement 744 in 2014 to 997 in 2018). The increase is especially notable among girls, compared to boys where there is a decrease in the use.

The Committee on the Rights of the Child urged for an immediate removal of all children from solitary confinement and to revise the legislation to prohibit the use of solitary confinement in all circumstances in its recommendation in 2015. The Committee on The Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment also urged Sweden to abolish the use of solitary confinement in 2014. However, although the legislation was revised in October 2018 there is still no prohibition of solitary confinement.

*Q: When will the Swedish government prohibit solitary confinement and the use of seclusion in the compulsory care units?*

## **J. Statistics**

### **Violence**

According to the latest national survey, no less than 36 percent of the children in Sweden say that they have been subjected to some form of child abuse by their parents during their upbringing.

Current statistics regarding violence against children are scattered and not representative of the actual extent of child abuse practices in Sweden. Existing national statistics systems do not specifically record violence against children committed by a parent or other caregiver. There are no national statistics on the number of reported cases of suspected domestic child abuse to social services, only scattered local statistics are collected. Neither are their statistics on the number of suspected cases that lead to legal proceedings. Statistics on social protection systems response to children experiencing violence at home are also missing.

*Q: Please provide information to the Committee on actions taken to improve the national statistic system to be able to monitor the extent of all form of domestic violence including sexual violence of children at local and national level.*

### **Sexual exploitation and abuse**

There is no systematic data collection on sexual exploitation of children in Sweden, including the number of children sexually exploited in prostitution, number of children being trafficked to and within Sweden for sexual purposes and sexual exploitation of children in the context of travel and tourism. Furthermore, Sweden does not collect data on online sexual exploitation of children, and it is not possible to follow a case from report to dismissal or verdict. Consequences of the lack of data include big challenges in identifying children at risk and inability to discover any trends that need particular attention and resources.

*Q: Please provide information on what steps Sweden is taking to establish a mechanism for the systematic collection of data disaggregated by relevant information about the victim and perpetrator.*

### **Children with disabilities**

There are gaps in the data collection for children with different types of disabilities in Sweden. The data available is often not specified by age, which bring children, youth and adults into the same cluster. We lack national statistics about children with disabilities in the Swedish education system.

*Q: What measures will Sweden take to improve the national statistics on children with disabilities, including children in preschool activities, all school forms and leisure time activities?*

### **Children out of school**

Children staying home from school for days, weeks and even years (so called young school refusers) is a problem currently discussed in Sweden. A public inquiry from 2016 suggested that a system for the collection of data is to be established.<sup>95</sup> Without aggregated national data suggested solutions and interventions are less likely to be efficient and might be based on assumptions rather than facts. We also need statistics to follow up on a possible connection between children with high absence in school and youth between 16 and 24 who are not in education, employment or training. In 2017, this group was about 70 000 individuals or approximately 30 percent.

*Q: When is Sweden planning to move forward with the recommendations of the national inquiry and ensure national statistics on riskful school absence for children?*

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<sup>95</sup> [SOU 2016:94 Saknad! Uppmärksamma eleverns frånvaro och agera](#)