

SWEDEN'S COMPLIANCE WITH THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)

**SUBMISSION FOR THE COMMITTEE ON THE RIGHTS OF PERSONS WITH
DISABILITIES' REVIEW OF SWEDEN DURING ITS 30TH SESSION**

Submitted by:

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INTRODUCTION

1. The following report is submitted by Civil Rights Defenders, a Sweden-based international human rights organisation. The purpose is to give input to the UN Committee on the Rights of Persons with Disabilities (hereinafter referred to as the Committee) with respect to Sweden's compliance with the International Convention on the Rights of Persons with disabilities (hereinafter referred to as the Convention), for the Committee's pre session of Sweden during its 30th session in March 2024.
2. This document complements the submission from the Swedish Disability Rights Federation and consists of brief updates on Sweden's compliance with Article 10, 13, 14, 15 and 16, starting with following up on recommendations from 2018.

ARTICLE 10 – RIGHT TO LIFE

3. The Committee against Torture has directed recurring criticism towards the Swedish Police Authority for using excessive force and specifically expressed its concern regarding the number of cases of ill-treatment and excessive use of force by the police.¹ Furthermore, in 2016, the Human Rights Committee encouraged the Swedish state to ensure that the police receive adequate training on how they should act to reduce the occurrence of excessive force and how to handle persons with mental disabilities.²
4. The inability of the police to deal with persons with mental disabilities in a way that avoids violence is highlighted in a decision by the Chancellor of Justice in the case JK dnr 2020/5729. The case concerns a man who, upon being taken into psychiatric care, experienced a worsening of his condition and started acting aggressively. Unable to calm him, the medical personnel called the police for assistance. Upon arrival, five police officers held down the patient, used OC-spray both by spraying it but also smearing it on the patient face, hit him with a baton, cuffed him, placed a plastic bag over his head, and then placed him in medical restraint. The patient died the following morning. The Chancellor of Justice criticised the public prosecutor's office and the police authority for failing to take adequate investigative measures after the death of a patient and allowing police officers to hold a joint debriefing call before reporting the matter.
5. The case clearly shows the effects of a system lacking sufficient safeguards against excessive force used by the Swedish police authority. It specifically pinpoints the lack of training provided for police officers in order for them to feel secure and adequately prepared to handle meetings with persons with mental disabilities or illness. In a survey conducted by the police union in 2008, 74 percent of the responding police officers felt that they were unprepared to handle situations involving the assistance of mentally ill persons due to lack of information.³
6. The Swedish Police Authority was given a government mandate to strengthen the competence of police officers in order to gain more competence regarding dealing with people with mental disabilities or illness. Despite this, as of today, the police authority has only described creating a foundation for training within the area of police officers gaining more competence regarding psychiatric health issues. The measures proposed aim to develop forms of collaboration and risk assessment with relevant actors but lack a clear approach.⁴ The number of lethal shootings of persons by police officers in active duty, next to all claimed to be in self-defence, is an indication of shortcomings that emanate the training not leading to competence in practice. Between the years of 2014

¹ Committee against Torture, Concluding observations on the sixth and seventh periodic reports of Sweden, para. 14.

² Human Rights Committee, Concluding observations on the seventh periodic report of Sweden, 2016, para. 24 – 25.

³ Har Polisen rätt förutsättningar att bemöta psykiskt sjuka – En undersökning bland 2024 poliser, Exquiro Market Research.

⁴ Polismyndigheten (The Police Authority), Stärka kompetensen för att möta personer med psykisk ohälsa (Ju2017/06176/PO), page 6.

and 2022, 41 percent of all shots fired for warning purposes or fired for effect, involve persons who either have a psychological disability or are suspected having one. Today, we can see that the number of lethal shootings between the years 2013 and 2022 have amounted to nearly five times as many compared to the last decade.⁵

7. In relation to cases of restraint leading to death, the problem described in the paragraph above is topical. There is currently no overall picture of serious consequences in connection with restraint provided by the health care or the Health and Social Care Inspectorate or the National Board of Health and Welfare.⁶ The latter administrative agency has stated that there are significant shortcomings regarding the reporting of coercive measures. Furthermore, the agency attributed the problem to difficulties interpreting what is to be considered as a coercive measure as well as difficulties in reporting such measures.⁷

SUGGESTED QUESTIONS AND RECOMMENDATIONS, ARTICLE 10:

- What steps does the Swedish government plan to take to ensure that adequate training regarding the use of violence against persons with disabilities is provided for police officers, and that such training lead to a change of practice?
- Provide separate statistics on the number of police shootings with lethal outcomes involving persons with disabilities.
- Provide statistics on cases of medical restraint as well as serious consequences in connection with restraint against people with disabilities.
- What further actions does the government plan do take to facilitate and ensure reporting in relation to the usage of coercive measures, such as restraint?
- Develop and implement a national plan aimed at preventing coercion through alternative approaches.

ARTICLE 13 – ACCESS TO JUSTICE

8. The importance of procedural accommodations always being available and provided free of charge has been emphasised by the Committee. Notably, it has held that national laws and regulations should include details on where and how persons with disabilities can request and access procedural accommodations.⁸ Notwithstanding, these guidelines, serious inadequacies have been identified in the right to access to justice.
9. In a case where Civil Rights Defenders represented a man with autism spectrum disorder suspected of crime, these shortcomings became evident. Although the

⁵ Polismyndigheten (The Police Authority), Polismyndighetens användning av särskilda hjälpmedel för våldsanvändning – Redovisning av data fram till 31 december 2022, Nationella operativa avdelningen, Enheten för brottsbekämpning, A159.904/2022, 2023-05-31, pages 14–19.

⁶ Sveriges Television (SVT), Fyra döda i samband med bältning i tvångsvården. 5 April 2018.

⁷ Socialstyrelsen (National Board of Health and Welfare), Förbättrad uppföljning av psykiatrisk tvångsvård – Insatser i den nuvarande insamlingsmetoden, page 13.

⁸ See CRPD/C/MUS/CO/1, para. 24; and CRPD/C/CAN/CO/1, para. 30 (b).

interrogating police officer suspected that the man's behaviour was most likely due to a mental disorder, no procedural accommodations were made. Furthermore, no accommodations were made to ensure the effective participation of the suspect in the legal process. This resulted in him not being able to understand the charges against him and respond effectively to them. Neither the interrogating police officer nor the prosecutor alerted the court of the suspects disability. In spite of this, in the subsequent legal process, the Chancellor of Justice held that the man in no way had been deprived of the right to defend himself, nor had been discriminated against. The Chancellor meant that it rather was the role of the public defender to safeguard the interests of the suspect.⁹

10. This judgement shows the Swedish government's and state authorities' general reluctance to train police, prosecutors, defence attorneys and other individuals working with the legal process, in accordance with the provisions set out in the Convention. There is an evident need to educate the judiciary in questions related to disability rights.
11. Surveys show that personal administrators have great benefits in protecting the right of persons with disabilities. Today, the recipients of the support are persons over the age of eighteen that have psychological disabilities and significant difficulties in carrying out various tasks in their everyday lives. As of 2022, 83 percent of municipalities conducted such activities. However, several shortcomings have been identified in the current system.
12. Personal administrators work to support individuals based on the rights in the Convention. Nevertheless, only 1 in 14 respondents in a survey responded that they were aware of the existence of the opportunity to receive support from a personal administrator.¹⁰
13. Establishing the function of a personal administrator and providing such support is voluntary on the municipality level. This not only results in an unequal distribution of the support, but also an unequal application of the framework at hand. Furthermore, there is a need to expand the target group entitled to such activities. There are also a clear lack of legal certainty guarantees. Among other things, the current legislation lacks a possibility to appeal adverse decisions.¹¹

SUGGESTED QUESTIONS AND RECOMMENDATIONS, ARTICLE 13:

- How does the Swedish government plan on ensuring adequate knowledge within the judicial system about disability rights and the obligations of the judiciary and law enforcement?
- Ensure the equal opportunity to personal administrators in order to cater to all rights of persons with disabilities.

⁹ Justitiekanslern (Chancellor of Justice), dnr. 6984-19-4.3.2, Skadeståndsanspråk mot staten med hänvisning till polis och åklagares agerande under en förundersökning och domstolsprocess.

¹⁰ Civil Rights Defenders, Utbildning och stöd till personliga ombud – Kartläggning av utbildning, fortbildning och praktiskt stöd för personliga ombud, page 40.

¹¹ Socialstyrelsen (National Board of Health and Welfare), Personligt ombud till personer med psykiska funktionsnedsättningar – Kartläggning och analys av systemet med personligt ombud, page 5.

- Appoint a government inquiry to look into whether the judiciary lives up to the Convention provisions on access to justice in relation to being able investigate shortcomings and the ability to appeal decisions.
- Review the methods in which people who are admitted to compulsory care may be informed about their right to a personal administrator.

ARTICLE 14 – LIBERTY AND SECURITY OF THE PERSON

14. The Committee has repeatedly stated that States should repeal provisions which allow for involuntary commitments of persons with disabilities in mental health institutions based on actual or perceived impairments.¹² In spite of previous criticism from the Committee, deprivation of freedom of liberty of persons with psychosocial or neuropsychiatric disabilities still occur.
15. The Parliamentary Ombudsman has expressed concern regarding the use of psychiatric care as a means to avoid finding adequate housing for disabled persons. The case JO dnr. 3583-2018 concerned a young man who was diagnosed with autism spectrum disorder and obsessive-compulsive disorder. The doctor in charge expressed that the patient was primarily in need of adequate accommodation, rather than care at a psychiatric intensive care unit. Despite this, a descent amount of time passed before the municipality arranged accommodation. The Parliamentary Ombudsman specifically criticised the lack of collaboration between the care provider and the municipality.
16. Grave deficiencies have been identified in relation to group homes established in accordance with the Act Concerning Support and Service for Persons with Certain Functional Impairments (1993:387).
17. In a targeted supervision by the Health and Social Care Inspectorate from 2022, 64 percent of all unauthorised measures by institutions established in accordance with the Law Regulating Support and Service to Persons with Certain Functional Disabilities (1993:387) were labelled coercive or restrictive. Furthermore, in several cases, these measures involved forced physical interventions, monitoring of patients and restrictions in their freedom of movement, which in extension is considered a deprivation of liberty. In one of the instances, this entailed carrying a patient to the bathroom and bed against his or her will. This is specifically criticised as the law is built on voluntariness and does not allow coercion.¹³
18. The supervision shows the prevalent use of coercive and restrictive measures. It particularly reveals the systematic problem of lack of knowledge among the staff. Furthermore, it showcases the importance of using as few restrictive measures as possible. Particularly when there are methods proven to be based on the patients wants and needs.

¹² See CRPD/C/KOR/CO/1, para. 29, CRPD/C/DOM/CO/1, para. 27, CRPD/C/AUT/CO/1, para. 30

¹³ Inspektionen för vård och omsorg (Health and Social Care Inspectorate), Att inte få rätten att leva som andra – Redovisning av den nationella tillsynen av gruppboheter för vuxna enligt LSS, IVO 2023–14, pages 16, 19.

SUGGESTED QUESTIONS AND RECOMMENDATIONS, ARTICLE 14:

- What steps does the government plan on taking in order to ensure the satisfactory collaboration between care providers and municipalities?
- What measures does the Swedish government plan on taking to ensure that no one is detained against their will in any medical facility on the basis on actual or perceived disability?
- Educate medical and health care staff on the use of non-coercive methods such as alternative and supplementary communication, low arousal approach, and motivational interviewing.

ARTICLE 15 – FREEDOM FROM TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

19. In 2015, the UN Committee on the Rights of the Child called for the ban of restraining straps or belts in psychiatric care in Sweden.¹⁴ More recently, the Committee has repeatedly invoked the Swedish state to ban the usage of restraint on children. Furthermore, the Committee reaffirmed the importance of medical staff receiving training in alternative, non-coercive methods.¹⁵
20. The statistics provided by the National Board of Health and Welfare claims that the number of medical restraints, including restraining straps or belts in psychiatric care, in psychiatric care roughly equates to 4000 cases for the year 2022.¹⁶ However, an investigation performed by Sveriges Television suggests there is a discrepancy due to under reporting which ultimately leads to hundreds of cases of medical restraint being invisible in statistics.¹⁷ The signatory organisations would like to express the importance of reliable statistics when using one of society's most intrusive measures in a person's life.
21. The regulations regarding the use of coercive measures in compulsory care have since then been revised in 2023, limiting the possibilities to place patients under the age of 18 under medical restraint. However, studies have shown that concrete measures for medical and health care staff to use as alternatives to coercive measures in emergency situations still lack. This is partly due to the lack of knowledge surrounding working methods aimed at children and young people in psychiatric care.¹⁸
22. In 2019, the Evidence for Better Health Care and Social Services, which is the Swedish authority charged with undertaking independent assessments of methods used in

¹⁴ United Nations Convention on the Rights of the Child, Committee on the Rights of the Child, Concluding observations on the fifth periodic report of Sweden, (CRC/C/SWE/CO/5), 6 March 2015, para. 25.

¹⁵ United Nations Convention on the Rights of the Child, Committee on the Rights of the Child, Concluding observations on the fifth periodic report of Sweden, (CRC/C/SWE/CO/6-7), 7 March 2023, para. 23.

¹⁶ Socialstyrelsen (National Board of Health and Welfare), Statistikdatabas för psykiatrisk tvångsvård 2022.

¹⁷ Sveriges Television (SVT), Hundratals bältesläggningar försvinner i statistiken, 11 May 2018.

¹⁸ Statens beredning för medicinsk och social utvärdering (Evidence for Better Health Care and Social Services), Förstudie avseende alternativa metoder till tvångsåtgärder, Rapport till Socialdepartementet, SBU 2023/33, pages 2–3.

health, medical and dental care, conducted a systematic overview of preventative measures aimed at reducing coercion in psychiatric care. In brief, the authority concluded that the review had not shown any effects of preventative measures aimed at combatting the issue at hand.¹⁹

23. Civil Rights Defenders conduct annual surveys regarding human rights in compulsory care. The survey takes a comprehensive approach to how the right holder view their access to human rights in compulsory care. The results are not generalisable but help the understanding of individual experiences of human rights in these settings.²⁰
24. In the survey from 2022, half of the respondents stated that they had been exposed to a form of coercive measure. Of these, only 18 percent believed that that measure was necessary. Further, only 24 percent of those exposed to some form of coercive measure answered that they were offered follow-up talks afterwards. The low percentage of positive responses is troubling because follow-up talks fulfil an important function and gives the individual the opportunity to describe the experience and the effects of the coercive measure.²¹

SUGGESTED QUESTIONS AND RECOMMENDATIONS, ARTICLE 15:

- How does the government plan on working to handle and prevent the systematic and increasing use and of coercive measures in Sweden?
- How does the government plan to set up concrete alternative measures in lieu of coercive measures specifically aimed at children in compulsory care?
- How does the government plan on implementing a ban on the use of medical restraints such as straps and belts in psychiatric care?
- Ensure the right to follow-up talks for everyone who has been exposed to a coercive measure.

ARTICLE 16 ARTICLE 16 – FREEDOM FROM EXPLOITATION, VIOLENCE AND ABUSE

25. A state is responsible for the safety of the persons it chooses to detain. The Convention specifically states that the State Parties shall take all appropriate measures to protect persons with disabilities from all forms of exploitation, violence, and abuse.
26. Persons subjected to crimes in compulsory institutions are rarely seen as victims of crime. Instead, the act tends to be regarded as a conflict between two individuals or between an individual and staff. This results in victims rarely getting their rights satisfied or being referred to relevant actors.

¹⁹ Statens beredning för medicinsk och social utvärdering (Evidence for Better Health Care and Social Services), Förebyggande insatser för att minska tvångsvård och tvångsåtgärder i psykiatrisk vård av vuxna, 2019_07, page 4.

²⁰ Civil Rights Defenders, Inlåst men inte utan rättigheter - Resultat av 2022 års enkät av mänskliga rättigheter i svensk tvångsvård, page 3.

²¹ Civil Rights Defenders, Inlåst men inte utan rättigheter - Resultat av 2022 års enkät av mänskliga rättigheter i svensk tvångsvård, page 4.

27. Research shows that a number of factors can contribute to the vulnerability of victims of crime. Whether the victim is dependent on the person perpetrating the violence may make it more difficult to seek protection. Further, the fact that it is often people in close proximity to the victim who expose them to crime, makes the vulnerability particularly apparent.²²
28. Victims of crime in compulsory care often fulfil the criteria of vulnerability described above. The fact that they are deprived of liberty means that they cannot freely seek information about their rights or visit and communicate with actors that provide support. Furthermore, they depend on the psychiatric institutions for care and welfare. In addition, they are often locked up with their perpetrators. In cases where the perpetrator is a member of the staff, the perpetrator also has legal right to use coercive measures against the inmate which puts the victim in a particularly vulnerable situation.²³
29. There are currently no provisions in law or government regulations which directly and specifically regulate the right to support and protection for persons exposed to crime under compulsory care.²⁴ The signatory organisations would like to express that the lack of regulations is a shortcoming which results in victims of crime not receiving the support and protection they are entitled to.
30. Statistics show that women in compulsory care are more often exposed to unwanted approaches or harassment by both staff and other patients. Further, men in compulsory care experience that they to a greater extent are not believed when they have been subjected to a crime. In the cases where abuse was prevalent, 42 percent stated that the care institution did not take any measures when they were informed about an incident.²⁵

SUGGESTED QUESTIONS AND RECOMMENDATIONS, ARTICLE 16:

- Appoint a government inquiry to identify a method to determine whether the person reporting a crime have a disability and needs procedural accommodations.
- Develop guidelines for how to provide support and protection in a situation where an inmate or member of staff is suspected of exposing another inmate to crime during the period of care.
- How does the government plan to ensure victims in compulsory care their rights as victims of crime? Specifically, how does the government plan on establishing a legal responsibility for health care workers in relation to victims of crime?

²² Civil Rights Defenders, Frihetsberövade brottsoffers rättigheter – En kartläggning av Brottsofferdirektivens implementering i den svenska tvångsvården, page 25.

²³ Civil Rights Defenders, Frihetsberövade brottsoffers rättigheter – En kartläggning av Brottsofferdirektivens implementering i den svenska tvångsvården, page 26.

²⁴ Civil Rights Defenders, Frihetsberövade brottsoffers rättigheter – En kartläggning av Brottsofferdirektivens implementering i den svenska tvångsvården, page 35.

²⁵ Civil Rights Defenders, Inläst men inte utan rättigheter - Resultat av 2022 års enkät av mänskliga rättigheter i svensk tvångsvård, pages 23–24.