



THE SWEDISH FOUNDATION  
FOR HUMAN RIGHTS

## **Joint submission for List of Issues with respect to Sweden's Commitments under the International Covenant on Economic, Social and Cultural Rights**

Submitted by The Swedish Foundation for Human Rights  
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**Contributors:** Civil Rights Defenders • Doctors of the World • Equally Unique\* • É Romani Glinda • FoodFirst Information & Action Network (FIAN) Sweden • Independent Living Institute • Ordfront • Save the Children Sweden • The Church of Sweden • The Swedish Association for Sexuality Education (RFSU) • The Swedish Disability Federation (HSO)\* • The Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights (RFSL) • The Swedish Federation for Social and Mental Health (RSMH) • The Swedish National Association for Persons with Intellectual Disability (FUB) • United Nations Associations of Sweden

*\*Equally Unique represents six disability organisations and HSO represents 39 disability organisations*

## Table of contents

Introduction .....	3
General .....	3
The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.....	3
Incorporation of the International Covenant on Economic, Social and Cultural Rights .....	3
National Human Rights Institution.....	4
Local Self-Government .....	4
EU Citizens and Free Movement.....	5
Part I.....	7
Article 1: The right to self determination .....	7
Part II.....	8
Article 2: Progressive implementation, non-discrimination and international co-operation..	8
Article 3: Equality of men and women.....	10
Part III .....	10
Article 6: Right to work.....	10
Article 7: Right to just and favourable conditions of work .....	11
Article 8: Trade union rights .....	12
Article 9: Right to social security .....	13
Article 10: Protection of the family, mothers and children .....	13
Article 11: Right to an adequate standard of living.....	14
Article 12: Right to physical and mental health .....	15
Article 13 and 14: Right to education.....	17
Article 15: Right to take part in cultural life, to enjoy the benefits of scientific progress and the protection of intellectual property .....	19

## **Introduction**

1. The following report is submitted by the Swedish Foundation for Human Rights with contribution from 15 organisations. The purpose is to give input to the Committee on Economic, Social and Cultural Rights list of issues with respect to Sweden's commitments under the International Covenant on Economic, Social and Cultural Rights.

## **General**

### **The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights**

2. Sweden has not ratified the Optional Protocol and therefore there is no remedy available for Swedish citizens or migrants when access to justice for violation of the rights in the covenant at national level has been denied. It should be noted that Sweden has ratified the Optional Protocol to the International Covenant on Civil and Political Rights. This suggests that the Swedish government gives priority to civil and political rights before economic, social and cultural rights (ESC).

**- When will Sweden ratify the Optional Protocol of the Economic, Social and Cultural Rights?**

### **Incorporation of the International Covenant on Economic, Social and Cultural Rights**

3. Sweden has not incorporated the covenant and the material content of the covenant is therefore not directly applicable in courts of law. Incorporation will put pressure on the courts to take the rights in the covenant into account. Sweden has incorporated the European Convention for Protection of Human Rights and Fundamental Freedoms, and the government has also declared that the Convention on the Rights of the child will be incorporated in Swedish law.<sup>1</sup> It is important that the government takes this opportunity to promote the incorporation of other conventions, notably the International Covenant on Economic, Social and Cultural Rights. In addition, most ESC rights do not have the same constitutional protection in Sweden as civil and political rights, as they are excluded from the Swedish Bill of Rights (*Rättighetskatalogen*).<sup>2</sup>

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<sup>1</sup> Svenska Dagbladet "Barnkonventionen ska göras till lag" (*The Convention on the Rights of the Child will be incorporated into Swedish law*), October 19, 2014, available at

[http://www.svd.se/opinion/brannpunkt/barnkonventionen-ska-goras-till-lag\\_4023807.svd](http://www.svd.se/opinion/brannpunkt/barnkonventionen-ska-goras-till-lag_4023807.svd)

<sup>2</sup> See *Rättighetskatalogen (Bill of Rights)* in *Regeringsformen (The Instrument of Government)*, available at: <http://www.riksdagen.se/en/Documents-and-laws/>

- **Why is the International Covenant on Economic, Social and Cultural Rights not incorporated into Swedish law?**
- **When will it be incorporated?**
- **Why do ESCR not have the same constitutional protection as civil and political rights?**

## **National Human Rights Institution**

4. Sweden has not established an independent national human rights institution in accordance with the Paris principles, but did accept the UN Human Rights Council UPR recommendation on vesting a national institution with the competence to promote and protect human rights.<sup>3</sup> How and when such an institution will be established has not yet been confirmed. It is important that civil society will be consulted in the elaboration of the role and mandate of a Swedish National Human Rights Institution, to ensure its function and impact. It is also vital that ESC rights are included in the mandate to promote and ensure the indivisibility and interdependence of all human rights.<sup>4</sup> There are currently some institutions in Sweden tasked with the protection of human rights, however they only cover their specific areas which means that there is no institution tasked with the overall human right protection.<sup>5</sup> All current Swedish institutions, except the Ombudsman for Children, are guided by Swedish law, and does not take international human rights treaties into account unless they have been incorporated into Swedish law. In addition, some institutions have lately shifted focus, for example the Equality Ombudsman's priority during 2013-2015 has been to take certain strategic cases to court. It is therefore not a body that ensures broad justice and redress in individual cases when ESC rights have been violated. Thus there is no national human rights institution in Sweden that could take a broader approach against human rights violations.

- **When will Sweden establish a national human rights institution?**
- **How will Sweden consult civil society in the elaboration of the role and mandate of a national human rights institution?**
- **How does the Swedish government assess the gaps in the protection of human rights in Sweden and how will these gaps be addressed, especially concerning ESC rights?**

## **Local Self-Government**

5. Human rights are often realised on the municipal level and it is therefore important that the municipalities take their responsibility to fulfil these rights. It is equally important

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<sup>3</sup> A/HRC/WG.6/21/L.10, para. 146.14.

<sup>4</sup> CESCR, general comment 10, "The Role of national human rights institutions in the protection of economic, social and cultural rights", E/C.12/1998/25.

<sup>5</sup> "Ny struktur för skydd av mänskliga rättigheter" (*New organisation for the protection of human rights*), SOU 2010:70, p 167 ff.

that the government, being ultimately responsible for the realization of the rights in the convention, doesn't fail to take that responsibility. However, due to local self-government the government is often unwilling to take direct action if a municipality is neglecting human rights, this severely hinders the full realization of the rights in the convention. In 2014, an agreement was made between The Swedish Association of Local Authorities and Regions and the Swedish Government to strengthen and encourage work on human rights in all levels of society, resulting in among other things a plan of action.<sup>6</sup> Although a welcome and important step this has had little concrete result on a local level, and does not address the problem outlined above.

**- What is Sweden doing to monitor the implementation of human rights on a local level?**

**- What is the strategy to ensure equal ESC rights all over the country?**

6. This is exemplified by a case in front of the CRPD committee, where the committee found that a municipality in Sweden had violated the right to health, article 25 in the CRPD convention, by not taking exceptional circumstances into account when refusing a building permit.<sup>7</sup> The Swedish government declined to take any further action by referring to local self-government, stating that the plaintiff could apply for a building permit again.<sup>8</sup> However, as the Swedish government has not followed the recommendation by the CRPD committee to take legislative action, it is unlikely that a second application for a building permit would be approved by courts as it would be tried under the same law once again.

**- How will Sweden ensure that the government take responsibility for the rights in the convention and not use the local self-government as an excuse for a failure or a breach of a right in the convention?**

## **EU Citizens and Free Movement**

7. An estimated 4 000 EU citizens staying in Sweden through the EU free movement regime have difficulties in finding ways to a decent economic subsistence. The majority of them are of Roma origin. Many have been experiencing poverty, social exclusion and discrimination in their home countries. In Sweden they find themselves in deplorable living conditions, begging for money on the street and sleeping in tents or temporary settlements on the outskirts of cities. Some city officials have offered them tickets to return to their home countries, but have not offered any other social or economic support

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<sup>6</sup> Swedish government, "Överenskommelse mellan regeringen och Sveriges Kommuner och Landsting om att stärka arbetet med mänskliga rättigheter på kommunal nivå" (*Agreement between the government and Swedish Association of Local Authorities and Regions to strengthen the work with human rights on a local level*), June 2014, A2014/2289/DISK.

<sup>7</sup> CRPD/C/7/D/3/2011.

<sup>8</sup> Ministry of Health and Social Affairs, "Written replies by the government of Sweden to the list of issues (CRPD/C/SWE/E/Q1) in relation to the initial report of Sweden", adopted by the Committee at its tenth session (2-13 September 2013), p 13.

for those who wished to stay in Sweden. Several hundreds of these EU citizens have established settlements in different parts of the country and in many locations they have been forcibly removed. Some evictions have taken place in the presence of riot police in spite of there being no signs of violent resistance, and some sheds have been destroyed with bulldozers.<sup>9</sup> Only a few municipalities offer education to children within this group and there are no national guidelines.<sup>10</sup> Subsequently, there is widespread confusion among municipalities and other local authorities on what obligations they have to provide for these groups of vulnerable EU citizens according to Swedish, EU, and international law. In some municipalities, local authorities have determined that EU citizens should be treated as “tourists” and thus be granted no right to any social services, health care, housing or education.<sup>11</sup> The freedom of movement within EU has therefore opened up a parallel legal system for vulnerable EU citizens, where they have even less rights than individuals of a third country without papers. This violates, among others, the right to work, right to health, right to education and the right to an adequate standard of living.

- **What is Sweden doing to ensure the ESC rights of EU citizens?**
- **How does Sweden intend to handle the division of work between the local and state level, when ensuring ESC rights for EU citizens?**
- **How does Sweden intend to ensure that all municipalities have the knowledge and means to guarantee the ESC rights that are within their competence for EU citizens?**
- **What efforts have Sweden done to increase coordination with the EU institutions and other EU countries in ensuring EU citizens’ ESC rights, both in Sweden and in other countries?**

8. It is well documented that vulnerable EU citizens of Roma origin routinely are victims of violent attacks with hate crime motives, such as settlements being set on fire and physical violence.<sup>12</sup> The Roma suffer double discrimination due both to general anti-poverty hostility in Sweden and widespread Anti-Gypsyism. In addition, reported hate

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<sup>9</sup> As reported in numerous articles, for example SVT, ”Dubbelt så många tiggande EU-migranter senaste året” (*Number of begging EU-migrants has doubled in one year*), April 29, 2015, available at <http://www.svt.se/nyheter/inrikes/dubbelt-sa-manga-tiggande-eu-migranter-senaste-aret> and Dagens Nyheter, ”Migranter vräktes från läger i Helenelund” (*Migrants evicted from camp in Helenelund*), March 13, 2014, available at <http://www.dn.se/sthlm/migranter-vraktes-fran-lager-i-helenelund/>

<sup>10</sup> See for example Svenska Dagbladet, ”Få barn till EU-migranter får skolgång” (*Few children of EU-migrants receive schooling*), January 2, 2015, available at <http://www.svd.se/fa-barn-till-eu-migranter-far-skolgang> and Dagens Nyheter, ”Snårig lagstiftning kring EU-migranterns rätt att gå i skolan” (*Complicated legislation regarding EU-migrants right to attend school*), April 25, 2015 available at <http://www.dn.se/nyheter/sverige/snarig-lagstiftning-kring-eu-migranterns-ratt-att-ga-i-skolan/>.

<sup>11</sup> Swedish Association of Local Authorities and Regions, ”Några juridiska frågor vad gäller utsatta EU-medborgare” (*Some legal issues regarding vulnerable EU-citizens*), 2014, and National Board of Health and Welfare, ”Rätten till socialt bistånd för medborgare inom EU/EES-området – en vägledning” (*The right to Social Assistance for citizens within EU/EES – a guide*), 2014.

<sup>12</sup> See for example SR, ”Forum på nätet uppmanar till våld mot EU-migranter” (*Internet forums call for violent attacks against EU-migrants*), June 23, 2014, available at <http://sverigesradio.se/sida/artikel.aspx?programid=83&artikel=6196914>.

crimes have increased overall with 14 % from 2013 to 2014, and are now at an all-time high.<sup>13</sup>

**- How does Sweden intend to increase efforts to protect EU-citizens of Roma origin from hate crimes?**

## **Part I**

### **Article 1: The right to self determination**

9. The ILO Convention no. 169 concerning Indigenous and Tribal Peoples in Independent Countries would give the Sami people the right to use land and water according to their own culture and tradition and a certain degree of autonomy. Despite the Committee's recommendation in its Concluding Observations in 2008, Sweden has still not ratified ILO 169. A Nordic Sami Convention is currently under development and it is of vital importance that the provisions in this convention do not set a lower bar than ILO 169.

**-Why has Sweden not followed the Committee's recommendation to ratify the ILO Convention no. 169 concerning Indigenous and Tribal Peoples in Independent Countries?**

**- When will Sweden ratify ILO Convention no. 169?**

**- What are the difference and similarities in provisions and norms between the ILO Convention no. 169 and the Nordic Sami Convention?**

10. Large-scale prospecting and mining in traditional Sami territory have had devastating consequences on Sami rights over the past five years. The right of the Sami to influence matters that concern them and their right to free, prior and informed consent have been blatantly ignored in these processes. According to the Swedish government's new strategy for extraction of minerals, the number of mines should be doubled by 2020 and tripled by 2030.<sup>14</sup> Relevant state bodies routinely assess interests involving Sami rights from a purely macroeconomic perspective, prioritising mineral extraction and job creation over the rights of the Sami to their culture and their traditional lands to which they have established property rights under Swedish and international law. There is currently no state body with the mandate and authority to safeguard that Sami indigenous rights be taken into account in processes involving exploitation of natural resources. As a result, Sami indigenous rights are routinely ignored in these processes.

**- Please provide information on how the Sami right to self-determination, the right to free, prior and informed consent, and the right to culture and**

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<sup>13</sup> Swedish National Board for Crime Prevention. "Hatbrott 2014" (*Hate Crimes 2014*), Rapport 2015:14, available at <https://www.bra.se/bra/brott-och-statistik/hatbrott.html>.

<sup>14</sup> Government Offices of Sweden, "Sweden's minerals strategy", 2013.

**livelihood will be safeguarded and strengthened in the face of the acceleration of extractive industries in traditional Sami territory.**

**- Please explain why there is no state body with the mandate and authority to safeguard that Sami indigenous rights be guaranteed in processes of exploitation of natural resources in Sami territory, and provide information on how this flaw will be remedied.**

11. The Swedish Sami Parliament (*Sametinget*) is both an elected, representational assembly among the Sami and a state agency commissioned with the task to implement state policies on Sami matters. This double nature leads to a lack of trust among the Sami and a perception that the Sami Parliament safeguards the interests of the state rather than the rights of the Sami people. The representational part of the Sami Parliament is severely underfunded, and its ability to effectively influence national policies and legislation on matters relevant to the Sami are to a large extent lacking. The former UN Special Rapporteur on the Rights of Indigenous Peoples, James Anaya, has criticized the model of the Swedish Sami Parliament for lacking in independence vis-à-vis the government. He has urged that the Nordic states, including Sweden, "in consultation with the Sami parliaments [...] should consider delimiting certain areas within which the Sami parliaments can act as primary or sole decision-makers, particularly in relation to concerns that affect Sami people in particular, including issues related to Sami lands, languages, traditional livelihoods and cultures."<sup>15</sup>

**- Please provide information on how the Government intends to strengthen the Sami Parliament in mandate, resources, and independence from the state in order for it to be able effectively to exercise the right to self-determination of the Sami people over matters that concern them.**

## **Part II**

### **Article 2: Progressive implementation, non-discrimination and international co-operation**

12. There are inherent discriminatory elements of the historic state categorisation and colonisation of the Sami. The Reindeer Husbandry Act (*rennäringslagen*) provides for certain protections in regard to land use but the implementation of this law distinguishes members of so-called Sami villages—who are the only ones legally entitled to engage in reindeer-herding—from those who are not members. As such, rights are granted based on membership in Sami villages rather than on indigenous status, thereby unnecessarily causing divisions within the Sami community. No land or water rights are granted to the non-reindeer herding Sami population, effectively denying the Sami

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<sup>15</sup> James Anaya, "Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people", A/HRC/18/35, 6 June 2011, para. 76.



participatory rights as a people and the specific rights linked to land and water in relation to rights to culture, health, and dignity. As a consequence, non-reindeer-herding Sami are excluded completely in the decision-making processes on mining processes that affect them, even when mining projects are of concern for the larger Sami community.

**- Please provide information on how Sweden intends to strengthen the protection of core indigenous rights to lands, effective participation and culture in relation to the majority of the Sami, still living in their traditional and ancestral territory but standing outside the Sami village system.**

13. There is a lack of law enforcement and sanctions regarding accessibility. Subsequently, there are no consequences for long term investments that do not take accessibility and universal design into consideration. There is also a lack of measures to ensure that accessibility and universal design are included in community planning. In addition, there are several exceptions to the new Discrimination Act covering reasonable accommodation for persons with disabilities, for example organisations with less than 10 employees are exempt from the guidelines. Housing is not included in the new law, which means that an owner of a building can deny measures for improving accessibility. Another issue is the possibility to get compensation for discrimination. During the first months in 2015 over 60 cases were reported to the Equality Ombudsman, but due to scarce resources and a shift to strategic litigation only a few cases will be considered, undermining the right to individual compensation.

**- Please explain how the exemption in the new bill on discrimination is compatible with the obligation to combat discrimination of all kind.**

**- How will Sweden secure the right to discrimination compensation?**

**- How will Sweden make sure that accessibility and universal designs are included in community planning, thus removing the causes for discrimination?**

14. The Swedish Discrimination Act includes the grounds of 'sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age'. Hence the law does not include political or other opinion, social origin, birth or other status and does not cover all the grounds set out in the Convention.

**- Does Sweden intend to amend the Discrimination Act to include all the grounds for discrimination as set out in the Convention?**

**- If not, why does Sweden think that political or other opinion, social origin and birth should not be seen as grounds for discrimination?**

15. Sweden dedicates 1 percent of its GDP to development cooperation. Nevertheless, in recent years an increasing amount of this sum is spent on refugees in Sweden. Approximately 22 percent of the budget for development cooperation is allocated to

costs related to immigration to Sweden.<sup>16</sup> The current policy is therefore undermining the potential of Swedish development cooperation to reach good results internationally and is not in accordance with OECD/DAC regulations.

**-Why does Sweden include costs related immigration in its expenditures on development cooperation?**

### **Article 3: Equality of men and women**

16. The average wage difference between men and women is 13.4 percent.<sup>17</sup> Women's wages are lower than men's within all sectors and almost all professions. Recent reports from Swedish Confederation of Professional Associations show that the lifetime wage difference between men and women in Sweden is 2.6 million SEK.<sup>18</sup> Since the 80's the gender pay gap has almost remained the same. With the current slow pace equal wages will be met in 51 years (2066).

**- What is Sweden doing to eradicate the structural wage gap between women and men in the daily working life?**

## **Part III**

### **Article 6: Right to work**

17. The Public Agency for Employment has calculated that persons looking for employment who are deemed as "far away from the labour market", including persons with disabilities who have "reduced work capacity", will reach 80 percent in 2018.<sup>19</sup> The labour market programs intended to increase employment for persons with disabilities has stayed the same in decades, despite a lack of results. The so called "Funka enquiry" in 2012 suggested measures to increase employment of persons with disabilities, for example development of vocational rehabilitation, but no new policy measures have been introduced yet. Wage subsidies that are given to employers when hiring persons with a disability has remained unadjusted to regular cost increases for the last eight years. To get funding for a work place adaption or to receive technical aid, a person needs to be registered as a person with "reduced capacity to work". The use of this term has been criticized by the CRPD committee.

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<sup>16</sup> Svenska Dagbladet, "Sverige världsmästare på att urholka bistånd" (*Sweden world champions in hollowing out international aid*), April 17, 2015, available at <http://www.svd.se/sverige-varldsmastare-pa-att-urholka-bistand>.

<sup>17</sup> Statistics Sweden, "Kvinnor, män och lön. Vilka olika perspektiv på löneskillnaderna ger den officiella lönestatistiken?" (*Women, men and salaries. What perspectives on wage differences are offered by the official statistics?*), 2014, available at [http://www.scb.se/Grupp/Produkter\\_Tjanster/Kurser/\\_Dokument/Almedalen-2014/2014-07-03-Kvinnor-man-och-lon.pdf](http://www.scb.se/Grupp/Produkter_Tjanster/Kurser/_Dokument/Almedalen-2014/2014-07-03-Kvinnor-man-och-lon.pdf).

<sup>18</sup> Swedish Confederation of Professional Associations, "Skillnader i livslön mellan kvinnor och män" (*Lifetime wage difference between women and men*), 2015, available at <http://www.saco.se/vara-fragor/lon-och-livslon/skillnader-i-livslon-mellan-kvinnor-och-man/>.

<sup>19</sup> Public Agency for Employment, "Public Agency for Employment reports 2015", February 2015.

- Please present the Swedish strategy to increase employment for persons with disabilities and stop the negative prognosis in the coming years.
- When is a new policy going to be implemented?
- When will Sweden change the registration of persons with disabilities needing assistive technology or work adjustment and stop the use of “persons with reduced work capacity”?

18. Another group far from the labour market is the Roma minority in Sweden, who face immense discrimination. Despite efforts from the authorities roughly 80 percent of the 50 000 Roma living in Sweden is still outside the formal labour market.<sup>20</sup>

- How does Sweden intend to ease labour market access for the Roma minority?
- How does Sweden intend to evaluate the projects related to labour market access for the Roma minority, to ensure that programs have the desired effect?

19. There are significant differences between the employment rate of men and women, and especially between foreign- and Swedish-born persons. Foreign-born women in Sweden have an employment rate of around 51 percent, almost 20 percent lower than Swedish-born women. In spite of a good educational background these women risk only being able to get low qualified jobs. All data show that foreign-born women are subject to work related discrimination due to on gender, ethnicity and class.<sup>21</sup>

- What is Sweden doing to facilitate and promote foreign-born women to enter the labour market on equal terms?

## **Article 7: Right to just and favourable conditions of work**

20. The challenges in combining paid employment and taking care of the family is affecting women more than men. Women in Sweden take approximately 75 percent of the parental leave.<sup>22</sup> The expectation that women will take the majority of the parental leave contributes to the statistical wage discrimination of all women. Allocating parts of the

<sup>20</sup> Swedish Public Employment Service, see <http://jamlikhetromer.se/> and The Swedish Foundation for Human Rights, “Har Sveriges romer fått upprättelse” (*Have the Roma minority in Sweden had Restitution?*), 2015, p 10, available at [http://www.humanrights.se/wp-content/uploads/2015/04/Har-Sveriges-romer-fatt-upprattelse\\_web.pdf](http://www.humanrights.se/wp-content/uploads/2015/04/Har-Sveriges-romer-fatt-upprattelse_web.pdf).

<sup>21</sup> Statistics Sweden, “Integration – en beskrivning av läget i Sverige” (*Integration – a description of the situation in Sweden*), 2013, available at [http://www.scb.se/Statistik/Publikationer/LE0105\\_2013A01\\_BR\\_BE57BR1301.pdf](http://www.scb.se/Statistik/Publikationer/LE0105_2013A01_BR_BE57BR1301.pdf), and Government Offices of Sweden (Stina Petersson), “Utrikesfödda på arbetsmarknaden – en forskningsöversikt” (*Foreign-born on the labour market – an overview of research*), 2013, p 32 ff.

<sup>22</sup> Statistics Sweden, ”På tal om kvinnor och män. Lathund om jämställdhet 2014” (*Speaking of women and men. Guide about equality 2014*), 2014, available at <http://www.scb.se/sv/Hitta-statistik/Statistik-efter-amne/Levnadsforhallanden/Jamstallldhet/Jamstallldhetsstatistik/12252/12259/Behallare-for-Press/375659/>.

parental leave for each parent has led more men to stay at home with their children and increased gender equality. An equal and non-transferable parental leave would combat discrimination against women in the labour market as women and men would be expected to take out an equal proportion of the parental leave.

- **Why has Sweden not implemented an equal and non-transferable parental leave?**
- **When will it be implemented?**

21. There have been an increased amount of reports related to the poor working conditions for so-called "economic migrants", both in Europe at large and in Sweden. There have been cases where the employer has confiscated passports and salaries can be up to four times lower than what is guaranteed under collective agreements. Many perform dangerous work without sufficient training, for example within construction work, and the working environment is often severely substandard. There have also been reports of cases where migrants have been forced to perform sexual acts to keep their job. As most of these workers are undocumented immigrants, they become dependent on their employer, and have no other choice than to comply or be threatened by expulsion.<sup>23</sup>

- **How does Sweden intend to act and intensify efforts to ensure just and fair working conditions for all within its territory?**
- **How can Sweden act to detect these abuses and implement effective punishment for employers who take advantage of undocumented migrants?**
- **As this problem is not specific for Sweden but rather for EU as a whole, what efforts have Sweden taken to raise this issue on the EU-level?**

## **Article 8: Trade union rights**

22. In 2007, a case related to Trade Unions' collective actions and the EU free movement regime was handled by the EU Court of Justice and subsequently by ILO and the European Committee on Social Rights. The EU Court of Justice rules two Swedish Trade Unions (Svenska byggnadsarbetareförbundet and Svenska elektrikerförbundet), to pay punitive damages due to their collective action against the Latvian company Laval un Partneri Ltd. The evolution of these norms has been called "Lex Laval". The Trade Unions' blockade was initialized since Laval had not signed a Swedish collective agreement. The collective agreements do, de facto, replace the fact that Sweden has no institutionalized minimum wage. Trade Unions are now more cautious in demanding collective agreements of foreign companies.<sup>24</sup>

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<sup>23</sup> See for example, Dagens Nyheter, "De osynliga" (*The Invisible ones*), May 2015, available at <http://fokus.dn.se/>.

<sup>24</sup> ILO, "Observation (CEACR) - adopted 2012, published 102nd ILC session", 2013, available at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13101:0::NO::P13101\\_COMMENT\\_ID:3085286](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13101:0::NO::P13101_COMMENT_ID:3085286).

**-What is the status of the so called “Lex Laval” and the possibilities for Trade Unions to demand collective agreements of foreign companies?**

## **Article 9: Right to social security**

23. The right to personal assistance based on fundamental needs has existed since 1994 in Sweden, as part of the Act Concerning Support and Service for Persons with Certain Functional Impairments (LSS). If a person covered by LSS needs personal assistance for more than 20 hours a week the cost will be covered by The Swedish Social Insurance Agency instead of the municipality. Statistics state that in 2014 61.7 percent of applications for personal assistance were rejected, a very high number and an increase since 2013.<sup>25</sup> Since 2010 roughly 10 - 12 percent of applicants per year lose the state funded assistance after a two year review. As a result of the loss of financial support, people are unable to continue their work, to take parental leave, and thus reducing the possibility to freely pursue their economic, social and cultural development.

**- What measures are planned to stop the increasing rate of withdrawal or denial of personal assistance?**

**- Which steps has Sweden taken to monitor the living conditions of persons in need of personal assistance, in particular their ability to study or work, raise children and take part in society in all fields at all levels?**

## **Article 10: Protection of the family, mothers and children**

24. Swedish law criminalizing acts of domestic violence (*Kvinnofridslagstiftningen*) is a well-designed piece of legislation addressing both partner abuse and domestic violence. It is, however, highly heteronormative by focusing on women being exposed to violence perpetuated by men. Consequently, it excludes LGBT individuals who may be victims. It does not recognize that persons in same-sex relationships also face abuse.

**- How will Sweden ensure that the legislation criminalizing acts of domestic violence does not exclude LGBT and caters for their needs?**

25. Sweden changed its law regulating legal gender recognition of transgender persons in 2013 removing requirements for sterilization and divorce (*Lag om fastställande av könstillhörighet i vissa fall*). However, Sweden has not amended several other connected laws, which are directly impacted by the changes. This resulted in, among others, a lack of recognition of the rights of parents who either changed their gender prior or after giving birth.

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<sup>25</sup> Assistanskoll (Independent Living Institute), “Statistik om personlig assistans” (*Statistics about personal assistance*), 2015, available at <http://assistanskoll.se/assistans-statistik.php>

**- How will Sweden ensure that appropriate procedures are in place in order for transgender persons be recognized as parents according to their legal gender?**

## **Article 11: Right to an adequate standard of living**

26. Reports show that people with intellectual disabilities in Sweden have significantly less disposable income than most other groups in Swedish society.<sup>26</sup> Reports state that there is also a risk for institutionalisation due to mergers and overcrowding, as well as a need for increased qualification among staff caring for people with intellectual disabilities.<sup>27</sup>

**- What is Sweden doing to address the mechanisms that lead to significantly less disposable income for a majority of persons with intellectual disabilities?**  
**- What is Sweden doing to assure that residential facilities for persons with intellectual disabilities adhere to the guidelines set by the National Board of Health and Welfare?**

27. In Sweden, there are considerable disparities in terms of living conditions between different groups of children. In total about 12 percent of Swedish children live in poverty, but it varies between 3.6 - 31.7 percent among the municipalities. There is also a large increase in risk of child poverty if you have a single parent or parents with foreign background.<sup>28</sup>

**- What measures will Sweden take to ensure that all children have an adequate standard of living?**  
**- Will Sweden produce a national plan of action to combat child poverty as recommended by both the EU and the UN?**

28. According to the right to food guidelines all states should consider adopting a national human-rights based strategy for the progressive realisation of the right to adequate food. Sweden has adopted the guidelines, as all the states in FAO, but after ten years has still not taken any steps to develop such a strategy.

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<sup>26</sup> “Brist på brådska” (*Lack of Haste*) SOU 2008:102, “Möjlighet att leva som andra” (*Capacity to live as others*) SOU 2008:77, National Board of Health and Welfare, “Alltjämt ojämnt! Levnadsförhållanden för vissa personer med funktionsnedsättning” (*Still unequal! Living conditions for some persons with disabilities*), 2010, Swedish Association of Local Authorities and Regions, “Hyresnivåer i särskilda boenden” (*Rent levels in special accommodation*), 2013 and Riksförbundet FUB, “Fångad i fattigdom?” (*Stuck in poverty?*), 2014.

<sup>27</sup> Health and Social Care Inspectorate, “Kan jag leva som andra? – Insatser i bostad med särskild service för vuxna med funktionsnedsättning” (*Can I live as others? – Adjustments in homes with special service for adults with disabilities*), 2015 and Health and Social Care Inspectorate, “Skapa trygghet utan tvång” (*Create Security without Compulsion*), 2015.

<sup>28</sup> Save the Children Sweden, “Supplementary Report to the United Nations Committee on the Rights of the Child in response to Sweden’s fifth Periodic Report”, 2012 available at [http://resourcecentre.savethechildren.se/sites/default/files/documents/rb\\_tillrapport\\_english\\_final\\_with\\_appendix.pdf](http://resourcecentre.savethechildren.se/sites/default/files/documents/rb_tillrapport_english_final_with_appendix.pdf)

**- When will Sweden adopt a national action plan on the right to adequate food based on human rights?**

29. The Swedish housing market is characterized by an unequal standard of living and increasing housing prices. Financially vulnerable persons live in tenancies to a greater extent and are more exposed to overcrowding. They spend nearly 30 percent of their income on housing, almost the double compared to persons who own their housing. Tenants are also disadvantaged with regards to tax policy, which leads to rentals costing about 2 000 SEK more every month than other forms of housing.<sup>29</sup> Another problem is the acute housing shortage, especially regarding small affordable rental apartments.<sup>30</sup> The absence of affordable housing has created a competitive market for already vulnerable groups that are in need of the same type of housing solutions.<sup>31</sup> The housing shortage has also created long queues for tenancies, resulting in people turning to an insecure overpriced secondary housing market.<sup>32</sup> Overall the housing situation in Sweden today is constructed in a way that those with the least financial capacity spend the most on their housing.

**- What measures are being taken by the government of Sweden to make sure that economic sensitive groups such as newly arrived, adolescents, students, elders and disabled people are all granted suitable housing solutions and not being played off against each other?**

**- How is Sweden planning to stop the ethnic and economic segregation creating unequal standard of living?**

## **Article 12: Right to physical and mental health**

30. The numbers of EU citizens and third country nationals with residence permit in another EU country that stay in Sweden are increasing. Many of them lack health insurance and are denied access to subsidized health care in Sweden. Thereby they are denied the right to the highest attainable standard of health due to their legal status.

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<sup>29</sup> The Swedish Union of Tenants, Swedish Property Federation & Swedish Association of Public Housing Companies, “Balanserade ekonomiska villkor – en skattereform för hyresrätten” (*Balanced financial conditions – a tax reform for tenancies*), 2010, and Statistics Sweden, “Hushållens ekonomi” (*Family economies*), 2013, available at <http://www.scb.se/sv/Hitta-statistik/Statistik-efter-amne/Hushallens-ekonomi/Inkomster-och-inkomstfordelning/Hushallens-ekonomi-HEK/>

<sup>30</sup> Swedish National Board of Housing, Building and Planning, “Läget på bostadsmarknaden” (*The situation on the housing market*), [May 18, 2015], available at <http://www.boverket.se/sv/samhallsplanering/bostadsplanering/bostadsmarknaden/laget-pa-bostadsmarknaden> .

<sup>31</sup> Swedish National Board of Housing, Building and Planning, “Bostadsmarknaden för olika grupper” (*The housing market for vulnerable*), [July 29, 2015], available at <http://www.boverket.se/sv/samhallsplanering/bostadsplanering/bostadsmarknaden/bostadsmarknaden-for-olika-grupper/>

<sup>32</sup> See for example The Stockholm County Administrative Board, “Bostäder i andra hand – en översikt” (*The secondary housing market – an overview*), Rapport 2013:4, 2013.



**- In what ways is Sweden taking responsibility for providing the highest attainable standard of health regarding EU citizens and third country nationals with residence permit in another EU country, who lack health insurance and reside in Sweden either temporarily or permanently?**

31. In 2013 undocumented adult migrants in Sweden were given the right to obtain health care that “cannot be postponed”; a right asylum seekers already had before. Since these groups rights are still limited and depending on their legal status, undocumented migrants and asylum seekers are still denied the right to the highest attainable standard of health.

**- In what ways is Sweden taking responsibility to ensure that undocumented migrants and asylum seekers are granted the right to the highest attainable standard of health, without any distinction based on legal status?**

32. People with intellectual disabilities in Sweden do not have equal access to the Swedish health care system. This inequality is reflected in a number of health-related statistics such as higher rates of cancer mortality, higher incidence of mental illness and higher incidence of excessive medication.<sup>33</sup>

**- What is Sweden doing to address the inequality in health care for people with intellectual disabilities?**

33. Sweden mentions certain aspects of sexual and reproductive rights (SRHR) in the sixth periodic report, but many other important factors are missing, such as, inter alia, infertility, unintended pregnancies, sex education and access to adolescent health clinics.

**- Which general measures are Sweden taking to ensure that ESC rights are prioritized within the Swedish international cooperation policy?**

**- In particular, which steps is Sweden undertaking to ensure that sexual and reproductive rights are included as an inherent content of the ESC rights in its international cooperation policy?**

34. Sweden shows implemented measures that aim to raise the knowledge for a person with a STI or HIV. In order to be able to advice the patients in every area of health care medical staff needs to have a satisfying knowledge of SRHR as a whole, something that is often lacking.

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<sup>33</sup> National Board of Health and Welfare, “Lägesrapport – Tillståndet och utvecklingen inom hälso- och sjukvård och socialtjänst” (*Situation Report – the situation and development in healthcare and social services*), 2013, National Board of Health and Welfare, “Alltjämt ojämligt! Levnadsförhållanden för vissa personer med funktionsnedsättning” (*Still unequal! Living conditions for some persons with disabilities*), 2010.



**- In which way does Sweden guarantee that the health- and medical care attains sexological qualifications, both in institutions working in particular with sexual and reproductive health issues as well as an integrated part in health care in general?**

35. Clients of psychiatric care are frequently subjected to compulsive care. Despite being compulsory the cost of the care falls on the client.<sup>34</sup>

**- Please explain why patients are charged with patient care fees also when they have not demanded any care?**

36. Several reports from the Swedish National Institute of Public Health show that it is ten times more likely for persons with disabilities to perceive themselves as having poor health compared with the general population. The causes are related to barriers in society, poor finances, difficulties in obtaining education and work, and inaccessible environments which make it more difficult to exercise.<sup>35</sup>

**- How will the Government ensure that the structural perspective related to persons with disabilities will regularly be taken into account in the field of public health?**

37. In 2008 Sweden was recommended by The Committee to strengthen its efforts to analyse and combat the underlying causes of increased overweight and obesity amongst children.<sup>36</sup> The Swedish National Public health Authority has found that health of children and youth partly is determined by parents' socio-economic status.<sup>37</sup>

**- What will Sweden do to combat the problems of increasing overweight and obesity amongst marginalised families?**

## **Article 13 and 14: Right to education**

38. The required support and individual adaptations to be able to cope with school attendance is often given too late or not at all for students with disabilities.<sup>38</sup> Reports

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<sup>34</sup> Stockholm County Council, "Regelverk patientavgifter" (*Rules for patient fees*), 2015.

<sup>35</sup> Public Health Agency of Sweden, "Sämre hälsa hos personer med funktionsnedsättning" (*Persons with disabilities have worse health*), March 16, 2015, available at <http://www.folkhalsomyndigheten.se/nyheter-och-press/nyhetsarkiv/2015/mars/samre-halsa-hos-personer-med-funktionsnedsattning/>

<sup>36</sup> E/C.12/SWE/CO/5, 2008, p. 22-23.

<sup>37</sup> National Board of Health and Welfare, Public Health Agency of Sweden & Swedens Association of Local Authorities and Regions, "Öppna jämförelser – Folkhälsa" (*Candid comparison – Public Health*), 2014, p 72, available at <http://webbutik.skl.se/bilder/artiklar/pdf/7585-159-4.pdf?issuusl=ignore>.

<sup>38</sup> Swedish Schools Inspectorate, "Huvudmannabeslut efter riktad tillsyn av Specialskolan" (*Principal decisions after targeted supervision of the Special Schools*), Rapport 2010:406, p 5 and Swedish Agency for Disability Policy Coordination (Handisam), "Barn äger – slutsatser och förslag" (*Children rock – conclusions and recommendations*), 2014.

show that persons with disabilities participate in higher education to a lesser degree than others.<sup>39</sup>

**- How will Sweden realise an early intervention system and individual adaptations from the beginning of compulsory school attendance?**

**- What will Sweden do to ensure higher education for all on the basis of equal opportunities?**

39. The current educational system and framework in Sweden is unable to provide enough support for indigenous and national minority children to reach higher proficiency and literacy in the minority and indigenous language. The Council of Europe has criticized Sweden on 8 occasions for not fulfilling its obligations under the Council's minority conventions.

**- How will Sweden secure the right to education for indigenous and national minority children, and specifically their right to develop a cultural identity and reach higher proficiency and literacy in their indigenous or minority language?**

40. The differences between how much children learn vary between schools and municipalities. Studies show that a growing proportion of young people end up further and further behind their peers in school. There is a clear link between children in socioeconomic vulnerable areas and lower grades in school.<sup>40</sup>

**- What measures is the government planning to take to reduce the proportion of students (currently 13 percent) who leave secondary school without being qualified for secondary education?**

41. The Convention specifies that the school should be free. The Swedish Education Act permits "occasional items that result in a modest expense for pupils". In the Save the Children study Young Voice 2014 6 percent of students stated that they have been forced to forgo a school activity because it cost money. 43 percent had been asked to bring money to an activity

**- Is the Government planning to amend the Education Act to ensure that the education is in fact totally free for all children?**

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<sup>39</sup> Swedish Agency for Youth and Civil Society, "Fokus 12 – om unga med funktionsnedsättning" (*Focus 12 – youth with disabilities*), 2012.

<sup>40</sup> Save the Children Sweden, "Supplementary Report to the United Nations Committee on the Rights of the Child in response to Sweden's fifth Periodic Report", 2012 available at [http://resourcecentre.savethechildren.se/sites/default/files/documents/rb\\_tillrapport\\_english\\_final\\_with\\_appendix.pdf](http://resourcecentre.savethechildren.se/sites/default/files/documents/rb_tillrapport_english_final_with_appendix.pdf)

42. Article 13 includes an obligation to promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, which is also incorporated in Swedish Education Law. However, neo-nazi political parties are sometimes allowed access to Swedish schools to distribute political information, on the ground of equal treatment of political parties. There is an on-going commission to review this practise, which was supposed to finish its work by October 2015, but has been postponed to January 2016.<sup>41</sup> In the report to the committee Sweden merely states that xenophobia and intolerance must be confronted with knowledge, open discussion and active measures, without in any way specifying what those measures are.<sup>42</sup>

**- What measures will Sweden take to ensure that neo-nazi parties are not allowed access to distribute political information in schools?**

### **Article 15: Right to take part in cultural life, to enjoy the benefits of scientific progress and the protection of intellectual property**

43. The national minorities are experiencing difficulties in upholding and revitalising their languages and culture. Council of Europe's Committee of Ministers has voiced concerns about minorities' linguistic and cultural rights in Sweden. For instance, minorities have difficulties in being able to use their languages in their contact with the public service despite this being guaranteed by Swedish law.<sup>43</sup> The governmental economic support that national minorities can obtain through the Institute for Language and Folklore is insufficient.<sup>44</sup> Many fear that their languages and culture's position will weaken or even die out. This is a severe obstacle for national minorities to freely determine their identity and culture.

**- How will Sweden ensure the national minorities' right to their culture and languages?**

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<sup>41</sup> Swedish government, "Politisk information i skolan" (*Political information in school*), Dir 2014:117 and Dir 2015:55, available at <http://www.regeringen.se/rattsdokument/kommittedirektiv/2014/09/dir.-2014117/>

<sup>42</sup> Sweden's report on compliance with the UN Covenant on Economic, Social and Cultural Rights, June 24, 2013, page 95.

<sup>43</sup> Council of Europe, Committee of Ministers: "Resolution on the implementation of the Framework Convention for the Protection of National Minorities by Sweden", CM/ResCMN(2013)2, Adopted by the Committee of Ministers on 11 June 2013 at the 1173rd meeting of the Ministers' Deputies.

<sup>44</sup> The amount has stayed the same since 2010, see Institute for Language and Folklore, "Projekt som har beviljats medel 2010-2014" (*Projects that have been granted funds 2010-2014*), 2014, available at <http://www.sprakochfolkminnen.se/sprak/minoritetsprak/bidrag-till-minoritetspraken/projekt-som-beviljats-medel-2015/projekt-som-beviljats-medel-2010.html>