Sweden – Answer on the questionnaire from OHCHR on article 13, CRPD, Human Rights Council resolution 31/6

1. Does your country have laws, policies or guidelines on access to justice, at any level of government, which ensure persons with disabilities, particularly women and children with disabilities:

a. to participate in judicial and administrative proceedings on an equal basis with others in their role as witness, juror, complainant, defendant or other, including through the provision of procedural and age-appropriate accommodations (please identify and share the text of those provisions);

Answer:

There is comprehensive legislation in most areas covering all citizens; although all do not necessarily include disability specific provisions.

According to regulation 2001:526, all government agencies have a responsibility to work for ensuring that persons with disabilities receive full participation in social life and equality in living conditions. In particular, government agencies shall work to ensure that their premises, activities and information are available to persons with disabilities. In this work, the UN Convention on the Rights of Persons with Disabilities shall be conductive.

The Swedish Courts and the Swedish Prosecution Authority have adopted equality plans and diversity plans, and are continuously working on issues relating to values. The Swedish National Courts Administration has also been specifically commissioned to initiate, support and unite the preparation of strategies for the Swedish Courts’ work in relation to the treatment of parties and other individuals who get in contact with the courts.[[1]](#footnote-1)

The state party initial report to the CRPD committee (2011) states:

* From 2010, all the country’s courts must be accessible to everyone, including visitors with disabilities. Those court premises that have been newly constructed or renovated during the 2000s have been adapted according to current demands for accessibility. As regards other court premises, any shortcomings that have been identified during the inventory conducted by the Swedish National Courts Administration (Domstolsverket) will be rectified.
* In conjunction with the main proceedings in court, the potential for interpreting exists for persons with impaired vision and hearing. Remuneration for interpreters is paid from public funds.
* All district courts and courts of appeal have witness support operations. These activities contribute to calmer and more secure injured parties and witnesses. The Crime Victim Compensation and Support Authority (BrOM) have therefore produced easily comprehensible training material. The web-based Court Proceedings Introduction has been available since March 2008 (www.rattegangsskolan.se or www.courtintroduction.se).
* Crime Victim Compensation and Support Authority’s switchboard number is linked to a service that is targeted at people who, due to a disability, may need support to conduct voice calls. This is a national service that is free of charge and available to everyone.[[2]](#footnote-2)
* The Swedish Courts’ external website has been adapted to the guidelines for accessibility, WAI (Web Accessibility Initiative). This website includes easy-to-read, general information, as well as a function that facilitates the reading aloud of the information.[[3]](#footnote-3) (Comment: no sign language)
* If, due to a hearing or speech impediment, someone needs an interpreter, e.g. a sign language interpreter, courts may engage such a person under chapter 5, section 6, third paragraph of the Swedish Code of Judicial Procedure. Where criminal cases are involved, this procedure is mandatory, under the same provision.[[4]](#footnote-4)
* The Swedish Crime Victim Compensation and Support Authority provide the information material available to victims in alternative formats.[[5]](#footnote-5)
* There are no formal obstacles to a person with a disability becoming a juror or laymen. Besides the requirement that the person concerned must be a Swedish citizen and must not have an administrator, Swedish law prescribes that only persons who are suitable for the assignment in terms of their judgement, independence, obedience to the law and other circumstances may be appointed as laymen or jurors. Laymen and jurors are chosen by the municipal or county council and it is these bodies that assess suitability in each individual case. [[6]](#footnote-6)

b. to have individual legal standing in all administrative and judicial procedures, including the right to be heard as part of their right to fair trial;

Answer:

All Swedish citizens are equal before the law. Declarations of incapacity are no longer a legal institution in Sweden, having been abolished in 1989.

Swedish law has two institutions relating to the kind of substituted decision-making mentioned in the list of issues: administrators and deputies. Deputyship is the less intrusive of the two, and is generally based on the consent of the individual. An administrator has greater powers than a deputy. Decisions to place an individual under deputyship or administrator ship are taken by a court of law. Besides these rules, individuals of full legal competence are always permitted to grant another person power of attorney to assist them with their personal affairs, financial or otherwise.

The basic rule when choosing between a deputy and an administrator is that whichever is the least intrusive to the individual should be appointed. Also, the measures taken must be adapted to the needs of the individual in each case. An administrator ship, for instance, may be restricted to only certain specific tasks or to a certain share of property.

A deputy may be appointed in the case of individuals who, due to illness, mental disturbance, debilitated health or a similar condition need help in claiming their rights, managing their property or looking after their person (chapter 11, section 4 of the Act on The Children and Parents Code).[[7]](#footnote-7)

An administrator may be appointed in the case of individuals who, due to illness, mental disturbance, debilitated health or a similar condition are not in a fit state to care for themselves or their property (chapter 11, section 7 of the Act on The Children and Parents Code). An administrator may not be appointed, however, if it is deemed sufficient that the individual is being assisted by a deputy or in some other less intrusive manner, e.g. by a relative or an authorised legal representative. The individual may no longer take decisions on matters that fall under the administrator ship but otherwise retains the right to decide over his or her personal affairs.

If a deputy or an administrator is no longer needed, the deputyship or administrator ship is to be terminated (chapter 11, section of the Act on The Children and Parents Code).

c. to have access to effective remedies that are appropriately proportional to the right(s) infringed and tailored to their specific situation;

Answer:

Psychiatric care that entails deprivation of liberty and other compulsion is regulated in the law (1991:1128) on psychiatric compulsory institutional care. In 3 § there are prerequisites that must be fulfilled for either open or closed psychiatric compulsory institutional care to be enforced. The patient must suffer from a severe mental disorder and that as a consequence of his/her mental state and his/her personal circumstances

1. has an absolute need of psychiatric care, that cannot be provided for if the patient is not admitted to hospital for qualified psychiatric around-the-clock care (closed psychiatric compulsory institutional care), or
2. needs to observe specific conditions in order to be given necessary psychiatric care (open psychiatric compulsory institutional care)

A prerequisite for care according to the law on psychiatric compulsory institutional care) is that the patient opposes care or that it can be assumed that the care cannot be given with the consent of the patient. It shall also be considered whether the patient, due to his/her mental disorder, can be dangerous to him/herself or to someone else.

A diagnose (such as Autism spectrum, Neuropsychiatric disabilities, intellectual disabilities, psychosocial disabilities etc.) can never motivate psychiatric compulsory institutional care. It must always be motivated by the symptoms and/or functional ability of the patient at the time of decision.

The Patient Act (2014:821) affirms the right of the patient to have information on his/her state of health, methods for examination, care, treatment, etc. The patient has the right to choose the form of treatment, have a new medical assessment and a permanent care person. If the patient is a child, the right applies to the parent or the person who has custody of the child. If the patient cannot receive the information, it should be given to someone near the patient. The information shall be adapted to the recipient’s age, maturity, experience, language and other individual conditions. The person giving the information shall to the furthest extent possible, make sure that the recipient has understood the meaning and content of the information.

According to 16-17 § in the law on psychiatric compulsory institutional care, the patient has the right to participate in developing a care plan and has the right to a support person (30 §).

According to the Patient Safety Act (2010:659), the patient has the right to make a complaint. The patient can complain to the Patient Advisory Committee or to the Health and Social Care Inspectorate.

d. to have effective access to justice in the context of disasters, migration and asylum-seeking, conflict and post-conflict situations and transitional justice, and formal or informal systems of customary, indigenous and community justice, among others.

Answer:

Asylum seekers are covered by the Swedish Reception of Asylum Seekers’ Act (1994:137). It provides for accommodation and financial support. Special accommodations are available for persons with well-founded needs, including persons with disabilities. The Swedish Migration Agency has increased the availability of information through technical and pedagogical solutions. The introduction training programme for new employees at the Migration Agency contains issues on accessibility for disabled persons. The Agency´s internal Handbook on Migration Cases includes chapters on special needs and vulnerability of asylum-seekers with disabilities. The Migration Agency´s database for legal and country of origin information (Lifos) includes information and legal guidance on assessment of claims from disabled persons. . Asylum seekers and migrants with disabilities face the same challenges as other asylum seekers and migrants, but could be at risk of being more affected by them, since they may have greater needs. For example adult asylum seekers only have access to emergency and urgent medical (and dental) care. In this context they have the right of an interpreter, but sometimes there is a challenge for the health care system to provide an interpreter in any given situation.

Further, asylum seekers with disabilities have the right to support according to the Act on Reception of Asylum Seekers and others (1994:137), and to some extent, according to the Social Service Act (2001:453). The Swedish Agency for participation states in a recent report that there might be uncertainties among different actors on how to interpret these laws when it comes to support and service regarding asylum seekers with disabilities. In relation to this, there could be a risk of their right to access to justice might be affected.[[8]](#footnote-8)

2. Do you have examples from your country on:

a. how procedural and age-appropriate accommodations are provided and applied, including protocols or other guidelines;

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b. training programmes on the right of access to justice for persons with disabilities for judges, lawyers, prosecutors, police, social workers, language and sign language interpreters, legal aid centres, other judicial and administrative bodies intervening in judicial or quasi-judicial instances;

Answer:

- Elements relating to treatment and ethics are included in most of the basic training that is continually offered to the employees within the Swedish Courts. The range of courses also includes elements about applicable legislation and regulations regarding human rights, the rights of children and discrimination. Courses are also available about special protection legislation that focuses on persons with disabilities.[[9]](#footnote-9)

- The Swedish Courts offer training for all employees and all directors, focusing on awareness raising and treatment.[[10]](#footnote-10)

- The Court Academy (for the judiciary)

* “The court is for everyone” (e-learning): all court personnel have been urged to take it.
* Role of judges: training package, 13 days, focus on challenged individuals and equality and discrimination.
* Financial support to local or regional capacity building.

- The Swedish Prosecution Authority has recently developed an information page on dealing with people with disabilities.

- The Swedish Prosecution Authority has specially appointed prosecutors for investigations of child crimes. In addition to cases and self-interest, these prosecutors receive special education that includes topics such as child interrogation, child development, social services and children with disabilities.

- Uppsala University and the Swedish Association of Local Authorities and Regions have launched an e-learning training on Human Rights for all public servants in Sweden. The Swedish Agency for Participation has contributed with e.g. a specific chapter on the CRPD.[[11]](#footnote-11)

- The Swedish Prison and Probation Service is responsible for remand centres, prisons, probation and transport operations, for example with respect to the Service’s clients. The Service has drawn up guidelines for its client-oriented work against discrimination, as well as for the work with persons with disabilities within the Prison and Probation Service.[[12]](#footnote-12)

- The Service’s basic training includes information about applicable legislation and rules regarding human rights, the Convention on the Rights of the Child and discrimination, as well as theories regarding the mechanisms behind discrimination. Within both the basic training and the further training that the authority offers its employees, the Swedish Prison and Probation Service’s Vision and Core Values are a common starting point for highlighting discrimination and diversity issues in various training elements.[[13]](#footnote-13)

c. education programmes on the right of access to justice for persons with disabilities for law students as well as in schools of social work, sign language interpretation, forensic science, psychiatry and psychology, among other relevant faculties; and

Answer:

There are no data available to answer this question, although there are a few examples:

- Law students: the Law School at Uppsala University, one of the main Swedish universities, have no specific programmes on the right of access to justice for persons with disabilities. However, it is integrated as part of diversity and everyone’s access to justice. Many universities have students with disabilities and they work continuously with accessibility for them.

- Psychology programmes: Stockholm University, one of the main universities in Sweden, offer no specific courses on persons with disabilities.

The information above cannot be generalised to all universities, but it may serve as an indication.

d. legal aid programmes, public and/or private, which include the right of access to justice for persons with disabilities in their practices, including the availability of support and liaison services for courts or other judicial or quasi-judicial instances.

Answer:

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3. Does your country have laws, policies and strategies to ensure the participation of persons with disabilities on an equal basis with others in the judiciary or other judicial or quasi-judicial instances, including in their role as judges, witnesses, jurors, lawyers or any other active party to judicial or quasi-judicial procedures?

Answer:

- The Administrative Court Procedure Act (1971:291) and The Code of Judicial Procedure stipulate that an interpreter should be used when needed. The laws also include mentions of translations to and from Braille. The Administrative Procedure Act has no such wording concerning Braille. The laws cover information and communications for the parties, but do not regulate accessibility for jury members.

4. Does your country monitor and collect disaggregated data with respect to access to judicial or quasi-judicial procedures concerning:

Answer:

There is no available information on question 4 a-d, due to the lack of disaggregated data on disability.

1. CRPD/C/SWE/Q/1/Add.1, §45 [↑](#footnote-ref-1)
2. CRPD/C/SWE/1 [↑](#footnote-ref-2)
3. CRPD/C/SWE/Q/1/Add.1, 46 § [↑](#footnote-ref-3)
4. CRPD/C/SWE/Q/1/Add.1, 84 § [↑](#footnote-ref-4)
5. CRPD/C/SWE/Q/1/Add.1, 85 § [↑](#footnote-ref-5)
6. CRPD/C/SWE/Q/1/Add.1, 86 § [↑](#footnote-ref-6)
7. CRPD/C/SWE/Q/1/Add.1, 74-79 §§. [↑](#footnote-ref-7)
8. The Swedish Agency for participation, Persons with disabilities within the asylum and establishment process, 2017 [↑](#footnote-ref-8)
9. http://www.mfd.se/globalassets/dokument/uppfoljning/strategiska-myndigheters-aterrapportering/2016-domstolsverket-slutrapport-strategi-funktionshinderspolitiken-2011-2016.pdf [↑](#footnote-ref-9)
10. Ibid [↑](#footnote-ref-10)
11. Mrutbildning.se [↑](#footnote-ref-11)
12. CRPD/C/SWE/Q/1/Add.1, 48 § [↑](#footnote-ref-12)
13. CRPD/C/SWE/Q/1/Add.1, 49 § [↑](#footnote-ref-13)