## Answers from The Swedish Disability Federation to the Questionnaire Convention on the Rights of Persons with Disabilities Article 5 - equality and non-discrimination

The Swedish Disability Federation is an umbrella for 39 organisations with about 400 000 individual members.

Re Study on article 5, 30 June 2016

To: registry@ohchr.org

1. Has your country adopted legislation establishing disability as a prohibited ground of discrimination, including denial of reasonable accommodation as discrimination? Please provide details on any related legal reforms.

Yes, according to paragraph chapter 1 paragraph 1 of the Swedish Discrimination Act disability constitutes a prohibited ground of discrimination. According to chapter 1 paragraph 4 point 3 insufficient accessibility constitutes discrimination on the basis of disability given that reasonable accommodation has not been provided. Insufficient accessibility is defined as follows:

*“insufficient accessibility*: a person with a disability is disfavored by lack of accommodative measures to put the person in a comparable situation with a person without the disability, provided that the measures are reasonable considering accessibility demands in law and other statutes, and with consideration to

• economic and practical preconditions

• duration and extent of the relationship or contact between the entity and the individual, and

• other circumstances of significance”

According to chapter 2 of the Discrimination act the prohibition against discrimination applies to work and employment and related activities, including enterprises and membership in worker´s unions etc., education, supply of goods, services and housing, public meetings, health- and medical care, social services, social security and other income benefit programs, compulsory military service, civil service and some aspects of public employment. The Discrimination act is not all encompassing and for most affected areas there is an exemption to the requirement of reasonable accommodation for housing and private enterprises having less than 10 employees, see 2:12c point 1 and 3 the Discrimination Act. Sweden has received criticism from the CRPD committee in 2014:

**“The Committee urges the State party to review the proposed draft bill with a**

**view to ensuring its full harmonization with the provisions of article 5 of the**

**Convention, and to take all appropriate steps to ensure that reasonable**

**accommodation is provided in all spheres of society, in both public and professional**

**contexts, without any exemption, based on the principle of equal opportunities for all.**

**It also urges the State party to adopt a legal definition of reasonable accommodation**

**and incorporate it into all relevant statute laws so that it can be applicable in all areas**

**of government, including judicial and administrative areas.”**

2. Does your country apply an objective test to determine if an accommodation requested by a person with disability is undue or disproportionate? If so, please describe the tests and their different elements (500 words).

Accommodation mainly includes support and personal service, communication, information and physical accessibility. What measures will be deemed reasonable will depend on other legislation containing accessibility requirements. A measure is reasonable only if its cost can be met without additional budgetary contributions. Should a measure result in considerable consequences on public or private activities it is not reasonable. The measure shall also be possible to implement, both as concerns practicability and legal possibility. Lasting relationships demand more extensive accommodative measures. A holistic assessment shall be applied in order to assess whether a measure is reasonable. Should there be several viable alternatives it is up to the operator to choose which to implement, see Government Bill 2013/14:198, pp. 127-131 concerning insufficient accessibility as a ground of discrimination.

Insufficient accessibility as a ground of discrimination and the concept of reasonable accommodation is yet to be tried in Swedish courts. However, DHR, a Swedish organization for people with impaired mobility has recently filed a complaint concerning insufficient disability. The case concerns insufficient accessibility on a bus journey.

Reasonable accommodation at work has existed for a longer period. Very few cases have been tried in court. No case has been won.

1. Does your country apply affirmative actions for combating structural discrimination against persons with disabilities? If so, please describe how are these measures applied and enforced (500 words).

According to chapter 3 of the Discrimination act positive action may be taken in some areas. However, positive action to combat discrimination on grounds of disability is required only in the area of education. Positive action is not the same as affirmative action. Positive action only implies that the concerned entity has an obligation to strive for equal opportunities. According to the government bill 2015/16:135 concerning active measures, there is a proposal for active measures to encompass all discrimination grounds. This proposal has not yet been approved by the parliament. According to government regulation 2000:630 concerning special measures for persons with disabilities entailing reduced work capacity, there are extensive measures available to increase employment rates. Such measures include wage subsidies, grants provided to the employer as well as the disabled employee to adapt the work place or obtain assistive devices, and to some extent personal aid.

Further information on questions 1-3 see [*United Nations Convention on the Rights of Persons with Disabilities - Swedish compliance with the requirements of the convention*, Stockholm University, Faculty of Law, Andrea Bondesson, 2015.](http://www.diva-portal.se/smash/get/diva2%3A854146/FULLTEXT01.pdf)

4. Does your country have laws, policies and strategies for combating discrimination against women and children with disabilities? Please describe how these policies are reflected in legislation and policy frameworks (500 words).

The Swedish disability federation is not aware of any particular measures in the area. However, these perspectives are included in general policies and legislation concerning discrimination. The government has asked the Agency for participation, responsible for coordination of disability policies, to write a report on gender equality and equality for persons with disabilities. The Swedish disability federation however still awaits effective action to address the situation.

5 Is your country monitoring and collecting disaggregated data on discrimination against persons with disabilities, including gender, age and impairment disaggregation?

The Discrimination ombudsman collects data on filed complaints concerning discrimination on the basis of disability. However, it is the view of the Swedish disability federation that discrimination occurs every day that is not reported. There are other collections of data as well but these do not encompass all kinds of disabilities and are neither accessible for all persons with disabilities to participate in.
Sweden also received recommendations from the CRPD committee in 2014 about “**the appropriateness of the current structure used to deal with situations of intersectional discrimination.”** No action has been taken since then to our knowledge. The Swedish Disability Federation has written to the government concerning disaggregated data linked to the SDG:s. We also asked to be included in the national implementation of Agenda 2030. But we are not involved in the process.