
*The United Nations Convention on the Rights of the Child,
education, and participation in Swedish law*

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The United Nations Convention on the Rights of the Child, education, and participation in Swedish law

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Sweden wrote, in their latest periodic report to the United Nations Committee on the Rights of the Child (the Committee), that the goal of the child rights policy in Sweden is that children as well as young people must be respected and given opportunities for their development and security, as well as for their participation and influence – regardless of factors such as age, gender, origin, and disability all children should have their rights met¹.

- 2 On February 6th, 2023, Sweden received the Committee’s latest concluding observations. These observations include critique towards Sweden, pointing out that measures need to be taken regarding children and their education, i.e. that all children, regardless of their background, do not have the same access or quality to education². Education is an important element for children and their development, it enables children to participate in the world that they live in, making school being a prerequisite for all children, regardless of their situation and background, giving them the opportunity to not only achieve knowledge of e.g. the world that they live in, as well as improving their development, but also reducing discrimination of the child.
- 3 Furthermore, the creation of a digital school environment would be essential for the child being able to participate and take part of its right to development, as well as taking part and engaging in society. Hence, e-participation, i.e. “fostering civic engagement and open, participatory governance through Information and Communications Technologies (ICTs)”, is also a key element for the child’s development. According to the United Nations Development of Affaires growing evidence points to the rapid expansion of e-participation as a tool for engagement and strengthened collaboration between governments and citizens, with the objective “to improve access to information and public

¹ Committee on the Rights of the Child, *Combined sixth and seventh periodic reports submitted by Sweden under article 44 of the Convention* (CRC/C/SWE/6-7), para. 1 (5 September 2022, date received: 15 October 2021).

² Committee on the Rights of the Child, *Concluding observations on the combined sixth and seventh periodic reports of Sweden* (CRC/C/SWE/CO/6-7), para. 37 (6 February 2023).

services as well as to promote participation in policymaking, both for the empowerment of individual citizens and the benefit of society as a whole”³.

- 4 Municipalities in Sweden, as well as some private schools, holds the responsibility of the schools and the education that is set out for the children. However, the quality and access to education is something that has, lately, become problematic in Sweden since resources, among other things, have not been equally distributed regarding the schools in municipalities, and on the other hand regarding private schools the profits have not been distributed towards the children and their education⁴. In the United Nations Committee on the Rights of the Child’s latest concluding observations towards Sweden, they emphasize on the importance of the child’s right in relation to the digital environment, encouraging Sweden, to continue their efforts to enhance the digital literacy and skills of children, teachers, and families⁵.
- 5 The first section of this paper will introduce the Convention on the Rights of the Child. The Conventions four articles, which are general principles of the Convention, will be introduced – Article 2 (no discrimination), Article 3 (the best interests of the child), Article 6 (life, survival, and development), and Article 12 (respect for children’s views). Besides the Conventions general principles, Article 13 (right to freedom of expression), Article 17 (access to appropriate information), and Article 28 (right to education) are of particularly interest for the subject of this paper and will be described more thoroughly. The second section of this paper will cover the Swedish legal framework, highlighting the child’s right to school and education, showing different perspectives of these rights. Regulations that are set out for the child through governmental agencies will also be presented. Lastly, the paper will end with a final discussion, together with conclusions.

I. THE INTERNATIONAL LEGAL FRAMEWORK

- 6 As described above, the Convention on the Rights of the Child is the central convention aiming to promote and protect children’s rights, although there are also other rights that specifically target children within the United Nations system, the Council of Europe, and the European Union. Thus, it is important to highlight that children are also covered by the general rights that apply to all groups of individuals and to which Sweden is committed, inter alia the UN Universal Declaration of Human Rights, the UN Convention on Civil and Political Rights, the UN Convention on Economic, Social and Cultural Rights, the European Convention on Human Rights, and the Charter of Fundamental

³ United Nations, *Department of Economic and Social Affairs*, <https://publicadministration.un.org/en/eparticipation>. (Recently retrieved: 26/4-2023).

⁴ SVT Nyheter, *Helsingborgs skolbudget överklagas – ”bryter mot barnkonventionen”*, [Helsingborgs skolbudget överklagas – ”bryter mot barnkonventionen” | SVT Nyheter](#), Winnie Gravlund, published: 24/12-2022. (Recently retrieved: 26/4-2023).

⁵ CRC/C/SWE/CO/6-7, para. 21.

Rights of the European Union, but it is the Convention on the Rights of the Child that is the main focus of this paper.

- 7 This first section of the paper will introduce the Convention on the Rights of the Child, as well as the articles of the Convention that are of importance for this paper.

A. The Convention on the Rights of the Child

- 8 The Convention on the Rights of the Child was adopted by the United Nations General Assembly 20th of November 1989 and entered into force 2nd of September 1990, in accordance with Article 49 of the Convention. Articles 1–41 are the so-called substantive articles, i.e. those containing rights, while Articles 42–54 regulate the control system and international co-operation, accession, etc⁶.
- 9 According to the Committee four of the articles in the Convention should also be considered as general principles, of importance for the implementation of the entire Convention – Article 2 (no discrimination), Article 3 (the best interests of the child), Article 6 (life, survival, and development), and Article 12 (respect for children’s views). Furthermore, the Committee considers that the principles expressed in these four articles are fundamental and should guide, as well as supplement, when interpreting and applying other articles, and provisions, of the Convention. Although, it is important to know that these four articles also have their own independent meaning. The classification of these four articles as fundamental principles does not mean that they are more essential than the other substantive articles, but that the primary principles expressed in the articles, structure and are set out to be, key elements of the entire Convention. On the other hand, it is an approach that characterizes the whole Convention, that no articles can be seen in isolation but that the Convention is indivisible, and its articles interdependent⁷ However, the Convention and its articles must also be seen in the context of the other international obligations of the Member States. The universality, indivisibility, interdependence, and interrelatedness of all rights have been emphasized by the United Nations in the Vienna Declaration and Plan of Action of 1993⁸.
- 10 The Convention and the Additional Protocols⁹ constitute binding international law for the States that have adopted them, which means that States Parties are obliged to fulfil all obligations under the

⁶ United Nations, United Nations Human Rights Office of the High Commissioner, *Convention on the Rights of the Child*, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>. (Recently retrieved: 26/4-2023).

⁷ UNICEF, *Implementation Handbook for the Convention on the Rights of The Child* (2007), XIX (UNICEF, Implementation Handbook (2007)). Prop. 2017/18:186 s. 84.

⁸ The Vienna Declaration and Programme of Action, Adopted 25 June 1993 by the World Conference on Human Rights, UN Doc. A/CONF.157/23, Vienna, 12 July 1993, p. 5.

⁹ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, New York, 25 May 2000, UN Doc. A/Res/54/263. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, New York, 25 May 2000, UN Doc. A/Res/54/263. Optional Protocol to the Convention on the Rights of the Child on a communications procedure, New York, 27 January 2012, UN Doc. A/Res/66/138.

Convention unless the State has made a reservation to the Convention. Furthermore, Article 4 of the Convention requires Member States to take all appropriate legislative, administrative and other measures to implement the provisions of the Convention. However, there is no international court or administration of justice that deals with matters under the Convention. Instead, there is a special monitoring committee attached to the Convention, the previously mentioned Committee.

- ¹¹ The Committee's main task is to examine the national reports (mentioned above) that States Parties are required to submit at certain intervals, known as "periodic reviews", as set out in Article 44 of the Convention. The Committee then submits "concluding observations" to the reporting State, they also have general comments which are to be seen as recommendations, as well as guidelines, for the Member States.

B. Articles 13 and 17

- ¹² The Conventions Article 13 recognizes the right to freedom of expression. This right to freedom of expression, includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in form of art, or through any other media of the child's choice. Furthermore, the article states that the exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary – for respect of the rights or reputations of others, or for the protection of national security or of public order, "ordre public", or of public health or morals¹⁰.
- ¹³ Article 17 of the Convention recognizes that States Parties (Member States) should recognize the important function performed by the mass media, and that they shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual, and moral well-being, and physical, as well as mental health¹¹.
- ¹⁴ In the Committee's latest concluding observations towards Sweden, they provided with recommendations regarding Articles 13 and 17, referring to their general comment No. 25¹², on children's rights in relation to the digital environment, encouraging Sweden, among other recommendations, to continue their efforts to enhance the digital literacy and skills of children, teachers, and families¹³.

¹⁰ UNICEF, Implementation Handbook (2007), p. 177.

¹¹ *Ibidem*, p. 217.

¹² Committee on the Rights of The Child, *General comment No. 25 (2021) on children's rights in relation to the digital environment* (CRC/C/GC/25), (2 March 2021).

¹³ CRC/C/SWE/CO/6-7, para. 22.

C. Article 28

- ¹⁵ The Conventions Article 28 recognizes the right of the child to education. With a view to achieving this right progressively and on the basis of equal opportunity, the States Parties shall, in particular, make primary education compulsory and available free to all, encourage the development of different forms of secondary education, including general and vocational education, making them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need, make higher education accessible to all on the basis of capacity by every appropriate means, make educational and vocational information and guidance available and accessible to all children, take measures to encourage regular attendance at schools and the reduction of drop-out rates. States Parties shall also take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention. Lastly, States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries¹⁴.
- ¹⁶ The Committee expresses, regarding education in their latest concluding observations towards Sweden, that they remain concerned about disparities in children's access to the same quality of education. The Committee recommends that the State Party, ensure the equal access of children in disadvantaged groups, including asylum-seeking, refugee and migrant children, children in alternative care and children from socioeconomically disadvantaged families, to quality education, allocating the resources to ensure the high quality and accessibility of public education and regulating and monitoring private schools with the aim of addressing inequality in the education system, and making primary and secondary education compulsory for all children, including asylum-seeking children, children with an irregular residence status and children with temporary residence permits. The Committee encourages Sweden to strengthen measures for ensuring inclusive education in mainstream schools for all children with disabilities, abolishing the provision of the Swedish Education Act (for full reference, see below) which makes the acceptance of a child with disabilities conditional upon certain factors, as well as adapting curricula and training, assigning specialized teachers and professionals in integrated classes so that children with disabilities and learning difficulties receive individual support¹⁵.
- ¹⁷ Furthermore, sufficient human and financial resources should be allocated for the implementation of the recommendations of the inquiry report on more equal schools, with a view to eliminating

¹⁴ UNICEF Implementation Handbook (2007), p. 407.

¹⁵ CRC/C/SWE/CO/6-7, para. 37-38.

segregation and discrimination in schools, as well as ensuring the active participation of children and adolescents in the formulation of educational policies¹⁶.

- 18 Regarding early childhood education the Committee recommends Sweden to strengthen measures to address disparities in the quality of early childhood education and address the shortage of teachers, including through creative incentives for the early childhood teaching profession¹⁷.
- 19 Regarding children's rights related to the digital environment, the Committee, in its general comment No. 25, points out that the digital environment greatly enables and enhances children's access to high-quality inclusive education, including reliable resources for formal, non-formal, informal, peer-to-peer and self-directed learning. Furthermore, they express that the use of digital technologies also strengthens engagement between the teacher and student, as well as learners. Also, according to the Committee, children have highlighted the importance of digital technologies, improving their access to education, and supporting their learning and participation in extracurricular activities¹⁸. Hence, the Committee recommends that States Parties should support educational and cultural institutions, such as archives, libraries and museums, enabling access for children to diverse digital and interactive learning resources, including indigenous resources, and resources in the languages that children understand. Those, among other valuable, resources can support children's engagement with their own creative, civic and cultural practices, enabling them to learn about those of others. The Committee encourages States Parties to enhance children's opportunities for online and lifelong learning¹⁹.
- 20 Moreover, the Committee highlights that States Parties should invest equitably in technological infrastructure in schools and other learning settings, teacher training on the use of digital educational technologies, accessibility, and the timely maintenance of school technologies. The Committee hence promotes the use of digital technologies, and notes that it does not undermine in-person education and is justified for educational purposes²⁰. Children who are not physically present in school or for those who live in remote areas or in disadvantaged or vulnerable situations, digital educational technologies can enable distance or mobile learning²¹. Therefore, States Parties should ensure that there is proper infrastructure in place to enable access for all children to the basic utilities necessary for distance learning, including access to devices, electricity, connectivity, educational materials, and

¹⁶ *Ibidem*, para. 38.

¹⁷ *Ibidem*, para. 39.

¹⁸ General comment No. 25 (2021), para. 99.

¹⁹ General comment No. 17 (2013), para. 10. General comment No. 25 (2021), para. 100.

²⁰ General comment No. 25 (2021), para. 101.

²¹ Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2019), para. 64; and Committee on the Rights of the Child, general comment No. 11 (2009), para. 61; and general comment No. 21 (2017), para. 55.

professional support, as well as ensuring that schools have sufficient resources to provide parents and caregivers with guidance on remote learning at home²².

- 21 Furthermore, the general comments recommend States Parties to develop evidence-based policies, standards and guidelines for schools and other relevant bodies responsible for procuring and using educational technologies and materials, to enhance the provision of valuable educational benefits. Taking into consideration that the use of those technologies is ethical and appropriate for educational purposes and do not expose children to violence, discrimination, misuse of their personal data, commercial exploitation, or other infringements of their rights²³. The Committee promotes that digital literacy is taught in schools, as part of basic education curricula, from the preschool level and throughout all school years, and that such pedagogies are assessed on the basis of their results²⁴. Curricula should include the knowledge and skills to safely handle a wide range of digital tools and resources, including those relating to content, creation, collaboration, participation, socialization and civic engagement. Curricula should also among other recommendation include promoting awareness among children of the possible adverse consequences of exposure to risks relating to content, contact, conduct and contract, including cyberaggression, trafficking, sexual exploitation and abuse and other forms of violence, as well as coping strategies to reduce harm and strategies to protect their personal data and those of others and to build children's social and emotional skills and resilience²⁵.
- 22 Lastly, the Committee expresses that it is of increasing importance that children gain an understanding of the digital environment, including its infrastructure, business practices, persuasive strategies and the uses of automated processing and personal data and surveillance, and of the possible negative effects of digitalization on societies. Teachers, particularly those who undertake digital literacy education and sexual and reproductive health education, should be trained on safeguards relating to the digital environment²⁶.

II. THE SWEDISH LEGAL FRAMEWORK

- 23 This second section of the paper will at first give an insight into the Convention on the Rights of the Child and its position in Swedish law, followed by introducing the Swedish legal framework, highlighting the child's right to school and education, showing different perspectives of these rights, e.g. children with disabilities, children seeking asylum. Regulations that are set out for the child through governmental agencies will also be presented.

²² General comment No. 25 (2021), para. 102.

²³ *Ibidem*, para. 103.

²⁴ General comment No. 20 (2016), para. 47.

²⁵ General comment No. 25 (2021), para. 104.

²⁶ *Ibidem*, para. 105.

A. *The Convention on the Rights of the Child in Sweden*

- ²⁴ Sweden was one of the first countries to ratify the Convention on the Rights of the Child in 1990, adopted without reservations²⁷. Through ratification, Sweden became bound by the Convention under international law. No special legislative measures were taken in connection with the ratification, as Sweden has a dualistic approach to the relationship between international and national law, conventions must be incorporated into Swedish law in one way or another, to be applied nationally²⁸.
- ²⁵ Both incorporation and transformation have been used to implement, i.e. incorporate, convention commitments in Sweden. Furthermore, treaty-compliant interpretation has been applied to avoid conflicts between the different regulatory systems, i.e. between Convention provisions and Swedish law. This has been done either by the Swedish Parliament [riksdag], in connection with the Government's proposals on new treaty obligations, assuming normative harmony with existing legislation or by the courts, when applying national rules, presuming that these are in harmony with the relevant treaties and interpreting the national rules on the basis of this presumed normative harmony. In accordance with the principle of interpretation in conformity with the Treaties, Swedish legislation must be presumed to be compatible with Sweden's international commitments and, as far as possible, interpreted in accordance with them. However, in the event of a conflict between a provision in a Convention and an express statutory provision, it has been held that the legislation should take precedence²⁹.
- ²⁶ Even in the case of a transformation of treaty provisions, however, it is Swedish legislation that takes precedence in the event of conflicts, since the Convention has not been made law in Sweden. This also means that it is the Swedish legal text, its preparatory work and case law, etc. that mainly form the basis for the interpretation of the transformed provisions³⁰. Although in recent years the Swedish courts have become increasingly compliant with international obligations, not least in relation to the human rights conventions to which Sweden has acceded³¹.
- ²⁷ The shortcomings with regard to the implementation of the Convention on the Rights of the Child in Swedish law have, nonetheless, led to continued criticism. For example, in connection with the national reports that States are required to submit at regular intervals, the Committee on the Rights of the Child has criticised the fact that the Convention has not been made law in Sweden and has

²⁷ For information on acceding countries, etc., see https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en. (Recently retrieved: 26/4-2023).

²⁸ Prop. 2017/18:186 s. 60.

²⁹ H. STRÖMBERG & G. MELANDER, *Folkrätt*, Studentlitteratur, Lund, 2003, p. 23. O. BRING, M. KLAMBERG, S. MAHMOUDI, P. WRANGE, *Sverige och folkrätten*, 6 uppl., Norstedts Juridik, Stockholm, 2020, p. 63.

³⁰ H. STRÖMBERG & G. MELANDER, *Folkrätt*, *op. cit.*, p. 23. O. BRING, M. KLAMBERG, S. MAHMOUDI, P. WRANGE, *Sverige och folkrätten*, *op. cit.*, p. 63.

³¹ H. STRÖMBERG & G. MELANDER, *Folkrätt*, *op. cit.*, p. 67.

also urged Sweden to “take all necessary measures to ensure that national legislation is fully consistent with the Convention and that in case of conflict the Convention shall always prevail over provisions of national law”³².

B. The Swedish School Regulation

- 28 The Form of Government [regeringsformen (1974:152)] states in chapter 2 section 18 paragraph 1 that every child which are subject to compulsory schooling, have the right to free, basic education in public schools, and that the public sector holds the responsibility for the provision of higher education.
- 29 The main regulatory framework for schools is found in the Swedish Education Act [skollag (2010:800)]. Within the legislation of the Education Act rules regarding compulsory education, as well as the right to education is regulated in chapter 7. Furthermore, more specific regulation based on the level of school is stated in chapter 8 section 4 (pre-school, three years of age), chapter 7 section 10 and 11 (pre-school class, as of five or six years of age), chapter 7 section 10 and 11a (primary school or equivalent, as of seven years of age), i.e. specialized primary school, special school and Sami school, and chapter 15 section 5 (upper secondary school, as of fifteen or sixteen years of age)³³.
- 30 Chapter 7 section 2 and 3 of the Act regulates the right to education for children which are asylum seekers, it states that children that are covered by section 1 and 1a Law on Reception of Asylum Seekers and others [lag om mottagande av asylsökande m.fl (1994:137)], have the same right to education as children that live in Sweden, i.e. free fundamental education in public schools. However, in difference to Swedish living children they are not included in the compulsory education, chapter 7 section 2 paragraph 3 in the Act. Hence, Social services do not have any obligation to follow up on children that miss out on school, despite them being enrolled.
- 31 Regarding upper secondary education, there is no compulsory schooling, only a right for young people which are residents in Sweden. However, there are restrictions on the right to upper secondary education for asylum seekers. There are also exceptions in the Act, chapter 29 section 3 paragraph 1, stating that asylum seekers and “undocumented migrants” up to eighteen years old only are entitled to education in upper secondary school, or specialized upper secondary school, if studies have begun before the student turns 18. This means that a student which has started his or her education before the age of eighteen has the right to continue their education in the municipality that they live in, this also applies after the students eighteenth birthday³⁴. Finally, concerning asylum seekers, it is stated in the Act, in chapter 29 section 2 paragraph 3, that the right to education does not end with a final

³² See CRC, Concluding observations of the fifth periodic report of Sweden, CRC/C/SWE/CO/5, 6 March 2015, para. 6–8, for the latest critique. See CRC/C/SWE/CO/4, 12 June 2009, para. 9–10, for the Committee's earlier critique.

³³ Prop. 2017/18:9.

³⁴ Prop. 2016/17:133, 2017/18:852.

decision on removal or expulsion, but only when the child leaves the country. The municipality is obliged to offer the child a position in school as soon as it is appropriate in view of the child's personal circumstances. However, this should be done no later than one month after arrival in Sweden according to chapter 4 section 1a in the School Regulation Ordinance [skolförordningen (2011:185)]³⁵.

- 32 Regarding the child's right to the digital environment in relation to Swedish law, there are no specific rules regulated in relation to e-participation³⁶. Although, there are regulations in relation to remote learning for children. These rules are stated in chapters 21 and 22 in the Education Act, as well as in chapters 5 a, and 5 b in the School Regulation Ordinance and in chapters 4 a, and 4 b in the Upper Secondary School Ordinance [gymnasieförordningen (2010:2039)]. Instead, there are mainly soft law documents, such as policies, regulated within the municipalities, with private schools being able to control their own rules to a certain degree.
- 33 The Swedish National Agency for Education [Skolverket], is the central administrative authority for the public school system in Sweden. The Agency is tasked with ensuring that every child has access to equality, secure environments, and high-quality standards of education. Other than this, their primary focus is to create the best conditions for the child's development and learning, helping to improve the student's learning outcomes. Moreover, the Agency believes that moving towards digitalization creates a greater opportunity to spread information, as well as sharing knowledge, by using new technology within working methods this both gives teachers new, more attractive teaching opportunities, as well as giving the students a chance in presenting their abilities in other ways. The Agency believes that the school plays a primary role, being able to take advantage and contribute to the positive sides of the digital world. However, they point out that it is essential for everyone working within the school system to increase their understanding of not only opportunities, but also challenges, within the digital world, as well as having expertise when using digital tools³⁷. Lastly, the Agency has, on behalf of the Swedish Government, developed a new proposal for the Swedish school systems regarding the years 2023–2027, the proposal is aiming for a national digitalization strategy that will focus on students digital competence, as well as the use of digital learning resources³⁸.

³⁵ Supplementary provisions are found in a special regulation: Ordinance (2001:976) on education, pre-school activities and school childcare for asylum-seeking children, etc.

³⁶ However, there are regulations for digital examination in the School Regulation Ordinance [skolförordningen (2011:185)] and the Upper Secondary School Ordinance [gymnasieförordningen (2010:2039)].

³⁷ Skolverket, *Så arbetar Skolverket med digitalisering*, <https://www.skolverket.se/om-oss/var-verksamhet/skolverkets-prioriterade-omraden/digitalisering/sa-arbetar-vi-med-skolans-digitalisering>, latest update: 29/5-2023, (Recently retrieved: 26/4-2023). In 2021, the Swedish National Agency for Education submitted a report, to the government, on the follow-up to the digitization strategy on digitization 2018–2021. The Swedish National Agency for Education has also produced a new proposal for the school system 2023–2027, a proposal for a national digitalization strategy, which was drawn up on behalf of the government.

³⁸ Proposal, *A national digitization strategy for the school system 2023–2027*.

III. FINAL DISCUSSION AND CONCLUSIONS

- 34 As described, in Sweden, it is a stated goal of the child rights policy that children as well as young people must be respected and given opportunities for their development and security, and for their participation and influence. This is something that Sweden is obliged to do due to its ratification of the United Nations Convention on the Rights of the Child, as the Convention is aiming to promote and protect children's rights and interests within society. In addition, Sweden is obliged to do so regardless of factors such as age, gender, origin, and disability, as all children should have their rights met³⁹. Despite this, Sweden has received critique from the Committee, highlighting that measures need to be taken regarding children and their education, i.e. that all children do not have the same access or quality to education⁴⁰.
- 35 Furthermore, schools set out to be a key element for children and their development, as well as their possibility to participate in society, as they form the primary platform of education. Therefore, the State Party is to make sure that every child, regardless of their situation and background, can participate. In addition, the creation of a digital school environment is essential for the child being able to participate, meaning that rapid expansion of e-participation as a tool for engagement and strengthened collaboration between governments and citizens would empower the child and at the same time benefit the society "as a whole" – the government being the school and the child being the citizen in this matter. This makes it essential that the quality and access to education is absolute, as well as being equal and making it able for all to participate.
- 36 Nonetheless, regarding the child's right to the digital environment in relation to Swedish law, there are no specific rules regulated in relation to e-participation, although, regulations in relation to remote learning for children exist⁴¹. Instead, there are mainly soft law documents, such as policies, regulated within the municipalities, with private schools being able to control their own rules to a certain degree. Hence, which has been described, in Sweden, it is the municipalities, as well as some private schools, that holds the responsibility of the schools and the education that is set out for the children⁴². However, both the municipalities and private schools obtain self-regulation to a great extent. This is particularly the case when it comes to e-participation, as there is no school legislation for regulation. In addition to this, in Sweden, recourses, among other things, on the one hand have not been equally distributed regarding the schools in municipalities, and on the other hand, regarding private schools, the profits have not been distributed towards the children and their education. On that account, making the platform of education difficult for each child.

³⁹ CRC/C/SWE/6-7, para 1.

⁴⁰ CRC/C/SWE/CO/6-7, para 37.

⁴¹ However, there are regulations for digital examination in the School Regulation Ordinance [skolförordningen (2011:185)] and the Upper Secondary School Ordinance [gymnasieförordningen (2010:2039)].

⁴² SVT Nyheter, *Helsingborgs skolbudget överklagas – "bryter mot barnkonventionen"*, [Helsingborgs skolbudget överklagas – "bryter mot barnkonventionen" | SVT Nyheter](#), Winnie Gravlund, published: 24/12-2022. (Recently retrieved: 26/4-2023).

- 37 One of the general principles in the Convention, Article 2, states, among other important aspects, that States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind. Article 6 is another general principle, stating the child's right to life, survival, and development. These two articles are of fundamental importance in relation to Article 28 – the child's right to education. The same applies to Article 12 stating the respect for the child's views, which is also central for the determination of the best interest of the child regulated in Article 3⁴³.
- 38 Alongside these central general principles, Article 13 recognizes the right to freedom of expression, including freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in form of art, or through any other media of the child's choice⁴⁴. Article 17 finally states a right to the access to appropriate information, these articles are of fundamental importance in relation to Article 28⁴⁵. Concerning these articles, the United Nations Committee on the Rights of the Child, noted in their general comments towards all States Parties, the child's right in relation to the digital environment. That the continuance of their efforts to enhance the digital literacy and skills of children, teachers, and families, are of highly importance, for the child to achieve their right in Article 28 progressively and on the basis of equal opportunity, the States Parties shall, in particular, make primary education compulsory and available free to all⁴⁶. Accordingly, this, in relation to digital literacy in order to be able to participate in society, e-participation is something that would create a more inclusive platform for the child and its education, as well as development.
- 39 Furthermore, the Committee has noted, regarding education in their latest concluding observations towards Sweden, that they remain concerned about disparities in children's access to the same quality of education. Recommending that Sweden ensures the equal access of children in disadvantaged groups, including asylum-seeking, refugee and migrant children, children in alternative care and children from socioeconomically disadvantaged families, to quality education, allocating the resources to ensure the high quality and accessibility of public education and regulating and monitoring private schools with the aim of addressing inequality in the education system, and making primary and secondary education compulsory for all children, including asylum-seeking children, children with an irregular residence status and children with temporary residence permits. Furthermore, encouraging Sweden to strengthen measures for ensuring inclusive education in mainstream schools for all children with disabilities, as well as adapting curricula and training, assigning specialized teachers and

⁴³ UNICEF, Implementation Handbook (2007), p. 17, p. 35, p. 83, p. 149, p. 407.

⁴⁴ *Ibidem*, p. 177.

⁴⁵ *Ibidem*, p. 217.

⁴⁶ CRC/C/SWE/CO/6-7, para. 21-22. UNICEF Implementation Handbook (2007), p. 407.

professionals in integrated classes so that children with disabilities and learning difficulties receive individual support⁴⁷.

- ⁴⁰ Here, the question of e-participation arises, especially in the light of the Conventions Article 2, since education offered by schools does not reach all children living in different vulnerable situations, children being asylum seekers or children with disabilities do not obtain the right form of being able to participate on their needs and behalf. According to the Committee, the digital environment greatly enables and enhances children's access to high-quality inclusive education, which can support children's engagement with their own creative, civic, and cultural practices, also enabling them to learn about those of others⁴⁸.
- ⁴¹ A possibility to gain online education, through the digital sphere, would also benefit children that are asylum seekers, and irregular migrant children. Swedish law states that it is compulsory for Swedish children going to school, however this does not refer to asylum seeking children or irregular migrant children, which is something that the Committee has raised criticism towards. On the one hand, there are good reasons why school should be compulsory, taking into account the child's ability to participate in school, dependent on their parents or guardians, in those cases that the parent or guardian does not make it possible for the child to attend school, compulsory schooling is penalized with a fine. On the other hand, there are good reasons for not making school compulsory for asylum seeking children and irregular migrant children, in the light of the rules on breaking confidentiality, and now also the agreement between the government parties and the Swedish democrats about an obligation for teachers and others to report irregulars to the migrant authorities, and because of this a risk for expulsion.
- ⁴² On the contrary, creating a digital sphere for the child would enable asylum-seeking – and, in particular, irregular migrant – children in Sweden to participate through different platforms, and the right to education would not be limited. At the moment all children have a right to education, but education is not compulsory for all, which creates a space of conflict for the child regarding their right to education.
- ⁴³ Compulsory e-participation, where it is adapted to different types of children, would mean less discrimination for the child, and provide equal access to knowledge and education for all children, welcoming the child, no matter background, to take part in the society that they live in. Now, the regulation of the right to education has mostly been left to others than legal practitioners, which obviously leads to difficulties in enforcing the regulation.

⁴⁷ CRC/C/SWE/CO/6-7, para. 37-38.

⁴⁸ General comment No. 17 (2013), para. 10. General comment No. 25 (2021), para. 99-100.

RESUME :

Il s'agit d'examiner la mise en œuvre par la Suède de la CDE, en particulier sur les droits à l'éducation et à la participation des enfants. La Suède vise à respecter et faciliter les droits de tous les enfants, offrant des opportunités de développement et de participation indépendamment de leur âge, sexe, origine ou handicap. En février 2023, le Comité des droits de l'enfant de l'ONU a critiqué la Suède pour ne pas avoir assuré un accès égal à une éducation de qualité pour tous les enfants. L'éducation est cruciale pour le développement des enfants, leur permettant de participer à la société. Il est important de créer un environnement scolaire numérique et de promouvoir la e-participation pour le développement des enfants et leur engagement sociétal. La e-participation utilise les TIC pour favoriser l'engagement civique et la gouvernance participative, améliorant l'accès à l'information et aux services publics. Les municipalités et écoles privées en Suède sont responsables de l'éducation, mais des disparités dans l'allocation des ressources ont conduit à des inégalités en matière de qualité et d'accès. Le Comité de l'ONU exhorte la Suède à améliorer les compétences numériques et la littératie parmi les enfants, enseignants et familles.

Le Comité de l'ONU recommande un accès égal à une éducation de qualité pour les groupes défavorisés, l'éducation obligatoire pour tous les enfants, une éducation inclusive pour les enfants handicapés et un meilleur soutien pour l'éducation de la petite enfance.

En conclusion, il est nécessaire pour la Suède d'allouer des ressources suffisantes pour remédier aux disparités éducatives et améliorer la littératie numérique, afin de remplir ses obligations en vertu de la CDE et garantir que tous les enfants puissent jouir de leur droit à l'éducation et participer activement à la société.

SUMMARY:

This paper examines Sweden's implementation of the CRC, focusing on children's education and participation rights. Sweden aims to uphold the rights of all children, ensuring opportunities for development and participation regardless of age, gender, origin, or disability. In February 2023, the UN Committee on the Rights of the Child criticized Sweden for not ensuring equal access to quality education. Education is vital for children's development and societal participation. There is a need for a digital school environment and e-participation, using ICT to enhance civic engagement and access to information. Swedish municipalities and private schools manage education, but disparities in resource allocation cause inequalities in quality and access. The UN Committee's observations urge Sweden to improve digital literacy among children, teachers, and families.

The UN Committee's recommendations include ensuring equal access to quality education for disadvantaged groups, making primary and secondary education compulsory, advocating for inclusive education for children with disabilities, and better support for early childhood education.

The paper concludes by stressing the need for Sweden to allocate resources to address educational disparities and enhance digital literacy, fulfilling its CRC obligations and ensuring all children can actively participate in society.