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To
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Notice of State party measures contradicting concluding observations on the initial report from Sweden regarding article 19 of the convention on the rights of persons with disabilities

The Swedish Disability Federation is the united voice of the Swedish disability movement before government, the parliament and national authorities. The federation was founded 1942 and consists of 39 national disability organisations with about 400 000 individual members. We are active members of the European Disability Forum.

The Swedish Disability Federation would like to direct the Committee's attention to the ongoing retrogressive measures launched by the Swedish state concerning state funded personal assistance, contradicting the recommendation from the Committee in concluding observations on the initial report from Sweden in April 2014.

The Swedish Disability Federation takes note of the Committee's Guidelines on periodic reporting to the Committee on the Rights of Persons with Disabilities, including under the simplified reporting procedures, document CRPD/C/16/3, of September 2th 2016. In paragraphs 103-112 the Committee emphasizes the right of persons with disabilities to freely choose their place of residence and to have social support based on their individual requirements. Persons with disabilities are entitled to personal assistance, independent living schemes. Measures adopted in times of financial crisis must not disproportionately affect persons with disabilities. Measures shall be taken to prevent reduction in support reducing the ability to live independently in the community,

resulting in isolation or segregation. States parties are to work towards deinstitutionalization.

In April 2014 the CRPD Committee had the following to say regarding fulfillment of article 19 in the concluding observations on the initial report of Sweden, document CRPD/C/SWE/CO/1, May 12th 2014:

Living independently and being included in the community (art. 19)

43. The Committee is concerned that State-funded personal assistance has been withdrawn for a number of people since 2010 due to a revised interpretation of “basic needs” and “other personal needs”, and that persons who still receive assistance have experienced sharp cutbacks, the reasons for which are unknown or only seemingly justified. It is further concerned at the reported number of positive decisions under the Swedish Act concerning Support and Service for Persons with Certain Functional Impairments that are not executed.

44. The Committee recommends that the State party ensure that personal assistance programmes provide sufficient and fair financial assistance to ensure that a person can live independently in the community.

The Committee has thus criticized Sweden for the decrease in provision of state funded personal assistance. The right to personal assistance as provided for in subparagraph (b) of article 19 is absolutely necessary to ensure independent living for many persons with disabilities. Without such support, or too little support, persons will be confined to their homes and/or left dependent on their relatives. They will be unable to participate in the community, to work, to hold public office, to active participation in family life; including as parents and to leisure and cultural activities among other things. A violation of article 19 is therefore also a violation of many other articles of the Convention.

Notwithstanding the above mentioned critique of the Committee the Swedish government has acted to further decrease the provision of state funded personal assistance. In the government’s regulatory note concerning allocation of resources for 2016 to the Swedish Social Insurance Agency, which is responsible for provision of state funded personal assistance. On the first page of this document it is stated that the Social Insurance Agency shall contribute to the breaking of the development of the number of hours within the assistance benefit.¹

In May 2016 the Swedish government has issued directives to a new public inquiry concerning the Act on support and service to certain persons with functional impairments and the assistance benefit.² It is

¹ Regulatory note for 2016 for the Swedish Social Insurance Agency
<http://www.esv.se/statsliggaren/regleringsbrev/?RBID=17015>

² Committee directive 2016:40, Review of support services according to the Act concerning support and service to certain persons with functional impairments and the

apparent from these directives that the government aims to cut costs and make savings due to a preconceived notion of excessive costs of, especially, state funded personal assistance. The government further states that savings made in state funded personal assistance will finance better quality of support in other community based support service according to the Act on support and service to certain persons with disabilities, page 16. A reference to article 19 CRPD is made by the government. As the Committee's recommendations in 2014 entailed severe critique of cutbacks in state funded personal assistance the Swedish Disability Federation finds this statement quite hypocritical.

The Swedish Disability Federation submits, as stated above, that cutbacks in state funded personal assistance amount to a violation of, firstly, article 19 CRPD read in conjunction with article 3. It furthermore amounts to a violation of article 17, 23 and 28. Withdrawal and reduction of support will violate the integrity of persons in need of such support as they will no longer be able to live independently and decide who will help them. Cutbacks are taking away the support families with family members need. Further withdrawal and reduction of support will severely limit the ability of these families to live independent lives on equal terms with other families. Cutbacks will in addition violate the right of persons with disabilities to support with costs inflicted by the disability.

The Swedish disability federation would like to emphasize the general obligation in article 4 paragraph 2 of progressive realization. Article 19, 28 and parts of article 23 are social rights and thus subject to progressive realization but it must be emphasized that States Parties are not allowed to limit current and already achieved fulfillment of these rights. States parties are obliged to take measures to the maximum of their available resources in order to progressively fulfill the right to independent living. With the regulatory note and the committee directives the Swedish government wishes to limit already achieved fulfillment of these rights.

Cutbacks in state funded personal assistance to make budgetary savings will adversely and disproportionately affect users of such assistance. The government has suggested no adequate alternative solutions in the committee directives but leave this to the inquiry. On the other hand the government is set on cutting costs. As is clear according to the

assistance benefit. See pages 1, 15-16, 22 and 24.
<http://www.regeringen.se/rattsdokument/kommittedirektiv/2016/05/oversyn-av-insatser-enligt-lss-och-assistansersattningen/>

Committee's guidelines on reporting retrogressive measures in times of financial crisis must not adversely and disproportionately affect persons with disabilities. Cutbacks in state funded personal assistance will entail most severe adverse consequences for users of assistance which will limit the ability of these persons to live independent lives, to autonomy, and to participation and inclusion in society. Sweden is not in such a state of financial crisis that can justify any kind of retrogressive measures as concerns already fulfilled rights.

The Committee has made it very clear in its concluding observations in 2014 that the Swedish state should allocate sufficient financial resources for state funded personal assistance. The Committee criticized the cutbacks. The Swedish government has, through among others the above mentioned official documents, made it abundantly clear that it intends to increase these cutbacks; thus completely ignoring the recommendations made by the Committee.

Since the Committee issued the concluding observations in 2014, the Swedish government has only acted on one of the recommendations concerning article 8. The Swedish Disability Federation would like to call on the Committee, to consider starting a follow up procedure³. If such a procedure could be started we would like to ask for follow up on recommendations regarding in particular articles 1-4, 5, 19, 24, 27 and 33.

Yours sincerely



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President
The Swedish Disability Federation

³ Follow up procedure according to ohrchr.org
<http://www.ohchr.org/EN/HRBodies/Pages/FollowUpProcedure.aspx>