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State efforts to strengthen compliance with the Convention on the Rights of the Child

– high ambitions but inadequate implementation

Summary

The UN Convention on the Rights of the Child (“the CRC”) has been in force in Sweden for over 30 years and has been Swedish law since 2020. Nevertheless, there have long been challenges in implementing the CRC in practice. The Swedish National Audit Office (“the Swedish NAO”) has examined the efforts of the state to strengthen compliance with the CRC, with a particular focus on the educational area. The audit has included the Government, the Ombudsman for Children and three national agencies for schools and education – The National Agency for Special Needs Education and Schools, the National Agency for Education, and the Swedish Schools Inspectorate.

The overall conclusion is that state efforts to strengthen compliance with the CRC have not been sufficiently effective.

The Government’s work to strengthen a children’s rights approach has not been sufficiently effective

The Riksdag and the Government have expressed clear ambitions that a children’s rights based approach should have more impact – but the Government has not expressed these ambitions in concrete terms in its governance of national agencies or

in relation to local and regional authorities. As a result, it is unclear to agencies and other actors what the Government wishes to achieve and what the actors are expected to change in their work. This in turn increases the risk of the work relating to children's rights being deprioritised. This is exemplified in the audit by how the educational agencies apply a children's rights perspective in different ways and to varying degrees, and that parts of the children's rights work at the National Agency for Education have come to a halt.

The audit also shows that there are shortcomings in the children's rights perspective in the work preceding certain legislative proposals in the educational area. The Swedish NAO concludes that the Government needs to be clearer and more coordinated in its governance of public agencies, for the CRC to have more impact in practice.

The Ombudsman for Children needs to improve its efforts to promote and monitor compliance with the CRC

The audit shows that there are shortcomings in the Ombudsman for Children's reports and that their work related to collecting and analysing case law needs to be developed. Many of the Ombudsman for Children's reports to the Government contain conclusions that are insufficiently substantiated and proposals that are inadequately motivated. The Swedish NAO therefore finds that the reports are not an effective means of promoting the implementation of the CRC.

The Ombudsman for Children collects case law on the CRC in a database in the purpose of monitoring and analysing legal developments. However, the delimitations applied in this work excludes certain types of cases from the database, which means that the database only provides a limited picture of legal developments, and insufficient guidance for actors in need of support in applying the CRC. The Swedish NAO therefore questions whether the delimitations are appropriate and whether the database is fit for purpose.

The Ombudsman for Children has not executed its legal obligation of compiling statistics on the living conditions of children and youths since 2021. The Government needs to clarify the need for compiled statistics and review who should be responsible for the task.

The educational agencies apply a children's rights perspective in different ways and to varying degrees

The audit shows that the three educational agencies apply a children's rights perspective to varying degrees in their activities. This is despite the fact that they in many ways work for the same purposes and target groups. Possible explanations for the disparities include differences in opinion concerning the added value of the CRC in relation to legislation governing schools and education, that competing

professional duties restrict their ability to prioritise work on children's rights and that the remits of the agencies differ. The Swedish NAO finds that the National Agency for Special Needs Education and Schools applies a children's rights perspective comparatively systematically, while the National Agency for Education and the Swedish Schools Inspectorate should strengthen their work in this area.

Recommendations

To the Government

- Ensure clear and coordinated governance and follow-up of the implementation of the CRC, in the purpose of promoting ongoing work on children's rights among prioritised actors and activities.
- Take measures to ensure a children's rights perspective in the legislative process, for example by including clearer instructions on the need to take account of and report on a children's rights perspective in public inquiries and bills, and how this can be done.
- Follow up on whether the Ombudsman for Children's work on gathering case law in a database is appropriate in relation to the purpose of the task.
- Clarify the need for compiled statistics on the living conditions of children and youths, and review how responsibility for this task should be distributed.

To the Ombudsman for Children

- Improve the analytical quality of the work on monitoring compliance with the CRC, to strengthen the reports and proposals submitted to the Government.
- Analyse whether the current means of gathering case law in a database are appropriate in relation to the purpose of the task.

To the National Agency for Education and the Swedish Schools Inspectorate

- Take measures to strengthen and make visible the children's rights perspective in internal processes and in key decisions and areas of work. This should include clarifying when child impact assessments should be performed, what they should include and how they should be reported.