

SUBMISSION FORM OF INDIVIDUAL COMMUNICATIONS TO TREATY BODIES

Please provide answers to **all areas of the form**. Submissions in languages other than **English, French, Russian or Spanish** will not be processed. The completed form should enable treaty bodies to determine the nature and scope of your complaint for the purposes of registration. If needed, please include as an attachment any additional, chronologically-ordered factual information. (Maximum word limit of this attachment: 10,000). Please check the **Guidelines for submission of individual communications to treaty bodies** for further assistance on how to complete this form.

1. Name of Committee to which the communication is submitted:

Committee on the Rights of Persons with Disabilities

2. State party or States parties concerned:

Sweden

3. Complainant:

First name	Saga
Family name	Löf
Date of birth	30/07/2005
Nationality	Swedish

4. Contact details of complainant:

Email	plutfiasmamma@gmail.com
Phone number	+46 70 811 26 6
Address	Lövtäktsvägen 21, 141 42 Huddinge, Sweden

5. Victim (if different from complainant):

First name	Click or tap here to enter text.
Family name	Click or tap here to enter text.
Date of birth	Click or tap to enter a date.

Nationality

Click or tap here to enter text.

6. Counsel or other representative (if the complainant is represented):

First name

Paul

Family name

Lappalainen

Email

paul.lappalainen@gmail.com

Phone number

+46 70 5427513

Address

Surbrunnsgatan 31A, 113 48 Stockholm,
Sweden

7. Would you like for the complainant / victim's name to be anonymized in an eventual decision by the Committee?

☐ Yes

☒ No

8. Have you submitted the **same matter under another procedure of regional / international investigation or settlement**?

☐ Yes

☒ No

If the answer is yes, please indicate the procedure or body, the date of submission, the authors and the claims invoked, and the decision adopted

Click or tap here to enter text.

9. Are you requesting **interim measures** (to avoid irreparable harm to the complainant/victim) or **measures of protection** (to avoid harm or reprisals against the complainant/victim and/or family members or representatives)?

☐ Yes

☒ No

If yes, indicate what kind of specific measures and justify the request. [word limit: 400]

Click or tap here to enter text.

10. **Facts.** Please provide a summary of the main facts of the case, in chronological order, including the dates, and information on administrative/judicial remedies. Please focus on the facts of the individual case. Information referring to a general context should be included only if relevant, and as brief as

possible. **Do not include allegations of violations (these should be included in para. 11 below)**
Include information on domestic remedies: Please describe, in chronological order, each step taken by the victim(s) to raise their claims before courts and/or administrative authorities. Please describe the date and content of each submission, the authority to which it was submitted, the date of the decision, and the reason(s) for the decision. If domestic remedies have not been exhausted, please state why [word limit 2,500]

1. All pupils in Sweden during school years 3, 6 and 9 must take national exams concerning e.g., reading comprehension. The results are intended to affect the pupil's grades and provide a basis for planning for the pupil's education.
2. In year 4 Saga Lööf was diagnosed with dyslexia resulting in the need for accommodation measures in school such as an iPad with a spelling program, a speech synthesis application, and a program with recorded textbooks with the texts read while she simultaneously decodes with her eyes.
3. These devices have since then been used during her ordinary lessons.
4. In school year 6, in February 2018, Saga Lööf, a pupil at Kungsklippeskolan in Huddinge municipality, was required to take the national exams, in particular, reading comprehension tests B1 and B2.
5. Following the guidelines for the national exams established by National Education Agency, the school refused to allow Saga to use her ordinary assistive technologies, but did allow certain insufficient accommodations in terms of a calmer environment and more time.
6. Saga and her parents were informed four days in advance, including a weekend, about the conditions that would apply during the test. They tried to have a dialogue, but without effect.
7. According to the guidelines, the types of assistive technologies Lööf uses are not allowed during the national tests in year 6 since, according to the municipality, and the Agency, they distort the purpose of the tests (the ability to decode and understand). However, according to the guidelines they are allowed in year 9. "In year 9 it is assumed that the pupil has developed the ability to decode and understand texts, and the pupil can therefore be allowed to listen to texts in that part of the test, as an accommodation" (20210320 <https://www.skolverket.se/undervisning/grundskolan/nationella-prov-i-grundskolan/anpassa-prov-i-grundskolan#h-Attgenomforanationellaprovmedelevermedfunktionsnedsattning.>)
8. Saga Lööf, another Government Agency (the Swedish Agency for Special Needs Education (<https://www.spsm.se/>), the Dyslexia Association and the Dyslexia Foundation, assert instead, concerning reading and comprehension, that people can read and decode texts with different techniques using their ears, eyes or fingers.
9. The courts acknowledged that the refusal to allow Saga to use her ordinary assistive technologies disadvantaged her in comparison to other pupils, caused her anxiety, feelings of inferiority, stress and worse test results. Saga also asserted that this led to a lower grade since according to Chapter 10, Section 20a, Education Act, the test results shall be given special consideration unless there are special reasons to not do so.

10. A lawsuit claiming damages and/or discrimination compensation was filed in **Södertörn District Court** in August 2018 against Huddinge municipality, the legal entity liable for the school that carried out the national tests. The District Court issued its judgement on 2019-06-27 (ANNEX 3). The lawsuit had three fundamental claims that centred on the failure of the municipality to allow the reasonable accommodations needed by Saga Lööf. The claims related to a violation of the European Convention on Human Rights, and claims of indirect discrimination and inadequate accessibility under the Swedish Discrimination Act.

According to the complaint:

- Huddinge incurred liability for damages in accordance with the material rule established by the Supreme Court, later codified in Chapter 3 § 4 of the Torts Act, by discriminating against Saga Lööf in connection with test parts B1 and B2 in relation to her right to education under Article 14, European Convention on Human Rights, and Protocol 1 Article 2. This follows from the fact that the municipality did not allow Saga Lööf to use her ordinary assistive technologies that she has to compensate for her dyslexia.

- Huddinge also incurred an obligation to pay discrimination compensation in accordance with Chapter 5:1 of the Discrimination Act (English translation at <https://www.do.se/other-languages/english/discrimination-act/> or ANNEX 7). This follows from the fact that the municipality, in connection with test parts B1 and B2, in violation of the prohibition against discrimination in education according to Chapter 2:5 of the Discrimination Act, subjected Saga Lööf to discrimination by not allowing her to use her ordinary assistive technologies which she has to compensate for her dyslexia. The testing procedure applied constitutes indirect discrimination (Chapter 1:4(2) and discrimination in the form of inadequate accessibility (Chapter 1:4 (3)).

Various articles in CRPD and the Convention on the Rights of the Child, and references to General Comments, were invoked to require an interpretation of Swedish law in conformity with the Conventions.

Saga Lööf's position was that her reading ability could have been tested more effectively if she had been allowed to use her assistive technologies when she took the test.

She also wanted to prevent others from being subjected to such discriminatory practices.

On 27 June 2019 the District Court (pages 7-21 of ANNEX 3) determined that Huddinge had not violated the Discrimination Act concerning indirect discrimination nor inadequate accessibility. The court concluded that

- Saga Lööf was disadvantaged in the process applied by Huddinge, a process that especially disadvantaged people with dyslexia,

- this caused anxiety, a feeling of inferiority, stress and worse test results, and that

- this acknowledged disadvantage meant that Huddinge had to prove the procedure had a legitimate purpose and that the means used were appropriate and necessary and proportional to achieve that purpose.

The court then determined that Huddinge had shown such a purpose, and that the procedure, given the Agency's guidelines, was appropriate and necessary. The court also held that there was no violation of the prohibition against discrimination in education in the European Convention on Human Rights (ECHR). The District Court accepted the municipality's defence that the school was simply following the guidelines of the National Education Agency, that the municipality did not have to override the guidelines with reference to higher law as to reasonable accommodations as required by the Discrimination Act, and that national torts law on the ECHR and international law (CRPD). According to the court the accommodations allowed by the guidelines were sufficient to put Saga in a comparable situation with others without dyslexia and that further reasonable accommodation would constitute an undue burden in this type of situation. No other facts or regulations were invoked. As the court failed to provide an acceptable analysis of the legitimate purpose, nor that the means used were appropriate, necessary and proportional - the case was appealed.

11. On 13 March 2020, **Svea Appeal Court** issued a judgment (pp. 1-6 of ANNEX 3) upholding the District Court decision. The **Appeal Court** concluded that Lööf was disadvantaged in the process applied by Huddinge, a process that especially disadvantaged people with dyslexia and that the procedure caused anxiety, a feeling of inferiority, stress and worse test results. For the Court this meant that Huddinge, concerning indirect discrimination, had to show that the procedure had a legitimate purpose and that the means used were appropriate and necessary and proportional to achieve that purpose. The Appeal Court also stated, "The fact that the Swedish Agency for Special Needs Education, the Swedish Dyslexia Association and the Swedish Dyslexia Foundation have a different view of what is meant by the term reading and reading comprehension is irrelevant in this regard", thus disregarding any potentially conflicting views by other experts in the field. The Appeal Court accepted the guidelines of the National Agency for Education as sufficient to deny the necessary reasonable accommodations. No other support in facts or regulations was invoked. The Appeal Court failed to carry out its own analysis concerning the legitimate purpose of the guidelines and that the means used were appropriate and necessary or proportional.

An application for leave to appeal was thus submitted to the Supreme Court.

12. In October 2020 **the Supreme Court** refused to grant leave to appeal (ANNEX 4).

13. The **Chancellor of Justice** decision 2019 10 22 (ANNEX 5)

The defendant above was Huddinge municipality. Saga Lööf also filed an out of court claim against Sweden (**Chancellor of Justice - JK**). The claim asserted that National Education Agency was responsible for the national exam guidelines applied by the municipality. Saga Lööf claimed that she was put in a disadvantaged position due to the guidelines developed by National Education Agency. Therefore, it was reasonable to assert a claim for compensation against Sweden. Saga Lööf was disadvantaged by the National Education Agency due to guidelines that especially disadvantaged (discriminated against) people with dyslexia, causing anxiety, a feeling of inferiority, stress and worse test results. Furthermore, there was no legitimate purpose and that the means used were neither appropriate nor necessary or proportional. The liability claim was denied by the JK, indicating e.g. that whatever the disadvantages caused by the guidelines, the Agency could not be held liable under the Discrimination Act (ANNEX 5). Even though a claim was filed with the JK, it was

not a parallel remedy that was necessary for exhausting the domestic remedies concerning the civil litigation in the general courts described above.

14. Given the Supreme Court decision, Saga Lööf's domestic remedies were exhausted, thus this communication.

11. Claim. Please explain how and why you consider that the facts and circumstances described violate your rights/ the victim(s)' rights. Please specify which rights you consider to have been violated (if possible, identify the articles under the relevant treaty) **[word limit 600]**

1. Sweden failed to provide an equal right to education and reasonable accommodation in contravention of the obligations of the State party according to CRPD, primarily under article 24.1 b) and c), 24.2 c) and d), 24.3 a) and article 5.2 by failing to guarantee Saga Lööf equal and effective legal protection against discrimination, and article 5.3 by failing to take all appropriate steps to ensure that reasonable accommodations were provided to her. Sweden should pay damages as well as all the accumulated legal costs concerning this communication.

2. Sweden failed to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs, and practices that constitute discrimination against persons with disabilities in accordance with article 4.1.b when the pupil was disadvantaged in the national tests, a process that especially disadvantaged people with dyslexia and caused anxiety, feelings of inferiority, stress and particularly *worse test results and worse grades*. Also see the rest of article 4.1. The Discrimination Act requires reasonable accommodation but that was insufficient to overrule the discriminatory guidelines. Due to the school's actions, Saga Lööf also lost faith in the education system and her assistive technologies going forward, creating ongoing damages (ANNEX 6), particularly during the time when the technologies become increasingly important due to the increasing workload after year 6.

3. The violation could have been prevented by Sweden, either by the Courts or the Chancellor of Justice, understanding that the failure to allow reasonable accommodation constituted a violation of rights, including discrimination, or by changing the guidelines of the National Agency for Education to allow persons with dyslexia to use their assistive technologies, or by Huddinge recognizing the failure of the guidelines to provide reasonable accommodation under Swedish law and CRPD, and thereafter providing accommodations regardless of the guidelines.

4. The guidelines assertedly tested knowledge and provided information regarding Saga Lööf's future needs. As to knowledge, if her ordinary assistive technologies are removed, the school already knows that the knowledge demonstrated will be less than with the technologies. Saga Lööf's presumably lower grades, resulting from the poor performance due to the lack of assistive technologies aggravates the violation. Also, the school already knew about her future needs. Instead, the school's actions caused long term negative effects in the form, e.g., of a lack of confidence the education system and her assistive technologies.

5. The guidelines' assumption that by year 9 a pupil will have learned to decode and comprehend, and thus can be allowed to use their ordinary assistive technologies, is illogical in relation to years 6 and 3.

6. The Appeal Court judgment stands in stark contrast to the requirements of CRPD. This is illuminated by the Committee in, e.g., General Comment no 2 on article 9: Accessibility, para. 39. Also see General Comment no 4, para. 22.

7. Furthermore, Sweden has failed to "closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations", in the adoption and implementation of the guidelines in accordance with CRPD article 4.3.

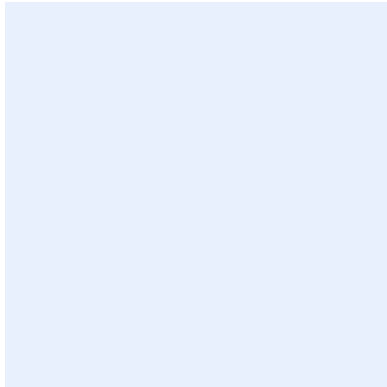
8. Since the national exams are given to all pupils in years 3 and 6, many pupils with dyslexia are subjected annually to the failure to provide reasonable accommodations, with presumably similar negative effects as in this case. This should constitute reliable information to the Committee indicating that the rights contained in CRPD are being systematically violated by Sweden, which presumably fulfils the requirements of article 8 of the Optional Protocol to CRPD for initiating an **inquiry procedure**.

12. Date, place and signature

Date 13/04/2021

Place Huddinge, Sweden

Signature of the complainant(s) and victim(s) (if different and able to sign):



Signature of the Counsel (if the complainant is represented):



Note: You will need to send two files:

- **The word document file (does not need signature) AND**
- **The signed document scanned or photographed**

13. List of documents

Please make sure all documents are ordered by date, are numbered consecutively, and are clearly labeled (Example: Annex 1 (Complaint to District Court-4 Jun 2020); Annex 2 – (Decision of District Court-8 Jul 2020)).

- ☒ Decisions of domestic courts (and administrative authorities) on your claim as well as executive summaries of such decisions if they are not in one of the four working languages indicated above
- ☐ Complaints to and decisions by any other procedure of international investigation or settlement
- ☐ Any documentation or other corroborating evidence you possess that substantiates your communication, including medical or psychological reports, if relevant.
- ☒ Relevant national legislation, if applicable.

14. How to submit individual communications

Please send the completed application form and attached documentation by email to:
petitions@ohchr.org

If it is impossible to submit the case electronically, please explain why and send in paper (not exceeding 20 single-sided pages) to:

Petitions and Urgent Actions Section

OHCHR

Palais des Nations

Avenue de la Paix 8-14

1211 Geneva

Switzerland.

No paper complaints will be processed unless a justification is provided. Please do not include originals, but only copies. No documents will be returned.