

Targeted stakeholder consultation for the 2021 Rule of Law Report - answers from the Supreme Court of Sweden

Introduction

The Supreme Court of Sweden has been asked to contribute to the 2021 Rule of Law Report. In relation to the 2020 Rule of Law Report, there are just a few updates and comments mentioned in the following. Consequently, the Court otherwise refers to the information covered in the 2020 Rule of Law Report.

Justice system – Sweden

Quality of justice

On 1 January 2021, a couple of new regulations regarding digital communication in the Swedish judiciary entered into force. The regulations aim to enable or facilitate digital communication in court proceedings and make it possible to, inter alia, submit and sign documents to initiate civil and certain other claims and power of attorneys online in digital form. Unnecessary requirements for hard copies have also been removed.

More information about the regulations can be found here:

<https://www.regeringen.se/rattsliga-dokument/lagratsremiss/2020/05/digital-kommunikation-i-domstolsprocesser/>.

The Swedish National Courts Administration has launched a new digital service to meet the developments.

Efficiency of the justice system

No lockdown of society or the courts has been carried out in Sweden, why the activities in the courts continue despite Covid-19. However, the Court has taken security measures in accordance with the regulations and recommendations that are set by the Government and the Public Health Agency of Sweden in order to prevent the spread of infection. The measures consist of, inter alia, information provided on the website and in the premises, limitation of people allowed in the court rooms and plastic screens between the members of the court and between the parties in the court room. The Swedish Code of Judicial Procedure provides significant possibilities for digital participation for parties and witnesses at oral hearings, which has been particularly useful in these times.

For the Supreme Court, which has a limited number of oral hearings per year, there has been no significant increase of oral hearings due to Covid-19.

The Court encourage employees to work from home to the extent that it can be combined with the activities of the Court. Since 2 March 2020 the Court has a more digitalized way of working. That allows the justices to participate digitally during case presentations and deliberations. Correspondingly, other co-workers have also been able to work from home. The work of the Court has been able to continue almost as usual thanks to the digital adaption. Study-visits and similar activities have though been cancelled, as well as business trips and educational activities. Internal and external meetings are, as a general rule, held digitally or otherwise in meeting rooms that allows physical distance.

Other institutional issues related to checks and balances – Sweden

The process for preparing and enacting laws

The Swedish constitution lacks a provision which allows for the proclamation of state of emergency in peacetime crisis, as opposed to war and danger of war where such provisions exists (se Chapter 15 in the Swedish Instrument of Government). Nor Sweden has any other provisions that makes it possible to deviate from the ordinary process for preparing and enacting laws. Accordingly, the process for preparing and enacting laws regarding Covid-19 are the same as described in the 2020 Rule of Law rapport. Due to the urgency and priority of such regulations, the process can though be a bit faster than normal.

The Swedish Riksdag (Parliament) has adopted a new temporary Covid- 19 Act to prevent the spread of infection (Swedish Code of Statutes 2021:4). The legislation is intended to give the Government the authority to adopt more binding communicable disease control measures than was previously possible. The Act entered into force on 10 January 2021 and is in effect until 30 September 2021. The Act is intended to allow accurate measures, adapted to the conditions of different activities, and to not unnecessarily hinder activities that can be conducted in an infection-safe manner. If necessary to prevent infection, it will be possible to introduce special limitations for public gatherings and events, places for recreational or cultural activities that are open to the general public, commercial centers that are open to the general public, public transport and domestic flights and places for private gatherings. The measures may involve limits on the number of visitors, regulating opening hours or other measures necessary to prevent congestion. Certain orders, such as closures and bans on gathering in public places, must be approved by the Swedish Riksdag (Parliament).

The regulation can be found here: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20214-om-sarskilda-begransningar-for-att_sfs-2021-4

The temporary Covid- 19 Act is not applicable on courts, and there are no other regulations that make it possible to close the courts.