

European Rule of Law Mechanism: input from Sweden

2022 Rule of Law Report

Introduction

Brief summary to highlight developments since January 2021.

The Committee of Inquiry on Strengthening the protection of democracy and the independence of the judiciary, set up by the Swedish Government in February 2020, continues its work. The 2020 Committee of Inquiry on the Constitution, an all-party committee chaired by the President of the Supreme Court, is examining several aspects of the Swedish framework for judicial independence in order to present proposals for legislative and constitutional amendments. Its final report is due by 15 February 2023.

On 14 November 2019, the Swedish Government decided to appoint a commission of inquiry to analyse and propose legislative amendments and other measures needed for Sweden's participation in the European Public Prosecutor's Office (EPPO). The inquiry presented its report in mid-December 2020. The Government is now drafting legislative amendments and intends to present a government bill to the Riksdag (Swedish Parliament) this year.

On 10 December 2020, the Government adopted an anti-corruption action plan for public administration. The action plan focuses primarily on preventive work by the central government agencies, including the Government Offices. The working methods and recommendations of the action plan are also relevant for preventive work in municipalities, regions and municipal companies. As part of the action Plan, the Swedish Agency for Public Management has been commissioned to promote the prevention work of government agencies, including by developing recommendations and advice to promote structured working methods, developing a tool for analysing corruption risks, setting up a forum for collaboration between agencies and other organisations with special expertise and to collect data on how the prevention work of the government agencies is conducted. The first report on the agencies' prevention work was presented to the Government in June 2021. The report is based on a survey distributed to more than 200 state public agencies. The final report, which will include a follow-up study of the June report, will be handed over in late 2023, along with any recommendations for further policy measures.

The general protection of whistleblowers is provided for in the Act on the protection of persons who report wrongdoings (2021: 890), i.e. the Whistleblowing Act. The Act covers both internal and external whistleblowing and applies in all private and public organisations. Those protected include workers, self-employed people, volunteers and trainees, people belonging to the administrative, management or supervisory body of an undertaking, including non-executive members, and shareholders who are active in the undertaking. Protection is likewise provided in cases where retaliation is directed at persons who facilitate in the reporting or are connected to the reporting person.

Since the introduction of an obligation of pre-assessment of significant new services offered by public service broadcasters, the system has been politically contested for its inherent risks in relation to media freedom. In March 2021, the Government appointed an Inquiry Chair to

review the system to determine whether the final decision regarding such an assessment should remain with the Government or be taken by another body. The Inquiry Chair's report is due by 15 February 2022.

An Inquiry Chair, appointed by the Government in May 2020, is reviewing, among other matters, the criminal law protection of certain vital functions in society, including journalists. The Inquiry Chair is tasked with determining whether there is a need for enhanced criminal law protection against offences targeting a person exercising their freedom of expression, particularly in the context of operating professional news services or other journalism services, and to consider how such enhanced protection should be designed. The Inquiry Chair will present its conclusions in late January or early February 2022.

In June 2021 the Riksdag adopted the Act on the Human Rights Institute. The new institute will have a broad mandate to monitor, investigate and report on how human rights are respected and realised in Sweden, based on, among other things, Sweden's human rights commitments under international law. The institute will also submit proposals to the Government for measures needed to protect human rights. It will not examine individual complaints of human rights violations. The Human Rights Institute commenced its activities in January 2022 and has been allocated SEK 50 million for 2022.

On 30 June 2020, the Government decided to appoint a review commission to evaluate the measures of the Government, the authorities, the regions and the municipalities to limit the spread of the virus that causes COVID-19. The final report is due by 28 February 2022.

I. Justice System

A. Independence

1. Appointment and selection of judges, prosecutors and court presidents (inclu. judicial review)

Our input to the 2021 Rule of Law Report is still relevant.

As described in Sweden's input to the first annual Rule of Law Report, all permanent judges are appointed by means of an open and transparent procedure where the Judge Proposal Board proposes suitable candidates to the Government and the Government makes the final appointment decision. In close to all cases, the Government follows the proposal of the Proposal Board. As applies to Government decisions in general, the Government's decisions to appoint judges cannot be appealed but are subject to constitutional responsibility.

The Swedish Prosecution Authority's decisions to employ prosecutors can be reviewed by the State's Board of Appeal (förordningen (2007:835) med instruktion för Statens överklagandenämnd). A review can be initiated by an applicant who the authority did not employ.

2. Irremovability of judges; including transfers, (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (inclu. judicial review)

Our input to the 2021 Rule of Law Report is still relevant.

If a permanent judge has been removed from office by means of a decision by a public authority other than a court, he or she can call for the decision to be examined in court. The same applies to any decision as a result of which a permanent judge is suspended from duty, ordered to undergo examination by a medical practitioner or subject to a disciplinary sanction. (IG Chapter 11, Section 9.)

Decisions by the Government to transfer a judge for organisational reasons, pursuant to IG Chapter 11 Section 7, cannot be appealed.

The Public Employment Act contains disciplinary rules that applies to public prosecutors. The Government Disciplinary Board for Higher Officials always decides on matters concerning disciplinary liability, report for prosecution and summary dismissal regarding prosecutors (Section 34). The Employment Protection Act regulates the employee's right to remain in the employment up to the end of the month when he or she attains the age of 68. Before the prosecutor has reached that age it is not possible for the employer to force him or her to retire. If notice of termination is given without objective grounds or if an employee has been summarily dismissed under circumstances that would not constitute grounds for a valid notice of termination there is a possibility of judicial review.

3. Promotion of judges and prosecutors (inclu. judicial review)

Our input to the 2021 Rule of Law Report is still relevant.

Since a permanent judge can only be appointed to another position through the ordinary procedure for the appointment of judges, the possibility to appeal such a decision is subject to the same rules as decisions to appoint judges in general (se answer to question 1 above).

Employment decisions made by the Swedish Prosecution Authority regarding promoted positions, such as positions as chief public prosecutors, can be reviewed by the State's Board of Appeal as described in question 1.

4. Allocation of cases in courts

Our input to the 2021 Rule of Law Report is still relevant.

5. Independence (including composition and nomination and dismissal of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

Our input to the 2021 Rule of Law Report is still relevant.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (inclu. judicial review).

Our input to the 2021 Rule of Law Report is still relevant.

Civil liability of judges is subject to the general tort liability regulation in the Tort Liability Act. As a main rule, the state is responsible for losses caused by a judge in office (Chapter 3 Section 2 and Chapter 4 Section 1 of the Tort Liability Act). Only exceptionally, a judge can be held personally responsible for losses caused in office.

7. Remuneration/bonuses/rewards for judges and prosecutors, including changes (significant increase or decrease over past years) transparency on the system and access to the information.

Our input to the 2021 Rule of Law Report is still relevant.

The remuneration levels have not changed in a significant way. Information on the salaries of judges and prosecutors are subject to the principle of public access to information. There is no bonus or reward system for judges or prosecutors.

8. Independence/autonomy of the prosecution service

Our input to the 2021 Rule of Law Report is still relevant.

9. Independence of the Bar (chamber/association of lawyers) and of lawyers

Our input to the 2021 Rule of Law Report is still relevant.

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

Our input to the 2021 Rule of Law Report is still relevant.

B. Quality of justice

11. Accessibility of courts (e.g. court/legal fees, legal aid, language)

Our input to the 2021 Rule of Law Report is still relevant.

12. Resources of the judiciary (human/financial/material)

To cope with a growing caseload, the allocation to the Swedish courts has increased. In the budget bill for 2022, the Swedish courts were allocated SEK 6,7 billion, which is an increase of almost 5 percent compared to last year.

13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)

Our input to the 2021 Rule of Law Report is still relevant.

14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

Our input to the 2021 Rule of Law Report is still relevant.

The use of digital connections, e.g. video conference, in courts has increased dramatically during the COVID-19 pandemic. As a result, it has been possible to pursue many court hearings despite the pandemic.

15. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

Our input to the 2021 Rule of Law Report is still relevant.

16. Geographical distribution and number of courts/jurisdictions ("judicial map") and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.

Our input to the 2021 Rule of Law Report is still relevant.

There are no specific courts or chambers within courts dealing with fraud and corruption cases.

C. Efficiency of the justice system

17. Length of proceedings

Our input to the 2021 Rule of Law Report is still relevant.

Other – please specify

Our input to the 2021 Rule of Law Report is still relevant.

As previously stated, the Government wants Sweden to join the Eppo and the ambition is to present a government bill regarding Swedish participation in the Eppo to the Riksdag this year.

II. Anti-corruption framework

Where previous specific reports, published in the framework of the review under the UN Convention against Corruption, of GRECO, and of the OECD address the issues below, please make a reference to the points you wish to bring to the Commission's attention in these documents, indicating any relevant updates, changes or measures introduced that have occurred since these documents were published.

Our input to the 2021 Rule of Law Report is still relevant.

Update:

UN Convention against corruption (UNCAC)

The first cycle of the review mechanism was carried out in 2010–2015 and focused on criminalisation and law enforcement as well as on international cooperation. The country report regarding Sweden was published in 2014. The second cycle, which is ongoing since summer 2019, focuses on preventive measures and asset recovery. As a first step, Sweden has answered several questions in a self-assessment checklist. Reviewers have prepared a draft report with observations and supplementary questions, which have been answered. The plan is also for a country visit to take place in Stockholm. However, due to the COVID 19 pandemic the review process was put on hold indefinitely. It has now re-started but a date for a country visit in Sweden has not yet been set. It is therefore difficult to say when the review can be completed, and a final country report presented.

Country report 2014:

https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2014_09_17_Sweden_Final_Country_Report.pdf

Executive summary 2014:

<https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1403536e.pdf>

OECD working Group on Bribery

Being a member of the OECD Working Group on Bribery, Sweden has participated in the work with the revised Anti-Bribery Recommendation, which was launched on 9 December, and has among other things advocated the importance of understanding the linkages between gender and corruption. As for the review of Sweden's implementation and enforcement of the OECD's Anti-Bribery Convention, it should be mentioned that Sweden is now awaiting the phase 4 monitoring which is scheduled to take place in March 2025. Another part within the OECD framework is the Swedish National Contact Point's work concerning responsible business conduct (based on OECD Guidelines for Multinational Companies). The Swedish National Contact Point is currently undergoing a peer review and will receive a report with recommendations during the spring of 2022.

Greco – the compliance report regarding Sweden

In the compliance report regarding Sweden, compliance with each of the recommendations is described and assessed. Please see the report [GRECO \(coe.int\)](https://www.coe.int/t/e/treaties/greco/greco4/greco4_report_sweden.pdf).

GRECO concluded that Sweden had satisfactorily implemented two of the fifteen recommendations and that of the remaining, six had been partly implemented. As for most of the other Member States that have to date been assessed in this compliance round, it has been proven to constitute quite a challenge to implement especially the recommendations targeted at the Political Top Executive Functions, and Sweden is working towards achieving full implementation. As regards developments later than the Swedish report to GRECO in January 2021, please see below the respective sections.

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

18. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to efficiently and timely cooperate with OLAF and EPPO (where applicable)

Our input to the 2021 Rule of Law Report is still relevant.

Update:

The National Anti-Corruption Unit (NACPU) cooperates with the Swedish Economic Crime Authority, that is the national contact point to OLAF. The current amount of awarded corporate fines, forfeitures and damages in NACU/NACPU cases (for the period 2012- Dec. 2021) is SEK 210 545 916. NACPU has been part of 25 investigations that have led to judgements, out of which 23 were convictions.

Human resources allocated to the NACPU:

Police Officers	15
Civilian employees	8
Economists	4
Hourly employee	4

As previously stated, the Government wants Sweden to join the Eppo and the ambition is to present a government bill regarding Swedish participation in the Eppo to the Riksdag this year.

19. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.

All Swedish state agencies are afforded a considerable amount of autonomy on internal matters and on how they execute policy. This is a part of a model for governance that seeks to meet the level of authority granted to an agency with an appropriate matter of control to ensure compliance with overall structures of the state sector. The constitution prohibits the government from influencing how an agency decides in a particular case in relation to individuals, private subjects or a local authority, or in the application of law.

While there is a strong protection concerning exercise of authority in the overall structure of governance of all agencies, specific measures are taken concerning agencies with sensitive tasks. Some agencies, such as the Office of the Auditor General, reports directly to parliament and others have specific legal protections to ensure that issues receive the attention that they deserve. There are also various organisational measures taken. This is combined with work to ensure transparency and awareness of risks.

Independence/autonomy of the prosecution service

The prosecution service (the Swedish Prosecution Authority and the Swedish Economic Crimes Authority) is not a part of the judiciary in Sweden. The prosecution service is an authority under the Government. The Government is however constitutionally prevented from influencing the decisions of the prosecution service. According to Chapter 12, Section 2 of the Instrument of Government (IG), no public authority, including the Riksdag, or decision-making body of any local authority, may determine how an administrative authority shall decide in a particular case relating to the exercise of public authority vis-à-vis an individual or a local authority, or relating to the application of law. This applies to every decision made by a prosecutor. Each prosecutor is solely responsible for their own decisions and these decisions cannot be changed by a prosecutor's superior. An individual affected by a prosecutor's decision may request that it be reviewed by another prosecutor at a higher judicial level. Hence, only the Prosecutor General, the Deputy Prosecutor General, directors of public prosecution and deputy directors of public prosecution can review a decision made by a public prosecutor.

Police Authority

The Police Authority is an authority under the Government. Swedish authorities have, as already described, a constitutionally protected independence with respect to the Government. Chapter 12, section 2 of the Instrument of Government stipulates that no authorities, nor the Riksdag or the Government, may decide how another authority should make decisions in matters in its remit, whether it be in its interactions with individuals and municipalities or the application of a law. However, while observing these restrictions, the Government can make decisions concerning the direction of an authority's activities. This is done via instructions to the authority, the annual letter of regulation or specific Government decisions.

The Finance Police (Fipo) is an independent section of the Police Authority. Its staff is dedicated only to the FIU. All of Fipo's functions, including the ML register and the internal case management system, are kept separate from other activities within the Police Authority. The facilities are shell protected and only Fipo's staff has access.

20. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please, provide relevant objectives and indicators

As part of the National Action Plan, the Swedish Agency for Public Management has been tasked to produce reports summarising the preventive work of state public agencies. The first such report was handed over to the government in June 2021. The report is based on a survey distributed to more than 200 state public agencies. The final report, which will include a follow-up study of the June report, will be handed over in late 2023. Some highlights from the results of the 2021 survey:

- Almost all state public agencies use specific control functions, for example two-person approval, controls on payments and restrictions of access.
- Most state public agencies have established one or several organisational functions that have operational responsibility to lead and implement measures as part of the agency's anticorruption work.
- Around 80 per cent of the state public agencies have conducted some form of risk analysis in relation to corruption and other irregularities.
- Nine out of ten state public agencies have adopted internal rules and policies to guide employees on how to avoid risks of corruption.
- 85 per cent of the state public agencies provide some form of internal education for employees regarding corruption risks.
- Around 65 per cent of state public agencies have an established routine for dealing with suspicious cases of corruption or other irregularities.

The Swedish Agency for Public Management has also been tasked, as part of the National Action Plan, to run a network for state public agencies with a focus on anti-corruption policies in which agencies can inter alia share best practices. The network has attracted the participation of more than 200 state public agencies. In addition, the Swedish Agency for Public Management runs a dedicated network for the state public agencies with specific

competence in anti-corruption policies.

B. Prevention

21. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct ethics training). Please provide figures on their application. Our input to the 2021 Rule of Law Report is still relevant.

Update:

The Swedish Government has informed the Riksdag of a coming new assignment that will be given to The Swedish Agency for Public Management, the Government's organisation for analyses and evaluations of state and state-funded activities. A public inquiry presented its results in 2020

A common education for all employees in government agencies. The Government stated that a good knowledge about fundamental principles in laws and regulations is a necessary starting point to earn the trust of the citizens trust for all employees in government agencies to fight corruption and situations of harmfulness to trust in agencies. The assignment is still under preparation.

Summary in English available at page 31-43 in the following publication:

<https://www.regeringen.se/4a4fa0/contentassets/90da7f4b905b41e0beabab8a07334171/en-gemensam-utbildning-inom-statsforvaltningen-sou-202040.pdf>

22. General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying, including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)

Our input to the 2021 Rule of Law Report is still relevant.

23. Rules and measures on preventing conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned, etc.)

Our input to the 2021 Rule of Law Report is still relevant.

Update:

The Swedish Agency for Public Management has the assignment to contribute to and coordinate the government agencies work towards a sound administrative culture. A sound administrative culture deals with the professional ethical foundations that must characterise the work of all state employees. One measure to work towards a sound administrative culture that was widespread in the government agencies during 2021 was the use of

dilemma cases exercises where almost all government agencies gathered its staff in exercises discussing ethical and conflicts of interest as government officials.

24. Measures in place to ensure whistleblower protection and encourage reporting of corruption

Our input to the 2021 Rule of Law Report is still relevant.

Update:

A general protection for whistleblowers is provided for in the Act (2021: 890) on the protection of persons who report wrongdoings, i.e. the Whistleblowing Act. The act covers both internal and external whistleblowing and applies in all private and public organisations. The scope of persons that are protected includes, among other, workers, self-employed persons, volunteers and trainees, persons belonging to the administrative, management or supervisory body of an undertaking, including non-executive members, and shareholders who are active in the undertaking. The protection is likewise provided in cases where retaliation is directed at persons who facilitate in the reporting or are connected to the reporting person.

Furthermore, the Whistleblowing Act also protect the Information that can identify the reporting person or other individuals and a reporting person cannot be liable for breaches of restrictions on disclosure of information, except in exceptional cases. A reporting person is also entitled to remedies and compensation for damage from the person who exposes the reporting person to retaliation because of the reporting or has hindered or has tried to prevent reporting.

Länk till lagen (*Lag (2021:890) om skydd för personer som rapporterar om missförhållanden*)

[Lag \(2021:890\) om skydd för personer som rapporterar om missförhållanden Svensk författningssamling 2021:2021:890 - Riksdagen](#)

25. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other).

Our input to the 2021 Rule of Law Report is still relevant.

Update:

The national Agency for Public procurement has updated the information about how to prevent corruption in dec 2020 <https://www.upphandlingsmyndigheten.se/forebygg-korruption/motverka-i-organisationen/>

One important issue is the targeted information about how to work strategically with anti-corruption, especially in connection with purchasing. The tips are primarily aimed at people in the business management of contracting organisations.

The Swedish National Council for Crime Prevention, Brå, has been commissioned by the Government to map social welfare crime against municipalities and regions, identify measures and disseminate good examples of measures against these problems. Welfare crime includes situations in which a private company is paid by local and regional authorities to carry out services connected to home care, personal care, caregivers, and similar welfare services. The study will also cover associations that receive different types of grants on incorrect grounds. Brå shall conduct a so-called crime proofing analysis to identify weak regulations that create opportunities for overuse and direct crime. Furthermore, Brå shall submit proposals to facilitate and streamline judicial investigation work. The results of the study will be presented to the Government no later than March 25, 2022.

In November 2020, the Government appointed an inquiry with the task of identifying obstacles and proposing solutions to enable more effective supervision of illegal gambling. The assignment also includes investigating how efforts to address match-fixing can be strengthened. The results from the inquiry were presented to the government in October 2021.

<https://www.regeringen.se/4ae0b6/contentassets/81de66c1c83d476fa64d4a1fe30c745b/utredningens-uppdrag.pdf>.

In 2021, the National Police Commissioner of the Swedish Police Authority decided on a strategic national policy and an action plan for the work to fight criminality related to sports and sport events, including corruption through sport manipulation.

26. Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic.

Our input to the 2021 Rule of Law Report is still relevant.

Update:

The national Agency for Public procurement has updated its information during the pandemic <https://www.upphandlingsmyndigheten.se/information-covid-19/svar-pa-aktuella-fragor>

27. Any other relevant measures to prevent corruption in public and private sector

Our input to the 2021 Rule of Law Report is still relevant.

Update:

For a description of some of the results of the report from June 2021, see our response to question A20.

C. Repressive measures

28. Criminalisation, including the level of applicable sanctions available by law, of corruption and related offences including foreign bribery.

Our input to the 2021 Rule of Law Report is still relevant.

Update

Regarding the “level of applicable sanctions available by law” concerning bribery and please see previously enclosed translation of the Swedish Penal Code.

To recapitulate:

Chapter 10 – On embezzlement, other breaches of trust and Bribery

Section 5a

A person who is an employee or performing a commission, and receives, accepts a promise of, or requests an undue advantage for the performance of their employment or commission is guilty of taking of a bribe and is sentenced to a fine or imprisonment for at most two years. The same applies to a person who is a participant in or official at a competition about which public betting is arranged, and an undue advantage for their performance of tasks in the competition is involved.

The first paragraph also applies if the act was committed before the perpetrator obtained a position referred to in that paragraph, or after that position had ended.

A person who receives, accepts a promise of, or requests a benefit for someone other than themselves is also guilty of taking of a bribe under the first and second paragraphs. Act 2012:301.

Section 5b

A person who gives, promises or offers an undue advantage in cases referred to in Section 5a is guilty of giving of a bribe and is sentenced to a fine or imprisonment for at most two years. Act 2012:301.

Section 5c

If an offence referred to in Section 5a or 5b is considered gross, the person is guilty of gross taking of a bribe or gross giving of a bribe and is sentenced to imprisonment for at least six

months and at most six years. When assessing whether the offence is gross, particular consideration is given to whether the act involved abuse of or an attack on a position of particular responsibility, concerned considerable value or was part of criminal activities conducted systematically or on a large scale, or was otherwise of a particularly dangerous nature. Act 2012:301.

Section 5d

In cases other than those referred to in Section 5a or 5b, a person is guilty of trading in influence and is sentenced to a fine or imprisonment for at most two years if they:

1. receive, accept a promise of or request an undue advantage to influence a decision or measure taken by someone else in the exercise of public authority or public procurement; or
 2. give, promise or offer someone an undue advantage so that they will influence a decision or measure taken by someone else in the exercise of public authority or public procurement.
- Act 2012:301.

Section 5e

A business operator who supplies money or other assets to a person representing the business operator in a particular matter and thereby, through gross negligence, promotes giving of a bribe, gross giving of a bribe or trading in influence under Section 5d, point 2 in the matter is guilty of negligent financing of bribery and is sentenced to a fine or imprisonment for at most two years. Act 2012:301.

29. Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

Our input to the 2021 Rule of Law Report is still relevant.

30. Potential obstacles to investigation and prosecution as well as to the effectiveness of sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedure rules, statute of limitations, pardoning, etc)

Our input to the 2021 Rule of Law Report is still relevant.

Update

In September 2020 the Government appointed a committee of inquiry to make an overview of the statute of limitations in Swedish criminal law. The committee presented its report on 1 December 2021 and proposes, inter alia, an extension of the statutory limitation period for serious offences. Applied to the offences gross taking of a bribe or gross giving of a bribe the proposal means that the statutory limitation period will be extended from 10 years to 15 years. The report has been sent for consultation to relevant government agencies,

organisations and other stakeholders, which can submit responses until 15 March 2022.”

31. Information on the effectiveness of administrative measures, in particular recovery measures and administrative sanctions on both public and private offenders.

Recovery measures

Corruption poses a serious threat to the stability and security of societies. It undermines values of democracy and justice and jeopardizes sustainable development and the rule of law. It is therefore important that effective measures are in place, in particular recovery measures and administrative sanctions on both public and private offenders, to tackle corruption. Criminal law sanctions against legal persons is an important tool to counter the profit motives that may be behind crimes in business activities. They provide companies with a clear incentive to organize their business in a way that reduce the risk for crime. Companies that play by the rules should not be forced to compete with companies that ignore the same rules. To make sure that the same rules apply to all companies both in theory and in practice, the criminal law legislation must be both effective and dissuasive. On 1 January 2020 new legislation on Corporate Fines entered into force. As a result of the changes in chapter 36 of the Swedish Criminal Code the maximum amount for corporate fines was increased from SEK 10 million to SEK 500 million. Sweden imposes liability against a legal person for criminal acts – including money laundering – through a system of corporate fines under Chapter 36, Section 7–10 a, of the Swedish Criminal Code. According to Section 7, a corporate fine may be imposed on a company for an offence if a more severe penalty than a fixed fine is provided for the offence and the offence was committed in the exercise of:

1. business activities;
2. public activities that can be equated with business activities; or
3. other activities conducted by a company if the offence was liable to lead to financial advantage for the company.

The imposition of a corporate fine on the company also requires that:

1. the company did not do what could reasonably be required to prevent the offence; or
2. the offence was committed by:
 - a) a person with a leading position in the company based on a power of representation of the company or to take decisions on its behalf; or
 - b) a person who otherwise had particular responsibility for supervision or control of the activities.

Corporate fines cannot be imposed if the crime was committed against the legal entity. Corporate fines range from SEK 5 000 (approximately EUR 500) to SEK 500 million (approximately EUR 50 million). A conviction of the natural person who committed the crime

is not needed to establish corporate liability. Corporate liability does not preclude the possibility of parallel administrative or civil proceedings such as claims for damages against the legal person.

The new legislation ensures that sanctions against legal persons are effective, proportionate and dissuasive. It is also important to ensure that criminal activities do not pay. To strengthen the position of injured parties and expand the possibility to confiscate proceeds the Swedish Government appointed an inquiry 2020 tasked with reviewing the Swedish confiscation framework with a particular focus on:

- ensuring that crime does not pay
- considering whether the Swedish Criminal Code regulations on confiscation of proceeds and instrumentalities of crime should be made generally applicable in relation to criminal law statutes outside the Criminal Code;
- considering whether a new form of confiscation – non-conviction-based confiscation of the proceeds of crime – should be introduced
- reviewing the material and procedural regulations to ensure that they are fit for purpose.

The inquiry presented its report in January 2022.

[Ny förverkandelagstiftning, SOU 2021:100 \(regeringen.se\)](#)

Administrative sanctions

The Swedish Government decided supplementary directives to a governmental investigation on 3 November 2021. Until now administrative sanctions on senior executive offenders such as head of authority including professors at State universities or colleges are processed and decided by the state Liability Committee chaired by the President of the Court of Appeal in Stockholm (in Swedish: Svea hovrätt). The issue that will be further investigated is if the university or college itself instead could be responsible for the process and decision of professors. The reason behind the investigation is that the numbers of professors has increased and that very few of them are principle of a university or college. The final report should be presented to the Government in February 2022.

<https://www.regeringen.se/4aa968/contentassets/20e578a5c2b448cd883a35a3fd172bb6/tillaggsdirektiv-till-utredningen-vissa-fragor-om-statligt-anstalldas-rattsstallning-dir.-20211111.pdf>

(Only available in Swedish)

III. Media pluralism

A. Media authorities and bodies

32. Measures taken to ensure independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

Our input to the 2021 Rule of Law Report is still relevant

33. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

Our input to the 2021 Rule of Law Report is still relevant.

34. Existence and functions of media councils or other self-regulatory bodies

Our input to the 2021 Rule of Law Report is still relevant

B. Transparency of media ownership and safeguards against government or political interference

35. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

Our input to the 2021 Rule of Law Report is still relevant

36. Safe guards against state/political influence, in particular:

- **safeguards to ensure editorial independence of media (private and public)**
- **specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting operations),**
- **procedures for the concession/renewal/termination of operating licences**
- **information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirements and corporate governance.**

Our input to the 2021 Rule of Law Report is still relevant.

Update:

Inquiry into the system for pre-assessment of significant new services from public service-media

Since the introduction of an obligation of pre-assessment of significant new services of public service broadcasters (introduced as a follow-up to the new state aid guidelines in 2009 [2009/C 257/01]), the system has been politically contested for its inherent risks in relation to media freedom. An inquiry chair was appointed by the Government in March 2021 to review the system to determine whether the final decision of such an assessment should remain with

the Government or be taken by another body. The Inquiry Chair's report will be presented by 15 February 2022.

Legislative proposal with certain amendments to The Radio and Television Act

The Government decided 22 December 2021 on a legislative proposal (lagrådsremiss) with certain amendments to The Radio and Television Act. After having passed obligatory judicial scrutiny in the Council on Legislation (Lagrådet), the proposal is intended to be presented in a bill to Parliament in February/March 2022. According to normal procedures of the Parliament, adoption will be possible before the Parliament summer break and the legislation can entry into force at the earliest 1 July 2022.

Link to the legislative proposal:

<https://regeringen.se/4b0017/contentassets/d86d8d85054642a7a9769a4840200d92/okad-insyn-i-agandet-av-radio--och-tv-foretag-och-battre-villkor-for-kommersiell-radio.pdf>

The proposal includes an extension of the licence period in the terrestrial network for commercial television. Licences will be granted for eight years instead of six and synchronized with the license period of the public service broadcaster, SVT.

The proposal also includes amendments to synchronize licensing periods for analogue and digital commercial radio (FM and DAB+). To make conditions more predictable and increase business opportunities for radio companies, a possibility for digital licence holders to apply for an exceptional extension of four years is proposed. The result would be that the licence periods of analogue and digital licenses are synchronised.

In addition, The Radio and Broadcasting Authority has been commissioned to investigate the need for further amendments to the terms of licensing of digital and analogue terrestrial radio to promote better conditions for radio broadcasting long-term. The authority is asked to report by December 2022.

<https://regeringen.se/4a75a1/contentassets/db88b43d46d4431b86ff113742943138/uppdra-g-till-myndigheten-for-press-radio-och-tv-om-villkoren-for-kommersiell-radio-pa-langre-sikt.pdf>

The Government also proposes to repeal the possibility in the Radio and Television Act to withdraw licences for television and radio in cases where there have been serious breaches of the rules for commercial communications (sponsoring, product placement and advertising provisions). Sanctions in the form of fines will remain a possibility for such cases.

37. Rules governing transparency of media ownership and public availability of media ownership information, including media concentration (including any rules regulating the matter).

Our input to the 2021 Rule of Law Report is still relevant.

Update:

The Government decided 22 December 2021 on a legislative proposal (lagrådsremiss) with certain amendments to The Radio and Television Act. After having passed obligatory judicial scrutiny in the Council on Legislation (Lagrådet), the proposal is intended to be presented in a bill to Parliament in February/March 2022. According to normal procedures of the Parliament, adoption will be possible before the Parliament summer break and the legislation can entry into force at the earliest 1 July 2022. (see question 36 for relevant link to the proposal). The proposal includes requirements for all audiovisual media and radio service providers to ensure that recipients have easily accessible information about the ownership of the service. The information should include the ownership structure and if appropriate the corporate identity number. The new provision is proposed as an addition to the present requirement in the Radio and Television Act to provide easily accessible information of the name and contact details of the service. On-demand radio services (pod-radio) is presently covered by the Radio and Television Act if the service is financed by the public service-fee. The proposed provision will apply also to such on-demand radio services that are covered by the legislation.

Link to the legislative proposal (page 12):

<https://regeringen.se/4b0017/contentassets/d86d8d85054642a7a9769a4840200d92/okad-insyn-i-agandet-av-radio--och-tv-foretag-och-battre-villkor-for-kommersiell-radio.pdf>

C. Framework for journalists' protection

38. Rules and practices guaranteeing journalist's independence and safety

Our input to the 2021 Rule of Law Report is still relevant

Update:

An Inquiry Chair, appointed by the Swedish Government in May 2020, is reviewing, among other matters, the criminal law protection for certain vital functions in society, including journalists. The Inquiry Chair is tasked to determine whether there is a need for an enhanced criminal law protection against offenses targeting a person exercising their freedom of expression, in particular in the context of operating professional news services or other journalism services, and to consider how such enhanced protection should be designed. The Inquiry Chair will present its conclusions later in January or early February 2022.

39. Law enforcement capacity, including during protests and demonstrations, to ensure journalists' safety and to investigate attacks on journalists

Our input to the 2021 Rule of Law Report is still relevant

Update:

In line with the Action Plan for Free Speech (2017) The Fojo Media Institute will continue to provide a support function for threatened journalists. The work will continue to be supported from the state budget 2022.

In addition, The Swedish Crime Victim Authority received 5 000 000 SEK during 2021 to carry out a major information campaign against online hate and further distribute the material on

the website mentioned in the report from 2021: tystnainte.se

40. Access to information and public documents (incl. procedures, cost/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities)

In the early stages of the COVID-19 pandemic, several new statutes on financial support for businesses were enacted to strengthen businesses' resilience to the negative economic impacts of the pandemic. Regarding one of these (short-time work allowance), the decisions of the authority came to be secret. Therefore, the media and the public were unable to access the decisions and scrutinise the support. The Government Offices reviewed the matter and the decisions in question are now exempt from the applicable secrecy provision.

During 2021 the Government also tasked a one-man inquiry to investigate media's and the public's access to information concerning the authorities work relating to handling the pandemic. The inquiry found that access to information had generally been very good. Examples of direct and indirect restrictions were found but deemed not to be of a general or systematic nature.

41. Lawsuits (incl SLAPPs – strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguards against abusive lawsuits.

Our input to the 2021 Rule of Law Report is still relevant.

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

42. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary and other relevant stakeholders on judicial reforms), and transparency and quality of the legislative process

Our input to the 2021 Rule of Law Report is still relevant.

43. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

Our input to the 2021 Rule of Law Report is still relevant.

Update

In September 2021, a cross-party commission of inquiry was appointed. The commission of inquiry, which is led by the former Chancellor of Justice and President of the Svea Court of Appeal, will assess whether there is a need to extend the Government's competence to decide on provisions in severe peacetime crises. The pandemic has made it clear that it is difficult to determine in advance what legislative measures may need to be taken in the event of severe peacetime crises and that in such situations, there may be a need for new legislation to be drafted very short notice. The commission of inquiry will present its report in November 2023.

<https://www.regeringen.se/pressmeddelanden/2021/10/ett-snabbare-agerande-vid-framtida-kriser-i-fredstid/>

<https://www.regeringen.se/4a764e/contentassets/9bbc652ce4aa4c31b91a931aa3a0ad46/en-oversyn-av-regleringen-om-krigsdelegationen-var-riksmotet-halls-och-regeringens-normgivningskompetens-i-allvarliga-fredstida-kriser-dir-2021-80.pdf>

44. Regime for constitutional review of laws

Our input to the 2021 Rule of Law Report is still relevant.

45. COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic

- oversight (incl. ex-post reporting/investigation) by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

Our input to the 2021 Rule of Law Report is still relevant.

The period of validity of the laws has been extended, first until 31 January 2022 and then until 31 May 2022, but as soon as the laws are not needed anymore, they should be repealed.

On 30 June 2020 the Government decided to appoint a review commission to evaluate the measures of the government, the authorities, the regions, and the municipalities to limit the spread of the virus that causes COVID-19. The assignment will be finalized no later than 28 February 2022.

46. Independence, resources, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

Our input to the 2021 Rule of Law Report is still relevant.

Updates

National human rights institute

The Parliament adopted the Law on the Human Rights Institute in June 2021. The new institute - located in Lund in the south of Sweden - will have a broad mandate to monitor, investigate and report on how human rights are respected and realised in Sweden based on inter alia Sweden's human rights commitments under international law. The final reports following the UN Universal Periodic Reviews of Sweden conducted in 2015 and 2020 recommended establishing an independent human rights institute in accordance with the Paris Principles as generally accepted international standards for national human rights institutions. The tasks and management of the institute and certain aspects of its organisation and methodology must be regulated by law to meet the requirements of the Paris Principles and strengthen the institute's independence. This means that the Government cannot govern the institute's tasks or work to the same extent that normally applies to public agencies under the Government. The institute will also submit proposals to the Government on measures that are needed to safeguard human rights. It will not examine individual complaints of human rights violations. The Human Rights Institute is allocated SEK 50 million for the full year 2022 and commenced its activities in January 2022.

The Equality Ombudsman

The Equality Ombudsman is to supervise compliance with the Discrimination Act (2008:567) and to promote equal rights and opportunities and to combat discrimination. The Equality Ombudsman's assignment is regulated in the Act concerning the Equality Ombudsman (2008:568).

There are seven grounds of discrimination covered by the law prohibiting discrimination in the Act, namely sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation, and age. The prohibition of discrimination applies to different areas in society such as working life, education, labour market activities and employment services not under public contract, goods, services and housing, health and medical care and social services.

The Equality Ombudsman is allocated SEK 129 million for the full year 2022.

47. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years

There have been no activities from NHRI as this has started its operations in January 2022.

C. Accessibility and judicial review of administrative decisions

48. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

During the beginning of the Covid-19 pandemic, several new statutes on financial support for businesses were enacted to strengthen businesses' resilience to the negative economic impacts of the pandemic. Regarding one of these (short-time work allowance), the decisions of the authority came to be secret. Therefore, the media and the public were unable to access the decisions and scrutinise the support. The Government Offices reviewed the matter and the decisions in question are now exempt from the applicable secrecy provision.

During 2021 the Government also tasked a one-man inquiry to investigate media's and the public's access to information concerning the authorities work relating to handling the pandemic. The inquiry found that access to information had generally been very good. Examples of direct and indirect restrictions were found but deemed not to be of a general or systematic nature.

49. Judicial review of administrative decisions - short description of the general regime (in particular competent courts, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review)

Our input to the 2021 Rule of Law Report is still relevant

According to the Administrative Procedure Act (2019:700), an administrative decision may be appealed if the decision can be assumed to affect some person's situation in a not insignificant way. Such a decision may be appealed by the person who is affected by the decision if it has gone against them. Decisions are appealed to a general administrative court. (sections 40-42 of the Act).

50. Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

There is no special authority that has the task of ex officio following up / enforcing court decisions in a broader area. An authority that has taken on a role in a court case (eg by having applied for, appealed or made a decision that has been appealed) can in some cases act to enforce the decision (either by enforcing it itself if the authority has the question of enforcement, or by requesting enforcement from an executing authority). In addition, there are authorities whose task is to enforce court decisions in certain specific areas (examples: The Police Authority, the Swedish Prison and Probation Service, etc.). Finally, there are also

authorities that can assist with the enforcement of court decisions upon application by a party, such as, for example, the Swedish Enforcement Agency. In addition to the possibility of applying for forced enforcement of the decision, there are also other legal remedies that can be used in certain cases.

D. The enabling framework for civil society

51. Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, measures capable of affecting the public perception of civil society organisations, etc.)

Our input to the 2021 Rule of Law Report is still relevant.

Update:

The Government has proposed to the Riksdag a more comprehensive procedure for consultations between public authorities and the Sami people that includes the Sami Parliament, which is a body elected by the Sami people and also a national administrative authority, Sami organisations and reindeer husbandry districts. The procedure would be a step towards strengthening the ability of the Sami people to influence and participate in decisions on matters that affect them.

En konsultationsordning i frågor som rör det samiska folket (prop. 2020/21:64): En konsultationsordning i frågor som rör det samiska folket – Regeringen.se

52. Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders

Our input to the 2021 Rule of Law Report is still relevant.

Civil society has a strong protection of rights in Sweden. A fundamental right for civil society organizations is the freedom of association which is established in the instrument of government. Freedom of association guarantees the right of citizens to unite for public and private purposes. Every citizen is also protected against coercion to belong to a political association, denomination, or other association for political, religious, or cultural views. Freedom of association applies to every Swedish citizen as well as persons with foreign citizenship who reside in Sweden. Furthermore, the activities of civil society are closely linked to freedom of expression, freedom of assembly, freedom of demonstration and freedom of religion, which are also protected in the Swedish constitution.

E. Initiatives to foster a rule of law culture

53. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)

Our input to the 2021 Rule of Law Report is still relevant

Swedish Agency for Public Management

After the consultation process now has been completed, the Government intends to task the Swedish Agency for Public Management with developing and administering an online introductory course which will be provided to employees in state public agencies. To provide employees with a good knowledge about and an understanding for the core values of public administration, the fundamental principles of rule of law and the relevant rules and regulations governing public administration is important in order to increase citizen trust for the public administration, but also a basis for a well-functioning trust-based governance and the prevention of corruption and other irregularities.

The Swedish Agency for Public Management has the assignment to contribute to and coordinate the government agencies work towards a sound administrative culture. A sound administrative culture deals with the professional ethical foundations that must characterise the work of all state employees. One measure to work towards a sound administrative culture that was widespread in the government agencies during 2021 was the use of dilemma cases exercises where almost all government agencies gathered its staff in exercises discussing ethical and conflicts of interest as government officials.

Tillitsdelegationen (Delegation for Trust-Based Governance)

The Delegation has been tasked by the Government with mapping and analysing the introductory courses that government authorities (i.e. government agencies and the courts) offer their employees and presenting proposals for how and when a common, compulsory introductory training course for government employees can be introduced (ToR 2019:6 and ToR 2020:49). The background to this remit is an announcement by the Riksdag (Swedish Parliament). With the assistance of a large number of authorities, the Delegation has obtained knowledge about how the authorities currently work on their introductory courses, what specific needs they have for common training and how the content and format of such training should be designed to meet their needs. The Delegation recommends that training should include the following component: the role of government employees in a democracy under the rule of law. The Delegation's recommendations were circulated for consultation until 15 April 2021. A proposal is currently being prepared in the Government Offices.