Input to the first annual Rule of Law Report (Sweden)

Introduction

Short summary to highlight significant developments, primarily since January 2019.

I. Justice system

Significant developments capable of affecting the general public's perception of the independence of the judiciary
In February 2020 an all-party commission of inquiry was appointed. The commission of inquiry, which is led by the President of the Supreme Court, will investigate the need to strengthen the independence of the courts and judges. One question that the commission of inquiry will investigate is whether the number of supreme court justices and their age of retirement need to be regulated in the constitution. The commission of inquiry will also investigate whether the organisation and the role of the Swedish National Courts Administration should be altered in order to strengthen the independence of the courts and judges. The commission of inquiry will present its report in 2023.

Participation in the EPPO
On 14 November 2019 the Swedish Government decided to appoint an inquiry chair to analyse and propose the necessary legislative changes and other measures needed for Sweden's participation in the EPPO. The inquiry will present a report with its conclusions on 14 December 2020 at the latest. The report will be sent for consultation to relevant government agencies, organisations, municipalities and other stakeholders, which can submit responses. Thereafter, the Government can start it's work on drafting the legislation and present it to the Riksdag (the Swedish parliament) for approval.

II. Anti-corruption framework

Sweden is well placed in terms of its low level of perceived corruption as established in Transparency International´s index, ranking third among the countries in Western Europe and the EU according to the 2019 index. The level has been stable in recent years. The picture of a comparatively low level of different forms of corruption is also corroborated by Eurobarometer surveys and the Rule of Law Index, for example.

Nonetheless, corruption does exist in Sweden and the government is aware of the need for ever better rules and measures to prevent, detect and investigate corruption and take legal proceedings and restorative measures. In this constantly ongoing work, the Government is grateful for the expert evaluations and recommendations given in this area, for example by GRECO 2019 (see below, the fifth evaluation round) and of the OECD.

The principle of public access to official documents and the freedom to communicate and publish information are guaranteed under the Swedish constitution. According to these principles everyone is, in principle, entitled to access public information and to report information to the media. Public authorities and public bodies are, in principle, prohibited from investigating who provided such information and from punishing anyone for having used his or her freedom to communicate and publish information. The principle of public access to official documents is unique in an international perspective, and has led to the revealing of misconduct related to corruption, conflicts of interest etc. Furthermore, everyone is allowed to make complaints concerning corruption in government agencies to the Parliamentary Ombudsman, the Chancellor of Justice and other instances. Sweden´s implementation of the EU-legislation on protection for whistleblowers is ongoing.

III. Media pluralism

I*ndependence, enforcement powers and adequacy of resources of media authorities and bodies*
In 2018, an inquiry chair was tasked with to looking into the Sweden's implementation of the revised Audiovisual Media Services Directive in relation to its new requirement for Member States to ensure independent media regulatory authorities and bodies. The report was presented to the Government in August 2019. The report concludes that the Swedish governance model provides for a high level of independence of all Swedish authorities, including the media authorities, and that there are important constitutional and legislative safeguards in place to ensure this independence in practice. The most important provision in the Swedish Constitution is that on independence in regulatory matters (Chapter 12 Article 2 of the Instrument of Government).

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists
The Swedish Police Authority has raised its ambitions in tackling hate crime and other crimes that threaten the fundamental rights and freedoms which includes crimes against journalists. A national contact point has been set up for these issues, and there are now democracy and hate crime groups in the Stockholm, West and South police regions. Equivalent capacity is also to be established in the other four police regions. Besides investigating relevant crimes, the designated resources will work with support to victims of crime, internal training, collaboration and other measures to create reassurance and trust. As from 2018, the Swedish Police Authority has been allocating an additional SEK 10 million in special funding for measures including strengthening existing efforts to increase bringing the perpetrators of crimes against democracy and hate crime to justice, clearer coordination, strategic work and follow-up. Terms of reference for an inquiry to review the criminal law protection for certain vital functions for the society, including journalists, is currently being prepared at the Government Offices.

IV. Other institutional issues related to checks and balances

Fast track procedures and emergency procedures
Sweden has no provisions on state of emergency. The constitutional rules have been created in a manner and with the purpose that they shall, as far as possible, enable public bodies to act within the Constitution even in crisis situations. Certain constitutional rules apply for times of war and danger of war (chapter 15 of the Instrument of Government), but not in the situation of a crisis such as the ongoing covid-19 pandemic. Legislation may only be passed by the Riksdag. The Riksdag may, in an act of law, authorise the Government to enact provisions of lower constitutional rank (government ordinances). The Government also has a direct competence set out in the Instrument of Government (one out of four fundamental laws which together make up the Constitution) primarily concerning provisions relating to the implementation of laws. The Government can also decide on provisions which under fundamental law do not require a decision by the Riksdag. This is often referred to as the Government's 'residuary' competence. These provisions consist mainly of administrative regulations such as instructions for State authorities. The Instrument of Government is designed to safeguard fundamental rights and freedoms. Some of the rights and freedoms are absolute in the sense that they cannot be limited other than by changing fundamental law. Others may be limited by other forms of statute, mainly ordinary law. Ordinances by the Government may not entail provisions that in any way circumscribe the vast majority of the rights or freedoms of natural or legal persons as laid down in the Instrument of Government.

Following consultations with all political parties, the Swedish Government recently proposed new legislation to further strengthen capacity and preparedness to combat the spread of COVID-19. The proposal was adopted by the Riksdag on 16 April 2020. The new legislation authorises the Government to decide on certain matters related to combating the pandemic that would otherwise require a decision of the Riksdag. For example, it enables the Government to regulate public gatherings and close down shopping centres, stores, restaurants and theatres. The new legislation also enables the Government to shut down or reduce certain means of transportation (ferries, trains, etc.) and to redistribute medicines and medical equipment geographically or between health care providers. Regulations adopted by the Government in accordance with this legislation must be immediately submitted to the Riksdag for examination. The legislation will be in effect until the end of June.

I. Justice system

A. Independence

Overview of the legal and institutional framework in Sweden [sub-topics 1-11]:

The independence of the judiciary is enshrined in the Instrument of Government (IG), which is one of Sweden's constitutional laws. (https://www.regeringen.se/informationsmaterial/2013/08/the-constitution-of-sweden/)

In accordance with IG Chapter 11, Section 3, "no public authority, including the Riksdag, may determine how a court of law shall adjudicate an individual case or otherwise apply a rule of law in a particular case. Nor may any other public authority determine how judicial responsibilities shall be distributed among individual judges." No individual or institution may give a directive to a judge in an individual case.

As a rule, court decisions are issued by permanent judges. This category includes justices of the Supreme Court and the Supreme Administrative Court; presidents, senior judges and judges in the courts of appeal and the administrative courts of appeal; chief judges (heads of court), senior judges (heads of division) and judges in the district Courts and the administrative courts. Many permanent judges have followed a specific career path which implies working as "non-permanent judges" ("assistant judges", "co-opted judges" and "associate judges"). Non-permanent judges participate in the adjudication in the district courts, the courts of appeal, the administrative courts and the administrative courts of appeal.

The central administration of the courts rests with the Government (Ministry of Justice). It adopts the terms of reference for each type of court and issues annual appropriation directions, which specify the objectives to be met, the information expected from the National Courts Administration during that year (e.g. what measures have been taken to reduce processing times in courts), as well as information about the budget (as decided by the Riksdag). The Government may also give the National Courts Administration specific assignments (e.g. to evaluate safety measures in courts). The National Courts Administration is mainly responsible for providing administrative support and services to the courts, and, for administrative purposes, leading and coordinating activities relating to the courts, while at the same time respecting the independence of the judiciary. It submits an annual report to the Government.

The prosecution service (the Swedish Prosecution Authority and the Swedish National Economic Crimes Bureau) is not a part of the judiciary in Sweden. The prosecution service is also independent and separate from the Government. This principle of independence is fundamental to the Swedish form of government. The Government is constitutionally prevented from commenting on or influencing the independent decisions of the prosecution service. According to IG Chapter 12, Section 2, "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 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.

Appointment and selection of judges

All permanent judges are appointed by the Government (IG Chapter 11, Section 6) for an indefinite period of time, following an open competition and upon a recommendation by the Judges Proposals Board in accordance with the provisions of the Act on the Appointment of Permanent Judges (2010:1390). The procedure is the same in the courts of first instance, the courts of appeal and the Supreme Courts. Most non-permanent judges (e.g. assistant judges and associate judges) are employed until further notice. Lay judges are appointed for a term of four years.

The Judges Proposals Board is an independent central government authority. The Board consists of nine members with broad experience and competence in the legal field. In accordance with European standards, a majority of the members are judges nominated by the courts. They represent different types of courts and court instances. Two members are lawyers operating outside the judiciary, one of them must be a member of the Swedish Bar Association. Furthermore, two members represent the public. The main task of the Judges Proposals Board is to prepare all matters concerning the appointment of permanent judges and to propose suitable candidates to the Government.

The procedure before the Judge Proposal Board is transparent. The Board advertises vacant positions. The appointment of permanent judges is always based on the submission of written applications by those interested in a particular vacancy. The Judges Proposals Board submits motivated proposals to the Government detailing which of the applicants is best suited for the post. The protocol is sent to the applicants and is accessible to the public. The applicants and their merits, and the Board's assessment of them in its proposal to the Government are all public records. The Government is not bound by the Board's proposal, but it cannot appoint a person who has not first been heard by the Board. If the Government intends to appoint a person not proposed by the Board, it is obliged to refer the matter back to the Board. The Ministry of Justice reviews the matter thoroughly and, finally, it is presented to a government meeting for decision.

Appointments of judges must be based only on objective factors such as merit and competence (IG Chapter 11, Section 6). All legally trained judges must be Swedish citizens and must have passed the professional examinations prescribed for qualification for judicial office. No person declared bankrupt or who is legally represented by an "administrator" may exercise judicial office. Normally, during the competition for a permanent judge post the Judges Proposals Board obtains references from the applicant's current and recent employers. The Board can also give other authorities and organisations an opportunity to make comments, for example the Swedish Prosecution Authority and the Swedish Bar Association. Before the Board submits its proposal to the Government the criminal records system is consulted.

Lay judges participate in the courts of appeal, the administrative courts of Appeal, the district Courts and the administrative courts. They are elected by municipal councils or county council assemblies.

Appointment and selection of prosecutors

The Prosecutor General is chief prosecutor under the Government and, in this capacity, is responsible for, and the head of, the prosecution service. The Prosecutor General is assisted by the deputy Prosecutor General. The Prosecutor-General and the Deputy Prosecutor General are appointed by the Government (the Swedish Code of Judicial Procedure Chapter 7, Sections 2-3). The appointment of other prosecutors is prescribed in the Ordinance containing Instructions for the Swedish Prosecution Authority. According to Section 22, the Swedish Prosecution Authority appoints public prosecutors (except for the Prosecutor-General and the Deputy Prosecutor General). There is an advisory board within the Prosecution Authority tasked with advising on the appointment of prosecutors (except for appointments of directors of public prosecution, deputy directors of public prosecution and public prosecutors).

All advertisements for new positions are announced publicly and all applications are registered and are also official documents. The eligibility requirements for prosecutors are regulated in the Public Employment Act and in the Prosecutor Ordinance. The recruitment process for trainee prosecutors consists, among other things, of interviews and tests. The education of aspirant prosecutors consists of a 9-12 month long probationary period (the Prosecutor Ordinance Section 19). During the trainee period, cases of increasing difficulty are assigned to the trainees. Parallel to their work, the trainees also go through a mandatory basic training programme. During this period, trainees are assessed on at least two occasions based on established criteria. At the end of the probationary period the Chief Public Prosecutor decides whether the trainee prosecutor will be permanently employed as an assistant public prosecutor. The education programme then continues for another two years. At the end of the two-year period the chief public prosecutor assesses whether the assistant public prosecutor meet the requirements to become a public prosecutor. If the requirements are met, the assistant public prosecutor will be employed as a public prosecutor (the Prosecutor Ordinance Section 20).

Irremovability of judges, including transfers of judges and dismissal

A permanent judge can only be removed from office on one of the grounds enumerated in IG Chapter 11, Section 7, namely if

- through a criminal act or through gross or repeated neglect of official duties they have demonstrated that they are manifestly unfit to hold the office (according to the established practice, these conditions are fulfilled in particular where a judge commits a crime and receives a sanction other than a fine, e.g. imprisonment);
- they have reached the age of retirement;
- due to loss or reduction of working capacity they are permanently unable to satisfactorily carry out their duties.

As a rule, such matters are decided by an independent central government authority, the Government Disciplinary Board for Higher Officials. However, the Supreme Administrative Court examines whether a Justice of the Supreme Court should be removed from office, and vice versa.

According to IG Chapter 11, Section 7 a transfer of a permanent judge is possible only if organisational considerations so dictate, and only to a judicial office of equal status (i.e. the salary and the tasks must be the same or substantially the same). Matters regarding transfer of permanent judges are decided by the Government.

Promotion of judges

Many permanent judges have followed a specific career path that begins after graduation (Bachelor of Laws degree) and entails working as a law clerk at a district court or administrative court for two years. After that it is customary to apply to become a legal clerk at a court of appeal or an administrative court of appeal for at least one year, followed by a period of at least two years as an assistant judge at a District Court or Administrative Court. The period of service as an assistant judge is followed by at least one year as a co-opted member of a Court of Appeal or an Administrative Court of Appeal. After completing this period of training, the legal clerk is appointed associate judge.

It is not possible to promote/demote judges to higher/lower courts. A permanent judge can only be appointed to another position through the ordinary procedure for the appointment of judges, i.e. after an open competition and a proposal from the Judges Proposals Board.

Promotion of prosecutors

Positions as director of public prosecution, deputy director of public prosecution, chief public prosecutors and deputy chief public prosecutors are advertised publicly. The eligibility requirements for positions as chief public prosecutors and deputy chief public prosecutors are regulated in the Prosecutor Ordinance. Only a person who is or has been employed as a public prosecutor can be employed as a chief public prosecutor or deputy chief public prosecutor (Section 16). The application process includes interviews and tests. The advisory board on employment matters within the Swedish Prosecution Authority advises on who should be employed as a chief prosecutor. The Prosecutor General appoints chief public prosecutors (Ordinance with Instructions for the Swedish Prosecution Authority section 23). A public prosecutor can be promoted to senior public prosecutor. A position as a senior public prosecutor is not a management position. A senior public prosecutor is expected to handle the most difficult cases and must have a lot of experience. The requirements to become a senior public prosecutor are not legally regulated. The requirements are set by the Swedish Prosecution Authority and positions are advertised publicly. The Swedish Prosecution Authority's advisory board on employment matters advises on who should be employed as a senior public prosecutor. The Prosecutor General appoints senior public prosecutors. A senior public prosecutor can be promoted to an expert position. Experts are expected to contribute to the legal development within the Swedish Prosecution Authority. It is not a management position. These positions are advertised internally. The Swedish Prosecution Authority appoints the expert.

Allocation of cases in courts

No public authority other than a court may determine how judicial responsibilities shall be distributed among individual judges (IG Chapter 11, Section 3). This means that in distribution cases, the courts should only adhere to rules in law, and are not allowed to receive directives on how the distribution should be made in a particular case. According to Chapter 4, Section 11 a of the Code of Judicial Procedure, the distribution of cases between individual judges shall be based on objective criteria established by the court in advance and the distribution must not be capable of affecting the outcome of the case. This provision reflects the Council of Europe Recommendation (CM/Rec(2010)12) 'Judges: independence, efficiency and responsibilities'. It means that there should be a transparent system for how cases are distributed to a particular judge to which a party, the public or an employee of the court can refer. The criteria for distribution must be set out in the rules of procedure of the court. Most often, cases are randomly assigned to organisational units, with a limited possibility to deviate from this system, for example to handle interrelated cases within the same organisational unit or to ensure an even distribution of the workload.

As a rule, a judge can only be removed from hearing a case if there are grounds for their disqualification (specified in Chapter 4, Section 13 of the Code of Judicial Procedure)

Independence and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

There is no Council for the Judiciary in Sweden. Instead, questions relating to the independence of the judiciary are spread among different authorities. As described above, questions regarding appointment of judges are handled by the Judges Proposals Board and disciplinary matters are, as a rule, handled by the Government Disciplinary Board for Higher Officials. The Swedish National Courts Administration, whose main focus is providing administrative support and services to the courts, has the status of an observer in the ENCJ.

Accountability of judges, including disciplinary regime and ehtical rules

Matters of disciplinary measures are decided by the Government Disciplinary Board for Higher Officials, which cover higher public officials, including judges but not justices of the supreme courts (Section 34 of the Public Employment Act). The Board also decides on the removal from office of judges, in particular if, through a criminal act or through gross or repeated neglect of official duties, they have shown to be manifestly unfit to hold office.

The Board is composed of five members who are appointed by the Government for a fixed period of time. The chair and the vice chair must be lawyers with experience as permanent judges. Only the Parliamentary Ombudsmen, the Chancellor of Justice and the employment authority in question (i.e. the court) have a right to initiate procedures in the Board. The Board's decisions are public. It is not possible to appeal the decisions. They can, however, be the subject of a labour dispute under the Labour Disputes Act. The Labour Court is the highest court in such cases.

Special rules apply when a judge is reasonably suspected of having committed a criminal offence in office. The Government Disciplinary Board for Higher Officials can propose that a judge be prosecuted.

Matters of disciplinary measures, prosecution and removal from office concerning justices of the supreme courts are heard by the Supreme Court and the Supreme Administrative Court (IG Chapter 11, Section 8). The Supreme Court hears matters concerning justices of the Supreme Administrative Court, and vice versa. Such proceedings may only be initiated by the Parliamentary Ombudsmen or the Chancellor of Justice.

The Parliamentary Ombudsmen, on behalf of the Riksdag, and the Chancellor of Justice, on behalf of the Government, supervise courts and judges to ensure that they comply with laws and statutes and fulfil their obligations in all other respects. Both institutions have the right to initiate disciplinary procedures against judges for misdemeanours. They may also issue non-binding recommendations and critical advisory comments, for example regarding the obligation to handle cases without undue delay. By contrast, they cannot review or

modify the decisions of a court. The Parliamentary Ombudsmen and the Chancellor of Justice respond to complaints from the public but can also initiate their own investigations.

According to Section 14 of the Public Employment Act, a disciplinary measure for neglect of duty may be imposed upon a judge who intentionally or through negligence, neglects their duties in office. If, having regard to all the circumstances, the neglect is minor, a sanction may not be issued. There are two types of disciplinary measures, warnings and wage deductions. Several disciplinary measures cannot be imposed simultaneously. Wage deduction may be made in a number, comprising at most thirty days, and the daily deduction is a maximum 25 per cent of the wage.

Some criminal law provisions may be applied to judges, in particular bribery and related offences (Chapter 10 of the Swedish Criminal Code), official misconduct (Chapter 20, Section 1 of the Swedish Criminal Code) and breach of duty of confidentiality (Chapter 20, Section 3 of the Swedish Criminal Code). Judges do not enjoy immunity.

Criminal allegations against judges are dealt with through the ordinary criminal justice system. The courts of appeal act as courts of first instance in cases concerning liability or private claims based on criminal offences committed in the exercise of official authority by a judge of a lower court (Chapter 2, Section 2 of the Swedish Code of Judicial Procedure). The Supreme Court acts as court of first instance in such cases concerning a justice of a supreme court or a judge of a court of appeal (Chapter 3, Section 3 of the Swedish Code of Judicial Procedure).

Accountability of prosecutors, including disciplinary regime and ethical rules

The Prosecutor General´s ethical guidelines for the prosecution service apply to all employees within the prosecution service. Violations of the guidelines can lead to disciplinary actions or criticism from the Prosecutor-General through the Prosecutor-General´s supervisory function. The Swedish Prosecution Authority´s and Swedish Economic Crimes Authority´s staff disciplinary boards decide, in certain cases, whether prosecutors should be removed from office due to personal reasons. Decisions of the staff disciplinary boards can be appealed to a court. The Government Disciplinary Board for Higher Officials hears cases of disciplinary responsibility, prosecution, dismissal, suspension and medical examination with coercion regarding state officials in senior positions, including prosecutors. The authority where the employee is employed has a mandate but also a obligation to report cases to the Government Disciplinary Board for Higher Officials.

A prosecutor can be prosecuted for official misconduct (Chapter 20, Section 1 of the Swedish Criminal Code), if they have committed an offence when exercising public authority. Such charge are dealt with in the ordinary criminal justice system.

The prosecution service and its employees are also subjected to external review. The Parliamentary Ombudsmen review the implementation of laws and other regulations in the public sector on behalf of the Riksdag and they are independent of the executive power. The Chancellor of Justice supervises authorities and civil servants. The Parliamentary Ombudsmen and the Chancellor of Justice also have the mandate to report cases to the Government Disciplinary Board for Higher Officials. The Commission on Security and Integrity Protection supervises law enforcement agencies' use of secret surveillance and qualified assumed identities and associated activities. The Commission also supervises the processing of personal data by some parts of the Swedish Economic Crime Authority.

Remuneration/bonuses for judges

There are no rules in law regarding the salaries for judges. According to well established practice salaries in Sweden are a question for the social partners. The Government refrains from interfering in that process. The basic principles regarding remuneration are found in collective agreements between the social partners. Such agreements exist at a central level and concern every civil servant. The principles are very basic. Then there are collective agreements at a local level. The Swedish National Courts Administration has reached such an agreement with the trade union to which judges belong. This agreement states the following in this respect: Permanent judges holds a very specific position. According to agreement remuneration may never be based on

grounds contradictory to the interest of independence regarding the application of the law. Thus remuneration may never be determined in a way that from an objective perspective may be seen as a reaction to how the judge has handle their cases. When it comes to the salary levels, the agreement states that the basis for these should be the fact that the decision-making entails a certain responsibility. It is also underlined that the level of salaries and the development of salaries paid to judges should secure the possibilities to recruit and retain the most skilful and most suitable lawyers for the office of judge.

When a new judge is appointed the Swedish National Courts Administration and the judge agrees on a salary. According to the abovementioned agreement with the trade union the current lowest level for permanent professional judges is SEK 61 800 a month. This sum applies to judges who are not being promoted or who do not hold a position as a court president or cannot be regarded in any other way as a senior judge. Every year salaries are revised. This process is handled mainly by the courts themselves. New salaries are set in an agreement with on the one hand the individual judge and on the other hand the president of the court or a senior judge to whom this task is delegated. If they cannot reach an agreement the salary will be set in a collective agreement between the Swedish National Courts Administration and the trade union for judges. However, it should be mentioned that there is a safeguard to protect the independence of judges in this process. There is a possibility for the trade union and for the Swedish National Courts Administration to seek the advice from a special board designated for the handling of salaries issues if the salary suggested by the court president may be seen as a threat to the independence of the judge. There are no detailed rules specifically on the acceptance of gifts by judges. The authorities refer in this respect to the bribery offences under Chapter 10 of the Swedish Criminal Code. It follows from the principle of the independence and impartiality of judges that a judge may not accept any act or omission, past of in connection with the performance of their judicial duties.

Remuneration/bonuses for prosecutors

At the beginning of their careers, prosecutors are remunerated through fixed wage levels. There are four different levels.

- trainee prosecutor
- assistant public prosecutor
- assistant public prosecutor who has worked for a year
- the first year as a public prosecutor

All other employees at the Swedish Prosecution Authority have their wages set individually.

When a prosecutor is promoted, their wage level will be assessed to ensure that it is set at the appropriate level for the promoted position.

General rules on bribery offences can be applied to actions made by a prosecutor (Chapter 10 of the Swedish Criminal Code). There are guidelines issued by the Swedish Prosecution Authority on the acceptance of gifts and entertainment.

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 also independent and separate from the Government. This principle of independence is fundamental to the Swedish form of government. The Government is constitutionally prevented from influencing the independent 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.

Independence of the Bar (chamber/association of lawyers)

The Swedish Bar Association is an independent and self-governing association. In addition, one of the corner stones of professional independence for members of the Bar is that an advocate must always stand free from undue influence from sources outside the profession.

The Bar Association can be characterised as an association under private law, bearing some characteristics of a public law body. The Bar performs some public administrative functions, also involving the exercise of public authority. Into the latter category falls the requirements for membership of the Bar, supervision of the professional activities of advocates and taking disciplinary measures against Bar members.''

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

In February 2020 an all-party commission of inquiry was appointed. The commission of inquiry, which is led by the President of the Supreme Court, will investigate the need to strengthen the independence of the courts and judges. One question that the commission of inquiry will investigate is whether the number of supreme court justices and their age of retirement need to regulated in the constitution. The commission of inquiry will also investigate whether the organisation and the role of the Swedish National Courts Administration should be altered in order to strengthen the independence of the courts and judges. The commission of inquiry will present its report in 2023. (https://domstol.se/domstolsverket/nyheter/2020/02/kommitte-ska-se-over-domstolarnas-oberoende/ , https://www.regeringen.se/pressmeddelanden/2020/02/forstarkt-skydd-for-demokratin-och-domstolarnas-oberoende/)

Participation in the EPPO

On 14 November 2019 the Swedish Government decided to appoint an inquiry chair to analyse and propose the necessary legislative changes and other measures needed for Sweden's participation in the EPPO. The inquiry will present a report with its conclusions on 14 December 2020 at the latest. The report will be sent for consultation to relevant government agencies, organisations, municipalities and other stakeholders, which can submit responses. Thereafter, the Government can start it's work on drafting the legislation and present it to the Riksdag for approval.

B. Quality of justice

Overview of the legal and institutional framework in Sweden [sub-topics 12-16]:

District courts are the court of first instance among the general courts and handle criminal and civil cases and various kinds of other matters. In addition to civil and criminal cases, district courts also take decisions on such matters as adoption, administrators, bankruptcy and special representatives. There are 48 district courts across the country. They vary in size, from around ten to several hundred employees. The next level is the court of appeal. There are six courts of appeal. In certain cases, a case can only be given a full review by a court of appeal after the court has granted leave to appeal.

General administrative courts are the court of first instance among the administrative courts and handle cases involving disputes between the community and individuals. These courts settle many different types of cases. Common types of cases are tax cases, social insurance cases, cases under the Social Services Act and cases concerning compulsory care. There are twelve administrative courts. Four of the administrative courts also house migration courts, which consider cases involving aliens and citizenship. Administrative courts of appeal – of which there are four – are the next level. For most kinds of cases, leave to appeal is required for a full review by an administrative court of appeal.

Legal aid under the Legal Aid Act is not applicable in criminal cases. Legal aid is financial support provided by the State to those who are unable to pay for a legal representative for them to have their case heard. Legal aid is used in civil cases, such as family disputes, for example cases concerning custody of a child. The applicant's annual income may not exceed SEK 260 000. A prerequisite is that the cost is not covered by an insurance.

There are limits to the legal aid costs paid by the State. The basic idea behind legal aid is that a person should contribute to the cost to the extent that he or she can afford. A legal aid fee is paid by the applicant, and varies from 2 to 40 percent of the costs, depending on the applicant's income. Legal aid can cover all or part of a person's cost for a legal representative up to 100 hours (can be extended by the court).

In certain criminal cases, the court can, after a preliminary investigation has been initiated appoint a injured party counsel, to help a victim of a crime. An injured party council protects the interest of the victim and can for example bring an action for damages on the victim's behalf in the criminal case if the prosecutor does not do so. Such counsel is common in cases where the victim has been exposed to, for example, a sexual offence, assault, unlawful deprivation of liberty or another offence for which imprisonment may be imposed on the perpetrator. A injured party counsel receives payment from the State. If the accused is sentenced, they may have to repay the costs of injured party counsel to the State. The injured party does not have to pay anything for the counsel.

Anyone suspected of a serious offence or taken into custody is entitled to a public counsel. In case of a minor offence it is up to the court to determine whether or not the suspect needs a public counsel. Public counsels are funded by the State. The public defence counsel will assist the suspect during the preliminary investigation and during the trial. It is the court that appoints the public counsel upon request by the suspect. As a matter of principle a public counsel is a lawyer who is a member of the Swedish Bar Association. When the court decides whether or not a public counsel should be appointed it is the suspects need for counsel that is decisive, it has nothing to do with their income. On the other hand, suspects who are sentenced for an offence can be obliged to pay for all or part of the State's cost for the public counsel.

In district courts, the applicant in a civil case must pay a fee to the court. At present the fee is SEK 2 800 (EUR 300). In cases where the value of the claim obviously does not exceed half of the price base amount prescribed in the National Insurance Act (the base amount for 2019 is SEK 46 500) the fee is SEK 900 (EUR 100). There are no court fees to appeal to higher court or in administrative courts.

There is information on www.domstol.se about how to initiate a claim. Online forms and publications are also available on the website, including in English. The highest courts (The Supreme Court and the Supreme Administrative Court) publish all judgments on their website.

To meet the challenges facing the judicial system – and, ultimately, to increase security and reduce crime – criminal cases need to be managed more efficiently. To this end, a project is under way to ensure that, jointly abd through the use of information technology, the authorities in the judicial chain develop a better exchange of information in the criminal justice process. Besides the efficiency gains, the project entails enhanced service to citizens and better data for knowledge, analysis and follow-up throughout the judicial chain. When a case can be followed electronically through the entire criminal trial procedure, information can be retrieved and analysed in ways that were previously impossible. This opens new possibilities to introduce more knowledge-based law enforcement. The digitisation of information exchange in the judicial chain also allows stronger governance and more efficient resource use in the judicial system.

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

The costs of legal aid (for example legal aid under the Legal Aid Act, injured party counsel and public counsels) are increasing every year (SEK 3 billion in 2019).

Resources of the judiciary (human/financial)

The collective term for the court system is the 'Swedish Courts'. The Swedish Courts consist of 6 400 employees distributed among 80 different courts, authorities and boards. The Swedish Courts consist of the general courts, the general administrative courts, the regional rent and tenancy tribunals, the Legal Aid Authority and the Swedish National Courts Administration. For 2020, the budget for the Swedish Courts amounts to just over SEK 6 billion.

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

The courts have an electronic case system (VERA) and statistics are reported each year in the Swedish National Courts Administration's annual report. At court level, the courts themselves conduct surveys aimed at legal professionals and court users to measure their satisfaction with the services delivered by the judicial system. Every three years, the Swedish National Courts Administration conducts a media survey. The purpose of this survey is to establish journalist's opinions and experience of their contacts with the Swedish courts. This survey is conducted as telephone interviews and involves around 150 journalists from all over the country. The journalists are asked for example to share their view on interviews that they have conducted with representatives of the judiciary/courts as well as their trust in the judiciary. The survey contains both quantitative and open questions.

Each year the Government issues appropriation directions containing measurable targets and goals that all court instances are expected to achieve regarding average rates and time frames for resolving pending cases. Furthermore, according to appropriation directions, the courts are required to define their own targets and goals in order to ensure the promptness of court proceedings. In this regard the courts are expected to maintain close liaison and cooperation with the Swedish National Courts Administration

A specific unit at the Swedish National Courts Administration, the unit for analysis and finances, conducts dialogues with all national courts and boards focusing on results and budget. These dialogues are held three times per year (two result dialogues and one budget dialogue). These dialogues take place after every four month. During the dialogue, the Administration goes through the courts results focusing on their activities and finances.

C. Efficiency of the justice system

Overview of the legal and institutional framework in Sweden [sub-topics 16-18]:

Length of proceedings

In criminal cases (excluding cases involving detainees), the average processing time is about four months in district courts and about six months in courts of appeal.

In civil cases, the average processing time is about six months in district courts and eleven months in court of appeal (cases where the court of appeal has granted leave to appeal).

In general administrative courts, the average processing time is 7.7 months (excluding cases concerning migration). In administrative courts of appeal, the average processing time is 5.4 months (excluding cases concerning migration).

Enforcement of judgements

The Swedish Prison and Probation Service is responsible for the enforcement of prison and probation sentences, including the supervision of conditionally released persons. The Swedish Prison and Probation Service is also responsible for remand prisons and carries out pre-sentence investigations in criminal cases.

According to Swedish law (Imprisonment Act (2010:610), and Detention Act (2010:611) every prisoner must be treated with respect for their human dignity and with understanding for the specific difficulties associated with deprivation of liberty. Negative consequences of deprivation of liberty must be counteracted. The enforcement of prison sentences must be devised so that it facilitates the prisoner's re-adjustment to life in the community and focus especially on measures intended to prevent re-offending.

In recent years there has been a rapid increase in the number of detainees on remand and in prisons. This has been a challenge for the Swedish Prison and Probation Service. In a short period of time the former low

occupancy has changed to a situation with high occupancy in prisons. The Swedish Prison and Probation Service has been provided with substantial funds due to this situation.

Sweden has long been criticised for the isolation of remand prisoners. The Swedish Government recently submitted a bill to Riksdag containing proposals to contribute to increased legal certainty and a greater impact on the child rights perspective.

Regarding enforcement of judgments in civil and commercial matters and enforcement service, please see information on the European e-Justice Portal https://e-justice.europa.eu/content_procedures_for_enforcing_a_judgment-52-se-en.do?member=1

II. Anti-corruption framework

General remarks

Information and evaluations as well as recommendations are to be found in specific reports published:

- In the framework of the review under the UN Convention against corruption,
- in relation to the Council of Europe conventions on Corruption through the monitoring work of GRECO; and
- in relation to the relevant OECD Convention and the monitoring work of the OECD.

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 a number of questions in a self-assessment checklist. https://www.unodc.org/documents/treaties/UNCAC/SA-Report/2020_01_31_Sweden_SACL_2nd_cycle.pdf

Reviewers have prepared a draft report with observations and supplementary questions. The plan is also for a country visit to take place in Stockholm. However, due to the current situation the review process is on hold indefinitely. 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

The Council of Europe conventions on corruption etc. and the monitoring reports of the Group of States against Corruption (GRECO)

Sweden has ratified both Council of Europe conventions on corruption and was one of the founding members of GRECO in 1999. Since then, Sweden has been an active member and has been evaluated in every round (5). Sweden is also currently the co-chair of GRECO.

Information about Sweden can be obtained from the various GRECO reports, and specifically:

- Reports in relation to the GRECO third evaluation round: Incriminations and transparency of party funding. Regarding incriminations, please see the Compliance report of 1 April 2011 (https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806ca1b6), pages 2-4, (and also our information below under the heading Repressive measures). Regarding party funding, please see the second addendum to the Second compliance report of 7 December 2018 (https://rm.coe.int/third-evaluation-round-second-addendum-to-the-second-compliance-report/168090229a), pages 7 and the appendix containing the Act on transparency of party financing issued on 15 February 2018.

- Reports in relation to the GRECO fourth evaluation round concerning prevention of corruption in respect of members of parliament, judges and prosecutors: the evaluation report of 12 November 2013 (https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806ca2c3) including the Second Compliance Report of 23 June 2017 (https://rm.coe.int/fourth-evaluation-round-corruption-prevention-in-respect-of-members-of/1680760836).

Specifically of interest in connection with the Anti-corruption framework is the Greco 5th evaluation round: preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies. Many issues of more general importance to this pillar are evaluated in this round. https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680943be3.

OECD Anti-Bribery Convention

Sweden ratified the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Anti-Bribery Convention) in 1999. Since the ratification of the Convention, Sweden has been an active participant and delegate in the OECD Working Group on Bribery (WGB).

Sweden has been examined according to phase 1 (1999), phase 2 (2005, 2007) and phase 3 evaluations (2012, 2014). Sweden will be examined in accordance with the guidelines for phase 4 evaluation in a few years' time. The on-site visit, during the phase 3 evaluation in June 2012, focused on practical steps taken by Sweden to implement and enforce the Anti-Bribery Convention, as well as the 2009 Recommendation for further Combating Bribery of Foreign Public Officials in International Business Transactions (2009 Anti-Bribery Recommendation).

The latest phase 3 examination of Sweden has been followed up through reports and oral presentations in the meetings with the OECD WGB. The WGB sent a High Level Mission (HLM) to Sweden, to follow up a few outstanding recommendations in the 2012 phase 3 evaluation, in June 2019. The purpose of the HLM was to meet with high-level officials, members of the Riksdag, the Minister for Justice and Migration and the Minister for Foreign Trade to make sure that the recommendations were followed up and implemented. Furthermore the aim was to be informed of Sweden's efforts to combat bribery of foreign public officials in international business transactions. The HLM was concluded with a report and a press release. Some of the recommendations, such as liability of legal persons and the implementation of the legislation on corporate fines, will be followed up in the phase 4 evaluation.
https://www.oecd.org/daf/anti-bribery/sweden-oecdanti-briberyconvention.htm
https://www.oecd.org/daf/anti-bribery/Swedenphase3reportEN.pdf
https://www.oecd.org/daf/anti-bribery/Sweden-Phase-3-Written-Follow-Up-Report-EN.pdf
https://www.oecd.org/corruption/sweden-must-urgently-implement-reforms-to-boost-fight-against-foreign-bribery.htm
The recent legislative changes discussed by the OECD HLM, as referred to above, can be found in the Swedish Criminal Code Chapter 2 (on the applicability of Swedish Law) Section 2 (new version of the Section as of 1 May 2020) and Chapter 36 (on confiscation of property, corporate fines and other special legal consequences of offences), Sections 7-10.

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

Reference to previous specific reports and relevant updates [sub-topic 19]

Please see the descriptive part of the GRECO fifth evaluation round report on Sweden, in particular: paragraphs 31-43 on anticorruption and integrity policy, regulatory and institutional framework, paragraphs 44-58 on transparency and oversight of executive activities of central government and paragraphs 114-123 on the organisation and accountability of the Police Authority. https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680943be3.

List of relevant authorities

*The Swedish Police Authority investigates corruption***.** Within the Authority there is a National Anti-Corruption Police Unit (NACPU; Nationella anti-korruptionsgruppen) as part of National Operations Department. It was founded in 2012 to concentrate the investigation forces in Sweden at national level. NACPU investigates bribery cases and other corruption-related offences. It also has a responsibility to prevent corruption. The unit

consists of police officers and civil servants specialised in investigation of corruption. NACPU works closely with other parts of the Police Authority (such as the Swedish Financial Intelligence Unit and the national IT crime centre) as well as with authorities such as the Swedish Prosecution Authority.

The work on corruption and foreign bribery is prioritized within *the Swedish Prosecution Authority*. All criminal investigations related to corruption and foreign bribery are conducted by prosecutors at a special unit within the Swedish Prosecution Authority, the National Anti-Corruption Unit (Riksenheten mot corruption). Around ten prosecutors and two accountants work at the unit. The prosecutors working on these cases are specially appointed and all have extensive experience of working as prosecutors in international environments and with a focus on offences with economic elements. The resources of the National Anti-Corruption Unit are protected in that the prosecutors at the Unit are not used for any cases other than those concerning corruption.

It should be noted that in addition to *the Swedish Criminal Code* [brottsbalken], *the Public Employment Act* passed in 1994 provides disciplinary liability for neglect of duty in the form of warnings or wage deductions. The Act also prohibits employees' involvement in activities that may adversely affect confidence in their impartiality in the work or that may harm the reputation of the authority.

Among current policies intended to prevent and address corruption among government officials it should be stressed that *the Swedish Agency for Public Management* (http://www.statskontoret.se/InEnglish) is tasked with contributing to and coordinating government agencies' work towards a sound administrative culture, thus preventing and addressing issues of corruption at an early stage. The Agency's principle is that a sound administrative culture incorporate the professional ethical foundations that must characterise the work of all central government employees. Stating the importance of management leading by good example, dilemma exercises involving all staff in local offices have been a part of the Agency´s work in recent years.

The Agency also runs a *network against corruption* where agencies can meet and share experiences and best practices regarding anti-corruption measures. Participation in the network is voluntary. A total of 230 authorities have joined the network.

The *Swedish National Financial Management Authority* is responsible for developing public sector financial management. The agency is also responsible for developing and managing the national internal audit and the internal control of the central government. Within that work, risks of corruption, fraud and other irregularities are supposed to be handled effectively by each agency. The Swedish National Financial Management Authority provide general advice as well as other support material on these matters.

The *Delegation for Trust-Based Public Management* was tasked in June 2016 with analyzing and proposing how the management of welfare services in the public sector can be developed within existing regulatory frameworks so as to make more use of the competence and experience of employees. Please see https://tillitsdelegationen.se/in-english/ for more information and results of the work. The Delegation will present its proposals in May 2020 on a remit from the Government concerning *a mandatory introduction for all staff in governmental agencies including legal issues preventing corruption.*

The Swedish National Council for Crime Prevention (Brottsförebyggande rådet, BRÅ) presents studies on related issues in order to support an increase in knowledge in local government administrations, central government agencies and private companies with respect to the location of the risks. Having identified risk factors and risk areas, the reports also proposes several preventative measures, for more information in English please see www.bra.se.

At the end of 2019, Minister for Public Administration Lena Micko announced *a governmental initiative to develop a National Action Plan on anti-corruption, aiming to ensure that the public sector* acts more efficiently and coordinate its efforts in a spirit of mutual trust and understanding. At present, information and experience-based knowledge are being gathered from government agencies, municipalities, regions and civil society organisations. The plan is to launch the initiative by the end of 2020.

B. Prevention

Reference to previous specific reports and relevant updates [sub-topics 20-24]

Please see the descriptive part of the fifth evaluation round GRECO report on Sweden, especially paragraphs 10-11 on the context; paragraphs 13-21 on the system of government; paragraphs 31-43 on anticorruption and integrity policy, regulatory and institutional framework; paragraphs 44-58 on transparency and oversight of executive activities of central government; paragraphs 59-64 on conflicts of interest; 65-84 on prohibition or restriction of certain activities; paragraphs 85-97 on declaration of assets, income, liabilities and interests; paragraphs 98-113 on accountability and enforcement mechanisms. The report on Sweden was adopted on 22 March 2019: https://rm.coe.int/fifth-evaluation-round-preventing-corruption-and-promoting-integrity-i/1680943be3.

Work on implementing the 15 recommendations is ongoing and will be reported to GRECO before the end of 2020.

Integrity framework Integrity framework: asset disclosure rules, revolving doors and general transparency of public decision-making and rules preventing conflict of interests in the public sector

Please see the GRECO report in the fifth round, as referred to above, where rules for political top executives (in the case of Sweden: ministers, state secretaries as well as political advisers) are scrutinised, and also those for employees in the Police Authority. The forth round evaluation is also relevant as regards the rules for employees of the prosecution service and of courts.

In 2018, new legislation entered into force (2018:676), setting out *a specific system for ministers' and state secretaries' transitions to other assignments, employment or establishment of a business after concluding their assignment as minister or their employment as state secretary*. The more detailed conditions are set out in a special act – *The Act concerning restrictions on ministers and state secretaries transitioning to nonstate activities*. For examinations under the Act, there is a separate body – the Board for the Examination of Ministers' and State Secretaries' Transitions. The regulation is applicable to transitions to non-state activities, including when ministers and state secretaries intend to take up a new assignment or employment in non-state activities, or set up a business. "Non-state activities" encompasses all activities where the state is not the responsible authority. The regulation also apply to companies that are wholly or partially state-owned. For all the abovementioned activities, the state itself has no – or limited – possibilities to prevent inappropriate transitions. To make it impossible to circumvent the regulation, they cover transitions to both assignments and employment in non-state activities and the setting up of a business. However, municipal commissioner, and party political assignments are not covered by the Act.

There are also rules on revolving doors in place for members of the Executive Board of the Riksbank (Swedish National central bank) as regulated in 1998 Sveriges Riksbank Act, and for some employees whose transition to companies doing business with the railway authority is restricted under to the 2004 Railway Act. In cases other than stated above for example for other government agency staff there is no revolving doors regulation.

The issue of regulation concerning "cooling-off-periods" or "revolving doors" is complicated, as was underlined in the legislative history of the Act concerning restriction for ministers and state secretaries'. In a small country like Sweden, government agencies compete on a busy market for the most highly educated and trained skills that is attractive to both the public and private sector. As stated in the Public Access to Information and Secrecy Act, it should be noted that duties if confidentiality remains even after an assignment or employment has ended. GRECO has made recommendations to Sweden that an independent assessment of the implementation of the Act concerning restrictions for ministers and state secretaries be conducted and that the Act be amended, if necessary, in view of its results and that Sweden consider widening the scope of the Act to cover a broader range of persons entrusted with top executive functions. As stated in GRECO report (paragraph 3) the issue is to be taken into further consideration in due course, which depends on circumstances further explained on the relevant page of the report.

Ethical guidelines were prepared and put in place by the Government Offices in 2004. They are regularly updated. One section of the guidelines focuses on questions of bias and other conflicts of interests. This section is currently undergoing a process of revision and updating, partly due to new legislation (the 2017 Administrative Procedure Act). Questions of bias are regulated by law in this Act. The ethical guidelines do not contain any additional regulations as such, but describe the applicable legislation and clarify its meaning, eg. using concrete examples of situations and relationships that may be problematic. The guidelines emphasise the importance of keeping a "safety distance" from anything illegal, stressing that there is a difference between "legal" and "appropriate". There may, therefore, be situations where an employee should not, for example, take part in a decision, even if they are not expressly forbidden by law to do so. An outside observer should never have reason to feel the slightest doubt as to whether an employee of the government offices is impartial in a decision in which they are taking part. The ethical guidelines are not formally binding. They contain rules which employees are expected to follow in normal circumstances, but the guidelines allow for the possibility that the employee may, on rare occasions, find themselves in a situation where it is acceptable to make an exception. The guidelines apply to all employees of the Government Offices. This does not include government ministers. Ministers are not employed, but appointed by the Prime Minister, who is elected by the Riksdag.

The provisions on conflicts of interest set out in the Administrative Procedure Act apply by analogy to government affairs, in accordance with established constitutional practices and the statements made by the Parliamentary Committee on the Constitution. Moreover, according to the Instrument of Government, a minister may not hold any employment in the public or private sector. Nor may they hold any office nor engage in any activity that might undermine public confidence in them.

The Act (2018:1625) on the obligation for certain public officials to declare holdings of financial instruments contains provisions on the obligation for ministers and certain officials in public authorities, municipalities and regions to declare holdings of financial instruments. Supplementary provisions are found in the Ordinance (2018:2014) on the obligation for certain public officials to report holdings of financial instruments, and elsewhere. The abovementioned Act replaced the Act (2000:1087) on the obligation to give declare certain holdings of financial instruments on 1 January 2019. The new Act aims to enshrine the obligation for ministers to declare financial instruments in legislation, as such instruments were previously declared based on a government's decision. The new Act also extends the declaration obligations to some financial instruments held indirectly by officials. According to the Act, ministers must declare their holdings of financial instruments to the Government Offices. Further, the same Act states that members of a public authority's management (including its Director-General) are also obliged to declare such holdings if that authority holds insider information. The Government decides which public authorities are subject to such an obligation to declare. The authorities themselves decide which of their officials outside the management are obliged to declare holdings, depending on their access to insider information. Municipalities and regions also decide which of their public authorities should be subject to the declaration obligation. The officials declare holdings to their authority, municipality or region. The person receiving the declaration shall study them and take appropriate measures, for instance report suspected insider trading to Finansinspektionen (the Swedish Financial Supervisory Authority). In case of failing to declare or incorrect declarations employees may be subject to disciplinary sanctions (warnings or wage deduction) or dismissal. Financial instruments comprise stocks, bonds and fund units, etc. The declaration requirement does not apply to the premium pension system. Any change in ownership must be reported within seven days. Otherwise, total holdings must be declared on an annual basis. The declaration requirement applies to direct holdings and some indirect holdings, such as holdings of dependent children.

Pursuant to the Public Access to Information and Secrecy Act (2009:400) secrecy applies within a public authority to information concerning holdings of financial instruments reported pursuant to the abovementioned Act (2018:1625), unless it is manifestly evident that the information may be disclosed without damage to the person concerned. This means that secrecy is the main rule for such information.

The list of ministers' holdings is compiled by the Director-General for Legal Affairs at the Prime Minister's Office. The ministers have agreed to waive the secrecy, which means that the information is available to the public upon request. Although formally speaking, ministers are only bound to declare their own and their dependent children's holdings of financial instruments, they have also agreed to declare their relatives'

holdings of such instruments. In this context, 'relatives' are spouses, cohabiting partners and registered partners. Information about relatives' financial instruments is subject to secrecy.

The Swedish legislation regarding the obligation to declare holdings of financial instruments and the abovementioned Act (2018:1625) were scrutinised in the framework of the GRECO Evaluation Report (Fifth Evaluation Round, adopted on 22 March 2019, paragraphs 85–97, see link above). GRECO thereby recommended Sweden that declarations of holdings of financial instruments made by persons entrusted with top executive functions, i.e. (ministers and state secretaries, as well as political experts, as appropriate) should be subject to substantive control (paragraph 97). Measures to implement this recommendation is underway within the government offices.

Whistleblower protection

Under the Act (2016:749) on special protection for workers against reprisals for whistleblowing concerning serious irregularities (hereafter the Whistleblowing Act), an employer may not subject an employee, or a temporary agency worker, to reprisals by reason of him or her blowing the whistle on serious irregularities in the employer's operations. The EU has adopted Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law, also referred to as the Whistleblower Directive. The Directive sets minimum standards for the protection of individuals who report breaches of EU law. The directive contains certain provisions that lack any equivalent in Swedish law, for instance regarding the obligation for companies of a certain size to establish internal channels for reporting violations. Furthermore, the Directive protects a broader group of people than the Whistleblowing Act. Against this background, it can be expected that adaptation of Swedish law will be required to implement the Directive.

As regards whistleblower protection, according to *the Freedom of the Press Act and the Fundamental Law on Freedom of Expression,* everyone has the right, with impunity, to provide information on any subject for publication in a medium covered by any of the mentioned acts. The protection has several components: the freedom to communicate information (meddelarfrihet), the freedom to procure information (anskaffarfrihet), the right to anonymity (anonymitetsskydd) meaning that anyone who has communicated information to the media has the right to be anonymous to the publisher. There is also a prohibition for anyone publishing the information to reveal the source (källskydd), and prohibitions on inquiry (efterforskningsförbudet) and reprisals (repressalieförbudet). The protection applies in relation to public authorities and other public bodies and in relation to some publicly funded private entities. The right to communicate and publish information does not always apply. The Freedom of the Press Act and the Fundamental Law on Freedom of Expression contain exceptions to this right in the following three cases: 1) it is not permitted to communicate or publish information if the person providing the information thereby commits certain serious offences against national security, e.g. espionage or certain other offences directed at the State; 2) it is not permitted to intentionally provide an official document that is secret for publication; 3) it is not permitted to intentionally breach duties of confidentiality in cases specifically stated in the Public Access to Information and Secrecy Act.

Furthermore, the Instrument of Government provides for constitutional protection against reprisals that applies to both internal reports and reports to other agencies.

Measures taken/envisaged for preventing corruption in public procurement

The National Agency for Public Procurement offers guidance on anti-corruption measures at a strategic level and measures at different phases of the procurement process. The Agency publishes a continuously updated guidance paper, entitled "Corruption in public procurement: what is it and how can it be prevented?". The latest paper is dated 2017. Furthermore, the Agency offers training material for contracting authorities and entities to raise awareness of the concept of corruption and conflict of interest, both in general and in public procurement specifically, as well as information on best practice.

The Swedish Competition Authority also works to prevent corruption. Anti-competitive behaviours such as collusion and bid rigging in public procurement are covered by Chapter 2 Section 1 of the Competition Act. The Swedish Competition Authority has several tools that it uses in its work to prevent and detect collusion in public procurements. Examples include: an anonymous whistle-blower system; the leniency programme;

screening of procurement data with the aim of detecting and investigating infringements related to public procurement; an online question forum; a checklist entitled: Twelve ways to detect bid-rigging cartels; an interactive guide for tenderers on cooperation in public procurement, and a guide describing the rules governing cooperation between competing companies within the framework of an industry organisation.

In October 2019, the Riksdag adopted a bill on better public procurement statistics. The bill enters into force on the 1 July 2020, and as of 1 January 2021, all public procurements must be advertised in registered databases. This new legislation improves the possibilities for cartel screening, as well as for screening of other types of serious irregularities. Moreover, the legislation is an important step in providing secure information on how tax money is used and in following how the national procurement strategy is applied.

There are also several other actors who work to prevent corruption. For example, the Swedish Association of Local Authorities and Regions offers general guidance to local authorities and regions on anti-corruption. The Swedish Anti-Corruption Institute has developed a code of conduct for economic operators, the Code on Gifts, Rewards and other Benefits in Business.

Recent reforms in relation to combating money laundering and terrorist financing.

Progress was made in the legislative area in 2019 as well as in the areas of more effective supervision, measures to ensure regulatory compliance in, for instance, Baltic subsidiaries of Swedish banks and concerning the staffing of supervisory authorities.

Between April 2019 and March 2020 the Government presented a total of five bills to the Riksdag containing material amendments to the Act on Measures against Money Laundering and Terrorist Financing, the Act on Registration of Beneficial Owners and/or related laws. In addition, a number of amendments to acts and ordinances resulting from decisions in earlier years entered into force in 2019.

Moreover, in 2019 the Government appointed an inquiry to present further proposals in 2020 for legislative amendments to improve the effectiveness of the system for combating money laundering and terrorist financing.

The legislative amendments that have entered into force in recent years have affected many different parts of the system. They have, for instance, concerned the provision of information from financial companies to law enforcement authorities, supervision of lawyers and law firms, regulation of virtual currencies, stricter measures in relation to high-risk third countries, better protection for whistle-blowers, the exchange of information with foreign supervisory authorities, reinforced powers for Finansinspektionen in relation to foreign branches, measures in relation to transparency in beneficial ownership, feedback on reporting of suspicious transactions and the implementation of international standards.

The national budget for 2020 provided additional funding of SEK 10 million for Finansinspektionen for supervision in the area of combating money laundering and terrorist financing. The county administrative boards in Skåne, Stockholm and Västra Götaland, which also have supervisory tasks in this area, received a total of SEK 12 million. Other authorities without supervisory responsibilities but with other tasks in the area also received funding.

In March 2020 Finansinspektionen issued a formal warning against Swedbank and an administrative fine of SEK 4 billion for deficiencies in its compliance with anti-money laundering regulations, both in terms of its Swedish operations and in the parent bank's governance and control of its subsidiaries in the Baltics. This administrative fine is far larger than those previously issued by Finansinspektionen for deficiencies in this area and will likely set a precedent for the future. The investigation was conducted in close cooperation with corresponding bodies internationally.

Sweden's Financial Intelligence Unit has upgraded its system for the receipt of suspicious transaction reports. As of March 2020 it only uses the UN-developed goAML system, which is used in a large number of countries. The Financial Intelligence Unit is judged to be increasing its capacity, at both operational and strategic level, to

handle and analyse the reports received. The Financial Intelligence Unit sees the content of all reports of suspicious transactions, and all information is managed, either by being processed and forwarded to law enforcement authorities or by being saved in a searchable form for the future. Several other changes, over and above the introduction of goAML, are judged to further increase the effectiveness of the work of the Financial Intelligence Unit. These include the national bank account register (the account and safe deposit box system), which will be implemented in September 2020, and extensive recruitment of new staff to the Financial Intelligence Unit.

Other relevant measures to prevent corruption in public and private sector

Sweden has launched a new platform on international sustainable business, including combating corruption and bribery (https://www.regeringen.se/4af2aa/contentassets/0887446d10464bda8f083790c36a0312/plattform-for-internationellt-hallbart-foretagande.pdf)

The Swedish Anti-corruption Institute is a non-profit organization founded in 1923. The Institute's mission is to promote ethical decision processes within business as well as within the rest of the community and to prevent the use of bribes and other types of corruption as a means for affecting decision processes. The principals of the Institute are the Stockholm Chamber of Commerce (with a membership base of approximately 2 000 companies in the Stockholm and Uppsala region), the Confederation of Swedish Enterprise (Sweden's largest and most influential business federation representing 49 member organizations and 60 000 member companies with over 1.6 million employees) and The Swedish Association of Local Authorities and Regions (an employers' organisation that represents and advocates for local government in Sweden; all of Sweden's municipalities and regions are members). In addition, the Institute has four partner organisations representing the construction industry (Swedish Construction Industry), the trade industry (Swedish Trade Federation), the bank sector (Swedish Banker's Association) and the research based pharmaceutical industry (LIF). Finally, a broad group of industry organisations as well as individual companies are supporting members of the Institute. Through its principals, partner organisations and members the Institute has great reach in business as well as social government. The Institute puts great emphasis on information to businesses and trade confederations, media and authorities on ethical business behaviour including laws and court cases on corruptive marketing and bribery. Since its inception, the Institute has worked for self-regulation as a means to combat corruption in society. Since 2012, the Institute has administered the Code on Gifts, Rewards and other Benefits in Business (the Business Code). The Business Code complements and clarifies relevant criminal provisions on bribery, but also sets a higher ethical standard. According to the Code, companies should take preventive measures against corruption, including internal auditing controls in private enterprises which includes recordkeeping and compliance with applicable laws and regulations.

The Institute's Ethics Committee promotes good practices within the area of the Business Code. Upon requests from companies, the Ethics Committee can issue statements regarding the interpretation of the Business Code in specific situations. http://3afvm642sqoq9muh73hsqhtz-wpengine.netdna-ssl.com/wp-content/uploads/2017/07/141120-IMM_Code_of_Business_Conduct.pdf

Joint initiatives against corruption

Since 2014, the three organisations Transparency International Sweden, the Swedish Anti-Corruption Institute and American Chamber of Commerce in Sweden have gathered private and public entities in a positive cooperation platform against corruption: "Together Against Corruption". The platform allows scope for sharing best practices, raising awareness, and supporting the efforts of all the work in progress in this initiative. http://3afvm642sqoq9muh73hsqhtz-wpengine.netdna-ssl.com/wp-content/uploads/2017/07/141120-IMM_Code_of_Business_Conduct.pdf

C. Repressive measures - Criminalisation of corruption and related offences

Reference to previous specific reports and relevant updates [sub-topic 25-27]

Criminalisation of corruption and related offences and overview of application of sanctions

Please see the Greco report in the third evaluation round, referred to above regarding evaluation of incriminations.

The current text in Chapter 10 (on embezzlement, other breaches of trust and bribery) of the Swedish Criminal Code, sections 5a-5e, regulates the offences of taking of a bribe, giving of a bribe, trading in influence and negligent financing of bribery.
(https://www.government.se/498621/contentassets/7a2dcae0787e465e9a2431554b5eab03/the-swedish-criminal-code.pdf).

Moreover, incriminations concerning *official misconduct etc.* can be found in Chapter 20 (On abuse of office etc.): Official misconduct is regulated in Section 1, breach of duty of confidentiality I regulated in Section 3 and Sections 4 and 5 set out a group of persons who can be removed from office or be prosecuted in other cases.

In addition to what is stipulated in the Swedish Criminal Code, *the Public Employment Act* adopted in 1994 provides disciplinary liability for neglect of duty in the form of warnings or wage deduction. The law also prohibits employee's involvement in activities that may adversely affect confidence in their impartiality in their work or that may harm the reputation of the authority

We would also like to draw your attention to the Report from the Commission to the European Parliament and the Council *assessing the extent to which the Member States have taken the necessary measures in order to comply with Council Framework Decision 2003/568/JHA* of 22 July 2003 on combating corruption in the private sector, adopted in July 2019 from which information on Sweden's compliance can be derived.
https://eurlex.europa.eu/legalcontent/EN/TXT/PDF/?uri=CELEX:52019DC0355&qid=1587728899282&from=EN

Political immunity

The role of members of the Riksdag is regulated in Chapter 4 of the Instrument of Government (IG) and in the Riksdag Act (riksdagsordningen). According to the disqualification rules it is up to the individual member to decide for themself whether there are circumstances of disqualification that mean that the member should avoid participating in the processing of a particular committee case etc. Member of the Riksdag also enjoy criminal immunity to a certain extent. There are no conflict of interest rules, but there is an obligation to declare and register commitments and financial interests and that information is public. Any failure to register such commitments or interests is announced at chamber meetings. The Regent – the King or the Queen who is Head of State – cannot be prosecuted for their actions. Nor can a Regent be prosecuted for his or her actions as Head of State (IG Chapter 5, Section 8) https://riksdagen.se/globalassets/07.-dokument--lagar/the-constitution-of-sweden-160628.pdf

III. Media pluralism

A. Media regulatory authorities and bodies (article 30 of directive 2018/1808)

Overview of the legal and institutional framework in Sweden [sub-topics 28-29]

The main media regulatory authority in Sweden, which will also be the designated media regulatory authority as stipulated in the Audiovisual Media Services Directive (AVMSD), is the Swedish Press and Broadcasting Authority. The Authority is a government agency, i.e. it is a national authority that reports to the Government. The Swedish model for central administration and governance is characterised by relatively small government offices and larger and functionally and organisationally independent agencies. The independence of Swedish agencies is guaranteed by the Swedish Constitution (IG Chapter 12, Section 2). https://www.riksdagen.se/globalassets/07.-dokument--lagar/the-instrument-of-government-2015.pdf

The agencies under the Government are governed through legislation, secondary legislation and general instructions. The decision-making is decentralised and the agencies are in practice afforded far-reaching independence in matters relating to their organisation, administration and role as employer. The Swedish Constitution specifically guarantees independence from the Government in all decision-making that involves the exercise of public authority vis-à-vis an individual or a local authority, or relating to the application of laws enacted by the Riksdag. This means, amongst other things, that regulatory authorities are completely independent from the Government in regulatory matters in a specific case.

The Swedish Press and Broadcasting Authority is organised in such a way that it includes two separate decision-making bodies: the Swedish Broadcasting Commission and the Swedish Media Subsidies Council. Those bodies are both independent of the Authority when acting in their decision-making capacity. The Authority serves as the Commission's and the Council's preparatory body/secretariat. The Broadcasting Commission consists of a chair, six members and four deputies. The Media Subsidies Council consists of a chair, a vice-chair and a maximum of twelve other members. Chairs and vice-chairs for both bodies should be, or have been, appointed as permanent salaried judges. The Government appoints all members of the two bodies. The Broadcasting Commission examines cases of suspected breeches of the broadcasting regulation (mainly the Radio and Television Act). The Media Subsidies Council applies the Press Subsidies Ordinance and the Media Subsidies Ordinance for decisions on media subsidies.

Independence, enforcement powers and adequacy of resources of media authorities and bodies

In 2018, an inquiry chair was commissioned to look into Sweden's implementation of the revised AVMSD in relation to its new requirement for Member States to ensure independent media regulatory authorities and bodies. The report was presented to the Government in August 2019 (SOU 2019:39 p. 343-363) https://www.regeringen.se/4adae9/contentassets/705b556627d643d3983a823d008ac5dd/en-moderniserad-radio--och-tv-lag-sou-201939.pdf

The report concludes that the Swedish governance model described above provides for a high level of independence of all Swedish authorities, including the media authorities, and that there are important constitutional and legislative safeguards in place to ensure this independence in practice. The most important of these is the above-mentioned provision in the Swedish Constitution on independence in regulatory matters (IG 12:2). The report notes that the Swedish Press and Broadcasting Authority has its own budget and that the Ordinance Containing instructions for the Press and Broadcasting Authority includes a provision to ensure sufficient funding for the Broadcasting Commission and the Media Subsidy Council, within the Authority's budget. https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-20101062-med-instruktion-for_sfs-2010-1062) section 22.

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

The report on the implementation of the revised AVMSD notes two areas where it proposes changes to improve the procedures for the appointment and dismissal of the head and collegiate body of media

authorities respectively. It proposes that the Radio and Television Act be amended to include provisions to ensure that acting members of the Riksdag, ministers or civil servants working at the Government offices cannot be appointed chair or a member of The Broadcasting Commission. Further it is proposed that the length of appointment for the head of the Press and Broadcasting Authority should be specified in secondary legislation. A fixed term should also apply for the appointment of the chair and members of The Broadcasting Commission, and it should not be possible to appoint all members at the same time (SOU 2019:39 – see link above). The Government will present its bill on the implementation of the AVMSD to the Riksdag late May 2020.

B. Transparency of media ownership and government interference

Overview of the legal and institutional framework in Sweden [sub-topics 30-32]

Freedom of expression in the media is protected by the Swedish Constitution, namely by the Freedom of the Press Act (FPA) and the Fundamental Law on Freedom of Expression (FLFE). These fundamental laws apply to various means of expression, such as through newspapers and magazines, TV, radio and other media including, to a limited extent, the Internet. (https://www.regeringen.se/informationsmaterial/2013/08/the-constitution-of-sweden/)

Some of the basic principles in these laws are the principle of exclusivity (matters concerning freedom of expression are regulated exclusively in the FPA and the FLFE), the prohibition of censorship and other governmental hindrances, freedom of establishment, a list of offences (only offences specified in the constitution are punishable), the right to anonymity (for authors, journalists and sources of information), sole responsibility (only one formally and specifically appointed person can be held legally responsible for published content) and freedom to communicate information (contributors to media content are protected from punishment and reprisals).

There are no specific rules governing the transparency of media ownership in Sweden. In line with the issues raised in the revised AVMSD the inquiry chair was asked to assess whether there is reason to look into the possibility of introducing further regulation in this area. The report concludes that there could be advantages for the public to ensuring further transparency of media ownership for audiovisual media (SOU 2019:39 p. 384). However, the report underlines that this would require a more in-depth legal assessment, especially in relation to the fundamental requirements of freedom of establishment in the FPA and the FLFE.

C. Framework for journalists' protection

Overview of the legal and institutional framework in Sweden [sub-topics 33-36]

Rules and practices guaranteeing journalist's independence and protecting journalistic and other media activity from interference by state authorities

As stated above, the FPA and the FLFE provide strong protection of freedom of expression. Some of the basic principles in these laws are the absolute prohibition of censorship and other type of government hindrances, freedom of establishment and the principle of sole responsibility, which means that only one person (in general, the editor) can be held responsible for published content. The freedom to communicate information entails a right to provide information to newspapers and magazines, radio and TV etc. for publication. The provider of the information has the right to anonymity and the 'receiver' may not divulge the source of the information. Authorities and other public bodies may not investigate who has provided the information if the person has chosen to be anonymous.

Furthermore, liability for the content of a published statement may only arise for certain offences listed in the fundamental laws. These offences must also be punishable under ordinary law.

The FPA and the FLFE are not technology-neutral which means that the scope of the regulations is tied to certain specified mass media or technologies used for the production and distribution of publications and

broadcasts. Technological developments therefore makes it necessary to continuously review and amend the fundamental laws. Such amendments were made in January 2019.

https://www.regeringen.se/4adfba/contentassets/2901da8359574cc7a12321588d8662bf/prop-2017-18-49.pdf

https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/tryckfrihetsforordning-1949105_sfs-1949-105

https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/yttrandefrihetsgrundlag-19911469_sfs-1991-1469

In June 2018, a new all-party commission of inquiry was appointed. One of its tasks is to analyse whether the independence of the public-service broadcasting companies is sufficiently protected under the Constitution. The commission of inquiry will submit its report in August 2020.

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

The Swedish Police Authority has raised its ambitions in tackling hate offences and other offences that threaten the fundamental rights and freedoms which includes offences against journalists. A national contact point has been set up for these issues, and there are now democracy and hate crime groups in the Stockholm, West and South police regions. Equivalent capacity is also to be established in the other four police regions. Besides investigating relevant offences, the designated resources will work with support to victims of crime, internal training, collaboration and other measures to build reassurance and trust.

From 2018 onwards, the Swedish Police Authority will be allocating an additional SEK 10 million in special funding for measures including strengthening existing efforts to bring more perpetrators of crimes against democracy and hate crime to justice, and enhance coordination, strategic work and follow-up.

Journalists must have strong criminal law protection against threats and hate in order to be able to fulfil their important tasks for democracy. Terms of reference for a commission of inquiry which will review the criminal law protection for certain vital functions in the society, including journalists, is currently being prepared in the Government Offices.

The national action plan entitled 'Defending Free Speech - measures to protect journalists, elected representatives and artists from exposure to threats and hatred', adopted in 2017, aims to safeguard an active democratic discourse. The Action Plan aims to strengthen three main areas: measures for deeper knowledge of threats and hate, support for those subjected to them, and strengthening the work of the judicial system.

Access to information and public documents

Sweden has a strong tradition of public access to information. The right to access official documents is guaranteed under the Swedish constitution. According to the Freedom of the Press Act, everyone is entitled to read official documents held by public authorities. Only if provisions of secrecy apply, access can be denied. The secrecy provisions are found in the Public Access to Information and Secrecy Act (https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/offentlighets--och-sekretesslag-2009400_sfs-2009-400)

The Swedish constitution also guarantees everyone, including officials and others who work in the central government and local government sectors, freedom to communicate and publish information. There are only three exceptions to this right. These are that it is not permitted to communicate or publish information if the person providing the information thereby commits certain serious offences against national security or certain other offences directed at the state), intentionally disclose for publication an official document that contains information that is classified as secret, or intentionally breach duties of confidentiality in the cases specifically stated in the Public Access to Information and Secrecy Act.

IV. Other institutional issues related to check and balances

A. The process for preparing and enacting laws

Overview of the legal and institutional framework in Sweden [sub-topics 37-38]

Introduction
Sweden is a parliamentary democracy, which means that all public power proceeds from the people. At national level, the people are represented by the Riksdag which has the legislative power. The Government draws up proposals for new laws or legislative amendments. Each year, the Government submits some 200 legislative proposals to the Riksdag. The Riksdag has the right to legislate on its own initiative, but this right is not often used.

The inquiry stage
Before the Government can draw up a legislative proposal, the matter in question must be analysed and evaluated. The task may be assigned to officials from the ministry concerned, a commission of inquiry or a inquiry chair (one-person inquiry). Commissions of inquiry, which operate independently of the Government, may include or co-opt experts, public officials and politicians. The reports setting out their conclusions are published in the Swedish Government Official Reports series (Statens Offentliga Utredningar, SOU).

The referral process
According to the Instrument of Government (IG), which is one of Sweden's fundamental laws, the necessary information and opinions shall be obtained from the public authorities concerned. Information and opinions shall also be obtained from local authorities as necessary. Further, organisations and individuals shall be given an opportunity to express an opinion as necessary. The preparation of a Government bill with legislative proposals must therefore be preceded by a referral process involving relevant stakeholders. These referral bodies may be central government agencies, special interest groups, local government authorities or other bodies whose activities may be affected by the proposals. Even though the referral is addressed to relevant stakeholders, anyone may give his or her opinion on the proposal. The referred proposal and received opinions are published on the Government's website, www.regeringen.se The referral process provides valuable feedback and allows the Government to gauge the level of support it is likely to receive. If several referral bodies respond unfavourably to the recommendations, the Government may try to find an alternative solution.

The Council on Legislation
The Government is obliged to refer items of draft legislation in most legislative areas to the Council on Legislation (Lagrådet) which consists of members from the Supreme Court and the Supreme Administrative Court. Exceptions can be made for draft legislation where examination by the Council on Legislation would lack significance due to the nature of the matter or where it would delay the legislative process in a way that would cause considerable detriment. Examination by the Council on Legislation constitutes an important check on the legislative process, not least with respect to the compatibility of draft legislation with fundamental law. However, the Council on Legislation is consultative, not decision-making. The Government and, in the final instance, the Riksdag may choose not to follow its advice.

Government bill
The next step in the legislative process is that the ministry responsible drafts the bill that will be submitted to the Riksdag.

The parliamentary process
Responsibility for approving all new or amended legislation lies with the Riksdag. Legislative proposals are dealt with by one of the parliamentary committees. Any of the Riksdag's 349 members can table a counter-proposal to a bill introduced by the Government. Such a proposal is called a motion. When the committee has completed its deliberations, it submits a report and the bill is put to the chamber of the Riksdag for approval. If adopted, the bill becomes law.

Promulgation
After its successful passage through the Riksdag, the new law is formally promulgated by the Government. All new or amended laws are published in the Swedish Code of Statutes.

Fast-track procedures and emergency procedures

Sweden has no provisions on state of emergency. The constitutional rules have been created in a manner and with the purpose that they shall, as far as possible, enable public bodies to act within the Constitution even in crisis situations. Certain constitutional rules apply for times of war and danger of war (chapter 15 of the Instrument of Government), but not in the situation of a crisis such as the ongoing covid-19 pandemic. Legislation may only be passed by the Riksdag. The Riksdag may, in an act of law, authorise the Government to enact provisions of lower constitutional rank (government ordinances). The Government also has a direct competence set out in the Instrument of Government (one out of four fundamental laws which together make up the Constitution) primarily concerning provisions relating to the implementation of laws. The Government can also decide on provisions which under fundamental law do not require a decision by the Riksdag. This is often referred to as the Government's 'residuary' competence. These provisions consist mainly of administrative regulations such as instructions for State authorities. The Instrument of Government is designed to safeguard fundamental rights and freedoms. Some of the rights and freedoms are absolute in the sense that they cannot be limited other than by changing fundamental law. Others may be limited by other forms of statute, mainly ordinary law. Ordinances by the Government may not entail provisions that in any way circumscribe the vast majority of the rights or freedoms of natural or legal persons as laid down in the Instrument of Government.

Following consultations with all political parties, the Swedish Government recently proposed new legislation to further strengthen capacity and preparedness to combat the spread of COVID-19. The proposal was adopted by the Riksdag on 16 April 2020. The new legislation authorises the Government to decide on certain matters related to combating the pandemic that would otherwise require a decision of the Riksdag. For example, it enables the Government to regulate public gatherings and close down shopping centres, stores, restaurants and theatres. The new legislation also enables the Government to shut down or reduce certain means of transportation (ferries, trains, etc.) and to redistribute medicines and medical equipment geographically or between health care providers. Regulations adopted by the Government in accordance with this legislation must be immediately submitted to the Riksdag for examination. The legislation will be in effect until the end of June.

Judicial review (norm assessment)

One important constitutional task of the courts and other public bodies charged with administering justice is to determine whether elected political bodies have exceeded the limits laid down by the fundamental laws with the respect the adoption of provisions. When applying a provision, these bodies must check that it is not in conflict with a fundamental law provision or other superior statute, and that statutory procedure has not been disregarded in any essential respect in the creation of the regulation. If this is the case, the provision must not be applied. This procedure is known as a judicial review (or norm assessment) and is implemented in the same way regardless of whether the provision was adopted by the Riksdag, the Government or a public authority. However, according to the provisions on judicial review, it must be taken into special consideration that the Riksdag is the foremost representative of the people and that fundamental law takes precedence over other law (IG Chapter 11, Section 14 and Chapter 12, Section 10).

B. Independent authorities

Overview of the legal and institutional framework in Sweden [sub-topic 39]

The Instrument of Government (IG), which is one of Sweden's fundamental laws, contains provisions aiming to support and protect the independence of the judiciary and the administrative authorities. The Riksdag may not perform any judicial or administrative tasks except to the extent laid down in fundamental law or in the Riksdag Act (IG Chapter 11, Section 4 and Chapter 12, Section 3). In addition, neither the Riksdag nor the Government

nor any public authority may interfere in court decisions regarding particular cases (IG Chapter 11, Section 3). Nor may the Riksdag, the Government, or the decision-making body of a local authority or any authority decide how administrative authorities settle matters regarding the exercise of public authority in relation to individuals or local authorities, or regarding the application of law (IG 12:2). Outside the area covered by this provision, administrative authorities that do not answer to the Riksdag to answer to the Government (IG Chapter 12, Section 1).

An important aspect of parliamentary control consists of the examination of ministers' performance of their official duties and the handling of government business, which the *Parliamentary Committee on the Constitution* is to conduct and report to the Riksdag (IG Chapter 13, Section 1–2). The underlying intention is that the character of this scrutiny should be constitutional and administrative, rather than political. The Parliamentary Committee on the Constitution is to issue a scrutiny report at least once a year. Currently this is done twice a year. In the autumn an account is given of the scrutiny of the administrative practice of the Government that is initiated by the Committee itself. The spring report is devoted to the cases notified for scrutiny by individual members of the Riksdag. As a rule, these cases concern measures taken by ministers. The spring report regularly forms the basis for a comprehensive debate in the Chamber.

Another parliamentary control function, which is more indirect, is fulfilled by elected politically independent officials, the four Parliamentary Ombudsmen. The Parliamentary Ombudsmen are elected for four years and may be re-elected. They supervise the application of laws and other regulations in public institutions. Anyone may lodge complaints against an authority or agency to the Parliamentary Ombudsmen, but the Ombudsmen can also initiate investigations themselves. The Parliamentary Ombudsmen can criticise the handling of a matter by a court of law or an administrative authority. If a serious error is committed by a judge or an official, prosecution against them by the Ombudsmen. The Office of the Ombudsmen has served as a model for similar watchdog institutions in many other countries.

On 19 February 2020, the Riksdag Board decided to appoint a parliamentary inquiry to review the Parliamentary Ombudsmen. The review will address various issues relating to, among other things, the Ombudsmen's constitutional status, remit, activities and organisation. The inquiry's report will be submitted by 31 May 2022.

In March 2018, the Government appointed an inquiry with the aim of exploring the establishment of a national *human rights institution*. The memorandum "Förslag till en nationell institution för mänskliga rättigheter i Sverige" (Proposal for a national human rights institution in Sweden) was submitted in October 2018. The proposal has been circulated to almost 200 government agencies and organisations for consultation and the issue is now being prepared further in the Government Offices. In the Statement of Government Policy on 10 September 2019 the Prime Minister stated that an independent institution for the protection of human rights will be established.

C. Accessibility and judicial review of administrative decisions

Overview of the legal and institutional framework in Sweden [sub-topics 40-41]

In 1971, a general regulation of the procedure at the public authorities was created - the Administrative Procedure Act. The regulation has been gradually expanded and over time it has become increasingly important in the ongoing activities of the authorities' at all levels.

The most recent Administrative Procedure Act came into force on July 1, 2018. The Act provides a basic and central structure for the contacts between authorities and individuals in when handling cases. The Act establishes several principles and rules to ensure legal certainty for individuals, including

- an obligation for authorities to handle cases as simply, quickly and cost-effectively as possible without compromising legal certainty;
- the right of anyone who is a party to a case to access any material that has been added to the case,

- the possibility for individuals to take legal action if proceedings are delayed,
- an obligation for authorities to justify decisions,
- rules on how to appeal decisions to the general administrative courts.

D. The enabling framework for civil society

Overview of the legal and institutional framework in Sweden [sub-topics 42-43]

The objective of civil society policy is to improve the conditions for civil society as an integral part of democracy. This is to be done in dialogue with civil society organisations by: developing opportunities for civil society to help people become involved based on commitment and a desire to influence their own lives or society in general; strengthening the opportunities for civil society to contribute to the development of society and welfare as a collective voice and opinion-maker, and with a variety of activities; and deepening and spreading knowledge about civil society.

Dialogue between the Government and civil society organisations is an important basis for the civil society policy. The Government has developed and implemented a specific method for different forms of dialogue with civil society known as sakråd (thematic consultation forum), i.e. a focused discussion seeking to improve the Government's underlying decision-making data and improve coordination between ministries in dialogue with civil society. The Government has also worked with civil society organisations to reach agreement on dialogue and consultation between the Government and civil society organisations at national level. The agreement operates under the name *Nationellt organ för dialog och samråd mellan regeringen och det civila samhället* (National body for dialogue and consultation between the Government and civil society). The national body aims to solve problems together and supplement existing dialogue structures, including a formalised dialogue known as joint forums (*Partsgemensamt forum*). In joint forums the dialogue itself is key. The intention is for the discussions to help to develop political action to improve conditions for civil society organisations so that they can give people a voice, provide services to their members and provide welfare services.

A list of all sakråd (thematic consultation forum) since 2017 can be found on https://www.regeringen.se/sakrad/

The Government is currently working on a proposal for a comprehensive procedure for consultations between public authorities and the Sami people, that includes the Sami Parliament, Sami organizations 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.
https://www.regeringen.se/remisser/2019/07/remiss-av-utkast-till-lagradsremiss-en-konsultationsordning-i-fragor-som-ror-det-samiska-folket/

World Justice Project

The Rule of Law Index, by the World Justice Project has given valuable information (and has also been evaluated as being both reliable and valid according to a statistical audit done by the JRC, about a number of factors related to the rule of law. The latest facts and access the report concerning Sweden could be found here: https://worldjusticeproject.org/rule-of-law-index/country/Sweden)