

European Rule of Law Mechanism: input from Sweden

2021 Rule of Law Report

Introduction

Brief summary to highlight developments since January 2020.

The Committee of Inquiry on ‘Strengthening the protection of democracy and the independence of the judiciary’ was set up by the Government in February 2020, following a request by the Riksdag in 2018. The all-party committee - that has itself adopted the name “the 2020 Committee of Inquiry on the Constitution” - is chaired by the President of the Supreme Court and has a mandate to examine several aspects of the Swedish framework for judicial independence in order to bring forward proposals for legislative and constitutional amendments. The Committee will present its final report no later than 15 February 2023.

On 14 November 2019, the Swedish Government decided to appoint a commission of inquiry to analyse and propose the necessary legislative changes and other measures needed for Sweden’s participation in the European Public Prosecutor's Office (EPPO). The inquiry presented a report in mid-December 2020, has been sent for consultation among relevant government agencies, organisations, municipalities and other stakeholders. The Government has now started its work on drafting the legislation and will present a government bill to the Riksdag (Swedish Parliament) for approval.

On 10 December 2020, the Government adopted an anti-corruption action plan for public administration, which will be described below. The action plan focuses primarily on preventive work by the central government agencies, including the Government Offices. The working methods and recommendations of the action plan are also relevant for preventive work in municipalities, regions and municipal companies.

An Inquiry Chair, appointed by the Government in May 2020, is currently reviewing, among other matters, the criminal law protection for certain vital functions in society, including journalists. This process is expected to examine if any further legislative safeguards concerning freedom of speech should be considered. The Inquiry Chair is required to present its final report by 12 November 2021.

In January 2021, the Government decided to refer a proposal concerning a human rights institute to the Council on Legislation for consideration. The new institute will monitor, investigate and report on how human rights are respected and realised in Sweden. It is proposed that the human rights institute commence its activities on 1 January 2022.

I. Justice System

A. Independence

1. Appointment and selection of judges, prosecutors and court presidents

Our input to the 2020 Rule of Law Report is still relevant.

2. Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

Our input to the 2020 Rule of Law Report is still relevant.

3. Promotion of judges and prosecutors

Our input to the 2020 Rule of Law Report is still relevant.

4. Allocation of cases in courts

Our input to the 2020 Rule of Law Report is still relevant.

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

Our input to the 2020 Rule of Law Report is still relevant.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges.

Our input to the 2020 Rule of Law Report is still relevant.

7. Remuneration/bonuses for judges and prosecutors

Our input to the 2020 Rule of Law Report is still relevant.

8. Independence/autonomy of the prosecution service

Our input to the 2020 Rule of Law Report is still relevant.

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

Our input to the 2020 Rule of Law Report is still relevant.

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

Our input to the 2020 Rule of Law Report is still relevant.

The reform process to further strengthen judicial independence is ongoing.

The Committee of Inquiry on '*Strengthening the protection of democracy and the independence of the judiciary*' was set up by the Government in February 2020, following a request by the Riksdag in 2018. The all-party Committee – the 2020 Committee of Inquiry on the Constitution – is chaired by the President of the Supreme Court and has a mandate to examine several aspects of the Swedish framework for judicial independence in order to bring forward proposals for legislative and constitutional amendments.

The Committee will examine whether the number and retirement age of Supreme Court Judges and Supreme Administrative Court Judges should be regulated in the Constitution. The Committee can consider these questions in view of the recent case law of the Court of Justice. According to the mandate of the Committee, the objective would be to strengthen the protection of the independence of courts and judges against possible interference due to a lowering of the retirement age or an increase or decrease in the number of judges of the highest courts by changes in ordinary law. In addition, the Committee will examine whether the independence of the National Courts Administration should be strengthened. The work of the Committee will be presented no later than 15 February 2023.

B. Quality of justice

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

Our input to the 2020 Rule of Law Report is still relevant.

The cost of legal aid (for example legal aid under the Legal Aid Act, injured party counsel and public counsels) is increasing every year (SEK 3.4 billion in 2020).

Court proceedings are held in Swedish, and an interpreter may be engaged for a party or a witness who does not understand or speak Swedish. If required, the court may also provide for the translation of documents filed with or dispatched from the court (see, for example, Chapter 5, Section 6 and Chapter 33, Section 9 regarding the general courts). The National Courts Administration has in recent years worked to strengthen the process for the use and coordination of interpreters in court.

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

- Material resources refer e.g. to court buildings and other facilities

Our input to the 2020 Rule of Law Report is still relevant.

The National Courts Administration has previously requested additional resources to cope with a growing caseload. Following an increase in resources to both the police and the prosecution service to strengthen their investigative capacities, the number of incoming criminal cases in first instance courts has risen significantly. The National Courts Administration has consequently requested an increase in the courts' budget for 2021–2023 to cover the cost of additional court personnel, training and reforms aimed at improving the effective functioning of the courts. In the budget bill for 2021, the Swedish courts were allocated SEK 6.4 billion, which is a slight increase compared with last year.

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

Our input to the 2020 Rule of Law Report is still relevant.

Judges

The Swedish Judicial Training Academy is responsible for all legal training of judges and other lawyers working within the Swedish Courts. The Academy is an independent part of the National Courts Administration. For permanent judges, it offers a wide range of voluntary courses in most subject areas and at different levels to meet the training needs of both newly appointed and experienced judges. In addition to these courses and other initiatives in Sweden, international seminars and exchange programmes are among other training opportunities available to judges.

<https://www.domstol.se/om-sveriges-domstolar/jobba-hos-oss/att-jobba-i-sveriges-domstolar/kompetensutveckling/vara-utbildningar/>

In view of the many different professions and competencies in the courts, the National Courts Administration also offers training in areas other than law. These may include administration, management and leadership, supervision, IT and technology, media, hospitality and security. A special training package is also offered to court officers.

Prosecutors

Training for public prosecutors is offered by the Swedish Prosecution Authority through a range of courses. These are offered at least once a year to enable as many prosecutors as possible to participate in them. In addition, the Swedish Prosecution Authority offers prosecutors a variety of seminars and webinars on current topics. The Swedish Prosecution

Authority has its own training section at Head Office and full-time staff who administer and coordinate courses, seminars and webinars held by senior public prosecutors or external professionals.

Lawyers

Pursuant to Swedish law, only members of the Swedish Bar Association may use the professional title of advocate. Among the requirements for membership are:

- domicile in Sweden or another country within the European Union, the European Economic Area, or Switzerland,
- passed proficiency examination required for competency to a judge's office – i.e. in Sweden, a *jur. kand.* (LL.M.) degree,
- minimum three years' experience of practising law offering legal services to the public at the time of application,
- passed the Swedish Bar Examination after completing the mandatory training courses and
- reputation for integrity, and also otherwise considered suitable for the legal profession.

Applications for membership are processed by the Board of the Bar Association. After becoming a member of the Swedish Bar Association, a practising advocate is obliged to maintain and develop their professional qualifications by participating in at least 18 hours of structured training every year. Structured training is defined as an advocate's participation, or an advocate's commission as a teacher or seminar leader in internal or external training events such as courses, seminars and conferences.

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

See input under Question 15.

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

Our input to the 2020 Rule of Law Report is still relevant.

Efforts are ongoing to address challenges concerning the use of digital communication in the Swedish judiciary. The option of completing certain steps of the judicial procedure online remains only partially available in Sweden, both regarding submitting a case and

transmitting summons. Monitoring stages of a proceeding online is not possible; nor is access to first instance court judgments available online. To enable and facilitate digital communication in court proceedings and improve service to citizens, new provisions entered into force in January 2021. Among other things, these provisions make it possible to submit documents to initiate civil and certain other claims online, submit a power of attorney in digital form and remove unnecessary requirements for hard copies.

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

16. Geographical and number of court/jurisdictions (“Judicial map”) and their specialisation

Our input to the 2020 Rule of Law Report is still relevant.

The Swedish justice system has two branches: the general courts – consisting of 48 district courts, 6 courts of appeal and the Supreme Court – and the general administrative courts with 12 administrative courts, 4 administrative courts of appeal and the Supreme Administrative Court. There are also two special courts: the Labour Court and the Defence Intelligence Court. For a description of the judicial structure, see CEPEJ (2020), Study on the functioning of judicial systems in the EU Member States.

There are land and environment courts at five district courts that hear cases and matters related to e.g. environmental and water issues, property registration, and planning and building matters. Decisions of the land and environment courts may be appealed to the Land and Environment Court of Appeal, which is part of the Svea Court of Appeal. The Patent and Market Court, which is part of the Stockholm District Court, handles cases and matters relating to intellectual property law, competition law and marketing law. Decisions of the Patent and Market Court may be appealed to the Patent and Market Court of Appeal, which is part of the Svea Court of Appeal.

Four of the administrative courts also house migration courts, which consider cases involving aliens and citizenship. These decisions may be appealed to Migration Court of Appeal, which is part of the Administrative Court of Appeal in Stockholm.

C. Efficiency of the justice system

17. Length of proceedings

Our input to the 2020 Rule of Law Report is still relevant.

As there have been no general lockdowns in Sweden during the COVID-19 pandemic, courts have by and large continued to operate as usual. However, some hearings have been cancelled or postponed for public health reasons.

Other – please specify

Participation in the EPPO

On 14 November 2019, the Swedish Government decided to appoint a commission of inquiry to analyse and propose necessary legislative changes and other measures needed for Sweden's participation in the EPPO. The inquiry presented a report in mid-December 2020. The report has been sent for consultation to relevant government agencies, organisations, municipalities and other stakeholders. The Government has thereafter started its work on drafting the legislation and will present a government bill to the Riksdag for approval.

II. Anti-corruption framework

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

Our input to the 2020 Rule of Law Report is still relevant.

Of specific interest in connection with the anti-corruption framework is GRECO's 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.

The first compliance report, setting out GRECO's assessment of the implementation of each of the recommendations given to Sweden, will be adopted by GRECO at the end of March and published in April. However, developments in relation to some of the recommendations are described in the relevant sections below.

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

18. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant), e.g. in table format.

Our input to the 2020 Rule of Law Report is still relevant.

On 10 December 2020, the Government adopted an anti-corruption action plan for public administration, which will be further described below. The action plan primarily targets preventive work of the central government agencies, including the Government Offices. The working methods and recommendations of the action plan are also relevant for the preventive work in municipalities, regions and municipal companies.

The aim of the action plan is not to propose new legal measures but to provide the agencies with tools, working methods and best practices to enable them to pursue preventive anti-corruption measures in an efficient and structured way. The action plan also highlights the essential components of any effective preventive work. One of these components concerns the systematic use of risk analysis to create risk-aware organisations and take effective measures to manage different corruption risks that exist. The Swedish Agency for Public Management has been commissioned by the Government to promote the preventive work of government agencies. The Agency is required to present a summary results report, including recommendations for further measures, to the Government by the end of 2023.

The National Anti-Corruption Unit (NACU) within the Prosecution Authority is responsible for all criminal investigations related to corruption and foreign bribery. Around ten prosecutors and two accountants work at the unit, which focuses solely on anti-corruption cases. The NACU has faced challenges in terms of available analytical capacity and resources in view of the increasing number of cases investigated and prosecuted, running the risk of not being able to process a case within the statute of limitations. For the past year, a pilot project has provided an analyst to assist both prosecutors and the police in structuring and analysing the cases. The project has been successful and has been extended for a further twelve months.

Human resources allocated to the NACU:

10 prosecutors

2 accountants

1 analyst

3 prosecution administrators (administrative resources shared with the National Security Unit)

In addition to investigating corruption crimes the National Anti-Corruption Police Unit (NACPU) has a preventive role supporting public agencies offering them and other organisations training on anti-corruption. They also carry out risk assessments on different types of governmental, municipal and regional bodies, in order to identify organisations and bodies that have the highest risk for corruption, or who have key roles in preventing corruption. These bodies can then be offered lectures and seminars on matters pertaining to corruption. The NACPU also assesses and evaluates completed investigations after they have been carried out and keeps statistics on organisations that have been visited. During normal circumstances, the NACPU carries out visits or offers lectures approximately every other week but the number of visits has diminished due to Covid-19, where many in person visits have been replaced by virtual ones

NACPU collects statistics on reported cases of corruption. The current amount of awarded corporate fines, forfeitures and damages in NACU/NACPU cases (for the period between 2012-2021) is 198 675 785 SEK. In addition, the NACPU has frequent contacts with the scientific community on the topic of anti-corruption.

B. Prevention

19. Integrity framework: including incompatibility rules (e.g. revolving doors)

Our input to the 2020 Rule of Law Report is still relevant.

In June 2020, a new act was adopted by the Riksdag concerning 'revolving doors' applicable to high-level officials at the Swedish National Audit Office (Swedish NAO). The Auditor General, Deputy Auditor General and acting Auditor General are covered by this act.

https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2020537-om-restriktioner-vid-en_sfs-2020-537

20. General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

Our input to the 2020 Rule of Law Report is still relevant.

In October 2019, the Riksdag adopted a bill on better public procurement statistics. The bill entered 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.

Bearing in mind that the above-mentioned law entered into force recently, there is no clear jurisprudence on the application of the rules. To this end the National Police Authority has decided that all advertised procurements be re-advertised until the jurisprudence is clearer.

The Government Offices has amended its guidelines regarding the obligation to report holdings of financial instruments. To facilitate a review of the accuracy of the information declared by ministers and certain officials, the amended guidelines stipulate that those who report holdings of financial instruments are now required to provide a statement from their bank, stockbroker, etc. The statements are then reviewed by the Government Offices.

21. Rules on preventing conflict of interests in the public sector

Our input to the 2020 Rule of Law Report is still relevant.

In January 2020, the Swedish Agency for Public Management presented guidelines on conflict of interest for civil servants in public administration in the publication '*Jäv i offentlig tjänst*'.

<https://www.statskontoret.se/publicerat/publikationer/2020/jav-i-offentlig-tjanst/>

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

Our input to the 2020 Rule of Law Report is still relevant.

Update:

Sweden's implementation of the EU legislation on protection for whistleblowers is ongoing. At the end of May 2019, the Government launched a review to prepare implementation of the EU 'Whistle-blowing' Directive and assess if any amendments of Swedish law will be required in relation to the Directive. The independent governmental inquiry tasked with proposing how to implement the EU legislation on protection for whistleblowers delivered its final report in June 2020. The inquiry proposed that the Directive be mainly transposed

through a new Act that replaces the existing Whistleblowing Act. The new Act should apply in all private and public organisations, i.e. not only in the areas, and regarding the breaches, falling within the material scope of the Directive. The report was circulated to the relevant consultation bodies for comments and proposals, which are now being considered in the Government Offices. No final decisions have yet been made on the issues. The Directive must be transposed by December 2021.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, other).

Our input to the 2020 Rule of Law Report is still relevant.

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. It defines corruption as the abuse of one's position to achieve undue advantage for one's own or someone else's gain; this includes conflicts of interest.

https://www.upphandlingsmyndigheten.se/globalassets/dokument/publikationer/2017_4_korruption_webb.pdf

As of 1 January 2021, all public procurements must be advertised in registered databases. This new legislation improves the conditions for cartel screening and the screening of other types of serious irregularities. Moreover, the legislation is an important step in providing secure information on how taxpayers' money is used and in following how the national procurement strategy is applied.

<https://data.riksdagen.se/fil/D6A22A95-959F-45C5-8DBB-D1D81888C4A6>,

https://www.upphandlingsmyndigheten.se/globalassets/dokument/ufs/ufs_2020_1.pdf

Match-fixing

The Swedish Gambling Authority published regulations (SIFS 2020: 2) and general advice on restrictions and prohibitions on certain betting to counteract manipulation of results (including match-fixing) in sports and reporting of suspected manipulation.

<https://www.spelinspektionen.se/globalassets/dokument/engelsk/oversatt-spellagen/sifs-20202-regulations-and-bans-on-certain-forms-of-betting-to-prevent-the-manipulation-of-results-e.g.-match-fixing-within-sports-and-reporting-of-suspected-manipulation.pdf>

In November, the Government appointed an inquiry with the task of identifying obstacles and proposing solutions to enable more effective supervision of illegal gambling. The

assignment also includes investigating how efforts to address match-fixing can be strengthened.

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

24. Measures taken to address corruption risks in the context of the COVID-19 pandemic.

Our input to the 2020 Rule of Law Report is still relevant.

Analysis of society's ability to resist crime

The support measures with financial consequences that have already been adopted in response to the COVID-19 pandemic, and the new measures still being developed under these exceptional circumstances, have been and will be drawn up under great time pressure. It is of the utmost importance – especially under the current circumstances – that public funds are not abused and that the measures taken reach the right target groups. It is also essential that the law enforcement agencies continue to have the right conditions for effectively combating any crime linked to the new support measures. In May 2020, the Government Offices (Minister for Justice) therefore decided to appoint an Inquiry Chair to conduct an analysis of society's ability to resist crime, particularly organised and systematic crime, that may be linked to the new rules and measures with consequences for public finances and the economy adopted by the Government and the Riksdag as a result of the COVID-19 pandemic (the remit of the Inquiry is available in English). The report, presented in December 2020, highlighted some areas where there was a risk of abuse of the support measures, or attacks against support schemes, but did not comment specifically on any perceived risks of corruption.

The official government report (Ds 2020:28) analysed the risk of state support introduced during the COVID-19 pandemic being misused in criminal activities of some kind. The report has proposed several measures to mitigate this risk.

Previous investigations show that incorrect welfare payments amount to approximately SEK 18 billion annually. In recent years, several major criminal schemes targeting assistance compensation, dental care support and compensation for various labour market measures have been detected. There are also areas where individuals more systematically exploit welfare systems. Many of these offences are not investigated and prosecuted due to a lack of resources and priorities within the legal chain.

The report identified several shortcomings in the development and management of the support measures that were introduced during the pandemic. These shortcomings facilitated criminal attacks on support schemes and enabled certain actors to mobilise funds for the same purpose and the same period from several support schemes. Some of the shortcomings are organisational and others are linked to how the authorities have chosen to implement the support.

Some changes to the management of ongoing support were implemented in 2020, such as limiting advance payments for longer periods and more thorough ex-ante controls to confirm that the applicant is eligible for support.

The report proposes several measures to address the general problems identified in relation to the management of the corona-related support schemes to aid companies and individuals:

- To prevent abuse of state funds, the ordinary system needs to be upgraded so that it has a robust foundation next time the country is hit by a similar crisis
- Risks of fraud and corruption related to new support schemes should be highlighted in impact assessments when the schemes are designed.
- The authorities must be given real opportunities to perform effective checks on the applicant before payment.
- There is a need for close cooperation between the paying agencies and law enforcement agencies in the development phase of new application processes to counter criminal attacks.
- The conditions for prosecuting companies and those behind them need to be reviewed and strengthened.
- The work of the Government Offices regarding fraud and corruption prevention in relation to welfare systems must be coordinated between ministries.

Several legislative actions implemented in 2020 give the authorities more tools to fight fraud and corruption:

- A regulation has been implemented requiring the Employment Agency, the Social Insurance Agency, the Enforcement Authority, the Migration Agency, the Pensions Agency and the Tax Agency to notify the Agency for Economic and Regional Growth if it can be assumed that support for short-term work has been decided incorrectly or an excessive amount paid (*8 a § förordningen (2020:208) om stöd vid korttidsarbete*).
- Another regulation to prevent fraud and corruption is the introduction of mandatory electronic payment of certain salary payments. It concerns labour market policy initiatives where the employer applies for and receives the support. The compulsory electronic payment through e.g. credit card, debit card or *Swish* means that the payment becomes traceable. Electronic payment makes it possible to determine that a payment has been made and in what amount (e.g. *21 § förordningen (2018:43) om stöd för nystartsjobb*).
- Several regulations have been adopted to facilitate the exchange of information between authorities to detect and prevent crimes. The Swedish Tax Agency population registration is able to acquire information from the tax database to the extent necessary for the handling of population registration matters (*5 c § förordningen (2001:588) om behandling av uppgifter i Skatteverkets beskattningsverksamhet*). Furthermore, as of April 2020, the Migration Agency is able to obtain information from the Tax Agency, the Social Insurance Agency and the Pensions Agency that it needs to process cases concerning residence permits and

work permits (e.g. 8 a § förordningen (2001:588) om behandling av uppgifter i Skatteverkets beskattningsverksamhet).

The National Agency for Public Procurement

The National Agency for public Procurement launched a guidance paper presenting its views on procurement and changes to the contract terms that the procurement rules allow during the COVID-19 pandemic.

Guidance paper:

<https://www.upphandlingsmyndigheten.se/regler-och-lagstiftning/akuta-situationer>

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

Anti-corruption action plan

The anti-corruption action plan for public administration primarily targets the preventive work of central government agencies. The working methods and recommendations of the action plan are also relevant for the preventive work conducted by municipalities, regions and municipal companies. The Swedish Agency for Public Administration is tasked with promoting and facilitating the preventive work of agencies in different ways and thus plays an essential role in the action plan.

The responsibility of preventing corruption ultimately rests with the Director General of each agency and is widely embedded in Swedish and international law. The aim of the action plan, therefore, is not to propose new legal measures but to provide the agencies with tools, working methods and best practices to enable them to pursue the preventive work against corruption in an efficient and structured way. In the long run, this will contribute to more coherent, efficient and effective anti-corruption measures and also reduce the risk of corruption.

The action plan consists of four parts. The first part defines the concept of corruption as the use of public office to achieve an unfair advantage for oneself or others. The definition provides a common starting point for the anti-corruption work in the public sector and for the action plan.

The second part states the objective of anti-corruption work in the public sector as laid down in Swedish law and international conventions that Sweden has acceded. The objective is that the work of public administration to prevent corruption and limit its harmful effects should be conducted consciously and in a structured manner.

The third part gives advice and recommendations for working methods to prevent corruption. This part is based on reports and recommendations from the Swedish National Audit Office, the Swedish National Council for Crime Prevention and the Group of States against Corruption (GRECO) within the Council of Europe. The recommendations from GRECO's fifth review round with regard to the Swedish Police Authority are described

extensively as an example of how government agencies can work in a structured way to combat corruption.

In the final part, the plan highlights five essential components of any effective preventive work:

1. Strong control systems in internal administrative processes and clear responsibilities.
2. The systematic use of risk analysis to create risk-aware organisations.
3. Continuing education and training to uphold and enhance knowledge of the regulatory framework and ethical standards.
4. Routines in place for handling suspected corruption.
5. Collaboration and learning from the experiences of other agencies.

Based on audit reports and other evaluations, the Government concludes in the action plan that some agencies already have structured working methods in place, whereas others need to develop their preventive work further. To this end, the Swedish Agency for Public Management has been commissioned by the Government to promote the preventive work of government agencies and has four specific tasks:

- Develop recommendations and advice to promote structured working methods
- Develop a tool for analysing corruption risks
- Set up a forum for collaboration between agencies and other organisations with special expertise in the area
- On two occasions (June 2021 and December 2023) collect data on how the preventive work of the government agencies is conducted.

The Agency is required to present a summary results report, including recommendations for further measures, to the Government by the end of 2023.

[handlingsplan-mot-korruption-20212023.pdf \(regeringen.se\)](#)

C. Repressive measures

26. Criminalisation of corruption and related offences

Our input to the 2020 Rule of Law Report is still relevant.

As described under subject 27 (below), Sweden has the legal framework to criminalise corruption broadly, in place. Also, if criminal acts – e.g. corruption-related crimes – are committed during a company’s operations, the company may be subject to corporate fines; see Chapter 36, Sections 7–10a, of the Swedish Criminal Code ([link to English version of the Swedish Criminal Code](#)).

Sweden’s current regulations on corporate fines entered into force on 1 January 2020. The maximum amount for corporate fines then increased from SEK 10 million to SEK 500 million. In addition, the scope of application of corporate fines now extends beyond business activities to public sector activities that can be equated with business activities and other activities conducted by a legal person if the illegal act was intended to bring the legal person

financial benefit. The objective of the amended and more stringent regulations is to ensure that the Swedish criminal law regulatory framework for legal persons is efficient, effective and modern, and that it is adapted to Sweden's obligations under EU Law and other international commitments.

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

Our input to the 2020 Rule of Law Report is still relevant.

The Swedish Criminal Code regulates criminal offences such as the receiving and giving of a bribe, trading in influence and negligent financing of bribery. The penalty for the taking or giving of a bribe can be either fines or imprisonment for a maximum of two years (statute-barred after five years). The penalty for gross giving/taking of a bribe ranges from six months to six years in prison (statute-barred after ten years). Moreover, criminal offences such as official misconduct or breach of the duty of confidentiality are regulated in the Criminal Code. Also, a person who, contrary to provisions or conditions, uses a grant or benefit that is financed via or in some other way affects the budgets of the European Union or the European Atomic Energy Community for a purpose other than the purpose for which the grant or benefit was awarded is guilty of subsidy abuse and is sentenced to a fine or imprisonment for at most two years. In minor cases the person is not held responsible. If the offence is gross, the person is guilty of gross subsidy abuse and is sentenced to imprisonment for at least six months and at most six years. In addition, the Public Employment Act adopted in 1994 provides for disciplinary liability for neglect of duty in the form of warnings or wage reduction. The law also prohibits employees' involvement in activities that may adversely affect confidence in their impartiality in their work or that may harm the reputation of the authority.

Data from the Swedish National Council for Crime Prevention

The data presented below includes the number of reported offences, investigated offences and offences resulting in a conviction for the following crimes:

- taking of a bribe
- giving of a bribe
- trading in influence
- negligent financing of bribery
- official misconduct
- breach of the duty of confidentiality and

- abuse of subsidy (EU funds)

It should be noted that different types of Swedish crime statistics are structured differently. For example, taking and giving of a bribe is recorded separately in the statistics on reported offences, and merged in the statistics on convictions. The reason for this is that the data on registered and investigated offences does not come from the same source as the data on offences resulting in a conviction. For that reason, direct comparisons between the different categories is not advisable. Furthermore, it is not possible to distinguish between legal persons and high-level and complex corruption in the data presented below.

Reported offences

Crime statistics are influenced by both legal and statistical factors, and by the extent to which crime is reported and registered. These factors can vary from one country to another. There are no international standards on how crime statistics should be produced and presented, making international comparisons difficult. When comparing Swedish crime statistics with statistics from other countries, one should bear in mind the following:

1. Swedish statistics record all reported events as crimes even if some are later found not to have constituted a criminal offence.
2. In Sweden, every offence committed on a single occasion is recorded in principle. In some countries, if several offences are committed on the same occasion, only the most serious of these will be recorded.
3. Several offences of the same kind against a single victim will be counted in some countries as a single crime. By contrast, in Swedish crime statistics every offence occurring under these circumstances is counted separately.

In Swedish statistics, attempted offences and completed offences are in most cases categorised together.

Table 1. Number of reported offences 2015–2020 (2020 preliminary data). Source: Official crime statistics, The Swedish National Council for Crimes Prevention (Brå).

	2015	2016	2017	2018	2019	2020*
Taking of a bribe	96	132	190	297	73	57
Giving of a bribe	71	116	95	143	80	79
Trading in influence and negligent financing of bribery	2	3	2	1	8	10

Official misconduct	6921	6180	6213	6645	6889	7341
Breach of the duty of confidentiality	282	270	289	273	385	283
Abuse of subsidy (EU funds)	2	1	3	0	2	0

*preliminary data

Investigated offences

Investigated offences are processed offences where an investigation has been initiated and a decision taken with respect to the offence during the reporting year. Investigation means preliminary investigation, simplified investigation or an investigation under the Youthful Offenders Act.

Table 2. Number of investigated offences 2015–2019. Source: Official crime statistics, The Swedish National Council for Crimes Prevention (Brå).

	2015	2016	2017	2018	2019
Taking of a bribe	95	142	106	132	169
Giving of a bribe	85	136	119	84	104
Trading in influence and/or negligent financing of bribery	0	0	3	0	1
Official misconduct	2 208	1 642	1 711	2 037	1 736
Breach of the duty of confidentiality	195	164	203	191	217
Abuse of subsidy (EU funds)	0	0	0	2	1

Offences resulting in a conviction

The statistics on offences resulting in a conviction include all crimes for which a person has been found guilty either by court (county court convictions) or by prosecutors (through prosecutor fines or waivers of prosecution). One crime committed by several persons can thus result in several convictions. Moreover, the statistics include completed crimes as well as attempted crime, preparation for crime, conspiracy to commit a crime and complicity.

Table 3. Number of offences resulting in a conviction 2015 – 2019. Source: Official crime statistics, The Swedish National Council for Crimes Prevention (Brå).

	2015	2016	2017	2018	2019
Taking/giving of a bribe	28	16	29	54	25

Trading in influence negligent financing of bribery	0	0	0	0	0
Negligent financing of bribery	0	0	0	0	0
Official misconduct	26	15	5	12	17
Breach of the duty of confidentiality	7	4	10	2	6
Abuse of subsidy (EU- funds)	0	0	0	0	0

28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

Our input to the 2020 Rule of Law Report is still relevant.

III. Media pluralism

A. Media authorities and bodies

29. Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

Our input to the 2020 Rule of Law Report is still relevant.

Update:

See below under subject 30 for legislative changes and implementation of the Audiovisual Media Services Directive (AVMSD).

In connection with the implementation of the AVMSD, the budget of the Swedish Press and Broadcasting Authority was increased by SEK 3.5 million (an increase of approximately 8 %).

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

Our input to the 2020 Rule of Law Report is still relevant.

Update:

The government bill on the AVMSD was presented to the Riksdag in late May 2020 and adopted in October 2020, with legislative changes entering into force on 1 December 2020.

The changes include provisions to specify that a member of the Riksdag, a member of the Government or someone employed within the Government Offices cannot be appointed member of the Broadcasting Commission (Chapter 16, section 14 of the Radio and Television Act).

The Government decided in October on amendments to secondary legislation – *Förordning (2020:879) med instruktion för Myndigheten för press, radio och tv (2020:879)* – that entered into force on 1 December. The ordinance clarifies that members of the Broadcasting Commission are appointed for a term of four years (Section 30). Of the seven members (Chair and six members) three or four should be appointed every second year to ensure that all members are not appointed simultaneously. If a member leaves, the successor should be appointed for the term remaining of the member leaving. A fixed term of appointment of 6 years has also been introduced for the head of the Authority (if there is no particular reason for a shorter term) (Section 29). The appointment may be extended.

[Radio- och tv-lag \(2010:696\) Svensk författningssamling 2010:2010:696 t.o.m. SFS 2020:875 - Riksdagen](#)

[Förordning \(2010:1062\) med instruktion för Myndigheten för press, radio och tv Svensk författningssamling 2010:2010:1062 t.o.m. SFS 2020:718 - Riksdagen](#)

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

Our input to the 2020 Rule of Law Report is still relevant.

B. Transparency of media ownership and government interference

32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

Our input to the 2020 Rule of Law Report is still relevant.

33. Rules governing transparency of media ownership and public availability of media ownership information

Our input to the 2020 Rule of Law Report is still relevant.

Update:

In the government bill containing proposals to implement AVMSD presented to the Riksdag in May 2020, the Government assessed that specific requirements for media ownership transparency should be further analysed. This work is ongoing at the Government Offices.

C. Framework for journalists' protection

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

Our input to the 2020 Rule of Law Report is still relevant.

Update:

An Inquiry Chair, appointed by the Government in May 2020, is currently reviewing, among other matters, the criminal law protection for certain vital functions in society, including journalists. This process is expected to examine if any further legislative safeguards concerning freedom of speech should be considered. The Inquiry Chair is required to present its final report by 12 November 2021. Statements will be made, and discussions will follow once the Government has assessed the Inquiry Chair's report.

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

Our input to the 2020 Rule of Law Report is still relevant.

Update:

The main action initiated to support threatened journalists is the Government's assignment (2017–2020) to the Fojo Media Institute to develop support for journalists and editors subjected to threats and hatred. The Institute is tasked with building up a knowledge bank and setting up a service offering advice and support. Freelance journalists and small media companies are important target groups. The Institute's remit and funding have been extended for a further twelve months (2021).

The National Police Authority has worked with the Swedish Crime Victim Authority to launch a website called *tystnante.se*. The website provides information to journalists and other public figures on how to act if subjected to hatred or threats. The National Police Authority has also worked on a project with a non-profit organisation, Victim Support Sweden, called '*Orädd demokrati*' to raise awareness about threats to democracy.

36. Access to information and public documents

Our input to the 2020 Rule of Law Report is still relevant.

In 2020, a number of new statutes on financial support for businesses were enacted to strengthen businesses' resilience to the negative economic impacts of the pandemic. Regarding one of these (short-time work allowance), the decisions of the authority came to be secret. As a consequence, the media and the public were unable to access the decisions and scrutinise the support. The Government Offices is reviewing the matter with the aim of

improving the media's and the public's access to decisions by proposing amendments to the statutes.

37. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse

See answer to Question 34.

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

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

Our input to the 2020 Rule of Law Report is still relevant.

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

Our input to the 2020 Rule of Law Report is still relevant.

Sweden has no state of emergency provisions. The constitutional rules have been created to, 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 a crisis situation 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 of four fundamental laws that form the Constitution) primarily concerning provisions relating to the implementation of laws. The Government can also decide on provisions that 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 to 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 a 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.

See below under p. 41 (legislative amendments to enable more measures to be taken to counteract congestion and thus prevent the spread of COVID-19).

40. Regime for constitutional review of laws.

Our input to the 2020 Rule of Law Report is still relevant.

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

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

- oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

- measures taken to ensure the continued activity of Parliament (including possible best practices)

On 10 January 2021, an act on certain legislative amendments to enable more measures to be taken to counteract congestion and thus prevent the spread of COVID-19 (*lagen [2021:4] om särskilda begränsningar för att förhindra spridning av sjukdomen covid-19*) entered into force. The Act, which will cease to apply on 1 October 2021, enables the Government to limit or close venues where crowding can occur, e.g. cultural and sporting events with audiences, gyms, shops. The Act also gives the Government the power to limit or close public transport and to limit and ban public gatherings. If the Government closes public transport or decides on a ban, the matter must be laid before the Riksdag. On 1 July 2020, a temporary act on communicable disease control measures at eating and drinking establishments entered into force (*lagen [2020:526] om tillfälliga smittskyddsåtgärder på serveringsställen*). The Act gives the Government the power to limit or close e.g. restaurants. If the Government decides that a restaurant should be closed, the matter must be laid before the Riksdag.

https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20214-om-sarskilda-begransningar-for-att_sfs-2021-4

https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-2020526-om-tillfalliga-smittskyddsatgarder_sfs-2020-526

B. Independent authorities

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

Our input to the 2020 Rule of Law Report is still relevant.

In February 2020, the Parliament decided to appoint a parliamentary inquiry to review the constitutional status, remit and activities of the Parliamentary Ombudsmen. Its final report will be submitted in May 2022.

National human rights institute

In January 2021 the Government decided to refer a proposal concerning a human rights institute to the Council on Legislation for consideration. The Government's decision is an important step towards establishing the institute. The new institute will monitor, investigate and report on how human rights are respected and realised in Sweden. The institute will also submit proposals to the Government on measures that are needed to safeguard human rights. The institute will not examine individual complaints of human rights violations. The tasks and management of the institute and certain aspects of its organisation and methodology must be regulated by law to meet the requirements of the Paris Principles, but this will also strengthen the institute's independence. It is proposed that the human rights institute commence its activities on 1 January 2022.

C. Accessibility and judicial review of administrative decisions

43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

Our input to the 2020 Rule of Law Report is still relevant.

44. Implementation by the public administration and State institutions of final court decisions

Our input to the 2020 Rule of Law Report is still relevant.

D. The enabling framework for civil society

45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)

Our input to the 2020 Rule of Law Report is still relevant.

Update:

The Government has proposed to the Riksdag a more comprehensive procedure for consultations between public authorities and the Sami people that includes the Sami Parliament, Sami organisations and reindeer husbandry districts. The procedure would be a

step towards strengthening the ability of the Sami people to influence and participate in decisions on matters that affect them.

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

[En konsultationsordning i frågor som rör det samiska folket – Regeringen.se](#)

E. Initiatives to foster a rule of law culture

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

Committee on the Constitution

The European Commission's 2020 Rule of Law Report was referred by the Speaker of the House to the Chamber of the Swedish Parliament, who, on 13 November 2020, referred it to the Committee on the Constitution.

During its consideration of the report, the Committee on the Constitution has been informed by the Minister for EU Affairs Hans Dahlgren and by the Head of the European Commission representation in Sweden, Mr Christian Danielsson. Furthermore, a digital meeting was held between Members of Parliament, from the Committee on the Constitution and from the Committee on European Affairs, and European Commission Vice-President for Values and Transparency Věra Jourová.

The Statement on the Rule of Law Report from the Committee on the Constitution was debated in the Chamber of the Swedish Parliament on 3 February 2021. The Statement has since been forwarded to the Secretariat-General of the European Commission.

Summary of the Statement:

In spring 2019, the Committee welcomed the Commission's initiative for a discussion on how to improve the instruments available to EU institutions for protection of the EU's fundamental values, including respect for the rule of law. The European Rule of Law Mechanism is a new tool supplementing other EU instruments. Its annual scrutiny model aims to promote protection of the rule of law and to prevent problems relating to the rule of law from arising or worsening.

In its first annual Rule of Law Report, the Commission provides examples not only of positive trends in the area of the rule of law within the EU, but also of serious challenges. The Committee wishes once more to underline the importance of respect for fundamental rights and the rule of law, which are fundamental in a democracy and of central importance for cooperation within the EU. The Committee therefore welcomes the report and its assessment is that an annual scrutiny and ongoing discussion nationally and within the EU can help to increase respect for the rule of law.

The COVID-19 pandemic entails great challenges for society. Decisions have been made that have restricted certain rights and freedoms, for example the freedom of movement and freedom of assembly, and that have affected constitutional checks and balances. The Committee wishes to emphasise how important it is that the measures undertaken during the pandemic continue to be followed up and evaluated.

Like the Government, the Committee welcomes the new regulation that protects the EU budget in case of rule of law violations.

Statement by the Committee on the Constitution 2020/21:KU14 – 2020 Rule of Law Report
[B4511C62-EC35-4364-9291-9C5AF5416828 \(riksdagen.se\)](#)

Tillitsdelegationen (Delegation for Trust-Based Governance)

The Delegation has been tasked by the Government with mapping and analysing the introductory courses that government authorities (i.e. government agencies and the courts) offer their employees and presenting proposals for how and when a common, compulsory introductory training course for government employees can be introduced (ToR 2019:6 and ToR 2020:49). The background to this remit is an announcement by the Riksdag (Swedish Parliament). With the assistance of a large number of authorities, the Delegation has obtained knowledge about how the authorities currently work on their introductory courses, what specific needs they have for common training and how the content and format of such training should be designed to meet their needs.

The Delegation recommends that training should include the following component: the role of government employees in a democracy under the rule of law. The Delegation's recommendations are being circulated for consultation until 15 April 2021.

[En gemensam utbildning inom statsförvaltningen, SOU 2020:40 \(regeringen.se\)](#)