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2022 Rule of Law Report Country Chapter on the rule of law situation in Sweden

Accompanying the document

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions

2022 Rule of Law Report The rule of law situation in the European Union

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ABSTRACT

An all-party Committee of Inquiry has been, since 2020, examining how to strengthen the independence of the judiciary in Sweden and is expected to deliver its report by February 2023. The Government has proposed a higher, multi-year budgetary allocation to the Swedish courts in response to an increased caseload, which has addressed some of stakeholders' concerns. To further improve the level of digitalisation, a new system of case management of criminal cases will be introduced in 2022 and the Council on Digitalisation of the Judicial System has adopted a Strategic Plan for 2023-2027. Even though the number of administrative cases continues to rise, the efficiency of the Swedish justice system has been maintained.

As in previous years, Sweden's perceived corruption levels remain among the lowest in the EU and the world. Transparency is the cornerstone of Sweden's anti-corruption approach. Some anti-corruption related legal provisions are under review. An interim report in the framework of the National Anti-Corruption Plan for 2021-2023 from the Agency for Public Management showed that most institutions have corruption prevention tools in place, although additional work remains. Institutions fighting corruption are generally well resourced. Corruption related to infiltration of organised crime groups into the public service and/or licit economy is a concern. Rules on 'revolving doors' cover top executive functions in the Government, but are overall limited in scope. The Government launched an inquiry to evaluate these rules in June 2022 which should be completed by August 2023. The Government is updating the overall Ethical Guidelines for the Government Offices. Lobbying continues to be unregulated. Foreign bribery remains an area of concern with only moderate levels of prosecution and final judgments, and shortcomings in its legislative definition.

Sweden has a strong legal framework guaranteeing media freedom and pluralism with safeguards stemming both from the Constitution and from legislation. No media-specific legislation concerning transparency of media ownership exists in Sweden; however, the Government has proposed amendments to the Radio and Television Act aiming at enhancing the transparency of media ownership. It is reported that Swedish journalists continue to benefit from among the most favourable working conditions in the world, though online harassment is on the rise. The Government has taken further steps to improve journalists' protection, not least as part of an ongoing review of the protection afforded by criminal law to certain vital functions in the society.

Following several extensions of the legislation empowering the Government to take more restrictive measures in the context of the COVID-19 pandemic, the legislation in question has ceased to apply as of April 2022. The Parliament no longer relies on informal agreements between the Speaker and the party leaders to ensure its functioning, and returned to its ordinary working procedures in February 2022. The experience of the COVID-19 pandemic underlined the need for a comprehensive legal framework to deal with similar severe peacetime crises and led to the task for a committee of inquiry to examine a possible need to amend the Constitution. A National Human Rights Institution has been established and commenced its operations in January 2022. The civil society space in Sweden remains open and the framework rules under which civil society organisations operate, notably related to funding, are being reviewed. While the review has been generally welcomed, stakeholders have expressed some concerns on potential limitations that could have an impact on civil society engagement.

RECOMMENDATIONS

It is recommended to Sweden to:

- Continue the work of the Committee of Inquiry on strengthening the protection of democracy and the independence of the judiciary, taking into account European standards on judicial independence.
- Evaluate the scope, impact and implementation of the rules relating to revolving doors that cover top executive functions in the government.
- Strengthen the fight against foreign bribery, including through amending existing legal definitions and improving on prosecution and final judgments of cases.
- Ensure that on-going reforms to the legal framework for the funding and operation of civil society organisations do not unduly affect civil society engagement.

I. JUSTICE SYSTEM

The Swedish justice system has two branches: the general courts, consisting of 48 district courts, six courts of appeal and the Supreme Court; and the administrative courts with 12 administrative courts, four administrative courts of appeal and the Supreme Administrative Court. There are also two special courts¹. The National Courts Administration, an agency operating under the Ministry of Justice, is responsible for the overall management of the Courts, including allocation of resources, staffing levels and equipment. The independent Judges' Proposal Board² prepares proposals for all judicial appointments³, based on which judges are appointed by the Government⁴. The Swedish Prosecution Service⁵ is independent and separate from the Government. Sweden is undertaking steps for joining the European Public Prosecutor's Office (EPPO) as the Government intends to present a government bill to the Parliament in 2022⁶. The Swedish Bar Association is an independent and self-governing association established by law and is responsible for supervision of the professional activities of advocates and taking disciplinary measures against its members⁷.

Independence

The level of perceived judicial independence in Sweden continues to be high both among the general public and companies. Overall, 74% of the general population and 70% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2022⁸. According to data in the 2022 EU Justice Scoreboard, no clear trend can be identified in the evolution of the perceived level of independence since 2016. The perceived judicial independence among the general public has increased in comparison to 2021 (71%), but it remains lower than in 2016 (77%). For companies, the situation is the opposite: it has slightly decreased in comparison with 2021 (71%) but is higher than in 2016 (66%).

The Committee of Inquiry on strengthening the protection of democracy and the independence of the judiciary has continued its work and will present its report by February 2023. The all-party committee has been meeting regularly and has intensified its work, including by setting up two external expert groups to support it in its tasks, one in

¹ The Labour Court and the Defence Intelligence Court. Input from Sweden for the 2021 Rule of Law Report. For a description of the judicial structure, see CEPEJ (2021), Study on the functioning of judicial systems in the EU Member States.

² The Judges' Proposal Board is composed of nine members: five current or former judges proposed by the courts, two law graduates working outside the court system (one lawyer proposed by the Bar Association, the other proposed by the Swedish Association of Local Authorities and Regions and the Swedish Agency for Government Employers) and two representatives of the public. The members of the public are appointed by Parliament (and are usually members of Parliament), while the seven other members are appointed by the Government.

³ The Judges' Proposal Board, following an assessment of the applicants' qualifications, submits a motivated proposal (ranked list, in general three candidates) to the Government, which appoints the judge. If the Government intends to select a candidate not included in the proposal of the Judges' Proposal Board, the Board is to have an opportunity to submit an opinion on the candidate. In practice, since 2011, when the current system came into force, the Government has always followed the proposal.

⁴ Act on the Appointment of Permanent Judges (2010:1390).

⁵ Instrument of Government, Chapter 12, Section 2.

⁶ Input from Sweden for the 2022 Rule of Law Report, p. 1.

⁷ Code of Judicial Procedure, Chapter 8.

⁸ Figures 50 and 52, 2022 EU Justice Scoreboard. The level of perceived judicial independence is categorised as follows: very low (below 30% of respondents perceive judicial independence as fairly good and very good); low (between 30-39%), average (between 40-59%), high (between 60-75%), very high (above 75%).

relation to the constitutional amendments and another dealing with independence of the judiciary⁹. The Committee has been carrying out comparative research on judicial independence and constitutional amendments, notably by looking at Member States with similar characteristics¹⁰. It was set up in February 2020 and will deliver its report in February 2023¹¹. Key issues will include the retirement age and number of Supreme Court judges, the status and independence of the National Courts Administration and the process for amending the Constitution. While this is not part of the Committee's mandate, stakeholders have also raised the issue of the Swedish Chancellor of Justice, who is appointed by the Government and tasked with supervising courts and judges, and initiating disciplinary procedures against judges, which could raise concerns in view of judicial independence¹². As noted in the 2021 Rule of Law Report, salaries of newly appointed judges continue to be set based on a collective agreement between the judges and the National Courts Administration and within this framework they are revised annually between the judge and the responsible Court President¹³.

Quality

In response to an increased caseload in the Swedish courts, the Government has proposed a higher, multi-year budgetary allocation to the National Court Administration. In the Budget Bill for 2022, the Government allocated to the Swedish courts for their activities in the period 2022-2024 approximately EUR 623 million (SEK 6.7 billion)¹⁴, which is an increase of almost 5 percent compared to 2021¹⁵. As noted in the 2021 Rule of Law Report, the stakeholders and the National Courts Administration had stressed the need for increasing the resources on a longer-term instead of a year-by-year basis to ensure predictability and allow courts to cope with increasing numbers of criminal cases¹⁶. The National Courts Administration submitted to the Government its response on the proposed budgetary allocations on 28 February 2022. It has asked for additional resources on certain specific allocation items, including approximately EUR 10.7 million (SEK 115 million) for

⁹ The expert group examining the question of constitutional amendments is composed of two professors of political science, a judge of the Supreme Administrative Court and a former head of the secretariat for the Constitution Committee. The expert group that is dealing with the topic of the independence of the judiciary is composed of representatives for the Judges' Association, the Swedish Bar Association and the National Courts Administration, as well as a senior lecturer of political science and a law professor. The inquiry committee has also set up a separate group consisting of three justices from each of the two supreme courts, which is looking at questions from the committee's assignment that specifically concern the supreme courts (e.g. whether the number of the justices should be regulated in the Constitution). Information received from the Secretariat of the inquiry committee.

¹⁰ The work of the committee is taking into account relevant European standards, in particular Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe and relevant Venice Commission opinions. See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 3.

¹¹ See 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 2-3 for a detailed overview of the Committee's mandate. In March 2021, the Committee delivered a report on the first part of its mandate, namely relating to possible restrictions to the freedom of association for terrorist associations.

¹² Contribution from Civil Liberties Union for the 2022 Rule of Law Report, p. 3.

¹³ According to the Judges' Association, there has been no changes on the salary system in the period under observation. See also Rule of Law Report 2021, Country Chapter on the rule of law situation in Sweden, p. 3.

¹⁴ Input from Sweden for the 2022 Rule of Law Report, p. 5; Contribution from the National Courts Administration for the 2022 Rule of Law Report, p. 11.

¹⁵ As noted in the 2021 Rule of Law Report, the allocation in 2020 was approximately EUR 585 million (SEK 6 billion) and approximately EUR 625 million in 2021 (SEK 6.4 billion).

¹⁶ See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 4.

the operation of the courts in 2025¹⁷. While the increased allocation was broadly welcomed by stakeholders, the Judges Association pointed out that the increase in allocations to courts needs to be compared with the even greater increase of allocations to the Prosecution Authority and the Police¹⁸. The recruitment of judges is an important challenge for the Swedish courts¹⁹. Sweden has been spending around 0.27% of its GDP on law courts at a stable level since 2012, and in particular for the period 2018-2020²⁰.

Digitalisation of justice is addressing some of the gaps and the Council on Digitalisation of the Judicial System has adopted the Strategic Plan for 2023-2027. The use and availability of digital technology in Swedish courts is overall good²¹. During 2021 more than 180 000 videoconference calls to and from court rooms were made, which represents an increase of 40% (127 000 in 2020)²². However, shortcomings in accessing first instance court judgments online and arrangements for their machine readability remain²³. While there has been some improvement on digital solutions to conduct and follow criminal proceedings, notably concerning the possibility for victims and defendants to submit written statements online, the available digital tools remain limited²⁴. The digital case management of criminal cases at first instance will be operational by the end of September 2022²⁵. The new system for digital court judgments in criminal proceedings is expected to lead to significant improvements in the accessibility to first instance digital court judgments and their machine readability²⁶. After the completion of that project in autumn 2022, the system will be gradually integrated with other authorities and developed to handle also other types of proceedings and judgments²⁷. In February 2022, the Council on Digitalisation of the Judicial System²⁸ adopted the new Strategic Plan for Digitalisation of the Judicial System for 2023-2027²⁹. That Plan focuses on joint efforts between the authorities and cooperation on

¹⁷ National Courts Administration (2022) Budget Support 2023-2025, pp. 7-9.

¹⁸ Opinion published in Svenska Dagbladet (2022), Unstable funding hits court, and information received from the Judges Association in the context of the virtual country visit to Sweden.

¹⁹ National Courts Administration (2022) Budget Support 2023-2025, p. 7. The Judges Association has also referred to problems with filling vacancies in certain courts the during the country visit.

²⁰ Figure 35, 2022 EU Justice Scoreboard.

²¹ Figures 42 and 43, 2022 EU Justice Scoreboard.

²² Contribution from the National Courts Administration for the 2022 Rule of Law Report, p. 12.

²³ Figures 48 and 49, 2022 EU Justice Scoreboard.

²⁴ Figure 47, 2022 EU Justice Scoreboard.

²⁵ This project involves the development of a new judgment in criminal cases with a structured information flow throughout the legal chain, electronic signature of the judgment, digital original judgments and built-in data protection. National Courts Administration (2022), Annual report 2021, p. 89.

²⁶ Written contribution from the National Council for Crime Prevention in the context of the country visit to Sweden.

²⁷ Written contribution from the National Council for Crime Prevention in the context of the country visit to Sweden.

²⁸ A Secretariat to the Council was set up within the structure of the National Council for Crime Prevention in September 2020. The Council consists of the heads of eleven different authorities: National Council for Crime Prevention, Crime Victim Compensation and Support Authority, National Courts Administration, Economic Crime Authority, Prison and Probation Service, Coast Guard, Police, National Board of Forensic Medicine, Tax Agency, Customs Authority and Prosecution Authority. See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 4.

²⁹ The different authorities within the judiciary have their own individual strategic plans and strategies for digitalisation that exist in parallel to the new strategic plan. The previous strategic planning phase of the cooperation on digitalisation of the judiciary will be concluded in 2022. By the end of that phase, all major information flows between the authorities within the criminal proceeding process will have been digitalised. Written contribution from the National Council for Crime Prevention in the context of the country visit to Sweden.

digitalisation of the judiciary; a roadmap will further outline the main activities and initiatives to implement the plan's strategic goals³⁰.

Efficiency

Notwithstanding a continued increase in the number of administrative cases, the efficiency of the Swedish justice system is maintained. The number of incoming civil and commercial litigious cases has remained comparatively low in 2020, while incoming administrative cases have continued their rising trend³¹. However, the estimated time needed to resolve administrative cases at first instance is short (107 days in 2020) and has continued to decrease (125 days in 2019)³². The clearance rate has improved for both civil and commercial litigious cases (from 97.5% in 2019 to 102.8% in 2020) and for administrative cases (from 101.7% in 2019 to 102.3% in 2020)³³. The number of pending civil, commercial, administrative and other cases in 2020 remains comparatively low and has slightly decreased compared to 2019³⁴. In general, the courts have continued to remain open during the COVID-19 pandemic and decisions on postponing hearings were taken at the level of individual courts. According to the National Courts Administrations data³⁵, the rate of postponed hearings has overall decreased in 2021 (being at 19.9% in 2021 compared to an average of 20.9% in 2020)³⁶.

Sweden has introduced new rules aimed at improving the efficiency of its court procedures. In November 2021, the Code of Judicial Procedure was amended to allow the courts to decide certain criminal and civil cases without a hearing³⁷. The aim of the amendment was to improve the efficiency in handling and deciding cases, while respecting the rights of the parties³⁸. In addition, since October 2021, a pilot scheme for fast-track criminal legal proceedings was extended to 27 of the 48 district courts, including six of

³⁰ The strategic plan foresees four strategic goals, namely: a digital and structured information flow throughout the criminal proceeding process, the communication with natural and legal persons is digital and coordinated where relevant, the right digital preconditions for following up and analysing the judiciary, and an efficient cooperation that supports innovation. Written contribution from the National Council for Crime Prevention in the context of the country visit to Sweden.

³¹ Figures 3 and 5, 2022 EU Justice Scoreboard.

³² Figure 9, 2022 EU Justice Scoreboard.

³³ Figures 12 and 13, 2022 EU Justice Scoreboard.

³⁴ Figure 14, 2022 EU Justice Scoreboard.

³⁵ According to the National Courts Administration's data, in 2021 the number of incoming and decided cases has slightly decreased (by 2,3% for incoming and 1,9% for decided cases compared to 2020), while the number of cases pending at end of the year has continued to decrease (158 245 in 2021 compared to 164 499 in 2020). The Supreme Court saw the highest increase in percentage for incoming cases, with a 16 % increase from 2020 to 2021 (6 982 cases in 2020 compared to 8 113 cases in 2021) and a 29% increase in cases pending at end of year (1 041 cases in 2020 compared to 1 346 cases in 2021). National Courts Administration (2022), Annual report 2021, pp. 16, 17 and 19.

³⁶ National Courts Administration (2022), Annual report 2021, p. 83. The figure for cancelled hearings reports the proportion of cancelled meetings in relation to total number of meetings for all Swedish courts. The figures per court may vary significantly.

³⁷ Swedish Government (2021), Extended possibilities to decide cases on the merits in the general courts.

³⁸ In criminal cases, the District Courts may decide a case without a hearing if the sentence is not more severe than a fine or a conditional sentence combined with a fine. Previously it was only possible if the sentence was a fine. The court must still arrange a hearing at the request of a party. In civil cases, the Court of Appeal may decide a case without a hearing if it is unnecessary. Previously the condition was that the hearing was manifestly unnecessary. The amendment aligned the rules concerning the civil procedure with the corresponding rules on criminal cases in the procedures at the Court of Appeal. Information received from the Ministry of Justice in the context of the country visit to Sweden.

Sweden's largest cities³⁹. A special inquiry has proposed to the Government that this practice should be made permanent and used in all Swedish courts from January 2023 onwards⁴⁰.

II. ANTI-CORRUPTION FRAMEWORK

Sweden has the legislative and institutional framework to combat and prevent corruption broadly in place. The National Anti-Corruption Unit is the specialised prosecution agency within the Swedish Prosecution Authority responsible for all criminal investigations related to corruption and bribery, including foreign bribery. As part of the Swedish Police Authority, the National Anti-Corruption Police Unit is tasked with both investigating corruption crimes and preventing corruption by supporting different public authorities in the drafting of anti-corruption policies. The Special Investigation Department of the Police Authority handles internal investigations of police officers and prosecutors (including as regards corruption offences). The Swedish Economic Crime Authority organised under the Ministry of Justice has the mandate to investigate and prosecute serious financial crimes, including the recovery of proceeds of crime. Other agencies, such as the National Audit Office, the National Competition Authority, the National Council for Crime Prevention and the Financial Intelligence Unit of the Swedish Police, are in charge of the prevention and investigation of corruption, and of forensics and auditing.

The perception among experts and business executives is that Sweden is one of the least corrupt countries in the world. In the 2021 Corruption Perception Index by Transparency International, Sweden scores 85/100 and ranks second in the European Union and fourth globally⁴¹. This perception has been relatively stable over the past 5 years⁴². The 2022 Special Eurobarometer on Corruption shows that 32% of respondents consider corruption widespread in their country (EU average 68%) and 9% of respondents feel personally affected by corruption in their daily lives (EU average 24%)⁴³. As regards businesses, 38% of companies consider that corruption is widespread (EU average 63%) and 14% consider that that corruption is a problem when doing business (EU average 34%)⁴⁴. Furthermore, 36% of respondents find that there are enough successful prosecutions to deter people from corrupt

³⁹ Between January and October 2021, close to 11 000 cases were decided under that scheme. It has also been proposed by a special inquiry commissioned that the Government should make this scheme permanent as of 2023 and used throughout the country. Contribution from the National Courts Administration for the 2022 Rule of Law Report, p. 13.

⁴⁰ Contribution from the National Courts Administration for the 2022 Rule of Law Report, p. 13.

⁴¹ Transparency International (2022), Corruption Perceptions Index 2021, pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

⁴² In 2017 the score was 84, while, in 2021, the score is 85. The score significantly increases/decreases when it changes more five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last 5 years.

⁴³ Special Eurobarometer 523 on Corruption (2022). The Eurobarometer data on citizens' corruption perception and experience is updated every second year. The previous data set is the Special Eurobarometer 502 (2020).

⁴⁴ Flash Eurobarometer 507 on Businesses' attitudes towards corruption in the EU (2022). The Eurobarometer data on business attitudes towards corruption as is updated every second year. The previous data set is the Flash Eurobarometer 482 (2019).

practices (EU average 34%)⁴⁵, while 43% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 29%)⁴⁶.

The implementation of the first National Anti-Corruption Plan for the public administration, adopted in December 2020, is ongoing. The aim of the Action Plan is to provide public agencies with tools and best practices on the prevention of corruption⁴⁷. The Plan has overall been welcomed, including by the Council of Europe’s Group of States against Corruption (GRECO)⁴⁸. Some stakeholders had previously expressed concerns, including on the absence of provisions on the integrity of top executive functions within the Government⁴⁹ and a lack of clarity and ambition, although some dialogue with civil society has taken place since then⁵⁰. As a major milestone under the National Anti-Corruption Plan, the Agency for Public Management published an interim report on the Government’s corruption prevention policy, surveying 209 governmental authorities. Overall, about 80% of the authorities have risk analysis related to corruption in place and 65% of those surveyed have also set up a procedure to report irregularities. The interim report highlights three factors for improvement: the various authorities’ understanding of the concept of corruption, the role of the management and the availability of the necessary resources and expertise. The Agency will follow-up on the results of the report, in line with the Anti-Corruption Plan, and report by the end of 2023⁵¹.

Some legislative provisions related to anti-corruption are under review. As reported in the 2020 and 2021 Rule of Law Reports⁵², a wide range of corruption offences are criminalised in Sweden and legislative reviews on some specific issues are under way. A committee of inquiry tasked with reviewing the statute of limitations has proposed to extend this statute as applied to serious crimes, including the offences of ‘gross taking of a bribe’ and ‘gross giving of a bribe’ from 10 years to 15 years. This proposal is now under consultation within the Government⁵³. A committee of inquiry into corruption in the gambling sector has also identified a number of potential measures to reduce risks of corruption. Such potential measures include improving the detection of and the fight against match-fixing and unlicensed gambling activities, as well as reforms of the gambling and money laundering legislation⁵⁴.

Institutions fighting corruption are generally well resourced, while an audit identified some shortcomings in the Economic Crime Authority. While the prosecution and the police confirmed that resources were overall sufficient⁵⁵, issues were raised in the area of economic crime. The Swedish National Audit Office made a number of critical remarks with

⁴⁵ Special Eurobarometer 523 on Corruption (2022).

⁴⁶ Flash Eurobarometer 507 on Businesses’ attitudes towards corruption in the EU (2022).

⁴⁷ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 6.

⁴⁸ GRECO Fifth Evaluation Round – Compliance Report, recommendation i, paras. 7-11.

⁴⁹ GRECO Fifth Evaluation Round – Compliance Report, recommendation i, paras. 7-11.

⁵⁰ Information received from Transparency International in the context of the country visit to Sweden.

⁵¹ Agency for Public Management (2022), Work against corruption is under development, pp. 1-9 and input from Sweden for the 2022 Rule of Law Report, p. 1 and pp. 9-10.

⁵² 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 5 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 6.

⁵³ Input from Sweden for the 2022 Rule of Law Report, pp. 14-15.

⁵⁴ Input from Sweden for the 2022 Rule of Law Report, p. 12 and Swedish Government (2021), Measures against match-fixing and unlicensed gaming activities, pp. 9-15.

⁵⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 7 and information received from the Police and Prosecution Service in the context of the country visit to Sweden.

regard to the functioning of the Economic Crime Authority, in particular regarding internal control, information sharing within the organisation and the management, prioritisation and focus of its activities (including the use of different IT systems, the conduct of investigations and the prioritisation of preventive activities)⁵⁶. The Authority indicated it has taken a number of measures to address the shortcomings since 2020, which is the last year the Auditors examined⁵⁷. Data of the National Council for Crime Prevention indicates a sharp increase in reported bribery cases in 2021 compared to 2020⁵⁸. In 2021, prosecutions were initiated for 81 bribery-related crimes and 35 convictions were obtained, including two prison sentences (both for gross bribery)⁵⁹.

Corruption relating to infiltration of organised crime groups into the public service and/or licit economy is a concern. Several government authorities, in their most recent threat assessment, concluded that gaps exist in the fight against organised crime, including as regards its influence through corruption on the public sector⁶⁰. In particular, responsibilities spread out over many institutions and a largely trust-based culture combined with a lack of control tools, make detection of organised crime and links with corruption difficult. Authorities and businesses seem to be vulnerable to corruption, criminal infiltration and unauthorised influence linked to organised crime⁶¹. Concerns at local level, including a reluctance of local officials to report potential misconduct, have also been noted⁶², in particular in the area of social welfare fraud⁶³. The Government has announced an extensive inquiry into the issue, to start in 2022⁶⁴.

Foreign bribery remains an area particularly exposed to risks of corruption due to insufficient legal provisions and enforcement efforts to hold companies liable. Despite being a global export country and having a high concentration of multinational companies, Sweden's efforts to prosecute and reach final judgments on foreign bribery have been characterised as moderate⁶⁵. The OECD has repeatedly urged Sweden to reform its laws to

⁵⁶ National Audit Office (2021), The Economic Crime Authority 'The work towards the organized economic crime', pp. 5-7.

⁵⁷ Information received from the Economic Crime Authority in the context of the country visit to Sweden and Economic Crime Authority, Annual Report 2021, pp. 6-7.

⁵⁸ Data submitted on bribery includes 309 reported cases of receiving a bribe, 82 reported cases of offering a bribe, and 9 reported cases of trading in influence and negligent financing of bribery in 2021 (in total, 400 reported cases compared to 152 reported cases in 2020).

⁵⁹ Official crime statistics of the National Council for Crime Prevention.

⁶⁰ Common government authority (2021), Situation assessment of organised crime 2021, p. 3.

⁶¹ Common government authority (2021), Situation assessment of organised crime 2021, p. 3, pp. 22-26.

⁶² Ekström, Anna (Investigative Report for the city of Göteborg) (2021), Is there a culture of silence in Göteborg city? and information received in the context of the country visit to Sweden.

⁶³ Sweden's Municipalities and Regions (2021), Welfare offences and unauthorised influences, p. 5: *'The problem of unauthorized influence seems to be increasing. Sometimes the attempts to influence are linked to welfare crimes, sometimes to other decisions made by municipal officials and politicians. The interviews from officials who work in socio-economically vulnerable areas show that unauthorized influence from criminals can be present in daily work and lead to self-censorship and a culture of silence. Many officials interviewed describe this not only in terms of a work environment issue, but also as a threat to our democratic system'*.

⁶⁴ Svenska Dagbladet (2021), Government wants to map corruption crimes: *'We will take the initiative for a broad review of the existence of unauthorized influence on authorities and administrations and also in the private sector, says [Minister of Justice] Morgan Johansson'*.

⁶⁵ According to information retrieved by the National Anti-Corruption Unit, during 2021 it initiated two preliminary investigations and saw one indictment in foreign bribery cases (and no final decisions in court cases); written contribution received from the Prosecution Authority. See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 7-8.

make sure that companies that bribe foreign public officials to obtain advantages in international business are properly investigated and prosecuted⁶⁶. As noted in the 2021 Rule of Law Report and by the OECD Working Group on Bribery, it remains difficult to successfully attain convictions in cases of foreign bribery due to difficulties with mutual legal assistance and the difficulty to gather evidence in such cases⁶⁷. The legislative definition of foreign bribery continues to have shortcomings⁶⁸, which remains a concern, in particular due to a lack of corporate criminal liability under Swedish law⁶⁹.

Sweden relies on a strong culture of transparency in dealing with potential conflicts of interests and ethical breaches. The fundamental law, various rules and codes of conduct apply to civil servants and decision-makers⁷⁰. The Government Offices are currently updating the content and form of the Ethical Guidelines, which aims to increase access and user-friendliness and raise awareness about existing laws, rules and codes of conduct provisions. The document, which would not be legally binding⁷¹, is expected to be adopted before the general elections in September 2022⁷². The proposed overarching guidelines would still lack a supervisory mechanism and there is uncertainty to what extent ministers will be subject to them, as also noted by GRECO (the exact scope of the guidelines remains to be decided). Furthermore, there is currently no training on conflicts of interest for top executive functions, nor is there any advisory committee for ethical issues in place⁷³. The authorities are planning to present a digital training offer from autumn 2022 onwards⁷⁴. Overall, it remains unclear if the revised guidelines will adequately address the existing fragmentation of rules.

Public officials' asset declaration rules remain incomplete. While GRECO welcomed the introduction of the amended guidelines on asset declarations for public officials⁷⁵, its broader

⁶⁶ OECD (2019), Sweden must urgently implement reforms to boost the fight against bribery.

⁶⁷ OECD (2017), OECD says Swedish progress combatting foreign bribery insufficient to warrant Phase 4 evaluation, OECD (2019), Sweden must urgently implement reforms to boost the fight against bribery and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 7-8, and information received in the context of the country visit to Sweden.

⁶⁸ Swedish criminal law does not allow for corporate criminal liability, as only natural persons can be held criminally responsible. As such, neither Swedish nor foreign companies can be prosecuted. However, a corporation may be subject to a system of 'corporate fines' if a crime has been committed in the framework of the company's operations. Company profits linked to foreign bribery cases can be subject to forfeiture. While the Swedish Government passed some revisions of the laws at the end of 2019 with the aim of implementing OECD recommendations, concerns and issues remain in practice to effectively obtain final convictions in foreign bribery cases. In addition, the requirement for dual criminality (i.e. the offence must be criminally liable under both Swedish and foreign law) hampers prosecution of foreign bribery cases.

⁶⁹ In the context of its country specific monitoring in relation to the OECD Anti-Bribery Convention, the OECD has called on Sweden multiple times since 2014 to address issues with its framework on foreign bribery, including as regards corporate criminal liability, dual criminality and others. For a full overview, see <https://www.oecd.org/daf/anti-bribery/sweden-oecdanti-briberyconvention.htm>. See also OECD (2019), Sweden must urgently implement reforms to boost the fight against bribery and information received in the context of the country visit to Sweden.

⁷⁰ GRECO Fifth Evaluation Round – Compliance Report, recommendation ii, paras. 13-23.

⁷¹ While the Guidelines will not be legally binding in themselves, the objective of the Ethical Guidelines is to put the legal framework applicable to civil servants and decision-makers in context and give examples of situations in which certain laws and rules apply.

⁷² Information received from the Ministry of Justice and the Agency for Public Management in the context of the country visit to Sweden and written contribution received by the Ministry of Justice in the context of the country visit to Sweden.

⁷³ GRECO Fifth Evaluation Round – Compliance Report, recommendation ii and iii, paras. 13-29.

⁷⁴ Written contribution received by the Ministry of Justice in the context of the country visit to Sweden.

⁷⁵ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8.

recommendation to introduce a general requirement of declaration of significant liabilities by ministers and state secretaries, as well as by their spouses and dependents, remains unaddressed⁷⁶.

While lobbying remains unregulated in Sweden, the country's culture of transparency and disclosure of information underpins its approach to prevent corruption. In particular, recommendations from GRECO on introducing rules on guidance for decision-makers on how to engage with lobbyists and on disclosure of lobbying contacts have not been implemented⁷⁷. No such binding lobbying rules are planned in the near future⁷⁸. Nevertheless, overall, the general culture of disclosure of information to the public, transparency and access to information remains the cornerstone in Sweden's corruption prevention approach⁷⁹.

Rules on 'revolving doors' that cover top executive functions in the Government continue to be implemented, and an evaluation was launched in June 2022. The rules on 'revolving doors' cover ministers, cabinet members and state secretaries who move to employment and assignments in organisations other than the Government or public sector, as well as the financial supervisory authority (Auditor-General)⁸⁰. The authorities consider that it appears that the law so far has had the appropriate preventative effect, but that its implementation period has been too short to properly evaluate its functioning⁸¹. Nevertheless, Sweden's post-employment rules remain overall limited in scope and impact⁸². Between the entry into force of the relevant rules in 2018 and the end of May 2022, 21 notices by ministers or state secretaries were made to the Board for the Examination of Transitional Restrictions for Ministers and State Secretaries⁸³; however, the Board has not instituted any such transitory measures⁸⁴. The Government appointed an inquiry committee in June 2022, which aims to submit further proposals for transitional restrictions in the event of a transfer from certain employment or assignments in the public sector. The inquiry will also evaluate the existing rules on 'revolving doors' for top executive functions in the government, and should be finalised by the end of 2023.⁸⁵

Proper rules on political party financing are in place. Reporting obligations for political parties are clearly defined. National, municipal and local political parties are obliged to disclose the source of their revenues but not their expenditure to the Legal, Financial and

⁷⁶ GRECO Fifth Evaluation Round – Compliance Report, recommendation vii and viii, paras. 46-53.

⁷⁷ GRECO Fifth evaluation Round – Evaluation Report, paras. 51-52 and GRECO Fifth Evaluation Round – Compliance Report, recommendation v, para. 37.

⁷⁸ Written contribution received from the Ministry of Justice in the context of the country visit to Sweden.

⁷⁹ See also section III; 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 10.

⁸⁰ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8.

⁸¹ Written contribution received from the Ministry of Justice in the context of the country visit to Sweden and GRECO Fifth Evaluation Round – Compliance Report, recommendation vi, paras. 40-45.

⁸² 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8.

⁸³ One in 2018, nine in 2019, two in 2020, two in 2021 and seven in 2022 (until the end of May 2022).

⁸⁴ Written contribution received from the Ministry of Justice in the context of the country visit to Sweden and Activity Report of the Board for the Examination of Transitional Restrictions for Ministers and State Secretaries 2021.

⁸⁵ Swedish Government (2022), The Government appoints an inquiry into transitional restrictions after certain employments and assignments in the public sector.

Administrative Services Agency (*Kammarkollegiet*)⁸⁶. The Agency publishes the finance reports in a timely manner each July for the previous year⁸⁷.

A new Whistleblowers Act was adopted in October 2021. The Act aims to transpose the EU Whistleblower Directive⁸⁸ and applies to private and public organisations⁸⁹. The Agency for Public Management has published guidelines to assist government institutions in implementing the law⁹⁰. Stakeholders commended the scope of the law, which will also include smaller institutions and municipalities, and facilitate the identification of possible corruption cases⁹¹.

Risks of corruption related to the COVID-19 pandemic are being assessed. The 2021 Rule of Law Report highlighted potential risks in the area of public procurement⁹². The Government appointed a committee of inquiry in September 2021 to, among others, analyse the need for changed and strengthened regulation to prevent incorrect payments and abuse⁹³, and to increase the possibilities of prosecuting suspected crimes; the committee of inquiry will deliver an interim report by 31 May 2022⁹⁴.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Swedish legal framework concerning media pluralism is established by the Constitution⁹⁵ and secondary law⁹⁶. Freedom of expression is guaranteed by the Instrument of Government, the Fundamental Law on Freedom of Expression and the Freedom of the Press Act. The Swedish media regulator, the Press and Broadcasting Authority, functions according to the Constitution⁹⁷ and the Radio and Television Act. The Government has proposed

⁸⁶ Law (2018: 90) on transparency in the financing of parties. See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 9.

⁸⁷ Legal, Financial and Administrative Services Agency, Report Revenue.

⁸⁸ Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.

⁸⁹ Input from Sweden for the 2022 Rule of Law Report, p. 1 and 11 and written contribution received from the Ministry of Justice in the context of the country visit to Sweden.

⁹⁰ Information received from the Agency for Public Management in the context of the country visit to Sweden.

⁹¹ Information received from Transparency International in the context of the country visit to Sweden.

⁹² 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 9-10.

⁹³ In particular, criticism has been raised about the role of the Swedish Agency for Economic and Regional Growth (*Tillväxtverket*) in paying out short-term support to companies affected by the pandemic without having sufficient safeguards to prevent fraud or the appropriate tools to respond to suspicious cases. While fraud with short-term support funds appeared present, the Swedish Agency for Economic and Regional Growth did not have the necessary know-how or tools to either prevent or respond adequately to such cases. See Swedish Government (2020), Assignment on the prevention of crimes linked to the support measures with government financial and socio-economic consequences taken as a result of the new Coronavirus - final report, pp.22-23.

⁹⁴ Swedish Government (2021), Review of support for short-term work, pp. 1 and 9.

⁹⁵ The Swedish Constitution consists of four fundamental laws: the Instrument of Government, the Act of Succession, the Freedom of the Press Act and, the Fundamental Law on Freedom of Expression.

⁹⁶ Radio and Television Act.

⁹⁷ Relevant parts of the Constitution: the Instrument of Government and the Fundamental Law on Freedom of Expression.

amendments to the Radio and Television Act⁹⁸, which will aim at increasing the transparency of media ownership and update the licensing system⁹⁹.

Sweden has in place effective regulatory safeguards for the independence of the media regulator. The independent Press and Broadcasting Authority¹⁰⁰ has an obligation to support freedom of expression, diversity, independence and accessibility. In accordance with the Instrument of Government, the Authority houses and serves as a preparatory body for the Swedish Broadcasting Commission and the Media Subsidies Council, both bodies are independent from the Authority when acting in their decision-making capacity. The 2022 budget of the Press and Broadcasting Authority was increased by approximately EUR 146 405 (approximately SEK 1.5 million)¹⁰¹. The Media Pluralism Monitor 2022 (MPM 2022) continues to report a very low risk with regard to the independence and effectiveness of the Swedish media regulatory authority¹⁰². As also confirmed by stakeholders¹⁰³, Sweden has a well-functioning self-regulatory framework for the media sector, which covers both private and public media¹⁰⁴. The system has also a good participation¹⁰⁵.

The Government has taken steps to increase transparency of media ownership. The Swedish legal system does not provide for any media specific legislation concerning transparency of media ownership. Therefore the MPM 2022 assesses a medium risk for the indicator on transparency of media ownership. Following an assessment in the context of the transposition of the Audiovisual Media Services Directive¹⁰⁶, the Government has proposed amendments to the Radio and Television Act, which would provide for the disclosure of more information concerning media ownership for all audiovisual media and radio service providers. The additional information includes also the provision of the ownership structure and in some cases the corporate identity number. The amendments would be reinforcing the requirement of the Radio and Television Act to provide accessible information of the name and contact details of the service providers. Sweden has no sector-specific legislation on media concentration¹⁰⁷ and the market is constituted by a high level of concentration, particularly in the audiovisual sector¹⁰⁸. Due also to the lack of a specific legislation, MPM 2022 reports a high risk on the indicator for news media concentration¹⁰⁹.

Sweden has in place solid safeguards against governmental or political interference in public service media. Media independence for electronic media, such as radio and

⁹⁸ Input by Sweden for the 2022 Rule of Law Report, p. 19, and Swedish Government (2021), Greater transparency in the ownership of broadcasters.

⁹⁹ Sweden ranks 3rd in the 2022 Reporters without Borders World Press Freedom Index compared to 3rd in the previous year.

¹⁰⁰ The independence of the Swedish media regulator is stemming from the Constitution (IG Chapter 12, Section 2).

¹⁰¹ Government Decision 13 concerning the Swedish Press and Broadcasting Authority's budget, <https://www.esv.se/statsliggaren/regleringsbrev/?RBID=22410>.

¹⁰² 2022 Media Pluralism Monitor, country report for Sweden, p. 11.

¹⁰³ Information provided by the Swedish Media Publisher's association in the context of the country visit to Sweden 2022.

¹⁰⁴ As reported in the 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8.

¹⁰⁵ Information provided by the Media Ombudsman in the context of the country visit to Sweden 2022.

¹⁰⁶ As reported in the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11.

¹⁰⁷ General competition rules apply to media concentration and mergers.

¹⁰⁸ As reported by the Reporters Without Borders country specifics, the Swedish audiovisual market is dominated by few players, four television and three radio groups (this includes publicly owned media), <https://rsf.org/en/country/sweden>.

¹⁰⁹ 2022 Media Pluralism Monitor, country report for Sweden, p. 13.

television, is guaranteed by the Fundamental Law on Freedom of Expression, both for the private and the public media. Sweden has three public media companies: Swedish Radio (SR), Swedish Television (SVT) and Swedish Educational Radio (UR)¹¹⁰. The Parliament decides on the general remit, the organisational framework as well as the allocation of funding for the three public companies ahead of each new licensing period. This is based on a dedicated Government bill, which in turn is based on proposals by a committee of inquiry and a public consultation. The public media companies decide on the operational fulfilment of such remit, without the involvement of the Government or the Parliament. However, the public media companies are required to annually and publicly report on the fulfilment of the remit's terms and conditions. The reports are assessed by the Broadcasting Commission¹¹¹. Concerning the governance structure of the public service media companies, the owning foundation appoints and dismisses the members of their board of directors, in line with the legal system for private limited companies. The foundation has no possibility to influence the operation and neither the foundation nor the members of the boards can influence the editorial decisions of the three companies. As the appointment procedures are well defined and provide for the independence of the Swedish public service media boards and management, the MPM 2022 reports a low risk concerning the indicator for independence of public service media governance and funding¹¹². Following some criticism to the system of pre-assessment by the Government of significant new services for public service media, mainly concerning its inherent risk of affecting media freedom, the Government has launched an inquiry in March 2021 to review the system. The licensing process in Sweden is regulated by the Radio and Television Act¹¹³. The licensing period for the public media companies was recently extended to 8 years¹¹⁴. Further amendments to the Radio and Television Act were proposed in order to extend to 8 years the licensing period for the terrestrial network for commercial television, analogue and digital commercial radio¹¹⁵. These changes would set more operational independence and predictable conditions for both the public and the private companies¹¹⁶.

A recent inquiry has confirmed that the framework on access to information continues to work well. Sweden has a robust framework for access to information¹¹⁷. Following some instances in the early stages of the COVID-19 pandemic, where media and the public were unable to access decisions on the short-time work allowance, in 2021 the Government launched an independent inquiry to investigate the situation of public's access to information, especially related to the pandemic. In spite of identifying some examples of direct and indirect restrictions, the inquiry findings were overall positive and confirmed that the system works well¹¹⁸. The MPM 2022 assesses a low risk on the indicator for the protection of the

¹¹⁰ The Swedish public service media are private limited companies. They are owned by a non-profit foundation, the Förvaltningstiftelsen för Sveriges Radio AB, Sveriges Television AB och Sveriges Utbildningsradio AB.

¹¹¹ An independent decision-making body within the Press and Broadcasting Authority.

¹¹² 2022 Media Pluralism Monitor, country report for Sweden, p.15.

¹¹³ Radio and Television Act (2010:696).

¹¹⁴ Chapter 4, section 12 and Chapter 11, section 4.

¹¹⁵ Swedish Government (2021), Greater transparency in the ownership of broadcasters.

¹¹⁶ According to the Swedish authorities, the proposal is foreseen for adoption in July; input from Sweden for the 2022 Rule of Law Report.

¹¹⁷ As assessed in the 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11.

¹¹⁸ Swedish Government (2022), The principle of openness under COVID-19-pandemic.

right to information, this is considered a positive change compared to MPM 2021 when the risk was higher due to the temporary restrictions for the COVID-19 pandemic¹¹⁹.

Swedish journalists continue to work in overall favourable conditions. Recurring challenges for journalists are the declining numbers of permanent employment, increased threats and harassment, particularly online; such threats in particular could in some cases result in self-censorship¹²⁰. Since July 2021, two alerts have been recorded on the Council of Europe Platform to promote the protection of journalism and safety of journalists¹²¹. The MPM 2022 reports a low risk for the indicator on the protection and standards of the journalistic profession, and that journalists continue to operate under favourable conditions, however it also reports that Swedish journalists are exposed to hatred and insults¹²². The inquiry chair appointed in 2020 to review the criminal law protection for certain vital functions in society, including journalists¹²³, has completed its assessment and concluded that the journalistic profession is highly vulnerable and therefore proposed enhanced criminal protection for journalists and persons closely related to them¹²⁴. The Government's assignment to the 'Fojo Media Institute' to develop support for journalists and editors subjected to threats and hatred has been extended for 2022¹²⁵. As a further step for the protection of journalists, the Swedish Crime Victim Authority received approximately 480 000 EUR (approximately 5 million SEK) in 2021 to carry out a major information campaign against online hate speech¹²⁶. In 2021, it was deemed unnecessary to provide specific media support linked to the COVID-19 pandemic. However, the normal funding allocated to media was reinforced in some cases as a consequence of the pandemic¹²⁷. During 2021, the Government allocated in addition approximately EUR 20 million (SEK 200 million) to media subsidies¹²⁸.

IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Sweden has a unicameral, parliamentary system of governance, in which a Council of Legislation ensures ex-ante constitutional review, while courts can carry out an ex-post constitutional review in concrete cases. Legislative proposals can be submitted by Parliament or the Government, with the latter submitting the vast majority of proposals in practice. The Chancellor of Justice, the Parliamentary Ombudsmen, the Equality Ombudsman and the newly established Swedish Human Rights Institute play an important role in the system of checks and balances and for upholding fundamental rights.

¹¹⁹ 2022 Media Pluralism Monitor, country report for Sweden, p. 10.

¹²⁰ Swedish Government (2022), Report on the inquiry into enhanced criminal law protection for certain functions of public benefit and some other criminal matters.

¹²¹ The alerts concern harassments and intimidation of journalists. Both have been addressed by the Swedish authorities and one of them is an update of an ongoing trial. Council of Europe, Platform to promote the protection of journalism and safety of journalists, Sweden.

¹²² 2022 Media Pluralism Monitor, country report for Sweden, p. 11.

¹²³ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 12.

¹²⁴ Swedish Government (2022), Report on the inquiry into enhanced criminal law protection for certain functions of public benefit and some other criminal matters.

¹²⁵ Input from Sweden for the 2022 Rule of Law Report, p. 19.

¹²⁶ Input from Sweden for the 2022 Rule of Law Report, pp. 19 and 20.

¹²⁷ In particular by supporting local journalism and reinstating subsidies to free newspapers and the commercial radio, written contribution from the Swedish Press and Broadcasting Authority for the 2022 Rule of Law Report, p. 16.

¹²⁸ Written contribution from the Swedish Press and Broadcasting Authority for the 2022 Rule of Law Report, p. 16.

The legislation empowering the Government to take more restrictive measures in the context of the COVID-19 pandemic has ceased to apply. As noted in the 2021 Rule of Law Report¹²⁹, in January 2021, the legislative amendments empowering the Government to adopt ordinances introducing restrictive measures to combat the COVID-19 pandemic¹³⁰ entered into force as well as, in July 2020, a temporary act on communicable disease control measures at eating and drinking establishments¹³¹. The Constitution Committee highlighted the *ad hoc* nature of the legislation, which had entailed disagreement on relevant measures to be included in the framework and uncertainty on the appropriate level of decision-making between the Parliament, Government and administrative authorities¹³². This legislative framework has been extended, first until 31 January 2022¹³³ and then until 31 May 2022¹³⁴. While Parliament approved the extension of this legislative framework until 31 May 2022, it also requested the Government to return with a proposal that the legislative framework applies only until 31 March 2022¹³⁵. On 23 March 2022, the Parliament approved the Government's proposals to repeal the legislative framework with effect as of 1 April 2022 and that the coronavirus disease should no longer be classified as a danger to society or a threat to public health¹³⁶.

A committee of inquiry will examine a possible need for amending the Constitution to deal with severe peacetime crises. The experience of the COVID-19 pandemic underlined the need for a comprehensive legal framework to deal with future similar crises and allow for expedited adoption of legislation¹³⁷. In the absence of any constitutional provisions on severe peacetime crises comparable to those on war and threat of war in Chapter 15 of the Instrument of Government, in September 2021, an all-party committee of inquiry was appointed. Its task is to assess whether there is a need to extend the Government's competence to take measures in severe peacetime crises¹³⁸. The Committee will present its report by latest 15 November 2023. In addition, a committee of inquiry was established to examine the existing disease-prevention legislation and the need for new provisions in view

¹²⁹ See 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 2-3.

¹³⁰ Act (2021:4) on special restrictions to prevent the spread of the disease Covid-19.

¹³¹ Act (2020:526) on communicable disease control measures at eating and drinking establishments.

¹³² Information received from the Constitution Committee in the context of the country visit to Sweden.

¹³³ In approving the extension, the Parliament called on the Government to inform it no later than 12 November 2021 on its views on the continued validity of the Acts. If Parliament's Social Affairs Committee would have considered that there were no longer grounds for the laws to remain in force, it would take the initiative and propose that Parliament repeal them. Swedish Parliament (2021) Continued validity of the COVID-19 law and the law on temporary infection control measures in catering establishments.

¹³⁴ Both extensions were subject to a public consultation. While the second extension was also referred to the Council of Legislation, the first extension was not.

¹³⁵ Swedish Parliament (2022) Continued preparedness through the extension of the validity of the covid-19 law and the law on temporary infection control measures in catering establishments; information received from the Constitution Committee in the context of the country visit to Sweden.

¹³⁶ Swedish Parliament (2022) COVID-19 Act and Act on temporary communicable disease control measures at venues serving food and drink to be repealed.

¹³⁷ Input from Sweden for the 2022 Rule of Law Report, p. 21, and information received from the Constitution Committee in the context of the country visit to Sweden.

¹³⁸ The Committee shall examine a number of aspects, including whether the arrangement of the so-called 'war delegation' is still an appropriate way of organising the work of the Parliament in times of war and threat of war; the composition, function and powers of the war delegation; and whether there is a need to extend the government's rule-making powers in serious peacetime crises. The Committee can make proposals for constitutional and other amendments. Swedish Government (2021) Committee terms of reference – A review of the regulations on the war delegation, where the national meeting is held and the government's norm-setting powers in serious peacetime crises.

of future pandemics with due respect to the fundamental rights and freedoms¹³⁹. In parallel, the independent commission appointed to examine the Government's handling of the pandemic in June 2020 delivered its final and comprehensive report in February 2022, in which it also noted difficulties in obtaining documents from the Government¹⁴⁰; the Constitution Committee issued clear criticism of the Government for not providing that commission with relevant documents and on parts of its crisis management during the pandemic¹⁴¹. Measures taken in the context of the pandemic have also continued to be reviewed by the Parliamentary Ombudsmen based on complaints received¹⁴². The Supreme Administrative Court did not review on substance any cases related to the restrictions linked to the COVID-19 pandemic¹⁴³.

Following a period of special working conditions due to the pandemic, the Parliament has returned to its ordinary working procedures. On 11 February 2022, the Speaker of Parliament and the party leaders agreed to return to the normal working procedures and terminate the special procedures introduced in response to the COVID-19 pandemic¹⁴⁴. The parliamentary inquiry into how Parliament had functioned during the pandemic presented its findings in December 2021¹⁴⁵. The all-party inquiry concluded that overall the Parliament was able to work well during the pandemic, which was to a large extent due to informal agreements between the Speaker and the party group leaders. It also noted that the Parliament could consider adopting internal decision-making rules for the event of a crisis and for ensuring a more systematic follow up on the authorisations given to the Government to facilitate its handling of a crisis¹⁴⁶.

The opinions of the Council on Legislation have been followed by the Government in a majority of cases. The Government is obliged to refer draft legislation in most areas to the Council on Legislation, which consists of members from the Supreme Court and the Supreme Administrative Court. The examination by the Council on Legislation constitutes an

¹³⁹ Swedish Government (2021) Legislative preparedness for future pandemics.

¹⁴⁰ The report presents a comprehensive analysis of Sweden's handling of the pandemic in a number of areas. Among other, it noted that, to an important extent, already disadvantaged groups have been hardest hit by the COVID-19 pandemic. The commission found, among other, that while the choices on the path for the disease prevention and control, as well as on mitigating the economic crisis were overall correct, the measures taken on disease prevention and control should have come sooner and the Government ought to have assumed leadership on crisis management and communication with the public. The commission also found that the Government was overly dependent on assessments made by the Public Health Agency of Sweden, which the commission considered was not a satisfactory arrangement for decision-making during a serious crisis in society. Swedish Government (2022), English summary of the final Report - Sweden during the pandemic SOU 2022:10, pp. 2-4.

¹⁴¹ Altinget (2022), KU chairman: 'The government's handling of the corona pandemic is most serious', Göteborgs-Posten (2022), KU criticises the Government.

¹⁴² A high number of complaints, about 11 500, concerned the introduction of vaccination certificates. Parliamentary Ombudsmen (2021), Complaints to the Ombudsmen about vaccination certificates; information received from the Parliamentary Ombudsmen's office in the context of the country visit to Sweden.

¹⁴³ In a decision of 22 December 2021, the Supreme Administrative Court rejected an application for judicial review on the grounds that the Government's decision in relation to the use of vaccination certificates constitutes a normative decision and that it is therefore not subject to judicial review brought by individuals. Supreme Administrative Court (2021) Government's decision on vaccination certificate cannot be appealed.

¹⁴⁴ Swedish Parliament (2022) Return to ordinary work procedures for the Riksdag.

¹⁴⁵ Swedish Parliament (2022), The Parliament during the corona pandemic 2020, Inquiry from the Parliament Administration 2021/22: URF.

¹⁴⁶ Swedish Parliament (2021) Final report from the Inquiry on the Parliament during the COVID-19 pandemic 2020.

important ex-ante constitutionality check of draft legislation. The Government and the Parliament may choose not to follow its opinion, but courts may take this into account when subsequently assessing the norm in question¹⁴⁷. In 2021, the Government submitted 123 legislative proposals to the Council on Legislation and the latter could not endorse 8 proposals¹⁴⁸. In one case where the Council of Legislation could not endorse the Government's proposal¹⁴⁹, the Government nevertheless submitted that proposal to the Parliament, which adopted it¹⁵⁰.

On 1 January 2022, Sweden had 2 leading judgments of the European Court of Human Rights pending implementation¹⁵¹. At that time, Sweden's rate of leading judgments from the past 10 years that remained pending was only at 13% and the average time that the judgments had been pending implementation was 3 years and 1 month¹⁵². The oldest leading judgment, pending implementation for 6 years, concerns the failure of Swedish courts to exercise jurisdiction in respect of defamation proceedings concerning a television broadcast from a foreign country¹⁵³. On 1 July 2022, the number of leading judgments pending implementation remains at 2¹⁵⁴.

The National Human Rights Institution has commenced work. Following the adoption of the law on establishing the National Human Rights Institution in June 2021¹⁵⁵, the Institute commenced its activities on 1 January 2022. The independent institute has a broad mandate to monitor, investigate and report on how human rights are respected and exercised in Sweden¹⁵⁶. While the Institute will not examine individual complaints related to human rights violations, it will submit non-binding proposals to the Government for measures needed to protect human rights¹⁵⁷. The Institute is currently in the process of recruiting further staff, appointing an advisory board and mapping the human rights situation in Sweden¹⁵⁸. At the

¹⁴⁷ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11.

¹⁴⁸ Information received from the Prime Minister's Office in the context of the virtual country visit to Sweden.

¹⁴⁹ The Council of Legislation considered the proposal contrary to the generality requirement for legislation laid down in the Constitution as it aimed at addressing the outcome of an individual case dealt with by the courts. Council on Legislation (2021), Extract from minutes of meeting of 2021/09/16, p. 9.

¹⁵⁰ Swedish Parliament (2021), Government approval of limestone quarries in exceptional cases.

¹⁵¹ The adoption of necessary execution measures for a judgment by the European Court of Human Rights is supervised by the Committee of Ministers of the Council of Europe. It is the Committee's practice to group cases against a State requiring similar execution measures, particularly general measures, and examine them jointly. The first case in the group is designated as the leading case as regards the supervision of the general measures and repetitive cases within the group can be closed when it is assessed that all possible individual measures needed to provide redress to the applicant have been taken.

¹⁵² All figures are calculated by the European Implementation Network and are based on the number of cases that are considered pending at the annual cut-off date of 1 January 2022. See the Contribution from the European Implementation Network for the 2022 Rule of Law Report, p. 74.

¹⁵³ Judgment of the European Court of Human Rights of 1 March 2016, *Arlewin v. Sweden*, 22302/10, pending implementation since 2016.

¹⁵⁴ Data according to the online database of the Council of Europe (HUDOC).

¹⁵⁵ See also 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 15.

¹⁵⁶ Section 1-2 of Act (2021:642) on the National Human Rights Institute (*lag (2021:642) om Institutet för mänskliga rättigheter*).

¹⁵⁷ Section 2 of Act (2021:642) on the National Human Rights Institute (*lag (2021:642) om Institutet för mänskliga rättigheter*).

¹⁵⁸ National Human Rights Institute (2022), The Institute commences dialogue with civil society, and information received from the National Human Rights Institute in the context of the country visit to Sweden.

earliest in 2023, the Institute will be eligible to seek an accreditation under the UN Paris Principles¹⁵⁹.

The framework rules on the operation and funding of civil society organisations in Sweden are being reviewed. In May 2022, the Government submitted a proposal to the Council of Legislation¹⁶⁰, which also included introduction of so-called ‘democracy conditions’¹⁶¹ to the support from the General Inheritance Fund and to the support for religious communities¹⁶². Also related to the democracy conditions, the report of the special inquiry into the review of financial support to civil society was presented on 21 December 2021¹⁶³ and proposed, among other, a new support function within the Swedish Centre for Prevention of Violent Extremism to assist decision-making bodies that provide public funding¹⁶⁴. In November 2021, the Government proposed an amendment to the Swedish Constitution to extend the possibilities to restrict freedom of association by law in the case of associations that engage in or support terrorism, for example, by means of a broader criminalisation of participation in a terrorist organisation or a ban on terrorist organisations¹⁶⁵. In April 2022 the Parliament held the first of the two votes needed¹⁶⁶ to pass the amendment to the Constitution. Civil society organisations expressed concern that the amendment could enable undue interference with the freedom of association¹⁶⁷. In a parallel

¹⁵⁹ Information received from the National Human Rights Institute in the context of the country visit to Sweden.

¹⁶⁰ Swedish Government (2022), State support to religious communities and democratic conditions.

¹⁶¹ The democracy conditions aim to prevent distributing public funding to activities which are not compatible with society's fundamental values. Swedish Government (2019), Democratic conditions for contributions to civil society.

¹⁶² The General Inheritance Fund is an important source of funding for organisations working with children, young people, persons with disabilities, and older persons. In October 2021, an inquiry report on democracy conditions for funding from the General Inheritance Fund was published. Swedish Government (2021), Democratic conditions for support from the General Inheritance Fund. Civil society organisations have been generally positive, but cautioned against potential risks for civil society engagement, such as a lack of clarity on responsibility for action of organisations' representatives and the need to preserve the organisations' ability to engage in civil disobedience. Franet (2022), Country research - Legal environment and space of civil society organisations in supporting fundamental rights – Sweden, p. 4.

¹⁶³ Swedish Government (2021), Minister of Culture has received the final report from the inquiry into a review of support for civil society.

¹⁶⁴ The support function would assist decision-making bodies that provide public funding (e.g. agencies) with consultation through in-depth reviews of grant-seeking organisations or other publicly funded activities and investigate if there are any connections to violent extremism or other anti-democratic environments in a way that gives the decision-making body reasons to take special measures. Swedish Government (2021), Final report of the Inquiry on review of support to civil society, and Swedish Government (2022), Referral SOU 2021:99, The right recipient – Scrutiny and integrity. As part of the same inquiry, an interim report on issues of personal data processing and confidentiality in cases of support to civil society had been published in August 2021. Swedish Government (2021), Referral SOU 2021:66 The right recipient – Democratic conditions and integrity.

¹⁶⁵ Swedish Government (2021), Government proposal 2021/22:42 – Freedom of association and terrorist organisations.

¹⁶⁶ The Swedish Constitution is composed of four fundamental laws. In order to amend the Constitution, the Parliament must adopt two decisions of identical wording with a general election between the two decisions. Swedish Parliament (2022), The Constitution.

¹⁶⁷ For example, the National Forum for Voluntary Organizations considers that the amendment would pose a risk that organisations with democratic aims or individuals engaged in international oppositional groups could be wrongly classified as terrorist organisations. Contribution by the National Forum for Voluntary Organizations for the 2022 Rule of Law Report (as part of the contribution by the European Civic Forum). In their responses on the public consultation, Amnesty International Sweden and Civil Rights Defenders also pointed out that the proposed scope of the amendment could present risks to impact also legitimate civil

process, the committee of inquiry on the ban on racist organisations has proposed to ban such organisations through new criminal legislation¹⁶⁸, on which civil society organisations have expressed concerns that it is not well-suited to the objective pursued¹⁶⁹. In a separate process, the Government had tasked the Swedish Agency for Youth and Civil Society to carry out an analysis during a one-year period on the extent and consequences of the harassment, threats and violence faced by civil society organisations. In its report from April 2022, the agency found that more than one in five civil society representatives have at some point been subjected to violence, vandalism, theft, threats or harassment¹⁷⁰. In order to mitigate the impact of the COVID-19 pandemic, the Government proposed in February 2022¹⁷¹ an enhanced financial support to civil society, notably for child and youth organisation and civil society organisations working with particularly vulnerable groups¹⁷².

society activities in the future. See the responses to the Referral of SOU 2021:15 Freedom of association and terrorist organisations.

¹⁶⁸ Swedish Government (2021), Government proposal 2021/27 – A ban on racist organisations.

¹⁶⁹ In September 2021, a group of 24 organisations, including Amnesty International Sweden and Civil Rights Defenders, came out against the ban of racist organisations. In their view, it is not possible to design a ban that is both strong enough to safeguard the right of all vulnerable groups not to be subjected to racism and narrow enough not to threaten fundamental freedoms. Instead, they have advocated for a better use of existing legal instruments. Position published in Svenska Dagbladet (2021), No to banning racist organisations. See also the contribution by the National Forum for Voluntary Organizations for the 2022 Rule of Law Report (as part of the contribution by the European Civic Forum) and contribution by the Civil Rights Defenders for the 2022 Rule of Law Report (as part of the contribution by the Civil Liberties Union for Europe).

¹⁷⁰ Between October and December 2021, the agency conducted a survey of 4 000 non-profit organisations and registered religious communities. The survey was responded by 43% of organisations, out of which 22% reported to have been at some time subjected to violence, damage, theft, threats or harassment linked to their involvement in the organisation, and 13% in the past year. The report found that most vulnerable are those who speak out on LGBTIQ issues (47%), followed by opinions on racism and anti-racism (41%), feminism (40%), on religion and beliefs (39%) or on children and/or young people's rights (39%). Swedish Agency for Youth and Civil Society (2022), Unique report from MUCF: 'Harassment, threats and violence silence civil society' and Swedish Agency for Youth and Civil Society (2022), Mapping threats and hatred against civil society, p. 21.

¹⁷¹ Swedish Government (2022), Enhanced support to civil society.

¹⁷² Sweden's civic space remains 'open' according to the rating by CIVICUS. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2022 Rule of Law Report can be found at https://ec.europa.eu/info/publications/2022-rule-law-report-targeted-stakeholder-consultation_en

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Annex II: Country visit to Sweden

The Commission services held virtual meetings in February 2022 with:

- Agency for Public Management
- Civil Rights Defenders
- Committee of Inquiry on Independence of Courts
- Council on Legislation
- Economic Crime Authority
- Ministry of Culture
- Ministry of Finance
- Ministry of Health and Social Affairs
- Ministry of Justice
- National Courts Administration
- National Forum for Voluntary Organisations
- National Human Rights Institute
- Office of the Parliamentary Ombudsmen
- Office of the Prime Minister
- Press and Broadcasting Authority
- Media Ombudsman
- Prosecution Service
- Secretariat of the Constitution Committee
- Supreme Administrative Court
- Supreme Court
- Swedish Association of Judges
- Swedish Bar Association
- Swedish Journalists' Association
- Swedish Media Publishers' Association
- Swedish public radio (SVR)
- Swedish public television (SVT)
- Transparency International Sweden

* The Commission also met the following organisations in a number of horizontal meetings:

- Amnesty International
- Article 19
- Civil Liberties Union for Europe
- Civil Society Europe
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Free Press Unlimited
- Human Rights Watch
- ILGA Europe
- International Federation for Human Rights (FIDH)
- International Press Institute
- Open Society European Policy Institute (OSEPI)
- Osservatorio Balcani e Caucaso Transeuropa
- Philea

- Reporters Without Borders
- Transparency International Europe