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COMMISSION STAFF WORKING DOCUMENT

**2023 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**

2023 Rule of Law Report

The rule of law situation in the European Union

{COM(2023) 800 final} - {SWD(2023) 801-827 final}

ABSTRACT

The level of perceived judicial independence in Sweden continues to be high among the general public and among companies. The all-party Committee of Inquiry on strengthening the protection of democracy and the independence of the judiciary has completed its work. A wider societal discussion took place on the nomination system of lay judges which is done via political parties and therefore raised concerns on ensuring their independence. Some of the gaps regarding digitalisation of justice are being addressed and fully digital judgments in criminal cases in district courts were introduced. The courts were granted increased financial resources for the period 2023-2025. The Swedish justice system performs efficiently.

The perception among experts and business executives is that Sweden is one of the least corrupt countries in the world. As part of the National Anti-Corruption Plan, work is ongoing towards a final report in December 2023. There have been no developments following a proposal by a committee of inquiry to extend the statute of limitations for corruption and other serious offences. Corruption related to infiltration of organised crime groups into the public service remains a concern. Efforts have been made to prosecute foreign bribery cases, but so far, the limited legal definitions of foreign bribery remain unchanged. The Government has still not updated the Ethical Guidelines for civil servants, and independent advice and oversight for ministers are not in place. Sweden's culture of openness and disclosure of information enables transparency of lobbying, while the Government launched a parliamentary inquiry on political party financing legislation and lobbying. The Government launched an inquiry to evaluate the rules on 'revolving doors' for a wide range of public functions, which is ongoing and should be completed by August 2023.

Sweden has a strong legal framework guaranteeing media freedom and pluralism with safeguards stemming both from the Constitution and from legislation. A restructuring of the independent Press and Broadcasting Authority is being prepared. The Government has introduced new legislation to improve transparency of media ownership; it has also taken steps to update rules on broadcasting licenses and extended from six to eight years the licensing period for the terrestrial network for commercial television. The Government has additionally taken steps to review the legislative framework of the public service media and to increase criminal law protection for journalists, who increasingly report instances of hate speech, threats and insults. In parallel, the Police has strengthened cooperation with publishers through joint seminars aimed at preventing crimes committed against journalists.

The opinions of the Council on Legislation are followed by the Government in a large majority of cases. As regards the Parliamentary Ombudsmen, amended constitutional and legislative rules are expected to take effect in January 2027 and September 2023 respectively, reflecting the parliamentary review on their functioning and mandate. The National Human Rights Institution is working towards an A-accreditation. As regards reforms of the legal framework for the funding and operation of civil society organisations, one legislative proposal was withdrawn for revision, while the impact on civil society engagement of the legislative initiatives remains to be ascertained. Even though Sweden continues to have an open civil society space, recent developments have given rise to some concerns in that regard.

RECOMMENDATIONS

Overall, concerning the recommendations in the 2022 Rule of Law Report, Sweden has (made):

- Fully implemented the recommendation 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.
- Some progress on the evaluation of the scope, impact and implementation of the rules relating to revolving doors that cover top executive functions in the Government.
- Some progress on strengthening the fight against foreign bribery, including through amending existing legal definitions and improving on prosecution and final judgments of cases.
- Some progress on ensuring that on-going reforms to the legal framework for the funding and operation of civil society organisations do not unduly affect civil society engagement.

On this basis, and considering other developments that took place in the period of reference, it is recommended to Sweden to:

- Ensure that the nomination system of lay judges safeguards their independence, 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, by amending the existing legal definitions to improve on the prosecution of, and final judgments in foreign bribery cases.
- Continue efforts to ensure that the 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)⁶. 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 among the general public and among companies. Overall, 75% of the general population and 70% of companies perceive the level of independence of courts and judges to be 'fairly or very good' in 2023⁸. According to data in the 2023 EU Justice Scoreboard, no clear trend can be identified in the evolution of the perceived level of independence among the general public since 2016. Nevertheless, the perceived judicial independence among the general public has increased slightly in comparison with 2022 (74%), while remaining lower than in 2016 (77%). The perceived judicial independence among companies remains at the same level as in 2022 and is higher than in 2016 (66%).

The Committee of Inquiry on strengthening the protection of democracy and the independence of the judiciary has completed its work. The 2022 Rule of Law Report recommended to Sweden to "continue the work of the Committee of Inquiry on strengthening

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. Sweden does not have a constitutional court.

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 2023 Rule of Law Report, p. 2.

⁷ Code of Judicial Procedure, Chapter 8.

⁸ Figures 49 and 51, 2023 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%).

the protection of democracy and the independence of the judiciary, taking into account European standards on judicial independence”⁹. On 17 March 2023, the Committee of Inquiry delivered a comprehensive report¹⁰ based on the broad political consensus underpinning its composition¹¹. It recommended the setting up of a new court administration agency that would be more independent from the Government as compared to the current National Courts Administration¹², notably in terms of being headed by a Board¹³ – a majority of which are or have been judges, nominated by the courts – that would appoint the agency’s director¹⁴. In its assessment, the Committee of Inquiry took into account European standards¹⁵ and carried out a comparative overview with other European countries¹⁶. The report comprises proposals on a number of further aspects, such as the procedure for amending the Constitution¹⁷, adjustments in the system of appointment of judges¹⁸,

⁹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 3-4.

¹⁰ The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary.

¹¹ Ibid.

¹² The new agency would essentially have the same assignments as the National Courts Administration. Furthermore, the Government should be required to obtain a draft budget from the new agency. If the Government’s Budget Bill for the Parliament were to deviate from the new agency’s draft, it would have to provide a special justification for doing so. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 47-50.

¹³ The Board would be comprised of nine members, five of whom would have to be judges or previously have been judges. Each Board member should have a deputy. The members and their deputies would be appointed by the Government for a period of six years. A specific nomination procedure will be introduced to ensure that the courts have a significant influence over the composition of the Board. A Board member or deputy on the Board could not simultaneously be a member of the Parliament, a Government minister, employed by the Parliament, employed in the Government Offices, employed at central level in a political party or hold another post or mandate rendering them ineligible. A decision to remove a Board member (other than at own request) would be taken by the Parliament, at the request of its Committee on the Constitution; at least three-quarters of the voters and more than half of the members of the Parliament would have to vote in favour on the decision. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 47-50, 331-336 and 341-345.

¹⁴ The Board would appoint the Director of the new agency, rather than the Government as is presently the case for the National Courts Administration. The Director would have a limited term of six years, with an option to extend by a further three years. A decision to remove the Director from office would be made by the Board. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, p. 49.

¹⁵ Among others, the Committee took into account the European Convention on Human Rights and the case law of the European Court of Human Rights (e.g. on requirements related to an independent and impartial tribunal established by law), the Charter of Fundamental Rights of the European Union, the Treaties as well as the case law of the Court of Justice (on Article 19(1) TEU and Article 47 of the Charter), the UN Basic Principles on the Independence of the Judiciary, Council of Europe Recommendation CM/Rec(2010)12 on Judges: independence, efficiency and responsibilities, the European Charter on the statute for judges, or the Venice Commission report on Independence of the Judicial System, Part I. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 221-239.

¹⁶ The Committee compared the situation of the topics covered in the report with Denmark, Finland, Iceland, Norway, Estonia, the Netherlands and Germany. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 241-276.

¹⁷ Presently, the Parliament can amend the Constitution by passing two identically worded votes in favour by simple majority with a parliamentary election (ordinary or snap elections) between both votes. The Committee proposed that a qualified majority (two-thirds) in the Parliament should be required for the second vote. The requirement to obtain an opinion from the Council on Legislation should be extended to include constitutional amendments on fundamental freedoms and rights (presently this applies only to constitutional amendments in the area of freedom of the press and freedom of expression). The 2020

procedures for accountability of judges, including a new disciplinary body¹⁹, a statutory retirement age for judges of the Supreme Courts and other judges²⁰, and a special joint composition with judges of both Supreme Courts²¹. It is foreseen that the necessary amendments to the Constitution proposed by the Committee and adopted by Parliament could enter into force on 1 April 2027, whereas the legislative provisions concerning the nomination and composition of the new court administration agency and the Judges Proposals Board would enter into force on 1 January 2027²². As an immediate next step, the Government launched a public consultation on the report in April²³. As the Committee of Inquiry has completed its work, the recommendation in the 2022 Rule of Law Report is fully implemented.

A wider societal discussion took place on the nomination system of lay judges which is done via political parties, and therefore raised concerns on ensuring their independence.

Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 43-46.

¹⁸ The Committee proposed targeted changes to the current system of appointing judges, by providing in the Constitution that judges are appointed by the Government following the proposal of a specific body, a majority of whose members must be or have been judges. A new provision would be inserted in the Constitution on the conditions under which a member or deputy member of the proposing body may be removed from office. Furthermore, the Government should only appoint a person proposed by the Judges Proposals Board as a judge. If the appointment proposal were to include more than one candidate and the candidates were ranked, the Government would not be bound by the ranking. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 50-51.

¹⁹ The Committee touched upon the arrangements for examining under which circumstances a judge could be removed or suspended from office or obliged to undergo a medical examination. For judges (other than Supreme Courts' judges), this examination is presently conducted by the Government Disciplinary Board for Higher Officials and may be reviewed by a court. In the Committee's view, the disciplinary system should not be linked to the executive power as is currently the case and judges' accountability ought not be primarily dealt with as a matter of labour law. The Committee considered that a Disciplinary Board for Judges should be established, enjoying constitutional protection and consisting of a majority of members who are or have been judges. Given that this proposal was outside of the Committee's mandate, the latter proposed that a separate inquiry be established. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 52-53. According to the 2023 EU Justice Scoreboard, the percentage of women in the top judicial positions is below 30%. Figure 36, 2023 EU Justice Scoreboard.

²⁰ The Committee proposed that the Constitution should provide that Supreme Courts' judges can be removed from office only if they have reached a statutory retirement age and not apply retroactively. Supreme Courts' judges should be obliged to leave their office at the end of the month in which they reach the age of 69. On application from a Supreme Court judge, the new courts agency should be able to decide upon a higher retirement age based on are relevant operational grounds. The proposals for the Supreme Court judges should also apply to other judges. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 53-54.

²¹ This proposal refers to a possibility for both Supreme Courts to examine cases jointly in a special composition. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, p. 55.

²² The Committee of Inquiry noted that separate inquiries would be needed to fully implement certain of its proposals, such as relating to questions on labour law and the procedure for rendering permanent judges accountable. The necessary preparatory work should be concluded so that the relevant legislation could also enter into force on 1 April 2027. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, p. 56.

²³ The public consultation is open until 1 September 2023. Swedish Government (2023), public consultation SOU 2023:12.

The lay judges in Sweden are nominated exclusively²⁴ by the political parties and elected by municipal councils or county council assemblies²⁵. Lay judges participate in the courts of appeal, the administrative courts of appeal, the district courts and the administrative courts²⁶. While there are no specific provisions requiring an individual to be a member of a political party to become a lay judge, the political parties themselves decide whether they want to require membership in order to nominate a person as a lay judge²⁷. Even though the performance of a lay judge's duties is required to be non-political, independent and impartial²⁸, the nomination via political parties has given rise to concerns in concrete cases. In 2023, a wider societal discussion took place on the nomination system of lay judges with reactions from stakeholders and political parties underlining the importance of judicial independence²⁹. This public debate started following a judgment in a criminal case on appeal, which had attracted significant media coverage; the political party having nominated two of the lay judges involved, invited them to a “coaching session”, after which the two lay judges resigned³⁰. This has also made it more difficult to attract new lay judges³¹. The Judges Association and the Bar Association consider that the lay judges should be nominated without the involvement of political parties³². Proposals on modifying the appointment

²⁴ There is no other way to be nominated than by a political party. National Courts Administration (2023), For those wanting to become lay judges.

²⁵ Lay judges are elected every four years. The political parties represented in the municipal and regional councils nominate individuals reflecting the population composition. Based on the political parties' relative representation size in the municipal and regional councils, parties may nominate different numbers of lay judges. The selected lay judges must meet the eligibility and suitability requirements, complete a mandatory training (on publicity and confidentiality, disqualification, ethics and the non-political nature of the assignment) and take the judicial oath before serving in the court. Lay judges and professional judges are on an equal footing when deciding a case, with each judge having an individual vote; the lay judges have a say in all aspects of the case, including matters of law. In the performance of their duties, lay judges may not pursue political opinions in court and may not be influenced by personal values. The Constitution also stipulates that no authority, not even the Swedish Parliament, may decide how a court shall rule in an individual case or how a court shall otherwise apply a rule of law in a particular case. Input from Sweden for the 2020 Rule of Law Report, p. 4 and written contribution by the Ministry of Justice and the National Courts Administration in the context of the country visit to Sweden.

²⁶ At a trial in the district courts and the administrative courts, three lay judges participate under the direction of a professional judge. At second instance at the courts of appeal and administrative courts of appeal there are two lay judges and three professional judges. *Ibid.*

²⁷ National Courts Administration (2023), For those wanting to become lay judges.

²⁸ *Ibid.*

²⁹ Svenska Dagbladet (2023), Commentary from the Judges Association: Lay judges should not be nominated by the political parties, Dagens Juridik (2023), Commentary from the Director of the National Courts Administration: “I understand that the Snippa ruling evokes emotions”, Dagens Juridik (2023), Commentary from the Lay Judges Association: Lay judges: “We agree with the Director of the National Courts Administration”, SVT (2023), After the Snippa ruling, parties see problems with the jury system.

³⁰ SVT (2023), After the Snippa case: Two members of the Court of Appeal for Western Sweden leave the court, SVT (2023), Shekarabi: Social-democrats district wrong to contact lay judges in the Snippa ruling. The Judges Association also referred to a similar incident, in 2018, when a political party initiated a procedure to exclude from its membership two lay judges it had nominated and considered to be representing the party. The stated reason being that the wording of a judgment, in which the two lay judges nominated by that party had participated, did not correspond to the party's values. Written contribution and information received from the Judges Association in the context of the country visit. Centre Party webpage (2018) Solna judgment: exclusion case.

³¹ During the relevant period, the recruitment of lay judges for the term covering 2024-2027 was underway. SVT (2023), Difficult to recruit lay judges after the “Snippa” ruling: “Many are reluctant to continue”.

³² The Swedish Bar Association considers that system of lay judges should be reformed so as to reduce lay judges' influence in the judicial process, lay judges should be apolitical and not appointed by political

system by reducing the number of lay judges nominated by political parties were put forward in 2002 and 2013 but did not lead to any changes³³. In accordance with the case law of the European Court of Human Rights, the principles applicable to determining whether a tribunal can be considered “independent and impartial” apply equally to professional judges, lay judges and jurors³⁴.

Quality

Some of the gaps regarding digitalisation of justice are being addressed and fully digital judgments in criminal cases at district courts were introduced. The use and availability of digital technology in Swedish courts is overall good³⁵ and there has been further improvement on digital solutions to conduct and follow criminal proceedings, notably concerning the possibility for victims and defendants to submit written statements online³⁶. Nevertheless, some gaps remain when it comes to accessing first instance court judgments online, and arrangements for their machine readability³⁷. In October 2022, the first fully digital district court judgments were adopted. A system change currently being introduced in all district courts for criminal judgments means that the digital judgment henceforth constitutes the original³⁸. As noted in the 2022 Rule of Law Report, the project would be gradually integrated with other authorities and developed to handle also other types of proceedings and judgments³⁹. Moreover, as part of another effort to allow easier access to courts, parties and witnesses in a hearing will be able to participate remotely via video link from a state service office⁴⁰.

bodies, and not participating in rulings of appeal courts. The Swedish Bar Association (2021), The Bar Association’s Rule of Law Programme, p. 16. The Swedish Lay Judges Association is not in favour of changing the current system, despite noting that it is not without shortcomings. Among other things, it would like to see more lay judges without a party affiliation and more younger people becoming lay judges. SVT (2023), Difficult to recruit lay judges after the “Snippa” ruling: “Many are reluctant to continue”.

³³ The Judges Association referred to two Government proposals; in 2002, SOU 2002:61 proposed that 20 % of the lay judges should be appointed without having been nominated by a political party and in 2013 SOU 2013:49 proposed that at least half of the lay judges should be appointed without having been nominated by a political party Svenska Dagbladet (2023), Commentary from the Judges Association: Lay judges should not be nominated by the political parties, and information received from the Judges Association in the context of the country visit.

³⁴ Judgment of the European Court of Human Rights of 25 November 1993, Holm v. Sweden, 14191/88, paragraph 30, Judgment of the European Court of Human Rights of 16 December 2003, Cooper v. United Kingdom, 48843/99, paragraph 123.

³⁵ Figures 41 and 42, 2023 EU Justice Scoreboard.

³⁶ Figure 46, 2023 EU Justice Scoreboard.

³⁷ Figures 47 and 48, 2023 EU Justice Scoreboard.

³⁸ The processing of criminal judgments, like other judgments, has been digital for a long time. Criminal case judgments in district courts are from now on signed digitally. All information in the judgment is entered in a structured form and the authorities that have access to the system automatically receive the information they need from the judgment without the court having to send the information manually. National Courts Administration (2022), The Swedish courts’ first digital judgment and written contribution received from the National Council for Crime Prevention in the context of the country visit to Sweden.

³⁹ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 5.

⁴⁰ The purpose of the service, first rolled out in nine state service offices, is to increase the possibility of attendance, provide a shorter travel route for participants and fewer cancelled hearings due to possible difficulties to attend hearings physically. National Courts Administration (2022), State service centre and the National Courts Administration working together to improve service to citizens.

The courts were granted increased financial resources for the period 2023-2025. In the budget bill for 2023, the courts were granted more financial resources compared to the previous allocations foreseen for the period 2023-2025⁴¹; this allocation was higher than what was requested by the National Courts Administration⁴². The increased allocations are intended to address additional tasks to be entrusted to the National Courts Administration⁴³. Nevertheless, some stakeholders pointed out that the allocation would not benefit the human resources in the judiciary⁴⁴ and emphasised challenges in recruitment of judges and other personnel⁴⁵. Furthermore, the Judges Association reiterated that the remuneration system⁴⁶, based on a collective agreement⁴⁷ and individual negotiations of the salary for each judge is non-transparent and allows for remuneration of (individual) judges to be controlled politically⁴⁸, while it did not alleviate problems with recruitment of judges, as had been

⁴¹ The courts were allocated approximately EUR 3.15 million (SEK 36 million) for 2023 and proposed to receive, approximately EUR 7.01 million (SEK 80 million) in 2024 and approximately EUR 14.89 million (SEK 170 million) in 2025. National Courts Administration (2023), Budgetary, p. 7 and input from Sweden for the 2023 Rule of Law Report, p. 3. Written contribution received from the Ministry of Justice in the context of the country visit to Sweden.

⁴² As noted in the 2022 Rule of Law Report, the National Courts Administration had asked for additional resources of approximately EUR 10.7 million (SEK 115 million) for the operation of the courts in 2025. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 4-5 and information received from the Ministry of Justice in the context of the country visit to Sweden.

⁴³ The Budget Bill 2023 lists eight additional tasks, such as the new structure for the civil defence and the society's crisis preparedness or the initiative related to safe houses for children and adults (related to domestic violence), or a new confiscation legislation. These additional tasks and initiatives are not only compensation generating more allocations to the courts, but also include transfer of resources from the courts to other authorities. Written contribution and information received from the Ministry of Justice in the context of the country visit to Sweden; Swedish Government (2022), Budget Bill for the judiciary 2023, p 74.

⁴⁴ The Swedish Bar Association also emphasised that not only the courts, but also other parts of the justice system, such as the Police and the Prosecution Service had received increased budgetary allocations. Information received from the Swedish Bar Association in the context of the country visit to Sweden.

⁴⁵ The Judges Association estimates that the financial allocations will be significantly impacted by increased building rental costs. Furthermore, the allocations to the courts are smaller than to the Police and Prosecution, which has an impact on the processing of cases in the courts. Information received from the Judges Association in the context of the country visit to Sweden.

⁴⁶ The Swedish National Courts Administration and the judge agree on a salary when the judge is appointed. The salaries are revised every year. New salaries are agreed between the individual judge and the president of the court (or a senior judge to whom this task is delegated). Input from Sweden for the 2020 Rule of Law Report, p. 8.

⁴⁷ As also noted in the 2021 Rule of Law Report, according to the Council of Europe recommendations, the principal rules of the system of remuneration for professional judges should be laid down in law. See notably Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 53.; in addition, the Venice Commission is of the opinion that for judges a level of remuneration should be guaranteed by law in conformity with the dignity of their office and the scope of their duties. See Venice Commission, Independence of the Judicial System, Part I, CDL-AD(2010)004, The Independence of Judges, para. 51. According to the Judges Association, a remuneration system for judges laid down in law already existed in Sweden. This was the situation up until 2004, when the collective agreement was introduced. Information received from the Judges Association in the context of the country visit to Sweden

⁴⁸ The Judges Association considers that the ability to recruit senior lawyers with higher salaries is an argument in favour of individual starting salaries, but should not have a bearing on subsequent individual salary setting, which could be achieved by recruiting new lawyers to a higher salary grade. The association points out further that the remuneration of judges can be controlled politically, in particular as it is ultimately the National Courts Administration being entitled to set individual salaries (although there is currently a delegation decision to court presidents). The association points out that the Director of the National Courts Administration is appointed by the Government and it is Government agency. The association considers that there is nothing in current system that would prevent the Government, through the National Courts

intended with its introduction⁴⁹. The National Court Administration referred to the collective agreement, which aims to ensure that the salaries and their development need to be competitive so that it can recruit and retain the most skilled individuals as judges⁵⁰.

The legal aid threshold for civil cases has not been adjusted for inflation since 1999, but the vast majority of population is insured for legal protection. In order to be eligible for legal aid in civil cases⁵¹, applicants' annual revenue must not exceed the threshold of approximately EUR 22 770 (SEK 260 000)⁵², whereas the average annual salary in Sweden in 2021 was approximately EUR 38 986 (SEK 445 200)⁵³. Furthermore, a pre-requisite for legal aid is that the legal costs are not covered by an insurance, such as a home insurance. According to the Ministry of Justice, the vast majority of population in Sweden (96%) has a home insurance, which usually includes a legal protection coverage⁵⁴. In 2014, a special inquiry mandated by the Government reviewed the legal aid system, and at that time, suggested to raise the threshold to SEK 400 000⁵⁵. However, this was not taken forward, and as the threshold for legal aid in civil cases has not been adjusted for inflation since 1999, the number of individuals qualifying for the legal aid threshold has steadily decreased⁵⁶.

Administration, from exerting pressure on the courts by rewarding or sanctioning how law is being applied by individual judges. Written contribution from the Judges Association in the context of the country visit to Sweden.

⁴⁹ The Judges Association referred to recruitment problems with vacancies for judges in central Sweden, such as Linköping, Norrköping, Uppsala, Karlstad or Örebro. Information received from the Judges Association in the context of the country visit to Sweden.

⁵⁰ The National Courts Administration is together with the trade union of judges (*Jusek*) the contractual party to the collective agreement. It referred to the provision of the collective agreement (6 § *Lokalt löneavtal 2011-05-25 mellan Domstolsverket och Jusek, inom RALS 2010-T*), which provides, among others, that the salary of a judge may never be made on grounds contrary to the interest of judicial independence or in a manner that would be objectively a reaction on how a judge rules or otherwise applies law in individual cases. The salary setting of a judge shall be based on the assumption that the judicial decision-making entails a special responsibility. Written input received from the National Courts Administration in the context of the country visit to Sweden.

⁵¹ The legal assistance in criminal cases and in administrative cases is based on need, and not on an income threshold. Written contribution from the Ministry of Justice in the context of the country visit to Sweden.

⁵² According to the Ministry of Justice, the basic idea behind legal aid in Sweden is that an individual should contribute to the cost to the extent that he or she can afford. A legal aid fee is therefore paid by the applicant, and it varies from 2% to 40% of the costs depending on the applicant's income. Written contribution from the Ministry of Justice in the context of the country visit to Sweden. To determine the eligibility for legal aid, there are different factors that are taken into account to assess the annual income threshold, such as assets, debts, or certain types of revenues/reimbursements. National Courts Administration (2022), Calculate your economic base.

⁵³ Written contribution from the Ministry of Justice in the context of the country visit to Sweden.

⁵⁴ Ibid Nevertheless, the Swedish Bar Association has pointed out that the legal protection coverage can have ceilings, after which an individual may not receive financial coverage from the insurance for legal costs. Information received from the Swedish Bar Association in the context of the country visit to Sweden.

⁵⁵ Swedish Government (2014), public consultation SOU 2014:86, p. 224. Based on the average exchange rate in 2014, this would convert to approximately EUR 43 945.

⁵⁶ The Swedish Bar Association emphasised that the Swedish legal aid system has changed towards an increasingly privately funded regime, instead of a state funded legal aid regime. The absence of an increase of the threshold or adjustment for inflation had resulted in a steadily decreasing number of individuals eligible for legal aid in civil cases. Written input and information received from the Swedish Bar Association in the context of the country visit to Sweden. The Civil Rights Defenders have pointed out that with the threshold of SEK 260 000 there was 80% of population eligible in 1999, whereas presently only 36% of population falls below that threshold. Information received from the Civil Rights Defenders in the context of the country visit to Sweden.

Efficiency

The Swedish justice system performs efficiently. The number of incoming civil and commercial litigious cases has remained comparatively low in 2021⁵⁷. The estimated time needed to resolve litigious civil, commercial, administrative and other cases at first instance is short (148 days in 2021) and has continued to decrease (161 days in 2020 and 167 days in 2019)⁵⁸. The clearance rate has stayed positive at a stable level for both civil and commercial litigious cases (102.8% in 2020 and 102.7% in 2021) and further improved for administrative cases (from 102.3% in 2020 to 103.4% in 2021)⁵⁹. The number of pending civil and commercial cases at first instance remains stable at a low level⁶⁰. According to the National Courts Administration's data, the number of incoming and decided cases has continued the decreasing trend since 2018⁶¹. In 2023, the use of the fast-track criminal procedure for adult offenders to shorten the time taken to prosecute certain offences was expanded to all courts⁶².

II. ANTI-CORRUPTION FRAMEWORK

Sweden has the legislative and institutional framework to combat and prevent corruption broadly in place. There is no independent anti-corruption authority or agency in Sweden, but the Agency for Public Management is responsible for the good administrative culture across Government. The National Council for Crime Prevention is a knowledge centre for the criminal justice system and its mandate includes developing crime prevention work at the national, regional and local level. The National Anti-Corruption Unit (NACU) is the specialised prosecution agency within the Swedish Prosecution Authority responsible for all criminal investigations, related to corruption and bribery, including foreign bribery, in cooperation with the National Anti-Corruption Unit of the Swedish Police Authority (NACPU). As part of the Swedish Police Authority, the National Anti-Corruption Police Unit is tasked with investigating corruption crimes, asset recovery and preventing corruption by providing knowledge to different public authorities as well as business associations. 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 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 2022 Corruption Perception Index by Transparency International, Sweden scores 83/100 and ranks third in the European Union and fifth

⁵⁷ Figure 3, 2023 EU Justice Scoreboard.

⁵⁸ Figure 6, 2023 EU Justice Scoreboard.

⁵⁹ Figures 11 and 12, 2023 EU Justice Scoreboard.

⁶⁰ Figure 13, 2023 EU Justice Scoreboard.

⁶¹ According to the National Courts Administration's data, in 2022 the number of incoming and decided cases has continued to decrease (by 7% for incoming and 6% for decided cases compared to 2021), while the number of cases pending at end of the year has continued to decrease (160 727 in 2022 compared to 158 245 in 2021). National Courts Administration (2023), Annual report 2022, pp. 12 and 13.

⁶² National Courts Administration (2023), Annual report 2022, pp. 85-86.

globally⁶³. This perception has been relatively stable over the past 5 years⁶⁴. The 2023 Special Eurobarometer on Corruption shows that 36% of respondents consider corruption widespread in their country (EU average 70%) and 10% of respondents feel personally affected by corruption in their daily lives (EU average 24%)⁶⁵. As regards businesses, 37% of companies consider that corruption is widespread (EU average 65%) and 13% consider that corruption is a problem when doing business (EU average 35%)⁶⁶. Furthermore, 34% of respondents find that there are enough successful prosecutions to deter people from corrupt practices (EU average 32%)⁶⁷, while 45% of companies believe that people and businesses caught for bribing a senior official are appropriately punished (EU average 30%)⁶⁸.

As part of the National Anti-Corruption Plan, work is ongoing towards a final report in December 2023. The aim of the Action Plan is to provide public agencies with tools and best practices on the prevention of corruption⁶⁹. As noted in the 2022 Rule of Law Report, part of the Action Plan was the publication of an interim report, which highlighted 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 expertise⁷⁰. Following the publication of its first interim report⁷¹ that looked into the risks analyses and reporting structures of 209 Government authorities, the Agency for Public Management will present a final report in December 2023⁷². This report will include recommendations to the Government. The Government will not respond to the interim report⁷³ but intends to await the final report. As part of the Anti-Corruption Plan, the Agency for Public Management produced two manuals on best practice for public agencies in relation to analyses of corruption risks⁷⁴. The Agency does not monitor the implementation of these manuals and will ask the agencies about implementation for the final Anti-Corruption Plan report⁷⁵. Civil society has expressed concerns on the level of commitment and actions in the Action Plan⁷⁶.

⁶³ Transparency International, Corruption Perceptions Index 2022, pp. 2-3. The level of perceived corruption is categorized 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).

⁶⁴ In 2018 the score was 85, while, in 2022, the score is 83. The score significantly increases/decreases when it changes more than five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

⁶⁵ Special Eurobarometer 534 on Corruption (2023). The Eurobarometer data on citizens' corruption perception and experience is updated every year. The previous data set is the Special Eurobarometer 523 (2022).

⁶⁶ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). The Eurobarometer data on business attitudes towards corruption as is updated every year. The previous data set is the Flash Eurobarometer 507 (2022).

⁶⁷ Special Eurobarometer 534 on Corruption (2023).

⁶⁸ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023).

⁶⁹ 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 6 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8.

⁷⁰ 2022 Rule of Law Report, Country chapter on the rule of law situation in Sweden, p. 8.

⁷¹ Ibid.

⁷² Information received in the context of the country visit to Sweden from the Agency for Public Management.

⁷³ Information received in the context of the country visit to Sweden from the Ministry of Justice.

⁷⁴ Input from Sweden for the 2023 Rule of Law Report, p. 7.

⁷⁵ Information received in the context of the country visit to Sweden from the Agency for Public Management.

⁷⁶ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8, and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 6.

There have been no developments following a proposal by a committee of inquiry to extend the statute of limitations for corruption and other serious offences. As noted in previous Rule of Law Reports⁷⁷, 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 years⁷⁸. The Government intends to implement this proposal but did not provide for a concrete timeline⁷⁹. In February 2023, an inquiry on undue influence and corruption was closed. Reportedly, the new Government considered the mandate of the inquiry unclear, which would result in an overly general mapping that did not meet the present priorities⁸⁰. The Government therefore intends to appoint a new committee of inquiry on bribery and other corruption related offences focusing on criminal law, but the detailed mandate is still to be finalised⁸¹. This new committee of inquiry is expected to be appointed in the second half of 2023⁸².

Law enforcement agencies responsible for anti-corruption are overall well-resourced, although both the Police and the Prosecution Authority see space for improvement. The Prosecution Authority and the Police have sufficient resources⁸³. However, the Police consider that the anti-corruption related work would benefit from more personnel in the intelligence unit⁸⁴ and the Prosecution Authority indicates that putting a larger focus on corruption crimes would also strengthen their corruption work⁸⁵. Good cooperation exists between the law enforcement agencies involved in the investigation and prosecution of corruption, although some overlaps in their responsibilities can sometimes lead to uncertainty as to the service in charge of investigation⁸⁶. Data from the National Council for Crime Prevention indicates a decrease in reported bribery cases in 2022 compared to 2021, in particular the number of reports on received bribes⁸⁷. In 2022, prosecutions were initiated for 73 bribery-related offences and 50 convictions were obtained, of which two resulted in imprisonment⁸⁸. Following the critical remarks of the Swedish National Audit Office about

⁷⁷ 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 and 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8.

⁷⁸ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 8.

⁷⁹ Information received in the context of the country visit to Sweden from the Ministry of Justice.

⁸⁰ Ibid.

⁸¹ Ibid.

⁸² Ibid.

⁸³ Information received in the context of the country visit to Sweden from the Prosecution Service and the Police. The National Anti-Corruption unit of the Police consists of 28 persons, which includes police officers, civil investigators and forensic accountants. Within the Public Prosecution there are 10 senior public prosecutors working on economic crime.

⁸⁴ Information received in the context of the country visit to Sweden from the Police.

⁸⁵ Information received in the context of the country visit to Sweden from the Prosecution Service.

⁸⁶ Ibid.

⁸⁷ In 2021, there were 309 reports on received bribes, whereas in 2022 the number of reports on receiving a bribe was 80. Compared to the last four years, the number of reported bribery cases has been relatively stable. In 2019 there were 73 reports on received bribes and in 2020 58 reports on received bribes. Written contribution from the National Council for Crime Prevention in the context of the country visit to Sweden.

⁸⁸ Ibid.

the functioning of the Economic Crime Authority⁸⁹, the Economic Crime Authority is taking measures and will report back to the Government by the end of 2023⁹⁰.

Corruption related to infiltration of organised crime groups into the public service remains a concern. According to the authorities, there are several examples of organised crime trying to infiltrate public services at local level, often in areas where criminal gangs are influential⁹¹. At the same time, the willingness to report on this type of infiltration is negatively affected by threats and harassments⁹². However, corruption related to infiltration of organised crime is not reflected in the number of investigations and prosecution cases⁹³, reportedly because the enforcement priority of the Police has been focusing more on gang-related and organised crime. The Government organised a roundtable discussion in early 2023 where municipalities and police shared their experiences⁹⁴. Furthermore, the Government commissioned the National Council for Crime Prevention to study the role and function of enablers or insiders in public institutions conducting criminal activities linked to criminal networks⁹⁵. According to the Government, such an analysis presently does not exist⁹⁶. The study will include a proposal for preventive and counteractive measures and is planned to be presented in March 2024⁹⁷.

Some progress has been made as regards efforts to prosecute foreign bribery cases, but so far, the limited legal definitions of foreign bribery remain unchanged. The 2022 Rule of Law Report recommended to Sweden to “strengthen the fight against foreign bribery, including through amending existing legal definitions and improving on prosecution and final judgments of cases”⁹⁸. The Government introduced new legislation on foreign bribery in 2019⁹⁹ and continues to monitor its effectiveness¹⁰⁰. The authorities have adequate resources and collaborate internationally to investigate and prosecute foreign bribery¹⁰¹. Despite a

⁸⁹ National Audit Office (2021), The Economic Crime Authority ‘The work towards the organised economic crime’, pp. 5-7, and 2022 Rule of Law Report, Country Chapter on the Rule of law situation in Sweden, pp. 8-9.

⁹⁰ Information received in the context of the country visit to Sweden from the Economic Crime Authority.

⁹¹ Information received in the context of the country visit to Sweden by the Prosecution Service, and 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*’

⁹² Ibid.

⁹³ Information received in the context of country to Sweden from the Prosecution Service and Police.

⁹⁴ Swedish Government (2023) Roundtable on unauthorised influence against parties and public decision-making.

⁹⁵ Swedish Government (2023) Assignment of studying unauthorised influence by systemically threatening actors and groupings.

⁹⁶ Input received from Sweden for the 2023 Rule of Law Report, p. 10.

⁹⁷ Information received in the context of the country visit to Sweden from the National Council for Crime Prevention.

⁹⁸ 2022 Rule of Law Report, Chapter on the rule of law situation in Sweden, pp. 9-10.

⁹⁹ Input received from Sweden for the 2023 Rule of Law Report, p. 1.

¹⁰⁰ Input received from Sweden for the 2023 Rule of Law Report, p. 1.

¹⁰¹ Ibid, p. 7, and information received in the context of the country visit to Sweden from the Prosecution Service. According to the Government, the Police Authority participates in international networks to combat corruption, such as the Global Operational Network of Anti-Corruption Law Enforcement Authorities

generally difficult situation with mutual legal assistance requests, the international cooperation is extensive and efforts are made by the Prosecution Authority to set-up collaboration with third countries¹⁰². There have been a few notable high profile foreign bribery cases, which did not result in convictions¹⁰³. It remains difficult to successfully attain convictions in foreign bribery cases due to legal limitations and a difficulty to gather all the necessary evidence¹⁰⁴. The OECD has urged Sweden to reform its laws to make sure that companies that bribe foreign public officials to obtain advantages in international business are properly investigated and prosecuted¹⁰⁵. Although no legislative changes are foreseen in the near future, the Prosecution Authority would welcome an extension of the scope of the offence on foreign bribery¹⁰⁶. The Government intends to launch a new inquiry on bribery and other corruption related offences focusing on criminal law in the second half of 2023, which could consider changes to the legislation on foreign bribery, but no further details have been finalised yet¹⁰⁷. Therefore, in view of the efforts to prosecute foreign bribery cases, there has been some progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

The Government has still not updated the Ethical Guidelines for civil servants, and independent advice and oversight for ministers are not in place. Sweden relies on a strong culture of transparency in dealing with potential conflicts of interests and ethical breaches. As noted in the 2022 Rule of Law Report¹⁰⁸, the Government is still in the process of updating the Ethical Guidelines that will apply to all employees of the Government Offices¹⁰⁹. The revised Ethical Guidelines will not be legally binding¹¹⁰ or include supervision¹¹¹, nor is it clear when they would be finalised. The handbook for ministers, state secretaries and political advisers has been updated in autumn of 2022¹¹². As noted in the 2022 Rule of Law Report¹¹³, a consolidated code of conduct covering high-level civil servants and

(GlobE Network) and the Global Law Enforcement Network against Transnational Bribery (GLEN). The Prosecution Service confirmed that they have adequate resources to investigate foreign bribery cases.

¹⁰² Input received from Sweden for the 2023 Rule of Law Report, p. 7 and information received in the context of the country visit to Sweden from the Prosecution Service.

¹⁰³ National Courts Administration (2022) Four former Ericsson employees acquitted from charges of aggravated bribery.

¹⁰⁴ 2022 Rule of Law Report, Country chapter on the rule of law situation in Sweden, p. 10, and information received in the context of the country visit to Sweden from the Prosecution Service.

¹⁰⁵ 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. 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.

¹⁰⁶ According to the Prosecution Service, including sphere of influence and criminal liability for legal persons would strengthen their efforts to attain convictions in foreign bribery cases. Dagens Juridik, (2023) Debate: Need for revised anti-corruption legislation, and Smalaaningen (2023) Corruption prosecutor calls for stricter laws.

¹⁰⁷ Information received from the Ministry of Justice in the context of the country visit to Sweden.

¹⁰⁸ 2022 Rule of Law Report, Country chapter on the rule of law situation in Sweden, p. 10.

¹⁰⁹ Information received from the Ministry of Justice in the context of the country visit to Sweden.

¹¹⁰ 2022 Rule of Law Report, Country chapter on the rule of law situation in Sweden, p. 10.

¹¹¹ In the evaluation report, GRECO called for the future code of conduct to be subject to some form of a mechanism for its supervision. GRECO Fifth evaluation Round – Evaluation Report, recommendation v, para. 20.

¹¹² Written contribution from the Ministry of Justice in the context of the country visit to Sweden.

¹¹³ 2022 Rule of Law Report, Country chapter on the rule of law situation in Sweden, p 10.

political office holders is a longstanding recommendation by GRECO.¹¹⁴ As of now, ministers have an introductory training at the start of their term and a separate training on ethics¹¹⁵. They may ask for advice on integrity related matters within their ministry, however there is no central independent integrity adviser or committee in place¹¹⁶.

Declaration requirements for ministers do not include significant liabilities. Ministers and state-secretaries are required to declare their financial interests which have to be supported by statements from banks and stockbrokers and are checked by the Government Offices¹¹⁷. A list of holdings of ministers may be provided to the public upon request. As also noted in the 2022 Rule of Law Report¹¹⁸, the declaration does not include information on significant liabilities and information on their spouses and dependent family members.

The Agency for Public Management is preparing an introductory training for Government employees and developed a survey on corruption in Swedish regions and municipalities. The Agency for Public Management has been tasked to develop and provide an introductory training course for Government employees¹¹⁹. The non-mandatory, digital training is targeted for new employees under agencies of the Government¹²⁰. The training will be available from 1 July 2023. Furthermore, the Agency for Public Management has also been tasked to develop a survey on corruption in Swedish regions and municipalities¹²¹. The aim of the assignment is to improve the ability of municipalities and regions to prevent corruption. The survey includes local government enterprises, which have been overrepresented in corruption statistics¹²². The survey results were published on 15 June 2023¹²³.

Sweden's culture of openness and disclosure of information enables transparency of lobbying, while the public debate on regulating lobbying continues. Following debates by Parliament¹²⁴, and several civil society organisations who asked for the introduction of a transparency register on lobbying¹²⁵, on 15 June 2023 the Government appointed a parliamentary inquiry committee to review the regulation on transparency in the financing of parties. The committee's mandate includes considering whether there is a need to strengthen transparency in political decision-making through a regulation that requires transparency regarding contacts between political decision-makers and lobbyists. The committee must report on its work by 15 February 2025 at the latest¹²⁶. A GRECO recommendation on

¹¹⁴ Ibid.

¹¹⁵ Information received in the context of the country visit to Sweden from the Ministry of Justice.

¹¹⁶ Ibid.

¹¹⁷ GRECO Fifth evaluation round – compliance report, recommendation viii, paras. 50-52.

¹¹⁸ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11.

¹¹⁹ Input received from Sweden for the 2023 Rule of Law Report, p. 9.

¹²⁰ Swedish Government (2022) Task of analysing and improving the conditions for combating corruption within municipalities and regions, Fi2022/02296.

¹²¹ Swedish Government (2022) Assignment to analyse and improve the conditions for combating corruption in municipalities and regions, Fi2022/02296.

¹²² Input received from Sweden for the 2023 Rule of Law Report, p. 8.

¹²³ Agency for Public Management (2023) New challenges and old problems - Corruption in local and regional government, 2023:13.

¹²⁴ Information received in the context of the country visit to Sweden from the Ministry of Justice. On 24 February 2023, a special debate took place on anti-corruption measures by the Swedish Government.

¹²⁵ Altinget (2022) Debate Six civil society organisations: How to stop future lobby scandals.

¹²⁶ Swedish Government (2023) A parliamentary committee is appointed with the task of investigating increased transparency in the financing of parties.

introducing rules on guidance for decision-makers on how to engage with lobbyists and on disclosure of lobbying contacts remains outstanding¹²⁷.

Some progress has been made on the evaluation of the rules relating to revolving doors covering top executive functions in the Government, which is ongoing. The 2022 Rule of Law Report recommended to Sweden to “evaluate the scope, impact and implementation of the rules relating to revolving doors that cover top executive functions in the Government”¹²⁸. According to the current Act on post-employment for ministers and state secretaries¹²⁹, ministers and state secretaries have to notify the Board for the Examination of Transitional Restrictions for Ministers and State Secretaries before accepting any new assignment in the private sector for a period of 12 months after the end of their term in office. Compared to previous years¹³⁰, the change of Government resulted in a significant increase in the number of reports of transfers to non-governmental activities. During 2022, the Board received a total of 21 reports¹³¹. For the first time, the decisions made by the Board included restrictions: three thematic restrictions and one cooling-off period. The decisions by the board are made public, but there is no sanctioning mechanism foreseen in the law¹³². As noted in the last Rule of Law Report, the Government appointed an inquiry committee in June 2022 to evaluate whether the aims of the Act have been achieved¹³³, and include an assessment of the post-employment rules of other public officials. The evaluation is ongoing and should be completed in August 2023¹³⁴. Therefore, there has been some progress on the implementation of the recommendation made in the 2022 Rule of Law Report.

The Government has appointed a parliamentary inquiry to review gaps in the existing framework for political party financing. The Legal, Financial and Administrative Services Agency (*Kammarkollegiet*), responsible for political party financing oversight, opened a total of 18 enforcement cases in 2022 which is according to the Agency a substantial increase compared to previous years¹³⁵. The political party financing disclosures are publicly available on the website of the Agency¹³⁶. However, a political debate on political party financing rules started following a media investigation showing that five out of eight political parties were

¹²⁷ GRECO Fifth evaluation Round – Evaluation Report, recommendation v, paras. 51-52 and GRECO Fifth Evaluation Round – Compliance Report, recommendation v, para. 37.

¹²⁸ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11.

¹²⁹ Act concerning restrictions when ministers and state secretaries transition to non-state activities, act 2018:676.

¹³⁰ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11. 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 Secretaries.

¹³¹ Board for the Examination of Transitional Restrictions for Ministers and State Secretaries (2022) Report on the activities of the Board for reviewing the transfer restrictions of ministers and certain other officials in 2022.

¹³² Act concerning restrictions when ministers and state secretaries transition to non-state activities, act 2018:676.

¹³³ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11.

¹³⁴ Information received in the context of the country visit to Sweden from the ministry of Finance.

¹³⁵ The Legal, Financial and Administrative Services Agency (2022) Annual Report 2022, Dnr. 2.3.5-2629-23.

¹³⁶ The Legal, Financial and Administrative Services Agency (2022) Political party funding disclosures for 2021 now available.

willing to evade the existing rules on anonymous donations¹³⁷. On 15 June 2023 the Government appointed a parliamentary inquiry committee to review the regulation on transparency in the financing of parties and to consider whether it needs to be clarified or supplemented; including as regards the rules on anonymous donations¹³⁸.

The Agency for Public Management assists public authorities with the implementation of the Whistleblowers Act. The Act that entered into force in December 2021 aims to transpose the EU Whistleblower Protection Directive¹³⁹ and applies to private and public organisations¹⁴⁰. According to the Police, the Act will have a positive effect on the number of corruption related reports¹⁴¹. The Agency for Public Management has published guidelines to assist public authorities in implementing the law¹⁴². In addition, the Government has given state funds to civil society organisations¹⁴³ to provide information and advice on the Whistleblowers Act, which has been positively received by civil society organisations¹⁴⁴. The Agency for Public Management received several inquiries from institutions about the implementation and intends to organise an experience-sharing meeting with agencies that have reporting channels¹⁴⁵.

A special investigator was tasked to propose a reliable public procurement system that prevents ineligible suppliers from receiving public contracts. The Flash Eurobarometer on Businesses' attitudes towards corruption in the EU shows that 19% of companies in Sweden (EU average 26%) think that corruption has prevented them from winning a public tender or a public procurement contract in practice in the last three years¹⁴⁶. The Government has tasked a special investigator to propose an efficient and reliable system for supplier control related to public procurement, who will, among others, assess whether the rules on the exclusion of suppliers from participation in freedom of choice systems¹⁴⁷ should be tightened¹⁴⁸. The aim of the new system is to promote healthy competition and prevent unsuitable suppliers from being awarded public funds¹⁴⁹. The proposal should be finished by August 2023. Moreover, the Government organised round-table discussions with industry representatives from construction, cleaning and transport sectors during which the exclusion

¹³⁷ The Local (2022) Five of Sweden's political parties planned to evade party financing laws. According to Swedish law, anonymous donations are prohibited if their value exceeds 0.05 times the "price base amount", meaning SEK 2,380/EUR 230 in 2021.

¹³⁸ Swedish Government (2023), A parliamentary committee is appointed with the task of investigating increased transparency in the financing of parties

¹³⁹ Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law.

¹⁴⁰ Act on Protection of Persons who Report Wrongdoings, 2021:890.

¹⁴¹ Information received in the context of the country visit to Sweden from the National Police.

¹⁴² Information received from the Agency for Public Management in the context of the country visit to Sweden.

¹⁴³ For example, Transparency International Sweden received funding with which they set up a national support line on the whistleblowers act.

¹⁴⁴ Information received in the context of the country visit to Sweden from Transparency International Sweden.

¹⁴⁵ Information received from the Agency for Public Management in the context of the country visit to Sweden.

¹⁴⁶ Flash Eurobarometer 524 on Businesses' attitudes towards corruption in the EU (2023). This is 7 percentage points below the EU average.

¹⁴⁷ A system of freedom of choice is a procedure whereby the individual has the right to choose the supplier to perform the service from among the suppliers with which the contracting authority has approved and awarded a contract.

¹⁴⁸ Effective and reliable control of suppliers when awarding public contracts DIR 2022: 50, published 3 June 2022 and Input from the authorities for the rule of law, pp. 10-11.

¹⁴⁹ Information received in the context of the country visit to Sweden from the Ministry of Finance.

of previously criminal convicted providers from public procurement was also discussed¹⁵⁰. Furthermore, the Government has commissioned the Swedish Transport Administration to report on the approach established to counteract corruption, bribery and conflict of interests¹⁵¹.

III. MEDIA PLURALISM AND MEDIA FREEDOM

The Swedish legal framework concerning media pluralism is established by the Constitution¹⁵² and secondary law¹⁵³. 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 latter which also safeguards access to information. The Swedish media regulator, the Press and Broadcasting Authority, functions according to the Constitution¹⁵⁴ and the Radio and Television Act and will in the future receive staff and resources from the Swedish Media Council due to a planned merger. The Government has adopted amendments to the Radio and Television Act, which aim at increasing the transparency of media ownership and update the licensing system¹⁵⁵.

A restructuring of the media regulatory authority is being prepared. Following an assessment commissioned by the Government¹⁵⁶, subordination of all tasks of the Swedish Media Council to the independent Press and Broadcasting Authority¹⁵⁷ has been initiated¹⁵⁸. The Swedish Media Council is a government agency with specialist functions concerning, for example, media use by children and young people, age rating of films and coordination of media and information literacy measures¹⁵⁹. The changes are intended to provide more services under the same structure and will be effective as of 2024¹⁶⁰. In parallel, the budget of the Press and Broadcasting Authority has been increased independently of the merger. The authority might additionally be granted new tasks related to the monitoring of the Digital Services Act¹⁶¹. The MPM 2023 maintains a very low risk score regarding the independence and effectiveness of the media authority¹⁶².

¹⁵⁰ Information received in the context of the country visit to Sweden from the Government of Sweden.

¹⁵¹ Swedish Government (2022) Assignment to report on how the authority works to set requirements in connection with procurements and implementation of operations in order to combat crime.

¹⁵² 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.

¹⁵³ Radio and Television Act.

¹⁵⁴ Relevant parts of the Constitution: the Instrument of Government and the Fundamental Law on Freedom of Expression.

¹⁵⁵ Sweden ranks 4th in the 2023 Reporters without Borders World Press Freedom Index, compared to 3rd in the previous year.

¹⁵⁶ Swedish Government (2022) Subordination of the Swedish Media Council to the Swedish Press and Broadcasting Authority, Ds 2022:17.

¹⁵⁷ The independence of the Swedish media regulator is stemming from the Constitution (IG Chapter 12, Section 2).

¹⁵⁸ Swedish Government (2023) Assignment to the Swedish Press and Broadcasting Authority to prepare for the incorporation of the Swedish Media Council's tasks into the authority, Ku2023/00115; Press and Broadcasting Authority (2023) MPRT and the Swedish Media Council form a new media authority.

¹⁵⁹ Swedish Media Council (2022) About the Swedish Media Council.

¹⁶⁰ Information provided by the Ministry of Culture the Press and Broadcasting Authority in the context of the 2023 country visit.

¹⁶¹ Information provided by the Press and Broadcasting Authority in the context of the 2023 country visit; Press and Broadcasting Authority (2023) MPRT is proposed to become the competent authority with supervisory

New legislation has been adopted to improve transparency of media ownership.

Following an assessment in the context of the transposition of the Audiovisual Media Services Directive¹⁶³, the Radio and Television Act has been amended in March 2023 to provide for the disclosure of more information concerning media ownership structures for all audiovisual media and radio service providers¹⁶⁴. Compliance with the rules is supervised by the Press and Broadcasting Authority¹⁶⁵. The legal provisions to protect the right to information are clearly defined in the Swedish constitution and the MPM 2023 reports a low risk in this field¹⁶⁶. However, Sweden has no sector-specific legislation on media concentration¹⁶⁷ and the market is characterised by a high level of concentration, particularly in the audiovisual sector¹⁶⁸. The MPM 2023 gives a high risk score for the plurality of media providers in Sweden¹⁶⁹.

The Government has taken steps to update rules on broadcasting licenses, notably adding the possibility to revoke them.

The Radio and Television Act has been amended to extend the licensing period for the terrestrial network for commercial television from six to eight years, in addition to temporarily synchronising the licensing periods for analogue and digital radio broadcasters. The aim has been to allow broadcasting companies to better plan their long-term operation and to reduce the administrative burden¹⁷⁰. The Press and Broadcasting Authority has made suggestions regarding the licensing procedure for digital and analogue commercial radio in view of further reforms¹⁷¹. In August 2022, changes to the Radio and Television Act were proposed in a ministry memorandum to make it possible to revoke a broadcasting license in case of a risk to national security and where the revocation does not appear to be excessive¹⁷². This includes, for example, external security issues pertaining to national defence and internal security issues such as illegal attempts to systematically prevent citizens from exercising their democratic rights and freedoms. Relevant cases would be examined by a general court at the request of the Chancellor of Justice¹⁷³. Certain stakeholders in the media sector have expressed criticism regarding the

responsibility under the DSA; Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act).

¹⁶² 2023 Media Pluralism Monitor, country report for Sweden, p. 11.

¹⁶³ As reported in the 2020 Rule of Law Report, County Chapter on the rule of law situation in Sweden, p.8.

¹⁶⁴ Swedish Government (2022) Increased transparency in the ownership of broadcasters, Prop. 2021/22:262.

¹⁶⁵ Input by Sweden for the 2023 Rule of Law Report, p. 15; Information provided by the Broadcasting Authority in the context of the 2023 country visit.

¹⁶⁶ 2023 Media Pluralism Monitor, country report for Sweden, p. 10 - 11.

¹⁶⁷ General competition rules apply to media concentration and mergers.

¹⁶⁸ As reported by the 2023 Reporters Without Borders World Press Freedom Index country specifics, the Swedish audiovisual market is dominated by few players, four television and three radio groups (this includes publicly owned media).

¹⁶⁹ 2023 Media Pluralism Monitor, country report for Sweden, p. 13.

¹⁷⁰ Information provided by the Ministry of Culture in the context of the 2023 country visit.

¹⁷¹ Information provided by the Press and Broadcasting Authority in the context of the 2023 country visit; Press and Broadcasting Authority (2023) MPRT proposes future conditions for commercial radio.

¹⁷² Input from Sweden for the 2023 Rule of Law Report, p. 13; Swedish Government (2022) Withdrawal of broadcasting licences in the interests of Sweden's security, Ds 2022:20.

¹⁷³ Swedish Government (2022) Withdrawal of broadcasting licences in the interests of Sweden's security, Ds 2022:20.

proposal's negative impact on the freedom of expression, particularly if interpreted broadly¹⁷⁴.

The Government has appointed a parliamentary committee to review the legislative framework of the public service media. In order to strengthen and supplement the already existing solid safeguards against governmental or political interference in public service media¹⁷⁵, a specific parliamentary committee has been set up¹⁷⁶. It will review, among others, how the follow-up and review of the public service media's operations can become clearer and more transparent and how its content assignment within the public service remit should be designed during the next licensing period. The inquiry is mandated to report by April 2024. The aim is to propose new legislation to create good conditions for public service broadcasting and to maintain and safeguard its independence¹⁷⁷. MPM 2023 continues to report a very low risk concerning the independence of public service media¹⁷⁸.

Swedish journalists continue to work in overall favourable conditions but are subject to certain emerging threats. The MPM 2023 finds that Swedish journalists enjoy highly favourable working conditions compared to other parts of the world but they increasingly face hatred, threats and insults¹⁷⁹. The Government is currently planning to introduce amendments to criminal law to make it an aggravating circumstance if a crime has been committed against a person because they or someone close to them has professionally engaged in news distribution or other journalism. The amendments are proposed to enter into force in August 2023¹⁸⁰. This follows the review conducted by an inquiry¹⁸¹ and has been largely welcomed by stakeholders¹⁸². Over the past months, the Police has organised joint seminars with media publishers with an aim to prevent crimes committed against journalists and to establish robust cooperation with the national, regional and local level newspapers¹⁸³. The Government has tasked the Police to combat hate crimes that threaten democracy, involving also journalists. The work is ongoing with the final report due at the end of 2023¹⁸⁴. Since the publication of the 2022 Rule of Law Report, two new alerts have been recorded on the Council of Europe's Platform to promote the protection of journalism and safety of

¹⁷⁴ Swedish Journalists' Association (2022) No to proposal to revoke broadcast licenses; Journalisten (2022) PK warns of new bill on revocation of broadcasting licenses for television and radio.

¹⁷⁵ According to European Parliament's Flash Eurobarometer: News & Media Survey 2022, 66% of citizens in Sweden state that they trust public service media TV and radio (above the EU average of 49%).

¹⁷⁶ As reported in the 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 13-14.

¹⁷⁷ Swedish Government (2023) Committee Directive: Long-term conditions for a solid and independent public service, 2023:27.

¹⁷⁸ 2023 Media Pluralism Monitor, country chapter for Sweden, p. 17.

¹⁷⁹ 2023 Media Pluralism Monitor, country chapter for Sweden, p. 11; Information received from the Swedish Journalists' Association in the context of the country visit to Sweden.

¹⁸⁰ Swedish Government (2023) Stricter view of crimes against journalists and certain other functions useful to society.

¹⁸¹ 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 9 and 2021 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 12.

¹⁸² Information received from the Swedish Media Publishers' association in the context of the 2023 country visit; Swedish Journalists' Association (2023), Good news about increased criminal law protection for journalists.

¹⁸³ Information received from the Ministry of Justice and the Swedish Media Publishers' Association in the context of the country visit to Sweden and input by Sweden for the 2023 Rule of Law Report, p. 15.

¹⁸⁴ Input from Sweden for the 2023 Rule of Law Report, p. 16.

journalists¹⁸⁵. One alert concerns the detention of a journalist who was covering a public protest. Given that this was the fourth such detention in a short period of time in 2022, there have been calls for increased dialogue between the police force and journalists associations¹⁸⁶ and the instances in question are being investigated or have been closed¹⁸⁷. The second alert on the Council of Europe’s Platform concerns new legislation on “foreign espionage”, which came into force in 2023, amending the Swedish Criminal Code, the Freedom of the Press Act and the Fundamental Law on Freedom of Expression¹⁸⁸. It makes punishable, under certain circumstances, the disclosure of information that concerns Sweden’s international cooperation and that can damage Sweden’s relationship with another state or an international organisation. Swedish media stakeholders have criticised the law’s potential chilling effect on media freedom¹⁸⁹ while the Constitutional Committee has backed it with a broad consensus and recognised that the law has possible exceptions applicable to journalism¹⁹⁰.

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 Swedish Institute for Human Rights play an important role in the system of checks and balances and for upholding fundamental rights.

The opinions of the Council on Legislation are followed by the Government in a large majority of cases. The Government is required to refer draft legislation in most areas to the Council on Legislation¹⁹¹. In 2022, the Government submitted 156 legislative proposals to the Council on Legislation, which did not endorse seven proposals¹⁹². In three cases where the Council on Legislation could not endorse the Government’s proposal, the latter decided to nevertheless submit them to Parliament¹⁹³. In its report delivered in March 2023, the

¹⁸⁵ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Sweden.

¹⁸⁶ Aftonbladet (2023) Debate: Journalists are seen as criminals by the police by Reporters Without Borders Sweden and Swedish Journalists’ Association.

¹⁸⁷ Council of Europe, Platform to promote the protection of journalism and safety of journalists, Sweden, Reply from the Swedish authorities (14 April 2023).

¹⁸⁸ Swedish Parliament (2022) Foreign espionage (pending draft constitution, etc.).

¹⁸⁹ Information received from the Media Ombudsman and the Swedish Media Publishers’ Association in the context of the 2023 country visit; European Federation of Journalists (2022) Tove Carlén: “The Swedish new law on public espionage provides little protection for journalists’ sources”.

¹⁹⁰ Information received from the Constitutional Committee in the context of the 2023 country visit; Letter from the Permanent Representation of Sweden to the Council of Europe Council of Europe (2023), on the Platform to promote the protection of journalism and safety of journalists, Sweden.

¹⁹¹ The Council of Legislation consists of members from the Supreme Court and the Supreme Administrative Court. The examination by the Council on Legislation constitutes an 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 question. 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 11.

¹⁹² In five of those cases, the negative opinion referred only to parts of the proposals. Information received from the Prime Minister’s Office in the context of the country visit to Sweden.

¹⁹³ The proposals in questions were: ‘Confidentiality in Försäkringskassan’s processing of electricity subsidy cases and abolished obligation to provide control data – Proposal 2022/23:48’, ‘Implementation of the

Committee of Inquiry on strengthening the protection of democracy and the independence of the judiciary proposed that the requirement to obtain an opinion from the Council on Legislation should be extended to include constitutional amendment proposals regarding fundamental freedoms and rights¹⁹⁴. Furthermore, on 15 June 2023, the Government appointed a parliamentary inquiry committee to examine possible constitutional amendments concerning the protection of fundamental rights and freedoms; the committee should present its report by 1 December 2024¹⁹⁵.

As regards the Parliamentary Ombudsmen, amended constitutional and legislative rules are expected to take effect in January 2027 and September 2023 respectively, reflecting the parliamentary review on their functioning and mandate. The Parliamentary Ombudsmen consider having adequate resources and do not experience any obstacles in the cooperation with the public authorities within their remit; the Parliamentary Ombudsmen also do not experience any issues in the follow-up to their recommendations¹⁹⁶. The rules on the functioning and mandate of the Parliamentary Ombudsmen's work were reviewed¹⁹⁷. After the vote in Parliament in June 2023, it is expected that the amended constitutional rules on the work of the Parliamentary Ombudsmen will take effect in January 2027, whereas the amendments of legislative nature would take effect in September 2023¹⁹⁸. The Parliamentary Ombudsmen, on behalf of the Parliament, and the Chancellor of Justice, on behalf of the Government, supervise courts and judges to ensure that they comply with laws and statutes and fulfil their obligations¹⁹⁹. Both institutions may presently initiate disciplinary procedures against judges, issue non-binding recommendations and critical advisory comments, for example regarding the obligation to handle cases without undue delay²⁰⁰. In addition, in a report delivered in March 2023, the Committee of Inquiry on strengthening the protection of democracy and the independence of the judiciary proposed to amend the remit of the Chancellor of Justice so that it would no longer have any supervisory

Accessibility Directive - Proposition 2022/23:42', 'Faster prosecution of crimes - Proposal 2021/22:279'. Written contribution received from the Prime Minister's Office in the context of the country visit to Sweden.

¹⁹⁴ At present, the Government or the parliamentary Committee on the Constitution must obtain a statement from the Council on Legislation before the Parliament decides on a constitutional amendment in the area of freedom of the press and freedom of expression. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, pp. 42-43.

¹⁹⁵ The Committee shall, in particular, examine: i) whether new fundamental rights and freedoms – a right to abortion, a right to access to justice and a general protection against discrimination – should be added to the Constitution, ii) whether the right to citizenship should be amended to allow for the withdrawal of the citizenship under certain conditions, iii) whether there should be increased possibilities to restrict freedom of association vis-à-vis criminal associations, and iv) what general conditions should apply to restrictions on the freedom to conduct a business and protection of property. Swedish Government (2023), Some questions on fundamental rights and freedoms.

¹⁹⁶ Information received from the Parliamentary Ombudsmen's Office in the context of the country visit to Sweden.

¹⁹⁷ Following a report published in May 2022 by an all-party committee including members of the Parliament's Constitution Committee, the Parliamentary Ombudsmen submitted their comments on the report in November 2022. Information received from the Secretariat of the Constitution Committee and the Parliamentary Ombudsmen's Office in the context of the country visit.

¹⁹⁸ The constitutional amendments would introduce a new decision-making and quorum rule for the dismissal of an ombudsman who does not have the confidence of Parliament aimed at strengthening the constitutional position of the ombudsmen. In addition, the legislative amendments to the Parliamentary Order would, among other things, extend the term of office of a new Ombudsman from four years to six years and set the term of office for re-election at three years. Swedish Parliament (2023) Review of the Ombudsman's office.

¹⁹⁹ Input from Sweden for the 2020 Rule of Law Report, p. 6.

²⁰⁰ Ibid.

powers with regard to the judiciary, while maintaining the Parliamentary Ombudsmen's powers unchanged in that respect²⁰¹.

On 1 January 2023, Sweden had two leading judgments of the European Court of Human Rights pending implementation, the same number as the previous year²⁰². At that time, Sweden's rate of leading judgments from the past 10 years that remained pending was at 17% (compared to 13% in 2022), and the average time that the judgments had been pending implementation was 4 years and 1 month (compared to 3 years and 1 month in 2022)²⁰³. 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 country²⁰⁴. On 15 June 2023, the number of leading judgments pending implementation has decreased to one²⁰⁵.

The National Human Rights Institution is working towards an A-accreditation accreditation. The Swedish Institute for Human Rights commenced its activities on 1 January 2022. The Institute's stated objective is to meet the UN Paris Principles and achieve A-status accreditation by the Global Alliance of National Human Rights Institutions (GANHRI)²⁰⁶. As a first step, the Institute is carrying out a gap analysis, which would be followed-up by an accreditation strategy engaging with the Government, Parliament and other stakeholders, in particular civil society and European Network of National Human Rights Institutions (ENNHRI)²⁰⁷. The gap analysis should allow to identify potential issues towards A-status accreditation, such as the absence of a specific provision allowing the Institute to table its reports in Parliament²⁰⁸. The Institute became an associated member of

²⁰¹ The Committee of Inquiry considered that the supervisory duties of the Chancellor of Justice be seen as the Government's control on the administration of justice of the courts and individual judges. In the Committee's view, the Parliamentary Ombudsmen because they are appointed by the Parliament, their supervision of the judiciary can be considered be more closely represent the public interest. Against this background, the Committee proposed that the Constitution should provide that only the Parliamentary Ombudsmen and the National Audit Office may exercise supervision over or examine the administration of justice of the courts, but not the Chancellor of Justice. The 2020 Committee of Inquiry on the Constitution (2023), Strengthening the protection of democracy and independence of the judiciary, p. 52.

²⁰² 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.

²⁰³ 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 2023. See the Contribution from the European Implementation Network for the 2022 Rule of Law Report, p. 7.

²⁰⁴ Judgment of the European Court of Human Rights of 1 March 2016, *Arlewin v. Sweden*, 22302/10, pending implementation since 2016.

²⁰⁵ Data according to the online database of the Council of Europe (HUDOC-EXEC).

²⁰⁶ Information received from the National Human Rights Institute in the context of the country visit to Sweden.

²⁰⁷ The Institute expects that the fourth cycle of the Universal Periodic Review of Sweden, commencing in late 2024, would also coincide with the possibility to address any identified gaps in its mandate. Written contribution and information received from the Swedish Institute for Human Rights in the context of the country visit to Sweden.

²⁰⁸ Written contribution and information received from the Swedish Institute for Human Rights in the context of the country visit to Sweden.

ENNHRI in October 2022²⁰⁹. The Institute has appointed its first permanent director²¹⁰ and is in the process of appointing members of its advisory council²¹¹; it is seeking a broad composition of representatives of civil society organisations or other actors, including individuals, with knowledge and experience of practical work with human rights²¹². The Institute considers that it has sufficient resources²¹³. In April, the Institute²¹⁴ and a number of civil society stakeholders called on the Government to confirm that the Swedish Institute for Human Rights will be able to continue its work in the present form and with undiminished resources²¹⁵. This was in response to a statement of a spokesperson from a political party cooperating with the Government suggesting that that political party had discussed the function of the National Human Rights Institution and concluded that the Institute was not necessary²¹⁶. According to Council of Europe recommendations, all necessary measures should be taken to establish and, when established, maintain and strengthen an independent the National Human Rights Institutions in accordance with the UN Paris Principles²¹⁷.

Some progress has been made as regards the 2022 recommendation as one legislative proposal was withdrawn for revision, while the impact on civil society engagement of the legislative initiatives remains to be ascertained. The 2022 Rule of Law Report recommended to Sweden “to 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”²¹⁸. In November 2022, the new Government withdrew the legislative proposal

²⁰⁹ Information received from the Swedish Institute for Human Rights in the context of the country visit to Sweden.

²¹⁰ The Institute had an acting director since its establishment on 1 January 2022. Swedish Institute for Human Rights (2023) Director of the Institute for Human Rights appointed.

²¹¹ The Advisory Council shall provide the Institute with knowledge and experience from civil society and other actors' work on human rights. The Council shall also submit proposals to the Government for members of the Institute's board. Swedish Institute for Human Rights (2023) Nominate your candidate for the Advisory Council!

²¹² Ibid.

²¹³ A proposal concerning the Institute's budget for the year 2024 is expected in September 2023. Written contribution and information received from the Swedish Institute for Human Rights in the context of the country visit to Sweden.

²¹⁴ Swedish Institute for Human Rights (2023) A government must stand up for its national human rights institution and the statement of the Institute's Director at a conference on 21 April 2023 “... *let me just shortly mention the current situation in Sweden. As was also mentioned yesterday we see that human rights in general are being challenged in the public debate. In that context the existence of our institution is also being questioned. When an institution is questioned in such a way it is of utmost importance with strong political backing, not least from the government. We have unfortunately not yet received any such support. We expect the government to clarify urgently the question marks that currently surrounds the continued existence of Sweden's National Human Rights Institution.*” Swedish Institute for Human Rights (2023) Fredrik Malmberg spoke at EU conference on institutional protection of fundamental rights.

²¹⁵ The open letter was signed by 53 civil society organisations in Sweden, including Amnesty International Sweden, Civil Rights Defenders, Human Rights Watch, Swedish Section of the International Commission of Jurists, or the Swedish Foundation for Human Rights. Swedish Foundation for Human Rights (2023) Open letter to Prime Minister Ulf Kristersson on the Human Rights Institute from 53 organisations.

²¹⁶ TV4 (2023) Sweden Democrats want to discontinue funding for work against racism and Altinget (2023) Sweden Democrats want to close down human rights institute - but voted "yes" to it in Parliament.

²¹⁷ Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions, para 1.

²¹⁸ 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 19-20.

related to the so-called ‘democracy conditions’²¹⁹ In December 2022, and following the withdrawal, the Government²²⁰ invited civil society representatives to a meeting to present their views on the democracy conditions prior to resuming its work on a proposal²²¹. In November 2022, the Parliament held the second of the two votes needed²²² to amend the Constitution to extend the possibilities to restrict freedom of association by law in the case of associations that engage in or support terrorism by means of a broader criminalisation of participation in a terrorist organisation or a ban on terrorist organisations²²³. As a follow-up, a law was adopted by Parliament²²⁴, even though the Council of Legislation had considered that that legislative proposal should not, as it stood, serve as a basis for legislation²²⁵. In particular, the Council of Legislation observed a clear risk for an excessively far-reaching criminalisation and expressed doubts that the proposal met the requirements of legal certainty in terms of clarity required from criminal legislation²²⁶. Nevertheless, the Government considered that there was a need for specific criminal liability for participation contributing to the maintenance or strengthening of a terrorist organisation and, in its draft legislative proposal to Parliament, it has put forward its arguments on the Council of Legislation’s comments²²⁷. In view of the negative opinion of the Council of Legislation, civil society

²¹⁹ The democracy conditions would 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.

²²⁰ According to the latest Budget Bill, the Government distributes approximately EUR 2.31 billion (SEK 26,4 billion) to civil society. Some of this funding goes directly to specific organisations, while the majority is distributed by different agencies, such as the Agency for Youth and Civil society, the National Board of Health and Welfare, the Agency for Education and the Environmental Protection Agency. At present, grants are distributed by approximately 40 agencies and based on about 80 ordinances stating the conditions for each grant. Input from Sweden for the 2023 Rule of Law Report, p. 21.

²²¹ Ministry of Culture (2022) Minister Jakob Forssmed in dialogue with civil society on democracy conditions and input from Sweden for the 2023 Rule of Law Report, p. 17.

²²² 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.

²²³ Some stakeholders considered that amendment would impact also legitimate civil society activities and pose a risk that organisations with democratic aims or individuals engaged in international oppositional groups could be wrongly classified as terrorist organisations. See 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 19-20 and Swedish Government (2021), Government proposal 2021/22:42 – Freedom of association and terrorist organisations.

²²⁴ The law was adopted on 5 May and entered into force on 1 June 2023. Swedish Government (2022) Government proposal 2022/23:73 – A special criminal provision for participation in a terrorist organisation.

²²⁵ The Council on Legislation disagreed with the Government’s submission that the proposed criminal provision had a well-defined scope or that it was carefully balanced. It discouraged that the proposal in its submitted form becomes law. Instead, it advised to reconsider whether legislation of that type should be introduced and, if so, how it should be formulated. Council on Legislation (2023), opinion on the special criminal provision for participation in a terrorist organization, pp. 20-21.

²²⁶ Ibid.

²²⁷ The Government has put forward its clarifications addressing the Council on Legislation’s comments in the draft legislative proposal. In the Government’s view, the proposal is not too far-reaching in relation to the need that exists. Furthermore, the Government considers that the definition of a terrorist organisation in the proposed Terrorist Offences Act is appropriate and leaves room for the trade-offs that need to be made, for example, regarding resistance movements that in totalitarian states work for the introduction of a democratic society, even though, as the Council on Legislation points out, this is not clear from the wording of the provisions. Written contribution from the Ministry of Justice in the context of the country visit to Sweden and Swedish Government (2022) Government proposal 2022/23:73 – A special criminal provision for participation in a terrorist organisation.

stakeholders had called the Government to reconsider its proposal²²⁸. As for the pre-legislative proposal to ban racist organisations through new criminal legislation²²⁹, the Government is presently still analysing the public consultation replies²³⁰. Against the above background, while some progress has been made as regards the 2022 recommendation with regard to the democracy conditions proposal, the impact on civil society engagement of the legislative initiatives remains to be ascertained.

Sweden continues to have an open civil society space, even though recent developments have given rise to some concerns in this regard. Sweden is considered to have an open civil society landscape²³¹. The consultation processes are overall inclusive, even though some stakeholders observed at times shorter deadlines²³². As regard civic space more generally, the Swedish Institute for Human Rights notes that some of the recent developments and polarising rhetoric²³³ may be harmful to the level of respect for civil society organisations' freedom of expression and association. In particular, a number of stakeholders²³⁴ have referred to an incident reported by media, in October 2022, where a senior political party member criticised and questioned the funding²³⁵ of the NGO Civil Rights Defenders in

²²⁸ On 2 May, Amnesty International Sweden, the Civil Rights Defenders, the National Forum for Voluntary Organisations and LSU-Sweden's child and youth organisations, published a call to the Government to reconsider the proposal in a daily newspaper. The stakeholders argued that the proposed criminal provision is not clearly defined and risks covering acts that should not necessarily be punishable, such as a political refugee supporting a liberation and resistance movement in his or her home country. The stakeholders also referred to the opinion of the Council on Legislation that there is a risk that the courts will have to make political considerations in their assessment and that other states may try to put pressure on Sweden regarding how the legislation should be applied in relation to specific organisations and individuals. Svenska Dagbladet (2023) Debate: "The proposal is deeply problematic".

²²⁹ As noted in the 2022 Rule of Law Report, a group of 24 organisations, came out against that proposal arguing that it was not possible to design a ban that was 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. Furthermore, the proposal is seen as risking to create a legal definition of racism that is far narrower than the common understanding of racism, which may be seen and used as legitimising groups embracing racist values. 2022 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, p. 20 and information received from the National Forum for Voluntary Organizations in the context of the country visit.

²³⁰ Information received from the Ministry of Justice in the context of the country visit to Sweden.

²³¹ 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.

²³² Information received from the Swedish Bar Association and Swedish Section of the International Commission of Jurists in the context of the country visit to Sweden. The Swedish Bar Association has also observed a negative trend away from committees of inquiry with specialised legal experts towards legal proposals directly prepared by the Government Offices and/or the Ministries.

²³³ The Institute referred to academics' views that if such trends, notably related to policies, rhetoric and funding were to continue, they would affect the status and role of civil society. In this context, it referred to an increase in polarising, racist and inflammatory political rhetoric during the lead-up to the general elections in September 2022, or the stricter prosecution of climate protesters. Written contribution and information received from the Swedish Institute for Human Rights in the context of the country visit to Sweden. In addition, the Civil Rights Defenders considered that climate protesters were being treated harsher for traffic blockades which used to be pursued as minor offences ("civil disobedience") leading to fines, while recent convictions led to prison sentences (for criminal offence of 'sabotage'). Information received from the Civil Rights Defenders in the context of the country visit to Sweden and contribution by the Civil Liberties Union for Europe, p 16-17.

²³⁴ Information received from the Swedish Institute for Human Rights, the Civil Rights Defenders and the National Forum of Voluntary Organisations in the context of the country visit to Sweden.

²³⁵ Expo (2022), Björn Söder wants to stop grants to organisations that criticize the Tidö Agreement, Altinget (2022), Sweden Democrats deny mapping of civil society's funding.

relation to its analysis of the Tidö Agreement²³⁶. These stakeholders considered that such criticism raised concerns as regards civil society organisations' freedom to operate²³⁷.

²³⁶ The Tidö Agreement sets out the cooperation between the Government coalition parties (the Moderate Party, the Christian Democrats and the Liberals) and the Sweden Democrats.

²³⁷ In a similar development in October 2022, the Civil Right Defenders noted that an official from the same political party's parliament office contacted the Swedish Society for Nature Protection, an environmental NGO, a week after that NGO also published its review of the Tidö Agreement, wishing to find out which private individuals and companies had made donations to that organisation. Dagens Nyheter (2022) Sweden Democrats requested a list of the Nature Conservation Society's donors and information received from the Civil Rights Defenders in the context of the country visit.

Annex I: List of sources in alphabetical order*

* The list of contributions received in the context of the consultation for the 2023 Rule of Law report can be found at https://commission.europa.eu/publications/2023-rule-law-report-targeted-stakeholder-consultation_en.

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Agency for Public Management (2023), New challenges and old problems - Corruption in local and regional government (*Nya utmaningar och gamla problem – Om korruption i kommuner och regioner*), <https://www.statskontoret.se/publicerat/publikationer/publikationer-2023/nya-utmaningar-och-gamla-problem--om-korruption-i-kommuner-och-regioner/>

Altinget (2022), Debate Six civil society organisations: How to stop future lobby scandals (*Debatt Sex civilsamhällesorganisationer: Så kan framtida lobbykandaler stoppas*) <https://www.alinget.se/artikel/sex-civilsamhallsorganisationer-saa-kan-framtida-lobbykandaler-stoppas>.

Altinget (2022), Sweden Democrats deny mapping of civil society's funding (*SD förnekar kartläggning av civila samhällets finansiering*), <https://www.alinget.se/artikel/sd-fornekar-kartlaggning-av-civila-samhallets-finansiering>.

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Annex II: Country visit to Sweden

The Commission services held virtual meetings in March 2023 with:

- Economic Crime Authority
- Agency for Public Management
- Civil Rights Defenders
- Ministry of Culture
- Ministry of Finance
- Ministry of Justice
- National Courts Administration
- National Forum for Voluntary Organisations
- Swedish Institute for Human Rights
- 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 (SR)
- Swedish public television (SVT)
- Swedish Section of the International Commission of Jurists
- Transparency International Sweden

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

- ALDA (European Association for Local Democracy)
- Amnesty International
- Civil Liberties Union for Europe
- Civil Society Europe
- Culture Action 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

- Front Line Defenders
- ILGA Europe
- International Commission of Jurists
- International Federation for Human Rights (FIDH)
- International Planned Parenthood Federation European Network
- International Press Institute
- JEF Europe
- Osservatorio Balcani e Caucaso Transeuropa
- Philea
- Reporters Without Borders
- SOLIDAR
- Transparency International EU