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**COMMISSION STAFF WORKING DOCUMENT**

**2021 Rule of Law Report  
Country Chapter on the rule of law situation in Sweden**

*Accompanying the*

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN  
PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL  
COMMITTEE AND THE COMMITTEE OF THE REGIONS**

**2021 Rule of Law Report  
The rule of law situation in the European Union**

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## ABSTRACT

Efforts to further strengthen legal safeguards for judicial independence within the Swedish justice system are continuing, in particular through the work of the committee of inquiry on strengthening democracy and judicial independence, which is also reviewing the process for amending the Constitution. A targeted reform of the system for security clearances for judges has also been carried out. Sweden has also taken certain steps to further improve the digitalisation of the justice system, in particular setting up a new council on digitalisation, focussed on criminal proceedings. However, concerns about the long-term resources of the justice system persist. The justice system has continued to function efficiently, including in the face of the challenges of the COVID-19 pandemic, where specific measures regarding their continued functioning were left to the courts to decide.

As in previous years, Sweden's perceived corruption levels are among the lowest in the EU and the world. Transparency is the cornerstone of Sweden's anti-corruption approach. In 2020, Sweden adopted its first strategic National Action Plan to prevent corruption in its public administration. Among others, it prescribes the systematic use of corruption risk analysis to strengthen corruption risk awareness and risk management practices among public officials. Although this action plan is seen as an important step, it lacks concrete actions and a time plan and it was subject to only limited consultation among relevant stakeholders. Additional prevention initiatives have been undertaken in the reporting period, including the extension of revolving doors rules to top executives of the National Audit Office, and new guidelines for public officials to declare their assets. Lobbying continues to be unregulated and there is no consistent practice to publicly disclose those that seek to influence specific legislative proposals ('legislative footprints'). Foreign bribery remains a risk area where only moderate levels of prosecution are seen.

Media freedom and pluralism in Sweden continue to be generally robust, mainly due to safeguards stemming both from the Constitution and from legislation. Sweden has further strengthened the legal safeguards for independence and has increased the budget of the Swedish Press and Broadcasting Authority. As noted in the 2020 Rule of Law Report, the Government is also analysing the possibility to introduce specific legislation on transparency of media ownership, which currently does not exist. Sweden is taking steps to improve journalists' protection, as part of the ongoing review of the criminal law protection for certain vital functions in the society. Journalists increasingly experience threats and harassment, especially online. Sweden has adopted economic measures to address the negative economic effect the COVID-19 pandemic has had on media and journalists, particularly on freelancers.

As there is no state of emergency for a health crisis foreseen under the Swedish Constitution, measures related to the COVID-19 pandemic have been taken primarily by recommendations. In January 2021, Sweden adopted a new legislative framework enabling the Government to take more restrictive measures to combat the COVID-19 pandemic. This framework has been subject to ex-ante constitutionality review, but short consultation times have been criticised by the Constitution Committee. A proposal to establish a National Human Rights Institution in compliance with international standards has been submitted to Parliament. Civil society space remains open, and the Government is considering steps to clarify requirements for civil society organisations to receive government funding.

## 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 twelve administrative courts, four administrative courts of appeal and the Supreme Administrative Court<sup>1</sup>. 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 Board<sup>2</sup> prepares proposals for all judicial appointments<sup>3</sup>, based on which judges are appointed by the Government<sup>4</sup>. The Swedish Prosecution Service<sup>5</sup> is independent and separate from the Government. Sweden is undertaking steps for joining the European Public Prosecutor's Office<sup>6</sup>. 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 members<sup>7</sup>.

### Independence

**The level of perceived independence of the judiciary has remained high.** Overall, 71% of both the general public and companies consider that the independence of the courts and judges in Sweden is either 'very good' or 'fairly good' in 2021<sup>8</sup>. The level of perceived judicial independence was consistently very high between 2016 and 2020 and remains high in 2021 though it has declined to some degree compared to 2020 for both the general public and companies.

**The work of the Committee of Inquiry aimed at further strengthening safeguards for judicial independence is progressing.** The committee, which was set up in February 2020 and will deliver its results in 2023, is in particular examining the legal framework for the retirement age and number of Supreme Court judges and the status and independence of the

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<sup>1</sup> There are also two special courts: 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.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> Act on the Appointment of Permanent Judges (2010:1390). (*Lag om utnämning av ordinarie domare*).

<sup>5</sup> Instrument of Government, Chapter 12, Section 2.

<sup>6</sup> Swedish Government (2020), A European Public Prosecutor's Office in Sweden and Input from Sweden for the 2021 Rule of Law Report, p. 7.

<sup>7</sup> Code of Judicial Procedure, Chapter 8.

<sup>8</sup> Figures 48 and 50, 2021 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%).

National Courts Administration. It will also examine whether it is necessary to change the Constitution<sup>9</sup>. The all-party committee has met regularly since its creation and is carrying out comparative research on regulatory frameworks for judicial independence and constitutional amendments in other EU Member States. The work is taking into account relevant European standards<sup>10</sup>. The committee has explained that it also intends to set up one or two external expert groups to support it in carrying out its tasks<sup>11</sup>. Stakeholders have broadly welcomed this work to pre-emptively strengthen potential vulnerabilities within the existing legal framework<sup>12</sup>. The Judges' Association has in particular highlighted the current system for the appointment of the Director General of the National Courts Administration by the Government<sup>13</sup> as a potential shortcoming, and has advocated for the creation of an independent Council for the Judiciary, which is an option to be explored by the committee according to its mandate<sup>14</sup>. The Judges' Association also considers that the system for determining judges' salaries deserves attention, even if it is not included within the mandate of the committee<sup>15</sup>. Salaries are set, within the framework of a collective agreement, between the judges and the National Courts Administration for newly appointed judges and subsequently revised on an annual basis between the judge and the responsible Court President<sup>16</sup>. The Judges Association considers that, while this system has been in place for over 10 years and has overall not created major problems, it is not sufficiently transparent and lacks clear criteria. According to Council of Europe recommendations, the principal rules of the system of remuneration for professional judges should be laid down in law<sup>17</sup>.

**Changes to the security clearance regime for judges entered into force.** In order to strengthen judicial independence, amendments to the Security Protection Act which entered into force in April 2021 specify that security clearances for court presidents are to be carried

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<sup>9</sup> See 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 2-3 for a detailed overview of the Committee's mandate as well as p. 11 on the modalities for amending the Constitution. To be noted that regarding the possible restrictions to the freedom of association for terrorist associations also included in its mandate the Committee has already delivered its findings in March 2021.

<sup>10</sup> In particular, Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe and relevant Venice Commission opinions.

<sup>11</sup> Information received in the context of the country visit to Sweden.

<sup>12</sup> Board of the Swedish Judges' Association (2021), Independence of judges should be strengthened with a Judicial Council. Contribution by the Swedish Section of the International Committee of Jurists and Civil Rights Defenders for the 2021 Rule of Law Report.

<sup>13</sup> In line with the Government Agency Ordinance and the Ordinance on the National Courts Administration.

<sup>14</sup> Board of the Swedish Judges' Association (2021), Independence of judges should be strengthened with a Judicial Council. The moderate party has echoed this request, asking that the creation of an independent Council for the Judiciary be explicitly included in the mandate of the Committee. *Svenska Dagbladet* (2021), M wants to replace the Swedish National Courts Administration with a council of judges.

<sup>15</sup> There are no rules laid down in law regarding judges' salaries; they are based on a collective agreement between the National Courts Administration and the Trade Union representing judges which states inter alia that remuneration may never be based on grounds contradictory to the interest of independence regarding the application of the law. The agreement also sets minimum levels of pay. When a new judge is appointed, the National Courts Administration and the judge agree on a salary. Every year salaries are revised, set in agreement between the judge and the responsible court president. See the input from Sweden for the 2020 Rule of Law Report, pp. 7-8 for further details regarding the system.

<sup>16</sup> The Judges' Association highlights the role of the National Courts Administration for setting salaries for newly appointed judges, in the context of its overall concerns over the status of the National Courts Administration. Board of the Swedish Judges' Association (2021), Independence of judges should be strengthened with a Judicial Council.

<sup>17</sup> Recommendation CM/Rec(2010)12 of the Committee of Ministers of the Council of Europe, para. 53.

out by the Judges' Proposal Board and for ordinary court judges by their respective court<sup>18</sup>. These amendments were triggered by a change to the general system of security clearances for public officials adopted in 2019, under which the Government had also become responsible for security clearances of court presidents, previously under responsibility of the National Courts Administration. To address this situation, the Government had appointed an inquiry chair in May 2019 to ensure an appropriate system protecting the status of courts and judges<sup>19</sup>. Based on the inquiry report and a consultation procedure, the Government presented the proposal to amend the Security Protection Act, adopted by Parliament in January 2021.

## Quality

**Concerns regarding the long-term situation of the resources for the judiciary have been reiterated.** Following a request by the National Courts Administration for an increase of the 2021-2023 budget of the justice system<sup>20</sup>, the 2021 budget was slightly increased<sup>21</sup>. Sweden spends around 0.27% of its GDP on law courts at a stable level since 2012<sup>22</sup>. Stakeholders and the National Courts Administration<sup>23</sup> have stressed the need for increasing the resources on a longer-term instead of a year-by-year basis, to ensure predictability and allow courts to handle the increasing number of incoming criminal cases<sup>24</sup>.

**Digitalisation of justice is progressing and a council on digitalisation of the justice system has been set up.** Following the entry into force of the new legislation on electronic communication in court proceedings in January 2021<sup>25</sup>, procedural rules for allowing digital technology in courts are fully in place<sup>26</sup>. However, there is still no possibility to access first instance court judgments online and arrangements for their machine readability are limited<sup>27</sup>. Remaining gaps in civil and administrative proceedings concern the possibility to access ongoing and closed files<sup>28</sup>, whereas in criminal proceedings only limited digital tools are available<sup>29</sup>. To improve efficiency and use of digital tools along the entire judicial chain, in particular for criminal proceedings, in September 2020 a new council for the digitalisation of the judiciary<sup>30</sup> was set up within the structure of the National Council for Crime Prevention, consisting of the heads of eleven different authorities<sup>31</sup>. It aims at improving the exchange of

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<sup>18</sup> Security Protection Act (2018: 585), Chapter 3, §4a. (*Säkerhetsskyddslagen*).

<sup>19</sup> Swedish Government (2019), Security screening of judges.

<sup>20</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Sweden, p. 3.

<sup>21</sup> From approx. EUR 585 Million (SEK 6 billion) in 2020 to EUR 625 Million (SEK 6,4 billion) in 2021. Inputs from Sweden for the 2020 and the 2021 Rule of Law Report.

<sup>22</sup> Figure 30, 2021 EU Justice Scoreboard.

<sup>23</sup> National Courts Administration (2021), Courts under pressure: almost half a million new cases in 2020 and information received in the context of the country visit to Sweden.

<sup>24</sup> As regards the increase in criminal cases, see the 2020 Rule of Law Report, country chapter on the rule of law situation in Sweden, p. 3 and Input from Sweden for the 2021 Rule of Law Report, p. 12.

<sup>25</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Sweden, p. 4.

<sup>26</sup> Figure 40, 2021 EU Justice Scoreboard.

<sup>27</sup> Figures 46-47, 2021 EU Justice Scoreboard.

<sup>28</sup> Figure 44, 2021 EU Justice Scoreboard.

<sup>29</sup> Figure 45, 2021 EU Justice Scoreboard.

<sup>30</sup> Swedish Government (2020), Stronger coordination for increased digitalisation of the judiciary. This is based on the Ordinance on the digitalisation of the judiciary (*Förordning om rättsväsendets digitalisering*).

<sup>31</sup> National Council for Crime Prevention, Crime Victim Compensation and Support Authority, National Courts Administration, Economic Crime Authority, Prison and Probation Service, Coast Guard, Police, National Board of Forensic Medicine, Tax Agency, Customs Authority and Prosecution Authority.

information in the criminal justice process and is responsible for identifying and planning joint development efforts, monitoring the implementation of ongoing development efforts and developing the information management system<sup>32</sup>. The undertaking is set up in several stages, starting with setting up the electronic information flow between the authorities handling the largest volume of criminal cases, with a full link between all authorities to be established by 2022. The council will also prepare the new strategic plan for digitalisation of the judiciary for 2023 onwards, as the current strategy is set to expire in 2022<sup>33</sup>.

## Efficiency

**The efficiency of the justice system has remained stable, with more cases being closed in 2020 than in previous years.** The clearance rate has remained stable for civil and commercial litigious cases (at 97.5%) and improved for administrative cases (from 96.8% in 2018 to 101.7% in 2019). The estimated time to resolve a case has remained low for both civil and commercial litigious and administrative cases in 2019, although incoming administrative cases have continued to rise<sup>34</sup>. National data shows that while incoming cases increased in 2020, decided cases increased to an even larger degree, with around 8% more cases being decided than in 2019<sup>35</sup>. According to the National Courts Administration, this is inter alia due to the fact that it has often been possible to conclude less-complex cases in written proceedings, while more complex cases have been postponed<sup>36</sup>. Since the courts have in general remained open throughout the COVID-19 pandemic and concrete measures were left to the courts to decide, the rate of postponed hearings has only been slightly affected (at 21.9% in 2020 compared to an average of 20.3% in 2017-2019)<sup>37</sup>.

## II. ANTI-CORRUPTION FRAMEWORK

Sweden has the legislative and institutional framework to combat and prevent corruption broadly in place. The Government has adopted a National Action Plan for 2021-2023, its first ever, to prevent corruption in the central government agencies. The National Anti-Corruption Unit is the specialised prosecution agency within the Swedish Prosecution Authority responsible for all criminal investigations related to corruption and bribery, including foreign bribery. The National Anti-Corruption Police Unit, as part of the Swedish Police Authority, is tasked both to investigate corruption crimes and to prevent corruption by supporting different public authorities in the drafting of anti-corruption policies. The Swedish Economic Crime Authority organised under the Ministry of Justice has the mandate to investigate and prosecute serious financial crimes, including the recovery of proceeds of crime. Other agencies, such as the National Audit Office, the National Competition Authority, the National Council for Crime Prevention and the Financial Intelligence Unit of the Swedish Police, are in charge of the prevention and investigation of corruption, and of forensics and auditing.

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<sup>32</sup> Input from Sweden for the 2021 Rule of Law Report, pp. 5-6 and written contribution received by the Ministry of Justice in the context of the country visit to Sweden.

<sup>33</sup> National Council for Crime Prevention (2021), Bra's regulation letter for 2021.

<sup>34</sup> Figures 3-16, 2021 EU Justice Scoreboard.

<sup>35</sup> National Courts Administration (2021), Received, settled and balances cases up to and including week 7.

<sup>36</sup> National Council on Crime Prevention (2021), Report on the impact of the pandemic on the flow of justice, p. 43 and information received in the context of the country visit to Sweden.

<sup>37</sup> National Courts Administration (2021), Cancelled hearings.

**The perception among experts and business executives is that Sweden is one of the least corrupt countries in the world.** In the 2020 Corruption Perceptions Index by Transparency International, Sweden scores 85/100 and ranks 2<sup>nd</sup> in the European Union and 3<sup>rd</sup> globally<sup>38</sup>. This perception has been relatively stable<sup>39</sup> over the past five years<sup>40</sup>.

**Sweden is currently reviewing the statute of limitation for all crimes, including corruption crimes.** A wide range of corruption offences are criminalised in Sweden<sup>41</sup>. The Swedish labour law continues to provide for disciplinary sanctions for neglect of duty in the form of warnings or salary reductions and prohibits employees' involvement in activities that may adversely affect confidence in their impartiality or harm the authority's reputation<sup>42</sup>.

**Sweden adopted a National Anti-corruption Plan for its public administration in December 2020.** The action plan focuses on corruption prevention in central government agencies, including government offices<sup>43</sup>. It does not include state-owned enterprises<sup>44</sup>. The aim of the action plan is to provide agencies with tools and best practices on the prevention of corruption. This includes the systematic use of risk analysis to strengthen corruption risk awareness and risk management practices. The plan was met with criticism due to the lack of clarity, ambition and a broad stakeholder consultation<sup>45</sup>. The plan does not define specific priorities or targets to be achieved by a certain date. The Swedish Agency for Public Management will facilitate the preventive work under the plan<sup>46</sup>, but has no supervisory role<sup>47</sup>. The Agency for Public Management will issue an interim report with a baseline

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<sup>38</sup> Transparency International, Corruption Perceptions Index 2020 (2021), pp. 2-3. The level of perceived corruption is categorised as follows: low (the perception among experts and business executives of public sector corruption scores above 79); relatively low (scores between 79-60), relatively high (scores between 59-50), high (scores below 50).

<sup>39</sup> In 2015 the score was 89, while, in 2020, the score is 85. The score significantly increases/decreases when it changes more five points; improves/deteriorates (changes between 4-5 points); is relatively stable (changes from 1-3 points) in the last five years.

<sup>40</sup> The Eurobarometer data on corruption perception and experience of citizens and businesses as reported last year is updated every second year. The latest data set is the Special Eurobarometer 502 (2020) and the Flash Eurobarometer 482 (2019).

<sup>41</sup> Provisions on active and passive bribery, negligent financing of bribery, trading in influence, official misconduct or breach of duty of confidentiality are included in the Swedish Criminal Code. Sanctions for accepting or offering a bribe can be applied in the form of fines or a maximum sanction of two years imprisonment (which prescribe after two years) and, in grave cases, of up to six years imprisonment (which prescribe after ten years). Due to the extended scope of application, corporate fines can now also be applied to public sector activities that can be equated to business activities, if the act was intended to provide financial benefits to the legal person. Criminal fines of up to SEK 500 million (approximately EUR 49 million) can be applied for bribery committed by private sector companies.

<sup>42</sup> Cf. Swedish Public Employment Act.

<sup>43</sup> Swedish Government (2021), Anti-corruption Action Plan 2021-2023.

<sup>44</sup> Although the scope of the action plan is public administration, the working methods and recommendations of the plan are expected to be relevant for corruption prevention work conducted by state-owned enterprises.

<sup>45</sup> A stakeholder seminar was held at the outset but the draft was not subject to consultation among all relevant stakeholders. Information received in the context of the country visit to Sweden.

<sup>46</sup> For these purposes, six or seven key agencies will be selected, and a new collaborative forum of state agencies with special expertise in corruption prevention will be coordinated by the *Statskontoret*, including the National Council for Crime Prevention, the National Financial Management Authority, the Competition Authority, Police Authority and the National Agency for Public Procurement.

<sup>47</sup> The responsibility to prevent corruption rests ultimately with the director general of each agency.



assessment in 2021 and present a summary result report to the Ministry of Finance by the end of 2023<sup>48</sup>.

**Cooperation between the police and the prosecution services is overall effective.** Resources, the level of specialisation of investigators and prosecutors, and access to relevant information is sufficient for the authorities to carry out their tasks in the fight against corruption, according to the police and the prosecution service<sup>49</sup>. Sweden has started creating an electronic system to enhance the information-exchange in the management of criminal cases<sup>50</sup>. The judicial chain is expected to be completely digitally interconnected in 2022<sup>51</sup>. Preliminary data of the National Council for Crime Prevention indicates a decrease in reported bribery cases compared to 2019, yet a significant increase is reported in cases of official misconduct<sup>52</sup>. In 2020, bribery-related prosecutions were launched against 38 individuals and 26 convictions were obtained, of which four included sentences of imprisonment<sup>53</sup>.

**Foreign bribery has been highlighted as a corruption risk area.** Despite being a global export country with one of the highest numbers of multinational corporations per inhabitants, Sweden's enforcement to combat foreign bribery has been characterised as moderate<sup>54</sup>. The law on corporate fines was revised in 2019<sup>55</sup>. Apart from the requirements of dual criminality and of corporate liability, also the statute of limitations poses an obstacle to the effective prosecution in Sweden of bribery committed abroad<sup>56</sup>. This can be particularly challenging if investigations of foreign bribery committed abroad depend on the evidence-gathering in another country and mutual legal assistance through international cooperation<sup>57</sup>. The non-

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<sup>48</sup> The final report may include recommendations for the Government for possible new measures.

<sup>49</sup> Information received by the Swedish Prosecution Authority in the context of the country visit to Sweden. Human resources allocated to the National Anti-Corruption Unit within the Prosecution Authority responsible for the criminal investigations related to corruption and foreign bribery consist of ten prosecutors, two accountants, one analyst and three prosecution administrators, while approximately 100 police officers are in place to investigate corruption and corruption-related crimes.

<sup>50</sup> The electronic system connects the Swedish Police, the Swedish Prosecution Authority, the Swedish Tax Agency, the Swedish Economic Crime Authority, the Swedish courts and the Swedish Prison and Probation Service.

<sup>51</sup> The feedback received emphasises the still existing need for trainings and harmonisation of the different IT systems, working concepts and routines used in the different authorities involved. Next steps will encompass also measures to enhance the digital management of confiscation and other coercive measures and of digital evidence.

<sup>52</sup> Data submitted on bribery includes 57 reported cases of accepting a bribe, 79 reported cases of offering a bribe, and 10 reported cases of trading in influence and negligent financing of bribery (in total, 146 reported cases).

<sup>53</sup> Swedish Anti-Corruption Institute (2020), Bribery Convictions in Sweden 2020.

<sup>54</sup> OECD (2019), Sweden must urgently implement reforms to boost the fight against bribery (2019), Transparency International, Exporting Corruption (2020), pp. 13 and 110 reporting that in the period between 2016-2019, eleven investigations were opened, two cases were commenced, and one case was concluded with sanctions.

<sup>55</sup> Under Swedish law, criminal acts can be committed and punishment be imposed upon individuals committing foreign bribery, while companies cannot face criminal liability. Nevertheless, a corporate fine can be levied on companies as a legal effect of a crime (rather than being an administrative or criminal penalty). A corporate fine can be issued for foreign bribery committed by an individual company representative or employee in the exercise of that company's business activity. See also above.

<sup>56</sup> Information received by the Prosecution Service in the context of the country visit to Sweden.

<sup>57</sup> Information received by the Prosecution Service in the context of the country visit to Sweden.

profit Swedish Anti-Corruption Institute updated its non-binding Code of Business Conduct, a self-regulatory initiative to combat bribes and corruption, in 2020<sup>58</sup>. The Code addresses the private sector, including its relationship with the public sector<sup>59</sup>.

**Lobbying remains unregulated in Sweden.** There is no specific obligation for decision-makers to proactively disclose contacts with interest representatives in a ‘legislative footprint’ to publish information on who sought to influence which legislative proposals and with what resources. Lobbyists and interest representatives are not required to register in a lobby register nor to disclose their clients or financial information related to their lobbying activities<sup>60</sup>. Overall, however, the disclosure of information to the public, transparency and access to information remain the cornerstone in Sweden’s corruption prevention approach<sup>61</sup>.

**A new act on revolving doors was adopted for the National Audit Office.** The post-employment rules adopted in 2020 set out restrictions for high-level officials of the financial supervisory authority, including the Auditor General, the Deputy Auditor General and the acting Auditor General. The personal scope of the applicable revolving doors regulations was thereby extended from top executive functions in the Government (including ministers, cabinet members and state secretaries that move to employment and assignments in organisations other than the Government or public sector) to top executives in Sweden’s financial oversight body<sup>62</sup>. Nevertheless, Sweden’s post-employment rules remain overall limited in scope and in impact, with only one case having been reported under the applicable revolving doors rules adopted in 2018<sup>63</sup>.

**The guidelines on asset declarations were amended to add supporting evidence to the information declared.** Pursuant to the current legislation on asset declarations<sup>64</sup>, ministers and certain public officials in public authorities, municipalities and regions are to report holdings of financial instruments. According to the guidelines, the declarations submitted by ministers and certain officials of the Government Offices need to be supported by evidence, such as official statements from a bank or stockbroker<sup>65</sup>. This measure aims to facilitate the review of the accuracy of the information declared. The Government Offices review and compare the declarations with the evidence received but do not further verify the completeness of the information nor undertake follow-ups<sup>66</sup>.

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<sup>58</sup> Swedish Anti-Corruption Institute (2020), Code on Gifts, Rewards and other Benefits in Business.

<sup>59</sup> The Code supplements the legislation, complementing and clarifying criminal provisions. It provides concrete examples of ethically justifiable ways of dealing with concrete day-to-day situations. Information received in the context of the country visit to Sweden.

<sup>60</sup> Cf. GRECO Fifth evaluation round -, Evaluation Report, p. 14.

<sup>61</sup> See also section III; 2020 Rule of Law Report, country chapter on the rule of law situation in Sweden, p. 10.

<sup>62</sup> Act (2020: 537) on restrictions on the transition of an auditor and a chief audit officer to other activities (*Lag (2020:537) om restriktioner vid en riksrevisors och en riksrevisionsdirektörs övergång till annan verksamhet*).

<sup>63</sup> Information received by the Agency for Public Management in the context of the country visit to Sweden.

<sup>64</sup> Act (2018: 1625) on the obligation for certain public officials to report holdings of financial instruments and Ordinance (2018:2014) on the obligation for certain public officials to report holdings of financial instruments. This legislation does not apply to Parliament.

<sup>65</sup> Input from Sweden for the 2021 Rule of Law Report, p. 10.

<sup>66</sup> Cf. also GRECO, Fifth Evaluation Round– Evaluation Report, Sweden, p. 21.

**Sweden has reviewed its rules on the protection of whistleblowers and a stand-alone law is under consideration.** The independent governmental inquiry delivered its final report in June 2020 proposing the adoption of a new act<sup>67</sup> replacing the existing 2016 ‘Act on special protection for workers against reprisals for whistleblowing concerning serious irregularities’<sup>68</sup>. New rules set to enter into force on 1 December 2021 would change the current requirements on the protection of whistleblowers, and would cover both public and private sector organisations and businesses. All larger private sector companies would be required to establish safe internal reporting channels for whistleblower disclosures<sup>69</sup>.

**Transparency in political party financing is largely ensured.** Pursuant to the Act on Transparency in Political Party Financing<sup>70</sup>, national, municipal and local political parties are obliged to disclose the origins of their revenues but not their expenditure to the Legal, Financial and Administrative Services Agency. The agency publishes the finance reports in a timely manner each July for the previous year<sup>71</sup>. Failure to disclose the income is sanctioned with fines of up to approximately EUR 9 800 (SEK 100 000). The Parliament has adopted a ceiling for anonymous donations per donor at approximately EUR 230 (SEK 2 325)<sup>72</sup>. Private individuals’ contributions need to be disclosed but are not published. However, political parties’ revenues in Sweden stem largely from the state grant that parties receive based on their result in the two previous elections.

**The Government published a report on crime, including corruption-related crime, linked to the COVID-19 pandemic in December 2020.** The analysis highlights areas where there is a risk of abuse of, or actual abuse of, COVID-19 support measures and schemes adopted by the Government and the Parliament<sup>73</sup>. The report does not specifically address any perceived corruption risks. It highlights challenges in the fight against corruption-related crimes, including the lack of investigations and prosecutions of fraud towards the welfare system due to limited resources and other priorities. Furthermore, the National Agency for Public Procurement launched a guidance paper on public procurement rules applicable during the COVID-19 pandemic, including changes to the contract terms<sup>74</sup>. Moreover, since 1 January 2021, all public procurements must be registered and published in dedicated national databases, which report entries to a central authority to improve the gathering of public

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<sup>67</sup> Swedish Government (2020), Improving the safety of whistleblowers. Report on Investigation into the implementation of the whistleblowers directive. The Swedish Government has not taken a decision on whether a new act will be proposed.

<sup>68</sup> Act (2016: 749) on special protection against retaliation for employees who sound the alarm about serious misconduct.

<sup>69</sup> For companies with 50 to 249 employees, the requirement to set up internal reporting channels will apply as of 1 December 2023. All other companies with more than 250 employees will be obliged to do so as of 1 July 2022.

<sup>70</sup> Law (2018: 90) on transparency in the financing of parties.

<sup>71</sup> Legal, Financial and Administrative Services Agency, Revenue Reports <https://www.kammarkollegiet.se/vara-tjanster/partiinsyn/redovisa-intakter>.

<sup>72</sup> Any amount exceeding this amount must be returned to the donor or the Swedish state.

<sup>73</sup> The Government Offices (Minister for Justice) appointed an Inquiry Chair to conduct an analysis of society’s ability to resist crime, particularly organised and systematic crime that may be linked to the new rules and measures with consequences for public finances and the economy adopted by the Government and the Riksdag as a result of the COVID-19 pandemic. Input from Sweden for the 2021 Rule of Law Report, p. 12.

<sup>74</sup> National Agency for Public Procurement, Procurement in emergency situations, <https://www.upphandlingsmyndigheten.se/regler-och-lagstiftning/akuta-situationer>.

procurement statistics in Sweden<sup>75</sup>. The new law supports the monitoring and detection of bid-rigging cartels in public procurement and other serious irregularities in times of the COVID-19 pandemic and beyond<sup>76</sup>.

### **III. MEDIA PLURALISM AND MEDIA FREEDOM**

The Swedish legal framework concerning media pluralism is established by the Constitution<sup>77</sup> and secondary law<sup>78</sup>. In particular, the Fundamental Law on Freedom of Expression and the Freedom of the Press Act guarantees freedom of expression. The Swedish media regulator, the Press and Broadcasting Authority (*Myndigheten för press, radio och tv*), functions according to the Constitution<sup>79</sup> and the Radio and Television Act, which was recently amended to transpose the Audiovisual Media Services Directive (AVMSD)<sup>80</sup>.

**Sweden has further strengthened regulatory safeguards for the independence of the media regulator and increased its resources<sup>81</sup>.** Amendments to the Radio and Television Act to transpose the AVMSD entered into force on 1 December 2020 and introduced some novelties for the Press and Broadcasting Authority. They include provisions specifying that a member of the Parliament, the Government or an employee of the Government Offices cannot be appointed as a member of the Broadcasting Commission<sup>82</sup>. Furthermore, the reform introduces provisions strengthening the independence of the Broadcasting Commission by clarifying that members of the Broadcasting Commission are appointed for a term of four years<sup>83</sup>, ensuring turnover of staff, and that the head of the Authority is appointed for a fixed term of six years<sup>84</sup>. The 2021 edition of the Media Pluralism Monitor (MPM 2021)<sup>85</sup> confirms a low risk with regard to the independence and effectiveness of the Swedish media regulatory authority. The 2021 budget of the Press and Broadcasting Authority was increased by approximately EUR 341 000 (SEK 3.5 million), an increase of approximately 8%<sup>86</sup>. The

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<sup>75</sup> Input from Sweden for the 2021 Rule of Law Report, p. 10.

<sup>76</sup> Public procurement in Sweden covers both public and private entities as purchasers and is regulated under the Swedish Public Procurement Act applicable to the public sector, the Utilities Procurement Act applicable to the utilities sectors of water, transport, energy and postal services, and the Concessions Procurement Act applicable to works and services concessions. Oversight of public procurement is carried out by the National Audit Office, as the highest authority supervising public spending in Sweden. The National Audit Office performs external controls of regulatory compliance and provides Parliament with information and recommendations on the use of public funds.

<sup>77</sup> The Swedish Constitution consists of four fundamental laws: the Instrument of Government, the Act of Succession, the Freedom of the Press Act and, especially with regard to the Swedish Broadcasting Commission, the Fundamental Law on Freedom of Expression.

<sup>78</sup> Radio and Television Act.

<sup>79</sup> Relevant parts of the Constitution: the Instrument of Government and the Fundamental Law on Freedom of Expression.

<sup>80</sup> Sweden ranks on the 3rd position in the 2021 Reporters Without Borders World Press Freedom Index (2nd among the EU Member States), compared to the 4th position of last year. <https://rsf.org/en/ranking#>

<sup>81</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Sweden, p. 8.

<sup>82</sup> The Broadcasting Commission is a decision-making body within the Swedish Press and Broadcasting Authority. Chapter 16, section 14 of the Radio and Television Act.

<sup>83</sup> Section 30 of the Radio and Television Act.

<sup>84</sup> The appointment may be extended. Section 29 of the Radio and Television Act.

<sup>85</sup> 2021 Media Pluralism Monitor, country report for Sweden, p. 9.

<sup>86</sup> Input from Sweden for the 2021 Rule of Law Report, p. 19.

Authority estimated such budget sufficient to cover the new tasks stemming from the revised AVMSD.

**The Swedish legal system does not provide for specific rules on transparency of media ownership.** The framework is based on the general rules of the so-called Transparency Act and the Competition Act. The MPM 2021 assesses a medium risk for transparency of media ownership due to the lack of specific legislation<sup>87</sup>. The current system allows Swedish authorities to receive information on media ownership, but such information is not easily accessible to the public<sup>88</sup>. In the context of the transposition of AVMSD, the Government assessed that specific requirements for transparency of media ownership should be further analysed<sup>89</sup>. A possible proposal tackling this issue is being discussed within the Government<sup>90</sup>.

**The problems for journalists linked to the COVID-19 pandemic are mainly seen as economic, affecting particularly freelance journalists and local media.** The advertising turnover of the media sector declined by 5% compared to 2019, the largest drop since the financial crisis in 2008<sup>91</sup>. The MPM 2021 reported that the main cuts have been made among freelance journalists and journalists without permanent employment. The Government has provided funding to the media sector to compensate for a fall of advertising revenues related to the COVID-19 pandemic and the following restrictions. In the first phase of the pandemic, April-June 2020, EUR 9.81 million (SEK 100 million) was allocated to support continued distribution of printed newspapers<sup>92</sup>. The Government has also released advance payments of production subsidies to the press. In the autumn 2020 a further EUR 49 million (SEK 500 million) was allocated to support editorial costs in the broader news media sector<sup>93</sup>.

**Sweden has a robust framework for access to information**<sup>94</sup>. Deadlines for obtaining information are short, there are few refusals for information and there is a high compliance of public authorities. However, the law on access to information<sup>95</sup> does not provide for access to information in digital format, and such access has proven sometimes difficult in practice, according to stakeholders<sup>96</sup>. In the context of the COVID-19 pandemic, as reported by the

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<sup>87</sup> 2021 Media Pluralism Monitor, country report for Sweden, p. 11.

<sup>88</sup> Information received in the context of the country visit to Sweden.

<sup>89</sup> Input from Sweden for the 2021 Rule of Law Report, p. 24.

<sup>90</sup> Input from Sweden for the 2021 Rule of Law Report, p. 24.

<sup>91</sup> In the wake of the pandemic, IRM (Institute for Advertising and Media Statistic) records the largest decline in Nordic ad sales since the financial crisis, <https://www.irm-media.se/se/aktuellt/nyheter/in-the-wake-of-the-pandemic-irm-records-the-largest-decline-in-nordic-ad-sales-since-the-financial-crisis/>.

<sup>92</sup> European Audiovisual Observatory, tracking Covid-19 measures in the audiovisual sector (part 2), <https://www.obs.coe.int/en/web/observatoire/covid-19-d#anchorSweden>.

<sup>93</sup> Ministry of Culture (2021), Increased media and democracy support in the government budget.

<sup>94</sup> According to the MPM 2020, the legal provisions concerning access to information and the restrictions on grounds of protection of privacy and confidentiality are clearly defined and stakeholders, such as the Swedish Media Ombudsman, consider that this right is fully respected and well implemented in practice.

<sup>95</sup> Swedish Government (2016), The principle of public access to official documents.

<sup>96</sup> Information provided in the context of the country visit to Sweden.

MPM 2021, there were some examples of local governments discouraging health and care workers from elderly facilities providing information to journalists<sup>97</sup>.

**Lack of permanent employment, threats and harassment are a challenge for journalists.**

In general, the conditions the Swedish journalists operate in are considered one of the best of the world<sup>98</sup>. However, as reported by the MPM 2021, there are some challenges to the protection of journalists: one-third of journalists are without permanent employment, and recent survey results show that 30 percent of the Swedish journalists who answered have received threats in the past year. The most common are threats of physical violence. The journalists' association and the media ombudsman report that many journalists, in particular investigative journalists, face threats and harassment, sometimes by organised, targeted campaigns. As suggested by a study, harassment often result in some journalist's self-censorship or avoiding reporting on certain topics<sup>99</sup>. Since October 2020, three new alerts were created on the Council of Europe Platform to promote the protection of journalism and safety of journalists<sup>100</sup>. They concerned the harassment and intimidation of journalists, including the case of two journalists prosecuted for an investigative documentary<sup>101</sup>, and attacks on physical safety and integrity of journalists. In all cases, the authorities reacted and investigations are ongoing. The media ombudsman also reports a rise in complaints from politicians and businessmen against journalists, and an increasing trend to bring legal actions against journalists. Threats and hatred from the public directed at journalists seem to have increased during the COVID-19 pandemic, especially on social media<sup>102</sup>.

**Sweden is taking steps to further improve its framework for the protection and activities of journalists.** An Inquiry Chair, appointed by the Government in May 2020, is currently reviewing the criminal law protection for certain vital functions in society, including journalists<sup>103</sup>. This process is expected to examine if any further legislative safeguards concerning freedom of speech should be considered. The final report is expected in January 2022<sup>104</sup>. The National Police Authority has also put in place some awareness raising campaigns aiming at helping journalists who face harassment and the Government assignment to the "Fojo Media Institute" to develop support for journalists and editors subjected to threats and hatred, where freelance journalists and local media company are target groups, have been extended for 2021<sup>105</sup>.

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<sup>97</sup> 2021 Media Pluralism Monitor, country report for Sweden, p. 9 and information received by the Ministry of Culture in the context of the country visit to Sweden.

<sup>98</sup> 2021 Media Pluralism Monitor, country report for Sweden, p. 9.

<sup>99</sup> Lunds University (2020), About the project.

<sup>100</sup> Council of Europe, Platform to promote the protection of journalism and safety of journalists – Sweden.

<sup>101</sup> According to the alert, journalist Henrik Evertsson and camera operator Linus Andersson are being prosecuted by Swedish authorities for violating the burial site of the MS Estonia. They produced a documentary series ("Estonia: the discovery that changes everything"), which investigates the sinking of the cruise ferry 'MS Estonia'.

<sup>102</sup> Information in the context of the country visit to Sweden and Sveriges Radio (2021), Pressure and anger has been directed at science journalists for their Corona reporting.

<sup>103</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Sweden, p. 9.

<sup>104</sup> The Inquiry chair has been given additional terms of reference extending the deadline for submitting the report.

<sup>105</sup> Input from Sweden for the 2021 Rule of Law Report, p. 21.

#### IV. OTHER INSTITUTIONAL ISSUES RELATED TO CHECKS AND BALANCES

Sweden is a unicameral, parliamentary democracy, in which a Council of Legislation ensures ex-ante constitutional review, while courts can carry out an ex-post constitutional review in concrete cases. The Parliament's Constitution Committee prepares matters relating to Sweden's fundamental laws and other constitutional issues and reviews the Government's conduct. Legislative proposals can be submitted by members of Parliament (*Riksdag*) or the Government, with the latter submitting the vast majority of proposals in practice. The Chancellor of Justice, the Parliamentary Ombudspersons and the Equality Ombudsperson (*Diskrimineringsombudsmannen*) play an important role in the system of checks and balances.

**To enable the Government to take more restrictive measures in response to the COVID-19 pandemic, new legislation has been adopted.** The Swedish Constitution does not foresee a state of emergency for peacetime crisis<sup>106</sup> and measures taken in the context of the COVID-19 pandemic have therefore mostly taken the form of recommendations by the Public Health Agency<sup>107</sup>. While in April 2020, temporary legislation enabling the Government to take measures by ordinance was adopted, no measures were taken under this framework and it expired in June 2020<sup>108</sup>. To enable the Government to adopt ordinances introducing more restrictive measures, on 10 January 2021 new legislative provisions<sup>109</sup> entered into force. For particularly restrictive measures, such ordinances must be submitted to Parliament within one week of their adoption for ratification<sup>110</sup>. This legislation will expire on 30 September 2021. While the proposal underwent a stakeholder consultation and scrutiny by the Council on Legislation and the Constitution Committee, the short timeframes for this process have been criticised<sup>111</sup>. The Constitution Committee highlighted in particular the lack of advance planning<sup>112</sup>. In the context of the broader discussions regarding the constitutional limitations on the ability of the Government to take restrictive measures<sup>113</sup>, the Prime Minister has announced that a committee of inquiry will be set up to examine the need for a revision of

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<sup>106</sup> It only provides for a state of emergency in situations of war.

<sup>107</sup> In addition, there are also constitutional limitations to measures restricting fundamental freedoms, such as freedom of assembly and association. Fundamental Rights Agency (2021) Coronavirus COVID-19 outbreak in the EU - Fundamental Rights Implications – Sweden (bulletins 1, 2 and 3).

<sup>108</sup> Input from Sweden for the 2020 Rule of Law Report, p. 26 and information received in the context of the country visit to Sweden.

<sup>109</sup> Act (2021: 4) on special restrictions to prevent the spread of the disease covid-19 (*lagen [2021:4] om särskilda begränsningar för att förhindra spridning av sjukdomen covid-19*).

<sup>110</sup> This includes e.g. closing public transport or other venues. In the initial proposal for this deadline had been one month. This has been reduced following the stakeholder consultation and comments from the Council on Legislation, which suggested that one week would be more appropriate. Council on Legislation (2020), Extract from minutes of meeting of 2020/12/30. The Constitution Committee has also stressed in its opinion that one week should be a maximum deadline and ordinances should be submitted as soon as possible in any case. Constitution Committee (2021), A temporary COVID law – opinion 2020/21 KU6y.

<sup>111</sup> See e.g. comments in the opinions of the Constitution Committee and the Council on Legislation. The proposal was submitted to the Council on Legislation on 28 December 2020 and subsequently to Parliament on 4 January 2021, which adopted it on 8 January.

<sup>112</sup> It also stressed that, since delegations of powers to municipal authorities to take measures limiting certain fundamental freedoms are foreseen, it is important that the Government ensures an overview of such restrictions. Constitution Committee (2021), A temporary COVID law – opinion 2020/21 KU6y. See also Constitution Committee (2021), The Committee's review of the Government is complete.

<sup>113</sup> See e.g. Contribution from the Swedish Supreme Court for the 2021 Rule of Law Report.

chapter fifteen of the Constitution with a view to introducing state of emergency provisions to tackle crisis situations during peacetime, including public health crises<sup>114</sup>.

**The Government's measures taken in the context of the COVID-19 pandemic have been subject to specific scrutiny.** The Constitution Committee is reviewing the handling of the COVID-19 pandemic by the Government from a broader constitutional perspective<sup>115</sup>, and presented a report on this on 3 June 2021<sup>116</sup>. In six of the cases related to the COVID-19 pandemic examined by the committee, it found shortcomings in the Government's handling, reiterating also criticism related to the preparatory process for the new legislative framework for COVID-19 related measures (see above). In addition, the independent commission appointed to examine the Government's handling of the COVID-19 pandemic in June 2020 has delivered a first interim report on 15 December 2020<sup>117</sup> and will present its final results by February 2022<sup>118</sup>. Measures taken in the context of the COVID-19 pandemic have also been reviewed by the Parliamentary Ombudspersons based on complaints received<sup>119</sup>, while so far the Supreme Administrative Court reports that it has not reviewed any such cases<sup>120</sup>.

**Parliament's internal rules have been adapted to the context of the COVID-19 pandemic, and it has handled legislation in an expedited manner.** To ensure Parliament's continued functioning during the COVID-19 pandemic, a number of procedural rules have been adapted, including an agreement between the political parties allowing for votes to take place with a reduced number of members participating decided in March 2020<sup>121</sup> and new legislation on remote participation to committee meetings which entered into force in June 2020<sup>122</sup>. While there is no formal expedited procedure, at the Government's request, flexibility within the legislative process allows for a speedy adoption of laws, for example by shortening deliberation time in committees and the time allowed for members of Parliament to table amendments<sup>123</sup>. According to the Constitution Committee, the Government has requested an expedited handling by Parliament for around 20 bills in 2020<sup>124</sup>. While stakeholders generally welcome the process for enacting legislation as being inclusive, short timeframes for consultation on different pieces of legislation proposed in the context of the

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<sup>114</sup> Swedish Government (2020), Digital press conference with the Prime Minister 22 December 2020.

<sup>115</sup> The Constitution Committee annually carries out a general review on the Government's compliance with laws and practices in the handling of government matters, exercising Parliament's control function based in Chapter 13 of the Instrument of Government.

<sup>116</sup> Constitution Committee (2021), Report 2020/21:KU20.

<sup>117</sup> The Report focusses on the handling of the elderly care during the pandemic and highlights a number of shortcomings in the Government's response. Swedish Government (2020), Interim Report of the Corona Commission – Elderly care during the pandemic.

<sup>118</sup> Swedish Government (2020), Evaluation of measures to deal with the outbreak of the virus that causes covid-19 disease.

<sup>119</sup> See e.g. Parliamentary Ombudsman (2020), Opinion on the memorandum on the COVID-19 law (S2020/09214), highlighting similar points as the Council on Legislation and the Constitution Committee.

<sup>120</sup> Information received in the context of the country visit to Sweden and ACA-Europe (2021), Survey on the Supreme Administrative Courts in times of COVID-19 crisis – a lesson learned (forthcoming).

<sup>121</sup> This allows that only 55 members of Parliament (distributed among the parties in proportion to the overall allocation of seats) are physically present for votes. Agreement on the work of the Chamber and the committees in connection with the dissemination of COVID-19.

<sup>122</sup> Riksdag (2020), Remote participation at committee meetings and the EU committee.

<sup>123</sup> Riksdag, This is how the Riksdag works: decides on laws.

<sup>124</sup> Information received in the context of the country visit to Sweden.



COVID-19 pandemic has been highlighted<sup>125</sup>. This matter will also be part of the examination of the Government's handling of the COVID-19 pandemic by the Constitution Committee. In addition, a parliamentary inquiry into how Parliament has functioned during the COVID-19 pandemic has been set up, with its findings expected in autumn 2021<sup>126</sup>.

**A proposal for the establishment of a National Human Rights Institution in line with the UN Paris Principles has been adopted by Parliament.** Sweden has received repeated recommendations under the United Nations Universal Peer Review, most recently in 2020, to establish a National Human Rights Institution (NHRI) in compliance with the Paris Principles<sup>127</sup>. Currently, the Equality Ombudsperson functions as the NHRI, accredited with B-Status<sup>128</sup>. On 9 June 2021, Parliament adopted a proposal by the Government for the creation of a NHRI in compliance with the Paris Principles to Parliament, which will start its operation in January 2022<sup>129</sup>. The institute will have a broad mandate regarding human rights and will be independent in determining its tasks and organisation within the mandate set out in law. The institutional set-up has been welcomed by stakeholders<sup>130</sup>. The institute will be led by a board composed of seven members, which will appoint a director as head of the Institute. Stakeholders, including the European Network of National Human Rights Institutions<sup>131</sup>, had raised some concerns regarding the non-binding nature of the proposals from designated institutions for the candidates for the board members to be appointed by the Government<sup>132</sup>. The Government considers that the qualification criteria set out in law provide sufficient safeguards<sup>133</sup>. In addition to this process, the inquiry by Parliament regarding the functioning and mandate of the Parliamentary Ombudspersons is ongoing and will deliver its results in May 2022<sup>134</sup>.

**The review of requirements for civil society organisations to comply with democratic principles to access state funding is ongoing.** Currently, “democracy requirements” are laid down in a number of state grant regulations for civil society organisations, requiring

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<sup>125</sup> Contribution by Civil Rights Defenders for the 2021 Rule of Law Report (as part of the contribution by the Civil Liberties Union for Europe) and information received in the context of the country visit to Sweden.

<sup>126</sup> Riksdag (2020), Constitution Committee proposes follow-up of the Riksdag's work during the corona pandemic.

<sup>127</sup> In addition, Sweden received a recommendation to consider expanding the mandate of the Equality Ombudsman and allocate sufficient resources. UN General Assembly (2020), Report of the Working Group on the Universal Peer Review – Sweden. See also the contribution by the UN Human Rights Regional Office for Europe for the 2021 Rule of Law Report.

<sup>128</sup> See 2020 Rule of Law Report, Country Chapter on the rule of law situation in Sweden, pp. 11-12, also as regards previous steps in this process.

<sup>129</sup> Swedish Government (2021), Institute for Human Rights.

<sup>130</sup> Joint contribution from civil society organisations in Altinget (2021), Do not make party politics out of human rights; Contribution by the Swedish Section of the International Committee of Jurists and Civil Rights Defenders for the 2021 Rule of Law Report.

<sup>131</sup> European Network of National Human Rights Institutions, Regarding the consultation on the proposal for the establishment of a National Human Rights Institution in Sweden (Ds 2019:4).

<sup>132</sup> The Government has to request (non-binding) proposals for candidates from the Bar Association, universities and colleges, and the Institute's Board of Governors.

<sup>133</sup> According to the proposal, the members of the board shall have expertise in the field of human rights and at least two each shall have experience of qualified work in the three areas i) of civil society, ii) judiciary and the profession of lawyer and iii) research and academia. See also Swedish Government (2021), Government bill 202/21:143 - Institute for Human Rights, p. 39.

<sup>134</sup> 2020 Rule of Law Report, country chapter on the rule of law situation in Sweden, p. 12.

beneficiaries of state funding to comply with conditions on democratic principles similar to those set out in the Instrument of Government<sup>135</sup>. However, these criteria and their application are not always transparent or coherent<sup>136</sup>. In 2018, an inquiry was set-up to review the existing democracy requirements, the challenges for civil society and authorities in applying them and tasked to propose uniform democracy requirements. While the inquiry report was presented in 2019 and a stakeholder consultation was carried out subsequently<sup>137</sup>, so far the Government has not presented any draft legislation. In November 2020, it set up a special inquiry to review practical questions related to handling of personal data in this context and to identify the need and conditions for setting up a function to support authorities granting state funding in assessing organisations applying for funding<sup>138</sup>. The results of this inquiry are expected by the end of December 2021. While civil society organisations generally agree on the objective of clarifying the “democracy requirements”, they have also stressed the need to carefully consider the impact on civil society’s access to funding<sup>139</sup>. During the COVID-19 pandemic, the Government has made additional funding<sup>140</sup> available to civil society organisations working with socially vulnerable persons especially affected by the pandemic<sup>141</sup>.

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<sup>135</sup> Chapter 1, Section 2 of the Instrument of Government states that the public must work to ensure that the ideas of democracy are guided in all areas of society. Furthermore, Chapter 2, Section 1 sets out fundamental rights and freedoms which everyone is insured against the public.

<sup>136</sup> The mandate of the inquiry outlines that it should be ensured that government funds are only directed to organisations complying with fundamental values of the Constitution. At the same time it notes that organisations criticise the current system for lacking transparency and legal certainty. Swedish Government (2018) Committee terms of reference – democratic conditionality in government grants.

<sup>137</sup> Swedish Government (2018), The democracy conditions in state subsidies.

<sup>138</sup> Swedish Government (2020), The Government is taking a new step towards stricter democratic conditions for state subsidies to civil society.

<sup>139</sup> See e.g. the responses to the Referral SOU 2019: 35 Democratic conditions for contributions to civil society by Civil Right Defenders and the National Forum for Voluntary Organisations.

<sup>140</sup> In April and May 2020 each, around EUR 9.9 million (SEK 100 million) were allocated to such organisations and in December 2020, additional grants of EUR 5.9 million (SEK 60 million) were proposed. Swedish Government (2020), Support for civil society's social and humanitarian efforts.

<sup>141</sup> Sweden’s civic space remains ‘open’ - Ratings given by Civicus, Sweden. Ratings are on a five-category scale defined as: open, narrowed, obstructed, repressed and closed.

## Annex I: List of sources in alphabetical order\*

\* The list of contributions received in the context of the consultation for the 2021 Rule of Law report can be found at <https://ec.europa.eu/info/policies/justice-and-fundamental-rights/upholding-rule-law/rule-law/rule-law-mechanism/2021-rule-law-report-targeted-stakeholder-consultation>.

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## **Annex II: Country visit to Sweden**

The Commission services held virtual meetings in March 2021 with:

- Anti-Corruption Institute
- Agency for Public Management
- Civil Rights Defenders
- Committee of Inquiry on Independence of Courts
- Council on Legislation
- Economic Crime Authority
- Ministry of Culture
- Ministry of Finance
- Ministry of Justice
- Ministry of Labour
- National Courts Administration
- Office of the Parliamentary Ombudsman
- Office of the Prime Minister
- Press and Broadcasting Authority
- Press Ombudsman
- Prosecution Service
- Secretariat of the Constitution Committee
- Supreme Administrative Court
- Supreme Court
- Swedish Association of Judges
- Swedish Bar Association
- Swedish Journalists' Association
- Transparency International Sweden

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

- Amnesty International
- Center for Reproductive Rights
- CIVICUS
- Civil Liberties Union for Europe
- Civil Society Europe
- Conference of European Churches
- EuroCommerce
- European Center for Not-for-Profit Law
- European Centre for Press and Media Freedom
- European Civic Forum
- European Federation of Journalists
- European Partnership for Democracy
- European Youth Forum
- Front Line Defenders
- Human Rights House Foundation
- Human Rights Watch
- ILGA-Europe
- International Commission of Jurists
- International Federation for Human Rights
- International Planned Parenthood Federation European Network (IPPF EN)

- International Press Institute
- Netherlands Helsinki Committee
- Open Society European Policy Institute
- Philanthropy Advocacy
- Protection International
- Reporters without Borders
- Transparency International EU