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ACTIVITY REPORT OF THE SUPREME COURT

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word from the President

When the Swedish Supreme Court was established in 1789, it was declared that the Court would

consist of twelve members versed in the law. Currently, the staff consists of approximately 90 persons, all of whom play an important role in ensuring that the Court can perform its duties in the best manner possible. Judge referees, law clerks, court clerks, registrars, archivists and service personnel are just a few of the categories of persons working at the Court. To these are to be added the Justices – currently 16 in number. Since its founding, a total of 324 men and women have served as Justices of the Supreme Court. The most recent additions are Stefan Reimer and Cecilia Renfors, both of whom joined the Court in 2019. Somewhat further on in this Activity Report, they will share their thoughts about working as a Justice and their respective paths to the Supreme Court.

The principal task of the Supreme Court is to hand down decisions which serve in guiding the application of law, so-called precedents. In order for a court of law to be able to be a precedential court in the true meaning of the word, it is necessary that a relatively limited number of cases is admitted for consideration. The requirement for leave to appeal affords the Supreme Court the possibility to concentrate on those cases in which most guidance can be given. Leave to appeal may be granted if it is important for the

guidance of the application of law that the appeal is considered by the Supreme Court. In exceptional cases, leave to appeal may also be granted where there are other extraordinary reasons for doing so.

Given that substantial resources are committed to the cases in which leave to appeal has been granted, it is essential that suitable cases are chosen. A case may contain an issue which is interesting for precedential purposes, but is nonetheless unsuitable for review. For example, a case may involve several evidentiary issues with an associated risk that the one issue which is interesting from a precedential perspective is not thoroughly addressed. Furthermore, a case may be extensive and demand considerable resources which may otherwise be used to create several other precedents.

It is for this reason unusual for the Supreme Court to grant leave to appeal in cases which require lengthy main hearings. Nevertheless, 2019 was a special year in this respect. In the autumn, the Supreme Court held a nearly six-week-long main hearing in a case between Girjas *sameby* (a Sami reindeer herding and economic district) and the Swedish state pertaining to hunting and fishing rights in the area of the Girjas *sameby*. The case has engaged many Court employees and involved considerable resources. Cases of this type are unusual. However, approximately 30 years ago, the Supreme Court >

addressed another extensive case involving Sami rights which resulted in the so-called “*Taxed Mountains Judgment*”, case NJA 1981, p. 1. More is written on subsequent pages in this Activity Report about these and other Sami rights cases which have been addressed by the Court.

An impression of the Supreme Court’s core activity as a precedential court may be obtained in the section summarising important precedential decisions handed down during the year. Preceding that section, there is a description of the deliberations which resulted in the publication by the Supreme Court in May 2019 of a cumulative list of the Court’s named legal cases.

The Supreme Court’s precedential activities include a law-creating function. Where necessary, the Court fills in gaps in the applicable law. In this way, the Court complements the Swedish Parliament and Swedish Government in the creation of laws and ordinances. In recent years, there have been occasional discussions regarding the limitations on the Court’s creation of law. What should be the limit for the creation of new norms by means of precedential decisions? And, when is an issue of this type to instead be addressed by the legislature? These questions are not straightforward, and there is scarcely any clear boundary to be found.

An important element of this discussion is that there may often be

an interplay between the creation of law which takes place by means of legislation and that which is achieved through precedential decisions. A resolution by the Parliament to pursue or not pursue legislative measures within a particular area often has a direct impact on a subsequent determination in the Supreme Court.

One of the precedents presented in the aforementioned compilation clearly illustrates this interaction: The “*California Surrogacy Arrangement*” case, case NJA 2019, p. 504.

A Swedish man and a Swedish woman entered into a surrogacy arrangement in California with an American woman who acted as the surrogate mother. A Californian court declared the Swedish woman the parent of the child. The question in the case was whether the judgment could be recognised in Sweden notwithstanding the fact that there was no support for it in Swedish legislation. Such recognition would entail that the Swedish woman also legally became a parent in Sweden. When the case came before the Supreme Court, issues concerning parenthood in international surrogacy arrangements had been recently addressed in a committee inquiry and a government bill submitted to the Parliament. It was noted in this context that surrogate maternity raises several complicated ethical and legal questions and a balancing of interests. However, it was not believed that the principle of the

best interests of the child required that Sweden implement extensive legislative amendments or far-reaching measures in order to resolve the problems which international surrogacy arrangements would be deemed to potentially entail. No proposals for legislation which has in view the situations similar to those in the Supreme Court case were put forward.

Both the District Court and Court of Appeal reached the conclusion in the case that the conditions did not exist for recognition of the foreign judgment. When the matter came before the Supreme Court, the Court noted that there was a negative view of surrogate motherhood in Sweden based, among other things, on the prohibition against trafficking women and children. In light of statements made by the European Court of Human Rights regarding the right of all children to respect for their private lives and the principle of the best interests of the child, however, the Supreme Court found that – when an actual family relationship has been established between the child and the mother designated by a foreign judgment – it may be necessary to recognise a foreign judgment regarding maternity irrespective of the fact that the designated mother did not give birth to the child and notwithstanding the lack of Swedish legal support for such recognition. In the event the child’s rights cannot be catered to in some other, more appropriate way which is also com-

patible with the best interests of the child, the judgment is to be recognised. No such alternative was available in the relevant situation. Accordingly, the foreign judgment was recognised in Sweden.

The Supreme Court decided an additional case later during the year regarding the recognition of a foreign judgment involving the establishment of maternity following a surrogacy arrangement (the “*Surrogacy Arrangement in Arkansas*” case, Supreme Court decision of 17 December 2019 in case no. Ö 3622-19). The Supreme Court reached a decision also in this case that the foreign judgment was to be recognised in order to protect the rights of the child.

Thus, in these cases, Supreme Court precedents complemented applicable law by establishing a particular possibility to recognise a foreign judgment. Had the Parliament instead chosen to implement legislation in the area, it is likely there would have been neither a need nor room for the Court to supplement applicable law.

Accordingly, the activity of the legislature plays a significant role in the need for precedents and the room for the Supreme Court to supplement applicable law. When the legislature is less active, it may require greater input from the Supreme Court.

ANDERS EKA
JUSTICE AND
PRESIDENT OF THE SUPREME COURT



ew Justices

Two new Justices joined the Supreme Court in 2019. Following years of service as Senior Judge, Head of Division, of the Helsingborg District Court, Stefan Reimer joined in March and Cecilia Renfors, former Parliamentary Ombudsman, came on board in September.

Why did you choose the law?

Stefan: It was happenstance. I had no connection to the practice of law and actually wanted to become a journalist. During my last year of high school, I visited the Göta Court of Appeal for several days with my school. We got to listen to court proceedings and even assisted in presenting some smaller cases. It was exciting and I decided then that I would study law. I started my legal studies in Lund and enjoyed it very much.

Cecilia: It was by chance. I didn't really know what was out there; there were no academics in my family. I had considered becoming a teacher. Two conversations later influenced my decision to choose the law. One was with an acquaintance who watched Perry Mason on TV and told me that she would have liked to be a lawyer. The other was a classmate during high school who told me about meeting people who were studying law and she thought that it would suit me. Uppsala had an appealing vibe. So, I applied for the law programme at Uppsala and it felt right

for me. One frequently chooses a path only to later see where it takes them.

What drew you to apply for a position as Justice?

Stefan: I had been a regular lower court judge for 17 years with a strong interest in the law. I wanted to move on to something more. It was a good opportunity. One of the Justices who was resigning when the Supreme Court was looking for new Justices had lower court experience with an emphasis on criminal law, and I thought the Supreme Court was perhaps looking for someone new with similar experience. I may have stuck my chin out a little, but I did it and have not regretted it.

Cecilia: When choosing jobs, I have really relied on my gut feeling and have passed on openings which have not felt right. What drew me to the Supreme Court was the opportunity to devote myself to the law and delve deeply into legal issues. >

What are your hopes and expectations regarding the work?

Stefan: To be able to work with the law, precedential developments, matters of principle and to participate in the discussion here. I have the feeling that I can contribute and learn a lot.

Cecilia: That it will be fun, but also challenging. To be in a stimulating work environment discussing and collaborating on the tasks to be tackled and the path to a solution. My hope is to be able to break a little new ground, and to be involved and have something important to say.

What were your first days as a Justice like and how was it in the Supreme Court at the beginning?

Stefan: On the first day, I was a little nervous, expectant and excited. I had just changed jobs for the first time in 20 years. A plenary meeting, meeting co-workers and hanging up my photograph – everything went well. The atmosphere is inspiring and pleasant here, and I have felt very welcome. In the beginning it was difficult to find my way around. I try to deliver my files myself instead of sending them by internal post so that I can learn my way around, meet my colleagues and can also provide a little feedback.

Cecilia: The first day and the welcome ceremony were fun and solemn. Since I know many of the Justices, it was not particularly nerve-wracking or stiff. Initially, it was very intense and there were many new impressions. I was returning from a long period of leave spent in my cabin with my dog, but it was simply a matter of throwing myself in at the deep end. It has been very fun.

Is there any special area or particular issue with which you hope to have the opportunity to work?

Stefan: I am very interested in several areas of criminal law including issues relating to intent, mental disorders and sanctions. I hope to be able to be involved in both challenging civil cases and criminal matters. I am experienced in, and will gladly work with, cases with an international dimension. I am also looking forward to new areas.

Cecilia: It would be fun to work with some procedural issues which are known to cause problems in the lower courts. Issues involving fundamental freedoms and rights are something I am versed in from my days as Parliamentary Ombudsman. I also think that intellectual property law issues are exciting. Naturally, I look forward to examining issues involving the Brussels I Regulation. I worked a great deal with this and other private international law issues in civil procedure during my time at the Ministry of Justice. It would be great fun to be able to sink my teeth into some of the issues we struggled with there, i.e. jurisdiction and tort matters and cross-border *lis pendens*.

You both possess solid backgrounds. Which job thus far has been the most fun, most rewarding or influenced you most?

Stefan: Other than my current position as Justice, I would say my work as Senior Judge, Head of Division, which combined the roles of being both the head of a division and a judge. It was fun to make it all work with a good team, identify strategies, improvements and new solutions and to be a participant in the day-to-day activities. I also like to teach. >



Cecilia: Working as Parliamentary Ombudsman was rewarding and has had a profound impact on me. My time at the Ministry of Justice – approximately ten years – was also fun and enriching. I was very pleased with legislative work and international negotiations as well as the political atmosphere. I accepted the position as Director General of the Swedish Broadcasting Commission for Radio and TV because I wanted to see what it was like to do something completely different. Working with media issues was quite enjoyable. I have never had any definite plans for what I wanted to do; I have applied for some jobs and been invited to take on others. Most of it has been by chance; in any event, it feels that way.

What have you taken from your earlier positions?

Stefan: I bring with me solid experience as a judge from the lower courts in which I have seen every sort of case. I am also highly interested in, and possess expertise from, criminal law based on a judge's perspective.

Cecilia: I believe that my legislative work experience is valuable. Through legislative work, one gains an understanding that the creation of new rules is complicated. One must consider carefully the consequences of what one is doing, a consideration that also applies to precedential courts.

As Parliamentary Ombudsman, one enjoys the possibility of developing their writing skills and delving deeply into the law. To formulate oneself so that the message is clear and to work as much as possible to simplify. To think in terms of the rights of individuals relative to governmental authorities and the state. From my time as Parliamentary Ombudsman,

I am aware of the significance of sound values in the role of a public official and the importance of good ethics in the execution of public office.

Where does your drive come from?

Stefan: My great interest in the law. It is fun to solve legal problems. To be honest, it is the large, exciting and difficult cases that I like the most. The difficult cases are the most challenging.

Cecilia: I have a strong desire for things to be correct. When I have a task in front of me, I want to do it as well as possible given the circumstances. I am not really sure where that drive comes from.

What do you think will be the greatest challenge in your role as Justice?

Stefan: How to implement the digitalisation of the Supreme Court's work procedures.

Cecilia: Perhaps being equally engaged when the subject matter is not what one regards as the most enjoyable. But my earlier experiences tell me that once you get in to it and make it past the initial threshold, it is usually always fun.

Do you have any apprehensions?

Stefan: No, not really. Here, it is possible to concentrate on your task even if there is a great deal to read. Yet, time might be scarce when it comes to deadlines. At times it can be difficult to get going, and there are concerns about how to get it all done or having writer's block. It helps that one receives good supporting documentation from the judge referees.

Cecilia: No. There will certainly be situations which are not a great deal of fun and which are tough, but this is nothing I concern myself with in advance. I will take it as it comes.

What do you most like to do when you are not working?

Stefan: I like to read, and I am something of a news nerd. Preferably, the news has an international dimension given that I am interested in the world at large. I am also happy to attend art exhibits and go to the movies. I am also interested in sports and have season tickets to the Helsingborg Sports Association's football club matches together with my son.

Cecilia: If I am in town, I read books and watch some good TV shows. However, when in the outdoors, I prefer to go to the cabin I bought some years ago in the area I come from. My sister has a dog who stays with me when I am there and then he is all mine.

Do you have any good book tips?

Stefan: I read a great deal, everything from non-fiction to history and detective stories. However, my book tip would be *The Art of Losing* by Alice Zeniter. I gave it away at first, but then started reading it myself.

Cecilia: *Butcher's Crossing* by John Williams. It sat on the bookshelf for quite a while before it was time to read it.

Stefan Reimer

Born 1962

Law degree awarded from Lund University, 1988

Associate Judge of the Court of Appeal of Skåne and Blekinge, 1994

Secretary of the Criminal Liability Committee, 1994–1997

Legal Expert at the Ministry of Justice, 1997

Secretary of the Xenotransplantation Committee, 1998–1999

Expert and Secretary of The Mental Disorder (Criminal) Liability Committee, 1999–2002

Judge of the Helsingborg District Court, 2002–2008 (Head of Section between 2005–2008)

Senior Judge, Head of Division, of the Helsingborg District Court, 2008–2019

Cecilia Renfors

Born 1961

Law degree awarded from Uppsala University, 1986

Associate Judge of the Svea Court of Appeal, 1992

Service in the Ministry of Justice, litigation unit, 1992–1999; Legal Expert, subsequently Deputy Director

Service in the Ministry of Justice, Unit for Procedural Law and Court Matters, 1999–2003; Deputy Director General and Deputy Head of Section

Director General of the Swedish Broadcasting Commission for Radio and TV, 2003–2007

Judge of Appeal in the Svea Court of Appeal, 2007–2013

Parliamentary Ombudsman, 2013–2019

Sami law cases in the Supreme Court

In 2009, the Supreme Court held the main hearing in the case between the *Girjas sameby* (a Sami reindeer-herding and economic district) and the state regarding hunting and fishing rights, etc. (the “*Girjas*” case). The main hearing lasted nearly six weeks, and it is one of the most extensive cases in Supreme Court history. The case received a great deal of attention in the media, and the administration of the case involved nearly every category of personnel at the Court.

Another extensive Sami law case heard by the Supreme Court was the so-called “*Taxed Mountains Judgment*” (case NJA 1981, p. 1). The main hearing in that matter lasted nearly eight months in 1979 and 1980.

In addition to the *Girjas* case and the *Taxed Mountains Judgment*, two additional Sami law cases have been heard by the Supreme Court in recent decades: The “*Nordmaling Judgment*” (case NJA 2011, p. 109) and the “*Winter Pasture in Härjedalen*” case (case NJA 2017, p. 102).

The “Girjas” case

The “Taxed Mountains Judgment”

The “Nordmaling Judgment” and the “Winter Pasture in Härjedalen” case

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Maria Ulfsdotter Klang
Judge Referee



The “*Girjas*” case

The *Girjas* case concerns a dispute between the *Girjas sameby* and the state regarding, among

other things, hunting and fishing rights on parts of the *Girjas sameby*'s reindeer pasture. The case was received by the Supreme Court in February 2018 and was assigned to a judge referee (reporting clerk) who works with extensive, noteworthy and particularly difficult cases. A special court clerk was also appointed.

The judge referee presented the case on the issue of leave to appeal in September 2018. Taking into account, for example, the scope and character of the case, five Justices were involved in the examination of whether to grant leave to appeal instead of the normal number of three. Following a grant of leave to appeal, Justice Sten Andersson was appointed to the role of reporting judge, i.e. the Justice with principal responsibility for the case.

In the autumn of 2018 and the beginning of 2019, correspondence was exchanged between the parties while the Court's internal work involving, for example, legal research got underway. The judge referee was primarily responsible for producing the legal research and received substantial assistance in this work from the Court's librarian.

In March 2019, Sten Andersson conducted a preparatory hearing, which is relatively unusual in the Supreme Court. At the meeting, there were discussions regarding, for example, issues of evidence and the main hearing schedule. In the

spring, the other Justices who were to participate in the decision were also appointed, namely Anders Eka, Johnny Herre, Agneta Bäcklund and Ingemar Persson.

The main hearing commenced on 2 September 2019 and lasted until 8 October 2019. Following conclusion of the hearing, deliberations and drafting of the judgment got underway.

The judgment is expected to be issued at the beginning of 2020.

The substance of the *Girjas* case

In 2009, the *Girjas sameby* brought an action against the state with a claim pertaining to hunting and fishing rights. The *Girjas sameby* primarily moved the Court for a finding that the *Girjas sameby* enjoyed a sole right to hunt small game and fish in the area (i.e. parts of the *Girjas sameby*'s reindeer pasture), that the state did not have the right to grant hunting and fishing licences to the area, and that the *Girjas sameby* had the right to grant such licences without the consent of the state. The state contested the *Girjas sameby*'s action. The District Court granted the *Girjas sameby*'s action in its entirety. The Court of Appeal of Upper Norrland determined in its judgment that the *Girjas sameby* had a better right than the state to hunt small game and fish within the area and that the state did not, in its capacity as property owner, have the right to grant licences for small game hunting and fishing in the area. The Court of Appeal dismissed the *Girjas sameby*'s claim regarding the right of the *Girjas sameby*, in the absence of consent from the state, to grant small game hunting and fishing licences.

The judgment has been appealed by both parties. The Supreme Court will review the case in its entirety.



2.

The “*Taxed Mountains Judgment*”

The “*Taxed Mountains case*” (case NJA 1981, p. 1), which resulted in the “*Taxed Mountains Judgment*”, related to a dispute between, among others, certain *samebyar* (Sami reindeer herding and economic districts) and the Swedish state regarding the right to so-called taxed mountains in northern Jämtland. The main hearing lasted nearly eight months. Judgment was issued in January 1981. The reporting judge was Bertil Bengtsson, Justice of the Supreme Court from 1977-1993.

How did you become the reporting judge in the case?

It was entirely by chance. At that time, one of the Justices who had been involved in taking the decision to grant leave to appeal was usually assigned the task of acting as the reporting judge. In the *Taxed Mountains case*, three of us Justices had taken a decision regarding leave to appeal. For various practical reasons, neither of my two colleagues could take on the task as reporting judge and, thus, it was up to me.

Was there a judge referee who assisted you and the other Justices in preparing the case?

Yes, the title was different at that time, but a very experienced and knowledgeable person – comparable to today’s judge referee – had administered the case since its arrival at the Supreme Court. He assisted, among other things, by compiling the case and the legal research. We cooperated

well in the course of the matter. I wish to point out that the legal research was very extensive notwithstanding the fact that, at that time, there was nothing near as much written about Sami law as there is today.

At the end, there were six Justices who tried the case in lieu of the regular five in number. Why did this happen?

At that time, there was no provision according to which the Supreme Court was quorate even if any of the Justices was prevented from hearing the matter after proceedings in the case were underway. This meant that, had we been five Justices and any one of us had become ill, for example, we would not have been able to decide the case with the four remaining Justices. In hindsight, however, this would not have been necessary – the Justices remained fit and healthy for the duration of the lengthy proceedings. >

Bertil Bengtsson
former Justice

Was there any preparatory hearing or the like in the case?

Yes, I met counsel for the preparatory hearing prior to the summer of 1979. Among other things, we discussed the schedule of the impending main hearing. The parties and counsel agreed to a schedule in which the main hearing would take place over a period of approximately two months. However, it was later determined – when the main hearing got underway – that it would hardly be possible to keep to the schedule. In the end, the main hearing lasted nearly eight months – from the end of September 1979 until the beginning of May 1980.

Why did the main hearing take so long?

The scope of the case continued to grow during the course of the proceedings. For example, mention may be made of the fact that the hearing days not infrequently got underway with counsel – particularly the Sami ombudsman – supplementing what had been previously discussed.

It would have certainly been possible to limit the time involved by procedural means. Taking into account the character of the case and its significance for the parties, however, we chose to afford the Sami a great deal of leeway in the manner in which they wanted to present their action.

Did you start the main hearing with an inspection?

Yes, that's right. For a period of two days at the end of September 1979 – immediately after the main hearing got underway – we visited the area which was the subject of the dispute. We flew helicopters over the areas

which gave us an understanding of how large they were. The visit also gave us some insight into various local conditions. On top of it all, it was a very pleasant trip.

How did the administration of the *Taxed Mountains case* affect the other activities of the Supreme Court?

At that time, the Supreme Court was divided into three divisions with six or seven Justices per division. Accordingly, the *Taxed Mountains case* occupied all of the Justices of one division for a period of more than a year. From September 1979 to May 1980, we sat in the main hearing on average three days a week followed by long periods of deliberations.

How did you arrange the work of deliberations and drafting the judgment?

The main hearing was concluded on 6 May 1979. We commenced deliberations immediately and took a break during the summer. We reconvened in the middle of September to continue deliberations.

I had prepared a first draft of the judgment which we used as the basis of our discussions. The method was largely the same as in other cases. We went through my draft and often discussed one or two paragraphs at a time. Based on these discussions, I reworked the text in order to incorporate the views which had been expressed. And we continued like this week after week. Keeping in mind the fact that the judgment is 163 pages long, it took its time. The judgment was published on 29 January 1981, i.e. approximately eight months after the main hearing had been concluded. >



Was there much public or media interest?

I recall that interest was substantial during the initial days of the main hearing, but it quickly died down. When the judgment was published, however, both the media and public expressed great interest but, unfortunately, there were very few who managed to read through the judgment in its entirety. This gave rise to certain misunderstandings both in the mass media and amongst the Sami people. Some failed to understand that the reasons for the judgment contained numerous statements which were advantageous to the Sami and regarded the outcome as a complete defeat for the Sami people.

You have subsequently written several books and articles on the area of Sami law. Did you already have an interest in Sami law issues before the *Taxed Mountains case* or was that something that resulted from the case?

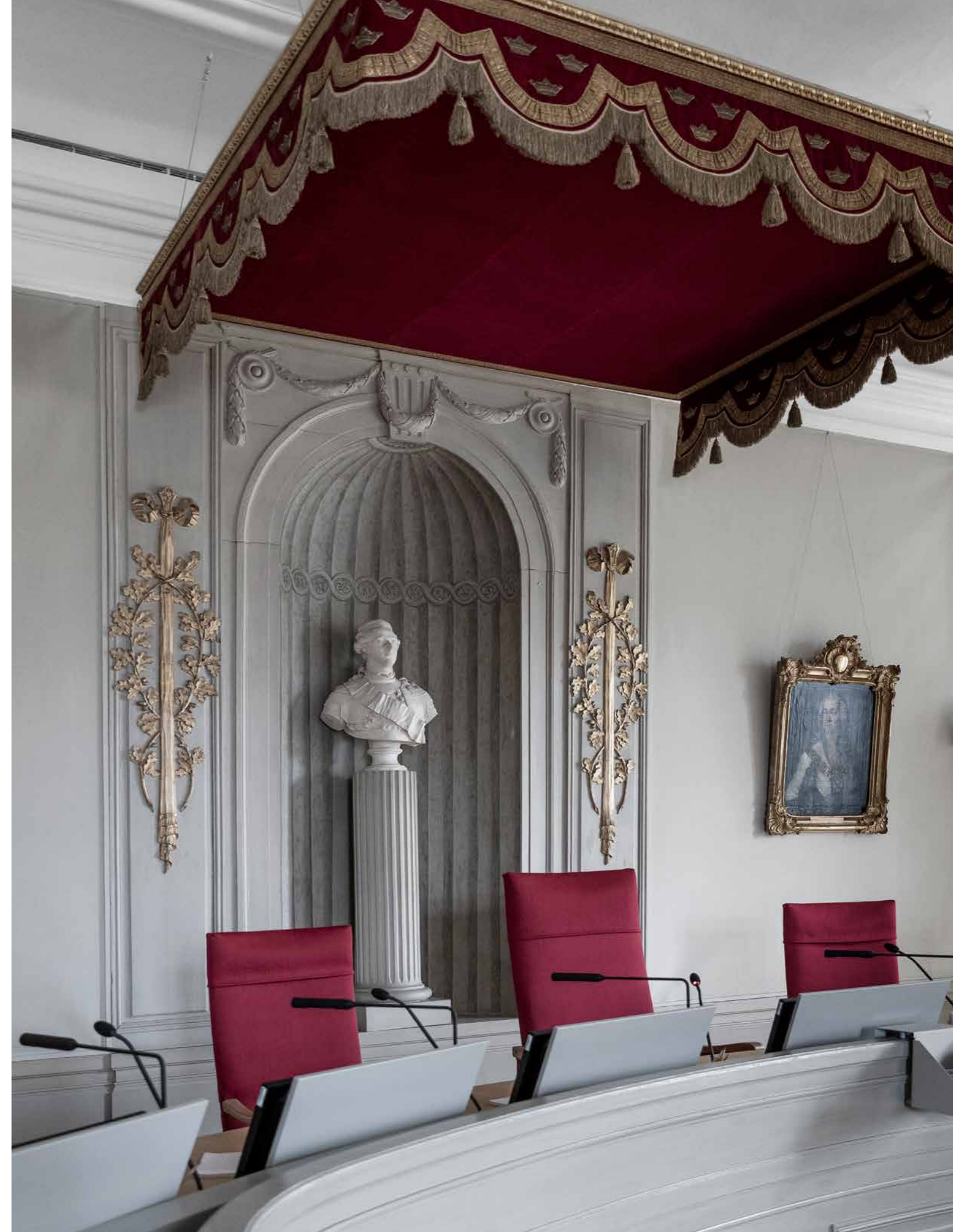
I had not been involved in Sami law issues before my involvement in the *Taxed Mountains case*. After the case was concluded, I was initially quite weary of the material. My interest was reignited, however, when I took out the material some years later. Subsequently, as you mentioned, I began to write a great deal about, and engage myself in, Sami law issues. So, my interest in this legal area was definitely piqued as a consequence of the case.

The substance of the *Taxed Mountains case*

The case involved a dispute between, among others, a number of Sami reindeer-herding and economic districts and the state regarding better rights to the so-called taxed mountains in northern Jämtland. The case addressed, among other things, issues regarding the possibility in earlier times to acquire title to unowned lands by using them for reindeer grazing, hunting and fishing, regarding the legal basis for the origin of state ownership to the mountain lands and whether the Sami people – in the event the state was deemed to be an owner of the taxed mountains – could be deemed to have rights to them over and above that prescribed in the Swedish Reindeer Husbandry Act, and regarding whether certain rules in the Act contravened the protection against discrimination in what was then Chapter 2, section 15 of the Swedish Instrument of Government. The Supreme Court found that ownership of the disputed taxed mountains inured to the state before the Sami people. The action brought by the Sami regarding better rights to such mountains was thus denied.

As regards the reindeer herding right, the Supreme Court stated that the right to reindeer herding on the year-round grazing land constitutes “a special category of strongly protected forest servitude” which was based on a custom for time immemorial. It is civil in nature and enjoys the same constitutional protections as other property.

As far as pertains to the Reindeer Husbandry Act, the Supreme Court found that the regulation of the Sami’s forest servitude in the taxed mountains contained in the Act could not, on the basis of any grounds adduced by the Sami parties, be deemed to entail more far-reaching powers than as followed from the Act. Nor was the provision regarding the grant of rights of use deemed to entail discrimination of the Sami people as a community. In this respect, the Court also denied the action of the Sami parties.





3.

The “*Nordmaling Judgment*” and the “*Winter Pasture in Härjedalen*” case

In addition to the *Girjas* case and the *Taxed Mountains case*, two additional Sami law cases have been heard by the Supreme Court in recent decades: The “*Nordmaling Judgment*” (case NJA 2011, p. 109) and the “*Winter Pasture in Härjedalen*” case (case NJA 2017, p. 102).

The “Nordmaling Judgment”, case NJA 2011, p. 109

In this case, approximately 100 landowners and the municipality of Nordmaling sued three Sami reindeer-herding and economic districts alleging that there was no agreement which was independent of the reindeer herding right (winter grazing) on their property. The issue in the case was whether the relevant area constituted so-called “winter pasture” in accordance with section 3 of the Swedish Reindeer Husbandry Act. In this context, the Court was to examine whether winter grazing of reindeer had been carried out there since “time immemorial”.

The Supreme Court stated that the winter pasture right pursuant to section 3 of the Swedish Reindeer Husbandry Act could be established by means of assessment of where the Sami people conduct reindeer herding by custom. According to the Court, it was also important how reindeer herding was actually conducted.

In an overall assessment of the research in the case, which included older preparatory works and oral evidence, the Supreme Court found that the Sami districts had demonstrated that, at the time the first Reindeer Grazing Act entered into force in 1886, there was a customary right to winter grazing in Nordmaling and this consisted of the properties at issue in the case. Accordingly, the Sami districts were found to have a right to winter grazing on the properties based on custom, and the action brought by the property owners was dismissed.

The “Winter Pasture in Härjedalen” case, case NJA 2017, p. 102

This matter involved a petition for review in a case regarding reindeer husbandry rights. The background of the case was an action brought by >

a large number of property owners in the municipality of Härjedalen at the beginning of the 1990's against five Sami reindeer-herding and economic districts. In the proceedings, the property owners moved for a finding that the Sami districts had no right independent of the agreements to graze reindeer on their properties. The Sami districts contested the action and claimed that they had a right to winter grazing on the properties due to, among other things, immemorial prescription and custom.

The primary question in the case was whether the Sami had used the property owners' lands for winter grazing for such an extended period of time that the Sami districts were thereby entitled to continue to use the properties for winter grazing. The Sami districts were regarded as having the burden of proof that the right to winter grazing had been acquired in this manner. In the case, both parties adduced extensive evidence concerning historical circumstances.

The District Court found that the Sami districts did not have a right to winter grazing on the properties and granted the motion brought by the property owners. The Sami districts appealed to the Court of Appeal which affirmed the judgment of the District

Court. In April 2004, the Supreme Court denied leave to appeal. Accordingly, the judgment of the Court of Appeal became final.

In 2014, one of the Sami districts petitioned for review in the Supreme Court and moved that the case be reconsidered in the Court of Appeal. The basis for the petition for review was adduced to be, among other things, that new circumstances had come to light since judgment was rendered by the Court of Appeal and that new evidence regarding the historical circumstances which – had they been presented during the trial – would likely have led to another outcome.

Initially, the Supreme Court made certain statements regarding the conditions for review in disputes and subsequently observed that much of the material adduced in the review matter was such as could have been adduced in the original trial and which thus could not be adduced as the basis for a decision for review. Furthermore, the Supreme Court found that it was not probable that the courts, had they known of the remaining materials, would have reached another conclusion regarding the right to winter grazing than they actually did. Accordingly, there were no grounds for granting review.





Ruth Bader Ginsburg
Justice of the
U.S. Supreme Court



Visit from Ruth Bader Ginsburg

Ruth Bader Ginsburg (aka RBG) has been a Justice of the U.S. Supreme Court since 1993. She is known for her work regarding gender equality and has participated in several well-known cases in the area, both as counsel before the Supreme Court and later in her capacity as Justice. RBG's human rights efforts were recently acknowledged with the 2019 Gilel Storch Award. In conjunction with the award ceremony in Stockholm, RBG also paid a visit to the Swedish Supreme Court.

RBG was born on 15 March 1933 as Joan Ruth Bader in Brooklyn, New York. In the autumn of 1950, she commenced her studies at Cornell University where she also met her future husband, Martin Ginsburg. In 1954, she both graduated and married Martin Ginsburg who eventually became a prominent tax lawyer.

In 1956, RBG enrolled in Harvard Law School. She was one of only nine women in her class of approximately 500 men. When Martin Ginsburg graduated from Harvard in 1958 and moved to New York, RBG transferred to Columbia Law School in order to be able to accompany him. She graduated with top grades in 1959, but still had difficulties finding work as a woman. RBG then began a career in the academic world with a focus on civil procedure. From 1963 to 1972, she taught at Rutgers Law School and thereafter became the first tenured woman at Columbia

Law School. RBG was involved in the creation of the journal, "Women's Rights Law Reporter", which was the first American journal focused on women's rights.

In 1965, RBG published her first book, "Civil Procedure in Sweden", together with the Swedish jurist, Anders Bruzelius, who was then a judge in the Lund District Court. Prior to writing the book, she travelled to Lund in order to study Swedish civil procedure. The study was a part of a comparative project at Columbia Law School. In 1969, she was granted an honorary doctorate (currently, jubilee honorary doctorate) from the Faculty of Law at Lund University together with Anders Bruzelius.

RBG was engaged in the American Civil Liberties Union in the 1970's >

and was particularly involved in work on cases applicable to gender discrimination. On 25 June 1971, she wrote her first submission to the Supreme Court in the case, *Reed v. Reed*. RBG pursued additional cases concerning gender discrimination up to the Supreme Court and was also successful in, among others, *Frontiero v. Richardson* in 1973 and *Weinberger v. Wiesenfeld* two years later. The latter case involved discrimination of men who, in their capacity as widowers with sole custody of children, did not receive the same subsidies as women in similar situations.

In 1980, Jimmy Carter nominated RBG to the US Court of Appeals for the District of Columbia Circuit in Washington, D.C. In June 1993, Bill Clinton nominated her to the Supreme Court, a position she assumed in August of the same year. After Sandra Day O'Connor, who was appointed to the Supreme Court in 1981, she is the second woman to serve as Justice on the US Supreme Court.

In 1996, RBG wrote the majority opinion in the case of *United States v. Virginia* which opened the way for women to receive military training at the Virginia Military Institute. She has also written many dissenting opinions including in, among others, the gender discrimination case, *Ledbetter v. Goodyear Tire & Rubber Co.*, and in the abortion case, *Gonzales v. Carhart*.

Her husband, Martin Ginsburg, was a great support to RBG throughout her career, and they had two children together. He died of cancer

in 2010. Notwithstanding her own health problems, RBG has rarely missed a work day at the Court. She has a personal trainer and regularly uses the Supreme Court's own gym. At a prize ceremony in the Stockholm Concert Hall on 6 May 2019, RBG was given the Gilel Storch Award for outstanding contributions for human rights and the equal value of all human beings. The statement regarding the reasons for awarding the prize emphasised that, with the law as her instrument, she has been a progressive activist for the rights of minorities and women. "With unwavering integrity, the highest intellectual sharpness and firm humanistic values as the basis, Justice Ginsburg has succeeded in achieving decisive breakthroughs for the equality between women and men."

RBG came to Sweden to receive the Gilel Storch Award personally. The day following the prize ceremony, RBG visited the Swedish Supreme Court where she met with representatives of the Supreme Court and the Supreme Administrative Court. Following introductory remarks by President of the Supreme Court Anders Eka and President of the Supreme Administrative Court Helena Jäderblom, a talk was held with RBG regarding, among other things, her views on positive affirmative action and the interpretation of the American Constitution as well as her reflections regarding the cooperation with young law clerks who assist her at the Supreme Court. The visit concluded with a reception and mingle in the Supreme Court library.





Svante O. Johansson
Justice



Names of the Supreme Court's decisions

The names the Supreme Court sometimes gives to its decisions were previously easily

accessible on the Court's website only if the decision was handed down in 2017 or later. Since the beginning of 2019, all named decisions – even older decisions – are compiled in a public list published on the website.

In Sweden, we have long had a tradition of referring to legal cases by stating the year and page or number in a compilation of judgments.

References to the Supreme Court's decisions were published in a court report referred to as *Nytt Juridiskt Arkiv*, Part 1. ("NJA"). Publication occurs approximately four months after the decision is handed down. When the reference has been published, a reference is made to NJA in connection with the respective decision on the Court's website. A case is accordingly referred to by reference, for example, to "NJA 2017, p. 75". This reference system is also used in the Supreme Court's own judgments.

Referring to legal cases in this way has, in certain situations, given rise to difficulties in quickly recalling the case to which a reference is made. Accordingly, some members of the Court came upon the idea to name precedential cases. The name is a sort of working name which is intended, over and above the case number and NJA number, to simplify recognition of, and reference to, the case.

From the beginning, ascribing names was principally unofficial. When work got underway at the end of 2016, a first step was taken in a review of the names ascribed to the Court's decisions in the legal literature. These were listed and reviewed.

It became clear early on that all of the names ascribed to the decisions in the literature could not be used by the Supreme Court. Thus, work then transitioned into a phase in which it was up to the Justices who heard a case or matter to name the decision. Decisions handed down in 2017 or later have been named in this way.

The new decisions which have been given names have been relatively simple to find on the website. The name has appeared within parentheses under the description of the decision and the case number.

Reference in the running text to the decision might look like this: "Swedish Scapegoats", case NJA 2017, p. 75.

Subsequently, many old cases have been named in conjunction with references to them in the new decisions. Such names have not been as easily found. In order to find a name of such older cases, it was necessary to read through each new decision. This was a time-consuming endeavour. >

Accordingly, a simpler way to find the name of older decisions was sought by persons at law schools.

Thus, the Supreme Court felt that it was appropriate to publish a compilation of the names of all of the named decisions. Such a list was compiled by a so-called naming group. This group includes Johnny Herre, Svante O. Johansson and Malin Bonthron, librarian Sofia Sternberg and one of the Court's administrative clerks.

Commencing in the summer of 2019, there has been a list of compiled names on the Court's website. The list will be updated with the names which are added when new decisions are named and when older decisions have been named in these. At the same time, work is ongoing in order to improve the process of ascribing names to the decisions of the Supreme Court. It appears now that naming cases is here to stay.

SVANTE O. JOHANSSON
JUSTICE



Cases in brief

2019

CIVIL LAW

Reasonable compensation for unauthorised use of a film

(Case NJA 2019, p. 3, the “Dreamfilm” case)

SF moved for SEK eight million as reasonable compensation because a movie had been made available for illegal screening on dreamfilm.se. The Supreme Court stated that there was no established price which could form the basis for the calculation of compensation and, thus, it was possible to conceive of a licence agreement which could have been entered into between the rights holder and someone who wished to exploit the work. However, this method may be associated with substantial difficulties. In such a case, the Court may estimate the reasonable compensation for the exploitation of the work. SF’s method for inferring a licence fee was not deemed to be able to be used as the basis for determining the reasonable compensation. Based on the inquiry in the case, the Supreme Court established the amount at SEK 400,000.

A former domestic partner was not compensated for the cost of work and installations on the other domestic partner’s property

(Case NJA 2019, p. 23, the “Payor Domestic partner” case)

A domestic partner who bore the cost of work and installations on

the other domestic partner’s property requested, after the domestic partners separated, compensation for the amount he paid. He claimed that he had made a loan of the amount to the other domestic partner or that the other domestic partner, in any case, would have enjoyed an unjust profit if no compensation was paid. The domestic partner was not deemed to have proved his assertion that the payment constituted a loan. Nor was he deemed entitled to compensation on the basis that the other domestic partner enjoyed an unjust profit.

Challenge of award

(Case NJA 2019, p. 171, the “Belgor” case)

A Belarussian and a Turkish company were involved in an arbitration dispute in Stockholm regarding a mining project in Turkmenistan. The Belarussian company challenged the award and moved to have it set aside. The company claimed that the tribunal adjudicated a claim which was not covered by the arbitral agreement. The Supreme Court stated that the interpretation of the arbitral agreement should be carried out on the basis of the assumption that the parties to a commercial contractual relationship strive to ensure that disputes within the context of their relationship are to be decided by one and the same forum. A court to which a decision by a tribunal is appealed in respect of a matter of jurisdiction

should keep in mind that it is normally the tribunal which is in the best position to determine the breadth of the arbitral agreement. Setting aside an award should presuppose that the party bringing the challenge shows that the tribunal’s interpretation was incorrect. The Supreme Court was of the opinion that the assertions made by the party bringing the challenge did not constitute grounds for setting aside the assessment by the tribunal of the agreement between the parties. Furthermore, the Supreme Court was also of the position that there were no grounds for setting aside the award based on the other alleged errors in the course of the proceedings.

Nuisance construction work entitled the commercial tenant to a reduction of rent and to prematurely terminate the lease agreement

(Case NJA 2019, p. 445, the “Entré Malmö” case)

A landlord started renovation work in a nearly new shopping mall. This was a nuisance to the tenant. The tenant subsequently terminated the lease agreement claiming that the renovations constituted an impediment and detriment which was a material defect in the right of use. The Supreme Court stated that the renovation constituted such a defect which entitled the tenant to a reduction of rent and that the defect in the right of use of the premises was so substantial that the tenant was entitled to terminate the lease agreement prematurely.

Recognition of a foreign judgment regarding the determination of maternity following a surrogacy arrangement

(Case NJA 2019, p. 504, the “Californian Surrogacy Arrangement” case)

A Swedish couple entered into a surrogacy arrangement in California,

USA, with an egg donated by an anonymous donor and sperm from the husband. An American court found that the Swedish woman was the legal mother of the child. The couple returned together with the child to Sweden. When the couple separated, the Swedish woman petitioned for recognition in Sweden of the American judgment. The Supreme Court observed that there were no statutory rules supporting recognition of foreign judgments regarding maternity which are rendered in countries which allow surrogacy arrangements. Nonetheless, when an actual family relationship has been established between the child and the mother designated in the foreign judgment, it may be necessary to recognise the foreign judgment. In order to ensure the right of the child to respect for the child’s private life and the principle regarding the best interests of the child, the Supreme Court stated that it was necessary to recognise the judgment.

Evidentiary requirement and evaluation of evidence in disputes regarding a better right to seized personal property

(14 October, the “Better Right to Vehicle I-III” case)

In three cases, the Supreme Court has rendered an opinion regarding the examination of evidence and the evidentiary requirement to be placed on third parties in disputes regarding claims involving a better right to personal property which has been seized. The Supreme Court stated that the starting point must be that the evidentiary requirement in a dispute regarding better rights to the seized property is the same as in an enforcement matter; the party who bears the burden of proof in respect of ownership must present complete evidence. In one of the cases, the Supreme Court reached the conclusion that the petitioner proved the >

assertion regarding better right to the seized vehicle. In the other two cases, the Supreme Court was of the opinion that the petitioners had not proved their assertion regarding better right to the vehicles.

The buyer of an owner-occupied apartment did not receive compensation from the seller notwithstanding certain defects in the bathroom

(29 October, the “Bathroom” case)

A good may be deemed defective notwithstanding a reservation regarding an as-is sale where, among other things, the good is in substantially worse condition than the buyer could reasonably assume taking into account the price and other circumstances. According to the Supreme Court, there must be an obvious disparity between the consideration provided by the respective parties. Such disparity was not deemed to exist when the buyer of an owner-occupied apartment discovered several defects in the bathroom of the apartment but the expenses for the repair amounted to only a few per cent of the price.

In serious cases, gambling addiction may form the basis for appointment of an administrator

(30 October, the “Gambling Addiction” case)

In serious cases of alcohol abuse and abuse of other addictive substances, a person may be appointed an administrator. Gambling addiction is currently regarded as entailing the same type of problems as alcoholism and drug abuse. Accordingly, the Supreme Court stated that a gambling addiction should be viewed on par with other forms of addiction even in conjunction with the application of rules regarding appointment of an administrator. According to the Court, cases involving very grave gambling problems which are on the level of gambling addiction may form

the basis of a decision regarding appointment of an administrator. The relevant case involved a person who, due to psychiatric problems and gambling addiction, was incapable of caring for his own property and was thus to be appointed an administrator.

Attorney liability in damages for rendering advice

(7 November, the “Attorney’s Tax Advice” case)

A member of the Swedish Bar Association shall perform his or her engagements honestly and diligently and shall observe good advocate mores. These professional guidelines form the basis for the care to be demonstrated by a member of the Swedish Bar Association. The assessment of care is to be based on the agreement governing the engagement. According to the Court, this involves a customary assessment of care. The assessment is to be primarily focused on the method employed by the member of the bar and whether his or her assessments constitute a professional inquiry into the legal situation prevailing at the time the advice was provided. The relevant case related to the provision of advice as to the manner in which the risk of tax surcharges could be avoided without the companies needing to report the profit from the sale of real estate. The Supreme Court reached the conclusion that the attorney was not careless.

An American judgment establishing maternity following a surrogacy arrangement was recognised when the child had no legal family relationship to anyone else in Sweden

(17 December, the “Surrogacy Arrangement in Arkansas” case)

A Swedish woman entered into a surrogacy arrangement with an American woman. An anonymously donated egg was fertilised with anonymously donated sperm and

implanted in the American woman’s uterus, after which an American court declared that the Swedish woman was the legal mother of the child-to-be. When the Swedish woman returned to Sweden together with the child who did not have a legal representative here, she petitioned for recognition of the American judgment in Sweden. The Supreme Court concluded that there was currently no more suitable manner to see to the child’s right to a private life and satisfy the principle of the best interests of the child than to recognise the judgment in Sweden.

CRIMINAL LAW

Three precedents regarding impediments to enforcement of expulsion based on criminal acts

(Case NJA 2019, p. 47, the “Enforcement of Expulsion I-III” case)

When a court is to decide a criminal matter and the issue of expulsion arises, the court must consider, after the sentence has been served, whether there is an impediment to expulsion. In three different cases, the Supreme Court has provided more detailed instructions regarding the examination to be conducted by the courts. The examination depends on the type of impediment relevant in the case. Where an individual impediment to enforcement exists, e.g. that the foreigner is subject to a risk of the death penalty in their home country, it should normally be possible to determine at the time of issuing judgment whether the impediment will persist for the foreseeable future. As regards general impediments to enforcement, e.g. when there is an armed conflict in the country to which the defendant will be deported, it is often not possible for the court to determine whether the impediment will persist when the sentence has been served. Thus, the main rule should be that the

court takes the decision to expel in such situations. The Supreme Court concluded that expulsion would occur in all three cases.

Special reasons for expulsion due to criminal acts?

(Case NJA 2019, p. 316, the “Foreigner’s Period of Stay” case)

A man was found guilty of rape and sentenced to prison for a term of one year and ten months. The issue was whether he was to be expelled. The man had been staying in Sweden on the basis of a residence permit for a period of eight and a half years when he was prosecuted. He had no family in Sweden but, for the majority of his stay, he was occupied with studies, internships or employment. When a foreigner has stayed for a long period of time in Sweden, expulsion on the basis of criminal activities may only occur where there are special reasons. The Supreme Court found that the starting point is that persons covered by the provision are not to be expelled, but that expulsion may nonetheless occur where there are special circumstances which, in conjunction with an overall assessment, tip the balance in favour of expulsion. Primarily, it is the seriousness of the criminal activity which raises the issue of expulsion which may give rise to special reasons. The personal circumstances of the foreigner are thus relevant, and the length of the period of stay becomes more important over time. The Supreme Court found that there was no special reason for expulsion.

Extradition to China denied

(Case NJA 2019, p. 611)

A request for extradition of a Chinese citizen to China was made in 2018 for prosecution of grave financial crimes. The basis for the request was a detention order and an inquiry which, among other things, contained judgments against, and testimony of, >

persons who had been involved in the alleged criminal activities. In a submission to the Swedish Government, the Supreme Court explained that there was a risk both that the Chinese citizen would be exposed to persecution due to his political activity and that he would be subject to treatment in violation of the European Convention on Human Rights. Accordingly, the Supreme Court found that there was an impediment to extradite the individual to China.

Conviction for negligent rape

(Case NJA 2019, p. 668, the “Overnight Stay” case)

A man spent the night at a woman’s home with whom he had previously only had contact via social media. During the night, he had intercourse with the woman. She was passive and gave no express indication that she wanted to participate in the sexual acts. The Supreme Court observed that a person who, against his or her will, is exposed to sexual advances has no responsibility to say no or in any other manner express their aversion. According to the Supreme Court, the fact that the parties had agreed to share the same bed and that they were dressed only in their undergarments does not mean that the woman freely participated in the sexual acts. The Supreme Court found that it had been proved that the man performed the sexual act without the voluntary participation of the woman. However, it was not shown that the man acted intentionally but, rather, that he had acted with gross negligence. Accordingly, he was found guilty of negligent rape.

Term of imprisonment for requests on social media to donate money to terrorist organisations

(13 November, the “Arms at the Front” case)

A message on an open Facebook account encouraged the public to transfer money to, among others, the Islamic State via two named persons. The issue before the Supreme Court was primarily whether the fact that the Islamic State was party to an armed conflict in Syria entailed a limitation on the criminal liability for violations of the Swedish Recruitment Act. The Supreme Court concluded that such was not the case. In addition, the Supreme Court reached the conclusion that, where money is used for the purchase of weapons for organisations which regularly carry out terrorist acts against civilians as part of warfare, it is not possible to distinguish between the use of the weapons against enemy forces in the armed conflict and use for terrorist acts against civilians. The accused was found guilty of a breach of the Swedish Recruitment Act and sentenced to a term of imprisonment of six months.

The value threshold for minor theft during shoplifting is raised to SEK 1,250

(10 December, the “Minor Theft Threshold” case)

A theft was considered minor theft (previously shoplifting) where the crime, taking into account the value of that which was taken and other circumstances of the crime, is to be deemed minor. In conjunction with a shop theft, the value of the stolen property is generally determinative in the classification. The Supreme Court has concluded that the value threshold of SEK 1,000 which has been applied in legal precedent in respect of shop thefts since 2009 is to be raised to SEK 1,250.



The year in brief

28 and 29 January

The Supreme Court visited the Värmland District Court and the Vänerborg District Court. Head of Division Gudmund Toijer, Administrative Director Måns Wigén, Judge Referees Glenn Karlsson and Lina Zettergren and Administrative Junior Judge Mathilde Ramel participated from the Supreme Court.

11 and 12 February

The Supreme Court visited the Varberg District Court and the Helsingborg District Court. Justices Ann-Christine Lindeblad, Head of Drafting Division Maria Edwardsson, Judge Referees Janina Kastevik and Malin Hjalmarson and Administrative Junior Judge Simon Rosdahl participated from the Supreme Court.

4 and 5 March

The Supreme Court visited the Malmö District Court and the Ystad District Court. Head of Division Gudmund Toijer, Administrative Director Måns Wigén, Judge Referees Josefine Wendel and Anna Eberståhl and Administrative Junior Judge Simon Rosdahl participated from the Supreme Court.

6 March

A delegation from the Thai judiciary visited the Supreme Court.

25 March

Stefan Reimer joined as new Justice of the Supreme Court. Prior to joining the Supreme Court, he worked as Senior Judge, Head of Division, of the Helsingborg District Court.

7-9 April

A judges' symposium for the Nordic Supreme Courts was arranged in Tusby, Finland. President Anders Eka, Head of Division Gudmund Toijer and Justices Malin Bonthron and Eric M. Runesson participated from the Supreme Court.

The symposium included discussions regarding the independence of the courts and the relationship between the Court of Justice of the European Union and the national supreme courts.

12 April

The Swedish Association of Judges arranged a symposium on the subject of "The Threat Against the Independence of Judges in Europe – The Rule of Law in Crisis" in Lund. President Anders Eka participated from the Supreme Court.

25 and 26 April

The Supreme Court of Poland arranged an international conference on the subject of "The Future of Europe Based on the Rule of Law" in Warsaw, Poland. President Anders Eka participated from the Supreme Court.

7 May

Ruth Bader Ginsburg, Justice of the U.S. Supreme Court, visited the Swedish Supreme Court in conjunction with her stay in Sweden to receive the Gilel Storch Award. Justices from the Supreme Court and Supreme Administrative Court, as well as representatives from the Gilel Storch Committee, participated during her visit.

13 and 14 May

The Supreme Court visited the Hässleholm District Court and the Kristianstad District Court. Justice Kerstin Calissendorff, Head of Drafting Division Cecilia Hager, Judge Referees Emelie Hansell and Evelina Säfwé and Administrative Junior Judge Filippa Sjöden participated from the Supreme Court.

20 and 21 May

The Supreme Court visited the Court of Appeal of Skåne and Blekinge and the Lund District Court. President Anders Eka, Administrative Director Måns Wigén,

Judge Referees Åsa Brundin and Ylva Meyer and Administrative Junior Judge Simon Rosdahl participated from the Supreme Court.

22 May

A delegation from ECOWAS Court of Justice visited the Swedish Supreme Court.

31 July

Justice Lars Edlund retired. He was appointed Justice in 2012.

21-23 August

The presidents of the Nordic Supreme Courts gathered in Visby. The programme included, among other things, discussions regarding the independence of the courts and a visit to the Gotland District Court.

2 September

Cecilia Renfors joined the Supreme Court as new Justice. She joined the Court after leaving her position as Parliamentary Ombudsman.

3 September

A delegation from the Supreme Court of Indonesia visited the Swedish Supreme Court.

19 September

The Swedish Government appointed Director General at the Ministry of Justice Johan Danelius as Justice of the Supreme Court. He will join the court on 20 January 2020.

20 September

A delegation from the Ministry of Justice of Japan visited the Swedish Supreme Court in order to discuss issues concerning sexual offences legislation.

25 September

The Court of Justice of the European Union arranged a conference on the subject of "The General Court of the European Union in the Digital Era" in Luxembourg. The programme included, among other things, a panel discussion relating to issues of digitalisation. Head of Division Gudmund Toijer participated from the Supreme Court.

7 and 8 October

A delegation of court clerks and law clerks and judge referees visited the Gothenburg District Court and the Court of Appeal for Western Sweden. The visit was part of the Supreme Court's digitalisation work.

11 October

A delegation from the Parliamentary Ombudsman visited the Supreme Court.

21 October

The President of the International Criminal Court, Chile Eboe-Osuji, visited the Supreme Court.

14 November

The Parliamentary Committee on the Constitution met representatives from the Swedish Supreme Court and Supreme Administrative Court for a discussion regarding, among other things, the constitutional role of the courts of highest instance and the creation of law through precedent.

17-19 November

The Court of Justice of the European Union arranged a meeting of judges in Luxembourg for judges of the highest courts in the EU Member States. The programme consisted, among other things, of workshops within various EU legal areas. Justices Kerstin Calissendorff and Petter Asp participated from the Supreme Court.

18 November

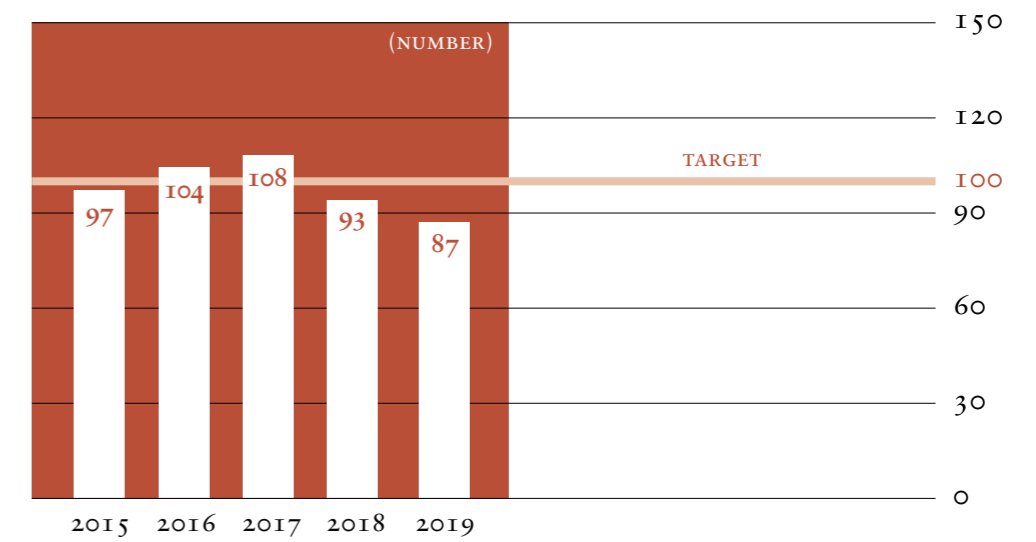
The Supreme Court visited the Blekinge District Court. Head of Division Gudmund Toijer, Head of Drafting Division Maria Edwardsson, Judge Referee Elisabeth Ståhl and Administrative Junior Judge Filippa Sjöden participated from the Supreme Court.

2-6 December

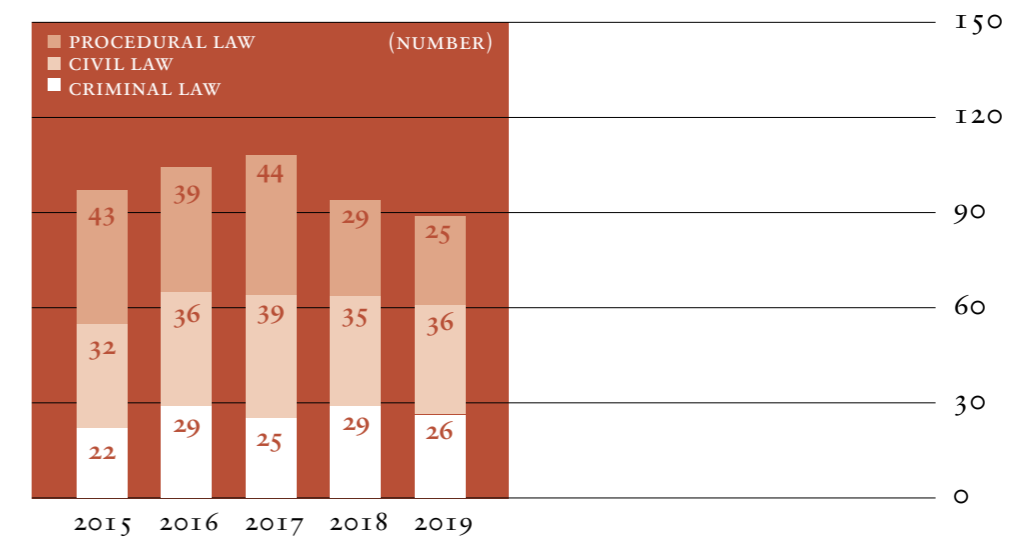
Within the context of an exchange programme arranged by the Network of the Presidents of the Supreme Judicial Courts of the European Union, the Swedish Supreme Court received a Justice from the Supreme Court of the Czech Republic.

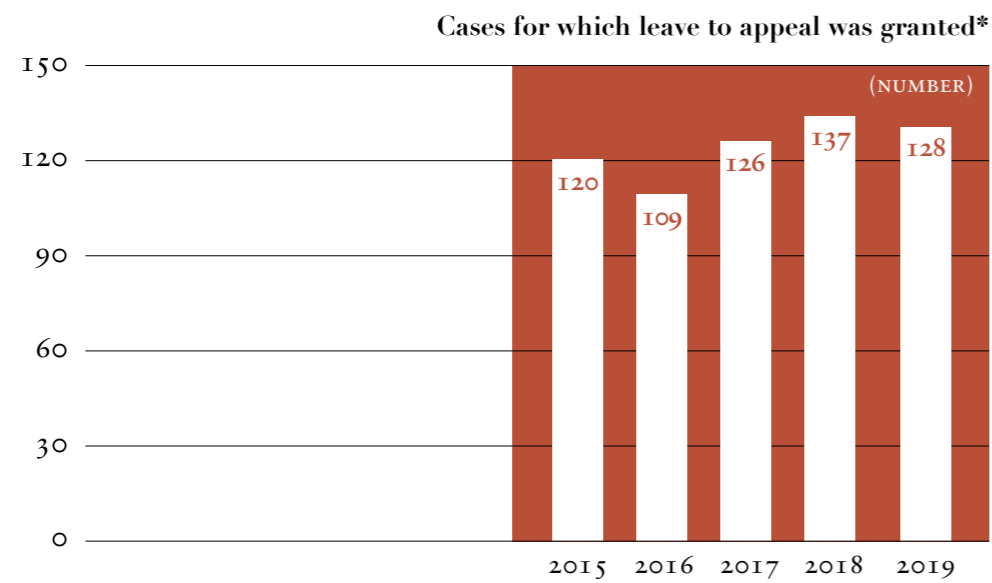
STATISTICS

Precedents



Precedents per area of the law





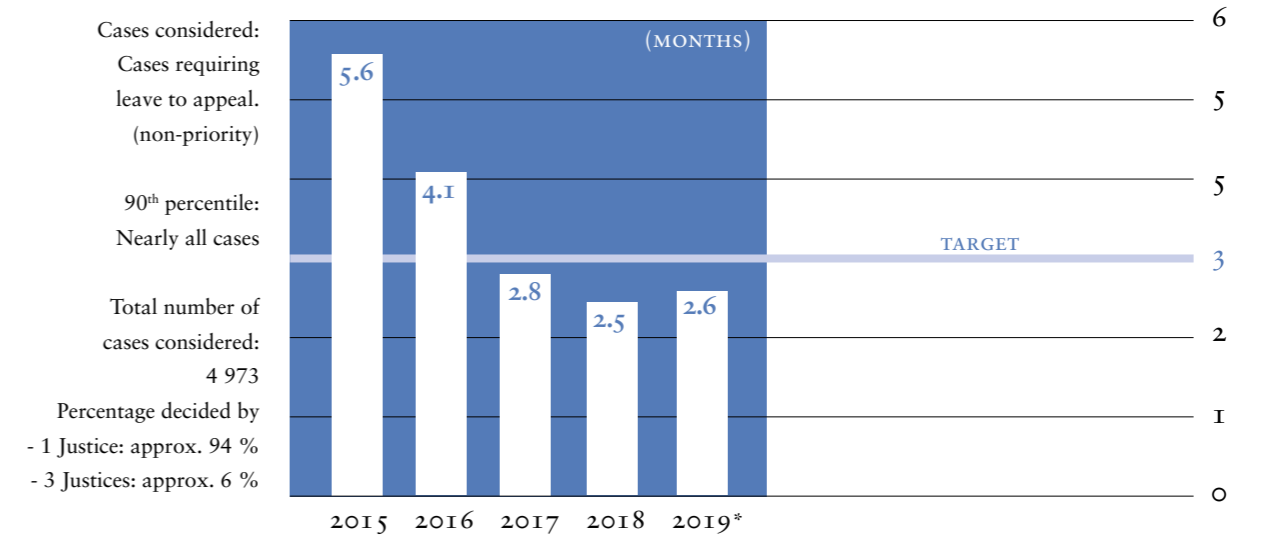
*Includes leave to appeal granted by the courts of appeal.



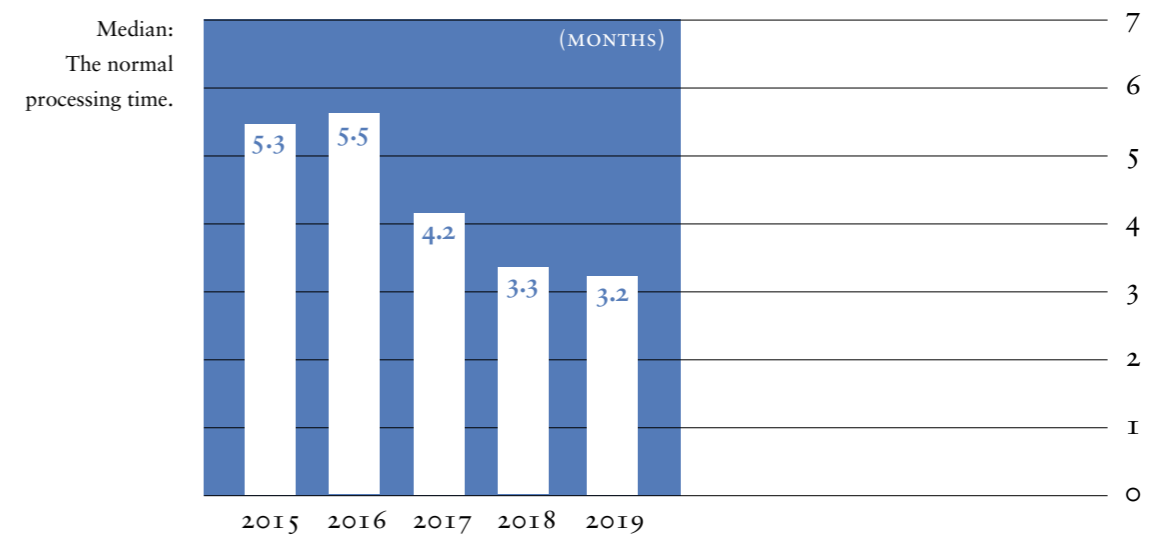
*Includes leave to appeal granted by the courts of appeal.

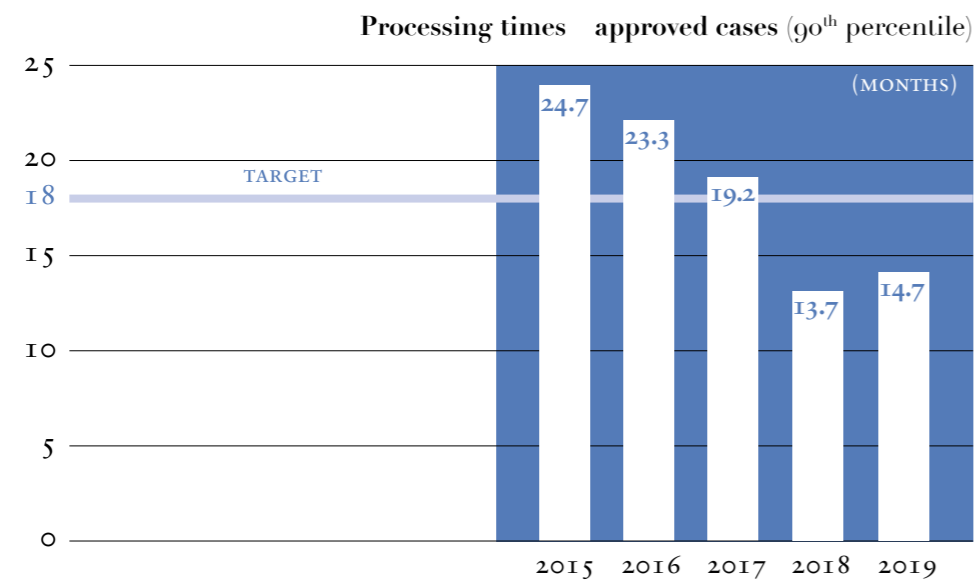
Processing times cases requiring leave to appeal (90th percentile)

Time to decision regarding leave to appeal



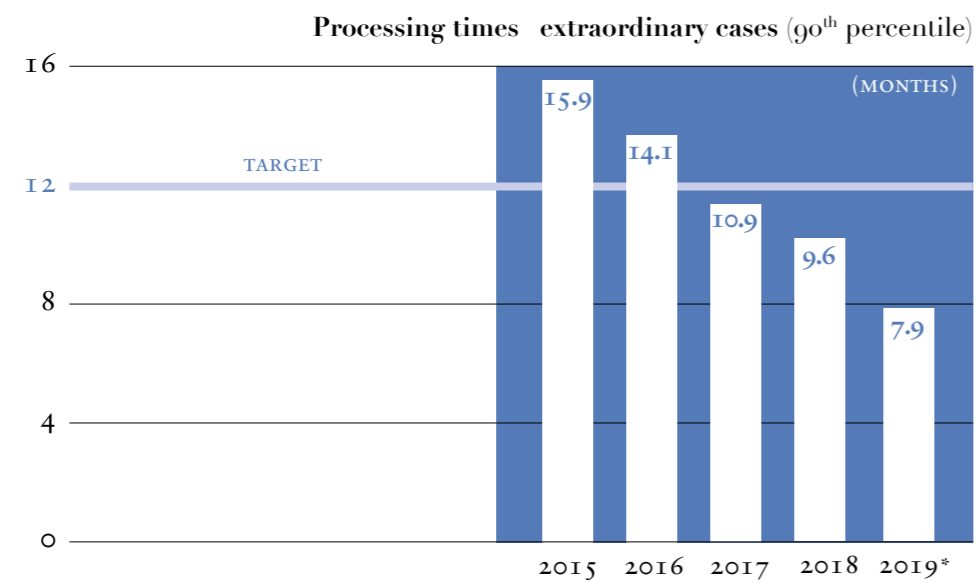
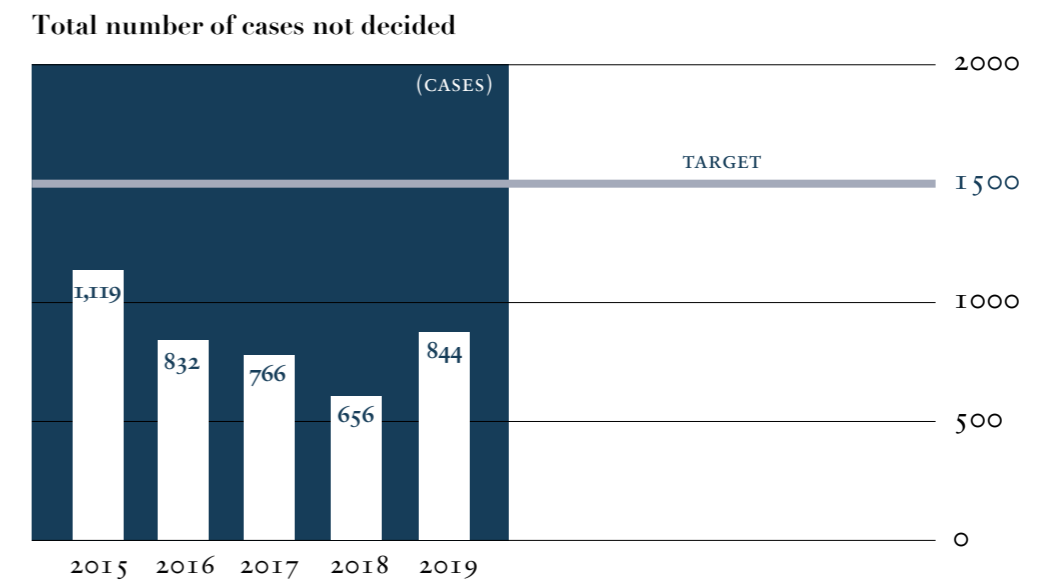
Processing times time to approval for leave to appeal (median)





Approved cases:
Cases for which leave to appeal was granted.
(non-priority)

90th percentile:
Nearly all cases.



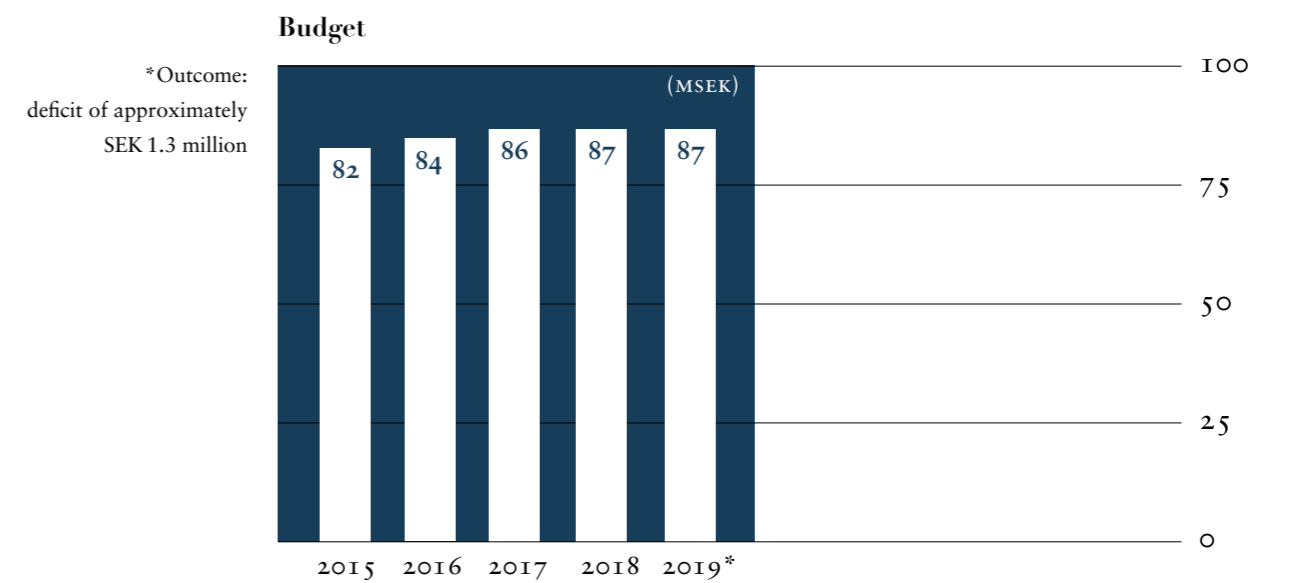
Extraordinary cases:
Grounds for new trial, grave procedural error, etc. (non-priority)

90th percentile:
Nearly all cases.

Total number of cases decided: 875

Percentage decided by

- 1 Justice: approx. 87 %
- 3 Justices: approx. 9 %
- 5 Justices: approx. 4 %





The Justices of the Supreme Court

ANDERS EKA, BORN 1961, JUSTICE SINCE 2013, PRESIDENT SINCE 2018

GUDMUND TOIJER, BORN 1956, JUSTICE SINCE 2007, HEAD OF DIVISION SINCE 2016

ANN-CHRISTINE LINDEBLAD, BORN 1954, JUSTICE SINCE 2002

KERSTIN CALISSENDORFF, BORN 1955, JUSTICE SINCE 2003

JOHNNY HERRE, BORN 1963, JUSTICE SINCE 2010

AGNETA BÄCKLUND, BORN 1960, JUSTICE SINCE 2010

INGEMAR PERSSON, BORN 1954, JUSTICE SINCE 2010

SVANTE O. JOHANSSON, BORN 1960, JUSTICE SINCE 2011

DAG MATTSSON, BORN 1957, JUSTICE SINCE 2012

STEN ANDERSSON, BORN 1955, JUSTICE SINCE 2016

STEFAN JOHANSSON, BORN 1965, JUSTICE SINCE 2016

PETTER ASP, BORN 1970, JUSTICE SINCE 2017

MALIN BONTHRON, BORN 1967, JUSTICE SINCE 2017

ERIC M. RUNESSON, BORN 1960, JUSTICE SINCE 2018

STEFAN REIMER, BORN 1962, JUSTICE SINCE 2019

CECILIA RENFORS, BORN 1961, JUSTICE SINCE 2019



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