HD 2021

ACTIVITY REPORT OF THE SUPREME COURT OF SWEDEN

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A word from the President

The foundation of our judiciary is a three-tier system. This is also the arrangement elsewhere in much of Europe. As far as the general courts are concerned, this means that a case is first adjudicated by one of the country's 48 district courts from which appeals may be made to one of the six courts of appeal. The final court in the hierarchy is the Supreme Court.

The fundamental idea underlying this court hierarchy is that everyone is entitled to a primary determination in the district court, that the role of the courts of appeal is to review and provide quality assurance and, in principle, that the Supreme Court shall purely serve as a precedential court. Yet, this has not always been the view of the matter.

When the Supreme Court was established in 1789, the prospects of obtaining review by the Court were poor. However, during the 1800's, the possibilities improved, leading to an ever-increasing case load. Various reforms were considered, but no real discussion was raised about restricting review exclusively to principle questions. Instead, the number of Justices was increased in order to address the growing number of cases and, at the beginning of the 1900's, there were sometimes as many as 28 Justices.

Subsequently, however, the discussion about restricting the possibilities of obtaining review in the Supreme Court became all the more relevant. Following the implementation of certain changes during the first part of the 1900's, a 1971 reform involved a clear shift in the view of the Supreme Court's role and tasks. By virtue of the reform, it was established that the Supreme Court, in principle, would be exclusively devoted to examining questions which were important for the guidance of the application of law.

The reformation of the rules regarding the possibilities to obtain review in the Supreme Court – as well as in the courts of appeal – continued after 1971. Several of these reforms were intended to improve the conditions under which the Supreme Court operated as a precedential court. Still, there is no doubt that the principal shift in the role and tasks of the Supreme Court came with the 1971 reform.

In order to mark the 50th anniversary of this reform, the Supreme Court held a large symposium in November entitled "The Supreme Court: 50 Years as a Precedential Court". The symposium was well attended and saw the participation in the discussions by, among others, judges, prosecutors, attorneys and legal scholars. Representatives of the supreme courts of other Nordic countries also took part.

The symposium was by and large intended to also be forward-look-

ing and discuss the challenges to the Court's possibilities to fulfil its precedential task in the best manner possible.

In this regard, it is important that cases make their way to the Supreme Court and that the Court has a sufficiently diverse pool from which to choose when selecting cases suitable as precedent. In this context, the reform – with a general requirement of leave to appeal in the court of appeal – has brought about a reduction in the number of civil cases and court matters which are substantively examined by the courts of appeal. This demands the particular attention of the Supreme Court.

The case load is another challenge for the future. As with the district courts and courts of appeal, there has been a clear increase in the number of cases received by the Supreme Court in recent times. Viewed over a two-year period, the number of incoming cases has increased by 20 per cent. It is important that the way we deal with cases which are not granted leave to appeal is both according to the rule of law and efficient, while also ensuring that the cases which will lead to precedent will receive all the consideration and engagement they require. This has worked well so far. However, if the case load continues to climb in years to come, we will likely be compelled to further expand our ranks. In addition, the legislature may need to consider reforms to reduce the Supreme Court's workload. This latter aspect applies in particular to the tasks performed by the Court in parallel with being a precedential court.

These and similar issues were discussed during the symposium I mentioned above. Other questions relating to the Supreme Court as a precedential court will be addressed in subsequent pages of this Activity Report.

Naturally, 2021 was also characterised by the Covid 19 pandemic. During the first part of the year, as it was during the preceding year, the work of the Court was largely conducted at a distance by digital means. To a large extent, the staff of the Court used the opportunity to work from home. After the summer, work could gradually start moving towards normal. Let us see how things develop. In any event, it is likely that Court staff who have the possibility to do so will work at a distance more often than before the pandemic. To a certain extent, digital meeting forms will be used also in the future when the balance tips in favour of the advantages. One obvious example is shorter meetings, particularly when lengthy journeys can be avoided.

As work returned to normalcy during the latter part of the year, international work and exchanges also got underway. For the first time in two years, a meeting was held in September amongst the Nordic supreme courts. In October, furthermore, the Supreme Court and the Supreme Administrative Court jointly received a delegation from the European Court of Human Rights, headed by Robert Spano, the president of the court. A section regarding this visit is presented later in the Activity Report.

As regards international matters, I wish to also mention the fact that we launched a new part of our English website during the year. It contains translations of certain judgments, primarily those we deem to be of interest also outside Sweden.

One of the translated judgments concerns war crimes. It illustrates the many ways in which international aspects affect the work of the courts more and more.

The case concerned a man who served as a soldier in the Kurdish Peshmerga forces during the Iraqi civil war. In connection with an offensive in which enemy combatants had been killed, he posed with dead bodies on four occasions for photographs and a film. In the photographs and film, the victims were mutilated or dismembered while the man, together with others, posed in a group, sat next to a deceased's body while it was desecrated, or placed his foot on the deceased's body. The photographs and film were subsequently published in social media. The man was prosecuted for crimes in accordance with the Act on Criminal Responsibility for Genocide, Crimes Against Humanity and War Crimes which consisted of him, by virtue of posing, having seriously violated the personal dignity of the dead persons by humiliating or degrading treatment.

In order for liability for war crimes to arise in a case such as this one, it is necessary that the persons who have been subjected to the act are so-called protected persons in international humanitarian law. The central question in the case was whether also the dead persons were covered by the term protected persons.

Such a question may not be decided exclusively in accordance with Swedish law but, rather, an interpretation and application must be made with considerable regard for the rules of international law and the manner in which they are interpreted and applied by the International Criminal Court and international tribunals such as the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda. Decisions from the highest courts of other countries may also be relevant.

The Supreme Court concluded in the case that dead persons may be regarded as protected persons in international humanitarian law. Accordingly, this was also the purport of the Swedish regime. The man was found guilty of war crimes. In its deliberations, the Court ascribed great weight to the manner in which the German Federal Court of Justice had ruled in similar cases.

By translating judgments, it is our hope that the courts of other countries will be able to learn about the considerations made by the Swedish Supreme Court in legal areas of this type. An increase in understanding of how a certain country has assessed a legal issue provides better conditions for cases with an international element to be assessed in a similar way irrespective of the country in which the case arises.

The entire judgment ("The War Poses" case, case NJA 2021, p. 303) can, like many other precedents, be found in English on the website of the Supreme Court.

With that said it is now time for me to wish you good reading. It is my hope that you will find this year's Activity Report to be informative and interesting.

ANDERS EKA
JUSTICE AND PRESIDENT OF
THE SUPREME COURT


FRÅNVARO
Onsdag 22/9 →

The Supreme Court and the pandemic- how has work been affected?

Yet another year has passed in the shadow of the pandemic and, like everyone else, the Supreme Court has laboured to adapt its activities to the new situation. We have asked some colleagues what impact the pandemic has had on their work, whether they perceive any advantages or disadvantages in the new way of working, and what they believe the future holds.

Özlem Sarihan – Court Clerk

"Before the pandemic, we clerks had no possibility to work from home because our work was closely tied to physical documents. During the pandemic, and thanks to the digitalisation of the Supreme Court, we have had the opportunity to carry out many of our work tasks from home on our computers."

"As far as I'm concerned, being able to work from home has been advantageous. It has offered flexibility and made it easier to put the pieces of the work-family puzzle together. It also seems to me that it has been easier to arrange and participate in internal training and information meetings when they are held digitally. The way I see it, this has made our activities less vulnerable and easier to administer because more of us have been able to work and participate in the meetings. One disadvantage is that I have missed seeing my colleagues."

"I believe that working digitally and the opportunity to work from home that has emerged during the pandemic will continue."

Kim Shaw – Drafting Law Clerk

"The way I work has become more digital and, to a large extent, I have worked from home. Previously, for example, it was always the case that I did proof reading on a paper printout but, during the pandemic, I have learned to do it on the computer. I have also started using digital communications such as Skype and the telephone more frequently during the pandemic than I have previously."

"Working digitally has had its advantages, for example, in terms of time savings. It seems intuitive that

Özlem Sarihan
Court Clerk


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the Supreme Court should work digitally. The main disadvantage of working from home and digitally is the loss of what would otherwise be natural opportunities to talk to your colleagues and get to know them better. It is not as natural to do so when asking questions on the telephone or by Skype as when passing by a colleague's office."

"The digitalisation of the Supreme Court coincided with the pandemic restrictions, and it seems to me that the pandemic accelerated digitalisation and that working digitally is here to stay. I also believe that working from home and at a distance will be more common in the future than it was prior to the pandemic."

Agneta Bäcklund – Justice

"I have worked from home a great deal more during the pandemic and set up a new workstation in my flat."

"Working from home has blurred the lines between work time and leisure time. One works later into the evening but can also pay a visit to the laundry room in the middle of the day. It has been nice working from home; it is another sort of freedom if one enjoys being alone. The disadvantage is not seeing your colleagues, and life becomes a little more boring. Digital meetings have worked well. In my view, however, not all aspects of work benefit from working at a distance."

"I hope and believe that the Court will be more amenable to working at a distance in the future. It is highly advantageous for many of us to be able to work from home and not commit unnecessary time to travel. There are no legal impediments to working from home and, during the pandemic, we have gained the experience to work more flexibly. For society at large, it is my hope that the experience we have gained during the pandemic will mean that people will stop making lengthy trips to attend meetings which can just as readily be held digitally."

Cicilia Traband - Archivist

"I started working at the Supreme Court during the pandemic, so I do not know what it was like before. Starting a new job when so many people are working from home is special. It is regrettable that so many enjoyable activities and social gatherings were cancelled."

"The archive staff have essentially needed to be on site notwithstanding the recommendation to work from home. The archive, with documents dating back to 1995, is principally paper-based so, for our part, the tasks that can be performed at a distance are limited. What is particularly important for a support function such as the archive is the social component needed to strengthen the feeling of connection to the central operation. I believe that spontaneous meetings in the form of coffee breaks, for example, lay the groundwork for solid collaboration. However, it is wonderful that the operations work so well notwithstanding the pandemic and the restrictions we needed to adapt to."

"In the future, I believe that functio-


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ning routines will be critical to digital operations. We need to constantly maintain and cultivate such routines. As far as the archive is concerned, the next step in the digitalisation work is the link to the e-archive. This will be a big step forward in digital development and, in my view, some icing on the cake in the development work of the Supreme Court towards a more digitalised way of working."

Saman Ali – Office Attendant

"I have worked as usual, on site, with regular office hours because the office's front desk must be staffed. My work duties have not changed since before the pandemic, but public visiting hours for the Supreme Court have been shorter and there have been fewer oral proceedings. We have had fewer visitors, and the Supreme Court has not received any study visits."

"The shorter visiting hours and reduced number of visitors have been advantageous for me even though I enjoy receiving and talking to everyone who comes to the Supreme Court. One disadvantage has been that there are fewer colleagues present at the Supreme Court. As a result, among other things, I haven't had the opportunity to meet with those colleagues who started working at the Supreme Court at a distance from Gothenburg and Malmö."

"I believe that operations will essentially return to normal after the pandemic, but working from home will be more common since it is more efficient to do so in terms of time and expense."

Claes Söderqvist – Head of Drafting Division

"Most of the meetings have been moved to cyberspace during the pandemic. This has had an impact both on planning and, somewhat, also on the content of the meetings. The large component of working from home has also rendered it necessary to maintain contact primarily by telephone and e-mail. Nonetheless, given how professional and self-starting the staff of the Supreme Court is, I have never felt "uncertain" about providing direction at a distance."

"It has been easier to arrange meetings on short notice and it has been efficient through and through in terms of time. On the other hand, it has been difficult to provoke lively debate digitally. It has also been a challenge to work with staff issues and, in particular, a sense of community and collaboration has also been a challenge when face-to-face meetings have not been possible."

"Largely, operations will mirror the situation preceding the pandemic. At the same time, I believe we have grown and are now sufficiently mature to work in a somewhat new way. Personally, I am definitively less intimidated by technology and will strive to exploit the advantages offered by working at a distance and digital meetings."

Saman Ali
Office Attendant

The Supreme Court: 50 years as a precedential court

It has been 50 years since the Supreme Court began to serve purely as a precedential court. The fact that the Court is a precedential court means that it must adopt positions on certain specific questions, e.g. whether a decision is to be published in the journal of collected judgments referred to as *Nytt juridiskt arkiv* (or "NJA") and whether it involves such a change in case law that all Justices must participate (in plenum). One important task of the Supreme Court is to identify cases which will be granted leave to appeal and substantively examined. The manner in which this occurs and the reasoning of the Court relative to other issues relating to the formation of precedent are addressed in this section. We will also learn whether readers of the precedents believe that the Supreme Court has accomplished the task conferred upon it by virtue of the 1971 reform.

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3 *Special issues for a precedential court*

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I. The historical development

Historically, the chances of obtaining review of a matter in the Supreme Court have been quite limited. Initially, extraordinary reasons were necessary and the appellant was required to pay a fee. As early as the 1800's, the case load posed a problem which was addressed essentially by increasing the fee. In 1915, the processing time was two years for more than half the cases. Certain limitations were then imposed on the right to appeal by means of limitations on value and on minor criminal offences. An additional reform was to require leave to appeal in more cases. The grounds for leave to appeal which were previously applied for minor cases were also implemented for the more substantial ones and, furthermore, two new grounds were added – the amendment exemption and the so-called general exemption.

Through the appeals reform in 1971, the possibility of obtaining adjudication in the Supreme Court was limited to questions for which examination by the Court was important for guidance in the application of the law and when there were extraordinary reasons. The task of administering justice was left primarily to the lower courts. The previous possibility to obtain an amendment exemption was abolished – as a consequence of which the Supreme Court no longer has any overall responsibility for ensuring a substantively correct outcome in cases.

The hope that the reform would lead to a reduced case load did not come to fruition. Quite the contrary, the number of cases increased in subsequent years, primarily due to the fact that cases decided by the lower courts increased. Although the determination of leave to appeal could proceed more quickly under the new rules, it nonetheless demanded a disproportionate amount of work time. Furthermore, it was necessary to improve the conditions for ensuring that cases which were interesting from a precedential point of view could make their way to the Court. Additional reforms were thus required in order for the Supreme Court to be able to focus on its role of creating precedent. The rules regarding the composition of the Court changed several times in order to be more flexible. A possibility was also implemented for a precedential issue to be referred under certain circumstances directly to the Supreme Court as well as a possibility to directly examine a precedential issue upon an appeal of a denial to grant leave to appeal.

Serving purely as a precedential court has influenced the way in which the Supreme Court formulates its rulings. There has been a transition from a fairly terse writing style which lent itself to interpretation to detailed argumentation of the legal issues, often with reference to previous legal precedent, the preparatory works and the literature. The significance of precedent has grown and – notwithstanding the absence of any formal obligation to comply with them – rulings today hold an especially strong position.

2. What speaks in support of or against granting leave to appeal?

In 2021, the Supreme Court received approximately 7,200 requests for leave to appeal. During the year, roughly 150 were granted, corresponding to about two per cent. Accordingly, extremely few cases are substantively reviewed. What is it that distinguishes those cases that pass through the eye of the needle and are granted leave to appeal?

Consideration of a request

Most appeals present no more than weak reasons for leave to appeal. They are addressed by one Justice after the drafting organisation has provided a brief legal analysis. As a rule, the Justice will deny the request for leave to appeal, but it happens that he or she regards the question as one deserving of more careful review. In these and the other cases in which the drafting organisation has already identified more compelling reasons for granting leave to appeal, a more extensive review and legal analysis is carried out. The issue of leave to appeal is then decided by three Justices.

The content of the appeal carries great weight in the assessment of whether there is reason to grant leave to appeal. The appeal should thus focus on the issue of leave to appeal and clearly emphasise the circumstances which suggest that there is need for a precedent which may be satisfied by an examination of the case appealed.

There may be a number of different reasons for and against granting leave to appeal. The following provides a brief account of the most common reasons and what should be considered in formulating the appeal.

What speaks in support of or against granting leave to appeal?

One compelling reason for leave to appeal is that new legislation has entered into force and that the application of it has revealed a need to complement it with case law. For example, mention may be made of the extension of the crime of rape (the "Overnight Stay" case, case NJA 2019, p. 668).

Diverse positions in the literature (the "Death of the Principal" case, case NJA 2020, p. 446), a contentious legal issue (the "Liquidator's Retention Right" case, case NJA 2019, p. 259) or conflicting judgments from the courts of appeal (the "Kidnapping" case, case NJA 2019, p. 553) may speak in support of granting leave to appeal.

If it emerges that there is a great practical need to clarify a legal issue, the chances for granting leave to appeal improve. Such a need was found in the "Flight to Antalya" case, case NJA 2018, p. 127 and the "Enforcement of Extradition I-III" case, case NJA 2019, p. 47.

From the left in the picture:

Judge Referees Charlotta Törnell, Martina Rönnerman and Charlotte Hellner Kirstein at an internal seminar that the Supreme Court arranged due to the 50th anniversary.

New scientific findings, new technology and new social phenomena may create the need for a new precedent. This was the case in the "Stable HIV Treatment" case, case NJA 2018, p. 369.

Evaluating evidence erroneously or misjudging a case does not constitute grounds for granting leave to appeal (this does not extend to situations in which there may be extraordinary reasons for leave to appeal, e.g. that there are grounds for a new trial, see Chapter 54, Section 10, first paragraph, subsection 2 of the Code of Judicial Procedure). It does happen that the Supreme Court grants leave to appeal on an issue involving evidence, but there must be a clear need for general statements on the manner in which the assessment of evidence is to be carried out or that the question of the burden of proof and evidentiary requirements needs to be clarified. By way of example, mention may be made of the "Balcony Case", case NJA 2015, p. 702 and the "Superior Right to Vehicles I-III" case, case NJA 2019, p. 765.

Something which speaks against granting leave to appeal is that new legislation is underway. The fact that there is a new precedent in an area is something that can, but need not necessarily, speak against granting leave to appeal. It is not uncommon that there is a need to examine a number of cases which in various ways shed light on, for example, the manner in which new legislation is to be interpreted. This has been relevant to the penalty for murder and the Money Laundering Crimes Act.

Even if the case gives rise to a legal issue which appears unclear, it may be so peculiar or infrequent that the Supreme Court does not find a sufficient basis to examine the case. Furthermore, leave to appeal may be denied notwithstanding that the legal issue is per se deemed to be interesting from a precedential point of view. The reason for this may be that the legal issue does not properly come to a head or that the circumstances are so distinct that the legal issue cannot be clarified in principle terms.

Considerations in the formulation of the appeal

A counsel or a party should ensure that the appeal of a ruling focuses on the reasons for leave to appeal. It might be a good idea to avoid repeating what was stated in the judgments of the district court and court of appeal and put effort into clarifying why the case contains a legal issue which is so important that the Supreme Court should examine it. For example, this can be done by explaining specifically how the issue arises in the case and why a ruling in precisely this case is suitable in order to serve as guidance in the application of law.

It might be worth considering whether the Supreme Court can limit leave to appeal to a certain issue in the case (partial leave to appeal). In the event the appeal pertains to leave to appeal in the court of appeal, there may be further reason to argue that the Supreme Court should examine the precedential issue directly, so-called fast-track leave pursuant to Chapter 54, Section 12 a of the Code of Judicial Procedure (see, for example, case NJA 2017, p. 362 which pertained to an issue of the burden of proof in a testamentary dispute). There may also be reasons to consider, as early as in the district court or after leave to appeal has been granted in the court of appeal, whether the case contains such a clear and important precedential issue that it can be "referred" to the Supreme Court pursuant to Chapter 56, Section 13 of the Code of Judicial Procedure (see, for example, the "Print Shop VAT I" case, case NJA 2015, p. 1072).

From the left in the picture:

Svante O. Johansson
Justice

Cecilia Renfors
Justice

Stefan Johansson
Justice

3. Special issues for a precedential court

In its role as a precedential court, the Supreme Court must address certain specific issues. One such issue is when there is reason to modify a previously established legal principle. Another is what constitutes a precedent.

When is a case to be decided in plenum?

By virtue of the fact that the Supreme Court provides guidance relating to the manner in which laws are to be interpreted, the application of law becomes more uniform and foreseeable. In order to provide for the need for foreseeability and stability, it is necessary that case law is not modified too readily. If recurring changes are made to legal principles underlying precedent, there is a risk that they will be stripped of their guiding function. Accordingly, there are provisions in the Code of Judicial Procedure according to which changes to a legal principle require that all Justices of the Supreme Court participate, referred to as *in plenum*.

As a rule, five Justices substantively examine a case. They may refer the case or a certain issue to a plenary session where, in conjunction with the deliberations, it comes to light that the position held by the majority deviates from the legal principle or legal interpretation which was previously adopted by the Supreme Court. A plenary session may also be convened when the case concerns an issue of particular weight for the application of law. One reason for modifying a previously adopted legal principle may be that changes in society have rendered the older position obsolete, less well-founded or purely incorrect. The need for stability in the application of law in these situations must be balanced against the need for legal precedent to evolve in keeping with the times.

The most recent case decided in plenum was the "Restraining Order Review" case, case NJA 2020, p. 1061. The case related to the issue of whether a judicial examination is to be carried out of a restraining order notwithstanding that the term of the order had expired when the court was to decide the case.

According to a previous ruling, case NJA 2007, p. 993, the Supreme Court concluded that a restraining order could not be re-examined after the term of the order had expired. Since a restraining order is registered in the criminal record, it may have consequences for the individual even after the order has ceased to

All of the Justices gathered in the Supreme Court's plenary meeting room.


skäligt.

apply. The Supreme Court noted in the plenary decision that the use of the criminal record in conjunction with various types of suitability examinations had increased in recent years. Societal developments had thus spawned an increase in interest in obtaining review of a decision regarding a restraining order that had expired. The regime which had applied was also not deemed to be compatible in all situations with the Constitutional provision regarding the right to a fair trial and developments in the case law of the European Court of Human Rights. All in all, the Supreme Court found that there were reasons to modify the previous legal principle and allow the party who requested the Court's review of the decision during the period of validity of the restraining order to obtain a substantive review of their action even in situations in which the period of time for the restraining order had expired when the court decided the case.

Reference or notice case?

Not all rulings issued by the Supreme Court constitute precedent. The rulings have been published since 1874 in a journal of collected judgments referred to as *Nytt juridiskt arkiv* or NJA. The journal is divided into a reference section and a notice section. The rulings which are deemed to constitute guidance are published as references, and rulings of lesser principal weight are published as notice cases. In addition, there are rulings which are not published at all, such as decisions to not grant leave to appeal.

The reference rulings are introduced with a heading and often present comprehensive grounds for the decision. For some time now, the Supreme Court has been naming the legal cases and also sometimes names older precedents when they are referred to in subsequent rulings. Guiding rulings, grants of leave to appeal and decisions regarding the procurement of preliminary rulings from the European Court of Justice are published on the Supreme Court's website. This takes place on the same day as the rulings are forwarded to the parties.

On the other hand, the notice cases do not have a heading and are more rigorously edited prior to publication in NJA than the reference cases. They are not published on the website. Most of the notice cases involve decisions appealed from the Swedish Bar Association, matters involving extradition, relief for a substantive defect and other extraordinary remedies.

In conjunction with deciding a case, the Justices who participate in the ruling decide whether it will be published as a reference or notice case. The reason why a ruling is published as a notice case may be that the material legal issue could not be sufficiently well illuminated. Another reason may be that new legislation has been promulgated which renders the ruling less interesting. By virtue of the choice of publication form, the Supreme Court thus indicates which rulings are regarded as serving as guidance.

Sverige

…en svenska mordlagstiftningen är ny sedan deh 1 januari förra året, och nu ska den prövas i högsta instans. Foto…

Högsta domstolen pr… mordlagen – vad ska…

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ska döma i fall som detta efter- som mordlagstiftningen ändra- des månaden före knivskärning- en i lägenheten i Västerås.

– Kort och enkelt sammanfattat kan man säga att den politiska viljan är att fler personer som …

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4. Some commentary on the Supreme Court's rulings

What do readers really think of the Supreme Court's rulings? Has readability improved throughout the years, and is there anything that has room for further development? In order to find out, we have asked some readers about their views of the Supreme Court's precedential activities.

Mårten Schultz – Professor of Civil Law at Stockholm University, **Agneta Ögren** – President of the Court of Appeal of Lower Norrland, **Oisín Cantwell** – reporter and columnist at *Aftonbladet*, and **Marie-Louise Ollén** – Director-General for Legal Affairs at the Swedish Prosecution Authority, have provided their views on the rulings of the Supreme Court.

In your view, how have the Supreme Court precedents changed over time, e.g. in terms of language, structure and clarity?

Mårten: I would like to believe that my view of the change is not merely subjective but, rather, reflects the reality. Supreme Court rulings have become easier to read, have better structure and are clearer. I imagine that structuring the grounds for a decision in numbered paragraphs or starting to name the cases has not been smooth sailing. However, after the fact, you can see that these and similar decisions have made the case law of the Supreme Court clearer and more accessible. For my part, I particularly appreciate the fact that the grounds for decisions are characterised by greater transparency today than before. The Justices write – as far as I can tell as a reader – what they mean to say and steer clear of circumlocutions and fictitious arguments.

Agneta: The precedents of the Supreme Court have developed a great deal and for the better. Today, they use modern language and a structure which is quite appealing. The way the Supreme Court now formulates its precedents makes it much easier to grasp the reasoning. All of this provides clarity. I also want to stress that you can quickly discern whether the Supreme Court will take up a case or not, which is naturally a good thing.

Oisín: In the slightly more than 30 years I have worked as a journalist, language and clarity in judgments have generally developed in a very positive direction. This is true of judgments from district courts and the courts of appeal as well as rulings from the Supreme Court. As a rule, however, the precedents of the Supreme Court are more complicated to

The media frequently writes about the rulings of the Supreme Court. The picture on the left shows an article from *Svenska Dagbladet* 2021-02-08.

grasp than a typical judgment from a lower court, but this is to be expected.

Marie-Louise: Over time, the precedents have become more modern, much clearer and easier to read. It is also good that the precedents have been formulated so you do not need to read the judgments of the lower courts in order to understand the factual circumstances, and that the paragraphs are numbered. Naming cases gives life to the precedents and facilitates accessibility as well.

Also, I appreciate the thorough reasoning with a clear point of departure for what is said regarding the precedential issue which reduces the risk that the precedent will be understood to be the outcome of a single case.

Is there anything about the Supreme Court's rulings you believe should improve or change, or is there any question the Supreme Court should examine that you look forward to?

Mårten: My wish list is long. I would like to see principally broad judgments regarding undue profit, *negotiorum gestio* and various subjects within the area of tort law. In addition, there is obviously room for improvement. The "Assigned Claim" case, case NJA 2017, p. 343, should be changed as soon as possible by the full Court. I pursued the case myself with an organisation I lead and lost.

Agneta: I am looking forward to some precedents relating to the new sexual offences legislation, particularly regarding the interpretation of "voluntary" and how punishment is to be meted out for guilty verdicts.

Oisín: Generally speaking, everything can always be improved in principle and this is also true of the precedents of the Supreme Court. There is room for increased accessibility in terms of language without undermining the complexity often inherent in a precedent. The Supreme Court gets a little gold star for the fact that it has started naming its cases. It lends itself to better understanding.

Marie-Louise: We look forward to the examination of many questions by the Supreme Court. Together with the Swedish Economic Crime Authority, we have a list of a number of pertinent precedential issues each year which should be prioritised in the view of the prosecutor. For example, mention may be made of the lower limit for gross negligence, i.e. under which circumstances involuntary negligence is so reprehensible that it may be deemed to be gross, as well as the standard for circumstantial evidence for it to be sufficient for a finding of guilt.

What is your favourite precedent?

Mårten: The "CFO at ICS" case, case NJA 2005, p. 462, in which the Supreme Court opened up the development of the European Convention in tort law.

Agneta: My favourite precedent is the "Balcony Case", case NJA 2015, p. 702. I think it was a valuable ruling in many ways.

Oisín: I'm still waiting for my favourite precedent. How is the "Whether Swine May Be Released in Oak Forests Act" to be interpreted in the year of Our Lord 2021?

Marie-Louise: I have never thought about it in those terms, but there are of course rulings of particularly great weight and which have provided good guidance. Sometimes, however, it would have been great to listen to the deliberations, particularly where there were several different opinions.

Director-General for Legal Affairs Marie-Louise Ollén (to the left) and President of the Court of Appeal Agneta Ögren (to the right) at the symposium "The Supreme Court: 50 Years as a Precedential Court" which was arranged in November 2021.

Digital events during the pandemic

Like many other workplaces, the Supreme Court has been forced to make adjustments to aspects of its operations during the Corona pandemic. This was apparent, among other things, in the presentation of the so-called Stockholm Package.

The Stockholm Package is an event which is arranged in turns by the Supreme Court and the Supreme Administrative Court. The event is intended for acting associate judges approaching the end of their judge training and encompasses various study visits to public authorities and courts in Stockholm. The purpose of the Stockholm Package is to shed light on the various career paths available to newly minted associate judges. Normally, the Stockholm Package is arranged twice per year but, in 2020, both events were cancelled due to the Corona pandemic. In order to avert a lengthy gap between the events, the Supreme Court, in consultation with the Supreme Administrative Court, decided in the spring of 2021 to arrange an abbreviated version of the Stockholm Package in digital format.

The digital format gave rise to certain practical and technical challenges which were novel to the Supreme Court. Where was the digital broadcast to be recorded? Which technical platform was to be used? And which sound and picture quality was to be achieved? With the help of a production company, we concluded that the Supreme Court's courtroom was the most suitable place for the recording. A stage was brought in and a number of cameras and light sources were mounted around the stage. In a few short hours the room was converted from a courtroom to what may be described as most closely resembling a TV studio – a transformation which we may never experience again.

Forty-odd persons from Sweden's courts of appeal and administrative courts of appeal signed up for the digital Stockholm Package which was presented during an afternoon in June. In order to provide the participants with insight – notwithstanding the fact that their presence was digital – into the work of a judge referee, pre-recorded videos from the premises of the Supreme Court and Supreme Administrative Court at the Bonde Palace and the Sparreska Palace were shown. In addition, live interviews were conducted with Justices and judge referees from both courts. Towards the end of the day, the participants had the opportunity to ask questions with many attendees being curious about what it was like to work as a judge referee at a distance, which is a possibility offered by both courts.

Conducting a digital event in this way was challenging but also educational. Even if we were happy with the event and enjoyed TV stardom for a day, we look forward to future Stockholm Packages in which we will have the opportunity to meet in person.

On stage from the left:

Mattias Attorps
Administrative Junior Judge
Supreme Court

Elisabeth von Salomé
Judge Referee
Supreme Court

Anna Fridh Welin
Judge Referee
Supreme Administrative Court

Visit by the European Court of Human Rights

In October 2021, a delegation from the European Court of Human Rights paid an official visit to Sweden. Robert Spano, the President of the European Court of Human Rights since 2020, and Erik Wennerström, who has been Sweden's judge on the European Court since 2019, participated in the visit. Among others, the delegation met representatives of the Supreme Court and the Supreme Administrative Court.

During a seminar arranged by the Ministry of Foreign Affairs, Robert Spano, Erik Wennerström and Justices Helena Jäderblom and Anders Eka discussed the interaction between the European Court of Human Rights and the national courts. Robert Spano emphasised the importance of an active dialogue between the European Court and the national courts in order to maintain the shared responsibility for protecting human rights in Europe. He underscored the fact that the system could not work without efficient implementation of the European Convention on the national level. He stated that one indication that Sweden has been successful in the implementation of the Convention is the relatively limited number of cases against Sweden before the European Court. However, he stressed the importance of continuing to work to maintain democratic values.

In conjunction with the visit, President of the Supreme Court Anders Eka and President of the Supreme Administrative Court Helena Jäderblom presented a letter to Robert Spano announcing that the courts were joining the Superior Courts Network, a network of the highest courts in Europe. The purpose of the network is to create dialogue between the courts and make information exchanges possible for the efficient implementation of the Convention in the national courts.

During the visit to the Supreme Court, we had the opportunity to ask Erik Wennerström about his views on his work as a judge on the European Court. Before Erik Wennerström was appointed Sweden's judge on the European Court, he was the Director General of the Swedish National Council for Crime Prevention. In addition, he has also worked as an international law advisor at the Ministry for Foreign Affairs and has worked at the Ministry of Justice and the European Commission.

What is it like working as a judge at the European Court?

It is highly rewarding but also very demanding. The European Court is the court of last instance in a legal system which covers over 800 million people. Accordingly, it is clearly important that ▶

Robert Spano and Anders Eka on their way to the Supreme Court.

the work we carry out at the court is correct and well considered. At the same time, the work is rewarding for precisely this reason. When the European Court has established the extent of protection demanded by a certain right, it provides protection for all of those 800 million people; it is immensely rewarding.

What is it like working with colleagues from so many different countries and legal systems?

Since I used to work as a diplomat, it is not entirely foreign to me to work in this type of environment. It demands humility, perceptiveness and an interest in the legal systems of other countries. An interest in languages is also required since the working languages are both English and French. The international environment also makes one feel part of some greater reality. Sometimes, it can be challenging to understand each other's legal systems and, in order to be able to explain certain aspects of the Swedish system, it is necessary to develop an outsider's perspective.

Is Sweden distinctive in some way relative to other Convention States?

Sweden has come a long way in integrating the European Convention with the Swedish legal system. Many of the issues involving the European Convention find a solution in Sweden and in Swedish law – this reflects well on Sweden. This is also reflected in the fact that only approximately 200 applications from Sweden are filed with the European Court each year. Most of these applications pertain to immigration. Furthermore, there are very few matters amongst the applications for the chamber, something which, in my view, testifies to the fact that difficult or systematic challenges are rare in the implementation of the European Convention in the Swedish legal system.

What challenges do you see for the European Court in the future?

Previously, management of the large number of incoming applications was a great challenge internally. Currently, since 2015, there is a system in place to soundly handle the volume of approximately 60,000 applications received by the court each year. Externally, the questioning of the prevailing regional legal system is a great challenge. Unfortunately, there are examples of countries which call into question the legal regime according to which various international undertakings, e.g. the European Convention, have precedence over domestic law. Such doubts jeopardise not only the possibilities for international bodies to carry out their duties but, also, by extension, all regional legal relations between states and between states and individuals.

Do you have any additional thoughts for Swedish jurists?

Given that Sweden has come far in its integration of the European Convention into our legal system, there is much guidance to be gained directly from Swedish case law, e.g. from the Supreme Court or Supreme Administrative Court, regarding the interaction between Swedish law and the European Convention. We need to make the most of this and be proud of it; this possibility does not exist in a large number of Convention States. At the same time, one should also examine the case law which comes directly from the European Court, which can be reached via the HUDOC database, in order to obtain the most recent case law. I also wish to encourage Swedish jurists to visit the European Court. Personal and face-to-face meetings are the best form for creating an understanding of the activities of the European Court.

Hanna Hallonsten

Judge Referee

Erik Wennerström

Judge of the European Court of Human Rights

Cases in brief 2021

CIVIL LAW

Non-domestic partner is not entitled to compensation for relatives

(Case NJA 2021, p. 46, the "Non-domestic Partners" case)

In a collision between two automobiles, the female driver of one of the automobiles was killed. The driver of the other automobile was found guilty of, among other things, causing the death of another person. The woman's non-domestic partner requested compensation for relatives for mental suffering arising as a consequence of the death. The Supreme Court noted that the provision regarding compensation to relatives in the Tort Liability Act is not, in principle, intended to cover non-domestic partners. According to the Court, there must be additional, special circumstances in the relationship in order for non-domestic partners to be deemed to be in a particularly close relationship. Since such was not the case, the man's action was rejected.

Insurance compensation was reduced to one half when the insured provided incorrect information

(Case NJA 2021, p. 159, the "Damaged Motorhome" case)

A vehicle was destroyed by a fire. In conjunction with the claims adjustment, the vehicle owner intentionally provided incorrect information. The insurance company declined to pay compensation. The Supreme Court concluded that the compensation should be subject to a standardised reduction to half of the amount to which the insured would otherwise have been entitled. In the judgment, the Supreme Court made statements of principle regarding the amount of the reduction in insurance compensation which should be a consequence of incorrect information.

When a building on non-freehold property becomes a property fixture

(Case NJA 2021, p. 277, the "Estrid's House" case)

A building which had been constructed on a property by a person other than the property owner was to be regarded as personal property (building on non-freehold property). The building was thereafter transferred to the persons who owned the real estate. However, the transferees owned unequal shares in the building and the property. In connection with a parcelling of land matter, the question arose as to whether the building had become a property fixture or whether it was to continue to be regarded as personal property. The Supreme Court clarified that the building was to be regarded as a property fixture.

House buyer received price reduction for erroneous information regarding useful floor area

(Case NJA 2021, p. 353, the "Split-level House on Ekerö" case)

Two spouses purchased a house by

means of a detached house construction contract. While measuring the house slightly more than one year after taking possession, it was determined that the information in the contract documents regarding the total allocation of the area in useful floor space and ancillary floor space was incorrect. The spouses demanded a price reduction from the contractor. The Supreme Court noted that notice of complaint had been given timely and that the price reduction was to be determined taking into account the materiality of the defect for the consumer. The assessment should proceed on the basis of the difference in the market value between the service agreed and service provided. It was not possible to reach any certain conclusions regarding the difference in the market value entailed in the error for the spouses. The price reduction was thus determined to be a reasonable amount based on an overall assessment of the investigation in the case.

Damages when a stormwater pipeline was not managed with adequate regard for the neighbours

(Case NJA 2021, p. 473, the "Water Damage to the Neighbour's House" case)

A facility for the removal of stormwater from a property was broken and caused damage on the neighbouring property. The Supreme Court found that the owner of such a facility may be liable to pay damages to the neighbours in the event the facility is not inspected to a sufficient degree when the owner has cause to suspect that there may be defects in the facility.

Authorisation for a guardian and administrator to apply for divorce (I and II)

(Case NJA 2021, p. 547 I and II, the "Guardian and Divorce" case and the "Administrator and Divorce" case)

In two different cases, an administrator and a guardian petitioned for divorce on behalf of their principal. The Supreme Court found that administrators and guardians, only under certain circumstances, are authorised to apply for divorce. Such is the case when, for example, the principal has demonstrated his or her desire to divorce before he or she lost the possibility to express themselves. Administrators and guardians may, in exceptional cases, be authorised also in other situations, e.g. when the other spouse exploits matrimonial law rules to the detriment of the spouse who has an administrator or a guardian.

Repurchase of automobile did not prevent demand for price reduction

(Case NJA 2021, p. 597, the "Odometer" case)

After having purchased a used automobile, the buyer discovered that the odometer information was incorrect. He brought this to the seller's attention who repurchased the automobile. The repurchase price was less than the amount the purchaser had paid by the amount of approximately SEK 100,000. The buyer thereafter requested a price reduction. The seller objected claiming that the repurchase entailed a final settlement of the dealings of the parties. The Supreme Court established that repurchase in a consumer relationship generally cannot be perceived as a final settlement of the dealings between the parties. Accordingly, the repurchase did not prevent the buyer from demanding a price reduction in accordance with the Consumer Sales Act.

Division of marital property and gifts to wife entailed an infringement of children's statutory share of inheritance

(Case NJA 2021, p. 605, the "Diamond Dealer's Gifts" case)

During the final years of his life, a man gave several gifts to his wife. They also carried out divisions of marital property during their marriage. After the

man died, his children from a previous relationship claimed that their statutory share of inheritance had been infringed and that the wife was to return a certain part of what had been transferred to her. According to the Supreme Court, the starting point is that the first division of marital property during the marriage is not subject to the enhanced protection for the statutory share of inheritance. Where, in an overall assessment, it is apparent that the division of marital property is part of an aggregate transaction according to which the right to a statutory share of inheritance is circumvented, however, it should be covered. In addition, the entire value of the gifts is to be ascribed to the decedent's estate in the calculation of the children's statutory share of inheritance. Against this background, the children's claim was granted in its entirety.

A foreign state is not immune to enforcement on listed shares

(18 November, the "Ascom" case)

Certain companies and persons who made investments in Kazakhstan were awarded damages from Kazakhstan in accordance with an arbitral award. Listed shares on a custodian account at a bank in Sweden were attached. Kazakhstan objected that the state enjoyed international law immunity. The Supreme Court was of the opinion that international law does not entail an obligation on the part of Sweden to at all times grant immunity to foreign states against enforcement in Sweden. In the assessment of whether immunity exists, the purpose of the holdings of the asset at the time of attachment is decisive. The Supreme Court was of the opinion that the purpose of contributing in the long term to preserving and increasing the foreign state's wealth for future use was not of such qualified type that it prevented execution on the attached property. Thus, there was no immunity against execution.

A man who provided his electronic ID to his cohabitant was liable for loans which she took with the assistance of the identification

(9 December, the "Loan Agreement with Svea Ekonomi" case)

A man provided his electronic identification to his cohabitant because she was going to use it for the payment of household expenses. Without the man's permission, the cohabitant used the electronic identification to take a loan. The Supreme Court was of the opinion that a so-called reliance power of attorney had been created by the provision of the electronic identification to the cohabitant and that she was therefore authorised to bind the man to the loan agreement. The fact that the man had assumed that the cohabitant would not use the electronic identification in this manner is irrelevant since he had not exercised any supervision over the manner in which the identification was used. Accordingly, the man became bound by the loan agreement entered into by the cohabitant by means of his electronic identification.

The Convention on the Rights of the Child prevented attachment

(15 December, the "Children's Residence" case)

A property had been attached for payment of debts. The property was occupied by the debtor together with her six children, of whom some had special needs. A residential property may be attached if the attachment is justifiable. According to the Supreme Court, this means that a determination must be made as to whether an attachment is compatible with the rights which a child has in accordance with the Convention on the Rights of the Child. The interests of the child in protection of his or her home environment is to be balanced against the creditor's economic interests. In this case, the Supreme Court was of the opinion that

the balancing of interests resulted in a conclusion that attachment of the residence was not justifiable. Accordingly, the attachment was annulled.

CRIMINAL LAW

Rap song was not a threat against a public official

(Case NJA 2021, p. 215, the "Rap Song" case)

An artist reacted to a police operation and the police's subsequent statements regarding the same and wrote a rap song entitled "*Då ska hon skjutas*" [Then She Should Be Shot]. One police officer was identified by name and the song was released on Spotify. The artist was prosecuted for threatening a public official. The Supreme Court found that the interest in freedom of expression must be allowed a great deal of latitude and that lyrics and music performed in a cultural context must be allowed to be provocative, challenging and questioning. However, a line is crossed when that which is expressed or performed transitions into a threat of violence. The decisive factor is whether the threat appears to be seriously intended in the context and in the form in which it is presented. The Supreme Court was of the opinion that the expressions in the relevant case could not be deemed to be seriously intended threats of violence and the artist was found not guilty.

Evidence obtained in violation of the right to a defence counsel was permitted

(Case NJA 2021, p. 286, the "Body Camera Recording" case)

As evidence, the prosecutor adduced a recording from a body camera worn by a police officer. The accused provided information which was incriminating for him. He was not aware that the recording was being made and had not been informed of his right to a defence counsel or his right to remain silent and not incriminate himself. The issue was whether the evidence was to be rejected. The Supreme Court noted that Swedish law applies free sifting of evidence. This means that the parties, as a rule, may present any evidence whatsoever and that the court is free to determine the evidentiary value of it. As a main rule, the parties may adduce relevant evidence even if it has not been obtained in the prescribed order. The evidentiary value shall instead, by taking into account the requirements of a fair trial, be assessed within the context of the court's free sifting of evidence. The adduced evidence was allowed.

Posing before dead persons in an armed conflict has been found to be a war crime

(Case NJA 2021, p. 303, the "War Poses" case)

A man who served as a soldier during the civil war in Iraq posed on four occasions for photographs and in a film with dead persons. The pictures and film were published on social media. The Supreme Court found that dead persons may be regarded as protected persons in the context of international humanitarian law and, accordingly, that the Swedish regime also has this purport. The poses were such that the dead persons had been subjected to humiliating or degrading treatment which was calculated to seriously violate personal dignity. The man was found guilty of four war crimes against persons. The Supreme Court also found that the offence was of such a nature that the sanction is normally imprisonment.

Sabotage of emergency service activities? (I and II)

(Case NJA 2021, p. 457 I and II, the "Police Checkpoints at Hässelholmen" case and the "Police Chase in Älvdalen" case)

In one case, a person refused to comply with police instructions at a police checkpoint and acted aggressively. In the other case, a person in a truck attempted to obstruct a police car during

an ongoing response. The Supreme Court found that certain types of attacks against personnel or property, e.g. throwing stones at emergency services personnel or their vehicles, regularly attained the punishable level. In other cases, punishability depends, among other things, on the type of activity against which the attack or disruption is directed. In the first case, the accused was acquitted. In the case involving the truck, the Court reached the opposite conclusion and the accused was found guilty of two cases of sabotage of emergency service activities.

Publication of an act of violence within the context of news distribution has been deemed justifiable

(Case NJA 2021, p. 498, the "Film from Christchurch" case)

The indictment concerned publication of a film from the attack in the mosque in Christchurch, New Zealand in 2019 in which the perpetrator shot to death a large number of persons. It was the perpetrator who had filmed the act while it was ongoing. The film was then published on a constitutionally protected website. The main issue was whether the publication had taken place within the context of news distribution and thus was justifiable. The Supreme Court made statements regarding the manner in which the penal provision was to be interpreted as regards the character of the violence, the determination of what constitutes news distribution, and how the determination is to be made of justifiability. The Supreme Court came to the conclusion that the publication had taken place within the context of news distribution and was justifiable.

Cooperation in the investigation and restrictions during the pandemic has entailed mitigation of the sentencing for drug crimes

(Case NJA 2021, p. 525, the "Drug Dealer" case)

A man was found guilty of gross drug crimes and sentenced to a term of five years' imprisonment by the court of appeal. The court of appeal took into account the fact that the man cooperated in the investigation. The Supreme Court reduced the sentence further to a term of imprisonment of four years and six months taking into account his cooperation and that the restrictions which were a consequence of the pandemic during the detention period had had particularly burdensome consequences for the man due to his family situation.

Presumption of imprisonment for negligent rape

(Case NJA 2021, p. 536, the "Negligence and Nature of the Crime" case)

A person was found guilty of negligent rape. The Supreme Court found that the penal value of the crime was equal to a term of imprisonment of eight months and that negligent rape was a crime of such nature that there is a presumption of a sentence of imprisonment. The Supreme Court emphasised that negligent rape is a type of crime in which the need for standards-setting is particularly prominent and that the crime entails a blatant infringement of the victim's personal integrity.

Life sentence for murder

(Case NJA 2021, p. 583, the "Dumbbell Murder" case)

A man killed his wife by striking her with a dumbbell and strangling her. The murder took place in the spouses' apartment in which their children were also present. The Supreme Court has previously established that, following a legislative amendment which entered into force in 2020, murder has, as a starting point, a penal value equal to a term of imprisonment of 16 years. In the assessment of whether a life sentence is to be imposed, it is relevant whether the act appears to be particularly reckless. In this case, the Supreme Court observed that the act was directed towards the wife and was

a result of her wanting to divorce, that it was carried out in their shared home, and that there was an imminent risk that the three children would perceive what was happening. Accordingly, the sentence was life in prison.

Determination of penalties and choice of sanctions when the accused has suffered from an incurable, life-threatening illness

(10 September, the "Life-threatening Illness" case)

A man was sentenced by the district court for drug crimes to a term of imprisonment of 1 year and 8 months. Following the district court judgment, the man was afflicted with lung cancer. The court of appeal was of the opinion that the illness was not to be taken into account in determining the sentence. In the Supreme Court, a supplemental doctor's report was submitted showing that the man suffered from a type of lung cancer which was incurable and often led to death within 5 years. The Supreme Court examined how the equitable consideration, the poor health of the accused, in Chapter 29, Section 5 of the Penal Code was to affect the determination of penalties and choice of sanctions. The Supreme Court was of the opinion that the man's sickness justified mitigation of his sentence by 8 months of the prison sentence. However, the sickness did not constitute a sufficiently great equitable consideration to choose another penalty when the determination of the penalty value and nature of the crime strongly suggested a term of imprisonment. The man was sentenced to a term of imprisonment of one year.

Importation of several tear gas weapons is found to constitute gross weapons smuggling

(27 October, the "Smuggled Tear Gas Pistols" case)

A man brought, among other things, three tear gas pistols into the country. The question before the Supreme Court pertained to the conditions under which smuggling constitutes an act of a particularly dangerous nature and is thereby to be deemed to constitute gross weapons smuggling. The Supreme Court concluded that this may often be the case when the purpose had been that the weapons were to be transferred to, or used by, a criminal group or when there is a tangible risk for such transfer or use. In the final assessment, other circumstances such as the number of weapons is to be considered. Since tear gas weapons may be easily modified and that it is common that such weapons are used by criminal groups, the presence of such weapons may constitute a substantial danger to society. The conclusion in the relevant case was that the act was deemed to constitute gross weapons smuggling.

Assault during contacts over the Internet were deemed to constitute child rape (I and II)

(17 November, the "Rape of Children or Sexual Assault of Children? I and II" case)

In both cases, a perpetrator made contact with an 11-year-old girl over the internet by means of a chat function. For sexual purposes, he persuaded the girl to penetrate herself, in one case with her own fingers and in the other case with objects. The man filmed the events or pressured the girl to do so herself. In one of the cases, furthermore, there were other disturbing and offensive elements. The Supreme Court found that the circumstances were such that the assaults entailed violations which were as equally grave as intercourse and the men were found guilty of child rape.

The year in brief

17 May
The Supreme Court unveiled a picture of Ingrid Gärde Widemar who, on 29 March 1968, was appointed as the first female Justice of the Supreme Court. The picture is on loan to the Supreme Court from Moderna Museet.

4 June
Together with the Supreme Administrative Court, the Supreme Court arranged a digital event to provide information regarding work as a judge referee. Approximately 40 acting associate judges from Sweden's courts of appeal and administrative courts of appeal participated in the event.

8-10 September
The presidents of the Nordic Supreme Courts met in Rovaniemi, Finland. The programme involved, among other things, discussions regarding the impact of the pandemic on the activities of the courts and a meeting with representatives of the Sami Parliament.

21 October
The Supreme Court held an internal seminar on the theme of the formation of precedent as a consequence of the fact that 50 years had passed since the 1971 court reform, which purpose was to refine the Supreme Court's role as a court of precedent.

28 October
The European Court of Human Rights visited the Supreme Court and the Supreme Administrative Court. The visiting delegation included, among others, President of the Court Robert Spano and the Swedish judge Erik Wennerström.

15 November
The Supreme Court visited the Nyköping District Court. From the Supreme Court, Justice Stefan Johansson, Head of Drafting Division Claes Söderqvist, Judge Referee Ulrika Stenström, Court Clerk Kerstin Norman and Administrative Junior Judge Mattias Attorps participated.

22-26 November
Within the context of the exchange programme arranged by the Network of Presidents of the Supreme Judicial Courts of the European Union, the Court welcomed a judge from the Supreme Court of Cassation of Italy.

26 November
Civil Rights Defenders arranged the Nordic Rule of Law Forum in Stockholm. The theme of the event was efficient legal remedies, and President Anders Eka participated from the Supreme Court and delivered a presentation regarding damages as a result of violations of basic freedoms and rights.

30 November
Together with the periodical, *Svensk Juristtidning*, the Supreme Court organised a symposium recognising the 50th anniversary since the 1971 court reform which was intended to refine the Supreme Court's role as a precedential court. Many guests, of whom a number were from neighbouring Nordic countries, participated in the arrangement which contained, among other things, panel debates on the theme of creating precedent.

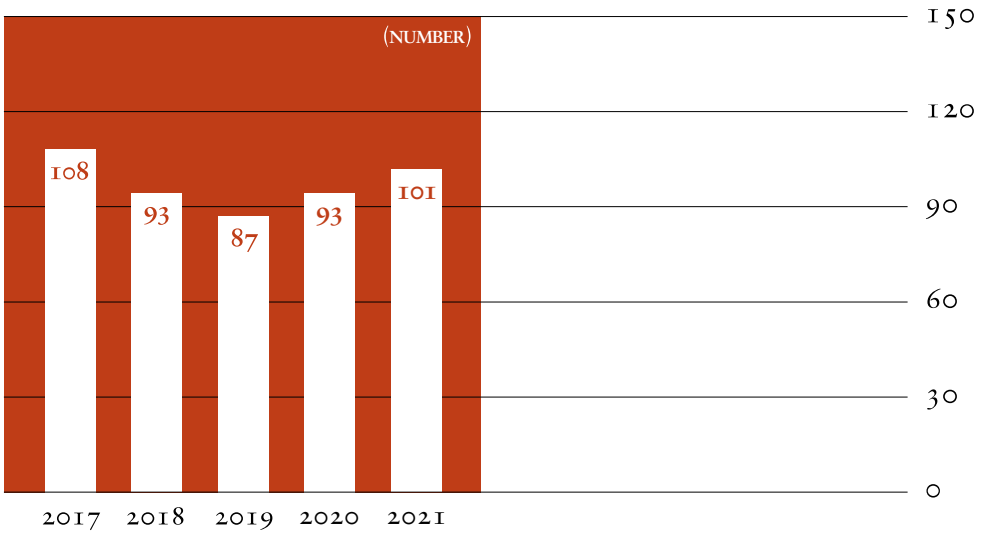
6 December
The Supreme Court visited the Uppsala District Court. Justice Petter Asp, Administrative Director Maria Edwardsson, Judge Referee Dennis Andreev, Drafting Law Clerk Edvin Johansson and Administrative Junior Judge Jeanette Sirsjö participated from the Supreme Court.

7 December
The Supreme Court visited the Norrtälje District Court. Justice Johan Danelius, Head of Drafting Division Cecilia Hager, Judge Referee Sofie Westlin and Administrative Junior Judge Mattias Attorps participated from the Supreme Court.

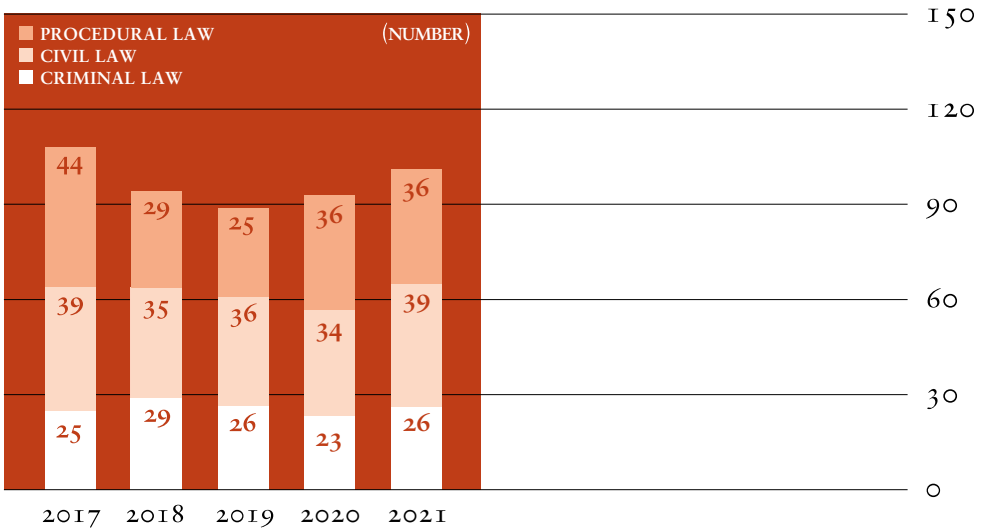
A picture of Ingrid Gärde Widemar, the first female Justice of the Supreme Court.

STATISTICS

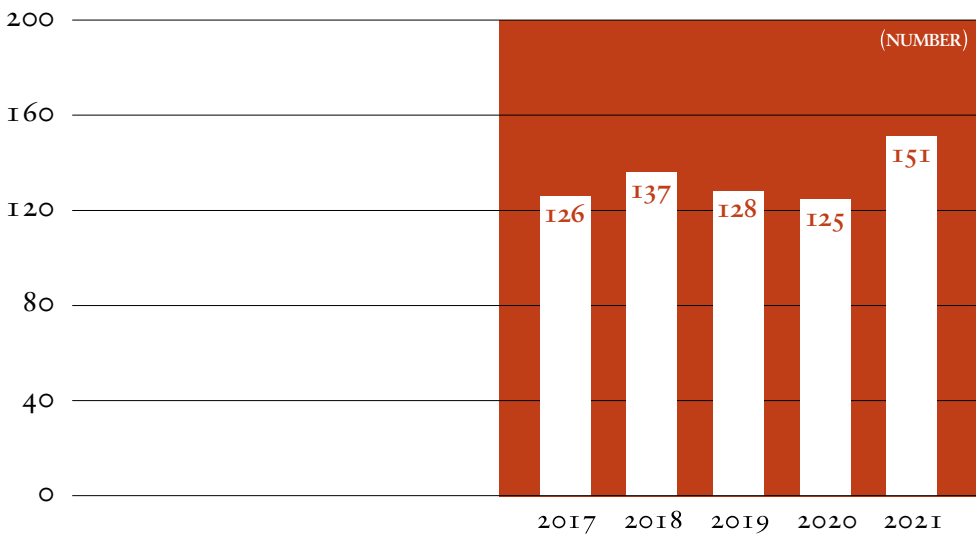
Precedents



Precedents per area of the law

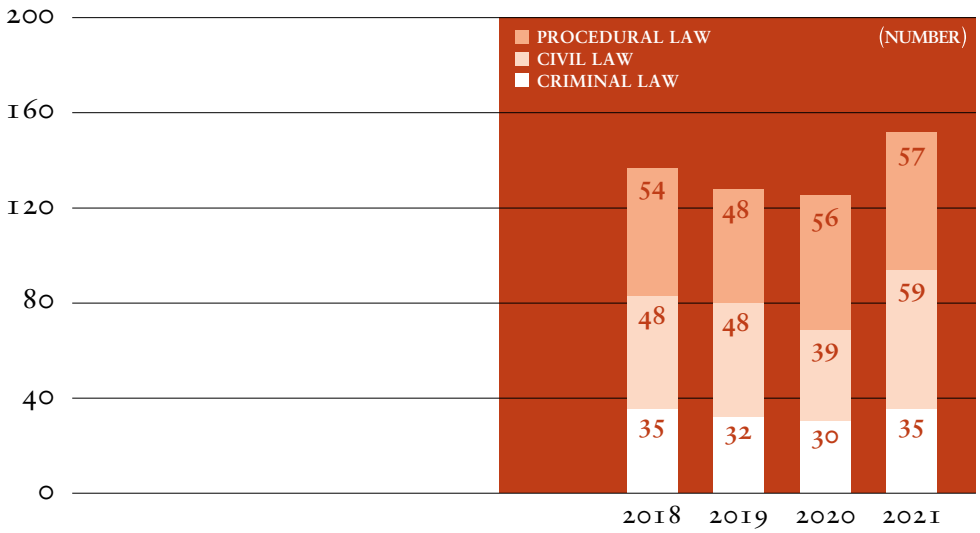


Cases for which leave to appeal was granted*



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

Cases for which leave to appeal was granted per area of the law*



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

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

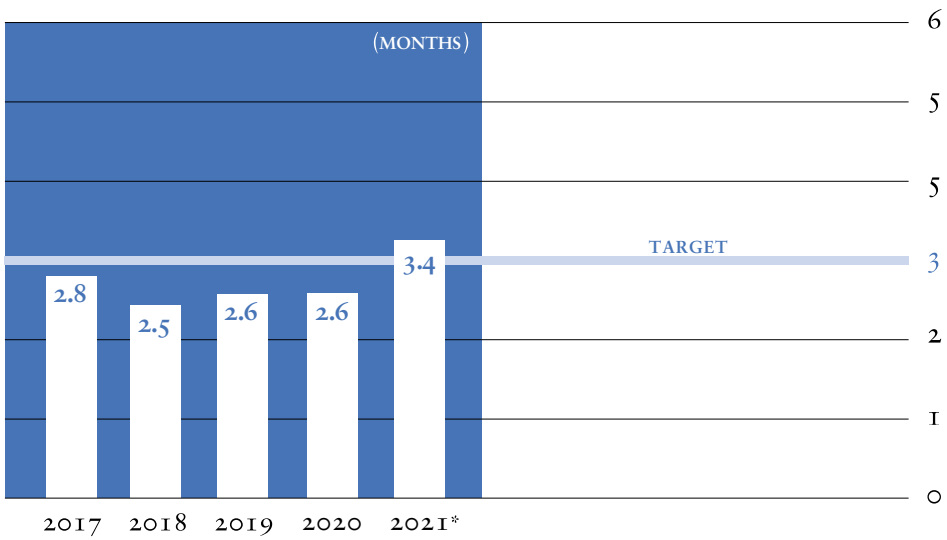
Time to decision regarding leave to appeal

Cases considered: Cases requiring leave to appeal (non-priority).

90th percentile: Nearly all cases.

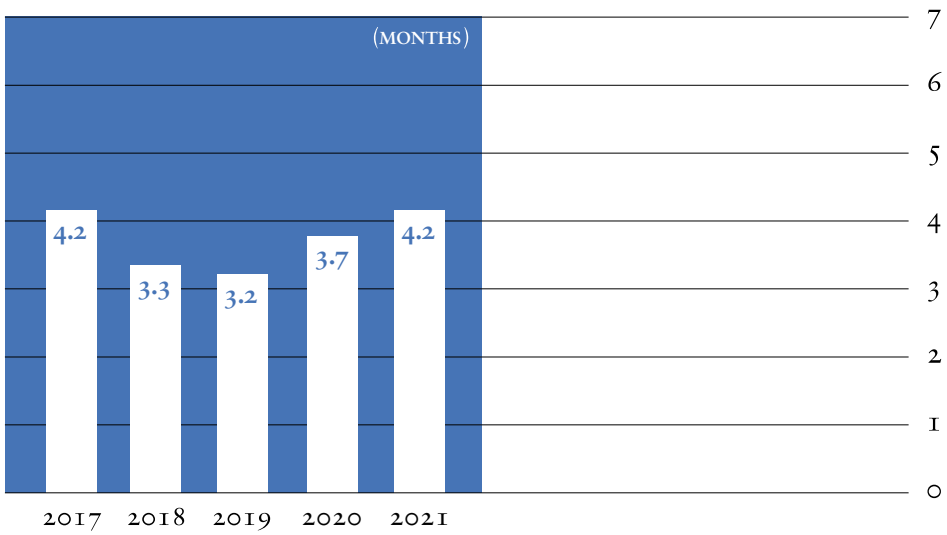
*Total number of cases considered: 6,705

Percentage decided by
- 1 Justice: approx. 95%
- 3 Justices: approx. 5%

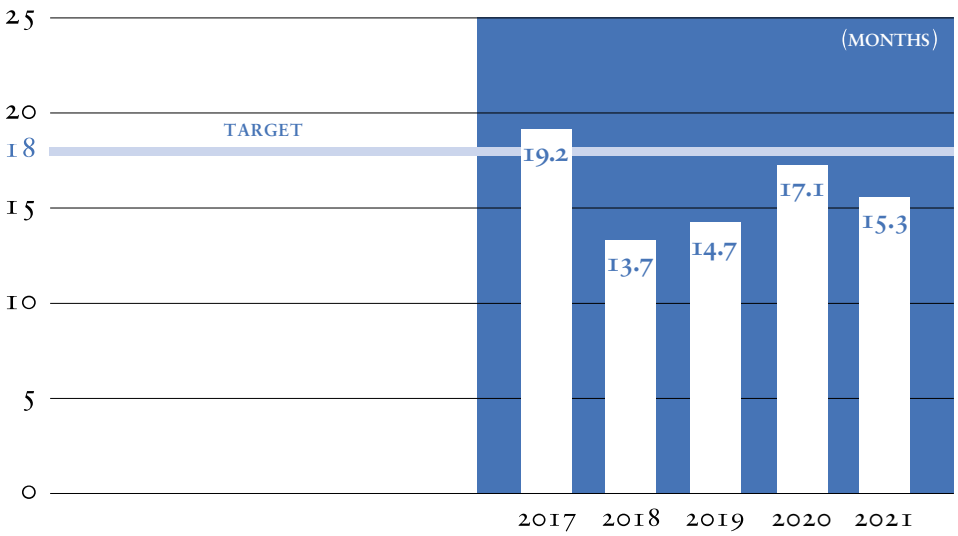


Processing times – time to approval for leave to appeal (median)

Median: The normal processing time.



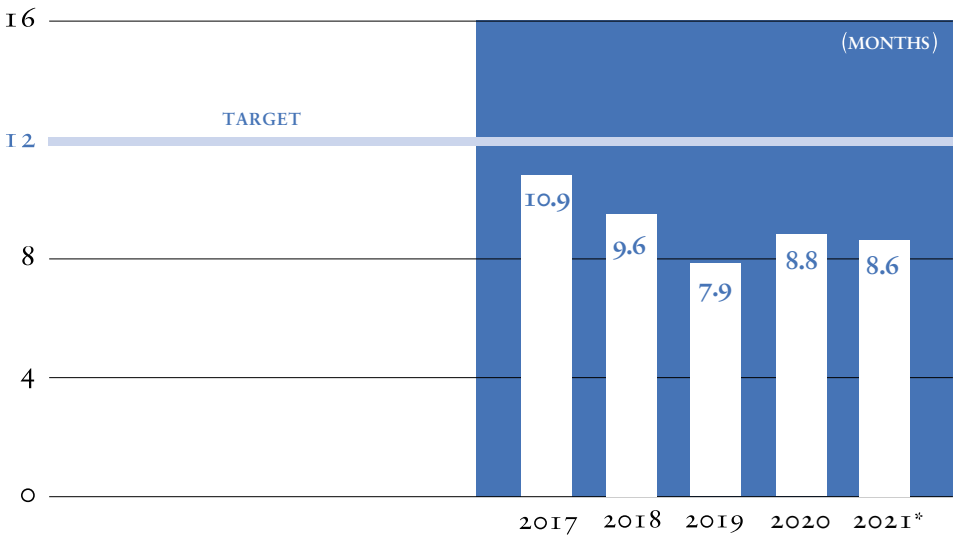
Processing times – approved cases (90th percentile)



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

90th percentile: Nearly all cases.

Processing times – extraordinary cases (90th percentile)



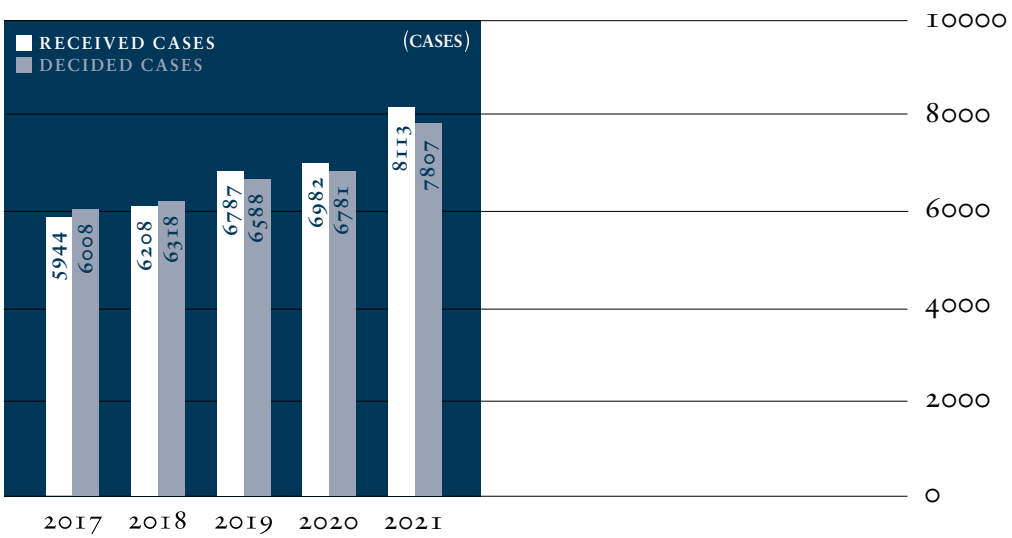
Extraordinary cases: Grounds for new trial, grave procedural error, etc.

90th percentile: Nearly all cases.

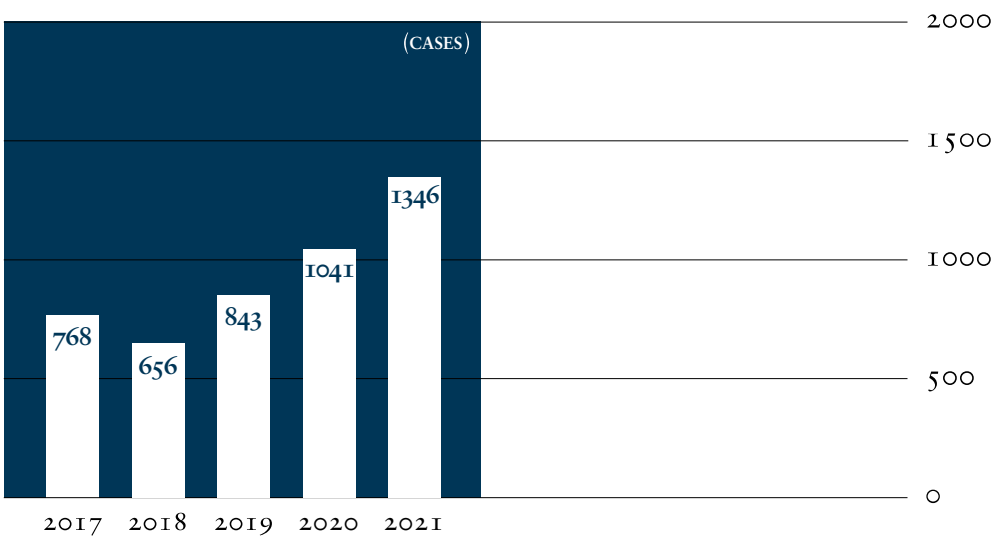
Total number of cases decided: 812

Percentage decided by
- 1 Justice: approx. 89%
- 3 Justices: approx. 9%
- 5 Justices: approx. 2%

Total number of cases received and decided

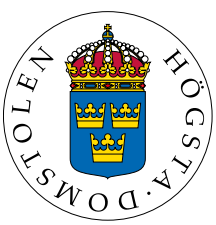


Total number of cases not decided



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
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
Johan Danelius, born 1968, Justice since 2020



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