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ACTIVITY REPORT OF THE SUPREME COURT OF SWEDEN

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word from the President

Like many other courts and public authorities located in the Old Town and on Riddarholmen island in Stockholm, the Supreme Court is housed in a building originally built as a private palace for a noble family. While operating as a court in such a building is a perk, it also presents challenges.

The so-called Era of Great Power in the 1600's was the stage for the construction of many palaces. Amongst these, mention may be made of the Wrangel Palace and the Stenbock Palace – which are two of the buildings housing the operations of the Svea Court of Appeal – and the Sparre Palace in which the Supreme Administrative Court is situated.

This is true also of the Bonde Palace from the 1660's which has been home to the Supreme Court since 1949.

The reason why the operations of the Supreme Court were in need of new premises at the end of the 1940's is closely tied to the reform of judicial procedures implemented at that time. An important principle of the new procedural regime was that court proceedings would largely be oral. This meant that oral proceedings would take place before the highest court as well. Accordingly, among other necessities, there was a need for courtrooms and areas for the parties and the public.

The Stockholm City Court operated in the Bonde Palace until 1915. The City Court then moved to the newly built Stockholm Courthouse situated on Kungsholmen island. Following this, the Bonde Palace housed various

activities before it was time for the Supreme Court to move in.

Extensive reconstruction and renovation work was necessary before this could happen. Architect Ivar Tengbom was engaged to head up the project which was underway during the better part of the 1940's. Furniture designer Carl Malmsten and textile artist Märta Måås-Fjetterström were also involved and left their mark on many of the interior furnishings.

At the beginning of the 2000's, it was time for new reconstruction and renovation work. This was due among other things to the fact that there was no longer any need for three courtrooms and the number of Justices had been reduced considerably. Steps were then taken to adapt the Bonde Palace to allow all court employees to work there. Previously, the Court's office had been situated in a nearby building. With the exception of the judge referees who work in Gothenburg and Lund, the operations of the Supreme Court have been conducted under one roof since that time.

Still, new needs emerged after some time. The need for additional modifications was discussed over a period of many years and, in the beginning of

2023, new reconstruction work finally got underway. That work continued for the better part of the year and affected the activities in the building in different ways. Among other consequences, proceedings conducted by the Court have taken place on the premises of other courts in the Stockholm area. We are very grateful for the hospitality these courts have shown us in making their courtrooms available.

So, what kind of work has been done? Among other things, permanent security controls have been installed at the main entrance to the Court. The security controls are intended for both visits to, and proceedings at, the Court. A new reception area has also been created to better receive visits from the public. These changes will be obvious to visitors to the Supreme Court. Other measures have also been implemented to enhance security at the Court. In addition, other reconstruction work has been carried out to create, for example, a special room for persons in custody who are present at the Court to appear at hearings, as well as improvements to areas where the personnel can meet. This reconstruction work will be addressed further in later pages of this Activity Report.

This year's Activity Report also takes up various aspects of the inner workings of the Court. The Bonde Palace is not merely a court building, but also the workplace for the Supreme Court staff. Approximately 70 of the Court's nearly 90 employees work in the Bonde Palace, while others work remotely from Lund and Gothenburg. One article in the Activity Report describes the various work categories at the Court in greater detail. As discussed in that section, issues regarding recruitment and skills supply – precisely as in many other workplaces – are a permanent item on the Supreme Court's agenda.

Efforts to develop the Supreme Court's communications with the public and

media continued throughout the year. As part of these activities, a press conference was held in February for invited journalists. A number of Justices and the Administrative Director of the Supreme Court participated. We took this opportunity to describe the operations of the Supreme Court as well as matters relevant and important to journalists. Some of the particularly noteworthy cases from 2022 were brought up and we talked about some of the cases for which rulings are expected in the future.

The Supreme Court has also this year issued rulings which have received a great deal of media attention and distribution. Naturally, this is positive for the most part. The rulings of the Supreme Court have an impact on many, for which reason they should be scrutinised and discussed and, of course, subjected to critical evaluation. A lively discussion regarding the rulings of the Supreme Court is an important element of the public debate. In one article of this year's Activity Report, we have chosen to specifically address the issue of cases which draw attention from the media.

For a number of years, in order to make it easier principally for the media to report on our rulings, the Court has nearly always published a news release in tandem with the ruling. The news releases are intended to convey the most important aspects of the rulings in a shorter, more concise way. News releases explain how journalists can contact the Supreme Court with further questions or requests for interviews. This work also includes continuously ensuring that the Court's website is available and user-friendly.

You can read about these matters and much more in this year's Activity Report. I hope you will find it both interesting and stimulating. With that said, I wish you good reading about the most recent year at the Supreme Court.

ANDERS EKA
JUSTICE AND PRESIDENT
OF THE SUPREME COURT







Two new Justices

The Supreme Court was joined by two new Justices in the spring of 2023: Anders Perklev, who comes most recently from the position of President of the Svea Court of Appeal, and Margareta Brattström, former Professor of Civil Law at Uppsala University.

You both did your law studies in Uppsala. Was law an obvious choice for you?

Anders: I took the natural sciences route in high school, but I was actually more interested in social issues. When deciding on my further studies, the choice was between economics and law. There are no lawyers in my family and I didn't know much about law, but I made up my mind when the law programme was presented at an information meeting in Lund University in such a structured and inspiring way. I was waitlisted, and it was somewhat easier to get admitted to Uppsala University, so I ended up there. Coming from Helsingborg, it was exciting for me to go to a college town other than Lund, which was familiar to me.

Margareta: My family doesn't have any lawyers either and, just like Anders, I was also very interested in social issues early on, which made me start thinking about studying law. I had no real understanding of the legal profession. The only thing I knew at an early stage was that I

didn't want to work with family law. My studies got underway at Uppsala around the same time Anders graduated in the autumn of 1985. While I was not particularly active within student society life during my student years, I have made up for it in recent years by being pro-inspector for the Värmland student society. Today, the role of pro-inspector principally involves representing the institutional side of things. Previously, however, professors were appointed to the position of inspector in order to maintain order in the societies. Long ago, the university even had jurisdiction and its own dungeons.

You both joined the Supreme Court as Justices in the spring of 2023. What inspired you to apply for the position?

Margareta: I was the head of department at the law school for six years and then returned to teach and do research. Although I rather enjoyed myself, I felt as though I was ready for a new challenge. I was attracted to working collegially in a way other than I had in the academia. ▶

Anders Perklev

Justice

Margareta Brattström

Justice

The issues addressed by the Supreme Court are important and relevant, which appealed to me.

Anders: The collegial work method also appealed to me. After many years being in charge, I also had a longing to be able to return to the law and commit to it on a full-time basis. Leadership has been fun and provided opportunities to work on more comprehensive issues, but it also takes a great deal of time and energy, particularly in a large organisation. During the interview for the position as Justice, I was asked how it would feel, after many years in a leadership role, to be in charge of nothing other than my own desk. It gave me perspective, but I have not regretted my choice. Rather, I am quite pleased with my newly rarefied role as a judge here.

What are your first impressions of the Supreme Court?

Anders: It is a privilege to be able to work with highly qualified colleagues, some of whom I have also had the pleasure of working with earlier in my career. The collegial work method at the Supreme Court is both fun and stimulating. It is also exciting to delve deeper into issues in a way that is not possible when working in the lower courts. Here, research from the drafting organisation is enormously helpful.

Margareta: I agree with Anders's description. At the Supreme Court, the question is always what we can

do better together. Everyone has great respect for everyone else and what our colleagues have written. It is a great pleasure to contribute to a team and work together for a solid end product.

Did you have any reservations about working as a Justice?

Margareta: The caseload has increased significantly in recent years, which naturally poses a challenge for the entire organisation. While I possess a depth and specialisation regarding certain issues, as a Justice, you must have breadth as well. As Anders previously mentioned, however, we receive superb assistance from the extensive research produced for us by the drafting organisation. In this role, this is something you can't do without.

Anders: Yes, the vast caseload is naturally a challenge. The Supreme Court also demands a very high degree of exactitude. Still, we are aided enormously by the fact that there are others who review drafts of rulings and that we work together to identify any mistakes. This is a safeguard and makes the work manageable.

Are there any special issues you want to come up in the Supreme Court?

Anders: Since I have previously worked extensively with criminal law and criminal procedure, I naturally find it particularly exciting when those issues come up.

Anders Perklev
Justice





Margareta: I would like to see more questions involving civil law, particularly in the area of family law.

Were there any lines of work other than practising law that appealed to you, and what are your other interests?

Margareta: I had dreams of being a florist, and an interest in gardening and cultivation persists. Dahlias, roses and peonies are all flowers which have a special meaning to me. My children no longer live at home, but my family remains an important aspect of my life to which I dedicate a great deal of time.

Anders: I wanted to be an architect, but my grades were not good enough for the programme, so it became the law instead. As regards other interests, I can mention that work has been something of a hobby for me. To be perfectly honest, other than my family, I have devoted most of time precisely to the law and my various engagements, sometimes nights and weekends as well.

You have both explained that it was not a certainty that you would practice law. Do you have anything in conclusion to convey to young lawyers who are just starting out?

Margareta: Students have asked me this question many times. The most important thing is to identify your own study technique, which can take time. It might be a good idea to stake out a plan for life and your career, but it cannot be rigid. You

must instead be open to a change in direction. As I mentioned, I was previously of the view that I did not want to work with family law. That view changed when, in parallel with my property law research, I taught precisely family law. Instead, it is the area I found to be the most fun and in which I carried out further research.

Anders: In the course of my conversations with acting associate judges and law clerks who are in the process of training to be a judge, I usually emphasise the importance of not being in too great a hurry but, rather, giving things time in your career. I also think that one should be open to trying different things. It has been my experience that most areas of law are enjoyable when you have dug into them, and this is why you should not be afraid of new challenges. When I applied for a position at the Ministry of Justice following completion of my judge training, I had hoped to serve in the litigation unit but, instead, I was offered work in the criminal law unit. Criminal law subsequently comprised a large part of my professional life given that I subsequently became, among other things, Prosecutor General. The experience has shown me that it is often small accidents that determine the direction of one's professional life.

Margareta: Yes, you must be open to new challenges. Not the least when you recall the importance of having a sound legal methodology!

Margareta Brattström
Justice





safer, more transparent court

The world brings continuous change and new demands – and new possibilities as well. Even stable and traditional authorities like the Supreme Court must adapt to evolving conditions in order to best meet their responsibilities.

In recent years, focus has been on security issues, both domestically and internationally, and this trend naturally has an impact on the courts. Against this background, measures to enhance the safety of employees and visitors to the premises in which the Supreme Court works are a natural step. Even so, can reconstruction be carried out in a historical building? Yet another change is the ever-growing interest in the rulings of the Supreme Court and the rapid development of the media landscape. What role will society's need for information have on the Court's operations? In the past year, the Supreme Court has taken steps to be safer and more transparent.



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The reconstruction project

Visits from the public

*Dealing with particularly
noteworthy cases*





The reconstruction project

The building in which the Supreme Court conducts its operations has a rich history. Naturally, protecting the palace interiors is a serious undertaking for future generations. To keep an older building relevant, however, present-day occupants must also be able to make use of it. To be able to do so requires adaptations and, sometimes, also careful reconstruction.

A building rich in tradition

The Bonde Palace – the setting of the Supreme Court’s premises – was built in the 1600’s by Lord High Treasurer Gustav Bonde, and has a chequered and colourful past. A legal dispute arose even before the building was completed when the building’s architect, Jean de la Vallé, sued Gustav Bonde’s estate to be compensated for his work. The file relating to the proceedings from 1667 contains, in addition to the claim for 2,666 Swedish riksdaler, also drawings and descriptions of the building. The building was completed in 1673 and has since accommodated the Svea Court of Appeal, the National Library of Sweden and the Stockholm City Hall. It has served as private residences, housed the fire brigade and has been a forge – sometimes all at once. There was a provision in a contract with a blacksmith who worked at the palace which prohibited rough forging at times the court of appeal was in session.

Built in the city of Stockholm, the building has been the stage for a series

of historical events such as Gustav III’s coup d’état and the murder of Axel von Fersen. In 1753, the palace burned, but was renovated and was placed into operation once again by the city.

The Supreme Court moves in

After the Supreme Court was established in 1789, the Court long occupied premises in the Royal Castle. However, in 1948, a new Code of Judicial Procedure was enacted and oral proceedings could take place also in the highest court. Thus, the Supreme Court, which had exclusively conducted proceedings in writing until that time, was in need of new premises. The Bonde Palace had been abandoned and had fallen into disrepair. Following extensive renovation work, the Supreme Court took occupancy in October 1949.

When the Supreme Court commenced operations in the palace, the building had been converted to cater to the needs of that time. Among other things, three courtrooms were created, and most of the rooms were modernised in order to serve as offices. ▶

Service accommodations and detention rooms were established in the wings. However, the library, which was established on the upper-most floors as early as the 1800's, was preserved and still operates today as a reference library for the Justices of the Supreme Court.

Changing times, changing needs

In 1949, the Supreme Court consisted of 24 Justices. Since then, the number has been reduced to the current 16, as a result of which the need to accommodate the Justices has declined. At the same time, the number of other employees of the Court has grown. In 1972, the Lower Chamber of the Justice Department of the Privy Council – which, among other things, included the judge referees – was incorporated into the operations and became the administrative offices of the Court. In order to make room, the Council on Legislation moved to its current premises on Riddarholmen island, and additional rooms could be made available for the Court's personnel. When computers made their way on to the scene, the old printer room operation vanished and the number of office personnel could be reduced.

The most recent major reconstruction in the building was carried out between 2002 and 2004. In keeping with the streamlining of the Supreme Court's operations into a court of precedence with a renewed emphasis on written proceedings, it was apparent that three courtrooms were no longer necessary. Following the reconstruction, only one courtroom remained, the large room on the 5th floor. This created new spaces and, in 2004, the entire operation of the Court – from Justices to the administrative offices, registrars and archives

– were housed in the Bonde Palace.

Today, approximately 90 people work at the Supreme Court. Some employees work remotely from Lund and Gothenburg. This naturally enhances the opportunity for recruiting, but also requires adaptation of the premises for video conferences and other technical possibilities. The administrative offices have also grown in keeping with an increasing caseload and there are also currently work categories such as IT technicians, personnel administrators and drafting law clerks who are to be accommodated in the building.

Reconstruction in a historical building

Over time, circumstances change and new demands are made in terms of accessibility and security. From the perspective of the Court, there is an obvious interest in being able to offer an environment which is both welcoming and safe for employees and visitors alike. If the Court is to be able to continue to use the building, the building must evolve. In this light, yet another extensive renovation of the Bonde Palace was carried out in 2023.

As noted, the Bonde Palace is a well preserved building, rich in history. The palace has also been a national historical building since 1949. Thus, altering and developing the premises in such a building is a process posing a great many challenges.

There are many interests to be considered and ultimately aligned. The National Property Board owns the building and serves as the landlord. Part of the Property Board's duties are to foster the use of environments which is interesting from a cultural history perspective. This includes supporting the Court in its daily

GARRETT



activities and ensuring that the building is suitably set up. At the same time, together with the Swedish National Heritage Board, the National Property Board bears a weighty responsibility in terms of sustainable care for the preservation for future generations. In addition, structures which are national historical buildings are subject to special rules. This means that reconstruction and additions involving a building such as the Bonde Palace must be carried out with care and consideration.

Under such conditions, it is not possible for an individual court to coordinate and manage such a project on its own. The Swedish National Courts Administration has extensive experience in providing support for similar work and thus plays the role of project manager during the reconstruction.

The work carried out in 2023 involving planning and preparations extends significantly further back in time. A preliminary study got underway as early as 2019. At that time, it was noted that security needed to be improved for the reception of visitors, proceedings and dealing with persons in custody. The first drawings and proposals were then revised on several occasions following new studies and analyses. The need for modern technology and rules regarding, for example, the entrance and security controls needed to be weighed against the conditions present in the building and antiquarian values. This has had an impact both on design and choice of colours.

New parts in an old building

What changes, specifically, have been made to the premises of the Supreme Court? The most noticeable evidence of improvements to reception is the

new entrance on floor 3. It is comprised of a large, glassed-in divider furnished both with a reception service window and permanent security controls which are to be used in conjunction with hearings and large visits. Great pains have been taken to adapt the design to the older environment by means of, among other things, a beautiful, perforated and leaf-patterned ceiling. When the Supreme Court is in session, parts of the premises are open to the public. For those occasions, there is currently also a larger reception area on the inside of the new entrance area.

A separate area has been set up for persons in custody in another part of the premises, something which has been lacking in the building in modern times. Technological features have been installed in the room which make it possible to participate in the hearings via a link from the courtroom where such proves necessary.

In addition, those areas of the building to which the public has access or is granted access during trials have been equipped with camera surveillance. The same applies to certain areas on the outside of the building.

Thus, from the beginning of 2024, the Supreme Court will once again be able to use the Bonde Palace for hearings and meetings after having borrowed premises for hearings from other courts in the region during the construction period. The study-visit activities which have been on hold will also be reinstated. The new features of the building will provide increased accessibility and security for employees and visitors alike. So, a long and sometimes demanding effort has concluded, culminating in a court which is safer and more transparent.



Hi Magnus Lind!

You have been a security guard at the Supreme Court since 2022. What has it been like working here during the reconstruction?

“I think that it has worked well. Above all, interaction with the builders has been smooth. I am frequently out and about in the operation and have contact with the various working groups. Because of this, I have become something of a ‘spider in the web’. It has involved a lot of work, but I have had responsibility for reconstruction projects at courts before and I find it to be a fun challenge.”

What will be the biggest change resulting from the reconstruction?

“Mostly, it will be a significant improvement in security for both personnel and visitors, which will create a better work environment for everyone on the premises.”

What are you most looking forward to right now?

“The completion of the reconstruction and seeing the results! And, also, that the work duties of our division will evolve in improved, more suitable premises.”



2

Visits from the public

Although the Supreme Court is a general court, it is relatively rare that the general public has a reason to visit the Court's premises. Nonetheless, in addition to the proceedings and meetings conducted here, the Court naturally receives visits from parties to the proceedings as well as study visits.

The Bonde Palace is centrally located in Stockholm and is in the immediate vicinity of the Parliament, the government quarter, the Royal Castle and the Old Town.

While many Stockholmers and tourists are familiar with the exterior of the building, relatively few have seen it from the inside. Compared

to many other general courts, i.e. district courts and courts of appeal, most areas of the Supreme Court are less accessible to persons who do not work here. The most important reason for this is that proceedings are largely conducted in writing and are carried out in conjunction with presentations at which neither the parties nor the public are present. Notwith-

standing that the frequency of public hearings in the Supreme Court has increased in recent years, the fact remains that they are not held more frequently than on a few occasions each month.

In any event, the parties to cases before the Court may still be interested in visiting the Court. This happens periodically. For a period of many years (prior to the last reconstruction of the main entrance to the Supreme Court; see the separate article regarding the construction project earlier in this Activity Report), such visits have been received by the registrar's office on the ground floor of the building. Personnel there have been the first contact for parties and the public.

A handful of visitors come to the Court each day, e.g. with questions about cases or requests to obtain public documents. Sometimes, a party wishes to file additional materials in a pending case or share their point of view. Since the Supreme Court is the court of final instance, it is natural that not everyone who has contact with the Court is satisfied with the outcome of the case in the lower courts. In addition, they might also have some views regarding the manner in which proceedings are to move forward here. The Court Registrar, Anne Karjalainen, has many years' experience receiving visitors.

"Most of the people who come to the Court have clear questions which we are quite used to answering quickly. When it comes to more detailed questions regarding proceedings in individual cases, we are supported both by the administrative junior judges and reporting clerks. Sometimes they give their answers over the phone when we call them but, in

certain cases, they also come down to the visitors desk to provide an explanation face-to-face."

Following completion of the reconstruction, the reception area was moved to the main entrance. This has resulted in an improvement to receiving visitors. It has been necessary to develop new routines and forms of collaboration amongst the various employee groups given that visitors to the Bonde Palace are now received by the Court's security guards and office attendants. Still, the registrar's office provides support where necessary.

Another way for outsiders to see the premises from the inside is by virtue of the study-visit activities which have long been hosted by the Supreme Court. In a normal year, the Court hosts a relatively large number of study groups. These groups may consist, for example, of students from law schools throughout Sweden or groups of employees from courts and other state authorities. Foreign lawyers who participate in exchange programmes are also often interested in visiting the Supreme Court.

These study visits are an opportunity for the Supreme Court to spread knowledge both about the operations of the Court as well as the building and its use. These visits are adapted to the previous knowledge level and interests of visitors to the Court. In addition, the staff members who take care of the groups also vary.

"Receiving interested visitors and having the opportunity to talk about our function and how we work is a fun and stimulating part of the job here. It also contributes to the sense of pride in the Court," says Administrative Junior Judge Oskar Persson.



3

Particularly noteworthy cases

In 2023, the Supreme Court received over 9,000 cases. Of these, approximately 100 cases will become precedents and, amongst those, a handful will draw great interest. These particularly noteworthy cases may cause hearings to be held in secure courtrooms, justify press conferences, and give rise to greater accessibility for questions from the media and the public. We have talked to Justices Agneta Bäcklund and Stefan Johansson about the law when it draws the most attention and fuels discussion.

You have been at the Supreme Court for many years: Agneta started in 2010 and Stefan in 2016. What was the media climate like for the Supreme Court's cases then?

Agneta: When I started, there were no news releases and the Justices were not available for questions. The Supreme Court communicated with the world at large primarily through its judgments. Yet, with time, the Court has been more outward-looking and has a clearer way of working with noteworthy cases. This change has been gradual.

Stefan: There has always been interest in the Supreme Court's judgments, but modern society increasingly demands rapid access. When I started, news releases and a Justice who was the responsible contact person in all cases was part and parcel of the operation. The rulings perhaps need not be explained primarily to lawyers who use them as tools

but, rather, to an interested public which is used to receiving information quickly. Accordingly, the Court currently drafts a news release for all rulings and, in certain specific cases, press releases. These are published on the Court's website at the same time the judgment is published.

Agneta: When the Supreme Court became more accessible for the media, there was a perception that judges could never say more than was apparent from the text of the judgment itself. This gave rise to a certain resistance on the part of the judges when giving statements, but it also fuelled an important discussion regarding about what, and how, the Supreme Court should express itself.

Stefan: It is precisely against this background that there is an advantage in having the Justices who render judgments in the case write the news release. In this way, the Supreme Court can explain what the

Agneta Bäcklund
Justice

Stefan Johansson
Justice

Malin Falkmer
Judge Referee



case is about and write the account. Otherwise, flawed interpretations are easily made and are difficult to put right later on. The law and journalism play by different rules, and the focus might be on different issues. It's not about providing more information than is apparent from the judgment but, rather, explaining it in different ways for different audiences.

As a Justice, is one prepared for attention and, in some way, becoming a significantly more public person?

Agneta: When I joined the Court, I did not perceive any interest in us as individuals. However, we represent a public office and, within such framework, we should – and must – tolerate scrutiny and being written about. However, I do not really see myself as a celebrity.

Stefan: Over time, I have started to see myself more as a public person. There is another interest in us now, based both on our function and our person. Perhaps this isn't so strange. Just like all other court rulings, our judgments have an impact on individuals but, since they are precedential, they also affect the whole of a society governed by law. A natural component of this is the responsibility for explaining our views. Accordingly, part of our work is to also be available for interviews and appear in the media.

Do you know in advance which cases might draw attention?

Agneta: Certain types of cases which always draw great attention involve sexual crimes and certain particularly violent offences. Those cases move many people on a general human level. Then there are cases in which the legal issue is specific but nonetheless has an impact on many citizens. For example, the *Girja* judgment (case NJA 2020,

p. 3) regarding the right of Sami villages to license hunting and fishing. In that case, the legal question was legally complicated, and the case involved what was to many a sensitive question.

Stefan: In those cases, you know the case will draw attention as soon as the appeal is received, and there is a plan of action so that the entire staff can respond to the increase in attention in the best manner possible. A noteworthy case puts pressure on the entire Court when the public wants to get its hands on public documents and the media tries to book times for interviews. In the *Girja* case, it was also the first and, to date, only time the Supreme Court decided that it would hold a press conference in conjunction with publishing the judgment. Since interest in the judgment was immense, it was important to be able to immediately summarise and explain the outcome of it to the media and the public.

Agneta: In certain cases, interest may be more difficult to anticipate or arises only after the fact. Sometimes, the timing of a limited legal or legally technical issue may be such that it becomes part of a larger public debate. For example, this was the situation relating to the “*Dummy Weapon*” case (case NJA 2023, p. 393). It involved a complicated and challenging legal technical application of legislation which had not been updated for a very long time. A news release was prepared and I was available for questions when the judgment was rendered, but there was no major interest from the media at that time. However, the questions were tied up with the debate regarding organised crime and, when the judgment drew sufficient attention in that context, a great deal of interest arose unexpectedly. ▶

Stefan Johansson
Justice

Photograph from
the Supreme Court's
meeting with the press
on 21 February 2023

What is it like being a judge in the middle of such a media storm? Does it have an impact on your work on this type of case?

Agneta: All cases in which we judge have consequences, but it is sometimes principally the parties who are affected. It is not always the cases which receive the greatest attention that have the greatest impact on me as a person. Relatively straightforward law may have major consequences for individuals, and this is something one must be prepared to accept as a judge. Afterwards, I can feel proud of having participated in a particular, more noteworthy case. In spite of it all, I nonetheless get lost in the details of a specific case and not in the discussion surrounding it. When you have the job we have, even the most sensational things become common at the end of the day.

Stefan: Clearly, I am aware of the consequences of our rulings. The judgments issued by the Supreme Court are examined under a microscope and can start to take on lives of their own. This has been particularly evident where some believe that the legislation is inadequate in one or more ways. We might then be criticised for our rulings, while it is forgotten that our job is to voice the applicable law. Sometimes, however, language can be a blunt instrument and it might be difficult to express oneself in a manner which is both sufficiently clear for those who need to apply the law and appropriately accessible for a broader public. Sometimes, the consequences of a ruling may begin to show themselves only when they are applied by the lower courts. This is when we might be asked to participate in debates and appear in interviews about a ruling handed down some time in the

past. It can be very difficult to deal with since we cannot comment on the rulings of other courts.

Agneta: Following the “*Dummy Weapon*” case, I was asked how judges could reach a judgment in a way that undermines the fight against organised crime. I remember being confused by the question. The Supreme Court does not have its own agenda. My job is to pass judgment in accordance with applicable legislation.

In 2023, a press conference was convened to talk about the Supreme Court’s operations. What was behind this initiative?

Stefan: The thought was to present the activities of the Court and to attempt to create transparency about who we are and how we work. Our hope was to enhance understanding of the purpose and methodology of the Court to facilitate media contact in the future. From our perspective, the press meeting was well attended and appreciated. This also stimulated valuable discussions between judges and journalists in which both professional groups could achieve a deeper understanding of each other.

How do you feel treated by the media around noteworthy cases?

Stefan: Generally, I feel that we are treated well by the established media. Interviews and press conferences are easiest, while debates and panel discussions are considerably more difficult. It is easy in these contexts to end up on the defensive since prosecutors, members of the bar, and representatives of interest organisations have substantially more leeway to argue than we do, and so it should be. However, this is why it is important to set boundaries for participation at an early stage and to be clear



HÖGSTA DOMSTOLEN



HÖGSTA DOMSTOLEN



HÖGSTA DOMSTOLEN

Högsta domstolen meddelar dom i PFAS

Högsta domstolen har slagit fast att drycksvattnet fått höga halter av PFAS. Skadeståndsrättslig mening.

Dricksvattnet i höga halter på Blekin har fått

Drygt i domstol

Tal för



Högsta

Högsta
dricksvattnet

Dricksvattnet

about what we can and cannot comment on.

Agneta: One can be subject to media scrutiny for many different reasons. It is most difficult in the context of noteworthy cases in which the Supreme Court has not granted leave to appeal. It can be difficult to explain why leave to appeal has not been granted.

In what way do you think the Supreme Court should respond to the demand for rapid access to information in today's society?

Agneta: I think the Court's approach has changed quickly and in keeping with the present demand for accessibility. Nowadays, the Supreme Court is also on X (formerly Twitter). And we do what is necessary in order to maintain confidence in the Court.

Stefan: Our office requires us to be visible in connection with our rulings. While the public was once previously satisfied with a written judgment, something more is needed today. At present, there are many questions before the Supreme Court which are highly relevant in the media and to the political debate. Naturally, these are accompanied by increased pressure, but it is also often a reasonable imposition of responsibility. The strength of our arguments must be able to stand on its own, but today's rapid exchange of ideas makes it important to be involved from the outset and explain our judgments to ensure that someone else doesn't do it for us.





Recruiting, court work and further career paths

Just over 90 people work at the Supreme Court. Naturally, such a large workplace experiences regular turnover in personnel. In addition, with the exception of the Justices, all lawyers have temporary appointments. Accordingly, the Court has a continuous need for new employees. So, how does the Supreme Court go about recruiting and what is it like working at the Court which is the court of last instance for many cases? We have talked to some of the employees at the Supreme Court in order to delve into these questions.

Recruiting

Administrative Junior Judge Peder Mühlenbock works at the Supreme Court primarily with issues involving management and organisation. In 2023, approximately 30 new employees were hired and Peder participated in recruiting many of them.

“Most hirings for the Supreme Court involve a recruiting process which is more or less the same at other governmental agencies. We advertise positions when they become available and we invite the most qualified applicants to come for interviews.”

As regards the judges in the Supreme Court (Justices), however, recruiting is somewhat different. Justices are also appointed following an open application process, but it is the Judges Proposals Board - an independent governmental agency - which prepares the application process and ranks the applicants after having received references and interviewing them. It is subsequently the Government which takes the final decision regarding who will be appointed Justice.

“The Justices can have different backgrounds. Some of them have worked as attorneys, and others come from the legal sciences. Others have backgrounds as highly positioned judges or come from, for example, positions such as Director-General of Legal Affairs within the Cabinet Offices,” says Peder.

Following conclusion of the recruiting process, preparations get underway for the introduction of the new colleagues. The introduction scheduled both for lawyers and non-lawyers usually extends over a period of several weeks in order for the new hires to have the possibility to get a feel for the entire operation of the Court and to get a sound start in their new work duties. New employees also have a mentor who can answer questions and provide assistance during the introduction.

One of the employees who started in 2023 is IT Administrator Taoufik Lamrabi. Taoufik worked previously at the Administrative Court in Stockholm. Taoufik thought it seemed very exciting to work at the highest court and to contribute here with his knowledge of IT. ►

Anton Östros
Drafting Law Clerk

Karin Haraldsson
Registrar

Manal Akrari
Court Clerk

“Joining the Supreme Court as a new employee felt easy. There was a good structure to the introduction and there was ample time to ask questions.”

After having worked for some time at the Supreme Court, Taoufik appreciates that it is always exciting to come into work. Anything can namely happen.

“All IT problems, both great and small, go first through me and my IT administration colleagues since we are the first line support at the Court. We can solve certain problems immediately and on site at the Court. Other problems require help from colleagues at the Swedish National Courts Administration. In certain cases, we need to contact the systems providers.”

External and internal contacts

What it is like working at the Supreme Court naturally depends on the position. While Taoufik Lamrabti largely works internally supporting the Court’s other employees in IT-related matters, Registrar Karin Haraldsson has a great deal of contact with people outside the Court.

“We get questions both from journalists and the public concerning the Court’s cases, but we also receive requests for public documents.”

Karin does not, however, work exclusively in addressing the Supreme Court’s contacts outwardly. The main part of her work involves receiving incoming post and registering new cases. When she has completed these tasks, she forwards the documents to one of the Court’s drafting units. There, the material is received by one of the court clerks whose principal task is to assist the lawyers with preparations by, for example, attending to correspondence with the parties.

Manal Akrari has long worked as a court clerk at various courts in the Stockholm area.

“It was my interest in the courts world which led me to finally apply to the Supreme Court. I was attracted by the idea of participating in the work of creating new legal precedent.”

Work as a court clerk can differ amongst

the various courts. The Supreme Court has recently hosted a “clerk day” together with the Supreme Administrative Court. The clerks from the two courts met for a discussion of similarities and differences between the two highest courts.

“Hopefully, this will result in an expanded exchange between the courts, for example, in which court clerks from the Supreme Court can have a try working at the Supreme Administrative Court and vice versa.”

Oral presentations

Drafting law clerks and judge referees also work in the drafting units. The drafting law clerks are employed for a period of two years and work principally with simpler issues regarding leave to appeal and with extraordinary remedies.

“Towards the end of our service, we also assist the judge referees in the slightly more difficult cases,” explain Drafting Law Clerks Amanda Adolfsson and Anton Östros.

Like the other drafting law clerks at the Supreme Court, Amanda and Anton are qualified law clerks, but both have also worked in the private sector.

“I enjoy the courts world. When the opportunity arose to apply for a job as a drafting law clerk at the Supreme Court, it was an obvious choice to apply,” says Amanda.

Work as a drafting law clerk has changed since Amanda and Anton started. Previously, preparation of cases was nearly always in writing. During the last year, however, oral presentations have become all the more common.

“I think that I learn more when I give oral presentations. In addition, it is enjoyable and involves more personal contact with the Justices,” says Anton.

Neither Amanda nor Anton have decided what they want to do when their appointments to the Supreme Court come to an end. Several of their previous colleagues have commenced judge training in the courts of appeal, while others have become prosecutors or received appointments at other state authorities.

Amanda Adolfsson

Drafting Law Clerk

Taoufik Lamrabti

IT Administrator



Remote judge referees

All drafting law clerks currently serve in Stockholm. However, there were discussions during the year as to whether the Supreme Court in the future would also employ drafting law clerks who were situated at one of the Court's remote locations. For some time now, namely approximately one-third of the Court's judge referees work in Lund or Gothenburg.

Cecilia Andgren is one of them who works remotely. Like all judge referees in the Supreme Court, she has followed the judge career path and is an associate judge.

“The possibility of working from another location is important since I believe that this type of exciting remote work can contribute to more persons staying on within the public sector. In the long term, it is about ensuring the recruitment of new judges.”

Cecilia is a specialist reporting judge referee within the areas of transportation law and patent and market law, among others. The Supreme Court has eight specialist positions with different focuses. They are usually advertised internally and are regarded as a possibility for promotion for a judge referee. Cecilia thinks that remote presentations work well, but she still travels to Stockholm sometimes to give, for example, presentations in precedential cases.

“It is important to travel to Stockholm now and again in order to maintain good working relationships with the people one works with.”

The appointment of judge referees is limited to six years with the possibility for a certain extension. For many judge referees, employment at the Supreme Court is the last step prior to appointment as an ordinary judge. It is also common that judge referees, following their service, receive appointments at other state authorities, e.g. the Cabinet Offices, at the Parliamentary Ombudsman or office of the Chancellor of Justice.





The Freedom of the Press Act

Something unusual happened in 2023: one of Sweden's very old fundamental laws, the Freedom of the Press Act, was conferred with the Memory of the World status by UNESCO, the United Nations body for education, science and culture. The new Memory of the World is a living one and the recurring subject of interpretation and application by courts of law.

When the Freedom of the Press Act was adopted in 1766, Sweden was the first country in the world with a fundamental law which governed the right to freedom of speech. The status as a fundamental law would grant the Act special significance and permanency. However, it would take time before the idea of the freedom of the press took root in Swedish society, and the initial period of the Act was instead characterised by uncertainty regarding its legal status. It was reworked several times before a vigorous reprise, after the Second World War, by virtue of the currently applicable version from 1949.

The Freedom of the Press Act which applies today is faithful to the 1766 legal principles. The legacy lives on and is also administered in other ways. The Swedish Freedom of the Press Act was namely designated in 2023 as a Memory of the World by UNESCO. At the same time, now 250 years after their creation, the rules continue to raise new questions regarding interpretation and application that are to be examined by the Supreme Court. As during the initial years of the Act, the questions raised may be said to reflect the prevailing spirit of the time.

To begin with, the Freedom of the Press Act entails a right to print public documents and a general prohibition against censorship, a prohibition which has largely been preserved since then. Accordingly, the Act has played a decisive role in the protection of the printed word. The manner in which the freedom of the press is to be balanced against other important social interests is a perpetually relevant question. In modern times, the

Supreme Court has examined in a number of rulings the limits of the freedom of the press as regards criminal investigations and criminal liability. This has extended to, among other things, the search of an editorial office (the "*Search at Aftonbladet*" case, case NJA 2015, p. 631), seizure of a memory card from a journalist (case NJA 2015, p. 298), and whether the intention to publish may be considered in conjunction with the determination of sentencing (case NJA 2015, p. 43). The Court has recently also examined the conditions for liability for the freedom-of-expression crime, defamation, for statements made in a web magazine regarding a journalist (the "*Allegations Regarding the Journalist*" case, case NJA 2022, p. 1136).

By virtue of the Freedom of the Press Act, the right to acquire public documents – that which became what is still today the principle of freedom of access to public documents – was implemented. The Supreme Court has had cause to return to issues regarding the right to obtain public documents over the course of the years. These new questions in this area have been motivated not the least by technical developments. The "*XML File*" case (case NJA 2023, p. 498) examined a decision not to release an XML file in the district courts' new digital support tool which is used in the preparation and processing of criminal judgments in criminal cases.

The Memory of the World, Freedom of the Press Act, appears against this background to be a fully living part of the application of law by the Supreme Court today and shall continue to be in the future.

Cases in brief

2023

CIVIL LAW

The State was ordered to pay compensation to a forestry company which was prohibited from felling a forest

(Case NJA 2023, p. 291, the “Capercaillie Courtship in Malsättra” case)

A forestry company was prohibited from felling forest due to the fact that felling would disturb the capercaillie present in the area and that felling was accordingly prohibited in accordance with the Species Protection Ordinance. The forestry company then requested that the State pay compensation equal to the reduction in value of the property plus a certain supplement. There are no statutory provisions which guarantee compensation to a landowner in such a situation. The Supreme Court noted, with reference, among other things, to the Instrument of Government’s protection of property rights, that the individual nonetheless, under special circumstances, may be entitled to compensation. This may be the case when the restriction is so particularly burdensome for the landowner that it does not appear reasonable for him or her to bear the consequences of the restriction alone. Use of the land had been significantly impeded and this was due to circumstances which the forestry company could neither influence nor foresee. This economic effect was significant, just over 2.8 million Swedish kronor. The restriction against felling was thereby deemed to have given rise to such a significant loss that it was not reasonable for the company to bear it on its own.

The Enforcement Authority was liable in damages for erroneous information

(Case NJA 2023, p. 373, the “Jewellery Weight” case)

A necklace which was sold online at a compulsory auction turned out to weigh less than

the Enforcement Authority had stated prior to the auction. The erroneous information came from an outside appraiser who had been retained by the Authority. Property sold at an executive auction is sold in existing condition. In conjunction with incorrect information, there may be liability in damages for errors or omissions in the exercise of public authority. The Supreme Court drew certain parallels with the Sale of Goods Act and found that the Authority was responsible for factual information being correct where the information is simple and easy to verify and, furthermore, may be assumed to be material to the buyer. The aforementioned also applies to information from someone retained by the Authority. The Supreme Court found that the Authority was liable in damages.

A watch stored in the centre console of a car was deemed to be the property of the driver and was seized for his debts

(Case NJA 2023, p. 570, the “Watch in the Centre Console” case)

A watch which was stored in the centre console of a car was seized to cover the driver’s debts. The driver, who had borrowed the car, stated that it was not his watch and could thus not be seized. A person who had not been in the car asserted that the watch was hers. The Supreme Court found that a sufficiently clear connection subsisted between the driver and the watch. He could exercise dominion over the watch and it was situated in such a manner in relation to him as is normally associated with ownership. Accordingly, he was deemed to have the watch in his possession. The Supreme Court thereby reached the conclusion that the seizure should stand.

Ruling regarding e-commerce marketing and sales from abroad

(Case NJA 2023, p. 593, the "Internet Wine Shop" case)

Systembolaget brought an action against a Danish company and its Swedish parent company and claimed that the companies, pursuant to the Marketing Act, were to be prohibited from marketing sales of, among other things, wine to consumers in Sweden with carriers who are enlisted by or through the companies. According to the Supreme Court, the facts of the case revealed that it was a Danish company which, by means of e-commerce, sold wine to consumers in Sweden, but the facts did not show that any sales operations had been carried out in Sweden. The Supreme Court held that the Danish company and its Swedish parent company had not conducted retail trade in breach of the Alcohol Act. Accordingly, the companies were not to be prohibited from marketing alcoholic drinks.

Insurance compensation during the Covid-19 pandemic

(Case NJA 2023, p. 630, the "Epidemic Business Interruption Insurance" case)

A company which operated a nightclub in Stockholm closed for business in 2020 due to a general restriction issued by the Public Health Agency of Sweden for, among other things, restaurant operations during the Corona pandemic. The company claimed compensation under its epidemic business interruption insurance. According to the terms and conditions of the policy, the insurance covered interruptions due to government intervention in order to prevent the spread of contagious diseases. The Supreme Court held that the expression "government intervention" in the policy was to be interpreted such that it did not cover general regulations. The insurance company was thereby not obliged to pay compensation for the closure.

Primary lessee's liability in damages when the sub-lessee fails to vacate

(17 October, the "Apartment in Jämjö" case)

A tenant who sub-leased their apartment reached an agreement with the landlord that the lease agreement would terminate on a given date. However, the landlord did not obtain access to the apartment following said date. The sub-lessee had not moved out and, furthermore, had replaced the lock. The landlord sued the primary lessee and claimed, among other things, damages for the period of time

the apartment could not be leased out. Where a primary lessee remains when the obligation to vacate has commenced, he or she commits a breach of contract. The lessee then becomes liable to compensate the landlord for the loss incurred by the landlord as a consequence of the breach of contract. In conjunction with sub-leases, the primary lessee is responsible for all obligations in accordance with the agreement in relation to the landlord. The primary lessee must ensure that the sub-lessee vacates the premises in a timely fashion. The primary lessee thus commits a breach of contract in the event the sub-lessee remains. According to the Supreme Court, the primary lessee was obliged to compensate the landlord for the loss incurred by the landlord due to the failure to vacate.

The owner of the vessel's liability in damages as shipowner for damage to an underwater cable

(14 November, the "Baltic Cable" case)

A vessel experienced engine failure in waters outside Trelleborg. An underwater cable was damaged in conjunction with anchoring the vessel. The owner of the underwater cable claimed that three defendants were to pay damages for the loss. The principal question before the Supreme Court was who was to be deemed to be the shipowner and responsible for the loss in accordance with the rules regarding shipowner liability in the Swedish Maritime Code. The case also raised the question as to what constitutes gross negligence. The Supreme Court was of the opinion that none of the defendants themselves had acted with qualified gross negligence as asserted by the owner of the underwater cable. On the other hand, the Supreme Court, in an overall assessment, concluded that the majority of the typical shipowner functions rested with one of the defendants. Thus, as the shipowner, he should be solely liable for the losses caused by the vessel to the cable by virtue of the skipper and crew's error or omission in the course of employment on the vessel.

A ruling regarding personal injury under tort law

(5 December, the "PFAS" case)

Drinking water from the waterworks in Ronneby municipality contained very high PFAS levels. The contaminants in the water caused residents in the area to have high PFAS levels in their blood. Slightly more than 150 resi-

dents brought an action against the municipal water company and requested that the court establish the liability of the company to compensate them for personal injury. The question before the Supreme Court was whether high PFAS levels in the blood are to be regarded as constituting such a physical impairment as constitutes a personal injury under tort law. The Supreme Court observed that the risk that a physical impairment will arise in the future cannot inherently be considered a personal injury. However, the Supreme Court was of the opinion that the facts in the case provided sufficient support for the conclusion that such impairment had already arisen amongst each and every one of the complainants in the form of increased PFAS levels in the blood. Accordingly, the complainants were deemed to have suffered personal injury.

DNA profiling in a paternity case by means of a tissue sample from a deceased and buried person

(12 December, the “Genetic Genealogy” case)

A person who brought an action as to whether a certain deceased man was to be determined to be his father presented, among other things, a genetic genealogy in support. The man died more than 25 years ago. The court of appeal decided that a forensic DNA profile using tissue samples from the deceased man would be carried out. The Supreme Court affirmed the decision. Consideration was given to the fact that an individual seeking his or her identity and heritage has a strong interest in obtaining increased clarity regarding paternity. Consideration was given to the lack of other possibilities to obtain information which could form the basis of the determination of the paternity question. The child’s interest was deemed to outweigh the intrusion or detriment otherwise entailed in the genetic genealogy in relation to the peace which should be accorded to the deceased as well as any other competing interest.

Arbitral award could be enforced regarding costs of arbitration

(27 December, the “Naked Juicebar” case)

A final award imposed obligations on the parties to jointly and severally pay arbitration costs consisting of the arbitrator’s fee and fees to the Arbitration Institute. As between the parties, the two losing parties were ordered to ultimately bear the costs. The question was whether this obligation was sufficiently clear in order to be able to form the basis of en-

forcement. The Supreme Court noted that the costs were such as an arbitrator, pursuant to the Arbitration Act, could order the opposing party to compensate at the request of a party. While these rules are discretionary, that which had been agreed upon by the parties did not deviate from the rules of the Act in any material sense. The Supreme Court determined that it was a question of joint and several liability between the losing parties. The amounts were set forth in another section of the award. By virtue of paying in the advance and the set-off which was made, the amount to which the obligation pertained could be easily calculated. The Supreme Court thereby found that the obligation was sufficiently clear and that there was no impediment to enforcement.

CRIMINAL LAW

Evaluation of evidence in criminal cases

(Case NJA 2023, p. 29, the “Bus Stop Murder” case [I] and the “Årsta Square” case [II])

The Supreme Court expressed itself through two rulings regarding the manner in which circumstantial evidence should be treated in criminal cases. In the “Bus Stop Murder” case, it was asserted that the defendant had shot the victim. The prosecutor adduced several independent and interacting pieces of evidence. The two most important consisted of the jacket, which the perpetrator had used, found in the defendant’s residence with his DNA on the collar and the defendant’s DNA on three of the cartridges found at the crime scene. The Supreme Court noted that, upon a combined assessment, the evidence provided very clear support for the prosecution and that what had been presented regarding possible, alternative perpetrators did not give cause to consider that the act was perpetrated by someone else. The defendant was accordingly found guilty for, among other things, murder and sentenced to life imprisonment. In the “Årsta Square” case, a shot had been fired at a car in which two security guards were travelling. The prosecution pertained to attempted murder and it was alleged that it was two persons who together and in concert had acquired a loaded gun and attempted to kill the security guards. The Supreme Court came to the conclusion that it was possible that other persons carried out or participated in the act and the evidence was not sufficiently strong that any firm conclusions could be drawn regarding what involvement the defendants could have had. Accordingly, they were acquitted.

Participation in the Easter riot in Örebro was regarded as gross sabotage of emergency service activities

(Case NJA 2023, p. 114, the “Easter Riot in Örebro” case)

Prior to a public gathering in Örebro, police officers and police property were assailed by a gathering of persons. Among other things, there was extensive stone throwing. The Supreme Court examined the prosecution against two of the persons and found that the actions were to be classified as sabotage of emergency service activities and not violent rioting. The offences were determined to be gross, primarily taking into account the fact that they had been carried out within the context of an extensive and serious attack against the police. The defendants were found to be criminally liable only for those parts of the chain of events which could be specifically connected to their own actions. In the assessment of the gravity of the acts, however, consideration was given to the fact that they were perpetrated in a context in which many other persons also attacked the police. The penalty value of the offences was determined to be a sentence of three years’ imprisonment.

A decision to conduct a remote search which had already been executed was to be examined

(Case NJA 2023, p. 143, the “Executed Search” case)

Following a decision regarding a so-called remote search, the police may search for electronic information stored on external servers or in cloud-based internet services. The legislation is new and it was unclear whether a decision may be taken to conduct a search even where such pertains to information which might be stored outside Sweden. This question arose in the case. The decision appealed had, however, already been executed when the case reached the Supreme Court. The Supreme Court usually does not review decisions that have already lost their direct relevance to the parties (so-called moot decisions), but the case involved the question of a type of decision which is regularly executed subject to very short notice. Thus, the view regarding examination of moot decisions which has been applied to date entails that the Supreme Court cannot in practice determine questions in which there is a need to create precedent. The Supreme Court accordingly decided in a plenary ruling (a ruling in which all 16 Justices participate) that the Court would examine

the decision notwithstanding the fact that the measure had already been executed.

Remote search may take place notwithstanding that the information sought might be stored abroad

(Case NJA 2023, p. 231, the “Unknown Storage Site” case)

A man was suspected of, among other things, gross accounting offences and the prosecutor requested that the district court order a remote search. This new coercive measure makes it possible for the police to be able to obtain, for example, information in messaging services and social media accounts notwithstanding that the information is stored externally to the mobile telephone or tablet which is used to access the information. The suspect opposed the request and stated that the search could not take place since the information could be stored abroad and that Swedish authorities lacked executive jurisdiction outside Swedish territory. The Supreme Court held that it is possible to order a remote search notwithstanding that the search relates to information which might be stored abroad.

Statement in a regional council was not agitation against a population group

(Case NJA 2023, p. 246, the “Speech in the Council” case)

A member of the regional council stated at a meeting of the regional council that the population of a certain country was amongst the type of people who have the lowest intelligence in the entire world. The statement was made in a discussion regarding the region’s annual report and unemployment. The member meant that he wanted to express that persons from the relevant country had difficulty obtaining work in Sweden and that he did not intend to offend or disparage them. He was prosecuted for agitation against a population group. The Supreme Court found that there is little scope for considering statements made in the context of a debate in a political assembly to be punishable. It should only be considered in the case of statements with a particularly offensive content and which clearly go beyond what is acceptable in political discussions. The Supreme Court found that the statement, taking into account the context – notwithstanding that it was clearly derogatory to the group targeted – did not go beyond what would have to be accepted in the context of a debate in a political assembly. The member was accordingly acquitted. ▶

Cooperation with an investigation of another person's offences entailed mitigation of a sentence

(Case NJA 2023, p. 265, the "Glass Shard in the Bag" case)

A woman was found guilty of a gross narcotics offence. During the police investigation, she had provided information regarding the involvement of another person. That person was prosecuted at the same time and found guilty of exceptionally gross narcotic offences. Due to the provision of information, grave threats were made against the woman. According to new legislation, where a defendant provides information material to the investigation of another person's offences, it shall be regarded to a reasonable extent as mitigating when the penalty is determined. A circumstance which was also previously taken into account is whether the person who has cooperated in the investigation of another person's offence is at risk of being subjected to serious reprisals. The Supreme Court concluded that the woman, taking into account her cooperation, would receive a reduction in her sentence of one and one-half years' imprisonment and she was sentenced to prison for a period of four years.

Ruling regarding attempted aggravated weapons offence

(Case NJA 2023, p. 393, the "Dummy Weapon" case)

A person attempted to retrieve weapons from a basement storage room. However, the police had exchanged the weapons for a dummy four months earlier and before the person had decided to retrieve weapons there. The Supreme Court stated that a person who has begun to commit a particular offence without it having been brought to completion may be convicted of attempting to commit the offence. This presupposes, among other things, a danger that the act would lead to the completion of the offence or that such a danger is excluded only due to chance circumstances. The Supreme Court observed that the weapons had been exchanged before the person had formed the intention and, accordingly, there was a fundamental flaw in the criminal plan. The Supreme Court acquitted the person of liability for attempted aggravated weapons offences.

Satellite broadcasts from Qatar were not copyright protected in Sweden

(Case NJA 2023, p. 416, the "Satellite Broadcast" case)

Two representatives of a company which unlawfully re-broadcast TV broadcasts from Qatar were charged for, among other things, violations of the Copyright Act. The programme-carrying signal was sent by the company in Qatar via fibre cable to France and then, via uplinks to Spain and the United Kingdom, to satellites which, in turn, sent the signals down to the earth for reception. The Supreme Court was of the opinion that all links in the technical communication chain of the programme signals constituted a single communication to the public via satellite. The broadcasts are thus deemed to have occurred in Qatar from which the communication of the programme-carrying signals was initiated. This means that the signals were not protected by the Copyright Act and that the defendant thus could not be found guilty of an offence under that Act.

Two judgments of the court of appeal were reversed

(Case NJA 2023, p. 460, the "Elevator Murder" case [I] and the "Surplus Claim Regarding the Shooter" case [II])

In the first case, three persons were prosecuted for murder, but the court of appeal had instead found two of them guilty of aiding. The statement of the criminal act charged stated only that all three had subjected the victim to blunt force trauma and that he had died as a consequence of the assault. In the second case, three persons had been prosecuted for attempted murder which they were to have committed together and in concert. One of them was identified as the shooter. The two others were prosecuted for aiding the shooter. The identified shooter was acquitted in the court of appeal, while the two others were found guilty of attempted murder. The Supreme Court noted in both cases that the court of appeal found the defendants guilty for acts other than those for which they were charged. The judgments of the court of appeal were accordingly reversed and the cases were remanded to the court of appeal for a new trial.

Ruling regarding distinction between assault and gross assault

(Case NJA 2023, p. 560, the “Fruit Knife” case)

A perpetrator pushed the injured party – with whom he had a couple’s relationship – down on to a sofa, grabbed a stranglehold and delivered several stabs with a fruit knife which struck one of her arms and legs. The injuries were not particularly serious nor resulted in intense or long-lasting pain. However, the assault was unprovoked and was perpetrated in a violent and frightening manner, and there was a substantial risk of serious injury. The Supreme Court took into account also the fact that the perpetrator had armed himself with a relatively small and thin knife and that the injured party was not alone and received aid immediately. The Supreme Court found that the ruthlessness demonstrated by the perpetrator did not exceed that by which the injuries were caused. Accordingly, even if it was serious, the act of assault was not deemed to constitute gross assault.

Demonstration in the parliamentary public gallery was penalised

(Case NJA 2023, p. 583, the “Interpellation Debate” case)

In connection with an interpellation debate in the Riksdag’s Plenary Chamber, a group of persons in the public gallery stood up together and expressed their dissatisfaction with the content of the debate. Some raised their arms and others unfurled a flag. According to the Supreme Court, the demonstration caused noise. By virtue of their actions, the individuals disrupted a meeting in the Riksdag which is a state proceeding. The protection of freedom of expression in the Instrument of Government and the European Convention on Human Rights did not constitute an impediment to holding them liable for an offence. The Supreme Court accordingly determined that the individuals were to be found guilty of disturbing proceedings.

Procedural error in a case regarding sexual offences

(17 November)

A person was prosecuted for child rape. The court of appeal was of the opinion that the statement of the criminal act charged was proven, but that it did not constitute rape of a child. Since the prosecutor had not brought a charge for some other offence, the defendant

was acquitted. The court is not bound by the penalty provisions stated by the prosecutor, yet, in order for the court to be able to apply other provisions, it is necessary that the defendant has been notified of it and had the opportunity to defend. The question of alternative penalty provisions may be raised by the court drawing the attention of the parties to it. However, the court must be able to proceed on the basis that the prosecutor has adduced all penalty provisions which the prosecutor believes the court is to examine. Accordingly, it is only in exceptional cases, when necessary for equivalent cases to be treated in the same manner, that the court is obliged to act. Primarily, this occurs in situations in which it appears nearly obvious that the statement of the criminal act charged also encompasses an offence other than the one stated by the prosecutor. The Supreme Court observed that it was clear that an alternative penalty provision could be applicable, namely sexual assault of a child. Thus, the court of appeal had not only the possibility, but also the obligation, to take the steps necessary in order to be able to examine the statement of the criminal act charged in relation to the penalty provision. The Supreme Court accordingly reversed the judgment of the court of appeal and remanded the case to the court of appeal for a new trial.

Environmental protestor is found guilty of unlawful intrusion

(22 December, the “Protestor Who Stayed Put” case)

During a climate protest, protestors entered a business premises where cars were on display. They sat on the floor, unfurled a banner and sang together. The personnel decided to close the premises and the police notified the protestors of the same. The protestors were asked to leave the premises and were notified that they would be reported for unlawful intrusion if they remained. The defendant was one of them and remained. After ten to fifteen minutes, the police removed the remaining protestors. The Supreme Court observed that the premises, after it had been closed, became such a premises as is protected by the provision regarding unlawful intrusion. The fact that the act was committed in conjunction with a protest could not release the defendant from liability. The act also could not be deemed permissible by reference to the provision regarding necessity. The defendant was accordingly found guilty of unlawful intrusion.

The year in brief

23–24 January

The Supreme Court visited the District Courts of Norrköping and Linköping. Head of Division Gudmund Toijer, Administrative Director Jens Wieslander, Judge Referee Emma Björneke, Drafting Law Clerk Anton Östros, Court Clerk Charlotta Luthman and Administrative Junior Judge Ted Thyrén participated from the Supreme Court.

8 February

The Supreme Court and the Supreme Administrative Court jointly received a visit from the Committee on the Constitution.

21 February

A press meeting was arranged with the Supreme Court relating to the publication of the 2022 Activity Report.

13 March

The Supreme Court visited the Nacka District Court. Justice Svante O. Johansson, Judge Referees Charlotta Hallgren and Malin Broman Lindfors, Court Clerk Charlotta Luthman and Administrative Junior Judge Peder Mühlenbock participated from the Supreme Court.

14 March

The Supreme Court visited the Stockholm District Court. President Anders Eka, Administrative Director Jens Wieslander, Judge Referee Johanna Siesing, Drafting Law Clerk Victoria Ollén, Court Clerk Therese Johansson and Administrative Junior Judge Rebecka Jungstedt participated from the Supreme Court.

24 March

The Supreme Court received a visit from the Constitutional Court of the Republic of Latvia. Justice Eric M. Runesson, Administrative

Director Jens Wieslander, Judge Referee Dennis Andreev and Administrative Junior Judge Rebecka Jungstedt participated from the Supreme Court.

27–28 March

President Anders Eka, Head of Division Gudmund Toijer and Justices Cecilia Renfors and Stefan Reimer participated at a seminar for judges of the Nordic high courts. The seminar was arranged in Iceland.

17 April

Justice Sten Andersson retired. He became Justice in 2016. Justice Johnny Herre resigned. He became Justice in 2010.

Anders Perklev and Margareta Brattström became Justices of the Supreme Court. Anders Perklev came most recently from the position of President of the Svea Court of Appeal. Margareta Brattström came most recently from a position of Professor at the University of Uppsala.

11–12 May

President Anders Eka participated at a conference in Bratislava, Slovakia, which was arranged by the Network of the Presidents of the Supreme Judicial Courts of the European Union.

15 May

The Supreme Court visited the Svea Court of Appeal. President Anders Eka, Administrative Director Jens Wieslander, Head of Court Clerks Maria Konstantidou, Judge Referee Hanna Hallonsten, Drafting Law Clerk Maria Walter, Court Clerk Charlotta Luthman and Administrative Junior Judge Rebecka Jungstedt participated from the Supreme Court.

26 May

The Supreme Court received a visit from the Romanian legal system and the World Bank. Justice Stefan Reimer and Administrative Junior Judge Peder Mühlenbock participated from the Supreme Court.

23–25 August

A meeting for the presidents of the Nordic high courts was arranged in Norway. President Anders Eka and Head of Division Gudmund Toijer participated from the Supreme Court.

31 August–1 September

President Anders Eka participated at a conference in The Hague, the Netherlands, which was arranged by the European Court of Human Rights, the Constitutional Court of Belgium, the Constitution Court of Luxembourg and the Supreme Court of the Netherlands.

14–15 September

Head of Division Gudmund Toijer participated at a conference in Brno, Czech Republic, which was arranged by the Supreme Court of the Czech Republic.

19–21 September

Justices from Division 1 and Administrative Director Jens Wieslander visited Strasbourg and the European Court of Human Rights and several of the institutions under the Council of Europe.

25 September

The Supreme Court visited the Södertörn District Court. Justice Petter Asp, Administrative Director Jens Wieslander, Judge Referee Hanna Hallonsten, Drafting Law Clerk Lovisa Heldring, Court Clerk Therese Johansson and Administrative Junior Judge Peder Mühlenbock participated from the Supreme Court.

Photograph from the Supreme Court's Precedential Seminar on 14 November

Joel Samuelsson
Professor

Ginta Ahrel
Attorney



25–26 September

Administrative Director Jens Wieslander participated at a meeting for administrative directors of the Nordic high courts. The meeting was arranged in Stockholm jointly by the Supreme Court and the Supreme Administrative Court.

26 September

The Supreme Court received a visit from the Constitutional Court of Albania. Justice Stefan Reimer and Administrative Junior Judge Peder Mühlenbock participated from the Supreme Court.

2 October

The Supreme Court visited the Eskilstuna District Court. Justice Anders Perklev, Head of Drafting Division Claes Söderqvist, Judge Referee Jenny Engvall, Drafting Law Clerk Amanda Adolfsson, Court Clerk Charlotta Luthman and Administrative Junior Judge Oskar Persson participated from the Supreme Court.

9 October

President Anders Eka participated at the 75th Anniversary of the Court of Appeal for Western Sweden.

11–12 October

President Anders Eka participated at the 2023 Regional “Judge Days” in Sundsvall which was arranged by the Court of Appeal for Lower Norrland.

17–19 October

Justices from Division 2 and Head of Drafting Division Claes Söderqvist visited Strasbourg and the European Court of Human Rights and several of the in-

stitutions under the Council of Europe.

19 October

Administrative Director Jens Wieslander participated at the inauguration of the Göta Court of Appeal and the Administrative Court of Appeal of Jönköping’s new premises.

20 October

Justice Anders Perklev participated at the inauguration of the new premises for the Malmö District Court, the Administrative Court in Malmö, and the Rents and Tenancy Tribunal in Malmö.

9–11 November

President Anders Eka participated at a conference in Vienna, Austria which was arranged by the Network of the Presidents of the Supreme Judicial Courts of the European Union. The programme included, among other issues, questions regarding human rights and artificial intelligence. Anders Eka was appointed at the conference as the new President for the Network for the upcoming two years.

10 November

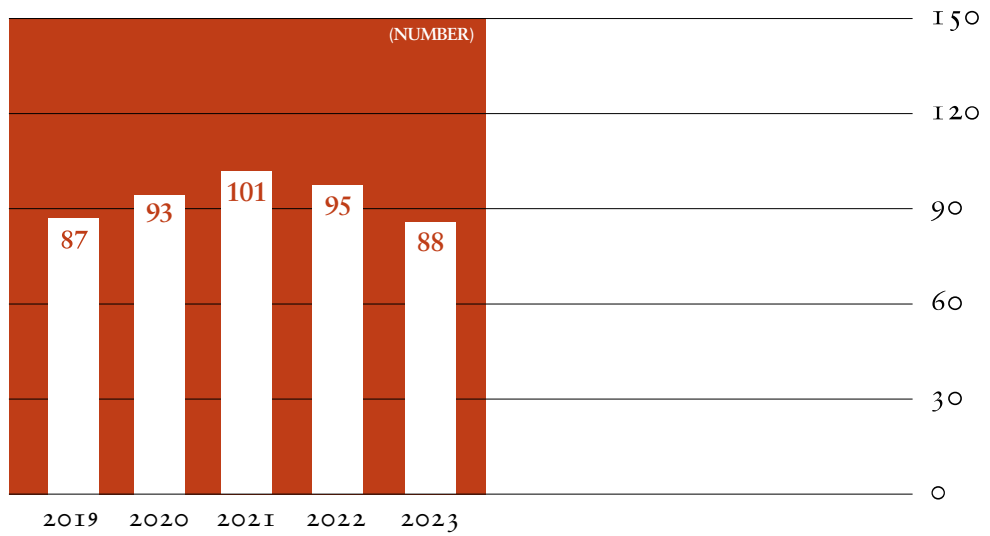
Head of Division Gudmund Toijer participated at a conference in Brussels at the invitation of European Commissioner Didier Reynders.

14 November

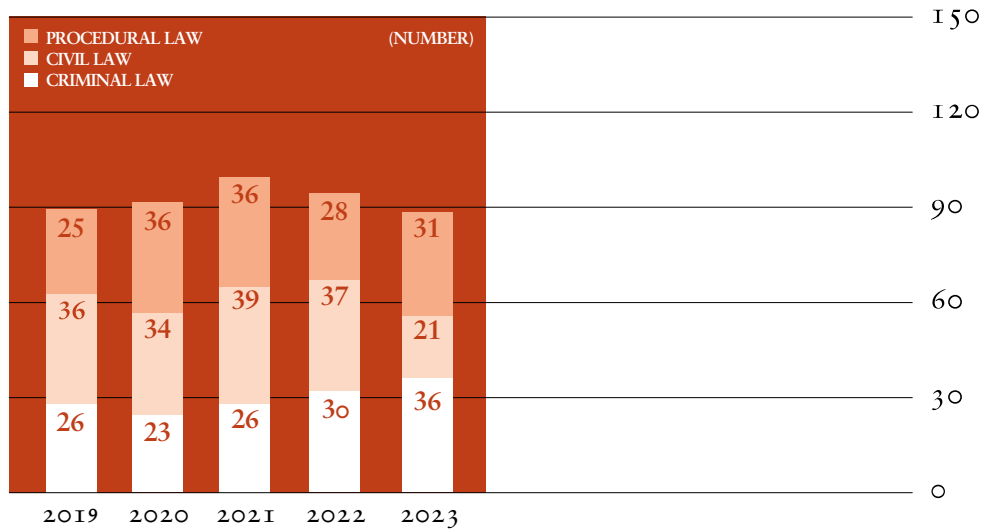
The Supreme Court arranged a precedent seminar focusing on property law. Approximately 40 invited guests from courts, members of the Bar Association, the university and organisations and companies participated at the seminar.

STATISTICS

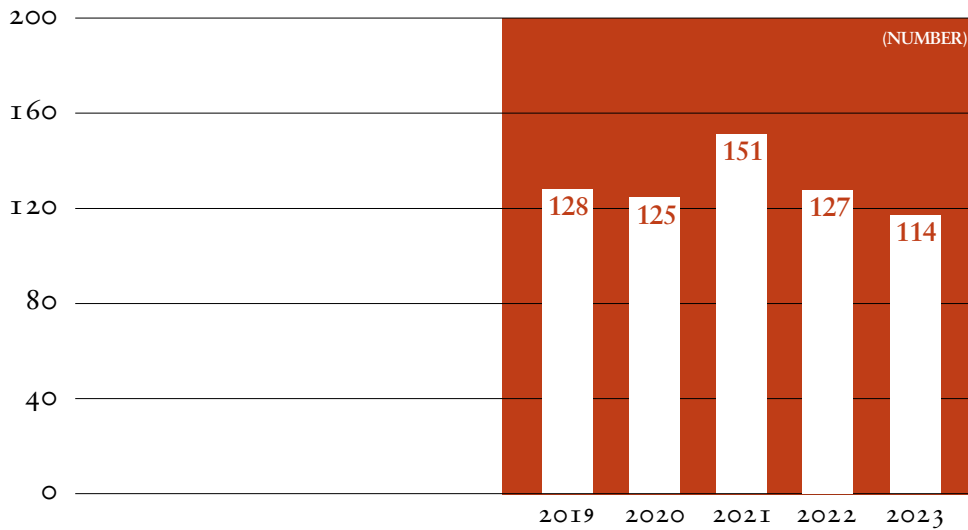
Precedents



Precedents per area of the law

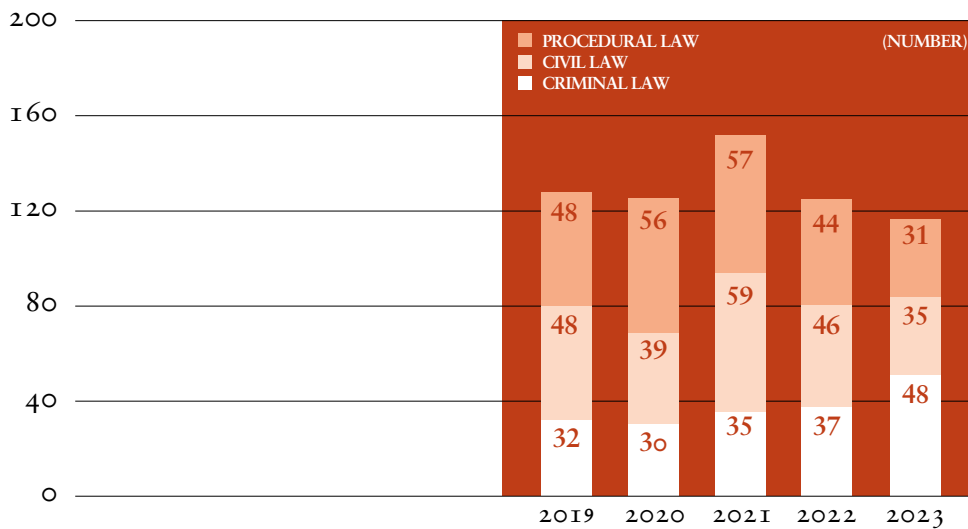


Cases for which leave to appeal was granted*



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

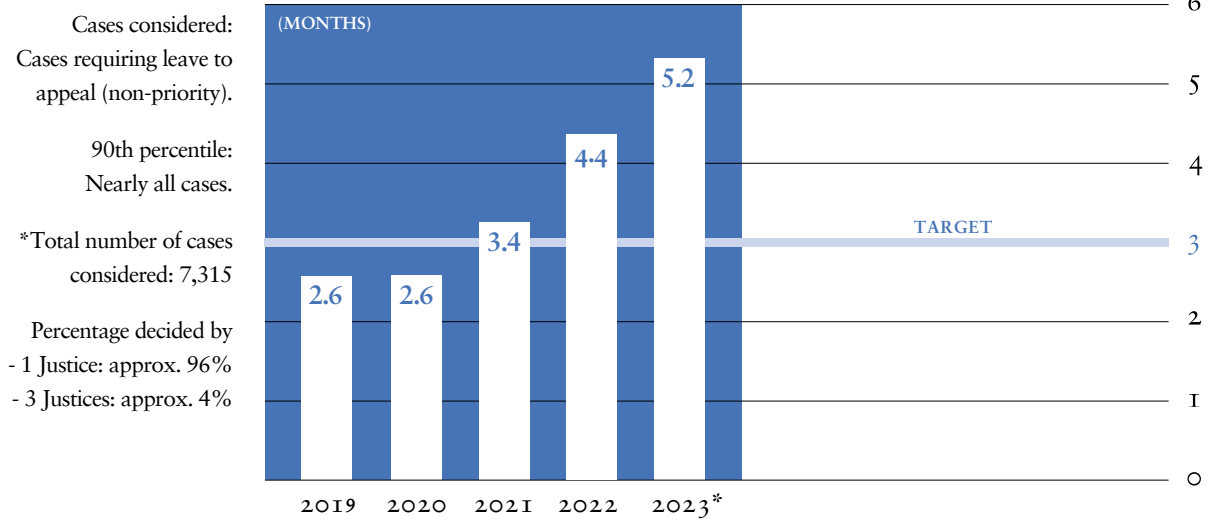
Cases for which leave to appeal was granted per area of the law*



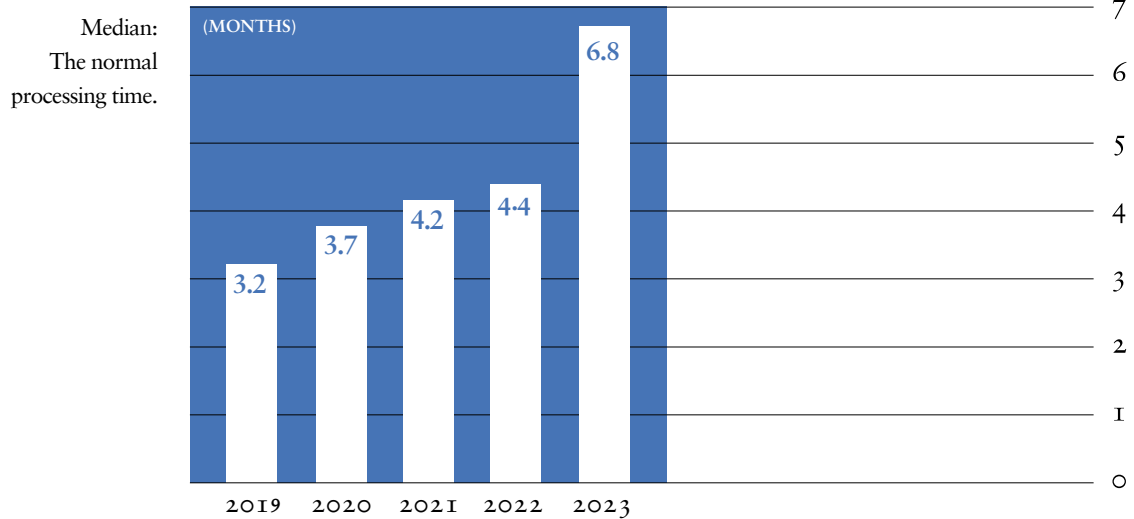
*Includes leave to appeal granted in the courts of appeal.

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

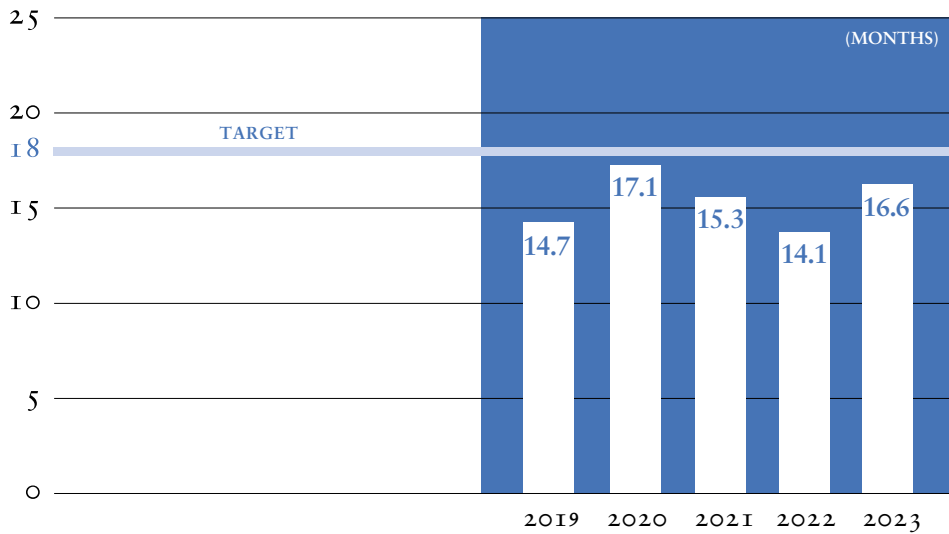
Time to decision regarding leave to appeal



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



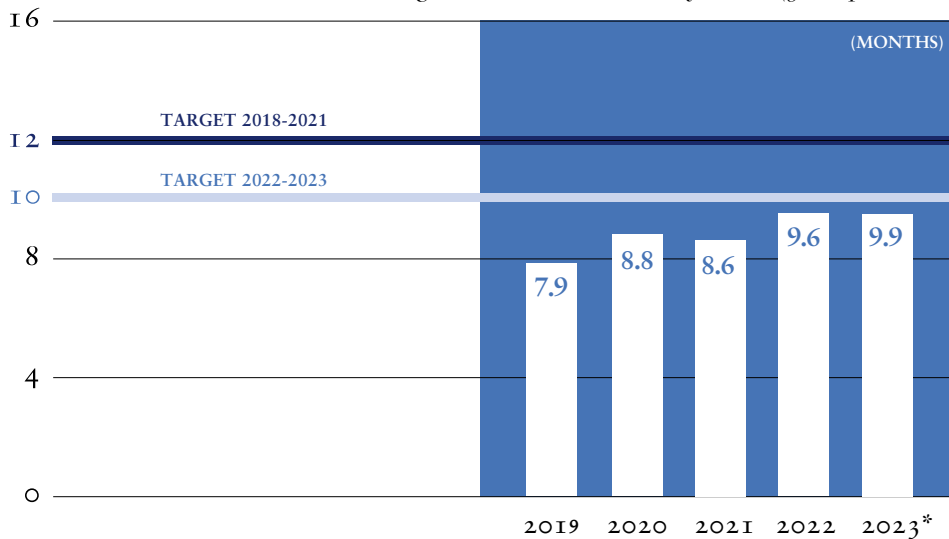
Processing times approved cases (90th percentile)



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

90th percentile:
Nearly all cases.

Processing times extraordinary cases (90th percentile)



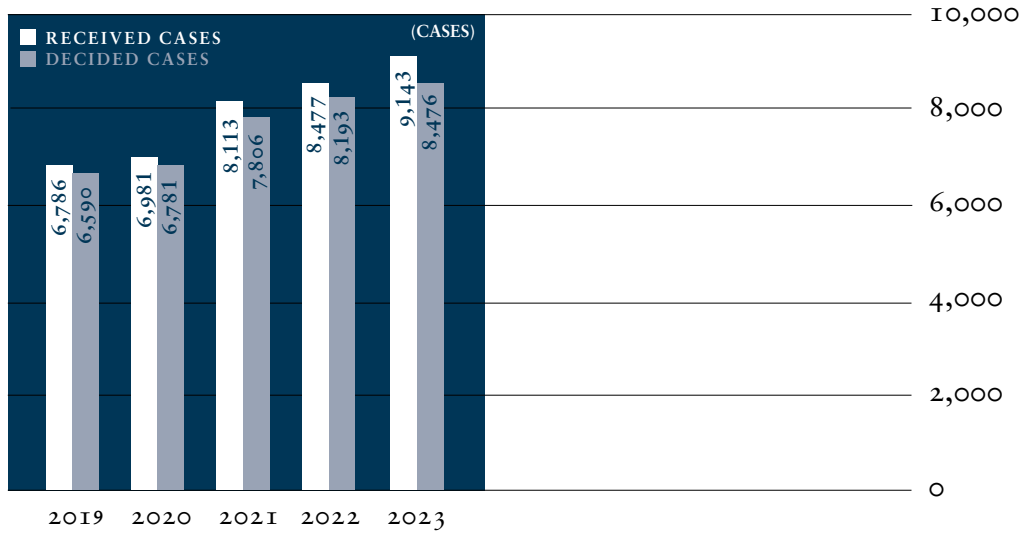
Extraordinary cases:
Grounds for new trial,
grave procedural error,
etc.

90th percentile:
Nearly all cases.

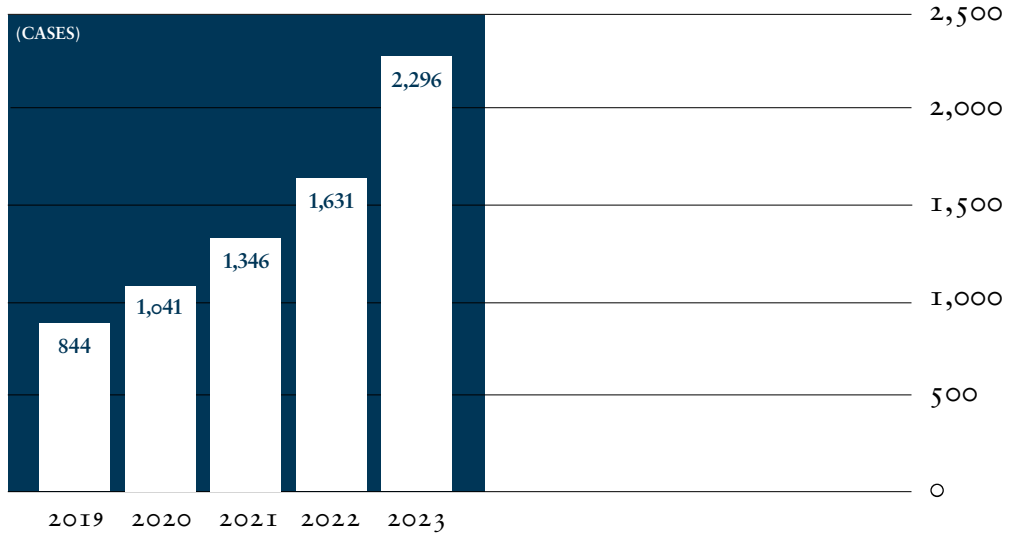
Total number of cases
decided: 805

Percentage decided by
- 1 Justice: approx. 94%
- 3 Justices: approx. 5%
- 5 Justices: approx. 1%

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
AGNETA BÄCKLUND	BORN 1960	JUSTICE SINCE 2010
SVANTE O. JOHANSSON	BORN 1960	JUSTICE SINCE 2011
DAG MATSSON	BORN 1957	JUSTICE SINCE 2012
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
JONAS MALMBERG	BORN 1962	JUSTICE SINCE 2022
CHRISTINE LAGER	BORN 1962	JUSTICE SINCE 2022
ANDERS PERKLEV	BORN 1960	JUSTICE SINCE 2023
MARGARETA BRATTSTRÖM	BORN 1966	JUSTICE SINCE 2023



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