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**Executive summary**

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## II. Executive summary

### Sweden

#### 1. Introduction: overview of the legal and institutional framework of Sweden in the context of implementation of the United Nations Convention against Corruption

Sweden signed the United Nations Convention against Corruption on 9 December 2003 and deposited its instrument of ratification with the Secretary-General on 25 September 2007.

The implementation by Sweden of chapters III and IV of the Convention was reviewed in the third year of the first review cycle, and the executive summary of that review was published on 28 May 2014 ([CAC/COSP/IRG/I/3/1/Add.13](#)).

Authorities in Sweden with functions relevant to the prevention and countering of corruption include the following: Chancellor of Justice, Financial Supervisory Authority, including its Financial Intelligence Unit, Ministry of Finance, Ministry of Justice, National Agency for Public Procurement, National Audit Office, Parliamentary Ombudsmen, Swedish Agency for Public Management, Swedish Association of Local Authorities and Regions, Swedish Competition Authority, Swedish National Financial Management Authority and Swedish Police Authority.

Sweden participates in international programmes and projects aimed at the prevention of corruption through its membership in several international and regional organizations, such as the European Union, the Organisation for Economic Co-operation and Development and the Council of Europe Group of States against Corruption.

#### 2. Chapter II: preventive measures

##### 2.1. Observations on the implementation of the articles under review

*Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)*

Sweden has a decentralized system of government. Accordingly, anti-corruption policies are designed by individual government agencies to meet their specific needs.

In 2020, the Government of Sweden adopted an action plan against corruption (2021–2023) with a view to providing public agencies with tools and best practices to enable them to prevent corruption in an effective and structured way. The plan highlights essential components of preventive frameworks in the public sector and routines for handling suspected corruption, and promotes collaboration among agencies. No actionable milestones or time frames are given for the implementation of the action plan.

Each government agency is responsible for implementing effective and structured policies to manage corruption risks. As part of the action plan, the Swedish Agency for Public Management conducts structured evaluations of implementation by government agencies and their overall anti-corruption work, and the evaluation reports are submitted to the Ministry of Finance and published online. The Agency also promotes and facilitates the preventive work of agencies and evaluates and reports on their anti-corruption work. There is no structured process for the participation of non-governmental stakeholders in the development of anti-corruption policies, but relevant actors were consulted during the process of formulating the action plan.

Guidelines for common basic values exist for all employees of the central Government. Each government agency is responsible for raising awareness of those values in order to establish a culture of integrity that prevents corruption, and violations may lead to disciplinary sanctions. In keeping with the country's tradition of local self-governance, the recommendations in the above-mentioned action plan

are also relevant to the preventive anti-corruption work conducted at the local and regional levels.

To strengthen coordination, the Swedish Agency for Public Management runs a network in which more than 200 agencies can share best practices relating to anti-corruption policies. Dialogues between heads of agencies and the relevant ministers are held annually in the form of structured processes covering, inter alia, measures against corruption, fraud and other irregularities.

The Government has tasked the Swedish Agency for Public Management with promoting a sound administrative culture and supporting government agencies with anti-corruption training and different tools, such as handbooks on how to deal with corruption. The Agency and the Ministry of Finance communicate with each other regularly to assess progress on activities, but no methodological evaluations are carried out.

Swedish legal instruments continue to be adapted to international standards, and legislation and administrative measures are evaluated when specific needs arise or corruption incidents occur.

The work of government agencies is supported by several other agencies, including the Chancellor of Justice, the National Agency for Public Procurement, the National Audit Office, the National Financial Management Authority, the Parliamentary Ombudsmen, the Swedish Competition Authority, the Swedish Association of Local Authorities and Regions and the Swedish Police Authority. Some of those entities (e.g. the Police Authority and the Competition Authority) disseminate knowledge on corruption prevention.

Heads of the above-mentioned agencies are accountable to the Government for their agencies' operations, while the Parliamentary Ombudsmen and the National Audit Office are considered to be fully independent. The Government has no powers to intervene in an agency's decisions in specific matters and, under the Constitution, individual ministers may not intervene directly in the day-to-day operations of an agency (Instrument of Government, chap. 12, art. 2).

Each agency funds its anti-corruption activities from its regular budget.

*Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)*

In the recruitment processes for posts in the State administration, only objective factors, such as merit and competence, are to be taken into account (Instrument of Government, chap. 12, art. 5; Public Employment Act, sect. 4).

The Public Employment Act does not prescribe detailed processes for the recruitment, retention, promotion and retirement of civil servants, as there is no central recruitment procedure. The competencies required for each position are determined by the agency concerned.

The National Financial Management Authority has identified areas of work where the risk of corruption is particularly high. There are no enhanced procedures for the selection of candidates for those positions or for their training and rotation.

Pay levels and other employment conditions for employees of the central Government are established in collective or individual agreements between employers and employees. Employment conditions are comparable to those in the rest of the labour market.

Each agency has overall responsibility for training, including on ethics and expected conduct and on the prevention of corruption and conflicts of interest, which is based on materials produced by the Swedish Agency for Public Management. A non-mandatory online training module on the common basic values, aimed at new government employees, is expected to be introduced in 2023.

In Sweden, only members of decision-making assemblies are elected to office. The Parliament of Sweden (Riksdag) elects the Prime Minister. Citizens domiciled, or formerly domiciled, in Sweden who have reached the age of 18 are entitled to stand for parliamentary election (Instrument of Government, chap. 3, art. 4).

Political parties (and members or alternate members of parliamentary bodies in their role as electoral candidates) are required to account for the sources of their revenue. Revenue reports submitted in accordance with the Act on Transparency of Party Financing are published by the Legal, Financial and Administrative Services Agency, which exercises supervision of compliance with the Act (sects. 27–31) and can impose monetary sanctions in the case of violations (sects. 32–36). Receiving anonymous contributions exceeding a periodically determined value, which amounted to 2,415 Swedish kroner, or approximately \$220, in 2022, is prohibited (sect. 9). There is no requirement for political parties to report on expenditure.

Provisions on conflicts of interest are contained in the Public Employment Act, the Administrative Procedure Act and legislation for individual agencies. Government employees cannot engage in outside assignments or activities that may adversely affect confidence in their or another employee's impartiality or that may harm the reputation of the authority (Public Employment Act, sect. 7), and they cannot participate in any matter in which their impartiality could be questioned (Administrative Procedure Act, sect. 16). Each agency adopts its own regulations on the acceptance of gifts, hospitality and other benefits, which leads to some differentiation in the applicable rules and their clarification in practice.

Public officials are expected at all times to consider whether a conflict of interest exists. As soon as a conflict arises, officials are obliged to report it to their supervisors and are prohibited from taking any action in the matter at hand. As described in more detail below in the section on article 52 of the Convention, ministers and certain public officials are obliged to disclose direct and indirect holdings of financial instruments. There is no obligation to declare non-financial interests from which a conflict could arise.

Most agencies have produced their own codes of conduct. In addition, the Instrument of Government contains overarching principles to which Government agencies and employees should adhere.

Sweden implemented Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019, on the protection of persons who report breaches of Union law, through the adoption of the Act on the Protection of Persons Who Report Misconduct. The Act requires public and private entities with more than 50 employees to have internal channels in place through which irregularities that threaten the public interest can be reported (chap. 1, sect. 2; chap. 5, sect. 2). There is no general obligation for government employees to report acts of corruption, but government agencies are required to report persons who are reasonably suspected of having committed a corruption offence for prosecution (Public Employment Act, sect. 21).

The independence of the judiciary is enshrined in the Instrument of Government (chap. 11). All permanent judges are appointed by the Government (chap. 11, art. 6) for an indefinite period, following an open competition. A permanent judge can be removed from office only on one of the grounds enumerated in chapter 11, article 7, of the Instrument of Government.

The National Courts Administration has prepared documents on good judicial practice which address independence, impartiality and equal treatment, and which were inspired by the Bangalore Principles of Judicial Conduct.

The prosecution service is not part of the judiciary in Sweden. Prosecutors are solely responsible for their decisions, which cannot be changed by their superiors. An individual affected by a prosecutor's decision may request that it be reviewed by a prosecutor at a higher judicial level. The Prosecutor General's ethical guidelines apply to all employees in the prosecution service, and violations can lead to disciplinary action.

*Public procurement and management of public finances (art. 9)*

Public procurement in Sweden is regulated by four acts based on applicable European Union directives and European Union primary law, namely, the Public Procurement Act, the Utilities Procurement Act, the Defence and Security Procurement Act and the Act on Public Procurement of Concessions.

The fundamental principles for public procurement are laid down in the various acts, and the provisions of those acts should always be interpreted with those principles in mind. They include equal treatment and proportionality (e.g. Public Procurement Act, chap. 4, sect. 1).

Under the Public Procurement Act, a contracting authority's intention to award a contract or conclude a framework agreement is announced through a call for competition (chap. 10, sect. 1). The contracting authority must offer direct and full online access to procurement documents (chap. 10, sect. 7). The documents should indicate which grounds for evaluation will be used (chap. 16, sect. 1), and the decision on the contract award is shared with the tenderers in writing (chap. 12, sect. 12).

In this context, a mechanism of appeal is available. Following an application by a supplier that considers itself to have been harmed or to be at risk of being harmed, public procurements are reviewed by administrative courts (Public Procurement Act, chap. 20, sect. 4), which may also impose fines on contracting entities. The judgment of an administrative court can be appealed to an administrative court of appeal (Public Procurement Act, chap. 20, sect. 5).

The National Agency for Public Procurement provides support on all aspects of public procurement, including corruption risks and how to deal with them.

The general rules on conflicts of interest apply to procurement personnel (Administrative Procedure Act, sects. 16–18).

Procedures for the compilation and adoption of the central government budget are laid down in the Instrument of Government, the Riksdag Act and the Budget Act. The Parliament approves the national budget on the basis of annual budget bills submitted by the Government (Instrument of Government, chap. 9, arts. 1–2). The bill should set out proposals for central government revenue and expenditure for the budget year (Riksdag Act, chap. 9, art. 5).

Relevant budget documentation is made available to the public through the official website of the Government.

The annual report of the central Government must be presented to the Parliament (Budget Act, chap. 10, sect. 5). The National Financial Management Authority is responsible for compiling the data underlying the report.

The National Audit Office is the supreme audit institution. It is independent of the Government and placed directly under the Parliament (Instrument of Government, chap. 13, art. 8). The Office also audits the annual report of the central Government. The annual audit is conducted in accordance with generally accepted auditing standards.

In cases where the findings in the annual audit reports reveal deviations, the Government reports those deviations to the Parliament. Each case is followed up in the next budget bill with an account of relevant actions taken.

Authorities subject to the Internal Audit Ordinance must also comply with the Ordinance on Internal Control at Central Government Agencies, which sets certain requirements for how internal control processes are to be designed to reduce the risk of agencies being exposed to, among other risks, corruption, undue influence, fraud and other irregularities.

The Archives Act regulates the obligations of State and municipal authorities and of certain other bodies to preserve documents. Depending on their significance, documents must be preserved for a certain period of time.

The Bookkeeping Act contains detailed rules on what accounting documents should be kept available, how they should be protected and how long they must be kept.

*Public reporting; participation of society (arts. 10 and 13)*

The principle of public access to information is enshrined in Swedish constitutional law (Freedom of the Press Act, chap. 2, art. 1). This means that the public is entitled to receive information about State and municipal activities, including access to official documents, court hearings and meetings of decision-making bodies free of charge. This also entails the right of officials and government employees to disclose information to the public.

The Public Access to Information and Secrecy Act supplements the Freedom of the Press Act.

Anyone wishing to obtain an official document can request it from the relevant public authority. If a request to obtain a document is rejected or granted subject to reservations, the matter can be reviewed by a court.

The Administrative Procedure Act provides a unified regulation for administrative procedures and a central structure aimed at enhancing the efficiency and effectiveness of contact between authorities and individuals in the management of individual cases.

The fundamental liberties guaranteed by the Instrument of Government ensure that private individuals and associations can engage with the Government on a wide range of matters. There are no government initiatives specifically aimed at promoting the active participation of individuals and groups in anti-corruption efforts.

Information on government agencies is publicly available through government websites and reports and through materials distributed by government agencies. Suspected criminal activities should be reported to the police.

*Private sector (art. 12)*

The International Standards on Auditing are generally accepted auditing standards in Sweden. The Bookkeeping Act contains provisions on who is required to maintain accounting records and file accounting information.

Business Sweden, a partnership between the Government of Sweden and the private sector, has published a guide to sustainable business that sets standards for good business practices and encourages private entities to report instances of corruption to the authorities.

Initiatives against corruption have been developed by the Swedish Association of Local Authorities and Regions jointly with industry associations and private companies in certain sectors. The Anti-Corruption Institute provides guidance on the prevention of corruption and has also developed a code on gifts, rewards and other benefits in business.

The Companies Registration Office maintains a publicly accessible register of legal entities that contains information about the beneficial owners of Swedish legal entities, foreign legal entities operating in Sweden and natural persons resident in Sweden who manage trusts or similar legal instruments. There is no central register of shareholders.

Ministers and State secretaries who wish to transition to the private sector after completing their terms of office are required to report that intention to an oversight board, which may issue transitional restrictions (Act on Restrictions on the Transfer of Ministers and State Secretaries to Other than State Activities, sect. 4). The Act does not apply to other senior-level public officials.

Legal entities are subject to auditing requirements (e.g. Companies Act, chap. 9, sect. 1).

A failure to maintain adequate accounting records in accordance with the Bookkeeping Act or to preserve accounting records can constitute an accounting offence (Criminal Code, chap. 11, sect. 5).

Expenditures on bribes or other improper awards are not tax-deductible (Income Tax Act, chap. 9, sect. 10).

*Measures to prevent money-laundering (art. 14)*

The cornerstone of the preventive anti-money-laundering system is the Act on Measures against Money-Laundering and the Financing of Terrorism (Anti-Money-Laundering Act), which implements Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015, on the prevention of the use of the financial system for the purposes of money-laundering or terrorist financing, and applies to financial institutions, including money or value transfer service providers, and designated non-financial businesses and professions. The Act is complemented by the Act on Registration of Beneficial Owners and the Ordinance on Measures against Money-Laundering and Terrorist Financing.

A first national risk assessment on combating money-laundering and countering the financing of terrorism was completed in 2013. Based on the findings of that assessment, a national strategy on combating money-laundering and countering the financing of terrorism was launched in 2014. The anti-money-laundering coordination function described below was established in 2018 and has since been responsible for producing the national risk assessment on a regular basis.

Chapter 3 of the Anti-Money-Laundering Act addresses requirements relating to client identification through customer due diligence. Obligated entities are required to identify customers and verify their identity (sect. 7) and to take measures to verify the identity of beneficial owners (sect. 8). The definition of “beneficial owner” is found in the Act on Registration of Beneficial Owners.

Chapter 3 specifies enhanced due diligence measures for specific cases, such as current and former politically exposed persons, whether domestic or foreign, as defined in chapter 1, section 8 (5), and chapter 3, section 20, of the Anti-Money-Laundering Act, as well as for their family members and known associates (Anti-Money-Laundering Act, chap. 3, sect. 19).

The Anti-Money-Laundering Act establishes requirements for record-keeping (chap. 5, sect. 3) and reporting suspicious transactions (chap. 4, sects. 3–4).

The Financial Intelligence Unit, the central bank of Sweden (Riksbank), law enforcement agencies, supervisory bodies and other authorities cooperate and exchange information in accordance with national legislation and inter-agency agreements. The anti-money-laundering coordination function, located in the Swedish Police Authority, serves as a forum for the exchange of information among 17 organizations. Internationally, the Financial Intelligence Unit and other authorities cooperate and exchange information, upon request or spontaneously, through different mechanisms, including the Financial Action Task Force and the Egmont Group of Financial Intelligence Units. The Swedish Police Authority operates a single point of operational contact for international police cooperation and a network of liaison officers.

Sweden has established a system to monitor cash (including bearer-negotiable instruments) entering or leaving the European Union, in accordance with Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No. 1889/2005. The declaration and disclosure requirements in Regulation (EU) 2018/1672 are enforced by Swedish Customs. National law (i.e. the Customs Act) provides for fines in cases of contravention.

Sweden applies Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015, on information accompanying transfers of funds, in respect of payment service providers and wire transfers.

The mutual evaluation report on Sweden by the Financial Action Task Force was adopted in February 2017. The first enhanced follow-up report on Sweden was published in July 2018 and, given its progress, Sweden moved to regular follow-up immediately thereafter. The first regular follow-up report was adopted in September 2020.

## **2.2. Successes and good practices**

- Sweden has a strong tradition of open government. The principle of access to public documents, as enshrined in Swedish constitutional law, is a cornerstone of government and public administration (arts. 10 and 13).
- Public authorities are under a legal obligation to be available for contact with private persons and to actively inform the public about how and when individuals can make such contact (art. 10).
- Public authorities are legally obliged to handle matters as simply, rapidly and cost-effectively as possible without neglecting legal certainty (art. 10).

## **2.3. Challenges in implementation**

It is recommended that Sweden:

- Consider including actionable commitments in future revisions of the action plan against corruption to enhance its effectiveness, consider widening its scope to include the private sector, and consider creating a more structured role for non-governmental stakeholders in such future revisions (art. 5, para. 1).
- Consider introducing methodologies to systematically assess the effectiveness of practices aimed at the prevention of corruption (art. 5, para. 2).
- Consider establishing adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption, and, where appropriate, the regular rotation of such individuals to other positions (art. 7, para. 1 (b)).
- Consider expanding the scope of the Act on Transparency of Party Financing to include a requirement for political parties to report on expenditure (art. 7, para. 3).
- Consider reviewing existing rules and guidelines aimed at regulating gifts and hospitality to ensure that they remain current and provide adequate guidance to prevent specific conflict of interest situations, and consider whether further harmonization may be needed (art. 7, para. 4).
- Consider broadening the existing reporting system to include significant non-financial interests from which a conflict of interest may arise and expanding the system of asset declarations as described under article 52, paragraph 5 (art. 8, para. 5).
- Ensure that the Companies Registration Office continues to take steps to keep the register of legal entities up to date and accurate, and consider establishing a central register of shareholders (art. 12, para. 2 (c)).
- Continue to monitor and evaluate the scope of persons subject to the “cooling-off” period in accordance with the Act on Restrictions on the Transfer of Ministers and State Secretaries to Other than State Activities, and consider expanding the scope of subject persons (art. 12, para. 2 (e)).



### 3. Chapter V: asset recovery

#### 3.1. Observations on the implementation of the articles under review

*General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)*

Sweden can provide assistance under the International Legal Assistance in Criminal Matters Act regardless of the existence of an agreement with a foreign country.

The Economic Crime Authority and the Police Authority are responsible for the functions of the asset recovery office. Sweden participates in the Camden Asset Recovery Inter-Agency Network, the UNODC Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network), and the Global Focal Point Network on Asset Recovery of the Stolen Asset Recovery (StAR) Initiative and the International Criminal Police Organization (INTERPOL).

Information can be shared spontaneously (Public Access to Information and Secrecy Act, chap. 8, sect. 3) if such sharing is approved in a law or an ordinance or is permitted with a Swedish authority, and if such sharing is in the interests of Sweden. The Financial Intelligence Unit can share all information that arises from analyses, spontaneously or upon request, with other financial intelligence units.

Sweden is a party to a number of bilateral and multilateral agreements to enhance international cooperation on asset recovery.

No requests for asset recovery have been formally refused by Sweden. A lack of comprehensive statistics on mutual legal assistance makes it difficult to assess the effectiveness of international cooperation and asset recovery.

*Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)*

Based on a risk-based approach, the Anti-Money-Laundering Act specifies the conditions that trigger enhanced due diligence. Those provisions are based on international initiatives, such as the fifth European Union anti-money-laundering directive. Formal and informal guidelines are available, including guidance for obliged entities concerning customer due diligence. The anti-money-laundering coordination function has a responsibility to provide information to obliged entities. The existing channels and the list of persons considered to be politically exposed persons may serve to inform obliged entities of enhanced customer due diligence requirements at the request of foreign States or spontaneously.

The Anti-Money-Laundering Act provides that obliged entities must keep copies of documents and information necessary to comply with customer due diligence requirements for five years (chap. 5, sect. 3), or longer (up to 10 years) if necessary to prevent, discover or investigate money-laundering (chap. 5, sect. 4).

Financial institutions must be licensed or registered in Sweden (Banking and Financing Business Act, chaps. 1 and 2) and have their headquarters in Sweden (chap. 6). Any bank that receives a licence but has no activity in Sweden will have its licence withdrawn (chap. 15, sect. 3). Financial institutions are prohibited from establishing or maintaining relations with shell banks or with credit institutions that allow their accounts to be used by shell banks (Anti-Money-Laundering Act, chap. 2, sect. 7).

Sweden has a disclosure system for ministers and other public officials who may have access to insider information, covering direct or indirect holdings of financial instruments pursuant to the Act on the Obligation for Certain Public Officials to Report Holdings of Financial Instruments and the Government Ordinance on the Obligation for Certain Public Officials to Report Holdings of Financial Instruments. Civil servants may be subject to disciplinary sanctions under the Public Employment Act for non-reporting or incorrect reporting. The rules of procedure of the government offices, the Office of the Prime Minister and ministries contain further requirements.

As a general rule, reported information is confidential. Ministers have voluntarily agreed to report certain additional information, which is publicly available. The Parliament keeps a register of the commitments and financial interests of its members according to the Act on Registration of Commitments and Financial Interests of Members of the Riksdag, and the Office of the Prime Minister maintains a register of declarations for which government ministers have agreed to waive confidentiality. The framework could be expanded to include a wider scope of financial holdings (e.g. significant liabilities) and officials beyond those with access to inside information (e.g. State secretaries and political advisers), as well as enhanced transparency and strengthened reporting requirements.

Sweden decided not to establish obligations to report interests in or authority over foreign accounts in the light of tax transparency considerations.

The Financial Intelligence Unit within the Swedish Police Authority is the central authority responsible for receiving, analysing and disseminating suspicious transaction reports and other information.

*Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)*

According to chapter 11, section 2, of the Code of Judicial Procedure, legal persons, whether domestic or foreign, as well as the State, may acquire rights, assume obligations and be parties to court proceedings. Authorities report that the provisions are equally applicable to foreign States.

Chapter 2 of the Swedish Tort Liability Act contains rules about compensation for loss or damage, including economic loss. The possibilities for demanding compensation for damage in criminal cases are regulated in chapter 22 of the Code of Judicial Procedure.

Chapter 22, section 1, of the Code of Judicial Procedure can be used by a prior legitimate owner to assert a claim in a confiscation procedure. Accordingly, a convicted person could, in the same court proceeding, be obliged to pay damages to the victim of the crime. If the private claim is not entertained in conjunction with the prosecution, an action must be instituted in the manner prescribed for civil actions. The provision applies equally to foreign States.

The Act on International Cooperation in the Enforcement of Criminal Judgments regulates the enforcement of foreign confiscation orders. To the extent required by international agreements, the Government of Sweden may order that a foreign custodial sentence, fine or forfeiture decision can be enforced in Sweden (sect. 1). Regarding the Convention, the Government has ordered that a confiscation order issued in another State party can be enforced in Sweden in accordance with the provisions of the Act (Ordinance on International Cooperation in the Enforcement of Criminal Judgments, sect. 21 (h)). However, the Ordinance extends only to the 170 States parties listed in annex 6 to the Act, and Sweden intends to propose an amendment in that regard.

A request to order the confiscation of property is handled as a request to initiate criminal law proceedings to obtain a confiscation order, and the general Swedish regulations on confiscation are applied. Those regulations do not differentiate between property of domestic and foreign origin. Coercive measures can be used to enforce a subsequent confiscation order.

Requests are sent to the Ministry of Justice and, if not rejected, referred to the Office of the Prosecutor General for further processing. Criminal judgments may not be enforced in Sweden if, for example, the judgment has not become final and non-appealable, the act to which the sanction refers does not correspond to an offence under Swedish law, or enforcement in Sweden would be incompatible with the Swedish legal order or contravene the country's international obligations (sect. 5 of the Act on International Cooperation in the Enforcement of Criminal Judgments).

A foreign non-conviction-based confiscation order made within the context of a civil or administrative procedure cannot be enforced in Sweden. However, a non-conviction-based confiscation order made in a proceeding in criminal matters in another State member of the European Union can be enforced in Sweden, according to Regulation (EU) 2018/1805, on the mutual recognition of freezing orders and confiscation orders. In 2022, a public inquiry resulted in proposals to introduce, *inter alia*, the possibility of non-conviction-based confiscation.

The International Legal Assistance in Criminal Matters Act provides for seizure and provisional attachment to secure the enforcement in Sweden of foreign forfeiture decisions if it can reasonably be anticipated that enforcement in Sweden of the foreign forfeiture decision would otherwise be made more difficult (chap. 4, sect. 23). No further information was available concerning this requirement, although the authorities explained that there was no requirement that a foreign confiscation order be decided or issued as long as such an order (actual or future) would be enforceable in Sweden. Those provisions are applicable regardless of whether the foreign State has issued a freezing or seizure order.

Seized assets must be preserved by the executive authority under strict supervision (Code of Judicial Procedure, chap. 27, sect. 10). Additional measures to preserve property for confiscation may be applied if domestic proceedings are initiated, including on the basis of a foreign request.

Enforcement according to the Act on International Cooperation in the Enforcement of Criminal Judgments cannot be refused on the ground that the property is of a *de minimis* value. However, optional grounds for refusal are provided in chapter 2, section 14, of the International Legal Assistance in Criminal Matters Act. Accordingly, a request for legal assistance may be refused under certain circumstances (point 4), which include cases in which the property is of a *de minimis* value. Those grounds for refusal do not apply if a refusal would conflict with an international agreement to which Sweden is bound.

Before a provisional attachment or seizure is revoked, the courts normally give the requesting State an opportunity to express its views.

The rights of bona fide third parties are protected (Criminal Code, chap. 36, sect. 5; Code of Judicial Procedure, chap. 22, sect. 1).

#### *Return and disposal of assets (art. 57)*

Pursuant to the Act on International Cooperation in the Enforcement of Criminal Judgments, property or its value forfeited pursuant to the Act accrues to the State. The Government of Sweden may, at the request of a State that has made a request for enforcement of a forfeiture decision, order that the property or its value be entirely or partially transferred to that State (sect. 36).

When it comes to Swedish forfeiture decisions, the International Legal Assistance in Criminal Matters Act provides that the Government may decide that property or its value forfeited by a Swedish order that has become final and non-appealable shall completely or partially be transferred to another State that has provided Sweden with such legal assistance or information as is referred to in the Act (chap. 5, sect. 11).

Both of the acts cited above provide for discretion by the Swedish authorities in ordering the return of property or its value at the request of a foreign State. In the case of domestic forfeiture orders, there is a further requirement that the foreign State must have provided Sweden with legal assistance or information during the preliminary investigation or trial. There does not appear to be any reference in domestic legislation to the binding obligations under article 57, paragraph 3, of the Convention.

Sweden generally bears the costs of assisting requesting States. However, extraordinary costs may be reimbursed in consultation with foreign authorities (International Legal Assistance in Criminal Matters Act, chap. 5, sect. 12; International Legal Assistance in Criminal Matters Ordinance, sects. 6–9).

Sweden provided four examples of concluded cases of asset return (asset-sharing) that did not involve requests under the Convention.

### **3.2. Successes and good practices**

- All incoming requests for international legal assistance are recorded in a publicly accessible register (art. 51).

### **3.3. Challenges in implementation**

It is recommended that Sweden:

- Continue efforts to strengthen the collection and availability of statistics to assess the effectiveness of international cooperation and asset recovery (art. 51).
- Consider expanding the definition of financial holdings to include, inter alia, significant liabilities, covering relevant public officials beyond those who have access to inside information, strengthening reporting requirements and enhancing the transparency of reported interests (e.g. by expanding the register of commitments and financial interests to other relevant officials, it being understood that the declarations do not necessarily need to be published) (art. 52, para. 5).
- Amend the Ordinance on International Cooperation in the Enforcement of Criminal Judgments to cover all States parties to the Convention (art. 54, para. 1 (a)).
- Continue efforts to adopt non-conviction-based confiscation measures (art. 54, para. 1 (c)).
- Monitor the application of chapter 4, section 23, of the International Legal Assistance in Criminal Matters Act to the freezing or seizure of property upon a foreign order and consider additional clarification if necessary (art. 54, para. 2 (a)).
- Adopt measures providing for the return of proceeds to requesting States in cases described under paragraph 3 of article 57 (art. 57, paras. 2 and 3).