

The Swedish Association of Judges

Questionnaire of the 1st Commission 2007

Answers to the questions on access to justice

I.)

1. a) Yes, there is legal aid in Sweden.
b) Legal aid is available for individuals in both civil and criminal cases.
2. a) Yes, the costs of using the court are covered by legal aid.
b) Yes, the costs of the lawyer, (in civil cases up to 100 hours), are covered by legal aid in Sweden.
c) The costs of experts appointed by the court are covered by legal aid. Experts engaged by the parties are covered by legal aid up to 10 000 SEK (appr. 1 050 Euro), if the inquiry of the expert is reasonable.
3. a i) Yes, there are financial limits of legal aid in civil cases. This is expressed by law saying that if your income is higher than 260 000 SEK (appr. 2 750 Euro) a year you don't have the right to legal aid. You don't have the right to legal aid if the dispute concerns a value under 20 150 SEK (appr. 2 250 Euro). If you have legal protection through your insurance you normally don't have the right to legal aid.
ii) No.
b i) There are some limits of the type of lawyers that can be used if legal aid is claimed by an individual. The court decides whether the lawyer is suitable for the commission.
ii) In civil cases you may choose the lawyer you want, as long as the lawyer is suitable for the commission and the chosen lawyer doesn't result in higher costs for the government or if there are other particular reasons not to appoint the lawyer. In criminal matters you are able to choose a lawyer who is member of the Association of Advocates (Advokatsamfundet).
4. It's the courts and an organ called "Rättshjälpsmyndigheten" that grants legal aid for civil cases in Sweden. Rättshjälpsmyndigheten is an extra judicial organ with nationwide coverage which main task is to enforce the decisions from the court on legal aid and to make decisions on matters concerning legal aid that aren't dealt with in court. In criminal cases it is the

National Courts Administration (Domstolsverket) who grants the legal aid. It is a Administration supervised by the Government. The judges have no influence in this organ.

II.)

5.
 - i) Students in Sweden are taught in school about the basic knowledge of the court-system, the jurisdictions of the various courts, the judiciary and the rights of citizens to use the court-system.
 - ii) Students in universities and colleges aren't taught about the court-system unless they study law.
6.
 - i) The Swedish courts and the National Courts Administration have homepages with relevant information if you are going to use the court-system. The courts are also open for the public to pose questions on the court-system and how it's organised.
 - ii) There are no specific means for informing potential litigants or other users of the court about the judiciary.
 - iii) There are pamphlets published by the National Courts Administration. The homepages of the Swedish courts do also contain relevant information on the procedure in courts. The courts are also open for the public to pose questions.
 - iv) The homepages of the Swedish courts has relevant information of how to get assistance to make or defend a case in court. In criminal cases you get information from the police that you have the right to a lawyer or you get information sent to you from the court, telling you whether you have the right to a lawyer or not, since there are certain requirements to have the right to a lawyer. Of course the courts are also open for the public to pose questions.
 - v) There are no specific means to inform the litigants of how much a court procedure may cost. If you have a lawyer you have to turn to him/her for information. If you don't have a lawyer in civil cases you can turn to the court and they will inform you.

III.)

7.
 - a) The homepages of the Swedish courts can be translated into the language of the members of minorities in Sweden. Information about their rights to use their language in courts can be found on the homepage.
 - b) The members of minorities in Sweden can use their own language in courts and they have the right to have all written material in the case translated into their own language and they can also use their language orally in court.

c) The members of minorities in Sweden can have cases conducted in their language and the proceedings can be translated for them to follow by an interpreter that is paid by the National Courts Administration.

IV.)

8. a) Yes, there are some delays in dealing with civil or criminal cases because of structural reasons.
- b) The lack of judges and the lack of courts due to the reduction of courts in Sweden can be the structural reason of some delays. The delays in criminal cases are mostly because of the problems with service of summons.
- c) Yes, there will be changes in the legislation to deal with this.

V.)

9. Examples of formality in procedures that may prevent individuals having access to justice are mostly the heavy costs. There is no mandatory representation by a lawyer in civil or criminal cases. The necessity to appear at court is not a formality in procedure that prevents individuals having access to justice. Because of the reduction of courts the distance to the courts that are left may be something that prevents individuals having access to justice.

VI.)

10. a) In civil cases there is an organ called “Kronofogdemyndigheten” that ensures that a judgement is properly enforced against a party. If the losing party doesn't pay in time the Kronofogdemyndigheten makes an executory decree and distress property. In criminal cases there is an organ called “Kriminalvårdsmyndigheten” that ensures effective enforcement.
- b) Yes but it's not regarded as a big problem.
- c) The problem may be if the losing party is not to be found, then there is a lack of effective enforcement. If the losing party doesn't have any money to pay his debts, of course problems of effective enforcement can arise.

VII.)

11. An obstacle to justice is that immigrants are not aware of the Swedish court-system and they may have trouble finding easily accessible information about the system in their own language. If you don't have information it's harder to understand the procedure and the court-system and that is definitely an obstacle to justice.

VII.)

12. No

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