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Sweden

Högsta domstolen

Date of establishment 1789

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hogsta.domstolen@dom.se [1]

Website

The Supreme Court's website in English:

<http://www.hogstodomstolen.se/The-Supreme-Court/> [2]

The Swedish National Courts Administration's website in English:

<http://www.domstol.se/Funktioner/English/> [3]

Link to the national database of their case law

<http://www.hogstodomstolen.se/Avgoranden/Vagledande-domar-och-beslut-prejudikat/> [4]

Judgments from the Supreme Court, the Courts of Appeal, the Land and Environment Court of Appeal, the Supreme Administrative Court, the Administrative Courts of Appeal, the Migration Court of Appeal, the Labour Court, the Market Court, the Court of Patent Appeals:

<http://www.rattsinfosok.dom.se/lagrummet/index.jsp> [5]

Swedish legal information:

<http://www.lagrummet.se/english/> [6]

Position of the supreme court in the national court system:

The Supreme Court is the highest court of general jurisdiction in Sweden. It hears appeals from the six courts of appeal and these, in turn, hear appeals from the district courts (or city courts), of which there are about 50. Most decisions made by a court of appeal may be appealed to the Supreme Court but some require the consent of the court of appeal in question.

What does the court decide about

As mentioned above, the Supreme Court hears appeals from the courts of appeal. The courts of general jurisdiction (district courts, courts of appeal and the Supreme Court) try cases regarding civil law and criminal law, as well as matters regarding for example adoption and dividing marital property.

A prejudicial matter may be referred by a district court directly to the Supreme Court, if the parties so agree. However, the Supreme Court will consider the matter only if it finds there is reason to grant leave to appeal in the normal matter.

The Supreme Court also considers applications to reopen a case adjudicated by the Court itself or by a court of appeal. If an application to reopen a case is granted, this is usually because important new information has come to light since the case was judged. The Supreme Court may also set aside a legally binding decision if a serious procedural error has occurred in the handling of the case. The Supreme Court can also disapply a time limit where a party has failed to appeal against a court of appeal judgement in time and such failure was due to an unforeseen circumstance or other valid reason.

An appeal may be made to the Supreme Court against a decision by the Swedish Bar Association to refuse membership of the Association, or to exclude a member.

The Supreme Court is the court of first instance for cases involving offences committed by cabinet ministers, justices of the Supreme Court, justices of the Supreme Administrative Court, the Parliamentary Ombudsmen, the Chancellor of Justice, the Prosecutor-General and appeal court judges in their official duties.

Unlike the highest courts in some other countries, the Swedish Supreme Court cannot declare an act of Parliament or statute invalid. Nor does Sweden have a constitutional court with such powers. However, like other courts of law and public authorities, the Supreme Court, when hearing a case, may refuse to apply a provision, which the Court deems to be inconsistent with the constitution or other statute, which has precedence.

The principals of procedure

The Supreme Court must grant leave to appeal before it will hear an appeal. As a main principle this is only granted if the judgement or ruling of the Supreme Court will establish an important precedent, that is to say it will provide guidance in similar cases. Accordingly, the fact that a court of appeal judgement is incorrect provides an insufficient ground for leave to appeal. Where leave to appeal is granted, it normally applies to the entire judgement or ruling against which an appeal is made, but it can also be confined to a part of the case or a special point of law arising in the case.

In principle, the Supreme Court will conduct a total review of the case unless leave to appeal was subject to restrictions. New evidence may be adducted, but this possibility is very limited. The Supreme Court is also restricted in its powers to assess evidence in a manner, which differs from that of the lower courts. Thus, although the Supreme Court considers both questions of fact and law, the main focus is on points of law.

The Supreme Courts ruling will normally replace the underlying court of appeal decision. In special cases, however, the Supreme Court may order that the matter be retried by the court of appeal.

There may be oral hearings with the parties, but most cases are adjudicated exclusively on the basis of the written

documentation. Oral hearings are open to the public. The parties in a case are usually represented in the Supreme Court by legal counsel, although such representation is not mandatory. The parties are always entitled to plead their own case.

The number of justices and panels

The Supreme Court consists of sixteen justices, which are organized into two chambers. A case is normally heard by five justices. In exceptional cases, the justices may reach a conclusion which is incompatible with a previous decision by the Court. The matter is then referred to the plenary court, which consists of all the justices of the Supreme Court.

Applications for leave to appeal are often determined either by one or by three justices. Straightforward matters, such as the reopening of a case, are heard by three or five justices and in some cases by one.

How are the justices appointed

Justices of the Supreme Court are appointed by the Government following a proposal from the Judge Proposal Board. There is a conventional application procedure, which is handled by the Judge Proposal Board.

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Links:

- [1] <mailto:hogsta.domstolen@dom.se>
- [2] <http://www.hogstodomstolen.se/The-Supreme-Court/>
- [3] <http://www.domstol.se/Funktioner/English/>
- [4] <http://www.hogstodomstolen.se/Avgoranden/Vagledande-domar-och-beslut-prejudikat/>
- [5] <http://www.rattsinfosok.dom.se/lagrummet/index.jsp>
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