THE EPPO/OLAF XXVII

Compendium of National Procedures

Desktop Codes on the Procedural Law of the
Member States with Annotations by National Experts

Pierre Hauck and Jan-Martin Schneider

Sweden

λογος

The EPPO/OLAF Compendium of National Procedures

Volume XXVII – Sweden

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Volumes I (Austria) – XXVII (Sweden)

Volume XXVII – Sweden

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This volume has been reviewed and updated for accuracy of content with the kind assistance of Prof. Dr. Christoffer Wong. Nevertheless, the authors take full responsibility for the content.

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The EPPO/OLAF Compendium of National Procedures: Sweden

Logos Verlag Berlin

Bibliographic information published by the Deutsche Nationalbibliothek

The Deutsche Nationalbibliothek lists this publication in the Deutsche Nationalbibliografie; detailed bibliographic data is available on the Internet at http://dnb.d-nb.de.

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Cover image by Tom Fisk, pexels.com

Logos Verlag Berlin GmbH 2026
ISBN 978-3-8325-6025-6

Logos Verlag Berlin GmbH
Georg-Knorr-Str. 4, Geb. 10,
12681 Berlin
Tel.: +49 (0)30 / 42 85 10 90
Fax: +49 (0)30 / 42 85 10 92
https://www.logos-verlag.de

Funded by the European Union

The research underlying this publication was funded by the European Union's HERCULE III programme (grant agreement No. 101015173).

The content of this publication represents the views of the authors only and is their sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.

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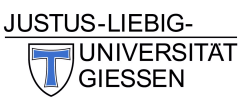
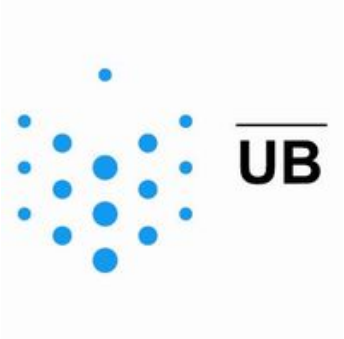
This publication was supported by the Open Access Publication Fund of the Justus Liebig University of Giessen.





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Preface and Acknowledgements

Every year, millions of euros of taxpayers' money are lost to fraud against the European Union budget. The fight against fraud has therefore been a key element in protecting the Union's financial interests for decades, and it still is. Since then, many different political and legal approaches have been taken to create a secure situation.

In essence, this financial protection by way of fighting crime is nowadays not only provided by the national judiciary, but also to a significant extent by the EU's own investigative bodies of the European Public Prosecutor's Office (EPPO) and the European Anti-Fraud Office (OLAF).

These two authorities work on the basis of their own EU regulations, each of which has in common to refer to the national legal situation with regard to the conduct of investigations. This concerns the law of the EPPO as a whole, insofar as the EPPO Regulation in Art. 30 para. 1 and para. 4 refers to nationally to be created (para. 1) or nationally existing powers (para. 4). This also applies to OLAF's right to carry out so-called external investigations, which are so important, in the event that an economic operator refuses to participate in the investigation, so that in this case it is not Union law but national law that forms the basis for the investigation (cf. Art. 3 para. 6 OLAF Regulation).

However, these references to national law are not enough; the problems of applying the law are only just beginning: Knowledge of national rules is usually reserved for those familiar with the national legal system, and at the level of the EU authorities these are very few. EU authorities, including the investigative authorities in question here, are rather characterized by the fact that they are made up of many employees from the most diverse member states. It is true that for both authorities, certain mechanisms (namely the EDPs as part of the EPPO and the AFCOS for OLAF) have been put in place to ensure that national legal competence is conveyed. But by and large, the respective national investigative procedure law remains a closed book in terms of criminal procedure or administrative law, not to mention the language barrier that threatens to become insurmountable for most people within the EU when seeking access to the law of other countries.

This publication series aims to remedy these shortcomings. It presents the law of criminal procedure and administrative investigation for all 27 Member States in English and in the language of the Member State. It thus provides easy access to the procedural rules of a foreign legal system, which are so important for EU investigative work. However, this presentation does not stop there, but explains these national rules, which are printed in bilingual form, from a competent source, namely from national experts. In this way, an explanatory work has been created that clearly ensures access to and understanding

of foreign areas of law in the field of criminal procedural and administrative fraud investigations.

The editors would like to thank the European Commission for generously supporting the research underlying this work with funds from the EU's Hercule III programme, and they would like to thank the Justus Liebig University of Giessen for generously supporting the open access publication of this work with funds from its Open Access Publication Fund.

Our sincere thanks go to our team at the University of Giessen, in particular Nur Sena Karakocaoglu and Alastair Laird, who have borne the main burden. Julian Doerk, Felina Frkic Wegener, Maike Kappes, Aleksandra Joachimiak, Ahmet Can Bas and Sophie Meyer have greatly supported the project with a variety of research and formatting work. Corinna Haas and Christian Studenroth have accompanied the project at the chair and have always backed us up with their sure eye for work-relevant aspects and processes, thus continuously supporting this ambitious project from start to finish.

The project was also successful because the third-party funding administration of the Justus Liebig University in the shape of Dr Christian Maarten Veldman, Anja Daßler and Jochen Stein took a lot of work off our shoulders.

Last but not least, our thanks go to the wonderful supervision and support of the publisher Volkhard Buchholtz and the production coordinator Katharina Kruse from Logos Verlag in Berlin for everything it takes to bring a book to life.

Fair comments and suggestions for improving the work are always welcome at eppo.olaf@web.de.

Giessen/Germany, in November 2023

Pierre Hauck & Jan-Martin Schneider

Suggested citation:
The suggested citation for the entire work is always “Hauck/Schneider, EPPO/OLAF CNP, Vol. [I-XXVII] [Member State], p., margin number”, but for the introductory chapters contributed by national experts with individual author references in the title it is “[Name of the national expert], in: Hauck/Schneider, EPPO/OLAF CNP, Vol. [I–XXVII] [Member State], p., margin number”.

Executive Summary:
Part A provides a systematic presentation of the applicable Union anti-fraud instruments and the relevant Swedish criminal (procedural) rules for investigating offences affecting the EU's financial interests: who is involved, which provisions apply, and how investigations are conducted. Part B is a methodological interlude addressing the situation for countries, which did not become part of the EPPO from the very beginning thus having differing participation statuses (e.g., Poland, Hungary, Ireland). At the time of drafting, the non-EPPO zone member position became Sweden's now former position, so that both operative scenarios are covered as well as the transition made seen. The chapters cover the cooperation between the EPPO and Sweden under national procedures and full requirements of EPPO-led investigations. Parts C, D and E therefore present the most current status, i.e. Sweden as part of EPPO zone. The latter Part E maps therefore the EPPO adoption laws in Sweden, offers practical references to Statutes and contrasts Union requirements. Part F surveys OLAF's practice in Sweden (including on-the-spot checks and cooperation with national partners) with references to applicable national law and case law on certain forms of conduct.

Update on Sweden's EPPO participation: Sweden's participation was confirmed by Commission Decision (EU) 2024/1952 of 16 July 2024; Sweden's implementing act is SFS 2024:461 (*Lag om Sveriges deltagande i Europeiska åklagarmyndigheten*), which entered into force on 1 October 2024 by SFS 2024:646. Under Article 2 para 2 of the Commission Decision, EPPO provisions on evocation/allocation and cross-border investigations (Arts 24–27 and 31 EPPO Reg.) apply from the 20th day after appointment

of the Swedish European Prosecutor, appointed by Council Decision (EU) 2024/3158 of 12 December 2024 (i.e., from 1 January 2025).

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Abbreviations

ACAs	Administrative Cooperation Agreements
AFCOS	Anti-fraud coordination service
AFSJ	Area of Freedom, Security and Justice
AMIF	Asylum, Migration and Integration Fund
AML	Anti-Money Laundering
BMVI	Instrument for Financial Assistance in
CC	Criminal Code
CF	Cohesion Fund
COCOLAF	Advisory Committee for the Coordination of Fraud Prevention
CPC	Criminal Procedure Code
EAFRD	European agricultural fund for rural development
EAGF	European agricultural guarantee fund
EAW	European Arrest Warrant
EBM	Ekobrottsmyndigheten/Swedish Economic Crime Authority
EC	European Commission
ECA	European Court of Auditors
ECHA	European Chemicals Agency
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
ECJ	European Court of Justice (now CJEU)
ECJN	European Judicial Network against Cybercrime
ECON	European Parliament's Committee on Economic and Monetary Affairs
ECP	European Chief Prosecutor
EDF	European Development Fund

EDMS	Electronic Document Management System
EDO	European Data Officer
eDP	ePrivacy Directive
EDP	European Delegated Prosecutor
EEAS	European External Action Service
EEC	European Economic Community
EIO	European Investigation Order
EJN	European Judicial Network
EMFAF	European Maritime, Fisheries and Aquaculture Fund
EP	European Prosecutor
EPP	European Public Prosecutor
EPPO	European Public Prosecutor's Office Europeiska åklagarmyndigheten
ERDF	European Regional Development Fund
ESF+	European Social Fund Plus
ESIF	European Structural and Investment Funds
ESMF	European Shared Management Funds
EUACR	EU Anti-Corruption Report
EUCFR	Charter of Fundamental Rights of the European Union
EuCLR	European Criminal Law Review
EUROJUST	European Union Agency for Criminal Justice Cooperation
EUROPOL	European Police Office
GC (aka CFI ex-2009)	General Court of the EU/formerly Court of First Instance
IBOAs	Institutions, Bodies, Offices, and Agencies
IMS	Irregularity Management System
IRP	Internal Rules of Procedure

ISF	Internal Security Fund
JITs	Joint investigation teams
MEP	Member of European Parliament
NKG	Nationella Antikorruptionsgruppen, NKG - National Anti-Corruption Authorities
OAFCN (-Member)	OLAF Anti-Fraud Communicators' Network
OECD	Organisation for Economic Co-operation and Development
OLAF	European Anti-fraud office
PC-OC	Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters
PIF	Protection of the EU's Financial Interests
RB	Rättegångsbalk (1942:740)/Code of Judicial Procedure (including the Criminal Procedure Code)
SEFI Council	Rådet för skydd av EU:s finansiella intressen (SEFI-rådet)/Council for the Protection of the EU's Financial Interests
SNE	Seconded National Expert
TFEU	Treaty on the Functioning of the European Union
UCLAF	Anti-Fraud Coordination Unit [unité de coordination de la lutte antifraude]
VAT	Value Added Tax

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Explanation of Symbols & Highlighting

Text passages highlighted in grey show Union law.
Text passages marked with boxes show relevant national law.
Plain Tables display either a synopsis of a foreign law text and the English translation or a summary of institutions and relevant case law.
Tables with symbols in the first row contain case studies (EPPO & OLAF cases) or relevant jurisprudence.
Margin numbers (1, 2, 3…) in the General Margin enable citation.

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Pictures/Figures/Symbols Used

= Expert/Introduction to national law

= Customs legislation/Customs cases

= Examples

= Nota bene/General note

Case Law/Access to files

= Tax police/tax-related matters

= Excerpt

= Arrest, pre-trial detention (e.g. Art. 33)

= Problems resulting from national law

= National Sections

= (criminal) police); relevant for investigators

= Funds area (e.g. maritime)

= procurement area

= Case Studies (Overviews)

= Expert comment

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eart-no-shading; *Scales of justice* by laobc. https://openclipart.org/detail/62989/scales-of -justice; *Fountain pen over paper sheet* by ousia. https://openclipart.org/detail/184618/fountain-pen-over-paper-sheet.; Pencil icon by Anonymous. https://openclipart.org/detail/24821/pencil-icon Dog by dear_theophilus. https://openclipart.org/detail/122197/dog Dog Leashed Silhouette by GangandInfographie. https://openclipart.org/detail/276050/dog-leashed-silhouette Telephone by Anonymous.https://openclipart.org/ download/24943/Anonymous-aiga-telephone.svg; Port by Shinnoske. https://openclipart.org/detail/218695/port; Water transportation by jean_victor_balin.https://openclipart.org/detail/25368/aiga-water-transportation; Airplane silhouette by rones. https://openclipart.org/detail/219836/airplane-silhouette; Idee/idea by lmproulx. https://openclipart.org/detail/125719/idee-idea; Town-hall-15 by PublicDomainSymbols. https://openclipart.org/detail/260851/townhall15; Open book by ShannonW. https://openclipart.org/detail/296507/open-book; Police Car by j4p4n. https://openclipart.org/detail/298872/police-car; Thinking by j4p4n https://openclipart.org/detail/308838/thinking; Graduate by j4p4n https://openclipart.org/detail/308889/graduate; Train Pictogram by libberry. https://openclipart.org/detail/173654/train-pictogram; Search Ideogram by libberry. https://openclipart.org/detail/188650/search-ideogram; Sketched police car by Firkin. https://openclipart.org /detail/303507/sketched-police-car. All Eur-lex material used in this work is © European Union. and/or Official Gazette 4.0 OpenGovernmentLicence. Only European Union legislation published in paper editions of the Official Journal of the European Union prior to 1 July 2013, and its electronic versions published after 1 July 2013 have legal value. Further information from the Official Gazette is used under Open Licence. Data from GeoNames and all other source is used on the basis of a CC BY 4.0 licence and Open Government Licence or academic work. National transposition measures communicated by the Member States concerning: Directive (EU) 2017/1371 of the European Parliament and of the Council of 5 July 2017 on the fight against fraud to the Union's financial interests by means of criminal law OJ L 198, 28/07/2017, p. 29–41 (B G, ES, CS, DA, DE, ET, EL, EN, FR, GA, HR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV). The Member States bear sole responsibility for all information on this site provided by them on the transposition of EU law into national law. This does not, however, prejudice the results of the verification by the Commission of the completeness and correctness of the transposition of EU law into national law as formally notified to it by the Member States. The collection National transposition measures is updated weekly. https://eur-lex.europa.eu/legal-content/EN/NIM/?uri=CELEX:32017L1371. Art. 15 TFEU and Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents. Errata: In Volumes III, V, X, XXII, the word 'Legal Trainee' was missing prior to Attorney for Austria. This volume is intended to provide a general overview and discussion of the issues dealt with in relation to EPPO/OLAF. It is not intended as a substitute for legal advice in a specific situation and should not be used as such. The laws cited are presented as of 31/12/2023. They may have changed in the meantime. Some commonly used PIF laws and investigative measures have been cross-checked again for publication in January 2025. The authors assume no responsibility for actions taken or not taken based on this publication. Be aware that only with Commission Decision (EU) 2024/1952 of 16 July 2024 it became official that Sweden would really participate in the enhanced cooperation for the European Public Prosecutor's Office (EPPO). This decision, published on July 18, 2024, follows Sweden's notification of intent to join the EPPO, an independent EU body established to investigate and prosecute crimes against the EU's financial interests. The volume was partly adapted to this situation with hypothetical considerations already prior to this date. The authors ensured for the publication an updated version.

A. Collection of Material for PIF-Acquis Investigations in Sweden

I. Important Cases for Investigations of OLAF and Prosecution Offices

The collection of cases is essential for the **jurisprudential analysis of conduct** concerning EPPO/OLAF actions, thus national administrative and criminal cases. **1**

- **Court Cases**: https://lagen.nu/dataset/dv. Comment: lagen.nu contains only cases published in print. In addition, subscription-based databases exist containing other decisions of the district courts, courts of appeal and the Supreme Court.
- **All courts**: https://www.domstol.se/hitta-domstol/allmanna-domstolar/tingsratter/. Recherchen-Fallrecht: https://rattspraxis.etjanst.domstol.se/sok/sokning?filter=domstolskodLista%3D%255B%2522HDO%2522%255D.
- **Search Case-law**: https://www.domstol.se/tjanster-och-blanketter/sok-rattspraxis/.
- **BENELUX case decisions EPPO/OLAF till 28.2.2026**, see in CNP Volume LUX.
- Jean Monnet Network on enforcement of EU law (EULEN): https://jmn-eulen.nl/. Sources for amendments on the EPPO Regulation (independent researchers): https://eppo-lex.eu/.

Be aware that Swedish Court's do not follow the *stare decisis principle* by obligation. **2**

1. EPPO Regulation

Sweden is part of the EPPO (*Europeiska åklagarmyndigheten*) **since the beginning of 2025**. Still, national prosecution offices conduct investigation into EU fraud on their own these days. Therefore, the **Swedish case law applies**. **3**

Table 1: Judgements relating to Fraud Offences and Money Laundering in Sweden

ECJ on EPPO	C-281/22	C:2023:1018	Question was on how Articles 31 para 3 and 32 EPPO define judicial review in a supporting Member State during cross-border investigations, including whether that court must consider the handling State's admissibility ruling under its law. See → Austrian CNP volume for more details.
ECJ on EPPO	T-509/24		Lawsuit claims the EPPO exceeded its powers breaching Articles 25 para 3a, 39 and 22 para 1 by not discontinuing the case

			and asserting temporal competence over conduct (2011–2021).
ECJ on EPPO	C-292/ 23	C:2025:255	Question was on Article 42 para 1 EPPO Regulation: does Spanish LO 9/2021 allow to preclude judicial review of EDP's acts such as summoning witnesses by restricting challenges to the closed list in Articles 90–91?
ECJ on EPPO	T-046/ 23	T:2024:14	Art. 29 MEP brought an action. It was dismissed as inadmissible because the EPPO's request to waive MEP's immunity and the Parliament President's forwarding of it to the Committee on Legal Affairs were merely preparatory acts.
ECJ	C-015/ 24 PPU	C:2024:303	Access to a lawyer must be granted under Art. 41 EPPO Regulation as Directive 2013/48 on requests it and derogation from the right of access to a lawyer is not allowed.
ECJ	C-528/ 24	Not decided, yet.	EAW are possible under Art. 33 para2 EPPO Regulation but must respect the case-law in this area.
ECJ	Joined Cases C-48/90 and C-66/90	C:1992:63, paras 44–45	With Judgment of 12 February 1992 *Netherlands and Others v Commission* the court clarified the rights of the defence apply in all EU proceedings that may lead to a measure adversely affecting a person. Before adopting such a measure, the person concerned must be given the opportunity to make known their views effectively regarding the evidence and allegations relied upon.[1]
Swedish Courts			
Supreme Court	B 618-96	2000-11-29	NJA 1998 p. 283 clarified that when choosing a penalty for tax fraud, consideration

[1] Equal case-law see ECJ, Case C-32/95 P – *Commission v Lisrestal and Others*, Judgment: 24 October 1996, EU:C:1996:402, para 30; Case C-287/02 – *Spain v Commission*, Judgment: 9 June 2005, EU:C:2005:368, para 37.

			has been given to the fact that a long time has passed since the crime was committed.
Supreme Court	Ö 4349-05	June 3, 2008.	NJA 2008:50 The court dealt with the question if the suspect's right to receive a copy of the preliminary investigation report and about the public defender's right to receive compensation for expenses for such a copy. (Chapter 23, Section 21, fourth paragraph and Chapter 31, Section 9 of the Code of Judicial Procedure.)
Supreme Court	B 3220-05	December 5, 2005.	NJA 2005 p. 864 stated that when, after the conclusion of the main hearing, new evidence has been invoked in a criminal case that is deemed to be significant for the outcome of the case, it has been considered that there are conditions for deciding on a new main hearing, based on the provision in Chapter 46, Section 17 of the Code of Judicial Procedure.
Supreme Court	B 2076-03	1 September 2003	In NJA 2003 p. 323 one can find information about the question whether so-called surplus information from secret telephone tapping may be relied on as evidence in criminal cases and about the probative value of such information.
Supreme Court	B 5302-10	June 29, 2011.	NJA 2011 p. 444 dealt with question regarding obtaining a preliminary ruling from the Court of Justice of the European Union on the interpretation of the prohibition of double jeopardy (*ne bis in idem*) in Article 50 of the EU Charter in a case where a defendant who had previously been subject to tax surcharges has been convicted of tax offences.[2]

[2] Refers to ECJ, of 12 November 2010 in Case C-339/10, *Krasimir Asparuhov Estov and Others*; and ECJ, C-457/09, *Claude Chartry*, 1 March 2011.

Supreme Court	B5898–18	2019–12–26	NJA 2019 p. 1041 [Decision on legality principle in criminal law, possession of weapons].
Supreme Court	B 4175-20	2021-04-21	NJA 2021 p. 286 stated that incriminating evidence provided to the police by a suspect in a situation where the right to a lawyer has been violated should normally be assessed within the framework of the court's free assessment of evidence. Normally, there are no grounds for rejecting such evidence on the grounds that it would be manifestly ineffective.
Supreme Court (Högsta domstolen)	Ö 7821-21	31 March 2022	Recognition and Enforcement of Custodial Sentence (EU). The Court affirmed that Sweden must recognise and enforce a custodial sentence from Germany under Council Framework Decision 2008/909/JHA, except where specific, express grounds for refusal exist. Written (non-oral) procedures alone do not bar enforcement.
Supreme Court	Ö 2595-24	2024-11-20	NJA 2024:53 NJA 2024 p. 666 on the role and main obligations of the lawyer and exclusion from Swedish Bar Association.
Supreme Court	Ö 8346-22	4 April 2023	The Supreme Court declares that RR, an EU citizen, shall be equated with a Swedish citizen for the purposes of Chapter 2, Section 5, sixth paragraph of the Act (2003:1156) regarding surrender from Sweden under a European arrest warrant (Lagen om överlämnande från Sverige enligt en europeisk arresteringsorder); relevant for Aart. 33 para 2 EPPO Regulation.
Supreme Court	Ö 5165-23; Ö 3711-23	2024-10-25	NJA 2024:36 and NJA 2024 p. 470 It clarifies that Swedish prosecutors must maintain strict independence from any prior affiliations that could undermine confidence in their neutrality. Even earlier employment

			relationships can lead to disqualification (jäv) if they relate to any party in the case.
Questions of General Criminal Law			
Supreme Court	B906–82	1984–09–27	NJA 1984 p. 662 [Decision on Legality principle in criminal law].
Supreme Court	B3301–98	2000–10–17	NJA 2000 p. 490 [Legality principle in criminal law]
Supreme Court	B5042–17	2018–09–20	NJA 2018 p. 704 [Legality principle]
Supreme Court	B488–14	2015–06–16	NJA 2015 p. 417 [*Ne bis in idem* must be observed]
Supreme Court	T2572–11	2013–12–22	NJA 2013 p. 1162 [Problem of Compliance with EU Directives]
Supreme Court	B5960–10	2012–12–02	NJA 2012 p. 826 [Failure to record transaction of a company].
Jurisprudence relating to Fraud Offences			
Supreme Court	B2231–06	2007–10–29	NJA 2007 p. 774 [serious fraud in the form of position with photographs of ATM]
Supreme Court	B4126–03	2006–07–06	NJA 2006 p. 491 [Question of Damage caused by the conduct of fraudulent acts].
Supreme Court	B524–87	1988–05–10	NJA 1988 p. 248 [Serious tax fraud and accounting offences, A few words from the perspective of the Constitution, penalties].
Tax fraud–related Judgements			
Supreme Court	B524–87	1988–05–10	NJA 1988 p. 248
Supreme Court	B569–85	1986–02–27	NJA 1986 p. 105
Supreme Administrative Court	**B 524-87**	-	In NJA 1988 p. 248 (NJA 1988:44), a Swedish auditor (KD) was convicted of gross tax fraud, attempted tax fraud, and accounting offences for systematically failing to file tax returns and keep accounts from 1977–1984, thereby concealing significant income and evading substantial taxes. De-

			spite claiming that overwork and depression prevented compliance, the courts held that his conduct demonstrated intent to evade taxation.
Money Laundering Offences related Jurisprudence			
Svea Court of appeal	B3290–21	2021–06–30	RH 2022:4 [Confiscation, search of person; A third person claimed the cash was his].
Supreme Court	B6037–19	2020–06–16	NJA 2020 p. 545 [Questions about liability for money laundering offenses according to section 6, second paragraph of the law on punishment for money laundering offenses]
Supreme Court	B1109–19	2020–03–25	NJA 2020 p. 344 [Damages for money laundering offences. The receipt of money in an account has not been considered grounds for liability.]
Supreme Court	B3289–18	2019–04–17	NJA 2019 p. 305 [Money laundering offences. Classification and penalty value assessment when the pre-crime consisted of a fraud which resulted in the plaintiff paying just over SEK 2.7 million to the wrong account.]
The Court of Appeal over Skåne and Blekinge	B2266–16	2017–05–16	RH 2017:29 [Prosecution for serious money laundering offense regarding, among other things a larger amount of cash has been declined.].
ECtHR	11855/85	1900–02–21	*Hakansson and Sturesson v. Sweden*, 21 Feb 1990 – Art. 6 applicability, in line with Engel.
ECtHR	34619/97	2001–11–01	*Janosevic v. Sweden*, 23 July 2002 – tax sanctions and Art. 6 ECHR.
Foreign courts: **BGH**	1 StR 277/17	2018–03–06	Self-incrimination protection can be violated even outside formal interrogations; should have value in Sweden, too.

Source: The Authors. For further EPPO Cases, see Vol. XVIII (LUX for Benelux courts decisions concerning EPPO) and Vol. XI available on the Logos Open Access Platform.

2. OLAF Regulation

Cases concerning OLAF actions, which caused jurisprudence relevant decisions: **4**

Table 2: Judgements relating to OLAF Actions in General and decisions in Sweden

Relates to Art.	**Judgement, ECLI, etc.**	**Content**
Supreme Administrative Court	Target number: 1595-25, Decision date: 2025-11-06.	Everyone has the right to access public documents from authorities, provided that the information in them is not subject to confidentiality. Chapter 10 of the Swedish Access to Information and Confidentiality Act (2009:400), OSL, contains confidentiality-breaking provisions.
Art. 3, 9	ECJ, T-193/04 of 4 October 2006, *Hans-Martin Tillack v Commission of the European Communities,* ECLI:EU:T:2006:292.	Investigations by OLAF, publication of information about bribery and breach of professional secrecy, Action for damages and annulment.
Art. 3, 9 para 4	ECJ, C-650/19 P, Judgment of 28 October 2021, ECLI:EU:C:2021:879.	Procedural guarantees must be obeyed in external investigations. It concerned an infringement of Article 7 para 1 of Regulation No 2185/96, the principle of the protection of legitimate expectations and the right to be heard.
Art. 3	ECJ, T-482/20, Order of the General Court (Sixth Chamber) of 20 May 2021, *LG and Others v European Commission*, ECLI:EU:T:2021:290.	On-the-spot-checks in Estonia and Germany. Decision on legal professional privilege. OLAF seized and copied data, and applied a protocol to open a sealed envelope, extract and index the data while isolating emails claimed as privileged so investigators could not access them (Order, 20 May 2021), the applicants sought annulment of an alleged OLAF decision (in a 26 May 2020 email) rejecting their legal-professional-privilege claims during an investigation, but the General Court dismissed the action as inadmissible because the email was a non-

		definitive, preparatory act producing no binding legal effects.
Art. 11 OLAF Regulation	ECJ, T-377/20*, KN v European Economic and Social Committee (EESC)*, Judgment of 1 September 2021, ECLI:EU:T:2021: 528.	The decision contains notions on the rights of the defence in the case of a refusal of access to the annexes to the OLAF report as well as the disclosure of the substance of the evidence in the form of a summary.
Art. 11 OLAF Regulation	Judgment of the General Court (Third Chamber) of 8 July 2008, *Yves Franchet and Daniel Byk v European Commission*, Case T-48/05	OLAF Report, burdensome effect, transfer to national authorities
Art. 11 OLAF Regulation	ECJ, F-5/05, F 7/05 *Antonello Violetti and Others and Nadine Schmit v Commission of the European Communities*, Judgment of the Civil Service Tribunal of 28 April 2009, ECLI:EU :F:2009:39.	The case deals with the relevance of an OLAF Report, the public service, officials and an act adversely affecting an official.
Art. 11 OLAF Regulation	ECJ, T-320/09, *Planet [AE Anonymi Etairia Parochis Simvou leftikon Ipiresion] v. Commission*, Judgment of the General Court of 22 April 2015. ECLI:EU:T: 2015:223.	The Court annulled a series of decisions of the OLAF requesting the applicant's registration in the early warning system ("EWS") put in place to protect the EU's financial interests. Further themes are the risk associated with contractors, here Syria, public contracts and fundamental rights.

Source: The authors. For more decisions concerning the interpretation of the OLAF Regulation see within the other CNP volumes.

II. Institutions

Contact Information Stockholm Regional EPPO Office	1
European Prosecutor and operating EDP (For updates see online) Martin Bresman (European Prosecutor as of 2024)[3] Jerker Asplund (European Delegated Prosecutor in Sweden as of 2025)[4]	
***** "EPPO prosecutors in Sweden are co-located with the Swedish Economic Crime Authority and can request assistance from the Swedish Economic Crime Authority's investigative resources in their investigations." (See Swedish Economic Crime Authority 2025, p. 61).	
Data Protection in the EPPO zone: EPPO's data protection officer via email:dpo@Eppo.europa.euor by post: DPO, EPPO, 11 Avenue John F. Kennedy, 1855 Luxembourg.[5]	
One has also the right to lodge a complaint with the EDPS. The EDPS can be contacted by email atdata protection officer@dps.europa.euor by post to the Data Protection Supervisor, Rue Wiertz 60, B-1047 Brussels. For more see online.	

Table 3 for Sweden: National authorities involved in PIF investigations **2**

Crime prevention and investigation authorities:[6] - Police (*Polisen*) - *Nationella Antikorruptionsgruppen, NKG* - Prosecution Authority (*Åklagarmyndigheten*) - Swedish National Economic Crimes Bureau[7]	Managing Swedish Board of Agriculture	

[3] Chief Prosecutor *Martin Bresman* is available at 010-562 54 65 today Friday between 3 and 4 p.m. See https://www.aklagare.se/for-media/pressmeddelanden/2024/december/svensk-aklagare-utsedd-till-europeiska-aklagarmyndigheten-i-luxemburg/. Accessed 30 June 2025.

[4] Decision of the College of the European Public Prosecutor's Office of 12 February 2025 Designating a European Delegated Prosecutor Pursuant to Article 16(7) of the EPPO Regulation and Assigning Additional Tasks.

[5] See https://www.imy.se/verksamhet/dataskydd/dataskydd-pa-eu-niva/eus-informationssystem/europeiska-aklagarmyndigheten-eppo/. Accessed 30 June 2025.

[6] E-justice Europe Homepage, https://e-justice.europa.eu/topics/taking-legal-action/legal-systems-eu-and-national/national-justice-systems/se_en. Accessed 30 June 2025. See Swedish Economic Crime Authority 2025.

[7] "The European Bureau of Investigation (EBM) is a specialist authority for combating financial crime. Its task is to prevent, detect, deter, investigate and prosecute financial crime. Its activities are directed against serious financial crime and so-called everyday crime. The EBM is the driving and coordinating force in the fight against economic crime." ("*Ekobrottsmyndigheten (EBM) är en specialistmyndighet för ekobrottsbekämpning. EBMs uppgift är att förebygga, upptäcka, förhindra, utreda och lagföra ekonomisk brottslighet. Verksamheten riktas mot den grova ekonomiska brottsligheten och mot den så kallade vardagsbrottsligheten. EBM är den drivande och samverkande kraften i kampen mot ekonomisk brottslighet.*").

(*Ekobrottsmyndigheten EBM*)[8] - National Board of Forensic Medicine (*Rättsmedicinalverket*) - Prison and Probation Service (*Kriminalvården*) - Swedish Customs (*Tullverket*) - Swedish Coast Guard (*Kustbevakningen*) - Swedish Tax Agency (*Skatteverket*) - Swedish Environmental Crime Agency		

3 For further information and enumerative lists on national management bodies and agencies for funds and CFR Regulations, see on the **Webpages of the Swedish Ministries and SEFI Council** and within their organigrammes, which contain the relevant offices and staff eventually.

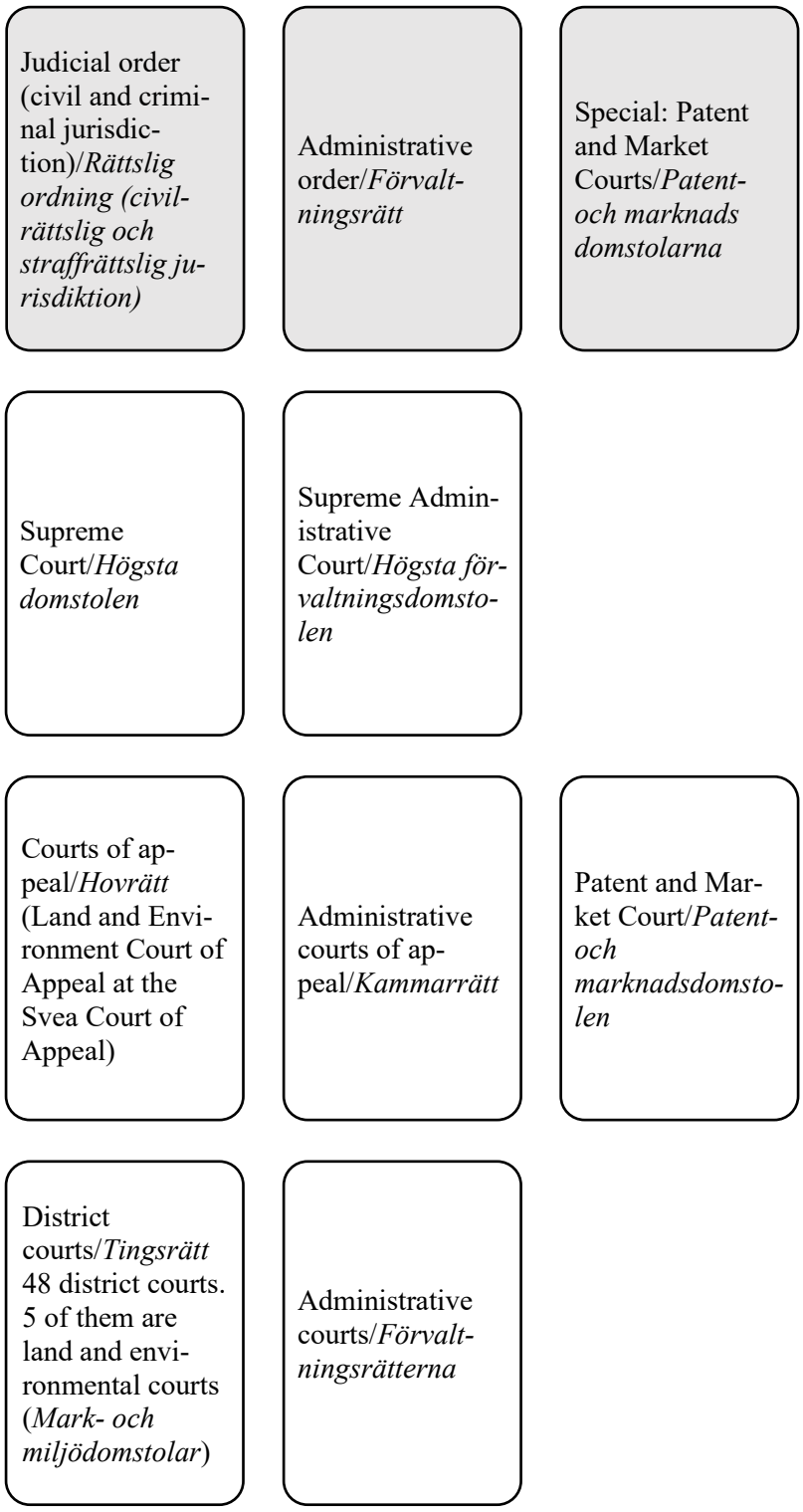
4 **EPPO proceedings** in Sweden concerning offences under Directive (EU) 2017/1371 including VAT fraud, customs fraud, subsidy fraud, and corruption affecting EU financial interests, are conducted by EDPs in accordance with Articles 13 and 14 of Regulation (EU) 2017/1939. Investigations and prosecutions follow Swedish procedural law, primarily the *Rättegångsbalken*.

5 Jurisdiction lies with the ordinary criminal courts, with first instance competence vested in the *Tingsrätt* (district courts), determined by Art. 26 para 1, 4 EPPO Regulation, Art. 11 PIF Directive and national territorial rules such as *locus delicti* or the suspect's residence, if not a **Special criminal chamber is competent** (see Swedish Economic Crime Authority 2025, p. 61). Administrative courts (*förvaltningsrätt*) remain competent only for tax or customs assessments e.g. sanctions, not criminal liability i.e. OLAF cases.

6 Coercive measures, including detention and searches, require judicial authorization by the *Tingsrätt*. EAWs are issued in accordance with national law by the *åklagare* (prosecutor), with judicial oversight where required. Appeals follow the ordinary structure: *Hovrätt* and *Högsta domstolen*. On the next page an overview exemplifies the situation:

[8] See www.ekobrottsmyndigheten.se. Accessed 30 June 2025.

Figure 1: Visualization of the judicial and administrative order in Sweden **7**



Source: https://e-justice.europa.eu/topics/taking-legal-action/legal-systems-eu-and-national/national-justice-systems/se_en/https://www.ekobrottsmyndigheten.se/sefi-radet/.

III. Sources of Law

8 The following pages present a **list of the applicable sources of law**:

1. National Laws

a) PIF-Investigation Related Laws and Administrative Documents in Sweden (OLAF and EPPO if Sweden Joins)

9

- Criminal Code (1962:700)/*Brottsbalk (1962:700)*
- Income Tax Act (1999:1229)/*Inkomstskattelag (1999:1229)*
- Act (1995:575) against tax evasion/ *Lag (1995:575) mot skatteflykt (limited to state income tax)*
- Value Added Tax Act (1994:200)/*Mervärdesskattelag (1994:200)*
- Tax Crimes Act (1971:69)/ *Skattebrottslag (1971:69)*
- Act (2000:1225) on penalties for smuggling/ *Lag (2000:1225) om straff för smuggling*
- Electronic Communications Act (LEK)/*Lag om elektronisk kommunikation (LEK)*
- The Whistleblower Act/ *Visselblåsarlagen*
- Public Procurement Act (LOU)/ *Lag om offentlig upphandling (LOU)*
- Budget Law (2011:203/*Budgetlag (2011:203)*
- Electronic Communications Act (2003:389)/*Lagen (2003:389) om elektronisk kommunikation*
- Act (2012:278) on the collection of electronic communications data in the intelligence activities of law enforcement authorities/*Lagen (2012:278) om inhämtning av uppgifter om elektronisk kommunikation i de brottsbekämpande myndigheternas underrättelseverksamhet*
- Decree (2003:396) on electronic communication/*Förordningen (2003:396) om elektronisk kommunikation*
- Customs Law (2016:253)/*Tullag (2016:253)*
- Act (2001:185) on the processing of data in the Swedish Customs 'operations contains provisions on the Swedish Customs' processing of data in certain cases. *Lag (2021:753)*.
- Act (1987:1231) on automatic data processing in tax audits, etc./*Lag (1987:1231) om automatisk databehandling vid taxeringsrevision, m.m.*
- Ordinance (2014:1102) with instructions for the Police Authority/ *Förordning (2014:1102) med instruktion för Polismyndigheten*
- Regulation (2022:625) with supplementary provisions to the EU's evidence-taking regulation/ *Förordning (2022:625) med kompletterande bestämmelser till EU:s bevisupptagningsförordning*

b) Most Relevant National Laws Concerning Criminal Investigations in Sweden

10

- Code of Judicial Procedure (1942:740)/*Rättegångsbalk (1942:740)*
- Police Act (1984:387)/*Polislag (1984:387)*
- Public Procurement Act (LOU)/ *Lag om offentlig upphandling (LOU)*

c) OLAF Investigations

11

- Tax Procedures Act/*Skatteförfarandelag (2011:1244)*
- Administrative Act (FL)/ *Förvaltningslag (FL)*
- Administrative Procedure Act (FPL)/ *Förvaltningsprocesslag (FPL)*
- Judicial Procedure Code/*Rättegångsbalk (1942:740) (RB)*
- Tax Offenses Act (1971:69)/*Skattebrottslag (1971:69) (SBL)*
- Search Act (1981:774) (UB)/ *Utsökningsbalk (1981:774) (UB)*
- Law (2000:1225) on punishment for smuggling/ *Lag (2000:1225) om straff för smuggling*
- Ordinance (2004:1333) on administration of the Swedish contribution to the budget of the European Union/*Förordning (2004:1333) om administration av den svenska avgiften till Europeiska unionens budget*
- Act (1994:1708) on EU regulations on structural support and on support for rural development/*Lag (1994:1708) om EU:s förordningar om strukturstöd och om stöd till utveckling av landsbygden*
- Act (1994:1709) on EU regulations on the common fisheries policy*/ Lag (1994:1709) om EU:s förordningar om den gemensamma fiskeripolitiken*

d) Special National Laws Concerning the PIF Acquis Area

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- *SFS 2021:1315 Förordning om ändring i förordningen (2015:745) om rådet för skydd av Europeiska unionens finansiella intressen/*SFS 2021:1315 Ordinance amending the Ordinance (2015:745) on the Council for the Protection of the European Union's Financial Interests
- *SFS 2021:1317 Förordning om ändring i förordningen (2015:744) med instruktion för Ekobrottsmyndigheten*/SFS 2021:1317 Regulation amending the regulation (2015:744) with instructions for the Economic Crime Authority Authority

2. Full Wording of Relevant Statutes

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Swedish Code of Statutes
Forordning
on amendment to the regulation (2015:745) on the Council for Protection
of the European Union's financial interests
Issued on 22 December 2021

The government stipulates that Section 3 of the regulation (2015:745) on the Council for the protection
of the European Union's financial interests shall read as follows.

Section 3
The council must include representatives of the Housing Authority, the Economic Crime Authority, the Financial Conduct Authority, the County Administrative Board of Västerbotten County, the Migration Agency, the Authority for Digital Administration, the Authority for Vocational Colleges, the Environmental Protection Agency, the Police Authority, the Swedish Post and Telecommunications Agency, the Council for the European Social Fund in Sweden, the National Board of Health and Welfare, the National Energy Authority, the National Board of Agriculture, the National School Board, the Swedish Agency for Growth, the Swedish Transport Agency, the Swedish Customs Administration, the University Chancellor's Office, the Agency for Innovation Systems and the Swedish Research Council.

Each authority in the council must appoint a member and a substitute for him or her. The member of the Economic Crime Authority is chairman of the council. If necessary, the council may appoint one or more members with special expertise who must participate in the council's work to the extent determined by the chairman. The composition of the council shall promote the development of a highly qualified and effective cooperation between authorities and other actors in the field.

This regulation enters into force on 26 January 2022.

On behalf of the government 2021:1315 Published on December 28, 2021.

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Swedish Code of Statutes
Regulation
on amendment to the regulation (2015:744) with instructions
for the Economic Crime Authority
Issued on 16 December 2021

The government stipulates that Section 13a of the regulation (2015:744) with instructions
for the Economic Crime Authority shall read as follows.

13a Section
1 The Economic Crime Authority is the competent authority for OLAF's controls and inspections according to the Act (2017:244) on on-site controls and inspections by the European Anti-Fraud Office unless another authority has been appointed. The Economic Crime Authority is also the competent authority to provide OLAF with information and transaction records pursuant to Article 7.3 a of Regulation (EU, Euratom) No. 883/2013 of the European Parliament and of the Council of 11 September 2013 on investigations carried out by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No. 1073 of the European Parliament and of the Council /1999 and Council Regulation (Euratom) No. 1074/1999.
This regulation enters into force on 20 January 2022.

On behalf of the government Latest version 2017:256. SFS 2021:1317 Published on December 28, 2021.

3. EPPO Adoption Law (2024)

Table 4: Act (2024:461) on Sweden's Participation in the European Public Prosecutor's Office

Act (2024:461) on Sweden's Participation in the European Public Prosecutor's Office Swedish Code of Statutes (SFS) The Swedish Code of Statutes (SFS) contains laws and ordinances in force. SFS No.: 2024:461 Ministry/agency: Ministry of Justice (DÅ) Promulgated: 13 June 2024 Amended: up to and including SFS 2024:646	**Lag (2024:461) om Sveriges deltagande i Europeiska åklagarmyndigheten Svensk författningssamling SFS nr**: 2024:461 **Departement/myndighet**: Justitiedepartementet DÅ Utfärdad: 2024-06-13 Ändrad: t.o.m. SFS 2024:646 Ändringsregister: SFSR (Regeringskansliet) Källa: Fulltext (Regeringskansliet)
Contents of the Act **Section 1** This Act contains supplementary provisions to Council Regulation (EU) 2017/1939 of 12 October 2017 imple-	**Lagens innehåll** **1 Section** Denna lag innehåller kompletterande bestämmelser till rådets förordning (EU) 2017/1939 av den 12 oktober 2017 om genomförande av fördjupat samarbete

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menting enhanced cooperation on the establishment of the European Public Prosecutor's Office, hereinafter referred to as the EPPO Regulation.	om inrättande av Europeiska åklagarmyndigheten, här benämnd Eppoförordningen.
Status and powers of prosecutors **Section 2** The Swedish European Prosecutor at the European Public Prosecutor's Office has the status of a special prosecutor. The prosecutor has the same powers as a public prosecutor when he or she conducts the investigation pursuant to Article 28(4) of the EPPO Regulation.	**Åklagarnas ställning och befogenheter** **2 Section** Den svenska europeiska åklagaren vid Europeiska åklagarmyndigheten har ställning som särskild åklagare. Åklagaren har samma befogenheter som en allmän åklagare när han eller hon genomför utredningen enligt artikel 28.4 i Eppoförordningen.
Section 3 The Swedish European Delegated Prosecutors have the status of special prosecutors. They have the same powers as public prosecutors when performing tasks for the European Public Prosecutor's Office.	**3 Section** De svenska europeiska delegerade åklagarna har ställning som särskilda åklagare. Åklagarna har samma befogenheter som allmänna åklagare när de utför uppgifter för Europeiska åklagarmyndigheten.
Disclosure under confidentiality and access for parties **Section 4** Information covered by confidentiality under the Public Access to Information and Secrecy Act (2009:400) may be disclosed to the European Public Prosecutor's Office if, in a corresponding situation, it could be disclosed to a Swedish prosecution authority.	**Uppgiftslämnande vid sekretess och partsinsyn** **4 Section** En uppgift för vilken sekretess gäller enligt offentlighets- och sekretesslagen (2009:400) får lämnas ut till Europeiska åklagarmyndigheten om uppgiften i motsvarande fall skulle få lämnas ut till en svensk åklagarmyndighet.
Section 5 When the European Public Prosecutor's Office conducts a preliminary investigation, Chapter 23, Section 18, second paragraph, and Chapter 23, Section 18 a,	**5 Section** När Europeiska åklagarmyndigheten handlägger en förundersökning gäller inte 23 kap. 18 Section andra stycket eller 23 kap. 18 a Section andra stycket

second paragraph, of the Code of Judicial Procedure do not apply as regards limitations on the right to access what transpires during a preliminary investigation that follow from Chapter 10, Sections 3 and 3 a, of the Public Access to Information and Secrecy Act (2009:400). Instead, the limitations set out in Sections 6 and 7 apply.

Section 6

Confidentiality does not prevent an individual who is a party to a matter and who, by virtue of that status, has a right of access to the handling of the matter, from accessing a document or other material in the matter. However, such a document or such material must not be disclosed to the party to the extent that, having regard to the interest protected by confidentiality, it is of exceptional importance that a confidential item of information in the material is not revealed. In such cases, the European Public Prosecutor's Office shall in another way provide the party with information about the content of the material to the extent necessary for the party to safeguard his or her rights and where this can occur without serious harm to the interest protected by confidentiality.

Confidentiality never prevents a party to a matter from accessing a decision in the matter. Nor does confidentiality entail any limitation on a party's right under the Code of Judicial Procedure to be apprised of all circumstances relied upon for the determination of a matter.

rättegångsbalken i fråga om begränsningar i rätten att ta del av det som förekommer vid en förundersökning som följer av 10 kap. 3 och 3 a Sections offentlighets- och sekretesslagen (2009:400). I stället gäller de begränsningar som anges i 6 och 7 Sections.

6 Section

Sekretess hindrar inte att en enskild som är part i ett ärende och som på grund av sin partsställning har rätt till insyn i handläggningen, tar del av en handling eller annat material i ärendet. En sådan handling eller ett sådant material får dock inte lämnas ut till parten i den utsträckning det av hänsyn till det intresse som sekretessen ska skydda är av synnerlig vikt att en sekretessbelagd uppgift i materialet inte röjs. I sådana fall ska Europeiska åklagarmyndigheten på annat sätt lämna parten upplysning om vad materialet innehåller i den utsträckning det behövs för att parten ska kunna ta till vara sin rätt och det kan ske utan allvarlig skada för det intresse som sekretessen ska skydda.

Sekretess hindrar aldrig att en part i ett ärende tar del av ett beslut i ärendet. Inte heller innebär sekretess någon begränsning i en parts rätt enligt rättegångsbalken att få del av alla omständigheter som läggs till grund för avgörande i ett ärende.

Section 7
When a suspect and defence counsel, pursuant to Chapter 23, Section 18 a, first paragraph, of the Code of Judicial Procedure, have been notified of the right to access what has transpired during a preliminary investigation, the limitations in Section 6, first paragraph, apply to the right to access a document or other material only if it concerns information that is not material to the decision on whether to prosecute, and
it is clear that the interest protected by confidentiality takes precedence over the suspect's interest in accessing the information.
The first paragraph also applies after a decision to prosecute and until the prosecution has been finally determined, or the matter has been finally disposed of in another way.

7 Section
När en misstänkt och försvararen enligt 23 kap. 18 a Section första stycket rättegångsbalken har underrättats om rätten att ta del av det som har förekommit vid en förundersökning, gäller begränsningarna i 6 Section första stycket i fråga om rätten att ta del av en handling eller något annat material
endast om
1. det är fråga om en uppgift som inte har betydelse för beslutet i åtalsfrågan, och
2. det står klart att det intresse som sekretessen ska skydda har företräde framför den misstänktes intresse av att ta del av uppgiften.
Första stycket gäller även efter beslut om åtal och fram till dess att åtalet
slutligt har prövats, eller saken slutligt har avgjorts på annat sätt.

Employment matters for Swedish European Delegated Prosecutors
Section 8
Swedish European Delegated Prosecutors shall be employed within the Swedish prosecution service. Employment as a Swedish European Delegated Prosecutor does not constitute unauthorised secondary employment under Section 7 of the Public Employment Act (1994:260).

Anställningsfrågor för svenska europeiska delegerade åklagare
8 Section
Svenska europeiska delegerade åklagare ska vara anställda i det svenska åklagarväsendet. Anställningen som svensk europeisk delegerad åklagare utgör inte en otillåten bisyssla enligt 7 Section lagen (1994:260) om offentlig anställning.

Section 9
Swedish European Delegated Prosecutors shall notify their Swedish employing authority of any absence from their post at the European Public Prosecutor's Office and state the reason for the absence,

9 Section
Svenska europeiska delegerade åklagare ska till sin svenska anställningsmyndighet anmäla frånvaro från sin befattning i Europeiska åklagarmyndigheten och

and shall notify when they resume work in that post.	ange orsaken till frånvaron samt anmäla när de åter arbetar i sin befattning.

ÅFS 2025:1 – Regulations of the Public Prosecutor's Office on the transmission of information to and from the European Public Prosecutor's Office (EPPO) Adopted on January 15, 2025; published on January 15, 2025.	**Åklagarmyndighetens föreskrifter om informationsöverföring till och från Europeiska åklagarmyndigheten (ÅFS 2025:1) Utfärdade den 15 januari 2025. Publicerade den 15 januari 2025.**
Section 1 Regulations, among others Section 5 of the Regulation (2024:632) on Sweden's participation in the European Public Prosecutor's Office stipulates that the Public Prosecutor's Office is the central contact point for the European Public Prosecutor's Office and is responsible for the transmission of information to the European Public Prosecutor's Office pursuant to the EPPO Regulation (Council Regulation (EU) 2017/1939 of October 12, 2017 on the implementation of enhanced cooperation on the establishment of the European Public Prosecutor's Office).	**1 Section** Av 5 Section förordningen (2024:632) om Sveriges deltagande i Europeiska åklagarmyndigheten framgår att Åklagarmyndigheten är central kontaktpunkt i förhållande till Europeiska åklagarmyndigheten och ansvarar för den informationsöverföring som ska ske till Europeiska åklagarmyndigheten enligt Eppo-förordningen (rådets förordning [EU] 2017/1939 av den 12 oktober 2017 om genomförande av fördjupat samarbete om inrättande av Europeiska åklagarmyndigheten).
General information The Central Function at the National Public Prosecutor's Department acts as the central contact point for the European Public Prosecutor's Office	**Allmänna råd:** Centrala funktionen vid Nationella åklagaravdelningen fullgör uppgiften att vara central kontaktpunkt i förhållande till Europeiska åklagarmyndigheten.
Section 2 Obligation of Prosecutors to Notify A public prosecutor handling a case in which it is suspected that a crime has been committed that has damaged or is likely to damage the financial interests of the European Union must notify the Central Function. This obligation to notify	**2 Section Underrättelseskyldighet för åklagare** En åklagare som handlägger ett ärende där det kan antas att det har begåtts ett brott som skadat eller skulle kunna komma att skada Europeiska unionens finansiella intressen ska underrätta den

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extends to completed crimes and attempts. The Central Function must also be informed of other crimes that are inextricably linked to such a crime.

General information
The financial interests of the Union are understood to mean all revenue, expenditure, and assets recorded in, acquired by, or payable to the Union budget, the budgets of the Union institutions, bodies, and agencies established in accordance with the Treaties, as well as budgets managed and supervised directly or indirectly by them. If the Central Function receives a notification, it should consult with the handling public prosecutor.

Section 3
The Central Function shall not be informed of VAT-related tax offenses if the evaded tax is less than EUR 10,000,000.

Section 4
If the Central Function, after consultation with the investigating public prosecutor, concludes that a crime has been committed for which the European Public Prosecutor's Office could exercise its jurisdiction, the investigating public prosecutor shall prepare an EPPO Crime Report (ECR). The report and any other necessary information shall be submitted to the Central Function.

centrala funktionen om ärendet. Underrättelseskyldigheten avser fullbordade brott och försöksbrott. Den centrala funktionen ska även underrättas om andra brott som är oupplösligen sammankopplade med ett sådant brott.

Allmänna råd:
Med unionens finansiella intressen avses alla inkomster, utgifter och tillgångar som omfattas av, förvärvats genom eller ska betalas till unionens budget, budgetarna för unionens institutioner, organ och byråer som upprättats i enlighet med fördragen eller budgetar som direkt eller indirekt förvaltas och övervakas av dem. När den centrala funktionen mottagit en underrättelse bör samråd ske med den handläggande åklagaren.

3 Section
Den centrala funktionen ska inte underrättas om skattebrott avseende mervärdesskatt om den undandragna skatten understiger tio miljoner EUR.

4 Section
Om den centrala funktionen efter samråd med handläggande åklagare bedömer att det föreligger brott för vilket Europeiska åklagarmyndigheten skulle kunna utöva sin behörighet ska handläggande åklagare upprätta en EPPO Crime Report (ECR). Rapporten och annan nödvändig information ska överlämnas till den centrala funktionen.

General information
The information an ECR should contain is set out in Article 24(4) of the EPPO Regulation. An ECR should only contain information necessary to understand the offense and to assess the jurisdiction of the European Public Prosecutor's Office. According to Article 27(2) of the EPPO Regulation, while the European Public Prosecutor's Office examines its power to take over, national authorities should take only the urgent measures that may be necessary for effective investigation and prosecution.

Allmänna råd:
Vilka uppgifter en ECR ska innehålla framgår av artikel 24.4 i Eppo-förordningen. Endast information som är nödvändig för förståelsen av brottet och för att bedöma Europeiska åklagarmyndighetens behörighet bör bifogas en ECR. Av artikel 27.2 i Eppo-förordningen framgår att nationella myndigheter, under tiden som Europeiska åklagarmyndigheten prövar sin rätt att överta ärendet, endast ska vidta de brådskande åtgärder som eventuellt krävs för att garantera en effektiv utredning och lagföring.

Section 5 Reports from the Central Function
The Central Function decides whether the information on criminal offenses submitted by the public prosecutor must be reported to the European Public Prosecutor's Office.
If criminal offenses are to be reported, the Central Function transmits the prepared ECR and other required information to the European Public Prosecutor's Office.

5 Section Den centrala funktionens rapportering
Den centrala funktionen beslutar om den information om brott som lämnats av åklagaren ska rapporteras till Europeiska åklagarmyndigheten. Om brott ska rapporteras till Europeiska åklagarmyndigheten ska den centrala funktionen överföra upprättad ECR och annan nödvändig information till Europeiska åklagarmyndigheten.

General Information
The EPPO Regulation stipulates that the reporting obligation must be interpreted broadly and that information must be transmitted to the European Public Prosecutor's Office even if it cannot be assessed whether the criteria for its jurisdiction are met (see, for example, Article 24(5).
According to Article 24(3), the European Public Prosecutor's Office must also be

Allmänna råd:
Av Eppo-förordningen framgår att rapportskyldigheten ska ges en vid tolkning och att information ska lämnas till Europeiska åklagarmyndigheten även i fall där det inte är möjligt att bedöma om kriterierna för Europeiska åklagarmyndighetens behörighet är uppfyllda (se exempelvis artikel 24.5). Vidare framgår av artikel 24.3 att Europeiska åklagarmyndigheten ska informeras om brott som

informed of criminal offenses within the meaning of Article 22, even if the Central Function considers that the European Public Prosecutor's Office could not exercise its jurisdiction. Information should be transmitted to the European Public Prosecutor's Office via the European Delegated Prosecutors in Sweden.	avses i artikel 22 även i de fall den centrala funktionen anser att Europeiska åklagarmyndigheten inte skulle kunna utöva sin behörighet. Information till Europeiska åklagarmyndigheten bör lämnas via de europeiska delegerade åklagarna i Sverige.
Section 6 If no report is to be submitted pursuant to Section 5, the public prosecutor who submitted the information continues processing.	**6 Section** I de fall en rapport inte ska lämnas enligt 5 Section ska den åklagare som lämnat informationen fortsätta handläggningen.
Section 7 Notifications Notifications from the European Public Prosecutor's Office concerning criminal offenses under Swedish jurisdiction are processed by the Central Function. If the European Public Prosecutor's Office lacks jurisdiction or refrains from exercising it, the Central Function forwards the notification to the competent public prosecutor or police authority.	**7 Section Underrättelser** Underrättelser från Europeiska åklagarmyndigheten om brott med svensk jurisdiktion ska handläggas av den centrala funktionen. När Europeiska åklagarmyndigheten saknar behörighet eller avstår från att utöva sin behörighet ska den centrala funktionen överlämna underrättelsen till behörig åklagare eller till Polismyndigheten.
General information General advice: Article 24(8) of the EPPO Regulation states that the European Public Prosecutor's Office shall inform the competent national authorities without undue delay if it becomes aware of the possibility that an offence outside the competence of the European Public Prosecutor's Office may have been committed.	**Allmänna råd:** Av artikel 24.8 i Eppo-förordningen framgår att Europeiska åklagarmyndigheten utan onödigt dröjsmål ska informera de behöriga nationella myndigheterna om det kommer till Europeiska åklagarmyndighetens kännedom att ett brott som inte omfattas av Europeiska åklagarmyndighetens behörighet kan ha begåtts.
Entry into force: 20 January 2025. *KATARINA JOHANSSON WELIN Marie-Louise Ollén* (Rättsavdelnngen)	Ikraftträdande: 20 januari 2025. *KATARINA JOHANSSON WELIN Marie-Louise Ollén* (Rättsavdelningen)

B. Structure of the Compendium

I. Introduction and Process History

Christoffer Wong, Lund University

At the time of writing of this foreword (July 2023), a little over two years have elapsed since the EPPO entered into operation (on 1 June 2021).[9] Sweden did not take part in the adoption of Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office ('the EPPO') ('the EPPO regulation') (originally, see below → C and D–E for the new changes since then). **1**

Sweden was[10] still not part of the EPPO system [*scil.* at the time of writing, the editors] and there is no indication of any imminent accession to the system. Sweden will therefore, in the foreseeable future, remain a 'non-participating' Member State of the EPPO system. There are thus reasons to preface the following report with a background outlining the path of Sweden's non-participation in the EPPO system, prospects for the immediate future as well as the mechanism governing the interactions between the prosecution authorities in a non-participating Member State such as Sweden and the EPPO. **2**

The **Commission's original proposal** on the establishment of the European Public Prosecutor's Office[11] was considered by the Swedish Parliament's Standing Committee on Judicial Affairs soon after the proposal was forwarded to the national parliaments. The Standing Committee concluded that the Commission's proposed measure at EU-level went far beyond what was necessary and was in breach of the principle of subsidiarity.[12] This view was endorsed by the Parliament and a 'reasoned opinion' was issued and communicated to the Council in November 2013.[13] This formed part of the seventeen opinions issued by legislative chambers from fifteen Member States, which triggered the application of the 'yellow card' procedure envisaged in protocol no. 2 on the application of the principles of subsidiarity and proportionality, annexed to the Lisbon Treaty.[14] Negotiation continued within the Council with revised drafts of the proposed regulation. Successive Council presidencies had endeavoured to reach an agreement, **3**

[9] The EPPO entered into operation on 1 June 2021. See Commission's press release of 26 May 2021, available at ec.europa.eu/commission/presscorner/api/files/document/print/en/ip_21_2591/ IP_21_2591 _EN.pdf. Accessed 30 June 2025.
[10] This was the case at the time of writing (2023). Therefore this part shows Swedens's transition and the position as a non-participating Member State till 2024. Then the situation changed → see below Part D.-E. And Part C as a short section on the transition period valuable for further academic studies (comparing the situation before and after the opt-in declaration).
[11] COM(2013) 534 final, 17.7.2013.
[12] 2013/14:JuU13, available at data.riksdagen.se/fil/890A3BBB-0C57-43AB-8A39-652FDE5287C3.
[13] Council Doc. 16033/13 (13.11.2013).
[14] See Council Doc. 16624/13 (28.11.2013).

but the Swedish delegation declared definitively at a meeting of the Council on 8 December 2016 that Sweden would not take part in the adoption of proposed regulation. The Swedish confirmation of non-participation[15] together with the continued hesitancy of several other Member States led Council to conclude that agreement could not be reached on the proposed draft regulation.[16] This marked the beginning of the procedure for enhanced cooperation. From this point onward, Sweden would not actively participate in the deliberation within the Council in matters related to the EPPO.[17] It is not necessary to recount in this foreword the details of the subsequent authorization, initiation and final adoption of the enhanced cooperation. Instead, a brief account of the development in Sweden will provide some indication as to the likelihood of Sweden's future participation in the system.

4 The **political leadership** in Sweden has largely been silent on the issue of EPPO since its decision not to participate in the EPPO project. Given the willingness of Sweden to engage in numerous post-Lisbon legislative projects on EU cooperation in criminal matters, it is reasonable to assume that the Government is not, or no longer, adverse to the idea of joining the EPPO system, especially when Sweden then was one of the few Member States not participating. However, no public indication has been given on the Government's position. Rather surprisingly, in a speech given to Parliament in 2019, the Prime Minister at the time (Stefan Löfven) declared that it was the Government's intention that Sweden would join the EPPO system.[18] A public inquiry was set up to consider the issues involved in Sweden's participation.[19] This public inquiry published its final report[20] in December 2020 with proposals for necessary legislation required for an effective functioning of the EPPO in Sweden from 1 March 2022.[21] However, no government bill on this matter has resulted from the public inquiry's proposal and the EPPO has not been a subject that draws interest in the political debate. There was a change of government following the general election in September 2022. Three political parties formed a coalition government with the support of another party not being part

[15] The declaration in December was later confirmed at a meeting of Coreper on 19.1.2017, Council Doc. 5447/17 (31.1.2017), Para. 11.
[16] See Council Doc. 5447/17 (31.1.2017), para. 12.
[17] Pursuant to Article 330, all members of the Council may participate in its deliberations even though only members representing the participating Member States in enhanced cooperation shall take part in the vote.
[18] See the Prime Minister's speech of 13 November 2019, available at regeringen.se/tal/20192/11/eu-deklarationen-2019/. Accessed 30 June 2025.
[19] Dir. 2019:82 (14.11.2019) *Europeiska åklagarmyndigheten (Eppo)–åtgärder för ett svenskt deltagande*
[20] SOU 2020:74 (15.12.2020) *En europeisk åklagarmyndighet i Sverige.*
[21] Since the EPPO-regulation is an EU regulation, which is directly applicable without any need of further national implementation, the required legislation in Sweden consists mainly of adjustments to existing provisions even though a new act of parliament and a new government ordinance were proposed that dealt specifically with the EPPO.

of the coalition. The policies of the Government are based on an agreement, *Tidösavtalet*,[22] between the coalition parties together with the party remaining outside the Government. Although there is a strong emphasis on 'law and order', neither the EPPO nor cooperation in criminal matters within the EU in general is mentioned in *Tidösavtalet* as one of the agreed tasks of the Government. Given the already packed legislative agenda for the prioritized areas including *inter alia* the fight against organized crime, youth criminality, reform of the system of criminal sanctions and introduction of new coercive measures to facilitate crime investigation and crime prevention, it is unlikely that Sweden will proceed with the accession to the EPPO system any time soon.

Cooperation between Sweden the EPPO will, therefore, continue on the basis of Sweden being a non-participating Member State. The prosecution authority (and indeed the individual public prosecutors) in Sweden remains thus independent in their decisions to investigate, prosecute and bring to judgment all criminal breaches, or not, including breaches affecting the financial interest of the EU. **5**

However, independence in the making of the above-mentioned decisions does not mean that Swedish prosecutors and other authorities have complete freedom in their interaction with the EPPO. Limits are set under general EU law, common principles governing all forms of enhanced cooperation as well as specific provisions pursuant to the EPPO Regulation. **6**

To begin with, it may be asked whether, as a matter of general EU law, a non-participating Member State is bound to provide assistance to the EPPO due to the principle of sincere cooperation, as expressed in **Article 4(3) TEU**, which states that "the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties". Admittedly, the EPPO, being a supranational EU body, can be assimilated to the Union as such and therefore be owed the duty of sincere cooperation by all Member States. However, it is not given that the duty extends to *enhanced* cooperation, which, arguably would not be a task that flows from the Treaties. In any case, doubts have been raised in the literature whether the extremely general principle of sincere cooperation in itself would be a sufficient legal basis to require assistance by a non-participating Member State.[23] **7**

In addition to the **principle of sincere cooperation**, it is also a matter of general EU law that all Member States have a duty, as expressed in **Article 325 TFEU**, to combat fraud against and to protect the financial interests of the Union. One may argue that insofar as the EPPO Regulation is aimed at the protection the Union's financial interests, all Member States are bound to provide assistance to measures undertaken by the EPPO by virtue **8**

[22] *Tidösavtalet: Överenskommelse för Sverige*. Agreement of 14.10.2022 between the political parties Sverigedemokraterna, Moderaterna, Kristdemokraterna and Liberalerna.
[23] See, for example, Franssen 2018, pp. 291–299, at p. 295.

of their duty under Article 325 TFEU, whether the provision in Article 4(3) is applicable or not. Against this argument it can said that the legal base for the EPPO Regulation is in fact Article 86 TFEU, not Article 325 TFEU.

9 The relationship between **non-participating Member States and the EPPO** is also governed by principles with respect to enhanced cooperation in general. Article 327 TFEU states that any enhanced cooperation "shall respect the competences, rights and obligations of those Member States which do not participate in it", while the non-participating Member States "shall not impede its implementation by the participating Member States". In the present context, this means that the EPPO and the participating Member States shall not adopt measures that would prevent a non-participating from exercising its competences, rights and obligations. What is more unclear is to what extent a positive duty for a non-participating Member State to assist the EPPO can be deduced from the obligation not to impede the enhanced cooperation between the participating Member States. Ultimately, it is for the CJEU to interpret the provision.[24]

10 The relationship between the EPPO and non-participating Member States has also been addressed to in the EPPO Regulation. Article 99 of the Regulation contains common provisions on the EPPO's relations with all its partners,[25] while Article 105 is concerned with the relations specifically with regard to non-participating Member States. Both articles can be seen as provisions enabling or requiring the EPPO to adopt or undertake measures in relation to its partners; they cannot be taken to impose duties on them - especially when these articles are read in light of recital 110 of the EPPO Regulation, stating clearly that "Member States of the European Union which do not participate in enhanced cooperation on the establishment of the EPPO are not bound by this Regulation."

11 According to Article 99(1) the EPPO may establish and **maintain cooperative relations** with its partners, but only insofar as it is necessary for the performance of its tasks. No further specification is given as to the nature of the cooperative relations envisaged except that exchange of information is separately regulated under Article 99(2).[26] To facilitate cooperation, the EPPO may, pursuant to Article 99(3), working agreements with its partners on technical and/or operational matters. It is emphasized specifically that

[24] See, e.g., Blanke/Böttner 2023, AEUV Art. 327 Rn 3, 4.
[25] Besides authorities of non-participating Member States, the other partners of the EPPO include institutions, bodies or agencies of the EU, authorities of third countries and international organizations–see Art. 99(1) of the EPPO Regulation.
[26] It may be added that the wording of Art. 99(2) of the EPPO Regulation excludes the exchange of personal data–see Brodowski 2021, m.n. 9 at p. 582.

such working agreements "may neither form the basis for allowing the exchange of personal data nor have legally binding effects on the Union or its Member States". No such working arrangement has been established between the EPPO and a Swedish authority.[27]

Of greater significance for the **practical interaction** between the EPPO and the prosecution authority of non-participating Member States is, at least from the point of view of Sweden, Article 105(3) of the EPPO Regulation.[28] Article 105(3) imposes upon Members States participating in the enhanced cooperation to designate[29] the EPPO as "a competent authority for the purpose of implementation of the applicable acts on judicial cooperation in respect of cases falling within the competence of the EPPO". This means that authorities of a non-participating Member State may, when executing applying an EU instrument applicable between EU Member States (such as a European arrest warrant or European investigation order), treat measures taken by the EPPO as measures taken by a competent *in*[30] a participating Member State. The EPPO is, in a sense, assimilated with national competent authorities. **12**

Although the **concept of assimilation of the EPPO** is a simple one, practical difficulties arise when participating Member States actually proceed with the notification process designating the EPPO as a competent authority. Some practical recommendations with regard to the application of Article 105(3) can however be found in the *Presidency Report on the Relations of the EPPO with the Non-Participating Member States* ('*Presidency Report*').[31] The *Presidency Report* identifies eight EU instruments that can fall under the ambit of Article 105(3) of the Regulations covering the European investigation order, freezing and confiscation orders, the European arrest warrant, joint investigation teams, orders freezing property or evidence, supervision measures as alternative to provisional detention, mutual recognition in criminal matters and conflict of jurisdiction in criminal proceedings. For each of the instruments, the **Presidency Report** discusses in what sense the EPPO is assimilated with a competent authority in the Member State and provides a standard formula to be used for the notification. **13**

[27] Although working arrangements have been established between the EPPO and authorities in a number of third States (Albania, Georgia, Moldova, Montenegro, Republic of North Macedonia, Ukraine and the United States), working arrangement has been established with only one out of the five non-participating Member States, viz. Hungary (see https://www.eppo.europa.eu/sites/default/files/2022-07/EPPO-Working-Arrangement-Hungary-HU-Hungarian.pdf). Accessed 30 June 2025.

[28] Art. 105(1) of the EPPO Regulation deals with working agreements already mentioned above, while Art. 105(2) deals with the designation of EPPO contact points in non-participating Member States. At the time of writing, these provisions are not relevant with respect to Sweden.

[29] The word 'notify' is used in the text of the EPPO Regulation.

[30] Attention should be drawn to the fact that the EPPO (including the delegated European prosecutors) is a competent authority *in* a participating Member State, not a competent authority *of* that Member State.

[31] Council Doc. 13147/20 rev 1 of 23.11.2020 (Presidency's note to delegations), available at https://data.consilium.europa.eu/doc/document/ST-13147-2020-REV-1/en/pdf. Accessed 30 June 2025. For an illumination of the Presidency Report, see Giuffrida 2023, pp. 80–99, at 90–95.

14 The **status of the recommendations** can, however, be questioned. It has been pointed out in the literature, for example, that the Presidency Report, to begin with, does not constitute an authentic interpretation of the legal instruments being dealt with and it is doubtful what binding effect these recommendations will have on non-participating Member States.[32] Furthermore, it remains to be seen what this cooperation entails, "bearing in mind that the existing instruments have not been designed for the cooperation with a supranational (and *sui generis*) body such as the EPPO".[33]

15 Article 105(3) of the EPPO Regulation attempts to provide a **formal basis for cooperation between a non-participating Member and the EPPO,** which is not a competent authority *of* a Member State. Pragmatic solutions can usually be reached even though the assimilation concept does not provide a stringent and coherent model at a systematic or structural level. However, a formal or direct basis for interaction with the EPPO is not always necessary as indirect cooperation with non-participating Member States may take place via, for instance, OLAF, Europol and Eurojust.[34]

16 The following **national report on Sweden** provides an outline of the Swedish legal system governing *inter alia* investigation, prosecution and bringing to judgment in a criminal process. As long as Sweden remains outside the EPPO system, Swedish prosecutors will exercise their authority independently. This independent exercise of power must however be carried out subject to conditions discussed in this foreword.

II. General Remarks

Hauck, Schneider, Karakocaoğlu, Laird *University of Gießen*

17 Sweden was not part of the enhanced cooperation mechanism[35] of the EPPO in 2023.[36] Taking into account the European Parliament's decision of 10 May 2023 on discharge in respect of the implementation of the budget of the European Public Prosecutor's Office for the financial year 2021 (2022/2091(DEC)) it should be recalled, what was said in the observations forming part of the discharge:

18 "[The European Parliament] [u]nderlines the importance of engaging in productive dialogue with non-participating Member States; notes that, in 2021, the EPPO opened 48 investigations involving non-participating Member States; observes that cooperation,

[32] Giuffrida 2023, p. 96. On the latter point, see also Franssen 2018, p. 295.
[33] Giuffrida 2023, p. 97.
[34] Brodowski 2021, mn. 1 at p. 636.
[35] For this mechanism and critique see Öberg 2022. online: https://verfassungsblog.de/the-pitfalls-of-enhanced-cooperation. Accessed 30 June 2025.
[36] For the now almost historical debate see Guiffrida 2008, pp. 291–299.
In 2021 the EU Commission announced that "For the time being, Denmark, Ireland, Hungary, Poland, and Sweden do not participate in the EPPO. Sweden has, however, announced that it intends to join and preparations to join the EPPO in 2022 are ongoing on the national level."

grounded on the relevant Union acts on judicial cooperation in criminal matters, works smoothly with Denmark, Hungary and Sweden, even if at a different pace than with the participating countries; shares the concern expressed by the Chief European Prosecutor on the lack of cooperation from Ireland and Poland in the EPPO investigations which require evidence to be gathered from these two non-participating Member States;[.]"[37]

Thus, Swedish criminal prosecution still fights fraud to the detriment of the Union completely on its own i.e. by virtue of the Swedish Criminal Procedure rules, which are enshrined in the Code of Judicial procedure. **19**

In the past Sweden has shown few cases of EU fraud. The OLAF Report 2021 gives an overview of the latest statistics.[38] **20**

As long as Sweden, as a Nordic country with more than 10 million inhabitants, did not take part in the EPPO it investigated EU frauds with its own police and law enforcement bodies and without a supranational authority, which results in the competence of the Swedish prosecution offices. The scenario of **Sweden joining the EPPO**, which has been extensively studied in 2019 and 2020, concluded it would enable at least two EDPs, which are formally delegated to the EPPO and act as national experts in Sweden. The "*Sveriges Riksdag*" is competent to decide on these matters. Sweden has seen a lot of political changes in 2020–2022, which is why these matters were not dealt with at the most prominent stage, yet. Some thought this might have already changed with the 1st of January 2023, which could have symbolized a historic date for a political change. **21**

In the **34th PIF Report** Sweden was cited with the following sentence: "The Government is currently working on a proposal containing the necessary legislation to enable Sweden to join the EPPO as soon as possible, provided endorsement from Parliament."[39] **22**

In addition it was said by the drafters of the Report in their analysis that: "Sweden, by contrast, argued that its government is currently working on a legislative proposal that would allow the country to join the EPPO as soon as possible, assuming that the Parliament endorses it."[40] **23**

For the current situation "**Sweden being part of the EPPO zone**" see → D below. **24**

[37] EU Parliament, Rapporteur Peksa 2023.
[38] OLAF Report 2021, pp. 48–51, https://anti-fraud.ec.europa.eu/system/files/2022-09/olaf-report-2021_en.pdf. Accessed 30 June 2025.
[39] EU Commission, Commission Staff Working Document, Follow-Up by Member States to the Recommendations of the PIF Report 2021. Accompanying the Document, Report from the Commission to the Council and the European Parliament, 34th Annual Report on the Protection of the European Union's Financial Interests and the Fight Against Fraud–2022, p. 78.
[40] Ibid, p. 9.

III. Two Scenarios as of July 2023: One Manual Focusing on Criminal Investigations into EU Fraud Offences Based on National Law (Scenario 1) and Hypothetical Considerations for the Operations of the EPPO (Scenario 2)

25 For this reason, the current volume originally took a primary focus on OLAF (→ Part B.) but analysed the area of EPPO investigations as well as hypothetical situation (→ Part D to E). This has changed and the part describes and portrays the (EPPO-related) applicable law and can hence although be used by current investigators in the area of PIF investigations (from the Economic Crime Authority). Case law and the sources of law above can be read if special information for a specific area is needed.

26 The following analysis presents the information, which would be relevant for potential Swedish EDPs within grey parts. The normal text relates to the standard investigation on the basis of Swedish national law.

C. Looking back: If Sweden would have stayed out of the EPPO

The coming pages address the question, what the *status quo* looked like when the question still was: is it likely Sweden stays out and what if Sweden stays out of the EPPO mechanism, but investigates criminal EU fraud investigations on its own e.g. after a recommendation to do so by the OLAF, which can only conduct administrative investigations but recommend according to Art. 11 OLAF Regulation in its Final Report to assess the conduct investigated by OLAF further in the national area. Afterwards, if this way to become part of the EPPO has been reconstructed, the volume offers **the applicable law sources before and during criminal investigations**. 1

I. The Special Position of Sweden (Towards the EPPO Mechanism)

Sweden had like Poland, Hungary, Ireland and formerly Malta and the Netherlands (in the last decade) **since 2017** a special position towards the EPPO and the EU. 2

II. Necessary Cooperation–But how?

Cooperation in EU criminal justice is necessary. Cooperation is not only a buzzword of the Union's Anti-Fraud Architecture but the most essential tool available to fight major, transnational EU frauds. Therefore, it shall be explored shortly, how the EPPO and OLAF could already in the past reality after the EPPO's start in 2021 (Scenario 1) cooperate with the Swedish justice, customs, tax, structural funds, audit and Payment authorities. 3

III. Cooperation with Swedish Justice Authorities

1. Hypothetical Considerations on the Impact of the EPPO Investigations Under Art. 105 EPPO Regulation for Swedish Justice Authorities

Since **1.6.2021**, the start of the operational actions of the EPPO, Sweden has not concluded a Working Arrangement (e.g. like Hungary) or a special provision within its law (like e.g. Poland, see the Polish volume and Art. 15a of the Polish Criminal Procedure Code) but the relationship between the EPPO and Poland has at least till the start of the Swedish Presidency of the Council in the first half of 2023 informal. 4

2. Swedish Participation in Eurojust

Sweden interacts with EU Member States' Judicial and Police authorities. It is part of the Eurojust Mechanism and has installed a Member at Eurojust. The Swedish Desk at Eurojust, can according to the Eurojust Website: "be contacted via the channels defined at national level". 5

6 This information is quite unspecific, but due to internal relevance only lawyers won't need contact to Eurojust Members normally it seems to be a restriction, which has no impact on the rights of an accused. Sweden can offer information or request information and as the **Eurojust mandates encompasses the collection and the transfer of information in relation to EU frauds** (frauds detrimental to the Union's budget) Sweden is at least an informal partner to the EPPO already today. This informal relationship is even fostered by the Working Arrangement, which the EPPO and Eurojust concluded.[41]

7 A case from 2022, handled by the EPPO involved Sweden and its authorities.

Sweden Involved in EPPO VAT Fraud Case (2022)

"Eurojust has, for the first time, supported the setting up of a joint investigation team (JIT) with the European Public Prosecutor's Office (EPPO). This was done at the request of the EPPO and the Swedish authorities, in order to investigate a major case of VAT fraud. The JIT is the first ever to involve the EPPO since taking office in 2021. Cross-border VAT or carrousel frauds of over EUR 10 million fall under the competence of the EPPO. As Sweden does not participate in the EPPO, cross-border cooperation in these kinds of cases may be enabled by Eurojust.
The JIT agreement was signed by Sweden and the French European Delegated Prosecutor at the EPPO, with the participation of Eurojust, to support investigations between the Swedish authorities and the EPPO. The case concerns long-term investigations into a large-scale VAT fraud conducted from amongst others France, among other countries. The fraud damages the Swedish tax office and also involves other EU Member States.

Eurojust was already involved in the case before the EPPO evoked the investigations from the French authorities and organised coordination meetings to prepare for the setting up of the JIT. The Agency provided legal support during the drafting of the JIT agreement and proposed solutions to new legal issues arising from the involvement of the EPPO in such a team. Eurojust and the EPPO signed a Working Arrangement in February of 2021 to facilitate cooperation between the Agency and the EPPO in Luxembourg."[42]
Related tags: Joint investigation teams

To set-up a JIT, a Joint-Investigation Team Swedish authorities as well as the EPPO Legal Secretaries and EDPs can rely on a template:

[41] See https://www.eurojust.europa.eu/document/working-arrangement-between-eurojust-and-eppo. Accessed 30 June 2025.
[42] Eurojust 2022. online: https://www.eurojust.europa.eu/news/eurojust-assists-first-joint-investigation-team-eppo-swedish-authorities. Accessed 30 June 2025.

"https://www.eurojust.europa.eu/sites/default/files/assets/celex-32022y0128-01-en-txt.pdf".

Checklist to set up multilateral JIT's: https://www.eurojust.europa.eu/sites/default/files/assets/checklist-for-multilateral-joint-investigation-teams-en.pdf.

It should as well be taken into account that Sweden as a Member to Eurojust, is as well part of the OLAF mechanism (see Part F below within this Volume) and as E**urojust cooperates with OLAF**[43], Sweden was therefore already a good partner of the Union's Anti-Frau Architecture before joining EPPO. **8**

3. Swedish Cooperation with Europol

Sweden interacts with Europol. Interestingly the cases, in which Sweden contacts Europol or vice versa are cases that are equal to EU VAT Fraud Cases or huge customs fraud cases etc. Europol presents its Swedish Partners on its Website–mainly it interacts due to scope of its competence[44] with the law enforcement bodies: **9**

- "The Tax Fraud Unit within the Swedish Tax Agency
- Swedish Coastguard
- Swedish Customs
- Swedish Security Service
- The Swedish Economic Crime Authority
- The Swedish Police Authority"[45]

Exempt the Coastguard and the Security Service all of these law enforcement would be potentially relevant cooperation partners of the EPPO, if it would act on the Swedish territory. **10**

4. Cooperation in Administrative Tax Matters

On an international but although EU level, Sweden fosters the fight against tax evasion, frauds etc.[46] the main body in Sweden, which can be asked for cooperation is the Swedish Tax Agency, which helps under international law: **11**

[43] See Working Arrangement, 29 March 2023.online: https://www.eurojust.europa.eu/sites/default/files/assets/2023-olaf-eurojust-working-arrangement-signed.pdf. Accessed 30 June 2025.
[44] Europol is designed to operate in partnership with law enforcement agencies, government departments and the private sector.
[45] See Europol, Relationship Sweden. online: https://www.europol.europa.eu/partners-collaboration/member-states/sweden. Accessed 30 June 2025.
[46] See https://www.regeringen.se/globalassets/regeringen/dokument/finansdepartementet/pdf/2016/skatt/action-plan-counteracting-tax-evasion-tax-avoidance-and-money-laundering. Accessed 30 June 2025.

5. Projects of the European Council (2023–2025)

If Sweden would have decided not to join the EPPO till 2026, it might have been involved instead in an initiative of the European Council, which applies now for Hungary and Ireland, the remaining countries reluctant to join to the present day:

In the future it is possible, as said by the European Committee On Crime Problems (CDPC) and the Committee of Experts on the Operation of European Conventions on Co-Operation in Criminal Matters (PC–OC) that Sweden will be invited with other states to a new legal instrument, which ensures the cooperation of EPPO with non-participating member states (09/2022).[47] The PC–OC will deliver till 31.12.2023 a "Draft Protocol to the European Convention on Mutual Assistance in Criminal Matters (ETS 30) on the relations with the European Public Prosecutor's Office"[48].

[47] See https://rm.coe.int/list-of-decisions-of-the-32nd-pc-ocmod-meeting/1680a84a92. Accessed 30 June 2025.
[48] See https://rm.coe.int/pc-oc-en/1680a64f4a. Accessed 30 June 2025.

D. Sweden Joined the EPPO (The new phase 2024–2025)

As Sweden decided to finally **join the EPPO mechanism in 2024**[49] all these hypothetical considerations above are a **reminiscence to the times the EPPO zone was smaller**. But apparently **the enhanced cooperation** has convinced the formerly reluctant countries. The mechanism which was open to other non-participant EU Member States any moment since 2017, Nowadays and from 2025 onwards EPPO Regulation applies directly, Art. 288 TFEU in Sweden and influences the applicability of Swedish national (criminal and criminal procedural law). Back in the moment of writing Sweden was not say it clearly not completely prepared for the application of the EPPO Regulation. Despite this influence of the Regulation itself, it is very important to take into account that *de facto* the Regulation refers more than frequently to the **application of national law**, thus Swedish criminal, criminal procedural, tax and customs related legislation. The European Delegated Prosecutors, which Sweden needed to appoint are required to act on behalf of the EPPO Headquarters by applying this national law, which they know from their national prosecution job (see above → Institutions). **1**

A study from 2020 analysed, how it would be possible for Sweden to participate in the EPPO mechanism.[50] **2**

The following analysis shall **pinpoint the reader at the applicable national law** as Sweden finally became an EPPO mechanism Member in the 2020s. **3**

*** Nota bene and Summary on the current situation (08/2025)**: The EPPO Regulation did not apply in Sweden till the moment it joined in 2024; this must be taken into account for exerting competence. Like Poland Sweden was till the publication in the OJ a **non-participating country** to the EPPO back then. The considerations made in the following were made before Sweden joined and therefore explore and focus on Swedish national investigations if Sweden has jurisdiction over a PIF offence. These considerations are correct even with the EPPO in charge now.

The Swedish legislator has fostered major academic studies and concepts, which addressed the question how Sweden could join the EPPO in the past years since at least 2018. These studies can be cited and referred to within the analysis and presentation of this Scenario 2. **4**

[49] Commission Decision (EU) 2024/1952 of 16 July 2024 confirming the participation of Sweden in the enhanced cooperation on the establishment of the European Public Prosecutor's Office C/2024/4894; https://www.ekobrottsmyndigheten.se/tva-aklagare-till-europeiska-aklagarmyndigheten-utsedda/. Accessed 30 June 2025.

[50] Lindberg et al. (experts and ed..) 2022, on pp. 523–533 they summarize that key points that Sweden had to address in 2022–2023.

E. Portray of the Criminal Investigations Frameworks in Sweden

It is important to have the most **relevant statues** that can be relevant in an Stockholm-led **EPPO investigation** thoroughly selected at daily desk. We **collected and shortly explained** by researching the Swedish Code of Statutes (SFS), EPPO legal frameworks and the situation for the EPPO in other EPPO zone countries within the CNP volumes the applicable Swedish statutes, which are presented within this volume after the Union law:

1. Art. 26 Start of Criminal Investigations

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Rules on Investigations

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Initiation of Investigations and Allocation of Competences within the EPPO

1. Where, **in accordance with the applicable national law,** there are **reasonable grounds to believe that** an offence within the competence of the EPPO is being or has been committed, a European Delegated Prosecutor in a Member State which **according to its national law** has jurisdiction over the offence shall, without prejudice to the rules set out in Article 25(2) and (3), initiate an investigation and note this in the case management system.2. Where upon verification in accordance with Article 24(6), the EPPO decides to initiate an investigation, it shall without undue delay inform the authority that reported the criminal conduct in accordance with Article 24(1) or (2).

3. Where no investigation has been initiated by a European Delegated Prosecutor, the Permanent Chamber to which the case has been allocated shall, under the conditions set out in paragraph 1, instruct a European Delegated Prosecutor to initiate an investigation.

4. A case shall as a rule be initiated and handled by a European Delegated Prosecutor from the Member State where the focus of the criminal activity is or, if several connected offences within the competences of the EPPO have been committed, the Member State where the bulk of the offences has been committed. A European Delegated Prosecutor of a different Member State that has jurisdiction for the case may only initiate or be instructed by the competent Permanent Chamber to initiate an investigation where a deviation from the rule set out in the previous sentence is duly justified, taking into account the following criteria, in order of priority:

(a) the place of the suspect's or accused person's habitual residence;

(b) the nationality of the suspect or accused person;

(c) the place where the main financial damage has occurred.

5. Until a decision to prosecute under Article 36 is taken, the competent Permanent Chamber may, in a case concerning the jurisdiction of more than one Member State and

after consultation with the European Prosecutors and/or European Delegated Prosecutors concerned, decide to:
(a) reallocate the case to a European Delegated Prosecutor in another Member State;
(b) merge or split cases and, for each case choose the European Delegated Prosecutor handling it,
if such decisions are in the general interest of justice and in accordance with the criteria for the choice of the handling European Delegated Prosecutor in accordance with paragraph 4 of this Article.
6. Whenever the Permanent Chamber is taking a decision to reallocate, merge or split a case, it shall take due account of the current state of the investigations.
7. The EPPO shall inform the competent national authorities without undue delay of any decision to initiate an investigation.

Preliminary investigations in Sweden are lad by the Prosecution Offices, which are now partly substituted by the EDP in Stockholm operating with the same powers as a national prosecutor.[51] **1**

Next, Sweden has on the investigation level a special **Economic Crime Authority** (*Ekobrottsmyndigheten, EBM*), which is according to s. 1 of the Regulation **(2007:972)** "responsible for coordination and other measures against economic crime, such as following and analysing developments and law enforcement in relation to economic crime and preparing proposals for measures". S. 2 Para 2 stipulates that it has a special competence for EU frauds: "2. Case[s] relating to ch. 9 Sections 1–3 of the Criminal Code, if the act concerns the EU's financial interests, and ch. 9 Section 3a of the Criminal Code." **2**

The EBM authority is according to s. 4 f the Regulation (2007:972) **designated to cooperate with OLAF** (see below OLAF Regulation, part B.). **3**

The relevant section reads as follows: **4**

Section 4 The Economic Crime Authority (EBM) authority[52] **5**
[The] Authority is responsible for the coordination of the national measures against fraud, abuse and other improper and ineffective handling and use of EU–related funds in the country.
The Economic Crime Authority shall be the focal point for combating fraud in matters relating to the European Anti-Fraud Office (OLAF). Ordinance (2014:1309).

[51] See https://www.aklagare.se/aklagarens-roll/. Accessed 30 June 2025.
[52] **4 § Förordning (2007:972) med instruktion för Ekobrottsmyndigheten**
Ekobrottsmyndigheten ansvarar för samordningen av de nationella åtgärderna mot bedrägerier, missbruk och annan oegentlig och ineffektiv hantering och användning av EU-relaterade medel i landet.
Ekobrottsmyndigheten ska vara sambandscentral för bedrägeribekämpning i frågor som rör Europeiska byrån för bedrägeribekämpning (Olaf). Förordning (2014:1309).

This Special Economic Crime Authority will, if Sweden joins, loose its competence on a general level but function as a close body[53], which helps and accommodates the EDPs for their investigations under the Regulation.[54]

6 Article 26 para 1 EPPO Regulation thus integrates "seamlessly" with Swedish procedural law: when there is "*anledning att anta att brott förövats*" (reasonable grounds), the EDP (in Stockholm) opens a *förundersökning* just like a national prosecutor ([Art. 26(1) EPPO Reg.]; [SFS 2024:461 § 3]). In an EPPO case, the EDP acts as *åklagare*. If the police opened the case and the EU's financial interests are concerned and it is not a simple one, leadership must pass to the prosecutor (here: EDP) as soon as someone is "skäligen misstänkt"; the prosecutor may also take over earlier for special reasons. RB 23:3 st. 3.

7 A **preliminary investigation** (*förundersökning*) must be initiated as soon as there is "enough" evidential reason to assume that a publicly prosecutable PIF-offence has occurred ([RB 23:1 § 1]) e.g. based on an **EPPO Crime Report complaint**. Even where a complaint (angivelse) is normally required, the investigation may start without it if delay poses a risk; the victim must then be informed promptly ([RB 23:1 § 3]). No investigation need begin, or it may be discontinued early, if it is clear that the crime cannot be investigated or if proportionality or prosecutorial discretion so warrant ([RB 23:1 § 2]; [RB 23:4 a]; [RB 23:22]).

8 The following Overview Box displays the main national law, which is relevant for the Economic Crime Authority as well as any EDPs of Sweden:

[53] Lindberg/Billfalk /Färndahl/ Kittel et al. (experts and ed.) (2020), p. 529. Here they explain that "Swedish prosecutors may initiate a preliminary investigation for crimes within EPPO's jurisdiction but must then inform Eppo who can take over the investigation. Furthermore, EPPO may refer a matter to the competent national authorities (Article 34 of the Regulation). It is therefore assumed that there is close cooperation between EPPO and the relevant Swedish authorities, such as the Public Prosecutor's Office, the Economic Crimes Authority, the Swedish Tax Agency and the Police Authority."

[54] See Lindberg/Billfalk /Färndahl/ Kittel et al. (2020).

Table 5: Overview Box: Art. 26 EPPO Regulation (PIF offences etc.)

Overview	
Relevant national law	Sources: Chapter 9. About fraud and other misconduct, Chapter 14. About counterfeiting offences, Chapter 23. About attempting, preparing, stamping and complicity in crime, Chapter 25. About fines, etc., Chapter 26. About imprisonment, Chapter 27. About suspended sentence, Chapter 36. On confiscation of property, corporate fine and other special legal effect of crime *Brottsbalk* (1962:700) Code of Judicial Procedure (1942:740)/*Rättegångsbalk (1942:740)* Police Act (1984:387)/*Polislag (1984:387)*
"An offence within the competence of the EPPO"	For the text of the offences that are mentioned by Art. 26 EPPO Regulation "an offence within…"/ *e* cf. already the EU Fraud Commentary (Implementation of the PIF Directive) Chapter 9, ss. 1 et seq., 3(b) CC Value Added Tax Act (1994:200)/*Mervärdesskattelag (1994:200)* Tax Crimes Act (1971:69)/ *Skattebrottslag (1971:69)* Act (2000:1225) on penalties for smuggling/ *Lag (2000:1225) om straff för smuggling*
Sanctions for legal persons	Sweden has sanctions for legal persons in the Tax Code and the Criminal Code.
"[competence of] a European Delegated Prosecutor in a Member State [Sweden]"	Not yet implemented, but it could go into the Judicial Code of Procedure. [Update: See above → Sources of Law].
"Jurisdiction"	Cf. ss. from the Swedish Criminal Code and cf. Hauck 2025a, Art. 11 of the PIF Directive (EU Fraud Commentary), Tax Procedures Code.

Source: The authors.

a) Initiation of Investigations

9 Art. 26 needs to be seen independent from Art. 27. Art. 26 stands on its own and describes a **principle of legality at Union level**, which has the effect of protecting the Union's (own) financial interests.

10 Sweden investigates EU frauds with EPPO and its own national prosecution offices, if a conduct presents a suspicion for a PIF offence and may need to inform EPPO, see Art. 27.

11 The main source of law for investigations and the criminal procedure in general is the **Code of Judicial Procedure**, which has the following structure:

1. About the judiciary (Chapters 1–9)
2. On the trial in general (Chapters 10–34)
3. On evidence (Chapters 35–41)
4. On the trial in lower court (Chapters 42–48)
5. On the trial in the Court of Appeal (Chapters 49–53)
6. On the proceedings before the Supreme Court (Chapters 54–57)
7. On special remedies (Chapters 58–59)

Amendments and transitional provisions

12 Title 1, Chapter 7 addresses the role of prosecutors and law enforcement agencies.

13 Chapters 19–31 are important for the trial and the criminal investigation conducted prior to a possible trial:

1. About the judiciary (ch. 1–9)
2. About the trial in general (ch. 10–34)

I About the trial in civil cases (ch. 10–18)

II On the trial in criminal cases (ch. 19–31)

19 ch. About the law court
20 ch. On the right to prosecution and on plaintiff
21 ch. About the suspect and his defense
22 ch. About individual claims due to crime
23 ch. About preliminary investigation
24 ch. About detention and arrest
25 ch. About travel bans and reporting obligations
26 ch. About attachment
27 ch. About seizure, copying, biometric authentication and secret means of coercion
28 ch. About the house search, remote search, body search and body inspection
29 ch. About voting
30 ch. About judgment and decision

31 ch. About court costs
III Common provisions (ch. 32–34)
3. On evidence (ch. 35–41)
4. About the trial in the lower court (ch. 42–48)
5. About the trial in the Court of Appeal (ch. 49–53)
6. About the trial in the Supreme Court (ch. 54–57)
7. On special remedies (ch. 58–59)
Amendments and Transitional Provisions

b) Relevant Sources of the Indications for a Criminal PIF-Acquis Offence

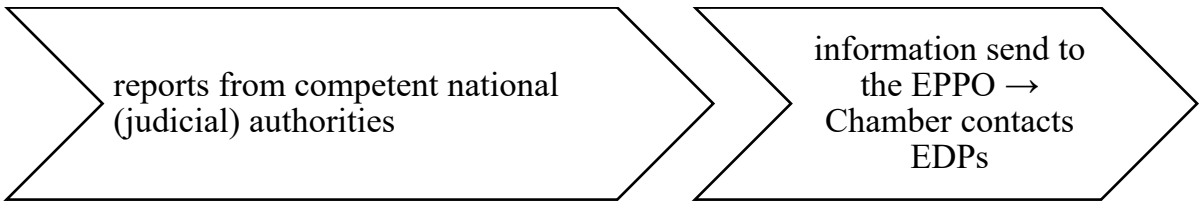
A PIF *Acquis* offence would fall into the competence of the EPPO. As long as Sweden was not part of the EPPO the national "whistleblower scenery" was even more important, as it would report major offences to the national competent prosecutors. **14**

Sweden has enacted various protections for **potential whistleblowers** in 2021. The Act (2021:890) applies with regard to the protection of persons who report EU frauds on Swedish territory. According to the **Regulation (2021:949)** on the protection of persons who report wrongdoing regarding violations that target the Union's financial interests it is the Swedish Crime Authority that is competent to receive reports.[55] **15**

As Sweden is now part of the EPPO, a distinction needs to be made between the **direct lawful and the indirect path for the transfer of information** related to the competence of the EPPO: **16**

[55] See Website of the Swedish Crime Authority, https://www.ekobrottsmyndigheten.se/visselblasarfunktion-eu-medel/: "Your report on misconduct concerning the EU's financial interests in Sweden will be handled by a special group at the Economic Crime Authority. This group is independent and autonomous in relation to the authority in general. There is a duty of confidentiality regarding the matters handled by the group. Only members of the group may receive and read a report to decide what actions to take based on the report. Someone from the group will then communicate the decision back to you, if you chose not to be anonymous." Accessed 30 June 2025. Contacts are the following:
- Per Hedman, deputy chief prosecutor, telephone: 010-562 91 11
- Olof Hallström, staff lawyer, phone: 010-562 91 11
- Olof Kronlund, Deputy Chief Prosecutor, telephone: 010-562 91 11
- Stefan Lodell, head registrar, telephone: 010-562 91 11.

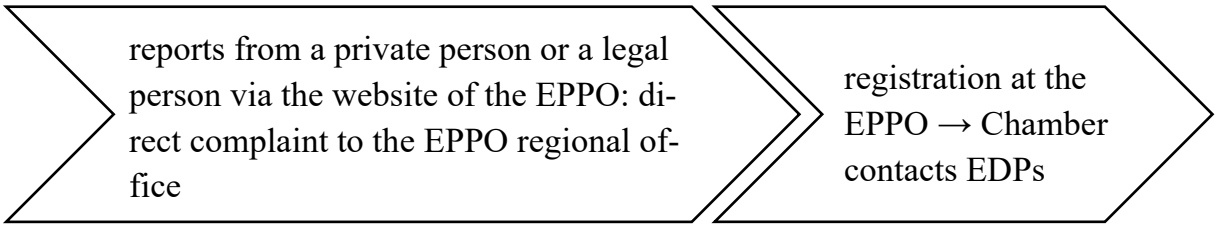
Figure 2: National (indirect way of) Obtaining information for the EPPO competence and the exercise of jurisdiction



Art. 24 Para 8[56]: At the moment of writing Sweden was not (yet) part of the EPPO. Still the "*Rapport om skyddet av EU: s finansiella intressen i sverige 2016–2018*", a report on PIF offences in Sweden lists authorities that might be included in a **future Notification to the EPPO**.

17 It seems important to mention that the Economic Crime Authority will most likely report the most cases to the EPPO, if Sweden joins, as it is a well-known body in Sweden and has received between 35 and 15 reports in the years 2016–2018.[57]

Figure 3: Supranational (direct way of) Obtaining information for the EPPO competence and the exercise of jurisdiction



18 **Another, third source of information** are the Union bodies, which are obliged to report either to OLAF or to the EPPO (e.g. by obliged by Working Agreements)–depending on the seriousness of the suspected conduct: irregularities only or clear foundations for potential criminal offences. National authorities, who report to OLAF need possibly obey "Guidelines on how to report irregularities and fraud to the European Commission". OLAF will either way report conduct that falls in the EPPO's competence by virtue of Art. 12c OLAF Reg.

aa. Determination of the Competence and Verification of Crime Reports

19 Both according to national law and the EPPO Regulation, a prosecutor has as first task to determine its competence.

[56] See EBM, "Rapport om skyddet av EU:s finansiella intressen i sverige 2016-2018", https://www.ekobrottsmyndigheten.se/wp-content/uploads/2020/12/rapport-om-skyddet-av-eus-finansiella-intressen-i-sverige-2016-2018.pdf, pp. 8 et seq. Accessed 30 June 2025.
[57] EBM, "Rapport om skyddet av EU:s finansiella intressen i sverige 2016-2018", https://www.ekobrottsmyndigheten.se/wp-content/uploads/2020/12/rapport-om-skyddet-av-eus-finansiella-intressen-i-sverige-2016-2018.pdf, p. 29. Accessed 30 June 2025.

Nota bene: Thus, not much would change for a Swedish EDP. A potential Swedish EDP in a Swedish regional office would be to determine whether the EPPO has competence and jurisdiction or can obtain competence and exercise jurisdiction. **20**
These are formal but essential questions. They are determined by means of Union secondary legislation and special delegated guidelines required by secondary legislation, the so-called **Internal Rules on Procedure [of the EPPO]**. This would depend on the criteria of the Regulation (see Art. 22, 23).
There are rules issued by the EPPO Chamber, but they apply for Art. 27 Right of evocation. Art. 26 Paras 5 and 6 refer to special rules on splitting or merging cases on Italian territory if different regional offices have initiated an investigation in similar cases.

(1) The Union Standards Art. 24 Para 6 et Seq. EPPO Regulation

For the EPPO to be competent, the requirements of the Regulation must be met. Either an examination according to Art. 24 Para 6 must show that the EPPO is competent or the delegated prosecutor carries out an examination and assessment by virtue of Art. 26 Para 1 EPPO Regulation himself/herself without informing the Permanent Chamber and initiates an investigation about which he/she subsequently informs the Permanent Chamber. **21**

(2) Potential Jurisdiction of the European Delegated Prosecutor in Sweden

The jurisdiction of EDPs in Sweden will be determined by the **Swedish Penal Code** and its legislation on the **nationality and the territory principle**.[58] **22**

It is important to question if the **jurisdiction can be challenged**. Sweden has changed its law on jurisdiction in the Criminal Code in 2021. The new law came into force at the beginning of January 2022. The most important provisions shall be printed here: **23**

Swedish Criminal Code [Excerpts] **24**

Demand for indictment
Section 2
Prosecution for the crime referred to in Section 1 may in the following cases only be brought if a prosecution order has been announced, namely if the crime
1. has been committed by a foreigner on a foreign ship or aircraft and directed against such a foreigner or against a foreign interest,
2. has been committed by a foreigner in the exercise of a service or assignment that includes a public position with another state or an international organization, unless the perpetrator has tried to conceal the capacity in which he or she has acted through misleading information, disguise or in some other way,

[58] See Lindberg, Billfalk, Färndahl, Kittel et al. 2020. online: https://data.riksdagen.se/fil/38D99512-A2F8-47A8-8DB1-5E58C971F2A1, pp. 111–116, 219–239. Accessed 30 June 2025.

3. has been committed by a foreigner who does not have a domicile in Sweden but who is here in the country within the framework of international military cooperation or international crisis management and who is covered by agreements that are in force in relation to Sweden,
4. has been committed by a Swedish citizen or foreigner resident in Sweden who serves in the military forces of another state and who is here in the country within the framework of international military cooperation or international crisis management and who is covered by agreements that are in force in relation to Sweden,
5. is a crime of aggression according to Section 11 a of the Act (2014:406) on punishment for certain international crimes or attempts, preparation or instigation of or failure to reveal or prevent such crimes, or
6. has been directed against the International Criminal Court's administration of justice.
Decisions on indictments according to the first paragraph 1–5 are made by the government. Section 8 applies to decisions on indictments according to first paragraph 6. Law (2021:1014).

25 According to **Section 3**[59] in the following cases, a Swedish court is competent to judge crimes that have been committed outside Sweden:

[59] **3 §** Svensk domstol är i följande fall behörig att döma över brott som har begåtts utanför Sverige:
Anknytningsfaktum Behörighetens omfattning
1. Svenskt fartyg m.m. Brott som har begåtts a) ombord på ett svenskt fartyg, b) ombord på ett svenskt luftfartyg, c) i tjänsten av befälhavaren eller någon annan som tillhörde besättningen på ett svenskt fartyg eller luftfartyg, eller d) på en inrättning som med stöd av lag har tillkommit i Sveriges ekonomiska zon eller på Sveriges kontinentalsockel.
2. Svensk gärningsman m.m. Brott som har begåtts a) av någon som vid gärningstillfället var svensk medborgare eller hade hemvist i Sverige, b) av någon som när åtal väcks för brottet är svensk medborgare eller har hemvist i Sverige, c) av någon som finns i Sverige och det på brottet enligt svensk rätt kan följa fängelse i mer än sex månader, eller d) i utövningen av ett svenskt företags näringsverksamhet och det är fråga om givande av muta, grovt givande av muta eller handel med inflytande enligt 10 kap. 5 d § 2.
3. Svenskt enskilt intresse Brott som har riktat sig mot a) en svensk medborgare eller någon som har hemvist i Sverige, eller b) en svensk juridisk person.
4. Svenskt allmänt intresse Brott som har a) riktat sig mot rikets säkerhet, allmän verksamhet eller annat av rättsordningen särskilt skyddat svenskt intresse, eller b) begåtts i utövningen av tjänst eller uppdrag som innefattar svensk allmän ställning.
5. Härledd jurisdiktion Brott som har begåtts av någon som befinner sig i Sverige, om a) en annan stat har begärt att lagföringen för brottet ska överföras till Sverige, b) en begäran från en annan stat om utlämning eller överlämnande för brottet har lämnats utan bifall, eller c) brottet omfattas av en internationell överenskommelse eller annan förpliktelse som är bindande för Sverige och enligt vilken det finns skyldighet att utan undantag pröva frågan om åtal om den misstänkte inte utlämnas eller överlämnas.
6. Vissa internationella brott Brott som a) avses i lagen (2014:406) om straff för vissa internationella brott, dock inte aggressionsbrott enligt 11 a § eller försök, förberedelse eller stämpling till eller underlåtenhet att avslöja eller förhindra sådant brott, b) avses i 13 kap. 5 a § (kapning och sjö- eller luftfartssabotage) eller försök till sådana brott, c) avses i 13 kap. 5 b § (flygplatssabotage) eller försök till sådant brott, d) avses i 15 kap. 4 b § (osann eller ovarsam utsaga inför en internationell domstol), e) avses i 16 kap. 5 § (uppvigling) och som bestått i en omedelbar och offentlig uppmaning till att begå folkmord, f) avses i terroristbrottslagen (2022:666) eller som avses i annan lag och begås med sådant uppsåt som avses i 12 § terroristbrottslagen, g) riktats mot Internationella brottmålsdomstolens rättskipning, eller h) omfattas av tortyrbegreppet enligt artikel 1 i Förenta nationernas konvention den 10 december 1984 mot tortyr och annan grym, omänsklig eller förnedrande behandling eller bestraffning, eller försök till sådant brott.

Law (2022:667)	
Connection fact	Scope of the right
1. Swedish ship etc	Offenses which have been committed a) on board a Swedish ship, b) on board a Swedish aircraft, c) in the service of the master or someone else who belonged to the crew of a Swedish ship or aircraft, or d) in an establishment which, by law has been added in Sweden's economic zone or on Sweden's continental shelf.
2. Swedish perpetrator etc	Crimes that have been committed a) by someone who at the time of the offense was a Swedish citizen or domiciled in Sweden, b) by someone who, when charges are brought for the crime, is a Swedish citizen or domiciled in Sweden, c) by someone who is in Sweden and that on the crime according to Swedish law can result in imprisonment for more than six months, or d) in the exercise of a Swedish company's business activities and it is a question of bribery, gross bribery or trading with influence according to ch. 10. 5 d Section 2.
3. Swedish individual interest	Crimes that have been directed against a) a Swedish citizen or someone who is domiciled in Sweden, or b) a Swedish legal person.
4. Swedish public interest	Crimes that have a) been directed against the security of the kingdom, public activities or other Swedish interests specially protected by the legal order, or b) committed in the exercise of a service or assignment that includes Swedish public position.
5. Derivative Jurisdiction	Crime that has been committed by someone who is in Sweden, if a) another state has requested that the prosecution for the crime be transferred to Sweden, b) a request from another state for extradition or surrender for the crime has been left without approval, or c) the crime is covered by an international agreement or other obligation that is binding on

Lag (2022:667).

	Sweden and according to which there is an obligation to examine the question of prosecution without exception if the suspect is not extradited or surrendered.
6. Certain international crimes	Crimes that a) are referred to in the Act (2014:406) on punishment for certain international crimes, but not crimes of aggression according to Section 11 a or attempts, preparation or stamping to or failure to reveal or prevent such crimes, b) are referred to in ch. 13 Section 5 a (hijacking and maritime or aviation sabotage) or attempts at such crimes, c) referred to in ch. 13 Section 5 b (airport sabotage) or attempted such crime, d) referred to in ch. 15 Section 4 b (false or careless statement before an international court), e) referred to in ch. 16 Section 5 (incitement) and which consisted of an immediate and public call to commit genocide, f) is referred to in the Terrorist Crimes Act (2022:666)or which is referred to in another law and is committed with such intent as referred to in Section 12 of the Terrorist Crimes Act, g) directed against the administration of justice of the International Criminal Court, or h) covered by the concept of torture according to Article 1 of the United Nations Convention of 10 December 1984 against torture and other cruel, inhuman or degrading treatment or punishment, or attempted such offence.

26 As seen jurisdiction of Swedish EDPs follows national rules on territoriality and nationality. Under Chapter 2 BrB (as amended 2021/2022), Swedish courts have jurisdiction over offences committed in Sweden (territorial principle) and extraterritorially where connecting factors exist (Section 3), including: Swedish nationality or residence of the offender, offences against Swedish interests, acts on Swedish vessels/aircraft, or derivative jurisdiction (e.g. refusal of extradition).

27 Certain cases require a prosecution order (Section 2 BrB), including offences involving foreign officials or international contexts.

28 Criminal proceedings, including PIF offences, are conducted before the Tingsrätt under the Rättegångsbalken. Administrative courts are excluded from criminal jurisdiction.

29 Special provisions on **Swedish courts' jurisdiction** to judge certain crimes that have been committed outside Sweden can be found in

30

2 kap **Section 4** 1. 29 ch. Section 13 of the Environmental Code,

2. Section 14 of the Act (1966:314) on the continental shelf,
3. 10 ch. Section 10 of the Act (1980:424) on measures against pollution from ships,
4. Section 5 of the Act (1982:963) on space activities,
5. Section 51 a of the Hunting Act (1987:259),
6. Section 17 of the Act (1992:1140) on Sweden's economic zone,
7. Section 49 of the Fisheries Act (1993:787),
8. Section 5 of the Act (1995:732) on the protection of grave peace at the wreck of the passenger ship Sweden,
9. 13 ch. Section 11 of the Aviation Act (2010:500),
10. 17 ch. Section 2 of the Radio_och_TV Act (2010:696),
11. Section 2 of the Act (2012:179) on punishment for illegal possession of cluster munitions, and
12. Section 17 of the Act (2014:406) on punishment for certain international crimes. Law (2022:667).

2 kap **Section 5**

In the cases referred to in Section 3 Section 2, 3 and 5, a Swedish court is competent only if the act is punishable also according to the law of the place of the act (double punishability). If the crime has been committed on the territory of several states, the requirement of double criminality is met if the act is punishable under the law of one of the places where it was committed. It may not be sentenced to a penalty that is more severe than the most severe penalty prescribed for the crime according to the law of the place where the crime was committed.

2nd The first paragraph does not apply

1. if the crime has been committed by someone belonging to the Armed Forces in an area where a department of the Armed Forces was located,
2. if the crime has been committed while on duty by someone who is employed by a Swedish authority to participate in an international military operation or in international civilian crisis management,
3. crime for which the lightest penalty prescribed under Swedish law is imprisonment for four years or more, and
4. offense referred to in
1. 4 ch. Sections 1a, 4c and 4e and ch. 16. Section 10 a first paragraph 1 and sixth paragraph or attempts at such crimes,
2. 4 ch. Section 4, second paragraph whereby someone is forced to enter into such a marriage or such a marriage-like relationship as referred to in Section 4c or attempts at such a crime,

3. 6 ch. Sections 1–6, 8, 9 and 12 or attempted crime according to ch. 6. Sections 1, 2, 4–6, 8, 9 and 12, if the crime is committed against a person who has not reached the age of eighteen,
4. 14 ch. Section 6 or attempts to commit such a crime,
5. 22 ch. Sections 6a and 6b,
6. Section 2 of the law (1982:316) prohibiting female genital mutilation, or
7. Section 8 of the Act (1996:95) on certain international sanctions. Law (2022:310).

Relating to punishment

2 kap **Section 6**

If the crime has been committed in an area that does not belong to any state, a Swedish court is only competent if imprisonment can follow the crime according to Swedish law. This does not apply in the cases referred to in Section 3 Section 1. Act (2021:1014).

Relating to indictment

2 kap **Section 7**

Prosecutions for crimes referred to in Sections 3 and 4 may only be brought if an indictment has been issued in accordance with Section 8.

2 However, such an indictment is not required for the crime

1. has been committed on board a Swedish ship or aircraft or in the service of the master or someone who belonged to the crew of such a ship,
2. has been committed in the exercise of service or assignments that include Swedish public position,
3. has been committed by someone belonging to the Armed Forces in an area where a department of the Armed Forces was located,
4. has been committed during the service of someone who is employed by a Swedish authority to participate in an international military operation or in international civilian crisis management,
5. has been committed in Denmark, Finland, Iceland or Norway or on ships or aircraft in regular traffic between locations located in Sweden or any of these states,
6. has been committed against Swedish interests by a Swedish, Danish, Finnish, Icelandic or Norwegian citizen or by a foreigner resident in Sweden, or
7. is a false statement or careless statement before an international court.

3 However, the second paragraph does not apply in the case of crimes directed against the administration of justice of the International Criminal Court. Law (2021:1014).

Section 8 The Attorney General decides on prosecution unless otherwise specifically prescribed.

2 In this examination, it must be taken into account in particular

1. if a prosecution in this country is compatible with Sweden's obligations under international law,
2. to what extent the crime or the suspect is connected to Sweden,
3. if proceedings for prosecution have been or will be commenced in another state or in an international court, and
4. what actual possibilities there are to investigate the crime and prosecute the suspect here.

3 In the case of crimes that have been committed abroad by someone who at the time of the crime was a Swedish citizen or was domiciled in Sweden or, when prosecution is brought for the crime, is a Swedish citizen or is domiciled in Sweden, the public prosecutor may hand over the investigation to another public prosecutor.

4 If there is reason to assume that the investigation has particular significance for Sweden's foreign or security policy and the Attorney General judges that there are no obstacles to bringing charges, the Attorney General shall submit the case to the government for a decision with its own opinion. Law (2021:1014).

bb. Assess and Verify the Suspicion for a PIF-Acquis Criminal Offence (Preliminary Perspective/*Förundersökning*)

The **Economic Crime Authority** in Sweden[60] has stated and outlined in its report for the analysis term 2016–2018 that Swedish prosecutors have difficulties in proving PIF offences and gathering enough evidence for a conviction or even a trial: **31**

> "A consistent problem with the Economic Crime Authority Agency's investigations is that it is difficult to show that someone has deliberately provided **incorrect information**. So even if the objective requisites for crime are met, it is **usually not possible to prove the subjective requisites**. The majority of all initiated preliminary investigations are therefore closed with the justification that **crimes cannot be proven**."[61]

In the **Report "Guidance for the handling of suspected crime in connection with the management of EU funds"** (*Vägledning för hantering av misstänkt brottslighet i samband förvaltning av EU-medel"*, which was drawn by the SEFI Council *(Vägledningen* **32**

[60] See https://www.ekobrottsmyndigheten.se/om-ekobrott/brotten-vi-utreder/eu-bedragerier/. Accessed 30 June 2025.
[61] EBM 2020, p. 30.

har targits fram på uppdrag av Radet till skydd för EU's finansiella interessen (SEFI-radet)" the following **criteria for a suspicion of fraud**s can be listed:

- "If it emerges that the aid recipient did not have reported costs at the time of the application for payment.
- If it emerges that untrue or false documents have been used.
- If the voucher shows signs of having been changed submits changed or floating information, does not respond or does not submit requested additions to the managing authority
- If the applicant cannot verify reported costs.
- Deficient or scarce verifications that do not meet the legislative requirements for the content of a verification. Such verifications may indicate that it is not a genuine business event
- Cash notes or receipts for significant amounts
- Invoices that have been issued and acknowledged but not paid.
- Transactions with related parties or an unknown group or not relevant people, companies or organizations
- If the support applicant object inspection or during inspection cannot show the equipment for which aid has been granted."[62]

33 The **initial suspicion** is only to determine the impetus, so to speak, the "ball that gets the criminal proceedings" (preliminary investigation/ *förundersökning*) rolling if saying it by using a metaphor. The Swedish Court of Judicial Procedure has rules on the question of when to open and how to open a preliminary investigation as well the question whether there is an obligation to open an investigation.

34

Code of Judicial Procedure [Excerpts]
23. Ch. About preliminary investigation
Section 1
A preliminary investigation must be initiated as soon as there is reason to assume, due to a statement or for other reasons, that a crime that falls under general prosecution has been committed.[63]

[62] SEFI 2013, p. 7.
[63] **1 § Rättegångsbalk (1942:740)**
Förundersökning skall inledas så snart det på grund av angivelse eller av annat skäl finns anledning att anta att ett brott som hör under allmänt åtal har förövats.
[S2]Förundersökning behöver dock inte inledas, om det är uppenbart att brottet inte går att utreda. Att förundersökning inte behöver inledas i vissa andra fall följer av 4 a § och 22 §.
[S3]Om det krävs angivelse för att brottet skall höra under allmänt åtal, får förundersökning trots det inledas utan angivelse, om det innebär fara att avvakta en angivelse. I så fall skall målsäganden underrättas snarast. Om denne då inte anger brottet till åtal, skall förundersökningen läggas ned. Lag (1994:1412).

[S2] However, a preliminary investigation does not need to be initiated, if it is obvious that the crime cannot be investigated. That a preliminary investigation does not need to be initiated in certain other cases follows from section 4a and section 22.
[S3] If a statement is required for the crime to be subject to general prosecution, a preliminary investigation may nevertheless be started without a statement, if there is danger in waiting for a statement. In that case, the plaintiff must be notified as soon as possible. If he then does not state the crime for prosecution, the preliminary investigation must be closed. Law (1994:1412).

The aforementioned provision can guide the EDP even if the case is determined primarily by Union law and Art. 26 EPPO Reg. **35**

The EDPs must like their national homologues **determine the w-questions** (who?, why?, what?, where? And how long/intensive? Has there been a result or did the action stop, was hindered etc.) if deciding on conducting a preliminary investigation, which they will do with the help of the police (in EPPO cases most likely special police forces, see below Art. 28 EPPO Reg.): **36**

Section 2[64] **37**
During the preliminary investigation, it must be investigated who can reasonably be suspected of the crime and if there are sufficient grounds for prosecution against him, and the case must be prepared in such a way that the evidence can be presented in a context at the main hearing.

Section 3
The decision to initiate a preliminary investigation must be made by the Police Authority, the Security Police or the prosecutor.[65] If the preliminary investigation has been initiated by the Police Authority or the Security Police and the matter is not of a simple nature, the management of the preliminary investigation into the crime must be taken over by the prosecutor, as soon as someone can reasonably be suspected of the crime.

[64] **2 § Rättegångsbalk (1942:740)**
Under förundersökningen skall utredas, vem som skäligen kan misstänkas för brottet och om tillräckliga skäl föreligga för åtal mot honom, samt målet så beredas, att bevisningen kan vid huvudförhandlingen förebringas i ett sammanhang.

[65] **3 § Rättegångsbalk (1942:740)**
Beslut att inleda en förundersökning ska fattas av Polismyndigheten, Säkerhetspolisen eller åklagaren. Har förundersökningen inletts av Polismyndigheten eller Säkerhetspolisen och är saken inte av enkel beskaffenhet, ska ledningen av förundersökningen om brottet övertas av åklagaren, så snart någon skäligen kan misstänkas för brottet. Åklagaren ska också i annat fall överta ledningen när det är motiverat av särskilda skäl.
[S2]När förundersökningen leds av åklagaren, får han eller hon anlita biträde av Polismyndigheten eller Säkerhetspolisen för att genomföra den. Åklagaren får också uppdra åt en polisman att vidta en viss åtgärd som hör till förundersökningen, om det är lämpligt med hänsyn till åtgärdens beskaffenhet.
[S3]Det som i denna balk föreskrivs om Polismyndigheten gäller för Säkerhetspolisen då den leder förundersökning eller biträder åklagare i en förundersökning.
[S4]Innan förundersökning hunnit inledas, får en polisman hålla förhör och vidta andra utredningsåtgärder som är av betydelse för utredningen. Lag (2014:649).

The prosecutor must also otherwise take over the management when it is justified for special reasons.
[S2] When the preliminary investigation is led by the prosecutor, he or she may hire assistance from the Police Authority or the Security Police to carry it out. The prosecutor may also instruct a police officer to take a certain measure that is part of the preliminary investigation, if it is appropriate with regard to the nature of the measure.
[S3] What is prescribed in this code about the Police Authority applies to the Security Police when it leads a preliminary investigation or assists prosecutors in a preliminary investigation.
[S4] Before the preliminary investigation has had time to begin, a police officer may conduct interviews and take other investigative measures that are of importance to the investigation. Law (2014:649).

38 A provision, which sounds like a German principle or is equal to it: The prosecutor needs to be the **most objective body** "of the world" (meaning: "*objektiveste Anklagebehörde der Welt*") can be found in Ch. 23, s. 4 Code of Judicial Procedure:

39

Section 4
A preliminary investigation **must be conducted objectively**. During the preliminary investigation, the investigator and the person who assists him or her must search for, take into account and take into account circumstances and evidence that speak both to the suspect's advantage and to his or her disadvantage.[66]
[S2] The preliminary investigation must be conducted in such a way that no one is unnecessarily exposed to suspicion or caused expense or inconvenience. The preliminary investigation must also be conducted as quickly as the circumstances permit. If there is no longer reason to complete the preliminary investigation, it must be closed.
[S3] Even law enforcement activities before a preliminary investigation must be conducted objectively. Law (2016:546).

40 The biggest problem for the Economic Crime Authority has been the task to prove subjective elements of a/ the relevant PIF offences in the past.[67] Before a prosecutor can

[66] **4 § Rättegångsbalk (1942:740)**
En förundersökning ska bedrivas objektivt. Vid förundersökningen ska undersökningsledaren och den som biträder honom eller henne söka efter, ta till vara och beakta omständigheter och bevis som talar såväl till den misstänktes fördel som till hans eller hennes nackdel.
[S2]Förundersökningen ska bedrivas så att inte någon onödigt utsätts för misstanke eller orsakas kostnad eller olägenhet. Förundersökningen ska också bedrivas så skyndsamt som omständigheterna medger. Om det inte längre finns anledning att fullfölja förundersökningen, ska den läggas ned.
[S3]Även brottsbekämpande verksamhet före en förundersökning ska bedrivas objektivt. Lag (2016:546).
[67] EBM, "Rapport om skyddet av EU's finansiella intressen i sverige 2016-2018", Stockholm, 2020, p. 30.

enter into this procedure, he/she needs to **learn about the facts of a conduct constituting an offence**, which requires analysing the PIF offences in Sweden and the suspicion level in similar national cases.

Most likely the police will be involved discovering relevant offences or the EPPO will report suspected offences to the Swedish EDPs via the established channels of the Regulation and the Internal Rule on Procedure. **41**

(1) Methods of Investigation, Collecting Information and Documenting the Initiation of an Investigation for an Indictment (Art. 34 et Seq. EPPO Regulation, Art. 40 Para 3 IRP)

The term "methods of investigation" under this title does not refer to interviews or questioning or even coercive (investigation) measures[68], which is dealt with under Art. 28 and 30 EPPO Reg. "Methods of investigation" under this present title refers to the **knowledge of fraud patterns** and understanding the **fraud criminology** in order to collect information and document the initiation of an investigation on the basis of the information gathered. Thus, this information is like a pre-stage to a preliminary investigation, see Ch. 23 s. 4 para 3 Code of Judicial Procedure. **42**

[68] **Chapter 23**, s. 16 establishes the following rule:
Regarding the use of coercive measures during the preliminary investigation, ch. 24-28 apply.
[S2]In the case of interpreters and translations of documents during the preliminary investigation, ch. 5 is applied. §s 6 and 8 and Chapter 33. § 9. The investigator decides on these issues. Law (2013:663).
Or Chapter 28:
[K27]§ 23 a If, during secret interception of electronic communications, secret surveillance of electronic communications or secret camera surveillance, information has come to light about a crime other than that which formed the basis for the decision on interception or surveillance, the information may be used to investigate the crime. A preliminary investigation or corresponding investigation into the crime may, however, be initiated on the basis of this information only if
1. the offense is punishable by imprisonment for one year or more and it can be assumed that the offense does not result in a fine only, or
2. there are special reasons.
[S2]If information about a crime other than that which was the basis for the decision on secret room wiretapping has been obtained during secret room wiretapping, the information may be used to investigate the crime only if it is a question o
1. crimes specified in § 20d, or
2. other crime, if imprisonment for three years or more is prescribed for the crime.
[S3]If information has come to light about impending crimes, the information may be used to prevent crimes. Law (2014:1419).
Therefore pls. jump to the part of this manual, which deals with coercive measures, see Part 1 of the Manual, Country Chapter on Sweden, Art. 30 EPPO below.

(a) Impetus of Fraud Knowledge Patterns for Swedish Prosecutors

43 Recent studies have analysed and frequently analyse the peculiarities and typologies of (EU) frauds quite extensively and they are therefore highly important for EDPs or national prosecutors in general and their knowledge about the structures of this crime area (criminological insights):

44 **National level:**

- The most important report in relation to the financial budget of the EU is the "*Rapport om skyddet av EU:s finansiella intressen i sverige 2016–2018*", which is produced by the Swedish Economic Crime Authority,[69] which needs to send every three years such a report to the Government. The **SEFI Council**[70], which exists since 1999 held a new meeting in March 2019, which analysed the question why so few PIF offences are reported in Sweden.
- Organized crime is mapped by the "*Myndighetsgemensam lägesbild om organiserad brottslighet 2018–2019*".[71]
- A report from 2014 deals with corruption in Sweden and within Swedish authorities.[72]
- Another report by the Crime Prevention Council from 2019 focuses on Money laundering and scenarios for Sweden as well as cases.[73]

45 **EU-level:** PIF Reports, Rule of law Report, "Impact of Organised Crime on the EU's Financial Interests".[74]

46 **International level:** The Organized Crime Index.[75]

Nota bene: The **Anti-Fraud Knowledge Centre** hosted by the EU Commission/OLAF provides information on fraud patterns, prevention tools and case studies.

[69] SEFI, https://www.ekobrottsmyndigheten.se/wp-content/uploads/2020/12/rapport-om-skyddet-av-eus-finansiella-intressen-i-sverige-2016-2018.pdf. Accessed 30 June 2025.
[70] It consists of all national bodies involved with EU money and the Ministry of Finance, the Ministry of Justice, the Ministry of Enterprise and the Ministry of Labor, which are also invited to the meetings of the SEFI Council. "The composition of the SEFI council must reflect the current management organization for the EU's financial interests in Sweden", EBM, Report 2020, p. 5.
[71] This is the Authority-joint situational picture on organized crime 2018-2019, see https://polisen.se/siteassets/dokument/organiserad_brottslighet/myndighetsgemensam-lagesbild-2018-2019.pdf. Accessed 30 June 2025.
[72] Korruption i Myndighetssverige Otillåten påverkan mot insider, Rapport 2014:4, see https://bra.se/download/18.660677dc19301da04634057/1731069346802/2014_4_Korruption_i_myndighetssverige.pdf. Accessed 30 June 2025.
[73] Brottsförebyggande rådet, Penningtvättsbrott En uppföljning av lagens tillämpning, Stockholm, 2019, online: https://bra.se/download/18.1537f1c6192bd251bfc3af2/1730202793067/2019_17_Penningtvattsbrott.pdf. Accessed 30 June 2025.
[74] See the "Impact of Organised Crime on the EU's Financial Interests", 2022, https://www.europarl.europa.eu/RegData/etudes/STUD/2021/697019/IPOL_STU(2021)697019_EN.pdf. Accessed 30 June 2025.
[75] See https://ocindex.net/country/sweden: Fraud is common. Accessed 30 June 2025.

(b) Special National Databases for PIF Offences/Digital Investigations

As far as we know there is **no special database for PIF offences** in Sweden yet, but administrative managing tools (e.g. for the control of beneficiaries etc.) might be useful sources as well as customs databases that are connected with EU databases (e.g. for ports/airports/roads etc.). The Swedish Expert report indicated that the EPPO must be regarded equal to Swedish authorities in order to enable access to national databases:

"Taking into account also the requirements of the EPPO Regulation in other respects, the inquiry proposes that a provision be introduced in the new law that equates EPPO with Swedish prosecuting authorities, unless otherwise stated. Exceptions are made for regulations in the Public Access to Information and Secrecy Act and the Public Access to Information and Secrecy Ordinance. When a law or Regulation states that investigators or prosecutors have the **right to access information in a certain database or equivalent**, no legislative measures are required for **EPPO's prosecutors to have equivalent access as Swedish prosecutors**."[76]

The Expert study proposed to amend the Act (2018:1693) on the processing of personal data by the police within the area of the Criminal Data Act to allow the EDPs access to data which has been made available. **47**

(2) Examples and Precedents in National Case Law: Peculiarities Differentiated by PIF Offences (Typologies of EU Frauds [EU-bedrägerier])

There are **different types of fraud** against the EU budget. A basic distinction must be made between fraud on the revenue side and fraud on the expenditure side. This separation applies not only to investigations by the delegated public prosecutors, but also to OLAF investigators and national authorities in administrative procedures (especially on the expenditure side, for example in the case of subsidies). The first EPPO crime report therefore correctly distinguishes between: **48**

- Non-procurement expenditure fraud
- Procurement expenditure fraud[77]
- VAT revenue fraud
- Non-VAT revenue fraud
- corruption cases (4% in 2021).

[76] See Lindberg/Billfalk /Färndahl/ Kittel et al. 2020. online: https://data.riksdagen.se/fil/38D99512-A2F8-47A8-8DB1-5E58C971F2A1, pp. 28. Accessed 30 June 2025.

[77] The SEFI Council reported in its analysis (see EBM, "Rapport om skyddet av EU's finansiella intressen i sverige 2016-2018", Stockholm, 2020, p. 29) from 2020 that: "Most of the notifications concern structural fund support and agricultural support. Notifiers are administrative, certifying, paying and auditing authorities, OLAF and private individuals. The quality of the reports is normally good and only exceptionally are the reports written off without a preliminary investigation having been initiated. However, only a small number of the reports lead to prosecution. Normally as a result of the fact that it is not possible to prove crimes through difficulties in proving the so-called the subjective props.".

(a) Revenue Frauds

49 Revenue frauds are manifold. First, the scheme should be identified. For this, it is worthwhile to compare the suspected behaviour with known behaviour patterns. From a legal as well as a police point of view, the **overview of crime patterns** is useful. Especially in Covid-times there has been an increase in characteristics. Assessment can also be based on known cases and the professional groups suspected in these cases.

50 The **EBM Report 2020** stated that: "The Swedish Customs Administration ensures that the duties and fees that must be paid to the EU, as part of Sweden's fee, are paid regularly. Between 2016–2018, the Customs Service paid SEK 15,784 million to the EU."[78] EDPs should establish a close working relationship with the "Swedish Customs Administration."

51 And **VAT fraud prevention** as well repression in connection with the investigation of irregularities and criminal offences are steadily discussed on a Swedish governmental level.[79] The Government and special investigators have been researching into the matter for themselves and the EU Commission in the last decade and quite recently they states in a draft for a plan that develops further measures on how to combat VAT fraud in Sweden that

52 *Table 6: Non-VAT related revenue fraud*

	Case Studies: Non-VAT Related Revenue Fraud
"[t]here is no reliable information on the extent of fraud and tax evasion in the VAT area in Sweden. The **Tax Agency's assessment** (Tax Error Report 2021) is that the total tax error for value added tax in 2019 amounted to SEK 12.4 billion or 2.7 percent of assessed tax. However, it is not known how much of this amount relates to fraud. In the Swedish Tax Agency's Annual Report 2021, it appears that the feared collection losses increased during 2020 and 2021, which is linked to VAT evasion. In the bill Reversing tax liability for the sale of certain goods (prop. 2020/21:20) it appears that the Tax Agency calculated that the tax losses for a certain type of VAT fraud amount to at least SEK 3.3 billion over a period of about two years. VAT fraud often involves **real or fictitious intra-Union acquisitions**. An example of how a fraud can go is the following. A company in Sweden buys a product from a company in another EU country and then sells the product on to another company in Sweden, without reporting and paying VAT. The other company in Sweden that bought the goods then deducts VAT. In some cases, this type of fraud means that the same goods are delivered several times to the same company in the transaction chain	

[78] EBM, "Rapport om skyddet av EU:s finansiella intressen i sverige 2016–2018", Stockholm, 2020, p. 16.
[79] See Dir. 2022:54 Åtgärder för att förhindra mervärdesskattebedrägerier.

without VAT being paid to the state, for example via so-called carousel trading. There is also VAT fraud with contrived transactions to get money paid out by the state.
In many cases, the frauds take place in a systematic way with several companies involved and with the use of various intermediaries to make detection more difficult. The frauds have a negative impact on competition and the single market within the EU, as untaxed goods can be sold at a lower price on the market to the detriment of other businesses that do the right thing and pay tax."[80]

Not many VAT-fraud cases have been reported from Sweden publicly at the time of writing. But the *Finanzinspektionen* sees a rise in fraud schemes in the last years.[81] A **case from Malta,** in which Sweden requested extradition for participation in a VAT carousel became public.[82] **53**

(b) Expenditure Frauds

Expenditure frauds may concern **procurement cases** (building cases, road projects and infrastructure in general) but **non-procurement cases** are important as they include subsidy cases. **54**

The Swedish Report on the Impact of PIF Offences listed all **national subsidy authorities** that might be contacted for irregularities or cases: the Swedish Agricultural Agency[83],

[80] See Dir. 2022:54 Åtgärder för att förhindra mervärdesskattebedrägerier, p. 2, available at: https://lagen.nu/dir/2022:54. Accessed 30 June 2025: "Mervärdesskattebedrägerier et finns inga säkra uppgifter om omfattningen av bedrägerier och skatteundandragande på mervärdesskatteområdet i Sverige. Skatteverkets bedömning (Skattefelsrapport 2021) är att det totala skattefelet för mervärdesskatten år 2019 uppgick till 12,4 miljarder kronor eller 2,7 procent av fastställd skatt. Det är emellertid inte känt hur stor del av detta belopp som avser bedrägerier. I Skatteverkets Årsredovisning 2021 framgår att de befarade uppbördsförlusterna ökat under 2020 och 2021, vilket kopplas till mervärdesskatteundandragande. I propositionen Omvänd skattskyldighet vid omsättning av vissa varor (prop. 2020/21:20) framgår att Skatteverket beräknade att skatteförlusterna för en viss typ av mervärdesskattebedrägeri till åtminstone 3,3 miljarder kronor under ca två års tid.
Bedrägerier på mervärdesskatteområdet omfattar ofta verkliga eller fiktiva unionsinterna förvärv. Ett exempel på hur ett bedrägeri kan gå till är följande. Ett företag i Sverige köper en vara av ett företag i ett annat EU-land och säljer därefter varan vidare till ett annat företag i Sverige, utan att redovisa och betala mervärdesskatt. Det andra företaget i Sverige som köpte varan gör sedan avdrag för mervärdesskatt. I vissa fall innebär denna typ av bedrägeri att samma varor levereras flera gånger till samma företag i transaktionskedjan utan att mervärdesskatt betalas in till staten, exempelvis via s.k. karusellhandel. Det förekommer även mervärdesskattebedrägerier med konstruerade transaktioner för att få pengar utbetalda av staten.
Bedrägerierna sker i många fall på ett systematiskt sätt med ett flertal företag inblandade och med användning av olika mellanled för att försvåra upptäckt. Bedrägerierna har en negativ inverkan på konkurrensen och den inre marknaden inom EU, eftersom obeskattade varor kan säljas till ett lägre pris på marknaden till nackdel för andra företag som gör rätt för sig och betalar skatt."

[81] https://www.fi.se/contentassets/06958ead7ee744ac80dd98fc02f4378b/consumer-protection-report-2024.pdf.

[82] Malta Today, https://www.maltatoday.com.mt/news/court_and_police/128366/maltese_court_upholds_swedens_request_for_businessmans_extradition_over_vat_carousel_fraud. Accessed 30 June 2025. See as well Fórensen 2023; and see https://www.vatupdate.com/2024/05/09/swedens-plan-to-combat-vat-fraud/. Accessed 30 June 2025.

[83] See Regulation (2015:406) on support for rural development measures/ Förordning (2015:406) om stöd för landsbygdsutvecklingsåtgärder (as amended SFS 2021:1298).

- County Administrative Board in Västerbotten County
- the Swedish Migration Agency,
- the Norwegian Agency for Growth,
- the Swedish Police Agency,
- the Swedish ESF Council,
- Swedish Customs Administration.

55 According to the EBM Report from 2020 Agricultural and regional development funds are the heaviest financed and the sector with the most recipients of EU money[84]. The **Swedish Recovery Plan** (*Den svenska återhämtningsplanen (*RRF)) implements anti-fraud strategies in order to ensure that the Recovery funds are not exploited by criminals.

56 *Table 7: Gross fraud (suspended): False and invented invoices (ESF fund)*

57

	Gross Fraud (Suspended): False and Invented Invoices (ESF Fund)
Common cases in this area include double funding or false and falsified invoices. A case from a SEFI 2013 report can be reproduced here: "E, who was a representative of a company that had been granted support from the European Social Fund for business and skills analysis, was sentenced to a suspended sentence for gross fraud. E certified when requesting payment that the financial information provided in the account was correct, despite the fact that expenses were reported for invoices that had not been paid and for people who were not employed by the company or who did not participate in the project."[85]	

Another case from 2013 is equal to the reported criminological tendencies in the first EPPO Annual Report 2021, which **reported cases of "ghost cattle"**. This seems to have happened in Sweden, too already:

Table 8: Farmer with No Cattle

	Fraud: Farmer With No Cattle
Common cases in this area include double funding or false and falsified invoices. A case from a SEFI 2013 report can be reproduced here:	

[84] EBM, "Rapport om skyddet av EU:s finansiella intressen i sverige 2016-2018", Stockholm, 2020, p. 8.
[85] SEFI, Vägledning för hantering av misstänkt brottslighet i samband förvaltning av EU-medel, 2013, p. 10: "*Exempel 2 E som var företrädare för ett bolag som beviljats stöd från Europeiska socialfonden för verksamhets- och kompetensanalys dömdes för grovt bedrägeri till villkorlig dom. E intygade vid begäran om utbetalning att de ekonomiska uppgifter som lämnats i redovisningen var riktiga, trots att utgifter redovisats för fakturor som inte var betalda och för personer som inte var anställda i bolaget eller som inte deltagit i projektet*."

"A farmer L who was granted "Support for environmentally friendly agriculture" was sentenced for fraud and attempted fraud, to a suspended sentence and daily fines. L had applied for support for the conservation of pastureland and committed to keeping certain parcels grazed. L did not have any animals of his own at the time of application. During field checks, it was found that overgrowth and that the fence was hanging on a couple of parcels. Circumstances suggested that L applied for support without intending to fulfil the commitment."[86]

A last case reported in 2013 concerned a fisher, who requested a **subsidy loan for a boat**, which was at the moment of requesting the loan already under construction and apparently finances. **58**

Table 9: Serious fraud Å applying for and being granted a subsidy loan of SEK 109,000 for the new construction of a fishing boat already constructed.

	Serious fraud: Å applying for and being granted a subsidy loan of SEK 109,000 for the new construction of a fishing boat already constructed
Common cases in this area include double funding or false and falsified invoices. A case from a **SEFI 2013 report** can be reproduced here: "Å was sentenced to nine months in prison for serious fraud by means of falsification of documents regarding EU funds and for falsification of documents and tax crimes. The fraud consisted of Å applying for and being granted a subsidy loan of SEK 109,000 for the new construction of a fishing boat, even though he was not entitled to the subsidy because the boat was already under construction. Support loans are a form of grant that is gradually written off. By not telling that the boat was under construction and by showing falsified documents in the form of contracts and cash notes, Å had misled the Fisheries Agency into deciding on support and the county government into paying out the support loan."[87]	

[86] SEFI, Vägledning för hantering av misstänkt brottslighet i samband förvaltning av EU-medel, 2013, p. 20: "*Exempel 5 En jordbrukare L som beviljats" Stöd för miljövänligt jordbruk" dömdes för bedrägeri och försök till bedrägeri, till villkorlig dom och dagsböter. L hade ansökt om stöd för bevarande av betesmark och åtagit sig att hålla vissa skiften betade. L saknade vid ansökningstillfället egna djur. Vid fältkontroller konstaterades igenväxning och att staketet hängde vid ett par av skiftena. Omständigheter talade för att L sökt stöd utan att ha för avsikt att uppfylla åtagandet*."

[87] SEFI, Vägledning för hantering av misstänkt brottslighet i samband förvaltning av EU-medel, 2013, p. 24: "*Exempel 7 Å dömdes till fängelse nio månader för grovt bedrägeri medelst7 urkundsförfalskning avseende EU-medel och för urkundsförfalskning och skattebrott. Bedrägeriet bestod i att Å ansökt om och beviljats ett stödlån på 109 000 kr för nybyggnation av en fiskebåt, trots att han inte var berättigad till stödet eftersom båten redan var under byggnation. Stödlån är en form av bidrag som successivt skrivs av. Genom att inte berätta att båten var under byggnation och genom att visa förfalskade handlingar i form av kontrakt och kontantnotor, hade Å vilselett Fiskeriverket att besluta om stöd och länsstyrelsen att betala ut stödlånet*."

(c) Corruption Offences

59 Only recently the EU Commission called on Sweden to **effectively combat corruption**.[88] And *Margareta Cederfelt* has already in 2021 asked via a written question the Minister of Finance what measures the Minister and the Swedish Government intended to take in order for "Sweden to once again become a country that actively works to stop corruption and for Sweden to be among the countries that show positive development in their anti-corruption work".[89] Prime Minister *Ida Karkiainen* answered that an **action plan was decided in 2020** and that the Whistleblower protection legislation of the Union was implemented as quickly as possible.

Nota bene/**Reading suggestion:** The corruption study report from 2014 deals with corruption in Swedish authorities and analyses the motivation of influencers and insiders.[90]

(d) Money Laundering with PIF Crimes

60 In relation to money laundering with PIF crimes it can be said, what is known in general for AML offences: A lot of businesses and commercial activities are used to conceal money obtained through criminal methods, e.g. PIF offences. Thus for detecting these kind of crimes the **recipients and beneficiaries of EU funds should be double checked** in order to assess whether any EU money, which is e.g. foreseen for cattle food in the agricultural sector is not invested in a bar or pizzeria.[91] The Swedish Report mentions an ECtHR Case "*Zschüschen v. Belgium (23572/07)*", which accepted the action of a prosecutor in Belgium. According to the judgement it is not contrary to "the European Convention to convict someone for the crime of money laundering despite the fact that the prosecutor was unable or unwilling to show which concrete pre-crime the property originated from." If the defendant refuses to explain the origin of the property, the prosecutor's action is strengthened, and his/her evidence becomes more viable.[92]

61 Embezzlement with EU funds, has been recorded, see above for examples and cases in relation to expenditure frauds.

[88] Haglund (2022). online: https://www.europaportalen.se/2022/07/eu-kommissionen-uppmanar-sverige-goramer-mot-korruption. Accessed 30 June 2025.
[89] See https://www.riksdagen.se/sv/dokument-lagar/dokument/svar-pa-skriftlig-fraga/atgarder-for-minskad-korruption_H912951. Accessed 30 June 2025.
[90] Korruption i Myndighetssverige Otillåten påverkan mot insider, Rapport 2014:4, see https://bra.se/download/18.660677dc19301da04634057/1731069346802/2014_4_Korruption_i_myndighetssverige.pdf. Accessed 30 June 2025.
[91] Brottsförebyggande rådet, Penningtvättsbrott En uppföljning av lagens tillämpning, Stockholm, 2019, online: https://bra.se/download/18.1537f1c6192bd251bfc3af2/1730202793067/2019_17_Penningtvattsbrott.pdf, pp. 56-58. Accessed 30 June 2025.
[92] Brottsförebyggande rådet, Penningtvättsbrott En uppföljning av lagens tillämpning, Stockholm, 2019, online: https://bra.se/download/18.1537f1c6192bd251bfc3af2/1730202793067/2019_17_Penningtvattsbrott.pdf, p. 85–88. Accessed 30 June 2025.

(e) Criminal Organisation (PIF "Mafia Clause")

Sweden has some problem(s) with criminal gangs and corrupt criminal groups as well as real organizations.[93] **62**

(3) Specific Legislation & Judgements for Sufficient Factual Indications for the PIF Offences in Swedish Criminal (Procedure) Law–Overview

A report about corruption offences from 2014 stated clearly that very **intrusive means of investigative tools will rarely be seen** if discovering corruption offences, which might apply as well in relation to PIF offences: **63**

> "The criminal suspicion that is actualized against the insider rarely includes a crime serious enough for it to lead to a decision on the use of covert means of coercion. Often it is about crimes with low penalty values such as misconduct, data breaches and breaches of the duty of confidentiality. On the other hand, **suspicions of influence peddling often apply to more serious crimes**. Secret means of coercion can therefore often be used. If information then comes to light about the insider's criminality, such excess information may be used if the insider's crime is punishable by imprisonment for one year or more and fines are not applicable (Chapter 27, Section 23a of the Code of Criminal Procedure). If there are special reasons, surplus information may also be used, as well as to prevent crime."[94]

(4) Excerpts and Information from Selected Judgements Decided by Swedish Courts in the PIF Crimes Area

64

	Case Studies: Court Decisions

In the following excerpts and information from some **judgements are presented**: Chapter 9 ss. 1 et seq. CP normal fraud, serious fraud, grant and subsidy fraud ss. 3, 3a, 3(b) CC.

NJA 1993 s. 274 since an excessively high balance amount was mistakenly entered in a bank book, the account holder has forged the bank book in connection with a withdrawal and thereby ***obtained funds in addition to the actual balance in the account***. The account holder has been convicted of fraud.[95]

[93] Haglund 2022. online: https://www.europaportalen.se/2022/07/eu-kommissionen-uppmanar-sverige-gora-mer-mot-korruption. Accessed 30 June 2025.

[94] Korruption i Myndighetssverige Otillåten påverkan mot insider, Rapport 2014:4, see https://bra.se/download/18.660677dc19301da04634057/1731069346802/2014_4_Korruption_i_myndighetssverige.pdf, p. 140. Accessed 30 June 2025.

[95] NJA 1993 s. 274, Sedan ett för högt saldobelopp av misstag införts i en bankbok, har kontohavaren företett bankboken i samband med ett uttag och därvid utfått medel utöver det verkliga tillgodohavandet på kontot. Kontohavaren har dömts för bedrägeri.

Smuggling offences, ss. 2 et seq. Law (2000:1225) on punishment for smuggling as amended according to SFS 2022:32

RH 2017:37 The district court sentenced an adult who had ***imported cigarettes and tobacco*** from a third country to Sweden via another EU country without reporting it to the authorities to three months in prison for smuggling. The Court of Appeal, which found that the act could neither be assessed as smuggling nor a customs offence, instead convicted the person of illegal movement of excise goods. The changed classification in the Court of Appeal did not cause any change in the penalty.[96]

s. 8: NJA 2007 p. 227 The provision in Section 8 of the Smuggling Act on "duty, tax or other charge" has been found to be applicable in the case of ***an anti-dumping duty*** prescribed in EC Regulation No. (EEC) 1470/2001. It has been considered compatible with the form of government's regulations on standard-setting and with the principle of legality that the penalty provision as far as customs duty is concerned has had its content supplemented by regulations in an EC regulation. Evasion of charges referred to in the aforementioned regulation has been judged to target "the general public". Even the question of whether the EC regulation constitutes in casu legislation.[97]

Examples for tax code offences:

None.

c) Actions if "Decision to Open a Case"

65 A decision to open may be taken by the EDP, the Police Authority, the Security Service or a prosecutor ([RB 23:3 § 1]). The EDP has the same powers as a Swedish public prosecutor when performing EPPO duties ([SFS 2024:461 § 3]). If the police or Security Service have begun the inquiry, leadership must pass to the prosecutor (EDP) once someone is reasonably suspected (*skäligen misstänkt*) or earlier for special reasons ([RB 23:3 § 3]). The EDP may delegate specific measures to the police ([RB 23:3 § 4]). The Swedish European Prosecutor holds similar status for investigations under Article 28(4) EPPO Regulation ([SFS 2024:461 § 2]).

[96] L Hovrätten över Skåne och Blekinge [The Court of Appeal over Skåne and Blekinge], RH 2017:37 Tingsrätten dömde för smuggling till tre månaders fängelse för en myndig person som hade infört cigaretter och tobak från tredje land till Sverige via annat EU-land utan att anmäla det till myndigheterna. Hovrätten, som fann att gärningen varken kunde bedömas som smuggling eller tullbrott, dömde i stället personen för olovlig förflyttning av punktskattepliktiga varor. Den ändrade rubriceringen i hovrätten föranledde ingen ändring av påföljden.

[97] NJA 2007 s. 227 Bestämmelsen i 8 § smugglingslagen om "tull, skatt eller annan avgift" har befunnits tillämplig i fråga om en i EG-förordningen nr (EEG) 1470/2001 föreskriven antidumpningstull. Det har ansetts förenligt med regeringsformens bestämmelser om normgivning och med legalitetsprincipen att straffbestämmelsen såvitt gäller tullplikten fått sitt innehåll utfyllt av föreskrifter i en EG-förordning. Undandragande av pålagor som avses i den nämnda förordningen har bedömts rikta sig mot "det allmänna". Även fråga om EG-förordningen utgör en in casu-lagstiftning.

Before **formal initiation**, a police officer may question individuals or take urgent actions; the investigation is deemed opened if a coercive measure under Chapters 24–28 RB is executed ([RB 23:3 §§ 2, 6]; [RB 23:8–9b]). The purpose of the investigation is to determine who is reasonably suspected and whether there are sufficient grounds for prosecution ([RB 23:2]). The inquiry must be objective and conducted swiftly, considering both incriminating and exculpatory circumstances ([RB 23:4]). **66**

When **reasonable suspicion** arises, the suspect must be informed and granted access within the limits of secrecy; once the inquiry is complete, full access and an opportunity to request supplementary inquiries are provided ([RB 23:18; 23:18a–c]). In EPPO cases, certain secrecy restrictions in RB are replaced by the rules in [SFS 2024:461 §§ 5–7]. Confidential material may be withheld only where disclosure would seriously harm the protected interest; EPPO must instead summarise the content so that the party's rights are safeguarded ([SFS 2024:461 § 6–7]). Information covered by Swedish secrecy may be shared with EPPO if it could be disclosed to a national prosecution authority ([SFS 2024:461 § 4]). **67**

If he/she decides to initiate an investigation he/she **must note this in the case management system (Art. 45 Para 1 EPPO Regulation, 38 IRP[98])**. In addition, the numerous obligations to provide information from Art. 24 Para 3 to 8. **68**

And if an investigation is opened by virtue of Art. 26 Para 1 EPPO Regulation, he/she must insert the following information in the Case Management System according to **Art. 38 Para 3 IRP**. **69**

Specific information is presented by the IRP; Art. 41 relates to the initiation according to Art. 26 EPPO Regulation: **70**

Article 41: Decision to initiate an investigation or to evoke a case[99]

For rules on the **right to prosecute or file an indictment** under national law, see 20 Chap. On the right to prosecution and on plaintiff of the Code of Judicial Procedure. **71**

On the basis of national law, s. 18 of Ch. 23 of the Code of Judicial Procedure requires the EDP to inform the suspect at a certain stage:

[98] See https://www.eppo.europa.eu/sites/default/files/2020-12/2020.003%20IRP%20-%20final.pdf. Accessed 30 June 2025.

[99] There is an equal provision in national law, see s. 20 Ch. 23 Code of Judicial Procedure: § 20 When the preliminary investigation is concluded, a decision must be announced as to whether charges should be brought. Law (1957:38).

72 **Chapter 23 Code of Judicial Procedure**
Section 18
When the preliminary investigation has reached such a stage that someone is reasonably suspected of the crime, the suspect must be informed of the suspicion when he or she is heard.
[S2] After the notification, the suspect and the defender have the right to continuously, to the extent that it can happen without the investigation, take part in what has occurred during the preliminary investigation. This right applies with the limitations that follow from ch. 10. Section 3 of the Publicity and Confidentiality Act (2009:400).
[S3] In regard to the right of the person arrested or detained to take part in what has occurred during the preliminary investigation, ch. 24 also applies. Section 9a. Law (2017:176).

d) Justiciability and Appeals (Defence Perspective)

73 Arrest, search, and seizure follow Swedish law (Chapters 24–28 RB; [RB 23:16]). All essential steps must be recorded ([RB 23:21–21d]), see below Art. 33 EPPO Regulation. When the inquiry is complete, the EDP decides whether to prosecute or discontinue ([RB 23:20]) and simultaneously fulfils **EPPO duties of registration and notification** ([Art. 26(2) EPPO Reg.]).

74 Swedish EDPs are employed within the national prosecution service; their EPPO role is not considered unauthorised secondary employment, and absences must be reported to their Swedish employer ([SFS 2024:461 §§ 8–9]).

75 Chapter 22 of the Code of Judicial Procedure may apply.

- 22 Ch. About individual claims due to crime

76 Defence can **challenge the initiation of an investigation** if there are no grounds for suspicion at all. It may pro-actively present objective grounds that lead to a negation of a suspicion, Ch. 23, s. 4 Code of Judicial Procedure:

Section 4
A preliminary investigation must be conducted objectively. During the preliminary investigation, the investigator and the person who assists him or her must search for, take into account and take into account circumstances and evidence that speak both to the suspect's advantage and to his or her disadvantage.
[S2] The preliminary investigation *must be conducted in such a way that no one is unnecessarily exposed to suspicion or caused expense or inconvenience*. The preliminary investigation must also be conducted as quickly as the circumstances permit. If there is no longer reason to complete the preliminary investigation, it must be closed.

[S3] Even law enforcement activities before a preliminary investigation must be conducted objectively. Law (2016:546).

The question about a public defender is enshrined in Ch. 23, s. 5: **77**

Chapter 23 Code of Judicial Procedure
Section 5
Shall according to ch. 21 Section 3 or 3 b a **public defender is appointed for the suspect or the former defendant**, the investigator must **report this to the court**. The investigator must also report to the court if the plaintiff requests a plaintiff's attorney or if there is otherwise reason to order such an attorney. Does the preliminary investigation refer to crimes according to ch. 6. criminal code, notification of plaintiff's assistance must be made immediately when the preliminary investigation has begun or resumed, unless it is obvious that the plaintiff has no need for such assistance.
[S2] If there is no preliminary investigation in progress, the notification according to the first paragraph must be made by the prosecutor. Law (2018:619).

The defender and the suspect must be informed about the preliminary investigation, see ss. 18 Ch. 23 Code of Judicial Procedure: **78**

Chapter 23 Code of Judicial Procedure **79**
Section 18a
When the investigator has completed the investigation that he or she considers necessary, the suspect and the defence have the right to take part in what has occurred during the preliminary investigation. The suspect and the defender must be informed of this and that they have the right to request that the preliminary investigation be completed. They must be given reasonable time to indicate the investigation they consider desirable and otherwise state what they consider necessary. No prosecution may be decided before this has taken place.
[S2] The right according to the first paragraph to take part in what has occurred during the preliminary investigation applies even after the prosecution has been brought and until the prosecution has been finally examined or the matter has otherwise been finally decided. This right applies with the limitations that follow from ch. 10. Sections 3 and 3 a of the Publicity and Confidentiality Act (2009:400). Law (2017:176).

Section 18b
At the request of the suspect or the defender, an interrogation or other investigation must take place, if it can be assumed to be of importance to the preliminary investigation. If such a request is refused, the reasons for it shall be stated.
[S2] Before the prosecutor decides on charges, he or she may hold a special meeting with the suspect or the defence attorney, if it can be assumed to be beneficial for the prosecution decision or for the further handling of the case in general. Law (2017:176).

Section 18c
If the suspect or the defence attorney must attend an interrogation with someone other than the suspect in order to ask questions, they have the right to take part in what occurred during the preliminary investigation to the extent necessary for the suspect to be able to use his right at the hearing. The same applies if the questioning is to take place before the court in accordance with section 15 at the request of the investigator.
[S2] The right according to the first paragraph to take part in what has occurred during the preliminary investigation applies with the limitations that follow from ch. 10. Section 3 of the Publicity and Confidentiality Act (2009:400). Law (2021:1107).

Section 19
If the investigator has completed the investigation that he or she considers necessary without approving a request referred to in Section 18 b, first paragraph, or if the suspect or the defence attorney believes that there is some other deficiency in the investigation, they can report this to the right.
[S2] The court shall examine the report as soon as possible. If there are reasons for it, the court may interrogate the suspect or someone else or take any other necessary action. Compensation for the appearance of the suspect is paid from public funds according to regulations issued by the government. Law (2017:176).

e) Annex: Report EU Fraud to the Swedish Crime Authority

80 **Report of Suspected Economic Crime**

If you have any questions, you are welcome to contact the Swedish Economic Crime Authority. Contact persons and telephone numbers can be found on the Authority's website under "Contact us".

The signed report should be sent to the volume unit at the nearest location:

Swedish Economic Crime Authority
Volume Unit
Box 820
101 36 Stockholm

Swedish Economic Crime Authority
Volume Unit
Box 431
401 26 Gothenburg

Swedish Economic Crime Authority
Volume Unit
Box 342
201 23 Malmö

Swedish Economic Crime Authority
Volume Unit
Box 898
751 08 Uppsala

Swedish Economic Crime Authority
Volume Unit
Box 432
581 04 Linköping

Swedish Economic Crime Authority
Volume Unit
Box 3198
903 04 Umeå

Reported company or individual
Surname and first name
Postal address, postcode and town/city
Personal identity number or company registration number

Any registered company representatives
Surname and first name
Known telephone numbers (including area code)
Postal address, postcode and town/city

Reported offences

In Swedish: **81**

Anmälan om misstanke om ekonomisk brottslighet

Om du har frågor är du välkommen att kontakta Ekobrottsmyndigheten. Kontaktpersoner och telefonnummer finns på Ekobrottsmyndighetens webbplats under" Kontakta oss".

Undertecknad anmälan skickas till mängdenheten på närmaste ort:

Ekobrottsmyndigheten Mängdenheten Box 820 101 36 STOCKHOLM	Ekobrottsmyndigheten Mängdenheten Box 431 401 26 GÖTEBORG	Ekobrottsmyndigheten Mängdenheten Box 342 201 23 MALMÖ
Ekobrottsmyndigheten Mängdenheten Box 432 581 04 LINKÖPING	Ekobrottsmyndigheten Mängdenheten Box 3198 903 04 UMEÅ	Ekobrottsmyndigheten Mängdenheten Box 898 751 08 UPPSALA

Anmält bolag eller person

Efternamn och förnamn

Utdelningsadress, postnummer och ort

Person– eller organisationsnummer

Eventuellt registrerade bolagsföreträdare

Efternamn och förnamn

Kända telefonnummer (inkl. riktnr)

Utdelningsadress, postnummer och ort

Anmält brott

Brottsalternativ 1

Brottsalternativ 2

Omständigheter som gör att brott kan misstänkas

Tidpunkt och plats för misstänkt brott

Personer eller bolag som har anknytning till den anmälda personen eller bolaget

Anmälare

Efternamn och förnamn	Telefonnummer (inkl. riktnummer)
Utdelningsadress, postnummer och ort	E-postadress

Ort och datum	Namnteckning

Nedan följer en beskrivning av de typer av ekonomisk brottslighet som Ekobrottsmyndigheten i huvudsak handlägger.

Olika typer av brott

Bokföringsbrott

Bokföringsbrott innebär att ett företags bokföring inte har skötts på det sätt som krävs. Det kan till exempel vara att man inte har bokfört affärshändelser, inte har sparat räkenskapsinformation eller har lämnat oriktiga uppgifter i sin bokföring. Det måste gå att följa ett företags inkomster och utgifter samt ekonomiska resultat i bokföringen.

Skattebrott

Skattebrott är att avsiktligt lämna oriktiga uppgifter till en myndighet eller att låta bli att lämna deklaration, kontrolluppgift eller andra uppgifter som krävs. Skattebrott kan

också vara att undandra skatt, få pengar tillbaka på felaktiga grunder eller tillgodoräknas pengar för annans räkning.

Försvårandeav skattekontroll

Försvårande av skattekontroll innebär att man avsiktligt eller av grov oaktsamhet åsidosätter bokföringsskyldigheten eller skyldigheten att föra och spara räkenskaper om det medför att Skatteverkets kontrollverksamhet allvarligt försvåras.

Otillbörligt gynnande av borgenär

Om någon som är på obestånd gynnar en viss borgenär, till exempel genom att betala en skuld som inte är förfallen eller betalar på något annat sätt än det sedvanliga kan den personen dömas för otillbörligt gynnande av borgenär. Åtgärden måste medföra påtaglig risk för att andra borgenärers rätt skadas avsevärt. Brottet kan ge fängelse i högst två år.

Detsamma gäller någon som är på obestånd och medvetet missgynnar en viss borgenär på annat sätt, och det innebär risk för att en annan borgenärs rätt skadas avsevärt. En gäldenär, som för att främja ackord i hemlighet, lämnar eller utlovar betalning eller annan förmån, döms också för otillbörligt gynnande av borgenär.

Oredlighet mot borgenär

Oredlighet mot borgenär innebär att en gäldenär på obestånd, eller som är nära obestånd, gör sig av med egendom av betydande värde. Brottet sker när gäldenären gör sig av med egendom nära en förestående konkurs, för bort värdefull egendom från landet eller vid en konkurs undanhåller konkursförvaltaren någon tillgång. Detsamma gäller om tillgången finns i utlandet.

2. Art. 27 Deferral, Waiver, and Decisions and Actions of National Authorities

2. Art. 27 Deferral, Waiver, and Decisions and Actions of National Authorities 103
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Art. 27 Right of Evocation

1. Upon receiving all relevant information in accordance with Article 24(2), the EPPO shall take its decision on whether to exercise its right of evocation as soon as possible, but no later than 5 days after receiving the information from the national authorities and shall inform the national authorities of that decision. The European Chief Prosecutor may in a specific case take a reasoned decision to prolong the time limit by a maximum period of 5 days and shall inform the national authorities accordingly.

2. During the periods referred to in paragraph 1, the national authorities shall refrain from taking **any decision under national law** that may have the effect of precluding the EPPO from exercising its right of evocation.

The national authorities shall take any urgent measures necessary, **under national law**, to ensure effective investigation and prosecution.

3. If the EPPO becomes aware, by means other than the information referred to in Article 24(2), of the fact that an investigation in respect of a criminal offence for which it could be competent is already undertaken by the competent authorities of a Member State, it shall inform these authorities without delay. After being duly informed in accordance with Article 24(2), the EPPO shall take a decision on whether to exercise its right of evocation. The decision shall be taken within the time limits set out in paragraph 1 of this Article.

4. The EPPO shall, where appropriate, consult the competent authorities of the Member State concerned before deciding whether to exercise its right of evocation.

5. Where the EPPO exercises its right of evocation, the competent authorities of the Member States shall transfer the file to the EPPO and refrain from carrying out further acts of investigation in respect of the same offence.

6. The right of evocation set out in this Article may be exercised by a European Delegated Prosecutor from any Member State whose competent authorities have initiated an investigation in respect of an offence that falls within the scope of Articles 22 and 23.
Where a European Delegated Prosecutor, who has received the information in accordance with Article 24(2), considers not to exercise the right of evocation, he/she shall inform the competent Permanent Chamber through the European Prosecutor of his/her Member State with a view to enabling the Permanent Chamber to take a decision in accordance with Article 10(4).
7. Where the EPPO has refrained from exercising its competence, it shall inform the competent national authorities without undue delay. At any time in the course of the proceedings, the competent national authorities shall inform the EPPO of any new facts which could give the EPPO reasons to reconsider its decision not to exercise competence.
The EPPO may exercise its right of evocation after receiving such information, provided that the national investigation has not already been finalised and that an indictment has not been submitted to a court. The decision shall be taken within the time limit set out in paragraph 1.
8. Where, with regard to offences which caused or are likely to cause damage to the Union's financial interests of less than EUR 100 000, the College considers that, with reference to the degree of seriousness of the offence or the complexity of the proceedings in the individual case, there is no need to investigate or to prosecute at Union level, it shall in accordance with Article 9(2), issue general guidelines allowing the European Delegated Prosecutors to decide, independently and without undue delay, not to evoke the case.
The guidelines shall specify, with all necessary details, the circumstances to which they apply, by establishing clear criteria, taking specifically into account the nature of the offence, the urgency of the situation and the commitment of the competent national authorities to take all necessary measures in order to fully recover the damage to the Union's financial interests.
9. To ensure coherent application of the guidelines, a European Delegated Prosecutor shall inform the competent Permanent Chamber of each decision taken in accordance with paragraph 8 and each Permanent Chamber shall report annually to the College on the application of the guidelines.

1 Sweden has ensured that its national authorities, like the Economic Crime Authority, which still had special competences to fight EU fraud (see before Art. 26 EPPO Reg. above), **constantly check and eventually report and contact the EPPO** if it could exercise its competence. Swedish national authorities need to rest their actions during the time limit(s) in Art. 27 EPPO Reg.

The following national provisions might prove to be important for the EPPO as well as the national authorities checking if they can proceed with their investigative task of not: **2**

a) Provisions with a Precluding Effect for the Right of Evocation of the EPPO, Para 2

The main provisions that may have a precluding effect for the right of evocation of the EPPO according to Art. 27 Para 2 EPPO Regulation can be found in Chapter 30 Code of Judicial Procedure (1942:740/*Rättegångsbalken*). It should as well be taken into account that Sweden has s**pecial rules on the deferment and cessation of a lawsuit or indictment,** see Chapter 20, s. 7 (*åtalsun-derlåtelse*) Code of Judicial Procedure (1942: 740). Last but not least there might be other grounds that extinguish or hinder criminal liability (see e.g. Chapter 45 Code of Judicial Procedure (1942:740). **3**

aa. Prosecution Before the Trial Court

The end of a preliminary investigation must be stated: **4**

Chapter 23 Code of Judicial Procedure **5**
Section 20 When the preliminary investigation is concluded, a decision must be announced as to whether charges should be brought. Law (1957:38).

There are more general rules on how prosecution is initiated: **6**

Chapter 20 Code of Judicial Procedure
Section 1 The question of responsibility for crime may not be taken up by the court, unless prosecution for the crime has been brought. However, the court is entitled to raise the issue of liability for misdemeanour in the trial without prosecution.
Prosecution is brought by filing a lawsuit in court.
Section 2 Public prosecutors have the right to prosecute crimes that fall under general prosecution, unless otherwise stipulated.
Regarding the authority of special prosecutors to prosecute crimes that fall under general prosecution, what is specifically prescribed applies.
In higher courts, prosecutors may pursue the case also in favour of the suspect.

bb. Opposing Legal Validity

Criminal Code [Excerpts] **7**
The importance of a previous foreign judgment
Foreign judgment as an obstacle to Swedish court jurisdiction
Section 9
If the question of responsibility for a crime has been tried through a judgment that has been handed down by a court other than a Swedish court and that has received legal force, the defendant may not be prosecuted in Sweden for an act that was covered by

the trial. Unless otherwise follows from an international agreement that is binding on Sweden, however, prosecution may take place again.
1. the defendant has been acquitted of liability on the basis that the act did not constitute a crime under the law applied by the court,
2. enforcement of the imposed penalty is not on-going for any reason other than that the penalty has already been fully enforced or lapsed according to the law applicable to the enforcement,
3. the prosecution concerns crimes referred to in Section 1 or Section 3 4, unless the previous prosecution has taken place at the request of a Swedish authority or after the person has been extradited or handed over from Sweden for prosecution,
4. the previous prosecution or judgment is clearly in conflict with Swedish general legal principles, or
5. such conditions exist as according to ch. 58 Section 3 of the Code of Judicial Procedure can lead to a motion to but for the defendant. Law (2021:1014).

Demand for indictment
Section 10
Prosecutions for crimes referred to in Section 9 may only be brought if prosecution orders have been issued in accordance with Section 8. Law (2021:1014).

Consideration of Foreign Penalty
Section 11
If someone is sentenced in Sweden for an act referred to in Section 9, when determining a penalty, reasonable consideration must be given to the enforcement of a previously imposed penalty that the defendant underwent as a result of the previous prosecution. Deprivation of liberty as a result of the previous prosecution shall, if possible, be deducted in its entirety from the fine or imprisonment.
In the cases referred to in the first paragraph, it may be sentenced to a lighter punishment than what is prescribed for the crime or the penalty is completely waived. Law (2021:1014).

Other regulations
International Law Restrictions
Section 12
The limitations on the jurisdiction of Swedish courts and the applicability of Swedish law that follow from general international law or from an international agreement that is binding on Sweden must be observed. Law (2021:1014).

Extradition and Surrender
Section 13
There are special regulations regarding extradition and surrender.
Conditions set for extradition or handover from another state to Sweden must be observed. Law (2021:1014).

And see Ch. 30 of the Code of Judicial Procedure, which stipulates rules on the judgement and the final decision by the court. **8**

aa. Abatement of Action (Dispense with Prosecution)

Chapter 20 Code of Judicial Procedure **9**
Section 7[100]
Prosecutors may decide not to prosecute for a crime (failure to prosecute) provided that no significant public or individual interest is violated:
1. if it can be assumed that the offense would not result in a penalty other than a fine,
2. if it can be assumed that the penalty would be a suspended sentence and there are special reasons for not prosecuting,
3. if the suspect committed another crime and, in addition to the penalty for this crime, no penalty is required due to the current crime, or
4. if psychiatric care or efforts according to the Act (1993:387) on support and service for certain disabled people are made possible.
Prosecution may be waived in cases other than those mentioned in the first paragraph, if it is clear for special reasons that no penalty is required to deter the suspect from further criminality and that, taking into account the circumstances, prosecution is not required for other reasons either. Law (1997:726).

[100] **7 § Rättegångsbalk (1942:740)**
Åklagare får besluta att underlåta åtal för brott (åtalsunderlåtelse) under förutsättning att något väsentligt allmänt eller enskilt intresse ej åsidosätts:
om det kan antas att brottet inte skulle föranleda annan påföljd än böter,
om det kan antas att påföljden skulle bli villkorlig dom och det finns särskilda skäl för åtalsunderlåtelse,
om den misstänkte begått annat brott och det utöver påföljden för detta brott inte krävs påföljd med anledning av det föreliggande brottet, eller
om psykiatrisk vård eller insatser enligt lagen (1993:387) om stöd och service till vissa funktionshindrade kommer till stånd.
[S2]Åtal får underlåtas i andra fall än som nämns i första stycket, om det av särskilda skäl är uppenbart att det inte krävs någon påföljd för att avhålla den misstänkte från vidare brottslighet och att det med hänsyn till omständigheterna inte heller krävs av andra skäl att åtal väcks. Lag (1997:726).

Chapter 23 Code of Judicial Procedure
Section 4a A preliminary investigation may also be closed
If continued investigation would require costs that are not in reasonable relation to the importance of the matter and it can also be assumed that the penalty value of the crime does not exceed imprisonment for three months, or
if it can be assumed that prosecution for the crime would not take place as a result of provisions on failure to prosecute in ch. 20. or if special prosecution and any significant public or individual interest are not disregarded by the preliminary investigation being closed.
[S2] If there are conditions for closing a preliminary investigation according to the first paragraph even before such an investigation has been initiated, it may be decided that a preliminary investigation should not be initiated.
[S3] A decision according to this paragraph to close a preliminary investigation is announced by the prosecutor who leads the preliminary investigation if it can be assumed that prosecution for the crime would not take place as a result of the provisions on failure to prosecute in ch. 20. Section 7, first paragraph or on special prosecution review. The same applies to decisions not to initiate a preliminary investigation in the corresponding case. If the preliminary investigation is led by the Police Authority, the investigator decides on these issues. Other decisions according to this section are announced by the prosecutor. Law (2014:649).

b) Urgent Measures of National Authorities for Securing an Investigation

10 See ss. 22, 23, 24, 25 (seizure) Act 2000:11225 on penalties for smuggling in connection with Chapter 27, Section 4 Code of Judicial Procedure

11

Seizure Act 2000:11225
Section 22 An official of the Swedish Customs or Coast Guard has, in respect of offences under this Act or other offences referred to in section 1, second paragraph, the same power as a police officer to seize property under Chapter 27, Section 4 of the Code of Judicial Procedure.
[S2]An official of the Swedish Customs or Coast Guard or a police officer may also in cases other than those referred to in Chapter 27, Section 4 of the Code of Judicial Procedure seize property, if it can reasonably be assumed to be forfeited due to an offence under this Act or other offences referred to in section 1, second paragraph.
[S3] If the seizure is carried out by someone other than the investigating officer or the prosecutor and the latter has not ordered the seizure, the notification shall be made promptly to him, in which case he shall immediately examine whether the seizure should be maintained.

Section 23
Seized property shall be kept by the Customs and Excise Department, unless otherwise prescribed or the prosecutor decides otherwise.
[S2] Property that has been seized under section 39 shall be kept by the Police Authority when that authority has taken over the case. Law (2021:761).

Section 24
An authority which has in possession of property which has been seized in order that it can reasonably be presumed to be confiscated under section 16 may immediately have it sold if:
it cannot be cared for without danger of its destruction,
its care is associated with excessive costs, or
there are otherwise special reasons.
[S2] Such property may instead be destroyed if:
it cannot be sold,
it may be feared to be used criminally; or
it is otherwise unsuitable for sale.
[S3] If property sold or destroyed is not forfeited, the owner or another holder of legal rights is entitled to compensation. However, for property sold, compensation is not paid in the amount higher than that received at the time of sale. If the property has been destroyed, compensation is provided in the reasonable amount.
[S4] What is provided for in the first and second paragraphs shall apply only unless otherwise provided for by law or regulation.

Section 25
Property seized in accordance with this Act and kept by someone other than the Customs and Excise Department shall be handed over to the Agency, if the seizure is lifted and the property shall be subject to:
customs treatment, or any action under
1. the Act (1996:701) on the Powers of the Swedish Customs at Sweden's Border with Another Country within the European Union, or
2. act (1998:506) on excise control of transport, etc. of alcoholic beverages, tobacco products and energy products.
[S2] If the property has already been sold, the purchase price shall be handed over to the Customs and Excise Department for accounting. Law (2007:465).

- s. 5 Ch. 28 Code of Judicial Procedure

12

> **Section 5**
> A policeman may search a house without a warrant according to Section 4, if there is **danger in delay**. However, this does not apply to the house search for service. Law (1995:637).

- Body search and inspection, ss. 13 et seq. Ch. 28 Code of Judicial Procedure

> **Section 13**
> Regarding body search and body inspection, what is prescribed in Sections 3a, 4, 8 and 9 regarding house searches shall apply in applicable parts. If there is **danger in delay**, a body search and body inspection may be decided by a police officer.

c) Competent National Authorities in Paras 3 to 7 of Art. 27

13 At the moment of writing the manuscript Sweden was not part of the EPPO and had thus not submitted a notification to the EPPO. Judging from the new situation as of today and the current structure in PIF crime matters, it is reasonably to guess that the **Economic Crime Authority will have a leading position in the process of submitting information to the EPPO** (e.g. comparable to the *Parquet national financier* in France).

14 All national prosecution offices, financial tax authorities, customs authorities need to be informed of the EPPO if Sweden joins the enhanced cooperation and opt-in in the future.

d) Provisions Regarding the Finalisation of the National Investigation, Para 7

15 If preliminary investigations have been initiated, s. 20 Ch. 23 Code of Judicial Procedure stipulates that a decision must be filed, e.g. via a notice that the investigation is finished and an indictment is intended:

16

> **Section 20**
>
> When the preliminary investigation is concluded, a decision must be announced as to whether charges should be brought. Law (1957:38)

3. Art. 28 Conducting the Investigation

2. Art. 28 Conducting the Investigation 111
a) The Handling EDP Carrying Out the Investigative Measures, Para 1 112
b) Instructions and Assignment of Investigative Measures for "Those National Authorities" 112
c) Ensuring Compliance with National Law 114
aa. Via the General Investigation Provisions 114
bb. Via National Administrative Decrees 122
d) Urgent Measures in Accordance with National Law Necessary to Ensure Effective Investigations 122
e) Provisions in Relation to the Gathering of Evidence 124

1. The European Delegated Prosecutor handling a case may, in accordance with this Regulation **and with national law**, either undertake the investigation measures and other measures on his/her own or instruct the competent authorities in his/her Member State. Those authorities shall, **in accordance with national law**, ensure that all instructions are followed and undertake the measures assigned to them. The handling European Delegated Prosecutor shall report through the case management system to the competent European Prosecutor and to the Permanent Chamber any significant developments in the case, in accordance with the rules laid down in the internal rules of procedure of the EPPO.
2. At any time during the investigations conducted by the EPPO, the competent national authorities shall take urgent measures **in accordance with national law** necessary to ensure effective investigations even where not specifically acting under an instruction given by the handling European Delegated Prosecutor. The national authorities shall without undue delay inform the handling European Delegated Prosecutor of the urgent measures they have taken.
3. The competent Permanent Chamber may, on proposal of the supervising European Prosecutor decide to reallocate a case to another European Delegated Prosecutor in the same Member State when the handling European Delegated Prosecutor:
(a) cannot perform the investigation or prosecution; or
(b) fails to follow the instructions of the competent Permanent Chamber or the European Prosecutor.
4. In exceptional cases, after having obtained the approval of the competent Permanent Chamber, the supervising European Prosecutor may take a reasoned decision to conduct

the investigation personally, either by undertaking personally the investigation measures and other measures or by instructing the competent authorities in his/her Member State, where this appears to be indispensable in the interest of the efficiency to the investigation or prosecution by reasons of one or more of the following criteria:
(a) the seriousness of the offence, in particular in view of its possible repercussions at Union level.
(b) when the investigation concerns officials or other servants of the Union or members of the institutions of the Union.
(c) in the event of failure of the reallocation mechanism provided for in paragraph 3.
In such exceptional circumstances Member States shall ensure that the European Prosecutor is entitled to order or request investigative measures and other measures and that he/she has all the powers, responsibilities and obligations of a European Delegated Prosecutor in accordance with this Regulation and national law.
The competent national authorities and the European Delegated Prosecutors concerned by the case shall be informed without undue delay of the decision taken under this paragraph.

1 As Sweden joined, Art. 28 EPPO Regulation became of particular interest as it shows the way Swedish investigation authorities are specialized in the fight against fraud detrimental to the Union budget. Swedish Police authorities, customs and financial authorities need to be analysed in the following part.

a) The Handling EDP Carrying Out the Investigative Measures, Para 1

2 See above Art. 26 mainly.

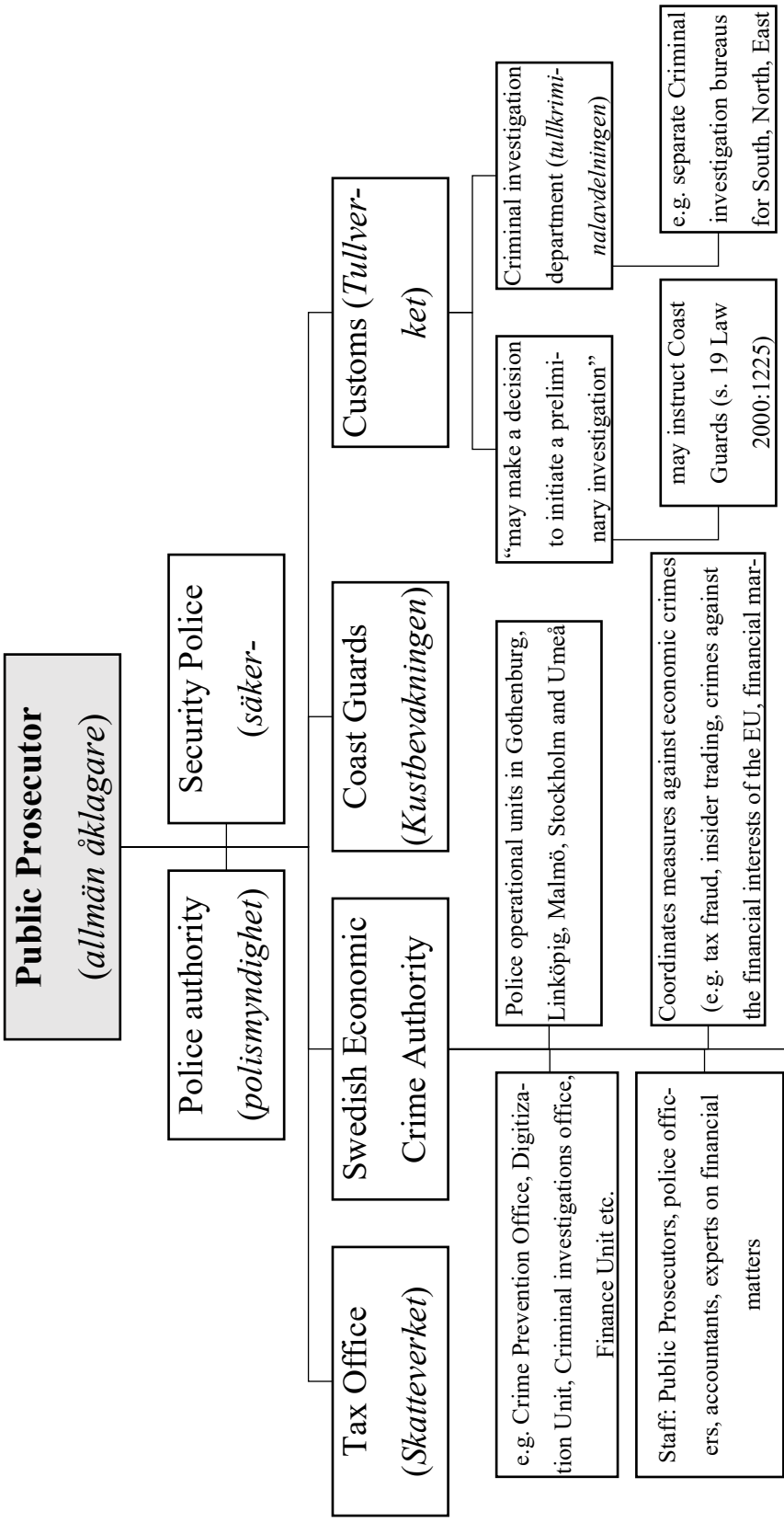
b) Instructions and Assignment of Investigative Measures for "Those National Authorities"

3

Instructed and assigned National authorities:
1. Public Prosecutor (*allmän åklagare*)
2. Police authority (*polismyndighet*)
3. S. 19 Tax Penalties Act: The Customs and Excise Department
4. Swedish Economic Crime Authority (*Ekobrottsmyndigheten*)
5. Tax Office (*Skatteverket*)
6. Customs Office (*Tullverket*) Customs Criminal Investigation Department (*tullkriminalavdelningen*)
7. Coast Guards (*Kustbevakningen*)
8. No investigating judge[101]

[101] Wong 2012, pp. 742–778.

Figure 4: Potential assignment of "those national authorities" in Sweden, Art. 28 EPPO Regulation



Sources: Wong 2012 in Ligeti (Ed.). Sweden. In K. Ligeti (Ed.), *Towards a prosecutor for the European Union* (pp. 742-778). Hart Publishing Ltd.); online: https://www.ekobrottsmyndigheten.se/om-oss/organisation/. Accessed 30 June 2025.

c) Ensuring Compliance with National Law

aa. Via the General Investigation Provisions

4 **Code of Judicial Procedure (1942:740)**/*Rättegångsbalk RB (1942:740)*

Chapter 7 About prosecutors and about disputes against employees of law enforcement agencies

Section 6[102]

If there is a circumstance for a prosecutor regarding a certain crime that would constitute a conflict of interest with a judge, he or she may not take up a position with a preliminary investigation, prosecution for the crime or other measure pursuant to this Code. The same applies to the performance of other prosecutor's duties.

Disputes may not be based on an action taken by a prosecutor on behalf of the service, or an act committed against him or her in or for his or her service.

Even if a prosecutor is disqualified, he or she may take measures that cannot be postponed without danger.

A question of conflict of interest with prosecutors is tried by a chief prosecutor. Conflicts against the Deputy Public Prosecutor and Deputy Prosecutor to the Public Prosecutor, Chief Prosecutor and Deputy Chief Prosecutor are, however, tried by the Public Prosecutor. Disputes against the public prosecutor are tried by him or her. Law (2004:1264).

Section 7[103]

There may be assistant prosecutors in the Public Prosecutor's Office.

These prosecutors may, to the extent determined by the government, perform tasks to be performed by the public prosecutor. However, the raising or completion of prosecution in the Supreme Court may not be decided by anyone other than the public prosecutor.

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[102] **7 Kap. Om åklagare och om jäv mot anställda vid brottsbekämpande myndigheter**

6 § Om det för åklagare beträffande visst brott finns omständighet som skulle utgöra jäv mot domare, får han eller hon inte ta befattning med förundersökning, åtal för brottet eller annan åtgärd enligt denna balk. Detsamma gäller vid fullgörandet av andra åklagaruppgifter.

Jäv får inte grundas på åtgärd som en åklagare har vidtagit på tjänstens vägnar, eller gärning som förövats mot honom eller henne i eller för hans eller hennes tjänst.

Även om en åklagare är jävig, får han eller hon vidta åtgärder som inte utan fara kan uppskjutas.

En fråga om jäv mot åklagare prövas av en överåklagare. Jäv mot vice riksåklagaren och biträdande åklagare till riksåklagaren, överåklagare och vice överåklagare prövas dock av riksåklagaren. Jäv mot riksåklagaren prövas av honom eller henne. Lag (2004:1264).

[103] **7 § Inom åklagarväsendet får det finnas biträdande åklagare**.

Dessa åklagare får i den omfattning som regeringen bestämmer utföra uppgifter som skall utföras av allmän åklagare. Väckande eller fullföljande av åtal i Högsta domstolen får dock inte beslutas av någon annan än riksåklagaren.

Det får även finnas extra åklagare inom åklagarväsendet.

Regeringen bestämmer i vilken omfattning extra åklagare får förordnas att utföra uppgifter som skall utföras av annan allmän åklagare än riksåklagaren eller vice riksåklagaren.

Riksåklagaren får förordna extra åklagare att utföra talan i Högsta domstolen. Lag (2004:1264).

There may also be additional prosecutors within the prosecution service.
The Government decides to what extent additional prosecutors may be appointed to perform tasks that are to be performed by a public prosecutor other than the public prosecutor or the deputy public prosecutor.
The Attorney General may appoint additional prosecutors to carry out the action in the Supreme Court. Law (2004:1264).

Section 8[104]
For special prosecutors, what is prescribed for them applies.
No special prosecutor other than the Chancellor of Justice or an Ombudsman may decide that prosecution shall be instituted or completed in the Supreme Court. Law (2001: 280).
In a Report of the EPPO Inquiry (Stockholm 2020) named "A European Public Prosecutor's Office in Sweden" the authors oppose the EDPs to constitute special prosecutors.[105]

Section 9[106]
The provisions of section 6 on prosecutors also apply to employees at the Swedish Tax Agency or the Swedish Customs and employees other than prosecutors at the Swedish Environmental Crime Agency who have to take action or issue a decision in law enforcement activities. A question of non-compliance is examined by the respective authority.
Provisions on conflict of interest for employees at the Police Authority and the Security Police are found in section 7 of the Police Act (1984:387). Provisions on non-compliance for employees of the Coast Guard are found in Chapter 2. Section 2 of the Coast Guard Act (2019:32). Lag (2019:33).

[104] **8 § För särskilda åklagare gäller vad som är föreskrivet för dem.**
Ingen annan särskild åklagare än justitiekanslern eller en justitieombudsman får besluta att åtal skall väckas eller fullföljas i Högsta domstolen. Lag (2001:280).
[105] Report of the EPPO inquiry, A European Public Prosecutor's Office in Sweden, Stockholm 2020, p. 144.
[106] **9 §** Det som anges i 6 § om åklagare tillämpas även på anställda vid Skatteverket eller Tullverket och andra anställda än åklagare vid Ekobrottsmyndigheten som har att vidta åtgärd eller meddela beslut i brottsbekämpande verksamhet. En fråga om jäv prövas av respektive myndighet.
Bestämmelser om jäv för anställda vid Polismyndigheten och Säkerhetspolisen finns i 7 § polislagen (1984:387). Bestämmelser om jäv för anställda vid Kustbevakningen finns i 2 kap. 2 § kustbevakningslagen (2019:32). Lag (2019:33).

Chapter 23 About Preliminary Investigation
Section 3 RB[107]
Decisions to initiate a preliminary investigation shall be made by the Police Authority, the Security Police or the prosecutor. If the preliminary investigation has been initiated by the Police Authority or the Security Police and the matter is not of a simple nature, the management of the preliminary investigation of the crime shall be taken over by the prosecutor, as soon as someone can reasonably be suspected of the crime. The prosecutor must also otherwise take over the management when it is justified for special reasons. *When the preliminary investigation is led by the prosecutor, he or she may enlist the assistance of the Police Authority or the Security Police to carry it out. The prosecutor may also instruct a police officer to take a certain measure that is part of the preliminary investigation, if it is appropriate in view of the nature of the measure.*
What is prescribed in this code about the Police Authority applies to the Security Police when it conducts a preliminary investigation or assists prosecutors in a preliminary investigation.
Before a preliminary investigation has begun, a police officer may hold an interrogation and take other investigative measures that are important for the investigation. Lag (2014: 649).

Police Act (1984:387)/*Polislag (1984:387)*
Section 2[108] **Police information**
The tasks of the Police Authority include;
1. preventing, preventing and detecting criminal activities and other disturbances of public order or security,

[107] **3 § RB**
Beslut att inleda en förundersökning ska fattas av Polismyndigheten, Säkerhetspolisen eller åklagaren. Har förundersökningen inletts av Polismyndigheten eller Säkerhetspolisen och är saken inte av enkel beskaffenhet, ska ledningen av förundersökningen om brottet övertas av åklagaren, så snart någon skäligen kan misstänkas för brottet. Åklagaren ska också i annat fall överta ledningen när det är motiverat av särskilda skäl.
När förundersökningen leds av åklagaren, får han eller hon anlita biträde av Polismyndigheten eller Säkerhetspolisen för att genomföra den. Åklagaren får också uppdra åt en polisman att vidta en viss åtgärd som hör till förundersökningen, om det är lämpligt med hänsyn till åtgärdens beskaffenhet.
Det som i denna balk föreskrivs om Polismyndigheten gäller för Säkerhetspolisen då den leder förundersökning eller biträder åklagare i en förundersökning.
Innan förundersökning hunnit inledas, får en polisman hålla förhör och vidta andra utredningsåtgärder som är av betydelse för utredningen. Lag (2014:649).

[108] **Polisens uppgifter**
2 § Polislag
Till Polismyndighetens uppgifter hör att
1. förebygga, förhindra och upptäcka brottslig verksamhet och andra störningar av den allmänna ordningen eller säkerheten,
2. övervaka den allmänna ordningen och säkerheten och ingripa när störningar har inträffat,
3. utreda och beivra brott som hör under allmänt åtal,
4. lämna allmänheten skydd, upplysningar och annan hjälp, när sådant bistånd lämpligen kan ges av polisen,
5. fullgöra den verksamhet som ankommer på Polismyndigheten enligt särskilda bestämmelser. Lag (2014:588).

2. monitoring public order and security and intervening when disturbances have occurred,
3. investigating and prosecuting crimes that fall under public prosecution,
4. provide the public with protection, information and other assistance, when such assistance can be suitably provided by the police,
5. carry out the activities that fall to the Police Authority in accordance with special regulations. Lag (2014:588).

Section 2b[109]
Within the Police Authority, there shall be;
1. a department that at national level leads and coordinates certain police activities (National Operations Department),
2. a department that is responsible for handling cases of crimes by police officers, prosecutors and judges (Department of Special Investigations), and
3. a department that has a national responsibility for the agency's forensic activities, conducts investigations and conducts research in this area (National Forensic Centre). Lag (2014:588).

Section 3[110]
The tasks of the Security Police include;
1. preventing, deterring and detecting criminal activities that include crimes against national security or terrorist crimes,
2. investigating and prosecuting such crimes as are specified in 1 or which follow from 5,
3. perform tasks in connection with personal protection by the central government and others determined by the government or the Security Police,

[109] **2b § Polislag**
Inom Polismyndigheten ska det finnas
1. en avdelning som på nationell nivå leder och samordnar viss polisverksamhet (Nationella operativa avdelningen),
2. en avdelning som ansvarar för handläggningen av ärenden om brott av polisanställda, åklagare och domare (Avdelningen för särskilda utredningar), och
3. en avdelning som har ett nationellt ansvar för myndighetens forensiska verksamhet, utför undersökningar och bedriver forskning inom detta område (Nationellt forensiskt centrum). Lag (2014:588).

[110] **3 § Polislag**
Till Säkerhetspolisens uppgifter hör att
1. förebygga, förhindra och upptäcka brottslig verksamhet som innefattar brott mot rikets säkerhet eller terrorbrott,
2. utreda och beivra sådana brott som anges i 1 eller som följer av 5,
3. fullgöra uppgifter i samband med personskydd av den centrala statsledningen och andra som regeringen eller Säkerhetspolisen bestämmer,
4. fullgöra uppgifter enligt säkerhetsskyddslagen (2018:585),
5. leda annan polisverksamhet om regeringen föreskriver det och i övrigt bedriva sådan verksamhet som framgår av lag eller förordning eller som regeringen uppdragit åt Säkerhetspolisen att i särskilda hänseenden ansvara för.
När Säkerhetspolisen leder polisverksamhet enligt första stycket ska det som i lag eller annan författning föreskrivs om Polismyndigheten i tillämpliga delar gälla Säkerhetspolisen. Lag (2018:586).

4. perform tasks in accordance with the Security Protection Act (2018:585),
5. lead other police activities if the government prescribes it and otherwise conducts such activities as stated in law or regulation or commissioned by the government The security police to be responsible for in special respects.
When the Security Police conduct police activities in accordance with the first paragraph, what is prescribed by law or other statute about the Police Authority shall apply to the Security Police in applicable parts. Lag (2018:586).

Collaboration with other authorities and organizations
Section 6[111]
The police authority and the Security Police shall cooperate with each other and with the prosecuting authorities.
The police authority shall continuously cooperate with the authorities within the social services and as soon as possible inform them of circumstances that should give rise to any action by them.
Provisions on the obligation to notify the social welfare board that a child may need the board's protection are found in Chapter 14 Section 1 of the Social Services Act (2001:453).
The police authority and the Security Police **shall also co-operate with other authorities** and organizations whose activities concern police activities. Other authorities must provide support to the police in their work. Lag (2014:588).

General principles for police intervention
Section 8
A police officer who has to carry out an official task shall, in compliance with what is prescribed in law or another statute, **intervene in a manner that is justifiable with regard to the purpose of the measure and other circumstances**. If **coercion** must be resorted to, this shall be done only in the form and **to the extent necessary** for the intended result to be achieved.[112]

[111] **Samverkan med andra myndigheter och organisationer**
6 § Polislag
Polismyndigheten och Säkerhetspolisen ska samarbeta med varandra och med åklagarmyndigheterna.
Polismyndigheten ska fortlöpande samarbeta med myndigheterna inom socialtjänsten och snarast underrätta dessa om förhållanden som bör föranleda någon åtgärd av dem.
Bestämmelser om skyldighet att anmäla till socialnämnden att ett barn kan behöva nämndens skydd finns i 14 kap. 1 § socialtjänstlagen (2001:453).
Polismyndigheten och Säkerhetspolisen ska också samarbeta med andra myndigheter och organisationer vilkas verksamhet berör polisverksamheten.
Andra myndigheter ska ge polisen stöd i dess arbete.
Lag (2014:588).
[112] **Allmänna principer för polisingripanden**
8 § Polislag
En polisman som har att verkställa en tjänsteuppgift skall under iakttagande av vad som föreskrivs i lag eller annan författning ingripa på ett sätt som är försvarligt med hänsyn till åtgärdens syfte och övriga omständigheter. Måste

An intervention that restricts any of the fundamental freedoms and rights referred to in Chapter 2 the form of government may not be based solely on the provisions of the first paragraph.

Reporting obligation
Section 9[113]
When a police officer **becomes aware of a crime** that is subject to public prosecution, he **shall report it to his foreman** as soon as it can take place.
A police officer may grant a remission of the report if the crime in view of the circumstances of the particular case is insignificant and it is obvious that the crime would not give rise to a sanction other than a fine. Lag (1998:27).

Act (2000:1225) on penalties for smuggling/*Lag (2000:1225) om straff för smuggling.*
Section 1a[114]
Sections 37–39 contain special provisions on the right of an official at the Swedish Customs to intervene in certain cases against crimes that are not covered by the Swedish Customs' authority to initiate a preliminary investigation. Lag (2021:761).

Preliminary investigation and coercive measures
Preliminary investigation etc.
Section 19
The Swedish Customs may make a decision to initiate a preliminary investigation in accordance with Chapter 23. the Code of Judicial Procedure regarding offenses under this Act or other offenses referred to in section 1, second paragraph. The powers and obligations that the head of the investigation has according to the Code of Judicial Procedure apply in such a case to the Swedish Customs. The Swedish Customs shall appoint special executives in the agency to fulfil the agency's tasks.[115]

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tvång tillgripas, skall detta ske endast i den form och den utsträckning som behövs för att det avsedda resultatet skall uppnås.
Ett ingripande som begränsar någon av de grundläggande fri- och rättigheter som avses i 2 kap. regeringsformen får ej grundas enbart på bestämmelserna i första stycket.

[113] **Rapporteringsskyldighet**
9 § Polislag
När en polisman får kännedom om ett brott som hör under allmänt åtal, skall han lämna rapport om det till sin förman så snart det kan ske.
En polisman får lämna rapporteftergift om brottet med hänsyn till omständigheterna i det särskilda fallet är obetydligt och det är uppenbart att brottet inte skulle föranleda annan påföljd än böter. Lag (1998:27).

[114] **1a §**
I 37-39 §s finns särskilda bestämmelser om rätten för en tjänsteman vid Tullverket att i vissa fall även ingripa mot brott som inte omfattas av Tullverkets befogenhet att inleda förundersökning. Lag (2021:761).

[115] **Förundersökning och tvångsmedel**
Förundersökning m.m.
19 §

If the case is not of a simple nature, the management of the preliminary investigation shall be taken over by the prosecutor as soon as anyone can reasonably be suspected of the crime. The prosecutor must also otherwise take over the management when this is called for special reasons.
When a preliminary investigation is led by a prosecutor, the prosecutor may hire an assistant from the Swedish Customs or the Coast Guard. The prosecutor may also instruct officials at the Swedish Customs or the Coast Guard to take a certain measure that belongs to the preliminary investigation, if it is appropriate with regard to the nature of the measure. If the preliminary investigation is led by the Swedish Customs, the agency may hire an assistant from the Coast Guard or a Coast Guard official. Lag (2019:42).

Section 20[116]
Before a preliminary investigation has been initiated, an official at the Swedish Customs or the Coast Guard may, in accordance with what is prescribed in Chapter 23. Section 3 fourth paragraph of the Code of Judicial Procedure hold hearings and take other investigative measures that are relevant to the investigation of crimes under this Act or other crimes referred to in Section 1 second paragraph. Measures taken must be reported as soon as possible to the person who has the right to conduct a preliminary investigation into the crime.
What is prescribed in Chapter 23 Section 8 of the Code of Judicial Procedure on the power of a police officer to summon someone to accompany for questioning and to bring someone for questioning also applies to an official at the Swedish Customs or the Coast Guard when investigating crimes under this Act or other crimes referred to in section 1, second paragraph. Lag (2016:545).

Tullverket får fatta beslut om att inleda förundersökning enligt 23 kap. rättegångsbalken angående brott enligt denna lag eller andra brott som avses i 1 § andra stycket. De befogenheter och skyldigheter som undersökningsledaren har enligt rättegångsbalken gäller i sådant fall Tullverket. Tullverket ska förordna särskilda befattningshavare i verket att fullgöra verkets uppgifter.
Om saken inte är av enkel beskaffenhet, ska ledningen av förundersökningen övertas av åklagaren så snart någon skäligen kan misstänkas för brottet. Åklagaren ska även annars överta ledningen när detta är påkallat av särskilda skäl.
När en förundersökning leds av en åklagare får åklagaren anlita biträde av Tullverket eller Kustbevakningen. Åklagaren får också uppdra åt tjänstemän vid Tullverket eller Kustbevakningen att vidta en viss åtgärd som hör till förundersökningen, om det är lämpligt med hänsyn till åtgärdens beskaffenhet. Om förundersökningen leds av Tullverket får verket anlita biträde av Kustbevakningen eller en kustbevakningstjänsteman. Lag (2019:42).

[116] **20 §**
Innan förundersökning har hunnit inledas, får en tjänsteman vid Tullverket eller Kustbevakningen i enlighet med vad som föreskrivs i 23 kap. 3 § fjärde stycket rättegångsbalken hålla förhör och vidta andra utredningsåtgärder som är av betydelse för utredningen av brott enligt denna lag eller andra brott som avses i 1 § andra stycket. Vidtagna åtgärder ska så snart som möjligt anmälas för den som har rätt att leda förundersökning om brottet.
Det som föreskrivs i 23 kap. 8 § rättegångsbalken om befogenhet för en polisman att uppmana någon att följa med till förhör och att ta med någon till förhör gäller även för en tjänsteman vid Tullverket eller Kustbevakningen vid utredning av brott enligt denna lag eller andra brott som avses i 1 § andra stycket. Lag (2016:545).

The next part summarizes some **powers of the authorities investigating** on behalf of the EDPs: **5**

Section 20a[117]
An official at the Swedish Customs or the Coast Guard has the same authority as a police officer in accordance with Chapter 23 of this Act or other crimes referred to in section 1, second paragraph. Section 9a of the Code of Judicial Procedure to, after notice, temporarily dispose of electronic communication equipment from the person to be heard and decide on a body search.
With regard to termination of care and record keeping, Chapter 23 Section 9b of the Code of Judicial Procedure applies. Lag (2016:545).

Tax Crimes Act (1971:69)/*Skattebrottslag (1971:69)*
Section 17[118]
Administrative authorities that handle issues concerning taxes or fees shall make a report to the prosecutor as soon as there is reason to assume that a crime has been committed in accordance with this Act. However, this does not apply if it can be assumed that the crime will not result in a sanction under this Act or if notification for other reasons is not required. The Swedish Tax Agency may fulfil the obligation to report to a unit within the agency that is to participate in a criminal investigation, if there is no reason to assume that the crime gives rise to a sanction other than a fine and the suspect can be assumed to admit the act. However, this only applies if the suspect has reached the age of twenty-one.
If a provision deviating from the regulations in the first paragraph has been issued in law or regulation, that provision applies. Law (2003:682).

[117] **20a §**
En tjänsteman vid Tullverket eller Kustbevakningen har i fråga om brott enligt denna lag eller andra brott som avses i 1 § andra stycket samma befogenhet som en polisman har enligt 23 kap. 9a § rättegångsbalken att efter tillsägelse tillfälligt omhänderta elektronisk kommunikationsutrustning från den som ska höras och besluta om kroppsvisitation.
I fråga om upphörande av omhändertagandet och protokollföring ska 23 kap. 9b § rättegångsbalken gälla. Lag (2016:545).

[118] **17 § Lag (2000:1225) om straff för smuggling**
Förvaltningsmyndigheter som handlägger frågor om skatter eller avgifter skall göra anmälan till åklagaren så snart det finns anledning att anta att brott enligt denna lag har begåtts. Detta gäller dock inte om det kan antas att brottet inte kommer att medföra påföljd enligt denna lag eller om anmälan av annat skäl inte behövs. Skatteverket får fullgöra anmälningsskyldigheten till enhet inom verket som skall medverka vid brottsutredning, om det inte finns skäl att anta att brottet föranleder annan påföljd än böter och den misstänkte kan antas erkänna gärningen. Detta gäller dock endast om den misstänkte fyllt tjugoett år.
Har i lag eller förordning meddelats bestämmelse som avviker från föreskrifterna i första stycket gäller den bestämmelsen.
Lag (2003:682).

Security Protection Act (2018: 585)/*säkerhetsskyddslagen (2018:585)*
Chapter 3 Security clearance […]
Section 3[119]
The security assessment shall be carried out before participation in the security-sensitive activities begins and shall include a basic investigation as well as register control and a special personal investigation to the extent specified in sections 13, 14 and 17. If there are special reasons, the security assessment may be made less extensive.

Special personal investigation
Section 17[120]
A special personal investigation shall be carried out during a register check that refers to such employment or other participation in activities that have been placed in security class 1 or 2. The investigation shall include an investigation of the person's financial situation. In other respects, the investigation must have the necessary scope.

bb. Via National Administrative Decrees

6 The national decrees might contain further information. They are law, which follows under the main Swedish Statutes.

d) Urgent Measures in Accordance with National Law Necessary to Ensure Effective Investigations

7 E.g. provisions in relation to the gathering of evidence quickly are the following:

Code of Judicial Procedure (1942:740)/*Rättegångsbalk RB (1942:740)*
Chapter 23 About preliminary investigation
Section 5
According to Chapter 21 Section 3a or 3b a public defender is appointed for the suspect or the previously accused, the head of the investigation shall report it to the court.[121] The

[119] **3 § säkerhetsskyddslagen**
Säkerhetsprövningen ska göras innan deltagandet i den säkerhetskänsliga verksamheten påbörjas och ska innefatta en grundutredning samt registerkontroll och särskild personutredning i den omfattning som anges i 13, 14 och 17 §s. Om det finns särskilda skäl får säkerhetsprövningen göras mindre omfattande.
Säkerhetsprövningen ska följas upp under den tid som deltagandet i den säkerhetskänsliga verksamheten pågår.
[120] **3 kap. Säkerhetsprövning**
[…]
Särskild personutredning
17 § säkerhetsskyddslagen
En särskild personutredning ska göras vid en registerkontroll som avser sådan anställning eller annat deltagande i verksamhet som har placerats i säkerhetsklass 1 eller 2. Utredningen ska omfatta en undersökning av den kontrollerades ekonomiska förhållanden. I övrigt ska utredningen ha den omfattning som behövs.
[121] **23 Kap. Om förundersökning**
5 §
Ska enligt 21 kap. 3 a eller 3 b § en offentlig försvarare utses för den misstänkte eller den tidigare tilltalade, ska undersökningsledaren göra anmälan om det hos rätten. Undersökningsledaren ska också göra anmälan hos rätten, om målsäganden begär att få ett målsägandebiträde eller om det annars finns anledning att förordna ett sådant

head of the investigation must also report to the court, if the plaintiff requests a plaintiff's counsel or if there is otherwise reason to appoint such a counsel. Does the preliminary investigation refer to crimes according to Chapter 6 the Criminal Code, notification of plaintiff's counsel shall be made immediately when the preliminary investigation has been initiated or resumed, unless it is obvious that the plaintiff has no need for such counsel.
If no preliminary investigation is in progress, the report in accordance with the first paragraph shall be made by the prosecutor. Lag (2018:619).

Section 8[122]
Upon the instruction of a police officer, a person who is at the place where a crime is committed is obliged to accompany to an interrogation which is held **immediately afterwards**. If he refuses without a valid reason, the policeman may take him to the interrogation.
What is said in the first paragraph also applies to those who are in an area adjacent to the place where a crime was recently committed, unless a lesser sentence than four years' imprisonment is prescribed for the crime. This also applies to attempts at such a crime.
The provisions in the first and second paragraphs also apply before the preliminary investigation has begun. Lag (1994:1412).

Chapter 24 About arrest and detention
Section 7[123]
If there is reason to arrest someone, a police officer may in urgent cases arrest him even **without an arrest decision.**
If the person who has committed a crime, on which imprisonment may follow, is found naked or **fleeing, he may be arrested by anyone**. Everyone can also arrest those who

biträde. Avser förundersökningen brott enligt 6 kap. brottsbalken, ska anmälan om målsägandebiträde göras omedelbart när förundersökningen har inletts eller återupptagits, om det inte är uppenbart att målsäganden saknar behov av sådant biträde.
Om det inte pågår någon förundersökning ska anmälan enligt första stycket göras av åklagaren. Lag (2018:619).

[122] **8 §**
På tillsägelse av en polisman är den som befinner sig på den plats, där ett brott förövas, skyldig att medfölja till ett förhör som hålls omedelbart därefter. Vägrar han utan giltig orsak, får polismannen ta med honom till förhöret.
Vad som sägs i första stycket gäller också den som befinner sig inom ett område i anslutning till den plats där ett brott nyligen förövats, om det för brottet inte är föreskrivet lindrigare straff än fängelse i fyra år. Detta gäller också vid försök till ett sådant brott.
Bestämmelserna i första och andra styckena gäller även innan förundersökning hunnit inledas. Lag (1994:1412).

[123] **24 Kap. Om häktning och anhållande**
7 §
Om det finns skäl att anhålla någon, får en polisman i brådskande fall gripa honom även utan anhållningsbeslut.
Om den som har begått brott, på vilket fängelse kan följa, påträffas på bar gärning eller flyende fot, får han gripas av envar. Envar får också gripa den som är efterlyst för brott. Den gripne skall skyndsamt överlämnas till närmaste polisman. Lag (1987:1211).

are wanted for crime. The arrested person must be immediately handed over to the nearest police officer. Lag (1987:1211).

e) Provisions in Relation to the Gathering of Evidence

8

Code of Judicial Procedure (1942:740)/*Rättegångsbalk RB (1942:740)*

Chapter 23 About Preliminary Investigation

Section 2[124]

During the preliminary investigation, it shall be investigated who can reasonably be suspected of the crime and whether there are sufficient reasons for prosecution against him, and the case shall be prepared so that the evidence can be presented at the main hearing in one context.

Section 4[125]

A preliminary investigation shall be conducted objectively. During the preliminary investigation, the head of the investigation and the person assisting him or her must search for, take advantage of and take into account circumstances and evidence that speak both to the suspect's advantage and to his or her disadvantage.

The preliminary investigation shall be conducted so that no one is unnecessarily exposed to suspicion or caused cost or inconvenience. The preliminary investigation must also be conducted as expeditiously as the circumstances allow. If there is no longer any reason to complete the preliminary investigation, it must be closed.

Law enforcement activities prior to a preliminary investigation must also be conducted objectively. Lag (2016:546).

Section 7

Anyone who, without a valid reason, fails to comply with a summons to appear for an interrogation may be brought to the interrogation, if it has been arranged to be held at a place within a distance of ten miles from the place where he or she has his or her home or upon receipt of the summons.[126]

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[124] **2 §**
Under förundersökningen skall utredas, vem som skäligen kan misstänkas för brottet och om tillräckliga skäl föreligga för åtal mot honom, samt målet så beredas, att bevisningen kan vid huvudförhandlingen förebringas i ett sammanhang.

[125] **4 §**
En förundersökning ska bedrivas objektivt. Vid förundersökningen ska undersökningsledaren och den som biträder honom eller henne söka efter, ta till vara och beakta omständigheter och bevis som talar såväl till den misstänktes fördel som till hans eller hennes nackdel.
Förundersökningen ska bedrivas så att inte någon onödigt utsätts för misstanke eller orsakas kostnad eller olägenhet. Förundersökningen ska också bedrivas så skyndsamt som omständigheterna medger. Om det inte längre finns anledning att fullfölja förundersökningen, ska den läggas ned.
Även brottsbekämpande verksamhet före en förundersökning ska bedrivas objektivt. Lag (2016:546).

[126] **7 §**

Without prior notice, the person staying within ten miles of the place where the hearing is to be held may be picked up at the hearing, if the investigation concerns a crime which may result in imprisonment and there is a reasonable fear that he or she would not comply with a summons or that he or she, due to a summons, would, by removing evidence or otherwise complicate the investigation.
When it is of particular importance to the investigation that the interrogation takes place, collection in accordance with the first or second paragraph may take place regardless of the length of the road.
Pick-up for questioning by the person to be heard as a witness or otherwise without being suspected of a crime should take place only when there are reasons of special importance for such a measure.
If the person to be heard is arrested or detained, he or she must be placed at the place determined for the hearing.
Lag (2002:440).

Section 15[127]
At the request of the head of the investigation or the suspect, the court may take evidence during the preliminary investigation if;
1. there is a risk that evidence to be relied on at the main hearing before that is lost or becomes difficult to take up at the hearing, or
2. someone is reasonably suspected of the crime and has been notified of the suspicion in accordance with section 18 and it is appropriate to take evidence.
In assessing whether it is appropriate to take evidence in accordance with the first paragraph 2, the court shall take into account the scope of the investigation, the nature of the

Den som utan giltig orsak underlåter att följa en kallelse att inställa sig till ett förhör får hämtas till förhöret, om det har satts ut att hållas på en plats inom en väglängd av tio mil från den plats där han eller hon har sin bostad eller vid kallelsens mottagande uppehöll sig.
Utan föregående kallelse får den som uppehåller sig inom en väglängd av tio mil från den plats där förhör skall hållas hämtas till förhöret, om undersökningen avser ett brott på vilket fängelse kan följa och det skäligen kan befaras att han eller hon inte skulle följa en kallelse eller att han eller hon med anledning av en kallelse skulle genom undanröjande av bevis eller på annat sätt försvåra utredningen.
När det är av synnerlig vikt för utredningen att förhöret äger rum, får hämtning enligt första eller andra stycket ske oavsett väglängden.
Hämtning till förhör av den som skall höras som vittne eller annars utan att vara misstänkt för brott, bör äga rum endast när det föreligger skäl av särskild vikt för en sådan åtgärd.
Är den som skall höras anhållen eller häktad, skall han eller hon inställas på den plats som bestämts för förhöret. Lag (2002:440).

[127] **15 §**
På yrkande av undersökningsledaren eller den misstänkte får rätten ta upp bevis under förundersökningen om
1. det finns en risk att ett bevis som ska åberopas vid huvudförhandlingen dessförinnan går förlorat eller blir svårt att ta upp vid förhandlingen, eller
2. någon är skäligen misstänkt för brottet och har underrättats om misstanken enligt 18 § och det är lämpligt att ta upp bevis.
Vid bedömningen av om det enligt första stycket 2 är lämpligt att ta upp bevis ska rätten beakta utredningens omfattning, brottets beskaffenhet, bevisupptagningens betydelse för frågan om att häva ett häktningsbeslut eller restriktioner enligt 24 kap. 5 a § och övriga omständigheter. Lag (2021:1107).

crime, the significance of the taking of evidence for the question of revoking an arrest decision or restrictions under Chapter 24 Section 5a and other circumstances. Lag (2021:1107).

Section 15a[128]
A meeting for the taking of evidence in accordance with section 15 shall be held expeditiously. If the taking of evidence can be assumed to be relevant to the question of revoking an arrest decision or restrictions, the meeting shall be held before or at a new hearing on the arrest issue, but no later than two weeks after the claim has been made. Lag (2021:1107).

Section 15b[129]
The provisions on evidence taken up outside the main hearing also apply, mutatis mutandis, to evidence taken up by the court during the preliminary investigation. If a suspect is to be heard in accordance with section 15, however, the court may, if necessary, with regard to the investigation, decide on exceptions in terms of summons and presence with regard to other suspects and their defenders in the same case.
The cost of taking evidence and of suspecting the suspect shall be borne by public funds. The Government may, with the support of Chapter 8. Section 7 of the form of government shall issue more detailed regulations on compensation for the suspect's suspension. Lag (2021:1107).

About evidence
35 Chap. About evidence in general

Section 1[130]
The court shall, after a conscientious examination of everything that has occurred, decide what has been proven in the case.
What if the effect of a certain kind of evidence is stipulated does not apply?

[128] **15a §**
Ett sammanträde för bevisupptagning enligt 15 § ska hållas skyndsamt. Om bevisupptagningen kan antas få betydelse för frågan om att häva ett häktningsbeslut eller restriktioner ska sammanträdet hållas före eller vid en ny förhandling i häktningsfrågan, dock senast inom två veckor efter det att yrkandet har framställts. Lag (2021:1107).
[129] **15b §**
Bestämmelserna om bevis som tas upp utom huvudförhandling gäller i tillämpliga delar även för bevis som tas upp av rätten under förundersökningen. Ska en misstänkt höras enligt 15 § gäller dock att rätten, om det är nödvändigt med hänsyn till utredningen, får besluta om undantag i fråga om kallelse och närvaro när det gäller andra misstänkta och deras försvarare i samma mål.
Kostnaden för bevisupptagningen och för den misstänktes inställelse ska betalas av allmänna medel.
Regeringen kan med stöd av 8 kap. 7 § regeringsformen meddela närmare föreskrifter om ersättning för den misstänktes inställelse. Lag (2021:1107).
[130] **TREDJE AVDELNINGEN**
Om bevisning
35 Kap. Om bevisning i allmänhet
1 §
Rätten skall efter samvetsgrann prövning av allt, som förekommit, avgöra, vad i målet är bevisat.
Vad om verkan av visst slag av bevis är stadgat vare gällande.

Section 2[131]
Evidence is not required for a circumstance that is generally known nor is proof required of what the law stipulates. Should foreign law be notified and its content is not known to the court, the court may, however, summon a party to provide evidence to that effect.

Section 3[132]
If a party to the proceedings acknowledges a certain circumstance and the matter is such that a settlement is permitted, what the party has acknowledged shall apply to him. If the party withdraws its recognition, the court shall examine in the light of the reasons given for the revocation and other circumstances, what effect as evidence may be added to the recognition.
If the matter is not as stated in the first paragraph, the court shall, in view of the circumstances, examine what effect a party's recognition may have as evidence.

[131] **2 §**
För omständighet, som är allmänt veterlig, kräves icke bevis.
Ej heller erfordras bevis om vad lag stadgar. Skall främmande lag lända till efterrättelse och är ej dess innehåll för rätten känt, äge dock rätten anmana part att förebringa bevisning därom.
[132] **3 §**
Erkänner part i rättegången viss omständighet och är saken sådan, att förlikning därom är tillåten, skall vad parten erkänt gälla mot honom. Återkallar parten sitt erkännande, pröve rätten med hänsyn till de skäl, som anföras för återkallelsen, och övriga omständigheter, vilken verkan som bevis må tillkomma erkännandet.
Är saken ej sådan som i första stycket sägs, pröve rätten med hänsyn till omständigheterna, vilken verkan parts erkännande må äga som bevis.

4. Art. 29 Lifting privileges or immunities

3. Lifting Privileges or Immunities 128
a) National Privilege and Immunity Provisions, Para 1 128
b) Immunities and Privileges Under Union Law, Para 2 129

1. Where the investigations of the EPPO involve persons protected by a privilege or immunity **under national law**, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting **in accordance with the procedures laid down by that national law.**
2. Where the investigations of the EPPO involve persons protected by privileges or immunities under the Union law, in particular the Protocol on the privileges and immunities of the European Union, and such privilege or immunity presents an obstacle to a specific investigation being conducted, the European Chief Prosecutor shall make a reasoned written request for its lifting in accordance with the procedures laid down by Union law.

a) National Privilege and Immunity Provisions, Para 1

1 First of all, it should be remembered that Members of Parliament have absolute **freedom of speech in their parliament** as this is granted for its members. This situation in most member states is comparable. This constitutional mechanism keeps the instruments of **checks and balances** in place.[133] Although, it might be unjust for the private individual, it also guarantees a **level of transparency**. The *telos* and *ratio legis* are to ensure that they also enjoy **freedom from arrest for any civil debt and can operate their political activity** (without the fear of *fumus persecutionis*[134] "that is, where proceedings are brought by a political adversary or appear to be motivated primarily by the desire to harm the MEP"[135]).

2 Therefore the main legal defence strategies under Article 29 EPPO Regulation include putting arguments forward for any procedural errors, competence issues, breaches of immunity rights, and violations of EU fundamental rights. Main arguments might rely on non-compliance with essential procedural rules, lack of legal basis, EPPO exceeding

[133] Callewaert 2021 questions whether the EPPO is tied to ECtHR case-law, if it would, it could apply in cases regarding Art. 29. Already in 2017 Negri tried to find best practices for the EPPO. Nowadays some are already established, but still a profound EPPO related jurisprudence is missing–despite the recent cases of the ECJ. Staffler 2024 on procedural safeguards that are equally protected in nearly all democratic constitutions, see mn. 50–52.
[134] See Stöger JRP 2015, 147. This concept is known in the Member states, see Iovene, Recchia 2017, p. 162.
[135] For this definition see Bradely 2018, Chapter 14, III. Part E.

its competence, infringement of Articles 7–9 of Protocol No. 7, and failure to recognise *fumus persecutionis*.[136]

Section 3 CPC[137] **3**

A person who is or has been married to a party or is in the right ascending or descending relationship or brother-in-law or is a sibling or is in the brother-in-law, that one is or has been married to the other's siblings, or who is similarly related to the party, be not obliged to testify.

If a person is a party's deputy in such a relationship, as has now been said, he shall not, as a result, refrain from testifying. Lag (1973:240).

Code of Judicial Procedure **4**

Chapter 39 On sight

Section 5[138]

Holds any object, which can be conveniently moved to the court and which can be assumed to have significance as evidence, whether he is obliged to provide it for sight; such an obligation does not, however, be imposed in a criminal case on the suspect or the person to whom he is in such a relationship, as referred to in Chapter 36. Section 3. The statute in Chapter 36 Section 6 if a witness' right to refuse to testify has a corresponding application in respect of the right of a party or another to refuse to provide the object of sight. If the obligation to submit a written document for inspection applies to what in Chapter 38 Section 2 is stipulated.

What in Chapter 38 Sections 3–9 is stipulated to have a corresponding application regarding objects or written documents, which must be provided for inspection. Lag (1980:101).

b) Immunities and Privileges Under Union Law, Para 2

Cf. → Article 29 EPPO Regulation and the subsequent analysis. Union law differs from national law and is not researched here in-depth. **Union law contains a** protocol, which **5**

[136] See e.g. the Action brought on 19 April 2024–*Kaili v Parliament* (Case T-212/24). The decision shows that the EPPO is closely scrutinized by defence lawyers.

[137] **3 § Rättegångsbalk (1942:740)**

Den som med part är eller varit gift eller är i rätt upp- eller nedstigande släktskap eller svågerlag eller är syskon eller är i det svågerlag, att den ene är eller varit gift med den andres syskon, eller som på liknande sätt är parten närstående, vare ej skyldig att avlägga vittnesmål.

Står någon till parts ställföreträdare i sådant förhållande, som nu sagts, äge han ej på grund därav undandraga sig att vittna. Lag (1973:240).

[138] **5 §** Innehar någon föremål, som lämpligen kan flyttas till rätten och som kan antagas äga betydelse som bevis, vare han skyldig att tillhandahålla det för syn; sådan skyldighet åligge dock ej i brottmål den misstänkte eller den som till honom står i sådant förhållande, som avses i 36 kap. 3 §. Stadgandet i 36 kap. 6 § om vittnes rätt att vägra att yttra sig äge motsvarande tillämpning i fråga om rätt för part eller annan att vägra att tillhandahålla föremål för syn. Om skyldighet att förete skriftlig handling för syn gälle vad i 38 kap. 2 § är stadgat.

Vad i 38 kap. 3-9 §s är stadgat äge motsvarande tillämpning beträffande föremål eller skriftlig handling, som skall tillhandahållas för syn. Lag (1980:101).

will apply if the immunity or a privilege of a Union official needs to be lifted. It is enshrined in the consolidated version of the Treaty on the Functioning of the European Union **Protocol (No 7) on the privileges and immunities of the European Union** (OJ C 326, 26.10.2012, p. 266–272)". Here are two **template examples** (see footnote):

6

Annex 3 - Request for the waiver of immunity In accordance with Article 5 / Article 6 of the Working Arrangements between the European Parliament and the European Public Prosecutor's Office, it herewith submits a request to waive the immunity of
1. EPPO case references
2. Name of the person concerned and all other identification details available (nationality, personnel number, place of employment)
3. Context and factual background of the EPPO investigation
4. Alleged offence(s) and applicable national law
5. Proposed legal basis for the waiver
6. In case the official / other servant of the EU cannot be informed of and heard on the request to waive the immunity, the detailed grounds for not hearing the person concerned, so as to enable the Parliament to proceed to the necessary evaluation
7. Any other relevant information [signature of the requesting EPPO]

Annex 4 - Request to lift the inviolability of the European Parliament's premises / buildings / archives In accordance with Article 7 of the Working Arrangements, the European Public Prosecutor's Office herewith submits a request to lift the inviolability of the European Parliament's premises/buildings/archives:
1. EPPO Case references
2. Name of person(s) concerned by the request, all other identification details available (nationality, personnel number, place of employment) and their respective status in the investigation;
3. Context and factual background of the EPPO investigation
4. Alleged offence(s) and applicable national law
5. Documents requested and/or premises to be accessed
6. If applicable, an explanation as to why a waiver of immunity of the person against whom the investigation is directed is not necessary at this stage of the proceedings
7. If applicable, a specific motivation if any restriction under Article 25 of Regulation (EC) 2018/1725 shall be applied
8. Any other relevant information [signature of the requesting EPPO][139]

[139] Two examples, which are commonly attached to the Working Arrangements, which the EPPO concluded with the EU IBOAs, EU Commission, EU Parliament, EU Council and EIB, EIF, Court Court of Auditors, Europol etc. – even with some national (private and state) partners, if they allocate EU money. See C(2021) 4012 final. And see https://www.steppo-eulaw.com/Topic6/EPPO%20and%20European%20Commission%20Working%20Agreement.pdf; https://www.eppo.europa.eu/sites/default/files/2021-12/Working%20Arrangement%20EPPO%2C%20EIB%20and%20EIF%20signed%20on%207%20December%202021.pdf. Please see online for more.

[…]

SECTION 2

Rules on Investigation Measures and Other Measures

5. Art. 30 Investigation Measures and Other Measures

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1. At least in cases where the offence subject to the investigation is punishable by a maximum penalty of at least 4 years of imprisonment, Member States shall ensure that the European Delegated Prosecutors are entitled to order or request the following investigation measures:
(a) search any premises, land, means of transport, private home, clothes and any other personal property or computer system, and take any conservatory measures necessary to preserve their integrity or to avoid the loss or contamination of evidence;
(b) obtain the production of any relevant object or document either in its original form or in some other specified form;
(c) obtain the production of stored computer data, encrypted or decrypted, either in their original form or in some other specified form, including banking account data and traffic data with the exception of data specifically retained in accordance with national law pursuant to the second sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council;
(d) freeze instrumentalities or proceeds of crime, including assets, which are expected to be subject to confiscation by the trial court, where there is reason to believe that the owner, possessor or controller of those instrumentalities or proceeds will seek to frustrate the judgement ordering confiscation.
(e) intercept electronic communications to and from the suspect or accused person, over any electronic communication means that the suspect or accused person is using;
(f) track and trace an object by technical means, including controlled deliveries of goods.
2. Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.
3. The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article may be subject to further conditions, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.
4. The European Delegated Prosecutors shall be entitled to request or to order any other measures in their Member State that are available to prosecutors under national law in similar national cases, in addition to the measures referred to in paragraph 1.
5. The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. The

procedures and the modalities for taking the measures shall be governed by the applicable national law.

1 Art. 30 EPPO Regulation deals mainly with **coercive measures**, i.e. such measures that may fundamentally challenge or **infringe basic rights of the (suspected) individual**. Intrusive investigative measures, which EDPs might need to use to discover and untangle PIF offences as well to establish evidence for a trial before a Swedish Court can be found in Chapters 24, 25, 26, 27, and 28 of the **Code of Judicial Procedure**. This part is no commentary of these **provisions** (pls refer to Swedish literature for comments on certain provisions), but they **present the applicable national law** and are therefore useful if reading into the sections – either as a national prosecutor or a Swedish EDP or even a foreign EDP or prosecutor.

2 a) Member States Shall Ensure That the European Delegated Prosecutors are Entitled to Order or Request

Nota bene: The authorization of an EDP (the "handling" EDP in one of the MS) to order or request could/should or must be enshrined in the new adaption laws which the Member States enacted in order to be fully operational for the EPPO and its tasks. As most of the Member States either amended their Criminal Procedure Code or their Code of the Organization of the Judiciary and/or the Prosecutors Act, the relevant provision(s) is (are) presented in the following. Sweden has amended none of its laws related to criminal investigations or criminal procedure as it is not part of the EPPO (yet). Nevertheless, Sweden protects the EU budget via the *PIF Aquis* – especially the PIF Directive (EU) 2017/1371 and offers various special rules on the domestic investigation i.e. the investigation of Prosecutors involved in the protection of the EU budget.

3 In 2022 Sweden had no special Adoption law, but a Swedish Expert Study, conducted on the question on how to accommodate the EPPO in the Swedish Justice sector proposed a lot of legislative amendments, which would in the end establish such an adoption law. The EU Commission was informed in the **34th PIF Report** that Sweden was undertaking legislative measures to amend its criminal legislation in order to be compliant with Articles 3.2d i, 3.2d iii and article 5.2 PIF Directive:

4 "Q.3. For the Member States having replied yes. By when do you expect to complete the modification of national legislation to **correctly transpose the PIF Directive**? The Commission has stated in a formal notification that Sweden has failed to correctly incorporate articles 3.2d i, 3.2d iii and article 5.2 compared with article 3.2a and 3.2b, into its national legislation. Before the Government can draw up a legislative proposal, the matter must be analysed. In June 2022, the Swedish Government decided to appoint a commission of inquiry to, *inter alia*, propose measures regarding the first part of the formal notice from the Commission (3.2d i and 3.2d iii). The inquiry will submit its

report by 31 August 2023. When it comes to the second part of the formal notice (5.2 compared with article 3.2a and 3.2b), the Government has proposed, in a proposal referred to the Council of Legislation, that attempting to commit subsidy abuse or gross subsidy abuse should be criminalised. The amendments are proposed to enter into force on 1 June 2023."[140]

b) Investigation Measures

aa. Para 1(a)

(1) Search Measures, Ch. 28 Code of Judicial Procedure

(a) Search Any Premises or Land, Search Any Means of Transport, Search Any Private Home

Chapter 28 Code of Judicial Procedure **Section 1**[141] If there is reason to assume that a crime has been committed that could result in imprisonment, a search may be carried out **in a house, room or closed storage place to search for objects that can be seized or kept or that can be used to carry out a remote search** or otherwise to find out circumstances that may be of importance for investigation of the crime or confiscation of exchange of criminal activity according to ch. 36 Section 1b of the Criminal Code. [S2] However, a house search may only be carried out on someone other than the person who can reasonably be suspected of the crime if the crime has been committed at his or her place or if the suspect has been arrested there or if there is otherwise a special reason that items that can be seized should be found during the search or in custody or that other investigation about the crime or about confiscation of exchange of criminal activity according to ch. 36 Section 1b of the Criminal Code can be won.	**5**

[140] EU Commission, Commission Staff Working Document, Follow-up by Member States to the recommendations of the PIF Report 2021 Accompanying the document, Report from the Commission to the Council and the European Parliament, 34th Annual Report on the protection of the European Union's financial interests and the fight against fraud–2022, p. 78.

[141] **Kap. 28 1 § RB** Om det finns anledning att anta att ett brott har begåtts på vilket fängelse kan följa, får husrannsakan företas i hus, rum eller slutet förvaringsställe för att söka efter föremål som kan tas i beslag eller i förvar eller som kan användas för att utföra en genomsökning på distans eller annars för att utröna omständigheter som kan vara av betydelse för utredning om brottet eller om förverkande av utbyte av brottslig verksamhet enligt 36 kap. 1b § brottsbalken.
[S2]Hos annan än den som skäligen kan misstänkas för brottet får husrannsakan dock företas bara om brottet har begåtts hos honom eller henne eller om den misstänkte har gripits där eller om det annars finns synnerlig anledning att det vid husrannsakan ska anträffas föremål som kan tas i beslag eller i förvar eller att annan utredning om brottet eller om förverkande av utbyte av brottslig verksamhet enligt 36 kap. 1b § brottsbalken kan vinnas.
[S3]För husrannsakan hos den misstänkte får hans eller hennes samtycke inte åberopas i något fall, om inte den misstänkte själv har begärt att husrannsakan ska göras. Lag (2022:316).

[S3] For the search of the suspect's house, his or her consent may not be invoked in any case, unless the suspect himself has requested that the search be carried out. Law (2022:316).

Section 2
For searches of the person who is to be arrested, detained or detained, taken for questioning or to appear before the court or subject to a body search or body search, the house search may be carried out at his place, or at someone else's place if there is special reason to assume that the person searched resides there. The same applies in the case of a defendant who is sought for service of a summons or summons to a hearing, if attempts at service have failed or are judged to be hopeless. Law (1995:637).

Section 2a[142]
In order to search for someone who is to be arrested, detained or detained as a suspect of a crime, for which a lighter punishment than imprisonment for four years is not prescribed, or an attempt to commit such a crime, the house search may be carried out ***in a means of transport in a certain place***, if there is particular reason to assume that the person sought may pass the location. Law (1991:666).

Section 3[143]
In a premises that is accessible to the public, for purposes referred to in Section 1 or 2, a house search may also take place in cases other than those referred to there.
[S2]In a premises that is usually used jointly by persons who can be assumed to engage in criminal activity, a house search may be carried out for purposes referred to in section 1 or 2, if there is reason to believe that a crime has been committed for which imprisonment of one year or more is prescribed and there is particular reason to assume that the purpose of the investigation will be fulfilled. However, this does not apply to premises that are mainly residential.

[142] **Kap. 2 a § RB** För att söka efter någon som skall gripas, anhållas eller häktas som misstänkt för brott, för vilket inte är föreskrivet lindrigare straff än fängelse i fyra år, eller försök till sådant brott, får husrannsakan företas i transportmedel på viss plats, om det finns särskild anledning att anta att den sökte kan komma att passera platsen. Lag (1991:666).
[143] **Kap. 3 § RB** I en lokal som är tillgänglig för allmänheten får för ändamål som avses i 1 eller 2 § husrannsakan ske också i annat fall än som avses där.
[S2]I en lokal som brukar användas gemensamt av personer som kan antas ägna sig åt brottslig verksamhet får för ändamål som avses i 1 eller 2 § husrannsakan ske, om det förekommer anledning att brott har förövats för vilket det är föreskrivet fängelse ett år eller däröver och det finns särskild anledning att anta att ändamålet med rannsakningen kommer att uppfyllas. Detta gäller dock inte lokal som huvudsakligen utgör bostad.
[S3]Bestämmelsen i andra stycket gäller också utrymmen och fordon som finns i omedelbar anslutning till lokalen och brukas av dem som använder lokalen. Lag (1999:72).

[S3] The provision in the second paragraph also applies to spaces and vehicles that are in immediate connection to the premises and are used by those who use the premises. Law (1999:72).

(b) Search Any Clothes and Any Other Personal Property, Chapter 28

Chapter 28 Code of Judicial Procedure **6**
Section 11[144]
If there is reason to assume that a crime has been committed that could result in imprisonment, a body search may be carried out on the person who can reasonably be suspected of the crime in order to search for items that can be seized or kept in custody or that can be used to carry out a remote scan. A body search may also otherwise be carried out in order to find out circumstances that may be of importance for the investigation of the crime or the confiscation of exchange of criminal activity according to ch. 36. Section 1b of the Criminal Code.
[S2]Someone other than the person who can reasonably be suspected of the crime may be body searched only if there is particular reason to assume that as a result such items as referred to in the first paragraph will be found or that it is otherwise of importance for the investigation of the crime or of confiscation of exchange of criminal activity according to ch. 36 Section 1b of the Criminal Code.
[S3] A body search refers to an examination of clothes and other things that someone is wearing, as well as of bags, packages and other items that someone is carrying. Law (2022:316).

(c) Search Any Computer System

Sweden has enacted new legislation on searches in informative systems as of 2022 (called: remote search/scanning): **7**

[144] **Kroppsvisitation och kroppsbesiktning**
Kap. 28 11 § RB Om det finns anledning att anta att ett brott har begåtts på vilket fängelse kan följa, får kroppsvisitation göras på den som skäligen kan misstänkas för brottet för att söka efter föremål som kan tas i beslag eller i förvar eller som kan användas för att utföra en genomsökning på distans. Kroppsvisitation får också annars göras för att utröna omständigheter som kan vara av betydelse för utredning om brottet eller om förverkande av utbyte av brottslig verksamhet enligt 36 kap. 1 b § brottsbalken.
[S2] Någon annan än den som skäligen kan misstänkas för brottet får kroppsvisiteras endast om det finns synnerlig anledning att anta att det därigenom kommer att anträffas sådana föremål som avses i första stycket eller att det annars är av betydelse för utredningen om brottet eller om förverkande av utbyte av brottslig verksamhet enligt 36 kap. 1 b § brottsbalken.
[S3] Med kroppsvisitation avses en undersökning av kläder och annat som någon bär på sig samt av väskor, paket och andra föremål som någon har med sig. Lag (2022:316).

8

Chapter 28 Code of Judicial Procedure
Section 10a[145]
Remote search involves searching for do**cuments that are stored in a readable information system** outside the electronic communication equipment used to carry out the search. Law (2022:316).

Section 10b
If there is reason to assume that a crime has been committed[146] that could lead to imprisonment, a remote search may be carried out to search for documents that may be of importance for the investigation of the crime or the confiscation of exchange of criminal activity according to ch. 36. Section 1b of the Criminal Code.
[S2] Remote searches may be carried out in a readable information system that the person who can reasonably be suspected of the crime can be assumed to have used. Even in other cases, a remote search may be carried out if there is special reason to assume that it is possible to find documents referred to in the first paragraph.
[S3] Remote scanning may only be performed through authentication in the readable information system to which the action relates. Law (2022:316)

⚖ The **Supreme Court of Sweden in Case Ö 5686-22**, a decision of 30 March 2023 judged and reviewed a remote search order involving cloud-stored data possibly located abroad. This concerned *HO v Prosecutor General*. The Court confirmed the lawfulness of remote searches based on Chapter 28 of the Code of Judicial Procedure. Next, it held that the legislation is not territorially limited and that effectiveness of criminal investigations and proportionality justify access, absent contrary international law obligations.

(2) Conservatory Measures

9

- necessary to preserve their integrity.
- necessary to avoid the loss.
- necessary to avoid the contamination of evidence.

[145] **Kap. 28 10 a § RB Genomsökning på distans**
Genomsökning på distans innebär att söka efter handlingar som finns lagrade i ett avläsningsbart informationssystem utanför den elektroniska kommunikationsutrustning som används för att utföra genomsökningen. Lag (2022:316).
[146] **Kap. 28 10 b § RB** Om det finns anledning att anta att ett brott har begåtts på vilket fängelse kan följa får en genomsökning på distans utföras för att söka efter handlingar som kan vara av betydelse för utredning om brottet eller om förverkande av utbyte av brottslig verksamhet enligt 36 kap. 1 b § brottsbalken.
[S2]Genomsökning på distans får utföras i ett avläsningsbart informationssystem som den som skäligen kan misstänkas för brottet kan antas ha använt. Även i annat fall får en genomsökning på distans utföras om det finns synnerlig anledning att anta att det går att påträffa handlingar som avses i första stycket.
[S3]Genomsökning på distans får endast utföras genom autentisering i det avläsningsbara informationssystem som åtgärden avser. Lag (2022:316).

An easy way of conserving evidence is copying it, see Chapter. 27, s. 17a et seq.: **10**

Section 17a[147] **Copying**
A document that is subject to a seizure or found during a house search or a remote search may be copied if it can reasonably be assumed to be of importance to an investigation into a crime or to confiscation of proceeds of criminal activity according to ch. 36. Section 1b of the Criminal Code.
[S2] A document that may not be confiscated according to section 2 or 3 may not be copied either. Law (2022:316)

Section 17b
Whoever lawfully executes a seizure,[148] a house search or a remote search may decide that a document must be copied in accordance with Section 17 a. Law (2022:316).

Section 12
Anyone who can reasonably be suspected of a crime for which imprisonment may follow, may be physically examined.
1. - for the purposes specified in section 11,
2. - according to the provisions of section 12a, or
3. - for an investigation into his or her age, if it is of importance to whether a penalty may be imposed or of importance to the question of penalties in general.
[S2] To the extent and for the purpose specified in Section 12b, a person other than the person who can reasonably be suspected of a crime may also be body searched.
[S3] Body inspection refers to examination of the outside and inside of the human body as well as taking samples from the human body and examining them. A physical examination must not be carried out in such a way that the person being examined risks future ill health or injury. Law (2017:435).

bb. Para 1(b) Obtainment of the Production of Any Relevant Object or Document Either in its Original Form or in Some Other Specified Form

Sweden enables "production" mainly via seizure of objects/(IT)-documents within ch. 19–31 regulating the investigation phase, typically located through searches (RB 28:1 and seized, 28:2) and body checks (28:14) and the normal seizure in ch. 27 (27:11, 27:12, equal to s. 99 German CPC "only by the court"). Important are as well ch. 27:16 addressing IT providers and 27:17f can infringe the *nemo tenetur* in certain situations. **11**

[147] **Kopiering**
Kap. 27 17 a § RB En handling som omfattas av ett beslag eller påträffas vid en husrannsakan eller en genomsökning på distans får kopieras om den skäligen kan antas ha betydelse för utredning om brott eller om förverkande av utbyte av brottslig verksamhet enligt 36 kap. 1 b § brottsbalken.
[S2]En handling som inte får tas i beslag enligt 2 eller 3 § får inte heller kopieras. Lag (2022:316).
[148] **Kap. 27 17 b § RB** Den som med laga rätt verkställer ett beslag, en husrannsakan eller en genomsökning på distans får besluta om att en handling ska kopieras enligt 17 a §. Lag (2022:316).

The production of documents during secret measures, ch 27:18–28 is possible, too. Courts can also order document production during trial for evidentiary purposes (RB 35–41). The new **EU evidence Regulation** regimes must be distinguished, too. EU 2023/1543 regulates production orders to foreign countries ensuring law enforcement cooperation with the private sector across borders. The **EU EIO Directive 2014/41** was rather limited to collecting evidence but outdated because of the admissibility aspects across borders.[149]

cc. Para 1(c)

(3) Obtainment of the Production of Stored Computer Data, Encrypted or Decrypted

(a) General Provisions in the CPC

12

Chapter 27 About seizures, copying, biometric authentication and secret coercive measures

Section 16 CPC

Anyone who in electronic form holds a certain stored information that can reasonably be assumed to be relevant to the investigation of whether a crime may be ordered to preserve the information.[150]

The injunction must state how long the information is to be retained. The time may not be set longer than necessary and may not exceed 90 days from the date of the decision. If there are special reasons, the retention period may be extended by a maximum of 90 days. An injunction may not be directed against the person who can reasonably be suspected of the crime or against someone related to him or her as referred to in Chapter 36. Section 3. Lag (2021:238).

Section 16a CPC

An injunction pursuant to section 16 may be decided by the head of the investigation or a prosecutor.[151]

[149] See Jurka 2024, pp. 161 (163 et seq.).

[150] **27 kap. Om beslag, kopiering, biometrisk autentisering och hemliga tvångsmedel**
16 §
Den som i elektronisk form innehar en viss lagrad uppgift som skäligen kan antas ha betydelse för utredningen om ett brott får föreläggas att bevara uppgiften.
I föreläggandet ska det anges hur länge uppgiften ska bevaras. Tiden får inte bestämmas till längre än nödvändigt och får inte överstiga 90 dagar från dagen för beslutet.
Om det finns särskilda skäl får tiden för bevarande förlängas med högst 90 dagar.
Ett föreläggande får inte riktas mot den som skäligen kan misstänkas för brottet eller mot någon till honom eller henne sådan närstående person som avses i 36 kap. 3 §.
Lag (2021:238).

[151] **16a §**
Ett föreläggande enligt 16 § får beslutas av undersökningsledaren eller en åklagare.

The injunction may state that the person who has been instructed to retain a certain information may not show that the measure has been taken.
Anyone who has been ordered to retain a certain information may request the court to review the injunction. Section 6, first paragraph, applies to the court's review. Lag (2021:238).

(b) Special Provisions in the CPC Tax Code, Digital Evidence Act, Customs Code

In a Report of the EPPO Inquiry (Stockholm 2020) named "A European Public Prosecutor's Office in Sweden"[152] the authors have proposed changes to the following legal texts in order to adapt the Swedish law to the EPPO: **13**

- Criminal Data Act (2018:1177)/*Brottsdatalag (2018:1177)*
- Law (2018:1693) on the police's processing of personal data within the area of the Criminal Data Act/*Lagen (2018:1693) om polisens behandling av personuppgifter inom brottsdatalagens område*
- Act (2018:1696) on the Swedish Tax Agency's processing of personal data with-in the area of the Criminal Data Act/ *lagen (2018:1696) om Skatteverkets behandling av personuppgifter inom brottsdatalagens område*
- Law (2018:1697) on the Public Prosecutor's Office's processing of personal data within the area of the Criminal Data Act/ *Lagen (2018:1697) om åklagarväsendets behandling av personuppgifter inom brottsdatalagens område*
- Regulation (2007:975) with instructions for the Data Inspectorate/*Förordningen (2007:975) med instruktion för Datainspektionen*
- In the following table some provisions from the Criminal Data Act are portrayed along with provisions from the Swedish Customs law, the Act (2001:185) on the processing of data in the activities of the Swedish Customs Service and the Act (2004:297) on banking and financing operations: -

Criminal Data Act (2018:1177)/*Brottsdatalag (2018:1177)* **14**
1 chap. General provisions / The purpose of the team
Section 1
This Act implements Directive (EU) 2016/680 of the European Parliament and of the Council[153] of 27 April 2016 on the protection of individuals with regard to the processing

I föreläggandet får det anges att den som har förelagts att bevara en viss uppgift inte får uppenbara att åtgärden har vidtagits.
Den som har förelagts att bevara en viss uppgift får begära rättens prövning av föreläggandet. För rättens prövning gäller 6 § första stycket. Lag (2021:238).

[152] Report of the EPPO inquiry, A European Public Prosecutor's Office in Sweden, Stockholm 2020, p. 5 et seq.

[153] **1 kap. Allmänna bestämmelser**
Syftet med lagen

of personal data by the competent authorities for the prevention, prevention, investigation, detection or prosecution of criminal offenses or criminal penalties., and the free movement of such data and repealing Council Framework Decision 2008/977/JHA, hereinafter referred to as the Data Protection Directive.
The purpose of the law is to protect the fundamental rights and freedoms of natural persons in connection with the processing of personal data and to ensure that competent authorities can process and exchange personal data with each other in an appropriate manner.

Scope of the law
Section 2[154]
This Act applies to the processing of personal data carried out by competent authorities for the purpose of preventing, deterring or detecting criminal activity, investigating or prosecuting crime or enforcing criminal sanctions. It also applies to the processing of personal data carried out by a competent authority for the purpose of maintaining public order and security.

15 The next provisions relate to the processing of personal data:

Section 3[155]
The Act applies to such processing of personal data that is fully or partially automated and for other processing of personal data that is included in or intended to be included in a structured collection of personal data that is available for search or compilation according to special criteria.

1 § Genom denna lag genomförs Europaparlamentets och rådets direktiv (EU) 2016/680 av den 27 april 2016 om skydd för fysiska personer med avseende på behöriga myndigheters behandling av personuppgifter för att förebygga, förhindra, utreda, avslöja eller lagföra brott eller verkställa straffrättsliga påföljder, och det fria flödet av sådana uppgifter och om upphävande av rådets rambeslut 2008/977/RIF, här benämnt dataskyddsdirektivet.
Syftet med lagen är att skydda fysiska personers grundläggande rättigheter och friheter i samband med behandling av personuppgifter och att säkerställa att behöriga myndigheter kan behandla och utbyta personuppgifter med varandra på ett ändamålsenligt sätt.

[154] Lagens tillämpningsområde
2 § Denna lag gäller vid behandling av personuppgifter som utförs av behöriga myndigheter i syfte att förebygga, förhindra eller upptäcka brottslig verksamhet, utreda eller lagföra brott eller verkställa straffrättsliga påföljder. Den gäller också vid behandling av personuppgifter som en behörig myndighet utför i syfte att upprätthålla allmän ordning och säkerhet.

[155] **3 §** Lagen gäller vid sådan behandling av personuppgifter som är helt eller delvis automatiserad och för annan behandling av personuppgifter som ingår i eller är avsedda att ingå i en strukturerad samling av personuppgifter som är tillgängliga för sökning eller sammanställning enligt särskilda kriterier.

Section 4
The Act does not apply to the Security Police's processing of personal data relating to national security or if the Police Authority has taken over a task relating to national security from the Security Police.[156]
The Act does not apply to activities in accordance with the Act (2021:1171) on the processing of personal data by the Armed Forces. Lag (2021:1175).

Chapter 2 Processing of personal data
Basic treatment requirements–Legal bases
Section 1
Personal data may be processed if it is necessary for a competent authority to be able to perform its task of preventing,[157] deterring or detecting criminal activity, investigating or prosecuting crime, enforcing criminal sanctions or maintaining public order and security.
A task of a competent authority refers to a task that appears from a law, ordinance or a special decision in which the government has commissioned the authority to perform the task.

Section 2
In addition to what is stated in section 1, personal data may be processed if[158]
1. it is necessary for record keeping, or
2. the information has been submitted to a competent authority in a report, application or similar and the processing is necessary for the authority's processing.

[156] **4 §** Lagen gäller inte vid Säkerhetspolisens behandling av personuppgifter som rör nationell säkerhet eller om Polismyndigheten har övertagit en arbetsuppgift som rör nationell säkerhet från Säkerhetspolisen.
Lagen gäller inte i verksamhet enligt lagen (2021:1171) om behandling av personuppgifter vid Försvarsmakten. Lag (2021:1175).
[157] 2 kap. Behandling av personuppgifter
Grundläggande krav på behandlingen
Rättsliga grunder
1 § Personuppgifter får behandlas om det är nödvändigt för att en behörig myndighet ska kunna utföra sin uppgift att förebygga, förhindra eller upptäcka brottslig verksamhet, utreda eller lagföra brott, verkställa straffrättsliga påföljder eller upprätthålla allmän ordning och säkerhet.
Med en behörig myndighets uppgift avses en uppgift som framgår av lag, förordning eller ett särskilt beslut i vilket regeringen uppdragit åt myndigheten att utföra uppgiften.
[158] **2 §** Utöver vad som sägs i 1 § får personuppgifter behandlas om
1. det är nödvändigt för diarieföring, eller
2. uppgifterna har lämnats till en behörig myndighet i en anmälan, ansökan eller liknande och behandlingen är nödvändig för myndighetens handläggning.

Chapter 3 Obligations of personal data controllers
Extent of personal data liability
Section 1[159]
The person responsible for personal data is responsible for all processing of personal data carried out under his or her management or on his or her behalf.

Measures to ensure constitutional treatment.
Technical and organizational measures
Section 2[160]
The person responsible for personal data shall, through appropriate technical and organizational measures, ensure and be able to demonstrate that the processing of personal data is in accordance with the constitution and that the data subject's rights are protected.

Section 3[161]
When the means for processing are determined and during the processing, through appropriate technical and organizational measures, the person responsible for personal data shall ensure that the necessary protection measures are integrated into the processing (built-in data protection).

Section 4[162]
The person responsible for personal data shall ensure that in automated processing systems it is as a rule not possible to process personal data other than those that are necessary for each specifically stated purpose of the processing (data protection as standard).

Section 5[163]
The person responsible for personal data shall ensure that logs of personal data processing are kept in automated processing systems to the extent that this is specifically prescribed.

[159] 3 kap. Personuppgiftsansvarigas skyldigheter
Personuppgiftsansvarets omfattning
1 § Den personuppgiftsansvarige är ansvarig för all behandling av personuppgifter som utförs under dennes ledning eller på dennes vägnar.
[160] Åtgärder för att säkerställa författningsenlig behandling
Tekniska och organisatoriska åtgärder
2 § Den personuppgiftsansvarige ska, genom lämpliga tekniska och organisatoriska åtgärder, säkerställa och kunna visa att behandlingen av personuppgifter är författningsenlig och att den registrerades rättigheter skyddas.
[161] **3 §** Den personuppgiftsansvarige ska när medlen för behandlingen bestäms och vid behandlingen, genom lämpliga tekniska och organisatoriska åtgärder, se till att nödvändiga skyddsåtgärder integreras i behandlingen (inbyggt dataskydd).
[162] **4 §** Den personuppgiftsansvarige ska se till att det i automatiserade behandlingssystem som regel inte är möjligt att behandla andra personuppgifter än de som är nödvändiga för varje särskilt angivet ändamål med behandlingen (dataskydd som standard).
[163] **5 §** Den personuppgiftsansvarige ska säkerställa att det i automatiserade behandlingssystem förs loggar över personuppgiftsbehandling i den utsträckning det är särskilt föreskrivet.

Access to personal data
Section 6[164]
The person responsible for personal data shall ensure that access to personal data is limited to what everyone needs to be able to perform their tasks.

Customs Law (2016:253)/*Tullag (2016:253)*
Retention of data
Section 12[165]
Anyone who, pursuant to Article 15 (1) of Regulation (EU) No 952/2013, in the original wording, is obliged to provide a customs authority with documents shall keep them for five years or the longer period prescribed for certain information or documents in another law or constitution.

Act (2001:185) Processing of data in the activities of the Swedish Customs Service
Chapter 1 General provisions Section 3[166]
When processing personal data in accordance with this Act, the Act (2018: 218) applies with supplementary provisions to the EU Data Protection Ordinance and regulations that have been issued in connection with that Act, unless otherwise follows from this Act or regulations that have been issued in connection with layers. Lag (2018: 231).

Chapter 2 Customs database
Disclosure of information to individuals on a medium for automated processing
Section 5[167]
In addition to what follows from the customs legislation according to the definition in Chapter 1 Section 3 of the Customs Act (2016:253), information in the database may be disclosed to an individual on a medium for automated processing only if the Government has issued regulations to that effect. Lag (2016:276).

[164] Tillgången till personuppgifter
6 § Den personuppgiftsansvarige ska se till att tillgången till personuppgifter begränsas till vad var och en behöver för att kunna fullgöra sina arbetsuppgifter.
[165] **Bevarande av uppgifter**
12 § Tullag (2016: 253) Den som enligt artikel 15.1 i förordning (EU) nr 952/2013, i den ursprungliga lydelsen, är skyldig att förse en tullmyndighet med handlingar ska bevara dessa i fem år eller den längre tid som för vissa uppgifter eller handlingar är föreskriven i annan lag eller författning.
[166] **1 kap. Allmänna bestämmelser**
3 §
Vid behandling av personuppgifter enligt denna lag gäller lagen (2018:218) med kompletterande bestämmelser till EU:s dataskyddsförordning och föreskrifter som har meddelats i anslutning till den lagen, om inte annat följer av denna lag eller föreskrifter som har meddelats i anslutning till lagen. Lag (2018:231).
[167] Utlämnande av uppgifter till enskilda på medium för automatiserad behandling
5 § Utöver vad som följer av tullagstiftningen enligt definitionen i 1 kap. 3 § tullagen (2016:253), får uppgifter i databasen lämnas ut till en enskild på medium för automatiserad behandling endast om regeringen har meddelat föreskrifter om det. Lag (2016:276).

Direct access

Section 6 Has been repealed by law (2005:790).

Section 7[168]

The Swedish Tax Agency may have direct access to information referred to in Section 3 1, 2, 5–7, 10 and 11 in respect of persons who are or can be assumed to be taxable or appear in a case in accordance with the Act (1998:506) on excise duty control of transports etc. of alcohol products, tobacco products and energy products.

The Enforcement Agency may have direct access to information referred to in Section 3 1, 2, 5–7, 10 and 11 in respect of the person who is registered as a debtor with the Enforcement Agency or the spouse of the debtor or someone else who is equated with a spouse.

The Government shall issue more detailed regulations on what information direct access pursuant to the first paragraph may include. Lag (2007:467).

Section 8[169]

An individual may have direct access to such information in the database that may be disclosed to the individual if the Government has issued regulations to that effect.

The Government or the authority determined by the Government may, with the support of Chapter 8 Section 7 of the form of government shall issue regulations on which information may be covered by direct access in accordance with the first paragraph. Lag (2016:885).

Section 8a Has been repealed by law (2016:276).

[168] **7 §** Skatteverket får ha direktåtkomst till uppgifter som avses i 3 § 1, 2, 5-7, 10 och 11 i fråga om personer som är eller kan antas vara skattskyldiga eller förekommer i ett ärende enligt lagen (1998:506) om punktskattekontroll av transporter m.m. av alkoholvaror, tobaksvaror och energiprodukter.

Kronofogdemyndigheten får ha direktåtkomst till uppgifter som avses i 3 § 1, 2, 5-7, 10 och 11 i fråga om den som är registrerad som gäldenär hos kronofogdemyndigheten eller make till gäldenären eller någon annan som likställs med make.

Regeringen meddelar närmare föreskrifter om vilka uppgifter direktåtkomst enligt första stycket får omfatta. Lag (2007:467).

[169] **8 §** En enskild får ha direktåtkomst till sådana uppgifter i databasen som får lämnas ut till den enskilde om regeringen har meddelat föreskrifter om det.

Regeringen eller den myndighet som regeringen bestämmer kan med stöd av 8 kap. 7 § regeringsformen meddela föreskrifter om vilka uppgifter som får omfattas av direktåtkomst enligt första stycket. Lag (2016:885).

Search term
Section 9[170]
When searching for documents referred to in section 4, only information on name, personal or coordination number and information referred to in Chapter 5 may be obtained. Section 2 of the Public Access to Information and Secrecy Act (2009:400) is used as a search term. As a search term, however, the information referred to in Chapter 1 Section 7 be used. Lag (2009:495).

Act (2004: 297) on banking and financing operations/*Lag (2004:297) om bank- och finansieringsrörelse*[171]
Chapter 1 Introductory provisions
Section 11[172]
A credit institution is obliged to disclose information on the circumstances of individuals to the institution if, in the course of an investigation under the provisions on preliminary criminal investigations, this is requested by the investigating officer or if it is requested by a prosecutor in a case concerning mutual assistance in criminal matters, at the request of another state or an international court, or in a case concerning the recognition and execution of a European Investigation Order. The information shall be disclosed without delay and in electronic form. Act (2018:1791).
"*The information must be disclosed without delay and in electronic form. The same applies to other financial companies according to ch. Section 2 a of the Act (1998:1479) on central securities depositories and accounting of financial instruments, Chapter 2 Section 20 of the Swedish Securities Funds Act (2004:46), Chapter 6 Section 8 of the Act (2006:531) on special supervision of financial conglomerates, Chapter 1 Section 12 of the Securities Market Act (2007:528), Chapter 3 Section 14 of the Payment Services Act (2010:751), Chapter 19 Section 46 of the Insurance Business Act (2010:2043), Chapter 3 Section 14 of the Electronic Money Act (2011:755), Chapter 8 Section 25 of the Act (2013:561) on Managers of Alternative Investment Funds and Chapter 6 Section 11 of the Act (2014:968) on special supervision of credit institutions and securities companies.*"[173]

[170] Sökbegrepp
9 § Vid sökning efter handlingar som avses i 4 § får endast uppgift om namn, person- eller samordningsnummer och uppgifter som avses i 5 kap. 2 § offentlighets- och sekretesslagen (2009:400) användas som sökbegrepp. Som sökbegrepp får dock inte uppgift som avses i 1 kap. 7 § användas. Lag (2009:495).
[171] Report of the EPPO inquiry, A European Public Prosecutor's Office in Sweden, Stockholm 2020, p. 254.
[172] **1 kap. Inledande bestämmelser**
11 § Ett kreditinstitut är skyldigt att lämna ut uppgifter om enskildas förhållanden till institutet, om det under en utredning enligt bestämmelserna om förundersökning i brottmål begärs av undersökningsledaren eller om det begärs av åklagare i ett ärende om rättslig hjälp i brottmål, på framställning av en annan stat eller en mellanfolklig domstol, eller i ett ärende om erkännande och verkställighet av en europeisk utredningsorder. Uppgifterna ska lämnas ut utan dröjsmål och i elektronisk form. Lag (2018:1791).
[173] Report of the EPPO inquiry, A European Public Prosecutor's Office in Sweden, Stockholm 2020, p. 255.

Law (2018:1693) on the police's processing of personal data within the area of the Criminal Data Act/*Lagen (2018:1693) om polisens behandling av personuppgifter inom brottsdatalagens område*

Act (2018:1696) on the Swedish Tax Agency's processing of personal data within the area of the Criminal Data Act/*Lagen (2018:1696) om Skatteverkets behandling av personuppgifter inom brottsdatalagens område*
Law (2018:1697) on the Public Prosecutor's Office's processing of personal data within the area of the Criminal Data Act/*Lagen (2018:1697) om åklagarväsendets behandling av personuppgifter inom brottsdatalagens område*

Regulation (2007:975) with instructions for the Data Inspectorate/*Förordningen (2007:975) med instruktion för Datainspektionen*

(4) Obtainment of Banking Account Data and Traffic Data

16 **Customs Law** (2016:253)/*Tullag (2016:253)*

Customs control of goods and means of transport
Section 6
The Swedish Customs may request that a transport company that transports goods, passengers or vehicles to or from Sweden shall provide the relevant information on incoming and outgoing transports to which the company has access.[174]
In the case of passengers, the Swedish Customs may only request information on
- name,
- itinerary,
- luggage,
- fellow passengers,
- method of payment, and
- method of booking.

[174] **Tullkontroll av varor och transportmedel**
6 § Tullag (2016:253)
Tullverket får begära att ett transportföretag som befordrar varor, passagerare eller fordon till eller från Sverige ska lämna de aktuella uppgifter om ankommande och avgående transporter som företaget har tillgång till.
I fråga om passagerare får Tullverket endast begära uppgifter om
- namn,
- resrutt,
- bagage,
- medpassagerare,
- betalningssätt, och
- bokningssätt.

Tullverket får begära uppgifter enligt första och andra styckena endast om uppgifterna kan antas ha betydelse för Tullverkets brottsbekämpande verksamhet.

The Swedish Customs may request information in accordance with the first and second paragraphs only if the information can be assumed to be relevant to the Swedish Customs' law enforcement activities.

Section 6a[175]
What is stated in section 6 shall not apply to air carriers that are covered by the obligation to transfer data in accordance with the Act (2018:1180) on air passenger data in law enforcement. Lag (2018:1189).

Act (2004:297) on banking and financing operations/*Lag (2004:297) om bank- och finansieringsrörelse* [176]

Chapter 1 Introductory provisions
Section 11[177]
A credit institution is obliged to disclose information on the circumstances of individuals to the institution if, in the course of an investigation under the provisions on preliminary criminal investigations, this is requested by the investigating officer or if it is requested by a prosecutor in a case concerning mutual assistance in criminal matters, at the request of another state or an international court, or in a case concerning the recognition and execution of a European Investigation Order. The information shall be disclosed without delay and in electronic form. Act (2018:1791).

Private entities such as banks can report and transmit materials in cases of suspicious irregularities. That data may be used in the criminal investigation as evidence.[178] **17**

[175] **6 a § Tullag (2016:253)**
Vad som anges i 6 § ska inte gälla lufttrafikföretag som omfattas av skyldigheten att överföra uppgifter enligt lagen (2018:1180) om flygpassageraruppgifter i brottsbekämpningen. Lag (2018:1189).
[176] Report of the EPPO inquiry, A European Public Prosecutor's Office in Sweden, Stockholm 2020, p. 254
[177] 1 kap. Inledande bestämmelser
11 § Ett kreditinstitut är skyldigt att lämna ut uppgifter om enskildas förhållanden till institutet, om det under en utredning enligt bestämmelserna om förundersökning i brottmål begärs av undersökningsledaren eller om det begärs av åklagare i ett ärende om rättslig hjälp i brottmål, på framställning av en annan stat eller en mellanfolklig domstol, eller i ett ärende om erkännande och verkställighet av en europeisk utredningsorder. Uppgifterna ska lämnas ut utan dröjsmål och i elektronisk form. Lag (2018:1791).
[178] Wong 2012, pp. 742-778, p. 747.

(5) Exception of Data Specifically Retained in Accordance with National Law (Pursuant to the Second Sentence of Article 15(1) of Directive 2002/58/EC of the European Parliament and of the Council)

(a) Transposition of this Directive

18 *Cf. EurLex Transposition list:*

Transposition deadline: 31/10/2003

1) Act amending the Marketing Act (1995:450)/*Lag om ändring i marknadsföringslagen (1995:450)* SFS n° 103 av 16/03/2004 (SG (2004) A/03451 du 26/03/2004)

   Official publication: Swedish Constitutional Collection/*Svensk författningssamling (SFS)*; Number: 26/03/2004

2) Act amending the Electronic Communications Act (2003:389)/*Lag om ändring i lagen (2003:389) om elektronisk kommunikation*

   Official publication: Swedish Constitutional Collection/*Svensk författningssamling (SFS)*; Number: 2019:497; Publication date: 1001–01–01

3) Act amending the Act (2012:278) on the collection of electronic communications data in the intelligence activities of law enforcement authorities/*Lag om ändring i lagen (2012:278) om inhämtning av uppgifter om elektronisk kommunikation i de brotts-bekämpande myndigheternas underrättelseverksamhet*

   Official publication: Swedish Constitutional Collection/*Svensk författningssamling (SFS)*; Number: 2019:499; Publication date: 1001–01–01

4) Decree amending the Decree (2003:396) on electronic communication/*Förordning om ändring i förordningen (2003:396) om elektronisk kommunikation*

   Official publication: Swedish Constitutional Collection/*Svensk författningssamling (SFS)*; Number: 2019:500; Publication date: 1001–01–01

5) Decree amending the Decree (2003:396) on electronic communication/*Förordning om ändring i förordningen (2003:396) om elektronisk kommunikation*

   Official publication: Swedish Constitutional Collection/*Svensk författningssamling (SFS)*; Number: 2019:501; Publication date: 1001–01–01

(b) National Provision in Relation to Art. 15(1) s. 2 of this Directive

19

Electronic Communications Act (2003:389)/*Lagen (2003:389) om elektronisk kommunikation*

Chapter 6 Processing of traffic data and protection of privacy

Section 8[179]

The provisions of Sections 5–7 do not apply

1. when an authority or a court needs access to such information as is referred to in Section 5 to resolve disputes,

2. for electronic messages that are covered by an injunction to preserve a certain stored information according to Chapter 27 Section 16 of the Code of Judicial Procedure,

3. for electronic messages that are covered by decisions on secret interception of electronic communication or secret surveillance of electronic communication, technical assistance with such interception or monitoring, collection of information in accordance with the Act (2012:278) communication in the intelligence activities of law enforcement authorities, or

4. to the extent that information referred to in section 5 is necessary to prevent and expose unauthorized use of an electronic communications network or electronic communications service. Lag (2021:240).

[179] **6 kap. Behandling av trafikuppgifter samt integritetsskydd**

8 § Lagen (2003:389) om elektronisk kommunikation Bestämmelserna i 5-7 §s gäller inte

1. när en myndighet eller en domstol behöver tillgång till sådana uppgifter som avses i 5 § för att lösa tvister,

2. för elektroniska meddelanden som omfattas av ett föreläggande att bevara en viss lagrad uppgift enligt 27 kap. **16 § rättegångsbalken,**

3. för elektroniska meddelanden som omfattas av beslut om hemlig avlyssning av elektronisk kommunikation eller hemlig övervakning av elektronisk kommunikation, tekniskt bistånd med sådan avlyssning eller övervakning, inhämtning av uppgifter enligt lagen (2012:278) om inhämtning av uppgifter om elektronisk kommunikation i de brottsbekämpande myndigheternas underrättelseverksamhet, eller

4. i den utsträckning uppgifter som avses i 5 § är nödvändiga för att förhindra och avslöja obehörig användning av ett elektroniskt kommunikationsnät eller en elektronisk kommunikationstjänst. Lag (2021:240).

Section 16a[180]

Anyone who conducts activities that are subject to notification in accordance with chap. 2 Section 1 is obliged to store such data referred to in Section 20 first paragraph 1 and 3 that are necessary to track and identify the source of communication, the final destination of the communication, date, time and duration of the communication, type of communication, communication equipment and location of mobile communication equipment at the beginning and end of communication.

The obligation to store data in accordance with the first paragraph covers data generated or processed in telephony services and message handling via mobile network connection point and in connection with Internet access. Even in the event of a failed call, the obligation to store data that is generated or processed applies.

For telephony services, the storage obligation according to the first paragraph does not apply to information about the number to which a call has been routed.

Anyone who is obliged to store data in accordance with this section may instruct someone else to carry out the storage.

The Government or the authority determined by the Government may, with the support of chap. 8 Section 7 of the form of government shall issue more detailed regulations on what information is to be stored in accordance with this section. Lag (2019:497).

Section 22

A person who provides an electronic communications network or an electronic communications service and thereby has access to or access to information referred to in section 20, first paragraph shall, upon request, provide;[181]

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[180] **6 kap. Behandling av trafikuppgifter samt integritetsskydd**

16 a § Lagen (2003:389) om elektronisk kommunikation Den som bedriver verksamhet som är anmälningspliktig enligt 2 kap. 1 § är skyldig att lagra sådana uppgifter som avses i 20 § första stycket 1 och 3 som är nödvändiga för att spåra och identifiera kommunikationskällan, slutmålet för kommunikationen, datum, tidpunkt och varaktighet för kommunikationen, typ av kommunikation, kommunikationsutrustning samt lokalisering av mobil kommunikationsutrustning vid kommunikationens början och slut.

Skyldigheten att lagra uppgifter enligt första stycket omfattar uppgifter som genereras eller behandlas vid telefonitjänst och meddelandehantering via mobil nätanslutningspunkt samt vid internetåtkomst. Även vid en misslyckad uppringning gäller skyldigheten att lagra uppgifter som genereras eller behandlas.

För telefonitjänst gäller lagringsskyldigheten enligt första stycket inte uppgift om nummer som ett samtal styrts till.

Den som är skyldig att lagra uppgifter enligt denna paragraf får uppdra åt någon annan att utföra lagringen.

Regeringen eller den myndighet som regeringen bestämmer kan med stöd av 8 kap. 7 § regeringsformen meddela närmare föreskrifter om vilka uppgifter som ska lagras enligt denna paragraf. Lag (2019:497).

[181] **6 kap. Behandling av trafikuppgifter samt integritetsskydd**

22 § Lagen (2003:389) om elektronisk kommunikation

Den som tillhandahåller ett elektroniskt kommunikationsnät eller en elektronisk kommunikationstjänst och därvid har fått del av eller tillgång till uppgift som avses i 20 § första stycket ska på begäran lämna

1. uppgift som avses i 20 § första stycket 1 till en myndighet som i ett särskilt fall behöver en sådan uppgift för delgivning enligt delgivningslagen (2010:1932), om myndigheten finner att det kan antas att den som söks för delgivning håller sig undan eller att det annars finns synnerliga skäl,
2. uppgift som avses i 20 § första stycket 1 och som gäller misstanke om brott till en åklagarmyndighet, Polismyndigheten, Säkerhetspolisen eller någon annan myndighet som ska ingripa mot brottet,

1. information referred to in section 20, first paragraph 1 to an authority which in a in special cases, such information is required for service under the Service Act (2010:1932), if the authority finds that it can be assumed that the person applying for service stays away or that there are otherwise special reasons,
2. information referred to in section 20, first paragraph 1 and which concerns suspicion of crime to a prosecuting authority, the Police Authority, the Security Police or any other authority that is to intervene against the crime,

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3. uppgift som avses i 20 § första stycket 1 och 3 samt uppgift om i vilket geografiskt område en viss elektronisk kommunikationsutrustning finns eller har funnits till Polismyndigheten, om myndigheten finner att uppgiften behövs i samband med efterforskning av personer som har försvunnit under sådana omständigheter att det kan befaras att det finns fara för deras liv eller allvarlig risk för deras hälsa,
4. uppgift som avses i 20 § första stycket 1 till Kronofogdemyndigheten om myndigheten behöver uppgiften i exekutiv verksamhet och myndigheten finner att uppgiften är av väsentlig betydelse för handläggningen av ett ärende,
5. uppgift som avses i 20 § första stycket 1 till Skatteverket, om verket finner att uppgiften är av väsentlig betydelse för handläggningen av ett ärende som avser kontroll av skatt eller avgift eller rätt folkbokföringsort enligt folkbokföringslagen (1991:481),
6. uppgift som avses i 20 § första stycket 1 till Polismyndigheten, om myndigheten finner att uppgiften behövs i samband med underrättelse, efterforskning eller identifiering vid olyckor eller dödsfall eller för att myndigheten ska kunna fullgöra en uppgift som avses i 12 § polislagen (1984:387),
7. uppgift som avses i 20 § första stycket 1 till Polismyndigheten eller en åklagarmyndighet, om myndigheten finner att uppgiften behövs i ett särskilt fall för att myndigheten ska kunna fullgöra underrättelseskyldighet enligt 33 § lagen (1964:167) med särskilda bestämmelser om unga lagöverträdare,
8. uppgift som avses i 20 § första stycket 1 och 3 till regional alarmeringscentral som avses i lagen (1981:1104) om verksamheten hos vissa regionala alarmeringscentraler,
9. uppgift som avses i 20 § första stycket 1 till Finansinspektionen, om inspektionen finner att uppgiften är av väsentlig betydelse för utredningen av en misstänkt överträdelse av Europaparlamentets och rådets förordning (EU) nr 596/2014 av den 16 april 2014 om marknadsmissbruk (marknadsmissbruksförordning) och om upphävande av Europaparlamentets och rådets direktiv 2003/6/EG och kommissionens direktiv 2003/124/EG, 2003/125/EG och 2004/72/EG,
10. uppgift som avses i 20 § första stycket 1 till Finansinspektionen, om inspektionen finner att uppgiften är av väsentlig betydelse i ett ärende om tillsyn när det gäller någon av bestämmelserna i 4 a kap. 1-8 §s lagen (2010:751) om betaltjänster eller 1 kap. 5 § eller 4 kap. 7, 8, 9, 10, 11 eller 14 § lagen (2016:1024) om verksamhet med bostadskrediter,
11. uppgift som avses i 20 § första stycket 1 till Konsumentombudsmannen, om ombudsmannen finner att uppgiften är av väsentlig betydelse i ett ärende om tillsyn enligt lagen (1994:1512) om avtalsvillkor i konsumentförhållanden eller marknadsföringslagen (2008:486), när det är fråga om en misstänkt överträdelse av unionslagstiftning som skyddar konsumenternas intressen enligt bilagan till Europaparlamentets och rådets förordning (EU) 2017/2394 av den 12 december 2017 om samarbete mellan de nationella myndigheter som har tillsynsansvar för konsumentskyddslagstiftningen och om upphävande av förordning (EG) nr 2006/2004,
12. uppgift som avses i 20 § första stycket 1 till Läkemedelsverket, om verket finner att uppgiften är av väsentlig betydelse i ett ärende om tillsyn när det gäller bestämmelserna om marknadsföring i 12 kap. läkemedelslagen (2015:315),
13. uppgift som avses i 20 § första stycket 1 till Konsumentverket, om verket finner att uppgiften är av väsentlig betydelse i ett ärende om tillsyn enligt lagen (2019:59) med kompletterande bestämmelser till EU:s geoblockeringsförordning, och
14. uppgift som avses i 20 § första stycket 3 om vilka övriga tillhandahållare av elektroniska kommunikationsnät eller elektroniska kommunikationstjänster som har deltagit vid överföringen av ett meddelande som omfattas av ett föreläggande att bevara en viss lagrad uppgift enligt 27 kap. 16 § rättegångsbalken till den myndighet som meddelat föreläggandet.
Ersättning för att lämna ut andra uppgifter enligt första stycket 8 än lokaliseringsuppgifter ska vara skälig med hänsyn till kostnaderna för utlämnandet. Lag (2021:240).

3. information referred to in section 20, first paragraphs 1 and 3 and information on the geographical area in which certain electronic communication equipment is or has been available to the Police Authority, if the authority finds that the information is needed in connection with investigations of persons who have disappeared in such circumstances; it may be feared that there is a danger to their life or a serious risk to their health; matter,
5. information referred to in section 20, first paragraph 1 to the Swedish Tax Agency, if the agency finds that the information is of significant importance for the handling of a case concerning control of tax or fee or the correct place of registration according to the Population Registration Act (1991:481); referred to in section 20, first paragraph 1 to the Police Authority, if the authority finds that the information is needed in connection with notification, investigation or identification in the event of accidents or death or for the authority to be able to fulfil a task referred to in section 12 of the Police Act (1984:387),
7. information referred to in section 20, first paragraph 1 to the Police Authority or a prosecuting authority, if the authority finds that the information is needed in a special case for the authority to fulfil the notification obligation pursuant to section 33 of the Act (1964:167) with special provisions on young offenders;
8. information referred to in section 20, first paragraph 1 and 3 to the regional alarm centre referred to in the Act (1981:1104) on the activities of certain regional alarm centres,
9. information referred to in section 20, first paragraph 1 to Finansinspektionen, if the inspection finds that the information is of significant importance for the investigation of a suspected violation of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (Market Abuse Regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC, 2003/125/EC and 2004/72/EC,
10. information referred to in section 20, first paragraph 1, to Finansinspektionen, if the inspectorate finds that the information is of significant importance in a matter of supervision with regard to any of the provisions in Chapter 4 a. Sections 1–8 of the Payment Services Act (2010:751) or Chapter 1 Section 5 or Chapter 4 7, 8, 9, 10, 11 or 14 of the Act (2016:1024) on activities with housing loans,
11. information referred to in section 20, first paragraph 1 to the Consumer Ombudsman, if the Ombudsman finds that the information is of material importance in a matter of supervision in accordance with the Act (1994:1512) on contractual terms in consumer relations or the Marketing Act (2008:486), when question of a suspected infringement of Union law protecting the interests of consumers in accordance with the Annex to Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the supervision of consumer protection law and repealing Regulation (EC) No 2006/2004,

12. information referred to in section 20, first paragraph 1 to the Medical Products Agency, if the agency finds that the information is of significant importance in a matter of supervision with regard to the provisions on marketing in Chapter 12 the Pharmaceuticals Act (2015:315),
13. information referred to in section 20, first paragraph 1 to the Swedish Consumer Agency, if the agency finds that the information is of significant importance in a matter of supervision under the Act (2019:59) with supplementary provisions to the EU Geoblocking Ordinance, and
14. information referred to in section 20, first paragraph 3, on which other providers of electronic communications networks or electronic communications services have participated in the transmission of a message that is covered by an order to preserve a certain stored information in accordance with Chapter 27 Section 16 of the Code of Judicial Procedure to the authority that issued the injunction.
Remuneration for disclosing information pursuant to the first paragraph 8 other than location information shall be reasonable with regard to the costs of disclosure. Lag (2021:240).

Act (2012:278) on the collection of electronic communications data in the intelligence activities of law enforcement authorities/*Lagen (2012:278) om inhämtning av uppgifter om elektronisk kommunikation i de brottsbekämpande myndigheternas underrättelseverksamhet*

Section 2

Information may be obtained if the circumstances are such that the measure is of special importance for preventing, deterring or detecting criminal activities that include[182]

[182] **2 § Lagen (2012:278) /Träder i kraft I:2022-07-01/**
Uppgifter får hämtas in om omständigheterna är sådana att åtgärden är av särskild vikt för att förebygga, förhindra eller upptäcka brottslig verksamhet som innefattar
1. brott för vilket det inte är föreskrivet lindrigare straff än fängelse i två år,
2. sabotage enligt 13 kap. 4 § brottsbalken,
3. kapning, sjö- eller luftfartssabotage eller flygplatssabotage enligt 13 kap. 5 a § första eller andra stycket eller 5 b § första stycket brottsbalken, om brottet innefattar sabotage enligt 4 § samma kapitel,
4. brott mot medborgerlig frihet enligt 18 kap. 5 § brottsbalken,
5. spionerі, grov obehörig befattning med hemlig uppgift eller grov olovlig underrättelseverksamhet mot Sverige, mot främmande makt eller mot person enligt 19 kap. 5 eller 8 §, 10 § andra stycket, 10 a § andra stycket eller 10 b § andra stycket brottsbalken,
6. företagsspionerі enligt 26 § lagen (2018:558) om företagshemligheter, om det finns anledning att anta att den brottsliga verksamheten utövas på uppdrag av eller understöds av en främmande makt eller av någon som agerar för en främmande makts räkning,
7. samröre med en terroristorganisation, grovt brott, finansiering av terrorism eller särskilt allvarlig brottslighet, grovt brott, offentlig uppmaning till terrorism eller särskilt allvarlig brottslighet, grovt brott, rekrytering till terrorism eller särskilt allvarlig brottslighet, grovt brott, eller utbildning för terrorism eller särskilt allvarlig brottslighet, grovt brott, enligt 5 § tredje stycket, 6 § tredje stycket, 7 § tredje stycket, 8 § tredje stycket eller 9 § tredje stycket terroristbrottslagen (2022:666),
8. grov misshandel eller olaga frihetsberövande enligt 3 kap. 6 § eller 4 kap. 2 § första stycket brottsbalken i avsikt att påverka offentliga organ eller den som yrkesmässigt bedriver nyhetsförmedling eller annan journalistik att vidta eller avstå från att vidta en åtgärd eller att hämnas en åtgärd.

1. crimes for which no lesser punishment is prescribed than imprisonment for two years,
2. sabotage according to Chapter 13 Section 4 of the Criminal Code,
3rd hijacking, maritime or aviation sabotage or airport sabotage according to Chapter 13 Section 5a first or second paragraph or Section 5b first paragraph of the Criminal Code, if the crime includes sabotage according to Section 4 of the same chapter,
4. crime against civil liberties according to Chapter 18 Section 5 of the Criminal Code,
5. espionage, gross unauthorized position with secret information or gross illegal intelligence activities against Sweden, against a foreign power or against a person according to Chapter 19 Section 5 or 8, Section 10 second paragraph, Section 10a second paragraph or Section 10b second paragraph of the Criminal Code,
6. corporate espionage according to Section 26 of the Trade Secrets Act (2018:558), if there is reason to assume that the criminal activity is carried out on commissioned by or supported by a foreign power or by someone acting on behalf of a foreign power,
7. association with a terrorist organization, serious crime, financing of terrorism or particularly serious crime, serious crime, public incitement to terrorism or particularly serious crime, serious crime, recruitment to terrorism or particularly serious crime, serious crime, or training for terrorism or special serious crime, serious crime, according to section 5, third paragraph, section 6, third paragraph, section 7, third paragraph, section 8, third paragraph or section 9, third paragraph of the Terrorist Crime Act (2022:666),
8. aggravated assault or unlawful deprivation of liberty according to Chapter 3 Section 6 or Chapter 4 Section 2, first paragraph, of the Criminal Code with the intention of influencing public bodies or anyone who professionally conducts news coverage or other journalism to take or refrain from taking an action or to retaliate for an action.
Information may only be collected if the reasons for the measure outweigh the infringement or otherwise that the measure entails for the person against whom the measure is directed or for any other opposing interest. Lag (2022:685).

Section 3[183]
Decisions on the collection of information are made by prosecutors at the Public Prosecutor's Office upon application by the Police Authority, the Security Police or the Swedish Customs. Lag (2019:499).

Uppgifter får bara hämtas in om skälen för åtgärden uppväger det intrång eller men i övrigt som åtgärden innebär för den som åtgärden riktar sig mot eller för något annat motstående intresse. Lag (2022:685).

[183] **3 § Lagen (2012:278)**
Beslut om inhämtning av uppgifter fattas av åklagare vid Åklagarmyndigheten efter ansökan av Polismyndigheten, Säkerhetspolisen eller Tullverket. Lag (2019:499).

The collection of information in this regard is regulated by section 4: **20**

Section 4[184]
A decision on the collection of information shall state the criminal activity and the time to which the decision relates, as well as the telephone number or other address, the electronic communications equipment or the geographical area to which the decision relates. The time may not be determined longer than necessary and, in the case of time after the decision, may not exceed one month from the date of the decision.
If there are no longer grounds for a decision on the collection of information, the applicant authority shall immediately revoke the decision. Lag (2019:499).

Section 5[185]
The applicant authority shall notify the Security and Integrity Protection Board of a decision on the collection of information in accordance with this Act. The notification must be submitted no later than one month after the case of collection was closed.
Lag (2019:499).

Section 6[186]
If information has been obtained in connection with the collection of information in accordance with this Act, other than that covered by the decision on collection, the information may be used to prevent crime. Lag (2019:499).

Section 7[187]
Information that has emerged during collection in accordance with this Act may be used in a preliminary investigation only after permission for secret surveillance of electronic

[184] **4 § Lagen (2012:278)**
I ett beslut om inhämtning av uppgifter ska det anges vilken brottslig verksamhet och vilken tid beslutet avser samt vilket telefonnummer eller vilken annan adress, vilken elektronisk kommunikationsutrustning eller vilket geografiskt område beslutet avser. Tiden får inte bestämmas längre än nödvändigt och får, när det gäller tid som infaller efter beslutet, inte överstiga en månad från dagen för beslutet.
Om det inte längre finns skäl för ett beslut om inhämtning av uppgifter ska den ansökande myndigheten omedelbart häva beslutet. Lag (2019:499).
[185] **5 § Lagen (2012:278)**
Den ansökande myndigheten ska underrätta Säkerhets- och integritetsskyddsnämnden om ett beslut om inhämtning av uppgifter enligt denna lag. Underrättelsen ska lämnas senast en månad efter det att ärendet om inhämtning avslutades.
Lag (2019:499).
[186] **6 § Lagen (2012:278)**
Om det vid inhämtning av uppgifter enligt denna lag har kommit fram uppgifter om annan brottslig verksamhet än som omfattas av beslutet om inhämtning, får uppgifterna användas för att förhindra brott. Lag (2019:499).
[187] **7 § Lagen (2012:278)**
Uppgifter som har kommit fram vid inhämtning enligt denna lag får användas i en förundersökning endast efter tillstånd till hemlig övervakning av elektronisk kommunikation. Utan ett sådant tillstånd får dock inhämtade uppgifter ligga till grund för beslut om att inleda en förundersökning. Lag (2019:499).

communication. Without such a permit, however, the information obtained may form the basis for a decision to initiate a preliminary investigation. Lag (2019:499).

Section 8[188]
Records of information shall be reviewed as soon as possible.
Records shall, in so far as they are relevant to the prevention, deterrence or detection of criminal activity covered by the collection decision or to prevent other crime, be kept for as long as is necessary for any of these purposes. They must then be destroyed.
The second paragraph does not prevent law enforcement authorities from processing data from records in accordance with what is specifically prescribed by law. Lag (2019: 499).

Section 9[189]
Has been designated Section 8 by law (2019:499).

Decree (2003:396) on electronic communication/*Förordningen (2003:396) om elektronisk kommunikation*
Section 38[190]
In order to fulfil the storage obligation in Chapter 6 Section 16a of the Electronic Communications Act (2003:389), the person liable for storage shall store the information specified in Sections 39 and 40.
Regulation (2019:500).

Section 39
With regard to telephony service and message handling via mobile network connection point, the following shall be stored[191]:

[188] **8 § Lagen (2012:278)**
Uppteckningar av uppgifter ska granskas snarast möjligt.
Uppteckningar ska, i de delar de är av betydelse för att förebygga, förhindra eller upptäcka brottslig verksamhet som omfattas av beslutet om inhämtning eller för att förhindra annat brott, bevaras så länge det behövs för något av dessa syften. De ska därefter förstöras.
Andra stycket hindrar inte att brottsbekämpande myndigheter behandlar uppgifter från uppteckningar i enlighet med vad som är särskilt föreskrivet i lag. Lag (2019:499).
[189] **9 § Lagen** (2012:278)
Har betecknats 8 § genom lag (2019:499).
[190] **38 §** För att uppfylla lagringsskyldigheten i 6 kap. 16 a § lagen (2003:389) om elektronisk kommunikation ska den lagringsskyldige lagra de uppgifter som anges i 39 och 40 §s.
Förordning (2019:500).
[191] **39 §** När det gäller telefonitjänst och meddelandehantering via mobil nätanslutningspunkt ska följande lagras:
1. uppringande och uppringt nummer, avsändares och mottagares nummer eller annan meddelandeadress,
2. i fråga om telefonitjänst, uppringandes och uppringds abonnemangsidentitet och utrustningsidentitet,
3. uppgifter om abonnent och registrerad användare som uppgifterna i 1 och 2 kan hänföras till,
4. datum och spårbar tid då kommunikationen påbörjades och avslutades eller ett meddelande skickades och mottogs,

1. dialling and dialled number, sender and recipient number or other message address,
2. in the case of telephony service, dialler and dialler subscription identity and equipment identity,
3. subscriber information and registered user to whom the data in 1 and 2 can be attributed,
4. the date and traceable time when the communication started and ended or a message was sent and received,
5. location data when the communication started and ended or a message was sent and received, and
6. date, traceable time and location information for the first activation of a prepaid anonymous service.
Regulation (2019:500).

Section 40[192]
With regard to Internet access, the following shall be stored:
1. the user's IP address and other information that is necessary to identify the subscriber and registered user,
2. information about the subscriber and registered user,
3. the date and traceable time for logging in and out. in the service that provides Internet access, and
4. information that identifies the equipment where the communication is finally separated from the storage obligor to the individual subscriber.
If the person who finally separates the communication to the individual subscriber is someone who is not covered by Chapter 6 Section 16 a of the Electronic Communications Act (2003:389), the first paragraph 4 shall apply to the person who separates the communication to the person who finally separates the communication to the individual subscriber.
Regulation (2019:501).

5. lokaliseringsuppgifter då kommunikationen påbörjades och avslutades eller ett meddelande skickades och mottogs, och
6. datum, spårbar tid och lokaliseringsuppgifter för den första aktiveringen av en förbetald anonym tjänst.
Förordning (2019:500).

[192] **40 §** När det gäller internetåtkomst ska följande lagras:
1. användares ip-adress och andra uppgifter som är nödvändiga för att identifiera abonnent och registrerad användare,
2. uppgifter om abonnent och registrerad användare,
3. datum och spårbar tid för på- och avloggning i tjänsten som ger internetåtkomst, och
4. uppgifter som identifierar den utrustning där kommunikationen slutligt avskiljs från den lagringsskyldige till den enskilda abonnenten.
Om den som slutligt avskiljer kommunikationen till den enskilda abonnenten är någon som inte omfattas av 6 kap. 16 a § lagen (2003:389) om elektronisk kommunikation, ska första stycket 4 gälla för den som avskiljer kommunikationen till den som slutligt avskiljer kommunikationen till den enskilda abonnenten.
Förordning (2019:501).

Section 41 Has been repealed by ordinance (2019:500).
Section 42 has been repealed by ordinance (2019:500).
Section 43 Has been repealed by ordinance (2019:500).

Section 44[193]
The Swedish Post and Telecom Agency may issue more detailed regulations on which information is to be stored in accordance with Sections 39 and 40. Regulation (2019:500).

cc. Para 1(e) Interception of Electronic Communications to and from the Suspect or Accused Person

21 **Chapter 28 Code of Judicial Procedure**
Section 18[194]
Secret interception of electronic communications means that messages, which are transmitted in an electronic communication network or have been transmitted to or from a telephone number or other address, are secretly intercepted or recorded through a technical aid for reproducing the content of the message.
Secret interception of electronic communications may be used in a preliminary investigation of
1. crime for which a lighter penalty than imprisonment for two years is not prescribed,
2. sabotage or serious sabotage according to ch. 13 Section 4 or 5 of the Criminal Code,

[193] **44 §** Post- och telestyrelsen får meddela närmare föreskrifter om vilka uppgifter som ska lagras enligt 39 och 40 §s. Förordning (2019:500).
[194] **Kap. 27 18 § RB** Hemlig avlyssning av elektronisk kommunikation innebär att meddelanden, som i ett elektroniskt kommunikationsnät överförs eller har överförts till eller från ett telefonnummer eller annan adress, i hemlighet avlyssnas eller tas upp genom ett tekniskt hjälpmedel för återgivning av innehållet i meddelandet.
[S2]Hemlig avlyssning av elektronisk kommunikation får användas vid en förundersökning om
brott för vilket det inte är föreskrivet lindrigare straff än fängelse i två år,
sabotage eller grovt sabotage enligt 13 kap.4 eller 5 §brottsbalken,
mordbrand, grov mordbrand, allmänfarlig ödeläggelse, kapning, sjö- eller luftfartssabotage eller flygplatssabotage enligt 13 kap. 1, 2, 3, 5 a eller 5 b § brottsbalken, om brottet innefattar sabotage enligt 4 § samma kapitel,
uppror, väpnat hot mot laglig ordning eller brott mot medborgerlig frihet enligt 18 kap. 1, 3 eller 5 § brottsbalken,
högförräderi, krigsanstiftan, spioneri, grovt spioneri, obehörig befattning med hemlig uppgift, grov obehörig befattning med hemlig uppgift eller olovlig underrättelseverksamhet mot Sverige, mot främmande makt eller mot person enligt 19 kap. 1, 2, 5, 6, 7, 8, 10, 10 a eller 10b § brottsbalken,
företagsspioneri enligt 26 § lagen (2018:558) om företagshemligheter, om det finns anledning att anta att gärningen har begåtts på uppdrag av eller har understötts av en främmande makt eller av någon som har agerat för en främmande makts räkning,
terroristbrott enligt 2 § lagen (2003:148) om straff för terroristbrott, brott enligt 3 eller 3a § lagen (2002:444) om straff för finansiering av särskilt allvarlig brottslighet i vissa fall eller brott enligt lagen (2010:299) om straff för offentlig uppmaning, rekrytering och utbildning avseende terroristbrott och annan särskilt allvarlig brottslighet,
försök, förberedelse eller stämpling till brott som avses i 1-7, om en sådan gärning är belagd med straff, eller
annat brott om det med hänsyn till omständigheterna kan antas att brottets straffvärde överstiger fängelse i två år.
[S3]Ett tillstånd till hemlig avlyssning av elektronisk kommunikation ger också rätt att vidta åtgärder som anges i 19 §. Lag (2022:316).

3. arson, aggravated arson, public dangerous devastation, hijacking, maritime or aviation sabotage or airport sabotage according to ch. 13 Section 1, 2, 3, 5a or 5b of the Criminal Code, if the crime includes sabotage according to Section 4 of the same chapter,
4. rebellion, armed threat to legal order or violation of civil liberties according to ch. 18 Section 1, 3 or 5 of the Criminal Code,
5. high treason, instigation of war, espionage, gross espionage, unauthorized position with a secret task, gross unauthorized position with a secret task or illegal intelligence activities against Sweden, against a foreign power or against a person according to ch. 19 Section 1, 2, 5, 6, 7, 8, 10, 10a or 10b of the Criminal Code,
6. corporate espionage according to Section 26 of the Act (2018:558) on business secrets, if there is reason to assume that the act has been committed on behalf of or has been supported by a foreign power or by someone who has acted on behalf of a foreign power,
7. terrorist crime according to section 2 of the law (2003:148) on punishment for terrorist crime, crime according to section 3 or 3 a of the law (2002:444) on punishment for financing particularly serious crime in certain cases or crime according to the law (2010:299) on punishment for public solicitation, recruitment and training regarding terrorist crimes and other particularly serious crimes,
8. attempt, preparation or commission of a crime referred to in 1–7, if such an act is punishable, or
9. other crime if, taking into account the circumstances, it can be assumed that the penalty value of the crime exceeds imprisonment for two years.
[ST 3] A permit to covertly intercept electronic communications also gives the right to take measures specified in Section 19. Law (2022:316).

Chapter 27 Code of Judicial Procedure
Section 19 Secret monitoring of electronic communications means that information is secretly retrieved
1. messages which in an electronic communication network are transmitted or have been transmitted to or from a telephone number or other address,[195]

[195] **Kap. 27 19 § RB** Hemlig övervakning av elektronisk kommunikation innebär att uppgifter i hemlighet hämtas in om
meddelanden som i ett elektroniskt kommunikationsnät överförs eller har överförts till eller från ett telefonnummer eller annan adress,
vilka elektroniska kommunikationsutrustningar som har funnits inom ett visst geografiskt område, eller
i vilket geografiskt område en viss elektronisk kommunikationsutrustning finns eller har funnits.
[S2]Genom hemlig övervakning av elektronisk kommunikation får sådana meddelanden som avses i första stycket 1 även hindras från att nå fram.
[S3]Hemlig övervakning av elektronisk kommunikation får användas vid en förundersökning om
brott för vilket det inte är föreskrivet lindrigare straff än fängelse i sex månader,

2. what electronic communication equipment has existed within a certain geographical area, or
3. in which geographical area a certain electronic communication equipment is or has been.
Through secret monitoring of electronic communication, such messages as referred to in the first paragraph 1 may also be prevented from reaching.
Covert surveillance of electronic communications may be used in a preliminary investigation of
1. crime for which a lighter penalty than imprisonment for six months is not prescribed,
2. data breach according to ch. 4 Section 9c of the Criminal Code, child pornography offenses according to ch. 16 Section 10a of the Criminal Code which is not to be considered minor, drug offenses according to Section 1 of the Narcotics Penalty Act (1968:64), drug smuggling according to Section 6 first paragraph of the Act (2000:1225) on punishment for smuggling,
3. crime referred to in section 18 second paragraph 2–7, or
4. attempt, preparation or incitement to the crime referred to in 1–3, if such an act is punishable.
However, in cases referred to in section 20, second paragraph, covert monitoring of electronic communications may only be used in a preliminary investigation relating to crimes that may lead to secret interception of electronic communications in accordance with section 18, second paragraph. Law (2022:316).

dd. Para 1(f) Tracking & Tracing an Object

22 The study by Swedish experts proposed to introduce a special provision in or according with the Police Act.[196] But the Code of Judicial Procedure has an alternative provision.

dataintrång enligt 4 kap. 9c § brottsbalken, barnpornografibrott enligt 16 kap. 10a § brottsbalken som inte är att anse som ringa, narkotikabrott enligt 1 § narkotikastrafflagen (1968:64), narkotikasmuggling enligt 6 § första stycket lagen (2000:1225) om straff för smuggling,
brott som avses i 18 § andra stycket2-7, eller
försök, förberedelse eller stämpling till brott som avses i 1-3, om en sådan gärning är belagd med straff.
[S4]I fall som avses i 20 § andra stycket får hemlig övervakning av elektronisk kommunikation dock användas endast vid en förundersökning som avser brott som kan leda till hemlig avlyssning av elektronisk kommunikation enligt 18 § andra stycket. Lag (2022:316).

[196] See Lindberg/Billfalk /Färndahl/ Kittel 2020, pp. 26.

Chapter 27 Code of Judicial Procedure **23**

Section 20a[197]

Secret camera surveillance means that remote-controlled television cameras, other optical-electronic instruments or comparable equipment are used for optical personal surveillance during preliminary investigations in criminal cases, without providing information about the surveillance.

[S2] Covert camera surveillance may be used during a preliminary investigation

1. crime for which a lighter penalty than imprisonment for two years is not prescribed,
2. crime referred to in section 18 second paragraph 2–7,
3. attempt, preparation or abetment of an offense referred to in 1 or 2, if such an act is punishable, or
4. other crime if, taking into account the circumstances, it can be assumed that the penalty value of the crime exceeds imprisonment for two years. Law (2022:316).

Section 20b[198]

Secret camera surveillance may, except in cases referred to in Section 20c, only be used if someone is reasonably suspected of the crime and the measure is of particular importance to the investigation.

[S2] The measure may, except in cases referred to in section 20 c, only refer to such a place where the suspect can be assumed to be staying. Law (2008:855).

Section 20c[199]

If there is no one who is reasonably suspected of the crime, covert camera surveillance may be used to monitor the place where the crime has been committed or a close vicinity to this place. Secret camera surveillance according to this section may only take place if the purpose is to determine who can reasonably be suspected of the crime and the measure is of particular importance to the investigation. Law (2008:855).

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[197] **Kap. 27 20 a § RB** Hemlig kameraövervakning innebär att fjärrstyrda tv- kameror, andra optisk-elektroniska instrument eller därmed jämförbara utrustningar används för optisk personövervakning vid förundersökning i brottmål, utan att upplysning om övervakningen lämnas.

[S2]Hemlig kameraövervakning får användas vid en förundersökning om

brott för vilket det inte är föreskrivet lindrigare straff än fängelse i två år,

brott som avses i 18 § andra stycket2-7,

försök, förberedelse eller stämpling till brott som avses i 1 eller 2, om en sådan gärning är belagd med straff, eller annat brott om det med hänsyn till omständigheterna kan antas att brottets straffvärde överstiger fängelse i två år. Lag (2022:316).

[198] **Kap. 27 20 b § RB** Hemlig kameraövervakning får, utom i fall som avses i 20 c §, användas endast om någon är skäligen misstänkt för brottet och åtgärden är av synnerlig vikt för utredningen.

[S2]Åtgärden får, utom i fall som avses i 20 c §, avse endast en sådan plats där den misstänkte kan antas komma att uppehålla sig. Lag (2008:855).

[199] **Kap. 27 20 c § RB** Om det inte finns någon som är skäligen misstänkt för brottet, får hemlig kameraövervakning användas för att övervaka den plats där brottet har begåtts eller en nära omgivning till denna plats. Hemlig kameraövervakning enligt denna paragraf får ske endast om syftet är att fastställa vem som skäligen kan misstänkas för brottet och åtgärden är av synnerlig vikt för utredningen. Lag (2008:855).

c) Para 2: Specific Restrictions in National Law that Apply with Regard to Certain Categories of Persons or Professionals with an LLP Obligation, Art. 29

Without prejudice to Article 29, the investigation measures set out in paragraph 1 of this Article may be subject to ***conditions in accordance with the applicable national law if the national law contains specific restrictions that apply with regard to certain categories of persons or professionals who are legally bound by an obligation of confidentiality.***

aa. Restrictions to Searches, Ch. 28 Code of Judicial Procedure

24

Section 10c[200]
Remote search may not refer to information that according to ch. 27 Section 2 prevents seizure.
[S2] If, during a remote search, information is revealed that is covered by the first paragraph, the search must be immediately interrupted in the part it refers to such information. Law (2022:316).

bb. Restrictions to (d)

25 No explicit provisions, but see the general law on the measures itself above.

cc. Restrictions to (e)

26 No explicit provisions, but see the general law on the measures itself above.

d) Para 3: Conditions/ Thresholds for Investigation Measures

The investigation measures set out in points(c), (e) and (f) of paragraph 1 of this Article ***may be subject to further conditions****, including limitations, provided for in the applicable national law. In particular, Member States may limit the application of points (e) and (f) of paragraph 1 of this Article to specific serious offences. A Member State intending to make use of such limitation shall notify the EPPO of the relevant list of specific serious offences in accordance with Article 117.*

27 This para focuses on Art. 30 para 1c, e and f regulating electronic production and decryption orders and interception of telecommunications, which must be according to literature read generic and apply equally in national proceedings and limited by the legislator in each case of a prosecutor, not only an EDP investigating a case.[201] The notifi-

[200] **Kap. 28 10 c § RB** Genomsökning på distans får inte avse uppgifter som enligt 27 kap. 2 § hindrar beslag.
[S2]Om det vid en genomsökning på distans kommer fram uppgifter som omfattas av första stycket ska genomsökningen omedelbart avbrytas i den del den avser sådana uppgifter. Lag (2022:316).
[201] Brodowski 2021, Art. 30, mn. 24.

cation mechanism is not enough as it does not lead to the situation that the mere notification ensures the applicability of limitations to the measures listed in para 3.[202] It was emphasized that if the measures granted to EDPs provide for incompatible limitations with Union law, the infringement procedure is open for the Commission and this may only function if the constitutional identity of the respective member State is in peril and therefore evident.[203] These cases are not easy to think of, but may be very complex.

aa. Conditions and Limitations for Investigation Measures of Para 1(c), (e) and (f)

Chapter 27 About Seizures, Copying, Biometric Authentication and Secret Coercive Measures **28**

Section 16 CPC[204]

Anyone who in electronic form holds a certain stored information that can reasonably be assumed to be relevant to the investigation of whether a crime may be ordered to preserve the information.

The injunction must state how long the information is to be retained. The time may not be set longer than necessary and may not exceed 90 days from the date of the decision. If there are special reasons, the retention period may be extended by a maximum of 90 days.

An injunction may not be directed against the person who can reasonably be suspected of the crime or against someone related to him or her as referred to in Chapter 36. Section 3. Lag (2021:238).

Section 16a CPC[205]

An injunction pursuant to section 16 may be decided by the head of the investigation or a prosecutor.

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[202] Ibid, mn. 25, 26.

[203] Ibid, mn. 28.

[204] **27 kap. Om beslag, kopiering, biometrisk autentisering och hemliga tvångsmedel**
16 §
Den som i elektronisk form innehar en viss lagrad uppgift som skäligen kan antas ha betydelse för utredningen om ett brott får föreläggas att bevara uppgiften.
I föreläggandet ska det anges hur länge uppgiften ska bevaras. Tiden får inte bestämmas till längre än nödvändigt och får inte överstiga 90 dagar från dagen för beslutet.
Om det finns särskilda skäl får tiden för bevarande förlängas med högst 90 dagar.
Ett föreläggande får inte riktas mot den som skäligen kan misstänkas för brottet eller mot någon till honom eller henne sådan närstående person som avses i 36 kap. 3 §.
Lag (2021:238).

[205] **16a §**
Ett föreläggande enligt 16 § får beslutas av undersökningsledaren eller en åklagare.
I föreläggandet får det anges att den som har förelagts att bevara en viss uppgift inte får uppenbara att åtgärden har vidtagits.
Den som har förelagts att bevara en viss uppgift får begära rättens prövning av föreläggandet. För rättens prövning gäller 6 § första stycket. Lag (2021:238).

The injunction may state that the person who has been instructed to retain a certain information may not show that the measure has been taken.
Anyone who has been ordered to retain a certain information may request the court to review the injunction. Section 6, first paragraph, applies to the court's review. Lag (2021:238).

Act (2001:185) on the processing of data in the activities of the Swedish Customs Service/*Lag (2001:185) om behandling av uppgifter i Tullverkets verksamhet*

Chapter 2 Customs database
Disclosure of information to individuals on a medium for automated processing
Search term
Section 9[206]
When searching for documents referred to in section 4, only information on name, personal or coordination number and information referred to in Chapter 5 may be obtained. Section 2 of the Public Access to Information and Secrecy Act (2009: 400) is used as a search term. As a search term, however, the information referred to in Chapter 1 Section 7 be used. Lag (2009:495).

The longest time that personal data may be processed
Section 17
Personal data may not be processed for a longer period than is necessary with regard to the purpose of the processing.
The provision in the first paragraph does not prevent a competent authority from archiving and preserving public documents or that archive material is submitted to an archival authority.

Section 18
If it is not prescribed by law or another statute when a certain category of personal data may no longer be processed for purposes within the scope of this Act, the person responsible for personal data shall annually review the need to continue to process personal data.

bb. Serious Offences Limitation for Offences of Para 1(e) and (f)

29 No explicit provisions.

[206] Sökbegrepp
9 § Vid sökning efter handlingar som avses i 4 § får endast uppgift om namn, person- eller samordningsnummer och uppgifter som avses i 5 kap. 2 § offentlighets- och sekretesslagen (2009:400) användas som sökbegrepp. Som sökbegrepp får dock inte uppgift som avses i 1 kap. 7 § användas. Lag (2009:495).

cc. Notifications According to the Last Sentence of Para. 3

The are no explicit notifications. **30**

e) Para 4: Any other Measure(s) in the EDP's Member State

The European Delegated Prosecutors shall be entitled to request or to ***order any other measures in their Member State that are available to prosecutors under national law in similar national cases,*** *in addition to the measures referred to in paragraph 1.*

aa. Interviews and Questioning, Ch. 23 (Preliminary Investigation)

In the area of preliminary investigation, it is important to mention the sections, which stipulate rules on interviews and questioning suspects, see Ch. 23 Code of Judicial Procedure: **31**

Ch. 23 of the Code of Judicial Procedure **32**
Section 6[207]
During the preliminary investigation, interviews may be held with anyone who is assumed to be able to provide information of importance to the investigation.
Section 6a[208]
The person who is to be heard during the preliminary investigation may be called upon to appear at the hearing, if it is appropriate taking into account the circumstances of the individual case. A fine may not be imposed, if the questioning is intended to take place by telephone or if the distance to the place where the questioning is to be held exceeds ten miles from the place where the called has his residence or permanent residence and it is not of particular importance for the investigation that the questioning takes place.
[S2] Decisions on fines according to the first paragraph are announced by the head of the investigation or by a police officer who is allowed to lead the interrogation.
[S3] If the person who has been summoned fails to appear at the fine, a new fine may be imposed in connection with a summons for questioning on a later day. Law (2002:440).

[207] **6 § RB** Under förundersökningen må förhör hållas med envar, som antages kunna lämna upplysning av betydelse för utredningen.
[208] **6a § RB** Den som skall höras under förundersökningen får vid vite kallas att infinna sig vid förhöret, om det är lämpligt med hänsyn till omständigheterna i det enskilda fallet. Vite får inte föreläggas, om förhöret avses ske per telefon eller om väglängden till den plats där förhöret skall hållas överstiger tio mil från den plats där den kallade har sin bostad eller stadigvarande uppehåller sig och det inte är av synnerlig vikt för utredningen att förhöret äger rum.
[S2]Beslut om vitesföreläggande enligt första stycket meddelas av undersökningsledaren eller av en polisman som får leda förhöret.
[S3]Uteblir den som har kallats vid vite, får nytt vite föreläggas i samband med kallelse till förhör en senare dag. Lag (2002:440).

Section 6b
Questions about the imposition of a fine that have been presented with the support of Section 6a are examined by the prosecutor.[209]
[S2] Anyone who has been obliged to pay a fine may, within three weeks from the time he or she was notified of the decision, request a judicial review of this. The request for such an examination must be made to the prosecutor, who must submit the case to the court with his own opinion.
[S3] If a request for judicial review has not been made within the specified time, the prosecutor's decision may be enforced according to the search code. Law (2002:440).

Section 7[210]
Anyone who, without valid reason, fails to comply with a summons to appear for an interrogation may be brought to the interrogation, if it has been arranged to be held at a place within a road length of ten miles from the place where he or she has his or her residence or at the time of receipt of the summons resided.
[S2]Without a prior summons, anyone who resides within a road length of ten miles from the place where the questioning is to be held may be brought to the questioning, if the investigation concerns a crime for which imprisonment may result and it can be reasonably feared that he or she would not comply with a summons or that because of a subpoena, he or she would, by removing evidence or in some other way, make the investigation more difficult.
[S3] When it is of particular importance for the investigation that the interrogation takes place, collection according to the first or second paragraph may take place regardless of the length of the road.

[209] **6b § RB** Frågor om utdömande av vite som har förelagts med stöd av 6 a § prövas av åklagaren.
[S2]Den som har förpliktats att betala ett vite får inom tre veckor från det att han eller hon fick del av beslutet begära rättens prövning av detta. Begäran om sådan prövning skall göras hos åklagaren, som med eget yttrande skall överlämna ärendet till rätten.
[S3]Om någon begäran om rättens prövning inte har gjorts inom den angivna tiden, får åklagarens beslut verkställas enligt utsökningsbalken. Lag (2002:440).
[210] **Kap. 23 7 § RB** Den som utan giltig orsak underlåter att följa en kallelse att inställa sig till ett förhör får hämtas till förhöret, om det har satts ut att hållas på en plats inom en väglängd av tio mil från den plats där han eller hon har sin bostad eller vid kallelsens mottagande uppehöll sig.
[S2]Utan föregående kallelse får den som uppehåller sig inom en väglängd av tio mil från den plats där förhör skall hållas hämtas till förhöret, om undersökningen avser ett brott på vilket fängelse kan följa och det skäligen kan befaras att han eller hon inte skulle följa en kallelse eller att han eller hon med anledning av en kallelse skulle genom undanröjande av bevis eller på annat sätt försvåra utredningen.
[S3]När det är av synnerlig vikt för utredningen att förhöret äger rum, får hämtning enligt första eller andra stycket ske oavsett väglängden.
[S4]Hämtning till förhör av den som skall höras som vittne eller annars utan att vara misstänkt för brott, bör äga rum endast när det föreligger skäl av särskild vikt för en sådan åtgärd.
[S5]Är den som skall höras anhållen eller häktad, skall han eller hon inställas på den plats som bestämts för förhöret. Lag (2002:440).

[S4] Bringing in for questioning the person who is to be heard as a witness or otherwise without being suspected of a crime, should only take place when there are reasons of particular importance for such a measure.
[S5] If the person to be questioned is arrested or detained, he or she must be brought to the place determined for the questioning. Law (2002:440).

Section 8[211]

At the request of a policeman, anyone who is at the place where a crime is committed is obliged to accompany them to an interrogation which is held immediately afterwards. If he refuses without a valid reason, the policeman may take him to the interrogation.
[S2] What is said in the first paragraph also applies to anyone who is in an area adjacent to the place where a crime was recently committed, if a lighter punishment than four years' imprisonment is not prescribed for the crime. This also applies to attempts to commit such a crime.
[S3] The provisions in the first and second paragraphs apply even before a preliminary investigation has had time to begin. Law (1994:1412).

Section 9[212]

Anyone who is not arrested or detained is not required to remain for questioning for longer than six hours. If it is of particular importance that the person who may be suspected of the crime is available for further questioning, he is obliged to remain there for another six hours.
[S2] Anyone under the age of fifteen is not required to remain for questioning for more than three hours. If it is of particular importance to the investigation, the person heard is obliged to remain for an additional three hours.
[S3] After the interrogation has ended or the time during which the hearing is obliged to remain has expired, he may leave immediately. Without special reasons, he may not be required to appear for a new interrogation earlier than twelve hours afterwards.

[211] **Kap. 23 8 § RB** På tillsägelse av en polisman är den som befinner sig på den plats, där ett brott förövas, skyldig att medfölja till ett förhör som hålls omedelbart därefter. Vägrar han utan giltig orsak, får polismannen ta med honom till förhöret.
[S2]Vad som sägs i första stycket gäller också den som befinner sig inom ett område i anslutning till den plats där ett brott nyligen förövats, om det för brottet inte är föreskrivet lindrigare straff än fängelse i fyra år. Detta gäller också vid försök till ett sådant brott.
[S3]Bestämmelserna i första och andra styckena gäller även innan förundersökning hunnit inledas. Lag (1994:1412).

[212] **Kap. 23 9 § RB** Den som inte är anhållen eller häktad är inte skyldig att stanna kvar för förhör längre än sex timmar. Är det av synnerlig vikt, att den som kan misstänkas för brottet är tillgänglig för fortsatt förhör, är han skyldig att stanna kvar ytterligare sex timmar.
[S2]Den som är under femton år är inte skyldig att stanna kvar för förhör längre än tre timmar. Om det är av synnerlig vikt för utredningen, är den hörde skyldig att kvarstanna ytterligare tre timmar.
[S3]Sedan förhöret avslutats eller tiden, då den hörde är skyldig att stanna kvar, utgått, får han omedelbart avlägsna sig. Utan synnerliga skäl får det inte krävas att han infinner sig till nytt förhör tidigare än tolv timmar därefter.
[S4]Den som kan misstänkas för brottet får tas i förvar under den tid han är skyldig att stanna kvar, om det är nödvändigt med hänsyn till ändamålet med ingripandet, ordning eller säkerhet. Lag (1998:24).

[S4] Anyone who may be suspected of the crime may be taken into custody during the time he is required to remain, if this is necessary with regard to the purpose of the intervention, order or security. Law (1998:24).

Section 10[213]
The investigator determines, with the restrictions that follow from the second to seventh paragraphs, who may attend an interrogation.
[S2] At an interrogation, if possible, a credible witness appointed by the investigator must be present.
[S3] An assistant to a person being interrogated has the right to be present at the interrogation if it can take place without prejudice to the investigation and if the assistant meets the requirements set for a defence attorney in ch. 21. Section 3, third paragraph.
[S4] The suspect has the right to be present himself and to have his defender present at an interrogation that is held at the suspect's request in accordance with section 18 b, first paragraph. At other interrogations with the suspect, he or she has the right to have his or her defence counsel present. A defender who does not meet the requirements set out in ch. 21. Section 5, first paragraph, may, however, be prevented from attending if it is necessary so that the investigation of the matter is not significantly hampered or to avert danger to someone's life, physical health or freedom. When interrogating someone other than the suspect, the suspect's defence attorney may be present if it can take place without prejudice to the investigation.
[S5]If a person is questioned in a preliminary investigation other than the one in which he or she is a suspect, the person has the right to have his or her lawyer present if he or she participates in that investigation in such a way that ch. 29 Section 5 a of the Criminal

[213] **Kap. 23 10 § RB** Undersökningsledaren bestämmer, med de begränsningar som följer av andra-sjunde styckena, vem som får närvara vid ett förhör.
[S2]Vid ett förhör ska om möjligt ett trovärdigt vittne utsett av undersökningsledaren närvara.
[S3]Ett biträde till en person som förhörs har rätt att närvara vid förhöret om det kan ske utan men för utredningen och om biträdet uppfyller de krav som ställs på en försvarare i 21 kap. 3 § tredje stycket.
[S4]Den misstänkte har rätt att själv närvara och ha sin försvarare närvarande vid ett förhör som hålls på den misstänktes begäran enligt 18 b § första stycket. Vid andra förhör med den misstänkte har han eller hon rätt att ha sin försvarare närvarande. En försvarare som inte uppfyller de krav som ställs i 21 kap. 5 § första stycket får dock förhindras att närvara om det är nödvändigt för att sakens utredning inte väsentligen ska försvåras eller för att avvärja fara för någons liv, fysiska hälsa eller frihet. Vid förhör med någon annan än den misstänkte får den misstänktes försvarare närvara om det kan ske utan men för utredningen.
[S5]Om en person förhörs i en annan förundersökning än den i vilken han eller hon är misstänkt, har personen rätt att ha sin försvarare närvarande om han eller hon medverkar i den utredningen på ett sådant sätt att 29 kap. 5 a § brottsbalken kan komma att tillämpas. Försvararen får, i den ordning som undersökningsledaren bestämmer, ställa frågor vid förhöret.
[S6]Ett målsägandebiträde har rätt att närvara vid förhör med målsäganden. Detsamma gäller en stödperson, om hans eller hennes närvaro inte är till men för utredningen.
[S7]När den som hörs är under 15 år bör den som har vårdnaden om honom eller henne vara närvarande vid förhöret, om det kan ske utan men för utredningen.
[S8]Undersökningsledaren får besluta att det som har förekommit vid ett förhör inte får uppenbaras. Lag (2022:791).

Code may be applied. The defence attorney may, in the order determined by the investigator, ask questions at the hearing.
[S6] A plaintiff's attorney has the right to attend interviews with the plaintiff. The same applies to a support person, if his or her presence is not necessary for the investigation.
[S7] When the person being heard is under 15 years of age, the person who has custody of him or her should be present at the questioning, if it can take place without prejudice to the investigation.
[S8] The investigator may decide that what has occurred during an interrogation may not be revealed. Law (2022:791).

bb. Deciding an Expert, Ch. 23 (Preliminary Investigation)

Ch. 23 of the Code of Judicial Procedure **33**
Section 14[214]
The investigator may obtain an opinion from an expert. Before an opinion is obtained from someone other than an authority, the suspect or the defence must be given the opportunity to comment on the choice of expert, unless there are special reasons against this.
[S2] If an expert should already be appointed by the court during the preliminary investigation, the investigator may make a request for it. He or she may also request that the court order that written evidence be presented or that an object be provided for inspection or decide that a public document that can be assumed to be of importance as evidence be provided at the preliminary investigation.
[S3] Before someone is reasonably suspected, an injunction according to the second paragraph may only be decided if it is obvious that the person to whom the injunction is directed cannot be suspected of the crime. Law (2022:316).

[214] **Kap. 23 14 § RB** Undersökningsledaren får inhämta ett yttrande från en sakkunnig. Innan ett yttrande inhämtas från någon annan än en myndighet, ska den misstänkte eller försvararen ges tillfälle att yttra sig om valet av sakkunnig, om inte särskilda skäl talar mot detta.
[S2]Om en sakkunnig redan under förundersökningen bör utses av rätten, får undersökningsledaren framställa en begäran om det. Han eller hon får också begära att rätten ska förelägga att ett skriftligt bevis ska läggas fram eller att ett föremål ska tillhandahållas för besiktning eller besluta att en allmän handling som kan antas ha betydelse som bevis ska tillhandahållas vid förundersökningen.
[S3]Innan någon är skäligen misstänkt får ett föreläggande enligt andra stycket beslutas endast om det är uppenbart att den som föreläggandet riktas mot inte kan komma att misstänkas för brottet. Lag (2022:316).

cc. Court Taking Evidence While Ongoing Preliminary Investigation, Ch. 23

34 **Ch. 23 of the Code of Judicial Procedure**
Section 15 [215]
At the request of the investigator or the suspect, the court may take evidence during the preliminary investigation if
1. there is a risk that evidence to be called upon at the main hearing beforehand will be lost or will be difficult to raise at the hearing, or
2. someone is reasonably suspected of the crime and has been notified of the suspicion in accordance with section 18 and it is appropriate to record evidence.
[S2]When assessing whether it is appropriate to take evidence according to first paragraph 2, the court must take into account the extent of the investigation, the nature of the crime, the significance of the taking of evidence for the question of lifting a detention order or restrictions according to ch. 24. Section 5a and other circumstances. Law (2021:1107).

dd. Secret Audio-Recording of a Room

35 **Chapter 28 Code of Judicial Procedure**
Section 20d
Secret room tapping refers to tapping or recording which
1. is done secretly and with a technical aid intended to reproduce sound, and
2. refers to speech in a private room, conversation between others or negotiations at meetings or other gatherings to which the public does not have access.
[S2] Secret room tapping may be used during a preliminary investigation of
1. crime for which no lighter punishment than imprisonment for four years is prescribed,
2. espionage according to ch. 19 Section 5 of the Criminal Code,
3. crime referred to in Section 26 of the Act (2018:558) on business secrets, if there is reason to assume that the act has been committed on behalf of or has been supported by a foreign power or by someone who has acted on behalf of a foreign power and it can be assumed that the offense does not lead to fines only,
4. other crime if, taking into account the circumstances, it can be assumed that the penalty value of the crime exceeds imprisonment for four years and it is a question of
a) human trafficking according to ch. 4 Section 1a of the Criminal Code,

[215] **Kap. 23 15 § RB** På yrkande av undersökningsledaren eller den misstänkte får rätten ta upp bevis under förundersökningen om
det finns en risk att ett bevis som ska åberopas vid huvudförhandlingen dessförinnan går förlorat eller blir svårt att ta upp vid förhandlingen, eller
någon är skäligen misstänkt för brottet och har underrättats om misstanken enligt 18 § och det är lämpligt att ta upp bevis.
[S2]Vid bedömningen av om det enligt första stycket 2 är lämpligt att ta upp bevis ska rätten beakta utredningens omfattning, brottets beskaffenhet, bevisupptagningens betydelse för frågan om att häva ett häktningsbeslut eller restriktioner enligt 24 kap. 5a § och övriga omständigheter. Lag (2021:1107).

b) gross human exploitation according to ch. 4 Section 1b Section third paragraph of the Criminal Code,
c) rape according to ch. 6 Section 1 first paragraph of the Criminal Code,
d) gross sexual assault according to ch. 6 Section 2, second paragraph of the Criminal Code,
e) rape against children according to ch. 6 Section 4 first or second paragraph of the Criminal Code,
f) gross sexual abuse against children according to ch. 6 Section 6, second paragraph of the Criminal Code,
g) gross exploitation of children for sexual posing according to ch. 6 Section 8, third paragraph of the Criminal Code,
h) gross pimping according to ch. 6 Section 12, third paragraph of the Criminal Code,
i) gross extortion according to ch. 9 Section 4, second paragraph of the Criminal Code,
j) serious child pornography crime according to ch. 16 Section 10a, sixth paragraph of the Criminal Code,
k) gross assault in legal proceedings according to ch. 17 Section 10, third paragraph of the Criminal Code,
l) serious drug crime according to Section 3 of the Narcotics Penalty Act (1968:64), or
m) serious drug smuggling according to Section 6, third paragraph of the Act (2000:1225) on punishment for smuggling,
5. attempt, preparation or commission of a crime referred to in 1–3, if such an act is punishable,
6.attempt, preparation or branding for the crime referred to in 4, if such an act is punishable and, taking into account the circumstances, it can be assumed that the punishment value of the act exceeds imprisonment for four years. Law (2020:174).

Section 20e
Secret room tapping may only be used if someone is reasonably suspected of a crime referred to in Section 20d and the measure is of particular importance to the investigation.
[S2] The measure may only refer to a place where there is particular reason to assume that the suspect will reside. If the measure concerns a permanent residence other than the suspect's, secret room tapping may only be used if there is particular reason to assume that the suspect will reside there.
[S3] Covert room monitoring must not concern
1. a place that is constantly used or is specifically intended to be used for activities for which the duty of confidentiality applies according to ch. 3. Section 3 of the Freedom of the Press Ordinance or ch. 2 Section 3 of the Freedom of Expression Act,

2. a place that is constantly used or is specifically intended to be used for activities carried out by lawyers, doctors, dentists, midwives, nurses, psychologists, psychotherapists or family counsellors according to the Social Services Act (2001:453), or
3. a place that is constantly used or is especially intended to be used by priests within faith communities or by those who have a similar position within such communities, for confession or individual pastoral care. Law (2014:1419).

f) Para 5: National Procedures and National Modalities for Taking Investigative Measures

The European Delegated Prosecutors may only order the measures referred to in paragraphs 1 and 4 where there are reasonable grounds to believe that the specific measure in question might provide information or evidence useful to the investigation, and where there is no less intrusive measure available which could achieve the same objective. ***The procedures and the modalities for taking the measures shall be governed by the applicable national law.***

aa. For Searches, Ch. 28 Code of Judicial Procedure

36 **Chapter 28 Code of Judicial Procedure**
Section 3[216]
In a premises that is accessible to the public, for purposes referred to in Section 1 or 2, a house search may also take place in cases other than those referred to there.
[S2]In a premises that is usually used jointly by persons who can be assumed to engage in criminal activity, a house search may be carried out for purposes referred to in section 1 or 2, if there is reason to believe that a crime has been committed for which imprisonment of one year or more is prescribed and the there is particular reason to assume that the purpose of the investigation will be fulfilled. However, this does not apply to premises that are mainly residential.
[S3] The provision in the second paragraph also applies to spaces and vehicles that are in immediate connection to the premises and are used by those who use the premises. Law (1999:72).

[216] **Kap. 28 3 § RB** I en lokal som är tillgänglig för allmänheten får för ändamål som avses i 1 eller 2 § husrannsakan ske också i annat fall än som avses där.
[S2] I en lokal som brukar användas gemensamt av personer som kan antas ägna sig åt brottslig verksamhet får för ändamål som avses i 1 eller 2 § husrannsakan ske, om det förekommer anledning att brott har förövats för vilket det är föreskrivet fängelse ett år eller däröver och det finns särskild anledning att anta att ändamålet med rannsakningen kommer att uppfyllas. Detta gäller dock inte lokal som huvudsakligen utgör bostad.
[S3] Bestämmelsen i andra stycket gäller också utrymmen och fordon som finns i omedelbar anslutning till lokalen och brukas av dem som använder lokalen. Lag (1999:72).

Section 4[217]
Orders for house searches ***are issued***, except in cases referred to in the third paragraph, ***by the investigator, the prosecutor or the court***. Orders for house searches for service must always be issued by the court. If, in other cases, the house search can be assumed to be of a large extent or cause extreme inconvenience to the person at whom the measure is taken, if there is no danger in delay, the measure should not be taken without the order of the court.
[S2] The question of the house search may be taken up by the court at the request of the investigator or the prosecutor. After the indictment, the court may also, at the request of the plaintiff or on its own, take up such a question. The question of a house search for service is taken up by the court on its own or at the request of the Police Authority or the prosecutor.
[S3] Ordinance on the house search for searching for the person who is to be detained according to the decision referred to in ch. 24. Section 17, third paragraph, or is brought to appear in court, is notified by the Police Authority or a police officer in accordance with the provisions of the Police Act (1984:387). Law (2014:649).

Section 6[218]
During the house search, inconvenience or damage must not be caused beyond what is unavoidably necessary.
[S2] Rooms or storage areas may, if necessary, be opened by force. If this has happened, it must be closed again in an appropriate manner after the ceremony.
[S3] The search may not be carried out between nine o'clock in the evening and six o'clock in the morning without special reason.

[217] **Kap. 28 4 § RB** Förordnande om husrannsakan meddelas, utom i fall som avses i tredje stycket, av undersökningsledaren, åklagaren eller rätten. Förordnande om husrannsakan för delgivning ska alltid meddelas av rätten. Kan i annat fall husrannsakan antas bli av stor omfattning eller medföra synnerlig olägenhet för den hos vilken åtgärden företas, bör, om det inte är fara i dröjsmål, åtgärden inte vidtas utan rättens förordnande.
[S2] Fråga om husrannsakan får rätten ta upp på yrkande av undersökningsledaren eller åklagaren. Efter åtalet får rätten även på yrkande av målsägande eller självmant ta upp en sådan fråga. Fråga om husrannsakan för delgivning tas upp av rätten självmant eller på yrkande av Polismyndigheten eller åklagaren.
[S3] Förordnande om husrannsakan för eftersökande av den som ska häktas enligt beslut som avses i 24 kap. 17 § tredje stycket eller hämtas till inställelse vid rätten meddelas av Polismyndigheten eller polisman enligt bestämmelser i polislagen (1984:387). Lag (2014:649).
[218] **Kap. 28 6 § RB** Vid husrannsakan må olägenhet eller skada ej förorsakas utöver vad som är oundgängligen nödvändigt.
[S2] Rum eller förvaringsställe må, om det erfordras, öppnas med våld. Har så skett, skall det efter förrättningen på lämpligt sätt åter tillslutas.
[S3] Husrannsakan må ej utan särskilt skäl verkställas mellan klockan nio eftermiddagen och klockan sex förmiddagen.

Section 7[219]
During the house search, a credible witness requested by the bailiff must be present as far as possible. The executor should hire the necessary assistance from an expert or other.
[S2] The person whose house is searched, or, if he is not present, his household members must be given the opportunity to observe the proceedings and also to call witnesses, but without the investigation being stopped thereby. If neither he nor any of his household members or witnesses summoned by them were present, he shall, as soon as possible without prejudice to the investigation, be informed of the action taken.
[S3] At the proceedings, the plaintiff or his representative may be allowed to be present to provide the necessary information; however, it must be ensured that the claimant or the representative does not become aware of the relationship that is disclosed to a greater extent than is required for the purpose.

Section 8[220]
Postal or telegraphic dispatches, trade books or other individual documents found during the house search may not be examined further, nor may letters or other closed documents be opened in a different order than in ch. 27. Section 12 first paragraph is said.

Section 9[221]
A record shall be kept of the house search, in which the purpose of the operation and what has occurred are stated.
[S2] The person whose house was searched may, on request, obtain evidence thereof, including information on the crime the suspicion relates to.

[219] **Kap. 28. 7 § RB** Vid husrannsakan skall såvitt möjligt ett av förrättningsmannen anmodat trovärdigt vittne närvara. Förrättningsmannen äge anlita erforderligt biträde av sakkunnig eller annan.
[S2] Den, hos vilken husrannsakan företages, eller, om han ej är tillstädes, hans hemmavarande husfolk skall erhålla tillfälle att övervara förrättningen så ock att tillkalla vittne, dock utan att undersökningen därigenom uppehålles. Har varken han eller någon av hans husfolk eller av dem tillkallat vittne närvarit, skall han, så snart det kan ske utan men för utredningen, underrättas om den vidtagna åtgärden.
[S3] Vid förrättningen må målsägande eller hans ombud tillåtas att närvara för att tillhandagå med nödiga upplysningar; dock skall tillses, att målsäganden eller ombudet icke i vidare mån än för ändamålet erfordras vinner kännedom om förhållande, som därvid yppas.
[220] **Kap. 28 8 § RB** Post- eller telegrafförsändelse, handelsbok eller annan enskild handling, som anträffas vid husrannsakan, må icke närmare undersökas, ej heller brev eller annan sluten handling öppnas i annan ordning än i 27 kap. 12 § första stycket sägs.
[221] **Kap. 28. 9 § RB** Över husrannsakan skall föras protokoll, vari angives ändmålet med förrättningen och vad därvid förekommit.

Section 10[222]
For the purposes stated in Section 1 or Section 2, the investigator or the prosecutor, as well as a police officer, may conduct an investigation in a place other than that referred to in Section 1, even if it is not accessible to the public

Section 10d[223] **[Remote searches]**
Decisions on remote searches are made by the investigator, the prosecutor or the court. A police officer may take the measure even without such a decision, if there is a danger in delay and the search cannot be assumed to be of a large scale or cause extreme inconvenience to the person affected by the measure.
[S2] If the search can be assumed to be of a large scale or cause extreme inconvenience to the person affected by the measure, the measure should not be taken without the court's decision, unless there is danger in delay.
[S3] The question of remote searches may be raised by the court at the request of the investigator or the prosecutor. After the indictment, the court may also, at the request of the plaintiff or on its own, take up such a question. Law (2022:316).

Section 10e
[224]If a remote search is carried out during a house search, Section 7 shall be applied with regard to the right to be present during the search.
[S2] In cases other than those referred to in the first paragraph, the person may be present who can be assumed to have used the readable information system that the search refers to, if it can be assumed that the information system contains information that according to ch. 27 Section 2 prevents seizure.
[S3] What is said in the first and second paragraphs does not apply if there are special reasons against attendance.
[S4] Otherwise, ch. 27 Section 11 b, third paragraph, and Section 11 c are applied in the case of a remote search. Law (2022:316).

[222] **Kap. 28 10 § RB** För ändamål, som sägs i 1 eller 2 §, äge undersökningsledaren eller åklagaren så ock polisman företaga undersökning å annat ställe än i 1 § avses, även om det icke är tillgängligt för allmänheten.
[223] **Kap. 28 10 d § RB** Beslut om genomsökning på distans fattas av undersökningsledaren, åklagaren eller rätten. En polisman får vidta åtgärden även utan ett sådant beslut, om det är fara i dröjsmål och genomsökningen inte kan antas bli av stor omfattning eller medföra synnerlig olägenhet för den som drabbas av åtgärden.
[S2] Om genomsökningen kan antas bli av stor omfattning eller medföra synnerlig olägenhet för den som drabbas av åtgärden bör, om det inte är fara i dröjsmål, åtgärden inte vidtas utan rättens beslut.
[S3] Fråga om genomsökning på distans får tas upp av rätten på begäran av undersökningsledaren eller åklagaren. Efter åtalet får rätten även på yrkande av målsäganden eller självmant ta upp en sådan fråga. Lag (2022:316).
[224] **Kap. 28. 10 e § RB** Om en genomsökning på distans verkställs vid en husrannsakan ska 7 § tillämpas i fråga om rätt till närvaro vid genomsökningen.
[S2] I andra fall än som avses i första stycket, får den närvara som kan antas ha använt det avläsningsbara informationssystem som genomsökningen avser, om det kan antas att det i informationssystemet finns uppgifter som enligt 27 kap. 2 § hindrar beslag.
[S3] Det som sägs i första och andra styckena gäller inte om det finns särskilda skäl mot närvaro.
[S4] I övrigt ska 27 kap. 11 b § tredje stycket och 11 c § tillämpas vid en genomsökning på distans. Lag (2022:316).

Section 10f[225]
If it can be assumed that the investigation will otherwise be made more difficult, the person who is present at a remote search is obliged to temporarily hand over electronic communication equipment other than that used to carry out the search and which he or she carries with him or has on you. If he or she refuses, a police officer may temporarily take possession of the equipment.
[S2] If it is necessary to search for such equipment as specified in the first paragraph and imprisonment is prescribed for the crime, a police officer may physically search the person who is reasonably suspected of the crime. Anyone other than the person who can reasonably be suspected of the crime may only be body searched if there is special reason to assume that the investigation will otherwise be hampered. Law (2022:316).

Section 10g
If a remote search has been carried out without the person affected by the measure being present, he or she must be notified of the measure as soon as it can take place without prejudice to the investigation. Law (2022:316).

Section 10h[226]
A remote search must be recorded. The minutes must state the following:
- the purpose of the measure,
- when the action started and ended,
- if measures according to section 10 f have been taken, and
- what else occurred during the search.

[S2] Anyone who has been affected by a remote search has the right, upon request, to receive proof of the action. The evidence must also contain information about the crime to which the suspicion refers. Law (2022:316).

[225] **Kap. 28 10 f § RB** Om det kan antas att utredningen annars försvåras, är den som närvarar vid en genomsökning på distans skyldig att på tillsägelse tillfälligt lämna ifrån sig annan elektronisk kommunikationsutrustning än sådan som används för att utföra genomsökningen och som han eller hon bär med sig eller har på sig. Om han eller hon vägrar, får en polisman tillfälligt omhänderta utrustningen.
[S2] Om det är nödvändigt för att söka efter sådan utrustning som anges i första stycket och det är föreskrivet fängelse för brottet, får en polisman kroppsvisitera den som är skäligen misstänkt för brottet. Någon annan än den som skäligen kan misstänkas för brottet får kroppsvisiteras endast om det finns synnerlig anledning att anta att utredningen annars kommer att försvåras. Lag (2022:316).

[226] **Kap. 28 10 h § RB** En genomsökning på distans ska protokollföras. I protokollet ska följande anges:
ändamålet med åtgärden,
när åtgärden påbörjades och avslutades,
om åtgärder enligt 10 f § har vidtagits, och
vad som i övrigt förekommit vid genomsökningen.
[S2] Den som har drabbats av en genomsökning på distans har rätt att på begäran få ett bevis om åtgärden. Beviset ska även innehålla uppgift om det brott som misstanken avser. Lag (2022:316).

Section 10i
The provisions in Section 1 third paragraph, Section 3a and Section 8 regarding house searches shall also be applied in the case of remote searches. Law (2022:316).

Chapter 27 [relevant Excerpt]
And be aware of s. 17c et seq. Chapter 27 if conservatory measures annexed to a search take place:

Section 17c
The person who must be notified of a seizure, a house search or a remote search according to Section 11 or ch. 28 Section 7 or Section 10 g must also be notified that a document has been copied in accordance with Section 17a, as soon as this can happen without prejudice to the investigation. Law (2022:316).

Section 17d
If a copy according to Section 17a is neither used as the basis for a decision to bring charges nor used as evidence in support of the prosecution, it must be destroyed when a decision on the merits has become final or when a decision not to prosecute has been made.
[S2] A copy must be destroyed immediately in the parts that are subject to prohibition according to section 17a, second paragraph.
[S3] A measure according to the second paragraph must be recorded. Law (2022:316).

bb. For Body Searches Including Clothes Etc., Ch. 28 Code of Judicial Procedure

Chapter 28 Code of Judicial Procedure **37**
Section 13[227]
Regarding body search and body inspection, what is prescribed in Sections 3a, 4, 8 and 9 regarding house searches shall apply in applicable parts. If there is danger in delay, a body search and body inspection may be decided by a police officer.

[227] **Kap. 28. 13 § RB** Beträffande kroppsvisitation och kroppsbesiktning skall i tillämpliga delar gälla vad i 3 a, 4, 8 och 9 §s är föreskrivet om husrannsakan. Är fara i dröjsmål, får kroppsvisitation och kroppsbesiktning beslutas av polisman.
[S2]Förrättning, som är av mera väsentlig omfattning, skall verkställas inomhus och i avskilt rum. Verkställs den av någon annan än en läkare, skall såvitt möjligt ett av förrättningsmannen anmodat trovärdigt vittne närvara. Blodprov får inte tas av någon annan än en läkare eller en legitimerad sjuksköterska. Annan mera ingående undersökning får utföras endast av läkare.
[S3]Kroppsvisitation eller kroppsbesiktning av en kvinna får inte verkställas eller bevittnas av någon annan än en kvinna, läkare eller legitimerad sjuksköterska. Kroppsvisitation som enbart innebär att föremål som en kvinna har med sig undersöks och kroppsbesiktning som enbart innebär att blodprov, alkoholutandningsprov eller salivprov för DNA-analys tas får dock verkställas och bevittnas av en man. Lag (2005:878).

[S2] Proceedings, which are of a more substantial scope, must be carried out indoors and in a separate room. If it is executed by someone other than a doctor, as far as possible a credible witness requested by the executor must be present. Blood samples may not be taken by anyone other than a doctor or a registered nurse. Other, more detailed examinations may only be carried out by a doctor.
[S3] Body search or body inspection of a woman may not be carried out or witnessed by anyone other than a woman, doctor or registered nurse. A body search which only involves examining items that a woman has with her and a body search which only involves taking a blood sample, alcohol breath test or saliva sample for DNA analysis may, however, be carried out and witnessed by a man. Law (2005:878).

Section 13a[228]
The person who is to be body searched may be detained for the purpose for up to three hours or, if there are special reasons, a further three hours.
[S2] The person to be body searched may be detained for the purpose for up to six hours or, if there are exceptional reasons, a further six hours.
[S3] A policeman may take the person who is to be body searched or body inspected to the place where the measure is to be carried out. Law (2016:546).

cc. For Seizures, Ch. 27 Code of Judicial Procedure

38 **Chapter 27 About seizures, copying, biometric authentication and secret coercive measures**
Section 16 CPC
Anyone who in electronic form holds a certain stored information that can reasonably be assumed to be relevant to the investigation of whether a crime may be ordered to preserve the information.[229]
The injunction must state how long the information is to be retained. The time may not be set longer than necessary and may not exceed 90 days from the date of the decision.

[228] **Kap. 28. 13 a § RB** Den som ska kroppsvisiteras får hållas kvar för ändamålet upp till tre timmar eller, om det finns synnerliga skäl, ytterligare tre timmar.
[S2]Den som ska kroppsbesiktigas får hållas kvar för ändamålet upp till sex timmar eller, om det finns synnerliga skäl, ytterligare sex timmar.
[S3]En polisman får ta med den som ska kroppsvisiteras eller kroppsbesiktigas till den plats där åtgärden ska genomföras. Lag (2016:546).
[229] **27 kap. Om beslag, kopiering, biometrisk autentisering och hemliga tvångsmedel**
16 §
Den som i elektronisk form innehar en viss lagrad uppgift som skäligen kan antas ha betydelse för utredningen om ett brott får föreläggas att bevara uppgiften.
I föreläggandet ska det anges hur länge uppgiften ska bevaras. Tiden får inte bestämmas till längre än nödvändigt och får inte överstiga 90 dagar från dagen för beslutet.
Om det finns särskilda skäl får tiden för bevarande förlängas med högst 90 dagar.
Ett föreläggande får inte riktas mot den som skäligen kan misstänkas för brottet eller mot någon till honom eller henne sådan närstående person som avses i 36 kap. 3 §.
Lag (2021:238).

If there are special reasons, the retention period may be extended by a maximum of 90 days. An injunction may not be directed against the person who can reasonably be suspected of the crime or against someone related to him or her as referred to in Chapter 36. Section 3. Lag (2021:238).

Section 16a CPC[230]
An injunction pursuant to section 16 may be decided by the head of the investigation or a prosecutor.
The injunction may state that the person who has been instructed to retain certain information may not show that the measure has been taken.
Anyone who has been ordered to retain certain information may request the court to review the injunction. Section 6, first paragraph, applies to the court's review. Lag (2021:238).

Act (2001:185) on the processing of data in the activities of the Swedish Customs Service/*Lag (2001:185) om behandling av uppgifter i Tullverkets verksamhet*

Chapter 2 Customs database
Disclosure of information to individuals on a medium for automated processing
Section 7[231]
The Swedish Tax Agency may have direct access to information referred to in Section 3 1, 2, 5–7, 10 and 11 in respect of persons who are or can be assumed to be taxable or appear in a case in accordance with the Act (1998:506) on excise duty control of transports etc. of alcohol products, tobacco products and energy products.
The Enforcement Agency may have direct access to information referred to in Section 3 1, 2, 5–7, 10 and 11 in respect of the person who is registered as a debtor with the Enforcement Agency or the spouse of the debtor or someone else who is equated with a spouse.
The Government shall issue more detailed regulations on what information direct access pursuant to the first paragraph may include. Lag (2007:467).

[230] **16a §**
Ett föreläggande enligt 16 § får beslutas av undersökningsledaren eller en åklagare.
I föreläggandet får det anges att den som har förelagts att bevara en viss uppgift inte får uppenbara att åtgärden har vidtagits.
Den som har förelagts att bevara en viss uppgift får begära rättens prövning av föreläggandet. För rättens prövning gäller 6 § första stycket. Lag (2021:238).
[231] **7 §** Skatteverket får ha direktåtkomst till uppgifter som avses i 3 § 1, 2, 5-7, 10 och 11 i fråga om personer som är eller kan antas vara skattskyldiga eller förekommer i ett ärende enligt lagen (1998:506) om punktskattekontroll av transporter m.m. av alkoholvaror, tobaksvaror och energiprodukter.
Kronofogdemyndigheten får ha direktåtkomst till uppgifter som avses i 3 § 1, 2, 5-7, 10 och 11 i fråga om den som är registrerad som gäldenär hos kronofogdemyndigheten eller make till gäldenären eller någon annan som likställs med make.
Regeringen meddelar närmare föreskrifter om vilka uppgifter direktåtkomst enligt första stycket får omfatta.
Lag (2007:467).

Section 8[232]
An individual may have direct access to such information in the database that may be disclosed to the individual if the Government has issued regulations to that effect.
The Government or the authority determined by the Government may, with the support of Chapter 8 Section 7 of the form of government shall issue regulations on which information may be covered by direct access in accordance with the first paragraph. Lag (2016:885).

Search term
Section 9[233]
When searching for documents referred to in section 4, only information on name, personal or coordination number and information referred to in Chapter 5 may be obtained. Section 2 of the Public Access to Information and Secrecy Act (2009:400) is used as a search term. As a search term, however, the information referred to in Chapter 1 Section 7 be used. Lag (2009:495).

dd. For the Interception of Electronic Communication (e)

39 **Chapter 28 Code of Judicial Procedure**
Section 20[234]
Secret interception of electronic communication and secret monitoring of electronic communication may, unless otherwise follows from the second paragraph, only take place if someone is reasonably suspected of the crime and the measure is of particular importance to the investigation. The measure may only refer to

[232] **8 §** En enskild får ha direktåtkomst till sådana uppgifter i databasen som får lämnas ut till den enskilde om regeringen har meddelat föreskrifter om det.
Regeringen eller den myndighet som regeringen bestämmer kan med stöd av 8 kap. 7 § regeringsformen meddela föreskrifter om vilka uppgifter som får omfattas av direktåtkomst enligt första stycket. Lag (2016:885).
[233] **Sökbegrepp**
9 § Vid sökning efter handlingar som avses i 4 § får endast uppgift om namn, person- eller samordningsnummer och uppgifter som avses i 5 kap. 2 § offentlighets- och sekretesslagen (2009:400) användas som sökbegrepp. Som sökbegrepp får dock inte uppgift som avses i 1 kap. 7 § användas. Lag (2009:495).
[234] **K27 20 § RB** Hemlig avlyssning av elektronisk kommunikation och hemlig övervakning av elektronisk kommunikation får, om inte annat följer av andra stycket, endast ske om någon är skäligen misstänkt för brottet och åtgärden är av synnerlig vikt för utredningen. Åtgärden får endast avse
ett telefonnummer eller annan adress eller en viss elektronisk kommunikationsutrustning som under den tid som tillståndet avser innehas eller har innehafts av den misstänkte eller annars kan antas ha använts eller komma att användas av den misstänkte, eller
ett telefonnummer eller annan adress eller en viss elektronisk kommunikationsutrustning som det finns synnerlig anledning att anta att den misstänkte under den tid som tillståndet avser har kontaktat eller kommer att kontakta.
[S2]Hemlig övervakning av elektronisk kommunikation får, utöver vad som anges i första stycket, ske i syfte att utreda vem som skäligen kan misstänkas för brottet, om åtgärden är av synnerlig vikt för utredningen. Övervakning som innebär att uppgifter hämtas in om meddelanden får dock endast avse förfluten tid.
[S3]Avlyssning eller övervakning får inte avse meddelanden som endast överförs eller har överförts i ett elektroniskt kommunikationsnät som med hänsyn till sin begränsade omfattning och omständigheterna i övrigt får anses vara av mindre betydelse från allmän kommunikationssynpunkt. Lag (2012:281).

1. a telephone number or other address or certain electronic communication equipment which, during the period covered by the permit, is or has been held by the suspect or otherwise may be assumed to have been or will be used by the suspect, or
2. a telephone number or other address or a certain electronic communication device that there is special reason to assume that the suspect has contacted or will contact during the time that the permit refers to.
[S2] Secret monitoring of electronic communications may, in addition to what is specified in the first paragraph, take place with the aim of investigating who can reasonably be suspected of the crime, if the measure is of particular importance to the investigation. However, monitoring that involves the retrieval of information about messages may only refer to elapsed time.
[S3] Eavesdropping or monitoring may not refer to messages that are only transmitted or have been transmitted in an electronic communication network which, in view of its limited scope and the circumstances in general, may be considered to be of minor importance from a general communication point of view. Law (2012:281).

Section 25[235]
When permission for covert interception of electronic communications or covert monitoring of electronic communications has been granted, the technical aids needed for the measure may be used.
[S2] In ch. 9 the law (2022:482) on electronic communications contains provisions on secret interception of electronic communications and secret monitoring of electronic communications that apply to those who run activities referred to in that law. Law (2022:484).

Section 25a
In case of secret room interception, the executive authority may, after special permission, secretly gain access to and install technical aids in a place that is otherwise protected against intrusion. Such a permit may relate only to the location to be intercepted or, if there are special reasons, to a location directly adjacent to that location. A permit to gain access to such an adjacent place may not, however, refer to any permanent residence other than the suspects.
[S2] If a place is to be the subject of both secret room surveillance and secret camera surveillance, a special permit according to the first paragraph may also be notified for

[235] **K27 25 § RB** När tillstånd till hemlig avlyssning av elektronisk kommunikation eller hemlig övervakning av elektronisk kommunikation har lämnats, får de tekniska hjälpmedel som behövs för åtgärden användas.
[S2]I 9 kap. lagen (2022:482) om elektronisk kommunikation finns bestämmelser om hemlig avlyssning av elektronisk kommunikation och hemlig övervakning av elektronisk kommunikation som gäller för den som driver verksamhet som avses i den lagen. Lag (2022:484).

the camera surveillance. However, this may not refer to access for the installation of technical aids in someone's permanent residence.
[S3] If a permit according to the first or second paragraph refers to a vehicle, the executive authority may, if necessary, temporarily move the vehicle in connection with access.
[S4] If a technical aid has been installed with the support of a permit according to the first or second paragraph, the aid must be removed or made unusable as soon as possible after the time for the permit has expired or the permit has been revoked.
[S5] When a decision on covert room tapping or covert camera surveillance is carried out, inconvenience or damage must not be caused beyond what is absolutely necessary. Law (2014:1419).

(1) Special Rules of the Public Representative in the Case of Very Intrusive Investigation Measures

40 In Sweden special public representatives must protect the individual rights – especially ones that relate to personal data – via taking part in court proceedings.

(2) Relevant Provisions, Ch. 27 Code of Judicial Procedure

41

Public Representative
Section 26[236]
Public representatives must protect the privacy interests of individuals in court cases regarding secret interception of electronic communications, secret camera surveillance and secret room tapping.
[S2] A public representative has the right to take part in what appears in the case, to express an opinion on the case and to appeal the court's decision. Law (2014:1419).

Section 27
The government appoints for three years consecutively persons who[237] can serve as public representatives. During the three-year period, if necessary, additional persons may be appointed for the remaining part of the period.

[236] **Offentligt ombud**
K27 26 § RB Offentliga ombud ska bevaka enskildas integritetsintressen i ärenden hos domstol om hemlig avlyssning av elektronisk kommunikation, hemlig kameraövervakning och hemlig rumsavlyssning.
[S2]Ett offentligt ombud har rätt att ta del av det som förekommer i ärendet, yttra sig i ärendet och överklaga rättens beslut. Lag (2014:1419).
[237]**Kap. 27 27 § RB** Regeringen förordnar för tre år i sänder personer som kan tjänstgöra som offentliga ombud. Under treårsperioden får vid behov ytterligare personer förordnas för återstående del av perioden.
[S2]Ett offentligt ombud ska vara svensk medborgare och ska vara eller ha varit advokat eller ha varit ordinarie domare. Ett offentligt ombud får inte vara i konkurstillstånd eller ha förvaltare enligt 11 kap. 7 § föräldrabalken.
[S3]Regeringen ska inhämta förslag på lämpliga kandidater från Sveriges advokatsamfund och Domarnämnden.
[S4]Ett offentligt ombud får trots att regeringens förordnande har upphört slutföra pågående uppdrag. Lag (2008:420).

[S2] A public representative must be a Swedish citizen and must be or have been a lawyer or have been an ordinary judge. A public representative may not be in bankruptcy or have an administrator according to ch. 11. Section 7 of the Parents' Code.
[S3] The government must obtain proposals for suitable candidates from the Swedish Bar Association and the Judges' Board.
[S4] A public representative may, despite the government's appointment having ceased, complete ongoing assignments. Law (2008:420).

Section 28[238]
When an application or notification about secret interception of electronic communications, secret camera surveillance or secret room tapping has been received by the court, the court shall as soon as possible appoint a public representative in the case and hold a meeting. At the meeting, the prosecutor and the public representative must be present.
[S2] An assignment as a public representative also applies in higher law. Law (2014:1419).

Section 28a[239]
If the court has issued a permit for secret interception of electronic communications, and the permit is still valid, the court may examine an application or notification for additional permit that refers to the same person without appointing a public representative and without holding a meeting on
the application or notification is based on the same circumstances but relates to a different telephone number or address or a different electronic communication device than the previous permit, and
a meeting would be without significance for the court's review of the application or notification.
[S2] A permit according to the first paragraph may not refer to any other time than the previous permit.

[238] **Kap. 27 28 § RB** När en ansökan eller anmälan om hemlig avlyssning av elektronisk kommunikation, hemlig kameraövervakning eller hemlig rumsavlyssning har kommit in till rätten, ska rätten så snart som möjligt utse ett offentligt ombud i ärendet och hålla ett sammanträde. Vid sammanträdet ska åklagaren och det offentliga ombudet närvara.
[S2]Ett uppdrag som offentligt ombud gäller även i högre rätt. Lag (2014:1419).
[239] **Kap. 27 28 a § RB** Om rätten har meddelat tillstånd till hemlig avlyssning av elektronisk kommunikation, och tillståndet alltjämt gäller, får rätten pröva en ansökan eller anmälan om ytterligare tillstånd som avser samma person utan att utse ett offentligt ombud och utan att hålla sammanträde om
ansökan eller anmälan grundas på samma omständigheter men avser ett annat telefonnummer eller en annan adress eller en annan elektronisk kommunikationsutrustning än det tidigare tillståndet, och
ett sammanträde skulle vara utan betydelse för rättens prövning av ansökan eller anmälan.
[S2]Ett tillstånd enligt första stycket får inte avse någon annan tid än det tidigare tillståndet.
[S3]När rätten har prövat en ansökan eller anmälan enligt första stycket ska ett offentligt ombud skyndsamt utses och underrättas om beslutet. Lag (2020:728).

[S3] When the court has examined an application or notification in accordance with the first paragraph, a public representative must be promptly appointed and notified of the decision. Law (2020:728).

Section 30[240]
The person appointed as public representative in a case may not disclose without authorization what he or she has become aware of in the case. Law (2003:1146).

[240] **Kap. 27 30 § RB** Den som förordnats som offentligt ombud i ett ärende får inte obehörigen röja vad han eller hon i ärendet fått kännedom om. Lag (2003:1146).

6. Article 31 and 32 Cross-border investigations and enforcement

The **Swedish expert report** stated that: "The Inquiry assesses that Swedish law mainly already meets the requirements of the ordinance, but that certain legislative measures need to be taken, e.g. for the Swedish European delegated prosecutors and, where applicable, the Swedish European Public Prosecutor to be able to issue a European or Nordic arrest warrant."[241] 1

Article 31 and 32 EPPO Regulation govern the procedures for **cross-border investigative measures** by the EPPO within the EU and are therefore highly important for any EDP as there is (still) a "lack of common rules on evidence"[242] despite the rules on mutual trust in the admissibility and the "free circulation of evidence"[243]. The wording ensures compliance with national laws, and aims at protecting procedural rights.[244] Any economic chamber of a national court[245] dealing with PIF charges, indictments and trials will need to closely focus on the admissibility of evidence as e.g. unlawful evidence cannot provide arguments within a judgement, see s. 261 German CPC[246]. 2

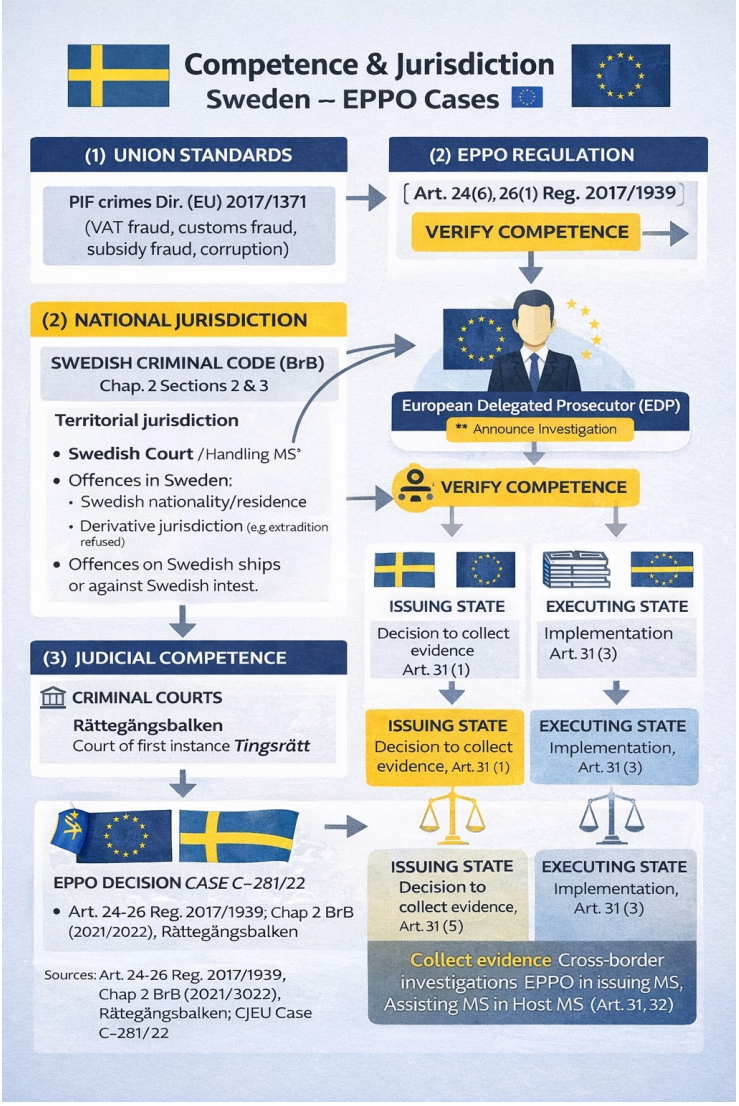
Thus, both articles are a **cornerstone for effective investigations** in cross-border crimes while maintaining cooperation between Member States and upholding fundamental rights (in the area of mutual trust). On December 21, 2023 the CJEU issued its first **clarifying ruling** on the EPPO in **Case C–281/22**, addressing cross-border investigative measures by the EPPO.[247] 3

In this judgment the court said that when the EPPO conducts cross-border investigative measures, the **law of the issuing state** (where the investigation originates) **applies to the decision authorizing the measure**.[248] However, the **law of the executing state** (where the measure is carried out) **governs how the measure is implemented by the authorities**, ensuring compliance with national procedural safeguards and fundamental rights in the executing Member State. The impact of the decision was widely discussed 4

[241] See Lindberg/Billfalk /Färndahl/ Kittel 2020, pp. 27.
[242] Allegreza 2024, p. 291 using this as an example to request the EU to finally adopt or at least make the "approximation of evidence law" a key priority. Already on this point Satzger and Zimmermann 2018, p. 633 with the explanation of *forum regit actum* principle.
[243] Ligeti 2024, p. 483 providing a short in-depth analysis on the theme.
[244] Claes and Franssen 2021 highlighting why customs procedures are a good example for the EPPO's potential struggle with procedural safeguards. They call it a clash of enforcement procedures, which is quite fitting the picture; on the EPPO's possibilities see as well Ligeti 2024, pp. 460 et seq. summarizing its role in general.
[245] See Niemz 2020, p. 50 explaining the German system of court authority in PIF matters. The situation is not the same in the whole EPPO zone, but most states (cf. compare the other volumes) tend to locate charges on a higher or superior court or a specialized chamber in tax, customs or economic crimes.
[246] The situation is nearly the same in most EU member states, but in the details the rules on exclusion of evidence are presumably highly divergent, see Ligeti 2024, p. 483, who uses the example of Italy and partly Croatia, where this (unlawfully gathered) piece of evidence must be excluded even from the (investigation or court) file itself.
[247] ECJ, Case C-281/22, *Criminal proceedings against G. K. and Others*, Judgment of the Court (Grand Chamber) of 21 December 2023, ECLI:EU:C:2023:1018.
[248] Ibid, para 53 et seq., which is legally based on the mutual trust principle.

by academia and lawyers.[249] From our point-of-view, this case clarified that the assisting Member State can only review procedural aspects of the measures, while substantive legality falls under the handling Member State's jurisdiction. This delineation is important to understand the Court's interpretation of Article 31 of the EPPO Regulation and impacts future EPPO investigations, emphasizing that assisting states have limited judicial review capabilities compared to handling states.[250] Article 32 complements Article 31 by allowing EDPs to **assign** investigative measures across different Member States. These measures include actions like **executing** e.g. search warrants, seizing evidence, or conducting interrogations. Article 32 emphasizes the importance of respecting national legal principles while facilitating cross-border investigations.[251]

5 *Figure 5 Clarifications for Art. 31 by ECJ 23.12.2023*



[249] Herrnfeld 2024, pp. 370–380 pointing out that efficiency (what remembers of the *effet utile* debate) is very important for the ECJ. And see another critical comment Pfister 2024, p. 1.
[250] Pfister 2024, passim.
[251] Cf. the Bulgarian (→ Vol. III) and German Volume, which include specific overviews for all member states. They can be accessed on the Logos Open Access Platform. Source Figure 5: Own Compilation.

7. Art. 33 Pre-Trial Arrest and Cross-Border Surrender

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1. The handling European Delegated Prosecutor may order or request the arrest or pre-trial detention of the suspect or accused person **in accordance with the national law applicable in similar domestic cases.**
2. Where it is necessary to arrest and surrender a person who is not present in the Member State in which the handling European Delegated Prosecutor is located, the latter shall issue or request the competent authority of that Member State to issue a European Arrest Warrant in accordance with Council Framework Decision 2002/584/JHA (3).

a) General Relation to National Law: Applicable Codes

Criminal Procedure Code and Code of Judicial Procedure apply. **1**

b) Para 1: Provisions for Arrest and Pre-Trial Detention

aa. Arrest

Chapter 24 About arrest and detention Code of Judicial Procedure (1942:740) **2**
Section 3[252]
Even a person who is only reasonably suspected of a crime may, with the restriction that follows from section 19, be arrested if
1. the conditions for arrest in other respects are met in accordance with what is stated in section 1, first, third and fourth paragraphs or section 2. and
2. it is of particular importance that he be detained pending further investigation into the crime. Lag (1989:650).

[252] **24 Kap. Om häktning och anhållande**
3 § Även den som endast är skäligen misstänkt för brott får, med den begränsning som följer av 19 §, häktas, om
1. förutsättningarna för häktning i övrigt är uppfyllda enligt vad som sägs i 1 § första, tredje och fjärde styckena eller 2 § och
2. det är av synnerlig vikt att han tas i förvar i avvaktan på ytterligare utredning om brottet. Lag (1989:650).

Section 5[253]
Decisions to detain someone are announced by the court. The arrest decision shall state the crime to which the suspicion relates and the basis for the arrest.
There are provisions in section 20 on the revocation of detention decisions. Lag (1987:1211).

Section 5a
If the court decides to detain someone, orders someone to remain in custody or allows an extension of the time to bring charges,[254] it shall at the same time, at the request of the prosecutor, examine whether and in what way the detainee's contacts with the outside world shall may be restricted in accordance with Chapter 6 Section 2 of the Detention Act (2010:611). Permission for such restrictions may only be granted if there is a risk that the suspect will remove evidence or otherwise complicate the investigation of the case.
Permission for restrictions may only be granted if the reasons for the measure outweigh the intrusion or otherwise that the measure entails for the suspect or for any other opposing interest.
If it is necessary due to later circumstances, the prosecutor may issue a decision that entails restrictions on the detainee's contacts with the outside world, even if the court has not granted permission for the restriction in question. If the prosecutor has announced such a decision, he or she shall on the same day or no later than the next day request the court's review in accordance with the first paragraph. When such a petition has been received by the court, the court shall, as soon as possible and within a week at the latest, hold a hearing on the matter. For the proceedings before the court, what is prescribed about the arrest hearing applies.

[253] **5 §** Beslut att häkta någon meddelas av rätten. I häktningsbeslutet skall anges det brott som misstanken avser och grunden för häktningen.
Om hävning av häktningsbeslut finns bestämmelser i 20 §. Lag (1987:1211).
[254] **5a §** Om rätten beslutar att häkta någon, förordnar att någon ska stanna kvar i häkte eller medger förlängning av tiden för att väcka åtal, ska den samtidigt på begäran av åklagaren pröva om och i så fall på vilket sätt den häktades kontakter med omvärlden ska få inskränkas enligt 6 kap. 2 § häkteslagen (2010:611). Tillstånd till sådana restriktioner får meddelas endast om det finns risk för att den misstänkte undanröjer bevis eller på annat sätt försvårar sakens utredning.
Tillstånd till restriktioner får meddelas endast om skälen för åtgärden uppväger det intrång eller men i övrigt som åtgärden innebär för den misstänkte eller för något annat motstående intresse.
Om det på grund av senare inträffade omständigheter är nödvändigt, får åklagaren meddela beslut som innebär inskränkningar i den häktades kontakter med omvärlden även om rätten inte har meddelat tillstånd till restriktionen i fråga. Om åklagaren har meddelat ett sådant beslut ska han eller hon samma dag eller senast dagen därefter begära rättens prövning enligt första stycket. När en sådan framställning kommit in till rätten, ska rätten så snart det kan ske och senast inom en vecka hålla förhandling i frågan. För handläggningen vid rätten gäller vad som är föreskrivet om häktningsförhandling.
Tillstånd till restriktioner förfaller om rätten inte medger fortsatt tillstånd i samband med att den förordnar att någon ska stanna kvar i häkte eller medger förlängning av tiden för att väcka åtal. Lag (2021:285).

Permission for restrictions expires if the court does not allow continued permission in connection with ordering someone to remain in custody or allowing an extension of the time to bring charges. Lag (2021:285).

Section 6[255]
If there is reason to detain someone, he may be arrested pending the court's examination of the detention issue.
If there are no full reasons for detention, but if the suspect **is reasonably suspected of the crime,** he may be arrested, if it is of particular importance that he is taken into custody pending further investigation.
A decision on arrest is announced by the prosecutor. The arrest decision shall state the crime to which the suspicion relates and the basis for the arrest. Lag (1987:1211).

Section 7[256]
If there is reason to arrest someone, a police officer may in urgent cases arrest him even without an arrest decision.
If the person who has committed a crime, on which imprisonment may follow, is caught red-handed or fleeing, he may be arrested by anyone. Everyone can also arrest those who are wanted for crime. The arrested person must be immediately handed over to the nearest police officer. Lag (1987:1211).

Section 8
If a decision to arrest someone has been announced in the suspect's absence[257], he or she shall, as soon as the decision has been enforced, be questioned. The hearing shall be

[255] **6 §** Om det finns skäl att häkta någon, får han anhållas i avvaktan på rättens prövning av häktningsfrågan.
Finns inte fulla skäl till häktning men är den misstänkte skäligen misstänkt för brottet, får han anhållas, om det är av synnerlig vikt att han tas i förvar i avvaktan på ytterligare utredning.
Beslut om anhållande meddelas av åklagaren. I anhållningsbeslutet skall anges det brott som misstanken avser och grunden för anhållandet. Lag (1987:1211).
[256] **7 §** Om det finns skäl att anhålla någon, får en polisman i brådskande fall gripa honom även utan anhållningsbeslut.
Om den som har begått brott, på vilket fängelse kan följa, påträffas på bar gärning eller flyende fot, får han gripas av envar. Envar får också gripa den som är efterlyst för brott. Den gripne skall skyndsamt överlämnas till närmaste polisman. Lag (1987:1211).
[257] **8 §** Har ett beslut att anhålla någon meddelats i den misstänktes frånvaro, ska han eller hon, så snart beslutet har verkställts, förhöras. Förhöret ska hållas av en åklagare eller av en polisman eller annan anställd vid Polismyndigheten eller Ekobrottsmyndigheten som myndigheten har utsett. Har åklagaren inte redan underrättats om frihetsberövandet, ska det skyndsamt anmälas till honom eller henne. Åklagaren ska efter förhöret omedelbart besluta om den misstänkte ska förbli anhållen.
Har någon gripits enligt 7 §, ska han eller hon så snart som möjligt förhöras av en åklagare eller av en polisman eller annan anställd vid Polismyndigheten eller Ekobrottsmyndigheten som myndigheten har utsett. Har åklagaren inte redan underrättats om frihetsberövandet, ska det skyndsamt anmälas till honom eller henne. Åklagaren ska efter förhöret omedelbart besluta om den misstänkte ska anhållas. Anhålls inte den misstänkte, ska åklagaren omedelbart häva beslutet om gripande.

held by a prosecutor or by a police officer or other employee of the Police Authority or the Economic Crime Authority appointed by the authority. If the prosecutor has not already been notified of the detention, he or she must be notified immediately. After the interrogation, the prosecutor must immediately decide whether the suspect should remain in custody.
If someone has been arrested in accordance with section 7, he or she shall be questioned as soon as possible by a prosecutor or by a police officer or other employee of the Police Authority or the Economic Crime Authority appointed by the authority. If the prosecutor has not already been notified of the detention, he or she must be notified immediately. After the interrogation, the prosecutor must immediately decide whether the suspect should be arrested. If the suspect is not arrested, the prosecutor must immediately revoke the decision to arrest.
Before the prosecutor has been notified of the deprivation of liberty, the decision on arrest may be revoked by the Police Authority, if it is obvious that there are no grounds for continued deprivation of liberty. In the immediate aftermath of the arrest, the decision may also be revoked by the police officer who made the decision under the same conditions.
If the person suspected of a crime deviates and there are grounds for arrest, the prosecutor may call for him or her.
Lag (2014:1410).

Section 9[258]
When someone is arrested or detained or when an arrest decision pursuant to section 8, first paragraph, is executed, the detainee shall be notified of the crime for which he or she is suspected and the basis for the detention.
Lag (2008:67).

Section 9a[259]
Anyone who is arrested or detained has the right to take note of the circumstances on which the decision on arrest or detention is based. Lag (2014:257).

Innan åklagaren har underrättats om frihetsberövandet, får beslutet om gripande hävas av Polismyndigheten, om det är uppenbart att det inte finns skäl för fortsatt frihetsberövande. I omedelbar anslutning till gripandet får beslutet under samma förutsättningar hävas även av den polisman som har fattat beslutet.
Om den som misstänks för brott avviker och det finns skäl för anhållande, får åklagaren efterlysa honom eller henne.
Lag (2014:1410).

[258] **9 §** När någon grips eller anhålls eller när ett anhållningsbeslut enligt 8 § första stycket verkställs, ska den frihetsberövade få besked om det brott som han eller hon är misstänkt för samt grunden för frihetsberövandet.
Lag (2008:67).

[259] **9a §** Den som anhålls eller häktas har rätt att ta del av de omständigheter som ligger till grund för beslutet om anhållande eller häktning. Lag (2014:257).

Section 10[260]
If there are no longer grounds for an arrest decision, the prosecutor shall immediately revoke the decision. Lag (1987:1211).

Section 11[261]
If the arrest decision is not revoked, the prosecutor shall, within the time specified in section 12, make an oral or written request to the court to detain the detainee.
The petition must state the crime to which the suspicion relates, the basis for the request for detention and the time of deprivation of liberty.
The detainee and his defence counsel shall, if possible, be notified immediately of the arrest petition through the care of the prosecutor. Lag (1987:1211).

Section 12[262]
An arrest petition shall be made without delay and no later than twelve o'clock on the third day after the decision to arrest.
If the arrest decision has been announced in the suspect's absence, the application of the first paragraph shall be considered the day of the decision when the decision was executed.
If an arrest request is not made within the prescribed time, the prosecutor shall immediately revoke the arrest decision. Lag (1995:1310).

Section 13[263]
If a request for detention has been made, the court shall without delay hold a hearing on the issue of detention.
The arrest hearing may never be held later than four days after the suspect has been arrested or the arrest decision has been executed. Lag (1995:1310).

[260] **10 §** Om det inte längre finns skäl för ett anhållningsbeslut, skall åklagaren omedelbart häva beslutet. Lag (1987:1211).
[261] **11 §** Om inte anhållningsbeslutet hävs, skall åklagaren inom tid som anges i 12 § muntligen eller skriftligen göra framställning hos rätten om häktning av den anhållne.
I framställningen skall anges det brott som misstanken avser, grunden för häktningsyrkandet samt tidpunkten för frihetsberövandet.
Den anhållne och hans försvarare skall, om möjligt, genast underrättas om häktningsframställningen genom åklagarens försorg. Lag (1987:1211).
[262] **12 §** Häktningsframställning skall göras utan dröjsmål och senast klockan tolv tredje dagen efter anhållningsbeslutet.
Har anhållningsbeslutet meddelats i den misstänktes frånvaro, skall vid tillämpning av första stycket som dag för beslutet anses dagen då beslutet verkställdes.
Görs inte häktningsframställning inom föreskriven tid, skall åklagaren omedelbart häva anhållningsbeslutet. Lag (1995:1310).
[263] **13 §** Har en häktningsframställning gjorts, skall rätten utan dröjsmål hålla förhandling i häktningsfrågan.
Häktningsförhandlingen får aldrig hållas senare än fyra dygn efter det att den misstänkte greps eller anhållningsbeslutet verkställdes.
Lag (1995:1310).

3 Article 33 EPPO Regulation is from our point-of-view effectively implemented in Swedish law through the Code of Judicial Procedure (1942:740), which applies to EDPs acting in Sweden. Article 33 para 1 is reflected in Chapter 24, ss. 3–13, which empower prosecutors to order arrest (s. 6) and request pre-trial detention subject to strict judicial control, ss. 5, 11–13 above, mirroring domestic cases. Like in German CPC law, most sections require that the suspect is "**is reasonably suspected of the [PIF-]crime**". This is open to a judicial analysis and proportionate judgement based on the information the EDP and the EPPO have gathered in the Case Management System. Probably these decisions could one day be open for AI-based statistics and pre-analysis of the information gathered for the case analysis.

4 Article 33 para 2 is operationalised via Sweden's application of the European Arrest Warrant under Framework Decision 2002/584/JHA. These provisions ensure rapid, proportionate coercive measures with judicial safeguards, enabling EDPs to act decisively in cross-border PIF fraud investigations while preserving legality, mutual recognition and effectiveness of EU criminal enforcement.

5

Section 13a[264]
The prosecutor may wait with the arrest petition, and the court may wait with the arrest hearing in order for the hearing on the arrest issue to be held jointly with a main hearing. A joint negotiation shall be held as soon as possible. The time limits for when an arrest petition must be made at the latest in accordance with section 12, first and second paragraphs, and for when an arrest hearing must be held at the latest in accordance with section 13, second paragraph, may not be exceeded. Lag (2021:285).

Section 14[265]
At the arrest hearing, the person requesting arrest and, if there is no particular obstacle, the detainee shall be present.
The person requesting detention must state the circumstances on which the claim is based. The same applies in the case of a request for permission for restrictions pursuant to section 5a. The detainee and his defence counsel shall be given an opportunity to comment. In addition to what the documents from the preliminary investigation contain

[264] **13a §** Åklagaren får avvakta med häktningsframställningen och rätten får avvakta med häktningsförhandlingen i syfte att förhandlingen i häktningsfrågan ska kunna hållas gemensamt med en huvudförhandling.
En gemensam förhandling ska hållas så snart det kan ske. Tidpunkterna för när en häktningsframställning senast ska göras enligt 12 § första och andra styckena och för när en häktningsförhandling senast ska hållas enligt 13 § andra stycket får inte överskridas. Lag (2021:285).

[265] **14 §** Vid häktningsförhandlingen skall den som yrkar häktning och, om det inte finns synnerligt hinder, den anhållne vara närvarande.
Den som yrkar häktning skall ange de omständigheter som yrkandet grundas på. Detsamma gäller i fråga om en begäran om tillstånd till restriktioner enligt 5 a §. Den anhållne och hans försvarare skall få tillfälle att yttra sig. Utöver vad handlingarna från förundersökningen innehåller samt vad parterna i övrigt anför får utredning angående brottet inte läggas fram, om det inte finns särskilda skäl till det.
Lag (1998:601).

and what the parties otherwise state, an investigation regarding the crime may not be presented, unless there are special reasons for it. Lag (1998:601).

Section 15[266]
The detention hearing shall, if possible, continue without interruption until the question of detention can be decided.
Postponement may only take place if there are special reasons for it.
The suspension may not be longer than four days, unless the suspect so requests.
If the hearing is postponed, the arrest shall continue, unless the court decides otherwise. Lag (1987:1211).

After a **detention hearing**, the court must immediately issue a decision either to detain or to revoke the arrest (Ch. 24 s. 16 below). A **detention request** may also be made without prior arrest, and the court must hold a hearing as soon as possible and no later than four days after enforcement of the decision (Ch. 24 s. 17). If a suspect is already arrested, the prosecutor must notify the court once probable cause is established, and a new detention hearing must take place within one week of the arrest (Ch. 24 s. 19). Detention **must be revoked if** charges are not filed within the statutory time limits or if grounds for detention cease (Ch. 24 in section 20). **6**

Section 16[267] **7**
After the detention hearing has been concluded, the court shall immediately announce a decision on the detention issue.
If it is decided to detain a detainee who is not present at the court, section 17, third and fourth paragraphs, shall apply.
If detention is not decided, the court shall immediately revoke the arrest decision.
Lag (1987:1211).

Section 17
An issue of detaining a person who has not been arrested may be raised at the request of the prosecutor. After the prosecution, the court may also, at the request of the plaintiff or voluntarily address the issue.[268]

[266] **15 §** Häktningsförhandlingen skall, om möjligt, pågå utan avbrott till dess häktningsfrågan kan avgöras.
Uppskov får äga rum endast om det finns synnerliga skäl till det.
Uppskovet får inte vara längre än fyra dagar, om inte den misstänkte begär det.
Uppskjuts förhandlingen, skall anhållandet bestå, om inte rätten bestämmer något annat. Lag (1987:1211).
[267] **16 §** Sedan häktningsförhandlingen avslutats, skall rätten omedelbart meddela beslut i häktningsfrågan.
Beslutas häktning av en anhållen som inte är närvarande vid rätten, tillämpas 17 § tredje och fjärde styckena.
Beslutas ej häktning, skall rätten omedelbart häva anhållningsbeslutet.
Lag (1987:1211).
[268] **17 §** En fråga om att häkta den som inte är anhållen får tas upp på yrkande av åklagaren. Efter åtalet får rätten även på yrkande av målsäganden eller självmant ta upp frågan.
Då en fråga om häktning enligt första stycket har väckts, skall häktningsförhandling inför rätten hållas så snart som möjligt. I fråga om sådan förhandling gäller i tillämpliga delar vad som sägs i 14 16 §s. Har den misstänkte

When an issue of detention pursuant to the first paragraph has been raised, an arrest hearing shall be held before the court as soon as possible. In the case of such negotiation, the provisions of Sections 14 16 apply in applicable parts. If the suspect has been summoned to the hearing or there is reason to assume that he has deviated or otherwise abstained, his absence does not constitute an obstacle to the hearing. If the plaintiff fails to appear despite the summons to the hearing, the matter may still be decided.
If the court has decided to detain someone who is not present at the court, as soon as the decision has been enforced or the obstacle to his presence has ceased, notification of this shall be made to the court.
When a report pursuant to the third paragraph has been made, the court shall without delay hold a hearing on the issue of detention. The detention hearing may never be held later than four days after the detention decision has been executed or the obstacle to the suspect's presence at the court has ceased. Lag (1995:1310).

Section 19[269]
If someone present at the court has been arrested on the basis of section 3, the prosecutor shall, as soon as he considers that there are probable grounds for the suspect having committed the crime, report this to the court. The court shall, without delay after such notification, hold a new hearing on the issue of detention. Negotiations must always, regardless of the notification, be held within one week of the arrest decision
If, during the hearing, probable reasons have not emerged for the suspect having committed the crime or there are no longer any grounds for detention, the decision on detention shall be revoked immediately. Lag (1995:1310).

Section 20
The court shall immediately revoke a detention order,[270]

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kallats till förhandlingen eller finns det anledning att anta att han avvikit eller på annat sätt håller sig undan, utgör dock hans utevaro ej hinder för förhandlingen. Uteblir målsäganden trots att han kallats till förhandlingen, får frågan ändå avgöras.
Har rätten beslutat om häktning av någon som inte är närvarande vid rätten skall, så snart beslutet har verkställts eller hindret för hans närvaro har upphört, anmälan om detta göras hos rätten.
När en anmälan enligt tredje stycket har gjorts, skall rätten utan dröjsmål hålla förhandling i häktningsfrågan. Häktningsförhandlingen får aldrig hållas senare än fyra dygn efter det att häktningsbeslutet har verkställts eller hindret för den misstänktes närvaro vid rätten har upphört. Lag (1995:1310).

[269] **19 §** Har någon som är närvarande vid rätten häktats med stöd av 3 §, skall åklagaren, så snart han anser att det finns sannolika skäl för att den misstänkte begått brottet, anmäla detta till rätten. Rätten skall utan dröjsmål efter en sådan anmälan hålla ny förhandling i häktningsfrågan. Förhandling måste alltid, oberoende av anmälan, hållas inom en vecka från häktningsbeslutet.
Om det när förhandlingen hålls inte framkommit sannolika skäl för att den misstänkte begått brottet eller i övrigt inte längre finns skäl för häktning, skall beslutet om häktning omedelbart hävas.
Lag (1995:1310).

[270] **20 §** Rätten ska omedelbart häva ett häktningsbeslut,
1. om inte åtal har väckts eller förlängning av tiden har begärts inom den tid som avses i 18 §,
2. om inte åtal har väckts eller överskridande av tiden har begärts senast klockan elva dagen före den dag tiden i 4a § går ut, eller

1. unless prosecution has been instituted or an extension of the time has been requested within the time referred to in section 18,
2. unless prosecution has been instituted or exceeding the time has been requested no later than eleven days before day the time in Section 4 a expires, or
3. if there are no longer grounds for the decision.
Before prosecution has been brought, the arrest decision may also be revoked by the prosecutor. The court shall be notified of the measure as soon as possible.
Lag (2021:285).

Section 21
If the suspect is convicted of the crime and is in custody, the court shall, in accordance with the grounds set out in this chapter, examine whether he shall remain in custody until the judgment becomes final. If the suspect is not in custody, the court may order that he be remanded in custody. In the case of permits for restrictions, the provisions of section 5 a apply.[271]
For the purposes of the first subparagraph, the provisions of this Chapter on detention, in cases where there is a risk of the suspect escaping punishment, shall also apply in cases where there is a risk of the suspect escaping deportation.
If the court has decided on deportation, it may order detention even though the crime does not prescribe imprisonment for a year or more. However, the detention order shall not apply during the time when the convicted person is serving a custodial sentence to which he has been sentenced in the case. Lag (1998:601).

3. om det inte längre finns skäl för beslutet.
Innan åtal har väckts, får häktningsbeslutet hävas även av åklagaren. Rätten ska snarast underrättas om åtgärden. Lag (2021:285).

[271] **21 §** Döms den misstänkte för brottet och är han häktad, skall rätten, enligt de grunder som anges i detta kapitel, pröva om han skall stanna kvar i häkte till dess domen vinner laga kraft. Om den misstänkte inte är häktad, får rätten förordna att han skall häktas. I fråga om tillstånd till restriktioner gäller bestämmelserna i 5 a §.
Vid tillämpningen av första stycket skall bestämmelserna i detta kapitel om häktning, i de fall där det finns risk för att den misstänkte undandrar sig straff, gälla även i de fall där det finns risk för att den misstänkte undandrar sig utvisning.
Om rätten har beslutat om utvisning får den förordna om häktning trots att det för brottet inte är föreskrivet fängelse ett år eller däröver. Förordnandet om häktning skall dock inte gälla under den tid då den dömde avtjänar en frihetsberövande påföljd som han har dömts till i målet. Lag (1998:601).

Section 21a[272]
Anyone who has been deprived of liberty by arrest pursuant to section 7, first paragraph, by handing over to a police officer pursuant to section 7, second paragraph and then has not been released, by arrest or by detention pursuant to section 17 has the right to receive any of his next of kin or any other person who is particularly closely informed of the detention. The head of the investigation may decide to postpone a notification if this is necessary so that the investigation of the matter is not significantly complicated. When there are no longer grounds for the decision, a notification shall be submitted as soon as possible. If the detainee objects to someone being notified of the detention, a notice may only be given if there are special reasons. A notice does not have to be given if the detention has ended. Lag (2016:929).

Section 22
Anyone who is arrested, detained or detained shall be taken into custody. However, the person arrested does not need to be detained unless it is necessary with regard to the purpose of the arrest, order or security. The person arrested must be taken into custody without delay.[273]
If it is of particular importance that the detainee, for the purpose of investigating the crime which gave rise to the detention or any other crime for which he is suspected, be kept in a place other than that specified in the first paragraph, the court may, at the request of the prosecutor, order the detainee further not to be taken into custody. The court or the prosecutor may also decide that the detainee, after he has been taken into custody, shall be taken to a place outside the detention centre for questioning or other action.
There are special provisions for the detention of a person who is in custody and is undergoing or has undergone a forensic psychiatric examination. Lag (1998:24).

[272] **21a §** Den som har frihetsberövats genom gripande enligt 7 § första stycket, genom överlämnande till en polisman enligt 7 § andra stycket och då inte har frigetts, genom anhållande eller genom häktning enligt 17 § har rätt att så snart som möjligt få någon av sina närmaste anhöriga eller någon annan person som står honom eller henne särskilt nära underrättad om frihetsberövandet. Undersökningsledaren får besluta att skjuta upp en underrättelse om det är nödvändigt för att sakens utredning inte väsentligen ska försvåras. När det inte längre finns skäl för beslutet ska en underrättelse lämnas så snart som möjligt.
Om den frihetsberövade motsätter sig att någon underrättas om frihetsberövandet, får en underrättelse lämnas bara om det finns synnerliga skäl.
En underrättelse behöver inte lämnas om frihetsberövandet har upphört. Lag (2016:929).

[273] **22 §** Den som är gripen, anhållen eller häktad skall tas i förvar. Den som är gripen behöver dock inte tas i förvar om det inte är nödvändigt med hänsyn till ändamålet med gripandet, ordning eller säkerhet. Den som häktas skall utan dröjsmål föras till häkte.
Om det är av synnerlig vikt att den häktade, för utredning av det brott som föranlett häktningen eller något annat brott som han är misstänkt för, förvaras på en annan plats än som anges i första stycket, får rätten på åklagarens begäran förordna att den häktade tills vidare inte skall föras till häkte. Rätten eller åklagaren får även besluta att den häktade, sedan han förts till häkte, skall föras till en plats utom häktet för förhör eller annan åtgärd.
Om förvaring av den som är häktad och undergår eller har undergått rättspsykiatrisk undersökning finns särskilda bestämmelser. Lag (1998:24).

Section 24[274]
There are special provisions regarding the treatment of a person who has been arrested or detained and the compensation of public funds for a person who has been innocently arrested or detained.
Lag (2021:285).

bb. Pre-trial detention

Please see the provisions listed above which relate to both arrest and pre-trial detention. **8**

c) Para 2

Relevant for any **interpretation of Art. 33 para 2 EPPO Regulation** is the judgement of the **Supreme Court of Sweden, Case B 4450-21**, decision of 5 April 2022 emphasizing that criminal proceedings on sentencing where a newly discovered offence preceded a prior conviction in another EU Member State. The Supreme Court did not hold the judgement, but squashed it in the appellate judgment on sentencing and remitted the case. It was based on Chapter 34 of the Swedish Criminal Code interpreted in light of Framework Decision 2008/675/JHA. The Court held that **foreign EU convictions must be taken into account** to avoid harsher treatment than for domestic convictions ensuring EU mutual recognition and proportionality in sentencing. **9**

And the Supreme Court of Sweden ruled in **Case Ö 8346-22**, a decision of *RR v Prosecutor General* of 4 April 2023 that proceedings on surrender under a EAW must take into account that an EU citizen long resident in Sweden must be treated as equivalent to a Swedish citizen for limitation rules; based on the EAW Framework Decision and the EU prohibition of nationality discrimination. The Court emphasised mutual recognition balanced with EU fundamental rights following **ECJ case-law** such as *Wolzenburg*, a judgement from 2009 in Case C-123/08. **10**

In a third relevant procedure the **Supreme Court of Sweden in Case Ö 7821-21** ruled in a decision of 31 March 2022 on recognition and enforcement of a German custodial sentence, which was imposed partly through written procedure. The ruling concerned *Swedish Prison and Probation Service v BK*. The Supreme Court upheld the recognition and enforcement. The decision was based on Framework Decision 2008/909/JHA and the principle of mutual recognition. Lastly, the Court reasoned that enforcement is the rule and refusal the exception, and that written procedures do not *per se* violate fair trial guarantees under EU law. **11**

[274] **24 §**
I fråga om behandlingen av den som är anhållen eller häktad samt om ersättning av allmänna medel åt den som varit oskyldigt anhållen eller häktad finns särskilda bestämmelser.
Lag (2021:285).

12 At the conclusion of this chapter, it can be stated that **Article 33 is fulfilled through the direct applicability of the Code of Judicial Procedure** (1942:740), in particular Chapter 24, which governs arrest and detention in all serious criminal proceedings, including complex economic and PIF-related offences. When acting in an EPPO case, the EDP therefore exercises the same powers and is subject to the same thresholds as a national prosecutor in a domestic fraud or economic crime investigation. Arrest may be ordered where the suspect is reasonably suspected of a criminal offence and detention is of particular importance for the investigation, while continued deprivation of liberty is subject to prompt and repeated judicial review, strict time limits, proportionality and defence rights. Article 33 para 2 of the EPPO Regulation is implemented through Sweden's application of the European Arrest Warrant under Framework Decision 2002/584/JHA.

8. Defence in PIF Offences Investigations in Sweden

For the purposes of this short and **not exhaustive overview** in the volume series, it must be emphasised at the outset of this Annex Chapter that a thorough understanding of the **rights of suspects and defendants**, before, during and after an EPPO investigation, is of **central importance** to the **procedural lawfulness** and legitimacy **of all investigative actions of the EPPO**. The **effectiveness of EPPO proceedings** in protecting the Union's financial interests depends not only on robust enforcement but equally on strict compliance with the **applicable procedural safeguards and EU Directives in this regard**.[275]Art. 41 and 42 of the EPPO Regulation request the EPPO to respect these rights. The Member States have to ensure the transposition of Directives within this particular area since at least 2012. In addition to the applicable national law, which we will explore partly below, this special Union law applies.[276] **Chapter 21 of the Code of Judicial Procedure** will apply in most situations that a Swedish lawyer faces if defending a suspect of a PIF offence. The supervision of the prosecution is another important factor, as a supervised body respects the limits, which it has from the legal restrictions.[277] **1**

a) Challenging the Competence of the Court

Challenging the competence of a court to judge on the matter, can be proven with the help of the provisions in the Criminal Procedure Code, which is in fact enshrined in the Code of Judicial Procedure: **2**

aa. General Perspective

II On the trial in criminal cases / 19 Ch. About law court
Chapter 19 Section 1[278] **3**
The court of law in criminal cases is the court in the place where the crime was committed. A crime is considered to have been committed in the place where the offender

[275] See already Lindberg/Billfalk /Färndahl/ Kittel 2020, pp. 353–366. on this matter.
[276] already Lindberg/Billfalk /Färndahl/ Kittel 2020, pp. 353–366. enumerate the following EU law: Directive 2010/64/EU, Directive 2012/13/EU, Directive 2013/48/EU, Directive (EU) 2016/343, Directive (EU) 2016/1919.
[277] Lindberg/Billfalk /Färndahl/ Kittel 2020, pp. 423–450.
[278] **1 §** Laga domstol i brottmål är rätten i den ort där brottet begåtts. Ett brott anses ha begåtts på den ort där gärningsmannen handlade. I fråga om straffbar underlåtenhet anses brottet ha begåtts där gärningsmannen borde ha handlat eller där han eller hon befann sig när han eller hon borde ha handlat. Vid tillämpning av straffbestämmelser enligt vilka gärningen ska ha medfört en viss effekt anses brottet ha begåtts på den ort där effekten inträdde eller, vid försök, enligt brottsplanen sannolikt skulle ha inträtt. Begicks brottet på orter under skilda domstolar, har de lika behörighet. Har det skett på svenskt fartyg eller luftfartyg under resa inom eller utom landet, är även rätten i den ort, dit den misstänkte med fartyget eller luftfartyget först ankommer eller där han eller hon gripits eller annars uppehåller sig, behörig.
[S2]Är det, när åtal väcks, ovisst var brottet begåtts, får åtal tas upp av rätten i någon av de orter, där det kan antas ha skett, eller i den ort, där den misstänkte gripits eller annars uppehåller sig.
[S3]Åtal för brott får också tas upp av den rätt, där den misstänkte ska svara i tvistemål i allmänhet, eller rätten i den ort, där den misstänkte mera varaktigt uppehåller sig, om rätten med hänsyn till utredningen samt kostnader och andra omständigheter finner det lämpligt. Lag (2021:1017).

acted. In the case of punishable omission, the crime is considered to have been committed where the perpetrator should have acted or where he or she was when he or she should have acted. When applying penal provisions according to which the act must have had a certain effect, the crime is considered to have been committed in the place where the effect occurred or, in the case of an attempt, according to the criminal plan would likely have occurred. If the crime was committed in places under different courts, they have equal jurisdiction. If it happened on a Swedish ship or aircraft while traveling within or outside the country, the court in the place where the suspect first arrives on the ship or aircraft or where he or she is arrested or otherwise resides is also competent.
2nd If, when charges are brought, it is uncertain where the crime was committed, charges may be taken up by the court in one of the places where it can be assumed to have taken place, or in the place where the suspect was arrested or otherwise resides.
3rd Prosecutions for crimes may also be taken up by the court where the suspect has to answer in civil cases in general, or the court in the place where the suspect resides more permanently, if the court deems it appropriate with regard to the investigation as well as costs and other circumstances. Law (2021:1017).

Section 2[279]
Prosecution for crimes committed in a place outside the kingdom or on a foreign ship or aircraft during a journey within or outside the kingdom, unless the government orders otherwise for a particular case, is taken up by the court where the suspect must answer in civil cases in general, or by the court in the place where he was arrested or otherwise resides. Law (1974:573).

Section 3[280]
Prosecution against several for complicity in a crime may, if it happens at the same time, be brought in the court where one of them has to answer. If the charges are brought at different times, the court that brought charges against one of them may also bring charges against the other one or more.
2nd What has just been said shall also apply to prosecutions in other cases against several crimes that are related to each other, if the court, taking into account the investigation, costs and other circumstances, deems it appropriate that the prosecution be taken up by the same court. Law (1948:453).

[279] **2 §** Åtal för brott, som förövats å ort utom riket eller å utländskt fartyg eller luftfartyg under resa inom eller utom riket, upptages, om ej regeringen för visst fall förordnar annat, av den rätt, där den misstänkte skall svara i tvistemål i allmänhet, eller av rätten i den ort, där han gripits eller eljest uppehåller sig. Lag (1974:573).
[280] **3 §** Åtal mot flera för medverkan till brott må, om det sker samtidigt, väckas vid den rätt, där någon av dem har att svara. Väckas åtalen å olika tider, må vid den rätt, som upptagit åtal mot någon av dem, åtal väckas även mot den eller de övriga.
[S2]Vad nu sagts skall ock gälla angående åtal i andra fall mot flera för brott, som äga samband med varandra, om rätten med hänsyn till utredningen samt kostnader och andra omständigheter finner lämpligt, att åtalen upptagas av samma domstol. Lag (1948:453).

Section 4[281]
Actions for liability for false or unwarranted charges or for false statements or other untruthful allegations, where charges have been followed, may be brought in the court where the crime was charged. Law (1948:453).

Section 5[282]
Misdemeanours in the trial shall be judged by the court where the trial is held.
If he commits any other crime before the court at its meeting, he has the same right to judge thereon, if it is deemed appropriate in view of the nature of the crime and other circumstances.

Section 6[283]
If someone has committed several crimes, prosecution for all crimes may be brought by the court that is authorized to bring prosecution for any of them, if it deems it appropriate with regard to the investigation as well as costs and other circumstances.

Section 7[284]
A court retains its authority to handle a case even if any circumstance that has founded the authority changes after the summons has been served on the suspect.
2nd If a general prosecution has been brought before a certain district court, this may, at the prosecutor's request, transfer the case to another district court, if it is competent and there are special reasons. If the defendant is already under prosecution at the second district court, such handover must take place, unless it is inappropriate. The decisions made before the transfer shall apply, unless the court to which the case was transferred decides otherwise.
3rd The second paragraph also applies in applicable parts when several cases of general prosecution against the defendant are pending at different courts of appeal at the same time. Law (1987:747).

[281] **4 §** Talan om ansvar för falskt eller obefogat åtal eller för falsk angivelse eller annan osann tillvitelse, varå åtal följt, må väckas vid den rätt, där brottet åtalats. Lag (1948:453).
[282] **5 §** Över förseelse i rättegången döme den rätt, där rättegången föres.
[S2]Förövar någon annat brott inför domstol vid dess sammanträde, äge samma rätt döma däröver, om det med hänsyn till brottets beskaffenhet och andra omständigheter finnes lämpligt.
[283] **6 §** Har någon förövat flera brott, må åtal för samtliga brotten upptagas av den rätt, som är behörig att upptaga åtal för något av dem, om denna med hänsyn till utredningen samt kostnader och andra omständigheter finner det lämpligt.
[284] **7 §** En domstol behåller sin behörighet att handlägga ett mål även om något förhållande som har grundat behörigheten ändras efter det att stämning delgetts den misstänkte.
[S2]Har allmänt åtal väckts vid en viss tingsrätt, får denna på åklagarens begäran överlämna målet till en annan tingsrätt, om den är behörig och särskilda skäl föreligger. Står den tilltalade redan under åtal vid den andra tingsrätten, skall sådant överlämnande ske, om det inte är olämpligt. De beslut som fattats före överlämnandet skall gälla, om inte den domstol dit målet överlämnats bestämmer annat.
[S3]Andra stycket gäller i tillämpliga delar också när flera mål om allmänt åtal mot den tilltalade samtidigt är anhängiga vid olika hovrätter. Lag (1987:747).

Section 8
If a case is dismissed on the grounds that the court does not have jurisdiction[285], it is entitled, however, in the refusal to bring charges to the right court, to announce a decision, which cannot be postponed without danger.

Section 9[286]
If it is prescribed by law that charges must be taken up immediately by a higher court or that charges must be taken up by law or the constitution by a general lower court other than the one where the suspect has to answer according to Section 1 or 2, may not because of what in this chapter stipulates that the prosecution is taken up by another court. If there is a question of whether liability is assumed by an authority other than a court or by a special court, what is stipulated in this chapter does not apply.
2nd Agreements whereby someone undertakes to prosecute or answer in a certain court, be without effect. Law (1965:585).

Section 10[287]
If a lower court has taken up a case, it may ask whether the jurisdiction of the court is not taken up by a higher court, unless the matter is pursued there or brought by a party who is entitled to it, or the case must be taken up by an authority other than a court or by a special court or immediately by a higher court or by another general lower court than the one where the suspect according to section 1 or 2 has to answer.

Section 11
If a decision is announced in a higher court, whereby a lower court is declared not to be competent to take up a case brought there, the higher court may, at the request of a party, refer the case to a lower court that is found to have jurisdiction.[288]
2nd If different courts have been found to be incompetent through decisions that have gained legal force, the Supreme Court, if any of them is found to be competent, may, on

[285] **8 §** Avvisas mål på den grund, att rätten icke är behörig, äge den dock i avbidan på att åtal väckes vid rätt domstol meddela beslut, som icke utan fara kan uppskjutas.
[286] **9 §** Är i lag föreskrivet, att åtal skall upptagas omedelbart av högre rätt eller skall åtal enligt lag eller författning upptagas av annan allmän underrätt än den, där den misstänkte enligt 1 eller 2 § har att svara, må ej på grund av vad i detta kapitel stadgas åtalet upptagas av annan domstol. Skall fråga om ansvar upptagas av annan myndighet än domstol eller av särskild domstol, äger vad i detta kapitel stadgas ej tillämpning.
[S2]Avtal, varigenom någon utfäst sig att väcka åtal eller svara vid viss domstol, vare utan verkan. Lag (1965:585).
[287] **10 §** Har lägre rätt upptagit mål, må fråga om rättens behörighet ej upptagas av högre rätt, med mindre frågan dit fullföljes eller där väckes av part, som är berättigad därtill, eller ock målet skall upptagas av annan myndighet än domstol eller av särskild domstol eller omedelbart av högre rätt eller av annan allmän underrätt än den, där den misstänkte enligt 1 eller 2 § har att svara.
[288] **11 §** Meddelas i högre rätt beslut, varigenom lägre rätt förklaras icke vara behörig att upptaga mål, som där väckts, äge den högre rätten på yrkande av part hänvisa målet till lägre rätt, som finnes behörig.
[S2]Hava skilda domstolar genom beslut, som vunnit laga kraft, funnits obehöriga, äge Högsta domstolen, om någon av dem finnes behörig, på ansökan av part hänvisa målet till den domstol, av vilken målet bort upptagas. Lag (2009:344).

the application of a party, refer the case to the court from which the case is removed. Law (2009:344).

Section 11a[289]
If the court finds, in connection with an application being submitted, that the court lacks jurisdiction to take up the case or to try the application in a different order but that another court would have jurisdiction, the application must be handed over to that court, if the applicant has no to object to this and there is also no other reason against the submission of the application. The application shall be deemed to have been received by the latter court on the same day as it was received by the court that first received the application. Law (1996:247).

Section 12[290]
What is said in this chapter shall also be applied in relation to the courts' position with preliminary investigation and the use of coercive measures. Such a question may also be taken up by the court in a different place than that which follows from the rules in this chapter, if a decision on the question should be made without delay.
2nd Prosecution for crimes to be tried jointly with a matter of detention according to ch. 24 Section 13 a may also be taken up by the court in a different place than that which follows from the rules in this chapter. Law (2021:285).

bb. In Relation to Specific Investigation Measures

Section 34 Chapter 27 Code of Judicial Procedure **4**
Questions about permission for covert interception of electronic communications, covert monitoring of electronic communications,[291] covert camera surveillance, covert room interception or detention of consignments according to section 9 or section 9a, second paragraph may, in the course of a preliminary investigation into crimes referred to in section 2, second paragraph 2–8, in addition to the court prescribed in ch. 19., is tried

[289] **11a §** Finner rätten i samband med att en ansökan ges in att rätten saknar behörighet att ta upp målet eller att i annan ordning pröva ansökan men att en annan domstol skulle vara behörig, skall ansökan lämnas över till den domstolen, om sökanden inte har något att invända mot detta och det inte heller finns något annat skäl mot att ansökan överlämnas. Ansökan skall anses ha kommit in till den senare domstolen samma dag som den kom in till den domstol som först tog emot ansökan. Lag (1996:247).
[290] **12 § RB** Det som sägs i detta kapitel ska tillämpas även i fråga om domstolarnas befattning med förundersökning och användande av tvångsmedel. En sådan fråga får tas upp även av rätten i en annan ort än som följer av reglerna i detta kapitel, om beslut i frågan bör fattas utan dröjsmål.
[S2]Åtal för brott som ska prövas gemensamt med en fråga om häktning enligt 24 kap. 13a § får tas upp även av rätten i en annan ort än som följer av reglerna i detta kapitel. Lag (2021:285).
[291] **34 § RB** Questions about permission for covert interception of electronic communications, covert monitoring of electronic communications, covert camera surveillance, covert room interception or detention of consignments according to section 9 or section 9a, second paragraph may, in the course of a preliminary investigation into crimes referred to in section 2, second paragraph 2–8, in addition to the court prescribed in ch. 19., is tried by the Stockholm District Court. The same applies to the examination of seizures according to § 2, third and fourth paragraphs. Law (2014:1419).

by the Stockholm District Court. The same applies to the examination of seizures according to Section 2, third and fourth paragraphs. Law (2014:1419).

b) Further Important Provisions if Defending a PIF Offence Suspect

aa. Appearance of the Suspect

5 **21 Ch. About the suspect and his defence**
Section 1
The suspect may bring his case himself. If he is a minor, the court shall, if it is necessary in view of the nature of the crime or otherwise, hear the person who has custody of him; he owns and prosecutes the minor.
[S2] If the suspect has died, his surviving spouse, biological heir, father, mother or sibling may bring an action against them, insofar as it is determined by this that the suspect committed the act. Law (1971:875).

Section 2
The suspect is obliged to appear in person at a main hearing in the District Court or the Court of Appeal. However, such an obligation does not apply if the case can be decided even if the suspect does not appear at the main hearing and the suspect's presence can be assumed to be of no importance to the investigation.
[S2] At the main hearing in the Supreme Court, the suspect is obliged to appear in person, if the court finds that the suspect's presence is necessary for the investigation.
[S3] At a meeting for preparation and at other hearings, the suspect is obliged to appear in person, if the suspect's presence can be assumed to further the purpose of the meeting.
[S4] If the suspect is required to appear in person, the court must decide on this.
[S5] When the suspect is not required to appear in person, the suspect's case may be brought by counsel. In the case of representatives, ch. 12 applies. However, an attorney who is the suspect's public defender does not need to submit a written power of attorney, unless the court deems it necessary. Law (2020:918).

bb. Selection, Appointment or Exclusion of a Defence Attorney and Public Defender & the Role and Responsibility of a Defender

6 **21 Ch. About the suspect and his defence**
Section 3
The suspect may be assisted by a defence attorney when preparing and executing his plea.
[S2] Defence counsel is appointed by the suspect. If the suspect is under the age of eighteen or suffers from a serious mental disorder, a defence attorney is appointed by

the person who has custody of him. If the suspect has appointed a legal representative, the representative is considered a defence attorney.
[S3] A person may not be a defender, if he has or has had assignments for the suspect or financial relations with him and the circumstances are likely to reduce confidence in his ability to observe what is incumbent on a defender according to Section 7, first paragraph. A foreign citizen or a person who resides outside the kingdom may not act as a defence attorney if it is inappropriate with regard to the security of the kingdom. In the case of defenders, ch. 12 otherwise applies. Sections 2–5 and Section 6, second paragraph. Law (1992:1511).

Section 4
Public defender is appointed by the court; if the court has separated the case from itself, it owns it, until the action of the suspect is completed or the time for such an action has expired, appoint defenders to assist him in a higher court.
[S2] The question of the appointment of a public defender must be taken up, when a petition is made to that effect or the court otherwise finds reason to do so.

Section 4a
A petition for the appointment of a public defender according to Section 3 b must be made to the court which according to ch. 58 Section 4, first paragraph, is authorized to examine the application for erection. Law (2012:659).

Section 5
A lawyer who is suitable for the task must be appointed to the public defender. If there are special reasons, another suitable person may be appointed as such defender who has passed the knowledge tests prescribed for eligibility for judicial employment. Preferably, someone who usually appears as a legal representative at the court should be appointed.
[S2] If the suspect has suggested someone who is competent for the assignment as a public defender, this person must be appointed, unless there are special reasons against it. Law (2009:1252).

Section 6
A public defender may be dismissed from court if the need for a public defender ceases or if there is some other reason for this. If the suspect appoints another defender, the public defender must be dismissed if this would not cause extreme inconvenience.
[S2] A change of public defender may be decided by the court, if there are special reasons. If a public defender has been replaced once, a new replacement may only take place if there are special reasons.

[S3] A public defender may not, without the permission of the court, put someone else in his place. Law (2018:533).
Section 7
The defence attorney must diligently and carefully safeguard the suspect's rights and, to this end, work for the proper clarification of the matter.
[S2] Defence counsel should, as soon as possible, prepare the defence through consultation with the suspect.

7 Under Swedish law, a suspect (*misstänkt*) in an EPPO investigation has a **right to legal assistance** (*försvarare*) at all stages of the criminal process, from the preparation to the presentation of their plea (Section 3). The suspect may **choose and appoint a defence lawyer** of their own, or if they are a minor or suffer from a serious mental disorder their custodian will do so. The law ensures independence and impartiality of defence counsel: a person who has financial or prior professional ties with the suspect may not act as defender if this could undermine trust in their objectivity. Foreign nationals may only act as defence counsel if this does not raise security concerns for Sweden (Section 3 S3). A public defender (*offentlig försvarare*) is appointed by the court when requested by the suspect or when the court considers it necessary (Section 4). The **court may also replace a defender** if there are valid reasons, for instance, a conflict of interest or lack of confidence (Section 6). Normally, a lawyer (*advokat)* is chosen as public defender, but another qualified jurist may be appointed if justified (Section 5). In an EPPO context, these provisions guarantee that suspects in Sweden enjoy full procedural rights, including the right to counsel of choice, legal aid through a public defender, and confidential consultation to uphold the principles of Article 48 CFR in EPPO cases (see Art. 41, 42 EPPO Regulation).

cc. Defence in Cases of Arrest and Detention and Public Defender if Previously Accused Person

8 **21 Ch. About the suspect and his defence**
Section 3a
If the suspect is arrested or detained, a public defender must be appointed for him or her, if he or she requests it. Public defenders must also be appointed on request for those who are suspected of a crime, for which no lighter punishment than imprisonment for six months has been stipulated.
2nd A public defender must also be appointed
1. if the suspect is in need of a defence attorney with regard to the investigation into the crime,
2. if defence counsel is needed in view of the fact that it is doubtful which penalty should be chosen and there is reason to sentence to a penalty other than a fine or a suspended sentence or such penalties in combination, or

3. if there are otherwise special reasons with regard to the suspect's personal circumstances or to what the case relates to.
3rd If the suspect is assisted by a defence counsel appointed by him or herself, no public defence counsel shall be appointed alongside him. However, a public defender must be appointed if there are special reasons. Law (2019:263).

21 Ch. About the suspect and his defence
Section 3b
A public defender must be appointed for a previously accused person
1. he or she is in need of a defence attorney, taking into account that the prosecutor according to ch. 58 Section 6 a decided or has the opportunity to decide to reopen a preliminary investigation or to let an ongoing preliminary investigation also refer to the question of the previous defendant's participation in the crime, or
2. otherwise there are special reasons.
2nd When assessing whether the former defendant is in need of a defence attorney, the court must take into account the nature of the crime, the former defendant's personal circumstances and which investigation measures are to be taken. Law (2012:659).

21 Ch. About the suspect and his defence
Section 9
Anyone who is arrested, detained or detained has the right to meet their defence counsel. If a defence attorney appointed by the suspect does not meet the requirements set forth in section 5, first paragraph, the investigator or the prosecutor may decide that the suspect may not meet his defence attorney if it is necessary so that the investigation of the matter is not significantly hampered or to prevent danger to someone's life, physical health or freedom. The decision must be in writing and contain the reasons on which it is based. The suspect or the defender may request that the court review the decision.
[S2] If the suspect has the right to meet his defence counsel, it must take place in a private room.
[S3] A public defender or a defender appointed by the suspect and notified to the court must be called to the main hearing, as well as to other sessions before the court. Law (2016:929).

23 Ch. Code of Judicial Procedure
Section 11
If the suspect or his defence counsel is present at the interrogation, he may ask questions to the person being heard in the order determined by the investigator. The same applies to the plaintiff's counsel during interviews with the plaintiff. If someone else is present during the interrogation, they may not communicate with the person heard during the interrogation without the permission of the investigator. Law (1988:610).

9 A public defender (*offentlig försvarare*) must be appointed when the suspect is detained, arrested, or charged with an offence punishable by at least six months' imprisonment, or when the complexity of the case or personal circumstances so require (Ch. 21 Sections 3a–3b RB; Law 2019:263, 2012:659).

10 The suspect has the right to meet and consult privately with defence counsel, except where contact is temporarily restricted to protect the investigation or safety; such a decision must be reasoned and reviewable by the court (Ch. 21 Section 9 RB; Law 2016:929).

11 During interrogation, the suspect or defence counsel may question witnesses under the investigator's direction (Ch. 23 Section 11 RB; Law 1988:610).

dd. Compensation for the Suspect

12

21 Ch. About the suspect and his defence
Section 12
A suspect who has been summoned to appear at a meeting may be awarded compensation from public funds for the cost of travel and subsistence if it is reasonable taking into account his or her financial circumstances, the costs that may arise in connection with the appearance and the circumstances of other. The court may grant an advance on the compensation.
[S2] Compensation is paid according to regulations announced by the government. Law (1996:1624).

ee. Defence Against Certain Investigative Measures, Art. 30 EPPO Reg.

(1) Search and Accompanying Seizure

13

Chapter 27 Code of Judicial Procedure
Section 17e If a copy according to Section 17a is kept by a law enforcement authority, the person affected by the copying may request a judicial review of whether the copy should be destroyed. The right to review applies as long as the preliminary investigation is ongoing or, if charges have been brought, until the case has been finally decided.
[S2] If the conditions for copying have ceased, the court may decide that the copy must be destroyed. The court may also decide that a copy must be destroyed in the parts that it is subject to prohibition according to section 17a, second paragraph.
[S3] When a request according to the first paragraph has been received by the court, a hearing according to section 5 must be held as soon as possible. In higher law, ch. 25 is applied. Section 8 regarding travel bans also regarding copying. Law (2022:316).

(2) Interception of Telecommunications, Art. 30 Para 1 (e), Ch. 27 Code of Judicial Procedure

Notification to [suspected] individual **14**

Section 31

Anyone who is or has been suspected of a crime must, unless otherwise provided by Section 33, be notified of such secret interception of electronic communications, secret surveillance of electronic communications, secret camera surveillance or secret room surveillance to which he or she has been subjected.

[S2] If the interception or monitoring of electronic communication has targeted a telephone number or other address or a certain electronic communication equipment held by someone other than the suspect, the owner must also be notified. However, this does not apply if otherwise follows from Section 33 or collection has taken place with the support of Section 20, second paragraph, and the breach of privacy for the individual can be assumed to be minor.

[S3] If camera surveillance or room tapping has targeted a place that is occupied by someone other than the suspect and to which the public does not have access, the owner of the place must also be notified unless otherwise provided for in section 33.

[S4] A notification must be given as soon as possible without prejudice to the investigation, but no later than one month after the preliminary investigation was completed.

[S5] A notification does not need to be given to the person who according to ch. 23 Section 18, Section 18a, ch. 24 Section 9a or in some other way has already received or had access to the data. Nor does a notification need to be provided if it is clearly irrelevant in the circumstances. Law (2017:176).

Section 32

A notification according to Section 31 must contain information about which means of coercion have been used and when it has taken place. Anyone who is or has been suspected of a crime must be informed of the suspected crime that has formed the basis of the measure or to which the measure has led. Anyone who is not or has been suspected of a crime must be informed of this.

[S2] A notification of covert interception of electronic communications or covert monitoring of electronic communications must also contain information about which telephone number or other address or which electronic communication equipment the interception or monitoring is intended for. A notification about secret camera surveillance or secret room tapping must also contain information about which place has been monitored or tapped. Law (2014:1419).

Under Article 30 of the EPPO Regulation (see above), suspects must be protected against **disproportionate or unlawful investigative measures** such as searches, seizures, and interceptions. In Sweden, these safeguards are primarily governed by Chapter **15**

27 of the Code of Judicial Procedure (*Rättegångsbalken*), which ensures judicial oversight and post-measure review. If law enforcement authorities retain copies of seized or digital material, the affected person, may **request a judicial review** on whether the copies should be destroyed. This right remains valid throughout the preliminary investigation and until a final judgment is rendered.

16 The **exclusion of evidence** from the case file might be a legal method to effectively protect the rights of the suspect. The Supreme Court of Sweden, **Case B 4175-20** (NJA 2021 p. 286) pointed out in his decision of 21 April 2021, which was a criminal case. Concerning the **use of evidence**, that was obtained when the right to a lawyer was violated, it said in the proceedings *YA-J v Prosecutor* that such (tainted) evidence is not automatically excluded; grounded in the **principle of free evaluation of evidence** under Swedish procedural law and Article 6 ECHR, but the Court reasoned that fairness must be assessed in light of the proceedings as a whole, aligning national law with ECtHR standards while preserving judicial discretion.

17 The court must act swiftly, holding a hearing as soon as possible, and may order partial or complete destruction of copied materials if the legal grounds for retention no longer exist (Law 2022:316).

18 Sections 31–32, Ch. 27 RB provide **robust notification rights** after secret measures such as electronic interception, camera, or room surveillance have been used. The suspect must be informed and, in some cases, also third parties (e.g., the owner of the phone line or premises) once it no longer jeopardizes the investigation. Notifications must specify:

- The type of covert measure used and its timing,
- The crime forming the basis for the measure,
- The targeted communication address or premises, and
- Whether the notified person was a suspect or not (Law 2017:176; Law 2014:1419).

19 These provisions implement the principle of transparency and proportionality under Art. 30 para 1 (e) EPPO Regulation, ensuring that interference with private life and correspondence is subject to later judicial scrutiny.

20 In the **next chapter**, it is time to take a look at the **competence of OLAF in Sweden** and the potential applicable laws during administrative investigation, which either take place before or after an EPPO investigation but never during an ongoing EPPO investigation (see Art. 12a et seq. OLAF Regulation) and the non-duplication system between OLAF and the EPPO since the investigative set-up on 1.6.2021.

F. OLAF-Regulation (EU, EURATOM) No 883/2013

1. Introduction and General Remarks

In Sweden, OLAF operates within a by decisions of the ECJ and national courts defined **cooperative administrative and judicial PIF framework**. While OLAF does not directly have investigative powers on foreign territory on its own, but only under the conditions of Art. 3 OLAF Regulation in case of resistance (see below) investigative powers of the territory in Sweden, its activities are effectively supported through **close coordination with Swedish (investigative and administrative penal) authorities**, primarily *the Ekobrottsmyndigheten* (EBM – Swedish Economic Crime Authority) and the *Åklagarmyndigheten* (Prosecution Authority, see above Institutions) as well as the managing authorities distributing and deciding on EU money for beneficiaries and economic operators and since 2024 the EPPO as well as other generally speaking all administrative investigation authorities explored below e.g. from the funding and management area. Academic research on OLAF and EU financial protection is less voluminous than in Germany, yet Swedish legal scholarship has increasingly addressed OLAF's procedural role, its cooperation with the EPPO and the interplay with domestic criminal procedure. **1**

The OLAF Regulation ((EU, Euratom) No. 883/2013, as amended) must always be read in conjunction with Swedish national law, notably the *Rättegångsbalken* (Code of Judicial Procedure) and relevant provisions of the *Budgetlagen* (2011:203), and *the Förvaltningslagen* (2017:900). Together, these define the national procedural safeguards and institutional competencies that determine how OLAF's findings are received and acted upon in Sweden. **2**

a) OLAF's Role

OLAF is **responsible for** investigating fraud, corruption, and other illegal activities affecting the financial interests of the European Union, in accordance with Articles 1 and 2 of the OLAF Regulation. Its administrative investigations are independent but depend on effective cooperation with Swedish competent authorities for the enforcement of measures, collection of evidence, and recovery of EU funds. **3**

In Sweden, OLAF's **coordination is facilitated** through the **Swedish AFCOS** (Anti-Fraud Coordination Service), which is located within the Ministry of Finance. The AFCOS acts as the national interface between OLAF and Swedish enforcement agencies, ensuring that investigative requests are handled in line with Swedish administrative and criminal procedure. Cooperation is guided by **mutual respect for the principle of procedural autonomy** and by the obligation under **Article 325 TFEU** to protect the Union's financial interests. **4**

b) OLAF Reports and National Proceedings

5 A recurring legal debate in Sweden and across the EU concerns the **evidentiary value of OLAF's final reports** (Article 11 OLAF Regulation). In Sweden, such reports are regarded as administrative evidence that may be transmitted to prosecutors and courts, but must be assessed under the national rules of evidence. Where an OLAF report underpins with evidence e.g. an investigation by an EDP or a Swedish public prosecutor, it is subject to the same judicial scrutiny as other documentary evidence.

6 This is particularly relevant where OLAF findings relate to offences falling within the material competence of the EPPO (Articles 22–25 EPPO Regulation) such as subsidy fraud, VAT fraud, or corruption involving EU funds or to cases that remain at national level below EPPO's financial threshold. The Swedish Supreme Court's emphasis on **procedural fairness and the rights of the defence** (see, *inter alia*, NJA 2024 s. 470 – *Åklagarjävet*) reinforces that OLAF-derived evidence must comply with national guarantees of impartiality and the rights of the defence under Articles 47–48 of the EU Charter.

c) Structure of Part C and Cross-References

7 Part C of this compendium provides a **systematic overview of OLAF's investigative powers operated via AFCOS and the national homologue partners in the OAFCN network**. These rules are governed by the Swedish legal framework governing cooperation and evidence handling, and relevant case law illustrating how OLAF information has been used in Swedish proceedings. This part of the volume includes translations and commentaries on the **relevant Swedish legal statutes** and references to judicial decisions involving EU financial interests. Last but not least it offers **explanations of the institutional role of the AFCOS** and notes on the treatment of digital evidence, access to registers, and mutual assistance requests, in line with **Regulation (EC) No. 2185/96**.

2. Article 1 Objectives and tasks

1. In order to step up the fight against fraud, corruption and any other illegal activity affecting the financial interests of the European Union and of the European Atomic Energy Community (hereinafter referred to collectively, when the context so requires, as 'the Union'), the European Anti-Fraud Office established by Decision 1999/352/EC, ECSC, Euratom ('the Office') shall exercise the powers of investigation conferred on the Commission by:
(a) the relevant Union acts; and
(b) the relevant cooperation and mutual assistance agreements concluded by the Union with third countries and international organisations.

2. The Office shall provide the Member States with assistance from the Commission in organising close and regular cooperation between their competent authorities in order to coordinate their action aimed at protecting the financial interests of the Union against fraud. The Office shall contribute to the design and development of methods of preventing and combating fraud, corruption and any other illegal activity affecting the financial interests of the Union. The Office shall promote and coordinate, with and among the Member States, the sharing of operational experience and best procedural practices in the field of the protection of the financial interests of the Union, and shall support joint anti-fraud actions undertaken by Member States on a voluntary basis.
3. This Regulation shall apply without prejudice to:
(a) Protocol No. 7 on the privileges and immunities of the European Union attached to the Treaty on European Union and to the Treaty on the Functioning of the European Union;
(b) the Statute for Members of the European Parliament;
(c) the Staff Regulations;
(d) Regulation (EU) 2016/679 of the European Parliament and of the Council;
(e) Regulation (EU) 2018/1725 of the European Parliament and of the Council.
4. Within the institutions, bodies, offices and agencies established by, or on the basis of, the Treaties ('institutions, bodies, offices and agencies'), the Office shall conduct administrative investigations for the purpose of fighting fraud, corruption and any other illegal activity affecting the financial interests of the Union. To that end, it shall investigate serious matters relating to the discharge of professional duties constituting a dereliction of the obligations of officials and other servants of the Union liable to result in disciplinary or, as the case may be, criminal proceedings, or an equivalent failure to discharge obligations on the part of members of institutions and bodies, heads of offices and agencies or staff members of institutions, bodies, offices or agencies not subject to the Staff Regulations (hereinafter collectively referred to as 'officials, other servants, members of institutions or bodies, heads of offices or agencies, or staff members').
4a. The Office shall establish and maintain a close relationship with the European Public Prosecutor's Office (EPPO) established in enhanced cooperation by Council Regulation (EU) 2017/1939 (3). That relationship shall be based on mutual cooperation, information exchange, complementarity and the avoidance of duplication. It shall aim in particular to ensure that all available means are used to protect the financial interests of the Union through the complementarity of their respective mandates and the support provided by the Office to the EPPO.
5. For the application of this Regulation, competent authorities of the Member States and institutions, bodies, offices and agencies may establish administrative arrangements with the Office. Those administrative arrangements may concern, in particular, the transmission of information, the conduct of investigations and any follow-up action.

3. Article 2 Definitions

The (legal) definitions[292] are regulated by Art. 2 OLAF Regulation and helps e.g. draft update reports, assessments of conduct, judgements and OLAF reports etc.:

For the purposes of this Regulation:
(1) '**financial interests of the Union'** shall include revenues, expenditures and assets covered by the budget of the European Union and those covered by the budgets of the institutions, bodies, offices and agencies and the budgets managed and monitored by them;
(2) '**irregularity**' shall mean 'irregularity' as defined in Article 1 para. 2 of Regulation (EC, Euratom) No 2988/95;
(3) '**fraud, corruption and any other illegal activity affecting the financial interests of the Union'** shall have the meaning applied to those words in the relevant Union acts and the notion of 'any other illegal activity' shall include irregularity as defined in Article 1 para. 2 of Regulation (EC, Euratom) No 2988/95;
(4) '**administrative investigations**' ('investigations') shall mean any inspection, check or other measure undertaken by the Office in accordance with Articles 3 and 4, with a view to achieving the objectives set out in Article 1 and to establishing, where necessary, the irregular nature of the activities under investigation; those investigations shall not affect the powers of the EPPO or of the competent authorities of Member States to initiate and conduct criminal proceedings;
(5) '**person concerned**' shall mean any person or economic operator suspected of having committed fraud, corruption or any other illegal activity affecting the financial interests of the Union and who is therefore subject to investigation by the Office;
(6) '**economic operator**' shall have the meaning applied to that term by Regulation (EC, Euratom) No 2988/95 and Regulation (Euratom, EC) No 2185/96;
(7) '**administrative arrangements**' shall mean arrangements of a technical and/or operational nature concluded by the Office, which may in particular aim at facilitating the cooperation and the exchange of information between the parties thereto, and which do not create additional legal obligations;
(8) '**member of an institution**' means a member of the European Parliament, a member of the European Council, a representative of a Member State at ministerial level in the Council, a member of the Commission, a member of the Court of Justice of the European Union (CJEU), a member of the Governing Council of the European Central Bank or a member of the Court of Auditors, with respect to the obligations imposed by Union law in the context of the duties they perform in that capacity

[292] For the important role of "legal definitions" in EU legal frameworks see only Robertson and Aodha 2023 Handbook of Terminology Online, pp. 244–270. online: https://benjamins.com/online/hot/articles/leg2#c11-s3. Accessed 30 June 2025.

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Art. 3 External Investigations

[…] 2. The Office shall ***carry out on-the-spot checks and inspections in accordance with this Regulation and, to the extent not covered by this Regulation, in accordance with Regulation (Euratom, EC) No 2185/96.***

4. Where, in accordance with paragraph 3 of this Article, the ***economic operator concerned submits*** to an on-the-spot check and inspection authorised pursuant to this Regulation, Article 2(4) of Regulation (EC, Euratom) No 2988/95, the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96 and Article 7(1) of Regulation (Euratom, EC) No 2185/96 ***shall not apply insofar as those provisions require compliance with national law*** and are capable of restricting access to information and documentation by the Office to the same conditions as those that apply to national administrative inspectors.

5. At the request of the Office, the ***competent authority of the Member State*** concerned shall, without undue delay, provide the staff of the Office with the assistance needed in order to carry out their tasks effectively, as specified in the written authorisation referred to in Article 7(2).

The ***Member State concerned shall ensure***, in accordance with Regulation (Euratom, EC) No 2185/96, that the ***staff of the Office are allowed access to all information, documents and data relating to the matter under investigation which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently, and that the staff are able to assume custody of documents or data to ensure that there is no danger of their disappearance.*** Where privately owned devices are used for work purposes, those devices may be subject to inspection by the Office. The Office shall subject such devices to inspection only under the same conditions and to the same extent that national control authorities are allowed to investigate privately owned devices and where the Office has reasonable grounds for suspecting that their content may be relevant for the investigation.

6. Where the staff of the Office find that an ***economic operator resists*** an on-the-spot check and inspection authorised pursuant to this Regulation, namely where the economic operator refuses to grant the Office the necessary access to its premises or any other areas used for business purposes, conceals information or prevents the conduct of any of the activities that the Office needs to perform in the course of an on-the-spot check and inspection, the ***competent authorities, including, where appropriate, law enforcement authorities of the Member State concerned shall afford the staff of the Office the necessary assistance so as to enable the Office to conduct its on-the-spot check and inspection effectively and without undue delay.***

Article 2(4) of Regulation (EC, Euratom) No 2988/95

Subject to the Community law applicable, the procedures for the application of Community checks, measures and penalties shall be governed by the laws of the Member States.

the third subparagraph of Article 6(1) of Regulation (Euratom, EC) No 2185/96
~~On-the-spot checks and inspections shall be carried out on the Commission's authority and responsibility by its officials or other servants, duly empowered, hereinafter called 'Commission inspectors'. Persons placed at the disposal of the Commission by the Member States as national experts on secondment may assist in such checks and inspections.~~
~~Commission inspectors shall exercise their powers on production of a written authorization showing their identity and position, together with a document indicating the subject-matter and purpose of the on-the-spot check or inspection.~~
Subject to the Community law applicable, they shall be required to comply, with the rules of procedure laid down by the law of the Member State concerned.
Article 7(1) of Regulation (Euratom, EC) No 2185/96
Commission inspectors shall have access, under the same conditions as national administrative inspectors and in compliance with national legislation, to all the information and documentation on the operations concerned which are required for the proper conduct of the on-the-spot checks and inspections. They may avail themselves of the same inspection facilities as national administrative inspectors and in particular copy relevant documents.
On-the-spot checks and inspections may concern, in particular:
- professional books and documents such as invoices, lists of terms and conditions, pay slips, statements of materials used and work done, and bank statements held by economic operators,
- computer data,
- production, packaging and dispatching systems and methods,
- physical checks as to the nature and quantity of goods or completed operations,
- the taking and checking of samples,
- the progress of works and investments for which financing has been provided, and the use made of completed investments,
- budgetary and accounting documents,
- the financial and technical implementation of subsidized projects.]

When providing assistance in accordance with this paragraph or with paragraph 5, the competent authorities of Member States ***shall act in accordance with national procedural rules applicable to the competent authority concerned. If such assistance requires authorisation from a judicial authority in accordance with national law***, such authorisation shall be applied for.
10. As part of its investigative function, the Office shall carry out the checks and inspections provided for in Article 9(1) of Regulation (EC, Euratom) No 2988/95 and in the sectoral rules referred to in Article 9(2) of that Regulation in Member States and, ***in accordance with cooperation and mutual assistance agreements and any other legal***

instrument in force, in third countries and on the premises of international organisations.
12. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an external investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the competent authorities of the Member States concerned and, where necessary, the institutions, bodies, offices and agencies concerned.
Without prejudice to the sectoral rules referred to in Article 9(2) of Regulation (EC, Euratom) No 2988/95, the competent authorities of the Member States concerned shall ensure that appropriate action is taken, in which the Office may take part, ***in accordance with national law***. Upon request, the competent authorities of the Member States concerned shall inform the Office of the action taken and of their findings on the basis of information referred to in the first subparagraph of this paragraph.

1 OLAF has been often compared to the EPPO in the past, but *de facto* it is clear it has longer lasting reputation and a clearly defined role as it must **focus on administrative investigations** creating investigation files feasible for recommendations and internal decisions either in the Member states or the EU institutions. It must hereby ensure that its investigative actions align with the **principles of legality, proportionality, and respect for procedural guarantees** within the framework established by Regulation (EU) No 883/2013 and 2020/2223 and the "**variable geometry of 27 different national enforcers under a common hat**"[293] as titled recently precisely scholarly writers; i.e. goals are checked by the Supervisory Committee. This special body (see Art. 15 OLAF Regulation for its history) has repeatedly underlined the importance of maintaining **OLAF's independence**, particularly in complex or politically sensitive cases. As highlighted recently in Opinion No 4/2024, OLAF's authority to investigate members of EU institutions must be carefully exercised in line with the principles of due process and institutional integrity[294].

2 Equally critical is the **adherence to procedural safeguards** during the investigative process. **Opinion No 3/2024** sets out expectations regarding legality checks, internal reviews, and respect for the rights of persons concerned[295]. Investigators are encouraged to refer to these guidelines, especially when planning and executing case actions that might involve interviews, digital forensics, or cooperation with national authorities.

3 Collaboration between OLAF and the EPPO introduces another layer of operational complexity. Complementary roles require clearly delineated boundaries and proactive

[293] See Łazowski 2024, p. 515.
[294] Supervisory Committee of OLAF (2024e).
[295] Supervisory Committee of OLAF (2024d).

coordination. **Opinion No 1/2024** provides essential insights into how investigators should structure communication and avoid duplication or jurisdictional conflict[296].

Past experiences demonstrate that inadequate follow-up to **OLAF's recommendations** can undermine the Office's impact. The Supervisory Committee's analysis in Opinion No 1/2021 sheds light on systemic gaps in follow-up by national authorities and the need for stronger legal anchors[297]. This is particularly relevant in cross-border cases or when judicial cooperation proves challenging. **4**

Furthermore, efficient **working arrangements** between OLAF and EPPO remain central to operational success. Opinion No 2/2021 proposes practical structures for shared responsibility, especially in preliminary assessments and evidence handling[298]. **5**

Finally, the ability to ensure meaningful **oversight of OLAF's investigations** – especially those exceeding 12 months – is essential for maintaining credibility and accountability. Investigators must be aware of the issues raised in Opinion No 3/2021, which stresses the importance of timely and well-documented investigations, as well as internal planning mechanisms[299]. **6**

On-the-spot checks have been discussed in the last decade quite thoroughly[300], but not enough for all countries. For Sweden, it is worth taking a closer look at the applicable provisions. **Sweden** has decided in the last decade, like the Netherlands did in 2012 already that it **needed a special Act to better coordinate OLAF's actions** on the national territory. Therefore the legislator adopted the "**Lag (2017:244) om kontroller och inspektioner på plats av Europeiska byrån för bedrägeribekämpning**", which applies in connection with various other sources in the area of tax and customs legislation if OLAF investigators visit Sweden for an external action under the OLAF Regulation and the Regulation 2185/96. The law falls into the area of the Swedish Ministry of Finance. **7**

a) On-The-Spot-Checks and Inspections – Renouncing the Applicable National Law – Para 2, 4

"Since OLAF was established in 1999, the agency has only carried out on-site inspections in Sweden on a few occasions./*Sedan Olaf inrättades år 1999 har byrån endast vid ett fåtal tillfällen genomfört platskontroller i Sverige*."[301]

[296] Supervisory Committee of OLAF (2024b).
[297] Supervisory Committee of OLAF (2021b).
[298] Supervisory Committee of OLAF (2021c).
[299] Supervisory Committee of OLAF (2021d).
[300] See Bovend'Eerdt 2018. online: https://web.archive.org/web/20240718162801/https://europeanlaw-blog.eu/2018/06/28/the-applicable-law-in-olafs-on-the-spot-inspections. Accessed 30 June 2025.
[301] Prop. 2016/17:56, Kontroller och inspektioner i Sverige av Europeiska byrån för bedrägeribekämpning, 13.

8 The national law is renounced if the economic operator, the beneficiary, the grant recipient etc. submits to the investigation of the Office. In this case Union law applies.

b) Assistance Needed, Competent Authorities and Access to Information in the Member States, Para 5

9 Even in the case that Union law applies, OLAF may need the help and information from national authorities in the Member states (managing authorities, control bodies, customs and tax offices, etc.).

c) Resistance by the economic operator vs. law enforcement and effective investigations, para 6 or the new model and the relevance of resistance or conformity of the Economic Operator

10 If the economic operator, the beneficiary, the grant recipient etc. resists this conduct has an effect on the applicability of law.[302] The ECJ rules in *Sigma Orionis* that national law applies in the case of resistance, which means that the **investigations need to be in conformity with the national law applicable** in similar national investigations.

d) The basic principle of conformity to Regulations 2185/96 and 883/2013

aa. Submission: Compliance with Union law

11 In the case of compliance of a Swedish economic operator, Union law applies, thus the Regulation allows OLAF officials to conduct on-the-spot checks without prior information of national authorities.

bb. Resistance: Assistance in conformity with national procedural rules applicable

12 Does the participant, the personal or economic operator concerned resist, the Regulation indicates that OLAF has to follow national law and inform national authorities that can provide assistance in conformity with national procedural rules applicable.[303]

[302] See Bovend'Eerdt 2024, "3.3.3 The Provision of Assistance When OLAF Encounters Resistance", here he found a definition for resistance: "I defined resistance as those acts which actually, not potentially, prevent or hinder OLAF from carrying out the tasks specified in the Director-General authorization (i.e. the entry of premises and the access to information). [and later:] Therefore, whenever it encounters a resisting person concerned, OLAF must call in the assistance of the competent national authorities to help 'open doors and drawers' and overcome the resistance posed by the person concerned." See Böse 2017 explaining the powers of administrative authorities in the PIF acquis area in Germany, pp. 85 et seq.

[303] ECJ, Case T-48/16 *Sigma Orionis v the Commission*, Margin Number 112: "Finally, it should be noted that, according to the rules applicable to the actions carried out by OLAF, the requirement to obtain a judicial authorization, if provided for by national law, only applies in the case of an objection raised by the economic operator and that OLAF must then have recourse to national police forces which, according to the rules applicable to them, must comply with national law."

e) Competent Authorities

The list below shows non-extensively the most **important competent authorities**, which need to be contacted if the Economic operator resists and thus national law applies if OLAF wants to conduct investigations into irregularities: **13**

Who is responsible **depends on which area is affected** (direct or shared management), and which type of irregularity or fraud is suspected, as well as in which payment (expenditure) or payment (revenue) area. **14**

In summary the **following authorities** may be, depending on the area of their actions by competent: Economic Crime Authority, the Swedish Financial Supervisory Authority, the Financial Supervisory Authority, the Swedish Agricultural Agency, the Chamber of Commerce, the Chamber of Commerce, the Crown Enforcement Authority, the National Association of Farmers, the University of Lund, the County Administrative Board in Norrbotten, the County Administrative Board in Västerbotten, the Migration Agency, the Swedish Police Agency, the Riksdag ombudsmen (JO), the Tax Agency, Skellefteå Municipality, the Central Statistics Office, the Swedish ESF Council, the Swedish Bar Association, the Agency for Growth, the Customs Agency, the Public Prosecutor's Office and the Municipality of Åmål.[304] **15**

The Special **Swedish On-the-spot Law** states: **16**

Section 1
This law contains provisions that supplement[305]
- Council Regulation (Euratom, EC) No. 2185/96 of 11 November 1996 on the controls and inspections on the spot that the Commission carries out to protect the financial interests of the European Communities against fraud and other irregularities, and
- Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 on investigations carried out by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No. 1074/1999.

[304] Prop. 2016/17:56 Kontroller och inspektioner i Sverige av Europeiska byrån för bedrägeribekämpning, Appendix 5.

[305] **1 § I denna lag finns bestämmelser som kompletterar Lag (2017:244) om kontroller och inspektioner på plats av Europeiska byrån för bedrägeribekämpning**
- rådets förordning (Euratom, EG) nr 2185/96 av den 11 november 1996 om de kontroller och inspektioner på platsen som kommissionen utför för att skydda Europeiska gemenskapernas finansiella intressen mot bedrägerier och andra oegentligheter, och
- Europaparlamentets och rådets förordning (EU, Euratom) nr 883/2013 av den 11 september 2013 om utredningar som utförs av Europeiska byrån för bedrägeribekämpning (Olaf) och om upphävande av Europaparlamentets och rådets förordning (EG) nr 1073/1999 och rådets förordning (Euratom) nr 1074/1999.
Lagen innehåller bestämmelser om befogenheter för behöriga myndigheter enligt förordning (EU, Euratom) nr 883/2013.
Regeringen utser de myndigheter som är behöriga myndigheter vid tillämpningen av denna lag.

The Act contains provisions on the powers of competent authorities under Regulation (EU, Euratom) No. 883/2013.
The government appoints the authorities that are competent authorities for the application of this law.

f) National Law and "Checks and Inspections" of OLAF

17 The Swedish national law for checks and inspections of OLAF is highly important as it is an effective tool to gather either evidence for an administrative procedure or a criminal trial decided by a Swedish Court. An OLAF Report may by virtue of Art. 11 OLF Regulation (see below) constitute evidence.

aa. Administrative Procedure in General

bb. Special Administrative Powers and Provisions in Certain Areas of Revenue and Expenditure

18 The Value-Added Tax Code has the following structure

1. Substantive provisions (chaps. 1–10)
Chapter 1. Introductory provisions
Scope of the Act (Sections 1 to 2 d)
Obligation to pay unduly charged VAT (Section 2 e)
The time of entry into the tax liability (Sections 3–5 b)
Meaning of certain expressions in this Act (Sections 6 to 21)
Chapter 2 Sales and imports
2 a chap. Intra-Union acquisitions
Chapter 3 Tax liability for sales, intra-Union acquisitions and imports
Chapter 4 Taxable person and financial activities
Chapter 5 Country of sale
Chapter 6 Tax liability in special cases
6 a chap. VAT groups
Chapter 7 Tax rate and tax base
Chapter 8 Deduction for input tax
8 a chap. Adjustment of deductions for input tax attributable to investment goods
Chapter 9 Voluntary tax liability for certain real estate leases
9 a chap. Especially about used goods, works of art, collectibles and antiques
9 b chap. Especially about certain travel agency activities
9 c chap. Especially about goods in certain warehouses
Chapter 9 Tax exemption for taxable persons with low turnover
Chapter 10 Right to a refund of input tax
2. Invoicing and accounting and procedural provisions (chap. 11–22)
Amendments and transitional provisions

(1) Administrative Provisions

(a) Administrative Provisions In the Area of Customs Duties and Value Added Tax (VAT) = Revenue

The area encompasses e.g. sugar levies[306], special customs tariffs that are prone to fraud across the European territory, **anti-dumping rules t**hat fraudsters try to circumvent frequently, if cases in other countries are trusted (see above in the other Chapters: review on case law) and the Value-added tax duties. Relevant duties arise e.g. from the Ordinance (2022:182) on tobacco tax and the Ordinance (2022:183) on alcohol tax. **19**

(aa) Principle of Investigation (General Tax Code)

See s. 19 Act (2000:1225) on penalties and smuggling. **20**

(bb) External Audit (General Tax Code)

External audits in the relevant authorities of the Member States, which are either part of shared management or the area of customs (revenue) duties are (normally) subject to the national audits and audit provisions as well, which may lead to the discovery of irregularities. The problem with the provisions in the Swedish Customs Code is that they do not apply to investigations of OLAF, as s. 43a excludes them for the application in these cases. Instead, the provisions of the On-the-Spot-checks Law, which exists since 2017, must apply. **21**

- Customs Act (2016:253)/*Tullag (2016:253)* Chapter 4 Customs control, ss. 26–35

In the **area of Customs (revenue) duties** the relevant authority may carry out an audit by virtue of s. 26 Customs Act (2016:253) **22**

Audit[307] **Customs Act** **23**
[K4] Section 26
The Swedish Customs Service may decide on an audit
to verify that all necessary documents and information have been provided in accordance with Article 15(1) of Regulation (EU) No. 952/2013, in the original wording, and that the documents and information are correct and complete, and
to carry out such checks as are referred to in Article 48 of that Regulation, in the original wording.

[306] *Förordning (2004:1333) om administration av den svenska avgiften till Europeiska unionens budget*/Ordinance (2004:1333) on administration of the Swedish contribution to the budget of the European Union.
[307] **Revision Tullag (2016:253)**
26 § Tullverket får besluta om revision
för att kontrollera att alla nödvändiga dokument och uppgifter har tillhandahållits enligt artikel 15.1 i förordning (EU) nr 952/2013, i den ursprungliga lydelsen, och att dokumenten och uppgifterna är riktiga och fullständiga, och för att göra sådana kontroller som avses i artikel 48 i den förordningen, i den ursprungliga lydelsen.

Checks and Inspections by the European Anti-Fraud Office
Section 43a

The provisions in **Sections 26–43 shall not be applied** to on-site checks and inspections carried out in accordance foe with the Act (2017:244) on on-site checks and inspections by the European Anti-Fraud Office. Law (2017:248).

24 In the **area of taxes** chapter 41 and 45 of the Tax Procedures Act normally grant the audit right to the competent tax authority.

25

41 ch. Audit
Section 1
This chapter contains regulations on
- the purpose of an audit (Sections 2 and 2 a),
- who may be audited (Section 3),
- decisions on audit (Sections 4 and 5),
- cooperation (Section 6).

The purpose of an audit

Section 2 /***Ceases to apply U:2023–02–13***/
The Tax Agency may decide on an audit to check
1. that the obligation to provide information according to ch. 15–35 has been fulfilled,
2. that there are conditions to fulfil the obligation to provide information according to chap. 15–35 which can be assumed to arise,
3. tax assessment according to the Act (1994:1563) on tobacco tax, the Act (1994:1564) on alcohol tax or the Act (1994:1776) on tax on energy,
4. that the person who has applied for a refund of or compensation for excise duty in the cases referred to in ch. 53 5 Section 2 has provided correct and complete information,
5. that the person who has applied for a refund of excise duty in the cases referred to in ch. 53. Section 5 Section 1 has provided correct and complete information,
6. that the person who has or can be assumed to have provided a place for square and market trading has fulfilled his obligations according to ch. 39 Section 13,
7. that the person who has or can be assumed to have sold investment gold has fulfilled his obligations according to ch. 39 Section 14, or
8. that the person who has transferred an item to or acquired an item from a recall warehouse has fulfilled his obligations according to ch. 39. Section 14a.

The Tax Agency may also decide on an audit to obtain information of importance for control according to the first paragraph 1–4 by someone other than the person being audited. Law (2020:858).

Section 2 ***/Enters into force I:2023–02–13/***
The Tax Agency may decide on an audit to check
1. that the obligation to provide information according to chap. 15–35 has been fulfilled,
2. that there are conditions to fulfil the obligation to provide information according to chap. 15–35 which can be assumed to arise,
3. tax assessment according to the law (1994:1776) on tax on energy, the law (2022:155) on tobacco tax or the law (2022:156) on alcohol tax,
4. that the person who has applied for a refund of or compensation for excise duty in the cases referred to in ch. 53 5 Section 2 has provided correct and complete information,
5. that the person who has applied for a refund of excise duty in the cases referred to in ch. 53. Section 5 Section 1 has provided correct and complete information,
6. that the person who has or can be assumed to have provided a place for square and market trading has fulfilled his obligations according to ch. 39 Section 13,
7. that the person who has or can be assumed to have sold investment gold has fulfilled his obligations according to ch. 39 Section 14, or
8. that the person who has transferred an item to or acquired an item from a recall warehouse has fulfilled his obligations according to ch. 39. Section 14a.
The Tax Agency may also decide on an audit to obtain information of importance for control according to the first paragraph 1–4 by someone other than the person being audited. Law (2022:174).

Section 2a
If the Tax Agency has received a request for information and the agency needs information to be able to fulfil its obligations under the Act (2012:843) on administrative cooperation within the European Union in matters of taxation or an agreement that entails an obligation to exchange information in tax matters, applies to the following.
The Swedish Tax Agency may decide on an audit in order to obtain information that the Swedish Tax Agency needs from the person to whom the requested information relates.
The Tax Agency may decide on an audit also to obtain such information from someone other than the person to whom the requested information refers. Law (2012:847).
Who can be audited?

Section 3
An audit may be made with
1. the person who is or can be assumed to be liable for accounting according to the Accounting Act (1999:1078),
2. any legal person other than an estate,
3. the person who has applied for registration,
4. the person who has applied for or is approved for F-tax,
5. such agent for a foreign taxable person referred to in ch. 6. Section 2,

6. such representative as referred to in Section 16a of the Act (1994:1563) on tobacco tax, Section 15a of the Act (1994:1564) on alcohol tax or ch. 4 Section 9a of the Act (1994:1776) on tax on energy,
7. the person who has applied for approval as a storekeeper according to the Act on Tobacco Tax, the Act on Alcohol Tax or the Act on Tax on Energy,
8. the person who has applied for registration as a recipient of goods according to the Tobacco Tax Act, the Alcohol Tax Act or the Energy Tax Act,
9. the person who has applied for approval as a tax-exempt consumer according to the Alcohol Tax Act or the Energy Tax Act,
10. the who has applied for approval as a registered consignor under the Tobacco Tax Act, the Alcohol Tax Act or the Energy Tax Act,
11. the person who has applied for approval as a warehouse keeper under the Tobacco Tax Act, the Energy Tax Act, the Act (2016:1067) on tax on chemicals in certain electronics, the law (2018:696) on tax on certain nicotine-containing products or the law (2020:32) on tax on plastic carrier bags,
12. the person who has applied for approval as a registered recipient or registered EU trader under the Act on Tax on Chemicals in Certain Electronics, and
13. the person who has applied for approval as a registered distance seller of chewing tobacco and other tobacco under the Act on Tobacco Tax. Law (2021:431).

Section 3 /***Effective I:2023–02–13***/
An audit may be made with
1. anyone who is or can be presumed to be liable for accounting according to the Accounting Act (1999:1078),
2. any legal person other than an estate,
3. anyone who has applied for registration,
4. the person who has applied for or is approved for F-tax,
5. such agent for a foreign taxable person referred to in ch. 6. Section 2,
6. the person who has applied for approval as a storekeeper according to the Act (1994:1776) on energy tax, the Act (2022:155) on tobacco tax, or the Act (2022:156) on alcohol tax,
7. the person who has applied on approval as a registered recipient of goods according to the Energy Tax Act, the Tobacco Tax Act or the Alcohol Tax Act,
8. the person who has applied for approval as a tax-exempt consumer under the Energy Tax Act or the Alcohol Tax Act,
9. the person who has applied for approval as a registered consignor under the Energy Tax Act, the Tobacco Tax Act or the Alcohol Tax Act,
10. the person who has applied for approval as a warehouse keeper according to the law on tax on energy, the law (2016:1067) on tax on chemicals in certain electronics, the

law (2018:696) on tax on certain nicotine-containing products, the law (2020:32) on tax on plastic carrier bags or the Act on Tobacco Tax,
11. the person who has applied for approval as a registered recipient or registered EU trader under the Act on Tax on Chemicals in Certain Electronics, and
12. the person who has applied for approval as a registered distance seller of chewing tobacco and other tobacco according to the Tobacco Tax Act. Law (2022:174).

Decision on Audit
Section 4
A decision on an audit **must contain:**
1. information about the purpose of the audit,
2. information about the possibility of exempting data and documents from control, and
3. appointment of the officials who will carry out the audit (auditors).
The information referred to in the first paragraph 1 does not need to state which person or legal document the control or information relates to if
1. the decision on audit applies to such an audit as referred to in Section 2 second paragraph or Section 2a third paragraph, and
2. there is special reasons for not mentioning the person or the legal document. Law (2017:189).

Section 5
Before an audit is carried out, the person to be audited must be notified of the decision on audit.
The notification may take place in connection with the audit being carried out if
1. an inspection as referred to in section 7 2–6 needs to be carried out and the inspection would lose its significance if the person to be audited is notified in advance,
2. the audit must be carried out in connection with an inspection visit according to 42 Cape. Section 8 and is limited to documents relating to personnel, or
3. it follows from the provisions on notification of decisions on securing evidence in ch. 45 Section 16, second paragraph.

Auditor's Powers
Section 7
During an audit, the auditor may
1. review accounting materials and other documents relating to the business,
2. take inventory of the cash register,
3. review stock, machines and fixtures,
4. inspect business premises,
5. take samples of goods that are used, sold or provided at other way in the business, and

6. test technical equipment used in the business.

Obligations of the auditee
Section 8
The auditee **must provide access to the business premises** for
1. examination of documents according to Section 7 Section 1 if the examination cannot be carried out without difficulty at another location, and
2. such measures as referred to in Section 7 Section 2–6.
In cases other than those referred to in the first paragraph 1, an audit may be carried out in the business premises if the auditee allows it. The audit must be carried out on the business premises if the auditee requests it and the audit can be carried out there without significant difficulty.
In cases where an audit is carried out on the business premises, the auditee must, if possible, place a suitable workplace at the auditor's disposal.

Section 9
The auditee must provide the auditor with the documents and provide the information needed for the audit. If documents are to be examined in a place other than the business premises, the auditee must, upon request and against a receipt, hand over the documents to the auditor.

Section 10
The auditee must, on request, give the auditor the opportunity to use technical aids to review records that can only be understood with such aids.
The first paragraph does not apply if
1. the auditee provides a copy of the recording, and
2. the copy can be easily reviewed with technical aids to which the auditor has access.
In the case referred to in the second paragraph, the auditee must give the auditor the opportunity to check that the copy corresponds to the record held by the auditee.
During an examination according to the first paragraph or an inspection according to the third paragraph, only the technical aids and search terms that are needed to fulfil the purpose of the audit may be used.
The review may not be carried out via telecommunications network.

Section 11
The auditee must, in addition to what follows from Sections 8–10, give the auditor the help needed during the audit.

26 The next part focuses on the end of an audit and follow-up:

Order
Section 12
The Tax Agency may order anyone who does not fulfil their obligations according to Sections 8–11 to fulfil them.

Completion of the audit
Section 13
An audit may not last longer than necessary.
The Tax Agency shall as soon as possible notify the revised result of the audit in the parts that relate to the revised one.

Section 14
The Tax Agency must return accounting material and other documents to the auditee as soon as possible and at the latest when the audit has been completed.
If the audited party has been declared bankrupt when the documents are to be returned, the Tax Agency must
1. hand over the documents to the bankruptcy administrator, and
2. notify the audited party that the documents have been handed over to the bankruptcy administrator.

(cc) Tax and Customs Investigation (Customs Code/General Tax Code)

Custom Act **27**

Customs Control provisions of chapter 4 of the Customs Code constitute a customs investigation from the point-of-view of administrative law. With regard to intellectual property rights, Chapter 4, ss. 44–49 might apply.

Nota bene: Ss. 26–43 do not apply in cases of OLAF actions. In these cases, the law 2017:244 applies (see below).

Tax Procedure Act (2011:1244)/*Skatteförfarandelag (2011:1244)* **28**

- Title VIII. Investigation and Inspection, Chapter 40 The Swedish Tax Agency's obligation to investigate and communicate

- **Checks and inspections by OLAF**, Section 43a: ss. 26–43 do not apply to on-the-spot checks and inspections carried out by OLAF

(dd) Fiscal Supervision

The Swedish Ministry of Finance is responsible for the supervision of the tax and customs authorities. The Budget Area is subject to another level of supervision; the State **29**

Court Auditor is competent in this area (subject to the European Court of Auditor). Special rules can be found in the Customs Code:

30 **Chapter 6 Appeal Constitutional commentary**
Prop. 2015/16:79: See section 6.2.9.
The general counsel
Section 1
At the Customs Office there must be a general representative appointed by the government. The general representative may appeal the Customs Agency's decision on customs duties, taxes other than customs duties according to ch. 2. Section 1, second paragraph, interest, customs surcharge and late payment.

Appeal of the Customs Board's decision
Which decisions can be appealed?
Section 2
The following decisions of the Customs Agency may be appealed to the general administrative court:
1 decision according to customs legislation,
2 decision according to Article 7.1 of Regulation (EU) 2018/1672, and
3 decision according to Article 7.2, 9.1, 11.3, 12.1, 12.2, 12.5, 13 or 16 of Regulation (EU) No. 608/2013 and decision to reject an application that does not meet the conditions of Article 5.3 of that Regulation.

[S2] The customs authority's or other administrative authority's decision on reduction or exemption according to ch. 2 Sections 12 and 20 are appealed to the government.
[S3] The Customs Board's decision on audit according to ch. 4. Section 26 may not be appealed.
[S4] Permission to rehear is required in the event of an appeal to the Court of Appeal. The same applies to appeals in cases referred to in chapter 5. Section 19. Law (2021:753).

(a) Administrative Provisions in the Area of Structural Funds and Internal Policies (Interne Politiken) = Expenditure

(aa) Structural Funds

31 Structural funds fraud investigations are still not well implemented; a report states that they should have been implemented by 31st of December 2023.[308]

32 On the following pages the volume takes a look at the provisions that apply in the area of the structural funds, which are quite often prone to irregularities and fraud.

[308] See Dir. 2021:109 En ändamålsenlig och effektiv hantering av EU-medel.

- Act (1994:1708) on EU regulations on structural support and on support for rural development/ *Lag (1994:1708) om EU:s förordningar om strukturstöd och om stöd till utveckling av landsbygden* **33**
  - Introductory provisions (Section 1)

Section 1 **34**
This Act supplements such EU regulations that contain provisions on support from
European Regional Development Fund,
European Social Fund,
European Social Fund+,
The Fund for a Just Transition, and
European Agricultural Fund for Rural Development.
[S2] The government must announce which basic regulations are referred to. Law (2022:61).

Supervision and control (Sections 2–5)
Section 2
Supervision and other control over compliance with the EU regulations that the law supplements are exercised by the authority or authorities determined by the government.
[S2] The government may issue regulations that a supervisory authority may delegate to another authority the exercise of certain supervision.
[S3] If supervision is delegated, what is said about supervisory authority in the law shall also apply to the authority to which supervision has been delegated. Law (2022:61).

Section 3
For supervision according to this Act, the supervisory authority has the right to gain access to areas, facilities, buildings, premises and other spaces that are used in such activities or in connection with the handling of such products to which the support relates. The supervisory authority may carry out the examinations and take the samples needed for the supervision without compensation.
[S2] The supervisory authority has the right to receive, on request, the information and documents needed for supervision. The authority may issue injunctions that may be accompanied by a fine in order to gain access to the documents. The person who is subject to supervision must provide the help needed for the supervision to be carried out.
[S3] The police authority must, upon request, provide the assistance needed for supervision. Law (2015:267).

Section 3a
The government or the authority that the government determines may issue regulations on the obligation of such a control body as referred to in article 3.56 of the European

Parliament and Council Regulation (EU) No. 2018/848 of 30 May 2018 on organic production and labelling of organic products and on the repeal of Regulation (EC) No. 837/2007 to provide information to an authority that examines cases of EU support for organic production. Law (2021:892).
Introduced: SFS 2021:892 (Amended rules for control of organic production)

Section 4
The provisions in Section 3 first paragraph and second paragraph first sentence also apply to the European Commission and the European Court of Auditors and to inspectors appointed by these institutions. Law (2015:267).

Section 4a
The provisions of Sections 3 and 4 of this law shall not be applied to on-site checks and inspections carried out in accordance with the Act (2017:244) on on-site checks and inspections by the European Anti-Fraud Office. Law (2017:245).

Section 5
The government or the authority designated by the government may issue regulations on how supervision is to be conducted. Law (2015:267).

Section 6
The government or the authority that the government determines may issue regulations that interest must be paid on support amounts provided from the funds specified in Section 1, first paragraph, if the recipient is not entitled to the amount and this must be repaid. Law (2022:61).

Section 7
The government or the authority designated by the government may issue regulations that fees are to be charged for supervision in accordance with this Act. Law (2015:267).

Appeal
Section 8
An authority's decision in a particular case according to this Act may be appealed to a general administrative court.
[S2] A trial permit is required in the event of an appeal to the Court of Appeal. Law (1997:105).

- Amendments and Transitional Provisions

35 In other areas the Budget Law might apply as well to the distributions of funds.

- Budget Law (2011:203/*Budgetlag (2011:203)*
  - Chapter 3 Budgeting
  - Income titles and grants, s. 1–2
  - Scope of the state budget, s. 3–7
  - Conditions for framework grants, s. 8–12
- Investigation responsibility, s. 23 Administrative Act (2017: 900)/*Förvaltningslag (2017:900)* **36**
- Case processing, s. 8 Administrative Procedure Act (1971:291)/*Förvaltningsprocesslag (1971:291)*

The table 10 below provides an overview of the allocation and administrative management of European Union funds in Sweden for the 2021–2027 programming period under the Multiannual Financial Framework.[309] It identifies the main funding instruments, the financial envelopes attributed to Sweden, and the national authorities. **37**

In particular, the table lists **cohesion policy instruments** such as the European Regional Development Fund (including European Territorial Cooperation), the European Social Fund Plus, and the Just Transition Fund, as well as other EU funding streams including the European Maritime, Fisheries and Aquaculture Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund, the Border Management Instrument, and the European Rural Development Fund. It also specifies the competent Swedish authorities entrusted with the management of these funds, including the Swedish Agency for Economic and Regional Growth (Tillväxtverket), the Swedish ESF Council, and other sector-specific administrative bodies. **38**

Central is the **distinction between different modes of fund management**, in particular shared management. Under shared management, the European Commission and the Member State jointly bear responsibility: the Commission provides the funding and overarching regulatory framework, while national authorities are responsible for selecting projects, distributing funds, carrying out first-level controls, and ensuring compliance with EU and national rules.[310] **39**

Irregularities[311] may result **from suspicions**, negligence, administrative error, or misinterpretation of applicable rules. Fraud, by contrast, involves intentional conduct aimed **40**

[309] See mainly CPR Regulation 2021/1060 and Sector Regulations, Financial Regulation 2024/2059, Regulation (EU) 2021/1059 and specific ETC Rules (Commission Impl Decisions 2022/74 and CD 2022/75. See Andon Tashukov, Expenditure Fraud and Corruption team, Investigations and Analysis Sector, Operation's Unit, EPPO, Irregularities, Fraud and Conflict of interests, Presentation https://www.interact.eu/finance-and-control/audit-and-control/irregularities-and-fraud. Accessed 31 October 2025.

[310] Direct management directly by Commission (20% for 2021-2027); Shared management: Commission.

[311] Irregularity shall mean any infringement of a provision of Community law resulting from an act or omission by an economic operator, which has, or would have, the effect of prejudicing the general budget of the Communities or budgets managed by them, either by reducing or losing revenue accruing from own resources collected

at unlawfully obtaining or misusing EU funds. Both types of conduct may affect the financial interests of the Union and therefore fall within the scope of administrative and, where applicable, criminal investigations.

41 *Table 10a: Structural funds and national administrative authorities – Cohesion policy acc. to the CFR Regulation in Sweden (2021–2027)*

European Social Fund Plus (ESF+)		
Managing Authority: Labor Market Unit (*Arbetsmarknadsenheten*), Swedish ESF Council (*Svenska ESF-rådet*) Ministry of Labour	EU funds for Sweden: 707 million euros[313]	
Just Transition fund[312]		
Administrative authority: Swedish Agency for Economic and Regional Growth (*Tillväxtverket*), Ministry of Enterprise and Innovation	investments of about EUR 156 million	
The European Regional Development Fund (ERDF)–includes European Territorial Cooperation (Interreg)		
Administrative authority: Swedish Agency for Economic and Regional Growth (*Tillväxtverket*), Ministry of Enterprise and Innovation	EU funds for Sweden: 863 million euros	

directly on behalf of the Communities, or by an unjustified item of expenditure. (Regulation 2988/95, 1303/2013, 2021/1060). See Andon Tashukov, 31 October 2025, p. 9.

[312] https://home-affairs.ec.europa.eu/policies/migration-and-asylum/migrant-integration/migrant-integration-hub/eu-countries-updates-and-facts/migrant-integration-sweden_en?utm_source=chatgpt.com#legislation.

[313] https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/cohesion_policy.pdf. Accessed 30 June 2025.

Table 10b: Structural funds and national administrative authorities – Continued

European Maritime, Fisheries and Aquaculture Fund (EMFAF)	Divided into shared and direct management. Under shared management each member state receives the same percentage as in the previous period 2014–2020: 160,37 million[314]	**Managing Authority:** Head of Department for Agriculture and Analysis, Swedish Board of Agriculture
Asylum, Migration and Integration Fund (AM IF)	ca. 363 Mio. EUR (2021–2027)	**Managing Authority:** Swedish Migration Agency
Internal Security Fund (ISF)	total EU budget of EUR 1.91 billion	Mainly Swedish Police Authority
Instrument for Financial Assistance in the Field of Border Management		Swedish Migration Agency (Migrationsverket)
European Rural Development Fund (EAF RD)	EU funds for Sweden in 2021 and 2022: 151.6 million euros[315] EU funds for Sweden in MFF 2021–2027 programme: 1, 530 billion euros[316]	Swedish Board of Agriculture

Sources: EU Commission. See https://bit.ly/48SU4C7.

In addition to the rules presented above there are **more rules on state funding and the distribution of funds** (especially in the area of acting according to the internal guidelines in Sweden, which are issued by the University of Applied Sciences): **42**

[314] https://cohesiondata.ec.europa.eu/funds/emff. Accessed 30 June 2025.
[315] https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/eafrd_-_ngeu_current_0_0.pdf. Accessed 30 June 2025.
[316] https://ec.europa.eu/info/sites/default/files/about_the_european_commission/eu_budget/eafrd_-_mff_current.pdf. Accessed 30 June 2025.

43 ***Förordning (2009:130) om yrkeshögskolan***
4 chap. Educational leadership
Ledningsgrupp
Section 1
At the responsible training organizer there must be a management group for the training. If a training provider is responsible for several training courses, the management group may be common to these.
A management group for educations that are of particular value to the individual and society within one or more narrow professional areas may be common to several education providers. Ordinance (2013:873).

Section 2
The management group for the education must
1. ensure that the education is carried out in accordance with the Act (2009:128) on the University of Applied Sciences, this and other regulations and regulations that have been announced by the Authority for the University of Applied Sciences and in accordance with the authority's decision,
2. admit applicants to the education,
3. examine questions about crediting according to ch. 2 Section 12,
4. issue degree and training certificates, and
5. be responsible for systematic quality work being carried out.
In the case of such short training as referred to in ch. 2, the management group receives Section 5, second paragraph or such a course as referred to in ch. 2. Section 6 hand over the information referred to in the first paragraph 2 and 4 to the education provider.

44 **Ordinance (2019:1316)**
Section 3
The management group must consist of
1. representatives of the parts of working life affected by the education,
2. at least one representative of the school system,
3. at least one representative of the students, and
4. the person referred to in Section 6.
If the management group is shared by several education providers, each such person referred to in section 6 must be part of the group.
It or, if the management group is common to several education providers, the responsible education providers may appoint members in addition to those specified in the first and second paragraphs.
The management team for an education that may be completed with a qualified polytechnic degree must also consist of at least one representative of a university or college appointed by the university or college. Ordinance (2017:852)

Section 4
The authority for the university of applied sciences may, after application, decide on exemptions from the requirements in Section 3 first paragraph 2 and fourth paragraph.
In the case of educations that are of particular value to the individual and society within one or more narrow professional areas, the authority may, after application, decide that a management group for one or more such educations may have a different composition than what follows from section 3.
The authority may issue further regulations on such applications as referred to in the first and second paragraphs.
Ordinance (2019:63).

Section 4a
The majority of the members of a management group must be representatives of working life. However, this is not a requirement in the case of such a management group as referred to in section 4, second paragraph. Ordinance (2017:852).
Section 5 If a municipality or a region is the responsible education provider, the committee appointed by the council shall assign a management group to handle the tasks specified in Section 2 under the committee. The board may withdraw the assignment in whole or in part, if there are special reasons for doing so.
Ordinance (2019:1071).

The management of the daily work
Section 6
There must be a person appointed by the responsible education organizer who leads the day-to-day work in the business.
This person must especially work to develop the education.

Studerandeinflytande
Section 7
The students must be given the opportunity to see the activities and the opportunity to influence the organization and implementation of the education.

Section 8
The responsible education organizer is obliged to participate in the supervision of the education initiated by the Authority for the University of Applied Sciences.
Supervision in this regulation refers to an independent review whose purpose is to check whether the business being reviewed meets the requirements that follow from laws and other regulations. The supervision includes making the decisions about measures that may be necessary for the education provider to correct errors discovered during the review.

Ordinance (2016:155)
Qualitetsgranskning
Section 9
The education organizer is obliged to participate in the quality review of the education initiated by the Authority for the University of Applied Sciences.
The quality must be reviewed based on quality criteria.
The authority may issue regulations on quality criteria. Before the authority announces such regulations, the authority must hear representatives of working life.
Ordinance (2016:155).

Evaluation and follow-up
Section 10
The training organizer is obliged to evaluate the activities and to participate in the follow-up and evaluation of the training initiated by the Authority for the University of Applied Sciences.
The ***training provider is also obliged to participate in the follow-up and evaluation of the training initiated by the Swedish Financial Supervisory Authority, the European Commission, the European Anti-Fraud Office (OLAF)*** and the European Court of Auditors. Ordinance (2021:1221).

Disclosure of information
Section 11
The education provider must provide the Authority for the University of Applied Sciences with the information that the authority requests for the authority's supervision, quality review, follow-up and evaluation. The authority may decide that the data must be handed over to someone else.
The authority may issue further regulations on the provision of information referred to in the first paragraph.
The ***training provider must provide the Swedish Financial Supervisory Authority, the European Commission, the European Anti-Fraud Office (OLAF) and the European Court of Auditors with the information they request for their follow-up*** and evaluation. Ordinance (2021:1221).
5 chap. Statlig financing

Inledande bestämmelser
Section 1
State funding in the form of state grants or special funds may be provided for education within the university of applied sciences according to the provisions of the Act (2009:128) on the university of applied sciences and in this regulation.

Section 2
For education within the university of applied sciences, state grants may be given to municipalities, regions or individual natural or legal persons and special funds may be given to universities or colleges that have the state as principal, and which are covered by the Higher Education Act (1992:1434).
State grants and special funds may also be provided to those specified in the first paragraph for costs for
1. teaching Swedish with a vocational orientation in the courses, and
2. special pedagogical support for students with disabilities in the courses. Ordinance (2019:1071).

Section 3
State grants and special funds according to this regulation may be provided subject to the availability of funds. State grants or special funds may not be provided for such a part of an education for which state grants or special funds are provided in other ways.
Decision on state funding
Section 4
The authority for the university of applied sciences decides on state grants or special funds upon application by the person who, according to Section 4 of the law (2009:128) on the university of applied sciences, may organize an education within the university of applied sciences.
The authority may issue regulations on the application.

Ordinance (2019:1316)
Section 4a Has been repealed by regulation (2014:1098).

Section 5
The authority for the university of applied sciences must, when distributing state grants or special funds, take into account in particular the degree to which an education 1.
qualitatively and quantitatively meets the working life's need for qualified labour or contributes to developing or preserving qualified professional know-how within a narrow professional area which is of importance to the individual and society,
2. is financed by working life, and
3. has a suitable regional or national location based on the needs of working life.
If there are special reasons, the authority may disregard the first paragraph 2 with regard to an education that contributes to developing or maintaining qualified professional skills in a narrow professional area that is of importance to the individual and society.
When apportioning, the authority must also take into account results from completed supervision, quality review and follow-up.

Ordinance (2019:63)
Section 6
Then calculating state grants or special funds, the Authority for the University of Applied Sciences must take into account
1. the actual costs of the education, and
2. how the total financial responsibility for an education is shared between the state, working life and other financiers.

Section 7
Decisions on state grants or special funds must contain information about
1. the responsible education provider referred to in ch. 2. Section 3,
2. amount,
3. scope of the education and number of annual places, and
4. location of the education.
The decision must also contain information that the education organizer may not charge student fees for the education according to Section 9, third paragraph of the Act (2009:128) on the University of Applied Sciences.

Disbursement of government funding
Section 8
State grants, or special funds are paid out by the Authority for the University of Applied Sciences to the responsible education organizer referred to in ch. 2. Section 3.

Special conditions for funding from the EU
Section 8a
Whoever has received funding according to the European Parliament and Council Regulation (EU) 2021/241 of 12 February 2021 on the establishment of the facility for recovery and resilience must, in accordance with Article 34.2 of the regulation, emphasize that the funding comes from the EU and ensure that the funding visibility. Ordinance (2021:1221).

Section 8b
Whoever has received funding under Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 on the establishment of the facility for recovery and resilience must keep documentation in accordance with Article 132 of the Regulation of the European Parliament and of the Council (EU, Euratom) 2018/1046 of 18 July 2018 on financial rules for the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304 /2013, (EU) No. 1309/2013, (EU) No. 1316/2013, (EU) No. 223/2014, (EU) No.

283/2014 and Decision No. 541/2014/EU and on the repeal of Regulation (EU, Euratom) No. 966/2012.

Ordinance (2021:1221) Termination, recovery and withholding of government funding
Section 9
Decisions on state grants or special funds for an education shall cease to apply if the decision that the education shall be part of the university of applied sciences is revoked according to ch. 1. Section 7.

Section 10
Anyone who has received a state subsidy according to this regulation is liable for repayment, if any provision or condition that applies to the subsidy has been violated to a significant extent.
The authority for the university of applied sciences must decide to fully or partially reclaim a contribution, if someone is liable for repayment according to the first paragraph.

Section 11
If any provision or condition that applies to state grants according to this regulation has been substantially violated, the Authority for the University of Applied Sciences may decide that grants must be withheld in whole or in part from future payments pending correction. If a correction is not made, the authority may decide that the withheld amount must be deducted from the state grant. Ordinance (2010:596).

An example for state grants for regional vocational training can be presented here as well: **45**

Ordinance (2016:937) on State Grants for Regional Vocational Adult Education **46**
Introductory Provision
Section 1
This ordinance regulates state subsidies for vocational education within municipal adult education at upper secondary level, including special education, where several municipalities cooperate with local industry to provide labour market–relevant skills (regional vocational development). It also governs grants for orientation courses, language and core subjects (Swedish, English, mathematics, social studies), and apprenticeships within regional vocational training. The regulation is adopted under Chapter 8, Sections 7 and 11 of the Swedish Constitution.

Grant Period and Amount
Section 2

Grants are provided annually and depend on available funds. The amount per study place is determined under Sections 24–31a, referring to the definitions in the Adult Education Ordinance (2011:1108).

Conditions for State Grants
Section 3
State grants may be granted to collaborating municipalities for regional vocational education, orientation courses, and specified subjects, provided the conditions in Sections 4–10 and 17–23 are fulfilled. For apprenticeships, Sections 11–16 also apply.

Regional Vocational Training
Section 4–5
Training must consist of **coherent vocational programmes** combining relevant national courses and **workplace-based learning (APL)**, which must cover at least **15%** of the total course unless replaced by validated prior learning.

Section 6–7
Municipalities may offer **individual vocational courses** tailored to labour market needs and may allow students to combine such training with other municipal adult education.

Section 8–9
Students in need must receive mother tongue support and study guidance. Grades and certification follow the School Act (2010:800) and Adult Education Ordinance (2011:1108); teachers decide grades based on workplace supervisors' input.

Apprenticeship Training
Section 11–16b
Apprenticeships within regional vocational training provide basic vocational qualifications and must include at least 70% workplace learning (400–1,600 credits). Cooperation agreements between municipalities and workplaces are mandatory, and each student must have a training contract specifying responsibilities and supervision. If workplace learning cannot be arranged, municipalities may replace it with equivalent school-based education under strict conditions.

Professional Councils
Section 17–18
Each region must establish at least one **Vocational Council** bringing together representatives from education and industry to ensure that training reflects market needs, provides sufficient placements, and maintains high quality.

Additional and Financial Conditions
Section 20–23
At least three municipalities must collaborate, jointly finance additional study places, and consult with employers, regional authorities, and the Employment Service. Grants cannot be given for individual or duplicated courses already state-funded elsewhere.

Grant Amounts
Sections 24–31a
Apprenticeships: SEK 50,000 per study place; plus SEK 40,000 for workplace compensation and SEK 3,500 for supervisor training.
Vocational programmes (e.g. construction, energy, transport, industry): SEK 75,000.
Service-oriented programmes (e.g. healthcare, tourism, business): SEK 35,000.
Language and orientation courses: SEK 30,000.
Combined vocational and language training (Swedish for immigrants): SEK 110,000.

Application and Administration
Sections 32–34
Applications must be jointly submitted by collaborating municipalities to the National Agency for Education (Skolverket), detailing skills needs, target sectors, financing, and consultation with labour market actors. Allocation considers labour market needs and unemployment levels.

EU Funding and Compliance
Sections 34a–34b
Grantees must ensure visibility of EU funding under Regulation (EU) 2021/241 (Recovery and Resilience Facility) and maintain documentation per Regulation (EU, Euratom) 2018/1046.

Follow-up, Control, and Reporting
Sections 35–36
Municipalities must report to Skolverket, providing gender, age, and employment outcome data. They must also cooperate with the Swedish National Audit Office, the European Commission, OLAF, and the European Court of Auditors, supplying all requested information.

Repayment and Redistribution
Sections 37–39
Grants must be repaid if misused, overpaid, or misreported. Interest applies one month after recovery decisions. Skolverket may redistribute reclaimed funds to other eligible municipalities.

Regulatory Authority and Appeal
Section 40–41
Skolverket may issue implementing rules. Decisions under this ordinance cannot be appealed.

Transitional Provisions
Effective from 1 January 2017, replacing the 2009:43 and 2010:2016 regulations on vocational adult education and adult apprenticeships. Later amendments include Ordinances 2020:469, 2021:745, 2021:1222, and 2022:1098, adapting to evolving labour market and EU funding frameworks.

(bb) Internal Policies

47 In the area of internal policies, the following Acts still apply. They have been partly amended already to the period of 2021–2027 (Multiannual framework).

- Administrative Procedure Act (FL)/ *Förvaltningslag (FL)*
- Administrative Procedure Act (FPL)/ *Förvaltningsprocesslag (FPL)*
- Ordinance (2015:406) on support for rural development measures/ *Förordning (2015:406) om stöd för landsbygdsutvecklingsåtgärder*
- Act (1994:1709) on EU regulations on the common fisheries policy/ *Lag (1994:1709) om EU:s förordningar om den gemensamma fiskeripolitiken*
- Act (1994:1710) on EC regulations on agricultural products/*Lag (1994:1710) om EG:s förordningar om jordbruksprodukter*
  - ss. 4, 5, 6 (supervision)

(a) Administrative Provisions in the Area of the Common Organization of the Markets= Expenditure

48
- Act (2007:528) on the securities market/*Lag (2007:528) om värdepappersmarknaden*

(b) Administrative Provisions in the Area of Direct Expenditure

49
- Public Procurement Act (LOU)/*Lag om offentlig upphandling (LOU)*
  - Chapter 6 Procurement procedures
  - Chapter 19a Direct procurement

50
Public Procurement Act/*Lag om offentlig upphandling*
Chapter 4 General provisions
Principles for public procurement
Section 1

Contracting authorities shall treat suppliers in an equal and non-discriminatory manner and carry out procurements in a transparent manner. Procurement must also be carried out in accordance with the principles of mutual recognition and proportionality.[317]

Section 2[318]

A procurement may not be designed for the purpose of excluding it from the scope of the Act, nor may it be designed for the purpose of restricting competition so that certain suppliers benefit or are disadvantaged in an improper manner.

Section 3[319]

A contracting authority should take environmental considerations into account, social and labour law considerations in public procurement if the nature of the procurement justifies this.

Chapter 6 Procurement procedures

Procurement procedures

Section 1

In public procurement, under the conditions and in the manner specified in this Act, the following procurement procedures may be used: [320]

1. open procedure,
2. selective procedure,
3. negotiated procedure with prior announcement,
4. negotiated procedure without prior announcement,
5. competitive dialogue, or
6. procedure for establishing innovation partnerships.

Chapter 19a Direct procurement Scope

[317] **4 kap. Allmänna bestämmelser**
Principer för offentlig upphandling
1 § Upphandlande myndigheter ska behandla leverantörer på ett likvärdigt och icke-diskriminerande sätt samt genomföra upphandlingar på ett öppet sätt. Upphandlingar ska vidare genomföras i enlighet med principerna om ömsesidigt erkännande och proportionalitet.

[318] **2 §** En upphandling får inte utformas i syfte att undanta den från lagens tillämpningsområde och får inte heller utformas i syfte att begränsa konkurrensen så att vissa leverantörer gynnas eller missgynnas på ett otillbörligt sätt.

[319] **3 §** En upphandlande myndighet bör beakta miljöhänsyn, sociala och arbetsrättsliga hänsyn vid offentlig upphandling om upphandlingens art motiverar detta.

[320] **6 kap. Upphandlingsförfaranden**
Upphandlingsförfarandena
1 § Vid offentlig upphandling får, under de förutsättningar och på det sätt som anges i denna lag, följande upphandlingsförfaranden användas:
1. öppet förfarande,
2. selektivt förfarande,
3. förhandlat förfarande med föregående annonsering,
4. förhandlat förfarande utan föregående annonsering,
5. konkurrenspräglad dialog, eller
6. förfarande för inrättande av innovationspartnerskap.

Section 1 This chapter applies to direct procurement.[321]
Direct procurement refers to a procedure for the award of a contract or the conclusion of a framework contract without the requirement that the contracting authority first informs of its intention to procure through a call for tenders.
For direct procurement, Chapters 1–3, Chapter 5 also apply. and Chapters 20–22 Lag (2021:1110).

Principles of Direct Procurement
Section 8[322]
In the case of direct procurement, the contracting authority shall treat suppliers in an equivalent and non-discriminatory manner and carry out the procurement in a transparent manner. The procurement must also be carried out in accordance with the principles of mutual recognition and proportionality.
Lag (2021:1110).

(2) Investigative Powers

51 The **legal rationale** or *telos* behind OLAF's **investigative powers** is grounded in Article 325 TFEU, which requests the protection of the EU's budget and obligates Member States to take equivalent measures against EU budget fraud as they would for their own financial interests. The **assimilation principle** plays a crucial role here and in secondary Union law, as OLAF's powers are equated to those of national administrative authorities responsible for fraud investigations in secondary law.[323] *De facto* OLAF's powers depend on the policy area and the investigative context. According to the wording of Art. 3 OLAF **may or can request access** to documents, records, and other relevant materials

[321] **19a kap. Direktupphandling**
Tillämpningsområdet
1 § Detta kapitel gäller vid direktupphandling. Med direktupphandling avses ett förfarande för tilldelning av kontrakt eller ingående av ramavtal utan krav på att den upphandlande myndigheten först ska informera om sin avsikt att upphandla genom en annons om anbudsinfordran.
Vid direktupphandling gäller även 1–3 kap., 5 kap. och 20–22 kap. Lag (2021:1110).
[322] Principer för direktupphandling
8 § Vid direktupphandling ska den upphandlande myndigheten behandla leverantörer på ett likvärdigt och icke-diskriminerande sätt samt genomföra upphandlingen på ett öppet sätt. Upphandlingen ska vidare genomföras i enlighet med principerna om ömsesidigt erkännande och proportionalitet.
Lag (2021:1110).
[323] Bovend'Eerdt 2024, p. 142, 297, 308 providing a study on Germany with relation to structural funds and hereby he closely identifies all authorities and applicable laws; further on p. 386 reasoning his conclusions: "But even then there were matters which remained, at least at first sight, ambivalent. For example, is OLAF's power to copy documents, or more specifically its power to conduct digital forensic operations, an EU power, or can OLAF only exercise these powers based on the principle of assimilation? These are difficult questions that are not easily answered. Can we then really expect a person concerned to make such a thorough analysis when OLAF comes knocking on the door unexpectedly?".

under the same conditions as national administrative bodies. It can also conduct interviews and **request cooperation** from businesses and individuals. However, it lacks the power to compel access without the **intervention of national authorities**.

(a) Investigative Powers in the Area of Customs Duties and VAT (General Tax Code, Customs Code)

In the **area of customs investigation**, a lot of changes are proposed from time to time.[324] VAT fraud prevention, as well as repression, in connection with the investigation of irregularities and criminal offences is discussed on a Swedish governmental level.[325] Sweden has enlarged the powers of the national authorities in 2026.[326] **52**

In case of resistance by a Swedish economic operator, OLAF's powers under Art. 3 Regulation (EU, Euratom) No 883/2013 remain administrative and rely on national support.[327] Following *Sigma Orionis* jurisprudence, OLAF cannot enforce coercive measures itself but **may request assistance from Swedish authorities**.[328] In Sweden, *Skatteverket* may exercise control powers (e.g. information orders, audits, and evidence securing under 37 kap. 1 §, 41 kap., 45 kap. SFL; cf. enhanced controls in 7 kap. 7–8 §§ SFL). OLAF may request access to premises, documents, and VAT data, but coercion (search/seizure) requires national legal basis and, where applicable, court authorization. **53**

The manual tries to present further areas and their investigative powers scenery in these areas on the following pages. **54**

(aa) Sugar Levies Area

In the **area of sugar levies** the Office and its investigators can – if judging by the sugar levies ordinance alone – not carry out on-the-spot-checks, which seems somewhat strange as these have been levies from the first day of the Communities. It remains questionable if the new on-the-spot-checks law from 2017 could apply even in these cases.[329] **55**

[324] See Dir. 2022:29 Tilläggsdirektiv till Tullbefogenhetsutredningen.
[325] See Dir. 2022:54 Åtgärder för att förhindra mervärdesskattebedrägerier.
[326] https://www.vatcalc.com/sweden/49208/, expected to be in force by 1 July 2026. For defence see https://www.ogier.com/news-and-insights/insights/comprehensive-support-olaf-investigations-and-dawn-raids-to-enforcement/. And see Regeringens proposition 2025/26:128 Åtgärder mot mervärdesskattebedrägerier.
[327] Simonato eucrim 2016, 136 (138): "In this context, the national authorities assist OLAF and ensure, "in accordance with Regulation No 2185/96, that the staff of the Office are allowed access, under the same terms and conditions as its competent authorities and in compliance with its national law, to all information and documents relating to the matter under investigations which prove necessary in order for the on-the-spot checks and inspections to be carried out effectively and efficiently."23 In addition, EU law does not provide OLAF with the power to seal premises. If necessary, "it shall be for the Member States, at the Commission's request, to take the appropriate precautionary measures under national law, in particular in order to safeguard evidence."
[328] Simonato 206, p. 137 differentiates between coordination cases, mixed inspections and OLAF's autonomous investigations.
[329] See Dir. 2022:29 Tilläggsdirektiv till Tullbefogenhetsutredningen.

(bb) Smuggling Area

56 In the **area of smuggling** e.g. tobacco etc., e-bikes irregularities and offences, OLAF would probably as well as the national authorities need to hand over the cases to the EPPO, if it ever started to investigate with Swedish EDPs in Sweden.

(cc) Customs Duties Area

57 The normal customs control powers of the Customs Code, which are displayed below may apply and grant investigative powers in the other areas.

58

Act (2000:1225) on penalties for smuggling/*Lag (2000:1225) om straff för smuggling*
Preliminary investigation and coercive measures
Preliminary investigation, etc.
Section 19[330]
The Customs and Excise Department may decide to initiate a preliminary investigation in accordance with Chapter 23. the Code of Judicial Procedure concerning offences under this Act or other offences referred to in section 1, second paragraph. In such a case, the powers and obligations of the investigator under the Code of Judicial Procedure apply to the Swedish Customs. The Customs and Excise Department shall appoint special officers of the Agency to carry out the duties of the Agency.
[S2] If the matter is not of a simple nature, the direction of the preliminary investigation shall be taken over by the prosecutor as soon as someone can reasonably be suspected of the crime. The prosecutor shall also otherwise take over the management when this is necessary for special reasons.
[S3] When a preliminary investigation is led by a prosecutor, the prosecutor may hire the assistance of the Swedish Customs or coast guard. The Prosecutor may also instruct officials of the Customs and Excise Department or the Coast Guard to take a certain action related to the preliminary investigation, if this is appropriate in view of the nature of the action. If the preliminary investigation is led by the Swedish Customs, the Agency may engage the assistance of the Coast Guard or a Coast Guard officer. Law (2019:42).

[330] **Förundersökning och tvångsmedel**
Förundersökning m.m.
19 § Tullverket får fatta beslut om att inleda förundersökning enligt 23 kap.rättegångsbalken angående brott enligt denna lag eller andra brott som avses i 1 § andra stycket. De befogenheter och skyldigheter som undersökningsledaren har enligt rättegångsbalken gäller i sådant fall Tullverket. Tullverket ska förordna särskilda befattningshavare i verket att fullgöra verkets uppgifter.
[S2]Om saken inte är av enkel beskaffenhet, ska ledningen av förundersökningen övertas av åklagaren så snart någon skäligen kan misstänkas för brottet. Åklagaren ska även annars överta ledningen när detta är påkallat av särskilda skäl.
[S3]När en förundersökning leds av en åklagare får åklagaren anlita biträde av Tullverket eller Kustbevakningen. Åklagaren får också uppdra åt tjänstemän vid Tullverket eller Kustbevakningen att vidta en viss åtgärd som hör till förundersökningen, om det är lämpligt med hänsyn till åtgärdens beskaffenhet. Om förundersökningen leds av Tullverket får verket anlita biträde av Kustbevakningen eller en kustbevakningstjänsteman. Lag (2019:42).

Customs Act (2016:253)/*Tullag (2016:253)*
Chapter 4 Customs control General principle of customs controls
Section 1 A decision on a control measure in accordance with customs legislation may only be[331] made if the reasons for the measure outweigh the infringement or otherwise that the measure entails for the individual.

Use of force or coercion
Section 2[332]
A customs official may, to the extent that other means are insufficient and it is justifiable in view of the circumstances, use force or coercion to carry out a measure referred to in Chapter 3 Section 7 paragraph 1 and Sections 9–11, 14, 16 and 19 in this chapter.
Violence against a person may only be used if the customs officer is met with resistance and it is justifiable with regard to the purpose of the measure.

Participation of the Police Authority and the Coast Guard
Section 3[333]
The police authority and the Coast Guard shall participate in the Swedish Customs' control activities in accordance with this Act.
For the Police Authority and the Coast Guard as well as the police officer and the Coast Guard officer who participates in the Swedish Customs' control activities, what is said about the Swedish Customs and the customs officer in Chapter 3 Sections 5, 6, 17 and 18 and Sections 2, 9–17 and 51–53 of this chapter.

Provision of premises
Section 4
A transport company that transports passengers from third countries shall, at the expense of the Swedish Customs,[334] make the premises and devices available to the agency that, in the agency's assessment, are needed for:

[331] **4 kap. Tullkontroll**
Allmän princip för tullkontroller
1 § Ett beslut om en kontrollåtgärd enligt tullagstiftningen får fattas endast om skälen för åtgärden uppväger det intrång eller men i övrigt som åtgärden innebär för den enskilde.
[332] Användning av våld eller tvång
2 § En tulltjänsteman får, i den utsträckning andra medel är otillräckliga och det med hänsyn till omständigheterna är försvarligt, använda våld eller tvång för att genomföra en åtgärd som avses i 3 kap. 7 § första stycket samt 9-11, 14, 16 och 19 §s i detta kapitel.
Våld mot person får endast användas om tulltjänstemannen möts av motstånd och det med hänsyn till ändamålet med åtgärden är försvarligt.
[333] **Medverkan av Polismyndigheten och Kustbevakningen**
3 § Polismyndigheten och Kustbevakningen ska medverka i Tullverkets kontrollverksamhet enligt denna lag.
För Polismyndigheten och Kustbevakningen samt polisman och kustbevakningstjänsteman som medverkar i Tullverkets kontrollverksamhet gäller det som sägs om Tullverket och tulltjänsteman i 3 kap. 5, 6, 17 och 18 §s samt 2, 9–17 och 51–53 §s i detta kapitel.
[334] **Tillhandahållande av lokaler**

- inspection of vehicles and luggage, handbags and the like that travellers bring with them,
- processing travellers' customs declarations,
interrogation and body search as well as body inspection of travellers, and
- customs staff during breaks in duty.

Hiring an expert
Section 5[335]
The Swedish Customs may engage a special expert
1. if there is reason to believe that information provided in accordance with customs legislation is incorrect, in order to obtain the information needed, and
2. when a request to provide information or a document about an item has not been tracked.

Customs control of goods and means of transport
Section 6
The Swedish Customs may request that a transport company that transports goods, passengers or vehicles to or from Sweden shall provide the relevant information on incoming and outgoing transports to which the company has access.[336]
In the case of passengers, the Swedish Customs may only request information on
- name,
- itinerary,
- luggage,

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4 § Ett transportföretag som befordrar passagerare från tredjeland ska utan kostnad för Tullverket ställa de lokaler och anordningar till verkets förfogande som enligt verkets bedömning behövs för
- kontroll av fordon samt bagage, handväskor och liknande som resande för med sig,
- handläggning av resandes tulldeklarationer,
- förhör och kroppsvisitation samt kroppsbesiktning av resande, och
- tullpersonalen under uppehåll i tjänstgöringen.

[335] Anlitande av sakkunnig
5 § Tullverket får anlita en särskild sakkunnig
1. om det finns anledning att anta att en uppgift som har lämnats enligt tulllagstiftningen är felaktig, för att få fram den information som behövs, och
2. när en uppmaning att lämna en uppgift eller en handling om en vara inte har följts.

[336] Tullkontroll av varor och transportmedel
6 § Tullverket får begära att ett transportföretag som befordrar varor, passagerare eller fordon till eller från Sverige ska lämna de aktuella uppgifter om ankommande och avgående transporter som företaget har tillgång till.
I fråga om passagerare får Tullverket endast begära uppgifter om
- namn,
- resrutt,
- bagage,
- medpassagerare,
- betalningssätt, och
- bokningssätt.

Tullverket får begära uppgifter enligt första och andra styckena endast om uppgifterna kan antas ha betydelse för Tullverkets brottsbekämpande verksamhet.

- fellow passengers,
- method of payment, and
- method of booking.

The Swedish Customs may request information in accordance with the first and second paragraphs only if the information can be assumed to be relevant to the Swedish Customs' law enforcement activities.

Section 6a[337]

What is stated in section 6 shall not apply to air carriers that are covered by the obligation to transfer data in accordance with the Act (2018:1180) on air passenger data in law enforcement. Lag (2018:1189).

Section 7[338]

The transport company shall promptly provide the Swedish Customs with the information requested by the Agency in accordance with section 6.

Section 8[339]

A transport company may provide information in accordance with section 6 in such a way that it is made readable by the Swedish Customs through terminal access.

The Swedish Customs may access information through terminal access only to the extent and for the time needed to check current transports. Lag (2018:1713).

Section 9[340]

The Swedish Customs may tow a ship within the Swedish customs area, if this is necessary to enable the Swedish Customs to monitor and control the import or export of goods.

The Swedish Customs may take a ship to a place within the Swedish customs area, if

1. the ship while traveling between places within the customs area of the European Union leaves the customs area and thereby deviates from its correct course without it happening due to distress or for any other compelling reason, and

[337] **6a §** Vad som anges i 6 § ska inte gälla lufttrafikföretag som omfattas av skyldigheten att överföra uppgifter enligt lagen (2018:1180) om flygpassageraruppgifter i brottsbekämpningen. Lag (2018:1189).

[338] **7 §** Transportföretaget ska skyndsamt lämna Tullverket de uppgifter som verket begär enligt 6 §.

[339] **8 §** Ett transportföretag får lämna uppgifter enligt 6 § på så sätt att de görs läsbara för Tullverket genom terminalåtkomst.

Tullverket får ta del av uppgifter genom terminalåtkomst endast i den omfattning och under den tid som behövs för att kontrollera aktuella transporter. Lag (2018:1713).

[340] **9 §** Tullverket får preja ett fartyg inom det svenska tullområdet, om det behövs för att möjliggöra Tullverkets övervakning och kontroll av import eller export av varor.

Tullverket får föra ett fartyg till en plats inom det svenska tullområdet, om

1. fartyget under färd mellan orter inom Europeiska unionens tullområde lämnar tullområdet och därigenom avviker från sin rätta kurs utan att det sker på grund av nöd eller av något annat tvingande skäl, och
2. befälhavaren inte följer en uppmaning att återvända till Europeiska unionens tullområde.

2. the master does not comply with a request to return to the customs territory of the European Union.

Section 10[341]
A measure pursuant to section 9 may be taken without prior request, if
1. the request cannot be given, or
2. there is special reason to assume that a request would prevent or considerably complicate the measure.
A measure pursuant to section 9, second paragraph, may not be taken against a foreign vessel or within the water area of another state, unless it is permitted in accordance with an agreement with the other state.

Section 11[342]
A driver of or a master of a means of transport that is subject to customs supervision shall stop at the request of a customs official.
A person other than the driver or master must also stay at the request of the customs officer. Such a request may only be made if there is reason to believe that the person is liable to report in accordance with customs legislation.

Section 12[343]
A request pursuant to section 11, first paragraph, to the driver of a vehicle may be given
1. when the vehicle is located
- in the area at Sweden's land border with a third country,
- in the area off the coast of Sweden,
- near or within a temporary storage facility, a customs warehouse or a free zone, or

[341] **10 §** En åtgärd enligt 9 § får vidtas utan föregående uppmaning, om
1. uppmaningen inte kan ges, eller
2. det finns särskild anledning att anta att en uppmaning skulle förhindra eller avsevärt försvåra åtgärden.
En åtgärd enligt 9 § andra stycket får inte vidtas mot ett utländskt fartyg eller inom en annan stats vattenområde, om det inte medges enligt avtal med den andra staten.
[342] **11 §** En förare av eller en befälhavare på ett transportmedel som omfattas av tullövervakning ska stanna på uppmaning av en tulltjänsteman.
Även en annan person än föraren eller befälhavaren ska stanna på tulltjänstemannens uppmaning. En sådan uppmaning får endast ges om det finns anledning att anta att personen är anmälningsskyldig enligt tullagstiftningen.
[343] **12 §** En uppmaning enligt 11 § första stycket till föraren av ett fordon får ges
1. när fordonet finns
- i trakterna vid Sveriges landgräns mot ett tredjeland,
- i trakterna vid Sveriges kuster,
- i närheten av eller inom en anläggning för tillfällig lagring, ett tullager eller en frizon, eller
- i närheten av eller inom en hamn, en flygplats eller ett annat område som har trafikförbindelser med ett tredjeland,
2. om tulltjänstemannen har anledning att anta att varor som står under tullövervakning transporteras med fordonet, eller
3. när fordonet är försett med interimsskyltar eller registreringsskyltar från ett tredjeland.
En uppmaning enligt 11 § andra stycket får riktas till en person som anträffas på en plats enligt första stycket 1.

- in the vicinity of or within a port, airport or other area having transport links with a third country,
2. if the customs official has reason to believe that goods under customs supervision are transported by vehicle, or
3. when the vehicle is fitted with temporary or registration plates from a third country.
A request pursuant to section 11, second paragraph, may be addressed to a person who is found at a location pursuant to the first paragraph 1.

Section 13[344]
The Swedish Customs may temporarily take care of registration certificates and similar documents relating to a means of transport that is subject to customs supervision, if this is necessary to prevent the means of transport from departing.

Section 14[345]
If it is necessary for the control activities and it does not cause any significant obstacle to traffic, the Swedish Customs may temporarily close areas where means of transport are unloaded or loaded or passengers board or leave means of transport.
The first paragraph also applies to other areas in the immediate vicinity of a means of transport, as well as entrances to and exits from free zones, ports, airports and temporary storage facilities.

Section 15[346]
If it is absolutely necessary for customs checks to be carried out, the Swedish Customs may
1. stop a train at a railway station at the border with a third country and at the train's terminus within Sweden, and
2. request that an aircraft be prevented from departing or ordered to land.

[344] **13 §** Tullverket får tillfälligt ta hand om registreringsbevis och liknande handlingar som avser ett transportmedel som omfattas av tullövervakning, om det behövs för att hindra transportmedlets avgång.
[345] **14 §** Om det behövs för kontrollverksamheten och det inte medför något väsentligt hinder för trafiken, får Tullverket tillfälligt stänga av områden där transportmedel lossas eller lastas eller passagerare går ombord på eller lämnar transportmedel.
Första stycket gäller även för annat område i omedelbar närhet av ett transportmedel, liksom infarter till och utfarter från frizoner, hamnar, flygplatser och anläggningar för tillfällig lagring.
[346] **15 §** Om det är absolut nödvändigt för att tullkontroller ska kunna göras, får Tullverket
1. uppehålla ett tåg på en järnvägsstation vid gräns mot ett tredjeland och på tågets slutstation inom Sverige, och
2. begära att ett luftfartyg hindras att avgå eller uppmanas att landa.

Section 16 [347]
For checking that the declaration and information obligation according to customs legislation has been fulfilled or that goods do not infringe on the rights protected by Regulation (EU) No 608/2013, in the original wording, the Swedish Customs may examine
1. means of transport, containers, boxes and other areas where goods can be stored,
2. customs warehouses, free zones and temporary storage facilities, as well as areas in ports and at airports and railway stations where goods under customs supervision are stored and also premises in such areas, and
3. luggage and handbags and the like carried by a traveller on entry into or exit from the customs territory of the European Union or by a person who has been requested to stay in accordance with section 11, second paragraph.
The law (2000:1225) on penalties for smuggling contains provisions on body searches.

Section 17[348]
In an inspection pursuant to section 16, the person whose information is to be inspected or on whose behalf the goods are brought into or out of the customs territory of the European Union shall give the customs official who carries out the inspection an opportunity to examine the goods, means of transport or luggage.
The person must also provide access to the premises and other spaces used for the transport, storage or activities to which the control relates.
At the request of the customs official, the driver of or the master of the means of transport to be examined shall be present at the examination if possible.

59 Carriers are legally **obliged to notify Swedish Customs** if they suspect that a shipment contains contraband that may be seized under the Act (2000:1225) on Penalties for Smuggling, including narcotics, firearms, ammunition, prohibited weapons, or explosives. Customs officers may inspect and open postal parcels or courier consignments if there are reasonable grounds to believe that declaration or information requirements

[347] **16 §** För kontroll av att deklarations- och uppgiftsskyldighet enligt tullagstiftningen har fullgjorts eller att varor inte gör intrång i de rättigheter som skyddas av förordning (EU) nr 608/2013, i den ursprungliga lydelsen, får Tullverket undersöka
1. transportmedel, containrar, lådor och andra utrymmen där varor kan förvaras,
2. tullager, frizoner och anläggningar för tillfällig lagring, samt områden i hamnar och på flygplatser och bangårdar där varor som står under tullövervakning förvaras och även lokaler inom sådana områden, och
3. bagage samt handväskor och liknande som medförs av en resande vid inresa till eller utresa från Europeiska unionens tullområde eller av en person som uppmanats att stanna enligt 11 § andra stycket.
I lagen (2000:1225) om straff för smuggling finns bestämmelser om kroppsvisitation.

[348] **17 §** Vid en kontroll enligt 16 § ska den person vars uppgifter ska kontrolleras eller för vars räkning varan förs in i eller ut ur Europeiska unionens tullområde ge den tulltjänsteman som verkställer kontrollen tillfälle att undersöka varan, transportmedlet eller bagaget.
Personen ska också lämna tillträde till de lokaler och andra utrymmen som används för den transport, förvaring eller verksamhet som kontrollen avser.
På tulltjänstemannens begäran ska föraren av eller befälhavaren på det transportmedel som ska undersökas närvara vid undersökningen om det är möjligt.

have not been fulfilled. This authority extends to shipments held by Customs, at postal exchange offices, or at courier sorting terminals.

Section 18[349]
A carrier shall notify the Swedish Customs if there is a suspicion in the company's operations that a consignment contains any of the following that can be seized in accordance with the Act (2000:1225) on penalties for smuggling:
1. drugs,
2. firearms or ammunition referred to in the Weapons Act (1996: 67),
3. such weapons or other objects specified in ch. Section 3 of the Firearms Act, or
4. such explosive goods as referred to in Section 4 of the Act (2010:1011) on flammable and explosive goods.
The consignment must be handed over to the Swedish Customs if the agency requests it. The carrier must also be involved in control activities in other ways in accordance with customs legislation in respect of goods carried by post, by rail or by aircraft.
Sections 2 and 9–17 do not apply to the carrier.
Lag (2021:45).

Customs control of postal items and items mediated by courier companies
Section 19[350]
For a check as referred to in section 16, a customs official may examine postal items, such as parcels, letters and similar items, and corresponding items mediated by courier companies.
A consignment may be opened if it is at the Swedish Customs, at an exchange post office or at a courier company's first sorting terminal and there is reason to assume that the consignment contains an item for which the declaration or information obligation has not been fulfilled.

[349] **18 §** Ett befordringsföretag ska anmäla till Tullverket, om det i företagets verksamhet uppkommer en misstanke om att en försändelse innehåller något av följande som kan tas i beslag enligt lagen (2000:1225) om straff för smuggling:
1. narkotika,
2. skjutvapen eller ammunition som avses i vapenlagen (1996:67),
3. sådana vapen eller andra föremål som anges i 1 kap. 3 § vapenlagen, eller
4. sådana explosiva varor som avses i 4 § lagen (2010:1011) om brandfarliga och explosiva varor.

Försändelsen ska överlämnas till Tullverket om verket begär det. Befordringsföretaget ska också på annat sätt medverka i kontrollverksamhet enligt tullagstiftningen i fråga om varor som befordras med post, på järnväg eller med luftfartyg.
För befordringsföretaget gäller inte 2 och 9-17 §s.
Lag (2021:45).

[350] Tullkontroll av postförsändelser och försändelser förmedlade av kurirföretag
19 § För en sådan kontroll som avses i 16 § får en tulltjänsteman undersöka postförsändelser, såsom paket, brev och liknande försändelser, och motsvarande försändelser förmedlade av kurirföretag.
En försändelse får öppnas om den finns hos Tullverket, på ett utväxlingspostkontor eller vid ett kurirföretags första sorteringsterminal och det finns anledning att anta att försändelsen innehåller en vara för vilken deklarations- eller uppgiftsskyldigheten inte har fullgjorts.

Section 20[351]
Decisions to open a postal item or an item conveyed by a courier company that can be assumed to contain confidential messages may only be made by an official appointed for the task by the head of the Swedish Customs. If the shipment contains a confidential message, this must be closed immediately and forwarded to the recipient.

Section 21[352]
A postal item or an item conveyed by a courier company that has been opened on the basis of section 19 may not be examined further than is necessary to achieve the purpose of the examination.
Minutes must be kept of the survey. The purpose of the survey and what has emerged from it must be stated in the minutes.
If a consignment has been opened, the addressee and, if possible, the consignor shall be notified as soon as possible, unless there are special reasons to the contrary.

Section 22
A chief official appointed for the task by the head of the Swedish Customs may[353], in the case of a consignment coming from a third country, decide that a postal item or an equivalent consignment conveyed by a courier company shall be retained by the carrier, if
1. there is reason to assume that the consignment contains any of the following that can be seized in accordance with the Act (2000:1225) on penalties for smuggling:

[351] **20 §** Beslut om att öppna en postförsändelse eller en försändelse förmedlad av ett kurirföretag som kan antas innehålla förtroliga meddelanden får fattas endast av en tjänsteman som förordnats för uppgiften av chefen för Tullverket. Om försändelsen innehåller ett förtroligt meddelande, ska detta omedelbart tillslutas och skickas vidare till mottagaren.
[352] **21 §** En postförsändelse eller en försändelse förmedlad av ett kurirföretag som har öppnats med stöd av 19 § får inte undersökas närmare än vad som är nödvändigt för att uppnå syftet med undersökningen.
Protokoll ska föras över undersökningen. Av protokollet ska syftet med undersökningen framgå och vad som har kommit fram vid denna.
Har en försändelse öppnats ska adressaten och, om det är möjligt, avsändaren underrättas så snart som möjligt, om inte särskilda skäl talar emot det.
[353] **22 §** En chefstjänsteman som förordnats för uppgiften av chefen för Tullverket får, när det gäller en försändelse som kommer från tredjeland, besluta att en postförsändelse eller en motsvarande försändelse som förmedlas av ett kurirföretag ska hållas kvar av befordringsföretaget, om
1. det finns anledning att anta att försändelsen innehåller något av följande som kan tas i beslag enligt lagen (2000:1225) om straff för smuggling:
a) narkotika,
b) skjutvapen eller ammunition som avses i vapenlagen (1996:67),
c) sådana vapen eller andra föremål som anges i 1 kap. 3 § vapenlagen, eller
d) sådana explosiva varor som avses i lagen (2010:1011) om brandfarliga och explosiva varor, och
2. det är nödvändigt för att beslag ska kunna ske.
Ett beslut om kvarhållande ska gälla en viss tid, högst en månad, från den dag då beslutet delgavs befordringsföretaget. Beslutet får verkställas omedelbart, men ska snarast prövas av chefen för Tullverket eller chefen för Tullverkets rättsavdelning. Lag (2021:45).

a) drugs,
b) firearms or ammunition referred to in the Weapons Act (1996:67),
c) such weapons or other objects as stated in ch. Section 3 of the Firearms Act, or
d) such explosive goods as are referred to in the Act (2010:1011) on flammable and explosive goods, and
2. it is necessary for seizures to take place.
A decision on detention shall apply for a certain period, not exceeding one month, from the date on which the decision was notified to the carrier. The decision may be enforced immediately but must be reviewed as soon as possible by the head of the Swedish Customs or the head of the Swedish Customs' legal department. Lag (2021:45).

The following provisions are not applicable to on-the-spot checks of OLAF (Chapter 4 s. 44a Customs Act):
Section 23[354]
The postal transport company is obliged to hand over a consignment that has been detained in accordance with section 22 para. 1 at the request of the Swedish Customs.

These provisions are only applicable in national proceedings: **60**

Section 23a[355]
Anyone who in a courier company has received or accessed information concerning the detention of consignments pursuant to section 22 or of a subsequent seizure pursuant to section 22 of the Act (2000:1225) on penalties for smuggling may not unauthorisedly disclose or use what he or she has thereby learned.
Provisions on the duty of confidentiality for those who have received or access to such information in postal operations are found in Chapter 2. Section 14 of the Postal Act (2010:1045). Lag (2021:45).

Section 23b[356]
Provisions on liability for those who violate the duty of confidentiality pursuant to this Act are found in Chapter 20. Section 3 of the Criminal Code. Lag (2021:45).

[354] **23 §** Postbefordringsföretaget är skyldigt att på begäran av Tullverket överlämna en försändelse som hållits kvar enligt 22 § första stycket.
[355] **23a §** Den som i ett kurirföretag har fått del av eller tillgång till uppgifter som handlar om att hålla kvar försändelser enligt 22 § eller om ett efterföljande beslag enligt 22 § lagen (2000:1225) om straff för smuggling får inte obehörigen röja eller utnyttja vad han eller hon därigenom har fått veta.
Bestämmelser om tystnadsplikt för den som i postverksamhet fått del av eller tillgång till sådana uppgifter finns i 2 kap. 14 § postlagen (2010:1045). Lag (2021:45).
[356] **23b §** Bestämmelser om ansvar för den som bryter mot tystnadsplikt enligt denna lag finns i 20 kap. 3 § brottsbalken. Lag (2021:45).

Order

Section 24[357]

The Swedish Customs may order a person who is or can be assumed to be obliged to declare or provide information in accordance with customs legislation to provide information that the Agency needs to check that the declaration or information obligation has been fulfilled.

The first paragraph also applies to the person on whose behalf a good has been imported or exported.

Section 25[358]

The Swedish Customs may order the person conducting activities in which information of significance for the control of another person's declaration or information obligation according to customs legislation can be taken from documents relating to the activity, to provide information about a legal document with someone else.

Audit

Section 26[359]

The Swedish Customs may decide on an audit

1. to check that all necessary documents and information have been provided in accordance with Article 15 (1) of Regulation (EU) No 952/2013, in the original wording, and that the documents and information are correct and complete, and

2 to carry out the checks referred to in Article 48 of that Regulation, as amended.

Section 27[360]

A decision on auditing shall contain

[357] **Föreläggande**

24 § Tullverket får förelägga den som är eller kan antas vara deklarations- eller uppgiftsskyldig enligt tullagstiftningen att lämna uppgift som verket behöver för kontroll av att deklarations- eller uppgiftsskyldigheten har fullgjorts.

Första stycket gäller även den för vars räkning en vara importerats eller exporterats.

[358] **25 §** Tullverket får förelägga den som bedriver verksamhet i vilken uppgift av betydelse för kontrollen av en annan persons deklarations- eller uppgiftsskyldighet enligt tullagstiftningen kan hämtas ur handlingar som rör verksamheten, att lämna uppgift om en rättshandling med någon annan.

[359] Revision

26 § Tullverket får besluta om revision

1. för att kontrollera att alla nödvändiga dokument och uppgifter har tillhandahållits enligt artikel 15.1 i förordning (EU) nr 952/2013, i den ursprungliga lydelsen, och att dokumenten och uppgifterna är riktiga och fullständiga, och
2. för att göra sådana kontroller som avses i artikel 48 i den förordningen, i den ursprungliga lydelsen.

[360] **27 §** Ett beslut om revision ska innehålla

1. uppgift om syftet med revisionen,
2. uppgift om möjligheten att undanta handlingar från kontroll enligt 38 §, och
3. förordnande av den eller de tulltjänstemän som ska verkställa revisionen (revisor).

Av den uppgift som avses i första stycket 1 behöver det inte framgå vilken person eller rättshandling som kontrollen eller uppgifterna avser, om

1. beslutet om revision gäller för granskning av någon annan än den som revideras, och
2. det finns särskilda skäl att inte nämna personen eller rättshandlingen.

1. information on the purpose of the audit,
2. information on the possibility of exempting documents from control in accordance with section 38, and
3. appointment of the customs officer or officials who are to carry out the audit (auditor).
The information referred to in the first paragraph need not state which person or legal act the control or information relates to, if
1. the audit decision applies to the examination of someone other than the person being audited, and
2. there are special reasons not to mention the person or legal act.

Section 28[361]
Before an audit is carried out, the person to be audited shall be notified of the decision on the audit.
The notification may take place in connection with the audit being carried out if an inventory or a similar physical inspection needs to be made and the inspection would lose its significance if the person to be audited is notified in advance.

Section 29[362]
An audit shall be carried out in collaboration with the auditee and in such a way that it does not unnecessarily hinder his activities.
If the auditee does not cooperate, provisions on fines in Chapter 7 Section 5 and on securing evidence in Chapter 45 the Tax Procedure Act (2011:1244) is applied.

Section 30[363]
During an audit, the auditor may examine accounting material and other documents relating to the business, if they are not to be exempted in accordance with section 37.
In other respects, the auditor's powers are set out in Article 48 of Regulation (EU) No 952/2013.

[361] **28 §** Innan en revision verkställs ska den som ska revideras underrättas om beslutet om revision.
Underrättelsen får ske i samband med att revisionen verkställs om en inventering eller en liknande fysisk kontroll behöver göras och kontrollen skulle förlora sin betydelse om den som ska revideras underrättas i förväg.
[362] **29 §** En revision ska genomföras i samverkan med den reviderade och på ett sådant sätt att den inte onödigt hindrar verksamheten hos denne.
Om den reviderade inte samverkar, får bestämmelser om vite i 7 kap. 5 § och om bevissäkring i 45 kap. skatteförfarandelagen (2011:1244) tillämpas.
[363] **30 §** Vid en revision får revisorn granska räkenskapsmaterial och andra handlingar som rör verksamheten, om de inte ska undantas enligt 37 §.
I övrigt framgår revisorns befogenheter av artikel 48 i förordning (EU) nr 952/2013.

Section 31[364]
An audit may be carried out at the auditee's premises if he or she allows it. The audit must be carried out by the auditee, if he so requests, and the audit can be carried out there without significant difficulty.
If the audit is carried out by the auditee, he shall make an appropriate workplace available to the auditor, if possible.

Section 32[365]
That the auditee shall provide the auditor with the documents and provide the information and otherwise provide the auditor with all the assistance needed in the audit follows from Article 15 (1) of Regulation (EU) No 952/2013.
If documents are to be examined at a place other than the auditee's, he must submit the documents to the auditor upon request and against a receipt.

Section 33[366]
The auditee shall, upon request, give the auditor an opportunity to use technical aids to review a recording that can only be perceived with such aids. This does not apply if
1. the auditee provides a copy of the recording, and
2. the copy can be reviewed without difficulty with technical aids available to the auditor.
The auditee shall give the auditor the opportunity to check that the copy referred to in the first paragraph corresponds to the recording held by the auditee.
When reviewing the recording or checking of a copy, only the technical aids and search terms needed to meet the purpose of the audit may be used. The review or control may be done via the telephone network, if the auditee allows it.

[364] **31 §** En revision får genomföras hos den reviderade, om denne medger det. Revisionen ska genomföras hos den reviderade, om denne begär det och revisionen kan genomföras där utan betydande svårighet.
Om revisionen genomförs hos den reviderade, ska denne ställa en ändamålsenlig arbetsplats till revisorns förfogande, om det är möjligt.
[365] **32 §** Att den reviderade ska tillhandahålla revisorn de handlingar och lämna de upplysningar samt i övrigt ge revisorn all den hjälp som behövs vid revisionen följer av artikel 15.1 i förordning (EU) nr 952/2013.
Om handlingar ska granskas på någon annan plats än hos den reviderade, ska denne på begäran och mot kvitto överlämna handlingarna till revisorn.
[366] **33 §** Den reviderade ska på begäran ge revisorn tillfälle att använda tekniska hjälpmedel för att granska en upptagning som kan uppfattas bara med sådana hjälpmedel. Detta gäller inte om
1. den reviderade tillhandahåller en kopia av upptagningen, och
2. kopian utan svårighet kan granskas med tekniska hjälpmedel som revisorn har tillgång till.
Den reviderade ska ge revisorn möjlighet att kontrollera att den kopia som avses i första stycket stämmer överens med den upptagning som finns hos den reviderade.
Vid granskning av upptagning eller kontroll av kopia får bara de tekniska hjälpmedel och sökbegrepp användas som behövs för att tillgodose syftet med revisionen. Granskningen eller kontrollen får göras via telenätet, om den reviderade medger det.

Section 34[367]
An audit may not last longer than necessary.
The Swedish Customs shall as soon as possible notify the audited result of the audit in the parts concerning the audited.

Section 35[368]
The Swedish Customs shall return accounting material and other documents to the auditee as soon as possible and no later than when the audit has been completed.
If the auditee has been declared bankrupt when the documents are to be returned, the Swedish Customs shall
1. hand over the documents to the trustee in bankruptcy, and
2. notify the auditee that the documents have been submitted to the trustee in bankruptcy.

Tasks and documents to be exempted from control
Section 36[369]
An injunction pursuant to section 24 or 25 may not refer to information in such a document that may not be seized pursuant to Chapter 27 Section 2 of the Code of Judicial Procedure. Such an injunction must also not refer to information that has a significant protection interest, if there are special circumstances that mean that the document should not come to anyone else's knowledge, and the protection interest is greater than the document's significance for the control.

Section 37[370]
During an audit, the Swedish Customs may not examine
1. a document that may not be seized in accordance with Chapter 27 Section 2 of the Code of Judicial Procedure, or
2. a document that is not covered by the audit.

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[367] **34 §** En revision får inte pågå under längre tid än nödvändigt.
Tullverket ska snarast meddela den reviderade resultatet av revisionen i de delar som rör den reviderade.
[368] **35 §** Tullverket ska lämna tillbaka räkenskapsmaterial och andra handlingar till den reviderade så snart som möjligt och senast när revisionen avslutats.
Om den reviderade har försatts i konkurs när handlingarna ska lämnas tillbaka, ska Tullverket
1. överlämna handlingarna till konkursförvaltaren, och
2. underrätta den reviderade om att handlingarna överlämnats till konkursförvaltaren.
[369] Uppgifter och handlingar som ska undantas från kontroll
36 § Ett föreläggande enligt 24 eller 25 § får inte avse en uppgift i en sådan handling som inte får tas i beslag enligt 27 kap. 2 § rättegångsbalken. Ett sådant föreläggande får inte heller avse en uppgift som har ett betydande skyddsintresse, om det finns särskilda omständigheter som gör att handlingen inte bör komma till någon annans kännedom och skyddsintresset är större än handlingens betydelse för kontrollen.
[370] **37 §** Vid revision får Tullverket inte granska
1. en handling som inte får tas i beslag enligt 27 kap. 2 § rättegångsbalken, eller
2. en handling som inte omfattas av revisionen.
Tullverket får inte heller granska en handling som har ett betydande skyddsintresse, om det finns särskilda omständigheter som gör att handlingen inte bör komma till någon annans kännedom och skyddsintresset är större än handlingens betydelse för kontrollen.

The Swedish Customs may also not examine a document that has a significant protection interest, if there are special circumstances that mean that the document should not come to anyone else's knowledge, and the protection interest is greater than the document's significance for the control.

Section 38[371]
A document that may not be examined shall, at the request of the person who is the subject of the audit, be exempted from control.

Section 39[372]
A request to exempt documents shall be submitted to a general administrative court. The request must be in writing and submitted together with the document to which the request relates.
If the Swedish Customs already has the document to which a request relates, the Office shall immediately seal the document and submit it to the court.

Section 40[373]
If a statement in such a recording as is referred to in Chapter 1 Section 3 shall be exempted, the court may decide on such restrictions in the Swedish Customs' right to use technical aids and search terms as are necessary for the information not to be available to the agency.

Section 41[374]
If the individual so requests, the court shall consider whether a decision to exempt the document can be made without the court examining the document.

Section 42[375]
If a statement or document has been exempted from control, the Swedish Customs may not reproduce or invoke the content of the statement or document.

[371] **38 §** En handling som inte får granskas ska på begäran av den som är föremål för revision undantas från kontrollen.
[372] **39 §** En begäran om att undanta handlingar ska ges in till allmän förvaltningsdomstol. Begäran ska vara skriftlig och ges in tillsammans med den handling som begäran avser.
Om Tullverket redan har den handling som en begäran avser, ska verket omedelbart försegla handlingen och överlämna den till domstolen.
[373] **40 §** Om en uppgift i en sådan upptagning som avses i 1 kap. 3 § ska undantas, får domstolen besluta om sådana begränsningar i Tullverkets rätt att använda tekniska hjälpmedel och sökbegrepp som behövs för att uppgiften inte ska bli tillgänglig för verket.
[374] **41 §** Om den enskilde begär det, ska domstolen pröva om ett beslut om att undanta handlingen kan fattas utan att domstolen granskar handlingen.
[375] **42 §** Om en uppgift eller en handling har undantagits från kontroll, får Tullverket inte återge eller åberopa innehållet i uppgiften eller handlingen.

Section 43[376]
A decision in respect of exempting a statement or document applies immediately, unless otherwise stated in the decision.

Nota bene:

Checks and inspections by the European Anti-Fraud Office **61**
Section 43a[377]
The provisions of Sections 26–43 shall not apply to on-the-spot checks and inspections carried out in accordance with the Act (2017:244) on on-the-spot checks and inspections by the European Anti-Fraud Office. Lag (2017:248).

Customs control of infringements of certain intellectual property rights
Section 44[378]
Expressions used in sections 45–49 have the meaning specified in Regulation (EU) No 608/2013.

Section 45[379]
The Swedish Customs shall notify the holder of a decision on intervention of its decision in accordance with Article 11 (3), 13 or 16 of Regulation (EU) No 608/2013. Such notification shall be given within 30 working days after the Customs
1. has become aware of the circumstances which may give rise to a decision pursuant to Article 11 (3) or 16 of that Regulation, or
2. has received such a request as referred to in Article 13 of that Regulation.

Section 46
[380]The Swedish Customs shall notify the holder of a decision on intervention of the following decisions taken by the Agency in accordance with Regulation (EU) No 608/2013:

[376] **43 §** Ett beslut i fråga om att undanta en uppgift eller en handling gäller omedelbart, om inte något annat anges i beslutet.
[377] Kontroller och inspektioner av Europeiska byrån för bedrägeribekämpning
43a § Bestämmelserna i 26–43 §s ska inte tillämpas vid kontroller och inspektioner på plats som genomförs enligt lagen (2017:244) om kontroller och inspektioner på plats av Europeiska byrån för bedrägeribekämpning. Lag (2017:248).
[378] Tullkontroll beträffande intrång i vissa immateriella rättigheter
44 § Uttryck som används i 45-49 §s har den innebörd som anges i förordning (EU) nr 608/2013.
[379] **45 §** Tullverket ska underrätta innehavaren av ett beslut om ingripande om sitt beslut enligt artikel 11.3, 13 eller 16 i förordning (EU) nr 608/2013. En sådan underrättelse ska lämnas inom 30 arbetsdagar efter det att Tullverket
1. fått kännedom om de omständigheter som kan ligga till grund för ett beslut enligt artikel 11.3 eller 16 i den förordningen, eller
2. tagit emot en sådan begäran som avses i artikel 13 i den förordningen.
[380] **46 §** Tullverket ska underrätta innehavaren av ett beslut om ingripande om följande beslut som verket fattar enligt förordning (EU) nr 608/2013:
1. beslut att avslå eller avvisa en begäran enligt artikel 12.1 om förlängning, eller
2. beslut enligt artikel 12.5 att återkalla eller ändra ett beslut om förlängning.

1. decision to refuse or reject a request pursuant to Article 12 (1) for extension, or
2. decision pursuant revoke or amend an extension decision.

Such notification shall be given within 30 working days after the Swedish Customs
1. has received such a request as referred to in Article 12 (1), or
2. has become aware of the circumstances that may form the basis for a decision pursuant to Article 12 (5).

Section 47[381]

If damage occurs to a product during an inspection as referred to in Article 19 (1) of Regulation (EU) No 608/2013, the person inspecting the product is responsible for the damage.

Section 48[382]

Questions as to whether an item infringes an intellectual property right and how such an item is to be handled are examined by a court in accordance with what applies to the intellectual property right in question.

The court may issue an interim decision that a suspension of the release or retention of a good shall cease.

The Swedish Customs shall enforce such judgments and decisions from the court that have become final, and which concern the release, alteration or destruction of goods whose release has been postponed, or which are detained by the Swedish Customs.

Section 49[383]

When a judgment or a decision on destruction of or another measure with goods whose release has been postponed or which is detained by the Swedish Customs has become final, the holder of a decision on intervention has the right to compensation for his costs in connection with the Swedish Customs' intervention against the goods.

En sådan underrättelse ska lämnas inom 30 arbetsdagar efter det att Tullverket
1. tagit emot en sådan begäran som avses i artikel 12.1, eller
2. fått kännedom om de omständigheter som kan ligga till grund för ett beslut enligt artikel 12.5.

[381] **47 §** Uppkommer en skada på en vara vid en sådan inspektion som avses i artikel 19.1 i förordning (EU) nr 608/2013, ansvarar den som inspekterar varan för skadan.

[382] **48 §** Frågor om huruvida en vara gör intrång i en immateriell rättighet och hur en sådan vara ska hanteras prövas av en domstol enligt vad som gäller för den immateriella rättigheten i fråga.

Domstolen får meddela ett interimistiskt beslut om att ett uppskov med att frigöra eller hålla kvar en vara ska upphöra.

Tullverket ska verkställa sådana domar och beslut från domstolen som fått laga kraft och som gäller frigörande, ändring eller förstöring av varor vars frigörande skjutits upp eller som hålls kvar av Tullverket.

[383] **49 §** När en dom eller ett beslut om förstöring av eller annan åtgärd med varor vars frigörande har skjutits upp eller som hålls kvar av Tullverket har fått laga kraft, har innehavaren av ett beslut om ingripande rätt till ersättning för sina kostnader i samband med Tullverkets ingripande mot varorna.

Ersättningsskyldig enligt första stycket är den som domstolens beslut har gått emot. Kan ersättningskravet riktas mot flera personer, har dessa ett solidariskt ansvar att ersätta innehavaren av beslutet.

The person liable for compensation under the first paragraph is the person against whom the court's decision has been made. If the claim for compensation can be directed against several persons, they have a joint and several liability to compensate the holder of the decision.

Customs control of cash

Section 50 Has been repealed by law (2021:753).

Section 51[384]

To check that the notification obligation pursuant to Article 3 of Regulation (EU) 2018/1672, in the original wording, has been fulfilled, the Swedish Customs may examine means of transport and luggage as well as handbags and the like carried by a traveller on entry into or exit from the European Union.

In order to find out whether there are any unaccompanied cash items for which an account can be requested in accordance with Article 4 of the same Regulation, the Swedish Customs may check consignments, containers or means of transport which may contain unaccompanied cash and which cross the border into or from the European Union. Lag (2021:753).

Section 52[385]

If there is reason to believe that a person has not fulfilled his/her notification obligation pursuant to Article 3 of Regulation (EU) 2018/1672, in the original wording, a customs official may physically visit the person to search for cash on him or her.

During the body search, the provisions of section 29 of the Act (2000:1225) on penalties for smuggling shall be applied. Lag (2021:753).

Section 53

[386]The Swedish Customs may temporarily withhold cash in accordance with Article 7 (1) of Regulation (EU) 2018/1672, in its original wording.

[384] **51 §** För kontroll av att anmälningsskyldigheten enligt artikel 3 i förordning (EU) 2018/1672, i den ursprungliga lydelsen, har fullgjorts får Tullverket undersöka transportmedel och bagage samt handväskor och liknande som medförs av en resande vid inresa till eller utresa från Europeiska unionen.

För att ta reda på om det finns sådana oledsagade kontanta medel som en redovisning kan begäras in för enligt artikel 4 i samma förordning får Tullverket kontrollera försändelser, behållare eller transportmedel som kan innehålla oledsagade kontanta medel och som passerar gränsen till eller från Europeiska unionen. Lag (2021:753).

[385] **52 §** Om det finns anledning att anta att en person inte har fullgjort sin anmälningsskyldighet enligt artikel 3 i förordning (EU) 2018/1672, i den ursprungliga lydelsen, får en tulltjänsteman kroppsvisitera personen för att söka efter kontanta medel på honom eller henne.

Vid kroppsvisitationen ska bestämmelserna i 29 § lagen (2000:1225) om straff för smuggling tillämpas. Lag (2021:753).

[386] **53 §** Tullverket får tillfälligt hålla kvar kontanta medel i enlighet med artikel 7.1 i förordning (EU) 2018/1672, i den ursprungliga lydelsen.

Perioden för tillfälligt kvarhållande får inte överstiga 30 dagar.

The period of temporary detention may not exceed 30 days.
Pursuant to the first subparagraph of Article 7 (3) of the same Regulation, the Customs may, after a thorough assessment of the necessity and proportionality of a continued temporary detention, extend the period of temporary detention to a maximum of 90 days. Lag (2021:753).

(dd) VAT Duties Area

62 Last but not least OLAF investigators may have powers to investigate in the area of VAT duties. This depends on the provisions in the Swedish Tax Procedures Code (see 45 kap. 16 Section skatteförfarandelagen).

63

45 ch. Proof security
Section 1 This chapter contains provisions on
- definitions (Section 2),
- audit in the premises of the auditee (Section 3),
- search and handling of documents (Sections 4–11),
- sealing of premises, storage place or other space (Section 12),
- decision on securing evidence (Sections 13–16), and
- competent administrative law (Section 17).

Definitions
Section 2 The securing of evidence refers to the following coercive measures:
1. audit of the auditee's business premises according to Section 3,
2. search and handling of documents according to Sections 4–11, and
3. sealing of premises, storage place or other space according to Section 12.
The risk of sabotage means that there is a risk that the person to whom the evidence protection applies will withhold, distort or destroy what is allowed to be checked.

Audit at the auditee's business premises
Section 3 An audit may be carried out in the business premises of the audited if the audited according to ch. 41 Section 8, first paragraph, is obliged to give access to the premises and
1. the auditee does not fulfil his obligations to participate according to ch. 41. Sections 8–11, or
2. there is a tangible risk of sabotage.

Enligt artikel 7.3 första stycket samma förordning får Tullverket efter en grundlig bedömning av nödvändigheten och proportionaliteten av ett fortsatt tillfälligt kvarhållande förlänga perioden för tillfälligt kvarhållande till högst 90 dagar. Lag (2021:753).4 kap. Tullkontroll
Allmän princip för tullkontroller
1 § Ett beslut om en kontrollåtgärd enligt tullagstiftningen får fattas endast om skälen för åtgärden uppväger det intrång eller men i övrigt som åtgärden innebär för den enskilde.

Nota bene: For special provisions on search measures of foreign premises by virtue of Chapter 45 of the Tax Procedures Code see below in this Manual (Art. 3 OLAF Regulation g) single measures: A closer look). 64

(b) Investigative Powers in the Area of Structural Funds and Internal Policies

In the area of structural funds (especially the European Agricultural Fund for Rural Development) Sweden has recently amended (in 2021) a Regulation from 2015.[387] This Regulation enables on-the-spot checks *expressis verbis*: 65

Regulation (2015:406) on support for rural development measures/*Förordning (2015:406) om stöd för landsbygdsutvecklingsåtgärder* 66

Controls[388]

Section 28

The Swedish Agency for Agriculture coordinates the control that Regulation (EU) No. 1303/2013, Regulation (EU) No. 1305/2013, Regulation (EU) No. 1306/2013, Regulation (EU) No. 807/2014, Regulation (EU) No. 808/ 2014, Regulation (EU) No 640/2014, Regulation (EU) No 809/2014, Regulation (EU) No 907/2014, Regulation (EU) No 651/2014, Regulation (EU) No 702/2014, Regulation (EU) No. 1407/2013 and Regulation (EU) 2020/2220 are followed.

Ordinance (2021:331).

Section 29[389]

The County Administrative Board, the Swedish Board of Agriculture, the Sámi Parliament, the Swedish Forestry Agency and the Swedish Growth Agency carry out the administrative control and the on-site control of support within their respective areas of responsibility, unless otherwise follows from the second and third paragraphs.

The Swedish Agency for Agriculture ***carries out the on-site checks*** within the areas of responsibility of the Sami Parliament, the Forestry Agency and the Agency for Growth, as well as all on-site checks for support according to ch. 3–6 and 12.

[387] Regulation (2015:406) on support for rural development measures/ Förordning (2015:406) om stöd för landsbygdsutvecklingsåtgärder (as amended SFS 2021:1298).

[388] **Kontroller 28 §** Jordbruksverket samordnar kontrollen över att förordning (EU) nr 1303/2013, förordning (EU) nr 1305/2013, förordning (EU) nr 1306/2013, förordning (EU) nr 807/2014, förordning (EU) nr 808/2014, förordning (EU) nr 640/2014, förordning (EU) nr 809/2014, förordning (EU) nr 907/2014, förordning (EU) nr 651/2014, förordning (EU) nr 702/2014, förordning (EU) nr 1407/2013 och förordning (EU) 2020/2220 följs. Förordning (2021:331).

[389] **29 §** Länsstyrelsen, Jordbruksverket, Sametinget, Skogsstyrelsen och Tillväxtverket genomför den administrativa kontrollen och kontrollen på plats över stöd inom sina respektive ansvarsområden om inte annat följer av andra och tredje styckena.

Jordbruksverket genomför kontrollerna på plats inom Sametingets, Skogsstyrelsens och Tillväxtverkets ansvarsområden samt samtliga kontroller på plats för stöd enligt 3-6 och 12 kap.

Länsstyrelserna genomför kontrollerna på plats när det gäller stöd enligt 8 kap. 28 § och 11 kap.

Jordbruksverket genomför kontrollerna i efterhand.

The ***county administrative boards carry out the checks on the spot regarding support*** according to ch. 8. Section 28 and ch. 11
The Swedish Board of Agriculture carries out the checks afterwards. In the area of "Act (1994:1709) on EU regulations on the common fisheries policy" following provisions relate to investigative powers but these are restricted by s. 7a of the same Act. The question that remains is if the On-the-spot-Law applies instead.

67 **Section 6**
For supervision according to this Act, the supervisory authority has the right to gain access to areas, facilities, buildings, premises and other spaces used in connection with the handling of agricultural products. The supervisory authority may carry out the examinations and take the samples needed for the supervision without compensation.
[S2] The supervisory authority has the right to receive, on request, the information and documents needed for supervision. The person who is subject to supervision must provide the help needed for the supervision.
[S3] The police authority shall, upon request, provide the assistance needed for supervision. Law (1997:106).

Section 7
The provisions in Section 6 first and second paragraphs also apply to EC institutions and inspectors appointed by the institutions.

Section 7a
The provisions of Sections 6 and 7 of this law ***shall not be applied to on-site checks and inspections carried out in accordance with the Act (2017:244) on on-site checks and inspections by the European Anti-Fraud Office***. Law (2017:247).

68 Next it is worth taking a closer look at the Swedish Budget Law, which provides for the following provisions:

- Budget Law (2011:203/*Budgetlag (2011:203)*

69 **Revision**
Section 11[390]
Chapter 13 of the Instrument of Government and the Act (2002:1022) on the Audit of Government Activities etc. contain provisions on the audit of government activities.

[390] **Revision**
11 §
I 13 kap. regeringsformen och i lagen (2002:1022) om revision av statlig verksamhet m.m. finns bestämmelser om revision av statlig verksamhet.

- Act (2002: 1022) on auditing of government activities etc./*Lag (2002:1022) om revision av statlig verksamhet m.m.*
  - Scope of the review, s. 2–3
  - Focus of the review, s. 4–6
- Proclamation (1974: 152) on a decided new form of government/*Kungörelse (1974:152) om beslutad ny regeringsform*

Chapter 13 The power of control
Review by the Constitutional Committee
Section 1[391]
The Constitution Committee shall examine the performance of the duties of the Prime Minister and the handling of government matters. The committee has the right to obtain for the review the minutes of decisions in government matters, documents that belong to these matters and the government's other documents that the committee finds necessary for its review.
Other committees and each member of the Riksdag may raise questions in writing with the Constitution Committee about the performance of government duties or the handling of government matters. Lag (2010:1408).

Section 2[392]
When there are reasons for this, but at least once a year, the Constitutional Committee shall notify the Riksdag of what the committee has found worth noting in its review. Due to this, the Riksdag can make a petition to the Government. Lag (2010:1408).

Parliamentary ombudsmen
Section 6
The Riksdag elects one or more ombudsmen (justice ombudsmen[393], who in accordance with the instructions decided by the Riksdag shall exercise supervision over the application in public activities of laws and other regulations. An ombudsman may bring an action in the cases specified in the instructions.

[391] **13 kap. Kontrollmakten**
Konstitutionsutskottets granskning
1 § Konstitutionsutskottet ska granska statsrådens tjänsteutövning och regeringsärendenas handläggning. Utskottet har rätt att för granskningen få ut protokollen över beslut i regeringsärenden, handlingar som hör till dessa ärenden samt regeringens övriga handlingar som utskottet finner nödvändiga för sin granskning.
Andra utskott och varje riksdagsledamot får hos konstitutionsutskottet skriftligen väcka frågor om statsrådens tjänsteutövning eller handläggningen av regeringsärenden. Lag (2010:1408).
[392] **2 §** När det finns skäl till det, dock minst en gång om året, ska konstitutionsutskottet meddela riksdagen vad utskottet vid sin granskning har funnit värt att uppmärksamma. Riksdagen kan med anledning därav göra en framställning till regeringen. Lag (2010:1408).
[393] Riksdagens ombudsmän

Courts and administrative authorities as well as employees of the state or municipalities must provide the information and opinions requested by an ombudsman. Such an obligation also has others who are under the supervision of an ombudsman. An ombudsman has the right to access the minutes and documents of courts and administrative authorities. The Public Prosecutor shall, upon request, assist an ombudsman.
More detailed provisions on the ombudsmen are announced in the Riksdag's Rules of Procedure and in other laws. Lag (2010:1408).

The National Audit Office
Section 7[394]
The National Audit Office is an authority under the Riksdag with the task of examining the activities conducted by the state. Provisions that the National Audit Office's audit may also refer to other than government activities are announced in law.
Government agencies must provide the assistance and information and disclosures that the National Audit Office requests for the audit. Others who may be audited have a corresponding obligation regarding the part of their own business that is audited. Lag (2018:1903).

Section 8[395]
The National Audit Office is headed by one or more Auditors General, who are elected by the Riksdag. The Riksdag may separate an Auditor General from the assignment only if the Auditor General no longer meets the requirements that apply to the assignment or if the Auditor General has been guilty of serious negligence. At least three quarters of

6 § Riksdagen väljer en eller flera ombudsmän (justitieombudsmän), som i enlighet med den instruktion som riksdagen beslutar ska utöva tillsyn över tillämpningen i offentlig verksamhet av lagar och andra föreskrifter. En ombudsman får föra talan i de fall som anges i instruktionen.
Domstolar och förvaltningsmyndigheter samt anställda hos staten eller kommuner ska lämna de upplysningar och yttranden som en ombudsman begär. Sådan skyldighet har även andra som står under en ombudsmans tillsyn. En ombudsman har rätt att få tillgång till domstolars och förvaltningsmyndigheters protokoll och handlingar. Allmän åklagare ska på begäran biträda en ombudsman.
Närmare bestämmelser om ombudsmännen meddelas i riksdagsordningen och i annan lag. Lag (2010:1408).

[394] **Riksrevisionen**
7 § Riksrevisionen är en myndighet under riksdagen med uppgift att granska den verksamhet som bedrivs av staten. Bestämmelser om att Riksrevisionens granskning kan avse också annan än statlig verksamhet meddelas i lag.
Statliga myndigheter ska lämna den hjälp och de uppgifter och upplysningar som Riksrevisionen begär för granskningen. Andra som får granskas har en motsvarande skyldighet beträffande den del av den egna verksamheten som granskas. Lag (2018:1903).

[395] **8 §** Riksrevisionen leds av en eller flera riksrevisorer, som väljs av riksdagen. Riksdagen får skilja en riksrevisor från uppdraget endast om riksrevisorn inte längre uppfyller de krav som gäller för uppdraget eller om riksrevisorn har gjort sig skyldig till allvarlig försummelse. Minst tre fjärdedelar av de röstande och mer än hälften av riksdagens ledamöter måste enas om beslutet att skilja en riksrevisor från uppdraget.
En riksrevisor beslutar självständigt, med beaktande av de bestämmelser som finns i lag, vad som ska granskas. Riksrevisorn beslutar vidare självständigt hur granskningen ska bedrivas och om slutsatserna av sin granskning. Lag (2018:1903). See as well https://www.riksrevisionen.se/en/contact-us/official-documents-and-archives.html#:~:text=Our%20extensive%20audit%20mandate%20gives%20us%20the,confidential%20information%2C%20necessary%20for%20our%20audit%20activities.

the voters and more than half of the members of the Riksdag must agree on the decision to separate an Auditor General from the assignment.
An auditor general decides independently, taking into account the provisions contained in law, what is to be audited. The Auditor General also decides independently how the audit is to be conducted and on the conclusions of its audit. Lag (2018:1903).

Section 9[396]
Additional provisions on the National Audit Office are announced in the Riksdag Rules of Procedure and in other legislation. Lag (2010:1408).

- s. 23 Administrative Act (2017: 900)/*Förvaltningslag (2017:900)*
- s. 8 Administrative Procedure Act (1971:291)/*Förvaltningsprocesslag (1971:291)*

Administrative Act (2017: 900)/*Förvaltningslag (2017:900)*
Preparation of cases
Responsibility for investigation
Section 23[397]
An authority shall ensure that a case is investigated to the extent required by its nature.
An individual party initiating a case shall cooperate by submitting, as far as possible, the information that the party wishes to rely on in support of its claim.
Where necessary, the Authority shall encourage the party to clarify or supplement its submission by means of questions and observations.

Administrative Procedure Act (1971:291)/*Förvaltningsprocesslag (1971:291)*
Case processing
Section 8[398]
The court shall ensure that the case is as investigated as its nature requires.
Through questions and remarks, the court shall work to ensure that the parties remedy ambiguities and incompleteness in their petitions.

[396] **9 §**
Ytterligare bestämmelser om Riksrevisionen meddelas i riksdagsordningen och i annan lag. Lag (2010:1408)
[397] **Beredning av ärenden**
Utredningsansvaret
23 § En myndighet ska se till att ett ärende blir utrett i den omfattning som dess beskaffenhet kräver.
En enskild part som inleder ett ärende ska medverka genom att så långt som möjligt ge in den utredning som parten vill åberopa till stöd för sin framställning.
Om det behövs ska myndigheten genom frågor och påpekanden verka för att parten förtydligar eller kompletterar framställningen.
[398] Måls handläggning
8 § Rätten ska se till att målet blir så utrett som dess beskaffenhet kräver.
Genom frågor och påpekanden ska rätten verka för att parterna avhjälper otydligheter och ofullständigheter i sina framställningar.
Rätten ska se till att inget onödigt förs in i målet.
Överflödig utredning får avvisas. Lag (2013:86).

The court must ensure that nothing unnecessary is brought into the case.
Excessive investigation may be rejected. Lag (2013:86).

(c) Investigative Powers in the Area of Direct Expenditure

70 - Public Procurement Act (LOU)/*Lag om offentlig upphandling (LOU)*
  · Chapter 15 Own declaration and investigation of suppliers
  · Chapter 22 supervision

71

Chapter 15 Own declaration and investigation of suppliers
Own declaration
Section 1[399]
A supplier who submits a tender or a tender application may also submit its own declaration that;
1. that there is no basis in accordance with Chapter 13. Sections 1–3 to exclude the supplier from participating in the procurement,
2. that the supplier fulfils the requirements set by the contracting authority in accordance with Chapter 14 Sections 1–5, and
3. that the supplier fulfils the criteria set by the authority in appropriate cases in accordance with Chapter 4 Section 6.
If the supplier invokes the capacity of other companies in accordance with Chapter 14 Section 6, the supplier's declaration shall be accompanied by a special declaration for each of the companies whose capacity is invoked.
A declaration under the first or second subparagraph shall be made in the standard form established by the European Commission in accordance with Article 59 (2) of Directive 2014/24/EU.

Section 2[400]
The contracting authority shall preliminarily accept a declaration in accordance with section 1 as proof that the supplier shall not be excluded and meets the requirements and criteria set by the authority.

[399] **15 kap. Egen försäkran och utredning om leverantörer**
Egen försäkran
1 § En leverantör som lämnar ett anbud eller en anbudsansökan får också lämna en egen försäkran om
1. att det inte finns grund enligt 13 kap. 1-3 §s för att utesluta leverantören från att delta i upphandlingen,
2. att leverantören uppfyller de krav som den upphandlande myndigheten har ställt enligt 14 kap. 1-5 §s, och
3. att leverantören uppfyller de kriterier som myndigheten i förekommande fall ställt upp enligt 4 kap. 6 §.
Om leverantören åberopar andra företags kapacitet enligt 14 kap. 6 §, ska leverantörens försäkran åtföljas av en särskild försäkran för vart och ett av de företag vars kapacitet åberopas.
En försäkran enligt första eller andra stycket ska lämnas i det standardformulär som Europeiska kommissionen har fastställt enligt artikel 59.2 i direktiv 2014/24/EU.

[400] **2 §** Den upphandlande myndigheten ska preliminärt godta en försäkran enligt 1 § som bevis för att leverantören inte ska uteslutas och uppfyller de krav och kriterier som myndigheten har ställt.
En försäkran som har lämnats i en tidigare upphandling ska godtas om leverantören bekräftar att den fortfarande är korrekt.

A declaration made in a previous procurement must be accepted if the supplier confirms that it is still correct.

Supplementary Documents
Section 3[401]
A supplier who has submitted a declaration in accordance with section 1 shall, at the request of a contracting authority, supplement his declaration with one or more of the certificates covered by it. Such a request may be made at any time during a procurement procedure if the authority deems it necessary for the procurement to be carried out correctly.

Sections 4 and 5 are even more specific: **72**

Section 4[402]
At the request of the contracting authority, the supplier to whom the authority intends to award the contract shall submit such supplementary documents in accordance with Sections 6–13, and, where applicable, in accordance with Sections 14 and 15, which show current circumstances. Such a request must be made before the authority decides to award a contract.
This does not apply to contracts based on framework agreements that have been entered into in accordance with Chapter 7. Sections 4 and 6.
The supplier shall, at the request of the authority, supplement or clarify the documents requested by the authority.

Section 5[403]
A supplier is not obliged to submit supplementary documents or other written evidence, if the contracting authority
1. already has access to the material, or

[401] **Kompletterande dokument**
3 § En leverantör som har lämnat in en försäkran enligt 1 § ska på begäran av en upphandlande myndighet komplettera sin försäkran med ett eller flera av de intyg som omfattas av den. En sådan begäran får göras när som helst under ett upphandlingsförfarande om myndigheten anser det vara nödvändigt för att upphandlingen ska kunna genomföras korrekt.
[402] **4 §** På begäran av den upphandlande myndigheten ska den leverantör som myndigheten avser att tilldela kontraktet lämna sådana kompletterande dokument enligt 6-13 §s, och i förekommande fall enligt 14 och 15 §s, som visar aktuella förhållanden. En sådan begäran ska göras innan myndigheten beslutar om att tilldela ett kontrakt.
Detta gäller inte för kontrakt som grundar sig på ramavtal som har ingåtts enligt 7 kap. 4 och 6 §s.
Leverantören ska på begäran av myndigheten komplettera eller förtydliga de dokument som myndigheten har begärt.
[403] **5 §** En leverantör är inte skyldig att lämna in kompletterande dokument eller andra skriftliga bevis, om den upphandlande myndigheten
1. redan har tillgång till materialet, eller
2. själv har möjlighet att kostnadsfritt få tillgång till intyg eller relevant information direkt med hjälp av elektroniska medel.

2. has the opportunity to access certificates or relevant information directly free of charge by electronic means.

Investigation that may be requested from the supplier

Section 6[404]

The investigation that a contracting authority may request that suppliers shall submit to the authority is specified in Sections 7–15 and shall show

1. that there is no basis in accordance with Chapter 13 to exclude the supplier from participating in the procurement,
2. that the supplier meets the applicable qualification requirements according to Chapter 14 Sections 1–5, and
3. that companies whose capacity the supplier invokes according to Chapter 14 Section 6 is not covered by any ground for exclusion and meets applicable qualification requirements.

Investigation into reasons for excluding a supplier from participating in a procurement

Section 7[405]

A contracting authority may request that a supplier submit an extract from a criminal record or an equivalent document that has been issued by a competent authority in the state of origin or the state where the supplier is established and which shows that there are no circumstances according to Chapter 13 Section 1 constitutes grounds for excluding the supplier from participating in the procurement.

Does not the requested investigation show that the supplier according to a judgment that has become final has been convicted of any such crime as referred to in Chapter 13 Section 1, the supplier shall not, on the basis of that provision, be excluded from participating in the procurement, unless otherwise stated in the investigation in other respects.

[404] Utredning som får begäras in från leverantör

6 § Den utredning en upphandlande myndighet får begära att leverantörer ska lämna in till myndigheten anges i 7-15 §s och ska visa

1. att det inte finns grund enligt 13 kap. för att utesluta leverantören från att delta i upphandlingen,
2. att leverantören uppfyller tillämpliga kvalificeringskrav enligt 14 kap. 1-5 §s, och
3. att företag vars kapacitet leverantören åberopar enligt 14 kap. 6 § inte omfattas av någon uteslutningsgrund och uppfyller tillämpliga kvalificeringskrav.

[405] Utredning om skäl för uteslutning av en leverantör från att delta i en upphandling

7 § En upphandlande myndighet får begära att en leverantör lämnar in ett utdrag ur ett brottsregister eller en likvärdig handling som har utfärdats av en behörig myndighet i ursprungsstaten eller den stat där leverantören är etablerad och som visar att det inte finns omständigheter som enligt 13 kap. 1 § utgör skäl för att utesluta leverantören från att delta i upphandlingen.

Visar inte den begärda utredningen att leverantören enligt en dom som fått laga kraft har dömts för något sådant brott som avses i 13 kap. 1 §, ska leverantören inte med stöd av den bestämmelsen uteslutas från att delta i upphandlingen, om inte något annat framgår av utredningen i övrigt.

Section 8
A contracting authority may request that a supplier submit a certificate[406] which has been issued by a competent authority in the state concerned and which shows that there are no circumstances which according to Chapter 13, Section 2 or Section 3, Paragraph 2 constitute grounds for excluding the supplier from participating in the procurement.
If the requested investigation does not show that the supplier has breached its obligations regarding payment of taxes or social insurance contributions in accordance with Chapter 13 Section 2 or is in one of the situations referred to in Chapter 13 Section 3 paragraph 2, the supplier shall not, on the basis of those provisions, be excluded from participating in the procurement, unless otherwise stated in the investigation in other respects.

Section 9[407]
If such documents referred to in Section 7 or 8 are not issued in the state in question or if they do not cover all situations according to Chapter 13 Sections 1 and 2 and Section 3 paragraph 2, the documents may be replaced by a statement that the supplier has made on honour and conscience before a competent body or by a similar declaration.

Investigation of a supplier's financial and financial position
Section 10[408]
A contracting authority may request an investigation of a supplier's economic and financial position, primarily in the form of
1. appropriate certificates from banks or, where applicable, proof of appropriate liability insurance,
2. annual reports or extracts from them, on publication of annual reports required by law in the country where the supplier is established, or

[406] **8 §** En upphandlande myndighet får begära att en leverantör lämnar in ett intyg som har utfärdats av en behörig myndighet i den berörda staten och som visar att det inte finns omständigheter som enligt 13 kap. 2 § eller 3 § 2 utgör skäl för att utesluta leverantören från att delta i upphandlingen.
Visar inte den begärda utredningen att leverantören har brustit i sina skyldigheter avseende betalning av skatter eller socialförsäkringsavgifter enligt 13 kap. 2 § eller befinner sig i någon av de situationer som avses i 13 kap. 3 § 2, ska leverantören inte med stöd av de bestämmelserna uteslutas från att delta i upphandlingen, om inte något annat framgår av utredningen i övrigt.
[407] **9 §** Om sådana dokument som avses i 7 eller 8 § inte utfärdas i staten i fråga eller om de inte omfattar alla situationer enligt 13 kap. 1 och 2 §s samt 3 § 2, får dokumenten ersättas av en utsaga som leverantören har lämnat på heder och samvete inför ett behörigt organ eller av en liknande försäkran.
[408] Utredning om en leverantörs ekonomiska och finansiella ställning
10 § En upphandlande myndighet får begära utredning av en leverantörs ekonomiska och finansiella ställning i första hand i form av
1. lämpliga intyg från banker eller, i förekommande fall, bevis om lämplig ansvarsförsäkring,
2. årsredovisningar eller utdrag ur dem, om offentliggörande av årsredovisningar krävs enligt lagstiftningen i det land där leverantören är etablerad, eller
3. uppgift om företagets samlade omsättning och, i förekommande fall, omsättningen för det verksamhetsområde som upphandlingen gäller, för högst de tre senaste verksamhetsåren, om uppgifter om denna omsättning är tillgängliga.
Om en leverantör har godtagbara skäl för att inte lämna in sådan utredning som den upphandlande myndigheten begär, får leverantören i stället åberopa annan utredning som myndigheten finner lämplig.

3. information on the company's total turnover and, where applicable, the turnover for the business area to which the procurement applies, for a maximum of the last three years of operation, if information on this turnover is available.
If a supplier has acceptable reasons for not submitting such an investigation as the contracting authority requests, the supplier may instead invoke another investigation that the authority deems appropriate.

Investigation of a supplier's technical and professional capacity
Section 11
A contracting authority may request an investigation of a supplier's technical capacity in the form of[409]
1. a list of completed construction contracts for a maximum of the last five years, accompanied by a certificate that the most important construction contracts have been carried out satisfactorily,
2. a list of the most important deliveries of goods or services that have been performed for a maximum of the last three years, indicating value, time and private or public recipients;

[409] Utredning om en leverantörs tekniska och yrkesmässiga kapacitet
11 § En upphandlande myndighet får begära utredning av en leverantörs tekniska kapacitet i form av
1. en förteckning över genomförda byggentreprenader under högst de fem senaste åren, åtföljd av intyg om att de viktigaste byggentreprenaderna har utförts på ett tillfredsställande sätt,
2. en förteckning över de viktigaste varuleveranser eller tjänster som har utförts under högst de tre senaste åren, med angivande av värde, tidpunkt och privata eller offentliga mottagare,
3. uppgifter om teknisk personal och tekniska organ, vare sig de tillhör leverantören eller inte, i synnerhet om dem som ansvarar för kvalitetskontrollen och, i fråga om offentliga byggentreprenader, uppgifter om teknisk personal och tekniska organ som entreprenören kan förfoga över för att genomföra entreprenaden,
4. en beskrivning av leverantörens tekniska utrustning och av de metoder som leverantören använder för att säkra kvaliteten samt av leverantörens undersöknings- och forskningsresurser,
5. information om de system för hantering av leveranskedjan och spårningssystem som leverantören kan komma att tillämpa vid fullgörandet av kontraktet,
6. uppgifter om en sådan kontroll som ska utföras av den upphandlande myndigheten själv eller på myndighetens vägnar av ett behörigt organ i varuleverantörens eller tjänsteleverantörens etableringsland, förutsatt att detta organ ger sitt samtycke, och som krävs för att de aktuella varorna eller tjänsterna är komplexa eller i undantagsfall är avsedda för ett särskilt ändamål,
7. information om tjänsteleverantörens eller byggentreprenörens utbildnings- och yrkeskvalifikationer eller motsvarande uppgifter om ledande personer i företaget, förutsatt att kvalifikationerna inte ska utvärderas som tilldelningskriterium,
8. information om de miljöskyddsåtgärder leverantören kan komma att vidta vid fullgörandet av kontraktet,
9. uppgifter om antal anställda i medeltal per år hos tjänsteleverantören eller byggentreprenören och antal anställda med ledningsfunktion under de tre senaste åren,
10. uppgifter om vilka verktyg, maskiner och teknisk utrustning som tjänsteleverantören eller entreprenören förfogar över för att fullgöra kontraktet,
11. information om hur stor del av kontraktet som leverantören eventuellt kommer att lägga ut på underleverantörer, eller
12. dokument, när det gäller de varor som ska levereras, som utgörs av dels prover, beskrivningar eller fotografier, vars äkthet ska styrkas om den upphandlande myndigheten begär det, dels intyg som har upprättats av officiella institutioner för kvalitetskontroll eller enheter för sådan kontroll av erkänd kompetens och av vilka det ska framgå att varor som är klart identifierade genom referenser stämmer överens med vissa tekniska specifikationer eller standarder.

3. information on technical staff and technical bodies, whether or not they belong to the supplier, in particular on those responsible for quality control and, in the case of public works contracts, information on technical staff and technical bodies available to the contractor to carry out the contract;
4. a description of the supplier's technical equipment and of the methods used by the supplier to ensure quality as well as of the supplier's research and research resources,
5. information on the supply chain management systems and tracking systems that the supplier may apply in the performance of the contract;
6. information concerning a check to be carried out by the contracting authority itself or on its behalf by a competent body in the country of establishment of the supplier of the goods or services, subject to the agreement of that body, and which is necessary because of the complexity of the goods or services in question or, exceptionally, because they are intended for a specific purpose,
7. information concerning the educational and professional qualifications of the service provider or contractor, or equivalent data concerning the leading persons in the undertaking, provided that those qualifications are not to be evaluated as an award criterion,
8. information on the environmental protection measures which the supplier may take in the performance of the contract,
9. information on the average number of employees per year with the service provider or construction contractor and number of employees with management function during the last three years; 10. information
on the tools, machines and technical equipment that the service provider or contractor has at their disposal to fulfil the contract;
on how much of the contract the supplier may outsource to subcontractors, or
12. documents relating to the goods to be supplied, consisting of samples, descriptions or photographs, the authenticity of which must be proved if the contracting authority so requests, and certificates drawn up by official quality control institutions or units for such control of: recognized competence and from which it must be clear that goods that are clearly identified by references comply with certain technical specifications or standards.

Section 12[410]
If it is necessary to ensure effective competition, a contracting authority may request that a supplier submit an investigation to the authority on relevant supplies of goods, services or construction contracts that have been performed earlier than specified in Section 11 para 1 and 2.

[410] **12 §** Om det är nödvändigt för att en effektiv konkurrens ska säkerställas, får en upphandlande myndighet begära att en leverantör ska lämna en utredning till myndigheten om relevanta varuleveranser, tjänster eller byggentreprenader som har utförts tidigare än vad som anges i 11 § 1 och 2.

Section 13[411]
An inspection in accordance with Section 11 para 6 shall refer to the product supplier's production capacity or the service supplier's technical capacity and, if necessary, the supplier's investigation and research resources as well as resources for quality control.

Chapter 22 Supervision
General provisions on supervision
Section 1[412]
An authority shall exercise supervision over procurement in accordance with this Act.

Section 2[413]
The supervisory authority may obtain information that is necessary for the supervisory activities from a contracting authority or from the person that the supervisory authority deems to be a contracting authority. If necessary, due to urgency, the scope of the material or any other circumstance, the information may be obtained through a visit to the contracting authority.

Section 3[414]
A contracting authority is obliged to provide the information that the supervisory authority requests for its supervision. The same applies to the person whom the supervisory authority considers to be a contracting authority.

[411] **13 §** En kontroll enligt 11 § 6 ska avse varuleverantörens tillverkningskapacitet eller tjänsteleverantörens tekniska kapacitet och om nödvändigt leverantörens undersöknings- och forskningsresurser samt resurser för kvalitetskontroll.
[412] **22 kap. Tillsyn**
Allmänna bestämmelser om tillsyn
1 § En myndighet ska utöva tillsyn över upphandling enligt denna lag.
[413] **2 §** Tillsynsmyndigheten får från en upphandlande myndighet eller från den som tillsynsmyndigheten bedömer vara en upphandlande myndighet inhämta upplysningar som är nödvändiga för tillsynsverksamheten. Om det behövs på grund av brådska, materialets omfång eller något annat förhållande, får upplysningarna inhämtas genom besök hos den upphandlande myndigheten.
[414] **3 §** En upphandlande myndighet är skyldig att tillhandahålla de upplysningar som tillsynsmyndigheten begär för sin tillsyn. Detsamma gäller den som tillsynsmyndigheten bedömer vara en upphandlande myndighet.

(3) Protection of Information

(a) Tax Secrecy (General Tax Code)

Act (1987:1231) on automatic data processing in tax audits, etc./ 73
Lag (1987:1231) om automatisk databehandling vid taxeringsrevision, m.m.
Section 1[415]
This Act applies to authorities' audits of taxes and social security contributions and to audits pursuant to Sections 69 and 70 of the Customs Act (1994:1550), when the measure includes automatic data processing of personal data in personal registers in accordance with the Data Act (1973:289). Law (1997:493).

Section 2[416]
Examination of personal registers may not lead to undue invasion of the data subject's personal integrity.

Section 3[417]
The Data Inspectorate supervises that audits that take place with the aid of automatic data processing do not entail an undue invasion of personal integrity. Section 15, second paragraph, and section 16 of the Data Act (1973:289) apply.
The person performing the audit shall provide the Data Inspectorate with the information on the automatic data processing that the Inspectorate requests for its supervision. Law (1997:493).

During the audit the authority accessing information has to act lawful, e.g. in respect of private data: 74

Section 4 75
The Data Inspectorate may, in respect of the audit, to the extent necessary to prevent[418] the risk of undue invasion of privacy, issue regulations in special cases on

[415] **1 §** Denna lag gäller vid myndighets granskning avseende skatter och socialavgifter samt vid granskning enligt 69 och 70 §s tullagen (1994:1550), när åtgärden innefattar automatisk databehandling av personuppgifter i personregister enligt datalagen (1973:289). Lag (1997:493).
[416] **2 §** Granskning av personregister får inte leda till otillbörligt intrång i registrerads personliga integritet.
[417] **3 §** Datainspektionen utövar tillsyn över att granskning som sker med hjälp av automatisk databehandling inte medför otillbörligt intrång i personlig integritet. Härvid tillämpas 15 § andra stycket och 16 § datalagen (1973:289). Den som verkställer granskningen skall lämna Datainspektionen de uppgifter om den automatiska databehandlingen som inspektionen begär för sin tillsyn. Lag (1997:493).
[418] **4 §** Datainspektionen får i fråga om granskningen, i den mån det behövs för att förebygga risk för otillbörligt intrång i personlig integritet, meddela föreskrifter i särskilda fall om
1. utförande av den automatiska databehandlingen,
2. den tekniska utrustningen,
3. de bearbetningar av personuppgifterna i registret som får göras med automatisk databehandling,
4. de personuppgifter som får göras tillgängliga,
5. utlämnande och annan användning av personuppgift,
6. bevarande och gallring av personuppgifter,

1. the performance of the automatic data processing,
2. the technical equipment,
3. the processing of the personal data in the register that may be made with automatic data processing,
4. the personal data that may be made available,
5. disclosure and other use of personal data,
6. preservation and thinning of personal data,
7. control and security.

(b) Administrative Secrecy (Administrative Laws)

76 It is punishable to disclose administrative secrets, see Swedish Criminal Code.

(c) Data Secrecy (Data Protection Laws, Customs Code, General Tax Code)

- Electronic Communications Act (2003:389)/*Lagen (2003:389) om elektronisk kommunikation*
- Act (2012:278) on the collection of electronic communications data in the intelligence activities of law enforcement authorities/*Lagen (2012:278) om inhämtning av uppgifter om elektronisk kommunikation i de brottsbekämpande myndigheternas underrättelseverksamhet*
- Decree (2003:396) on electronic communication/*Förordningen (2003:396) om elektronisk kommunikation*
- Customs Law (2016:253)/*Tullag (2016:253)*

77 **Act (2001:185) on the processing of data in the activities of the Swedish Customs Service**/
Lag (2001:185) om behandling av uppgifter i Tullverkets verksamhet

Chapter 1 General provisions
The relationship to other regulation
Section 3[419]
When processing personal data in accordance with this Act, the Act (2018:218) applies with supplementary provisions to the EU Data Protection Ordinance and regulations that have been issued in connection with that Act, unless otherwise follows from this Act or regulations that have been issued in connection with layers. Lag (2018:231).

7. kontroll och säkerhet.

[419] **1 kap. Allmänna bestämmelser**
Förhållandet till annan reglering
3 §
Vid behandling av personuppgifter enligt denna lag gäller lagen (2018:218) med kompletterande bestämmelser till EU:s dataskyddsförordning och föreskrifter som har meddelats i anslutning till den lagen, om inte annat följer av denna lag eller föreskrifter som har meddelats i anslutning till lagen. Lag (2018:231).

Personal *data* responsibility
Section 6[420]
The Swedish Customs is responsible for the processing of personal data.

Processing of sensitive personal data etc.
Section 7[421]
Personal data referred to in Article 9 (1) of the EU Data Protection Regulation (sensitive personal data) and data on offenses involving crime, criminal convictions, coercive measures or administrative detentions may only be processed if the data has been provided in a case or is necessary for the processing of the.
Information referred to in the first paragraph may otherwise be processed only if it is specifically stated in chap. 2.
Lag (2018:231).

Chapter 2 Customs database
Disclosure of information to individuals on a medium for automated processing
Section 5[422]
In addition to what follows from the customs legislation according to the definition in Chapter 1 Section 3 of the Customs Act (2016:253), information in the database may be disclosed to an individual on a medium for automated processing only if the Government has issued regulations to that effect. Lag (2016:276).

The access provisions are applicable in cases of resistance as they allow OLAF to instruct national authorities with the potential powers to execute certain measures: **78**

Direct access **79**
Section 6 Has been repealed by law (2005:790).

[420] **Personuppgiftsansvar**
6 § Tullverket är personuppgiftsansvarigt för behandling av personuppgifter.
[421] **Behandling av känsliga personuppgifter m.m.**
7 § Personuppgifter som avses i artikel 9.1 i EU:s dataskyddsförordning (känsliga personuppgifter) och uppgifter om lagöverträdelser som innefattar brott, domar i brottmål, straffprocessuella tvångsmedel eller administrativa frihetsberövanden får behandlas endast om uppgifterna har lämnats i ett ärende eller är nödvändiga för handläggningen av det.
Uppgifter som avses i första stycket får i annat fall behandlas endast om det särskilt anges i 2 kap.
Lag (2018:231).
[422] Utlämnande av uppgifter till enskilda på medium för automatiserad behandling
5 § Utöver vad som följer av tullagstiftningen enligt definitionen i 1 kap. 3 § tullagen (2016:253), får uppgifter i databasen lämnas ut till en enskild på medium för automatiserad behandling endast om regeringen har meddelat föreskrifter om det. Lag (2016:276).

Section 7[423]
The Swedish Tax Agency may have direct access to information referred to in Section 3 1, 2, 5–7, 10 and 11 in respect of persons who are or can be assumed to be taxable or appear in a case in accordance with the Act (1998:506) on excise duty control of transports etc. of alcohol products, tobacco products and energy products.
The Enforcement Agency may have direct access to information referred to in Section 3 1, 2, 5–7, 10 and 11 in respect of the person who is registered as a debtor with the Enforcement Agency or the spouse of the debtor or someone else who is equated with a spouse.
The Government shall issue more detailed regulations on what information direct access pursuant to the first paragraph may include. Lag (2007:467).

Section 8[424]
An individual may have direct access to such information in the database that may be disclosed to the individual if the Government has issued regulations to that effect.
The Government or the authority determined by the Government may, with the support of Chapter 8 Section 7 of the form of government shall issue regulations on which information may be covered by direct access in accordance with the first paragraph. Lag (2016:885).

Section 8a Has been repealed by law (2016:276).

Search term
Section 9
When searching for documents referred to in section 4[425], only information on name, personal or coordination number and information referred to in Chapter 5 may be obtained. Section 2 of the Public Access to Information and Secrecy Act (2009:400) is

[423] **7 §** Skatteverket får ha direktåtkomst till uppgifter som avses i 3 § 1, 2, 5–7, 10 och 11 i fråga om personer som är eller kan antas vara skattskyldiga eller förekommer i ett ärende enligt lagen (1998:506) om punktskattekontroll av transporter m.m. av alkoholvaror, tobaksvaror och energiprodukter.
Kronofogdemyndigheten får ha direktåtkomst till uppgifter som avses i 3 § 1, 2, 5–7, 10 och 11 i fråga om den som är registrerad som gäldenär hos kronofogdemyndigheten eller make till gäldenären eller någon annan som likställs med make.
Regeringen meddelar närmare föreskrifter om vilka uppgifter direktåtkomst enligt första stycket får omfatta.
Lag (2007:467).
[424] **8 §** En enskild får ha direktåtkomst till sådana uppgifter i databasen som får lämnas ut till den enskilde om regeringen har meddelat föreskrifter om det.
Regeringen eller den myndighet som regeringen bestämmer kan med stöd av 8 kap. 7 § regeringsformen meddela föreskrifter om vilka uppgifter som får omfattas av direktåtkomst enligt första stycket. Lag (2016:885).
[425] Sökbegrepp
9 § Vid sökning efter handlingar som avses i 4 § får endast uppgift om namn, person- eller samordningsnummer och uppgifter som avses i 5 kap. 2 § offentlighets- och sekretesslagen (2009:400) användas som sökbegrepp. Som sökbegrepp får dock inte uppgift som avses i 1 kap. 7 § användas. Lag (2009:495).

used as a search term. As a search term, however, the information referred to in Chapter 1 Section 7 be used. Lag (2009:495)

(4) Support to the Inspectors (Customs Code, General Tax Code)

Support may come from the person concerned under investigation. Support means the offering of documents, the preparing of an inspection so that the relevant evidence is in one place. The Law 2017:244 does not contain a special regulation on that matter. **80**

In the area of the Tax Procedures Code the following provision may be cited: **81**

42a ch. Authorities' obligation to provide information at the request of the Swedish Tax Agency **82**
Section 1
Information that is available to an authority and that is needed for control or decisions in accordance with this Act must be submitted to the Agency at the request of the Tax Agency.
[S2] However, the first paragraph does not apply in the case of information for which confidentiality applies as a result of ch. 15 Section 1 or 2 or Chapter 16. Section 1 of the Publicity and Confidentiality Act (2009:400) or a provision to which reference is made in one of these sections.
[S3] If confidentiality applies to information according to some other provision in the Publicity and Confidentiality Act and disclosure would result in special but for some individual or public interest, an authority is only obliged to provide information if the government, upon application by the Swedish Tax Agency, decides that the information must be disclosed. Law (2015:903).

(5) Preservation of Evidence (Customs Code, General Tax Code)

Provisions on the preservation of evidence are highly important for Art. 11 OLAF Regulation. **83**

- Chapter 6 Section 7 Section 2 Value Added Tax Act (1994:200)
- Chapter 44 Tax Procedures Code, Chapter 45 Tax Procedures Code

g) Single Measures

In the following the compendium takes a closer look at single measures. Some of them, if not all, have already been mentioned above in the sections on administrative provisions and investigation powers. **84**

aa. Interviewing/Questioning of "Persons Concerned" (In Relation to Suspects/Defendants)

(1) The Taking of Statements from Economic Operators

85 **Public Procurement Act (LOU)**/*Lag om offentlig upphandling (LOU)*
Section 4[426]
At the request of the contracting authority, the supplier to whom the authority intends to award the contract shall submit such supplementary documents in accordance with Sections 6–13, and, where applicable, in accordance with Sections 14 and 15, which show current circumstances. Such a request must be made before the authority decides to award a contract.
This does not apply to contracts based on framework agreements that have been entered into in accordance with Chapter 7. Sections 4 and 6.
The supplier shall, at the request of the authority, supplement or clarify the documents requested by the authority.

Investigation into reasons for excluding a supplier from participating in a procurement
Section 7
A contracting authority may request that a supplier submit an extract from a criminal record[427] or an equivalent document that has been issued by a competent authority in the state of origin or the state where the supplier is established and which shows that there are no circumstances according to Chapter 13 Section 1 constitutes grounds for excluding the supplier from participating in the procurement.
Does not the requested investigation show that the supplier according to a judgment that has become final has been convicted of any such crime as referred to in Chapter 13 Section 1, the supplier shall not, on the basis of that provision, be excluded from participating in the procurement, unless otherwise stated in the investigation in other respects.

[426] **4 §** På begäran av den upphandlande myndigheten ska den leverantör som myndigheten avser att tilldela kontraktet lämna sådana kompletterande dokument enligt 6–13 §s, och i förekommande fall enligt 14 och 15 §s, som visar aktuella förhållanden. En sådan begäran ska göras innan myndigheten beslutar om att tilldela ett kontrakt.
Detta gäller inte för kontrakt som grundar sig på ramavtal som har ingåtts enligt 7 kap. 4 och 6 §s.
Leverantören ska på begäran av myndigheten komplettera eller förtydliga de dokument som myndigheten har begärt.

[427] Utredning om skäl för uteslutning av en leverantör från att delta i en upphandling
7 § En upphandlande myndighet får begära att en leverantör lämnar in ett utdrag ur ett brottsregister eller en likvärdig handling som har utfärdats av en behörig myndighet i ursprungsstaten eller den stat där leverantören är etablerad och som visar att det inte finns omständigheter som enligt 13 kap. 1 § utgör skäl för att utesluta leverantören från att delta i upphandlingen.
Visar inte den begärda utredningen att leverantören enligt en dom som fått laga kraft har dömts för något sådant brott som avses i 13 kap. 1 §, ska leverantören inte med stöd av den bestämmelsen uteslutas från att delta i upphandlingen, om inte något annat framgår av utredningen i övrigt.

Section 8[428]
A contracting authority may request that a supplier submit a certificate which has been issued by a competent authority in the state concerned and which shows that there are no circumstances which according to Chapter 13, Section 2 or Section 3, Paragraph 2 constitute grounds for excluding the supplier from participating in the procurement.
If the requested investigation does not show that the supplier has breached its obligations regarding payment of taxes or social insurance contributions in accordance with Chapter 13 Section 2 or is in one of the situations referred to in Chapter 13 Section 3 paragraph 2, the supplier shall not, on the basis of those provisions, be excluded from participating in the procurement, unless otherwise stated in the investigation in other respects.

Section 9[429]
If such documents referred to in Section 7 or 8 are not issued in the state in question or if they do not cover all situations according to Chapter 13 Sections 1 and 2 and Section 3 paragraph 2, the documents may be replaced by a statement that the supplier has made on honour and conscience before a competent body or by a similar declaration.

An important tool in the **chain of custody** to prove any irregularity or uncover it, is the access to the financial position of an economic operator: **86**

Investigation of a supplier's financial and financial position **87**
Section 10[430]
A contracting authority may request an investigation of a supplier's economic and financial position, primarily in the form of

[428] **8 §** En upphandlande myndighet får begära att en leverantör lämnar in ett intyg som har utfärdats av en behörig myndighet i den berörda staten och som visar att det inte finns omständigheter som enligt 13 kap. 2 § eller 3 § 2 utgör skäl för att utesluta leverantören från att delta i upphandlingen.
Visar inte den begärda utredningen att leverantören har brustit i sina skyldigheter avseende betalning av skatter eller socialförsäkringsavgifter enligt 13 kap. 2 § eller befinner sig i någon av de situationer som avses i 13 kap. 3 § 2, ska leverantören inte med stöd av de bestämmelserna uteslutas från att delta i upphandlingen, om inte något annat framgår av utredningen i övrigt.
[429] **9 §** Om sådana dokument som avses i 7 eller 8 § inte utfärdas i staten i fråga eller om de inte omfattar alla situationer enligt 13 kap. 1 och 2 §s samt 3 § 2, får dokumenten ersättas av en utsaga som leverantören har lämnat på heder och samvete inför ett behörigt organ eller av en liknande försäkran.
[430] Utredning om en leverantörs ekonomiska och finansiella ställning
10 § En upphandlande myndighet får begära utredning av en leverantörs ekonomiska och finansiella ställning i första hand i form av
1. lämpliga intyg från banker eller, i förekommande fall, bevis om lämplig ansvarsförsäkring,
2. årsredovisningar eller utdrag ur dem, om offentliggörande av årsredovisningar krävs enligt lagstiftningen i det land där leverantören är etablerad, eller
3. uppgift om företagets samlade omsättning och, i förekommande fall, omsättningen för det verksamhetsområde som upphandlingen gäller, för högst de tre senaste verksamhetsåren, om uppgifter om denna omsättning är tillgängliga.
Om en leverantör har godtagbara skäl för att inte lämna in sådan utredning som den upphandlande myndigheten begär, får leverantören i stället åberopa annan utredning som myndigheten finner lämplig.

1. appropriate certificates from banks or, where applicable, proof of appropriate liability insurance,
2. annual reports or extracts from them, on publication of annual reports required by law in the country where the supplier is established, or
3. information on the company's total turnover and, where applicable, the turnover for the business area to which the procurement applies, for a maximum of the last three years of operation, if information on this turnover is available.

If a supplier has acceptable reasons for not submitting such an investigation as the contracting authority requests, the supplier may instead invoke another investigation that the authority deems appropriate.

Investigation of a supplier's technical and professional capacity
Section 11

A contracting authority may request an investigation of a supplier's technical capacity in the form of[431]

[431] Utredning om en leverantörs tekniska och yrkesmässiga kapacitet
11 § En upphandlande myndighet får begära utredning av en leverantörs tekniska kapacitet i form av
1. en förteckning över genomförda byggentreprenader under högst de fem senaste åren, åtföljd av intyg om att de viktigaste byggentreprenaderna har utförts på ett tillfredsställande sätt,
2. en förteckning över de viktigaste varuleveranser eller tjänster som har utförts under högst de tre senaste åren, med angivande av värde, tidpunkt och privata eller offentliga mottagare,
3. uppgifter om teknisk personal och tekniska organ, vare sig de tillhör leverantören eller inte, i synnerhet om dem som ansvarar för kvalitetskontrollen och, i fråga om offentliga byggentreprenader, uppgifter om teknisk personal och tekniska organ som entreprenören kan förfoga över för att genomföra entreprenaden,
4. en beskrivning av leverantörens tekniska utrustning och av de metoder som leverantören använder för att säkra kvaliteten samt av leverantörens undersöknings- och forskningsresurser,
5. information om de system för hantering av leveranskedjan och spårningssystem som leverantören kan komma att tillämpa vid fullgörandet av kontraktet,
6. uppgifter om en sådan kontroll som ska utföras av den upphandlande myndigheten själv eller på myndighetens vägnar av ett behörigt organ i varuleverantörens eller tjänsteleverantörens etableringsland, förutsatt att detta organ ger sitt samtycke, och som krävs för att de aktuella varorna eller tjänsterna är komplexa eller i undantagsfall är avsedda för ett särskilt ändamål,
7. information om tjänsteleverantörens eller byggentreprenörens utbildnings- och yrkeskvalifikationer eller motsvarande uppgifter om ledande personer i företaget, förutsatt att kvalifikationerna inte ska utvärderas som tilldelningskriterium,
8. information om de miljöskyddsåtgärder leverantören kan komma att vidta vid fullgörandet av kontraktet,
9. uppgifter om antal anställda i medeltal per år hos tjänsteleverantören eller byggentreprenören och antal anställda med ledningsfunktion under de tre senaste åren,
10. uppgifter om vilka verktyg, maskiner och teknisk utrustning som tjänsteleverantören eller entreprenören förfogar över för att fullgöra kontraktet,
11. information om hur stor del av kontraktet som leverantören eventuellt kommer att lägga ut på underleverantörer, eller.
12. dokument, när det gäller de varor som ska levereras, som utgörs av dels prover, beskrivningar eller fotografier, vars äkthet ska styrkas om den upphandlande myndigheten begär det, dels intyg som har upprättats av officiella institutioner för kvalitetskontroll eller enheter för sådan kontroll av erkänd kompetens och av vilka det ska framgå att varor som är klart identifierade genom referenser stämmer överens med vissa tekniska specifikationer eller standarder.

1. a list of completed construction contracts for a maximum of the last five years, accompanied by a certificate that the most important construction contracts have been carried out satisfactorily,
2. a list of the most important deliveries of goods or services that have been performed for a maximum of the last three years, indicating value, time and private or public recipients;
3. information on technical staff and technical bodies, whether or not they belong to the supplier, in particular on those responsible for quality control and, in the case of public works contracts, information on technical staff and technical bodies available to the contractor to carry out the contract;
4. a description of the supplier's technical equipment and of the methods used by the supplier to ensure quality as well as of the supplier's research and research resources,
5. information on the supply chain management systems and tracking systems that the supplier may apply in the performance of the contract;
6. information concerning a check to be carried out by the contracting authority itself or on its behalf by a competent body in the country of establishment of the supplier of the goods or services, subject to the agreement of that body, and which is necessary because of the complexity of the goods or services in question or, exceptionally, because they are intended for a specific purpose,
7. information concerning the educational and professional qualifications of the service provider or contractor, or equivalent data concerning the leading persons in the undertaking, provided that those qualifications are not to be evaluated as an award criterion,
8. information on the environmental protection measures which the supplier may take in the performance of the contract,
9. information on the average number of employees per year with the service provider or construction contractor and number of employees with management function during the last three years; 10. information
on the tools, machines and technical equipment that the service provider or contractor has at their disposal to fulfil the contract;
on how much of the contract the supplier may outsource to subcontractors, or
12. documents relating to the goods to be supplied, consisting of samples, descriptions or photographs, the authenticity of which must be proved if the contracting authority so requests, and certificates drawn up by official quality control institutions or units for such control of: recognized competence and from which it must be clear that goods that are clearly identified by references comply with certain technical specifications or standards.

(2) Interviewing/Questioning of Witnesses

88 S. 2 of the new **law 2017:244** does not contain specific rules on interviewing or questioning a witness. It can be guessed that the rules of the Code of Judicial Procedure apply in this case.

bb. Inspections

89 In general, the Swedish on-the-site-checks law applies. It contains provisions on access and inspections and allows OLAF to use every national authority as a vehicle for its own investigations.

90 In addition, the special provisions from the legislation presented above applies. The relevant law depends on the area of investigations (see above shared/indirect management).

Public Procurement Act (LOU)/*Lag om offentlig upphandling (LOU)*
Section 12[432]
If it is necessary to ensure effective competition, a contracting authority may request that a supplier submit an investigation to the authority on relevant supplies of goods, services or construction contracts that have been performed earlier than specified in Section 11 para 1 and 2.

Section 13[433]
An inspection in accordance with Section 11 para 6 shall refer to the product supplier's production capacity or the service supplier's technical capacity and, if necessary, the supplier's investigation and research resources as well as resources for quality control.

cc. Searches and Seizures

91 In relation to searches on foreign premises of an Economic Operator or a suspect alike first and foremost the On-the-spot-checks law applies. Next, the Tax Procedures Code provisions, which are displayed below, could apply.

[432] **12 §** Om det är nödvändigt för att en effektiv konkurrens ska säkerställas, får en upphandlande myndighet begära att en leverantör ska lämna en utredning till myndigheten om relevanta varuleveranser, tjänster eller byggentreprenader som har utförts tidigare än vad som anges i 11 § 1 och 2.
[433] **13 §** En kontroll enligt 11 § 6 ska avse varuleverantörens tillverkningskapacitet eller tjänsteleverantörens tekniska kapacitet och om nödvändigt leverantörens undersöknings- och forskningsresurser samt resurser för kvalitetskontroll.

(1) Law 2017:244 (Special Swedish On-the-spots-checks law)

92

Section 2[434] **Lag (2017:244) [Rights of the Swedish homologue authorities]**
When the European Anti-Fraud Office carries out on-site checks and inspections in accordance with **Article 3** or **4.3** of Regulation (EU, Euratom) No. 883/2013 (on-site inspection), the **competent (Swedish) authority has the right**

- to gain access to premises, land areas,
- means of transport
and other places which used professionally in the business to which the control relates.

The competent authority has the **right to**
- access all information and all documentation about the relevant transactions that is needed for the on-site inspection to be carried out, with the exception of such documents as referred to in ch. 27. Section 2 of the Code of Judicial Procedure.

During the on-site inspection, the competent authority also has the **right to**
- carry out the examinations and take the samples deemed necessary.

The person at whom the on-site inspection is carried out has the **right to**
- summon a representative or assistant.

The competent authority does not have to wait for the representative or assistant to appear if it is to be feared that the on-site inspection will lose its significance if it is not started immediately.

[434] **2 § Lag (2017:244) om kontroller och inspektioner på plats av Europeiska byrån för bedrägeribekämpning**
När Europeiska byrån för bedrägeribekämpning genomför kontroller och inspektioner på plats enligt artikel 3 eller 4.3 i förordning (EU, Euratom) nr 883/2013 (platskontroll) har den behöriga myndigheten rätt att få tillträde till lokaler, markområden, transportmedel och andra platser som används yrkesmässigt i den verksamhet som kontrollen avser. Den behöriga myndigheten har rätt att få tillgång till alla uppgifter och all dokumentation om berörda transaktioner som behövs för att platskontrollen ska kunna genomföras, med undantag för sådana handlingar som avses i 27 kap. 2 § rättegångsbalken.
Den behöriga myndigheten har vid platskontrollen även rätt att göra de undersökningar och ta de prover som bedöms nödvändiga.
Den som platskontrollen utförs hos har rätt att tillkalla ett ombud eller biträde. Den behöriga myndigheten behöver inte avvakta att ombudet eller biträdet inställer sig om det kan befaras att platskontrollen förlorar i betydelse om den inte påbörjas omedelbart.

Section 3 Lag (2017:244)
The competent authority **may request assistance from the Enforcement Authority** in order for an on-site inspection to be carried out.[435]
The provisions in the search code regarding the enforcement of obligations that do not relate to payment obligations or eviction apply to the handover. If the competent authority requests it, the Swedish Enforcement Agency shall not notify the person to whom the control relates in advance.

Section 4 Lag (2017:244)
If the person to whom the on-site inspection refers considers that a certain document is covered by ch. 27 Section 2 of the Code of Judicial Procedure and that the document is to be exempted from control, he must submit a request for this to the administrative court within whose jurisdiction the competent authority is located. The document must be submitted together with the request.
If the competent authority already has the document to which the request relates, the authority shall immediately seal the document and deliver it to the court.
The court must examine without delay whether the document is to be covered by the control. A decision to exempt an act is effective immediately, unless otherwise stated in the decision.
Permission to rehear is required in the event of an appeal to the Court of Appeal.

(2) Tax Procedures Code Scenery (Chapter 45 et seq.)

93 **Chapter 45 Proof security/ *Bevissäkring Innehåll***
Searching and disposal of documents
Section 4
When an audit is carried out according to Section 3, documents needed for the audit may be searched in the business premises and taken over for review.[436]

[435] **3 § Lag (2017:244) om kontroller och inspektioner på plats av Europeiska byrån för bedrägeribekämpning**
Den behöriga myndigheten får begära handräckning av Kronofogdemyndigheten för att en platskontroll ska kunna genomföras.
Vid handräckningen gäller bestämmelserna i utsökningsbalken om verkställighet av förpliktelser som inte avser betalningsskyldighet eller avhysning. Om den behöriga myndigheten begär det, ska Kronofogdemyndigheten inte i förväg underrätta den som kontrollen avser.
4 § Lag (2017:244) om kontroller och inspektioner på plats av Europeiska byrån för bedrägeribekämpning
Om den som platskontrollen avser anser att en viss handling omfattas av 27 kap. 2 § rättegångsbalken och att handlingen ska undantas från kontrollen, ska denne ge in en begäran om detta till den förvaltningsrätt inom vars domkrets den behöriga myndigheten är belägen. Handlingen ska ges in tillsammans med begäran.
Om den behöriga myndigheten redan har den handling som begäran avser, ska myndigheten omedelbart försegla handlingen och överlämna den till domstolen.
Domstolen ska utan dröjsmål pröva om handlingen ska omfattas av kontrollen. Ett beslut att undanta en handling gäller omedelbart, om inte något annat anges i beslutet.
Prövningstillstånd krävs vid överklagande till kammarrätten.
[436] **45 kap. Bevissäkring**

Innehåll
1 § I detta kapitel finns bestämmelser om
- definitioner (2 §),
- revision i den reviderades verksamhetslokaler (3 §),
- eftersökande och omhändertagande av handlingar (4-11 §s),
- försegling av lokal, förvaringsplats eller annat utrymme (12 §),
- beslut om bevissäkring (13-16 §s), och
- behörig förvaltningsrätt (17 §).

Definitioner
2 § Med bevissäkring avses följande tvångsåtgärder:
1. revision i den reviderades verksamhetslokaler enligt 3 §,
2. eftersökande och omhändertagande av handlingar enligt 4-11 §s, samt
3. försegling av lokal, förvaringsplats eller annat utrymme enligt 12 §.

Med risk för sabotage avses att det finns risk för att den som bevissäkringen gäller kommer att undanhålla, förvanska eller förstöra det som får kontrolleras.

Revision i den reviderades verksamhetslokaler
3 § En revision får genomföras i den reviderades verksamhetslokaler om den reviderade enligt 41 kap. 8 § första stycket är skyldig att lämna tillträde till lokalerna och
1. den reviderade inte fullgör sina skyldigheter att medverka enligt 41 kap. 8-11 §s, eller
2. det finns en påtaglig risk för sabotage.

Eftersökande och omhändertagande av handlingar
4 § När en revision genomförs enligt 3 §, får handlingar som behövs för revisionen eftersökas i verksamhetslokalerna och tas om hand för granskning.
Om revisionen genomförs enligt 3 § 1, gäller dock första stycket bara om handlingen inte har tillhandahållits inom rimlig tid eller om det finns en påtaglig risk för sabotage.
5 § Om den reviderade har medgett att revisionen genomförs i verksamhetslokalerna enligt 41 kap 8 §, får handlingar som påträffas eller tillhandahålls och som behövs för revisionen tas om hand för granskning.
6 § När en revision genomförs på någon annan plats än i verksamhetslokaler med stöd av 41 kap., får en handling som behövs för revisionen eftersökas i verksamhetslokalerna och tas om hand för granskning om
1. den reviderade inte har följt ett föreläggande enligt 41 kap. 12 § om att lämna ut handlingen, eller
2. det finns en påtaglig risk för sabotage.

7 § En handling som behövs för en revision enligt 3 § eller 41 kap. får eftersökas i en lokal, på en förvaringsplats eller i ett annat utrymme som inte utgör den reviderades verksamhetslokaler och tas om hand för granskning om det finns särskild anledning att anta att handlingen finns i utrymmet och
1. den reviderade inte har följt ett föreläggande enligt 41 kap. 12 § om att lämna ut handlingen, eller
2. det finns en påtaglig risk för sabotage.

8 § Om ett föreläggande att lämna ut en handling vid annan kontroll än revision inte har följts och det finns särskild anledning att anta att handlingen finns hos den som har förelagts, får handlingen eftersökas och tas om hand för granskning.
9 § Hos den som inte får revideras men som kan föreläggas att lämna uppgift enligt 37 kap. 10 § får handling som han eller hon kan föreläggas att lämna uppgift om eftersökas och tas om hand för granskning utan ett föregående föreläggande om det finns
1. särskild anledning att anta att handlingen kommer att påträffas hos personen,
2. en påtaglig risk för sabotage om personen föreläggs, och
3. ett betydande intresse av att handlingen granskas.

Granskningen ska ske på annan plats än hos den som bevissäkringen gäller.
10 § Om det finns särskilda skäl, behöver den som uppgifterna avser eller de handlingar som eftersöks inte anges i ett beslut om åtgärd enligt 9 §.
11 § Beslut om åtgärd enligt 9 § får inte meddelas för att samla in uppgifter för att förbereda kontroll av någon annan person än den som kontrolleras.
Försegling av lokal, förvaringsplats eller annat utrymme
12 § Lokal, förvaringsplats eller annat utrymme får förseglas för att skydda handlingar som ska
1. granskas enligt 3 § eller tas om hand för granskning enligt 4 §,
2. tas om hand för granskning enligt 5 § om
a) handlingarna inte kan föras från platsen, och
b) risk för sabotage kan befaras, eller
3. tas om hand för granskning enligt 6-9 §s om handlingarna inte omedelbart kan föras från platsen.

If the audit is carried out in accordance with Section 3 Section 1, however, the first paragraph only applies if the document has not been provided within a reasonable time or if there is a tangible risk of sabotage.

Section 5
If the auditee has agreed that the audit is carried out in the business premises according to chapter 41 Section 8, documents that are found or provided and that are needed for the audit may be taken over for review.

Section 6
When an audit is carried out in a place other than business premises with the support of ch. 41, a document needed for the audit may be searched in the business premises and taken over for review if
1. the auditee has not followed an order according to ch. 41. Section 12 on releasing the document, or
2. there is a tangible risk of sabotage.

Section 7
A document that is needed for an audit according to Section 3 or ch. 41. may be searched in a room, in a storage place or in another space that does not constitute the business premises of the auditee and taken over for examination if there is special reason to assume that the document is in the space and
1. the auditee has not complied with an order pursuant to 41 Cape. Section 12 on releasing the document, or
2. there is a tangible risk of sabotage.

Section 8
If an order to hand over a document in the event of a control other than an audit has not been followed and there is particular reason to assume that the document is in the possession of the person to whom it has been presented, the document may be sought and taken into custody for review.

Section 9
With the person who may not be audited but who can be ordered to provide information according to ch. 37. Section 10 documents that he or she can be ordered to provide information on may be sought and taken into custody for review without a prior order if there is
1. special reason to assume that the document will be found on the person,
2. a tangible risk of sabotage if the person is subpoenaed, and
3. a significant interest in having the document reviewed.

The review must take place at a different location than the person to whom the evidence protection applies.

Section 10
If there are special reasons, the person to whom the information relates, or the documents sought need not be specified in a decision on action according to Section 9.

Section 11
Decisions on measures according to Section 9 may not be announced in order to collect information in order to prepare an inspection of any person other than the person being inspected.

Sealing of premises, storage space or other space
Section 12
Premises, storage place or other space may be sealed to protect documents that must
1. be examined in accordance with Section 3 or be taken care of for examination according to Section 4,
2. be taken care of for examination according to Section 5 if
a) the documents cannot be taken from the place, and
b) a risk of sabotage can be feared, or
3. taken over for examination according to Sections 6–9 if the documents cannot be immediately removed from the place.

Decision on securing evidence
Section 13
Decisions on securing evidence according to Sections 3 and 6–9 are made by the administrative court upon application by the review leader. [437]

[437] **Beslut om bevissäkring**
13 § Beslut om bevissäkring enligt 3 och 6-9 §s fattas av förvaltningsrätten på ansökan av granskningsledaren. Beslut enligt 4, 5 och 12 §s fattas av granskningsledaren.
14 § Granskningsledaren får besluta om bevissäkring enligt 3 och 6-8 §s om
1. det finns en påtaglig risk för sabotage innan förvaltningsrätten kan fatta beslut, samt
2. åtgärden ska genomföras i en verksamhetslokal.
Om granskningsledaren har beslutat om åtgärd enligt första stycket, ska han eller hon så snart som möjligt och senast inom fem dagar ansöka om bevissäkring hos förvaltningsrätten.
Om granskningsledaren inte gör någon ansökan eller om förvaltningsrätten avslår ansökan, ska omhändertagna handlingar lämnas tillbaka och övriga insamlade uppgifter förstöras.
Om den som beslutet om bevissäkringen gäller har försatts i konkurs när handlingarna ska lämnas tillbaka, ska handlingarna överlämnas till konkursförvaltaren och den som bevissäkringen gäller underrättas om överlämnandet.
15 § Ett beslut om bevissäkring ska innehålla uppgift om möjligheten att undanta uppgifter och handlingar från kontroll samt om vad som gäller vid verkställighet.
16 § Den som ett beslut om bevissäkring gäller ska omedelbart underrättas om beslutet.
Underrättelse får dock ske i samband med att åtgärden verkställs om det finns en påtaglig risk för sabotage om den som beslutet gäller underrättas i förväg.

Decisions according to Sections 4, 5 and 12 are made by the review leader.

Section 14

The review leader may decide on securing evidence according to Sections 3 and 6–8 if
1. there is a tangible risk of sabotage before the administrative court can make a decision, and
2. the measure must be carried out in a business premises.

If the review leader has decided on action according to the first paragraph, he or she must as soon as possible and within five days at the latest apply to the administrative court for securing evidence.

If the review leader does not make an application or if the administrative court rejects the application, documents taken into account must be returned and other collected data must be destroyed.

If the person to whom the decision on the securing of evidence applies has been declared bankrupt when the documents are to be returned, the documents must be handed over to the bankruptcy administrator and the person to whom the securing of evidence applies notified of the handover.

Section 15

A decision on securing evidence must contain information on the possibility of exempting information and documents from control and on what applies in the event of enforcement.

Section 16

The person to whom a decision on securing evidence applies must be immediately notified of the decision.

Notification may, however, take place in connection with the implementation of the measure if there is a tangible risk of sabotage if the person to whom the decision applies is notified in advance.

In ch. 69 Section 5 contains provisions on the enforcement of decisions on securing evidence without the person to whom the decision applies having been notified of the decision.

I 69 kap. 5 § finns bestämmelser om verkställighet av beslut om bevissäkring utan att den som beslutet gäller har underrättats om beslutet.
Behörig förvaltningsrätt
17 § Frågor om bevissäkring prövas av den förvaltningsrätt som enligt 67 kap. är behörig att pröva ett överklagande av den som bevissäkringen gäller när ansökan görs.

Competent administrative law
Section 17
Questions about securing evidence are examined by the administrative court which according to ch. 67 is authorized to hear an appeal by the person to whom the evidence protection applies when the application is made.

dd. The Seizure of Digital Forensic Evidence Including Bank Account Information

Section 2 Lag (2017:244) **94**

When the European Anti-Fraud Office carries out on-site checks and inspections[438] in accordance with Article 3 or 4.3 of Regulation (EU, Euratom) No. 883/2013 (on-site inspection), the competent authority has the right to gain access to premises, land areas, means of transport and other places which used professionally in the business to which the control relates. […]

During the on-site inspection, the competent authority also has the right to carry out the examinations and take the samples deemed necessary.

The person at whom the on-site inspection is carried out has the right to summon a representative or assistant. The competent authority does not have to wait for the representative or assistant to appear if it is to be feared that the on-site inspection will lose its significance if it is not started immediately.

(1) General Remarks

Section 2 of the Law 2017:244 applies. It has the following formal and substantive requirements that need to be obeyed: **95**

[438] **2 § Lag (2017:244) om kontroller och inspektioner på plats av Europeiska byrån för bedrägeribekämpning**
När Europeiska byrån för bedrägeribekämpning genomför kontroller och inspektioner på plats enligt artikel 3 eller 4.3 i förordning (EU, Euratom) nr 883/2013 (platskontroll) har den behöriga myndigheten rätt att få tillträde till lokaler, markområden, transportmedel och andra platser som används yrkesmässigt i den verksamhet som kontrollen avser. Den behöriga myndigheten har rätt att få tillgång till alla uppgifter och all dokumentation om berörda transaktioner som behövs för att platskontrollen ska kunna genomföras, med undantag för sådana handlingar som avses i 27 kap. 2 § rättegångsbalken.
Den behöriga myndigheten har vid platskontrollen även rätt att göra de undersökningar och ta de prover som bedöms nödvändiga.
Den som platskontrollen utförs hos har rätt att tillkalla ett ombud eller biträde. Den behöriga myndigheten behöver inte avvakta att ombudet eller biträdet inställer sig om det kan befaras att platskontrollen förlorar i betydelse om den inte påbörjas omedelbart.

(2) Formal Requirements

96 **Section 2**
[…] The person at whom the on-site inspection is carried out has the ***right to summon a representative or assistant***. The competent authority ***does not have to wait for the representative or assistant to appear if*** it is to be feared that the on-site inspection will lose its significance if it is not started immediately.

(3) Substantive Requirements

97 **Section 2**

[…] During the on-site inspection, the competent authority also has the right to carry out the examinations and take the samples ***deemed necessary***.

The competent authority has the ***right to access all information and all documentation*** about the relevant transactions that is needed for the on-site inspection to be carried out, ***with the exception*** of such documents as referred to in ch. 27. Section 2 of the Code of Judicial Procedure.

98 What concerns the applicability of the EU Digital Evidence Regulation it is unclear whether this Regulation has an influence on the on-the-spot-checks carried out by OLAF.

99 The relevant Swedish legislation in this regard is below:

100 **Regulation (2022:625) with supplementary provisions to the EU's evidence-taking Regulation**

Ministry
Ministry of Justice BIRS
Issued
2022–05–25

Change introduced
SFS 2022:625 as amended by SFS 2022:626

Section 1
This regulation contains supplementary provisions to Regulation (EU) 2020/1783 of the European Parliament and of the Council of 25 November 2020 on cooperation between Member States' courts in matters of taking evidence in cases and matters of a civil or commercial nature (EU Evidence Taking Regulation).
[S2] The regulation is announced with the support of ch. 8. Section 7 the form of government.

Section 2
The Government Office is the central body according to Article 4.1 of the EU Evidence-Taking Regulation.
[S2] The Government Office must also make decisions regarding petitions from another member state regarding direct evidence taking pursuant to Articles 4.3 and 19 of the EU's Evidence Taking Regulation.

Section 3
/Ceases to apply U: the day the government determines by regulation (2022:626)./Documents may be sent to Sweden by post, courier or fax or, after agreement in the individual case, in another way.

Section 4
Standard forms used for petitions to Sweden must be completed in Swedish or English.

ee. Digital Forensic Operations Within Inspections Or On-The-Spot-Checks

Digital forensic operations during or within on-the-spot-checks are covered by s. 2 of the Law 2017:244, which has been analysed above and by the **OLAF Guidelines**. **101**

h) National Procedural Rules for "Checks and Inspections" By the Assisting National Authority

The procedural rules, which are important for the assisting national authority stem, depending on the area of irregularities (see above f. bb. (1) and (2)), are the Customs Code, the Tax Procedures Code, the Value-added Tax Code, the Data Protection laws, the various laws, which are mentioned above II. Sources of Law and the Swedish Constitution. In the area of Enforcement, the Search Act (Search Act (1981:774)) may apply. **102**

i) Cooperation and Mutual Assistance Agreements

According to the new on-the-spot-checks law the following section applies: **103**

Assistance Law 2017:244 **104**
Section 3[439]
The competent authority may request assistance from the Enforcement Authority in order for an on-site inspection to be carried out.

[439] **Handräckning Lag 2017:244**
3 § Den behöriga myndigheten får begära handräckning av Kronofogdemyndigheten för att en platskontroll ska kunna genomföras.
Vid handräckningen gäller bestämmelserna i utsökningsbalken om verkställighet av förpliktelser som inte avser betalningsskyldighet eller
avhysning. Om den behöriga myndigheten begär det, ska Kronofogdemyndigheten inte i förväg underrätta den som kontrollen avser.

In the case of handover, the provisions in the search code on the enforcement of obligations that do not refer to payment obligations or eviction. If the competent authority requests it, the Swedish Enforcement Agency shall not notify the person to whom the control relates in advance.

105 In customs matters the customs authorities, as well as the coast guards can involve the local police authorities:

106

Involvement of the Police Authority and the Coast Guard
Section 3 Customs Code
The Police Authority and the Coast Guard must participate in the Customs Administration's inspection activities in accordance with this Act.
[S2] For the Swedish Police Agency and the Coast Guard as well as police officers and coast guard officers who participate in the Swedish Customs Administration's inspection activities, what is said about the Swedish Customs Service and customs officers in ch. 3 applies. Sections 5, 6, 17 and 18 and Sections 2, 9–17 and 51–53 of this chapter.

j) EPPO/OLAF–Comparison: Comparative Cross-Section: The Most Striking Commonalities and Differences

107 Compared to other Member States Sweden has, like the Netherlands, a special law that regulates on-the-spot-checks. This **law is quite short but grants the rights requested by the relevant law for Art. 3 OLAF Regulation**. Sweden has established a clear legal framework to protect the EU·s financial interests. Although both EPPO and OLAF play different roles due to Union law, they are designed to complement each other and handle cross-border irregularities efficiently. Unlike many other EU Member States, Sweden **adopted a specific national law** in 2017 the Act (2017:244) on On-the-Spot Checks and Inspections by OLAF. This Act **directly implements EU Regulations 883/2013** and 2185/96 into Swedish law and specifically regulates the role Swedish authorities play when OLAF investigators operate within the country. This legislative decision demonstrates that Sweden deliberately sought to create an explicit legal framework one that facilitates OLAF investigations whilst remaining compatible with Swedish administrative law. As seen above Swedish law makes an important distinction according to *Sigma Orionis* jurisprudence, thus in cases of voluntary cooperation by an economic operator, EU law applies directly.

108 OLAF can exercise its powers immediately, and the procedure follows European requirements. More important in cases where cooperation is refused, however, national law comes into play. OLAF must then **request assistance from Swedish authorities** such as the Tax Agency (*Skatteverket),* the Customs Agency (*Tullverket*), or the National Operations Department (NOA) of the Police Authority. This arrangement imple-

ments the provisions of EU **Regulation 2185/96** in practice and ensures that OLAF always operates within national procedural guarantees when coercive measures or access to premises is required. In the *Sigma Orionis* case (T-48/16) it was clarified that when a company resists, national law applies meaning that evidence collection must comply with domestic procedural safeguards. OLAF reports carry legal significance in Sweden. According to Article 11 of Regulation 883/2013, these **reports including attached evidence are admissible in national judicial or administrative proceedings**. In Sweden, they may serve as documentary evidence both in administrative recovery procedures and in criminal proceedings before the district court (*tingsrätt*). However, Swedish courts retain full discretion in assessing evidential value, as provided for in Swedish procedural law (Chapter 35, Section 1 of the Code of Judicial Procedure, Rättegångsbalken).

Unlike OLAF, the EPPO established by Regulation 2017/1939 conducts criminal investigations. Its jurisdiction covers offences affecting the EU's financial interests: fraud, corruption, and serious cross-border VAT cases. Sweden has **prepared preparing for cooperation with the EPPO** through liaison structures. In contrast to OLAF, the EPPO can bring prosecutions, discontinue proceedings, and must observe the ne bis in idem principle (prohibition of double jeopardy). Although both institutions aim to protect the EU budget, their functions differ fundamentally: OLAF operates administratively: it gathers facts, produces reports, and issues recommendations. EPPO works within the criminal sphere: it conducts investigations, brings prosecutions, and is subject to judicial review. Parallel investigations and possible overlaps can prove problematic. OLAF's Supervisory Committee warned in Opinion No. 2/2021 that coordination mechanisms must avoid duplication and conflicting decisions. **109**

5. Article 4 Internal Investigations

1. Investigations within the institutions, bodies, offices and agencies in the areas referred to in Article 1 shall be conducted ***in accordance with this Regulation and with the decisions adopted by the relevant institution, body, office or agency*** ('internal investigations').
8. Without prejudice to Article 12c(1), where, before a decision has been taken whether or not to open an internal investigation, the Office handles information which suggests that there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union, it may inform the institution, body, office or agency concerned. Upon request, the institution, body, office or agency concerned shall inform the Office of any action taken and of its findings on the basis of such information.
Where necessary, the Office shall also inform the ***competent authorities of the Member State concerned***. In this case, the procedural requirements laid down in the second and third subparagraphs of Article 9(4) shall apply. If the competent authorities decide to ***take any action on the basis of the information transmitted to them, in accordance with national law***, they shall, upon request, inform the Office thereof.

1 Art. 4 refers to internal investigations conducted within the IBOAs. These investigations aim to detect and combat fraud, corruption, and other illegal activities detrimental to the EU budget as outlined in Article 1 (see above → 1.). Any IBOA has internal rules. They can be accessed[440] When OLAF deems it necessary, **national authorities** must be notified.[441] The purpose is to enable national action in cases where an OLAF investigation reveals potential criminal conduct that falls under national jurisdiction.

2 The ECJ emphasized the **principle of loyal cooperation and the necessity of institutional balance** i.e. when different legal actors operate in overlapping jurisdictions.[442]

[440] ECA 2019. online: https://www.eca.europa.eu/lists/ecadocuments/sr19_01/sr_fraud_risks_en.pdf. Accessed 30 June 2025. Pointing at p. 12 at its mandate and that it assesses how effectively OLAF manages the risk of fraud. Do not confuse the ECA task with the task of the Supervisory Committee, which is mainly established to control internal procedures and OLAF's respect to its legal foundation and other legal sources such as guidelines and internal work rules. The ECA pointed out that it does not focus on a control of internal investigations: "Nor did we examine internal investigations against officials or other EU employees, members of institutions or bodies, or heads of offices or agencies.".
[441] See Bovend'Eerdt 2024, 3.2 OLAF's Institutional Partner in the Netherlands, who explains this quite broad and correct. Still we included even other authorities to make the vision even broader and included the AFCOS report information as well as some authorities, which were only mentioned in the managing area.
[442] See Supervisory Committee 2024, p. 15 citing Art. 13 para 2 TEU and ECJ, Judgment of 6 October 2015, Case C-73/14, *Council of the European Union v European Commission*, ECLI:EU:C:2015:66; but see as well establishing the partly old-fashioned *Meroni*-doctrine ECJ, Judgment of the Court of 13 June 1958, Meroni & Co., *Industrie Metallurgiche, SpA v High Authority of the European Coal and Steel Community,* C-9-56, ECLI:EU:C:1958:7; last but not least see ECJ, Order of the Court of 6 December 1990, *J. J. Zwartveld and Others, Case C-2/88 Imm*., ECLI:EU:C:1990:440 on cooperation with national authorities; and monographically see Paul Weismann, Soft Law and its Importance in Ensuring Member States' Compliance with Union Law, Nomos, Baden-Baden 2024, p. 207 on the cooperation and balance.

Similarly, in e.g. C-524/15 the ECJ highlighted that fraud affecting EU financial interests can trigger both administrative and criminal consequences, requiring coordinated action between OLAF and Member State authorities.[443] See as well above within sections 2 et seq. of the **law from 2017**, which relates even to Art. 4 para 3 of the OLAF Regulation and applies in these situations.

a) References to national law, para 8

Any action can mean the securing of evidence or the freezing of assets as well as the interruption of the further disbursement of allocated funds. It can as well mean any suspicion from an official duty by provisions from disciplinary law etc. **3**

b) Competent authorities

- The Tax Authorities, which are competent in the area of the Tax Procedures Code **4**
- The Customs Authority
- Government authorities
- Any European Body acting on Swedish territory.

[443] See ECJ, Judgment of the Court (Grand Chamber) of 20 March 2018, *Criminal proceedings against Luca Menci*, ECLI:EU:C:2018:197 concerning the parallelity of administrative and criminal consequences in EU law.

6. Article 5 Opening of Investigations

[…] 5. If the Director-General decides not to open an investigation, he or she may without delay send any relevant information, as appropriate, to the ***competent authorities of the Member State concerned*** for appropriate ***action to be taken in accordance with Union and national law*** or to the institution, body, office or agency concerned for appropriate action to be taken in accordance with the rules applicable to that institution, body, office or agency. The Office shall agree with that institution, body, office or agency, if appropriate, on suitable measures to protect the confidentiality of the source of that information and shall, if necessary, ask to be informed of the action taken.

1 When the Director-General of OLAF decides **not to open an investigation**, the office can refer relevant information to the competent national authorities of the Member State concerned or to the relevant EU institution, body, office, or agency for further action. This **referral** is intended to ensure that any issues identified are addressed appropriately according to Union and Romanian laws or the internal rules of the relevant institution.

a) Competent Authorities

2
- Financial Supervisory Authority (*Finansinspektionen*)
- Social Insurance Office (*Försäkringskassan*)
- Tax Office (*Skatteverket*)
- Customs Office (*Tullverket*)
  - Controls Department (*kontrollavdelningen*)
  - Revenue Department (*uppbördsavdelningen*)
- Coast Guards (*Kustbevakningen*)
- Swedish Board of Agriculture (*Jordbruksverket*)

b) National Rules

3 **Administrative Act (2017:900)**/
Förvaltningslag (2017:900)

Section 23 Preparation of cases/Responsibility for investigation
An authority shall ensure that a case is investigated to the extent required by its nature.[444]

[444] **Beredning av ärenden**
Utredningsansvaret
23 § En myndighet ska se till att ett ärende blir utrett i den omfattning som dess beskaffenhet kräver.
En enskild part som inleder ett ärende ska medverka genom att så långt som möjligt ge in den utredning som parten vill åberopa till stöd för sin framställning.
Om det behövs ska myndigheten genom frågor och påpekanden verka för att parten förtydligar eller kompletterar framställningen.

An individual party initiating a case shall cooperate by submitting, as far as possible, the information that the party wishes to rely on in support of its claim.
Where necessary, the Authority shall encourage the party to clarify or supplement its submission by means of questions and observations.

Administrative Procedure Act (1971:291)/
Förvaltningsprocesslag (1971:291)
Section 8[445] **Case processing**
The court shall ensure that the case is as investigated as its nature requires.
Through questions and remarks, the court shall work to ensure that the parties remedy ambiguities and incompleteness in their petitions.
The court must ensure that nothing unnecessary is brought into the case.
Excessive investigation may be rejected. Lag (2013: 86).

Act (2000:1225) on penalties for smuggling/*Lag (2000:1225) om straff för smuggling*
Preliminary investigation and coercive measures
Preliminary investigation, etc.
Section 19[446]
The Customs and Excise Department may decide to initiate a preliminary investigation in accordance with Chapter 23. the Code of Judicial Procedure concerning offences under this Act or other offences referred to in section 1, second paragraph. In such a case, the powers and obligations of the investigator under the Code of Judicial Procedure apply to the Swedish Customs. The Customs and Excise Department shall appoint special officers of the Agency to carry out the duties of the Agency.
If the matter is not of a simple nature, the direction of the preliminary investigation shall be taken over by the prosecutor as soon as someone can reasonably be suspected of the

[445] Måls handläggning
8 § Rätten ska se till att målet blir så utrett som dess beskaffenhet kräver.
Genom frågor och påpekanden ska rätten verka för att parterna avhjälper otydligheter och ofullständigheter i sina framställningar.
Rätten ska se till att inget onödigt förs in i målet.
Överflödig utredning får avvisas. Lag (2013:86).
[446] **Förundersökning och tvångsmedel**
Förundersökning m.m.
19 § Tullverket får fatta beslut om att inleda förundersökning enligt 23 kap.rättegångsbalken angående brott enligt denna lag eller andra brott som avses i 1 § andra stycket. De befogenheter och skyldigheter som undersökningsledaren har enligt rättegångsbalken gäller i sådant fall Tullverket. Tullverket ska förordna särskilda befattningshavare i verket att fullgöra verkets uppgifter.
Om saken inte är av enkel beskaffenhet, ska ledningen av förundersökningen övertas av åklagaren så snart någon skäligen kan misstänkas för brottet. Åklagaren ska även annars överta ledningen när detta är påkallat av särskilda skäl.
När en förundersökning leds av en åklagare får åklagaren anlita biträde av Tullverket eller Kustbevakningen. Åklagaren får också uppdra åt tjänstemän vid Tullverket eller Kustbevakningen att vidta en viss åtgärd som hör till förundersökningen, om det är lämpligt med hänsyn till åtgärdens beskaffenhet. Om förundersökningen leds av Tullverket får verket anlita biträde av Kustbevakningen eller en kustbevakningstjänsteman. Lag (2019:42).

crime. The prosecutor shall also otherwise take over the management when this is necessary for special reasons.
When a preliminary investigation is led by a prosecutor, the prosecutor may hire the assistance of the Swedish Customs or coast guard. The Prosecutor may also instruct officials of the Customs and Excise Department or the Coast Guard to take a certain action related to the preliminary investigation, if this is appropriate in view of the nature of the action. If the preliminary investigation is led by the Swedish Customs, the Agency may engage the assistance of the Coast Guard or a Coast Guard officer. Law (2019:42).

Tax Procedure Act (2011:1244)/*Skatteförfarandelag (2011:1244)*
Title VIII. Investigation and Inspection
Chapter 40 The Swedish Tax Agency's obligation to investigate and communicate
The Swedish Tax Agency's duty to investigate
Section 1[447]
The Swedish Tax Agency shall ensure that the cases are adequately investigated.

The Swedish Tax Agency's communication obligation
Section 2[448]
A case may not be decided to the detriment of the person to whom the case applies without the person having been given an opportunity to comment on the case. If it is clearly unnecessary, the person concerned does not need to be given an opportunity to comment.

[447] AVDELNING VIII. UTREDNING OCH KONTROLL
40 kap. Skatteverkets skyldighet att utreda och kommunicera
Skatteverkets utredningsskyldighet
1 § Skatteverket ska se till att ärendena blir tillräckligt utredda.
[448] Skatteverkets kommunikationsskyldighet
2 § Ett ärende får inte avgöras till nackdel för den som ärendet gäller utan att denne har fått tillfälle att yttra sig i ärendet. Om det är uppenbart obehövligt, behöver den som ärendet gäller inte få tillfälle att yttra sig.

Section 3[449]
If a case has been provided with information by someone other than the person to whom the case applies, it may not be decided without the person to whom the case relates having been notified of the information and given an opportunity to comment on it.
The first paragraph does not apply if
1. the decision is not to the detriment of the person to whom the case applies,
2. the information is irrelevant or if for some other reason it is clearly unnecessary that the person to whom the case applies is informed and given an opportunity to comment,
3. there is risk that a notification would make it considerably more difficult to implement the decision in the case, or
4. the decision cannot be postponed.
The notification obligation applies with the restrictions that follow from Chapter 10 Section 3 of the Public Access to Information and Secrecy Act (2009:400).

Section 4[450]
If it can be assumed that the person to whom a case of final tax applies is not liable to declare, a decision on final tax may be made on the basis of control information on income in the income category capital without he or she having been informed and given an opportunity to comment on the control task.

Public Procurement Act (LOU)/*Lag om offentlig upphandling (LOU)*
Chapter 15 Own declaration and investigation of suppliers
Own declaration
Section 1
A supplier who submits a tender or a tender application may also submit its own declaration.[451]

[449] **3 §** Om ett ärende har tillförts uppgifter av någon annan än den som ärendet gäller, får det inte avgöras utan att den som ärendet gäller har underrättats om uppgifterna och fått tillfälle att yttra sig över dem.
Första stycket gäller inte om
1. avgörandet inte är till nackdel för den som ärendet gäller,
2. uppgiften saknar betydelse eller om det av någon annan anledning är uppenbart obehövligt att den som ärendet gäller underrättas och får tillfälle att yttra sig,
3. det finns risk att en underrättelse skulle göra det avsevärt svårare att genomföra beslutet i ärendet, eller
4. avgörandet inte kan skjutas upp.
Underrättelseskyldigheten gäller med de begränsningar som följer av 10 kap. 3 § offentlighets- och sekretesslagen (2009:400).

[450] **4 §** Om det kan antas att den som ett ärende om slutlig skatt gäller inte är deklarationsskyldig, får beslut om slutlig skatt fattas på grundval av kontrolluppgift om intäkter i inkomstslaget kapital utan att han eller hon har underrättats om och fått tillfälle att yttra sig över kontrolluppgiften.

[451] **15 kap. Egen försäkran och utredning om leverantörer**
Egen försäkran
1 § En leverantör som lämnar ett anbud eller en anbudsansökan får också lämna en egen försäkran om
1. att det inte finns grund enligt 13 kap. 1-3 §s för att utesluta leverantören från att delta i upphandlingen,
2. att leverantören uppfyller de krav som den upphandlande myndigheten har ställt enligt 14 kap. 1–5 §s, och
3. att leverantören uppfyller de kriterier som myndigheten i förekommande fall ställt upp enligt 4 kap. 6 §.

that 1. that there is no basis in accordance with Chapter 13 Sections 1–3 to exclude the supplier from participating in the procurement,
2. that the supplier fulfils the requirements set by the contracting authority in accordance with Chapter 14 Sections 1–5, and
3. that the supplier fulfils the criteria set by the authority in appropriate cases in accordance with Chapter 4 Section 6.
If the supplier invokes the capacity of other companies in accordance with Chapter 14 Section 6, the supplier's declaration shall be accompanied by a special declaration for each of the companies whose capacity is invoked.
A declaration under the first or second subparagraph shall be made in the standard form established by the European Commission in accordance with Article 59 (2) of Directive 2014/24/EU.

Section 2[452]
The contracting authority shall preliminarily accept a declaration in accordance with section 1 as proof that the supplier shall not be excluded and meets the requirements and criteria set by the authority.
A declaration made in a previous procurement must be accepted if the supplier confirms that it is still correct.

Supplementary documents
Section 3[453]
A supplier who has submitted a declaration in accordance with section 1 shall, at the request of a contracting authority, supplement his declaration with one or more of the certificates covered by it. Such a request may be made at any time during a procurement procedure if the authority deems it necessary for the procurement to be carried out correctly.

Om leverantören åberopar andra företags kapacitet enligt 14 kap. 6 §, ska leverantörens försäkran åtföljas av en särskild försäkran för vart och ett av de företag vars kapacitet åberopas.
En försäkran enligt första eller andra stycket ska lämnas i det standardformulär som Europeiska kommissionen har fastställt enligt artikel 59.2 i direktiv 2014/24/EU.
[452] **2 §** Den upphandlande myndigheten ska preliminärt godta en försäkran enligt 1 § som bevis för att leverantören inte ska uteslutas och uppfyller de krav och kriterier som myndigheten har ställt.
En försäkran som har lämnats i en tidigare upphandling ska godtas om leverantören bekräftar att den fortfarande är korrekt.
[453] Kompletterande dokument
3 § En leverantör som har lämnat in en försäkran enligt 1 § ska på begäran av en upphandlande myndighet komplettera sin försäkran med ett eller flera av de intyg som omfattas av den. En sådan begäran får göras när som helst under ett upphandlingsförfarande om myndigheten anser det vara nödvändigt för att upphandlingen ska kunna genomföras korrekt.

Section 4[454]
At the request of the contracting authority, the supplier to whom the authority intends to award the contract shall submit such supplementary documents in accordance with Sections 6–13, and, where applicable, in accordance with Sections 14 and 15, which show current circumstances. Such a request must be made before the authority decides to award a contract.
This does not apply to contracts based on framework agreements that have been entered into in accordance with Chapter 7. Sections 4 and 6.
The supplier shall, at the request of the authority, supplement or clarify the documents requested by the authority.

Section 5[455]
A supplier is not obliged to submit supplementary documents or other written evidence, if the contracting authority
1. already has access to the material, or
2. has the opportunity to access certificates or relevant information directly free of charge by electronic means.

Investigation that may be requested from the supplier
Section 6[456]
The investigation that a contracting authority may request that suppliers shall submit to the authority is specified in Sections 7–15 and shall show
1. that there is no basis in accordance with Chapter 13 to exclude the supplier from participating in the procurement,
2. that the supplier meets the applicable qualification requirements according to Chapter 14 Sections 1–5, and

[454] **4 §** På begäran av den upphandlande myndigheten ska den leverantör som myndigheten avser att tilldela kontraktet lämna sådana kompletterande dokument enligt 6-13 §s, och i förekommande fall enligt 14 och 15 §s, som visar aktuella förhållanden. En sådan begäran ska göras innan myndigheten beslutar om att tilldela ett kontrakt. Detta gäller inte för kontrakt som grundar sig på ramavtal som har ingåtts enligt 7 kap. 4 och 6 §s.
Leverantören ska på begäran av myndigheten komplettera eller förtydliga de dokument som myndigheten har begärt.
[455] **5 §** En leverantör är inte skyldig att lämna in kompletterande dokument eller andra skriftliga bevis, om den upphandlande myndigheten
1. redan har tillgång till materialet, eller
2. själv har möjlighet att kostnadsfritt få tillgång till intyg eller relevant information direkt med hjälp av elektroniska medel.
[456] Utredning som får begäras in från leverantör
6 § Den utredning en upphandlande myndighet får begära att leverantörer ska lämna in till myndigheten anges i 7–15 §s och ska visa
1. att det inte finns grund enligt 13 kap. för att utesluta leverantören från att delta i upphandlingen,
2. att leverantören uppfyller tillämpliga kvalificeringskrav enligt 14 kap. 1–5 §s, och
3. att företag vars kapacitet leverantören åberopar enligt 14 kap. 6 § inte omfattas av någon uteslutningsgrund och uppfyller tillämpliga kvalificeringskrav.

3. that companies whose capacity the supplier invokes according to Chapter 14 Section 6 is not covered by any ground for exclusion and meets applicable qualification requirements.

Investigation into reasons for excluding a supplier from participating in a procurement

Section 7[457]

A contracting authority may request that a supplier submit an extract from a criminal record or an equivalent document that has been issued by a competent authority in the state of origin or the state where the supplier is established and which shows that there are no circumstances according to Chapter 13 Section 1 constitutes grounds for excluding the supplier from participating in the procurement.

Does not the requested investigation show that the supplier according to a judgment that has become final has been convicted of any such crime as referred to in Chapter 13 Section 1, the supplier shall not, on the basis of that provision, be excluded from participating in the procurement, unless otherwise stated in the investigation in other respects.

Section 8[458]

A contracting authority may request that a supplier submit a certificate which has been issued by a competent authority in the state concerned and which shows that there are no circumstances which according to Chapter 13, Section 2 or Section 3, Paragraph 2 constitute grounds for excluding the supplier from participating in the procurement.

If the requested investigation does not show that the supplier has breached its obligations regarding payment of taxes or social insurance contributions in accordance with Chapter 13 Section 2 or is in one of the situations referred to in Chapter 13 Section 3 paragraph 2, the supplier shall not, on the basis of those provisions, be excluded from participating in the procurement, unless otherwise stated in the investigation in other respects.

[457] Utredning om skäl för uteslutning av en leverantör från att delta i en upphandling

7 § En upphandlande myndighet får begära att en leverantör lämnar in ett utdrag ur ett brottsregister eller en likvärdig handling som har utfärdats av en behörig myndighet i ursprungsstaten eller den stat där leverantören är etablerad och som visar att det inte finns omständigheter som enligt 13 kap. 1 § utgör skäl för att utesluta leverantören från att delta i upphandlingen.

Visar inte den begärda utredningen att leverantören enligt en dom som fått laga kraft har dömts för något sådant brott som avses i 13 kap. 1 §, ska leverantören inte med stöd av den bestämmelsen uteslutas från att delta i upphandlingen, om inte något annat framgår av utredningen i övrigt.

[458] **8 §** En upphandlande myndighet får begära att en leverantör lämnar in ett intyg som har utfärdats av en behörig myndighet i den berörda staten och som visar att det inte finns omständigheter som enligt 13 kap. 2 § eller 3 § 2 utgör skäl för att utesluta leverantören från att delta i upphandlingen.

Visar inte den begärda utredningen att leverantören har brustit i sina skyldigheter avseende betalning av skatter eller socialförsäkringsavgifter enligt 13 kap. 2 § eller befinner sig i någon av de situationer som avses i 13 kap. 3 § 2, ska leverantören inte med stöd av de bestämmelserna uteslutas från att delta i upphandlingen, om inte något annat framgår av utredningen i övrigt.

Section 9[459]
If such documents referred to in Section 7 or 8 are not issued in the state in question or if they do not cover all situations according to Chapter 13 Sections 1 and 2 and Section 3 paragraph 2, the documents may be replaced by a statement that the supplier has made on honour and conscience before a competent body or by a similar declaration.

Investigation of a supplier's financial and financial position
Section 10[460]
A contracting authority may request an investigation of a supplier's economic and financial position, primarily in the form of
1. appropriate certificates from banks or, where applicable, proof of appropriate liability insurance,
2. annual reports or extracts from them, on publication of annual reports required by law in the country where the supplier is established, or
3. information on the company's total turnover and, where applicable, the turnover for the business area to which the procurement applies, for a maximum of the last three years of operation, if information on this turnover is available.
If a supplier has acceptable reasons for not submitting such an investigation as the contracting authority requests, the supplier may instead invoke another investigation that the authority deems appropriate.

Investigation of a supplier's technical and professional capacity
Section 11
A contracting authority may request an investigation of a supplier's technical capacity in the form of[461]

[459] **9 §** Om sådana dokument som avses i 7 eller 8 § inte utfärdas i staten i fråga eller om de inte omfattar alla situationer enligt 13 kap. 1 och 2 §s samt 3 § 2, får dokumenten ersättas av en utsaga som leverantören har lämnat på heder och samvete inför ett behörigt organ eller av en liknande försäkran.
[460] Utredning om en leverantörs ekonomiska och finansiella ställning
10 § En upphandlande myndighet får begära utredning av en leverantörs ekonomiska och finansiella ställning i första hand i form av
1. lämpliga intyg från banker eller, i förekommande fall, bevis om lämplig ansvarsförsäkring,
2. årsredovisningar eller utdrag ur dem, om offentliggörande av årsredovisningar krävs enligt lagstiftningen i det land där leverantören är etablerad, eller
3. uppgift om företagets samlade omsättning och, i förekommande fall, omsättningen för det verksamhetsområde som upphandlingen gäller, för högst de tre senaste verksamhetsåren, om uppgifter om denna omsättning är tillgängliga.
Om en leverantör har godtagbara skäl för att inte lämna in sådan utredning som den upphandlande myndigheten begär, får leverantören i stället åberopa annan utredning som myndigheten finner lämplig.
[461] Utredning om en leverantörs tekniska och yrkesmässiga kapacitet
11 § En upphandlande myndighet får begära utredning av en leverantörs tekniska kapacitet i form av
1. en förteckning över genomförda byggentreprenader under högst de fem senaste åren, åtföljd av intyg om att de viktigaste byggentreprenaderna har utförts på ett tillfredsställande sätt,
2. en förteckning över de viktigaste varuleveranser eller tjänster som har utförts under högst de tre senaste åren, med angivande av värde, tidpunkt och privata eller offentliga mottagare,

1. a list of completed construction contracts for a maximum of the last five years, accompanied by a certificate that the most important construction contracts have been carried out satisfactorily,
2. a list of the most important deliveries of goods or services that have been performed for a maximum of the last three years, indicating value, time and private or public recipients;
3. information on technical staff and technical bodies, whether or not they belong to the supplier, in particular on those responsible for quality control and, in the case of public works contracts, information on technical staff and technical bodies available to the contractor to carry out the contract;
4. a description of the supplier's technical equipment and of the methods used by the supplier to ensure quality as well as of the supplier's research and research resources,
5. information on the supply chain management systems and tracking systems that the supplier may apply in the performance of the contract;
6. information concerning a check to be carried out by the contracting authority itself or on its behalf by a competent body in the country of establishment of the supplier of the goods or services, subject to the agreement of that body, and which is necessary because of the complexity of the goods or services in question or, exceptionally, because they are intended for a specific purpose,

3. uppgifter om teknisk personal och tekniska organ, vare sig de tillhör leverantören eller inte, i synnerhet om dem som ansvarar för kvalitetskontrollen och, i fråga om offentliga byggentreprenader, uppgifter om teknisk personal och tekniska organ som entreprenören kan förfoga över för att genomföra entreprenaden,
4. en beskrivning av leverantörens tekniska utrustning och av de metoder som leverantören använder för att säkra kvaliteten samt av leverantörens undersöknings- och forskningsresurser,
5. information om de system för hantering av leveranskedjan och spårningssystem som leverantören kan komma att tillämpa vid fullgörandet av kontraktet,
6. uppgifter om en sådan kontroll som ska utföras av den upphandlande myndigheten själv eller på myndighetens vägnar av ett behörigt organ i varuleverantörens eller tjänsteleverantörens etableringsland, förutsatt att detta organ ger sitt samtycke, och som krävs för att de aktuella varorna eller tjänsterna är komplexa eller i undantagsfall är avsedda för ett särskilt ändamål,
7. information om tjänsteleverantörens eller byggentreprenörens utbildnings- och yrkeskvalifikationer eller motsvarande uppgifter om ledande personer i företaget, förutsatt att kvalifikationerna inte ska utvärderas som tilldelningskriterium,
8. information om de miljöskyddsåtgärder leverantören kan komma att vidta vid fullgörandet av kontraktet,
9. uppgifter om antal anställda i medeltal per år hos tjänsteleverantören eller byggentreprenören och antal anställda med ledningsfunktion under de tre senaste åren,
10. uppgifter om vilka verktyg, maskiner och teknisk utrustning som tjänsteleverantören eller entreprenören förfogar över för att fullgöra kontraktet,
11. information om hur stor del av kontraktet som leverantören eventuellt kommer att lägga ut på underleverantörer, eller
12. dokument, när det gäller de varor som ska levereras, som utgörs av dels prover, beskrivningar eller fotografier, vars äkthet ska styrkas om den upphandlande myndigheten begär det, dels intyg som har upprättats av officiella institutioner för kvalitetskontroll eller enheter för sådan kontroll av erkänd kompetens och av vilka det ska framgå att varor som är klart identifierade genom referenser stämmer överens med vissa tekniska specifikationer eller standarder.

7. information concerning the educational and professional qualifications of the service provider or contractor, or equivalent data concerning the leading persons in the undertaking, provided that those qualifications are not to be evaluated as an award criterion,
8. information on the environmental protection measures which the supplier may take in the performance of the contract,
9. information on the average number of employees per year with the service provider or construction contractor and number of employees with management function during the last three years;
10. information on the tools, machines and technical equipment that the service provider or contractor has at their disposal to fulfil the contract;
on how much of the contract the supplier may outsource to subcontractors, or
12. documents relating to the goods to be supplied, consisting of samples, descriptions or photographs, the authenticity of which must be proved if the contracting authority so requests, and certificates drawn up by official quality control institutions or units for such control of: recognized competence and from which it must be clear that goods that are clearly identified by references comply with certain technical specifications or standards.

Section 12[462]
If it is necessary to ensure effective competition, a contracting authority may request that a supplier submit an investigation to the authority on relevant supplies of goods, services or construction contracts that have been performed earlier than specified in Section 11 para 1 and 2.

Section 13[463]
An inspection in accordance with Section 11 para 6 shall refer to the product supplier's production capacity or the service supplier's technical capacity and, if necessary, the supplier's investigation and research resources as well as resources for quality control.

[462] **12 §** Om det är nödvändigt för att en effektiv konkurrens ska säkerställas, får en upphandlande myndighet begära att en leverantör ska lämna en utredning till myndigheten om relevanta varuleveranser, tjänster eller byggentreprenader som har utförts tidigare än vad som anges i 11 § 1 och 2.
[463] **13 §** En kontroll enligt 11 § 6 ska avse varuleverantörens tillverkningskapacitet eller tjänsteleverantörens tekniska kapacitet och om nödvändigt leverantörens undersöknings- och forskningsresurser samt resurser för kvalitetskontroll.

4 Next we take a look at the Customs Act:

Customs Act (2016:253)/
Tullag (2016:253)
Chapter 4 Customs control
General principle of customs controls
Section 1
A decision on a control measure in accordance with customs legislation may only be made if the reasons for the measure outweigh the infringement or otherwise that the measure entails for the individual. [464]

Use of force or coercion
Section 2[465]
A customs official may, to the extent that other means are insufficient and it is justifiable in view of the circumstances, use force or coercion to carry out a measure referred to in Chapter 3 Section 7 paragraph 1 and Sections 9–11, 14, 16 and 19 in this chapter.
Violence against a person may only be used if the customs officer is met with resistance and it is justifiable with regard to the purpose of the measure.

Participation of the Police Authority and the Coast Guard
Section 3[466]
The police authority and the Coast Guard shall participate in the Swedish Customs' control activities in accordance with this Act.
For the Police Authority and the Coast Guard as well as the police officer and the Coast Guard officer who participates in the Swedish Customs' control activities, what is said about the Swedish Customs and the customs officer in Chapter 3 Sections 5, 6, 17 and 18 and Sections 2, 9–17 and 51–53 of this chapter.

[464] **4 kap. Tullkontroll**
Allmän princip för tullkontroller
1 § Ett beslut om en kontrollåtgärd enligt tullagstiftningen får fattas endast om skälen för åtgärden uppväger det intrång eller men i övrigt som åtgärden innebär för den enskilde.
[465] Användning av våld eller tvång
2 § En tulltjänsteman får, i den utsträckning andra medel är otillräckliga och det med hänsyn till omständigheterna är försvarligt, använda våld eller tvång för att genomföra en åtgärd som avses i 3 kap. 7 § första stycket samt 9-11, 14, 16 och 19 §s i detta kapitel.
Våld mot person får endast användas om tulltjänstemannen möts av motstånd och det med hänsyn till ändamålet med åtgärden är försvarligt.
[466] Medverkan av Polismyndigheten och Kustbevakningen
3 § Polismyndigheten och Kustbevakningen ska medverka i Tullverkets kontrollverksamhet enligt denna lag.
För Polismyndigheten och Kustbevakningen samt polisman och kustbevakningstjänsteman som medverkar i Tullverkets kontrollverksamhet gäller det som sägs om Tullverket och tulltjänsteman i 3 kap. 5, 6, 17 och 18 §s samt 2, 9–17 och 51–53 §s i detta kapitel.

Provision of premises
Section 4[467]
A transport company that transports passengers from third countries shall, at the expense of the Swedish Customs, make the premises and devices available to the agency that, in the agency's assessment, are needed for
- inspection of vehicles and luggage, handbags and the like that travellers bring with them,
- processing travellers' customs declarations,
interrogation and body search as well as body inspection of travellers, and
- customs staff during breaks in duty.

Hiring an expert
Section 5[468]
The Swedish Customs may engage a special expert
1. if there is reason to believe that information provided in accordance with customs legislation is incorrect, in order to obtain the information needed, and
2. when a request to provide information or a document about an item has not been tracked.

Customs control of goods and means of transport
Section 6
The Swedish Customs may request that a transport company that transports goods[469], passengers or vehicles to or from Sweden shall provide the relevant information on in-coming and outgoing transports to which the company has access.

[467] **Tillhandahållande av lokaler**
4 § Ett transportföretag som befordrar passagerare från tredjeland ska utan kostnad för Tullverket ställa de lokaler och anordningar till verkets förfogande som enligt verkets bedömning behövs för
- kontroll av fordon samt bagage, handväskor och liknande som resande för med sig,
- handläggning av resandes tulldeklarationer,
- förhör och kroppsvisitation samt kroppsbesiktning av resande, och
- tullpersonalen under uppehåll i tjänstgöringen.

[468] Anlitande av sakkunnig
5 § Tullverket får anlita en särskild sakkunnig
1. om det finns anledning att anta att en uppgift som har lämnats enligt tulllagstiftningen är felaktig, för att få fram den information som behövs, och
2. när en uppmaning att lämna en uppgift eller en handling om en vara inte har följts.

[469] Tullkontroll av varor och transportmedel
6 § Tullverket får begära att ett transportföretag som befordrar varor, passagerare eller fordon till eller från Sverige ska lämna de aktuella uppgifter om ankommande och avgående transporter som företaget har tillgång till.
I fråga om passagerare får Tullverket endast begära uppgifter om
- namn,
- resrutt,
- bagage,
- medpassagerare,
- betalningssätt, och
- bokningssätt.

In the case of passengers, the Swedish Customs may only request information on
- name,
- itinerary,
- luggage,
- fellow passengers,
- method of payment, and
- method of booking.

The Swedish Customs may request information in accordance with the first and second paragraphs only if the information can be assumed to be relevant to the Swedish Customs' law enforcement activities.

Section 6a[470]
What is stated in section 6 shall not apply to air carriers that are covered by the obligation to transfer data in accordance with the Act (2018:1180) on air passenger data in law enforcement. Lag (2018:1189).

Section 7[471]
The transport company shall promptly provide the Swedish Customs with the information requested by the Agency in accordance with section 6.

Section 8[472]
A transport company may provide information in accordance with section 6 in such a way that it is made readable by the Swedish Customs through terminal access.
The Swedish Customs may access information through terminal access only to the extent and for the time needed to check current transports. Lag (2018:1713).

Section 9
The Swedish Customs may tow a ship within the Swedish customs area, if this is necessary to enable the Swedish Customs to monitor and control the import or export of goods.[473]

Tullverket får begära uppgifter enligt första och andra styckena endast om uppgifterna kan antas ha betydelse för Tullverkets brottsbekämpande verksamhet.

[470] **6a §** Vad som anges i 6 § ska inte gälla lufttrafikföretag som omfattas av skyldigheten att överföra uppgifter enligt lagen (2018:1180) om flygpassageraruppgifter i brottsbekämpningen. Lag (2018:1189).

[471] **7 §** Transportföretaget ska skyndsamt lämna Tullverket de uppgifter som verket begär enligt 6 §.

[472] **8 §** Ett transportföretag får lämna uppgifter enligt 6 § på så sätt att de görs läsbara för Tullverket genom terminalåtkomst.
Tullverket får ta del av uppgifter genom terminalåtkomst endast i den omfattning och under den tid som behövs för att kontrollera aktuella transporter. Lag (2018:1713).

[473] **9 §** Tullverket får preja ett fartyg inom det svenska tullområdet, om det behövs för att möjliggöra Tullverkets övervakning och kontroll av import eller export av varor.
Tullverket får föra ett fartyg till en plats inom det svenska tullområdet, om

The Swedish Customs may take a ship to a place within the Swedish customs area, if
1. the ship while traveling between places within the customs area of the European Union leaves the customs area and thereby deviates from its correct course without it happening due to distress or for any other compelling reason, and
2. the master does not comply with a request to return to the customs territory of the European Union.

Section 10[474]
A measure pursuant to section 9 may be taken without prior request, if
1. the request cannot be given, or
2. there is special reason to assume that a request would prevent or considerably complicate the measure.
A measure pursuant to section 9, second paragraph, may not be taken against a foreign vessel or within the water area of another state, unless it is permitted in accordance with an agreement with the other state.

Section 11[475]
A driver of or a master of a means of transport that is subject to customs supervision shall stop at the request of a customs official.
A person other than the driver or master must also stay at the request of the customs officer. Such a request may only be made if there is reason to believe that the person is liable to report in accordance with customs legislation.

Article 5 of the OLAF Regulation, which governs the opening and conduct of investigations and the use of investigative powers in compliance with national law, is effectively implemented in Swedish law e.g. through Chapter 4 of the Customs Act (2016:253). In particular, Article 5 para 1 and 2 OLAF Regulation is reflected in Section 1, which requires that any customs control measure be proportionate, and in Sections 2 and 6–11, which provide clear legal bases for controls, coercive measures, access to transport data and stopping of persons. These provisions ensure that OLAF-supported PIF investigations can rely on Swedish Customs' powers that are lawful, proportionate **5**

1. fartyget under färd mellan orter inom Europeiska unionens tullområde lämnar tullområdet och därigenom avviker från sin rätta kurs utan att det sker på grund av nöd eller av något annat tvingande skäl, och
2. befälhavaren inte följer en uppmaning att återvända till Europeiska unionens tullområde.

[474] **10 §** En åtgärd enligt 9 § får vidtas utan föregående uppmaning, om
1. uppmaningen inte kan ges, eller
2. det finns särskild anledning att anta att en uppmaning skulle förhindra eller avsevärt försvåra åtgärden.
En åtgärd enligt 9 § andra stycket får inte vidtas mot ett utländskt fartyg eller inom en annan stats vattenområde, om det inte medges enligt avtal med den andra staten.

[475] **11 §** En förare av eller en befälhavare på ett transportmedel som omfattas av tullövervakning ska stanna på uppmaning av en tulltjänsteman.
Även en annan person än föraren eller befälhavaren ska stanna på tulltjänstemannens uppmaning. En sådan uppmaning får endast ges om det finns anledning att anta att personen är anmälningsskyldig enligt tullagstiftningen.

and rights-compliant, thereby safeguarding evidential validity and strengthening cross-border EU fraud enforcement.

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Section 12[476]
A request pursuant to section 11, first paragraph, to the driver of a vehicle may be given
1. when the vehicle is located
- in the area at Sweden's land border with a third country,
- in the area off the coast of Sweden,
- near or within a temporary storage facility, a customs warehouse or a free zone, or
- in the vicinity of or within a port, airport or other area having transport links with a third country,
2. if the customs official has reason to believe that goods under customs supervision are transported by vehicle, or
3. when the vehicle is fitted with temporary or registration plates from a third country.
A request pursuant to section 11, second paragraph, may be addressed to a person who is found at a location pursuant to the first paragraph 1.

Section 13[477]
The Swedish Customs may temporarily take care of registration certificates and similar documents relating to a means of transport that is subject to customs supervision, if this is necessary to prevent the means of transport from departing.

Section 14[478]
If it is necessary for the control activities and it does not cause any significant obstacle to traffic, the Swedish Customs may temporarily close areas where means of transport are unloaded or loaded or passengers board or leave means of transport.

[476] **12 §** En uppmaning enligt 11 § första stycket till föraren av ett fordon får ges
1. när fordonet finns
- i trakterna vid Sveriges landgräns mot ett tredjeland,
- i trakterna vid Sveriges kuster,
- i närheten av eller inom en anläggning för tillfällig lagring, ett tullager eller en frizon, eller
- i närheten av eller inom en hamn, en flygplats eller ett annat område som har trafikförbindelser med ett tredjeland,
2. om tulltjänstemannen har anledning att anta att varor som står under tullövervakning transporteras med fordonet, eller
3. när fordonet är försett med interimsskyltar eller registreringsskyltar från ett tredjeland.
En uppmaning enligt 11 § andra stycket får riktas till en person som anträffas på en plats enligt första stycket 1.

[477] **13 §** Tullverket får tillfälligt ta hand om registreringsbevis och liknande handlingar som avser ett transportmedel som omfattas av tullövervakning, om det behövs för att hindra transportmedlets avgång.

[478] **14 §** Om det behövs för kontrollverksamheten och det inte medför något väsentligt hinder för trafiken, får Tullverket tillfälligt stänga av områden där transportmedel lossas eller lastas eller passagerare går ombord på eller lämnar transportmedel.
Första stycket gäller även för annat område i omedelbar närhet av ett transportmedel, liksom infarter till och utfarter från frizoner, hamnar, flygplatser och anläggningar för tillfällig lagring.

The first paragraph also applies to other areas in the immediate vicinity of a means of transport, as well as entrances to and exits from free zones, ports, airports and temporary storage facilities.

Section 15[479]
If it is absolutely necessary for customs checks to be carried out, the Swedish Customs may
1. stop a train at a railway station at the border with a third country and at the train's terminus within Sweden, and
2. request that an aircraft be prevented from departing or ordered to land.

Section 16[480]
For checking that the declaration and information obligation according to customs legislation has been fulfilled or that goods do not infringe on the rights protected by Regulation (EU) No 608/2013, in the original wording, the Swedish Customs may examine
1. means of transport, containers, boxes and other areas where goods can be stored,
2. customs warehouses, free zones and temporary storage facilities, as well as areas in ports and at airports and railway stations where goods under customs supervision are stored and also premises in such areas, and
3. luggage and handbags and the like carried by a traveller on entry into or exit from the customs territory of the European Union or by a person who has been requested to stay in accordance with section 11, second paragraph.
The law (2000:1225) on penalties for smuggling contains provisions on body searches.

Section 17
In an inspection pursuant to section 16, the person whose information is to be inspected or on whose behalf the goods are brought into or out of the customs territory of the European Union shall give the customs official who carries out the inspection an opportunity to examine the goods, means of transport or luggage. [481]

[479] **15 §** Om det är absolut nödvändigt för att tullkontroller ska kunna göras, får Tullverket
1. uppehålla ett tåg på en järnvägsstation vid gräns mot ett tredjeland och på tågets slutstation inom Sverige, och
2. begära att ett luftfartyg hindras att avgå eller uppmanas att landa.

[480] **16 §** För kontroll av att deklarations- och uppgiftsskyldighet enligt tullagstiftningen har fullgjorts eller att varor inte gör intrång i de rättigheter som skyddas av förordning (EU) nr 608/2013, i den ursprungliga lydelsen, får Tullverket undersöka
1. transportmedel, containrar, lådor och andra utrymmen där varor kan förvaras,
2. tullager, frizoner och anläggningar för tillfällig lagring, samt områden i hamnar och på flygplatser och bangårdar där varor som står under tullövervakning förvaras och även lokaler inom sådana områden, och
3. bagage samt handväskor och liknande som medförs av en resande vid inresa till eller utresa från Europeiska unionens tullområde eller av en person som uppmanats att stanna enligt 11 § andra stycket.
I lagen (2000:1225) om straff för smuggling finns bestämmelser om kroppsvisitation.

[481] **17 §** Vid en kontroll enligt 16 § ska den person vars uppgifter ska kontrolleras eller för vars räkning varan förs in i eller ut ur Europeiska unionens tullområde ge den tulltjänsteman som verkställer kontrollen tillfälle att undersöka varan, transportmedlet eller bagaget.

The person must also provide access to the premises and other spaces used for the transport, storage or activities to which the control relates.
At the request of the customs official, the driver of or the master of the means of transport to be examined shall be present at the examination if possible.

Section 18[482]
A carrier shall notify the Swedish Customs if there is a suspicion in the company's operations that a consignment contains any of the following that can be seized in accordance with the Act (2000:1225) on penalties for smuggling:
1. drugs,
2. firearms or ammunition referred to in the Weapons Act (1996:67),
3. such weapons or other objects specified in ch. Section 3 of the Firearms Act, or
4. such explosive goods as referred to in Section 4 of the Act (2010:1011) on flammable and explosive goods.
The consignment must be handed over to the Swedish Customs if the agency requests it. The carrier must also be involved in control activities in other ways in accordance with customs legislation in respect of goods carried by post, by rail or by aircraft.
Sections 2 and 9–17 do not apply to the carrier.
Lag (2021:45).

Personen ska också lämna tillträde till de lokaler och andra utrymmen som används för den transport, förvaring eller verksamhet som kontrollen avser.
På tulltjänstemannens begäran ska föraren av eller befälhavaren på det transportmedel som ska undersökas närvara vid undersökningen om det är möjligt.

[482] **18 §** Ett befordringsföretag ska anmäla till Tullverket, om det i företagets verksamhet uppkommer en misstanke om att en försändelse innehåller något av följande som kan tas i beslag enligt lagen (2000:1225) om straff för smuggling:
1. narkotika,
2. skjutvapen eller ammunition som avses i vapenlagen (1996:67),
3. sådana vapen eller andra föremål som anges i 1 kap. 3 § vapenlagen, eller
4. sådana explosiva varor som avses i 4 § lagen (2010:1011) om brandfarliga och explosiva varor.

Försändelsen ska överlämnas till Tullverket om verket begär det. Befordringsföretaget ska också på annat sätt medverka i kontrollverksamhet enligt tullagstiftningen i fråga om varor som befordras med post, på järnväg eller med luftfartyg.
För befordringsföretaget gäller inte 2 och 9-17 §s.
Lag (2021:45).

Customs control of postal items and items mediated by courier companies
Section 19[483]
For a check as referred to in section 16, a customs official may examine postal items, such as parcels, letters and similar items, and corresponding items mediated by courier companies.
A consignment may be opened if it is at the Swedish Customs, at an exchange post office or at a courier company's first sorting terminal and there is reason to assume that the consignment contains an item for which the declaration or information obligation has not been fulfilled.

Section 20[484]
Decisions to open a postal item or an item conveyed by a courier company that can be assumed to contain confidential messages may only be made by an official appointed for the task by the head of the Swedish Customs. If the shipment contains a confidential message, this must be closed immediately and forwarded to the recipient.

Section 21[485]
A postal item or an item conveyed by a courier company that has been opened on the basis of section 19 may not be examined further than is necessary to achieve the purpose of the examination.
Minutes must be kept of the survey. The purpose of the survey and what has emerged from it must be stated in the minutes.
If a consignment has been opened, the addressee and, if possible, the consignor shall be notified as soon as possible, unless there are special reasons to the contrary.

[483] Tullkontroll av postförsändelser och försändelser förmedlade av kurirföretag
19 § För en sådan kontroll som avses i 16 § får en tulltjänsteman undersöka postförsändelser, såsom paket, brev och liknande försändelser, och motsvarande försändelser förmedlade av kurirföretag.
En försändelse får öppnas om den finns hos Tullverket, på ett utväxlingspostkontor eller vid ett kurirföretags första sorteringsterminal och det finns anledning att anta att försändelsen innehåller en vara för vilken deklarations- eller uppgiftsskyldigheten inte har fullgjorts.
[484] **20 §** Beslut om att öppna en postförsändelse eller en försändelse förmedlad av ett kurirföretag som kan antas innehålla förtroliga meddelanden får fattas endast av en tjänsteman som förordnats för uppgiften av chefen för Tullverket. Om försändelsen innehåller ett förtroligt meddelande, ska detta omedelbart tillslutas och skickas vidare till mottagaren.
[485] **21 §** En postförsändelse eller en försändelse förmedlad av ett kurirföretag som har öppnats med stöd av 19 § får inte undersökas närmare än vad som är nödvändigt för att uppnå syftet med undersökningen.
Protokoll ska föras över undersökningen. Av protokollet ska syftet med undersökningen framgå och vad som har kommit fram vid denna.
Har en försändelse öppnats ska adressaten och, om det är möjligt, avsändaren underrättas så snart som möjligt, om inte särskilda skäl talar emot det.

Section 22[486]
A chief official appointed for the task by the head of the Swedish Customs may, in the case of a consignment coming from a third country, decide that a postal item or an equivalent consignment conveyed by a courier company shall be retained by the carrier, if
1. there is reason to assume that the consignment contains any of the following that can be seized in accordance with the Act (2000:1225) on penalties for smuggling:
a) drugs,
b) firearms or ammunition referred to in the Weapons Act (1996:67),
c) such weapons or other objects as stated in ch. Section 3 of the Firearms Act, or
d) such explosive goods as are referred to in the Act (2010:1011) on flammable and explosive goods, and
2. it is necessary for seizures to take place.
A decision on detention shall apply for a certain period, not exceeding one month, from the date on which the decision was notified to the carrier. The decision may be enforced immediately but must be reviewed as soon as possible by the head of the Swedish Customs or the head of the Swedish Customs' legal department. Lag (2021:45).
The following provisions are not applicable to on-the-spot checks of OLAF (Chapter 4 s. 44a Customs Act):

Section 23[487]
The postal transport company is obliged to hand over a consignment that has been detained in accordance with section 22 para. 1 at the request of the Swedish Customs.

[486] **22 §** En chefstjänsteman som förordnats för uppgiften av chefen för Tullverket får, när det gäller en försändelse som kommer från tredjeland, besluta att en postförsändelse eller en motsvarande försändelse som förmedlas av ett kurirföretag ska hållas kvar av befordringsföretaget, om
1. det finns anledning att anta att försändelsen innehåller något av följande som kan tas i beslag enligt lagen (2000:1225) om straff för smuggling:
a) narkotika,
b) skjutvapen eller ammunition som avses i vapenlagen (1996:67),
c) sådana vapen eller andra föremål som anges i 1 kap. 3 § vapenlagen, eller
d) sådana explosiva varor som avses i lagen (2010:1011) om brandfarliga och explosiva varor, och
2. det är nödvändigt för att beslag ska kunna ske.
Ett beslut om kvarhållande ska gälla en viss tid, högst en månad, från den dag då beslutet delgavs befordringsföretaget. Beslutet får verkställas omedelbart, men ska snarast prövas av chefen för Tullverket eller chefen för Tullverkets rättsavdelning. Lag (2021:45).

[487] **23 §** Postbefordringsföretaget är skyldigt att på begäran av Tullverket överlämna en försändelse som hållits kvar enligt 22 § första stycket.

Section 23a[488]
Anyone who in a courier company has received or accessed information concerning the detention of consignments pursuant to section 22 or of a subsequent seizure pursuant to section 22 of the Act (2000:1225) on penalties for smuggling may not unauthorisedly disclose or use what he or she has thereby learned.
Provisions on the duty of confidentiality for those who have received or access to such information in postal operations are found in Chapter 2. Section 14 of the Postal Act (2010:1045). Lag (2021:45).

Section 23b
Provisions on liability for those who violate the duty of confidentiality pursuant to this Act are found in Chapter 20. Section 3 of the Criminal Code. Lag (2021:45). [489]

Sections 24 to 33 of the Swedish Customs legislation set out the framework for information duties, cooperation obligations, and audit powers available to the Swedish Customs Authority (*Tullverket*) in enforcing EU and national customs law. The provisions ensure that Customs can verify the accuracy and completeness of customs declarations and the fulfilment of information obligations by traders, importers, exporters, and related third parties. **7**

Order
Section 24[490]
The Swedish Customs may order a person who is or can be assumed to be obliged to declare or provide information in accordance with customs legislation to provide information that the Agency needs to check that the declaration or information obligation has been fulfilled.
The first paragraph also applies to the person on whose behalf a good has been imported or exported.

[488] **23a §** Den som i ett kurirföretag har fått del av eller tillgång till uppgifter som handlar om att hålla kvar försändelser enligt 22 § eller om ett efterföljande beslag enligt 22 § lagen (2000:1225) om straff för smuggling får inte obehörigen röja eller utnyttja vad han eller hon därigenom har fått veta.
Bestämmelser om tystnadsplikt för den som i postverksamhet fått del av eller tillgång till sådana uppgifter finns i 2 kap. 14 § postlagen (2010:1045). Lag (2021:45).
[489] **23b §** Bestämmelser om ansvar för den som bryter mot tystnadsplikt enligt denna lag finns i 20 kap. 3 § brottsbalken. Lag (2021:45).
[490] Föreläggande
24 § Tullverket får förelägga den som är eller kan antas vara deklarations- eller uppgiftsskyldig enligt tullagstiftningen att lämna uppgift som verket behöver för kontroll av att deklarations- eller uppgiftsskyldigheten har fullgjorts.
Första stycket gäller även den för vars räkning en vara importerats eller exporterats.

Section 25[491]
The Swedish Customs may order the person conducting activities in which information of significance for the control of another person's declaration or information obligation according to customs legislation can be taken from documents relating to the activity, to provide information about a legal document with someone else.

Audit
Section 26[492]
The Swedish Customs **may decide on an audit**
1. to check that all necessary documents and information have been provided in accordance with Article 15 (1) of Regulation (EU) No 952/2013, in the original wording, and that the documents and information are correct and complete, and
2 to carry out the checks referred to in Article 48 of that Regulation, as amended.

Section 27
A **decision on auditing shall contain**[493]
1. information on the purpose of the audit,
2. information on the possibility of exempting documents from control in accordance with section 38, and
3. appointment of the customs officer or officials who are to carry out the audit (auditor).
The information referred to in the first paragraph need not state which person or legal act the control or information relates to, if
1. the audit decision applies to the examination of someone other than the person being audited, and
2. there are special reasons not to mention the person or legal act.

[491] **25 §** Tullverket får förelägga den som bedriver verksamhet i vilken uppgift av betydelse för kontrollen av en annan persons deklarations- eller uppgiftsskyldighet enligt tullagstiftningen kan hämtas ur handlingar som rör verksamheten, att lämna uppgift om en rättshandling med någon annan.
[492] Revision
26 § Tullverket får besluta om revision
1. för att kontrollera att alla nödvändiga dokument och uppgifter har tillhandahållits enligt artikel 15.1 i förordning (EU) nr 952/2013, i den ursprungliga lydelsen, och att dokumenten och uppgifterna är riktiga och fullständiga, och
2. för att göra sådana kontroller som avses i artikel 48 i den förordningen, i den ursprungliga lydelsen.
[493] **27 §** Ett beslut om revision ska innehålla
1. uppgift om syftet med revisionen,
2. uppgift om möjligheten att undanta handlingar från kontroll enligt 38 §, och
3. förordnande av den eller de tulltjänstemän som ska verkställa revisionen (revisor).
Av den uppgift som avses i första stycket 1 behöver det inte framgå vilken person eller rättshandling som kontrollen eller uppgifterna avser, om
1. beslutet om revision gäller för granskning av någon annan än den som revideras, och
2. det finns särskilda skäl att inte nämna personen eller rättshandlingen.

Section 28[494]
Before an audit is carried out, the person to be audited shall be notified of the decision on the audit.
The notification may take place in connection with the audit being carried out if an inventory or a similar physical inspection needs to be made and the inspection would lose its significance if the person to be audited is notified in advance.

Section 29[495]
An audit shall be carried out in collaboration with the auditee and in such a way that it does not unnecessarily hinder his activities.
If the auditee does not cooperate, provisions on fines in Chapter 7 Section 5 and on securing evidence in Chapter 45 the Tax Procedure Act (2011:1244) is applied.

Section 30[496]
During an audit, the auditor may examine accounting material and other documents relating to the business, if they are not to be exempted in accordance with section 37.
In other respects, the auditor's powers are set out in Article 48 of Regulation (EU) No 952/2013.

Section 31[497]
An audit may be carried out at the auditee's premises if he or she allows it. The audit must be carried out by the auditee, if he so requests, and the audit can be carried out there without significant difficulty.
If the audit is carried out by the auditee, he shall make an appropriate workplace available to the auditor, if possible.

[494] **28 §** Innan en revision verkställs ska den som ska revideras underrättas om beslutet om revision.
Underrättelsen får ske i samband med att revisionen verkställs om en inventering eller en liknande fysisk kontroll behöver göras och kontrollen skulle förlora sin betydelse om den som ska revideras underrättas i förväg.
[495] **29 §** En revision ska genomföras i samverkan med den reviderade och på ett sådant sätt att den inte onödigt hindrar verksamheten hos denne.
Om den reviderade inte samverkar, får bestämmelser om vite i 7 kap. 5 § och om bevissäkring i 45 kap. skatteförfarandelagen (2011:1244) tillämpas.
[496] **30 §** Vid en revision får revisorn granska räkenskapsmaterial och andra handlingar som rör verksamheten, om de inte ska undantas enligt 37 §.
I övrigt framgår revisorns befogenheter av artikel 48 i förordning (EU) nr 952/2013.
[497] **31 §** En revision får genomföras hos den reviderade, om denne medger det. Revisionen ska genomföras hos den reviderade, om denne begär det och revisionen kan genomföras där utan betydande svårighet.
Om revisionen genomförs hos den reviderade, ska denne ställa en ändamålsenlig arbetsplats till revisorns förfogande, om det är möjligt.

Section 32[498]
That the auditee shall provide the auditor with the documents and provide the information and otherwise provide the auditor with all the assistance needed in the audit follows from Article 15 (1) of Regulation (EU) No 952/2013.
If documents are to be examined at a place other than the auditee's, he must submit the documents to the auditor upon request and against a receipt.

Section 33[499]
The auditee shall, upon request, give the auditor an opportunity to use technical aids to review a recording that can only be perceived with such aids. This does not apply if
1. the auditee provides a copy of the recording, and
2. the copy can be reviewed without difficulty with technical aids available to the auditor.
The auditee shall give the auditor the opportunity to check that the copy referred to in the first paragraph corresponds to the recording held by the auditee.
When reviewing the recording or checking of a copy, only the technical aids and search terms needed to meet the purpose of the audit may be used. The review or control may be done via the telephone network, if the auditee allows it.

Section 34[500]
An audit may not last longer than necessary.
The Swedish Customs shall as soon as possible notify the audited result of the audit in the parts concerning the audited.

[498] **32 §** Att den reviderade ska tillhandahålla revisorn de handlingar och lämna de upplysningar samt i övrigt ge revisorn all den hjälp som behövs vid revisionen följer av artikel 15.1 i förordning (EU) nr 952/2013.
Om handlingar ska granskas på någon annan plats än hos den reviderade, ska denne på begäran och mot kvitto överlämna handlingarna till revisorn.
[499] **33 §** Den reviderade ska på begäran ge revisorn tillfälle att använda tekniska hjälpmedel för att granska en upptagning som kan uppfattas bara med sådana hjälpmedel. Detta gäller inte om
1. den reviderade tillhandahåller en kopia av upptagningen, och
2. kopian utan svårighet kan granskas med tekniska hjälpmedel som revisorn har tillgång till.
Den reviderade ska ge revisorn möjlighet att kontrollera att den kopia som avses i första stycket stämmer överens med den upptagning som finns hos den reviderade.
Vid granskning av upptagning eller kontroll av kopia får bara de tekniska hjälpmedel och sökbegrepp användas som behövs för att tillgodose syftet med revisionen. Granskningen eller kontrollen får göras via telenätet, om den reviderade medger det.
[500] **34 §** En revision får inte pågå under längre tid än nödvändigt.
Tullverket ska snarast meddela den reviderade resultatet av revisionen i de delar som rör den reviderade.

Section 35[501]
The Swedish Customs shall return accounting material and other documents to the auditee as soon as possible and no later than when the audit has been completed.
If the auditee has been declared bankrupt when the documents are to be returned, the Swedish Customs shall
1. hand over the documents to the trustee in bankruptcy, and
2. notify the auditee that the documents have been submitted to the trustee in bankruptcy.

Tasks and documents to be exempted from control
Section 36[502]
An injunction pursuant to section 24 or 25 may not refer to information in such a document that may not be seized pursuant to Chapter 27 Section 2 of the Code of Judicial Procedure. Such an injunction must also not refer to information that has a significant protection interest, if there are special circumstances that mean that the document should not come to anyone else's knowledge, and the protection interest is greater than the document's significance for the control.

Section 37[503]
During an audit, the Swedish Customs may not examine
1. a document that may not be seized in accordance with Chapter 27 Section 2 of the Code of Judicial Procedure, or
2. a document that is not covered by the audit.
The Swedish Customs may also not examine a document that has a significant protection interest, if there are special circumstances that mean that the document should not come to anyone else's knowledge, and the protection interest is greater than the document's significance for the control.

[501] **35 §** Tullverket ska lämna tillbaka räkenskapsmaterial och andra handlingar till den reviderade så snart som möjligt och senast när revisionen avslutats.
Om den reviderade har försatts i konkurs när handlingarna ska lämnas tillbaka, ska Tullverket
1. överlämna handlingarna till konkursförvaltaren, och
2. underrätta den reviderade om att handlingarna överlämnats till konkursförvaltaren.

[502] Uppgifter och handlingar som ska undantas från kontroll
36 § Ett föreläggande enligt 24 eller 25 § får inte avse en uppgift i en sådan handling som inte får tas i beslag enligt 27 kap. 2 § rättegångsbalken. Ett sådant föreläggande får inte heller avse en uppgift som har ett betydande skyddsintresse, om det finns särskilda omständigheter som gör att handlingen inte bör komma till någon annans kännedom och skyddsintresset är större än handlingens betydelse för kontrollen.

[503] **37 §** Vid revision får Tullverket inte granska
1. en handling som inte får tas i beslag enligt 27 kap. 2 § rättegångsbalken, eller
2. en handling som inte omfattas av revisionen.

Tullverket får inte heller granska en handling som har ett betydande skyddsintresse, om det finns särskilda omständigheter som gör att handlingen inte bör komma till någon annans kännedom och skyddsintresset är större än handlingens betydelse för kontrollen.

Section 38[504]
A document that may not be examined shall, at the request of the person who is the subject of the audit, be exempted from control.

Section 39[505]
A request to exempt documents shall be submitted to a general administrative court. The request must be in writing and submitted together with the document to which the request relates.
If the Swedish Customs already has the document to which a request relates, the Office shall immediately seal the document and submit it to the court.

Section 40[506]
If a statement in such a recording as is referred to in Chapter 1 Section 3 shall be exempted, the court may decide on such restrictions in the Swedish Customs' right to use technical aids and search terms as are necessary for the information not to be available to the agency.

Section 41[507]
If the individual so requests, the court shall consider whether a decision to exempt the document can be made without the court examining the document.

Section 42[508]
If a statement or document has been exempted from control, the Swedish Customs may not reproduce or invoke the content of the statement or document.

Section 43[509]
A decision in respect of exempting a statement or document applies immediately, unless otherwise stated in the decision.

[504] **38 §** En handling som inte får granskas ska på begäran av den som är föremål för revision undantas från kontrollen.
[505] **39 §** En begäran om att undanta handlingar ska ges in till allmän förvaltningsdomstol. Begäran ska vara skriftlig och ges in tillsammans med den handling som begäran avser.
Om Tullverket redan har den handling som en begäran avser, ska verket omedelbart försegla handlingen och överlämna den till domstolen.
[506] **40 §** Om en uppgift i en sådan upptagning som avses i 1 kap. 3 § ska undantas, får domstolen besluta om sådana begränsningar i Tullverkets rätt att använda tekniska hjälpmedel och sökbegrepp som behövs för att uppgiften inte ska bli tillgänglig för verket.
[507] **41 §** Om den enskilde begär det, ska domstolen pröva om ett beslut om att undanta handlingen kan fattas utan att domstolen granskar handlingen.
[508] **42 §** Om en uppgift eller en handling har undantagits från kontroll, får Tullverket inte återge eller åberopa innehållet i uppgiften eller handlingen.
[509] **43 §** Ett beslut i fråga om att undanta en uppgift eller en handling gäller omedelbart, om inte något annat anges i beslutet.

Checks and inspections by the European Anti-Fraud Office ***Section 43a***[510] The provisions of Sections 26–43 shall not apply to on-the-spot checks and inspections carried out in accordance with the Act (2017:244) on on-the-spot checks and inspections by the European Anti-Fraud Office. Lag (2017:248).	**8**
Customs control of infringements of certain intellectual property rights **Section 44**[511] Expressions used in sections 45–49 have the meaning specified in Regulation (EU) No 608/2013. **Section 45**[512] The Swedish Customs shall notify the holder of a decision on intervention of its decision in accordance with Article 11 (3), 13 or 16 of Regulation (EU) No 608/2013. Such notification shall be given within 30 working days after the Customs 1. has become aware of the circumstances which may give rise to a decision pursuant to Article 11 (3) or 16 of that Regulation, or 2. has received such a request as referred to in Article 13 of that Regulation. **Section 46**[513] The Swedish Customs shall notify the holder of a decision on intervention of the following decisions taken by the Agency in accordance with Regulation (EU) No 608/2013: 1. decision to refuse or reject a request pursuant to Article 12 (1) for extension, or 2. decision pursuant revoke or amend an extension decision. Such notification shall be given within 30 working days after the Swedish Customs 1. has received such a request as referred to in Article 12 (1), or	**9**

2. has become aware of the circumstances that may form the basis for a decision pursuant to Article 12 (5).

Section 47[514]
If damage occurs to a product during an inspection as referred to in Article 19 (1) of Regulation (EU) No 608/2013, the person inspecting the product is responsible for the damage.

Section 48[515]
Questions as to whether an item infringes an intellectual property right and how such an item is to be handled are examined by a court in accordance with what applies to the intellectual property right in question.
The court may issue an interim decision that a suspension of the release or retention of a good shall cease.
The Swedish Customs shall enforce such judgments and decisions from the court that have become final, and which concern the release, alteration or destruction of goods whose release has been postponed, or which are detained by the Swedish Customs.

Section 49[516]
When a judgment or a decision on destruction of or another measure with goods whose release has been postponed or which is detained by the Swedish Customs has become final, the holder of a decision on intervention has the right to compensation for his costs in connection with the Swedish Customs' intervention against the goods.
The person liable for compensation under the first paragraph is the person against whom the court's decision has been made. If the claim for compensation can be directed against several persons, they have a joint and several liability to compensate the holder of the decision.

[514] **47 §** Uppkommer en skada på en vara vid en sådan inspektion som avses i artikel 19.1 i förordning (EU) nr 608/2013, ansvarar den som inspekterar varan för skadan.
[515] **48 §** Frågor om huruvida en vara gör intrång i en immateriell rättighet och hur en sådan vara ska hanteras prövas av en domstol enligt vad som gäller för den immateriella rättigheten i fråga.
Domstolen får meddela ett interimistiskt beslut om att ett uppskov med att frigöra eller hålla kvar en vara ska upphöra.
Tullverket ska verkställa sådana domar och beslut från domstolen som fått laga kraft och som gäller frigörande, ändring eller förstöring av varor vars frigörande skjutits upp eller som hålls kvar av Tullverket.
[516] **49 §** När en dom eller ett beslut om förstöring av eller annan åtgärd med varor vars frigörande har skjutits upp eller som hålls kvar av Tullverket har fått laga kraft, har innehavaren av ett beslut om ingripande rätt till ersättning för sina kostnader i samband med Tullverkets ingripande mot varorna.
Ersättningsskyldig enligt första stycket är den som domstolens beslut har gått emot. Kan ersättningskravet riktas mot flera personer, har dessa ett solidariskt ansvar att ersätta innehavaren av beslutet.

Customs control of cash

Section 50 Has been repealed by law (2021:753).

Section 51

To check that the notification obligation pursuant to Article 3 of Regulation (EU) 2018/1672, in the original wording, has been fulfilled, the Swedish Customs may examine means of transport and luggage as well as handbags and the like carried by a traveller on entry into or exit from the European Union.[517]

In order to find out whether there are any unaccompanied cash items for which an account can be requested in accordance with Article 4 of the same Regulation, the Swedish Customs may check consignments, containers or means of transport which may contain unaccompanied cash and which cross the border into or from the European Union. Lag (2021:753).

Section 52[518]

If there is reason to believe that a person has not fulfilled his/her notification obligation pursuant to Article 3 of Regulation (EU) 2018/1672, in the original wording, a customs official may physically visit the person to search for cash on him or her.

During the body search, the provisions of section 29 of the Act (2000:1225) on penalties for smuggling shall be applied. Lag (2021:753).

Section 53[519]

The Swedish Customs may temporarily withhold cash in accordance with Article 7 (1) of Regulation (EU) 2018/1672, in its original wording.

The period of temporary detention may not exceed 30 days.

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[517] **51 §** För kontroll av att anmälningsskyldigheten enligt artikel 3 i förordning (EU) 2018/1672, i den ursprungliga lydelsen, har fullgjorts får Tullverket undersöka transportmedel och bagage samt handväskor och liknande som medförs av en resande vid inresa till eller utresa från Europeiska unionen.

För att ta reda på om det finns sådana oledsagade kontanta medel som en redovisning kan begäras in för enligt artikel 4 i samma förordning får Tullverket kontrollera försändelser, behållare eller transportmedel som kan innehålla oledsagade kontanta medel och som passerar gränsen till eller från Europeiska unionen. Lag (2021:753).

[518] **52 §** Om det finns anledning att anta att en person inte har fullgjort sin anmälningsskyldighet enligt artikel 3 i förordning (EU) 2018/1672, i den ursprungliga lydelsen, får en tulltjänsteman kroppsvisitera personen för att söka efter kontanta medel på honom eller henne.

Vid kroppsvisitationen ska bestämmelserna i 29 § lagen (2000:1225) om straff för smuggling tillämpas. Lag (2021:753).

[519] **53 §** Tullverket får tillfälligt hålla kvar kontanta medel i enlighet med artikel 7.1 i förordning (EU) 2018/1672, i den ursprungliga lydelsen.

Perioden för tillfälligt kvarhållande får inte överstiga 30 dagar.

Enligt artikel 7.3 första stycket samma förordning får Tullverket efter en grundlig bedömning av nödvändigheten och proportionaliteten av ett fortsatt tillfälligt kvarhållande förlänga perioden för tillfälligt kvarhållande till högst 90 dagar. Lag (2021:753).4 kap. Tullkontroll

Allmän princip för tullkontroller

1 § Ett beslut om en kontrollåtgärd enligt tullagstiftningen får fattas endast om skälen för åtgärden uppväger det intrång eller men i övrigt som åtgärden innebär för den enskilde.

Pursuant to the first subparagraph of Article 7 (3) of the same Regulation, the Customs may, after a thorough assessment of the necessity and proportionality of a continued temporary detention, extend the period of temporary detention to a maximum of 90 days. Lag (2021:753).

[Article 6 Access to Information in Databases Prior to the opening of an Investigation–Omitted]

7. Article 7 Investigations Procedure

[…] 3. The competent authorities of Member States shall give the necessary assistance to enable the staff of the Office to fulfil their tasks in accordance with this Regulation effectively and without undue delay. When providing such assistance, the competent authorities of Member States shall ***act in accordance with any national procedural rules applicable to them***.

3a. At the request of the Office, which shall be explained in writing, in relation to matters under investigation, the relevant competent authorities of the Member States shall***, under the same conditions as those that apply to the national competent authorities***, provide the Office with the following:

(a) information available in the centralised automated mechanisms referred to in Article 32a (3) of Directive (EU) 2015/849 of the European Parliament and of the Council (4);

(b) where strictly necessary for the purposes of the investigation, the record of transactions.

The request of the Office shall include a justification of the appropriateness and proportionality of the measure with regard to the nature and gravity of the matters under investigation. Such request shall refer only to information referred to in points (a) and (b) of the first subparagraph.

Member States shall notify to the Commission the relevant competent authorities for the purposes of points (a) and (b) of the first subparagraph.

6. Where investigations show that it might be appropriate to take precautionary administrative measures to protect the financial interests of the Union, the Office shall without delay inform the institution, body, office or agency concerned of the investigation in progress. The information supplied shall include the following:

(a) the identity of the official, other servant, member of an institution or body, head of office or agency, or staff member concerned and a summary of the facts in question;

(b) any information that could assist the institution, body, office or agency concerned in deciding on the appropriate precautionary administrative measures to be taken in order to protect the financial interests of the Union;

(c) any special measures of confidentiality recommended, in particular in cases entailing the use of investigative measures falling within the competence of a national judicial authority or, in the case of an external investigation, within the competence of a national authority, ***in accordance with the national rules applicable to investigations***.

The institution, body, office or agency concerned may at any time consult the Office with a view to taking, in close cooperation with the Office, any appropriate precautionary measures, including measures for the safeguarding of evidence. The institution, body, office or agency concerned shall inform the Office without delay about any precautionary measures taken.

7. Where necessary, it shall be for the competent authorities of the Member States, at the Office's request, to take the ***appropriate precautionary measures under their national law***, in particular measures for the safeguarding of evidence.

1 Focusing on the highlighted references to national law, it should be clear that national authorities cannot provide assistance beyond what is **permissible under local laws**. For example, if national law restricts certain investigative measures (such as house searches or access to banking information) to judicial authorization, OLAF's request for such measures must respect these limitations.

2 The reference to **national procedural rules** ensures that assistance provided to OLAF does not violate fundamental rights (see below → Art. 9), such as the right to a fair trial or data protection laws (see above → Art. 3 enumerates those rights applicable during on-the-spot checks), which might impose constraints on information-sharing.

3 Article 7 para 6 highlights the need for special **confidentiality measures,** particularly when OLAF's investigation overlaps with national judicial proceedings. As an OLAF investigator or SNE one should be aware that investigative measures that fall within the exclusive competence of a national judicial authority (such as coercive measures in the customs area) cannot be conducted by OLAF independently and must be **coordinated with national authorities**.

4 According to para 7 the authorities (should) have the competence to adopt **precautionary measures**, such as securing evidence, in accordance with their national law. OLAF itself does not have the authority to take measures such as freezing assets or preventing the destruction of evidence; these actions must comply with the following legal procedures.

a) References to National Law

5 The following provisions have been exemplarily selected from Swedish national law:

Sources & national sections 1: Overview for Sweden–Art. 7 OLAF Regulation

Para 3	**Tax Procedure Act:** Chapter 40 The Swedish Tax Agency's obligation to investigate and communicate ss. 1–4 Chapter 41 Audit ss. 1 et seq, e.g.: s. 7 Auditor's powers s. 8 obligations of the auditee

	Chapter 42 Supervision of cash registers and inspection visits, e.g.: s. 4 access to business premises s. 5 providing of documents s. 6–7 inspection visit **Public Procurement Act:** Chapter 15 Own declaration and investigation of suppliers ss. 1 et seq. **Administrative Procedure Act:** Case processing, ss. 8 et seq. Evidence, s. 20 et seq. **Customs Act:** Chapter 4 Customs control ss. 1 et seq. sections 26–43 are **not applicable** to on-the-spot checks of OLAF (cf. s. 44a Customs Act)
Para 3a (a) (b)	**Tax Procedure Act:** Chapter 42 Authorities' obligation to provide information at the Swedish Tax Agency's request Provisions of the Act (1987:1231) on automatic data processing in tax audits, etc. **Customs Act:** Chapter 4 Customs Control Customs control of goods and means of transport, s. 6 (providing of relevant passenger data) Exception from s. 6 in the case of air carriers, s. 6a Provisions of the Act (2018:1180) on air passenger data in law enforcement
Para 6 (c)	**Tax Procedure Act:** Chapter 33b Information on reportable events s. 13, user's obligation to provide information s. 18, Exception (form providing information) s. 22, Obligation to provide information in certain cases

	Chapter 40 The Swedish Tax Agency's obligation to investigate and communicate s. 2–3 The Swedish Tax Agency's communication obligation Chapter 42 Authorities' obligation to provide information at the Swedish Tax Agency's request **Customs Act:** Decisions to open a postal item or an item conveyed by a courier company, s. 20 ss. 23a, 23b **Postal Act (2010:1045):** Chapter 2 Duty of confidentiality, s. 14
Para 7	**Tax Procedure Act:** Chapter 41 Audit ss. 1 et seq. s. 7 Auditor's powers s. 8 obligations of the auditee Chapter 47 Tasks and documents to be exempted from control Exemption from information from injunction, s. 1 Exemption of documents from review, s. 2 **Customs Act:** Chapter 4 Customs control ss. 1 et seq. sections 26–43 are not applicable to on-the-spot checks of OLAF, acc. to s. 44a

Source: The authors.

b) References to National Authorities

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- Financial Supervisory Authority (*Finansinspektionen*)
- Social Insurance Office (*Försäkringskassan*)
- Tax Office (*Skatteverket*)
- Customs Office (*Tullverket*)

  - Controls Department (*kontrollavdelningen*)
  - Revenue Department (*uppbördsavdelningen*)
- Coast Guards (*Kustbevakningen*)
- Swedish Board of Agriculture (*Jordbruksverket*)

8. Article 8 Duty to Inform the Office

[…] 2. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the ***competent authorities of the Member States*** shall, at the request of the Office or on their own initiative, **transmit without delay to the Office any document or information they hold** which relates to an ongoing investigation by the Office. […]
3. The institutions, bodies, offices and agencies and, unless ***prevented by national law***, the competent authorities of Member States shall transmit without delay to the Office, at the request of the Office or on their own initiative, any other information, documents or data considered pertinent which they hold, relating to the fight against fraud, corruption and any other illegal activity affecting the financial interests of the Union.

1 Art. 8 relates to the **transfer of information**. It is commonly known that without **information and channels** used to submit information, fewer investigations would be started and opened. This **obligation** is therefore surprisingly not regulated in an earlier article of the regulation, but in art. 8. We focus on art. 8 para 2 and 3 as they refer to national law. The following provisions may apply:

2

Section 4 Lag (2017:244)
If the person to whom the on-site inspection refers considers that a ***certain document is covered by ch. 27 Section 2 of the Code of Judicial Procedure*** and that the document is to be exempted from control, he must submit a request for this to the administrative court within whose jurisdiction the competent authority is located. The document must be submitted together with the request.
If the competent authority already has the document to which the request relates, the authority shall immediately seal the document and deliver it to the court.
The court must examine without delay whether the document is to be covered by the control. A decision to exempt an act is effective immediately, unless otherwise stated in the decision.
Permission to rehear is required in the event of an appeal to the Court of Appeal.
About seizure, copying, biometric authentication and secret means of coercion
The heading has this wording according to SFS2022–0316.

3 The "preclusion" mainly concerns protected material (e.g. legal privilege under 27 kap. 2 § rättegångsbalken, cf. 2 § and 4 § SFS 2017:244). Otherwise, authorities must assist OLAF. Competent authorities (appointed by the Government, 1 § SFS 2017:244) may: grant access to premises and documents (2 §), conduct inspections and take samples (2 §), request enforcement via Kronofogdemyndigheten in case of resistance (3 §). This presentation is not exhaustive. Further rules can be found in Swedish Statutes with similar connections to audits etc. Lag 207:244 will be *lex specialis* in comparison to these sections.

ch. 27 of the Code of Judicial Procedure **4**

Section 1[520]

An item may be seized if it can reasonably be assumed

1. have significance for criminal investigations,
2. having been taken from someone by crime,
3. be forfeited due to crime,
4. can be used to perform a remote scan, or
5. have significance for an investigation into confiscation of exchange of criminal activity according to ch. 36 Section 1b of the Criminal Code.

What is said in this chapter about objects also applies to written documents, unless otherwise prescribed.

Coercive measures according to this chapter may only be decided if the reasons for the measure outweigh the infringement or otherwise that the measure entails for the suspect or for any other conflicting interest.

Section 2[521]

A written document may not be confiscated if

it can be assumed to contain information such as an executive or someone else referred to in ch. 36. Section 5 may not be heard as a witness about, and

the document is held by him or her or by the person in whose favour the confidentiality applies.

Special provisions that may prevent and preclude communication can be found in the Customs Act (see Chapter 4, Data and documents to be exempted from control Section 36 et seq.). This Chapter although redirects to Chapter 27 of the Judicial Procedure Code. **5**

[520] **1 §**
Ett föremål får tas i beslag om det skäligen kan antas
ha betydelse för utredning om brott,
ha tagits ifrån någon genom brott,
vara förverkat på grund av brott,
kunna användas för att utföra en genomsökning på distans, eller
ha betydelse för utredning om förverkande av utbyte av brottslig verksamhet enligt 36 kap. 1 b § brottsbalken.
Vad som sägs i detta kapitel om föremål gäller också om skriftlig handling, om inte annat är föreskrivet.
Tvångsmedel enligt detta kapitel får beslutas endast om skälen för åtgärden uppväger det intrång eller men i övrigt som åtgärden innebär för den misstänkte eller för något annat motstående intresse.

[521] **2 §**
En skriftlig handling får inte tas i beslag om

1. den kan antas innehålla uppgifter som en befattningshavare eller någon annan som avses i 36 kap. 5 § inte får höras som vittne om, och
2. handlingen innehas av honom eller henne eller av den som tystnadsplikten gäller till förmån för.

9. Article 11 Investigation Report and Action to be Taken Following Investigations

[…] 2. In drawing up the reports and recommendations referred to in paragraph 1, account shall be taken of the relevant provisions of Union law and, in so far as it is applicable, ***of the national law of the Member State concerned***.
Reports drawn up on the basis of the first subparagraph, together with all evidence in support and annexed thereto, shall constitute admissible evidence:
(a) in judicial proceedings of a non-criminal nature before national courts and in administrative proceedings in the Member States;
(b) in ***criminal proceedings of the Member State*** in which their use proves necessary in the ***same way and under the same conditions*** as administrative reports drawn up by ***national administrative inspectors*** and shall be subject to the ***same evaluation rules as those applicable to administrative reports drawn up by national administrative inspectors*** and shall have the same evidentiary value as such reports;
(c) in judicial proceedings before the CJEU and in administrative proceedings in the institutions, bodies, offices and agencies.
Member States shall notify to the Office ***any rules of national law relevant*** for the purposes of point (b) of the second subparagraph.
With regard to point (b) of the second subparagraph, Member States shall, upon request of the Office, send to the Office the ***final decision of the national courts*** once the ***relevant judicial proceedings*** have been finally ***determined*** and the final court decision has become ***public***.
The power of the CJEU and national courts and competent bodies ***in administrative and criminal proceedings to freely assess the evidential value*** of the reports drawn up by the Office shall not be affected by this Regulation. […]
3. Reports and recommendations drawn up following an external investigation and any relevant related documents shall be sent to the ***competent authorities of the Member States*** concerned in accordance with the rules relating to external investigations and, if necessary, to the institution, body, office or agency concerned. The competent authorities of the Member State concerned and, if applicable, the institution, body, office or agency shall take such action as the results of the external investigation warrant and shall report thereon to the Office within a time limit laid down in the recommendations accompanying the report and, in addition, at the request of the Office. Member States may notify to the Office the relevant national authorities competent to deal with such reports, recommendations and documents.

1 OLAF investigations may lead to an OLAF report suggesting further actions i.e. punitive proceedings, national follow-up, criminal investigation and so on.[522] The Swedish Case

[522] See Bovend'Eerdt 2024, p.241 et seq., Chapter 3.5.

Law offers a bright range of decisions that deal with OLAF Reports and their value of evidence.[523] And the ECJ case law clarifies the relevance of these reports.[524]

In the following the relevant provisions from national law shall be, even if not completely comprehensive, be reproduced here: **2**

a) References to National Law

Sources & national sections 2: Overview for Sweden: Art. 11 OLAF Regulation **3**

Para 2	Chapter 41 ss. 13, 14 Tax Procedures Act (return of material from an audit), Chapter 45 **Decision on securing evidence** **Section 13** Decisions on securing evidence according to Sections 3 and 6–9 are made by the administrative court upon application by the review leader. [S2] Decisions according to Sections 4, 5 and 12 are made by the review leader. **Section 14** The review leader may decide on securing evidence in accordance with Sections 3 and 6–8 there is a tangible risk of sabotage before the administrative court can make a decision, as well as the measure must be carried out in a business premises. [S2] If the review leader has decided on action according to the first paragraph, he or she must as soon as possible and at the latest within five days apply to the administrative court for securing evidence. If the review leader

[523] See Arbetsdomstolen, B-37-2001, AD 2001 nr 67.

[524] ECJ, C-479/22 P, *OC v Commission*, Judgment 7 Mar 2024, ECLI:EU:C:2024:215 confirms OLAF reports are admissible but subject to judicial scrutiny and defence rights under Art. 11; C-351/20 P, *Dragnea v Commission*, Judgment 13 Jan 2022, ECLI:EU:C:2022:8 holds that OLAF investigation reports and request for an investigation to be opened into the conduct of previous OLAF investigations can be connected; C-650/19 P, *Vialto Consulting v Commission*, Judgment 28 Oct 2021, ECLI:EU:C:2021:879, mn. 133 on the relevance of a report within OLAF's competence to access to digital data during on-the-spot checks under Reg. 2185/96; C-130/19, *Court of Auditors v Pinxten*, Judgment 30 Sept 2021, ECLI:EU:C:2021:782, mn. 70, 132 OLAF findings admissible for internal proceedings; T-235/21, *Bulgaria v Commission*, Judgment 8 Mar 2023, ECLI:EU:T:2023:105 recalls, mn. 80: "it is clear from Article 11 of Regulation No 883/2013 and from the order of 21 June 2017*, Inox Mare v Commission* (T-289/16, EU:T:2017:414), that the competent authorities of the Member States decide what action should be taken on completed investigations after receiving OLAF's final report, does not predetermine whether that final report can be regarded as a control report or similar document within the meaning of Article 54(1) of Regulation No 1306/2013."; T-757/20, *OT v Parliament,* Judgment 23 Mar 2022, ECLI:EU:T:2022:156 applies defence-rights principles relevant to OLAF-based disciplinary proceedings; T-752/20.

	does not make an application or if the administrative court rejects the application, documents taken into account must be returned and other collected data must be destroyed. [S3] If the person to whom the decision on the securing of evidence applies has been declared bankrupt when the documents are to be returned, the documents must be handed over to the bankruptcy administrator and the person to whom the securing of evidence applies notified of the handover. **Section 15** A decision on securing evidence must contain information on the possibility of exempting information and documents from control and on what applies in the event of enforcement. [K45] Section 16 The person to whom a decision on securing evidence applies must be immediately notified of the decision. [S2] Notification may, however, take place in connection with the implementation of the measure if there is a tangible risk of sabotage if the person to whom the decision applies is notified in advance. [S3] In ch. 69 Section 5 contains provisions on the enforcement of decisions on securing evidence without the person to whom the decision applies having been notified of the decision. **Competent administrative law** [K45] **Section 17** Questions about securing evidence are examined by the administrative court which according to ch. 67 is authorized to hear an appeal by the person to whom the evidence protection applies when the application is made.
Para 2 (a)	In the area of funds and customs duties etc. the general administrative procedure law /*Förvaltningsprocesslag* (1971:291) (FPL) may apply: "**Some evidence** **Section 20** A written document, which is relied on as evidence, must be delivered to the court without delay. In the case of such evidence, ch. 38 otherwise applies. Sections 1–5 and 7–9 of the Code of Procedure in applicable parts. Reimbursement to a party other than the provision of a written document is, however, always based on public funds. Law (1980:104). *Amended: SFS 1980:104 (with proposals for confidentiality laws, etc.)* Section 21 If an object is invoked as evidence, which can be suitably submitted to the court, the object must be handed over to it without delay. In the case

	of such evidence, ch. 39 applies. Section 5 of the Code of Procedure in applicable parts. Reimbursement to a party other than the provision of objects is, however, always based on public funds. **Section 22** If a party invokes a written document or object as evidence, the court may order him to provide the document or object to the court within a certain time, under penalty of which the case may still be decided. **Section 23** The court may decide on an on-the-spot inspection of a property or place or of objects that cannot suitably be submitted to the court. In such cases, professional secrecy may only be disclosed if there is a special reason for it. [S2] In terms of on-site inspection, the provisions on oral hearings and ch. 5 apply. Section 11 of the Code of Procedure in applicable parts. Law (2008:647)." **Section 24** The court may obtain an opinion on a matter that requires special expertise from an authority, civil servant or the person who otherwise has an opinion on the subject or engage another expert in the matter. [S2] In the case of an expert, ch. 40 applies. Sections 2–7 and 12 of the Code of Procedure in applicable parts. [S3] Compensation for statements by authorities, civil servants or those who otherwise have to provide an opinion is only paid if it is specifically prescribed. Other experts are entitled to compensation from public funds for their assignment. The court may grant an advance on such compensation.
Para 2 (b)	For criminal trials see Chapter 35 et seq. of the Swedish Code of Judicial Procedure, which is equivalent to the CPC in other Member States. For the court proceedings and the decisions see Chapter 45–48 of the same act. **Chapter 35 Written evidence** **Section 1**[525] Written documents, which are relied on as evidence, should be presented in capital letters. Such a document may be submitted in a certified copy, if there is a supplement or the main document is not available.

[525] **1 § Lag 1942:740**
Skriftlig handling, som åberopas till bevis, bör företes i huvudskrift. Sådan handling må företes i styrkt avskrift, om det finnes tillfyllest eller huvudskriften ej är att tillgå.
2 st. Innehåller handling även sådant, som innehavaren enligt 2 § ej äger eller är skyldig att yppa eller som eljest ej bör uppenbaras, må han i stället för handlingen förete styrkt utdrag därav.

[S2] If a document also contains things that the holder does not own or is obliged to disclose in accordance with Section 2 or that should not otherwise be disclosed, he may instead of the document present a certified extract thereof.

Section 2[526]
Possesses any written document which can be assumed to be of importance as evidence, if he is obliged to produce it; however, such an obligation does not fall on the suspect in criminal cases or the person who is in such a relationship with him, as referred to in ch. 36. Section 3.
[S2] Neither the party nor his close relatives, as has just been said, is obliged to provide written notice between the party and anyone close to him or between such close relatives. Executive or other, as referred to in ch. 36 Section 5, may not present a written document, if its content can be assumed to be such that he may not be heard as a witness to it; if the document is held by a party, in whose favour the duty of confidentiality applies, he is not obliged to present the document. The statute in ch. 36 Section 6 on the witness's right to refuse to testify has a corresponding application in the case of the holder of a written document, if its content is such as is referred to in the aforementioned law room.
[S3] The obligation to present a written document does not apply to a memorial note or other such record, which is intended exclusively for personal use, unless there is a special reason for it to be presented.
Section 3 Is the holder of a written document due to the legal relationship between him and a party or otherwise by law obliged to publish the document or let others take part in it, whether this also applies in terms of the document's appearance in court proceedings.

[526] **2 § Lag 1942:740**
Innehar någon skriftlig handling, som kan antagas äga betydelse som bevis, vare han skyldig att förete den; sådan skyldighet åligge dock ej i brottmål den misstänkte eller den som till honom står i sådant förhållande, som avses i 36 kap. 3 §.
2 st. Ej vare part eller honom närstående, som nu sagts, skyldig att förete skriftligt meddelande mellan parten och någon honom närstående eller mellan sådana närstående inbördes. Befattningshavare eller annan, som avses i 36 kap. 5 §, må ej förete skriftlig handling, om dess innehåll kan antagas vara sådant, att han ej må höras som vittne därom; innehaves handlingen av part, till förmån för vilken tystnadsplikten gäller, vare han ej skyldig att förete handlingen. Stadgandet i 36 kap. 6 § om vittnes rätt att vägra att yttra sig äge motsvarande tillämpning i fråga om innehavare av skriftlig handling, om dess innehåll är sådant, som avses i nämnda lagrum.
3 st. Skyldighet att förete skriftlig handling gälle ej minnesanteckning eller annan sådan uppteckning, som är avsedd uteslutande för personligt bruk, med mindre synnerlig anledning förekommer, att den företes.

Section 4
If someone is obliged to produce a written document as evidence, the court has the right to order him to produce the document. The person to whom the injunction would refer must be given an opportunity to make a statement. In order to examine the matter, an interview may be held with him in accordance with what in ch. 36 or 37. is stipulated so other evidence is also provided.

Section 5
Order that before a written document must contain information about where and how the document is to be provided. The person who must commit the act may be restrained by a fine to fulfil his obligation. The court may also, if it is more appropriate, order that the document be provided through the enforcement agency. Law (1981:828).

Section 6
Taking evidence by means of a written document may take place outside the main hearing,
if the document cannot be presented at the main hearing,
if a presentation at the main hearing would entail costs or inconveniences that are not in reasonable relation to the significance of the taking of evidence at the main hearing, or
if it can be assumed that the case will be settled without a main hearing. Law (2005:683).

Chapter 38
Section 7
If someone, who is not a party, has provided a written document at the request of a party or the court, he is entitled to compensation for costs and inconvenience according to what the court deems reasonable.
[S2] Compensation must, if the occurrence of the act is invoked by an individual party, be issued by the party. Otherwise, the compensation must come from public funds.

Chapter 38
Section 8
If a public document can be assumed to have significance as evidence, the court may decide that the document must be provided.
[S2] The first paragraph does not apply

	document containing information, for which confidentiality applies as a result of ch. 15 Section 1 or 2 or Chapter 16. Section 1 of the Publicity and Secrecy Act (2009:400) or provision to which reference is made in any of these legislative sections, unless the authority that has to examine the issue of disclosure of documents has given its permission, document whose content is such that someone who was involved with the document, according to ch. 36 Section 5 second, third, fourth or sixth paragraph may not be heard about it, or act through the occurrence of which professional secrecy would be revealed, unless there is an extraordinary reason. Law (2009:401). **Section 9** If regulations deviating from what is prescribed in Sections 1–8 have been announced regarding the obligation to produce a written document, they shall apply. Law (1980:101). See as well, even if not requested by para 2 (b) General Administrative Procedure Code, which contains provisions on the decision and the final court ruling: **Section 30** The court's ruling on a case shall be based on what the documents contain and what otherwise occurred in the case. [S2] The decision must state the reasons that determined the outcome. **Section 31**[527] A decision by which the court decides the case must be sent to the parties. If there is a different sentence, it must be attached. [S2] A decision that may be appealed must contain information on how it is to be done. If permission to appeal in a higher court is required, the decision must contain information about it and about the grounds on which such permission is granted. Law (2013:86).

[527] **31 § Förvaltningsprocesslag (1971:291)**
Ett beslut genom vilket rätten avgör målet ska skickas till parterna. Om det finns en skiljaktig mening ska den bifogas.
2 st. Ett beslut som får överklagas ska innehålla upplysning om hur det ska ske. Om det krävs prövningstillstånd i högre rätt, ska beslutet innehålla upplysning om det och om de grunder som ett sådant tillstånd meddelas på. Lag (2013:86).

b) National Authority, Para 3

The authorities depend on the area of the irregularity. A few authorities are more prominent than others and can therefore be place here: **4**

- National Anti-Corruption Police unit (Nationella Antikorruptionsgruppen, NKG)
- Customs Authority (Tullverket)
- Tax authorities (Skatteverket)
- Swedish Economic Crime Authority (Ekobrottsmyndigheten EBM)–authority responsible for tax crimes, bankruptcy crimes, insider crimes, accounting crimes, EU-fraud
- Swedish Board of Agriculture (Jordbruksverket)

10. Article 12 Exchange of Information

Between the Office and the Competent Authorities of the Member States
3. The competent authorities of the Member State concerned shall, unless prevented by ***national law***, inform the Office within one month of the action taken on the basis of the information transmitted to them under this Article."
4. The Office may provide evidence in proceedings before national courts and tribunals in conformity with ***national law*** and the Staff Regulations.
1. Without prejudice to Articles 10 and 11 of this Regulation and to the provisions of Regulation (Euratom, EC) No 2185/96, the Office may transmit to the competent authorities of the Member States concerned information obtained in the course of external investigations in due time to enable them to take appropriate action ***in accordance with their national law***. It may also transmit such information to the institution, body, office or agency concerned.
2. Without prejudice to Articles 10 and 11, the Director-General shall transmit to the ***judicial authorities of the Member State concerned*** information obtained by the Office, in the course of internal investigations, concerning facts which fall within the ***jurisdiction of a national judicial authority***. […]
3. The ***competent authorities of the Member State concerned*** shall, unless ***prevented by national law***, inform the Office without delay, and in any event within 12 months of receipt of the information transmitted to them in accordance with this Article, of the action taken on the basis of that information.
4. The Office may ***provide evidence*** in proceedings before national courts and tribunals ***in conformity with national law*** and the Staff Regulations. […]

a) Art. 12 para 1 OLAF Regulation Competent Authorities & Appropriate Action in Accordance with Their National Law

1 Competent Authorities

- Regional public prosecution offices (*Åklagarkammare (Regional)*), e.g. Falun Public Prosecution Office
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Anti-Corruption Unit (*Riksenheten mot korruption*)
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Unit for Environmental Crimes
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Unit against international and Organised Crime (*Riksenheten mot internationell och organiserad brottslighet*)

- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Environment and Work Environment Unit (*Riksenheten för miljö- och arbetsmiljömål*)
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: Special Prsecutor's Office (*Särskilda åklagarkammaren*) (responsible for crime suspicions by police officers, prosecutors, judges, members of the parliament and certain other executives)[528]
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: Prosecution Office for National Security (responsible for terrorism and national security) (*Riksenheten för säkerhetsmål*)
- Judicial Police (*Polisen*)
- National Anti-Corruption Police unit (*Nationella Antikorruptionsgruppen, NKG*)
- Customs Authority (*Tullverket*)
- Tax authorities (*Skatteverket*)
- Swedish Economic Crime Authority (*Ekobrottsmyndigheten EBM*)–authority responsible for tax crimes, bankruptcy crimes, insider crimes, accounting crimes, EU-fraud
- The Swedish Enforcement Authority/*Kronofogdemyndigheten*
- Swedish Board of Agriculture (*Jordbruksverket*)

Appropriate Action acc. to National Law

- National follow-up acc. to the Administration Procedure Act or Tax Act
- National follow-up acc. to the special Administrative laws e.g. Customs Act, Public Procurement Act and Budget Act

b) Art. 12 Para 2 OLAF Regulation Judicial Authorities of the Member State Concerned

Which are these national authorities? **2**

For all offences:

- Regional public prosecution offices (*Åklagarkammare (Regional)*), e.g. Falun Public Prosecution Office
- The Swedish Enforcement Authority/*Kronofogdemyndigheten*
- Judicial Police (*Polisen*)
- Swedish Customs Authority (*Tullverket*)
- Tax authorities (*Skatteverket*)

[528] https://www.aklagare.se/kontakt/sarskilda-aklagarkammaren/. Accessed 30 June 2025.

- Swedish Board of Agriculture

3 Especially for Environmental Crime:
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Environment and Work Environment Unit (*Riksenheten för miljö- och arbetsmiljömål*)

4 Especially for Organised Crime
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Unit against international and Organised Crime (*Riksenheten mot internationell och organiserad brottslighet*)

5 Especially for Economic Crime (responsible for tax crimes, bankruptcy crimes, insider crimes, accounting crimes, EU-fraud):
- Swedish Economic Crime Authority (*Ekobrottsmyndigheten EBM*)

6 Especially for corruption offences:
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Anti-Corruption Unit (*Riksenheten mot korruption*)
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: Special Prsecutor's Office (*Särskilda åklagarkammaren*) (responsible for crime suspicions by police officers, prosecutors, judges, members of the parliament and certain other executives)[529]
- National Anti-Corruption Police unit (*Nationella Antikorruptionsgruppen, NKG*)

a) Art. 12 Para 3 OLAF Regulation Information to the Office by Competent Authorities of the Member State Concerned

7 These are the authorities, which were presented under a) and b) above. They are obliged to fulfil the time-limit by virtue of Art. 12 para 3 OLAF Regulation.

Prevention by National Law
The right to withhold information (for a certain time) may result from provisions, which ensure the secrecy of an action under national law.

b) Art. 12 para 4 OLAF Regulation Providing Evidence in Court Proceedings Before National Courts and Tribunals in Conformity with National Law

8 The Code of Administrative Procedure (*Förvaltningsprocesslag*) will apply if providing evidence in court proceedings before national administrative courts and tribunals. And the Judicial Procedure Code (*Rättegångsbalk*) might apply if providing evidence in national court proceedings before criminal courts and tribunals.

[529] https://www.aklagare.se/kontakt/sarskilda-aklagarkammaren/. Accessed 30 June 2025.

Administrative Procedure Code **9**

Some evidence

Section 20[530]

A written document, which is invoked for evidence, shall be submitted to the court without delay. In the case of such evidence, Chapters 1 to 5 and 7 to 9 of the Code of Judicial Procedure shall apply mutatis mutandis. Remuneration to another than a party for the provision of a written document is, however, always based on public funds. Lag (1980:104).

Section 21[531]

If an object is invoked as evidence, which can suitably be submitted to the court, the object shall be handed over there without delay. In the case of such evidence, Chapter 39 Section 5 of the Code of Judicial Procedure shall apply mutatis mutandis. Compensation to another than a party for the supply of objects is, however, always based on public funds.

Section 22[532]

If a party invokes a written document or object for evidence, the court may order him to serve the document or object on the court within a certain time in the event that the case may nevertheless be decided.

Section 23[533]

The court may decide on an inspection of the place of inspection of a property or place or of objects that cannot be suitably submitted to the court. In such a view, professional secrecy may only be disclosed if there is a special reason for it.

With regard to on-site inspection, the provisions on oral proceedings and Chapter 5 Section 11 of the Code of Judicial Procedure shall apply mutatis mutandis. Lag (2008:647).

[530] **Vissa bevismedel**

20 § Skriftlig handling, som åberopas till bevis, skall tillställas rätten utan dröjsmål. I fråga om sådant bevis gäller i övrigt 38 kap. 1--5 och 7--9 §s rättegångsbalken i tillämpliga delar. Ersättning till annan än part för tillhandahållande av skriftlig handling utgår dock alltid av allmänna medel. Lag (1980:104).

[531] **21 §** Åberopas till bevis föremål, som lämpligen kan ges in till rätten, skall föremålet utan dröjsmål överlämnas dit. I fråga om sådant bevis gäller 39 kap. 5 § rättegångsbalken i tillämpliga delar. Ersättning till annan än part för tillhandahållande av föremål utgår dock alltid av allmänna medel.

[532] **22 §** Åberopar part skriftlig handling eller föremål till bevis, får rätten förelägga honom att inom viss tid tillställa rätten handlingen eller föremålet vid påföljd att målet ändå kan komma att avgöras.

[533] **23 §** Rätten får besluta om syn på stället för besiktning av fastighet eller plats eller av föremål som inte lämpligen kan ges in till rätten. Vid sådan syn får yrkeshemlighet röjas endast om det finns synnerlig anledning till det.

I fråga om syn på stället gäller bestämmelserna om muntlig förhandling samt 5 kap. 11 § rättegångsbalken i tillämpliga delar. Lag (2008:647).

Section 24[534]
The court may obtain an opinion on an issue that requires special expertise from an authority, official or the person who otherwise has to provide an opinion on the subject or hire another expert in the matter.
Chapters 2 to 7 and 12 of the Code of Judicial Procedure shall apply mutatis mutandis to the expert.
Remuneration for the statement of an authority, official or anyone else who has to provide an opinion is paid only if it is specifically prescribed. Another expert is entitled to compensation from public funds for his assignment. The court may grant an advance on such compensation.

Section 25
The court may order an interview with a witness or expert.[535]
Such interrogation takes place at an oral hearing. The hearing may be held under oath.
If interrogation applies, Chapter 36 Sections 1–18 and 20–23 and Chapter 40 Sections 9–11, 14, 16 and 20 of the Code of Judicial Procedure shall apply mutatis mutandis.
Witness and expert may participate in an oral hearing by audio transmission or audio and video transmission under the same conditions as apply according to Chapter 5 Section 10 of the Code of Judicial Procedure.
Lag (2008:652).

Section 26[536]
A witness or expert is entitled to compensation from public funds for the cost of his or her suspension. The court may grant an advance on compensation for travel and subsistence expenses. More detailed provisions on compensation and advances are announced by the government.

[534] **24 §** Rätten får inhämta yttrande över fråga, som kräver särskild sakkunskap, från myndighet, tjänsteman eller den, som eljest har att gå till handa med yttrande i ämnet, eller anlita annan sakkunnig i frågan.
I fråga om sakkunnig gäller 40 kap. 2–7 och 12 §s rättegångsbalken i tillämpliga delar.
Ersättning för utlåtande av myndighet, tjänsteman eller den som eljest har att gå till handa med yttrande utgår endast om det är särskilt föreskrivet. Annan sakkunnig är berättigad till ersättning av allmänna medel för sitt uppdrag. Rätten får bevilja förskott på sådan ersättning.
[535] **25 §** Rätten får förordna om förhör med vittne eller sakkunnig.
Sådant förhör äger rum vid muntlig förhandling. Förhöret får hållas under ed. Om förhör gäller 36 kap. 1–18 och 20–23 §s samt 40 kap. 9–11, 14, 16 och 20 §s rättegångsbalken i tillämpliga delar.
Vittne och sakkunnig får delta i en muntlig förhandling genom ljudöverföring eller ljud- och bildöverföring under samma förutsättningar som gäller enligt 5 kap. 10 § rättegångsbalken.
Lag (2008:652).
[536] **26 §** Vittne eller sakkunnig har rätt till ersättning av allmänna medel för kostnad för sin inställelse. Rätten får bevilja förskott på ersättning för kostnad för resa och uppehälle. Närmare bestämmelser om ersättning och förskott meddelas av regeringen.
Har vittnet eller den sakkunnige inkallats på begäran av enskild part och visar det sig att parten saknade godtagbart skäl för sin begäran, får rätten ålägga honom att återbetala ersättningen till statsverket.
Lag (1980:275).

If the witness or the expert has been summoned at the request of an individual party and it turns out that the party lacked an acceptable reason for his request, the court may order him to repay the compensation to the State Administration.
Lag (1980:275).

Section 27[537]
If the administrative court finds that an interview with a witness or expert should suitably be held by another administrative court, the court may, after consultation with the latter, decide on this.
With regard to the taking of evidence under the first paragraph, Chapters 35, Sections 10 and 11 of the Code of Judicial Procedure shall apply mutatis mutandis.
Lag (2009:783).

Judicial Procedure Code
Chapter 5 On publicity and order etc in court
Section 11[538]
If there are reasons for this, the court may decide that sight shall be maintained by sound transmission or sound and image transmission. Such a decision may not, however, be made if it is inappropriate in view of the nature of the evidence and other circumstances.
Lag (2005:683).

THIRD DEPARTMENT
About evidence
Chapter 35 About evidence in general
Section 1[539]
The court shall, after a conscientious examination of everything that has occurred, decide what has been proven in the case.
What if the effect of a certain kind of evidence is stipulated does not apply.

[537] **27 §** Finner förvaltningsrätt att förhör med vittne eller sakkunnig lämpligen bör hållas av annan förvaltningsrätt, får rätten efter samråd med denna besluta härom.
I fråga om bevisupptagning enligt första stycket gäller 35 kap. 10 och 11 §s rättegångsbalken i tillämpliga delar.
Lag (2009:783)
[538] **11 §** Om det finns skäl för det, får rätten besluta att syn skall hållas genom ljudöverföring eller ljud- och bildöverföring. Ett sådant beslut får dock inte fattas, om det är olämpligt med hänsyn till bevisningens art och övriga omständigheter. Lag (2005:683).
[539] TREDJE AVDELNINGEN
Om bevisning
35 Kap. Om bevisning i allmänhet
1 § Rätten skall efter samvetsgrann prövning av allt, som förekommit, avgöra, vad i målet är bevisat.
Vad om verkan av visst slag av bevis är stadgat vare gällande.

Section 2[540]
Evidence is not required for a circumstance that is generally known.
Nor is proof required of what the law stipulates. Should foreign law be notified and its content is not known to the court, the court may, however, summon a party to provide evidence to that effect.

Section 3[541]
If a party to the proceedings acknowledges a certain circumstance and the matter is such that a settlement is permitted, what the party has acknowledged shall apply to him. If the party withdraws its recognition, the court shall examine in the light of the reasons given for the revocation and other circumstances, which effect as proof may be added to the recognition.
If the matter is not as stated in the first paragraph, the court shall, in view of the circumstances, examine what effect a party's recognition may have as evidence.

Section 4[542]
If a party fails to appear before the court or otherwise fulfil something in the trial or to answer a question posed to the inquiry, the court examines with regard to everything that has occurred, what effect as evidence may be added to the party's relationship.

Section 5[543]
If it is a question of estimating a damage that has occurred and full proof of whether the damage cannot be carried out at all or only with difficulty, the court may estimate the damage to a reasonable amount. This may also happen if the evidence can be assumed to entail costs or inconveniences that are not in reasonable proportion to the size of the damage and the damages claimed relate to a smaller amount. Lag (1988:6).

[540] **2 §** För omständighet, som är allmänt veterlig, kräves icke bevis.
Ej heller erfordras bevis om vad lag stadgar. Skall främmande lag lända till efterrättelse och är ej dess innehåll för rätten känt, äge dock rätten anmana part att förebringa bevisning därom.
[541] **3 §** Erkänner part i rättegången viss omständighet och är saken sådan, att förlikning därom är tillåten, skall vad parten erkänt gälla mot honom. Återkallar parten sitt erkännande, pröve rätten med hänsyn till de skäl, som anföras för återkallelsen, och övriga omständigheter, vilken verkan som bevis må tillkomma erkännandet.
Är saken ej sådan som i första stycket sägs, pröve rätten med hänsyn till omständigheterna, vilken verkan parts erkännande må äga som bevis.
[542] **4 §** Underlåter part att enligt rättens beslut infinna sig vid rätten eller eljest fullgöra något i rättegången eller att besvara för utredningen framställd fråga, pröve rätten med hänsyn till allt, som förekommit, vilken verkan som bevis må tillkomma partens förhållande.
[543] **5 §** Om det är fråga om uppskattning av en inträffad skada och full bevisning om skadan inte alls eller endast med svårighet kan föras, får rätten uppskatta skadan till skäligt belopp. Så får också ske om bevisningen kan antas medföra kostnader eller olägenheter som inte står i rimligt förhållande till skadans storlek och det yrkade skadeståndet avser ett mindre belopp. Lag (1988:6).

Section 6[544]
The parties shall be responsible for the evidence. The court may voluntarily collect evidence only in civil cases where settlement of the matter is not permitted.
The first paragraph does not prevent the court in criminal cases from voluntarily deciding on a forensic psychiatric examination or on an opinion from the National Board of Health and Welfare in accordance with the Act (1991:1137) on forensic psychiatric examination or obtaining another investigation into issues of punishment and deportation. Lag (2022:791).

The cited provisions from the Swedish Judicial Procedure Code establish the court's broad discretion over evidentiary matters and trial conduct. Under Ch. 5 Section 11, courts may permit hearings by audio or video link if suitable, while Ch. 35 Sections 1–6 set out the general rules of evidence stating that the court freely assesses all evidence, no proof is required for generally known facts, and admissions or absences may carry evidentiary weight. Together, they form the **procedural framework for judicial evaluation**, evidentiary autonomy, and fair trial management in Swedish proceedings. Next are Sections 7–15: **10**

Section 7
The court may reject evidence[545]
1. if the circumstance that a party wishes to prove is irrelevant in the case,
2. if the evidence is not needed,
3. if the evidence would obviously be without effect,
4. if the evidence with considerably less inconvenience or cost can otherwise, or
5. if, despite reasonable efforts, the evidence cannot be adduced, and the decision should not be further delayed. Lag (2005:683).

[544] **6 §**
Parterna ska svara för bevisningen. Rätten får självmant hämta in bevisning endast i tvistemål där förlikning om saken inte är tillåten.
Första stycket hindrar inte att rätten i brottmål självmant beslutar om rättspsykiatrisk undersökning eller om yttrande av Socialstyrelsen enligt lagen (1991:1137) om rättspsykiatrisk undersökning eller hämtar in annan utredning i frågor om påföljd och utvisning. Lag (2022:791).
[545] **7 §** Rätten får avvisa bevisning
1. om den omständighet som en part vill bevisa är utan betydelse i målet,
2. om beviset inte behövs,
3. om beviset uppenbart skulle bli utan verkan,
4. om bevisningen med avsevärt mindre besvär eller kostnad kan föras på annat sätt, eller
5. om beviset trots rimliga ansträngningar inte kan tas upp och avgörandet inte bör fördröjas ytterligare. Lag (2005:683).

Section 8[546]
Evidence shall, when the main hearing is held, be taken at this, unless, in accordance with what is stipulated, evidence may be taken outside the main hearing.
If a main hearing is not held or evidence is otherwise to be taken outside the main hearing, the evidence may be taken in the same court or in another court**.**

Section 9[547]
If evidence is to be taken up outside the main hearing, it applies in the case of summonses by parties and on the parties' failure to comply with a summons that is prescribed for meetings during the preparation of the case. If a party fails to appear, the evidence may still be taken up, if the proceedings are to continue.
Lag (2005:683).

Section 10[548]
If the court decides that evidence shall be taken by another domestic court, the court shall make a request to that effect to that court and thereby give a brief account of the matter and state the evidence and the circumstance which is to be proved thereby. In the petition, the court shall, if it is appropriate and does not meet obstacles, attach the file to the case.

11 **Section 11**[549]
A court, which has been asked to take evidence, has to postpone the time and place for the taking of evidence. In this case, the court has the same power as if the trial were held there.
The record of the taking of evidence shall, together with all documents sent to the court or otherwise belonging to the case, be sent to the court where the trial is being held.

[546] **8 §** Bevis skall, då huvudförhandling hålles, upptagas vid denna, om ej, enligt vad därom är stadgat, bevis må upptagas utom huvudförhandlingen.
Hålles ej huvudförhandling eller skall bevis eljest upptagas utom huvudförhandling, må beviset upptagas vid samma rätt eller vid annan domstol.
[547] **9 §** Skall ett bevis tas upp utom huvudförhandling gäller i fråga om kallelser av parter och om parters underlåtenhet att följa en kallelse det som föreskrivs för sammanträden under förberedelsen av målet. Uteblir en part, får beviset ändå tas upp, om handläggningen av målet skall fortsätta.
Lag (2005:683).
[548] **10 §** Beslutar rätten, att bevis skall upptagas av annan inländsk domstol, skall rätten hos denna domstol göra framställning därom och därvid kort redogöra för saken samt uppgiva beviset och den omständighet, som skall styrkas därmed. Vid framställningen skall rätten, om det finnes lämpligt och hinder ej möter, foga akten i målet.
[549] **11 §** Domstol, som anmodats att upptaga bevis, har att utsätta tid och ställe för bevisupptagningen. Vid denna äge domstolen samma befogenhet, som om rättegången fördes där.
Protokollet över bevisupptagningen skall tillika med alla till domstolen översända eller eljest till ärendet hörande handlingar tillställas den rätt, där rättegången föres.

Section 12[550]
If the taking of evidence abroad is specifically stipulated.

Section 13[551]
At the main hearing, the evidence that has been taken up outside the main hearing shall be taken up again, if the court finds that it is relevant in the case and there is no obstacle to taking up the evidence. If oral evidence that has been taken up before the court can be presented through an audio and video recording, the evidence may be taken up again only if further questions need to be asked or if there are special reasons. In civil cases where settlement of the matter is permitted, it is also required that one of the parties' requests that the evidence be taken up again.
If the district court in a case that has been appealed to the Court of Appeal has taken up evidence, the evidence only needs to be taken up again if the Court of Appeal finds that it is relevant to the investigation. If oral evidence can be presented in the Court of Appeal through an audio and video recording of the hearing at the district court, the evidence may be taken up again only if further questions need to be asked. Evidence referred to in this paragraph may be taken up again even without the request of a party.
In the Supreme Court, the evidence that has been taken up by a lower court may be taken up again only if there are special reasons.
If evidence is not taken up again, it must be presented in an appropriate manner. Lag (2016:37).

[550] **12 §** Om upptagande av bevis i utlandet är särskilt stadgat.
[551] **13 §** Vid huvudförhandlingen ska de bevis som har tagits upp utom huvudförhandlingen tas upp på nytt, om rätten finner att det är av betydelse i målet och det inte finns något hinder mot att ta upp beviset. Om ett muntligt bevis som har tagits upp inför rätten kan läggas fram genom en ljud- och bildupptagning, får beviset tas upp på nytt endast om ytterligare frågor behöver ställas eller om det finns särskilda skäl. I tvistemål där förlikning om saken är tilllåten krävs det dessutom att någon av parterna begär att beviset tas upp på nytt.
Om tingsrätten i ett mål som överklagats till hovrätten har tagit upp bevisning, behöver beviset tas upp på nytt endast om hovrätten finner att det är av betydelse för utredningen. Om ett muntligt bevis kan läggas fram i hovrätten genom en ljud- och bildupptagning av förhöret vid tingsrätten, får beviset tas upp på nytt endast om ytterligare frågor behöver ställas. Ett bevis som avses i detta stycke får tas upp på nytt även utan begäran av part.
I Högsta domstolen får de bevis som har tagits upp av lägre rätt tas upp på nytt endast om det finns synnerliga skäl. Om ett bevis inte tas upp på nytt ska det läggas fram på lämpligt sätt. Lag (2016:37).

Section 14[552]
A report that someone has submitted in writing in connection with an already initiated or imminent trial, or a record of a report that someone has submitted to a prosecutor or the Police Authority or otherwise out of court in connection with such a trial, may be invoked as evidence in the trial
1. if it is specifically provided for,
2. if the interrogation of the person who gave the story cannot be held at or outside the main hearing or otherwise before the court,
3. if there are special reasons with regard to the costs or inconveniences that an interrogation at or outside the main hearing may be presumed to entail, the benefits of such an interrogation, the significance of the story and other circumstances, or
4. if the parties agree and it is not manifestly inappropriate.
What is said in the first paragraph about a written or recorded story shall also be applied in respect of an audio recording or an audio and video recording of a story. Lag (2021:1107).

Section 15[553]
In criminal cases, a report submitted at an interrogation before a law enforcement authority and documented through an audio and video recording may be invoked as evidence in the trial also in cases other than those specified in section 14, if appropriate. Lag (2021:1107).

[552] **14 §** En berättelse som någon har lämnat skriftligen med anledning av en redan inledd eller förestående rättegång, eller en uppteckning av en berättelse som någon med anledning av en sådan rättegång har lämnat inför åklagare eller Polismyndigheten eller annars utom rätta, får åberopas som bevis i rättegången
1. om det är särskilt föreskrivet,
2. om förhör med den som lämnat berättelsen inte kan hållas vid eller utom huvudförhandling eller i övrigt inför rätten,
3. om det finns särskilda skäl med hänsyn till de kostnader eller olägenheter som ett förhör vid eller utom huvudförhandling kan antas medföra, fördelarna med ett sådant förhör, berättelsens betydelse och övriga omständigheter, eller
4. om parterna godtar det och det inte är uppenbart olämpligt.
Det som sägs i första stycket om en skriftlig eller uppteckнad berättelse ska också tillämpas i fråga om en ljudupptagning eller en ljud- och bildupptagning av en berättelse. Lag (2021:1107).

[553] **15 §** I brottmål får en berättelse som lämnats vid ett förhör inför en brottsbekämpande myndighet och som dokumenterats genom en ljud- och bildupptagning åberopas som bevis i rättegången även i andra fall än de som anges i 14 §, om det är lämpligt. *Lag (2021:1107)*.

Chapter 39 On sight
Section 5[554]
Holds any object, which can be conveniently moved to the court and which can be assumed to have significance as evidence, whether he is obliged to provide it for sight; such an obligation does not, however, be imposed in a criminal case on the suspect or the person to whom he is in such a relationship, as referred to in Chapter 36. Section 3. The statute in Chapter 36 Section 6 if a witness' right to refuse to testify has a corresponding application in respect of the right of a party or another to refuse to provide the object of sight. If the obligation to submit a written document for inspection applies to what in Chapter 38 Section 2 is stipulated.
What in Chapter 38 Sections 3–9 is stipulated to have a corresponding application regarding objects or written documents, which must be provided for inspection. Lag (1980:101).

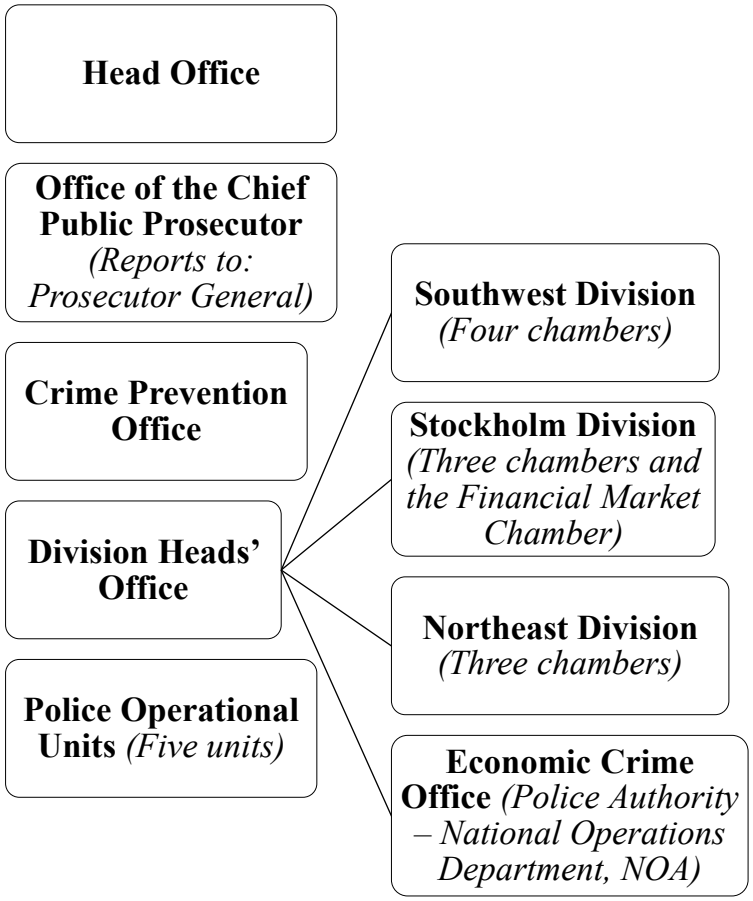
[554] **5 §** Innehar någon föremål, som lämpligen kan flyttas till rätten och som kan antagas äga betydelse som bevis, vare han skyldig att tillhandahålla det för syn; sådan skyldighet åligge dock ej i brottmål den misstänkte eller den som till honom står i sådant förhållande, som avses i 36 kap. 3 §. Stadgandet i 36 kap. 6 § om vittnes rätt att vägra att yttra sig äge motsvarande tillämpning i fråga om rätt för part eller annan att vägra att tillhandahålla föremål för syn. Om skyldighet att förete skriftlig handling för syn gälle vad i 38 kap. 2 § är stadgat.
Vad i 38 kap. 3–9 §s är stadgat äge motsvarande tillämpning beträffande föremål eller skriftlig handling, som skall tillhandahållas för syn. Lag (1980:101).

11. Article 12a Anti-fraud Coordination Services

1. Each Member State shall, for the purposes of this Regulation, designate a service (the 'anti-fraud coordination service') to facilitate effective cooperation and exchange of information, including information of an operational nature, with the Office. Where appropriate, ***in accordance with national law***, the anti-fraud coordination service may be regarded as a competent authority for the purposes of this Regulation. […]

1 **National Anti-Fraud Coordination Service:** Ministry of Justice, Swedish Economic Crime Authority (*Ekobrottsmyndigheten EBM)*. The Swedish Crime authority is an economic prosecution authority and thus not like in other countries a Ministry of Finance or a special administrative authority.[555]

Figure 6: Organization Chart of the Swedish Economic Crime Authority



Source: https://www.ekobrottsmyndigheten.se/om-oss/organisation/.

[555] Swedish Economic Crime Authority 2025, p. 61:"The Swedish Economic Crime Authority is the liaison centre for combating fraud in matters relating to OLAF investigations in Sweden. The liaison centre is called the Anti Fraud Coordination Service (AFCOS) and is the initial point of contact when OLAF initiates investigations in Sweden. During the period, the Swedish Economic Crime Authority has received three requests for assistance, participated in two on-site inspections and received a recommendation from OLAF to take legal action in one case."

The Swedish Crime authority states that it itself is competent for prosecution and investigation in criminal matters. It has special knowledge of the anti-fraud scenery in Sweden: **2**

"The operational activities consist of ten **eco-crime chambers**, a financial market chamber, five police operational units and a crime prevention office. **3**

The chambers are organized under **three geographical divisions**, Northeast, Stockholm and Southwest, and are led by three department heads. The chambers investigate and prosecute cases. **4**

The **police operational units** are located in five locations and work with intelligence and reconnaissance. Police officers who serve at EBM are employed by the Swedish Police Agency and are led by a police chief at the Eco-Crime Office"[556] **5**

[Article 12b–12d omitted]

12. Article 12e The Office's Support to the EPPO

1. In the course of an investigation by the EPPO, and at the request of the EPPO in accordance with Article 101(3) of Regulation (EU) 2017/1939, the Office shall, in accordance with its mandate, support or complement the EPPO's activity, in particular by:
(a) providing information, analyses (including forensic analyses), expertise and operational support;
(b) facilitating coordination of specific actions of ***the competent national administrative authorities*** and bodies of the Union; […]

- Financial Supervisory Authority (*Finansinspektionen*)
- Social Insurance Office (*Försäkringskassan*)
- Tax Office (*Skatteverket*)
- Customs Office (*Tullverket*)
- Controls Department (*kontrollavdelningen*)
- Revenue Department (*uppbördsavdelningen*)
- Coast Guards (*Kustbevakningen*)
- Swedish Board of Agriculture (*Jordbruksverket*)
- Swedish Economic Crime Authority (*Ekobrottsmyndigheten EBM*) – authority responsible for tax crimes, bankruptcy crimes, insider crimes, accounting crimes, EU-fraud

[Article 12f–g omitted]

[556] See https://www.ekobrottsmyndigheten.se/om-oss/organisation/. Accessed 30 June 2025.

13. Article 13 Cooperation of the Office with Eurojust and Europol

1. […] Where this may support and strengthen coordination and cooperation between ***national investigating and prosecuting authorities,*** or where the Office has forwarded to the competent authorities of the Member States information giving grounds for suspecting the existence of fraud, corruption or any other illegal activity affecting the financial interests of the Union in the form of serious crime, it shall transmit relevant information to Eurojust, within the mandate of Eurojust. […]

- Regional public prosecution offices (*Åklagarkammare (Regional)*), e.g. Falun Public Prosecution Office
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Anti-Corruption Unit (*Riksenheten mot korruption*)
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Unit against Organised Crime (*Riksenheten mot internationell och organiserad brottslighet*)
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: National Environment and Work Environment Unit (*Riksenheten för miljö- och arbetsmiljömål*)
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: Special Prsecutor's Office (*Särskilda åklagarkammaren*) (responsible for crime suspicions by police officers, prosecutors, judges, members of the parliament and certain other executives)[557]
- Swedish Prosecution authority (*Åklagarmyndigheten*), Department: Prosecution Office for National Security (responsible for terrorism and national security) (*Riksenheten för säkerhetsmål*)
- Judicial Police (*Polisen*)
- Swedish Customs Authority (*Tullverket*)
- Tax authorities (*Skatteverket*)
- Swedish Economic Crime Authority (*Ekobrottsmyndigheten EBM*)–authority responsible for tax crimes, bankruptcy crimes, insider crimes, accounting crimes, EU-fraud
- The Swedish Enforcement Authority/*Kronofogdemyndigheten*

[Article 14–16 omitted]

[557] https://www.aklagare.se/kontakt/sarskilda-aklagarkammaren/. Accessed 30 June 2025.

14. Article 17 Director-General

[…] 4. The Director-General shall report regularly, and at least annually, to the European Parliament, to the Council, to the Commission and to the Court of Auditors on the findings of investigations carried out by the Office, the action taken and the problems encountered, whilst respecting the confidentiality of the investigations, the legitimate rights of the persons concerned and of informants, and, where appropriate***, national law applicable to judicial proceedings***. Those reports shall also include an assessment of the actions taken by the ***competent authorities of Member States*** and the institutions, bodies, offices and agencies, following reports and recommendations drawn up by the Office.
7. The Director-General shall put in place an internal advisory and control procedure, including a legality check, relating, inter alia, to the respect of procedural guarantees and fundamental rights of the persons concerned and ***of the national law of the Member States concerned***, with particular reference to Article 11(2). The legality check shall be carried out by Office staff who are experts in law and investigative procedures. Their opinion shall be annexed to the final investigation report.

Article 17 contains provisions regarding the office's reporting obligations and the safeguarding of procedural guarantees in the course of its investigations. Paras 4 and 7, in particular, – this is the *telos* underline OLAF's efforts to balance effective investigative action with the protection of fundamental rights. **1**

The Supervisory Committee noted that **OLAF's country mini profiles provided some information on national laws but were insufficient** for compensating occasional expertise issues.[558] They also reviewed **OLAF's legality check procedures**, recognizing the importance of expertise in all EU Member States' legal systems. Good relations between investigators and reviewers were seen to positively impact the quality of checks and reviews. OLAF's legality check ensures compliance with legal rules and addresses any breaches swiftly. The check focuses on procedural aspects and may lead to modifications or abandonment of actions if it fails. The committee emphasized the importance of compliance with rights and procedural rules in promoting the rights of those affected. **2**

Article 17 para 4 specifies that the OLAF Director-General is required to **report regularly and at least annually** to major EU IBOA. The reports should cover the findings of OLAF's investigations, the actions taken and any problems encountered during them. Importantly, these reports must respect the confidentiality of investigations and the legitimate rights of individuals involved, including informants. The provision also requires OLAF to consider national laws applicable to judicial proceedings. **3**

[558] Supervisory Committee, Opinion No 2/2015, Legality check and review in OLAF, pp. 6–14.

4 Next, Article 17 para 7 further emphasizes procedural guarantees and compliance with fundamental rights. It mandates the establishment of an internal advisory and control procedure, including a legality check, which OLAF did in the past.

5 The **legality check** should be carried out by OLAF staff who are experts in law and investigative procedures and focus on the procedural safeguards. This internal control mechanism is relevant for ensuring that national laws are respected. The opinion resulting from this check should then be annexed to the final investigation report, thereby providing transparency and accountability for the decisions made throughout the investigative process.

6 As noted in an article by *Mavromati* and *Riochet* it is recalled that this check was introduced as a new internal advisory and control procedure in the past.[559] This change, unlike its predecessor (Regulation 1073/1999), was designed to **include an internal legality** check that assesses, among other things, the respect for procedural guarantees and the fundamental rights of individuals under investigation. This internal process is vital for ensuring that OLAF's actions remain compliant with both EU and national standards, e.g. for upholding the rule of law and protecting the rights of individuals. Moreover, the importance of these procedural safeguards has been by the ECL C–787/22, which related to the respect for the rights of defence and procedural guarantees during OLAF's investigations were at the centre of the dispute.[560] It was reiterated the need for OLAF to operate in a manner that respects fundamental rights, including the right to be heard and the right to avoid self-incrimination.

a) National Law Applicable to Judicial Proceedings

7 **Applicable National Law:**

- National law applicable to judicial proceedings: Code of Administrative Procedure (*Förvaltningsprocesslag*) and Judicial Procedure Code (*Rättegångsbalk*)

8

- Examples from the Code of Administrative Procedure.
  - Procedural acts in the court, Sections 77 et seq.
  - Stay of proceedings by operation of law, court-ordered stay of proceedings and expedition of proceedings, Sections 91 et seq.
  - Part 3 Proceedings in administrative courts, Chapter 13 Opening of proceedings on actions, preliminary proceedings in the matter, Sections 120 et seq.

[559] Mavromati, Riochet 2024, eucrim, pre-print.
[560] ECJ, Case C-787/22 P, *Sistem ecologica production v EU Commission*, Judgement of 30 November 2023, ECLI:EU:C:2023:940.

  - Part 4 Proceedings before the circuit court, Chapter 18 Proceedings on appeals against judgements of administrative courts, Sections 180 et seq.
  - Part 6 Specialised proceedings, Chapter 28 Procedure in procurement matters, Sections 266 et seq.

- Examples from the Judicial Procedure Code: **9**
  - Chapter 1 On general intelligence
  - Chapter 5 On publicity and order in court
  - Chapter 6 Registration of information and documents
  - Chapter 7 On prosecutors and recusal of law enforcement officials
  - Chapter 8 On lawyers
  - Chapter 10 On the court of law
  - Chapter 11 Parties and representatives
  - Chapter 12 On legal representatives
  - Chapter 13 Subject-matter of the proceedings and the institution of proceedings
  - Chapter 20 Right of prosecution and plaintiffs
  - Chapter 21 On the suspect and his defence
  - Chapter 22 Individual claims in respect of offences
  - Chapter 23 Pre-trial investigation
  - Chapter 30 Judgment and decisions
  - Chapter 32 Time limits and limitation periods
  - Chapter 33 Service of documents
  - Chapter 34 Barriers to proceedings
  - Chapter 35 Evidence in general
  - Chapter 38 Written evidence

Competent Authorities:

- Financial Supervisory Authority (Finansinspektionen)
- Social Insurance Office (Försäkringskassan)
- Tax Office (Skatteverket)
- Customs Office (Tullverket)
- Controls Department (kontrollavdelningen)
- Revenue Department (uppbördsavdelningen)
- Coast Guards (Kustbevakningen)
- Swedish Board of Agriculture (Jordbruksverket)

b) Internal Advisory and Control Procedure: Legality Check Involving National Law

10 *Sources and national sections 1: Art. 17 OLAF Regulation–Overview for Sweden*

Law Enforcement Act/*Korrakaitseseadus*	**Chapter 1 General Provisions** Section 7 Principle of proportionality Section 8 Principle of expediency Section 9 Protection of rights and guarantee of human dignity Et seq. **Chapter 3 State Supervision measures** Sections 23 et seq.
Customs Act/*Tolliseadus*	**Chapter 2 Obtaining data for assessment of threat** Section 8 Obtaining data from state database for assessment of threat Section 9 Obtaining data from economic operator for assessment of threat **Chapter 3 Surveillance activities, secret cooperation and equity to communications undertaking** Section 10 Collection of information for deciding on access of person to surveillance information and employment of person in service Section 11 Secret cooperation and covert measures Section 12 Enquiry to communications undertaking **Chapter 12 State supervision** Section 60 State supervision Section 61 Special state supervision measures Section 62 Customs seals Section 63 Examination of goods and means of transport Section 64 examination of baggage Section 65 Specifications of examination of passenger

	Section 66 Examination of postal consignment Section 67 use of direct coercion Section 68 use of firearms
Taxation Act/*Maksukorralduse seadus*	**Chapter 1 General Provisions** Division 2 Principal Obligations of Tax Authority Section 10 Duties of tax authority Section 11 Principle of investigation Section 12 Right of Discretion et seq.
Administrative Procedure Act/*Haldusmenetluse seadus*	**Chapter 1 General Provisions** Subchapter 2 Principles of Administrative Procedure Section 3 Protection of rights Section 4 Right of discretion Section 5 Choice of form and purposefulness Section 6 Principle of investigation Section 7 Accessibility and data protection Subchapter 5 Proceedings with Matter in Administrative Procedure Section 14 Application et seq. **Chapter 2 Conducting of Administrative Proceedings** Sections 35 et seq.

Source: The authors.

[Article 18–21 omitted]

15. Annex

Swedish Code of Statutes: Regulation on the Management of Programs for Certain EU Funds

Svensk författningssamling

Förordning om förvaltning av program för vissa EU-fonder

Utfärdad den 18 augusti 2022

Regeringen föreskriver följande.

Swedish Code of Statutes
Regulation on the management of programs for certain EU funds
Issued on 18 August 2022

See on the following website. https://www.riksdagen.se/sv/dokument-och-lagar/dokument/svensk-forfattningssamling/forordning-20221379-om-forvaltning-av-program_sfs-2022-1379/.

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This **Swedish EPPO/OLAF volume** discusses the legal framework of EU law and Swedish law in relation to EU fraud investigations. The focus is on Sweden's current non-participation in the EPPO mechanism and the national approach to prosecuting EU fraud cases. This volume also examines the possibility of Sweden joining the EPPO and hypothetical considerations for future Swedish European Delegated Prosecutors. The final part is a guide to OLAF investigations in Sweden, focusing on investigative missions by the Anti-Fraud Office (OLAF) and its national partners. Prof Dr Christoffer Wong has acted as the publication's national expert.

While written in English, the volume includes footnotes that reproduce the original Swedish legislation in the local language. Easily navigable with the help of visual symbols, it is designed as a quick reference tool for academics, students, practitioners and other interested readers.

Logos Verlag Berlin

978-3-8325-6025-6