



# Access to justice for children

## Country fact sheet: **Sweden**<sup>1</sup>



### Overview

**Country size:** 450 295 km<sup>2</sup>

**General Population:** 10,3 million

**Number of Children:** 2,2 million (under 18)

**Date of ratification of the Convention on the Rights of the Child:** 1990

**Date of abolition of the death penalty:** 1975

### Minimum ages

**Minimum age of criminal responsibility (MACR):** 15 years

**Age of imprisonment:** 18 years

**Age until juvenile justice legislation is applied:** 21 years

### Type of legal system

The Swedish legal system is based on a civil law system.

### Specialisation of the system

The national legislation of Sweden does not provide for specialised child justice institutions, although there are specialised professionals, including child lawyers and social workers, and the Ombudsman for Children.

### Child-specific legislation

- [Young Offenders Act](#) – contains provisions addressing the criminal responsibility and detention of children.
- [Social Services Act](#) – contains provisions for the care and social welfare of children. Also, contains procedural safeguards for child victims and witnesses.
- [The Preliminary Investigation Regulation](#) – contains procedural protections for child victims and witnesses.
- [Criminal Code](#) – contains provisions addressing the criminal responsibility and sentencing of children.
- [Code of Judicial Procedure](#) – contains provisions governing the proceedings and the procedural rights of the child offender, victims and witnesses.
- [Children and Parents Code](#) – states that the best interests of the child must be decisive for all decisions regarding custody, housing, and access to rights. The Code also provides that children have the right to care, security and good education, as well as to be treated with respect.
- [Care of Young Persons Act](#) – regulates when and how the state may remove the child from his/her guardian/s. Also contains provisions addressing children under the age of 15 committing crimes or children who are victims of parental abuse.
- Other relevant legislation includes the [Detention Act](#), [Counsel for An Injured Party Act](#), [Special Representative for Children Act](#), and [Discrimination Act](#).

In January 2020, the [Convention of the Rights of the Child](#) was incorporated into Swedish law.

<sup>1</sup> The information used to compile this fact sheet is based on the responses to the questionnaire received in November 2019.

# Child suspects or accused in criminal proceedings

## Implementation of EU Directive 2016/800

The **EU Directive 2016/800** on the procedural safeguards for children who are suspects or accused persons in criminal proceedings is transposed in Swedish law.

## Cross-cutting safeguards

- A child under the minimum age of criminal responsibility (MACR) cannot be held criminally responsible for a crime. See *Criminal Code, Chapter 1, Section 6*.
- Pursuant to a Sweden Supreme Court case, if the child's age is not known, the court will determine the age of the child and the assessment most favourable to the child should be used. See *Case No. B 1346-16*.
- During the proceedings the child has a right to defence counsel paid for by the state. If acquitted, no repayment needs to be made to the state. However, if the accused is convicted, he or she may be required to pay all or part of the state's costs. See the *Code of Judicial Procedure, Chapter 21 and Chapter 31 Section 1 paragraph 3 and Young Offenders Act, Section 24*.
- Children have a right to have their parent/guardian present at all stages of proceedings. When a child is being accused of a crime the parents/guardians have to be informed and called to the police station. The parents have a right to attend the questioning of the child but not if it is not in the best interests of the child. Social services may also participate in the interrogation of the child if it is not to the detriment of the investigation. Also, parents/guardians have to be summoned to the child's hearing. See *Young Offenders Act, Sections 5 and 7*.
- Generally, court hearings are open to the public. However, when a child is a part of the proceedings the hearing can be closed to the public. Nevertheless, the court's judgement are public documents. While certain information can be kept confidential under the Information and Secrecy Act, there is nothing which concerns maintaining the confidentiality of children. See *Code of Judicial Procedure, Chapter 5 Section 1*.

## Specific procedural measures

- After the police investigation is completed, and if the child has reached the age of 15, the prosecutor decides whether the case should be taken to court.
- In very specific cases, for example when the crime can lead to imprisonment for at least one year (for children above 15 years), the prosecutor can, based on a request from the social services, try the case in court through what is called evidentiary proceedings (*bevistalan*). The case is then tried as other criminal cases, and the court decides whether the child is guilty of the action. However, the child is not punished. This is seldom used, but when it is used it is to ensure that the child receives the most appropriate measures from the social services.

## Diversion and alternatives to detention

- Children under the age of 18 can only be held in custody under extraordinary circumstances. See *Young Offenders Act, Section 23*.
- With respect to pretrial detention, alternatives such as restrictions on leaving a designated place of residence and obligations of reporting to the appropriate authorities may be used. See *Code of Judicial Procedure, Chapter 25, Section 1*.
- For children ages 15 to 18, special "youth penalties" are used. These include performing work service, following rules set by social services, or paying a fine. For severe crimes including rape or murder, there is a penalty called closed youth care. This means that the child is in detention with other children. If a child has not been convicted for a crime in the past and the current alleged offence is minor, a warning may be issued instead of an actual penalty.
- Children under 18 may not be housed in detention with a person over the age of 18 years old, unless it can be shown that it is in the best interests of the child. See *Detention Act, Chapter 2, Section 3*.

# Child victims and witnesses in criminal proceedings

## Implementation of EU Directive 2012/29

As of 11 May 2020, Sweden has not transposed EU **Directive 2012/29** establishing minimum standards on the rights, support and protection of victims of crime. As of this date, the European Commission had ongoing infringement proceedings against Sweden for its failure to transpose **EU Directive 2012/29**.

## Cross-cutting safeguards

- A child victim has a legal right to counsel. Additionally, children who have been victims of a crime committed by a parent or another individual who bears a close relationship with the child, have the right to a special representative. See *Counsel for An Injured Party Act* and *Special Representative for Children Act*.

- Witnesses under the age of 15 require permission from the court in order to testify and testimony may be behind closed doors. For children under 15, video taped hearings are often used in courts. In many places in Sweden these are carried out in specific child friendly places, so called *Barnahus* (Children's houses). See *Code of Judicial Procedure, Chapter 5 Section 1 and Chapter 36 Section 4*
- Witnesses under 15 are not allowed to take an oath. See *Code of Judicial Procedure, Chapter 36 Section 13*.
- Child victims and witnesses in criminal proceedings benefit from additional safeguards including the right to avoid contact with the offender, and the right to have parents or guardians present during the proceedings.

---

---

## Focus on status offences

Sweden does not address behaviour which are typically deemed a status offence through the criminal justice sector. Behaviour such as truancy, possession of alcohol and possession of tobacco are addressed through the school system, in cooperation with the child's parents and possibly social services. Other offences, such as running away from home, acting beyond parental control, roaming the streets, and begging, may be addressed through the social welfare or child protection sectors.

A romantic relationship between peers is not a criminal act if both children are under the age of 15. However, there will be a criminal offence if a person over the age of 15 has a sexual relationship with a child under the age of 15.

## Other relevant information

The Ombudsman for Children in Sweden has been tasked with supporting authorities, municipalities and county councils in their work on the practical application of the Convention on the Rights of the Child in their respective activities. This is known as the **Knowledge Promotion for the Rights of the Child**. The effort includes 16 authorities. The county administrative boards are also assigned to support the work on the practical application of children's rights in municipalities and county councils.

Sweden's *Discrimination Act* prohibits discrimination based on sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. This protection extends to children in contact with the law.