

LEGAL AID AND ADVICE IN SWEDEN

1. The law on legal aid

The Swedish Constitution provides that foreigners lawfully present in Sweden have the same rights listed in this article as Swedish nationals. This includes criminal defence, access to the courts and legal aid.

See Chapter 2, article 20 of the Constitution, a document spread over 4 statutes. The full text is published in the Svensk Författningssamling, SFS, the official series of Swedish laws.

In amended form it is re-published yearly in the Sveriges Rikes Lag, SRL, the Laws of the Kingdom of Sweden.

Legal advice and legal aid in Sweden is regulated by the law on legal aid (Rättshjälpslagen, 1972:429) and detailed rules made under it (Rättshjälpsförordningen, 1972:938), revised from time to time, most recently with effect from 1 July 1994 (1994:7,B29). The Swedish Courts' Administration (Domstolsverket) publishes a leaflet outlining legal aid. It is available in several languages including English and German.

The address of Domstolsverket is:

Kyrkogatan 34,
S-551 81 JÖNKÖPING
tel: (0)36.15 53 00
fax: (0)36.16 57 21
International prefix: +46; next (0) omitted.

2. What kinds of aid are available?

The statutory system takes four forms: (1) legal information and advice (Rådgivning); (2) general legal aid in non-criminal cases (Allmän rättshjälp); (3) defence in criminal cases (Rättshjälp åt misstänkt i brottmål), which is a distinct constitutional right, not regarded as legal aid; and (4) assistance in obtaining administrative remedies (offentligt biträde), for example in child custody cases.

Rättshjälpsmyndigheten (the Legal Aid Authority) administers the first two forms, with the help of the bar. It is only concerned with granting or refusing LA, and if granted it has no control over subsequent proceedings. It cannot recover LA payments from the value of property preserved or recovered in legally-aided proceedings. The actual decision to grant or refuse LA in **family law** matters is made by the lawyer consulted; by the court in **criminal cases**; and in all other cases by Rättsjälpsmyndigheten.

As recently as 1993 the system was said to be under severe criticism by lawyers and the public: see Lars Rahm in EFTA Legal Systems - an Introductory Guide, ed. M. Sheridan & J. Cameron with help from the CCBE: London, Butterworth & Co., 1993; Swedish section p. 18-19.

3. Who provides the services?

Legal advice and aid can be obtained in much of Sweden from lawyers working for public law offices (allmän advokatbyrå). They provide this service as public counsel (rättshjälp genom offentligt biträde: see [section 2, above](#)). Lawyers in private practice may also provide legal aid, and specific kinds of help are available from various public authorities such as the courts, the police, social and employment administrations. Information on where to find a lawyer and on what services lawyers provide is given in the Matrikel, the Bar Association list, published yearly free of charge by the Sveriges Advokatsamfund, the Bar Association.

In civil proceedings it is not necessary to appoint a lawyer who is a member of the Bar; any suitable person may appear.

4. Criminal defence

Those accused of crime may be entitled to the services of a public defender, offentligt försvararg; but this is considered as part of the due administration of criminal justice, not as a form of legal aid. Anyone may defend a person accused of a crime, although the court can refuse to hear a manifestly incompetent defender. (It rarely exercises this power, however, unless heavy costs would otherwise fall on the state, or if the case raises great difficulties).

5. Legal information and advice (Rådgivning)

You can ask questions about such matters as marriage, divorce and matrimonial property, Wills and inheritance, tenancies, hire-purchase contracts, etc., and about criminal law liability.

There are some exceptions: questions of tax liability are excluded, as are matters concerning the land (property) register or the shipping registers.

The inquiry session can last up to an hour.

6. Who is eligible for legal advice?

Only natural persons, or the estate of some one who dies, is eligible for LA. They must satisfy the "means" test (see below).

7. Must a LA application be renewed if a case is appealed?

No: once granted, LA lasts the lifetime of the cases, including any appeals. It can be reduced or withdrawn, however, if the economic circumstances of the applicant improve markedly, or if (e.g. on appeal) the court decides that the case for LA is not sustainable.

8. General (non-criminal) legal aid (Allmän rättshjälp)

LA can be granted in most cases, once the eligibility tests have been satisfied (see below)

Exceptions Property disputes and tax liability (as for legal advice) and commercial matters if the applicant is in that business.

Non-resident foreigners are not eligible for LA.

9. Eligibility: means and merits

Means The Swedish LA scheme is based on an income-related contribution by the assisted person. The tariff was revised with effect from 1 July 1994.

The contribution consists of two elements: a basic fee and a supplementary fee. The basic fee table illustrates the contribution to be paid by an applicant with up to 6 dependants.

A partner may be a dependant.

A person without dependants whose income is no more than SEK 51,000 a year will pay SEK460 towards the cost of legal advice or aid [approx sterling equivalents: £4375 and £40]. The cut-off point arrives with an income of SEK241,000 when eligibility ends.

Basic contribution is due from someone with an annual income of SEK68,000 and 1 dependant; cut-off point is income of 259,000

85,000 and 2 dependants;	276,000
103,000 and 3 dependants;	293,000
120,000 and 4 dependants;	310,000
137,000 and 5 dependants;	327,000
154,000 and 6 dependants;	345,000

Contributions rise from SEK460 to 930 and then by steps of 20 up to 1610; by steps of 40 to 2970; by 50 to 3020 and then in steps of 60 to 5060; by steps of 80 to 7780; by steps of 100 to 7880; and finally by steps of 120 to 240,000, at which the contribution is 11840. Thereafter no LA is available.

Supplementary contributions are due when income reaches SEK35,000, at which level a person without dependants pays an additional 10%. This rises by steps of 10% to a maximum of 30% according to income and number of dependants.

Capital assets: the first SEK50,000 is ignored. Thereafter, half the remaining net capital (e.g. after deduction of legal liabilities) is added to the annual income for calculating eligibility.

Merits In theory, LA can be refused if the case does not seem to deserve it, or is of no real significance to the applicant. In practice, few cases are ever refused for these reasons.

Source: Swedish Department of Justice: www.riksdagen.se