

The Swedish Supreme Administrative Court

is the highest public administrative court of law and tries cases of appeal from any of the four Administrative Courts of Appeal within the country (Stockholm, Gothenburg, Jönköping and Sundsvall). The lower courts administered directly under the Administrative Courts of Appeal, are the County Administrative Courts. There is a County Administrative Court in every county.

All appeal cases are not necessarily tried in the Supreme Administrative Court; only such cases are tried where the Supreme Administrative Court permits a review or a retrial. The principle rule being that permission to review a case is granted only if the Supreme Administrative Court's decision can have consequences which set a precedent, namely that of providing guidance for how other similar cases should be judged. The circumstances whereby the Administrative Court of Appeal can be regarded to have judged wrongly cannot by themselves suffice for the Supreme Administrative Court to review the case. When permission to review a case is granted, it normally includes the appeal against the decision of a court in its entirety, but it can also be limited to certain parts of the case.

The Attorney-General (JK) and the Parliamentary Ombudsmen (JO) do not need permission to review cases which involve breaches of discipline or withdrawal or restriction of legitimation of doctors or other personnel within the health care services. Neither does the Attorney-General need permission to review cases involving licences for security cameras.

In daily practice the Administrative Courts of Appeal are the highest authority for most cases. Only a tiny percentage of cases of appeal are notified permission to be reviewed by the Supreme Administrative Court. Even where it concerns County Administrative Courts' judgements and decisions, the possibilities of a decision being reviewed by a higher authority are limited in a large number of case types by the need for permission to review the case, being granted by the Administrative Court of Appeal.

The Supreme Administrative Court's most important task is through its judgement of individual cases, setting a precedent, which can be of guidance for courts and lawyers who apply and exercise jurisprudence in Sweden. The Court's precedent creation task is equalled by the administrative goal

of the highest court to provide guidance in judicial application, whether it concerns criminal cases or civil actions and other cases which are processed by the courts of general jurisdiction.

The task of creating precedents takes its expression in the way in which the decision is formulated. Sometimes a clear principle of law can be formulated, but in many cases the subject is so complex that this is not possible. The Supreme Administrative Court judge sitting in on a similar case must form his own view as to the importance of the decision by interpreting it in the immediate case. The Supreme Administrative Court often gives quite detailed reasons, which can be of guidance when interpreting other cases.

The most common types of cases appearing before the Supreme Administrative Court concern taxation, social welfare, student study support, building constructions, driving licences and cases concerning the legality of local government legislation (previously called the District appeal case).

The Swedish Supreme Administrative Court and the Supreme Court cannot, as Supreme Courts in some other countries can, declare a law or ordinance invalid. On the other hand both of the highest Courts of Justice and even other Courts and authorities - can, when re-considering a case or other matter refuse to apply a provision which in the Court's view is contrary to constitutional law or superior statute.

Legislation which is introduced by Parliament - the Swedish Riksdag - or by the Government, that is to say laws and decrees can however be disregarded in a similar way only if an error is obvious. In certain central administration matters, where the Government or administrative authority would otherwise be the highest instance, the Supreme Administrative Court can, if the Government has been the decision maker and in other cases the Administrative Court of Appeal-decide if the ruling in the matter infringes any judicial principles. This institution is called the Judicial Review. One qualification for a judicial review is where a ruling means the enforcement of public authority power over an individual person and in no other way can be brought before the Supreme Administrative Court's scrutiny. If the Supreme Administrative Court or the Administrative Court of Appeal find that a ruling is unlawful and that it is not obvious that the mistake lacks significance for the decision, then the ruling

can be declared invalid and the matter will then be returned to the authority which carried out the ruling. In other cases the ruling will be declared valid and permanent.

The institution Judicial Review was originally introduced to satisfy a requirement in the Convention of Europe concerning the protection of human rights and basic freedoms of citizens wherein every individual has a right to have his case tried in a court of law. Nowadays, after the incorporation of the rules of the Convention of Europe into Swedish law statutes, a continuous transfer of competency is carried out to examine appeals from different types of cases from local and governmental authorities to administrative courts.

The Supreme Administrative Court as with the Administrative Court of Appeal nowadays examines forwarded applications for review of a ruled case and for re-instatement of forfeited time in such cases where the Government, the administrative court or the administrative authority is the highest instance. The division of jurisdiction between the Supreme Administrative Court and the Administrative Court of Appeal is applied in the main in accordance with the above named institution of Judicial Review. For an application for review to be granted, there must be recognition of important new facts in the case since it was ruled, or that a serious mistake was made during the case hearing or trial.

Re-instatement of forfeited time can be granted if someone has neglected to appeal against a decision at the right time and that this was caused by unforeseen or excusable impediment termed a lawful absence.

Members of the Supreme Administrative Court are called Lord Justices. The Court must in accordance with the law concerning the public administrative courts, comprise of 16 Lord Justices, or more when needed.

The Court is divided into two departments, with each department equally authorized to judge those cases which arrive before the Court.

When a case is to be judged in detail, 5 Lord Justices sit in judgement. A department can comprise of only 4 Lord Justices but in this case 3 of them must be in agreement as to how the case shall be decided. Occasionally a department of the Supreme Administrative Court reaches a judgement which conflicts with an earlier case. At this point the judgement will then be referred to a plenary sitting

of all members of the Court.

Permission to review a case or go to trial can be granted by one Lord Justice. More than three Lord Justices however are not allowed to take part in decisions of such a nature. Straight forward cases such as a petition for a new trial, re-instatement of forfeited time, judicial review as well as certain interim decisions can be decided by three Lord Justices or in certain cases by one Lord Justice. The vast majority of cases are decided upon by rulings judged after submissions. Verbal negotiations occur sometimes and these are normally conducted in Stockholm. In certain cases, however, the Supreme Administrative Court holds sessions in a different locality. This can be a case concerning a property or a place or an object which the Lord Justices wish to inspect.

The litigant parties in a case in the Supreme Administrative Court can be represented by solicitors or other persons acting as authorised representatives. One party, however, always has the right to speak for himself.

The Lord Justices are chosen by the Government and remain in service until they retire with a pension. No sort of application procedure for the position is permitted. Before the nominations are announced, the Government gathers confidential viewpoints from the Supreme Administrative Court members. The majority of the Lord Justices come from a judicial background and will earlier have served in other courts. Several of them will have had public commissions of various types, amongst others legislation assignments for government departments and committees or parliamentary committees. One Lord Justice was previously a university professor. It is considered desirable that within the Supreme Administrative Court there are members with different professional and working experience. No form of specialising in which certain types of case are allocated to certain members is, however, allowed. Every department handles all categories of cases and members alternate service in other departments.

A Lord Justice is assisted by a Supreme Administrative Court secretary who prepares and presents a case and who then submits proposals for verdicts and judgements. Secretaries are qualified court jurists. They are employed for a certain time period and service as a court secretary constitutes a stage in a judicial career.

The Supreme Administrative Court's rulings and judgements are published in the Supreme Administrative Court's annual (RÅ). They are also available via automatic data processing in the judicial archives.