

**PROMOTING NON-DISCRIMINATORY ALTERNATIVES TO  
IMPRISONMENT ACROSS EUROPE**

**NON-CUSTODIAL SANCTIONS AND MEASURES  
IN THE MEMBER STATES OF THE EUROPEAN UNION**

**Sweden**

*Swedish Prison and Probation Service*

*(Kriminalvården)*



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(Kriminalvården)

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**Non-custodial sanctions and measures  
in the Member States of the European Union**

## **I. LEGAL FRAMEWORK**

### **1 – General framework of the national system of penal sanctions**

- *What are the general features of the penal sanctions system?*

The Swedish Criminal Code contains provisions on many of the acts that are criminal offences in Sweden.<sup>1</sup> Provisions on other offences are found in specific acts and laws. The Swedish Criminal Code also contains general provisions on all offences, criminal sanctions and the applicability of Swedish law. In this Code, 'criminal sanctions' means the penalties of fines and imprisonment as well as conditional sentences, probation and special care orders. The use of penalties is governed by what is prescribed in the provisions on specific offences and what is otherwise specifically provided. Other sanctions may be applied, in accordance with the provisions concerning them, even if they are not mentioned in the provisions concerning specific offences.

The Swedish system of criminal prosecution is an accusatorial system, meaning that in addition to the court there is a prosecutor who is empowered to prosecute offences falling within the domain of public prosecution and the suspect has the right to conduct the suspects own case or to be assisted by defencecounsel. The trial is based on a hearing before the court between the prosecutor and the accused. They both get a position as parties and they can be actively active e.g. by providing evidence. The role of the court is mainly limited to leading the hearing. If the court found it necessary, the court may also arrange for presentation of evidence on its own motion.

The general courts in Sweden are divided into district courts, courts of appeal and the Supreme Court. At main hearings in criminal cases in the district courts, the district court shall consist of one legally qualified judge and three lay judges, unless otherwise prescribed. Minor criminal cases can be decided without a main hearing by a judge. Issues of liability for offences subject to public prosecution may also be undertaken by public prosecutors by means of summary penalty orders. An order for summary penalty means that the suspect is, subject to his approval immediately or within a specified period, ordered to pay a fine according to what the prosecutor considers that the offence deserves.

A judgment of the district court may be appealed against to the courts of appeal. A judgment of the courts of appeal may be appealed against to the Supreme Court.

The basic principles of the Swedish sanction system are:

- the principle of justice,
- the principle of humanity,
- the principle of predictability and
- the principle of proportionality.

The principle of justice refers to the basic rule that equal cases must be treated equally. On determination of penalties and remission of sanctions, the court has to take into consideration the interest of uniform application of the law.

The principle of humanity is based on the idea that punishment should be done with caution and not go beyond what is necessary. The principle is thus based on a general requirement of reasonableness and moderation in punishment. When choosing a sanction the court has to pay particular heed to circumstances that speak in favor of less severe sanctions than imprisonment.

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<sup>1</sup> <https://www.government.se/government-policy/judicial-system/swedish-statutes-in-translation---judicial-system/>

The principle of predictability is manifested in the fact that there are legal rules regarding the choice of sanction and sentencing as well as a clear set of reasons given for different sanction choices. Penalties are determined within the framework of applicable scale of penalties according to the penalty value of the offence or of the combined offences. There is also a ban on retroactive legislation regarding penalties and remission of sanctions.

The principle of proportionality is the idea that an action should not be more harsh than necessary, especially when punishing someone for a crime but also the use coercive measure should be in reasonable proportion to the purpose of the measure. If a minor intervention is sufficient, it should be used instead.

*- What are the limits of the term of imprisonment? What is the maximum limit of imprisonment that allows replacement by a non-custodial sentence?*

A prison sentence may be from 14 days to life. The length of the sentence largely depends on how serious the court judges the crime to be.

There is no sharp limit of when imprisonment could be replaced by a non-custodial sentence. The courts may sentence someone to community service for an offence that would otherwise have resulted in up to one year in prison and probation with a personal treatment plan could replace an offence that would otherwise have resulted in up to two years imprisonment.

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## **2 – Non-custodial sanctions**

*- What types of non-custodial sanctions are available in the criminal justice system? What is their minimum and maximum length?*

In addition to fines, the non-custodial sanctions for adults are mainly probation and conditional sentences, which can be given in combination with additional provisions such as community service and a personal treatment plan. This is sanctions enforced by the Swedish Prison and Probation Service.

The court can sentence to special care orders in certain cases. This is applicable if the offence was committed under the influence of a serious mental disturbance. Serious mental disturbance is not a diagnosis but a legal concept. Examples of a serious mental disturbance can be delusions, thought disorders and hallucinations. In such cases the court may only impose imprisonment if there are exceptional grounds to do so.

The court can also sentence a person to care under the Act on Care of Substance Abusers in Certain Cases the court may leave it to the social welfare committee to arrange the necessary care. If a more severe penalty than imprisonment for one year is prescribed for the offence, such care order may only be issued if there are special grounds.

On special youth care orders

In Sweden, a person become a criminal offender at 15 years of age. If a crime is commit by someone younger than 15 years old the social services in the municipality such person live in will decide on appropriate measures. From the age of 15 to the age of 21, a person receive a lesser punishment than adults. The older the person get, the more the punishment is similar to that of adults.

A person under twenty-one years of age may be sentenced to youth care if they have a special need for care or measure under the Social Service Act or the Care of Young Persons Act. The care and measures must aim to prevent unfavourable development in the young person. Youth care may only be imposed if youth care can be considered

sufficiently far-reaching in view of penalty value and nature of the offences, and in view of the young person's previously offences.

A person under twenty-one years of age may be sentenced to youth community service if that sanction is appropriate in view of their personal and other circumstances. A person who is sentenced to youth community service must be obliged to undertake unpaid work and participate in other specially arranged activities for at least twenty and at most one hundred and fifty hours. The court may impose youth community service if that sanction can be considered sufficiently far-reaching in view of the penalty value of the offences, and in view of the young person's previous offences, and there are no grounds to impose youth care. When choosing between youth community service and a fine, youth community service is chosen if that sanction is not too far-reaching.

A person who is under twenty-one years of age may be sentenced to youth supervision if neither youth care nor community service for young offenders is sufficiently far-reaching in view of the penalty value and nature of the offences, and in view of the young person's previous offences. The court may set a term of youth supervision of at least six months and at most one year. A person who is sentenced to youth supervision must participate in enforcement planning and follow what is stated in the enforcement plan.

If a person committed an offence before attaining eighteen years of age, and if the court finds that the sanction imposed should be imprisonment, it instead imposes a sanction of institutional youth care for a fixed term. However, this does not apply if, in view of the age of the accused at the time of legal proceedings or some other circumstance, there are special grounds against it. The court may set a term of institutional youth care of at least fourteen days and at most four years.

*- Are non-custodial sentences imposed directly, or is a prison sentence necessarily imposed first, then replaced by a non-custodial sentence?*

Non-custodial sentences are for the most part imposed directly by the judgment of the court. In addition, there is a possibility for an offender who have been sentenced to a maximum of six months' imprisonment to be offered intensive supervision with electronic control if such a provision is appropriate in view of the character of the accused. Intensive supervision with electronic control means that the offender serve the sentence in his or her home with a curfew during certain times. The convicted person is monitored 24 hours a day with the aid of a transmitter attached to the ankle.

*- What are the legal requirements for the imposition of each type of non-custodial sentence? Is the consent of the offender required?*

The legal requirements for imposing non-custodial sentence is that the non-custodial sentence can be considered sufficiently far-reaching in view of penalty value when taken in to consideration both aggravating and mitigating circumstances in connection to the offences.

Conditional sentence may be combined with community service only if the accused consent to it, and if such a provision is appropriate in view of the character of the accused and other circumstances. Such a provision concerns the obligation to undertake unpaid work for at least forty and at most two hundred and forty hours. If a provision with community service is decisive in a sentence of probation being imposed, the court must state in the judgment how long the term of imprisonment would have been if a sanction of imprisonment had been chosen instead.

A court may impose probation for an offence for which a fine is considered an insufficient sanction. Probation is combined with supervision from the date of the judgment and extends over a probationary period of three years from the date on which

enforcement of the sanction begins. Supervision ceases at the end of the probationary period or on an earlier date decided by the Swedish Prison and Probation Service. However, the period of supervision may not be less than one year. The court should take into consideration if there is reason to assume that probation combined with supervision may contribute to the accused refraining from further offences. Probation may be combined with imprisonment for at least fourteen days and at most three months.

As special grounds for probation instead of imprisonment, the court may take into consideration whether abuse of addictive substances or some other special circumstance requiring care or other treatment significantly contributed to the offence being committed and the accused declares themselves willing to undergo appropriate treatment in accordance with a personal plan that can be arranged in connection with enforcement. A provision on such treatment plan that the sentenced person has undertaken to follow is always issued in the judgment. If the planned treatment is decisive in a sentence of probation being imposed, the court must state in the judgment how long the term of imprisonment would have been if a sanction of imprisonment had been chosen instead.

*- Are there circumstances (of the offence and/or the offender) for which a non-custodial sentence cannot be imposed?*

The court has to determine the penalty value in order to determine if a non-custodial sentence is sufficiently far-reaching in regards of the framework of the applicable scale of penalties of the offence. The penalty value has to be determined within the framework set out in criminal code. In addition to the penalty value, if the accused has previously been guilty of an offence the court may take this into consideration as grounds for imprisonment.

*- Are there also ancillary penalties (penalties imposed cumulatively with the main sentence)? How are they applied?*

In addition to a sanction, an offence may, according to what is prescribed, result in the confiscation of property, a corporate fine or some other special legal consequence, as well as an obligation to pay damages.

Probation combined with supervision may be combined with imprisonment for at least fourteen days and at most three months. Probation combined with supervision may be combined with a community service provision.

When two-thirds, but at least thirty days, of a fixed term of imprisonment has been served, the sentenced person in most cases is conditionally released. However, if there are special grounds against conditional release, it may be postponed. Grounds for postponing is if the sentenced person has not participated in or has neglected assigned measures that are intended to prevent relapse into crime or promote their readjustment to society; or has otherwise in a serious way breached the provisions and conditions that apply to enforcement. Conditional release may be postponed for at most one hundred and eighty days at a time.

A probationary period equivalent to the remaining term of imprisonment upon release, but at least three hundred and sixty-five days, applies following conditional release. The penalty is fully enforced at the end of the probationary period. A person who is conditionally released is placed under supervision if this is necessary in order to reduce the risk of committing new offences or in order to in some other way facilitate the readjustment to society. Unless otherwise decided, supervision ceases at the end of the probationary period.

A person could either have probation placed under supervision imposed by court or when conditionally released. If it is necessary in order to reduce the risk of a person

who is subject to supervision committing new offences, or to facilitate their readjustment to society in some other way, the Swedish Prison and Probation Service may issue a special provision that the supervised person must follow. Such a provision is issued for a fixed period of at most one year at a time. According to Swedish legal system, such provision is not to be seen as an ancillary penalty.

A special provision may concern:

1. the manner in which and the extent to which the supervised person must maintain contact with their probation officer or the Swedish Prison and Probation Service;
2. an obligation for the supervised person to notify their probation officer or the Swedish Prison and Probation Service of their absence from a workplace, school or other activity or institution stated in the provision;
3. participation in relapse prevention or substance abuse related programmes;
4. substance abuse treatment, psychiatric care or other treatment;
5. work, education or other occupation;
6. controlled living arrangements or other instructions concerning living arrangements;
7. place of residence or other instructions concerning places or areas the sentenced person must remain in or is not permitted to be in; or
8. an obligation to submit samples of blood, urine, breath, saliva, sweat or hair to verify that the supervised person is not under the influence of alcohol, other addictive substances or doping substances.

If the supervised person is obliged to pay damages on account of the offence, a special provision may be issued concerning when and how the obligation to pay damages will be discharged. Such a provision may be issued only to the extent that it cannot be assumed to obstruct the supervised person's readjustment to society, in view of their financial situation or other circumstances.

If it is necessary in order to ensure that such special provision is being followed, the Swedish Prison and Probation Service may order electronic monitoring. Electronic monitoring may be ordered for at most six months at a time.

### **3 – Rationale for sentencing: determining the type and term of a non-custodial sentence**

*- Is there a sentencing phase in the criminal procedure, autonomous from the guilt phase?*

No, guilt and sentencing is based upon material presented at the hearing in court and an action is made in a judgment. There is no sentencing phase autonomous from the guilt phase.

*- What are the legal criteria that the court must consider in the choice of the penalty to be imposed and in the determination of its length?*



When assessing penalty value many circumstances has to be taken into consideration, both aggravating and mitigating circumstances. As aggravating circumstances can be mentioned:

- *whether the accused exhibited great ruthlessness;*
- *whether the accused exploited another person's defenceless position or difficulty defending themselves;*
- *whether the accused induced another person to be an accomplice to an offence through coercion, deceit or abuse of their youth, lack of understanding or position of dependence;*
- *whether the offence was part of criminal activities conducted in an organised form or systematically, or whether the offence was preceded by particular planning;*
- *whether a motive for the offence was to insult a person or a population group on grounds of race, colour, national or ethnic origin, religious belief, sexual orientation or transgender identity or expression, or another similar circumstance;*
- *whether the offence was liable to damage the security and trust of a child in their relationship with a family member;*
- *whether a motive for the offence was to preserve or restore the honour of a person or of an immediate or wider family or some other similar group.*

Furthermore, if the accused previously has been guilty of an offence the court should take account of this and imposes a more severe penalty. Other aggravating circumstances can be taken into consideration.

As mitigating circumstances can be mentioned:

- *whether the offence was occasioned by the manifestly insulting conduct of another person;*
- *whether the accused, as a result of a serious mental disturbance, had a reduced capacity to realise the implications of the act or to adapt their conduct accordingly, or otherwise as a result of mental disturbance, emotion or for some other reason had a reduced capacity to control their conduct;*
- *whether there was a connection between the conduct of the accused and their lack of development, experience or judgement;*

Furthermore, where there are special grounds to do so, other circumstances could be taken into consideration such as if the accused voluntarily gave themselves up or provided information that is of significant importance for the investigation of the offence. Another circumstance that could be taken into consideration is if the accused, as a result of advanced age or poor health, would be unreasonably severely affected by a penalty determined according to the penalty value of the offence Other mitigating circumstances can be taken into consideration.

*- Are non-custodial sentences imposed by the trial judge or afterwards by a judge responsible for the execution of sentences – or are both possible?*

A court's determination on the merits of the matter at issue an action is made in a judgment. Non-custodial sentences are imposed by such judgment and not afterwards by a judge responsible for the execution of sentences. The prosecutor may also decide on prohibitions and penalties but not non-custodial sentences. The Swedish Prison and probation Service is responsible for the execution of imprisonment and non-custodial sentences.

The Swedish Prison and Probation Service may may change or cancel a community service provision, if there are grounds to do so. The Swedish Prison and Probation

Service may decide that probation imposed by court supervision ceases earlier than at the end of the probationary period. However, the period of supervision may not be less than one year.

If the sentenced person breaches the conditions that apply to them as a result of the sentence of probation imposed by court, the Swedish Prison and Probation Service may take a measure. If such a measure is considered insufficient, the Swedish Prison and Probation Service may decide to issue a warning to the sentenced person. If the sentenced person has, in a serious way, breached the conditions that apply to them and it can be assumed that they will not be corrected through any measure that the Swedish Prison and Probation Service can take, the Prison and Probation Service must request that a prosecutor bring an action before a court for probation to be removed.

*- Does the judge have a duty to impose non-custodial sentences if the conditions are met? Does the judge have a duty to give reasons for the choice and the length of the sentence?*

When choosing a sanction, the court pays particular heed to circumstances that speak in favour of a less severe sanction than imprisonment. The court thereby takes into consideration mitigating circumstances when assessing penalty value.

*- Are there "sentencing guidelines" in your jurisdiction? If so, which authority is responsible for issuing them, and what is their role in the imposition of non-custodial sentences? Are there any sentencing guidelines on specific groups of people or certain categories of offences?*

An issue of criminal liability may not be entertained by the court unless a prosecution for the offence has been instituted. If a main hearing has been held, the judgment shall be based upon material presented at that hearing.

The Criminal Code contains general provisions on all offences and criminal sanctions. All crimes have a range of punishment that states the minimum and maximum possible penalty for that particular crime. Some, but not all, crimes are graded in harshness; for example, an assault may be deemed to be minor, if inflicted severe bodily injury such assault may be deemed to be a gross assault, if the bodily injury is permanent, or whether the perpetrator displayed exceptional ruthlessness such assault may be deemed to be exceptionally gross assault. The penalty will vary depending on how the assault is assessed. The penalty for minor assault ranges from a fine to six months imprisonment. Exceptionally serious assault carries a sentence of between five and ten years in prison.

There are sentencing guidelines in the Criminal Code on special care orders in certain cases such as criminal acts committed by a person with a substance abuse or by someone who suffers from a serious mental disturbance. There are also sentencing guidelines in the Criminal Code on special youth care orders.

#### **4 – Implementation of non-custodial sanctions and consequences of non-compliance**

- *Is there judicial supervision of the implementation? Is there a specialized court/judge responsible for supervising the implementation?*
- *What happens if the sentenced person breaches the conditions attached to the sentence? Is recall to prison automatic or are there other options? Which authority is competent to decide?*

The Swedish Prison and Probation Service is responsible for supervising the implementation of non-custodial sanctions.

If a person who is subject to probation with supervision, breaches provisions or instructions concerning what is otherwise applies to the supervision, the Swedish Prison and Probation Service may issue a special provision that the supervised person must follow. If such a measure is considered insufficient, the Swedish Prison and Probation Service may decide to issue a warning to the supervised person.

If a person who is sentenced probation with supervision imposed by court, in a serious way, breached the conditions that apply to them and it can be assumed that they will not be corrected through any measure that the Swedish Prison and Probation Service can take, the Prison and Probation Service must request that a prosecutor bring an action before a court for probation to be removed.

If a person who is conditionally released and placed under supervision breaches provisions or instructions concerning what otherwise applies to the supervision and such breach is serious and it can be assumed that the released person will not be corrected through any measure that the Swedish Prison and Probation Service can take, the probation board may declare the conditional release forfeited for a period of at most ninety days at a time. When determining the term of forfeiture, particular consideration is given to the nature and scope of the breaches that occasion the forfeiture

## **5 – Early release**

- *Are there forms of early release from prison (including parole or other forms of modifying or replacing imprisonment during its implementation)?*
- *What are the time frames (quantum of sentence served) for its application? What are the formal and substantial requirements for granting early release?*
- *Who is competent for granting release and for monitoring its implementation?*

When two-thirds, but at least thirty days, of a fixed term of imprisonment has been served, the sentenced person is conditionally released.

To reduce the risk of re-offending or otherwise facilitate a prisoner's adjustment in the community, he or she may be granted permission to stay away from prison through the following preparatory release measures:

- (1) *Activity release* - activity release means that during the day a prisoner carries out work, receives treatment or takes part in education, training or a specially arranged activity away from the prison. Activity release may be granted to a prisoner who needs an introduction to work life or to some other activity that can promote a stable life after release providing there is no noteworthy risk that he or she will commit crime, evade the full enforcement of his or her sentence or otherwise seriously misbehave.
- (2) *A stay in care in accordance* - stay in care means that a prisoner is placed in a home for care or residence. A stay in care may be granted for a prisoner who needs care or treatment for the misuse of a dependency producing substance

or for some other special condition that can be assumed to be linked to his or her criminality providing there is no noteworthy risk that he or she will commit crime, evade the full enforcement of his or her sentence or otherwise seriously misbehave.

- (3) *A stay in a half-way house* - a stay in a half-way house means that a prisoner is placed in a home under the control of the Swedish Prison and Probation Service that is designed to give the prisoners supervision and special support. The prisoner may not be outside the half-way house other than at specifically determined times.

A stay in a half-way house may be granted to a prisoner who is in need of supervision or special support if

(1) at least half of his or her sentence, but at least three months, has been served,

(2) there is no noteworthy risk that he or she will commit crime, evade the full enforcement of his or her sentence or seriously misbehave in some other way, and

(3) he or she is carrying out work, receiving treatment or participating in education, training or a specially arranged activity.

- (4) *Extended activity release* - extended activity release means that a prisoner serves the prison sentence under controlled forms in his or her home. Extended activity release may be granted if

(1) at least half of the sentence, but at least three months, has been served,

(2) there is no noteworthy risk that the prisoner will commit crime, evade the full enforcement of the sentence or otherwise seriously misbehave,

(3) he or she has access to housing, and

(4) he or she is carrying out work, receiving treatment or participating in education, training or a specially arranged activity.

A stay away from prison shall be planned so that it can continue until the time for conditional release. Authorisation of a preparatory release measure shall be combined with the conditions needed to achieve the purpose of the measure or to enable the Swedish Prison and Probation Service to exercise necessary control. Electronic devices may be used to check on stated conditions.

If there is reason to do so because of changed circumstances, the Swedish Prison and Probation Service may alter, cancel or state new conditions.

*- What type of conditions can be imposed? What are the consequences of non-compliance with the conditions? Is recall to prison automatic or is there discretion?*

Terms and conditions for the preparatory release measures must be individually designed based on the risk assessment and the circumstances of the individual case. Conditions on care, conditions on the obligation to keep in touch with the Swedish Prison and Probation Service and conditions on the inmate to refrain from alcohol and other intoxicants should be announced regularly. Terms can also refer to eg:

- which resident the prisoner must have during the exclusion measure,*
- what times and for what purposes the prisoner may stay outside the home (schedule), or during a care stay, outside the home for care or residence,*
- prohibition of staying within or outside a specific geographical area, prohibition to contact a particular person, or*
- what shall apply in respect of work, education or other employment.*

Negligence that can lead to the suspension of a preparatory release measures is e.g. that the prisoner:

- deviates,*
- relapses into crimes of a minor nature or magnitude,*
- refuses to provide a drug test without a valid reason,*
- does not participate in the employment under the preparatory release measures,*
- behaves threateningly,*
- refuses to grant access to the resident to a person who controls the conditions of extended leave, or*
- violates other announced conditions.*

A question concerning the cancellation of an authorisation for an ongoing stay in care, a stay in a half-way house or extended activity release shall be examined by a probation board following a report from the Swedish Prison and Probation Service. The board may also examine the question on its own initiative.

If an authorisation of an ongoing preparatory release measure is cancelled, the prisoner shall immediately be taken to a prison for the continued enforcement of his or her sentence in prison.

## **6 – Sanctions or measures applicable to vulnerable persons and minority groups**

*- Are there non-custodial sanctions – or specific programmes as part of a non-custodial sanction – specifically designed for particularly vulnerable persons (young adults, older persons, women, foreign nationals, persons with disabilities, people with mental health conditions, ethnic minorities, Roma, Indigenous peoples, LGBTIQ+ or other)? Or different requirements for giving a non-custodial alternative to those categories? Is*

there a preference for non-custodial sanctions regarding vulnerable groups and/or minorities? Are there specific forms of early release for those vulnerable groups and/or minorities?

- Can you identify any legal barriers to vulnerable persons or minority groups accessing non-custodial sanctions?

There are specific non-custodial sanctions specifically design for younger persons under twenty-one years of age, for people with mental health conditions or drug abuse problems.

## **II. NON-CUSTODIAL SANCTIONS/MEASURES IN PRACTICE**

### **1 – How non-custodial sanctions and measures work in practice**

- How significant is the use of alternative sanctions in practice? What are the most and least used sentences?

Imprisonment complicates the transition to a life of freedom and does not counter-act recidivism. That is why there are more people on probation than in prison in the Swedish Prison and Probation Service. Our non-custodial clients number about 14,000 per day, compared with just over 4,500 prisoners per day.

- If possible, please provide statistical data on the use of these sentences. If available, provide information also on their application to vulnerable and/or minority groups.

<b>Non-custodial sentences 2020</b>	<b>Sentences started in 2020</b>
Intensive supervision with electronic monitoring	1622
Probation	4220
Probation with community supervision	1121
Probation with a special treatment plan (primarily or long-term substance users)	642
Conditional sentence with community supervision	2645
Supervision of persons conditionally released from prison	5274
Different early release measures (possible for some clients after serving a minimum of halftime in prison)	1160
<b>Prison</b>	<b>8964</b>

*\*One person can start multiple sentences during a year*

*The non-custodial sentences are available for all clients, including vulnerable clients. Probation with a special treatment plan is primarily for clients with a long-term substance abuse.*

- Can you identify or is there any discussion on potential or actual bias on the part of sentencing authorities in adjudicating cases for vulnerable persons or minority groups which affects their access to non-custodial sanctions?

There are previous reports indicating that people who don't know the Swedish language are more often sentenced to prison compared to Swedish-speaking clients. That could be a potential bias on part of the sentencing authorities.<sup>2</sup>

The treatment programs used in prison and probation are conducted in Swedish and sometimes in English. Clients that neither speak Swedish nor English are therefore hard to reach with treatment programs aimed at reducing recidivism.

## **2 – Supervision of the implementation of non-custodial sanctions/ measures**

- What type of body or bodies are in charge of monitoring the implementation and what is their organisational structure?

The Swedish Prison and Probation Service is responsible for the implementation of the non-custodial sanctions. The prison and probation service is part of the Swedish legal system.

- Is there an individualised approach, with a rehabilitative purpose, providing activities aimed at addressing needs or root causes of offending and at promoting reintegration, or is it mere control/monitoring?

Yes, there is an individual approach with a rehabilitative purpose alongside control and monitoring. We follow the principles of risk, need and responsivity (The RNR model) to generate effective interventions for offender populations with the ultimate goals of improving treatment for offenders and reducing recidivism. In short, the level of treatment service provided to the offender should be proportional to the risk level and the criminogenic needs of the offender. For high-risk offenders intensive interventions are likely necessary to induce any kind of change (risk principle). The interventions should also target the individual needs of the offender for best results (need principle). Finally, behavioral and cognitive-behavioral interventions are used in the treatment of the offender (responsivity principle) since these interventions are the most effective in reducing recidivism.

Every client serving a sentence in prison or probation has an individual sentence plan where interventions are planned based on the clients individual risk and criminogenic needs. High-risk clients are usually provided with treatment programs based on CBT as well as activities promoting reintegration in society.

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<sup>2</sup> Diskriminering i rättsprocessen (bra.se)

- *Is the community (NGOs, volunteers, private companies...) involved in the implementation of non-custodial sanctions?*

Yes, the use of laymen/non-professionals is common in probation as a complement to the probation officer. The laymen act as support for the client and can also facilitate reintegration in society. NGO:s are also involved in the non-custodial sanctions, usually as workplaces for community service.

- *Is there application of technology to the implementation or supervision (e.g., electronic monitoring, probation "check-in" kiosks)?*

Yes, we have the possibility to use electronic monitoring on clients on probation and on conditional leave from prison. Electronic monitoring can also be combined with special early release measures.

### **3 - Effectiveness of non-custodial sanctions in achieving the purposes of punishment and reducing the use of imprisonment**

- *Are there any data available to assess the effectiveness of non-custodial sentences/measures (in the reintegration of the offender, in avoiding recidivism)? Is there any type of sanction/measure, or good practice in its implementation, that can be highlighted as particularly successful?*

The implementation of Krimstics (a RNR-model) in Swedish probation can be highlighted as successful in increasing the RNR adherence in a Swedish context.

**Evaluation of the Implementation of a Risk-Need-Responsivity Service in Community Supervision in Sweden**, [Evaluation of the Implementation of a Risk-Need-Responsivity Service in Community Supervision in Sweden - Louise C. Starfelt Sutton, Marcus Dynevall, Johan Wennerholm, Sarah Åhlén, Tanya Ruge, Guy Bourgon, Charlotte Robertsson, 2021 \(sagepub.com\)](#)

All treatment programs used in the Swedish prison and probation are accredited programs. The program's curriculum and quality have been evaluated and judged to meet the standards of the field. The programs are also being continuously evaluated.

- *Are there any adaptations or specific measures taken with the implementation of non-custodial sanctions to vulnerable persons or minority groups? Are there any sanctions or measures that have proven particularly effective in reducing offending among certain categories of more vulnerable persons or minority groups?*

- *In your opinion, what are the main barriers to a wider use of alternatives to imprisonment, or the main failures in their implementation?*

- *Intensive supervision with electronic monitoring –you can apply for intensive supervision with electronic monitoring if you are sentenced to a maximum of 6 months in prison. Raising the limit would allow for more people on intensive supervision instead of serving time in prison.*
- *We have implemented a RNR-model in the Swedish prison and probation service. Although we can see an increase in the RNR-adherence there has been no effect on recidivism. Translating theory in to practice is challenging.*



- *The cooperation between prison and probation could be better. A better cooperation could probably lead to a more successful reintegration into society*
- *Many clients have needs associated with, for example, employment and housing, that have to be addressed by other actors in society. It's challenging to cooperate with the surrounding society although measures are being taken to improve the cooperation.*

### **III. IMPACT OF THE COVID-19 PANDEMIC ON THE IMPOSITION AND IMPLEMENTATION OF NON-CUSTODIAL SANCTIONS AND MEASURES**

#### **1. Non-custodial sentences or measures aimed at reducing the prison population as a means of preventing the spread of the virus within prison facilities**

*- What sanctions or measures were designed to allow for the release of people from prison during the pandemic?*

We haven't released any people from prison due to the pandemic and we haven't used non-custodial measures aimed at reducing the prison population as a means of preventing the spread of the virus within prison facilities. We have introduced different infection control measures though, for example we changed the visiting routines and the inmates weren't able to receive visits during a long period of time. We also removed the possibilities of having permissions from prison in order to prevent infection from getting in to our facilities. Different occupational activities (education, work, group-treatment programs etc.) were also cancelled to limit the spread of disease.

*- Were there specific measures applicable to vulnerable groups and/or minorities?*

There were specific infection control measures for inmates identified as belonging to a risk group for infection (for example older persons or persons with underlying disease).

*- How effective have the alternatives been in achieving a reduction in recidivism?*

#### **2. Impact of the pandemic on non-custodial sanctions/measures**

*- What was the impact of the restrictive measures aimed at the prevention of the spread of the virus (lockdowns, social distancing rules, teleworking and other restrictions) on the use and implementation of non-custodial sentences/measures?*

*- Were adaptations or suspensions put into place?*

One of the biggest changes regarding the non-custodial sanctions was the use of video- or telephone meetings with clients instead of physical meeting. Skype was introduced and replaced many of the face-to-face meetings between clients and staff. Clients with high risk of offending have had physical meetings combined with video meetings while low risk clients have served most part of their non-custodial sentence by distance. Clients in risk group for infection haven't had any physical meetings during the implementation of the sentence.

The physical meetings were surrounded by different measures to prevent the spread of the virus, for example, both staff and clients wore protective masks during the meetings and also kept a distance of about 2 meters during the meeting. The facilities were also cleaned more often and hand sanitizer was used before and after meetings.

- *Was there a more significant impact on particularly vulnerable groups and/or minorities?*

- Some people had difficulties with social distancing/digital meetings while others valued not having to visit the probation office. People having difficulties with digital meetings have been able to continue visiting the probation office or combining video meetings with face-to-face meetings to minimize negative impact on the implementation of the risk-reducing measures.

- *Were support programmes suspended, adapted or impacted due to the COVID-19 for people serving non-custodial sanctions?*

- Individual treatment programs were mostly conducted by video with clients (who had access to a computer/smartphone/ipad etc) instead of face to face meetings. There were also some initial attempts to conduct group-treatment programs on distance – but mostly the group programs were conducted as individual sessions instead. Some group programs were suspended.

- *What was the impact on probation staff?*

The staff has had to learn new ways of communicating with the clients and get used to new technology. It's been challenging for many probation officers (PO) to work with relationship building skills and cognitive behavioral techniques on distance. Many PO:s has also described the day to day work as less rewarding when not meeting clients in person. Some PO.s have also experienced more antisocial behavior from their client during video sessions compared with face to face meetings. The staff has also worked from home to some extent, mostly with administrative tasks. All client meetings (digital and physical) have been conducted from the office though. Cooperation with the surrounding community, social services etc. has also been limited to video- or mostly telephone meetings.

- *What solutions were found to mitigate the negative impacts of the pandemic on the implementation of non-custodial sanctions?*

- Video meetings with clients.
- Use of protective equipment and distance keeping during face to face meetings.

### **3. Impact of the pandemic on the future of non-custodial sanctions**

- *Is it foreseeable that some of the solutions created in the context of the pandemic will become permanent? What lessons for the future can be learned from the experience of the pandemic?*

Digital meetings with clients is a new solution created in the context of the pandemic. One lesson learned is that it's possible to have high quality meetings with clients on distance - it's possible to create a good learning environment, to conduct treatment programs and to work with relationship building and cognitive behavioral techniques on distance. Digital meetings will most probably be a permanent compliment to face to face meetings within the probation service.