

Inquiry terms of reference

An implementation council for implementation of EU legal instruments that impact businesses in Sweden

Decision at a government meeting on 23 May 2024

Summary

A committee in the form of an implementation council should assist the Government in its efforts to strengthen the competitiveness of Swedish businesses by avoiding implementation above a minimum level, counteracting unjustified regulatory burdens and reducing administrative costs and other compliance costs when implementing EU regulations in Swedish law. The work of the implementation council should be based on a business perspective.

The implementation council should:

- prioritise which upcoming, new or amended EU legal instruments it should provide submissions or recommendations on;
- produce documentation analysing issues in future EU legal instruments of particular interest to businesses in Sweden that the Government should be made aware of before or during EU negotiations;
- make recommendations to the Government on the implementation of new or amended EU legal instruments that the council considers to be of particular interest for businesses in Sweden; and
- present its assessment of how the Swedish process for implementing EU legal instruments can be improved based on its experience.

The implementation council's documentation and recommendations, together with analyses and impact assessments, should be submitted to the Government on a regular basis

(the relevant ministry in the Government Offices, with a copy to the Ministry of Climate and Enterprise). In brief, the assignment should be presented in interim reports by 28 February 2025, 28 February 2026 and 28 February 2027, and a final report by 31 December 2027. In the interim report that should be submitted by 28 February 2027, the implementation council should also report on how it has worked on its tasks. In the final report, the implementation council should provide an overall assessment of how EU legal instruments can be implemented in Swedish law based on its experience.

Background

The long-term competitiveness of the Swedish business sector is crucial to Sweden's prosperity, and it is largely Sweden's businesses and entrepreneurs that create jobs, prosperity and welfare. Strengthening Sweden's competitiveness requires measures that create scope for businesses to choose and develop products and forms of operation, and that also enable them to reinvent themselves to keep pace with international developments. An important part of the efforts to strengthen Swedish businesses' competitiveness is preventing unjustified regulatory burdens and reducing administrative costs and other compliance costs so that businesses can focus on their core activities as much as possible.

The Swedish Agency for Economic and Regional Growth monitors trends in administrative costs and other compliance costs that arise for businesses as a result of new or amended regulations. This monitoring shows that businesses' costs have increased over time. The Agency states in its report that, given the continued cost increases, a regulatory process that gives greater consideration to simplification perspectives and utilises existing opportunities to ensure cost-effective implementation and application of regulations is needed, both at national and EU level ['Regulations that affect businesses' costs and competitiveness' (*Regler som påverkar företagens kostnader och konkurrenskraft* ['Regulations that impact businesses' costs and competitiveness'] 2022, ref. no Ä 2023-2451, p. 33).

The rules that businesses in Sweden encounter in their daily operations are based in part on decisions taken at EU level. More than half of all Swedish imports and exports are from and to other EU Member States. How the EU regulatory framework is designed and subsequently implemented in Swedish law is thus of great significance for the regulatory burdens, administrative costs and other compliance costs of the businesses concerned. It is important

that common rules be designed in such a way that they meet the single market's business and trade promotion aims.

In the Budget Bills for 2023 and 2024, the Government announced that an implementation council would be established with the objective of reducing the regulatory burden on businesses (Govt Bill 2022/23:1 finance plan, section 1.4, p. 21 and Govt Bill 2023/24:1, expenditure area 24, section 3.6). In its 2023 Spring Fiscal Policy Bill, the Government also announced that an implementation council would be established with the aim of avoiding excessive implementation of EU directives and thereby counteracting unjustified regulatory burdens (Govt Bill 2022/23:100, Guidelines for economic and budget policy, section 3.1, p. 12). The Government's position should be seen in light of the fact that the Riksdag has announced to the Government that it should work to implement EU law in national law in a way that does not disadvantage the competitiveness of Swedish businesses. According to the Riksdag, the basic premise should be that EU directives are implemented at a minimum level in national law, and when there are reasons to exceed this minimum level, the effects on businesses should be clearly reported (Committee Report 2018/19:NU7, Riksdag Communication 2018/19:166).

The Budget Bill for 2020 stated that the implementation of EU law in national law must be done in a way that protects the competitiveness of Swedish businesses (Govt Bill 2019/20:1 expenditure area 24, section 3.7, pp. 56–57). In the Budget Bill for 2023, the Government clarified that EU regulations need to be implemented so that Swedish businesses' competitiveness is maintained and their regulatory burdens and administration are reduced, or at least not increased. Implementation in Swedish law above the minimum level of EU regulation should be avoided or justified when it is deemed necessary to fulfil national Swedish objectives (Govt Bill 2022/23:1 expenditure area 24, section 3.6, p. 46).

Task to produce submissions analysing issues in future EU legal instruments of particular interest to businesses in Sweden that the Government should be made aware of

At various stages of the legislative process, the European Commission collects facts and views from various relevant actors and stakeholders. There are various ways to do this, the most common being to establish expert groups and organise public consultations published on the Commission's

website. The Commission also collects facts and views when drafting non-legislative acts (implementing acts and delegated acts). When the Commission has collected facts and views and decides to go forward with an initiative, it presents a proposal to the European Parliament and the Council of the European Union. In the case of special legislative procedures, proposals are only submitted to the Council. When the Commission's legislative proposals are presented, a number of processes in the EU, the Government Offices and the Riksdag are initiated.

Sweden thus has the opportunity at an early stage in the process to influence the design of regulations and thereby impact businesses' regulatory burdens, administrative costs and other compliance costs arising from obligations under future EU legal instruments. More information about how planned EU legal instruments affect Swedish businesses could enhance the Government's and other relevant actors' conditions to safeguard Swedish companies' competitiveness in these processes.

It would therefore be valuable for the Government, at the earliest possible stage, to receive analyses and considerations from a business perspective regarding future legal instruments. The Government would then be alerted to issues that are of particular interest to businesses in Sweden.

Documentation with analyses from a business perspective should be produced by an implementation council that submits it to the Government as swiftly as possible.

The initiatives and future EU legal instruments to be analysed should be selected and prioritised on the basis of the impact they have on Swedish businesses' regulatory burdens, administrative costs and other compliance costs, as the consequences for the businesses concerned may vary considerably between different EU legal instruments. Not all future EU legal instruments need to be analysed by the implementation council. To facilitate the Government's continued handling of the relevant legal instruments, the implementation council should provide information on which legal instruments have been selected for in-depth analysis. Such information should be published regularly on the implementation council's website.

This documentation must be of such quality that it can be used, if necessary, during the European Commission's collection phase of facts and views and form part of the overall basis for the Government's overall assessment when formulating Sweden's positions ahead of future EU negotiations and the adoption of other EU legal instruments (implementing acts and delegated

acts).

The Government thus receives documentation at an early stage with analyses of issues that are of particular interest to businesses in Sweden in future EU legal instruments. However, there are various deadlines that need to be observed before submitting documentation to the Government so that it can use the analyses in its further work. The documentation therefore needs to be submitted to the Government as swiftly as possible, taking into account both national deadlines and deadlines in relation to other relevant procedures.

The documentation must be submitted to the Government Offices (relevant ministry with a copy to the Ministry of Climate and Enterprise).

The implementation council should:

- continuously monitor the European Commission's initiatives for new or amended legislation, such as the publication of consultations (including public consultations) and proposals for new or amended legal instruments on the Commission's website;
- identify future EU legal instruments that are expected to have a major impact on businesses' regulatory burdens, administrative costs and other compliance costs;
- prioritise which future EU legal instruments should be analysed and to what extent, and publish information on its website stating that the council has launched an analysis; and
- where the council deems it appropriate, regularly produce documentation analysing issues in future EU legal acts of particular interest to businesses in Sweden that the Government should be made aware of, submit this documentation to the Government Offices (the relevant ministry with a copy to the Ministry of Climate and Enterprise) and publish the documentation on the implementation council's website.

Task to make recommendations on the implementation of new or amended EU legal instruments that are of particular interest to businesses in Sweden

Once negotiations on an EU legal instrument are concluded and adopted by the co-legislators, Member States usually need to enact measures. Deadlines for implementation or adaptation in national legislation are set out in the respective legal instruments. Delayed implementation leads to a formal

procedure with possible sanctions soon after the expiry of the implementation period.

When implementing EU legal instruments and adapting Swedish law, it is essential to utilise existing opportunities to counteract unjustified regulatory burdens on businesses and reduce their administrative costs and other compliance costs, while also fulfilling the aim of the underlying regulatory framework.

In this context, it may be valuable for the Government to receive recommendations from an implementation council on how new and amended EU legal instruments can be implemented in a way that counteracts unjustified regulatory burdens on businesses and reduces their administrative costs and other compliance costs. As previously described, different legal instruments have different consequences for businesses. These consequences may also differ for different types of businesses, where the impact of a legal instrument could, for example, be greater for small and medium-sized businesses than for large ones. New or amended EU rules therefore need to be selected and prioritised for further analysis from a business perspective in relation to the extent to which they are assessed to impact businesses in Sweden. These recommendations should focus on the effects of the rules on businesses and their competitiveness and growth. On the basis of this assessment, an analysis should also be made regarding what scope for action Sweden has when implementing the EU legal instrument in question and what opportunities exist to prevent unjustified regulatory burdens on businesses and reduce their administrative costs and other compliance costs.

To facilitate the Government's continued efforts on the implementation of selected legal instruments, information about which legal instruments have been selected for in-depth analysis and the production of recommendations should be published regularly on the implementation council's website. This information could, for example, be of interest to the Government in the formulation of inquiry terms of reference or in remits to an inquiry.

If a legal instrument provides options on matters that affect businesses, an analysis needs to be conducted regarding how various choices impact businesses in Sweden. To avoid excessive implementation (from a business perspective) of a new or amended EU legal instrument without good reason, an assessment should be made of how the instrument could be implemented in a way that does not go beyond what the instrument

requires. This assessment needs to clearly state what scope for action the legal instrument allows in terms of implementation and what impact more extensive implementation would entail for businesses in relation to regulatory burden, administrative costs and other compliance costs. The recommendations made by the implementation council can thus form part of the basis for the Government's overall assessment in its further work.

The recommendations made by the implementation council should also include a description of the underlying analysis and impact of the recommended implementation on businesses' regulatory burdens, administrative costs and other compliance costs.

The implementation council should:

- continuously monitor the Official Journal of the European Union, where new or amended legal instruments that have been adopted are published;
- identify new and amended EU legal instruments that require implementation in Swedish law and that are deemed to have a major impact on businesses' regulatory burdens, administrative costs or other compliance costs;
- prioritise which EU legal instruments should be analysed and to what extent and whether recommendations should be made in each individual case, and publish information on its website about the Council of the European Union having launched an analysis; and
- analyse and assess how selected new and amended EU legal instruments should be implemented in Swedish law for the purpose of – to the extent possible – counteracting unjustified regulatory burdens on businesses and reducing their administrative costs and other compliance costs, while fulfilling the aim of the underlying regulatory framework;
- assess, as necessary, how selected new or amended EU legal instruments can be implemented in Swedish law in a way that is not farther-reaching from a business perspective than the legal instruments require;
- for those EU legal instruments where the implementation council deems it appropriate, regularly and without delaying the Government Offices' preparation procedures or the implementation of EU legal acts, submit its recommendations to the Government Offices (the relevant ministry with a copy to the Ministry of Climate and Enterprise) and publish its recommendations on its website, and
- provide a description of the underlying analysis and the impact of the

recommended implementation on businesses' regulatory burdens, administrative costs and other compliance costs.

Task to report on assessments of how EU legal instruments can be implemented in Swedish law

EU legal instruments need to be implemented correctly and in a timely manner. In order to contribute to more effective implementation of EU law in Sweden and to Sweden's legislative process linked to EU legal instruments, assessments based on experience of how the process works should be presented to the Government. More general conclusions could also be of interest to the Government.

The implementation council should:

- based on its experience, present its assessments of how EU legal instruments can generally be implemented in Swedish law in its final report to the Government Offices (Ministry of Climate and Enterprise and the Prime Minister's Office).

Organisation and working methods of the implementation council

The implementation council should consist of a chair and a maximum of eight members, one of whom should be vice-chair. The chair and members of the council should include people from the business community, but could also include people from academia or with other appropriate expertise. The council should include people with particular experience regarding the impact of regulations on businesses.

The council's decision-making procedure must be transparent and published on its website.

A secretariat will be attached to the implementation council. The secretariat will conduct analyses, prepare supporting documentation for the council's decisions, present cases and manage the day-to-day work. The secretariat should have economic, legal and other relevant expertise related to conditions for businesses, public administration and the implementation of EU law.

Impact assessment

The implementation council's continuous work to produce recommendations and documentation includes regularly identifying and assessing the impact of future EU legal instruments and how new and

amended EU legal instruments can be implemented in Swedish law, with a focus on counteracting businesses' unjustified regulatory burdens and reducing their administrative costs and other compliance costs. The implementation council should report on these impacts in the documentation and recommendations that are regularly submitted to the Government.

In its efforts to quantify administrative costs and other compliance costs, the implementation council should consult with the Swedish Agency for Economic and Regional Growth and the Swedish National Financial Management Authority as necessary, for the purpose of facilitating appropriate comparisons and thus ultimately creating conditions for high quality in the continued preparation of implementation of EU law.

Contacts and reporting on the remit

During the course of its work, the implementation council should have necessary ongoing contact with relevant business organisations and other relevant actors and authorities.

As regards future EU legal instruments, the implementation council should submit documentation with analyses from a business perspective as swiftly as possible. The council should take national and other relevant deadlines into consideration. To contribute to a rapid implementation process of adopted EU legal instruments, the council should submit its recommendations to the Government within four weeks of the publication of an instrument. The basic premise is that the council's work should not delay ongoing implementation processes.

The implementation council's work should be presented in interim reports by 28 February 2025, 28 February 2026 and 28 February 2027, and a final report should be submitted to the Government Offices (Ministry of Climate and Enterprise) by 31 December 2027. The interim reports should include a brief account of the previous year's work. In the interim report that should be submitted by 28 February 2027, the council should also submit a report on how work has been conducted. The final report should contain an overall account of the council's work and an overall assessment of how EU legal instruments can be implemented in Swedish law based on the council's own experience.

The Government intends to regularly monitor the implementation council's

work. Important aspects to consider include the quality, relevance, effectiveness, usability and independence of the activities.

(Ministry of Climate and Enterprise)