

The American Series  
of  
FOREIGN PENAL CODES

24

SWEDEN

**The  
SWEDISH CODE  
of  
JUDICIAL PROCEDURE  
Revised Edition**

Edited by

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**THE AMERICAN SERIES**  
**of**  
**FOREIGN PENAL CODES**

**24**

**THE SWEDISH CODE OF JUDICIAL PROCEDURE**  
**Revised Edition**

COMPARATIVE CRIMINAL LAW PROJECT  
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## EDITOR'S PREFACE TO THE REVISED EDITION

I am pleased to present this Revised Edition of *The Swedish Code of Judicial Procedure* which was originally published in 1968 as Volume 15 in The American Series of Foreign Penal Codes. Quite simply, the significance of numerous amendments since that time, particularly in Parts 3 through 7, warrants this Revised Edition. An Appendix has been added which specifies the date of each amendment and a brief statement of the reason for the change.

The original Editor's Preface and Introduction to the First Edition by Anders Bruzelius and Ruth Bader Ginsburg are included. They provided valuable insight in 1968 and they still do today.

A debt of gratitude is owed to Anders Bruzelius and Krister Thelin for the professional quality of their contributions to this volume.

JOHN DELANEY, *Director*

Criminal Law Education and  
Research Center  
February, 1979  
New York, New York

## EDITOR'S PREFACE TO THE FIRST EDITION

With each volume of the American Series of Foreign Penal Codes we have endeavored to increase the Anglo-American law reformer's field of vision. The variety of methods and approaches in the field of criminal justice, substantive and procedural, which has been tested and proven abroad, is infinite. Familiarity with the range of possibilities seems to us necessary for reform at home.

In presenting the Swedish Code of Judicial Procedure to our Anglo-American audience we surely hope to have added more than than the customary range of comparative information, for no code touching upon justice, civil and criminal, seems to be quite as replete with rational approaches as the Swedish Code of Judicial Procedure. Rationality seems to have become a Swedish character trait, whether in the resolution of economic, social, military, correctional, familial, or procedural problems. The Swedish Code of Judicial Procedure seems to us the very embodiment of rationality. Its extraordinarily facile organization, its enormous range of coverage which includes both criminal and civil justice, as well as judicial administration and evidence and its simple linguistic approach are meant to reach the people governed by it. The stability of its guiding principles—orality, concentration and immediacy of proceedings, and unfettered judicial discretion in the reception and utilization of evidence—further demonstrate its rationality. Contemporary Anglo-American procedural statutes lack the comprehensiveness of the gapless Swedish approach as

well as the Swedish commitment to principle, although, we have come a long way on the procedural road which began with judge-made, pragmatic experience maxims. Coming, as it does, at a time when American jurisdictions are committed to procedural reform, it can be predicted that this volume of the American Series of Foreign Penal Codes will have a marked influence on the future positive law of procedure in the United States. Itself a child of comparative studies in law, the Swedish Code of Judicial Procedure may thus well become the comparative progenitor of other codes.

The translation of this code is the product of a team of proven and experienced comparatists. Hon. Anders Bruzelius and Professor Ruth Bader Ginsburg have previously published their widely acclaimed *Civil Procedure in Sweden* (Columbia Law School Project on International Procedure, The Hague, 1965), which now constitutes the procedural text book to that part of the instant work which deals with civil procedure. There is as yet no accompanying text for the criminal procedure aspects of the instant code. But the substantive criminal code to which the criminal procedure provisions apply is now available in a competent English translation by the Dean of American criminologists, Professor Thorsten Sellin (*The Penal Code of Sweden*, translated by Thorsten Sellin, with an Introduction by Ivar Strahl, Ministry of Justice, Stockholm, 1965. See also *The Child Welfare Act of Sweden*, translated by Thorsten Sellin, with an Introduction by Holger Romander, Ministry of Justice, Stockholm, 1965).

The enormity of the task of translating any code into a foreign language and foreign legal system can barely be appreciated by anyone who has not himself tried to do it. Judge Bruzelius and Professor Ginsburg have established a new high standard for scholarship of this sort, which deserves a particular praise if it be remembered that Professor Ginsburg learned Swedish specifically for purposes of her comparative studies with the law of that nation. Both Judge Bruzelius and Professor Ginsburg may be assured of this editor's gratitude for their outstanding scholarly achievement, and the punctuality and perfection of their work. Gratitude is also due to the Dean and Faculty of the Law School of Rutgers (The State University of New Jersey, Newark) for their cooperation in jointly producing this volume of the American Series of Foreign Penal Codes with New York University School of Law.

Particular gratitude is due to *Statens råd för samhällsforskning* (The Swedish Council for Social Science Research), which made two grants to Judge Bruzelius to cover his expenses, and to the Swedish Minister of Justice, Mr. Herman Kling, and the President of the Court of Appeals in Malmö, Mr. Björn Kjellin, who granted Judge Bruzelius leave from his judicial duties enabling him to devote sufficient time to the preparation of this translation.

Special thanks is also owed to the Research Council of Rutgers for a grant to Professor Ginsburg to defray processing costs and to the Faculty Secretaries Office at Rutgers Law School (Newark) for extraordinary diligence, care and dispatch in preparing the final draft of the manuscript.

Lastly, I wish to record my gratitude to Messrs. Fred B. and Paul A. Rothman for their constant efforts to produce the volumes of the American Series of Foreign Penal Codes at such a high level of craftsmanship.

G. O. W. M.

November, 1967  
New York, N.Y.

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## INTRODUCTION

Sweden's Code of Judicial Procedure (hereinafter referred to as the Code),<sup>1</sup> presented here in an English translation, was promulgated in 1942 and went into effect January 1, 1948. The Swedish title of the Code — *Rättegångsbalk* — translates literally as "Part on Proceedings", indicative of the position of the Code as only one of several "parts" (*balk*)<sup>2</sup> which together comprise Sweden's general code of laws.

Sweden's general code dates from 1734, but it has been substantially revised since that time. Piecemeal revisions have been made from time to time and, more significantly, entire parts have been replaced by new parts with new content and arrangement. Thus, the Code translated here replaced the procedural code of 1734. Other new parts of the general code adopted during the present century are the Marriage Code, the Inheritance Code, and the Penal Code.<sup>3</sup> It is the intention of the Swedish legislators to give the general code a new content part by part and, when all parts have been reformulated, to declare that the completed reformula-

<sup>1</sup>For a description of Swedish civil procedure see Ginsburg & Bruzelius, *Civil Procedure in Sweden* (Columbia Law School Project on International Procedure), The Hague, 1965. The book furnishes a fairly detailed description of the history of the Code and of the Swedish court structure and legal professions. Although its treatment of the procedural system focuses on civil litigation, much of the material is also relevant to procedure in criminal cases since many of the Code principles and provisions elaborated upon are common to both. Civil Procedure in Sweden contains a table (at pp. xxxvi-xlix) indicating the places in the book at which specific provisions of the Code are treated. It also contains a comprehensive bibliography and other references that should facilitate further study of the provisions appearing in this translation.

<sup>2</sup>Swedish nouns appearing in parentheses in this introduction and in the body of the translation are presented in singular, indefinite form.

<sup>3</sup>An English translation of the Penal Code of Sweden was published by the Swedish Ministry of Justice, Stockholm, 1965. The translation was prepared by Professor Thorsten Sellin of the University of Pennsylvania.