



RIKSREVISIONEN

Summary:

Cancelled main hearings in criminal cases

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Summary

Riksrevisionen (the Swedish National Audit Office, SNAO) has performed an audit to ascertain why so many main hearings in criminal cases are cancelled at the district courts (courts of first instance in civil and criminal cases) in Sweden's three largest metropolitan areas – Stockholm, Gothenburg and Malmö.

Background and purpose of the audit

The problem of cancelled main hearings has been known for a long time. In the past fifteen years, about one criminal-case main hearing in four at Sweden's district courts has been cancelled. Difficulty serving summons and failures to appear are two main reasons why courts decide to cancel hearings. Failures to appear may be due to shortcomings in the service of summons or be the result of deliberate actions by people wishing to stay away. The cancellation of hearings entails negative consequences both for individuals summoned to appear and for the courts' opportunities to conclude cases in a reasonable time. It leads to inefficiencies, a risk of inequality before the law and high costs. While cancelling a hearing may be justified in individual cases, there is a perception at district courts that the overall proportion of main hearings cancelled is too large. The SNAO has therefore seen fit to examine the underlying causes and the administrative and preparatory work carried out at the courts and government agencies concerned ahead of a criminal case being tried during a main hearing at a district court. An additional aim of the audit was to estimate the costs associated with the cancellation of main hearings in criminal cases. The audit uses a process-based approach, focusing on the preparatory administrative processes that precede the main hearing in a criminal case.

The SNAO's audit is restricted to conditions in the metropolitan areas of Stockholm, Gothenburg and Malmö, taking as its starting point the seven district courts¹ that operate in those areas. The audit also covers the Government and the Government Offices (ministries collectively) as well as three central-government agencies: the National Courts Administration, the Prosecution Authority and the National Police Board. The police authorities (including their process-service operations) linked to the metropolitan areas have also been scrutinised.

The data analysed derive from document studies and interviews as well as from the review of a total of 748 criminal-case files at the seven district courts in question.

The SNAO's observations and conclusions

The audit shows that the measures taken until now by the Government, the courts and the legal agencies to prevent the cancellation of main hearings have not been sufficient. The SNAO therefore considers that the Government, the courts and the central legal agencies can

¹ The district courts of those three cities proper are usually called 'city courts' in English; the other four courts covered by the audit are district courts in suburbs of Stockholm.

reduce the extent of the problem through better management, liaison and a results-oriented approach. In addition, the SNAO considers that there may be reason to review the relevant legislation.

The largest costs arise when main hearings in complex cases are cancelled at short notice

The SNAO's cost assessment shows that about 20 per cent of the main hearings cancelled account for 80 per cent of the total cost of hearing cancellations; this cost amounted to almost SEK 1.2 million during two weeks in March at the metropolitan district courts. The cost of complex cases where the main hearing is cancelled at short notice may be in the tens of thousand of SEK while the cost in a simple case where the main hearing is cancelled more than three days beforehand is limited to a few hundred SEK. Main hearings in complex cases cancelled at short notice constitute a minority but thus account for the largest share of costs.

Main-hearing cancellations are linked to 'minor crimes'

The audit shows that cancellations of main hearings are often linked to 'minor crimes', i.e. less complex or serious cases of frequent types where the preliminary investigation is led by the police rather than by prosecutors. One typical feature of the handling of 'minor crimes' is that the associated administrative work takes a long time, which entails that contact information may become outdated, making it more difficult to serve summons. Long throughput times for 'minor crimes' is a problem that the Government has drawn attention to by instructing the National Police Board, the Prosecution Authority and the National Courts Administration to take joint action. The agencies are to report back in May 2010. Faster police investigations, early termination of cases where possible, correct contact information and high-quality preliminary investigations are crucial to solving the problem of the cancellation of such a large proportion of hearings.

Difficulty serving summons is the single most frequent reason for the cancellation of hearings

Difficulty serving summons is the single most frequent reason for the cancellation of main hearings. The audit shows that there are several problems and shortcomings in relation to the service of summons. Prosecutors not rarely include incorrect or outdated contact and address information in the summons applications they file with the district courts. This forces the courts to carry out additional work. Another shortcoming is that little attention has been devoted to training for district-court employees – and to their sharing of experience – in issues relating to the service of summons. Further, it is difficult to obtain a correct picture of the results of the activities carried out by process-servers at police process-service centres since there is no systematic or uniform monitoring of those activities.

Moreover, the activity-support system used by the process-servers has serious shortcomings. It is often subject to operational disturbances, query times are long and the system does not cover all of Sweden, even though it was intended to. This system is also not synchronised with the other activity-support systems and registers of the police. This means that police officers on patrol duty obtain information only about a small fraction of the individuals on whom summons is to be served. The SNAO finds that police on patrol duty would be able to contribute more to ensuring that summons is served on 'hard cases'.

The SNAO considers that the National Police Board has been negligent in its duty to ensure that process-servers receive appropriate skills development and have appropriate links

with police patrol operations, and also in its duty to provide functioning national activity support. The Board has also not ensured that the process-service centres are given adequate conditions to monitor their own activities.

Insufficient scope for skills development and discussions about practices

Skills development and discussions about practices at the courts represent one of several possible measures to reduce the number of main hearings cancelled. The SNAO considers that the National Courts Administration and the heads of the individual courts have not adequately fulfilled their responsibilities in this field. The Administration has been too passive when it comes to influencing the content of, and creating opportunities for, skills development and discussions about practices, for example in relation to legislative changes and reforms that are relevant to the problem of cancelled main hearings. The Administration should take greater responsibility for ensuring that information about various experiences and approaches is disseminated among the courts.

Liaison lacks structure

The administrative and preparatory work ahead of main hearings presupposes liaison between – and within – the agencies and courts audited. The SNAO has found that large part of the liaison taking place today is linked to individuals and based on solutions specific to individual matters and cases. The National Courts Administration, the Prosecution Authority and the National Police Board have not adequately addressed the liaison issues centrally with a view to identifying appropriate mechanisms for structured liaison. The conditions necessary for well-functioning operational liaison are therefore absent.

Passive control and monitoring by the National Courts Administration

The National Courts Administration has limited opportunities to exercise control over the courts, which are independent in their administration of justice. However, when it comes to the cancellation of main hearings, the SNAO considers that the Administration is better able to influence the courts than the Administration itself assumes, for example through skills development and discussions about practices. In addition, the Administration should be able to provide the courts with the data from monitoring that they need to address the issue of cancelled hearings.

Inadequate liaison within the police force

The work of process-servers at process-service centres has not been coordinated with other police work. The National Police Board has not endeavoured to bring about cooperation between process-service centres and patrol-duty officers. Patrol-duty officers must be made to participate in process-service work, and the work done by process-servers at the centres must be made familiar throughout the police force as an important part of the legal chain.

The National Courts Administration alone has been instructed to perform certain tasks

On a number of occasions, most recently in 2009, the Government has instructed the National Courts Administration to determine the extent and causes of the cancellation of hearings. The instructions have been similar and always addressed to the Administration alone, not to the other central legal agencies. To emphasise the need for liaison among agencies and courts, the

Government should take a more explicitly holistic view when instructing legal agencies to perform such tasks.

There may be reason to review legislation

The number of main hearings cancelled may be reduced to some extent in the framework of the existing legislation, namely by making the administrative and preparatory processes more efficient. At the same time, however, the problem of the large proportion of hearings being cancelled means that the need to change that legislation could be considered, particularly to allow courts to issue judgment in the absence of the defendant in more cases.

The SNAO's recommendations

Recommendations for the Government

- Instruct the agencies and courts concerned to identify – through joint efforts – approaches and liaison mechanisms, centring on the service of summons, that will help reduce the problem of the cancellation of main hearings;
- Follow up legislative changes implemented to make the criminal process more efficient;
- Consider the need for stricter legislation and broader powers for courts to issue judgment in the absence of the defendant.

Recommendations for the National Courts Administration

- Ensure that the problem of the cancellation of main hearings and its consequences are addressed in training for court staff;
- Make use of existing forums and encourage dialogue and the sharing of experience within and among courts;
- Provide the courts with monitoring data on cancelled main hearings in the context of the Administration's budgetary dialogue with them.

Recommendations for the National Police Board

- Increase cooperation between process-servers and police performing other duties, and coordinate all police resources to ensure that they are involved to a larger extent in the service of summons;
- Investigate the need to give patrol-duty police broader powers in relation to the service of summons;
- Improve the activity support of the process-service centres and integrate it with the other registers and activity systems of the police;
- Ensure coordinated, systematic and continuous monitoring of activities in relation to the service of summons.

Recommendations for the district courts

- Plan for, create room for and encourage continuous skills development and discussions about practices.