



In summer 2012, as part of the Poverty is Not a Crime campaign, Housing Rights Watch conducted a survey of national laws that penalise or criminalise the behaviour of people who are homeless. Legal experts prepared country reports that describe the nature of anti-social behaviour laws, as well as other regulations or ordinances that affect homeless people.

The information in these reports was gathered from as many sources as available at the time they were prepared with publically available information only; some sections are incomplete due to the inaccessibility of the required data or lack thereof.

Sweden

1. Introduction

Due to the scope of the assignment please note that this chapter only includes discussion of such actions that may result in a penalty (*i.e.* crimes) and does not include actions that may be taken by the government or the Swedish municipalities in order to control homelessness by actions such as reducing public space, trimming trees and bushes, closing public toilets, removing comfortable park benches and increasing lightning in areas where homeless individuals may reside. Major Swedish cities like Gothenburg have in recent years introduced a zero-tolerance policy against littering and loitering as well as an initiative to close public restrooms. The goal is to turn the city into a “public common room”, but the policy is negatively impacting homeless people.

There are no laws in Sweden that criminalise homelessness. However, there are several provisions included in Swedish laws and regulations that may have an impact on a homeless individual’s way of life.

Most of the provisions that affect homeless individuals are included in the Swedish Act on Public Order (1993:1617) (within this chapter, the “Act”) and local regulations that municipalities have issued pursuant to the Act. Each municipality may for example restrict the number of places where one can publically drink alcohol, bring a pet, sleep in a car or camp out.

In addition, there are provisions in (i) the Swedish Penal Code (1962:700) regarding disorderly conduct, (ii) the Environmental Code (1998:808) regarding littering and (iii) the Act on the prohibition of knives and other dangerous objects (1988:254) that may be relevant as regards homeless individuals.

2. Criminal Offences

The Swedish Penal Code was adopted in 1962 and came into force on 1 January 1965. It contains provisions on most criminal offences in Sweden. There is also special criminal legislation, which includes *inter alia* laws on narcotics, knives and other weapons, tax crimes and certain traffic violations.

The Act contains regulations regarding order and security in public places. It applies to places designated for public use. Such places include streets and roads, pavements, market squares, parks and beaches. Each Swedish municipality¹ has the right to issue local regulations based upon the Act if such regulations are needed to maintain public order in public places. A violation of any provision of the Act or of a local regulation issued in accordance with the Act is punishable by a fine. A local regulation based on the Act cannot concern issues already regulated by law or put unnecessary constraints on the public or otherwise make unjustified restrictions on personal freedom (the Act, chapter 3, section 12).

We are not aware of any offences or infractions that have recently been decriminalised in Sweden which have an impact on homeless individuals.

There are no laws or regulations prohibiting loitering or vagrancy. Additionally, Sweden does not prohibit meal distribution (provided that it is done in accordance with applicable health and sanitary regulations).

2.1. *Offences directly affecting homeless people*

2.1.1. **Sleeping Rough**

It is not prohibited to sleep rough in Sweden *per se*. However, the Act stipulates that using a public place within a local planning zone in a manner not in accordance with its intended purpose requires a permit. Non-permit holders may be punished with a fine. A permit is however not required if the use is temporary and is to an insignificant extent that does not encroach on someone else's permit (the Act, chapter 3, section 1). Since the purpose of, for example, a pavement or a public park is not to provide sleeping space, such usage will require a permit unless it fulfils the exemption requirements above. Consequently, it may be permissible to sleep rough without a permit if a person changes his or her place of sleep frequently (for example to a new location each night) and occupies a comparatively small area without encroaching on another person's permit to sleep rough.

Sleeping in a car can be prohibited locally through municipal regulations. The aim of this prohibition is to prevent tourists from camping in their cars. This prohibition applies mainly to municipalities that attract large numbers of tourists.

As regards camping, the Right to Public Access grants every man the right to camp in the wild or on private land (although not in connection to a residential dwelling) for a day or two without being required to ask for permission provided that he or she takes precautionary measures not to disturb anyone. The same should be applied to municipal land not subject to local planning. As regards camping in public places within a local planning zone, most municipalities have issued local regulations restricting this right and generally it is not allowed to camp in parks and other public places within a local planning zone.

In Sweden there is a Right of Public Access (*Allemansrätten*) which entails that every man has the right to freely access Sweden's countryside and nature. The right is sometimes also called Every Man's Right or the Right to Roam. It is stated in the

¹ Sweden consists of 290 municipalities, each with an elected assembly or council. Municipalities are responsible for a broad range of facilities and services including housing, roads, water supply and waste-water processing, schools, public welfare, elderly care and childcare. The municipalities are entitled to levy income taxes on individuals. They also charge for various services. As a result, municipalities have significant latitude in deciding what services they should offer. They are however legally obliged to provide certain basic services.

Swedish Constitution that “everyone shall have access to the natural environment in accordance with the right of public access”. While the Right of Public Access is guaranteed in Sweden’s Constitution,² it is not enshrined in law and there is no statute that exactly defines its scope. However, various laws (including the Act) set limits on what is allowed.

2.1.2. **Begging**

Begging is not criminalised in Sweden.

2.2. *Offences indirectly affecting the homeless*

The criminal offence of disorderly conduct under chapter 16, section 16 of the Swedish Penal Code (see above 0) includes for example public urination/defecation. It may also include public intoxication, if the intoxicated person behaves inappropriately. Public intoxication is however not prohibited *per se*. The Swedish police have the right, in accordance with the Police Act (1984:387), to send away or remove any person whose appearance and/or behaviour is disturbing or poses a threat to public order. If it is not enough to send the person away the police may also put the person in preventative detention and can contact the appropriate social authority.

As regards pets in public spaces the respective municipality has the right to issue local regulations restricting the areas where animals may be and to what extent they must wear a leash. The police will have the right to issue a breach-of-regulations fine for non-compliance.

2.2.1. **Dumpster Diving**

There are no laws or other regulations in Sweden concerning dumpster diving specifically. However, if someone unlawfully takes and uses, or otherwise appropriates something that belongs to another, he or she will be charged with theft or unlawful dispossession (The Swedish Penal Code chapter 8, sections 1 and 8). The same applies to a person who, without any appropriation, fits or breaks a lock or by other means unlawfully disturbs another’s property. If, for example, a grocery store disposes of food and other goods in a dumpster owned by the store, the above will apply to the disposed food for as long as the grocery store believes that the food still holds value to the store. It is not considered a crime under Swedish law to collect recyclable bottles and discarded items with little to no monetary value from public garbage cans or from public areas.

3. **Administrative Offences**

Chapter 16, section 16 of the Swedish Penal Code states that a person who is noisy in a public place or who otherwise behaves in a manner likely to arouse public indignation, shall be liable to pay a fine for disorderly conduct.

As long as the anti-social behaviour does not constitute disorderly conduct in accordance with chapter 16, section 16 of the Swedish Penal Code, such behaviour would not be considered criminal behaviour in Sweden.

3.1. Offences directly affecting homeless people

3.1.1. **Drinking**

² The Instrument of Government, chapter 2, section 15.

Drinking alcohol in public places in Sweden is not prohibited *per se*. However, each municipality in Sweden has the right to issue local regulations as regards consuming alcohol in public areas. If these local regulations are not followed the police have the right to issue a breach-of-regulations fine. In Stockholm for example, you may not consume alcohol in playgrounds or in certain parks during specified hours of the day. Generally though, consuming alcohol is permitted in most public places in Stockholm.

3.1.2. Littering

Another offence that may have an impact on homeless individuals is littering. The Swedish Environmental Code (1998:808) stipulates that any person who, whether deliberately or through negligence, leaves litter in a place to which the public has access or which is within its view shall be liable to a fine or imprisonment for a term not exceeding one year.

3.2. *Miscellaneous ordinances and decrees*

3.2.1. Dangerous weapons

It is, according to the Act (1988:254) on prohibition of knives and other dangerous objects,³ prohibited to carry a knife (or other forms of ‘street weapons’) in public places. This prohibition does not apply to objects that are part of the equipment for a certain post or may be considered justified due to the carrier’s needs. The applicability of this exception also depends on the nature of the object and other circumstances. The exception does not however apply to homeless individuals, who often require the use of a knife on a daily basis.

3.3. *Repression of offences*

3.3.1. *Sanctions*

As a point of departure, please note that a crime is, by definition, a conduct for which a sanction can be imposed according to Swedish law. Sanctions for crimes include fines, imprisonment and conditional sentences, protective supervision and committal for special care.⁴

4. Appeals procedure

5. National Case Law

In 2005, the Interior Ministry of the Slovak Republic tried to amend the offence of “causing a public nuisance” in the Act on Offences by providing specific examples of behaviour causing a public nuisance. The amendment proposed to include begging, harassment (*obťažovanie*) and sleeping in public spaces as examples of public nuisances. The opposition of several non-profit organisations to this amendment was instrumental in preventing its adoption. Criticisms were based on the argument that to penalise such behaviour without taking into account other circumstances, *e.g.*, whether such behaviour actually causes a public nuisance, would be in

³ *Sw: Lag (1988:254) om förbud beträffande knivar och andra farliga föremål.*

⁴ The Swedish Penal Code (1962:700), chapter 1 section 1-3.

contravention of the Constitution and the Convention for the Protection of Human Rights and Fundamental Freedoms, pursuant to which basic rights may only be restricted if it is necessary in each individual case, within the context of a democratic society, in order to protect established interests such as public order or public security.

6. International Case Law

7. Additional Information