

# The Establishment of Universities and University Branches in Sweden

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## 1 Introduction

The establishment of universities and university branches has not been a major topic of discussion in Sweden. This may be explained by the legal structure of the higher education institutions. To a great extent, universities and other higher education bodies are organised as administrative authorities within the public sector and financed by public means. This contribution aims at giving an overview of the legal framework for Swedish higher education concerning the possibility to establish higher education institutions and branches in Sweden. Special attention is given the scope for foreign universities and other education providers to carry out their activities in Sweden.

As to the material used, there are very few doctrinal studies on Swedish higher education law. Generally in Swedish law, preparatory works (*travaux préparatoires*), including *Propositioner* (Government Bills) are considered to be important means of statutory interpretation.<sup>2</sup> In many special fields of administrative law, with little other legal discussion, such legislative materials are especially important. In the following, such public materials are used to a considerable extent. In some cases, also reports by administrative agencies and private organisations are used to reflect interpretations and opinions in the field. Due consideration is given to the potentially biased conclusions in publications by interest groups.

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<sup>2</sup> See Joakim Nergelius, *Constitutional Law in Sweden*, Kluwer Law International, Alphen aan den Rijn 2011, 30–1; Hans-Heinrich Vogel, ‘Die Entstehung von Gesetzen in Skandinavien’, 78 *Rabels Zeitschrift für ausländisches und internationales Privatrecht/The Rabel Journal of Comparative and International Private Law* 2014, 383–414.

The article is structured as follows. After an introduction of the relevant constitutional framework (section 2), the legal provisions relating to the public-sector *universitet* (universities) and *högskolor* (university colleges) are outlined (section 3). After this, the possibility for private bodies to be recognised as Swedish higher education institutions is explored (section 4). This is followed by a section on the possibility to provide higher education in Sweden without recognition as a Swedish higher education institution (section 5). After an overview of the funding on higher education in Sweden (section 6), a concluding section (section 7) provides some general remarks.

## 2 Constitutional Framework

On the constitutional level, the 1974 *Regeringsform* (Instrument of Government) with later amendments is the central fundamental law and forms the core of the Swedish constitution. It sets out certain societal aims, which the public bodies shall pursue. In this way, the Instrument of Government provides that ‘the personal, economic and cultural welfare of the individual shall be fundamental aims of public activity’, especially mentioning ‘the right to education’.<sup>3</sup> More specific provisions concretising how to reach these societal goals are found in ordinary legislation, such as the *Högskolelag* (Higher Education Act) and the *Högskoleförordning* (Higher Education Ordinance)<sup>4</sup>, see further below. Furthermore, the chapter on Fundamental Rights and Freedoms of the Instrument of Government provides that children are entitled to free basic education in the public education system, and that “[t]he public institutions shall be responsible also for the provision of higher education.”<sup>5</sup> According to the preparatory works, the latter provision implies a duty for the public institutions to both provide and organise higher education.<sup>6</sup> As is evident from this constitutional arrangement, the default rule is that higher education in Sweden is organised within the public sector.

Notably, public-sector higher education institutions do not have a special constitutional status, as is the case for example in Finland, which otherwise shares many features with Sweden in

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<sup>3</sup> Ch. 1 s. 2 of the *Regeringsform* (Instrument of Government), SFS (*Svensk författningssamling* [Swedish Code of Statutes]), 1974:152, cited here from the unofficial English translation available at <<http://www.riksdagen.se/en/documents-and-laws/>>, accessed 12 June 2018.

<sup>4</sup> *Högskolelag* (Higher Education Act); SFS 1992:1434; *Högskoleförordning* (Higher Education Ordinance), SFS 1993:100.

<sup>5</sup> Ch. 2 s. 18 of the Instrument of Government.

<sup>6</sup> Prop. (Proposition [Government Bill] 1993/94:117, *Inkopporering av Europakonventionen och andra fri- och rättighetsfrågor*, 28; bet. (Betänkande [Report]) of the Konstitutionsutskott (Committee on the Constitution) 1993/94:KU24, *Inkopporering av Europakonventionen och andra fri- och rättighetsfrågor*.

the legal design of the constitutional and administrative system.<sup>7</sup> Instead, universities and university colleges run by the state constitute *förvaltningsmyndigheter* (administrative authorities). Under the Swedish administrative model, administrative authorities are normally organised under the Government. This means that rules and principles of public law are fully applicable to public-sector higher education bodies, including rules on public access to documents, public procurement and the handling of administrative matters.<sup>8</sup>

Swedish administrative authorities, including the public-sector higher education institutions, enjoy a certain degree of independence from the Government and other public bodies. They form separate public entities outside of the ministerial hierarchy of the *Departement* (Ministries) within *Regeringskansliet* (the Government Offices). Furthermore, the public-sector higher education institutions, just as other administrative authorities, are constitutionally protected from interference from the Government or individual ministers concerning their decision-making relating to rights and duties for individuals and to the application of acts of law in individual matters.<sup>9</sup> Notably, this limitation of political interference in the administrative sector also applies to the *Universitetskanslersämbetet* (The Higher Education Authority), which is responsible for supervision of the higher education institutions (see further below). Alleged governmental interference in the decision making of the administrative authorities may be scrutinized by the *Konstitutionsutskott* (Committee on the Constitution) of the *Riksdag*.<sup>10</sup>

### 3 Public-Sector Higher Education Institutions

The Higher Education Act – an act of parliament – regulates higher education institutions for which the state is responsible, ie the public-sector higher education institutions. The Act lays down the general structure of public-sector higher education in Sweden, whereas detailed provisions are found in the Higher Education Ordinance, adopted by the Government.

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<sup>7</sup> See Art. 123 of Suomen perustuslaki/Finlands grundlag (The Constitution of Finland).

<sup>8</sup> See Lena Marcusson, *Universitetens rättsliga ställning. En rapport till SUHF hösten 2005*, SUHF (Sveriges universitets- och högskoleförbund, The Association of Swedish Higher Education Institutions), Stockholm 2005, 18, <[www.suhf.se/publicerat/rapporter](http://www.suhf.se/publicerat/rapporter)>, accessed 27 June 2018.

<sup>9</sup> See Ch. 12 ss. 1 and 2 of the Instrument of Government; see further on the independence of Swedish administrative authorities Joakim Nergelius, *Constitutional Law in Sweden*, Kluwer Law International, Alphen aan den Rijn 2011, 83; Patrik Hall, *The Swedish Administrative Model*, in Jon Pierre ed., *The Oxford Handbook of Swedish Politics* 299 (Oxford University Press 2015), <http://www.oxfordhandbooks.com>, accessed 27 June 2018.

<sup>10</sup> See Joakim Nergelius, *Constitutional Law in Sweden*, Kluwer Law International, Alphen aan den Rijn 2011, 84–5.

According to the Act, the State shall establish higher education institutions for education and research.<sup>11</sup>

The legislation lays down two forms of public-sector higher education institutions, viz. *Universitet* (Universities) and *Högskolor* (University Colleges). The difference between the two categories is that universities as a default rule may award third-cycle qualifications, whereas University Colleges need a permission from *Universitetskanslersämbetet* (the Higher Education Authority) to award such diplomas. When it comes to first and second cycle qualifications, this authority decides on permissions for both types of higher education institutions. For such a permission, it is necessary that the education programme fulfils the criteria laid down in Chapter 1 of the Higher Education Act and the Higher Education Ordinance and that awarding the qualification at issue is in the public interest.<sup>12</sup> Apart from this difference in the legal framework, the universities traditionally also have been awarded higher financial resources.<sup>13</sup> According to the Act, it is for the *Riksdag* (Parliament) to decide on which public-sector higher education institutions shall exist in Sweden.<sup>14</sup> However, the Government may decide that a University College shall be designated as a University.<sup>15</sup> This power may be understood as flowing from the Government's role as the supreme administrative body overseeing the activities of administrative authorities.<sup>16</sup> According to information from the Higher Education Authority, there are around 50 public-sector higher education institutions in Sweden.<sup>17</sup>

As with other administrative authorities under the Government, the Government issues *Regleringsbrev* (appropriation directions), ie, yearly letters establishing the goals, the priorities and the financial means available. One example from the university sector is that the Government has instructed Lund University to arrange education in Yiddish, an officially recognised minority language in Sweden.<sup>18</sup>

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<sup>11</sup> Ch. 1 s. 2 of the Higher Education Act.

<sup>12</sup> Ch. 1 ss. 11–15 of the Higher Education Act; s. 2 of the *Förordning med instruktion för Universitetskanslersämbetet* (Ordinance with Instruction for the Higher Education Authority), *SFS* 2012:810.

<sup>13</sup> See Prop. 2008/09:134 *Forskarutbildning med profilering och kvalitet*, 53.

<sup>14</sup> Ch. 2 s. 1 of the Higher Education Act.

<sup>15</sup> See Prop. 2008/09:134 *Forskarutbildning med profilering och kvalitet*, 53; Bet. 2008/09:UbU18 *Forskarutbildning med profilering och kvalitet*, 18–9.

<sup>16</sup> See Ch. 12 s. 1 of the Instrument of Government; cf. also Ch. 1. s. 6, which provides that “The Government governs the Realm”.

<sup>17</sup> See <[english.uka.se/facts-about-higher-education/overall-responsibility-and-regulations.html](http://english.uka.se/facts-about-higher-education/overall-responsibility-and-regulations.html)>, accessed 27 June 2018.

<sup>18</sup> See Vilhelm Persson, ‘Regleringsbrev ur rättslig synvinkel’, *Förvaltningsrättslig tidskrift* 2011, 635, 640–2.

The education provided by the public-sector institutions is under the supervision of the Higher Education Authority. This authority is responsible for evaluating the quality of education and for conducting research and supervision of the activities in the sector.<sup>19</sup> This authority may decide to withdraw a permission to award qualifications if the requirements for obtaining such a permission are not fulfilled. Before such a decision is made, the education institution shall be given the possibility to remedy the deficiencies.<sup>20</sup>

## 4 Private Higher Education Institutions with Permission to award Diplomas

Beside the public-sector higher education bodies dealt with above, also private organisations may award academic diplomas. This group may in turn be divided in two categories, viz. on the one hand private universities with a special status owing to historical development and on the other hand other private education institutions that have obtained a permission to award diplomas.

First, two higher education institutions, *Chalmers tekniska högskola* (Chalmers University of Technology) and *Högskolan i Jönköping* (Jönköping University), are organised as so-called *Stiftelsehögskolor*, a special structure formed by publicly funded *Stiftelser* (foundations) and associated *Aktiebolag* (limited companies). These two institutions were transformed from public bodies into this special form for organisation in the 1990s. This was part of a political effort to diversify the higher education landscape in Sweden.<sup>21</sup> In addition, *Handelshögskolan i Stockholm* (Stockholm School of Economics), founded as a private association with its statutes being recognised by the Government and published in the official gazette in 1909,

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<sup>19</sup> S. 1 of the Förordning med instruktion för Universitetskanslersämbetet (Ordinance with Instruction for the Higher Education Authority), SFS 2012:810.

<sup>20</sup> Ch. 1 s. 14 of the Higher Education Act.

<sup>21</sup> See Ds (Departementsserien [Ministry Publication Series]) 2013:49 *Högskolestiftelser – en ny verksamhetsform för ökad handlingsfrihet*, 31.

may be seen as a special case.<sup>22</sup> The relation between these three private education providers and the state is regulated in agreements between the state and the institution.<sup>23</sup>

In 2013, a publication from the Government Offices proposed the introduction of a new private form of organisation for hitherto public-sector higher education in Sweden in the form of *Högskolestiftelser* (Higher Education Foundations, not to be confused with *Stiftelsehögskolor*, mentioned above). The suggested changes were controversial and not well received in the higher education sector. They were not followed by legislative initiatives from the Government.

Second, apart from the mentioned private universities with their special background, also other private education institutions may apply for permission to award academic qualifications. According to a special act of law, an independent education provider, which may be either a natural or a legal person, needs a permission to award qualifications regulated in the Higher Education Ordinance. The education provided must base on scholarship and proven experience and fulfil the basic criteria set out in the Higher Education Act. The independent education provider must further take part in monitoring and evaluation procedures. Decisions on such permissions are made by the Government in its capacity as an administrative body.<sup>24</sup> Governmental decisions relating to the civil rights and obligations of the individual under art. 6(1) of the European Convention of Human Rights, as this kind of decision, may be assessed by the Supreme Administrative Court in a legality review.<sup>25</sup> The relation between the State and the private education institutions holding permissions may further be regulated in special appropriations directions for this category of higher education bodies.<sup>26</sup>

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<sup>22</sup> See Lena Marcusson, *Universitetens rättsliga ställning. En rapport till SUHF hösten 2005*, SUHF (Sveriges universitets- och högskoleförbund, The Association of Swedish Higher Education Institutions), Stockholm 2005, 27–8, <[www.suhf.se/publicerat/rapporter](http://www.suhf.se/publicerat/rapporter)>, accessed 27 June 2018.

<sup>23</sup> Ds 2013:49 *Högskolestiftelser – en ny verksamhetsform för ökad handlingsfrihet*, 36; Högskoleverket (The National Agency for Higher Education, ie the predecessor of the Higher Education Authority), *Rättssäkerheten för studenter hos enskilda utbildningsanordnare med examensrätt*, Report 2008:37 R, 25–31.

<sup>24</sup> Ss. 1 and 2 Lagen om tillstånd att utfärda vissa examina (Act Concerning Authority to award Certain Qualifications), SFS 1993:792; see on the role of the Government as an administrative body, deciding on individual administrative matters, Hans Ragnemalm, *Administrative Justice in Sweden*, Juristförlaget, Stockholm 1991, 55.

<sup>25</sup> Ss. 1–3 of the Lag om rättsprövning av vissa regeringsbeslut (Act on Legal Review of Certain Governmental Decisions), SFS 2006:304; Rune Lavin and Lars-Göran Malmberg, 'Administrative Law', in Michael Bogdan (ed.), *Swedish Legal System*, Norstedts Juridik, Stockholm 2010, 86.

<sup>26</sup> See eg, Regleringsbrev för budgetåret 2018 avseende anslagen 2:63 och 2:65 inom utgiftsområde 16 Utbildning och universitetsforskning, Government decision 18 December 2017, U2017/00966/UH, U2017/04127/UH, U2017/04995/UH.

Notably, the possibility for an independent education provider to obtain a permission to award academic qualifications under the Swedish legislation is only open to natural or legal persons.<sup>27</sup> This includes also foreign organisations or companies. However, international organisations fall outside of the definition of persons of the Act. This means that higher education bodies such as the World Maritime University in Malmö, founded by the International Maritime Organization (a United Nation Agency), may not obtain a permission to award academic qualifications.<sup>28</sup> As discussed below, however, this does not mean that it is illegal to operate such an institution in Sweden.

According to information from the Higher Education Authority, there are, as of May 2018, 17 independent education providers with a permission to award qualifications, including the three special institutions mentioned at the beginning of this section.<sup>29</sup> As far as can be established from this information, all of these are Swedish organisations without links to foreign universities. In a report on the subject published by *Svenskt Näringsliv* (Confederation of Swedish Enterprise), the employers' organisation for the private sector, which acts as a lobbying organisation for business matters, foreign organisations have considered applying for such a permission, but have encountered legal obstacles. The Confederation of Swedish Enterprise has therefore argued that the legal provisions, although legally speaking applicable in the same way for Swedish and foreign bodies, discourages foreign education providers. It has further suggested that foreign higher education bodies ought to be able to establish in Sweden in the same way as foreign companies in other sectors.<sup>30</sup>

The Government may withdraw permissions for education providers not complying with the requirements of the legislation. It is for the Higher Education Authority to take the initiative to such proceedings. Before a decision is made, the private education provider shall be offered the opportunity to remedy the deficiencies.<sup>31</sup> A decision to withdraw may be challenged before the Supreme Administrative Court in an action for legality review (see above).

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<sup>27</sup> S. 1 of the Act Concerning Authority to award Certain Qualifications.

<sup>28</sup> See Patrick Krassén, *Sverige som universitetsmarknad Hur etableringar av nya aktörer inom högre utbildning kan underlättas*, Svenskt Näringsliv, Stockholm 2013, 13–4.

<sup>29</sup> See <[english.uka.se/facts-about-higher-education/higher-education-institutions-heis/list-of-higher-education-institutions-in-sweden.html](http://english.uka.se/facts-about-higher-education/higher-education-institutions-heis/list-of-higher-education-institutions-in-sweden.html)> accessed 27 June 2018.

<sup>30</sup> See Tobias Krantz and Maria Rankka, 'Släpp in internationella toppuniversitet i Sverige', *Dagens Nyheter* 4 October 2013; Patrick Krassén, *Sverige som universitetsmarknad Hur etableringar av nya aktörer inom högre utbildning kan underlättas*, Svenskt Näringsliv, Stockholm 2013, 1–2, 12.

<sup>31</sup> S. 7 of the Act Concerning Authority to award Certain Qualifications.

If an education provider awards qualifications regulated in the Act without permission, the Government may require it to stop doing so, if necessary under the penalty of *Vite* (an administrative conditional fine). The decision to impose such a fine shall be made by the Administrative Court in Stockholm on the initiative of the *Justitiekansler* (Chancellor of Justice), the high-ranking civil servant acting as the legal representative of the Government and the State.<sup>32</sup>

## 5 Private Higher Education Institutions operating without Permission

As already has been touched upon, the existence of regulations in the Higher Education Ordinance and the system for permits for independent education providers to award qualifications does not exclude private bodies from legally organising other forms of alleged higher education. In fact, nothing in the Swedish legislation in the field prevents private actors from calling themselves Universities or similar or awarding allegedly academic diplomas, as long as these diplomas are not regulated by legislation.<sup>33</sup>

According to information from the Swedish Council for Higher Education, the administrative authority responsible for certain matters in the higher education sector including evaluating foreign higher education qualifications, at least 20 bodies without such a permission claim to award higher education diplomas in Sweden, or to be linked to Sweden.<sup>34</sup> This may, of course, be confusing to the public. The Higher Education Authority has informed the Government on the problem of foreign fake universities operating from Sweden.<sup>35</sup> At the same time, this lack of regulation and – one must say – very liberal system makes it possible also for serious institutions to establish branches in Sweden, as long as the awarded qualifications do not give the impression that they are recognised by the public-sector higher education system.

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<sup>32</sup> See s. 6 of the Lag om viten (Act on Conditional Fines), SFS 1985:205.

<sup>33</sup> See Prop. 2008/09:134 *Forskarutbildning med profilering och kvalitet*, 53.

<sup>34</sup> See [www.uhr.se/en/start/recognition-of-foreign-qualifications/enic-naric-sweden/Non-recognised](http://www.uhr.se/en/start/recognition-of-foreign-qualifications/enic-naric-sweden/Non-recognised), accessed 27 June 2018.

<sup>35</sup> See, eg, letter from the Higher Education Authority to the Ministry of Education, 3 March 2009, Reg.nr 59-1235-09 *Skrivelse om Alhuraa University in Sweden och Scandinavian University of Science and Technology*, available at <[www.uka.se/download/18.12f25798156a345894e2c7b/1487841929906/59-1235-09.pdf](http://www.uka.se/download/18.12f25798156a345894e2c7b/1487841929906/59-1235-09.pdf)>, accessed 27 June 2018.



## 6 Funding of Higher Education

The question of funding of higher education, has essentially two perspectives. Below, first the matter of funding of the higher education institutions is outlined, including university fees. Second, the funding of the education in the perspective of the students is highlighted, focusing on the Swedish system for study grants and loans.

The Swedish public-sector higher education institutions are to a large extent funded by subsidies from the state. The amount for each institution is decided on in the procedure for adopting the state budget.<sup>36</sup> Also private bodies organising higher education may obtain subsidies from the state. Perhaps surprisingly, a permission to award qualifications regulated is not a necessary precondition for such subsidies. This could be relevant for an independent education provider, which do not need a permission since it awards qualifications not regulated in the Higher Education Ordinance. The Government's assessment on such an application, which is handled as a separate matter, focuses on the quality of the education as well as its importance and the available public means.<sup>37</sup> If the Government decides to give subsidies it may impose certain conditions.<sup>38</sup> Also this kind of decision may be assessed by the Supreme Administrative Court in a legality review.<sup>39</sup>

When it comes to university fees, the Instrument of Government contains a provision on free basic schooling, but is silent on higher education.<sup>40</sup> However, the Higher Education Act requires that public-sector higher education be free of charge. Owing to the requirements of non-discrimination under EU law and associated agreements, this applies not only to Swedish citizens, but also to citizens of other states within the European Economic Area and Switzerland.<sup>41</sup> Concerning both independent education providers with a permission to award qualifications and education providers that lack such a permission but receive state subsidies, the Government normally imposes the condition that the education be free of charge.<sup>42</sup> A

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<sup>36</sup> See Joakim Nergelius, *Constitutional Law in Sweden*, Kluwer Law International, Alphen aan den Rijn 2011, 50–53.

<sup>37</sup> See Prop.1992/93:169 *Om högre utbildning för ökad kompetens*, 79–80.

<sup>38</sup> See generally on conditional administrative decisions Hans Ragnemalm, *Administrative Justice in Sweden*, Juristförlaget, Stockholm 1991, 203.

<sup>39</sup> See ss. 1–3 of the Lag om rättsprövning av vissa regeringsbeslut (Act on Legal Review of Certain Governmental Decisions), SFS 2006:304; Rune Lavin and Lars-Göran Malmberg, 'Administrative Law', in Michael Bogdan (ed.), *Swedish Legal System*, Norstedts Juridik, Stockholm 2010, 86.

<sup>40</sup> Ch 2 s. 18 of the Instrument of Government.

<sup>41</sup> Ch. 4 s. 4 of the Higher Education Act.

<sup>42</sup> See Högskoleverket (The National Agency for Higher Education, the predecessor of the Higher Education Authority),

foreign higher education providers operating without permission to award qualifications, and which does not receive state subsidies, is allowed to require fees. However, the Confederation of Swedish Enterprise has pointed out that such a body would have to compete with institutions providing education free of charge.<sup>43</sup>

An important factor for students in Swedish higher education is study financing. To a large extent, students in higher education finance their studies with support from the state under the system for study grants and loans from *Centrala Studiestödsnämnden* (the Board of Student Finance), an administrative authority. Students at the public-sector higher education institutions are automatically eligible for such grants and loans. Also education provided by independent education providers holding a permission may be financed by study grants and loans. Even a student taking part in education at a private higher education institution without a permission may receive study grants and loans, provided that the education provider fulfils certain criteria, viz. that the education is under state supervision, is deemed valuable from national perspective, holds a certain quality and is free of charge or only requires fees that are reasonable. The independent education provider applies by the Government to be approved for study grants and loans. If the conditions no longer are fulfilled, the Government may revoke the decision.<sup>44</sup> For an independent education provider – foreign or Swedish – the possibility for students to obtain study grants and loans is a crucial element, which has been put forward by the Confederation of Swedish Enterprise.<sup>45</sup>

## 7 Concluding Remarks

To conclude, the Swedish higher education system may be said to be designed for public – and therefore naturally, domestic – higher education institutions. However, it also allows for private bodies, both Swedish and foreign ones, to apply for permission to award qualifications. The legal system even allows for a foreign body calling itself a university and

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*Rättssäkerheten för studenter hos enskilda utbildningsanordnare med examensrätt*, Report 2008:37 R, 25–31.

<sup>43</sup> See Patrick Krassén, *Sverige som universitetsmarknad. Hur etableringar av nya aktörer inom högre utbildning kan underlättas*, Svenskt Näringsliv, Stockholm 2013, 11.

<sup>44</sup> See ss. 2–4 and the Annex of the Studiestödsförordning (Study Grants Ordinance), SFS 2000:655.

<sup>45</sup> See Patrick Krassén, *Sverige som universitetsmarknad. Hur etableringar av nya aktörer inom högre utbildning kan underlättas*, Svenskt Näringsliv, Stockholm 2013, 11.

awarding qualifications, as long as it does not use the same names as in the Higher Education Ordinance. This must be seen as a very liberal system.

It is therefore difficult to see that the legal provisions as such constitute difficulties for the establishment of foreign independent education providers, apart from the special – and marginal – problem relating to international organizations, such as United Nations bodies. Since Sweden has opted for a public-sector higher education system, free of charge with a system of study grants and loans, it may be difficult for foreign education providers to operate education in the same way as in their home countries. It may quite simply not be very attractive to establish in the Swedish context. This alleged problem, as described by The Confederation of Swedish Enterprise, however, could only be solved by a general structural change going towards privatisation of the public-sector higher education bodies. So far, such suggestions have not been successful. The introduction of *Stiftelsehögskolor* in the 1990s has not been continued by new bodies of this kind, and later proposals, such as the Higher Education Foundations suggested in the Government Offices publication in 2014, have not been successful.

The supervision of both public and private higher education bodies (either holding a permission or receiving public funding) by the Higher Education Authority may be seen as a limitation to the independence of higher education institutions. Of course, the quality of higher education must be assessed in some way. At the same time, the power of this authority may be misused for political goals. To a certain extent, however, the constitutionally independent status of the authority and its decision making may constitute a legal limit to this kind of influence.

A structural feature that may be questioned in international perspective is the central role of the Government. This role may be seen as a part of the Swedish constitutional and administrative model, and corresponds to the role of ministries held in other constitutional systems. As in other countries, this structure has the potential of being misused. As has been put forward above, however, the legality of the governmental decisions discussed here may be assessed by the Supreme Administrative Court, thus providing a guarantee of legal certainty for private education providers wishing to establish themselves in Sweden.