

The Business Sector and Civil Defence: Strengthening the Legal Framework

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Sweden's preparedness for peacetime crises, heightened alert and war is to a large extent dependent on the capacity of private companies to maintain production, supply chains and essential services. Businesses play a central role in areas such as energy, transport, food and water supply, electronic communications, pharmaceuticals and healthcare, all of which are indispensable both in civilian crisis management and within the framework of total defence. A resilient society therefore presupposes a functioning interaction between public authorities and the business sector. At the same time, the legal framework governing the state's ability to regulate, coordinate and impose obligations on private actors is fragmented and, in several respects, unclear. Existing legislation is largely designed either for normal peacetime conditions or for situations of war and heightened alert. The legal basis for preparedness planning and cooperation in the grey zone between peace and war is considerably less well defined. This creates uncertainty regarding the role, responsibilities and incentives of private actors in the development of Sweden's civil defence and supply preparedness.

This report analyses the national legal framework that governs the state's efforts to strengthen preparedness and build a resilient civil defence together with private actors. It examines the constitutional and administrative foundations of public-private cooperation, including both contractual arrangements and the possibility for the state to impose binding obligations. Central constitutional principles – legality, proportionality, predictability and the protection of economic freedoms – form an important analytical starting point. The report also discusses the distribution of regulatory powers between Parliament, Government and public authorities, the scope of delegated rule-making powers, and the limits imposed by the constitutional protection of the freedom of enterprise. In addition, it considers the relevance of EU law, public procurement rules and state aid regulation for the design of preparedness measures.

The analysis identifies a number of structural weaknesses. In the preparatory phase, when risk and vulnerability assessments are conducted and when capacities for supply preparedness and civil defence are to be developed, the state has limited legal tools to require companies to undertake concrete preparedness measures. Cooperation is therefore largely based on voluntary agreements and informal coordination. While such flexibility can foster trust and adaptability, it may also lead to insufficient incentives, unclear allocation of responsibilities and a lack of enforceability. At the same time, the more far-reaching powers available under emergency and total defence legislation are primarily triggered in situations of war or heightened alert. This leaves a regulatory gap in earlier phases of crisis, when preparedness investments and planning measures are most crucial.

The report concludes that Sweden's legislative and contractual preparedness should be strengthened. Clear rules are needed concerning the division of responsibilities between public authorities and private actors, the handling of geographical differences in infrastructure and risk exposure, and the delegation of regulatory powers within the civil defence structure. The current framework risks generating inefficiency and legal uncertainty, which in turn may weaken incentives for long-term private investment in

preparedness. The report therefore discusses the proposal for a new Supply Preparedness Act that would complement contractual solutions with a coherent statutory framework. Such legislation could, under defined and proportionate conditions, enable the state to impose preparedness obligations on companies even outside situations of war, thereby reducing reliance solely on voluntary agreements. Strengthening clarity, coherence and foreseeability in the legal framework would enhance accountability, reduce transaction costs and improve incentives for private actors to contribute to civil defence – while safeguarding fundamental rule-of-law and market economy principles.

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