

## SURVEY OF ANTI-CORRUPTION MEASURES IN THE PUBLIC SECTOR IN OECD COUNTRIES: SWEDEN

### 1. What anti-corruption mechanisms exist for the public sector in your country?

#### a) *Legislation proscribing corrupt activities and establishing sanctions*

Bribery as well as bribe-taking are criminal offences under the *Swedish Penal Code*. Chapter 20 section 2 defines recipients of bribes to include "any employee" which includes employees not only in the public service but also in the private sector. The word "employee" includes employees at all levels, from the top to the lowest positions. Furthermore, persons performing public functions and services within Swedish central or local governments, but legally not classified as employees under the *Labour law* or *Industrial law*, are considered as recipients.

The penal sanctions for bribery and taking a bribe are fines or imprisonment for at most two years. If the offence of taking a bribe is grave, imprisonment for up to six years may be imposed.

The primary purpose of the provisions is to protect public authority against irrelevant and undue influence, and hence to safeguard honesty in society and administrative efficiency. A more general purpose of the penal provisions is of course to encourage healthy methods of exerting influence in society in general and to promote open and fair competition in business life.

While bribery is considered a criminal offence, it is also illegal under civil, commercial, administrative laws and regulations. For example, a claim for a debt which is considered to be a bribe would probably not be granted in a civil action.

#### b) *Other anti-corruption regulations or orders*

All companies as well as banks are required by law to keep books i.e. to secure adequate recording of all payments. As bribery is considered a criminal offence the books may be inspected upon suspicion.

A non-profit association, the Swedish Institute against Bribes, connected with the Swedish Chamber of Commerce, gives advice and provides guidelines for companies to avoid committing bribery.

The Swedish municipalities and county councils, on the basis of local self-government, attend to matters indicated in the Swedish *Local Government Act* or in special regulations. The Swedish *Local Government Act* has disqualification rules for its elected representatives and employees. Generally an elected representative or an employee in a municipality or a county council is disqualified to deal with a matter of personal concern to the member himself and his family. One can also be disqualified if there are any other special circumstances calculated to impair confidence in his impartiality in the matter. These disqualification rules are mainly the same as the ones in the Swedish *Administrative Procedure Act*.

**c) *Oversight by the legislature or parliament (directly or through scrutiny committees)***

The Committee of the Constitution (which is a Parliament committee) has a duty to examine Ministers' performance of their duties and the handling of Government business. For this purpose the committee is entitled to have access to the records of the decisions made in Cabinet matters and to all documents pertaining to such matters. Any other Parliamentary Committee and any member of the Parliament is entitled to raise any issue concerning a Minister's performance of his duties or the handling of cabinet business with the Committee of the Constitution (Chapter 12, Article 1 of the Instrument of Government).

Ministers enjoy a certain degree of immunity as regards criminal responsibility for criminal acts committed in the performance of their official duties as they may be held accountable for such acts only if they have grossly neglected their duties thereby. Impeachment in such cases is a matter for decision by the Committee on the Constitution (Chapter 12, Article 3 of the Instrument of Government).

The members of Parliament have two means of directly confronting Ministers. First there is the institute of declaration of no confidence, which requires the concurrence therein of more than one half of the members of Parliament (Chapter 12, Article 4 of the Instrument of Government). Secondly any member of Parliament may submit an interpellation or put down a question for a Minister in any matter concerning the Minister's performance of his duties (Chapter 12, Article 5 of the Instrument of Government).

The Parliament elect auditors to examine the activities of the state (Chapter 12, Article 7 of the Instrument of Government).

**d) *Investigation systems or bodies with powers to investigate corrupt activity***

The enforcement of existing legislation in actual cases is carried out by the police and the prosecutors. Sweden has no judicial authorities specialised in bribery or corruption.

**e) *Supreme financial audit authority***

The Swedish National Audit Office (RRV) is responsible for the external audit of government agencies. The RRV's directives regulate, to a large extent, the external audits of government agencies. However, the RRV audits of certain government-owned companies and foundations are regulated in Swedish law.

The government audit is performed by the RRV. RRV reports to the audited entities and to the Government. The audit shall promote secure, appropriate and efficient government administration. The RRV has two operative audit dimensions -- financial auditing and performance auditing. These two dimensions collaborate regularly, for example in the annual audit of the government agencies' performance reports and in the framework of different projects. The audit is conducted independently and in accordance with generally accepted auditing standards.

The number of organisations audited has grown in recent years and now totals some 520 organisations. The number of government agencies audited during the last five years has varied from 260 to 277.

Based on the rule of local self-government the municipality and the county council have their own external audit function. Auditing is regulated in a chapter of the Swedish *Local Government Act*. The assembly in municipalities and county councils shall elect auditors to inspect activities. The auditors inspect, to the extent demanded by the generally accepted auditing standards, all activity conducted within

the committees' spheres of activity. They investigate whether the activities have been conducted in an appropriate and economically satisfactory manner, whether the accounts are true and fair and whether the control undertaken within the committees is sufficient.

The auditors shall submit annually to the assembly a report describing the result of the audit of activities for the previous fiscal year. Qualifications may be entered toward committees and the individual elected representatives on such a body. The fiscal report shall include a special statement as to whether or not discharge from liability can be allowed.

**f) Ombudsman**

The Parliament elects four Ombudsmen to supervise the application of laws and other statutes in public service. An Ombudsman is elected for a term lasting from the time of his election or a subsequent date determined by Parliament until a new election in the fourth year thereafter. At the request of the Committee on the Constitution the Parliament may relieve the mandate prior to that time if the Ombudsman has forfeited the confidence of the Parliament.

Matters are brought to the Ombudsmen's attention either on their own initiative or by members of the public. The Ombudsmen may be present at the deliberations of a court or a public authority and have a right of access to all documents and other information of such a court or authority.

An Ombudsman decides matters by declaring whether or not actions by an authority or public official are in accordance with the law or with good administrative practice. An Ombudsman cannot, however, change the decision or judgement of an authority or a court. The Ombudsmen in Sweden have, in international comparison, very far reaching powers as they may prosecute public officials, including judges, for criminal offences by which they have neglected their professional duty (except crimes against the freedom of the press, which may only be prosecuted by the Justice Chancellor).

Tasks similar to the Parliamentary Ombudsmen are carried out by the Justice Chancellor, who is an "ombudsman" appointed by the Government and acting on behalf of the Government.

**g) Bodies to enforce sanctions and prosecute corrupt activity, e.g. specialised prosecutors, investigators, courts, tribunals, etc.**

Generally, penal cases of corruption are tried by the general courts as described in the answer to *Question 1(d)*.

In addition, at the local government level, assemblies decide at a meeting held before the end of a year following the year to which an audit refers, whether discharge from liability is to be allowed or refused. If discharge from liability is refused, the assembly may decide to sue for damages. Non-criminal proceedings shall be filed within a year after the decision to refuse discharge from liability. Failing this, the right to file such proceedings shall lapse.

An assembly may revoke the mandate of an elected representative who has been elected by the assembly if the elected representative has been refused discharge from liability, or through a judgement, which has acquired force of law, has convicted of a crime punishable by imprisonment for two years or more.

**h) Human resources management controls intended to prevent corruption**

See the answer to *Question 1(l)*.

**i) Financial management controls intended to prevent or deter corrupt practices**

*External audit*

Each year the RRV shall examine, assess and, in the form of an audit report to the Government, express an opinion on whether the annual and consolidated accounts of government agencies and other governmental bodies are essentially true and fair and if the management of the organisation has been satisfactory. It thus rests with the annual audit to examine the annual accounts and underlying accounts of the government agencies in accordance with generally accepted auditing standards. The purpose is to assess whether the accounts and the financial information used by management in its administration of the agency are reliable, whether the accounts are true and fair, and whether the accounts and management of the agency have followed requisite regulations and any special decisions made by the Government. The audit shall be conducted in an independent manner in relation to both the Government and the auditee.

An opinion shall be expressed in an audit report. If the audit gives rise to objections or comments the audit report shall be supplemented with a special audit memorandum. The observations shall be reported each year to the Government as well as to ministries and agencies concerned.

If the audit report contains any objections the head of the agency shall, in accordance with Section 15 of the *Agencies Ordinance* and no later than two months after the submission of the report, report to the Government on the measures the agency has taken or intends to take as a result of the audit report. The audit shall work to ensure that objections and comments are acted on by the agency or the Government within a year of the audit.

The responsibility for ensuring that information supplied by the agency to the Government is of satisfactory quality and that operations are being conducted securely, appropriately and efficiently always rests entirely with the management of the agency. The task of the audit in the government management and control structure is -- as an external and independent party -- to assess how the agency's management has discharged this responsibility. It is the responsibility of the audit to make this judgement on the basis of generally accepted auditing standards, and the code of professional ethics for auditors which is an internationally accepted code for what can be regarded as necessary technical and ethical standards.

Traditionally the main task of the financial audit has been to examine the final accounts and underlying accounts of the government agencies. The figures in the accounts have been checked and they have been examined from fiscal, legal and economic perspectives. Observations have been compiled in annual reports which have been handed over to the agency. During the 1990s Parliament and the Government made a number of decisions which, in combination, have had the effect that the audit responsibilities and mandate of the RRV have been extended. From the fiscal year 1994/95 the annual audit has also had the task of examining agency management's administration of operations from different perspectives including the extent to which management has followed the rules and special decisions of the Government.

Since 1993 the annual accounts have been regulated in the *Ordinance on Agencies' Annual Accounts and Requests for Appropriations*.

### *Financial management ordinances*

The Government's financial management ordinances are often formulated in overall terms. If they are to be applied in an identical way by all agencies, further regulations and recommendations are required which interpret the Government's decisions and intentions. These regulations and the general guidelines make it possible for the agencies to ensure that their accounting and administration of funds is true and fair and appropriate for both the agencies and the Government.

Most financial management ordinances authorise the National Financial Management Authority (ESV) to provide further regulations when necessary. The ESV is also authorised in its directives to issue regulations on central government accounting and cash management, on the accounting system for credit guarantees, and on the accounts, annual accounts and interim reports of agencies.

The ESV shall assume responsibility for and check the Government's current account and associated accounts at the Bank of Sweden and the government payments system. Among other things this means that if agencies wish to open postal giro accounts which shall be linked to the government payments system, approval shall first be obtained from the ESV. The agencies shall also continuously submit their reconciliations to be checked by the ESV. If agencies wish to engage other banks for payment purposes than those with which the ESV has concluded agreements, consultations shall first take place with the ESV.

The ESV also exercises a certain amount of control over the fee-financed operations undertaken in the government administration since all agencies which charge fees for their services shall hold consultations on these fees with the Financial Management Department at the ESV. The consultations refer to the calculations used to determine the amount of the fees and to the services and products for which fees shall be charged.

To make it possible for the Government to follow up and exercise controls over central government operations, in different respects, it is the duty of the ESV to provide certain information. The National Financial Management Authority is responsible, among other things, for the central government accounts, makes forecasts of the government budget's expenditures and revenues, compiles statistics on central government finances, and is making, on an experimental basis, checks of expenditure against appropriations.

#### ***j) Organisational management policies, systems and controls intended to minimise opportunities for corrupt activity***

##### *The responsibilities of the heads of agencies*

Under the *Agencies Ordinance* the head of a government agency is responsible for the operations of the agency and shall ensure that the agency is run efficiently and in accordance with constitutional requirements. The head of the agency shall also regularly follow up and examine the operations of the agency and the consequences of statutes and special decisions which concern operations, and shall take any actions necessary.

The *Bookkeeping Ordinance* also contains certain stipulations in respect of the heads of agencies. According to this ordinance the head of an agency, as the person ultimately responsible for the accounts,

shall ensure that the procedures and routines in respect of the accounts are organised in such a way that reliable accounting is promoted and that the assets administered by the agency are protected.

The head of an agency can delegate these powers to other officers in the agency. Under the *Bookkeeping Ordinance* the agency shall appoint those officers who may authorise expenditure in respect of the agency's funds. When an officer decides that funds shall be spent he or she has the responsibility to ensure that the expenditure is motivated by, and is within the framework of, the agency's operations. Authorisations to spend an agency's funds shall be governed by special rules or in another appropriate way.

Central government employees have both legal and disciplinary responsibilities. The head of the agency shall be regarded as the employer of the staff of the agency. The members of the board of the agency have no responsibility in this matter.

An employee who intentionally or negligently fails to observe his obligations in the course of his duties risks disciplinary action for dereliction of duty. In cases of minor misdemeanours no disciplinary action is taken. An employee who, for good reason, is suspected of committing a criminal offence in the course of his or her work shall be reported. This report shall be made if there is suspicion of misconduct, corruption, or a breach of professional secrecy. The report shall also be made if there is suspicion of an offence which carries penalties other than a fine.

#### *Internal controls*

It is the head of the agency who is responsible to ensure that the accounting is true and fair and that funds are administered in a secure manner in accordance with Section 20 of the *Bookkeeping Ordinance*. To achieve this state of affairs it is necessary that requisite controls are built into the organisation, systems and work routines of the agency, so-called internal controls. The quality of the internal controls forms the basis of making operations secure against unintentional or intentional errors.

The agency's assets -- for example cash, stock and fixed assets -- shall be kept in a secure way and inventories of the assets shall be made to the extent considered necessary. Furthermore statements of account or other documents which show cash movements shall be reconciled regularly against the accounts. Officers authorised to spend agency funds shall be appointed by the agency in accordance with special rules or in another appropriate way. The authorisation to spend funds can, for example, be in the form of a specification which defines the officers' powers and responsibilities. The list shall include samples of the signatures of the officers concerned. When an officer decides to spend funds he or she has the responsibility to ensure that the expenditure is motivated and lies within the framework of the agency's operations.

The officer is also responsible to ensure that funds are available for the purpose. Decisions to make payments shall always be in writing and bear the signature of the officer making the decision. When allocating duties and responsibilities the agency should seek to ensure that no one person can handle a transaction alone from beginning to end. All transactions should always be checked by another officer. However this is difficult when the decision is made by the head of the agency or by others in management positions.

Under the *Agencies Ordinance* it is the responsibility of the agency to inform the Government of the regulations which are needed in respect of the organisation of the agency and the forms of the agency's operations in special rules or special decisions. Matters which do not need a decision of the head of the

agency, of the board of directors or of the staff committee may be decided on by another officer. The procedure for this shall be evident from the special rules or special decisions.

The *Ordinance (1994:14) on Government Agencies' Payments and Administration of Funds*, and associated regulations and guidelines, regulate how agencies shall handle payments and administer funds. Furthermore it also contains the liability of every agency to make external controls of all major payments as well as regular reconciliations of bank accounts with the agency's accounts.

The *Bookkeeping Ordinance* and the other ordinances provide minimum requirements for the organisation of internal controls. However the ordinances do not release agency management from the responsibility to organise internal controls on the basis of actual needs in each individual case. It is important to draw attention to the fact that the ordinances do not regulate how the funds should be administered by the head of the agency and other management staff (board).

Shortcomings in special rules or special decisions, in respect of the authorisation of officers to spend funds, can lead to a situation in which issues relating to the responsibility and authorisation of officers to perform certain duties can be unclear. This in turn can create unclear procedures on how decisions shall be made which can mean that checks are not made or are made incorrectly and that decisions are reached on the wrong grounds or by the wrong officer. Errors can be both intentional and unintentional.

#### *Internal audit*

Internal audit is one of the tools available to management to evaluate the efficiency and appropriateness of internal controls and management. The internal audit shall independently examine, verify and assess the agency's internal controls and management and provide recommendations for improvements. It shall also examine how the agency fulfils its accounting obligations.

For some years the RRV has drawn attention in its annual report to the Government to shortcomings in internal controls as a general problem among central government agencies. In its reports the RRV has called for measures to improve the situation.

There are several reasons for the shortcomings in agencies' internal controls. The responsibility for the accounts which the agencies were given on 1 July 1989 when the accounting centres were abolished, far-reaching delegation and decentralisation of responsibilities for financial management and duties in agencies, and the extensive changes to government rules and regulations have not been accompanied by a corresponding increase in numbers of qualified staff working at the agencies and requisite controls have not been created in the organisations, systems and working routines of agencies. Furthermore the management of agencies has not always given sufficient attention to, or shown an understanding of, these issues.

As a result of the RRV's observations the Government approved the *Ordinance (1995:686) on Internal Audit at Central Government Agencies and Other Organisations* (amendment 1996:829). The ordinance came into force on 1 July 1995 and is applied by the agencies specified in its first section.

The criteria used by the Government in reaching its decision on those agencies which should be covered by the ordinance were: the agencies' responsibility for large flows of funds (SEK 1 billion or more) and the degree of delegation in large agencies or between central agencies and regional or local agencies. In total 38 agencies and the social insurance offices are currently specified in the first section of the ordinance. The ordinance shall also be applied by agencies when instructed to do so by the Government and by agencies which establish internal audit functions themselves. In the spending authorisations for

four agencies and all universities and university colleges the Government decided that they shall be covered by the ordinance on internal audit.

### *Local government*

The Swedish *Local Government Act* regulates the organisation, the form for making decisions in the municipalities and county councils and also rules for their elected representatives. There are very few rules regarding the employees. There are, though, some rules about delegation of matters within a committee.

A committee may authorise a select committee, a member, or an alternate of the committee or an employee, to decide a particular matter or group of matters on the committee's behalf. These decisions shall be reported to the committee, which decides the procedure to be observed in so doing. If a committee authorises a senior executive official to make decisions, the committee may allow the senior executive official to authorise another employee of the municipality or county council to make decisions in his stead. Decisions of this kind shall be reported to the senior executive official.

The Swedish *Local Government Act* stipulates that the committees, each within their various fields, shall ensure that activities are conducted in accordance with the goals and guidelines resolved by the assembly and with the provisions applying to the activities. They shall also ensure that the activities are conducted in a generally satisfactory manner.

A government commission of inquiry has newly suggested that municipalities and county councils shall adopt rules for controlling the management of the pensions of their employees. It has also suggested that municipalities and county councils can use the same rules for management of cash, bonds, loans etc. The content of these suggestions is to establish a control system with routines of front and back office and other mechanisms of control. The suggestion is that the municipalities and the county councils themselves have to decide what rules they will have but that they are forced to adopt some rules. The suggestions in the inquiry are rules to help the municipalities and county councils to control the management and not rules that aim at preventing corruption.

### ***k) Transparency mechanisms e.g. independent or public scrutiny, systems for declaring or reporting potential conflicting interests or corrupt activity***

Sweden has very far-reaching rules on public access to official documents. The public's means of scrutinising the activities of the public authorities through their documents is believed to be of great importance in the fight against corruption. Many of the rules in this area dates back to the first *Freedom of the Press Act* of 1766.

Another important element as regards openness as means of fighting corruption is the unique Swedish system of protection of informants to the media. Public officials may, according to the rules regulating this in the *Freedom of the Press Act* and the *Fundamental Law on Freedom of Expression*, submit information, with the intent of it being published or spread in other ways to a broad public, to representatives of the media. The official has a right to remain anonymous and it may amount to a criminal offence for a representative of an authority to enquire into the name of the source or for a journalist to reveal it. The right to inform includes most, but not all, of the information that is considered secret.

In order to guarantee the objectivity of the administrative authorities and the courts, rules have been laid down regulating situations when public officials or judges may have conflicts of interests that may cause biased decisions. The rules regarding judges are laid down in the *Code of Judicial Procedure* and the *Code of Administrative Judicial Procedure* and rules regarding the administrative authorities are laid down in the *Administrative Procedures Act*.

To take the latter as an example, a person charged with handling a case shall be deemed biased if:

- the matter concerns him or herself or
- someone closely related to him or her or
- the person, or someone closely related to him or her, can expect special advantages or detriment from the outcome of the case,
- the case has been brought before the agency by a complaint over another authority's decision in which he or she has taken part or
- some other special circumstance exists that is likely to undermine the confidence in his or her impartiality in the case.

If an issue of bias has been raised and the person in question has not been replaced, the authority shall decide the issue as soon as possible. A decision concerning an issue of bias may be appealed, but only in conjunction with a complaint of the decision by which the authority settles the entire case.

As for government ministers, there are rules obliging them to make public their possessions of shares and other securities. They have also agreed not to trade themselves but to leave to a bank or someone else to independently administer their possessions. Ministers have also undertaken to make public certain engagements, such as other employments or practice as a lawyer or consultant. Furthermore, ministers must not take part in government decisions regarding matters where they have a personal interest.

### ***1) Guidance and training for public officials or politicians e.g. codes of conduct, ethics awareness training***

#### *National government*

During 1996-97 a number of seminars on leadership and ethics were held for all Director-Generals (heads of government agencies). In general, within the frame of the Government's leadership policy with introduction programme, workshops etc., the heads of agencies are becoming more and more aware of the importance of good ethics and of avoiding risks of corruption.

#### *Local government*

Some municipalities and county councils have a kind of ethics committees that discuss, for example, codes or ethical awareness. There are also some municipalities that have produced a booklet about corruption for the purpose of informing its elected representatives about the legal definitions.

At the beginning of each mandate period there are introductions and education arranged for the elected representatives. They include education about ethical rules and rules about corruption.

Municipalities and county councils are aware of the problems of corruption and other ethical issues and most of them have discussions going on about these subjects. Many of them have looked through their rules for control and some have revised them.

There are also occupational groups within the field of municipalities and county councils that have discussed or adopted ethical rules.

*m) Other measures intended to control, detect or deter corruption*

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**2. Which anti-corruption mechanisms are regarded as most effective (in terms of implementation and impact)?**

Since only few cases of bribery in international business transactions have been detected, it is difficult to assess the effectiveness of the penal legislation in this area. In our opinion, however, the possibility to impose criminal sanctions as well as the general attitude in Sweden against bribery should work preventively, especially for companies which are vulnerable in their public relations.

Openness and the rights of informants to the media have traditionally been considered very important in the fight against corruption.

**3. Is the effectiveness of these mechanisms formally evaluated? If so, what evaluation methods are used?**

No.

**4. What if any new actions against corruption in the public sector is your country currently considering?**

Bribery is not deemed to be a widespread phenomenon in Sweden. Only a few cases are tried every year. This can be partially explained by historical reasons. Another important factor is the tradition of openness in the public administration. Through this, private citizens, the mass media and public regulatory bodies gain insight into the activities of governmental agencies and thereby the opportunity of disclosing the possible existence of corruption. Measures against bribery have therefore not been given priority on the political agenda in Sweden.

However, Sweden has recently signed two instruments against corruption elaborated within the European Union. In the process of ratification of these instruments - where also the action in the UN, the OECD and the Council of Europe will be taken into account - the existing Swedish penal legislation will be slightly amended in accordance with the different undertakings made or to be made.

**5. Is there an official awareness or a policy position on the part of your government about which areas are of most concern in terms of corrupt or questionable activities involving the public sector?**

No, there is no such official policy position.