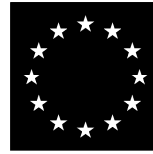




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**THE SWEDISH ELECTION AUTHORITY –
INDEPENDENCE VS. GOVERNMENT CONTROL**

**Report by
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Introduction

1. The Swedish central election authority (The Election Authority) became an independent authority as late as on July 1, 2001. However, the function and tasks of the central election authority have existed since the beginning of the 1970ies, but as an incorporated department within another state authority. The reasons for establishing an independent authority were the belief that electoral matters required a separate budget, a specific administrative system as well as an advanced IT/data support system. It was furthermore considered that electoral matters in themselves entailed such fundamental democratic values as to claim an official organisational framework of their own.

2. This paper will deal with the relative independence of the Swedish central election authority, providing both an introduction into the extent of the authority's independence as well as giving an account of the government's control mechanisms of the activities of the authority. The word "relative" is used to illustrate a tension between the independence provided by law and other regulations to Swedish state authorities and the government's necessity to direct the performances of the actors representing "the state".

3. In order to understand the administrative and legal framework within which the Election Authority functions, a brief introduction into the Swedish system of state administration in large will be presented. Thereafter, the tasks and responsibilities of the Election Authority will be outlined, providing relevant connections and references to the state administration system. As a concluding remark, the report will point at a few ambiguities concerning the relation between the government and the state authorities, with special references to the Election Authority and its role as an independent authority.

The Swedish system of state administration – a brief introduction

4. Sweden is governed through a system of parliamentary democracy and all public power is exercised under the law. The Instrument of Government, which is a part of the Swedish constitution, gives Parliament the power of legislation and the government is accountable to Parliament in all its activities. The government rules the country but is required to implement the decisions made by Parliament and must submit new or amended legal acts for their scrutinising and decision.

5. The government as a whole is responsible for all government decisions. And although numerous routine errands are in practice decided by individual ministers and only formally approved by the government as a whole, the principle of collective responsibility is reflected in all government work.

6. The Swedish model of state administration is founded on a long tradition of a relatively small government office with a large number of state agencies/authorities sorting under the individual ministries. The government office, together with the state authorities, comprises the Swedish state administration. The government is the policy-making body within the state administration and as such supervises as well as conducts follow-ups of the activities of the state authorities.

7. Each ministry within the government office has specific responsibility areas and the state authorities sorting under each respective ministry implement the policies of the government. In addition to being the implementing bodies of the government's policies, the state authorities are also obliged to enact the policies and implement the laws decided by Parliament. The state authorities receive their funding through the annual state budget decided by Parliament.

8. All authorities hand in an annual report to the government including information about costs, revenues and results. Based on the annual report, the government follows up and evaluates the activities of the authorities. The annual report forms, together with the budget request handed in to the government by the authority, the foundation for next year's state budget and the document placing appropriations at the disposal of the authorities.

9. The general activities of the state administration are stipulated in law, which is decided by Parliament. Furthermore, there are certain control instances sorting under Parliament with specific tasks to examine the government and its implementing bodies. The State Audit Institution scrutinises the complete activities of the state to ensure that the state resources are used in an optimal manner and by an efficient state administration. A Parliamentary Ombudsman makes sure that state authorities and their staff comply with existing laws and statutes after complaints from the general public and the Parliamentary Standing Committee on the Constitution holds a specific task to scrutinise the government and its work. The whole state administration is therefore subject to a quite comprehensive democratic control system.

The government's control mechanisms of the state authorities

Powers

10. The government is empowered by the constitution to rule the country under the control by Parliament and in accordance with the law. To be able to do that in an efficient manner the government is given the power to issue ordinances with instructions to the state authorities. These ordinances contain general administrative provisions on how each specific authority should execute its responsibilities reflecting the government's long-term policies, but also provide references to the concerned laws and other relevant regulations governing the authorities' individual activities. The ordinances with instructions to the state authorities provide the legal framework within which each authority will implement the government's policies. Each state authority has its own special ordinance with instructions.

11. Furthermore, special instructions are given to the state authorities by the government on a regular basis through its annual document placing appropriations at the disposal of the authorities. The budget of the state authorities is decided on an annual basis by Parliament through the official state budget, but the appropriations document will also contain, apart from financial information, the specific objectives of the authority as well as special tasks and obligations to report on those areas of focus reflecting the government's present political priorities.

Limitations

12. There are, however, limitation to the extent of which the government may rule the activities of the state authorities through ordinances and documents of appropriations. One such limitation is, as mentioned above, the fact that the activities of the state authorities are mainly laid down in law, which is decided by Parliament. Neither the government as a collective body nor any individual Cabinet Minister is allowed to intervene or decide in individual errands concerning the exercise of public authority. The authority is independent to the extent that it can decide in individual errands affecting persons and other legal subjects and in the actual application of the law. Through the parliamentary control of the power of legislation, the government must submit to the will of the people enacted by parliament decisions on legal acts. In case the government is of the opinion that a state authority is wrong in its application of law, the government must present a proposal for amendment of that law before Parliament.

13. The parliamentary control instances constitute another type of limitation, ensuring that the government as well as the authorities comply with existing laws and regulations. A constitutionally protected principle of public access to official documents will furthermore make possible close examination of the government and its authorities by any one interested, providing public and media insight into the state's activities. Certain appeal systems of administrative errands may also serve as an impediment for the government to use its control powers in an unrestrained manner.

The Swedish Election Authority

14. The Swedish Election Authority is the central election authority in the country responsible for planning and coordinating general elections and national referendums. The authority is formally sorting under the Ministry of Justice, but constitutes an independent state authority in its handling of individual errands and its application of relevant laws and regulations.

15. The main tasks and responsibilities of the Swedish Election Authority are stipulated in the Elections Act, which provides detailed provisions on the whole election procedure including mandate distribution, allocation of seats and appeals in electoral matters.

16. In accordance with the election results, the Election Authority is responsible for:

- the distribution of seats between the parties in Parliament as well as the 19 Swedish seats in the European Parliament,
- the allocation of seats between candidates to Parliament as well as to the 19 Swedish seats in the European Parliament.

17. The Election Authority is also responsible for:

- the development and support of the computerised part of the electoral system,
- the distribution of the preliminary and the final electoral results on the Internet,
- information to the public regarding when, where, and how voting is to be carried out,
- the production of manuals and guidelines to regional and local election authorities, and
- the production of voting material, such as electoral rolls, voting cards, ballot papers, envelopes, forms etc. used for the elections.

18. It should be noted in this context, that the tasks and responsibilities given to the Election Authority are to a large extent non-political. Before the establishment of an independent election authority it was discussed whether or not this new authority should be responsible for enhancing voter turnout. However, in line with the fact that the authority has no responsibility for political parties,¹ the task to enhance voter turnout was not given to the authority. The task to enhance voter turnout was, and still is, considered a highly political issue and therefore a task for the political parties and to some extent the government. To create incentives for people to vote must ultimately lie in the hands of the political parties.

The Ordinance with Instructions for the Election Authority

19. The Ordinance with Instructions for the Election Authority regulates the fact that the Swedish Election Authority is the central administrative authority for elections and national

¹*There are no rules governing the political parties' activities in Sweden. Furthermore, there are no obligatory registration procedures to participate in a Swedish election. The only registration procedure in force for parties is a voluntary option to register the party denomination against misuse.*

referendums and that it should fulfil the tasks and responsibilities given to the authority by law or ordinance. It is also stated that the Election Authority may issue supplementary regulations needed for its application of certain listed laws (for example, the Elections Act and the National Referendums Act). In addition, the ordinance provides details concerning decision-making procedures and the organisational structure of the authority.

20. The Swedish Election Authority is organised as follows:

21. The Election Authority is governed by a board consisting of a chairman and four members. The government appoints all members of the board for a specific period of time. An administrative office performs the daily work, and the activities are governed by an administrative director appointed by the government for a specific period of time. Neither the members of the board nor the administrative director are politically appointed.

22. The Election Authority has twelve employees, all of whom are civil servants employed after competence in open competition on the labour market. No employee of the Election Authority is politically hired, which forms a guarantee that the administrative decisions are made without political bias. There is a specific legal act (The Act on Public Employment) regulating, among other things, disciplinary liability for state employees in performing their duties.

23. The supplementary provisions mentioned in the ordinance mainly constitute handbooks and guidelines produced by the Election Authority for the regional and local election authorities. These handbooks contain advice and guidelines on how to put the regulations in the Elections Act into practice. See Appendix 1 for more information about the regional and local election authorities.

The government's appropriations document

24. The government's appropriations document for 2005 contains the funds available to the Election Authority for this fiscal year and provides directives on how the funds should be divided between the authority's activities. The overall objective of the authority, to safeguard and deepen democracy, provides the framework, within which the government has issued three other objectives, which may change from year to year depending on the government's political focus and priorities at the time. The objectives for the Election Authority for 2005 are:

- to monitor the national and international development of electronic voting as well as the work to enhance knowledge of the voting procedure to the electorate,
- to carry out the election to the Sami Parliament² with maximum reliability and efficiency, and
- to carry out the general elections in 2006 with maximum reliability and efficiency.

25. All three objectives contain a demand to report back to the government, either in the annual report or as a special report.

26. The appropriations document for the Election Authority also contains a special task reflecting the government's present interest in the situation of young persons, requesting the authority to present youth indicators to shed light on their specific circumstances within the electoral process.

²The Sami Parliament is a specially elected assembly for the indigenous people in Sweden.

Ambiguities

27. In view of the above, it becomes evident that there is a tension between the government's necessity to control the activities of the state authorities and the state authorities' will and possibilities to act independently. Even though law regulates most of the state authorities' activities, the government will (and should!) through ordinances and appropriations documents make sure that the government's as well as Parliament's political agenda becomes implemented.

28. The laws decided by parliament have a basic function to the effect that they enable the authorities to make administrative decisions without the interference of the government – to guarantee fair handling of individual errands in accordance with the law. On the other hand, the government needs tools to be able to control that the authorities actually implement the political will of the government and Parliament.

29. In the case of the Election Authority this tension becomes especially sensitive, since it lies in the very nature of the authority's function to be politically non-bias in the handling of errands and the application of law. It is important that the authority renders a high public confidence so that there can be no doubt that elections and referendums are carried out in a trustworthy manner.

30. Within the duties of the Election Authority to prepare and coordinate elections and national referendums lie the tasks to make both democratic insight and civic influence possible, and to give legitimacy to the elections. Decisions made and measures taken by the Election Authority are therefore important parts of the reliability of the whole electoral process.

Concluding remarks

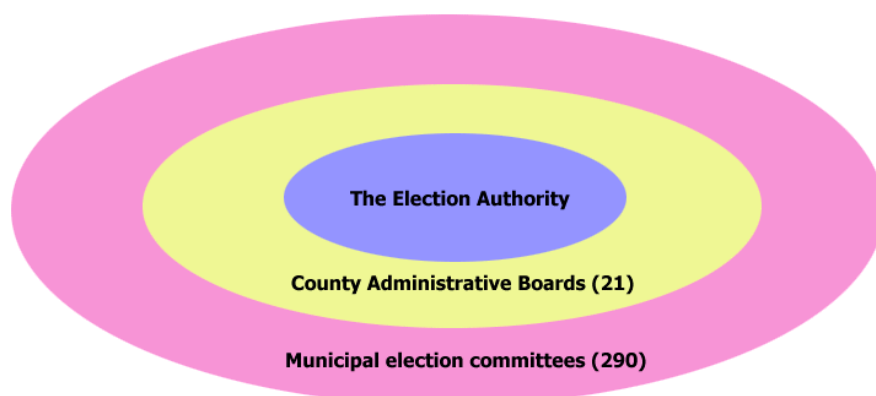
31. The Swedish state administration represents one model out of many to combine democratic governance with an efficient administrative system. This model has resulted in an administrative apparatus where both politics and the exercise of public authority sort under the same fundamental forms of government: representative democracy, a state governed by law and a framework giving the ability to act.

32. These three forms of government are in themselves desirable objectives, but can hardly be maximized together. Compromises must constantly be made and there is no ideal solution to find the perfect balance. There are at present a great variety of administrative models in force throughout the world and one of the working methods of a democracy is to hold open discussions and learn from each other. Openness, debate and review constitute efficient tools for enhancing democracy.

APPENDIX 1

The Swedish election administration

33. The Swedish Election Authority is a part of the Swedish election administration, which are divided into three levels; a central level, a regional and a local level. All major tasks of the election administration are stipulated in the Elections Act, providing detailed provisions of the areas of responsibility for each specific level. The Swedish election administration can be illustrated like this:



34. There is no hierarchy between the three levels, since each level holds its specific responsibilities in accordance with the Elections Act. The Election Authority has no power to direct and control the activities of the regional and local election authorities. They are in themselves independent to the same extent as the central election authority and may as such exercise their own application of the law. The role of the central election authority is to provide guidelines and assistance in their performances of the electoral duties stipulated in law.

35. The County Administrative Board is the regional election authority in each county. There are 21 counties in Sweden and The County Administrative Board functions as the representative of the state in the county and serves as the link between the regional inhabitants and the central level of state administration. The Board enjoys the status of an individual state authority and elections constitute one of many responsibility areas. As the regional election authority, the County Administrative Board decides on electoral districts boundaries and is responsible for the final counting of votes as well as the distribution of seats in the county council- and municipal assembly elections.

36. The Election Committee is the local election authority in each municipality. There are 290 municipalities in Sweden and they enjoy a considerable degree of autonomy. The municipalities are responsible for providing a large part of the public service to its inhabitants and have a right to levy taxes in accordance with the constitution. As the local election authorities, the municipal Election Committees appoint electoral officers, ensure that polling stations are provided and are responsible for the first and preliminary counting of votes. The municipalities bear the costs for electoral officers and polling stations.

37. The Election Review Board settles appealed decisions. The Board consists of seven members led by a Chairman who is required to be, or must have been, an ordinary judge and may not be a Member of Parliament. The remaining members of the Board are appointed by Parliament.