

Guidance Note for the provision of information by States parties and signatories for the sixth intersessional meeting of the Working Group on Prevention on 31 August to 2 September 2015;

1. The Secretariat has produced this Guidance Note to assist States parties and signatories in providing information on initiatives and practices they have implemented regarding the two topics under consideration at the sixth intersessional meeting of the Working Group on Prevention taking place from 31 August to 2 September 2015.
2. The Secretariat wishes to recall paragraph 12 of the report of the Working Group on Prevention on its second intersessional meeting, which noted that in advance of each meeting, States parties and signatories should be invited to share their experiences of implementing the provisions of the Convention under consideration, preferably by using the self-assessment checklist.
3. In furtherance of this, the Secretariat outlines a set of questions, based on those in the self-assessment checklist, which States parties and signatories may wish to use as a guide when providing information regarding the two topics under consideration. States parties and signatories are encouraged to view the questions below only as guidance and are free to provide any information believed to be relevant to the topics under consideration.

I - Information requested from States parties and signatories in relation to integrity in public procurement processes and transparency and accountability in the management of public finances (arts. 9 and 10).

Measures taken to secure integrity in public procurement processes (art. 9.1)

Sweden has implemented the EU instruments Directive 2004/18/EC and Directive 2004/17/EC on public procurement and procurement in the water, energy, transport and postal services sectors, and is now in the process of implementing the new procurement directives (2014/24/EU and 2014/25/EU as well as the new directive on the award of concession contracts, 2014/23/EU). Both the new and the old directives contain mandatory regulations concerning integrity in public procurement processes. The regulations include rules on principles of transparency, open tendering procedures and equal treatment, selection, award and tendering criteria, as well as rules on advertising. Furthermore, the directives on remedies in public procurement (89/665/EEC and 92/13/EEC amended by Directive 2007/66/EC) with regard to improving the effectiveness of review procedures concerning the award of public contracts have been implemented as a part of Swedish legislation in the field of public procurement.

Swedish legislation is based on the principle of openness, i.e. that the award of public contracts is to be made in open competition, the procedure is to be transparent and that it should be possible to obtain redress if the procurement process has not followed the regulatory system. Public procurement laws regulate how different types of procurement should be carried out, advertising, examination of bids, possibilities to obtain a decision in a procurement case tried by a court and the right to compensation if the contracting authority or entity has violated the provisions of the law. The new laws will a fortiori meet these principles.

National administrative rules on conflict of interest apply in the field of public procurement.

The Swedish Competition Authority monitors the application of public procurement rules. From 1 September 2015, a new authority will be responsible for providing support on public procurement to contracting authorities and entities and economic operators.

Measures to promote transparency and accountability in the management of public finances (art. 9.2)

Swedish central government administration has a detailed system of norms for financial management and accounting. Worth mentioning here is the Ordinance on central government agencies' Payments and Funds Management (2006:1097), which regulates government agencies' financial flows, and the Ordinance on Annual Reports and Budget Documentation (2000:605), which regulates financial reporting to the Government.

The Swedish National Financial Management Authority, ESV, is an agency under the Government tasked with developing and overseeing the financial management of central government activities. The agency is responsible for ensuring efficient and effective financial management and its tasks include responsibility for central government accounting and development of generally accepted accounting practice for the central government sector. The agency may issue regulations concerning central government accounting, financing and results-based management. It publishes norms for financial management and conducts training, support and consulting activities directed towards central government agencies. See more information from ESV in Annex 1.

Rules on financial management for local government are contained in the Local Government Act (1991:900), including requirements concerning current accounts and preparation of annual and interim reports. The Act also states that annual reports are to be made available to the general public. More detailed provisions on accounting standards in municipalities and county councils are contained in the Local Government Accounting Act (1997:614).

The Local Government Act also contains rules on local government auditing. The auditors annually review all activities in the committees' areas of activity required under generally accepted auditing practice. Municipal enterprises are also reviewed. The auditors determine whether activities have been carried out in an appropriate and financially satisfactory way, whether the accounts are true and fair and whether the internal checks carried out in the committees are sufficient. Interim report results are also reviewed. The auditors must annually submit to the local government assembly their audit statement and a report on the outcome of the audit. The auditors may direct remarks at committees and elected representatives, for instance. Reasons for such remarks are to be specified in the audit statement. The auditors are to especially state whether or not they recommend discharge from liability.

All central government agencies are to work actively on risk management within their areas of activity. This obligation follows from the Ordinance on Risk Management by Government Agencies (1995:1300). Under Section 3, each government agency is to identify and take appropriate measures to limit risks in their activities and to prevent damage or loss. One of the things to take into account is the risk of being exposed to crime. Furthermore, disciplinary liability may be enforced on officials who commit errors in managing public funds.

Regarding transparency in procedures, see also the answer below concerning the principle of public access to official documents and public meetings of decision-making assemblies.

Measures to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure (art. 9.3)

The Swedish Freedom of the Press Act (1949:105) contains fundamental rules on the public nature of official documents, the right to access official documents and the obligation of public authorities to register official documents, etc. Chapter 2, Article 18 of the Act states that basic rules concerning the storage, culling and other disposal of official documents must be laid down in law. The Archives Act (1990:782) and the Archives Ordinance (1991:446) contain general provisions concerning the filing and storage of official documents. In general, all official documents, including electronic documents (such as official documents consisting of accounting books, records, financial statements, etc.), are to be archived and stored in accordance with the Archives Act. In addition to adhering to the Archives Act and the Archives Ordinance, the National Archives can adopt specific provisions on for instance technical requirements for the preservation and storage of electronic official documents (RA-FS and RA-MS). The National Archives is responsible for the supervision of central government agencies' public records stored in archives. Regional archives are responsible for the supervision of records generated by regional and local authorities.

The underlying principle is that public documents are to be stored for a period of time proportionate to the importance of the document. Documents may be culled when the storage period has expired or if another rule permits culling. Under Section 12 of the Archives Act, a central government agency may only dispose of documents in two ways, besides through culling. The first is by returning or handing over a document in accordance with laws or regulations. The second is through a special decision by the Government. Similar rules apply for local government under Section 15.

If accounting documents deriving from activities not subject to the Accounting Act (such as central and local government), are destroyed, rendered unserviceable or removed, liability for the suppression of a document may be raised if the act jeopardises proof (Chapter 14, Section 4 of the Swedish Penal Code). The penalty for suppression of a document is imprisonment for at most two years, or if the offence is minor, a fine or imprisonment for at most six months. For a gross offence, the penalty is imprisonment for at least six months and at most four years.

Public reporting (art. 10)

In order to guarantee an open society where the general public has access to information about the activities of the Riksdag (Swedish parliament), the Government and government agencies, the principle of public access to official documents has been incorporated in one of the fundamental laws, the Freedom of the Press Act. This openness gives Swedish people the right to study public documents, a right which may be exercised when they so wish.

All documents received or dispatched letters, decisions and reports are in principle defined as public documents and must be made available for anyone to read. Court sessions are public, as are meetings of decision-making assemblies.

The principle of public access to official documents also means that government officials and other central and local government employees are free to divulge information, in other words they are entitled to say what they know concerning a matter to the media and other external parties.

An official document is a document containing information of some kind: a text, picture or information stored on some other medium, for example a computer. The general public is entitled to access a document kept at a public authority which has been received by the authority or drawn up there. Under the basic rule, public documents must be available for anyone to read. Memos and draft decisions are not normally regarded as public documents.

3. Do you require technical assistance in relation to the measures described above?

No.

II. Information requested from States parties and signatories in relation to measures to prevent money-laundering (art. 14)

1. Please describe (cite and summarize) the measures/steps your country has taken has taken (or is planning to take) to implement this provision of the Convention.

States parties and signatories may wish to cite and describe measures that:

- Establish a comprehensive domestic regulatory and oversight regime to deter and detect money-laundering;

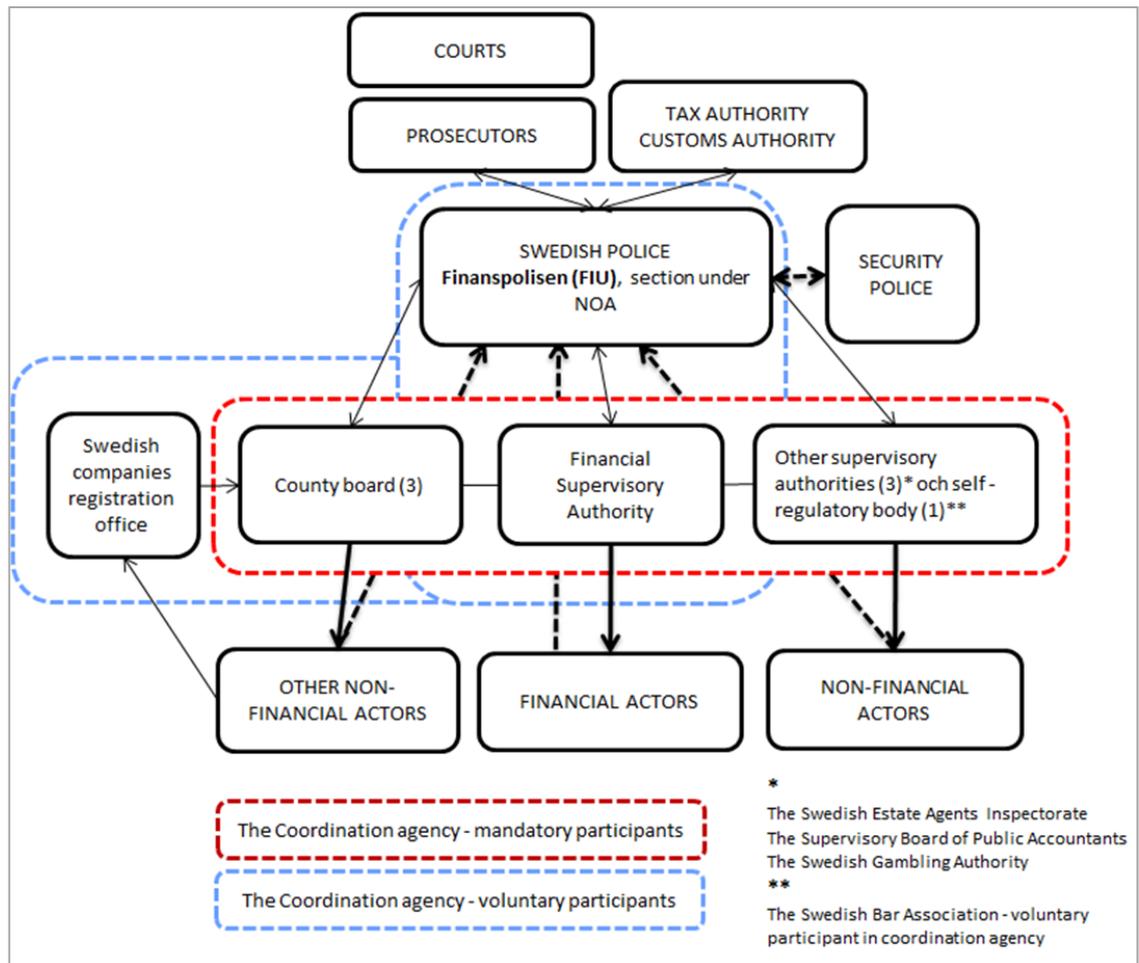
The Act on Measures against Money Laundering and Terrorist Financing (2009:62) (here shortened as the Money Laundering Act) contains provisions concerning measures to be taken in order to prevent the financial system from being used for money laundering and terrorist financing. The Act contains obligations directed towards the obliged entities with regard to customer due diligence, reporting obligations, record keeping and risk-based routines, etc.

Money laundering has been criminalised through Sections 3, 4, 5, 6 and 7 of the Act on penalties for money laundering offences (2014:307) (here shortened as the Money Laundering Offences Act), which was introduced in July 2014.

The Swedish system of combating money laundering and the financing of terrorism incorporates four main groups of actors:

- Law enforcement and controlling authorities (mainly the police, the prosecution authorities, the Swedish Tax Agency and Swedish Customs),
- Supervisory authorities (the Financial Supervisory Authority, the Swedish Estate Agents Inspectorate, the Swedish Gambling Authority, the Supervisory Board of Public Accountants and the three county boards),
- A self-regulatory organ (Swedish Bar Association), and
- obliged entities (financial, non-financial and other non-financial) pursuant to the Money Laundering Act (2009:62).

Figure 1: Overview of the Swedish AML/CFT system



- Show that, at minimum, banks and non-bank financial institutions ensure effective customer and beneficial owner identification, monitoring of transactions accurate record-keeping, and have in place a reporting mechanism on suspicious transactions;

Pursuant to Chapter 2 of the Money Laundering Act, all obliged entities that fall within the scope of the Act (Chapter 1, Section 2) must take measures to gain knowledge of customers. These measures should be commensurate with the risks (a risk-based approach) associated with money laundering and the financing of terrorism. Provisions in the Act prescribe when the obliged entities are to carry out basic customer due diligence, what this entails, as well as instances when enhanced due diligence is called for.

- Extend the requirements mentioned above to other bodies particularly susceptible of money-laundering;

As mentioned above, the scope of the Money Laundering Act is defined in Chapter 1, Section 2. The obliged entities covered by the scope of the Act range

from financial actors (banks, insurance companies, payment providers, fund operations etc.) to non-financial actors such as real estate agents, lawyers and independent legal professionals, accountants and casinos.

- Ensure that agencies involved in anti-money laundering can cooperate and exchange information at national and international levels;

Pursuant to the terms of the Ordinance on Measures against Money Laundering and Terrorism Financing (2009:92) (here shortened as the Money Laundering Ordinance), there is a coordinating body to supervise measures against money laundering and the financing of terrorism. The eight supervisory authorities, the Swedish Bar Association, the FIU and the Swedish Companies Registration Office participate in the coordinating body.

There is a general requirement for the supervisory authorities to report to the Police Authority any circumstances which may be assumed to relate to or constitute money laundering or financing of terrorism. The report must be submitted without delay.

Sweden's general law on secrecy, the Public Access to Information and Secrecy Act (2009:400), prescribes exceptions from the general prohibition on sharing secret information, enabling government agencies to share secret information with other Swedish and foreign agencies. Under Chapter 10, Section 28 of the Public Access to Information and Secrecy Act, secrecy does not prevent information being disclosed to another government agency, if an obligation to provide information follows from an act or an ordinance.

- Consider or establish financial intelligence units (FIUs);

The Swedish FIU – *Finanspolisen* – is a section within the National Operations Department (NOA) of the Swedish Police Authority. *Finanspolisen* is an intelligence section which receives suspicious transactions reports related to money laundering and terrorist financing from the obliged reporting entities. It then analyses the reports and disseminates them for further investigation.

- Consider or become part of anti-money laundering (AML) networks (such as FATF, FSRBs, Egmont Group);

Sweden is a member of the FATF and the Swedish FIU is a member of the Egmont Group.

- Require individuals and businesses to declare/disclose cash border transportation and other negotiable instruments;

As Sweden is an EU Member State, Regulation (EC) No 1889/2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Community is directly applicable.

- Require financial institutions, including money remitters to meaningfully identify originator of electronic transfer of funds; maintain such information throughout the payment chain and apply enhanced scrutiny to transfers lacking complete information on originator or beneficiary;

As Sweden is an EU Member State, Regulation (EC) No 1781/2006 of the European parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds is directly applicable.

- Refer to or use as a guideline regional or multilateral anti-money laundering initiatives;

As a member of the EU, Sweden participates in and refers to initiatives by the European Commission Expert Group (EGMLTF). In addition, Sweden is also a member of the FATF and consequently also refers to and uses the initiatives of that organisation.

2. Please outline actions required to strengthen or improve the measures described above and any specific challenges you might be facing in this respect.

Examples of the types of challenges States parties and signatories may have faced include:

- Financial and technical capacity challenges with regard to the ability of agencies involved in combating money-laundering to cooperate and exchange information at the national and international levels;
- Coordination challenges among relevant agencies responsible for combating money-laundering with regard to global, regional and bilateral cooperation;
- Challenges with regard to monitoring the compliance of banks and other reporting entities with the AML preventive measures.

It is a constant challenge to maintain sufficiently detailed, relevant and up-to-date knowledge of the challenges, threats and risks to which the system is exposed. A key to success in this respect is creating the right conditions and capacity for developing and distributing knowledge within the system (creating a mutually reinforcing system). Law enforcement authorities and the FIU play a central role in providing the administrative (preventive) side of the system with new information and knowledge. Transferring new and refined input in the form of, for instance, typologies extracted from STR data from the law enforcement side (and the FIU) to the preventive side is an important precondition for fine-tuning and sharpening supervisory methods and preventive measures (which, in turn, will generate even higher-quality STRs). An adequately

designed platform for cooperation and coordination between relevant authorities facilitates and provides the necessary conditions for this important knowledge transfer.

3. Do you require technical assistance in relation to the measures described above?

No.

Datum
2015-04-30
ESV-dnr

Handläggare
Tomas Kjerf

Measures to promote transparency and accountability in the management of public finances

Our constitution promote transparency and accountability in public administration by principles of; legality, objectivity, proportionality and independency. Our public administration is also built on trust, this trust is given to every civil servant to perform according to these principles. As an employed civil servant you are to follow the law on civil servants. If you as an employed civil servant fail to comply, intentionally or negligently there are disciplinary sanctions for misconduct. There is also a law on civil servants defining the responsibility to comply.

We, the Swedish National Financial Management Authority have the task to develop and administer policies, regulations and practices for efficient and effective financial management in the central government agencies (budget spending institutions). We issue (third level) agency instructions to (second level) government ordinances on public accounting, financing and public internal control.

When we consider issuing instructions we first consider if it is possible to achieve what is intended in the ordinance by advisory service. When it comes to accounting we have issued detailed instructions in contrast to internal control where we primary rely on best practice and international standard to guide. If needed, we issue guidance outside the legislation through non mandatory memorandum and training.

Ensure an effective system of accounting and auditing

The public administration consists of several different systems for performance of public authority and for supporting purpose. These systems are administrated by different independent agencies. Ministerial rule is not a legal procedure in execution of public authority through these systems. In other words it is the management of and agency that is accountable to the Government, not the minister. There is no interference in the authority from the minister and no transmission of responsibility to the minister.

Each civil servant is responsible for one's actions of undue influence, fraud or other irregularity under criminal law or public law.

Accounting system

The system of accounting consists of budget law (first level legislation), government ordinances and our agency's instructions. The ordinances on accounting under our authority to issue instructions to are;

- Ordinance of accounting, defining agencies accounting and consolidated accounting.
- Ordinance of annual reporting, defining the reporting of budget execution to give an oversight over the revenue and expenditure.

We also issue instructions to ordinances on financing (e.g. appropriations, fees and loans). The financing system is interlinked to the accounting system by accounting principles; e.g. accounting of appropriations.

Another agency, National Debt Office, issue instructions on public payments system (the Treasury). This system is interlinked to the accounting system; e.g. reconciliations of transactions of payments to the accounting appear both in payment and accounting regulations and the group account structure is reflected in the accounting.

The system of accounting is monitored by our agency in an annual financial management rating. It is a rating build on self-assessment and external assessment of compliance with government ordinances and agencies instructions on accounting, financing and payments.

Auditing system

Regularity Audit (annual audit) of central government activities is regulated by law and is mainly to follow best practice. The task is given to the Swedish National Audit Office (Supreme Audit Institution), which is an agency under the parliament.

When it comes to audit of EU-funds with shared management, this is the task of our agency (audit authority). But this audit applies for few agencies. The audit follows EU regulations and best practice and international standards. There are no national regulations on how to conduct this audit.

Regular training and accreditation requirements for government accountants and auditors

There are no regulations on accreditations requirements for the government accountants and auditors. Exams from high school (secondary school), college or

university (Bachelor) are common requirements for applying a position as civil servant.

Further training in public administration is provided both by public authorities in our different fields of responsibilities (accounting, payments and son on) and by the private market via course and conference organisers (profit, non- profit and non-governmental organisations).

The accountants and auditors can obtain professional certifications (non-academic) in risk management, internal audit and more of importance for the profession but it is not mandatory.

The Swedish National Audit Office has an own professional certification of their public auditors.

Ensure an effective and efficient system of risk management and internal control

First level law on governance is regulated by the constitution and in the administrative act. There are the ethical values on freedom on equality outspoken.

There is one ordinance on governance that is defining authority and responsibility for the management of the agency (board and head of agency) to the Government. The ordinance clarifies the responsibility for economic, efficient and effective operations in compliance with laws and regulations and its reliable and fair reporting. We give support in the application of this ordinance but don not have the authority to issue instructions.

Our task is to ensure the Government an effective and efficient system of financial management, including internal control, in the central government agencies. In this task we are given the authority to issue instructions to government ordinances on governance, risk and compliance. We act as the Central Harmonisation Unit of Internal Audit and Financial Management and Control. The ordinances in this area under our authority to issue instructions to are;

- Ordinance on internal control, defining risk management as a part of the management of the activities.
- Ordinance on accounting, defining among other things responsibility of safeguarding of public funds.
- Ordinance on internal audit, defining internal audit to review and suggest improvements in the system of internal control.

- Ordinance on annual reporting, defining among other things accountability for the system of internal control.

Risk management and internal control

Risk management is to know the risks and to mitigate them to be accepted in the activities in line with the management's responsibility to the Government. The regulations define why (fulfil general objectives) and what (risk assessment and control activities) but do not micromanage. It is the task for the management of an agency to decide upon how to perform risk management. Risk management is integrated in the activities of management (first line defence).

In our instructions to the agencies on risk management we have sad that if the authority deems its operations to be subjected to undue influence, fraud or other irregularity, the agency should take measures to deal with such circumstances. The agency could not leave such risks unattended.

We monitor annual the application of regulations of accountability of internal control and compliance to regulations of internal control.

Internal audit

The ordinance define internal audit as assurance to the management and to propose improvement to help the management ensure adequate internal control in the agency's activities. Internal audit is a support to the management of the agency (third line defence).

Beside on risk assessment we have issued instructions on internal audit. In the analysis of operational risks it is included to assess the risk of undue influence, fraud or other irregularities.

We also issue regulations to ordinances on financing (appropriations, fees and loans) which among other things include regulations on internal control to safeguard the funds.

We monitor the internal audit by an annual self-assessment of compliance to the regulation.

Within the extent of my responsibilities

Tomas Kjerf