

Stockholm, 1 November 2004

A brief summary of Swedish legislation on public access and secrecy and comments on the effects of the legislation on communication within a law-enforcement authority.

Swedish legislation on public access and secrecy aroused great interest during the many and fruitful discussions held in recent years within the OLAF Anti-fraud Communicators Network (OAFCN) on principles of communication and information to the press. The Swedish representatives within the network were questioned about the subject and the Chairman, Mr Alessandro Buttice, himself showed a personal commitment to it. This commitment included a suggestion from Mr Buttice that the Swedish contribution to the Round Table on Anti-Fraud communication should include a description of the special requirements placed by this legislation on communication within a national law-enforcement authority.

As the information heads of the Economic Crimes Bureau and Swedish Customs, we feel that the interest shown by OLAF in Swedish openness is a very positive thing. We have therefore opted to publish our two contributions together and to adopt Swedish legislation on public access and secrecy as our common theme.

The material we have put together consists of a brief description of the most important Swedish acts and the principles underlying this topic. This description has been compiled by the Swedish Economic Crimes Bureau and forms the introduction to our presentation. The Head of Information at Swedish Customs has in the meantime added a number of observations and comments in relation to communications within Swedish Customs specifically. We hope that this compilation will lead to greater understanding of Swedish legislation and the openness of Sweden's public service towards the media and the public.

Lars Andrén, Head of Information Swedish Customs :

Limitations and possibilities: Swedish Customs gives its views on information and communication policy in a very open society

In September 2003 Swedish Customs drew up a new communication policy document. In it it states that openness is one of the fundamental principles of the authority's information, communication and public relations policy.

It states: "Openness means that all information should be accessible with the exception of the limitations imposed by law, contractual agreement or secrecy legislation. We are happy to help everyone who asks for information about Swedish Customs. We are honest and open in our personal communications. We share our knowledge and information with others and we listen to and talk to each other."

This paper has its origin in the special laws governing public access and secrecy in Sweden, but it is also a product of the Swedish Custom's internal culture. We believe that openness towards the world around us is one of our core values and a factor in the successful creation of a modern and efficient customs service.

Openness, a way to learn and make the service more effective

We are eager to open up to the outside world in order to draw inspiration and good practice from other authorities and from the companies to which our rules and regulations require us to provide services. Obviously, this kind of openness must be reciprocal. We not only want to learn from others, we would also like authorities, companies and the public to have an insight into our activities. In this way models and ideas may possibly give inspiration to others and at the same time provide us with important feedback in areas in which we can or should make improvements. In this context, Swedish Customs regards both openness and constant improvement as core values of our organisation.

Swedish Customs' Customer Ombudsman and our press hotline

In 2003 Swedish Customs put into practice this policy of openness with the appointment of a special Customer Ombudsman to be accessible and to listen to people's views on Swedish Customs and to help companies and individuals to exercise their rights. The Customer Ombudsman does not handle any complaints himself but makes sure that they are passed on to the body which will handle the question. In this way the Customer Ombudsman helps individuals to present their case in a proper fashion. The role of Ombudsman has an ancient tradition in Sweden. As long ago as 1809 the Swedish Parliament, and hence the Swedish people, got their first Parliamentary Ombudsman and since the 1950s the concept has also been taken over by other languages.

The Customer Ombudsman is easily accessible and answers questions by telephone or e-mail during generous opening hours. The same applies to the Swedish Customs press hotline which was introduced a year earlier when it was found that the media had difficulty in reaching heads of department responsible or customs spokesmen after 5 p.m. when the switchboard closed.

Swedish Customs takes the view that setting up a press hotline creates a “win-win situation” from which both the media and the authority can benefit. The media found it easier to obtain information from Swedish Customs in the evening and at weekends and holidays, and at the same time the press hotline enabled the authorities to refer questions to the official customs service spokesmen and women.

Being available to the media in the evenings or at weekends not only means that we can issue factual statements if we are criticised, but we can also make things easier for journalists in all those cases in which Swedish Customs receive good publicity.

List of topics on the Internet

The description of the Swedish laws on public access and secrecy in the previous section makes it clear that the right of free access to official documents is a central principle of Swedish legal tradition. It also states clearly that not all documents or electronic texts are official or accessible. For example, the secrecy legislation allows access to be restricted in the case of criminal investigations or cases affecting an individual's financial or personal situation.

Final documents and letters received by and sent out by the authorities are recorded in Sweden on a special list, or register. This list can be consulted by both Swedish and foreign nationals, and the documents requested, provided that the secrecy act does not prevent disclosure.

Journalists used to visit national and local authorities at regular intervals to consult the register in search of news or to follow up a particular subject. Swedish Customs has not only made a paper copy of this list available at head office, but it has also put it in electronic form on its website. This is another step by Swedish Customs' to follow the Government guidelines on creating a "24/7" administration via the Internet.

However, it is important to stress that the latest documents are not available via the Internet. Anyone who wants information on a given subject must contact the authority which issued the document. The fact that the register outlining current topics is available on our website is in Swedish customs' view a major step forward and an important indication from the point of view of public access.

Freedom of reporting within a law-enforcement authority

Lastly, a few thoughts on freedom of reporting. This means that a civil servant is free to disclose information for publication in a medium protected by the constitution. In principle this means that he may not release a secret document but may on the other hand disclose secret information to the media. However, it is dangerous to talk in general terms, since there are also a number of exceptions to freedom of reporting in the case of information covered by the Secrecy Act, such as information relating to the security of the Realm, for example.

It is also important to stress – and this is also clear from the Economic Crimes Bureau's report – that freedom of reporting implies that it is possible but not a duty to disclose oral information to the media. Civil servants are therefore not obliged to make use of their freedom of reporting.

Under the legislation, the authorities are not allowed to investigate people who disclose information either. A simple way of explaining the system might be to say that in Sweden the Parliament has formalised the possibility for so-called "whistleblowers" to inform the media when or if an abuse of power or corruption is taking place within an authority.

Of course, there is no guarantee that civil servants will only make use of this possibility in such cases and there can, of course, be a variety of reasons why the media might be given information by a particular individual. However Swedish Customs is firmly convinced that freedom of reporting does not create any major problems for its fight against crime. Within Swedish Customs there is a clear culture whereby civil servants protect the effectiveness of criminal investigations, in particular from demands from the media for access to as much information as possible prior to a court hearing in a topical area of investigation.

The Swedish Economic Crimes Bureau and the Swedish Customs would also refer to the English version of the Swedish Government's website. Under the heading "Ministry of Justice" is a pdf-document which can be downloaded entitled "Public access to Information and Secrecy with Swedish Authorities". This document provides a more detailed description of the broad information given above. The page can be found at: <http://www.sweden.gov.se/sb/d/2768/a/16293>