

Summary

Food control – is central government fulfilling its responsibility? (RiR 2014:12)



Food control – is central government fulfilling its responsibility?

The Swedish National Audit Office has carried out an audit to examine whether central government is taking sufficient measures to ensure that official food control is effective and appropriate.

Audit background

Reasons: The aim of official food control is to protect public health and ensure that consumers can trust food to be safe and correctly labelled. Deficiencies in official food control constitute an increased risk of unsafe and incorrectly labelled foods being released onto the market and reaching consumers in restaurants and stores.

The responsibility for implementing food control in Sweden is shared between the Swedish National Food Agency, county administrative boards and municipalities. The county administrative boards carry out inspections in primary production, for example agriculture, and the municipalities primarily inspect stores, restaurants and institutional caterers. The Swedish system for official food control stands out in an EU context as distinctly decentralised. Legislation in the food area largely consists of EU regulations that, among other things, outline the obligations of the member states and the control authorities regarding the implementation of food control.

Problems in official food control have been subject to attention for a long time. Issues that have been raised include planned inspections not being carried out and that the frequency of inspections is too low in some areas. Sweden also does not fulfil basic requirements in the EU legislation which state that the controls should be risk-based and carried out as often as is appropriate. How the control system as a whole functions and how the actors concerned work to ensure an effective and appropriate level of control has not been investigated in the last ten years. The investigations regarding food control that have been carried out have led to few measures. Considering this background, the Swedish National Audit Office has decided that an audit of the area is warranted.

Aim: The aim of the audit has been to investigate whether central government is taking sufficient measures to ensure that official food control is effective and appropriate. The audit has been limited to the part of the official food control carried out by the county administrative boards and the municipalities. In the audit, the Swedish National Audit Office has taken as its point of departure known problems in the area of official food control that have persisted over time. The audit has therefore been focused on the measures the state actors have taken in order to solve the problems and the obstacles to finding solutions.



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The decentralised system for food control requires clear state governance in order to become effective and uniform in all parts of the country. The point of departure of the Swedish National Audit Office has been that central government efforts to steer the control activities consist of the following elements: clearly defining the requirements imposed on the regulatory authorities, conducting follow-ups of the control activities in order to identify deficiencies, and taking measures to correct deficiencies in the control activities.

Implementation: In this audit, the Swedish National Audit Office has conducted a legal analysis in order to investigate the conditions in the legislation for effective and appropriate food control. The analysis has been carried out through studies of relevant EU legislation and national legislation and through interviews with relevant actors. Moreover, we have conducted questionnaire surveys directed at county administrative boards and municipalities, including questions concerning guidance and support for their control activities. We have also conducted document studies and gathered evidence regarding the management and coordination of the food control through interviews with various actors.

Audit results

The Swedish National Audit Office's opinion is that significant central government measures are necessary in order to remedy the deficiencies in the control activities so that the aim of the food control can be achieved. However, the audit shows that central government measures to remedy the problems in food control have not been sufficient. The Swedish National Audit Office concludes that the Government has not taken action to remedy the deficiencies that have been found, and that the National Food Agency has not used its assigned the regulatory powers. The audit has shown that the requirements imposed on the regulatory authorities are not clearly defined, that the follow-up of control activities is deficient and that few measures are taken when problems in the control activities are brought to light.

Problems in food control have been observed for a long time

Problems in the food control of municipalities have been brought to attention for many years. Many municipal control authorities are small. A third of all municipalities have less than one annual full-time equivalent devoted to food control. This can contribute to difficulties with maintaining sufficient competence. This can also have consequences for the quality of food inspectors' assessments and thereby the uniformity of the controls.

The National Food Agency has found that many municipalities have difficulties implementing the provisions regarding fees for inspections. Municipalities thus cannot always ensure that they have sufficient resources for control activities, which may have as a consequence that not all planned inspections are carried out. The National Food Agency has also found that many food enterprises do not undergo annual inspections, despite belonging to the highest risk categories. The fact that planned inspections of high risk operations are not being carried out can have consequences for



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food safety. The difficulties of implementing provisions concerning fees also involve a risk that the fees paid by the food enterprises for the inspections are not correct. For example, companies may end up paying for inspections that are not carried out.

The audit has further shown that the registers of the county administrative boards only cover a fourth of the primary producers, which means that their basis for sampling is incomplete. Moreover, the county administrative boards carry out too few food inspections that correspond to all relevant requirements in the legislation. This means that the already low national target for control frequency of at least one per cent is not reached. One reason for this is that a majority of the controls are cross compliance controls carried out in connection with EU agricultural support. These controls do not cover all relevant requirements in the food safety legislation. The food controls in primary production are also not sufficiently risk-based, which is largely due to the sampling for the cross compliance controls not being carried out based on food safety risks.

The requirements imposed on the regulatory authorities are unclear

The Swedish National Audit Office finds that the Swedish National Food Agency only uses its regulatory powers to a limited extent to clarify the requirements imposed on the regulatory authorities regarding the planning, execution and follow-up of control activities. This despite the right to issue regulations being intended to facilitate steering of the regulatory authorities. The Swedish National Food Agency instead primarily makes use of non-binding guidance for the regulatory authorities. The view of the Swedish National Audit Office is that the lack of binding provisions makes it unclear for the regulatory authorities which requirements are placed on them in terms of how they are to carry out their control activities. Unclear requirements also make it more difficult for the Swedish National Food Agency and the county administrative boards to assess whether the regulatory authorities live up to the requirements or not, which in turn may makes it harder to demand measures when problems arise.

Furthermore, the audit shows that the regulatory authorities are relatively satisfied with the guidance and support of the Swedish National Food Agency. However, the municipalities request more concrete guidance and support, primarily with regard to the food inspectors' assessments. The municipalities are also of the opinion that national control projects often concern areas that they do not consider to be very relevant. The Swedish National Audit Office's view is that the national projects could be used better in order to increase competency and facilitate a common view.

The Swedish National Audit Office also concludes that in the legislation the Swedish National Food Agency and the county administrative boards are given largely equivalent assignments to coordinate food control. In practice, however, the Swedish National Food Agency is responsible for the main part of the coordination and guidance initiatives. The initiatives of the county administrative boards are very limited, for reasons of resources and competency. In the view of the



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Swedish National Audit Office, there is thus a lack of clarity regarding the responsibility of the county administrative boards for coordination.

The follow-up does not provide sufficient basis for improvement

Follow-up of the control activities is, according to the Swedish National Audit Office, necessary to identify deficiencies and provide sufficient basis for ensuring that the problems are addressed. Conducting follow-up of control activities could be seen as a part of the Swedish National Food Agency's role in leading and coordinating food control. However, the audit has shown that there are deficiencies in the follow-up. A basic problem is that the responsibility for follow-up is neither clearly defined in the legislation nor in the appropriation directions to the Swedish National Food Agency and the county administrative boards. In the view of the Swedish National Audit Office, this unclear responsibility involves a risk that follow-up is not prioritised and that it therefore does not provide a sufficient picture of how the control activities function. Another problem is that there are deficiencies in the annually reported information concerning the control activities. For example, there is a lack of basic information, such as the difference between the number of planned and the number of executed control hours. Information gathered in connection with audits of the control authorities constitutes additional material that makes it possible to identify problems in the regulatory activities. However, the audit has shown that the Swedish National Food Agency does not conduct any in-depth follow-up of problems identified that appear to be common for a large number of regulatory authorities. This means that the Swedish National Food Agency does not investigate what causes the problems and how the problems could be remedied.

According to EU legislation, the regulatory authorities are responsible for audit of their activities, either through internal audits or external audits. In Sweden, audit of the control activities of the municipalities is through external audit by the Swedish National Food Agency and the county administrative boards. According to the Ministry for Rural Affairs and the Swedish National Food Agency, these audits are carried out on a voluntary basis, which means that the municipalities can choose to either allow the Swedish National Food Agency and the county administrative boards to conduct audits or ensure that audits are carried out in another way. At the same time, the Swedish National Food Agency maintains that Swedish legislation gives it authority to audit the municipal control activities. However, the Swedish National Audit Office's stance is that it is unclear whether such authorisation exists in the legislation. In the view of the Swedish National Audit Office, the lack of clarity regarding authority for audit makes it unclear for the Swedish National Food Agency and the county administrative boards how the results of the audit can be used. According to the Swedish National Audit Office, it is therefore necessary to clarify whether audits are to be carried out on a voluntary basis or if a clear authorisation should be introduced in the legislation.

The authority to enact measures is not used

It is possible for the Swedish National Food Agency to enact measures, such as taking over responsibility for controls and issuing injunctions, against municipal regulatory authorities who



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have demonstrated deficiencies in their control activities. The Swedish National Audit Office's assessment is that these measures are of significant importance for remedying deficiencies in the control activities of the municipalities. However, the Swedish National Audit Office concludes that the Swedish National Food Agency's process for how and when measures are to be taken is weak. The possibility to enact measures is also used very seldom, despite the fact that serious problems in the control activities of the municipalities are regularly discovered. The view of the Swedish National Audit Office is that the Swedish National Food Agency's ability to enact measures when deficiencies are brought to light is diminished by the lack of clearly defined and binding requirements on the control authorities. According to the Swedish National Audit Office, the Swedish National Food Agency's ability to enact measures is also hampered by the fact that the follow-up does not provide a picture of the causes of the problems in the control activities and how they might be solved.

There are opportunities in the legislation for municipalities to cooperate regarding food control. Since municipalities must maintain competency in many areas in order to fulfil their control responsibilities, the Swedish National Audit Office is of the opinion that cooperation is important, especially for small municipalities. Although most municipalities see advantages with cooperation, for example better use of human resources, data collected in the audit shows that cooperation is limited. The audit has also shown that there is no systematic work on the part of the responsible government agencies to conduct follow-up on how the opportunities to cooperate are used and to encourage more cooperation.

The Government is not taking responsibility for ensuring functional food control

Sweden as a member state, and thus the Government, is responsible for ensuring that the control system largely adheres to the legislation. This responsibility includes clearly defining powers and responsibilities for important central government initiatives. However, this audit has shown that the Government has not done enough to remedy the problems in the food control.

It has been discovered in the course of the audit that the Government has not clarified the responsibilities regarding coordination and follow-up. This appears to have caused uncertainty at the Swedish National Food Agency and the county administrative boards concerning the nature of their responsibilities and the extent to which they are to prioritise different initiatives. With regard to audit of the control activities, it is the view of the Swedish National Audit Office that it is unclear if it is carried out on a voluntary basis or if there is authorisation for the audits that, in practice, are conducted by the Swedish National Food Agency and the county administrative boards.

In the course of the audit it has also come to light that there appears to be uncertainty concerning how the powers to issue regulations and to enact measures when deficiencies in control activities have been discovered are to be used. The Government has not investigated what the reasons for this are and whether there is a need for clarification regarding how these powers are to be used.



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According to the Swedish National Audit Office, there are signs of a lack of clarity in the signals from the Government to the Swedish National Food Agency regarding how the right to issue regulations is to be used.

Recommendations of the Swedish National Audit Office

Effective official food control is necessary for consumers to be able to trust that the food is safe. The assessment of the Swedish National Audit Office is that there is a pressing need for significant central government initiatives in order to remedy the problems in food control. The Government bears the ultimate responsibility that sufficient measures are taken. It is the view of the Swedish National Audit Office that the Government and the responsible authorities have so far not made use of existing opportunities to govern the control activities and that there thus exists unused potential for accomplishing improvements. The Swedish National Audit Office's overall recommendation is that the Government and the responsible authorities should examine whether clearer central government governance leads to sufficient improvement in the control activities. Below, the Swedish National Audit Office gives a number of recommendations for improving the conditions for effective and appropriate food control within the framework of the current decentralised system. If these recommendations do not result in improvements, the Government should reconsider the food control organisation without prejudice.

Recommendations of the Swedish National Audit Office:

- The Government should clarify the responsibility for coordination and follow-up of the food control. The Government should also ensure that the follow-up provides sufficient basis for enacting the measures necessary to remedy deficiencies in the control activities.
- The Government should clarify whether audits are to be carried out on a voluntary basis or whether there is a need for clarification in the legislation.
- The Swedish National Food Agency should make more frequent use of its right to issue regulations in order to clarify the requirements that the regulatory authorities have to fulfil. Non-binding guidance should continue to be a complement to regulations.
- The Swedish National Food Agency should develop their follow-up of the control activities of the county administrative boards and the municipalities. The follow-up should be sufficiently in-depth so as to identify the causes of problems and how they can be remedied.
- The Swedish National Food Agency should make more frequent use of its authority to enact measures upon the discovery of deficiencies in the control activities of the municipalities. The Swedish National Food Agency should also improve its procedures for how and when measures are to be enacted. This includes deficiencies in the control



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activities of the municipalities discovered by the county administrative boards and sent to the Swedish National Food Agency for further measures.

- The Swedish National Food Agency should clarify the connection between food controls of primary producers and cross compliance controls in order to show how the regulations regarding risk-oriented food control are to be applied.
- The Swedish National Food Agency and the county administrative boards should work to promote increased cooperation between municipalities regarding food control and conduct follow-up to investigate to what extent the municipalities make use of the possibilities to cooperate.
- The county administrative boards should improve the conditions for food control by making sure that the registers of primary producers are complete. The county administrative boards should also consider whether cooperation could be a way of making better use of human resources and competencies.

