



Summary:

Oversight of law enforcement agencies

-An audit of the Swedish Commission on Security and Integrity Protection

Audit background

The Swedish Commission on Security and Integrity Protection is a separate and independent agency tasked with safeguarding legal security and protection of personal integrity in law enforcement activities. The Commission supervises the following law enforcement agencies; the Police Authority, the Swedish Security Service, the National Economic Crimes Bureau, the Swedish Prosecution Authority and the Swedish Customs Service. The activities of these agencies is to a great extent subject to secrecy and restricted transparency. Consequently, to maintain public confidence it is important that the activities are legally secure and that supervision is appropriate and effective.

Purpose

The purpose of the Swedish NAO's audit is to assess whether the Swedish Commission on Security and Integrity Protection conducts its activities appropriately and effectively. The audit also includes investigating whether the supervision leads to action on the part of the law enforcement agencies. The Swedish NAO based its audit on the following questions:

- Has the Government created conditions to enable the Swedish Commission on Security and Integrity Protection to conduct its activities appropriately and effectively?
- Does the Swedish Commission on Security and Integrity Protection conduct its activities appropriately and effectively?
- Does the supervision lead to action on the part of the law enforcement agencies?

Implementation

The Swedish NAO has identified statements in reports, government bills and Riksdag decisions concerning the objectives and purpose of the Swedish Commission on Security and Integrity Protection as well as decisions by the Riksdag and the Government

concerning the tasks of the Commission. The Swedish NAO has also investigated the economic framework the Commission has to be able to perform its tasks.

The Swedish NAO has audited the Commission's policy documents, its working procedures, statements, notifications and reports. The document studies were supplemented by in-depth interviews.

The Swedish NAO has audited all supervisory cases opened and closed in 2012 up to and including 2014. The Swedish NAO has also audited a sample of the cases on checks at the request of an individual carried out by the Swedish Commission on Security and Integrity Protection over the same period of time. In addition, the Swedish NAO has participated during part of an ongoing supervisory case and thereby observed how the Swedish Commission on Security and Integrity Protection conducts its supervision. Moreover, the Swedish NAO has audited how the Commission submits comments to agencies after completed supervisory activities and notifies individuals after completed checks.

In order to assess how the law enforcement agencies deal with the statements of the Swedish Commission on Security and Integrity Protection the Swedish NAO has audited a sample of cases to see how the statements are received and what action is taken.

The conclusions of the Swedish NAO

The Swedish NAO's conclusion is that the Swedish Commission on Security and Integrity Protection has an adequate framework for conducting activities appropriately and effectively. The Swedish NAO's conclusion is also that the Swedish Commission on Security and Integrity Protection performs its tasks appropriately. The law enforcement agencies take statements of opinion by the Commission on Security and Integrity Protection seriously and comply with them when the comments concern compliance.

The Swedish NAO has found a number of circumstances that may influence the effectiveness of the organisation. The organisational form of the Commission entails challenges to its activities and there is lack of clarity on the administrative support it receives from the Swedish Security Service. There is also a risk of displacement effects when the checks carried out at the request of private individuals take resources from the supervision conducted by the Commission on its own initiative.

Does the Swedish Commission on Security and Integrity Protection have an adequate framework to conduct its activities appropriately and effectively?

The audit shows that the regulations that exist, with some exceptions, are clearly formulated and that objectives are specified for the Commission on Security and Integrity Protection in its appropriation directions. However, the Government has not

expressed any level of ambition for the organisation, in the form of volume of supervisory cases per year, or views on the Commission's current dimensioning of activities. This means that it is not possible to evaluate the organisation's achievement of objectives on the basis of quantitative targets.

The Swedish Commission on Security and Integrity Protection considers that the guidance provided by the Act on Qualified Assumed Identities (2006:939) is far too vague about what should be documented on assumed identities. The Swedish NAO's assessment is that this makes it more difficult for the Commission when supervising the use of assumed identities by the Swedish Police Authority and the Swedish Security Service.

Since its establishment in 2008 the Swedish Commission on Security and Integrity Protection has had an enlarged remit, mainly in that in 2012 the Commission was tasked with supervision of the so-called open police (now the Police Authority's) treatment of personal data in law enforcement activities. In connection with this the administrative support and budget were increased. Nevertheless, the Swedish Commission on Security and Integrity Protection is still a relatively small agency with at times a very high level of leave of absence among its staff. This mainly constitutes a vulnerability for the activities of the Commission on Security and Integrity Protection, but may also have consequences for the agencies that are subject to its supervision.

The organisation of the Commission entails challenges

Within the Commission there is a committee that makes decisions on cases of supervision and checks. The Commission also has two delegations that are responsible for their own decisions; the Protective Registration Delegation and the Records Checks Delegation. The Commission oversees the use by the Police Authority and the Security Service of "qualified assumed identities". At the same time the Protective Registration Delegation licenses the use of qualified assumed identities. Consequently, it may appear from the outside that the Commission scrutinises its own activities. In the opinion of the Swedish NAO it is important that the Commission on Security and Integrity Protection is independent and freestanding in relation to the activities it oversees. The Swedish NAO's assessment is that the Commission does not oversee its own decisions.

The Records Checks Delegation's activities are to a great extent separate from the activities of the rest of the Commission. The Delegation meets at the Security Service and officials at the Security Service prepare the cases. In the role of rapporteur the officials are appointed by the Commission on Security and Integrity Protection. The Swedish NAO's audit shows that there is a lack of clarity on what should be included in the administrative support that the Swedish Security Service is to provide to the Delegation. The Commission on Security and Integrity Protection has also pointed out that there is uncertainty as to which of the agencies receives, draws up and retains certain documents in a records checks case. In the opinion of the Swedish NAO there must not be any lack

of clarity concerning which agency is responsible for a case while it is being processed or as regards archiving.

The Commission on Security and Integrity Protection has a method for operational priorities

The Commission on Security and Integrity Protection bases the priorities and planning of its supervisory activities on current legislation and objectives of operations.

Experience of previous supervisory activities as well as external impressions form the basis. Activities assessed to have the greatest impact on individuals' integrity are given priority.

The Commission on Security and Integrity Protection is obliged, at the request of a private individual, to carry out checks as to whether the person has been the subject of personal data processing or surveillance activities in contravention of law or other statute. The number of requests for checks from individuals has varied over the years. In some years the number of requests has been very high; for example in 2014 in connection with the Commission's criticism of the Skåne Police Authority's treatment of personal data in the "register of travellers".

The increased number of checks at the request of individuals has in recent years claimed an increased amount of the Commission's resources at the expense of supervisory activities. The Swedish NAO assesses that the Commission's self-initiated supervisory activities constitutes an important part of its remit. If these activities have to give way too much there is a risk that the Commission on Security and Integrity Protection will not fulfil its remit.

The supervision and control activities conducted by the Commission on Security and Integrity Protection are well documented

The Commission on Security and Integrity Protection has an approved procedure for processing and documenting cases. The audit shows that the documentation requirements are complied with. The clearly and consistently structured documentation makes it possible for an external scrutineer to understand how the cases have been processed and assessed. The Swedish NAO has also found that the Commission on Security and Integrity Protection in a majority of the cases of checks had processed the case within its self-determined preparation times.

The Commission's statements and notifications are clear

The Swedish NAO has audited how the Commission on Security and Integrity Protection formulates the statements it issues after supervision of the law enforcement agencies, as well as how notification is given to an individual after checks have been conducted. The statements have been developed over the years and now follow a uniform outline. Both the reasons and legal grounds for the supervision, as well as the

Commission's assessment and recommendations are clearly laid out in the statement to the agency. Notification to an individual also follows a standardised template which presents whether the Commission has found any unlawful activity or not and whether the Commission has reported the circumstances to another agency, such as the Chancellor of Justice, for compensatory redress. Consequently, the assessment of the Swedish NAO is that the Commission's statements and notifications are clear and well-founded.

The Commission on Security and Integrity Protection's statements usually lead to action

The Commission on Security and Integrity Protection may express an opinion on the circumstances identified and its view of the need for changes to the activities of law enforcement agencies. This means that there is scope for the Commission to both express opinions on compliance and make recommendations for improvement. The Commission's opinions are not binding on the agencies and cannot be appealed. The Swedish NAO's audit shows that the statements of opinion not only refer to measures to comply with the regulatory framework but in many cases the Commission recommends action that it considers would improve the activities.

The law enforcement agencies have stated that they regard the Commission's supervision positively and that the statements contribute to improving their activities. The Swedish NAO's audit of the cases indicates that the law enforcement agencies comply with the Commission on Security and Integrity Protection's statements as regards compliance. In the case of the Commission's recommendations, the Swedish NAO has found, however, that in some cases the agencies decide not to follow them.