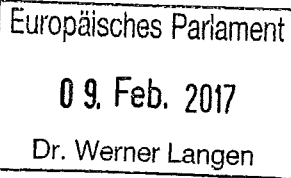




6 February 2017
Fi2016/04246

Ministry of Finance Sweden

Dr. Werner Langen
European Parliament
The PANA Committee
B-1047 Brussels
BELGIUM



Your request for Member States contributions: investigating cases of tax evasion, tax avoidance, tax fraud and money laundering at the EU Member State level

Dear Dr. Langen,

This is in reply to your letter to the Minister for Finance of Sweden, Ms. Magdalena Andersson, dated 23 November 2016. Your letter has been forwarded to me for reply. As requested, the information below is provided with the same structure as in your letter.

The legal definitions of administrative and criminal tax-related offences in your Member State covering, as appropriate, avoidance, evasion, fraud and money laundering at both the individual and corporate levels, as well as the references to the national laws underpinning these definitions, as appropriate.

Tax offences are criminalised through sections 2, 3 and 4 of the Tax Offences Act (1971:69). The main provision criminalising a tax offence is found in section 2. Thus, a person is guilty of a tax offence if that person, by other means than orally, intentionally provides an authority within incorrect information or fails to submit a tax return, statement of earnings or any other prescribed information and thereby creates a risk of tax being withheld from the public or wrongfully credited or repaid to that or any other person. Tax offences are considered accomplished when the incorrect information is submitted or should have been submitted. This point in time is prior to the actual outcome, i.e. the time when the evasion takes place (whereas the money laundering offence is accomplished at the time of the actual transfer). The outcome occurs when a tax decision is made on incorrect or incomplete grounds. The Swedish Tax Agency (Skatteverket, SKV) is obliged to report

all suspected tax offences to the Swedish Economic Crime Authority (Ekobrottsmyndigheten, EBM)¹.

Tax offences have three degrees of severity:

- petty tax offence,
- tax offence, and
- serious tax offence.

Intent is necessary for a tax offence conviction. Section 5 of the Tax Offences Act also criminalises acts of gross neglect. Pursuant to section 13 of the Tax Offences Act, petty tax offences may only be prosecuted if special reasons apply. Tax offences of the normal severity level are punished with prison up to two years. For serious offences, the prison sentence ranges from six months to six years, and petty tax offences are punished by fines. The sanction scale for gross neglect includes fines and prison up to one year. The rules for customs offences, which are similar to tax offences, can be found in sections 8–11 of the Act on Penalties for Smuggling (2000:1225).

Money laundering is criminalised through sections 3, 4, 5, 6 and 7 of the Act on Penalties for Money Laundering Offences (2014:307, the Money Laundering Offences Act), which came into effect on 1 July 2014. The main provision criminalising money laundering, i.e., the money laundering offence, is found in section 3, and covers the mandatory elements required by the Vienna and Palermo Conventions. Thus, a person is guilty of a money laundering offence if he or she, provided that the measure is intended to conceal the fact that money or other property derives from an offence or criminal activities or to promote the possibility of someone appropriating the property or its value,

1. transfers, acquires, converts, stores or takes another such measure with the property; or
2. supplies, acquires or draws up a document that can provide a seeming explanation for the possession of the property, participates

¹ The Economic Crime Authority (EBM) is a prosecution authority where prosecutors, police officers, accountants and other experts collaborate in investigation teams. The EBM processes all economic crimes in Sweden since 1 July 2013.

in transactions that are carried out for the sake of appearances, acts as a front or takes another such measure.

Sweden has adopted an “all crimes” approach to the criminalisation of money laundering. Thus all criminal offences (“a crime”) which generate proceeds can be predicate offences to money laundering. No limitations or thresholds are placed on the term crime. Consequently, any criminal act mentioned in the Penal Code and other penal acts (including terrorist offences by the Act on Criminal Responsibility for Terrorist Offences (2003:148, the Terrorist Offences Act) and terrorist financing by the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in Some Cases (2002:444, the Terrorist Financing Act) could constitute a predicate offence, as could any criminal act mentioned in other legislation (i.e., tax offences or customs offences).

The criminal area of money laundering is broadened in section 7 of the Money Laundering Offences Act, under which it is possible in certain circumstances to find a person guilty of money laundering, even though the predicate offence has not been substantiated (commercial money laundering). This applies when a person involved in business activities, or in the context of activities that are conducted on a habitual basis or otherwise on a sizeable scale, takes part in a measure that can reasonably be assumed to be taken for money laundering purposes. For a person to be found guilty of this offence, he or she must act with intent in relation to the circumstances underlying the assessment that the act can be assumed to be undertaken for such purposes. A person who similarly participates in a measure that can reasonably be assumed to have been taken for money laundering purposes, without this having happened in business activities or the like, shall instead be found guilty of a petty offence.

The names, mission statements and powers of the entities in your Member State, which are responsible for the handling of Suspicious Transaction Reports (STRs), and, as appropriate, the name(s) of the Financial Intelligence Unit(s) (FIUs) required under European Union Law, including details on structures, staff resources, working practices and activities in tackling tax-related crimes. Furthermore, a paragraph explaining how the relevant national entities interact or an organogram would be especially helpful.

The Swedish Financial Intelligence Unit – Finanspolisen (Fipo)

Finanspolisen (Fipo) is Sweden's FIU and a section within the Police Authority's National Operations Department (NOA). Fipo is a dedicated intelligence unit that receives STRs related to money laundering and terrorism financing from obliged entities. Fipo manages and analyses STRs and performs operative and strategic analyses in the field of money laundering and terrorism financing. Upon completion, Fipo informs the affected investigatory units within the Police Authority, the Swedish Prosecution Authority (SPA), the Swedish Economic Crime Authority (EBM) (in cases of ML or a predicate offence thereof), or the Swedish Security Service (Säpo), in cases of terrorism financing, for further criminal investigation. In money laundering matters, prosecutors employed by the SPA and EBM lead criminal investigations, make decisions in matters regarding enforcement, prosecute and represent the state in court. Terrorism financing matters are handled by prosecutors at the SPA's national security unit. SKV and Swedish Customs (TV) also receive information about Fipo's findings.

Fipo has had a designated co-operation model since 2012, which was established in consultation with SKV and EBM. As part of EBM's intelligence operations, the authority seconds an officer to Fipo approximately three days a week. The role of the officer is to identify and structure information that indicates money laundering where the predicate offence is deemed to be of an economic nature. This work is done in consultation with Fipo's staff. The officer also has a liaising role towards EBM's various offices in Sweden.

Swedish Prosecution Authority (SPA) – Åklagarmyndigheten

The purpose of the SPA is to minimise crime and protect the security of individuals by prosecuting and sentencing criminals. However, the operative work is not carried out by the SPA, but by individual prosecutors. Prosecutors that are employed by the SPA lead preliminary investigations, make decisions about prosecutions and coercive measures, and speak on behalf of the state in all court cases and matters. The prosecutor works independently and leads preliminary investigations, where the prosecutor makes decisions about which measures to take. Money laundering investigations are processed at all of the authority's offices. Money

laundering investigations are primarily led by prosecutors, and all prosecutors should be competent to manage money laundering cases. There is constantly staff on duty to manage cases that occur outside of office hours. Investigations that require international cooperation, special methods, as well as cases relating to serious money laundering that might require special methods and/or more comprehensive international cooperation, should be processed by one of the three International Public Prosecution Offices.

Swedish Economic Crime Authority – Ekobrottsmyndigheten (EBM)

EBM is a prosecution authority within the law enforcement sector that is especially empowered for the analysis and investigation of economic crime. The authority's duties consist of safeguarding security and justice by preventing and fighting economic crime. EBM primarily engages with serious economic crime, but also less serious economic crime where the sanctions are light but where the prosecution serves a preventive purpose. EBM investigates e.g. accounting offences, tax crimes, crimes related to bankruptcy, crimes on the financial market, money laundering crimes and EU fraud. Money laundering crimes that are processed at EBM are primarily those where the predicate offence is part of EBM's remit.

EBM employs approximately 560 persons. Among the staff, there are approximately 100 prosecutors (including managers), 70 civilian investigators such as economists and analysts, 60 administrators and 230 police officers. The prosecutors lead preliminary investigations, make decisions about prosecutions, and speak on behalf of the state in all court cases and matters. The criminal investigations are conducted by the authority's police officers, civil investigators and SKV's Tax Fraud Investigation Unit, if requested by a prosecutor. All prosecutors and other EBM employees that might interact with ML cases should have the necessary competence to manage these cases. EBM's prosecutors are part of the SPA's special readiness to manage cases outside of office hours.

EBM further works with intelligence which focuses in particular on issues with regard to money laundering and cash management. The authority also works preventively against crime. In such cases, the authority cooperates with Säpo. One prosecutor from EBM works with Eurojust in The Hague

and assists in the investigation of economic crime in an international context.

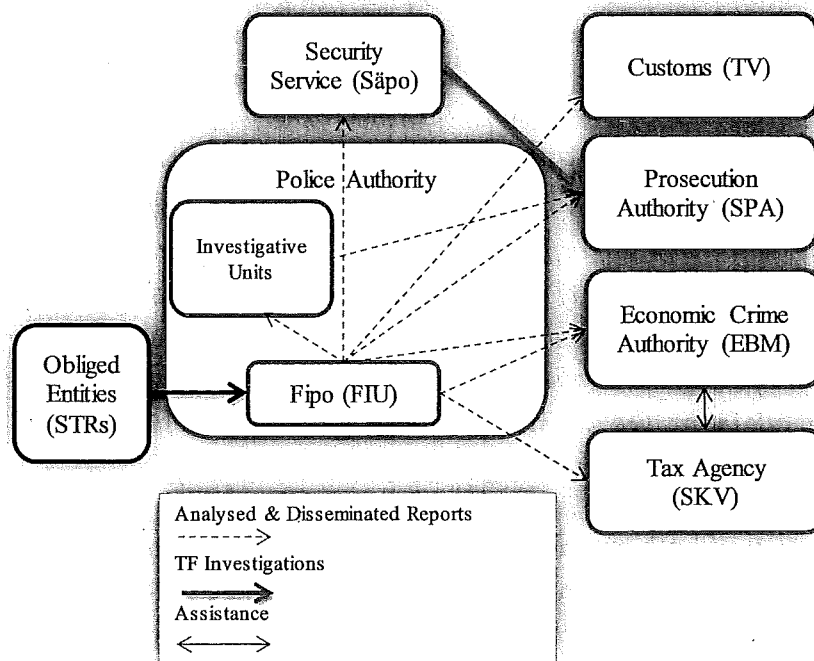
The Swedish Tax Agency – Skatteverket (SKV)

SKV administrates taxation, property tax, population registration, registration of estate inventories and relevant law enforcement. Foundations and NPOs that need organisation numbers also register with SKV. SKV's Tax Fraud Investigation Unit also has designated staff seconded to Fipo a number of days per week. This staff has the competence to confirm some of Fipo's information with intelligence information that is only available to SKV. The purpose of this co-operative structure is to provide opportunities to initiate various fiscal measures in the cases where it is not clear that a money laundering offence has been committed but where there are reasons to suspect a tax offence. SKV's staff does however not work with the STR database. The tax offence investigators and the EBM officer sometimes also co-operate directly in Fipo's offices, e.g. to avoid double administration.

SKV has established a special centre for the financial area, the so called Financial Centre, which serves as a method and competence centre to support the entire authority. SKV has also established a network for exchanging experience and trends within anti-money laundering, which it also leads. The network consists of representatives from inspectorates, law enforcement authorities and entities, such as banks and currency companies. In this network information is shared concerning the current methods detected by the participants and which they have cause to suspect. The network assembles six times per year.

Swedish Customs – Tullverket (TV)

TV is one of Sweden's Revenue Agencies. TV is responsible for ensuring that customs, taxes and tariffs are collected and that restrictions for imports and exports are observed. TV is also responsible for cross border law enforcement within their remit.



For more information please see the annual reports/statements of the relevant authority.

Fipos' annual statement for 2015: <https://polisen.se/Aktuellt/Rapporter-och-publikationer/Arsredovisningar/Publicerat-Arsredovisningar/Finanspolisens-arsrapporter/Finanspolisens-arsrapport-2015/>

EBM annual reports: <https://www.ekobrottsmyndigheten.se/om-oss/myndighetsstyrning/arsredovisning/>

SKV annual reports:
<http://www.skatteverket.se/privat/sjalvservice/blanketterbroschyrer/broschyrer/info/165.4.39f16f103821c58f680007245.html>

TV annual reports:
<https://www.tullverket.se/sv/omoss/styrningochuppfoljning/arsredovisning.4.7df61c5915510cfe9e7eef7.html>

SPA annual statements: <https://www.aklagare.se/om-oss/dokument/rapporter/>

Information on the national prosecution and penalties regime applicable and applied in your Member State in relation to tax-related offences, supported by an explanation on the state of play in relation to the number of cases (progress and outcomes, as appropriate), and a statement covering achievements and problems encountered to date. In particular, up-to-date information on the activities of the national supervisory authorities for credit and financial institutions and other obliged entities would be welcome, including statistics on the number of cases related to the offences covered in the first bullet point e.g. the types of companies involved, the types of offences sanctioned and the value of the penalties/fines issued. Furthermore, it would also be helpful to submit information on the number of ongoing and planned investigations pursuant to the Panama Papers and Bahamas leaks. If specific case-information may not be shared for legal reasons, the submission of consolidated anonymised data or analysis would nevertheless be helpful.

Prosecution of both tax offences and money laundering are regulated in Chapter 45 of the Swedish Code of Judicial Procedure (1942:740).

The penalties regimes for tax-related offences and money laundering are included in the Tax Offences Act (1971:69) and the Act on Penalties for Money Laundering Offences (2014:307) respectively. The penalties for both tax offences and money laundering offences range from fines to imprisonment for up to six years, depending on severity of the offence.

In 2015 (which is the latest year for which statistics are available) the number of reported offences were:

- Tax offences: 14 458
- Money laundering offences: 1 383

SKV is currently working with a few hundred investigations of possible tax avoidance in Sweden connected to the Panama Papers. SKV has so far made tax assessment adjustments under which, in total, SEK 173 million Swedish tax and penalties is payable. Please see

<http://www.skatteverket.se/omoss/press/pressmeddelanden/riks/2017/2017/nyttocdmoteompanamalackandetstorstanagonsin.5.5c1163881590be297b512651.html>

Furthermore, the Swedish financial supervisory authority – Finansinspektionen (Fi) – is carrying out investigations due to the Panama

Papers in relation to money laundering. Please see
<http://www.di.se/nyheter/fis-panamautredning-ar-snart-klar/>.

Fi has also issued fines to the Swedish banks Nordea and Handelsbanken for not properly following the money laundering legislation. Please see:

- <http://www.fi.se/sv/publicerat/sanktioner/finansiella-foretag/2015/nordea-far-varning-och-straffavgift/>

and

- <http://www.fi.se/sv/publicerat/sanktioner/finansiella-foretag/2015/handelsbanken-far-anmarkning-och-straffavgift/>

I hope that you will find the above information useful.

Best regards,



Linda Haggren
Director-General