

Summary:

Transport of hazardous waste – effectively supervised?

The Swedish NAO has audited whether the Government and responsible agencies monitor and effectively supervise cross-border and national transport of hazardous waste.

Audit background

Reasons: It is important that hazardous waste is dealt with correctly so as not to impact the environment and human health negatively. However, there have long been problems when hazardous waste is sent illegally to countries where it often cannot be dealt with safely. The main drivers of illegal waste shipments are major earnings in combination with low detection risk and low penal sanctions. Illegal trade in waste has increased in significance in recent years and the area is attractive to organised crime.

The Swedish system of supervision of waste shipments is characterised by many actors at different levels with different powers. The supervisory responsibility for waste shipments is shared between the County Administrative Boards and the municipalities. There must also be interaction between the Police Authority, the Swedish Customs Service and in some cases the Swedish Coast Guard. The Swedish Environmental Protection Agency decides whether certain cross-border shipments may be made. This means that there must be control and coordination for the system of supervision to be efficient and effective.

Purpose

The purpose of the audit was to audit whether the Government and responsible agencies monitor and effectively supervise cross-border and national transport of hazardous waste. The focus of the audit is to describe and analyse how the supervision system is designed and functions. An important part of this is to describe deficiencies in various parts of the

system. The audit does not describe these areas completely, but the intention is to be able to provide an overall assessment of the system as a whole.

Implementation

The Swedish NAO has conducted a large number of interviews with ministries, agencies and other relevant actors. The purpose of the interviews was mainly to collect data on how supervision is conducted and to find out the views of the different actors on how supervision functions. The Swedish NAO has also collected existing data for example on controls carried out, illegal shipments discovered, as well as administrative and penal measures. To obtain a picture of the municipalities' supervision of waste transport a questionnaire was also sent to all municipal supervisory agencies. The questionnaires put questions that concerned both the municipalities' supervision of hazardous waste treatment at facilities and questions on the municipalities' supervision of waste transport. The Swedish NAO also studied legislation, reports and other documents.

Audit findings

The Swedish NAO's overall conclusion is that there are deficiencies in the system of supervision of hazardous waste transport. These deficiencies together lead to the system not being sufficiently effective to ensure compliance with legislation in the area. This means in turn a risk that hazardous waste causes damage to the environment and human health. The deficiencies concern the lack of overview of waste and illegal activities, that there are gaps in supervision, that working methods are ineffective and that sanctions probably do not deter non-serious actors. The Government and agencies have achieved improvement in parts of the system, but further measures are needed to conduct effective supervision of transport of hazardous waste.

Complex system entails challenges to supervision

The County Administrative Boards have the main supervisory responsibility as regards cross-border waste transport, while the municipalities have supervisory responsibility for national waste transport. Both County Administrative Boards and municipalities have supervisory responsibility for different types of facilities that handle waste. Further, supervisory agencies need to cooperate with other agencies. For example, the Police Authority may need to assist the supervisory agencies in stopping and opening shipments. It is common that supervision of waste transport is initiated of one of the cooperating agencies. When suspected illegal waste shipments are discovered by the

Swedish Customs Service, the Police Authority or the Swedish Coast Guard, the supervisory agency usually needs to participate to make an assessment of the waste. The various responsibilities mean that the different actors are dependent on each other and often need to cooperate on the same individual supervisory occasion.

As regards the supervisory responsibility of the County Administrative Boards over cross-border waste transport there are proposals that the responsibility should be mainly concentrated on five County Administrative Boards. The Government has also added extra resources to these five named County Administrative Boards but to date has not implemented any change in supervisory responsibility. In the opinion of the Swedish NAO this leads to an unclear situation both for the five named County Administrative Boards and for the other County Administrative Boards. The lack of clarity applies for example to whether resources should be invested in the area or not.

Lack of overview and poor traceability of hazardous waste impairs supervision

Swedish statistics on the amount of hazardous waste that arises and is processed contain major uncertainties. According to available statistics the difference between arisen and processed waste was 680 000 tonnes in 2012. According to the Swedish NAO in the current situation it is not possible to assess whether the considerable difference is only due to deficiencies in the statistics or if it is also the case that hazardous waste disappears. As regards the extent of illegal waste transport no estimate has been made at national level in Sweden. At regional level a survey has been made in the county of Norrbotten. This survey shows that there is extensive illegal handling of waste.

According to the Swedish NAO the deficient overview results in impaired opportunities to effectively use the resources for supervision. Development work in this area is currently in progress. Among other things the Swedish Environmental Protection Agency has been instructed by the Government to improve waste statistics and prepare a proposal for a traceability system. The Swedish NAO regards this very positively and wishes to emphasise the importance of realising a system that allows traceability in practice.

Unclear if the control levels are adequate

Supervision of national waste transport is limited. Only a few municipalities supervise national waste transport on their own initiative. It is also relatively rare for the municipalities to implement supervision in cooperation with other actors. All in all this

means that in many places in the country there is no supervision of national waste transport. On the other hand most municipalities supervise waste treatment and the documentation at facilities where hazardous waste arises. The Swedish NAO's point of departure is that even if supervision of waste treatment at facilities is important, the actual transport of waste also needs to be supervised.

The lack of information on legal and illegal waste flows means that it is not possible to assess whether the number of controls of cross-border waste transport is adequate. However, the number of controls throughout the country of cross-border waste transport according to official information increased from 25 to 250 between 2009 and 2013.

The audit also showed that supervision of waste imported to Sweden is limited. It is true that a documentary control is carried out before a decision to approve imports of waste, but in general there is no control of the shipments themselves. As regards transport of waste subject to notification procedures from Norway to Sweden there is a risk that this is not controlled adequately either by Swedish or Norwegian agencies.

Deficiencies in efficiency of supervision

The lack of information about flows of waste and illegal activities mean that the conditions for risk-based supervision are not in place in Sweden. The audit also shows that supervision in practice is not based on risk assessments to a sufficient extent.

The working methods of the Swedish Customs Service and the County Administrative Boards when controlling waste exports could be made more efficient. In many cases the most efficient working method would be to carry out supervision in the ports, since the Customs Service there are often able to scan shipments using x-ray equipment. However, in recent years the Customs Service has adapted customs control to the large ports' requirements that goods must be cleared before entering the port. This means that the Customs Service and County Administrative Boards carry out supervision at facilities in the country, which in turn entails long journeys and no access to x-ray equipment.

The staff at the County Administrative Boards that work with supervision of waste transport are only available during office hours. This makes supervision outside office hours more difficult, since the Policy Authority or the Customs Service cannot obtain the assessment of the supervisory authority when they discover a suspected unlawful waste shipment. For example suspected illegal waste shipments have been allowed to pass without control due to the unavailability of the County Administrative Board staff. There are also problems as regards availability of other agencies.

Deficiencies in follow-up of supervision

The follow-up of supervision of waste transport is limited. Municipalities' supervision of national waste transport is in principle not followed up by either the County Administrative Boards or the Swedish Environmental Protection Agency. This means that there is no overall picture of this supervision. The County Administrative Boards' supervision of cross-border waste transport is followed up to some extent, mainly through the Swedish Environmental Protection Agency compiling the number of controls conducted and the number of illegal cross-border waste shipments discovered and reporting these figures annually to the EU. However, the reports contain major uncertainties. The latest overall follow-up of supervision of national waste transport by the Swedish Environmental Protection Agency was in 2007. The Agency's latest follow-up of supervision of cross-border waste transport was in 2010. The deficiencies in follow-up mean that the possibilities of learning and development in supervision are small. Moreover, neither the Government nor the Swedish Environmental Protection Agency has any reliable picture of how supervision is conducted.

The sanctions probably do not deter non-serious actors

The audit shows that when illegal cross-border waste shipments are discovered the most common action taken is for the County Administrative Board to issue an export prohibition injunction. However, it is not certain that the waste would then be prevented from leaving Sweden. The County Administrative Boards' injunctions are sometimes returned, for example because the recipient could not be found. In that case the injunctions are in practice without effect. Moreover environmental sanction charges for violating the rules on cross-border waste transport are imposed in few cases.

The audit shows further that it is often difficult to use the Swedish penalty provisions for unlawful cross-border waste transport. It is not clear when the offence *attempted unlawful waste transport* has occurred. In addition, actions of a preparatory nature are not punishable, unless it is a matter of gross smuggling. The combination of the formulation of penal provisions and the working methods of the Customs Service and County Administrative Boards often leads to penal measures being impossible to put into effect for suspected illegal cross-border waste transport. This is because these agencies' common controls of waste transport are now usually carried out before the shipments have started to move towards Sweden's border. It is then regarded as unclear when the point of attempt was reached. More serious violations discovered in the course of these

controls result in few cases in an offence being reported. The difficulties of using the penal provisions may reduce the deterrent effect of the sanctions.

The Swedish National Audit Office's recommendations

The audit showed that the system of supervision of transport of hazardous waste in many ways does not function in today's situation. The agencies that are part of the system have different powers, which means that availability and resources of an individual agency affect other agencies' possibilities of carrying out supervision. This means the system is vulnerable. Supervision of national waste transport is also very limited. To create the conditions for an effective system *the Government* should therefore review responsibility and roles for supervision of national and cross-border waste transport at an overall level. Since the area has a considerable element of criminal activity, there is reason in such a review to also take into account the responsibility and roles of the law enforcement agencies.

The Swedish NAO also considers that a number of improvements need to be made immediately to raise the effectiveness of supervision. The Swedish NAO makes the following recommendations:

- *The Government* should ensure that illegal waste transport is mapped at national and regional level. This work should involve both law enforcement agencies and supervisory agencies.
- *The Government* should ensure that a traceability system allowing actual traceability be introduced within a reasonable period. As part of this the Government should consider advancing the date of delivery of the Swedish Environmental Protection Agency's assignment to propose a traceability system and improve statistics.
- *The Government* should as soon as possible decide how to organise the supervisory responsibility of the County Administrative Boards.
- *The Government* should investigate whether the Swedish penal rules concerning unlawful waste transport need to be amended.
- *The Swedish Environmental Protection Agency* should improve follow-up of measures relating to cross-border waste transport, in part since the information today is uncertain and incomplete.
- *The Swedish Environmental Protection Agency and the County Administrative Boards* should improve follow-up of supervision of national waste transport.

- *The Swedish Customs Service* should investigate the possibility of conducting controls of waste shipments in port areas to a greater extent. It may be relevant in this context to investigate solutions used in other countries, for example the Netherlands.
- *The Swedish Customs Service* should ensure that more import shipments of waste are selected for control.
- *The County Administrative Boards* should ensure that supervision of cross-border transport is risk-based and covers all relevant waste flows into and out of Sweden.
- *County Administrative Boards*, together with the *Police Authority*, *the Swedish Customs Service* and the *Swedish Coast Guard* should improve the possibilities of conducting supervision of waste transport around the clock.