

SWEDEN

Land

4.1 Planning and development of land resources

In accordance with the Johannesburg plan, the Swedish Government's objective is to improve management and prevent over-development of renewable natural resources like land by 2015. Management of land resources is based on the ecosystem approach formulated in the Convention on Biological Diversity and synonymous principles developed in other forums. During 2006-2007, the Swedish Environmental Protection Agency will draft guidelines for applying the ecosystem approach in Sweden. Seven county administrative boards are running pilot projects in which regional landscape strategies are being drafted in accordance with the strategy for conserving land, water and the built environment.¹

Laponia, a 9,400 square metre area in northern Sweden, was named a UNESCO World Heritage Site in 1996. Laponia's unique characteristic is that the Sami culture survives in the area in parallel with the running of new Sami enterprises in harmony with the natural and cultural heritage values on which the World Heritage designation was based. A process began a little more than a decade ago aimed at establishing a management system for the World Heritage site, but efforts did not begin in earnest until 2005. The Government has requested the various stakeholders (five Sami villages, two local authorities, the County Administrative Board and the Swedish Environmental Protection Agency) to carry out a trial of a new form of local management of Laponia in 2006-2009. A Laponia Delegation composed of the parties will lead the effort. The project will include assessing opportunities for and advantages of a community-based management organisation, drafting proposed management regulations and drafting a management plan.

It has thus far been established that a prerequisite for the project is the involvement of all parties on an equal footing. The parties have also agreed a common values basis for continuing efforts. The financial resources provided by the Swedish Government have also been critically important to getting the practical efforts started. The main challenges expected in the future will be to identify legislative barriers and assess how delegation of the exercise of public authority in relation to Laponia could be accomplished if community-based management is instituted in the future.

4.2 Laws and regulations that guarantee land and water use rights

There has been a comprehensive system for guaranteeing land and water use rights in Sweden for a very long time. Regulations comprise transfer of rights and the status of rights in connection with changes, such as the transfer of properties to new owners or changes in property parcelling. The central laws relevant in the context are the Swedish Land and Cadastral Legislation, the Real Property Formation Act (1970:988) and the Planning and Building Act (1987:10). Further examples in this context are the Environmental Code, the Water Act (1983:291), the Road Law (1971:948) and the Joint Facilities Act (1973:1149). All of these laws and ordinances form an effective and cohesive system that secures rights. Through its training and consultancy programmes, the state-owned company Swedesurvey AB is contributing to making this system well-known in many developing countries, who are thus provided support in building up their own sustainable legal systems with regard to these matters.

4.3 Legal security of tenure

¹ Government Bill 2004/05:150

Land is one of our most important assets. Land is the wellspring of water, food, primary products and energy. Since it is so crucial to our lives and welfare, it is important to discuss who owns/should own the land and who has/should have the right to decide how land is used. In addition to population growth, climate changes are going to drive the increasing competition for usable land.

All land in Sweden has a specific, identified owner. The landowner may be a natural or legal person, the state or a local authority. The majority of Sweden's land area inside the coastline is owned by natural persons. There is no definition of land ownership or compiled description of the rights and obligations that property rights convey to the individual landowner. As landowners, the state and local authorities are essentially on an equal footing with private citizens, but in their role as the bodies responsible for providing public services, they have a special status with respect to influence over land use. That all land areas have an owner does not mean landowners have an unrestricted right to use the land however they wish. Property rights are often described as negatively defined, meaning that a landowner has the right to do anything that is not prohibited. The restrictions may be of varied nature. Some restrictions always apply and others apply within certain special areas. Further restrictions may be imposed by special public decisions or private contracts.

The constitutional protection found in Chapter 2, Article 18 of the Instrument of Government is significant to property rights. The protection guarantees landowners the right to retain or use their land as they wish. This means that property rights may be subject to restriction only on the basis of compelling public interest and that owners must be compensated for the loss when they give up land or are adversely affected by restrictions to the right to use the land. Property rights to land can therefore be described by saying that the owner has the right to ongoing land use. There is no automatic right to use the land for any other purpose. The connection between ownership and usage prevalent in the country for a very long time is a key principle. The ownership structure and to a certain extent the parcelling structure (land consolidation) are a problem in our country. A large percentage of the land in certain parts of the country is owned by people who do not live on the property (absentee ownership). Other problems are multiple ownership (two or more owners) and estate beneficiary ownership. Taken as a whole, these aspects may prevent efficient use of land resources.

Property rights to land are normally transferred to another owner through a written contract. Property rights can also be conveyed through a property formation process or compulsorily through expropriation. The new owner must be registered in the property register after the transfer. All of these processes are governed in detail by law. All land in Sweden is divided into properties, and all properties are registered in a database. Compensation provisions in the Expropriation Act (1972:719) are currently under review and a final report is due on 30 April 2008.

The report from the Government Committee on Rural Gender Equality showed clearly that men dominate as the heirs to property in familial generation shifts.² The positions of the sexes are established through participation in the day-to-day labour from an early age. The goal for many farms is for the farm and the family business to stay in the family. As a result, prenuptial agreements are common among farming families, used primarily to protect the capacity to keep the business in the family in the event of divorce. Since agricultural enterprises are usually inherited by men, women's interests are not equally safeguarded. Aimed at preventing unequal distribution of income and ownership, the Committee proposed that operational contracts be implemented that can govern economic rights and obligations, as well as distribution of income between spouses in farm households.³

For the indigenous Sami people, reindeer husbandry rights are central to enabling use of land and water resources. Reindeer husbandry rights constitute the right of Sami people to use land and water to maintain

² Ministry Communication 2004:39 – “Slow Progress – Gender equality in the farming and forestry sector” (“Det går långsamt fram – jämställdhet inom jord- och skogsbrukssektorn”).

³ Ibidem

themselves and their reindeer. This right affects one-third of Sweden's total area; certain lands can be used year-round and others only for winter pasture. There is no law in Sweden that specifies how long land must be used before reindeer husbandry rights come into existence, nor when reindeer husbandry rights expire. How far the land areas where reindeer are allowed to graze in the winter extend is also unclear. These matters must be tried in court and the burden of proving that reindeer husbandry rights exist is put on the Sami village, which has occasionally been criticised by Sami representatives and international bodies. If the Sami village loses the suit, it must pay litigation expenses, which are often very high. This has also been objected to on the grounds that the legal actions are made necessary by vague legislation. As part of the effort to bring clarity to the matter, a Government Commission has been tasked with defining various matters including the outer borders for winter grazing. The report is currently being reviewed by the Government Offices.

4.4 Strengthened information systems and use of GIS (M)

Increasing the use of geographical and property information, including in geographical information systems (GIS), has been an objective in this area for several years. Geodata is used in all sectors of society.⁴ The use of geodata is becoming more important in state and local authority administration as a means of streamlining planning, decision-making and follow-up. Private enterprises need data and services for use in business development, the transport sector, forestry, agriculture, the energy sector, media, tourism and recreation. Geodata is used as the basis for case management, emergency response management, environmental monitoring, lending decisions, positioning, traffic management, planning and building, and, not least, service development.

Geodata is used in agriculture in several areas, primarily within agricultural support programmes. New applications have arisen over time, as much of the work involves data and information with geographical connections. Geodata is also going to be used to manage epizootics and outbreaks of zoonotic diseases. If an epizootic breaks out, an effective system is required to enable swift response.

As usage increases, demands for accessibility, quality and harmonisation of the information are also increasing. There is great need for coordination in the area to achieve efficient e-administration, since there are several government agencies currently responsible for producing and providing site-bound information and the information is widely used in society. The National Land Survey, the Board of Agriculture, the Maritime Administration, the Road Administration, the Geological Survey of Sweden, the Swedish Meteorological and Hydrological Institute, the National Rail Administration, the Environmental Protection Agency, county administrative boards and local authorities are significant national actors in this area. A number of major initiatives/projects including INSPIRE (Infrastructure Spatial Information in Europe) and efforts to draft a national geodata strategy are ongoing in the land survey field to increase the availability of information and harmonise data and services.

The EC INSPIRE Directive went into force on 15 May 2007. The Directive requires Member States to implement a number of comprehensive initiatives to harmonise and organise the dissemination of spatial information, primarily for the needs of public authorities, nationally and within the EU, but also for the needs of the general public. The initiatives are completely consistent with the vigorous efforts of the Swedish Government to streamline public administration, and are also expected to facilitate service development in the broad and growing field of geographical information technology. As part of the Swedish implementation of the INSPIRE Directive, the National Land Survey has been tasked with drafting a National Spatial Data Infrastructure strategy. The strategy must support higher growth, facilitate

⁴ Geodata refers here to geographical and property information.

more efficient public administration and simplify matters for citizens, including in dealings with government agencies.