

# Committee terms of reference



Greater freedom for universities and other  
higher education institutions

**ToR.**  
**2007:158**

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Decision at a Government meeting on 22 November 2007

## **Summary of the remit**

An Inquiry is to present proposals for one or more organisational forms for state universities and other higher education institutions covered by the Higher Education Act (1992:1434). Based on the proposals on organisational forms that are presented, the Inquiry is to propose how state control of universities and higher education institutions is to be structured. The point of departure for these proposals will be the need to increase the autonomy of higher education institutions while providing for the interests of the state in being able to govern and control parts of higher education that are important to it.

The Inquiry is to report its findings no later than 5 December 2008.

## **Greater autonomy for universities and other higher education institutions**

Higher education and research play a key role for the development and prosperity of both society and the individual. A fundamental task of higher education institutions is to serve as a force for independent and critical reflection in the development of society. It is essential that higher education institutions are given the best possible conditions to effectively perform this important social function with integrity and to a high standard. New terms and conditions for higher education institutions following from globalisation and other

developments also place increased demands for profile development, collaboration and quality.

The Government considers that political control should be reduced and that higher education institutions should have greater autonomy to determine their activities. Giving state higher education institutions a different organisational form and reducing state control will put higher education institutions in a better position to decide on the organisation, administration and development of their own activities. In this way, they can make better use of the opportunities offered, both nationally and internationally, and give greater attention to the requirements following from new terms and conditions.

At the same time, it goes without saying that the political authorities must have adequate scope to ensure that the important tasks of higher education institutions are performed to a high standard. It is essential to design the governance of higher education institutions so that the highest possible level of autonomy can be achieved while guaranteeing the legitimate need of the political authorities for overall control of activities.

#### *Greater autonomy in other countries*

The Government's ambition for higher education institutions to be given a more independent role in society is in line with international developments. A growth in autonomy, based on the need for higher education institutions to be an independent force in the development of society, is also occurring internationally.

Both in the Nordic countries and Europe and in other parts of the world, a far-reaching reform process is underway aimed at adapting activities at higher education institutions to the new terms and conditions resulting from globalisation.

Higher education institutions in the UK have long had a high degree of independence vis-à-vis the state. This has given them a room for manoeuvre that Swedish higher education institutions lack. In recent years, reforms have been implemented in our neighbouring countries in the Nordic region aimed at increasing the autonomy of higher education institutions.

In Finland, universities are central government agencies but with a certain amount of autonomy, which means that they differ from other agencies. The unique position of the universities is expressed in the constitution. Finnish universities have been given greater autonomy, primarily via changes in financial governance. A Finnish central government inquiry (*Reform of the financial and administrative status of universities*, Final report, Ministry of Education 2007:2) that was presented in February 2007 contains proposals on introducing for universities a new type of legal personality in public law, which would mean their separation from the state as a legal personality. A new University Act entered into force in Denmark in 2003. Universities were then transformed from state institutions to 'self-owning institutions' in public administration.

Since 2005 there has been a new law for universities and higher education institutions in Norway. After several inquiries on, and proposals for higher education institutions as legal entities in their own right, it was decided that higher education institutions would continue to be administrative bodies with special powers. Such bodies have a more independent position than other Norwegian administrative agencies.

#### *Previous reforms in Sweden*

Swedish higher education institutions have traditionally always been governed by the state. How the state has exercised governance has, however, varied over time, and hence the freedom of higher education institutions to decide themselves on their own activities has also varied. Both Uppsala University and Lund University have long traditions of great autonomy, including previous periods as legal entities in their own right, with ownership rights to property donated to the universities. Property is currently owned by foundations administered by the universities. At the end of the 19<sup>th</sup> century, non-state colleges were established in Göteborg and Stockholm, which were nationalised and achieved university status in 1954 and 1960 respectively. In the same period, the number of students dramatically increased, and new state higher education

institutions were established. Central government control also increased with regard to the administration and finances of higher education institutions.

In the past 30 years, higher education institutions have gone from having been centrally governed with several different decision-making levels between the Government and the institutions' managements to increasing independence. The higher education reforms of 1988 and 1993 have been instrumental in this development. The decentralisation process that has taken place has meant that the state has increasingly governed by means of general instruments and that parts of the management of activities at higher education institutions have been returned to the local level. After proposals in the 1988 Government Bill on the forms for higher education policy (Govt. Bill 1988/89:65) a gradual transition was initiated from management through appropriations and directions on the dimensions of higher education to results-based management – a development that placed demands on better follow-up and evaluation of the activities of higher education institutions. This development has meant that higher education institutions have also come to play a more major role from a regional development perspective.

The Government Bill *Universities and higher education institutions – Freedom for quality* (Govt. Bill 1992/93:1, Committee Report 1992/93:UbU3, Riksdag Communication 1992/93:103) presented a strategy for changing the Swedish higher education system that contained three methods. The first method concerned greater freedom for, and the creation of, incentives for development and quality. It included, for example, deregulation and a lower level of detail in the political authorities' budget decisions concerning state higher education institutions. The proposed strategy also included the introduction of firm, clear-cut rules for relations between the state and private higher education providers. The purpose of this was to create freedom of establishment, which would increase diversity and competition and turn new ideas and private initiatives into driving forces in the process of change. Following the proposals in the Government Bill *Higher*

*education for greater skills* (Govt. Bill 1992/93:169, Committee Report 1992/93:UbU14, Riksdag Communication 1992/93:363), the Act concerning authority to award certain degrees (1993:792) was approved. The motive behind this given in the Government Bill was to safeguard the quality of the degrees issued by private education providers and to regulate relations between the state and these providers. Today there are 24 private education providers authorised to issue degrees or diplomas.

As a third method, the Government Bill *Freedom for quality* presented a changed, non-state responsibility for certain higher education institutions. The Bill stated that state responsibility as exercised through a government agency is only one of many organisational forms for higher education institutions. It was noted that Sweden is unique with regard to the state's absolute dominance in the higher education system and that it is common in other countries for a system of universities with other principals to supplement state higher education institutions. In view of this, a decision was later taken after proposals in the Government Bill *Higher education in the form of foundations – Diversity for quality* (Govt. Bill 1992/93:231, Committee Report 1992/93:UbU18, Riksdag Communication 1992/93:405) to the effect that some state higher education institutions would be transformed into civil law entities by forming foundations. This resulted in the creation of the Chalmers University of Technology Foundation and the Jönköping University Foundation. The decision on the creation of foundations was intended to give considerably greater autonomy concerning the focus and dimensioning of undergraduate education and research, organisational and management issues, career structures and financial administration, compared with the state higher education institutions. A number of interesting profile developments were ultimately predicted, such as new, improved forms of cooperation with the business sector and the community as a whole, multi-disciplinary research arrangements or improved international contacts and student exchange programmes.

A further step in the process of increasing the autonomy of higher education institutions was taken in the spring of 2007, after the Government's proposals in the Bill *Freedom to choose – greater influence for higher education institutions on board member appointments* (Govt. Bill 2006/07:43, Committee Report 2006/07:UbU11, Riksdag Communication 2006/07:122). Through the amendment to the Higher Education Act (1992:1434) which entered into force on 25 April 2007, and the ordinance amendments approved in connection with this, higher education institutions are given greater opportunities to influence the composition of the boards of their own institutions. The Bill states that issues concerning the composition of boards and the methods for the appointment of board members may be taken up again.

#### *Inquiries about organisational form and governance*

The state higher education institutions are administrative agencies that are answerable to the Government. Their activities differ considerably from those of central government agencies otherwise. The organisation and working methods of higher education institutions are governed partly by the general regulations applying to state administrative authorities, and partly by the Higher Education Act (1992:1434), the Higher Education Ordinance (1993:100), the Ordinance for the Swedish University of Agricultural Sciences (1993:221) and a number of other regulations concerning the higher education sector. To all intents and purposes, they have different tasks and their remits are considerably broader than those of other central government administrative agencies. Appropriations to higher education activities are intended for education and research. The Higher Education Act sets forth the principle of the freedom of research.

The choice of organisational form for state activities is dealt with in the Government Bill *State administration in the service of the people* (Govt. Bill 1997/98:136, Committee Report 1997/98:KU31, Riksdag Communication 1997/98:294). Among other things, this states that state activities should primarily be run in the form of agencies, but that it can sometimes be

justified to allow a state task to be carried out in a civil law organisational form. One example mentioned is when the state and another party are engaged in activities that are dependent on appropriations and they jointly contribute to financing. Further, activities that are subject to competition should not be run in the form of agencies, according to the Bill.

In December 2006, the Committee on the review of the tasks and organisation of state administration (Fi 2006:08) was appointed. The review aims to make state administration and activities more efficient. The terms of reference (ToR 2006:123) discuss the concept of the agency. They also state that higher education institutions are to be examined separately, in light of the fact that they have a different role and different tasks from those of other administrative agencies. The administrative review committee is to present its final report by 15 December 2008 at the latest.

The Instrument of Government contains certain basic provisions for agencies. However, the Swedish Agency for Public Management report, entitled *The development of state administration 2000–2005* (reg.no. 2005/122–5), points out that there is no definition of the concept of the agency in the Instrument of Government. The report refers to the preparatory work for the Instrument of Government, which states that the concept was purposely not defined so as to create a flexible administration (Govt. Bill 1973:90).

The Government has approved a Government Agencies Ordinance (2007:515) which will enter into force on 1 January 2008. The Government Agencies and Institutes Ordinance (1995:1322) will then cease to apply. The Government Agencies Ordinance will regulate the managerial structures of agencies. The Ordinance will apply to administrative agencies that are answerable to the Government, if there is no Act or Ordinance containing a provision that differs from those in the Government Agencies Ordinance.

According to the Instrument of Government, courts of law have a unique position in public administration. This is manifested by the fact that courts are completely independent in their judicial activities. The Committee on the Constitution (Ju

2004:11) is tasked with considering whether a new, special chapter on courts of law should be added to the Instrument of Government (ToR 2004:96). The Inquiry therefore appointed an expert group in the spring of 2006, which in September 2007 presented its proposals on the issue in the report entitled *Provisions on courts of law in the Instrument of Government* (SOU 2007:69). The Committee on the Constitution is to report its findings no later than 31 December 2008.

Other examples of government agencies that have a special position to indicate their independence are the Riksbank (Swedish Central Bank) and the Swedish National Audit Office, both answerable to the Riksdag.

For many years, there has been a discussion in the higher education sector, involving the Association of Swedish Higher Education (SUHF) and others, about the legal form of higher education institutions. In 2004, the Association gave Professor Lena Marcusson of Uppsala University the task of examining the legal status of universities. In her report, entitled *The Legal Status of Universities* (SUHF 2005), possible alternative legal forms for higher education institutions are described. The Royal Swedish Academy of Engineering Sciences (IVA) has also discussed and examined the issue of higher education institutions' governance and organisation. The report, entitled *The University of the Future* (2006), presents a number of proposals for how the higher education sector should develop in different respects.

The Resources Inquiry (U 2004:03) that was appointed in the spring of 2004 with the task of carrying out a review of the resource allocation system for higher education institutions' undergraduate programmes (ToR 2004:49) delivered an interim report in May 2005 (SOU 2005:48). Through supplementary terms of reference (ToR 2006:29, 2007:81) the remit was extended to also cover a review of resource allocation and other governance with regard to research and postgraduate education at higher education institutions. The starting point for this remit was the need for high academic standards and greater profile development, as well as closer cooperation and a division of labour between different higher education institutions. The



Resources Inquiry reported its findings in the report entitled *Resources for Quality* (SOU 2007:81) on 2 November 2007.

In March 2007, the Government appointed an Inquiry to make proposals for how to phase out compulsory membership of student unions and student nations (ToR 2007:49). Based on a survey of the consequences of phasing out this compulsory membership, the Inquiry is to propose necessary measures to safeguard, strengthen and develop students' influence and good student community activities at higher education institutions. The Inquiry is to report its findings on 15 February 2008.

The Inquiry on the evaluation of results-based management (Fi 2006:07) recently presented its proposals in the report entitled *Governance of the state – how the Government governs its administration* (SOU 2007:75). The remit of the Inquiry included submitting proposals for how results-based management should be changed and developed with the aim of improving the governance of government agencies; the Inquiry was also required to specify the conditions this would require and the limits that exist (ToR 2006:30).

## **Need for an inquiry**

### *New terms and conditions for higher education institutions*

An important starting point for the Inquiry's remit is the direction of policy towards increased autonomy for higher education institutions and less political control.

One overall objective of the Government's higher education policy is to improve the quality of higher education and research. In order to create the right conditions for quality enhancement, higher education institutions must be given clear responsibility for the shaping of their activities. There must also be clear systems for quality assessment that are independent of higher education institutions. This kind of clarity is important, not least for prospective students who need to be able to make rational choices based on quality assessments.

Moreover, higher education and research need to adopt an international perspective. So as to be in a position to offer education and carry out research that are internationally competitive and that can compete with the most internationally prestigious higher education institutions, it is important for Sweden to create the conditions necessary to develop and maintain higher education institutions of great integrity. In an increasingly globalised world, it is also essential for Sweden's competitiveness and growth that higher education institutions are given good conditions for commercialising the results of their research, something that is an important part of the statutory duty of higher education institutions to collaborate with the community. It is also essential for higher education institutions to be able, to a greater extent, to play an important role in regional development, for example by collaborating with local businesses and commercialising the results of their research. Independent foundation universities can contribute to this.

Globalisation is one of the factors that strongly affect higher education institutions. To an ever greater extent, they are thus becoming actors on an international market. This means, among other things, increased competition for resources, students and researchers. Issues concerning profile development and collaboration will be crucial if Sweden is to be able to hold its own against international competition. Globalisation has, for example, resulted in prominent foreign higher education institutions opening campuses in China, Singapore and elsewhere. Where Swedish higher education institutions are concerned, there is more of a tendency to become active in other countries. For example, the Royal Institute of Technology, Lund University and Karolinska Institutet are helping with activities in China. However, this is probably just the beginning of a development that will also see Swedish higher education institutions becoming more internationally active.

In an increasingly globalised world, the terms of operation for Swedish higher education institutions must correspond to those of their foreign equivalents. This will put our higher education institutions in a position to compete and become

active on an international market, and Swedish higher education and research will be able to lay the foundations for the continued strong development of society.

Higher education institutions are collaborating to an ever greater extent with private and public actors at local and regional level, partly as a result of the regionalisation and expansion of higher education. In its 2008 Budget Bill (Govt. Bill 2007/08:1, Expenditure Area 16) the Government stresses that higher education institutions can function as motors to promote regional development.

#### *Choice of organisational form for higher education institutions*

Central government control is largely exercised through rules, despite the introduction of results-based management, and in the form of economic governance. The substance of central government control of higher education institutions and which instruments should be used needs to be reviewed and shaped in a way that is more appropriate for higher education institutions' activities. State governance that is too detailed reduces the chances of higher education institutions achieving the desired development. This can mean, for example, higher education institutions' opportunities to establish campuses abroad and take part in international cooperation, the right conditions to compete for the best students and researchers and incentives to commercialise research results and collaborate with the business sector and society. The organisational form currently in place – central government administrative agency – may limit higher education institutions' room for manoeuvre even in matters of resource and property management, internal organisation and the authority to enter into certain contracts. State governance must, therefore, be limited to matters that are of greatest importance to the state. In addition, higher education institutions should have the final say on important issues concerning their own activities, such as financial, human and physical resources, and their internal organisation and management. Consequently, both higher education institutions' organisational forms and state governance of them need to be changed and adapted to new conditions and terms. A new

organisational form can have consequences for different parts of the higher education and research system. Therefore, a comprehensive impact analysis needs to be undertaken to compare the advantages and disadvantages of different possible kinds of organisational form.

For every organisational form there can be several different possibilities for shaping governance and control, something that also affects the autonomy of higher education institutions. Regardless of which organisational forms are proposed, there should be a balance between the need for increased autonomy for higher education institutions and the central political authorities' ability to exercise governance and control.

#### *Reduced political control of higher education institutions*

Regulations applying to higher education institutions, above all the Higher Education Ordinance, are comprehensive and in parts far too detailed. Regulation should instead primarily be limited to higher education institutions' core activities, education, research and collaboration, in areas where central government has a clear and important interest in exercising control. This includes issues concerning overall direction such as resource issues, dimensioning, effective use of resources, quality in education and research, accountability and the legal rights of students. In other respects, it should be up to the higher education institutions themselves to have the final say.

With the main focus being on the idea that one or several organisational forms other than that of central government administrative agency should be chosen for higher education institutions, the opportunity is opened up for certain issues to be regulated through agreements between the state and a higher education institution. This is currently the case with Chalmers University of Technology and the Jönköping University Foundation.

The regulation of a higher education institution's internal issues, for example internal management and organisation, should be strongly limited. It is, however, important to carefully consider how management functions for more independent higher education institutions are to be designed. This process

will involve weighing up on the one hand a governing board's responsibility and its ability to manage the organisation, and on the other hand the need for considerable freedom when it comes to the academic activities of education and research. One starting point is that the freedom of research is not to be jeopardised, and that the management of the higher education institution shall not bear the main responsibility for the content of education and research programmes. A balance must therefore be struck between the need for dynamic management at different levels on the one hand, and a more decentralised, collegial influence on the other.

Independent higher education institutions also need a clear and dynamic management. This being so, one question in particular is how governing boards are to be composed and appointed, which responsibilities the management of a higher education institution should have and which forms this management should take.

Regulation should also be less extensive than it is today for issues concerning recruitment structures at higher education institutions. These issues are being examined by the Academic Career Inquiry (U 2006:08) that is to report its findings no later than 14 December 2007 (ToR 2006:48, 2007:82).

Economic governance covers the financial control and results-based management that are expressed in the context of the annual budget process. There must be a balance between higher education institutions' autonomy and the political authorities' need for governance and control. It is reasonable for follow-up, evaluation, supervision and quality control to be carried out on an organisation with high levels of public financing. At the same time, higher education institutions' special conditions and their ambition to achieve greater autonomy must be taken into account. Governance by the Government should, as has already been mentioned, mainly cover areas that are of importance and interest to the state, such as issues concerning dimensioning, efficiency, quality assessment and the legal rights of students.

### **The remit**

An Inquiry is to submit proposals for one or more new organisational forms for state universities and other higher education institutions covered by the Higher Education Act (1992:1434). One important starting point of the Inquiry's work is the direction of policy, as already mentioned, towards reduced political control of and greater autonomy for higher education institutions. The development tendencies described above and the changed conditions and terms that higher education institutions are facing as a result of globalisation and a greater demand for profile development, collaboration and quality must also be taken into consideration. The Inquiry will also illustrate how more problem-oriented research would be affected by greater autonomy. For every organisational form proposed, a comprehensive impact analysis must be carried out, looking at the advantages and disadvantages of each organisational form. This analysis must be related to shortcomings and problems in the current organisational form.

Based on the proposals on organisational forms that are submitted, the Inquiry is to propose how state governance of higher education institutions is to be structured. The starting point for these proposals will also be greater autonomy for higher education institutions. At the same time, however, the state's interest in being able to govern and control parts of the activities that are important to it must be addressed.

In its work, the Inquiry is to look at the results and experiences of reforms of organisational form and state governance that have been implemented in Sweden and other countries, primarily the other Nordic countries and the UK.

Within the framework of its assignment to propose organisational forms, the Inquiry is to:

- propose how the Government's results-based management is to be designed for universities and other higher education institutions,
- propose how internal governance and control and internal and external auditing are to be exercised and carried out at universities and other higher education institutions,

- propose methods for supervision and quality assurance at universities and other higher education institutions,
- propose which tasks and which responsibilities the management of a higher education institution is to have, and which forms these are to take,
- propose how the legal rights of students can be guaranteed,
- report on how other agencies in the higher education sector will be affected and, if necessary, submit proposals for altered tasks for these agencies.

The Inquiry is to illustrate the consequences of a transition to another organisational form in terms of employer and staff policy. This applies, for example, to issues concerning membership of employer organisations, which collective agreements are to apply and the effects on the financing of state occupational pensions.

In addition, the Inquiry is to submit proposals for any legislative amendments that the review would necessitate and report on the financial consequences the proposals would bring about. If the Inquiry's proposals would lead to an increase in costs, the Inquiry is to propose how this is to be financed in accordance with the provisions of Section 14 of the Committees Ordinance (1998:1474).

### **Implementation of the assignment and timetable**

The Inquiry is to carry out the assignment in close contact with representatives of higher education institutions, students, other relevant agencies in the higher education sector and public and private research sponsors.

The Inquiry is to consult with the Inquiry on the phasing out of compulsory membership of student unions and student nations (U 2007:06). The Committee on the Constitution and the Committee on Public Administration must also be consulted on the areas that are connected to their remits.

The Inquiry is to keep the central employer organisations concerned informed of its work and give them opportunities to express their views.

If the Inquiry finds that proposals it intends to present necessitate amendments to the constitution or other legislation of a constitutional nature, it is to notify the Government accordingly.

The Inquiry is to report its findings no later than 5 December 2008.

Ministry of Education and Research