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## **THE ELECTION REVIEW BOARD OF SWEDEN. THE PROCEDURE OF CONSIDERATION OF ELECTION COMPLAINTS AND APPLICATION OF THE PROVISIONS OF THE SWEDISH CODE OF JUDICIAL PROCEDURE IN THE PROCESS OF REVIEW OF ELECTORAL CLAIMS**

### **INTRODUCTION**

Swedish legal realm contains very interesting solutions concerning election law. To a great extent, the latter is associated with the legal system of Sweden. In this article, the author will examine the functioning of the Election Review Board (in Swedish, *Valprövningsnämnden*; VPN), its place in the system of state agencies and the application of particular regulations of the law of 18 July 1942<sup>1</sup> (*Rättegångsbalken*;<sup>2</sup> RB). The topic is even more interesting since apart from RB also particular regulations of the law of 28 September 2017 Administrative Law Act<sup>3</sup> (*Förvaltningslag*; FL) are applicable in the procedure before the VPN.

Analysis of that topic is particularly valuable from the perspective of Polish law, where there are discussions concerning the need for improvement of the law regulating the status of election bodies and procedural aspects of the review of electoral claims.

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<sup>1</sup> Rättegångsbalk (1942:740).

<sup>2</sup> Translations of the act in the text are based on Svensk/engelsk ordlista, Domstolverket, 2019, [https://www.domstol.se/globalassets/filer/gemensamt-innehall/for-professionella-aktorer/svensk-engelsk\\_ordlista\\_2019.pdf](https://www.domstol.se/globalassets/filer/gemensamt-innehall/for-professionella-aktorer/svensk-engelsk_ordlista_2019.pdf) (accessed 10.07.2023).

<sup>3</sup> Förvaltningslag (2017:900).

## THE ELECTION REVIEW BOARD

The VPN plays a focal role in the election system of Sweden. According to chapter 3 § 12 of the law of 28 February 1974 Instrument of Government<sup>4</sup> (*Regeringsformen*; RF), stipulates that an electoral complaint (*valbesvär*) can be filed to the Election Review Board, which is appointed by the Parliament (orig. *Riksdag*) [Svante 2022: 139]. The central part in regulating the functioning of VPN is provided in the law the 1 January, 2006 Election law<sup>5</sup> (orig. Valag; VL) and law of 6 December 2012, Instruction for Election Review Board<sup>6</sup> (*Lag med instruktion för Valprövningsnämnden*; Instruction).

VPN oversees parliamentary elections, which means not only regular elections, but additional elections as well as re-elections, but also the procedure for appointing a deputy member of Parliament [SOU 1972:15: 128–129].

The history of this body is not particularly. It was introduced into Swedish law in 1972 with a wave of amendments to constitutional laws. This was a revolutionary shift since initially the body which examined electoral complaints had been the Supreme Administrative Court (*Regeringsrätt*). The draft amendments proposed the creation of a specialized body to review electoral complaints [SOU 1973:90: 256–259]. The rationale for the creation of a new body was to hasten the process of consideration of lodged complaints. In order to accomplish that aim the functioning of VPN was based on a flexible regulation, which permitted speedy and efficient responses to violations or irregularities of elections [SOU 1972:15: 129].

Pursuant to chapter 3 § 12 sec. 3 RF, the VPN consists of a chairman who according to the law is or was an ordinary judge. In general, there are no additional prerequisites to be met by the chairman, there is only one limitation that he/she cannot be a member of *Riksdag*. What is more, there is also a member of the VPN who is a deputy chairman and who does not have to be a judge, yet in practice this position is still held by judges. Additionally, the VPN consists of six members who are not judges [Svante 2022: 140–141]. All the members are appointed by *Riksdag* after each election for the term which coincides with the end of the term of the Parliament, with the exception of the chairman, who is elected separately. There is a secretary and special rapporteurs attached to the council.

The preparatory documents also did not specify the exact requirements for candidates for members of the VPN. Originally, the body was to include people

<sup>4</sup> Kungörelse (1974:152) om beslutad ny regeringsform.

<sup>5</sup> Vallag (2005:837).

<sup>6</sup> Lag (2012:880) med instruktion för Valprövningsnämnden.

with political experience. These persons should have had knowledge of the law, in particular election law. Achieving these objectives should have been facilitated by the fact that members of the committee could be elected both from among members of *Riksdag* and from outside. It should be emphasised that the question of the members of the VPN was a subject of heated discussions. Nonetheless, there was no doubt that the chairman should not be a politically involved person, preferably a judge or retired judge<sup>7</sup> [Holmberg et al. 2012: 230–231].

As per further members of the VPN, those should initially have been only the candidates with political backgrounds and with knowledge in the area of election law. Respectively, in practice, these should be politicians – members of the Parliament or people outside the *Riksdag* [SOU 1972:15: 130]. This was one standpoint, the second one was that members of the VPN should not only have been individuals with legal expertise but also people not specialized in law, who however had knowledge in practical aspects of elections [Przywora, Wróbel 2022: 22]. The third proposed route was to depart from the participation of politically involved people and to adopt the view that only candidates not associated with politics can be members of VPN who possess knowledge in the field of election law [Framställning till Riksdagen 2012/13:RS1]. The idea of the VPN formed of non-judges was criticized by the Supreme Administrative Court. The latter reasoned that non-judge composition of VPN could jeopardize its functioning and potentially could lead to a lack of impartiality; thus it should be composed of judges or former judges who were not involved in politics [SOU 1973:90: 290]. Due to intense criticism, the compromise was reached and as was already mentioned the members of VPN are coming both from judicial power and the political sphere, more specifically these are members of the parliament representing parties forming *Riksdag* [Redogörelse till Riksdagen 2019/20:VPN1: 4].

It is worth noting that members of the VPN can be employed in courts or *Riksdag* Committees; therefore, they combine the duties resulting from being a member of the VPN with their “main” duties such as the position of a judge and members of various parliamentary committees [Redogörelse till riksdagen 2019/20:VPN1: 4]. For instance, the present chairman of the VPN is at the same time a judge of the Supreme Court of Sweden (*Högsta domstolen*), and the previous chairman was a judge of an appellate court.<sup>8</sup> Moreover, the vice-chairman is also

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<sup>7</sup> It is worth mentioning that judges in Sweden are retiring on a basis close to regular retirement, contrary to Polish solutions, for more details see: Nergelius 2010: 291–298; Przywora, Wróbel 2020).

<sup>8</sup> <https://www.riksdagen.se/sv/kontakt-och-besok/riksdagens-myndigheter-och-namnder/valprovningsnamnden/> (accessed 10.07.2023) and <https://www.domstol.se/hogsta-domstolen/justitierad/svante-o.-johansson/> (accessed 10.07.2023).

a judge of the Supreme Court,<sup>9</sup> similarly, the prior chairman was a judge of an appellate court. Among the other members are members of Parliament representing various political options who are members of Constitutional Committee,<sup>10</sup> the Social Security Committee,<sup>11</sup> Committee for the Labour Market.<sup>12</sup>

When discussing the VPN is it also vital to discuss its legal status. As it was mentioned, it is an entity regulated at the constitutional level with its predecessor Supreme Administrative Court and its Chairmen and in practice also chairman being a judge together with other members being members of the political parties. It is hard to assess whether it is a quasi-judicial organ or some kind of hybrid which is tightly connected with legislative power. Hence it is pointed out that it is not a court or law enforcement agency but it is unique in its legal nature and is responsible for dealing with specific types of complaints – election complaints.

It is even harder to answer the question, since according to § 15 of the law of 3 May 1989 on fees and other expenses for assignments within the *Riksdag (om arvoden m.m. för uppdrag inom riksdagen, dess myndigheter och organ)*, its authorities and bodies<sup>13</sup> the budget for the VPN is adopted by the Riksdag. As a result, formally the VPN is treated as a body functioning within the framework of the *Riksdag* and the salary of members of the VPN and its administration is set by the board of VPN in accordance with § 15 of the Instruction. What is more, the organizational support of the VPN is provided by an employee of the *Riksdag* administration, who performs secretarial duties to the board which consist of *inter alia* receiving and registering official documents and the circulation of documentation regarding the election control process. Additionally, the VPN is obliged to present reports to the *Riksdag* after each election. For example, in accordance with chapter 14 § 30 of law from 1 September 2014<sup>14</sup> (*Riksdagsordning*; RO) it presents reports of control whether certificates of an appointment of newly elected members of the *Riksdag* were issued under chapter 14 § 30 RO.

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<sup>9</sup> <https://www.riksdagen.se/sv/kontakt-och-besok/riksdagens-myndigheter-och-namnder/valprovningnamnden/> (accessed 10.07.2023) and <https://www.domstol.se/en/supreme-court/justices/malin-bonthron/> (accessed 10.07.2023).

<sup>10</sup> [https://www.riksdagen.se/en/members-and-parties/member/fredrik-lindahl\\_08bb4baa-24ca-4395-baf7-c907a4d5b776/?sog-c-vod-doktyp=bet&doktyp=ip](https://www.riksdagen.se/en/members-and-parties/member/fredrik-lindahl_08bb4baa-24ca-4395-baf7-c907a4d5b776/?sog-c-vod-doktyp=bet&doktyp=ip); [https://www.riksdagen.se/sv/ledamoter-och-partier/ledamot/hans-ekstrom\\_b6fe54d6-ffc7-4435-9326-5baf132b3338/](https://www.riksdagen.se/sv/ledamoter-och-partier/ledamot/hans-ekstrom_b6fe54d6-ffc7-4435-9326-5baf132b3338/) (accessed 10.07.2023).

<sup>11</sup> [https://www.riksdagen.se/sv/ledamoter-och-partier/ledamot/sanne-lennstrom\\_1d28738c-16d7-48f3-bb2a-e8cdcf348ca1/](https://www.riksdagen.se/sv/ledamoter-och-partier/ledamot/sanne-lennstrom_1d28738c-16d7-48f3-bb2a-e8cdcf348ca1/) (accessed 10.07.2023).

<sup>12</sup> [https://www.riksdagen.se/sv/ledamoter-och-partier/ledamot/michael-rubbestad\\_6025366f-76b8-4664-a3ef-ea0864fc8365/](https://www.riksdagen.se/sv/ledamoter-och-partier/ledamot/michael-rubbestad_6025366f-76b8-4664-a3ef-ea0864fc8365/) (accessed 10.07.2023).

<sup>13</sup> Lag (1989:185) om arvoden m.m. för uppdrag inom riksdagen, dess myndigheter och organ.

<sup>14</sup> Riksdagsordning (2014:801).

On the other hand, there is no specific procedure employed during the complaint-handling procedure. In the past there were proposals to use only administrative procedure, but this alternative was criticized since it could lead to the situation that the work of the VPN would be over-formalized and also because the main idea behind introducing the VPN was to create a procedure which would permit a fast and efficient decision-making process. At the same time, it was stressed that the rule of writing and the oral presentation during proceedings before the VPN must remain to secure a quick resolution of a case. The draft act concerning the introduction of this body stipulated that VPN must have a legal means in order to achieve the goal of efficiently controlling the correctness of elections in contrast to slow control carried out by the courts [Proposition 1974:35: 77]. Respectively, regulations of different procedural acts are applied in proceedings before VPN with some modification stemming from the character of the review of electoral claims. For example, according to chapter 15 § 11 VL and § 9 of the Instruction the voting on appeals against a decision issued throughout the elections is made based on chapter 16 of the RB. Additionally, as regulated in chapter 15 § 12 VL, the question of evidence gathering relies on chapter 35 § 10 and 11 of the RB.

## PROCEDURE OF LODGING AND CONSIDERATION OF ELECTORAL COMPLAINTS

The whole procedure related to lodging electoral complaints is regulated in the VL. Chapter 15 § 1 of the VL states that a complaint may be lodged against decisions of electoral authorities or other measures provided for in VL [Svante 2022: 141]. The authorities issuing decisions are the self-government administration council and the Central Electoral Authority (*Valmyndigheten*).

In chapter 15 § 3, the VL enumerates situations in which a complaint may be lodged. These situations have been divided into several categories. The first of them, in accordance with chapter 15 § 3 point 1 VL, is an electoral complaint to the VPN against decisions on determining the division of constituencies for elections to regional and municipal councils. Consequently, an electoral complaint can be lodged about a decision providing the number of district seats in elections to local self-government entities. The second group regulated in chapter 15 § 3 point 2 VL are complaints against decisions of the Election Authority<sup>15</sup> or responsible organs on the local level for the registration

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<sup>15</sup> Organ responsible for the organisation of the elections regulated in decree from November 22, 2007 Instruction for Election Authority (Förordning (2007:977) med instruktion för Valmyndigheten).

of voters. The penultimate group, regulated in chapter 15 § 3 point 3 VL, the following decisions of the Central Electoral Authority and the responsible organs at the county level are decisions on the number of seats in electoral constituencies to the Parliament: decisions on the registration of the markings of the political parties, decision on registration of candidates and decisions on voting ballots and the notification of participation in elections. The final category of decisions subject to appeal to the Election Review Board are decisions issued by the responsible county entities or the Election Authority on election results or decisions on the appointment of new members of the *Riksdag* and their deputies.

The following question, which needs to be addressed is who is eligible to lodge an electoral complaint. The right to lodge an electoral complaint against the decision of the electoral authorities, according to Chapter 15 § 4 VL is vested to a person who, according to the voting list, had the right to vote in the election and of the party that took part in the election [VPN 2011:10]. The limitation, which can also transpire is connected with the fact that the identity of the complainant is not possible to establish, therefore it is not feasible to determine whether a respective individual is entitled to lodge a complaint. The question remains also whether it should be only a person who has the right to vote in relevant electoral district or the threshold is a right to vote in the election as such [Svante 2022: 147]. The question transpired when a proportional system of election was introduced into the Swedish system. It was stated that the right to lodge a complaint should be also given to the voter from a different electoral district since error or violation of the electoral law in one constituency can have an impact on the election in other constituencies [Prop. 1968:27: 200–202].

At the same time, according to Chapter 15 § 4 VL, an electoral decision may also be appealed against by a candidate who has not been included in the relevant ballot list, regarding his or her appointment as a Member of Parliament, successor in the case of additional elections, or alternate (*ersättare*).

There can be two routes for lodging a complaint. In the first one, which can be labelled as standard, a complaint can be addressed to the Election Authority or the relevant communal authorities. The second path is regulated in chapter 15 § 5 of the VL. According to this provision, an electoral complaint can be made directly to the Election Review Board. This is a shift compared to the previously applicable regulation and departure from § 43 FL [Svante 2022: 148–149], which is applicable in the process of lodging an electoral complaint. § 43 FL states that an appeal against a decision must be made in writing to the higher instance which will hear the appeal but still the appeal must be submitted to the authority which issued the decision. The departure

from the previous solutions is most probably dictated by the fact the number of complaints increases with time and at the same time it is easier to lodge a complaint directly to VPN via electronic means of communication.

The VL does not regulate the formal requirements for the complaint, hence one can presume that general rules of FL are applicable [Svante 2022: 149]. Already mentioned § 43 FL encompasses a minimum requirement such as written form, a complainant must also state which decision is being appealed and in what way he or she wants the decision to be changed. § 43 FL also refers to § 3 and 4 of the law from the 4 April 1970, Administrative Procedural Law<sup>16</sup> (orig. *Förvaltningsprocesslag*; FPL). Mentioned paragraphs regulate that each complaint should contain general information about the complainant (personal number or organization number, postal address, telephone number, e-mail address etc.) and the complainant should also provide circumstances in support of the request.

The next important requirement is meeting the deadlines of lodging complaints against electoral decisions. It is worth mentioning that in accordance with chapter 15 § 6 VL there is no universal deadline, since it depends on the category of cases concerned. As a result, complaints concerning decision on the number of constituency mandates in elections to the *Riksdag* and registration of the party designation should be lodged no later than within three weeks from the date of announcement of the contested decision to the appellant. Subsequently, in the case referred to in chapter 15 § 3 point 2 VL – the decision of the county administrative board's or the Election Authority to correct a voter's register, no later than on Wednesday before the election day. In the category of decisions of the county administrative board's or the central election authority's decision to determine the outcome of an election or decision to appoint new members or replacements no sooner than the day after election day and no later than ten days after the end of the election [Holmberg et al. 2012: 229]. The formal assessment of a complaint from the point of view of filing it on time is the responsibility of the VPN. According to chapter 15 § 7 the deadline is met not only when it was delivered to VPN but also when it was lodged to the body which issued an electoral decision which is being appealed.

Chapter 15 § 11 VL stipulates that when the Election Review Board reviews a election complaint all members of the board must be present. If an electoral complaint concerns a decision by which the outcome of an ordinary election to the *Riksdag* or an ordinary election to the regional or municipal council has been determined, the committee shall have the same composition as it had at the time of mentioned elections. If an appeal concerns a decision through which

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<sup>16</sup> Förvaltningsprocesslag (1971:291).

the outcome of another election was determined, the committee may have the composition it had at the time of that election [Svante 2022: 154–155].

VL equipped the VPN with particular instruments allowing it to conduct electoral complaint review. An example of such instruments can be the wording of chapter 15 § 12 VL. The VPN in the course of the proceedings regarding the consideration of the complaint may request documentation from the relevant authorities or persons and may request an expert opinion. What is more, if there is a need to hear a witness the VPN may order a person to be heard by a district court for the purposes of the complaint procedure.

As a result of the review of the complaint, the VPN, pursuant to Chapter 15 § 13 and 14 of the VL, can issue a decision to cancel the election in the case of a given constituency and to order a re-election in that constituency. Chapter 15 § 13 VL obliges VPN to annul an election to the extent necessary and decide on a re-election in the constituency concerned if during the preparation and execution of the election there has been deviation from the prescribed procedure, or if someone has obstructed voting, falsified votes cast or improperly acted during the election in any other way.

Mentioned grounds complement each other and the VPN is free to choose which of those two will be the legal ground of its decision. Once VPN comes to the conclusion that there were irregularities in the electoral process it should also analyze whether stated deviations from the procedure influenced the elections in such a way that re-election is in place [Svante 2022: 158]. To reiterate, a decision on re-election is based on a violation of the electoral law, which affected the outcome of the election. Similarly, if voting was impeded or voters were influenced or otherwise improperly violated in the election [Prop. 1996/97:70: 166–168].

The decision of VPN is of a cassation character, since in case of violation of electoral law, it can decide to invalidate an election in the particular constituency or the Kingdom and decide to have a re-election. It can also order the re-counting of votes or order the VM to make corrections [Svante 2022: 157].

It is worth mentioning that under chapter 3 § 12 sec. 2 RF and chapter 15 § 10 VL, if a complaint is made regarding electoral violations, it does not lead to automatic termination or suspension or annulment of the mandate of the candidate, and it is valid until re-election. This is explained by the fact that otherwise the continuity of the work of the parliament could be threatened [Holmberg et al. 2012: 229–230].



## APPLICATION OF THE PROVISIONS OF THE SWEDISH CODE OF JUDICIAL PROCEDURE IN PROCEEDINGS BEFORE THE ELECTION REVIEW BOARD

As was already mentioned, the process of reviewing a claim is not regulated in the VL, hence the legislator decided that the VPN would operate based on the RL, RPL and RB. In this work, the author would like to analyze the regulations from the RB which can be implemented during the review of electoral claims. This is particularly interesting from the perspective of the Polish legal realm where regulations of civil procedure are also applied in the procedure of reviewing electoral claims, to be more precise the rules of non-litigious proceedings.

As specified previously, according to chapter 15 § 11 VL and § 9 of the Instruction chapter 16 RB applies to voting on electoral claims before the VPN. What is more, chapter 15 § 12 VL provides that evidence gathering in the procedure before the VPN also relies on the RB, to be more precise on chapters 35 § 10 and 11. Following chapter 16 § 1 sec. 1 RB, if during a deliberation process on a verdict or decision, different opinions are presented and a vote must take place. In practice, it means that when there is a difference in opinions between VPN members, voting should take place.

When talking about chapter 16 § 1 sec. 2, RB states that in the situation when the vote is taken, the youngest person in the court must speak first. After that, the members must express themselves as they have a seat in the court and finally the chairman speaks at the end. This regulation concerns not only oral voting but is also applicable to voting in written form [Fitger et al. 2016, vol. 1: 16:5]. In the case of the procedure before VPN, the order of voting of the member of the Board the youngest member of the Board will vote and then other members of the Election Review Board by age progression. The last to vote should be the chairman of the VPN [Svante 2022: 154]. Directly interconnected with the VPN's voting process is also chapter 16 § 3 RB. It states that the result of the voting should receive more than half of the votes. However, if any decision has received half of the votes and the chairman's vote is among them, this position shall prevail. This paragraph sets the rule that each member of the VPN has one vote and to adopt a respective position, the absolute majority should be reached [Lindell 2017: 396].

It should be stressed that voting happens rarely, both in civil procedure [Lindell 2017: 396] and in procedure before the VPN [Svante 2022: 154]. In both courts and VPN the decision or judgment is reached throughout conversations and negotiation, which can lead to reaching an acceptable decision or judgment.

The voting of VPN can be divided into several levels. The first level concerns the question of whether a violation or irregularity of electoral law took place, secondly whether this electoral violation influenced the outcome of the election and thirdly, depending on the ground of the claim, what will be the reaction to the claim. In this situation chapter 16 § 4 RB is applicable. It regulates situations in which more than one judgment is proposed. It states that the judgment that has received the most votes shall prevail. Nevertheless, if several opinions received the same number of votes, the opinion seconded by the chairman or, if he or she did not second any of these opinions, the opinion seconded by the first among those who voted for one of these opinions [Fitger et al. 2016, vol. 1: 16:15]. It means that at each stage of deliberation of the VPN when more proposals of the decisions are presented chapter 16 § 4 RB can be applied.

It was already mentioned that the VPN based on chapter 15 § 12 VL may request documentation from the relevant authorities or persons and, if necessary, order an expert opinion. The sole process of taking evidence by the VPN should be seen through the aims of introducing the VPN – it should not prolong proceedings, which should be fast and flexible. Probably the most time-consuming is hearing witnesses. The VPN cannot hear the a witness, since it is not imprinted into VL, still, VPN can order that a witness should be heard by a district court<sup>17</sup> [Svante 2022: 153]. Thereby whole chapter 35 can be potentially indirectly applicable in the procedure of review of the VPN.

Chapter 35 § 10 RB regulates the situation of the order of taking evidence by one court directed to another court. Together with this order a brief account of the matter and state of the evidence and the circumstance that must be proven. Following, Chapter 35 § 11 RB regulates that the court which is requested to take evidence, has to set the time and place for the taking of evidence. The result of taking evidence by the court is materialized in the transcript, together with all documents sent to the court or otherwise pertaining to the case. It is deemed that the court taking evidence should handle the proceedings in the best way in order to reach the intended purpose [Fitger et al. 2016, vol. 2: 35:72a]. When the VPN orders the court to take evidence, it also has to meet all the conditions stated in the abovementioned regulations of the RB. Such a solution is interesting since the VPN is neither a court nor an administrative organ, hence legislators decided that the VPN can delegate evidence-taking directly to a court based on RB, so to safeguard high standards of evidence-taking without putting a big amount of work on the VPN, so it can proceed effectively. The result of this order should be a court transcript of taking evidence, i.e. listening to the witnesses.

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<sup>17</sup> More about evidence procedure in RB see: Ekelöf, Edelstam, Herman 2009: 13–215; Lindell 2017: 535–656.

## STATISTICAL OVERVIEW OF THE WORK OF THE VPN

An analysis of the statistics of a number of claims lodged not only to the VPN but also to previous organs shows a very interesting picture, which relies on various variables such as the transformation of political topography, wide use of social media, growth of legal awareness among Swedish citizens and finally the possibility to file claims online.

Available statistics concerning binding constitutional laws start in 1976, when a total of 9 claims were lodged but only one in parliamentary elections and the rest in regional and communal elections [Redogörelse till riksdagen 2022/23:VPN1: 6]. For the next decades, the number of claims varied between 10 to 32 in total, whereas their number varied between 4 to 9 in parliamentary elections and 6 to 22 in regional and communal elections [Redogörelse till riksdagen 2019/20:VPN1: 7]. The wind of changes came in year 2010, where controversy surrounding elections was visible in the number of electoral claims, which was 209, where 117 concerned parliamentary elections and 92 regional and communal elections. The change in the situation was attributed to the fact that television and radio widely discussed the possibility of lodging an electoral claim and introducing the system of electronic-direct filing of claims to the VPN [Erfarenheter från valen 2010, Rapport 2011:1: 8, 24]. The following years just proved the emerging tendency, with its peak in the year 2018, when a record number of 767 electoral claims were received,<sup>18</sup> where 490 dealt with parliamentary elections and the rest concerned regional, communal or general claims [Redogörelse till riksdagen 2022/23:VPN1: 6]. The election of 2018 was probably the most active when talking about public discussion and political competition in the media of the most prominent political parties and candidates. The situation was even more tense due to the fact that the VPN's website was out of service on the day of the elections because of an attack by hackers.<sup>19</sup> Still, as it was stated in the report of VPN, the majority of received claims dealt with the general dissatisfaction with the results of the elections. Nevertheless, as a result of some electoral claims VPN ordered a recount of votes in one constituent [Erfarenheter från valen 2018, Valmyndigheten: 47–49]. When talking about recent elections, which took place in 2022 the number of electoral claims was 437, with the following divisions: 148 in parliament elections, 148 in

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<sup>18</sup> At this point, clarification is in place. The presented number of electoral claims is the number of claims which met formal requirements. In fact, it means that the number could have been higher.

<sup>19</sup> It was one of the most debatable topics in newspapers, for example: <https://www.svt.se/nyheter/inrikes/kritik-mot-valmyndigheten-efter-svt-s-uppgifter-om-cyberattack-pa-valdagen> (accessed 24.07.2023); see more: Wróbel 2022: 137–172.

communal elections, 110 in regional elections and 31 other claims [Redogörelse till riksdagen 2022/23:VPN1: 6]. The main areas which were subjects of claims concerned procedural irregularities at the polling station, incorrect markings in the voter's register, inaccuracies in connection with vote counting, and presentation of election surveys before the polling stations closed [Redogörelse till riksdagen 2022/23:VPN1: 7]. The mentioned 31 electoral claims which did not concern the 2022 elections but the election system in general, concerned among others registration and de-registration of party designation, ordering election envelopes, ordering ballot papers and correction of the voting register. In three cases concerning the counting of personal votes, the VPN found that there were errors and that these affected the election results. In these cases, the board, therefore, annulled the decision for the municipal council elections in three municipalities and ordered new recounts [Redogörelse till riksdagen 2022/23:VPN1: 8].

## SUMMARY

Swedish solutions concerning the VPN are a source of interesting ideas, which are a visible result of a mature attitude toward electoral law. It takes into account the practice and theory of electoral law. The first important solution is a mixture of the members of the VPN, who are both judges and active politicians, who can actively participate in the works of the *Riksdag*. This is a very interesting and practical solution, which relies on the presumption of high political and legal culture in the country.

At the same time, the position of a judge as the chairman seems to be a safety vent. To go further, quite an intriguing question arises when trying to answer the question whether VPN is a special court or administrative organ. In fact, it appears that it has features of both. It issues decisions and relies on the FR, FPR and RB; the chairman and vice-chairman are judges.

The present status of VPN is probably a convenient solution since it allows to have a flexible body, which should balance between safeguarding the legality of the election process and fast solution to potential election irregularities and election claims. A different query is the possibility of application of the articles of administrative and civil procedure.

Careful analysis of the VL shows the picture in procedural regulations applicable to proceedings before VPN are carefully selected so as not to prolong proceedings before the VPN. Some basic regulations from the FR and FPR allow introducing a facet of order to the proceedings, whereas the aspect of evidence taking is based on provisions of the RB, especially as regards witness hearings, which can be delegated in whole to a district court.

The status, functioning, composition and organizational structure of the VPN envisage the character of this organ and the aims given by the legislator. It is the author's standpoint that particular solutions can be an inspiration for the Polish system but with extreme caution, since apart from written law – the legal culture between the two countries differs.

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## NORMATIVE ACTS

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## Summary

The Swedish legal framework presents intriguing solutions with respect to electoral law, particularly in the context of the entity entrusted with the adjudication of electoral claims, constituting the ultimate appellate authority. The author endeavors to scrutinize the functioning of the Electoral Commission in Sweden, delving into its composition, operational mechanisms, positioning within the overarching state apparatus, as well as the procedural intricacies associated with the submission and adjudication of electoral complaints. Furthermore, it aims to elucidate the judicious application of pertinent provisions within the realms of civil procedure and administrative procedure in this context.

**Keywords:** The Election Review Board of Sweden, Swedish civil procedure, Swedish election law, electoral complaint

## **SZWEDZKA KOMISJA DS. KONTROLI WYBORÓW. TRYB ROZPATRYWANIA SKARG WYBORCZYCH I ODPOWIEDNIE STOSOWANIE PRZEPISÓW SZWEDZKIEGO KODEKSU POSTĘPOWNIA SĄDOWEGO PRZY ROZPATRYWANIU SKARG WYBORCZYCH (streszczenie)**

Szwedzkie prawo zawiera interesujące rozwiązania dotyczące prawa wyborczego, a konkretnie instytucji odpowiedzialnej za rozpatrywanie skarg wyborczych, będącej ostatnią instancją. W artykule autor bada funkcjonowanie Komisji ds. Kontroli Wyborów w Szwecji, jej skład, miejsce w systemie państwa, składanie i rozpatrywanie skarg wyborczych, a także odpowiednie stosowanie wybranych przepisów postępowania cywilnego i postępowania administracyjnego.

**Słowa kluczowe:** Komisja ds. Kontroli Wyborów w Szwecji, szwedzkie postępowanie cywilne, prawo wyborcze Szwecji, skarga wyborcza