

SCRUBBER DISCHARGE BAN IN THE PORT OF TRELLEBORG

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“Polluted water and other polluting substances may not be discharged from vessels within the perimeters of the port. This includes water from flushing and cleaning of deck areas, as well as scrubber discharges.”



Authority of a Swedish port

- Port regulations (See Ordningslagen (1993:1617))
 - Local regulations for order and security etc. within the area of the port.
 - 3:10 § Ordningslagen: Ports that are owned by the municipality may decide on regulations regarding order and security to the extent deemed needed considering the activities taking place in the port. The regulations shall state the area within which they apply.
- Competency delegated from municipality.
- Competency of the municipality -> constitutional law.



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Municipal autonomy in Sweden

- Longstanding tradition.
- Constitution (1:1 and 7 §§ Regeringsformen)

Requirements for municipal autonomy:

- *Legally established competence*
- *Possibility of review of legality.*
- *Right to taxation*
- *Municipal exclusive competence on planning*
- *Elected officials responsible politically.*



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Authority of a Swedish municipality

- Disclaimer: Freely translated and redacted.
- Municipal law (Kommunallagen) 2:1 §: Municipalities are allowed to **manage matters of general public interest** which have a connection to the geographical area of the municipality or its inhabitants.
- 2:2 § Municipalities may not manage matters which are exclusively within the competence of the state/government.



“General public interest”

- Legal preparatory documents
 - Prop. 1990/91:117 Ny kommunallag, s. 148
- Definition of general public interest in this context:

“Where appropriate, expedient, and reasonable for a municipality to address a matter.”



Limitations

- Competency framework
 - Principle of localization
 - Ban on addressing issues exclusively under the competence of the government/state (or another institution)
 - Ban on favoring individuals or individual companies
 - Ban on conducting business/investments of speculative character
- Within the framework actions also limited by:
 - Municipalities have to cover the cost (municipalities are to match their resources in accordance with the need of the inhabitants)
 - Principle of equality and equal treatment
 - Cannot take decisions with retroactive effect



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Reasoning in Trelleborg

- Appropriate and reasonable for the municipality and the port to protect the water quality in the harbor basin and, in extension, the coast of the municipality and Baltic Sea?
 - Yes, we think so -> within the competency of the municipality -> within the scope of what can be delegated to the port.
- Not regulated today at a national level -> not within the exclusive competency of the Swedish government.
 - Not yet -> still within the competency of the municipality -> thus ok.



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Worth noting in this context

- A limited number of ships calling at our port – the same ferries all year around.
- Only a handful use scrubbers and even fewer openloop scrubbers.
- Contracts between port and shipping companies.
- Regulation hasn't been contested or questioned.



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THANK YOU!