Church and State in Sweden

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I. Social Facts

The majority of the Swedish population belongs to the Evangelical-Lutheran Church of Sweden (61.2% 2016\(^1\)), even though that church’s number of members has decreased in recent years. The percentage of the population has also been affected by the bigger influx of immigrants, not normally Lutherans. The Roman Catholic Church, the Uniting Church in Sweden\(^2\), different Orthodox churches, and different Muslim communities each has about 1% of the population as members\(^3\). There are also small numbers of other faiths, Jews, Buddhists, and Hindus, in Sweden\(^4\).

These facts show that an increasing group of Swedish inhabitants has no affiliation to any church or other religious community. On the other hand, the main atheist organisation in Sweden\(^5\) only numbers some 5,000 members\(^6\).

Even though a large number of Swedish inhabitants are members of a church or another religious community, this does not reflect religious activity. Only a minority of members regularly attend services, and this applies especially to the Church of Sweden\(^7\). Whether a lower or higher degree of church activity mirrors a difference in the beliefs of the members is a matter for debate.

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1 www.svenskakyrkan.se.
2 Sw. Equmeniakyrkan; the Uniting Church is a merger of the former Swedish Mission Covenant Church, the Baptist Church, and the Methodist Church.
3 www.sst.a.se; in fact the number of members aim at the number of persons being served by the community, as some churches and communities do not have a system for membership.
4 Ibid.
5 Sw. Humanisterna; the Swedish Humanist Association.
6 See congress papers 2016.
7 www.svenskakyrkan.se.
II. Historical Background

Sweden became a Christian country in about the year 1000. The first Swedish king to be a Christian was Olof Skötkonung, who is said to have reigned at this time. Christianity, in its Roman Catholic form, became the state religion.

The Lutheran reformation came to Sweden in 1527, when the Swedish Parliament, on a proposal of king Gustav Vasa, decided that the “surplus estate” of the Church should be transferred to the State, thus confirming the interventions made somewhat earlier against bishops and monasteries. The matter of doctrine was mostly left aside for the time being.

During the reign of the sons of Gustav Vasa, the religious situation changed. The grandson of Gustav Vasa, Sigismund, was also king of Poland (and a Catholic). He was deposed by his uncle, later King Karl IX, who was a Lutheran. Karl IX convened the Uppsala meeting in 1593, where the Augsburg Confession was adopted by the Swedish church. This decision marked the foundation of the Swedish Evangelical-Lutheran Church.

During the following centuries, the Evangelical-Lutheran Church was the only permitted denomination. From the middle of the 18th century, the situation gradually changed. Foreign citizens, living in Sweden, were allowed to belong to other Christian churches. The same freedom was granted to Jews.

In 1860 Swedish citizens were given the right to leave the Evangelical-Lutheran Church, if they declared that they were going to join another accepted church or other religious community. From 1951 full religious freedom was granted to all Swedes. At that time they were given the right to leave the Evangelical-Lutheran Church without stating any reason.

A short time after Parliament’s decision on religious freedom, discussions began regarding the abolition of the State-Church system. In 1958, the Government appointed a committee which had the task of analysing the problems and suggesting possible solutions. After ten years, the committee presented four different proposals: one retaining the existing system, while the other three involved greater changes. As the political parties had diverging views on the question, further committees followed. In 1994, a committee came up with proposals on a new relationship between State and Church in Sweden, including an end to the State-Church system. In 1995, the General Synod of the Church of Sweden (at this time still a State body), approved by an overwhelming majority a government proposal for new relations between the State and the Church of Sweden. Later the same year, the proposal was also approved by Parliament.
After that came a period of implementation. The new relationship was worked out in detail, and several Acts, including amendments to the Constitution, were passed by the General Synod (where applicable) and Parliament. On January 1, 2000 the new state-church system came into effect.

### III. Basic Structure

#### 1. Legal Sources

The Swedish legal system consists of constitutional acts, other Acts of Parliament, Statutes\(^8\), decided by the Government, and Directions\(^9\), given by central or regional authorities, on behalf of the Government.

In the constitutional Acts the state-church system in Sweden is reflected in the Instrument of Government\(^10\) 1973 as well as in the old Instrument of Government 1809, of which the relevant aspect is still in force. The Act on Succession to the Throne\(^11\) 1810 also contains some church provisions.

The 1973 Instrument of Government (amended in this regard in 1998) states that legal provisions relating to the Church of Sweden as well as to other religious communities should be decided through Acts of Parliament\(^12\). It is also stated that Parliament may decide on such Acts only *either* by double, identical decisions, when there has been a general election between those decisions, *or* a single decision by Parliament with a 75 per cent majority. The Instrument of Government 1809 and the Act on Succession state that the King and the heirs to the Throne must confess the “pure evangelical doctrine, as it is approved and explained in the unaltered confession of Augsburg and the decision of the Uppsala meeting in 1593”\(^13\).

The Instrument of Government 1973 also grants religious freedom to Sweden. The right is expressed as “the freedom (for anyone), alone or together with others, to practise his or her religion”\(^14\). Swedes are also, in relation to the State and other authorities, protected from any obligation to state their religious opinion as well as any obligation to belong to a church.

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8 Sw. Förordningar.
9 Sw. Kungörelser.
10 Sw. Regeringsformen.
11 Sw. successionsordningen.
12 Section 8:6.
13 Instrument of Government 1809, s 2 and Act of Succession, s 4.
14 constitutional act of 1809 and 4 § act of succession.
or other religious community. The freedom of religion is also granted through Sweden’s adherence to the European Convention of Protection of Human Rights and Basic Freedoms, which is – through an Act of Parliament – valid in Swedish law.

The two central Acts of Parliament – aside from the constitutional Acts – in the field of religion are the Act on Denominations and the Church of Sweden Act. Both are part of the post-2000 system of state-church relations in Sweden. The Act on Denominations states that the Church of Sweden is a registered denomination; it also gives other churches and religious communities the opportunity to become registered as denominations. As such, the religious community acquires a legal personality as a denomination. Apart from the Church of Sweden registration is, however, not compulsory. A religious community may choose to act using another legal form. Apart from acquiring a legal personality as a denomination, registration does not give any special advantages. However, only registered denominations may use the taxation system for levies from members.

The Church of Sweden Act provides for the Church of Sweden to be an Evangelical-Lutheran, open church of the whole nation, which – in a partnership between a democratic organisation and the ministry of the Church – pursues activities that cover the whole country. These provisions express the identity of the Church of Sweden, which – as a matter of fact – is enshrined in an Act of Parliament. This arrangement may be seen as a state guarantee of the Church’s unchanged identity. The Church of Sweden Act also contains provisions regarding the internal organisation of the

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15 Section 2:2.
17 Before Sweden became a member of the European Union, the Swedish legal position was that an international convention had to be adopted through Swedish legislation in order to become directly applicable within Sweden.
18 Sw. lagen (1998:1593) om trossamfund.
20 Section 5.
21 Act on Denominations, s 9; Church of Sweden Act, s 3.
22 The religious community may before registering have had the legal status of an association with idealistic aims (Sw. ideell förening), see Act on Denominations, ss 8 and 10; there is also an Act giving the right to transform a trust into a registered denomination, Act on Dissolving Trusts in Certain Cases (Sw. lagen (2001:845) om upplösning av stiftelser i vissa fall).
23 Act on Denominations, s 16.
24 Sections 1-2.
Church. The aim of these provisions is to guarantee the prevailing basic organisation of the Church.

In the new state-church relations from the year 2000 there is also provision for the former Church estates. Most of these were legally transferred to the Church of Sweden and its parishes. Only parts of the estates, originally granted as allowances for the priests, still remain as distinct legal entities. These estates are, however, held on trust by the Church of Sweden.

Another act of importance for the religious situation in Sweden is the Funeral Act, which states that funerals are carried out mainly by Church of Sweden parishes (in two towns, though, the municipalities are responsible). Aside from these two towns the parishes are also responsible for providing burial-grounds for those who are not members of the Church of Sweden. There is, however, no obligation for the Church of Sweden to open its church buildings for burial ceremonies for non-members. The Church of Sweden must, on the other hand, when needed, provide for some other premises for non-Christian burial ceremonies. Funeral activities are financed through a special annual funeral tax, which is proportionate to income and collected by the tax authorities together with other income taxes. For Church of Sweden parishes, the level of the funeral tax is uniform for the whole country, but the municipalities in question decide on the level independently.

The Cultural Environment Act contains provisions in respect of cultural church heritage. Church buildings which belong to the Church of Sweden and were erected before the year 1940 as well as newer church buildings which have been declared as particularly important may be al-

25 Sections 1 and 4-6.
26 Act on Introducing the Church of Sweden Act, s 9; Sw. lagen (1998:1592) om införande av lagen om Svenska kyrkan.
27 Sw. Prästlönetillgångar.
28 Act on Introducing the Church of Sweden Act, s 10.
29 Church of Sweden Act, s 9.
30 Sw. begravningslagen (1990:1144).
31 Section 2:1.
32 Section 2:2.
33 Section 9:6.
34 Section 9:1.
35 Section 9:3.
36 Act on Tax Procedure (Sw. skatteförfarandelagen (2011:1244), s 2:2.
37 Funeral Act, s 9:4.
38 Sw. kulturmiljölagen (1988:950.).
tered only with permission from the cultural heritage authorities\textsuperscript{39}. Also church inventories of cultural historical value are affected\textsuperscript{40}. On the other hand, the Church of Sweden is granted state contributions for the maintenance of its church buildings\textsuperscript{41}. There is also a special agreement between the Swedish State (through the Government) and the Church of Sweden concerning co-operation in this field.

The Church of Sweden has the right to use the state taxation system for collecting church levies\textsuperscript{42}. The Government may also make this opportunity available to other religious communities\textsuperscript{43}. At present, 14 religious communities beside the Church of Sweden have asked for and received the right to use the taxation system\textsuperscript{44}. Religious communities other than the Church of Sweden must have written consent from each member if the taxation system is to be used or – as an alternative – it has to be stated in the communities’ by-laws that the taxation system will be used for collecting the levies\textsuperscript{45}. At the moment, only the Roman Catholic Church uses the alternative of a by-laws provision\textsuperscript{46}. (For Church of Sweden members, the obligation to pay the church levies is stated in the Church of Sweden Act\textsuperscript{47}.)

The Act on Contributions to Denominations\textsuperscript{48} allows for financial state contributions to churches and other religious communities. A church or other religious community which has chosen to use the taxation system for collecting levies (and received governmental approval for this) will have their direct economic contributions reduced\textsuperscript{49}. The Church of Sweden does not receive any financial contributions under this Act (but it has, as already mentioned, the right to use the taxation system).

Most churches and religious communities in Sweden have been granted the right to solemnise marriages\textsuperscript{50}. Permissions for religious communities

\textsuperscript{39} Section 4:3-4.
\textsuperscript{40} Sections 4:6, 7 and 9.
\textsuperscript{41} Section 4:16.
\textsuperscript{42} Act on Denominations, s 16.
\textsuperscript{43} Ibid.
\textsuperscript{44} www.skatteverket.se.
\textsuperscript{45} Act on Levies to Registered Denominations (Sw. lagen (1999:291) om avgift till registrerat trossamfund) s 6.
\textsuperscript{46} www.skatteverket.se.
\textsuperscript{47} Section 7.
\textsuperscript{48} Sw. lagen (1999:932) om stöd till trossamfund.
\textsuperscript{49} Act on Contributions to Denominations, s 4.
\textsuperscript{50} Act on Right to Officiating Marriages within Denominations (Sw. lagen (1993:305) om rätt att förrätta vigsel inom trossamfund).
to solemnise marriages are given by the state’s Legal, Financial, and Administrative Service Agency\textsuperscript{51}. For a religious community which has this permission, the Agency also appoints (on the proposal of the community) priests or other religious representatives who are eligible for solemnising marriages\textsuperscript{52}. The legal system for solemnising marriages is nowadays the same for the Church of Sweden and other religious communities.

Beside the provisions mentioned, there are no rights granted to the churches and other religious communities in Sweden that are not applicable to Swedish society as a whole.

2. State-Church System

The state-church decisions in Sweden, which came into effect in the year 2000, are often described as a separation of state and church in Sweden. As is obvious from what is mentioned in the section \textit{Legal Sources}, this is not the whole truth. There are still several links between the Swedish State and the Church of Sweden. The changes have also, somewhat unexpectedly, led to closer relations between the state and the other religious communities.

One of the cornerstones of the new state-church-relationship in Sweden is that the different churches and other religious communities are to be regarded as equal. Though this is mostly true from a theoretical point of view, the reality is somewhat different. Of course, the Church of Sweden with its size, economic strength, and history is difficult to compare with other religious communities in Sweden. On the other hand, members of other religious communities are often much more active than Church of Sweden members, i.e. the rate of church-goers is much higher.

Legally, the Church of Sweden is treated in a special way, through the Church of Sweden Act. The Act could be – and has been by some people – regarded as a special privilege granted to the Church of Sweden. But the act contains, as mentioned, provisions as to the identity of the Church and to its organisation. So another way of regarding the Act is that it restricts the Church of Sweden in essential matters. You could then ask why the state has wanted to apply such restrictions to the Church of Sweden, but not to any other religious community. The answer is that the Church of Sweden, through its synod – at that time still a state body – requested

\textsuperscript{51} Sw. Kammarkollegiet.
\textsuperscript{52} Act on Right to Officiating Marriages within Denominations, sections 1 and 2.
those restrictions. The likely reason for this request was the desire of several different groups within the church that – when the church ceased to be a state church – the church should remain unchanged in identity and organisation. The request to the state may also mirror a desire from the different groups that no other group for the future should have the possibility of gaining supremacy over the church.

As also mentioned above, the Church of Sweden has a special position in the Swedish funeral system and with regard to its old church buildings. The reason for the Church of Sweden’s responsibility in the area of funerals is mainly historical – the burial-grounds have been, ever since Sweden became Christian, a task for the church. When the new relations between state and church were created, only the Church of Sweden was ready to take – and maintain – this responsibility. The church is however obliged to act respectfully towards those inhabitants who are not its members. The Church of Sweden has also to arrange for special burial-grounds for those who do not wish to be buried in a Christian burial-ground.

The Cultural Environment Act applies in church matters only to the Church of Sweden. The reason for this is that there are no really old church buildings belonging to any other church in Sweden. As mentioned, there were practically no other churches or other religious communities in Sweden before the 19th century.

The new state-church relationship enabled the Church of Sweden, as well as other religious communities, to receive legal status as registered denominations. Equality between the religious communities also applies to the possibility of receiving financial support from the state or using the taxation system for collecting member levies and solemnising marriages. Even if the Church of Sweden is responsible for public burial-grounds in most parts of the country, any religious community may establish a private burial-ground.

IV. Legal Status of Religious Bodies

As already mentioned, the new state-church relationship in Sweden enables churches and other religious communities to appear as legal persons – registered denominations. For the Church of Sweden, this was a big
change, as the Church *per se* – as a part of the State – had not previously had a legal persona. As also mentioned, the Church of Sweden achieved the status of a registered denomination through legislation, whereas other religious communities have to register to achieve this status.

The question of registration is handled by the State’s Legal, Financial, and Administrative Services Agency. The decision of the Agency does not involve any assessment of the community’s doctrine. On the other hand, the only provision for becoming registered as a denomination – besides some formalities – is that the religious community states itself as such and as an arranger of divine services. An organisational part of a religious community may also become registered. At the end of the year 2016 more than 130 denominations were registered, many of them quite unknown to the public. The expression “divine service” is interpreted quite widely, as Buddhist organisations – where the element of direct worship is quite limited – have been accepted for registration.

There are no special rights granted to churches or other religious communities in Sweden. A church or a religious community may start a school – and some do – but under the same conditions as other organisations in Swedish society. A church or other religious community may also run a hospital or home for abusers or for elderly people – and some do – but again under the same provisions as other organisations. The Swedish systems for schools and health-care are closely linked to the financial contributions to these activities from the State, the municipalities, the regions, and the public social security system. In fact, it is practically impossible for anyone to run a school or a hospital without public financial support. Thus, the question of a “right” to carry on such activities is of little interest in Sweden. Instead, the “right to public contributions” is much more discussed.

No direct right to such contributions exists, however, in the field of hospitals and other social activities. The matter of contributions is decided locally or regionally, and often against a background of political debate. Thus, religious social activities are quite rare in Sweden.

As regards schools, Sweden has a system of private schools – in addition to the municipal schools. Fulfilling formal criteria, anyone is eligible to start and run a school, including religious communities. And every private school is in principle granted the same financial support from the state and

56 Sections 2 and 7.
57 Section 13.
58 www.kammarkollegiet.se.
the municipality as are the municipal schools. A number of religious communities has started private schools of different levels. All schools have to follow the curriculum laid down by the state, and the schools are under the supervision of state authorities. The subject of religion is compulsory in primary as well as in secondary schools. Religion is taught as a non-confessional subject.

There are no special provisions regarding religious communities’ contacts with the political system. Clergy are not prohibited from political engagement. On the other hand, there are no special religious movements in Swedish politics. Sweden has a Christian Democratic Party, which holds 16 seats in Parliament (out of 349)\footnote{Election 2014.}. The party is, however, not linked with any particular church or religious community.

V. Church and Culture

As already mentioned, there are in Sweden no specific rights for churches or other religious communities to run schools. On the other hand, there are schools run by religious communities, but under the general law. Education in municipal schools is non-confessional.

The Church of Sweden, as well as certain other churches, has its own educational institutions for clergy and other parish workers. These educations sometimes receive financial contributions from the State. This is the case when the education is organised as a university of the people\footnote{Sw. folkhögskola.}, which is a special Nordic form of high-school education, run mostly by political, religious, or other associations with an idealistic aim. For the ordination training of priests etc., there are no state subsidies, neither to the Church of Sweden nor to other religious communities.

State universities are non-confessional. There are also a few private university colleges, run by church-affiliated bodies. Church of Sweden priests are normally supposed to pass an examination in theology at a university before starting the ordination training. Most other churches with ministerial training do not require university studies as a prerequisite.

There are no special provisions regarding churches and other religious communities in relation to the media. The religious communities are not granted any special rights regarding the broadcasting companies. However, the main radio and television channels cover the religious field quite well,
this as a part of their task as public-service broadcasters. Every Sunday, services are broadcast on radio and on television, alternating between the Church of Sweden and other churches.

The religious communities have no representation in media companies.

VI. Labour Law

Sweden has no special labour law provisions regarding the churches and other religious communities. Thus, the same labour law applies to them as to all other legal bodies. This means that a Church of Sweden priest comes under the same labour law provisions as all employees. In its intention not to have doctrinal matters scrutinised according to labour law, the Church of Sweden in its new legal position has tried to avoid this by making the ordination of a priest no longer a part of his or her employment contract (which remains under labour law). This, quite new legal way, has not yet been fully tested through a case in the national Labour Court.

The whole Swedish labour market is covered by collective agreements. So the churches and other religious communities are mostly members of different employers’ associations; the Church of Sweden has its own. Employees of churches and other religious communities are also often members of various trade unions. Priests (and some other groups of employees) in the Church of Sweden have formed the Association of University Graduates Employees in the Church.

VII. Matrimonial and Family Law

Matrimonial and family law in Sweden is part of Swedish state law. But, as mentioned, most churches and religious communities have been granted the right to officiate at marriages. Divorce or separation is legally not a matter for churches or religious communities.

VIII. Finances of the Churches

As already mentioned, the new relationship between state and church in Sweden from the year 2000 included a provision for certain churches and

61 Sw. Kyrkans Akademikerförbund.
other religious communities to use the taxation system for collecting their membership levies. The State also makes grants to other religious communities, amounting to about 90 Million SEK (Swedish Krona) annually\(^6\). The Church of Sweden is granted allowances to maintain the church cultural heritage, of 460 Million SEK per annum. Parliament has undertaken to make these grants until the year 2019\(^3\).

Several churches and other religious communities count the return from property as part of their income. As mentioned, the Church of Sweden received the existing church property, some on trust, as a part of the new relationship to the State. As the ownership of this property earlier was somewhat unclear, the Act on Introducing the Church of Sweden Act contains a provision granting anyone who can prove a right to any part of this property financial compensation from the State\(^4\). Up till now, no one has claimed such a right.

Churches and other religious communities in Sweden are free to receive grants from abroad.

**IX. Religious Assistance in Public Institutions**

For religious assistance within the Swedish armed forces, there is an agreement between the armed forces and the Church of Sweden. The agreement obliges the Church to make payments to the armed forces, mainly for the services of a military dean. The dean is a part of the staff of the commander-in-chief. The dean is appointed by the armed forces in consultation with the Church of Sweden.

In the peace-time military organisation, part-time employed chaplains provide religious assistance in the various military units. The military dean supervises these chaplains. A chaplain may be either a Church of Sweden priest or from any other Christian church. The military authorities – in consultation with the local church, where the chaplain is mainly employed – appoint the chaplain. So far, no Islamic or Jewish chaplains have been appointed.

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\(^6\) www.sst.a.se; the Swedish Humanist Association has been denied the right to state contributions, due to the fact that it is not a religious community; Jehovah's Witnesses have also been denied state contributions, due to several reasons, but the matter is still pending after a decision in the Supreme Administrative Court (HFD 2013 ref. 72).

\(^3\) Prop. 2014/15:1 utg.omr. 17 p. 40.

\(^4\) Section 11.
In war-time, the Swedish armed forces rely on compulsory military duty for everyone. This includes priests and other religious leaders, who are often placed as chaplains.

Religious services and the cure of souls for prisoners and those in custody are organised by the Swedish Christian Council on behalf of the National Prison and Probation Administration. The council is a joint association of almost all Christian churches and religious communities in Sweden. The council maintains close relations with the Islamic and Jewish organisations. Every prison and place of custody is supposed to have two chaplains, one from the Church of Sweden and one from any of the other Christian churches or religious communities. The chaplains are responsible for inter-faith contacts. If, for example, the visit of an imam or a Buddhist monk is needed, it is the chaplain who makes the arrangements.

Religious assistance, through priests, deacons, and other people, is offered in almost every institution for health care in Sweden. The task is organised ecumenically by the Church of Sweden together with the other Christian churches or religious communities. Within the Church of Sweden the local parish in which the hospital or other health-care institution is situated is responsible. When needed, the chaplains call for representatives from other religions. Due to the Swedish social security system, there are practically no private hospitals in Sweden. The public hospitals are mostly run by the regions.

The churches and other religious communities in Sweden have no particular right to religious assistance in schools or by the police. Anyway, there are, of course, contacts between schools and police authorities and the churches.

As mentioned, some churches and other religious communities run their own schools, but under the same provisions as do other non-public school enterprises.

X. Criminal Law and Religion

Swedish criminal legislation does not contain any provisions that apply particularly in a religious context. As in most countries, however, discrimination as well as agitation against special groups of people, because of their

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65 Sw. Kriminalvården.
race or faith, is a criminal offence. People publicly using Nazi symbols have been convicted under those provisions. There are no exemptions on religious grounds from the application of criminal law.

XI. Legal Status of the Clergy

In criminal and civil procedures in the Swedish courts, a priest (or a person who has a position similar to a priest) cannot be heard as a witness about what he or she has come to know under confession or individual cure of souls. This provision was the subject of much public discussion, when a court was criticised by the Ombudsman for Public Affairs. The court had heard a priest as witness, on request from the defendant, who had confessed to a priest and wanted to use this as evidence. But, according to the Ombudsman, this was not fair, as a priest’s obligation to observe secrecy has to be regarded as ‘absolute’. Thus, the court had no choice, whatsoever, but to respect this obligation.

Aside from the aforementioned provision in the Procedure Code, there are no particular legal rules applying to priests or other religious leaders in Sweden.

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67 Penal Code (Sw. brottsbalken), s 16:8 and 9.
68 Supreme Court (Sw. Högsta domstolen) 1996 p. 577.
69 It could be noted, however, that a pastor in a Pentecostal church was acquitted for speaking disrespectfully about homosexuals in a sermon; even though he committed agitation against a group of people, his utterances were – in the specific case – regarded as within the bounds of religious freedom (Supreme Court 2005 p. 805).
70 Procedure Code (Sw. Rättegångsbalken), s 36:5.
71 Sw. Justitieombudsmannen.
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