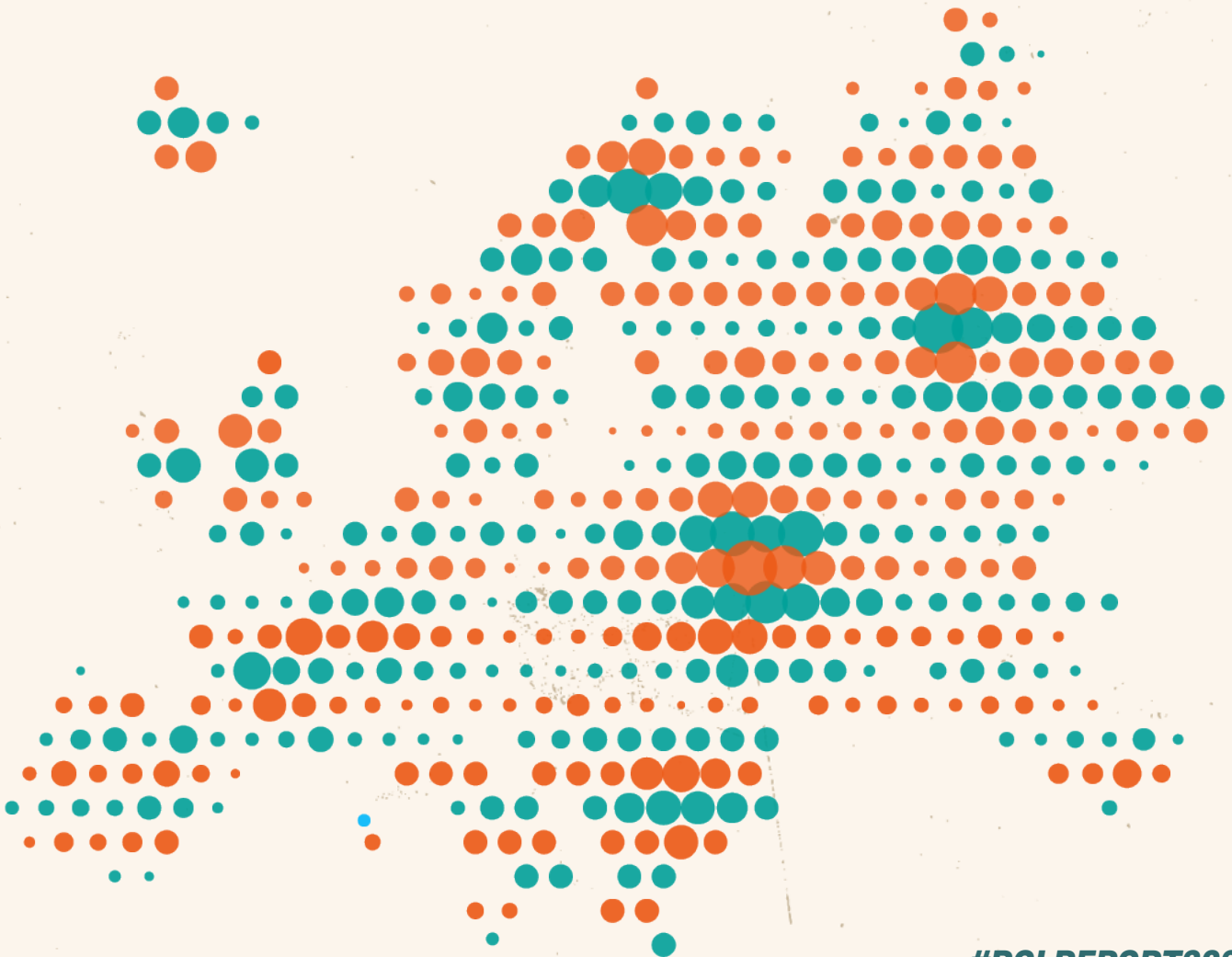


LIBERTIES

RULE OF LAW REPORT

2023

SWEDEN



#ROLREPORT2023



**CIVIL
LIBERTIES
UNION FOR
EUROPE**



**CIVIL
RIGHTS
DEFENDERS**



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FOREWORD

This country report is part of the Liberties Rule of Law Report 2023, which is the fourth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member and partner organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2023 Report was drafted by Liberties and its member and partner organisations, it and covers the situation during 2022. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2023 Report includes 18 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Forty-five member and partner organisations across the EU contributed to the compilation of these country reports.

[Download the full Liberties Rule of Law Report 2023 here](#)

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SWEDEN

About the authors



Civil Rights Defenders is a politically and religiously independent international human rights organisation. Its mission is to defend civil and political rights as well as local human rights defenders, by increasing their security, capacity and access to justice. We work as part of a global movement of human rights defenders and partner with those at risk. Through legal means and public advocacy, we hold states, individuals, and non-state actors accountable for human rights violations. We advocate for the norms and values of the International Covenant on Civil and Political Rights and other relevant human rights standards, as we encourage people to use these rights to promote democratic societies.



The Swedish section of the **International Commission of Jurists (ICJ-Sweden)** - whose members are lawyers - works to promote human rights and the rule of law in Sweden and internationally. At the national level, ICJ-Sweden monitors Sweden's international

and regional and constitutional obligations in the field of human rights, ensuring that the rights of individuals are observed, that the judiciary is independent and accountable and works to strengthen its compliance with fundamental rights. ICJ-Sweden works for equality before the law and non-discrimination, and claims the right to a fair trial is a right in itself, and promotes active resistance when violations of rights occur. ICJ-Sweden designs a Programme for Justice in Sweden and organises debates and seminars on current issues and collaborates with other rights organisations when individual and structural rights violations have been identified. At the international level, ICJ-Sweden monitors trials in order to promote human rights and the rule of law.

Key concerns

In October 2022, the current Swedish government was established. The Moderates, Liberals and Christian Democrats are formally in government, but negotiated with the Sweden Democrats to get a majority. This resulted in a written political agreement named the Tidö Agreement, which covers seven policy areas (healthcare, climate, criminality, migration and integration, school, economy, and others).¹ It remains to be seen what the new policies

¹ <https://crd.org/wp-content/uploads/2022/10/>

will look like in practice, but the agreement's measures point in a worrying direction and send seriously concerning signals; the proposals in the agreement will clearly be repressive if realised. The proposed measures focus on detentions (including those of children and young people), harsher sentences, increased opportunities to monitor and deport people, and measures that undermine the rule of law and human rights.²

Regarding media freedom, there is increased political pressure on public service from the Sweden Democrats, the Moderates and the Christian Democrats, which may affect the future role of public service. Amendments to the basic law as well as a new legislative proposal enabling the revoking of broadcasting permits, together with Sweden's first SLAPP case, risk having serious chilling effects on journalists and whistleblowers.






Some positive steps have been taken in 2022 to ensure checks and balances. The Swedish Human Rights Institute started to operate on 1 January 2022. There has also been an investigation on how to strengthen the independence of the parliamentary ombudsperson authority.

The Sweden Democrats (SD), the second largest party in Parliament, which has a supporting role to the minority government, has lashed out against civil society and questioned whether CSOs that criticise the government should receive state funding. The SD and the




government have simultaneously agreed to review and change funding schemes to civil society. The new government has withdrawn previously proposed legislation introducing so-called democracy criteria for state funding to civil society. This is a positive step as the proposal was flawed in several ways. What the new government's review of funding schemes to support CSOs will bring instead, is still unclear.

Measures planned by the government in the areas of criminal and migration policy will have significant negative impact on human rights standards and the rule of law, in particular for people with a migrant background and children. Islamophobia and other kinds of racism are on the rise, fueled by right-wing extremist groups as well as rhetoric and policy by public officials.

State of play

-  Justice system
- N/A Anti-corruption framework
-  Media environment and freedom of expression and of information
-  Checks and balances
-  Enabling framework for civil society
-  Systemic human rights issues

Legend (versus 2022)

-  Regression
-  No progress
-  Progress

² You can read the full review here: https://crd.org/wp-content/uploads/2022/12/Analysis-of-the-Tido-Agreement_Civil-Rights-Defenders_221024.pdf

Justice System

Key recommendations

- The government should ensure stronger constitutional protection limiting the easy possibility of decisions contradicting democratic values and human rights. There must at least be a qualified majority for a decision made by the Parliament.
- The government should ensure increased independence of the courts as well as increased effectiveness for individual's human rights – a better programme of legal aid ought to be developed.
- The government should ensure that the handling of migration cases where non-citizens are considered by the Security Police to be a threat to national security live up to fair trial standards and the principle of non-refoulement.

Judicial independence

Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

The Supreme Court has issued a memorandum entitled 'An extended possibility to appoint retired justices to temporarily serve in the Supreme Court and the Supreme Administrative Court', which proposes expanding the scheme under which a former judge who retired with an old-age pension

may be appointed to temporarily serve on the Supreme Court or the Supreme Administrative Court. According to the proposal, it should include situations when a need has arisen due to the processing of one or more cases at the court for a limited time that takes up large resources. According to current legislation, such an appointment can only be considered if an ordinary justice council is absent due to illness or a comparable circumstance. The proposed scheme causes changes in, i.e., the Code of Procedure and in the Act (1971:289) on general administrative courts. The new regulations are proposed to enter into force on 1 January 2024. Such an arrangement may be considered to be essentially in line with what applies in the Nordic neighbouring countries and there is no reason to believe that such an expansion would have any negative consequences for society or individuals.

Allocation of cases in courts

The influx of cases to the Supreme Court and the Supreme Administrative Court has increased by over 35 percent over the past five years. For the courts to be able to fulfil their tasks, the extension of service of judges outlined above may help to maintain the efficiency and quality of judging in times when the work situation is particularly strained.

Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

The Chancellor of Justice has made a clear statement that she opposes her powers to

harass judges and courts and that she thinks such power is contrary to the principle of judicial independence – but there has been no action taken to change this.³

The Committee of Inquiry on Strengthening the Protection of Democracy and the Independence of the Judiciary, taking into account European standards on judicial independence, has not yet reported its findings.

- The Committee has not yet reported if the appointment of judges is deemed to be without political interference and governed by the Constitution.
- Public service is in total governed by the government, which appoints the head of the public service foundation's board; this foundation appoints all directors in all the public service. The system is completely open for political influence.
- The Committee on 100 Years of Democracy has been tasked with planning, coordinating and implementing a collection of efforts and activities for a strong democracy during the years 2018-2021. On 1 June 2022, the committee's report was handed over to the government, thus concluding the committee's activities. In the final report,

the committee presents proposals to continue strengthening democracy. The proposals have been sent for consultation and include, among other things, the establishment of a national democracy function, that democracy be included in the authority regulation, and that more public authorities have democracy written into their mandates.⁴

Quality of justice

Accessibility of courts (e.g. court fees, legal aid, language)

While fundamental rights are expressed in various laws in Sweden, concerning the accessibility of the courts, in terms of the practical assertion of e.g. fundamental rights, the “loser pays” rule is a clear hindrance to the realisation of those rights. For example, persons who tend to be the targets of discrimination also tend to have limited resources. Even if they overcome the lack of knowledge concerning the law and a lack of trust in the legal system, the risk of being required to pay the opposing party's legal costs is often an insurmountable barrier to asserting those rights. Access to legal aid for asserting fundamental rights is extremely limited, if it exists at all. This can be compared to those with the power to discriminate, e.g. government agencies, employers, unions,

3 Interview from 23 October 2021 with Chancellor of Justice Mari Heidenborg in Ekots lördagsintervju, Sveriges Radio. Available at: [JK Mari Heidenborg om skadeståndet till en våldtäktsman REPRIS 8 januari 2022 - Ekots lördagsintervju | Sveriges Radio](#)

4 SOU 2022:28 Vår demokrati - värd att värna varje dag, <https://www.regeringen.se/rattsliga-dokument/statens-offentliga-utredningar/2022/06/sou-202228/>

merchants and landlords, who tend to have experience with the law and the legal system, which means that they can utilise procedural rules like the loser pays rule to ensure that discrimination cases are seldom filed and/or carried out to completion – regardless of the facts in the case. Having rights in law has little meaning unless there is some reasonable means of asserting those rights. At least concerning fundamental rights, the loser pays rule should be repealed. Furthermore, the legal aid system should be reformed and expanded so that cases involving fundamental rights are clearly covered.

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

The government has over the years initiated certain tasks related to the implementation of human rights by government authorities. The Swedish agency for public management was given the task of following up these tasks. A conclusion of the evaluation is that the training of justice professionals concerning fundamental rights clearly needs to be expanded, especially judges. More generally, law schools need to pay greater attention to the role of fundamental rights in the legal system.⁵

Fairness and efficiency of the justice system

Respect for fair trial standards including in the context of pre-trial detention

As previously reported, the proceedings on expulsions under the Swedish migration law in cases where non-citizens are considered by the Security Police to be a threat to national security do not live up to fair trial standards as neither the individual, their legal counsel, nor the decision-making bodies have access to and can review the information that the Security Police bases its accusations on. Furthermore, in these cases there is a lack of independent judicial oversight as decisions made in the first instance by the migration board can be appealed only to the government. The Migration Court of Appeal issues a non-binding opinion only. In 2022, there were legal amendments to the Act concerning Special Controls in Respect of Aliens that extended the possibility to expel persons that are considered a national security threat.⁶ The negative impact on individuals of this flawed regime has become even more apparent during 2022 due to expulsions to Turkey.⁷ Following Sweden's application for NATO membership, Turkey has put pressure on Sweden to hand over individuals that the Turkish government considers to be terrorists.⁸

5 Statskontoret, *Uppföljning av vissa insatser inom området mänskliga rättigheter*, s. 27, available at https://www.statskontoret.se/siteassets/rapporter-pdf/2022/2022_13.pdf

6 <https://www.regeringen.se/rattsliga-dokument/proposition/2022/03/prop.-202122131/>

7 <https://crd.org/2022/12/21/sweden-must-respect-human-rights-in-connection-with-deportations-to-turkey/>

8 <https://www.svt.se/nyheter/utrikes/har-ar-personerna-som-erdogan-vill-ha-utlamnade>; <https://sverigesradio.se/artikel/turkiet-har-pek-ut-42-personer-som-de-vill-ha-utlamnade>; <https://blankspot.se/sveriges-fortsatter-utvisa-kurder-till-turkiet-med-chartrade-plan/>;

While some extraditions requested by Turkey have been blocked by the Swedish Supreme Court based on the principle of non-refoulement, non-citizens continue to be deported to Turkey under migration laws and the regime under which the Security Police deems individuals to be a threat to national security in Sweden.

Quality and accessibility of court decisions

As described in the previous report, the Discrimination Act does not explicitly cover discrimination when it comes to the judiciary, police and prosecutors. It makes it difficult to investigate discriminatory practices or to provide redress for victims. In 2022, a government investigation that proposes relevant changes of the law was sent out for consultation, but so far, no further action has been taken.⁹

Other

The Ministry of Justice has forwarded a memorandum with proposals that increase the police's ability to use temporary detention facilities in special situations. The purpose is to give the police better conditions to maintain order and security during, for example, large demonstrations.

However, the proposal means that it should be possible to use holding rooms in temporary

police custody that deviate from the requirements in terms of floor area, cubic content and room height. It is also proposed that, when there are special reasons, it should be possible to use holding rooms in temporary police custody that deviate from certain other design and equipment requirements. This applies, among other things, to the requirements for windows, sound insulation, privacy protection and equipment requirements such as chair, table, bed and storage of belongings. The signatory organisations see no reason to implement the proposals presented. Instead of deviating from international standards, the police authority and the correctional service should be tasked with renovating existing holding rooms that are not in use.

Media environment and freedom of expression and of information ↓

Key recommendations

The government must ensure that Swedish public service retains its political and financial independence.

The government must ensure strong support to and implementation of the EU

⁹ SOU 2021:94, Ett utökat skydd mot diskriminering: <https://www.regeringen.se/rattsliga-dokument/statens-of-fentliga-utredningar/2021/12/sou-202194/>

Commission's proposed anti-SLAPP Directive.¹⁰

The government must ensure that any amendments or limitations on the freedom of expression do not disproportionately infringe on the work and protection of journalists, whistleblowers and civil society.

Public service media

Independence of public service media from governmental interference

Public service, which includes radio and TV services, is run by Swedish Radio (SR), Swedish Television (SVT) and Swedish Educational Radio (UR) and is owned by the Administrative Foundation for SR, SVT and UR. The media companies' broadcasting services are regulated in the Radio and Television Act (2010: 696, amended no later than 2019: 654).

In 2022, the Swedish government put forward a draft legislative proposal to protect people against the dissemination of anti-democratic and false messages (DS 2022 20 "Återkallande av sändningstillstånd med hänsyn till Sveriges

säkerhet"). The proposal contains two central suggestions: the first is that a broadcasting permit can be revoked if a court believes that there has been a broadcast that implies a threat to national security; the second central suggestion is that the court can revoke the permit if there has been a serious abuse of the freedom of speech (see more under "freedom of expression and of information").

The proposals in DS 2022 20 can lead to a form of self-censorship and thereby have a chilling effect on journalists and broadcast media. Within the referral lies a suggestion such that a broadcasting permit can be revoked if the permit holder makes a criminal statement that can be considered as exploitation of freedom of expression. The reason for why this may be seen as a form of censorship is that a permit holder may choose to be more careful during their broadcasts so as to not risk any criminal statement.

For many years, party representatives of the Sweden Democrats (SD) have been highly critical of Swedish public service,¹¹ claiming its reporting to be biased¹² and favouring the former government's politics, and that it hides the truth about crime and immigration in Sweden – and that it is therefore in need of major reform.¹³ The current Chair of the

10 Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings ("Strategic lawsuits against public participation", COM/2022/177 final)

11 <https://www.expressen.se/nyheter/mattias-karlsson-vill-skrota-svts-debatter/>

12 <https://sverigesradio.se/artikel/7031365>

13 <https://twitter.com/bjornsoder/status/1569768478692851714?lang=en>

Committee of Justice, who belongs to the SD, has on several occasions expressed his admiration for how public service has been undermined in Poland and Hungary.¹⁴

It is important to see these views in the context of the new role of the SD as a party that directly affects government policy (see further “other systematic issues”). In the election cycle before the 2022 elections, SD announced that the budget for public service should be cut, and their mission clarified – for example by focusing their broadcasting more on the Nordic countries. They elaborated on this in two very similar motions in Parliament that were put forward in October 2021¹⁵ and November 2022.¹⁶ There they proposed that promoting the Swedish language, culture and environment for the Swedish people should be favoured instead of productions that could be served by commercial actors. They also state that public service media have failed their mission of objective reporting and impartial content due to “some of the big challenges facing Sweden today could have been avoided if citizens would have gotten full understanding and insight into the consequences of certain legislation”, where they further claim that only politically correct ideas and positions

supported by “the elite” have been tolerated. This all refers to reporting on immigration where SD has claimed that major media outlets or mainstream media have been hiding the truth. SD also differs from other parties when treating all mainstream media outlets, public service included, as a single actor and an enemy.¹⁷

The Moderate and the Christian Democrat parties have expressed similar positions, suggesting that the scope of public service should be tightened with a focus on “more impartial and objective reporting”,¹⁸ which in practice would be done by budget cuts and detailed political control.¹⁹

In the budget presented by the end of 2022 by the government together with SD, no funding cuts were made to public service or other media.²⁰ This is most likely due to the current broadcasting permit, that lasts until the end of 2025, which sets guidelines on the budget levels for the public service-companies. However, these guidelines are not legally binding and could therefore be changed any time a new budget is to be set.²¹ The government will shortly put forward directives to an Official Report on Public Service that, when finished,

14 <https://twitter.com/bjornsoder/status/1569768478692851714?lang=en>

15 https://www.riksdagen.se/sv/dokument-lagar/dokument/motion/_H9022472

16 https://www.riksdagen.se/sv/dokument-lagar/dokument/motion/public-service-fragor_HA02991

17 <https://expo.se/sd-och-kampen-om-medierna>

18 <https://www.svt.se/kultur/sa-kan-politikerna-forandra-public-service>

19 <https://www.dn.se/kultur/kulturbedatt-liberalerna-behover-massivt-stod-i-kampen-om-public-service/>

20 <https://www.journalisten.se/nyheter/regeringens-forsta-budget-inga-stora-andringar-medierna>

21 <https://www.svt.se/kultur/budgetkommentar-per-andersson>

will form the basis for the next broadcasting permit that takes effect in 2026.

Editorial standards (including diversity and non-discrimination)

People with disabilities and who are from a particular ethnic group lack protection when it comes to hate crimes, such as incitement against ethnic groups. The protection against incitement against ethnic groups applies to race, skin colour, national or ethnic origin, creed, sexual orientation or transgender identity or expression.

Financing (including transparency of financing)

On 27 June 2022, the Media Support Inquiry presented its proposal on how the financial support for news media should be designed from 2024. The new media support will be technology neutral and focus on local media. It is mainly news media of importance for local and regional democracy that will receive support. National newspapers can receive support if it is of particular importance for diversity.

The investigation also proposes a so-called democracy clause. The paragraph means that support is given to media that have journalistic activities that do not conflict with the foundations of democratic governance and respect for the equal value of all people and the freedom, integrity and dignity of the individual.²²

The signatory organisations believe that the proposal is good, but that the principle that the state should not set requirements linked to content is central to freedom of expression. If a democracy clause is to be introduced, it is important that it is designed in a clear way. There should be no scope for the government or authorities to arbitrarily exclude certain media from support.

Safety and protection of journalists and other media activists

Lawsuits and prosecutions against journalists (including SLAPPs) and safeguards against abuse

Until the case of Realtid, a Stockholm based newspaper, Sweden had witnessed few cases of strategic litigation against public participation (SLAPPs). After publishing eight articles in 2020, the Swedish businessman Svante Kumlin, based in Monaco, sued Realtid for defamation in British courts. Realtid investigated the financial aspects connected to Kumlin's company, Eco Energy World. During its investigation, Realtid had received threats about legal consequences from Eco Energy World's lawyers. In May 2022, a London court found that five of the eight articles did not harm the company's image. It considered that the remaining three could be prosecuted but has not yet ruled on them. Importantly, the court questioned the circumstances that

22 Ett hållbart mediestöd för hela landet, Ds 2022:14, available at <https://www.regeringen.se/rattsliga-dokument/departementsserien-och-promemorior/2022/06/ds-202214/>

led Kumlin to use the British court system for pursuing a legal process.²³ However, even if there will be no verdict against Realtid's journalists, the overall process has presumably led to both financial and mental harm for the individuals affected. The process might have a silencing and chilling effect on Swedish journalistic work in the future, especially for journalists who investigate corruption or other crimes or negative behaviours of powerful actors. The case of Realtid has led to an extensive mobilisation among Swedish and European journalists and their associations. The national legislation does not offer protection against cross-border SLAPPs directed at Swedish newspapers.

Other

A government inquiry has suggested stricter sentencing for certain crimes committed against officials whose work is considered to fulfil certain social functions, and towards journalists.²⁴ The inquiry was submitted for consultation responses in February 2022 and is now awaiting input from the Legislative Council before any draft legislation is submitted to the Parliament.

Freedom of expression and of information

In November, the Parliament passed a draft proposal amending the Swedish law regulating freedom of expression.²⁵ The amendment is supposed to target foreign espionage but has been criticised for a potentially chilling effect on the work of investigative journalists – especially freelancers who do not have the support of an employer with financial and legal resources.²⁶ The legislation criminalises acts of unauthorisedly forwarding, leaving, or disclosing secret information that is apt to bring serious harm to Sweden's relationship with another state or an intra-state organisation. There is no requisite of intent, entailing that disclosure of such information could be punishable. This means that anyone who, for example, acquires and/or passes on information for publication is no longer protected by the freedom of acquisition and communication. Apart from its effect on journalists, the amendment means that whistleblowers also risk being prosecuted for foreign espionage and sentenced to prison.

23 <https://europeanjournalists.org/blog/2022/05/13/uk-court-dismissed-most-of-the-defamation-case-against-newspaper-realtid/>

24 [En skärpt syn på brott mot journalister och utövare av vissa samhällsnyttiga funktioner - Regeringen.se](#)

25 [Utlandsspioneri Proposition 2021/22:55 - Riksdagen](#)

26 ["Låt inte Erdogan få styra svensk medierapportering" - DN.SE](#)

Checks and balances

Key recommendations

- Relevant regulations (förordningen (2007:1244) om konsekvensutredning vid regelgivning and kommitteförordningen (1998:1474)) need to be amended so as to obligate the government to carry out impact assessments to ensure transformation of rights in ratified conventions is included in all new legislative proposals. Committees, special investigators, the Government Office and other state administrative authorities must undertake impact analyses in relation to Sweden's international obligations.
- Ensure the mandate, independence and powers of the Institute for Human Rights will be formulated in the Constitution.
- Recommendations from the Council on Legislation should obligate the government to review the proposal further or amend it in any other way.

Process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

As described in our previous rapport, a governmental inquiry is often appointed without adequate consideration being given to Sweden's international agreements on human rights. Every year, committees, special investigators, the Government Office and other state administrative authorities produce a large number of impact studies before making decisions and proposals on laws and regulations and other public commitments. The ordinances that regulate impact assessments are primarily the ordinance (2007:1244) on impact assessment in rulemaking (consequence assessment ordinance) and the committee ordinance (1998:1474). Criticism has been directed at the impact assessments that form the basis of public decision-making in Sweden, i.e. those from the National Audit Office, the State Treasury and the Organization for Economic Co-operation and Development (OECD). In order to overcome existing weaknesses, the government appointed an investigation that was sent out for consultation in 2022. However, the proposed impact regulation is not proposed to include impact analyses in relation to the European Convention or the Convention on the Rights of the Child, which are Swedish laws, nor to Sweden's other internationally binding obligations in the area of human rights.

Regime for constitutional review of laws

The government is obliged to refer draft legislation in most areas to the Council on Legislation, which consists of members from the Supreme Court and the Supreme Administrative Court. The examination by the Council on Legislation constitutes an

important ex-ante constitutionality check of draft legislation. However, recommendations from the Council does not oblige the government to review the proposal further or amend it in any other way. As such, the government is free to proceed with the proposal to Parliament, who is equally free from obligations to consider the Council on Legislation's recommendations. This is especially concerning as the Council on Legislation assess proposals in, amongst others, relation to the fundamental laws of Sweden and the rule of law, as well as obligations according to EU law or the ECHR.

There is a possibility of judicial review in the Constitution (Instrument of Government IG 11:14 and 12:10).²⁷ This possibility may become very important particularly given the fact that a number of the ideas in the Tidö Agreement, if adopted, will presumably violate the Swedish Constitution as well as the ECHR, et cetera. Nevertheless, more widespread education within and of the legal community, as well as outside the legal community, would be important concerning the rights and duties included

in the Swedish Constitution, in particular that the government is bound by the Constitution. IG 11:14 and 12:10 also underline the possibility of examining if the preliminary constitutional analysis carried out by the Council on Legislation has bearing on individual cases that are actually filed in the courts.

Independent authorities

Since 1 January 2022, Sweden finally has a national human rights institute. The purpose of the Swedish Institute for Human Rights is to promote and protect human rights in Sweden, based on the Swedish Constitution, the European Convention for the Protection of Human Rights and Fundamental Freedoms, the EU Charter of Fundamental Rights and other obligations in the area of human rights that are binding on Sweden under international law. The institute will also perform the tasks of an independent national mechanism under the Convention on the Rights of Persons with Disabilities. The institute is an authority placed under the government, but according to the law regulating the institution, the institute

27 Chapter 11 judicial review Art. 14.: If a court finds that a provision conflicts with a rule of fundamental law or other superior statute, the provision shall not be applied. The same applies if a procedure laid down in law has been disregarded in any important respect when the provision was made. In the case of review of an act of law under paragraph one, particular attention shall be paid to the fact that the Riksdag is the foremost representative of the people and that fundamental law takes precedence over other law. Judicial review Art. 10: If a public body finds that a provision conflicts with a rule of fundamental law or other superior statute, or finds that a procedure laid down in law has been disregarded in any important respect when the provision was made, the provision shall not be applied. In the case of review of an act of law under paragraph one, particular attention shall be paid to the fact that the Riksdag is the foremost representative of the people and that fundamental law takes precedence over other law.

itself decides the framework of its tasks, its organisation and the closer focus of its work.²⁸

During autumn the institute's board decided that intensified preparatory work would be initiated in order to be able to apply for membership to the Global Alliance of National Human Rights Institutions (GANHRI) and achieve A-status at the appropriate time. As a first step in this preparatory work, the institute applied for and was granted membership in the European Network of National Human Rights Institutions (ENNHRI) in autumn 2022. The application for membership in ENNHRI shows that the institute intends to formulate a goal, carry out an analysis and adopt a strategy that together create good prospects for a future accreditation procedure.

Against the background of the hardening social climate in Sweden and the fact that the new government, through the Tidö Agreement, proposes measures that do not always take into account Sweden's international obligations, as well as that a law can easily be changed, the undersigned organisations are worried about the institute's future. The institute's existence and independence must be stipulated by the Constitution.

The Board of the Swedish Riksdag decided on 19 February 2020 to convene a parliamentary committee (the committee) with the task of conducting a review of the Riksdag's Ombudsman (JO). The primary reason for the investigation is that a long time has passed

since the last review of the JO was carried out, in the mid-1980s, and that both the JO's operations and its conditions have changed in several respects since then. The committee carried out a broad review of the JO office. It appears from the directives that the review, seen from the investigation's mission, should deal with various issues that apply to, among other things, the JO's constitutional position, tasks, activities, and organisation. The JO is a well-functioning institution, and the investigation should have as its starting point preserving the basic mission and structure of the JO office. The committee's proposal aims to introduce an appropriate set of regulations to ensure that the JO office is also given good conditions for conducting its activities in the future.

While the appointment of this inquiry and the committee's proposals are generally to be welcomed, it would have been desirable for the investigation to have a broader mandate right from the start. Now several issues remain which need further investigation. Critically, the committee itself sometimes chose not to submit proposals for constitutional amendments that would make Sweden live up to international recommendations and regulations on ombudsman institutions to a greater degree.

There needs to be an exhaustive list of limits for the dismissal of an ombudsman or deputy ombudsman in the manner set out in the 2019 Venice Principles. Further, the obligation

28 Lag (2021:642) om Institutet för mänskliga rättigheter, 4 §

to provide reasons regarding write-off cases will completely disappear if the committee's proposal that the Förvaltningslag (2017:900) (English: Administration Act) should not be applied in the JO's supervisory activities goes through. The committee proposes that Lag (1986:765) med instruktion för Riksdagens ombudsmän (English: JO instruction) should state that the ombudsmen within the JO's operations should take the investigative measures the person deems necessary. There needs to be a clarification of what this means. The committee's proposal on the JO's position as a special prosecutor in relation to general prosecutors' rules needs to be supplemented with an investigation that examines the need for a legally secure mechanism for cases where JO chooses not to investigate or bring charges.

There is room to adapt the JO's activities as a national visiting body to a greater extent according to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Opcat). Particularly questionable is the committee's position that current regulations, along with established practices, offer equivalent protections to what regulation in law would do. Matters of an institution's independence must be guaranteed by regulation in law or a constitution. Other neighbouring Nordic countries have implemented the international governing documents related to this mission in a more detailed way than Sweden. Sweden should do the same.

It would have been desirable for the investigation to have included a review of individuals' ability to have complaints heard when it comes to children, as they do not have the opportunity to do so either through Barnombudsmannen (the Children's Ombudsman) or Institutet för mänskliga rättigheter (the Institute for Human Rights, as mentioned above).²⁹

Enabling framework for civil society ↓

Key recommendations

- The government must clearly and publicly speak out and act in support of civil society and the role of CSOs to monitor public administration and other duty-bearers and decision-makers and hold them accountable.
- The government must ensure that civil society will continue to have access to public funding and that planned reviews of funding schemes will not impact negatively on CSOs in this regard, including those that take on a watchdog role and criticise duty-bearers and decision-makers.
- The government must ensure that the judicial authorities have the right

29 Read Civil Rights Defenders' full opinion here: <https://crd.org/wp-content/uploads/2022/11/JO-ambetet-remissvar-Civil-Rights-Defenders.pdf>

competence and enough resources to identify, prevent and obviate crimes and threats against civil society actors.

Regulatory framework

Financing framework, including tax regulations (e.g. tax advantages for organisations with public benefit status, eligibility to receive donations via citizens' allocation of income tax to charitable causes, eligibility to use public amenities at low or no cost, etc)

The financing framework for civil society still gives access to public funding. However, as part of a package of policy changes, and measures to realise these changes, negotiated between the minority government and the Sweden Democrats (SD), the parties have announced the review of several funding schemes that provide public funding to CSOs. This is concerning since SD, as a response to Civil Rights Defenders and other organisations raising concern that the agreement was not in line with human rights and the rule of law, nor with commitments to address climate change, threatened to strip CSOs that criticise government policy of state funding.³⁰ Moreover, the SD made attempts to map major private donors that provide support to civil society. What makes the situation even

more worrying is that the government parties have not come out clearly against these statements and in support of civil society. Despite continued attacks by SD on CSOs, labelling rights-based and environmental organisations as being political and part of the “liberal left” and “producers of ideology”, the government remains silent. The attacks, the allegations made, and the verbal threats of withdrawn funding has had an immediate chilling effect on CSOs and their readiness to be vocal and raise their concerns. The announced reviews of public funding schemes for CSOs and the authorities that administer these funds must be seen in this context, and it is highly likely that access to public funding, at least for parts of Swedish civil society, will be limited in the future.

(Un)safe environment

Freedom of assembly, including rules on organisation of and participation to assemblies, equal treatment, policing practices

The Swedish prosecutor and courts have during 2022 in a large number of cases charged and convicted climate activists of serious criminal offences as a result of traffic blockades. Previously such actions of civil disobedience have been seen as minor offences, resulting in fines, while recent judgements concern the crime of sabotage and prison sentences.³¹ Historically, the crime of sabotage has rarely

30 <https://www.expressen.se/debatt/bjorn-soders-hot-kan-inte-tysta-var-granskning/>; <https://www.etc.se/inrikes/regeringen-tyst-naer-sd-attackerar-civilsamhaellet>

31 <https://www.dn.se/debatt/orimliga-straaff-vantar-dem-som-deltar-i-klimataktioner/>

been applied and then only for actions that have much more severe consequences than causing traffic disturbances. This sudden change is not due to any legislative change but rather initiated by the public prosecutor and the judiciary itself. Also, it follows upon statements made by politicians that traffic blockades by climate activists should not be tolerated and must be met harshly. The judgments are disproportionate and do not take into consideration the right to freedom of assembly and the right to protest, nor does it take into account recent recommendations made by the Special Rapporteur on the rights to freedom of peaceful assembly and of association in the report ‘Exercise of the rights to freedom of peaceful assembly and of association as essential to advancing climate justice.’³²

Access to justice, including rules on legal standing, capacity to represent collective interest at court, and access to legal aid

CSOs have some capacity to represent collective interests in e.g. individual discrimination cases, but even CSOs generally do not have the means to overcome the risks related to the loser pays rule. Here again the problems related to legal aid in fundamental rights cases is also a problem.

Disregard of human rights obligations and other systemic issues affecting the rule of law framework ⬇️

Key recommendations

- The government must swiftly present a bill to the Swedish Parliament to strengthen the Discrimination Act, based on the legislative proposals in government inquiry SOU 2021:94, taking into account the recommendations given in consultation responses over the inquiry on how to further develop the proposal to ensure that the Police cannot escape accountability for discrimination by referring to national security.
- The government must ensure that all aspects of criminal policy adhere to the rule of law, entailing an adequate legislative process, limiting the scope of application and period of validity, as well as independent and thorough assessments of such policy changes.
- The government must ensure rule of law, anti-discrimination and rights including human dignity for persons with a migration status, such as

32 Swedish Migration Agency, Rättsligt ställningstagande. Prövning av skyddsbehov för medborgare från Afghanistan - RS/089/2021. [Dokument - Lifos extern \(migrationsverket.se\)](#)

asylum seekers, undocumented migrants and other non-citizens.

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

Migration policy

In 2022 there were several significant developments within the migration policy field that threaten human rights and the rule of law for persons with a migration status, and which affects the rule of law for all persons living in Sweden.

The most significant development in 2022 concerned proposals by the newly elected government and the far-right party Sweden Democrats that also have a majority of seats in the Parliament, which is described above. The Tidö Agreement expresses a political will concerning migration-related issues and often expresses planned legislative or administrative measures. The Swedish migration policy has gone in a more restrictive direction since 2015, however, in some ways the agreement takes concrete steps towards a larger shift on migration policy in Sweden. The current migration policy exposes a systemic disregard of human rights obligations on behalf of the government. In the following, some aspects of the migration policy as expressed in the Tidö Agreement will be commented on.

The expressed aim of the present Swedish migration policy is to only provide temporary

protection to people that are fleeing the nearby area. By increasing border controls and making migration legislation and rights for non-citizens as restrictive as possible according to EU law, the government expressly intends to restrict migration to Sweden as much as possible (with some exceptions regarding work and study permits). Looking at the proposals altogether, it is also clear that the government intends to expel as many people as EU and other international obligations allow.

To restrict migration and make it harder to settle in Sweden, the government says it will look at amendments of legislation in different ways. For instance, an inquiry will look at the possibility of revoking granted permanent residence permits and fully removing permanent residence permits as a legal basis in the migration legislation. Other examples concern more severe requirements for family reunification and humanitarian protection. Another worrying proposal regards deportation of non-citizens due to immoral behaviour. The government states it would like to investigate the possibility of expelling those who do not show respect in relation to basic Swedish values and in their action disrespect the population. There are concrete examples given of what behaviour should then lead to expulsion, which include prostitution and substance abuse, or if there are clearly established remarks regarding their way of life.

The government is also planning to restrict access to healthcare and other welfare services for non-nationals. At the same time, there will be more criteria to fulfil to become a

Swedish citizen, including a criteria on moral behaviour.

The government would like to provide more resources and directions to the Migration Agency and the Border Police to withdraw protected status and to increase internal border controls in order to find undocumented migrants.³³ In addition, there will be an inquiry into an obligation for state bodies to report undocumented migrants to the Swedish Migration Agency and the police authority and an increase of coercive measures. This proposal will, if implemented, threaten fundamental social and economic rights of persons.

For asylum seekers there will, according to the government, equally be an increased control with, inter alia, an increase of the use of biometric data and coercive measures, including migrant transit centres in some geographical areas. In connection, it is concerning that the government will investigate the possibility of externalising the asylum process and depriving asylum seekers of their liberty. Furthermore, the government would like to decrease procedural guarantees for asylum seekers through, inter alia, a fee to seek asylum, less access to interpreters, legal representatives paid by the state and an increase of evidentiary requirements. The government says it intends to

investigate rule of law in the asylum process, which would have been a positive step if no further proposals were included in the Tidö Agreement that expressly aim at making the rights protection as low as possible. Hence, future government inquiries might be made to decrease the procedural standards and rights protection, not the opposite, in order to try to restrict migration to and settling in Sweden.

As reported last year, the Swedish migration system has had rule of law challenges even before the Tidö Agreement that regularly result in violations of the principle of non-refoulement.

Since last year, the Swedish Migration Agency has started to reconsider asylum applications of Afghan nationals whose requests had previously been denied.³⁴ However, Sweden continues to conduct stricter protection-needs assessments for Afghans than many other EU countries and grants 60% of all asylum seeking Afghans international protection status. For instance Germany, Switzerland and the Netherlands grant protection in 96-99% of cases.³⁵ A legal position from November 2022 in which the SMA recognises a general protection need for women and girls from Afghanistan due to the severe gender-based human rights violations occurring

33 Increased border controls also risk having arbitrary and discriminatory effects on both citizens and non-citizens of colour in Sweden, including due to ethnic and racial profiling by the police.

34 Swedish Migration Agency, Rättsligt ställningstagande. Prövning av skyddsbehov för medborgare från Afghanistan - RS/089/2021. <https://lifos.migrationsverket.se/dokument?documentSummaryId=47090>

35 According to asylum lawyers in an op-ed that mentions Eurostat statistics: <https://www.etc.se/debatt/sverige-utvisar-hazarerna-till-doed-och-foertryck>

in Afghanistan is welcomed. However, most asylum seekers from Afghanistan are men, so it is necessary that the SMA updates its assessment also with regard to Afghan men to increase international protection for this group.³⁶

Shortly after Russia's full-scale invasion of Ukraine in February, Sweden amended its legislation with a so-called carrier liability that puts an obligation on ferry carriers to control valid identity documents of passengers.³⁷ From the individual's perspective, this measure increases the border control in practice.³⁸ As the UNHCR points out, people on the move commonly lack travel documents. Also, there are groups such as Roma that, due to statelessness or other discriminatory experiences, have never accessed identity documents. Consequently, due to the measures on carrier liability, international protection in Sweden became less accessible overall, and it disproportionately affected some vulnerable groups.

In order to approve Sweden's application for NATO membership, Turkey has requested Sweden to extradite non-citizen Kurds to Turkey for prosecution on terrorist charges. In December 2022, Civil Rights Defenders expressed concern over reported extraditions and expulsions to Turkey.³⁹

With regards to non-citizens that are expelled for national security reasons (either in connection to an asylum process or a revoking of a temporary or a permanent residence permit), please see further above under *Respect for fair trial standards including in the context of pre-trial detention*.

Indigenous rights of the Sámi People

The situation with regard to the systemic disregard of human rights obligations in connection to the situation of the Sámi people has remained unchanged in the last year.

In 2022, Sweden passed a new law on consultation with the aim to promote the Sámi people's

36 See report (November 2022) by the Refugee Law Center that has reviewed and analysed first-instance decisions concerning Afghan asylum claims after the Taliban takeover in August 2021. Among other recommendations, the Refugee Law Center asks the Migration Agency to ensure the quality with regard to assessments of protection needs and the use of country specific information. It also asks for compliance with UNHCR recommendations and guidelines. <https://sweref.org/flyktingskapsbedomningar-i-forsta-instans/>

37 <https://www.regeringen.se/rattsliga-dokument/departementsserien-och-promemorior/2022/11/obligatorisk-identitetskontroll-vid-resa-med-passagerarfartyg/>

38 The Swedish Border police consider that this practice does not constitute a border control. <https://polisen.se/om-polisen/polisens-arbete/granspolisen/>

39 <https://crd.org/2022/12/21/sweden-must-respect-human-rights-in-connection-with-deportations-to-turkey/>

influence over their affairs in matters that may have special significance for the Sámi.⁴⁰ The law prescribes that the government and state administrative authorities have an obligation to consult with Sámi representatives in these matters. There are no rules in the new law that specify which matters are considered of special significance. Further, there is no guarantee that the Sámi knowledge and perspectives will be taken into account and effectively influence the decision.

The new law is a step in the right direction towards respecting Sámi rights that have been systematically violated for centuries, and to enhance the Sámi people's influence on decisions that affect Sámi culture, something that has been lacking especially in regard to their traditional lands.

However, in light of the international standard on indigenous right to influence,⁴¹ Sweden should provide resources to Sámi representatives in order to ensure their meaningful and effective participation in consultation processes.

Impunity and/or lack of accountability for human rights violations

A government inquiry was presented in December 2021 which recommended that the prohibition against discrimination in the National Discrimination Act be expanded to also entail discriminatory *measures* (and not only discriminatory *treatment*) by public-sector employees, including the judiciary, police and prosecutors. As explained in the 2021 Rule of Law Report, the proposal would contribute to closing a massive accountability gap if adopted. Since then, Sweden has a new government supported by the Sweden Democrats, and there are legitimate fears that the government will not adopt the proposal and present it to the Parliament. During 2022, the Sweden Democrats proposed that the National Discrimination Act be amended so that the grounds for discrimination are entirely removed from the act, which would undermine the protection against discrimination. The party secretary, who is also heading the Justice Committee of the Swedish Parliament, has explained that his personal opinion is that

40 Lag (2022:66) om konsultation i frågor som rör det samiska folket, available at: https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-202266-om-konsultation-i-fragor-som-ror_sfs-2022-66

41 Articles 5, 18, 36 and 37 of the Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms that indigenous peoples have the right to effectively influence external decision-making affecting them if they choose to participate in such processes; Civil Rights Progress report on the study on indigenous peoples and the right to participate in decision-making, A/HRC/EMRIP/2010/2: The principle of free, prior, and informed consent can redress the power imbalance between indigenous peoples and states; Expert Mechanism advice No. 11 on Indigenous Peoples and free, prior, and informed consent, point 10. "States should ensure equality throughout the process and that the issue of the imbalance of power between the State and indigenous peoples is addressed and mitigated, for example employing independent facilitators for consultations and establishing funding mechanisms that allow indigenous peoples to have access to independent technical assistance and advice."

the National Discrimination Act should be abolished altogether. In light of this, it is likely that the proposal presented in 2021 will not move forward.

The current government and the Sweden Democrats have also agreed to appoint a government inquiry to look into whether so-called stop-and-search zones can be established in Sweden. The purpose of such zones is to enable police officers to stop and search individuals for weapons and other dangerous items without reasonable cause. If a government inquiry finds that legislation may be adopted that allows for the establishment of stop-and-search zones, this would create a real risk for a sharp increase of discriminatory controls by police officers against individuals belonging to ethnic and racial minorities. Given the legislation in place, it will also become even more challenging for individuals who are seeking accountability and redress to prove that the measure was taken on discriminatory grounds, as police officers do not need to show reasonable cause.

The situation is continuously difficult for young persons who sought asylum in 2015-2016 without their families, the majority being Afghan nationals, and who couldn't access international protection. In many cases, inaccessibility of international protection was due to insufficient rule of law or substantial

assessments conducted without a child rights' perspective. Many live at the margins with an irregular migration status or have moved to other EU countries such as France to access international protection there. Another group lives in Sweden with temporary residence permits according to a law for studies.⁴² Out of this last group, in March 2021, it was reported only 171 persons had been granted a permanent residence permit, which is due to a very strict work criteria.⁴³

A government inquiry regarding expanding the usage of secret coercive measures even when there is no suspicion of crime was presented in October 2022.⁴⁴ The inquiry recommends that such an expansion is legitimate due to the state's interest in combating crime. In January 2023, the consultation response period will end and thereafter the legislative process is expected to continue. Both the previous government (which established the inquiry) and the current government are in favour of such an expansion, and there is a great risk that the proposal will eventually pass Parliament as well. If translated into legislation, the proposal might increase the likelihood of violations of the right to integrity if used wrongly or even abused. The Swedish Commission on Security and Integrity Protection has already raised concern about how the current legal framework on secret coercive measures is faulty.⁴⁵ Such flaws may increase with this proposal.

42 <https://www.migrationsverket.se/Privatpersoner/Skydd-och-asyl-i-Sverige/Gymnasielagen.html>

43 <https://www.svt.se/nyheter/lokalt/ost/stress-och-oro-jag-har-svart-att-sova-och-koncentrera-mig>

44 [Utökade möjligheter att använda preventiva tvångsmedel - Regeringen.se](https://www.regeringen.se/491010/utokade-mojligheter-att-anvandna-preventiva-tvangsmedel)

45 [Årsredovisningar - Säkerhets- och integritetsskyddsnamnden \(sakint.se\)](https://www.sakerhetsmyndigheten.se/491010/arsredovisningar-sakerhets-och-integritetsskyddsnamnden)

Other systemic issues

With the Tidö Agreement, the Sweden Democrats are not formally part of the government but have major influence. The policy areas covered by the agreement are to be undertaken in cooperation, where Sweden Democrats will have the same influence as the governmental parties. This includes partaking in all negotiations and preparation processes, including directives to commission of inquiries, draft proposals to the Parliament, EU areas that affect the policy areas of the agreement, as well as directions to authorities. Through this, the Sweden Democrats have gained the influence of a governmental party without being part of government, which renders serious concerns regarding accountability and transparency.

The agreement contains over 300 reform proposals, of which a hefty part concerns criminal policy and migration policy. The reform proposals are not legally binding, and many are to be subject to further investigation (such as legislative processes or governmental directions to authorities). Nonetheless, the structure of the government in combination with the content of the proposals is very worrying as many of them disregard the rule of law and fundamental human rights. If the agreement's proposed measures become a reality, "rights will no longer be based on people's needs but on their group affiliation and legal status. This will create a hierarchy between people in Sweden, placing people with citizenship at the

top and vulnerable groups, as well as people who are racialized, at the bottom".⁴⁶

Focusing on criminal policy, the Tidö Agreement amplifies an on-going trend of stricter sentencing, expanding the scope of secret coercive measures as well as extending deprivation of liberty. Many of these measures are supposedly legitimised by the motive of combating "gang criminality", though there is still no legal definition of what "gang criminality" constitutes. Despite this, the Tidö Agreement still wants to investigate the possibility of criminalising participation in a "criminal gang", deporting non-Swedish citizens who commit crimes in the context of "gang criminality" even without a conviction, double sentences for gang criminality and the above-mentioned proposal on implementing visitation zones and using secret coercive measures without a suspicion of crime, amongst other reform proposals.

Furthermore, juvenile delinquents are also targeted by the Tidö Agreement. This includes the establishment of special juvenile detention as well as extending the maximum time for juvenile compulsory care, considering lowering the age of criminal responsibility as well as a review of the penalty discount for those under 18, and the possibility to use secret coercive measures against youths who are under the age of 15. This part ignores both psychological and criminological understandings of juvenile delinquency, thus also ignoring the child's rights.

46 [Analysis-of-the-Tido-Agreement_Civil-Rights-Defenders_221024.pdf \(crd.org\)](#)

The language used in the Tidö Agreement between the current government and the Sweden Democrats equates migration and criminality in different ways. Citizens and non-citizens living in Sweden that have a migration background are scapegoated for societal problems, mainly crime. This discriminatory narrative will likely influence the work of authorities and courts such as the Swedish Migration Agency. Among other things, there is a concrete risk that the implementation of the law in individual cases will become more subjective to the detriment of the individual. One example regards a risk for more rejections on asylum applications where asylum claims contain a margin of appreciation (after the evidence evaluation).

Different treatment between international protection seekers

The reception in Sweden of people fleeing the war in Ukraine has mobilised both authorities, private actors and individuals. For Ukrainians, the implementation of the EU Temporary Protection Directive has meant a fast track to international protection, however many are facing problems with inclusion in society due to a lack of access to language education and other social and economic services.

At the same time, protection seekers from outside Europe that need a visa to enter the Schengen territory experience difficulties

accessing asylum procedures in the EU and they are systematically subjected to violent border regimes. As opposed to Ukrainians, the Swedish political narrative is increasingly portraying this group as a threat to society, which has a negative effect on public opinion and, consequently, the situation for those that survive the migration routes and manage to seek asylum in Sweden (see above).⁴⁷

Islamophobia and Hate Crimes against Muslims

Though reports indicating a rising prevalence of racist and Islamophobic sentiment and discrimination in Sweden have become mainstay in the national research output, 2022 marked an inflection point in the country's institutional engagement with ethnic, racial and religious antagonisms. In particular, this development was informed by the 2022 Swedish parliamentary election and its constitutive parties' campaigns leading up to it, through which, apart from legislative proposals expressly addressing racial, ethnic and religious minority groups as problems, racist and Islamophobic stereotyping, rhetoric, discourses and narratives also entered the political mainstream, across party lines and levels of representation. Examples of senior political officials engaging with racialising discourses include the party leader of the Social Democratic Party and the former – and at the time current – Prime Minister of Sweden proclaiming that they did not want to see any

47 <https://crd.org/2022/05/09/why-is-it-important-to-treat-all-refugees-equally/>

“Somali towns” in Sweden;⁴⁸ a statement, in turn, made in response to criticisms against the Minister for Migration and Integration proposing an ethnic cap for residential areas (limiting the number of nationals with foreign background to 50 percent).⁴⁹

Other examples include when the co-spokesperson for the Green Party and former Minister for Gender Equality and Minister for Housing discussed the implementation of family planning for women with an immigrant background in segregated areas,⁵⁰ a proposal which was criticised for appealing to notions of so-called reproductive racism;⁵¹ the party leader for the Christian Democrats and the current Deputy Prime Minister calling for Swedish police to shoot more (at least 100) “Islamists” following riots in Swedish suburbs in April of 2022;⁵² the Moderate Party proposing the administration of ADHD testing for all children living in segregated residential areas;⁵³ the Liberal Party leader and current Minister for Integration proposing language

testing for children as young as two years old, and forcibly removing them from their parents should they fail the test,⁵⁴ as well as both senior elected representatives of the Moderate Party and the Liberal Party petitioning the Parliament to institute nationwide bans on the wearing of the Muslim headscarf.⁵⁵ Though not exhaustive, the list of examples serves to show the commonality, normalisation and viability of organising politics through engaging with practices pointed – expressly or suggested – toward minorities.

One particularly revelatory shift in Sweden’s political trajectory as regards its relation to race was the success of the far-right Sweden Democrats in the 2022 election. The staunchly anti-Muslim and anti-Islamic party seized 20.54% of total votes, their biggest electoral success since the party’s inception,⁵⁶ becoming the second biggest party in the Parliament and gaining access to executive power. Though the party has since its foundation regularly and routinely employed both discriminatory,

48 [Dagens Nyheter, ”Andersson kräver färre läsningar från de andra partierna: ”Lättare att bilda regering efter valet”, 2022-08-09.](#)

49 [Dagens Nyheter, ”Ygeman: Max hälften med ”utomnordisk bakgrund” i utsatta bostadsområden”, 2022-07-31.](#)

50 [Dagens Nyheter, ”Mammorna i utsatta Skäggetorp delade sin vardag med MP-toppen”, 2022-04-17.](#)

51 See, amongst others, [Läkartidningen, ”Vården måste försvara reproduktiva rättigheter”, 2022-06-01](#) and [Ottar, ”Reproduktiv rasism”, 2022-09-27.](#) For the notion and theory of reproductive racism, see Siddiqui, S. (2021). *Racing the nation: towards a theory of reproductive racism.* *Race & Class*, 63(2), 3–20.

52 [Sveriges Radio, ”Busch kritiserar polisen: Varför har vi inte minst 100 skadade islamister?”, 2022-04-22.](#)

53 [Moderata Samlingspartiet i Region Stockholm, ”Förslag: Snabbtest för ADHD i utsatta områden”, 2022-08-12.](#)

54 [Göteborgs-Posten, ”Liberalerna vill införa språktest för tvååringar”, 2022-08-09.](#)

55 [Konstitutionsutskottet, 2022/23:1695, Slöjor på Flickor, Robert Hannah \(L\), Juno Blom \(L\), 2022-11-23;](#) [Aftonbladet, ”Nu måste vi utreda slöjförbud i skolan”, 2022-11-27.](#)

56 [Valmyndigheten, 2022 Swedish election results, 2022-11-07.](#)

exclusionary and incensing rhetoric as well as material policies targeting racial, ethnic and religious minorities,⁵⁷ anti-racist organisations reported an increase in the Sweden Democrats’ racialising efforts leading up to the 2022 election.⁵⁸ Amongst other initiatives, the secretary of the party elected to supplement the party’s campaign tour with his own tour.⁵⁹ Self-described as an “anti-Islamic tour”, the secretary campaigned in 12 cities warning about the “threat of Islam.”⁶⁰

Said secretary, one of the party’s most senior officials and part of the founding members of the modern iteration of the Sweden Democrats,⁶¹ has served the party as its leading anti-Muslim and anti-Islamic ideologue, and regularly been criticised for racist, Islamophobic and otherwise hateful statements levied at minority groups. Examples of criticised statements

include calling Islam an “abhorrent ideology and religion”,⁶² an “anomaly/perversion of a religion”,⁶³ a “bigger threat than Nazism and communism combined”,⁶⁴ incompatible with democracy and Western values”,⁶⁵ as well as denoting Ramadan as “delusion”,⁶⁶ describing Muslims as “strangers”,⁶⁷ and calling for politicians and journalists with foreign backgrounds to be removed from Sweden.⁶⁸ One particularly egregious example of the secretary strumming up Islamophobic sentiment was when he responded to a picture of a non-white woman clad in a Muslim headscarf and a Swedish folk costume, calling the picture a “rape on Sweden.”⁶⁹ Since the conclusion of the election, the secretary has been elected chair of the parliamentary Committee on Justice, the highest parliamentary committee on issues regarding law-making, legislative process and the judiciary policies, standing at a powerful

57 For a full collection of discriminatory statements made by representatives or members of the Sweden Democrats, see the website <https://www.sd-citat.nu/>.

58 Expo, “Ett radikaliserat SD går till val”, 2022-09-10.

59 The tour was announced on the party’s own communication channel “Riks”, see Riks, “Islamkritisk turné – vårt sätt att leva är värt att försvara | Richard Jomshof (SD)”, 2022-08-26.

60 Ibid.

61 Aftonbladet, “De fyras gang”, 2016-05-26.

62 Sveriges Radio, “Sverigedemokraten Richard Jomshof får kritik efter kommentarer om islam”, 2021-03-12.

63 The comment was made on Twitter, published on the secretary’s official Twitter page. Retrieved 2023-01-10 from <https://twitter.com/RichardJomshof/status/1524403364582334464>.

64 SVT Nyheter, “Islam värre hot än nazismen”, 2022-11-12.

65 Dagens ETC, “10 islamofobiska uttalanden från Richard Jomshof (SD)”, 2021-03-22.

66 Ibid.

67 Ibid.

68 Ibid.

69 The comment was made on Twitter, published on the secretary’s official Twitter page. Retrieved 2023-01-10 from <https://twitter.com/richardjomshof/status/1534091189183447047>.

position to affect the course of Swedish legislation for the upcoming term of office.⁷⁰

Racialising discourse and practices disseminated within the higher strata of the political parties also find their counterparts on the local levels, with municipal bodies passing or implementing anti-Muslim policies. The development is spearheaded by increasingly arbitrary usage of the appendage “Islamist” to justify infringements in the right to freedom of religion, speech, and assembly, freedom from discrimination, as well as disproportionate scrutinisation of Muslim civil society perpetrated by state-funded or state-sanctioned investigations. Though the decisions and legislation are often overturned or found unlawful on the judicial or administrative level, their easy passing coupled with a lack of deferral to the principles of rule of law and rights-based safe-guards lead to prolonged durations of the unlawful policies being in effect, negatively impacting the personal, legal, and financial wellbeing of people belong to the afflicted minority groups. Administrative investigations clearing the accused persons or organisations are also seldom considered in the subsequent decision making.

Examples of anti-Muslim policies passed by local governing bodies and engineered

by the instrumentalisation of accusations of “Islamism” during 2022 include the Board of Education of Gothenburg refusing to pay school vouchers to a private Muslim school, a decision which was criticized by the city’s auditor for being made without legal basis and on discriminatory grounds, in strict contradiction of the Swedish School Act.⁷¹ Similarly, the Social Welfare Board of Gothenburg denied the Muslim adult education association Ibn Rushd public granting in defiance of the Swedish National Council of Adult Education, which had previously found that allegations of Islamism levied against the association in media and by politicians lacked factual basis, and that the association was entitled granting in accordance with Swedish legislation.⁷² The board’s decision was criticised by the Swedish section of Amnesty International, which urged for the respect for freedom of religion, assembly, and freedom from discrimination.⁷³ The verbiage of cutting state-funding has increasingly been instrumentalised in the political configuration against ethnic, racial and religious organisations, including proposals to attach arbitrary requirements of level of democracy to the legal framework for granting civil society organisations state funding.⁷⁴ The Tidö Agreement also includes several references to stopping funding to “Islamist” or “extremist” organisations, including “cultural,

70 [SVT Nyheter, “Richard Jomshof \(SD\) blir ordförande för justitieutskottet”, 2022-10-01.](#)

71 [Göteborgs-Posten, ”Revisionen riktar hård kritik mot politikerna om Römosseskolan”, 2022-03-23.](#)

72 [Folkbildningsrådet, “När tilliten prövas: En studie av Studieförbundet Ibn Rushds samhällsbidrag”, 2019.](#)

73 [Amnesty International, ”Beslutet att neka Ibn Rushd bidrag riskerar att hota religions- och föreningsfriheten”, 2022-02-23](#)

74 [Prop. 2021/22:272, Statens stöd till trossamfund samt demokrativillkor vid stöd till civilsamhället, 2022.](#)

ethnic or religious organisations [which] are used for Islamist and separatist interests”, as well as making explicit reference to schools with “Muslim profiles” as a problem.⁷⁵

Not only Muslim organisations are met with state-mandated stigmatisation, securitisation and scrutinisation, but so too are Muslim individuals engaging in the public debate and civil society, to the point where Muslim organisations report trouble finding members and especially public representatives, stating fear of reprisals and harassment as key concerns.⁷⁶

While state-funding for Muslim organisations is increasingly curtailed, several far-right and Islamophobic media outlets gained access to financial support from the Swedish Press and Broadcast Authority during 2022, including the website “Exakt24”, which has a long history of publishing racist, antisemitic and Islamophobic articles.⁷⁷ Meanwhile, analyses of traditional media’s engagement with questions regarding Islam, Muslims and Islamophobia find that Muslims are largely depicted in negative terms or correlates, while

issues regarding Islamophobia rarely get addressed.⁷⁸ Research further shows a sharp decline in the public perception of Muslims in Sweden, with data gathered as late as in July of 2022 showing that over two-thirds of the Swedish population regard Islam as a threat against Western values.⁷⁹

The institutional and discursive facets of Swedish Islamophobia work in conjunction and interactive fashion with rising levels of hate crime and violent attacks committed against Muslim persons and organisations. While the number of Islamophobic hate crimes committed remained high in 2022, the number of cases cleared continued to stay low, and designated specialist groups within the police handling hate crime remain concentrated in the three metropolitan areas. The latter half of 2021 brought with it hitherto unseen levels of violence and scale of crimes committed on the bases of Islamophobic logic, namely two violent school attacks executed by perpetrators aged 15 and 16.⁸⁰ Both perpetrators reported having been influenced by Islamophobic

75 “Tidöavtalet: Överenskommelse för Sverige”, 2022, pp. 37, 45, 54.

76 Poljarevic, E., Ardin, A., Irving, M., “Islamophobia in Sweden: National Report 2021” in Bayrakli, E., Hafez, F., (ed.), *European Islamophobia Report 2021*, Vienna: Leopold Weiss Institute, 2022, p. 582.

77 Expo, “Miljonbelopp till högerextrema medier”, 2022-03-03.

78 Myndigheten för stöd till trossamfund, “DEL 8: Mellan religionsfrihet och yttrandefrihet: Det mediala samtalet om religion och trossamfund”, 2021-10-27.

79 Expo, “Kampen om värderingarna: Sociokulturella konflikter i en polariserad tid”, 2022.

80 Aftonbladet, “15-åringen döms för skolattacken i Eslöv”, 2021-12-22; Aftonbladet, “Pojke dömd för skolattacken i Kristianstad”, 2022-06-14.

propaganda, including the Great Replacement theory.^{81,82}

2022 was also a particularly conspicuous year as regards Islamophobic hate speech and hate propaganda. Beginning in April of 2022, during the Muslim holy month of Ramadan, far-right politician Rasmus Paludan set out on a tour burning the Qur'an in front of mosques and in areas with relatively large densities of Muslim and otherwise non-white inhabitants. The express purpose of the tour was self-described as systematically provoking Muslims and people with an immigrant background, in order to portray them as violent, barbaric, irrational, non-integrable and thus not belonging in Western society. The demonstrations, which were authorised by police, sparked massive counter-protests and led in some places to riotous situations and violence committed against civilians, police and property. In the wake of the demonstrations and their counter-protests, civil rights organisations such as Amnesty International and Civil Rights Defenders reported waves of Islamophobic hatred being spread.⁸³

Paludan held a total of at least 29 demonstrations between 2022-04-14 and 2022-06-05, during 19 of which at least one copy of the Qur'an was burned in conjunction with Paludan giving inflammatory speeches about Islam and Muslims. Civil rights organisations, private individuals and, in one case, the municipality where the demonstration were held, reported a total of seven demonstrations to the police, arguing that the facts of the case constituted hate speech under Section 16 Article 8 of the Swedish Penal Code. Though Sweden has regularly received criticisms from international bodies such as United Nations Human Rights Committee and United Nations Committee on the Elimination of Racial Discrimination for failing to grant sufficient protection against racist and xenophobic expression, especially such conducted with regards to black Swedes and Swedish Muslims, including effectively implementing the legal framework protecting against such speech by investigating cases and prosecuting suspected perpetrators, the Swedish Prosecution Agency and Police Agency elected to immediately dismiss six of the reports. In five of the dismissed cases, the dismissals lacked motivation, and in one case categorically denying that burning a Qur'an could be constituted as hate propaganda, not addressing the systematic, inciteful, purpose

81 The "Great Replacement" theory is a white supremacist conspiracy theory rooted in 20th century French nationalist thought, describing beliefs that white Europeans are being replaced in their countries by non-white immigrants, signaling the extinction of the white race.

82 [Aftonbladet, "15-åringen döms för skolattacken i Eslöv", 2021-12-22; Aftonbladet, "Pojke dömd för skolattacken i Kristianstad", 2022-06-14.](#)

83 [Amnesty International, "Efter helgens oroligheter: har rasismen mot muslimer blivit rumsren i Sverige?", 2022-04-20; Civil Rights Defenders, "Oroligheterna i samband med koranbränningarna är en människorättsfråga bortom yttrandefrihet", 2022-04-27.](#)

and context of the demonstrations, in contradiction with both international and Swedish law.

Fostering a rule of law culture

Contribution of civil society and other non-governmental actors

During 2022, Civil Rights Defenders monitored the Swedish general elections from a human rights and democracy perspective. Through this method, Civil Rights Defenders presented 20 reform proposals to strengthen the state of democracy and rule of law in Sweden, of which seven were presented in an op-ed in Swedish media.⁸⁴ Furthermore, the political parties were asked to position their views towards the proposals through a survey.⁸⁵ Based on this, Civil Rights Defenders then arranged a seminar during Almedalen where political party representatives presented their views on the state of democracy in Sweden.⁸⁶ During autumn 2022, Civil Rights Defenders also ordered a survey from the analysis and research company Novus about democracy and rule of law in Sweden.⁸⁷ The results show that during the year, worry has increased regarding democracy and rule of law in Sweden, with almost 33% agreeing with the statement that

Swedish democracy is threatened, and 40% experiencing a threat towards fundamental rule of law and democracy principles during the last year.⁸⁸

In September 2022, Civil Rights Defenders held the second Nordic Rule of Law Forum in Stockholm. The goal of this annual event is to bring together both civil society actors, including legal practitioners and non-governmental actors, as well as representatives of the judiciary and other state authorities, and create a platform for dialogue and learning around important human rights and rule of law issues. The theme of this year's forum was Developments in Criminal Policy and Procedure. The day's discussions examined the changing criminal policies throughout Europe – more specifically, the increasingly repressive measures that numerous governments have introduced and the effect of such developments on individual human rights and the rule of law. Speakers included current and former judges of the European Court of Human Rights, representatives from civil society organisations and national authorities, academics, and legal practitioners. Civil Rights Defenders received overwhelmingly positive feedback from the nearly 100 participants who attended in person.

84 ["Sju förslag som skyddar den svenska demokratin" - DN.SE](#)

85 [20 förslag för demokratin - så svarade partierna - Civil Rights Defenders \(crd.org\)](#)

86 [Träffa Civil Rights Defenders i Almedalen - Civil Rights Defenders \(crd.org\)](#)

87 [Fler oroliga för den demokratiska utvecklingen i Sverige - Civil Rights Defenders \(crd.org\)](#)

88 [PowerPoint-presentation \(crd.org\)](#)

Contacts

Civil Rights Defenders

Civil Rights Defenders is a non-profit expert human rights organization working worldwide to defend people's civil and political rights. Civil Rights Defenders also takes on the role of a multi-focus national watchdog organization in Sweden, promoting and protecting human rights in the Swedish context.

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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 19 national civil liberties NGOs from across the EU.

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