

APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Sweden

ECRI, in accordance with its country monitoring procedure, engaged in confidential dialogue with the authorities of Sweden on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which only takes into account developments up until 21 June 2017, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

Viewpoints of the Swedish Government

Paragraphs 5 and 8

While deeply committed to combatting all forms of racism and intolerance and to fully adhering to its international obligations in this field, Sweden is also committed to upholding its longstanding and strong constitutional traditions as regards the freedoms of opinion and expression.

In an appendix to its fourth report Sweden referred to General Comment No. 34, concerning article 19 of the International Covenant on Civil and Political Rights, which was adopted by the United Nations Human Rights Committee in 2011. According to the General Comment, laws that penalize the expression of opinions about historical facts are incompatible with the obligations that the Covenant imposes on States parties in relation to the respect for freedom of opinion and expression. The Covenant does not permit general prohibition of expressions of an erroneous opinion or an incorrect interpretation of past events. Restrictions on the right of freedom of opinion should never be imposed and, with regard to freedom of expression, they should not go beyond what is permitted in paragraph 3 or required under article 20 (General Comment No. 34, paragraph 49). Sweden agrees with this conclusion.

That said, it should be pointed out that Sweden has criminal provisions in place to deal with the most dangerous instances of conduct mentioned in the recommendation in paragraph 8. According to the European Union Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, Member States shall criminalize conduct of essentially the same nature as that mentioned in the recommendation, but may choose to punish only conduct which is either carried out in a manner likely to disturb public order or which is threatening, abusive or insulting. In fulfilling its obligations under the Framework Decision, Sweden relies in particular on the provision concerning agitation against a national or ethnic group (Chapter 16, Article 8 of the Penal Code), inciting rebellion (Chapter 16, Article 5) and unlawful threat (Chapter 4, Article 5).

Paragraphs 6 and 8

As Sweden has previously stressed, although Swedish criminal provisions do not include an explicit prohibition of racist organizations, they do prohibit racist activities, including activities of racist organizations. For a fuller account of the relevant provisions, Sweden would like to refer the Commission to its observations in respect of the third report.

Paragraph 26

Pursuant to the Swedish Constitution, the state has no ability to directly or otherwise interfere with editorial decisions of the media. This also applies to negative portrayals. Any action by the authorities to encourage debate within the media on the image conveyed of Islam and Muslim communities can be interpreted as a restriction of media freedom.

According to the Radio and Television Act, a media service provider shall ensure that the service, in its entirety, reflects the fundamental concepts of a democratic society, the principle that all persons are of equal value, and the freedom and dignity of the individual. The Swedish terrestrial channels are through license requirements obliged to take into account the impact of the medium in terms of format, topic and broadcasting hours. Content which may be regarded as prejudice and of a hostile nature towards an ethnic, social or religious group may be in breach of this requirement.

Public service broadcasters are required to have a “diversity-perspective”. Their programmes should also “mirror variations that exist in the population”. The public service broadcasters must also adhere to terms of objectivity and impartiality.

The Swedish Broadcasting Commission is an independent decision-making body that examines the content of radio and TV programmes to see whether they adhere to the applicable broadcasting regulations and license requirements. The Commission’s investigations are either carried out based on viewers and listeners complaints regarding a programme, or at its own initiative.

The press adheres to a self-regulatory code of ethics, which is applied also by the public service broadcasters and TV4. Adherents commit themselves to not emphasizing amongst others, ethnic origin, nationality, religious persuasion etc. of persons if such particulars are not deemed important in the specific context and demeaning.

The Press Ombudsman (PO) and the Press Council (PON) are independent self-disciplinary bodies which deal with complaints about the editorial content of the press. PO, the investigating authority in the process, handles complaints from individuals who feel unfairly treated by the press. Companies, government authorities and organizations can also file complaints.

Moreover, there is already an ongoing debate within the media itself, as well as academic research, about the portrayal of ethnic groups in the media.