

GOVERNMENT COMMENTS ON THE REPORT ON SWEDEN

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-by-country 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, in line with ECRI's standard practice, could only take into account developments up until 22 March 2012, date of the examination of the first draft).

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

Paragraphs 23–25

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

Paragraphs 27 and 29

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

In this context, it can be added that in 2011 the United Nations Human Rights Committee adopted a new General Comment on article 19, concerning the freedoms of opinion and expression, of the International Covenant on Civil and Political Rights. 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).

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 29. 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 criminalise 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).