



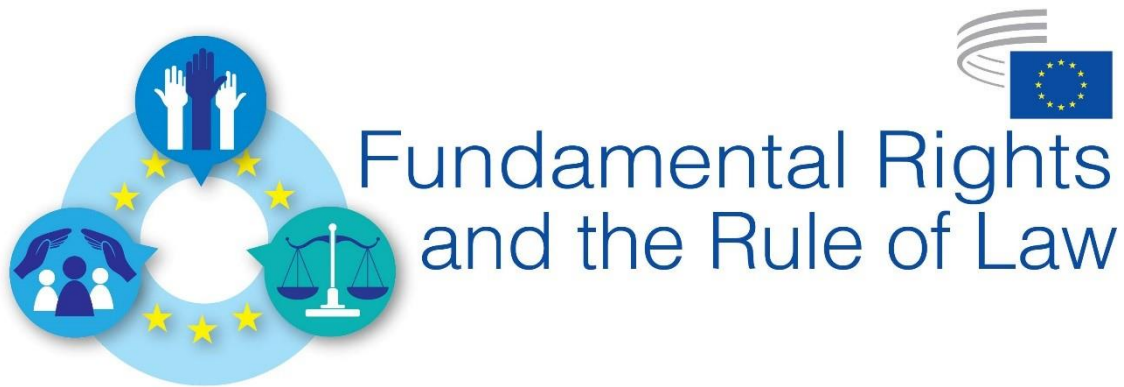
FUNDAMENTAL RIGHTS AND THE RULE OF LAW

Report on the visit to Sweden

13-14 October 2022



European Economic
and Social Committee



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Four members took part in the country visit to Sweden. The delegation met with several representatives of civil society, specifically, civil society organisations (CSOs), social partners, the media and legal professions on the one hand, and the Swedish authorities on the other. The aim of this report is to faithfully reflect and reproduce the views of civil society.

1. Fundamental rights related to social partners

The participants agreed that the exceptional Swedish model for **social dialogue** was working very well and should be maintained. The state provided a legislative framework in the form of labour laws for this model, but they were not allowed to interfere in wage-setting. Social partners could be involved in discussing new legislation via expert groups or consultations with the authorities and in some cases, they could deviate from existing legislation through collective agreements. According to participants in that session, such involvement was crucial for maintaining the 'Swedish model'.

Participants explained that Swedish society was highly unionised, with a large network of **unions** establishing close contact with workers. Participants explained that the right to strike would not apply when a collective agreement was in place.

Participants expressed concern over the **EU Directive on minimum wages**. The social partners clearly stressed that they needed to keep the ability to regulate wages through collective bargaining, without which they believed that the 'Swedish model' would collapse.

One participant explained that there was a strong protection of **consumer rights** in Swedish law, but that enforcement and awareness of these laws was lacking. It was also explained that the Swedish authorities provided financial contributions to Swedish consumers to pay household bills, but it was unclear if, when and how any further contributions would be made during the current energy crisis.

Work-related crime – namely fraud, rule violations and crime in working life – was raised as an issue as it could happen despite collective agreements being in place. It was explained that regional safety representatives, appointed by the trade unions, supervised safety measures in place at different

workplaces. Worry over the Swedish authorities possibly removing and/or weakening these representatives in the future was voiced.

2. Freedom of association and freedom of assembly

Participants explained that **Civil Society Organisations (CSOs)** had great freedom over their self-organisation, as long as their structure ensured internal democracy and transparency.

As in other countries, participants felt that the space for civil society was shrinking. **Hate speech** on social media, which particularly targeted young people, women and persons carrying religious symbols, was of major concern for the participants. Such hate led to a fear of speaking out which, in turn, meant that less people were likely to join CSOs.

Participants pointed out that the criteria for the **distribution of public funds** were increasingly strict. Criteria linked to democratic governance were demanding, which prompted fear among the participants that the authorities could misuse them to restrict funding to certain CSOs. The authorities explained that the objective of such strict criteria was to prevent public funding of CSOs working against fundamental Swedish values.

Participants noted the **difficulty for some CSOs to open a bank account**, which they considered represented an obstacle to freedom of association. It was explained that some CSOs, mostly smaller organisations working with vulnerable groups, were not always able to obtain the electronic identities issued by Swedish private banks which, in turn, prevented them from opening an account and operating freely.

Participants expressed strong concerns over a possible negative evolution of the Swedish authorities in its approach to issues such as **anti-racism, migration and public funding for CSOs**. They believed that the fundamentals of freedom of assembly and association were not necessarily under threat in Sweden, rather that the prerequisites protecting such rights could be at stake.

3. Freedom of expression and freedom of the media

Participants recognised that the overall situation concerning freedom of the media was good in Sweden, as reflected by many global statistics. Participants expressed concern over a possible change of stance by the Swedish authorities with regard to freedom of the media, including the guarantees offered to the public service broadcaster. It was explained that Sweden had the oldest law on freedom of the press in the world, and that such a consolidated tradition made it difficult to limit such freedoms, including media freedoms. It was also explained that an independent **Media Ombudsman** had the mandate to protect all types of press and broadcast media from interference.

The authorities gave information on an upcoming project to support funding of media outlets. Participants noted that the **spread of disinformation** was worrying, and that the authorities' proposal to limit public funding and only support media outlets that do not produce fake news could be misused. Participants felt that this proposal would breach the media freedom act, which stated that the authorities should not influence the media.

Participants felt that **access to information** in Sweden was generally very good. Nevertheless, some cases of various authorities restricting free access to public records during the COVID-19 crisis were mentioned. Such restrictions were publicly criticised by CSOs, and a special investigation considered that these restrictions had been inappropriate.

Regarding the **safety of journalists**, participants believed that threats against journalists were very worrying in Sweden. They believed that the Swedish judiciary lacked experience in this domain, which has been harmful to the victims. Participants also noted that the protection of exiled journalists was volatile in Sweden.

4. The right to non-discrimination

Participants noted that the reality of discrimination in Sweden was different from the idealised image often reflected by the country. Regarding the legal framework, participants agreed that the **discrimination act** did not cover all possible forms of discrimination, nor did it have specific provisions on discrimination by the police. The authorities confirmed that an inquiry was appointed by them to study the possibility of widening the scope of the act. Some participants expressed doubts over the independence of the newly established Swedish Institute for Human Rights. Lastly, most participants called for a reinforcement of the role and capacities of the equality ombudsman, while others pointed to the essential role played by CSOs in the domain. The authorities confirmed that the equality ombudsman would handle more cases, enhance dialogue with civil society and anti-discrimination bureaus (CSOs educating and assisting people with their rights) and increase knowledge about the law amongst the Swedish public.

Participants explained that **persons with disabilities** were not sufficiently considered in Swedish law and society. For example, no specific provision on discrimination against persons with disabilities existed in Swedish criminal law, making it more difficult to claim rights in court. Participants criticised the Swedish school system for not educating children about disabilities enough, and social services for not being sufficiently informed about the specific challenges and rights of persons with disabilities.

Participants felt that there was still substantial discrimination in Swedish law against **rainbow families**. For example, the proposed change to the gender recognition act put forth by the authorities was both welcomed by participants on principle, but also criticised for not going far enough. One participant explained that the identity card of a person undergoing the various required medical evaluations before being able to change legal gender, would not match them during that time. This could represent a period of humiliation for the person concerned and lead to identification issues. Participants also noted that senior LGBTQI persons faced discrimination when entering care homes due to a lack of concern for their specific needs. Moreover, they believed that the criteria to grant asylum based on sexual orientation or gender identity were not properly implemented, leading to the refusal of asylum to some LGBTQI persons.

Regarding **gender equality**, participants indicated that many issues persisted in Swedish society such as the pay gap, harassment and inequality in the treatment of women with disabilities compared to men with disabilities. A positive development was considered the good level of reporting of gender-based violence compared to most other countries, which consequently translated into the fact that Sweden

recorded one of the highest numbers of reported rapes in the world per year. Nevertheless, participants considered that the Swedish police and the judiciary were not trained well enough to deal with such crimes, as a shockingly low number of cases led to conviction.

Some of the bureaucratic obstacles to the integration of **migrants**, including through access to the work market, were outlined. Some participants felt that rejected asylum seekers who were stuck in Sweden, including state-less persons, were pushed into destitution by not being provided with accommodation, access to the labour market or financial support. Nevertheless, it was also mentioned that some undocumented persons were treated in CSO health centres.

Some participants strongly challenged the Swedish authorities' response to the UN Committee on the Elimination of Racial Discrimination whereby Swedish legislation would effectively prohibit every form of **racist expression**.

While some participants acknowledged that the authorities regularly met with elderly civil society in the form of a pensioners committee, they also felt that **over 65-year-olds were structurally discriminated against** in Swedish society, as they were not considered in most laws and under-represented in public institutions. Furthermore, it was expressed that children's rights were not considered enough in decision-making in Sweden.

The fact that Sweden did not ratify the International Labour Organisation (ILO) convention on indigenous peoples was also lamented. Some participants were concerned about a possible change of attitude by the Swedish authorities with regard to topics like **ethnic and racial profiling**, Muslim minorities, or disadvantaged children's rights. Representatives of CSOs working in these fields explained that they were worried about not receiving any more public funding. It was also hoped that the evaluation commissioned to the Swedish National Council for Crime Prevention on ethnic profiling by the Swedish police would be delivered.

5. The rule of law

Participants agreed that the situation in Sweden was good with regard to the rule of law, and underlined that Swedish judges evaluated the Swedish courts as very independent. Participants expressed concern about a possible change of approach by the Swedish authorities to rule of law related policies. A committee of inquiry set up by the authorities was examining how to further strengthen the **independence of the judiciary** and the Judges' Proposals Board charged with appointing judges. It was explained that judges in Sweden could not be dismissed unless they committed a criminal offence.

Participants highlighted a **lack of judges** due to recruitment difficulties. This has led to an increased risk of mistakes in proceedings and delays. In response to this situation, it was explained that younger and retired judges were brought in, without the same socio-economic conditions as other judges however.

Participants noted that **access to courts** was an issue due to high legal fees. It was explained that there was no right to compensation even if the case was won, although the authorities underlined that fee

exemption was applied after an intervention by the equality ombudsman. Participants estimated that education on access to justice and citizens' rights in general was deemed too low in Sweden.

Participants explained that most draft legislation passed through the **Council of Legislation** for ex-ante constitutional review before entry into force. However, participants expressed dissatisfaction about the fact that the authorities did not always follow the Council's opinion. The Swedish authorities explained that the Council was only given a few days to complete their investigation, which meant that some aspects could be overseen. Therefore, the authorities occasionally chose not to follow the Council of Legislation's non-binding opinion.

Participants stressed the importance of addressing the phenomenon of **undue pressure on judges** stemming from social media and society as a whole. It was also explained that the aforementioned committee of inquiry would treat this topic as well the anonymisation of published decisions.

Participants explained that the Swedish system was built on trust, which was positive, but also meant that manipulation was in principle possible. EU **anti-corruption** work was very welcomed by the participants, as they believed that Swedish anti-corruption law was too trusting and not robust enough. The authorities confirmed the importance of monitoring all forms of corruption, and stated that the fight against corruption was a topic that was also discussed at local level. Participants considered that the rise in organised crime in Sweden was alarming.



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