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An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory

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An update on developments regarding civic space in the EU and an overview of the possibilities for human rights defenders to enter EU territory

Sweden

2022

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Humanitarian Law

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Table of Contents

1.	Civic space developments in 2022	3
1.1.	Freedom of association and terrorist organisations	3
1.2.	Foreign espionage to be criminalised and introduced as an offence against the freedom of the press and the freedom of expression	5
1.3.	Threats and hate directed at civil society organisations	6
1.4.	Democracy requirement attached to public funding for faith communities and civil society organisations	8
2.	Promising practice in 2022	10
2.1.	The Swedish Institute for Human Rights initiates dialogue with civil society	10
3.	Visa for human rights defenders.....	11
3.1.	Entry and stay for human rights defenders (HRDs) at risk.....	11

1. Civic space developments in 2022

1.1. Freedom of association and terrorist organisations

Area	Freedom of association
Topic	Counterterrorism
Impact	Major

In November 2022, the Swedish parliament approved a constitutional amendment to enable the limitation, through law, of the freedom of association relating to engagement in or support to terrorism.¹ An amendment to the constitution requires the approval of two consecutive parliaments to enter into force. The former parliament had voted to approve the amendment in April 2022.² The amendment to the constitution entered into force 1 January 2023.

This constitutional amendment enables the legislator to, for example, extend the criminalisation of participation in a terrorist organisation or introduce a ban on terrorist organisations. The government assessed that the reasons for such legislation significantly outweighed any arguments against it.³ The Committee on Justice (*Konstitutionsutskottet*) shared the government's opinion.⁴ In their consultation referrals, some actors expressed concern over the fact that this limitation of freedom of association would only make a very minimal contribution to the combating of terrorism. They also highlighted the risk of future misuse of this constitutional amendment to

¹ Sweden, Committee on Justice (*Konstitutionsutskottet*) (2022) [Föreningsfrihet och terroristorganisationer](#), Committee report, 8 November 2022.

² Sweden, Committee on Justice (*Konstitutionsutskottet*) (2022) [Föreningsfrihet och terroristorganisationer](#), Committee report, 24 March 2022.

³ Sweden, Ministry of Justice (*Justitiedepartementet*) (2021) [Föreningsfrihet och terroristorganisationer](#), government bill, 2 November 2021.

⁴ Sweden, Committee on Justice (*Konstitutionsutskottet*) (2022) [Föreningsfrihet och terroristorganisationer](#), Committee report, 24 March 2022.

circumvent the protection that the constitution is intended to provide.⁵ In 2022, the government also voted to approve a new anti-terrorism law which entered into force 1 July 2022.⁶ The recent amendment to the constitution enables the government to pass tougher anti-terror laws in the future.

In this context, it should be noted that the government has also declared their intention to enable the criminalisation of participation in, and association with, “criminal organisations” through constitutional amendments.⁷ The Swedish legislation currently lacks a definition of what constitutes a criminal organisation or network. An inquiry from 2021 on increased penalties for crimes within criminal networks has assessed that it is difficult to establish such a definition.⁸ The complexity in relation to defining “criminal organisations” is stressed by several actors.⁹

⁵ Sweden, Ministry of Justice (*Justitiedepartementet*) (2021) [Föreningsfrihet och terroristorganisationer](#), consultation referrals from the Swedish Bar Association, Civil Rights Defenders, the Swedish Red Cross and Amnesty International.

⁶ Sweden, Committee on Justice (*Konstitutionsutskottet*) (2022) [En samlad straffrättslig terrorismlagstiftning](#), Committee report, 19 May 2022.

⁷ Sweden, Tidö Agreement – Agreement for Sweden ([Tidöavtalet – Överenskommelse för Sverige](#)), October 2022, page 20.

⁸ Sweden, Ministry of Justice (*Justitieministeriet*) (2021) [Skärpta straff för brott i kriminella nätverk](#), government official report, 24 August 2021.

⁹ Sweden, Svenska Dagbladet, [’Flera risker när gängdeltagande ska bli olagligt’](#), 15 February 2023.

1.2. Foreign espionage to be criminalised and introduced as an offence against the freedom of the press and the freedom of expression

Area	Freedom of expression and information
Topic	Other forms of criminalisation of expression
Impact	Major

In November 2022, the parliament approved legislative and constitutional amendments concerning the criminalisation of foreign espionage.¹⁰ One of the effects of the amended legislation is that foreign espionage, gross foreign espionage and gross unauthorised dealing with secret information linked to foreign espionage will be criminalised and introduced into the Swedish Penal Code. Moreover, the parliament voted to amend the Freedom of the Press Act and the Fundamental Law on the Freedom of Expression. One of the effects of these constitutional amendments is that foreign espionage, unauthorised dealing with secret information linked with foreign espionage and negligence when handling secret information linked with foreign espionage will be criminalised as offences against the freedom of the press and the freedom of expression. This means that in some situations, it could be a punishable offence to disclose secret information, if such information risks damaging Sweden's relationship with another state or an international organisation.

The constitutional amendments also entail limitations to the freedom of communication and the immunity from liability of sources. These amendments limit the right to communicate or procure information for publication through certain types of media protected by the Constitution.¹¹

¹⁰ The first decision was taken in April 2022 by the former parliament.

¹¹ Sweden, Swedish Parliament (*Riksdagen*) '[Foreign espionage to be criminalised and introduced as an offence against the freedom of the press and the freedom of expression](#)', news, 16 November 2022.

The amendments are highly controversial and have, although quite late in the process, been subject to heavy criticism by several actors. Media organisations underline that the amendments considerably limit investigative journalism and opportunities to report on Sweden's actions abroad.¹² Experts on freedom of expression highlight that a criminalisation of certain actions could have been made without amending the constitution and that the far-reaching limitations to the freedom of expression are not justified.¹³

14

1.3. Threats and hate directed at civil society organisations

Area	Safe space & protection
Topic	Verbal attacks and harassment
Impact	Major

In 2021, the government assigned the Swedish Agency for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*, MUCF) to conduct a mapping of civil society organisations' (CSOs) exposure to threats and hate. As part of the assignment, MUCF conducted a survey where 1,705 CSOs (non-profit associations and faith communities) participated, making it the largest study of its kind conducted in Sweden. In April 2022, MUCF published its report.¹⁵

The report provides a picture of the extent and consequences of harassment, threats and violence directed at CSOs and their representatives and members. Overall, 22% of

¹² Sweden, Dagens juridik, '[Lagändringar om utlandsspioneri röstas igenom av riksdagen](#)', 16 November 2022.

¹³ Sweden, Sveriges Radio, '[Yttrandefrihetsexperten och professorn om den nya grundlagsändringen](#)', 15 November 2022.

¹⁵ Sweden, Swedish Agency for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*) (2022) [Kartläggning av hot och hat mot det civila samhället](#), 1 April 2022.

the representatives have been subjected to harassment, threats or violence at some point since they became involved in the CSO. Within the past year, MUCF reports that 14% of the CSOs or its members have been exposed to harassment, threats or violence connected to the organisation's activities. Exposure to harassment, threats and violence is more common among CSOs engaged in advocacy on a particular issue. For example, 45% of the CSOs engaged in advocacy on LGBTQI issues report that the organisation or its members have been exposed to harassment, threats or violence within the past year. CSOs engaged in advocacy on matters concerning feminism (38%) and anti-racism (35%) have also been exposed to a large extent.¹⁶

The harassment, threats and violence faced by CSOs and their representatives is reported by MUCF as disconcerting as it may lead to a lower engagement in CSOs and advocacy as well as silencing the democratic conversation.¹⁷

¹⁶ MUCF also highlights the continued difficulty for CSOs to conduct advocacy work in the aftermath of the COVID-19 pandemic, see; Sweden, Swedish Agency for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*) (2022) [Ännu ett år av utmaningar](#), 23 May 2022, page 11.

¹⁷ Sweden, Swedish Agency for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*) (2022) [Kartläggning av hot och hat mot det civila samhället](#), 1 April 2022, page 5-7, 57-58.

1.4. Democracy requirement attached to public funding for faith communities and civil society organisations

Area	Financing framework
Topic	Accounting and auditing Foreign funding
Impact	Major

The government has continued its efforts to regulate the value basis and governance of civil society organisations and faith communities as preconditions for public funding. In 2022, the former government submitted a bill proposing that a democracy requirement should apply to funding of faith communities and for CSOs receiving funding from the Swedish Inheritance Fund (*Allmänna arvsfonden*).¹⁸ However, in November 2022, the present government withdrew the bill.¹⁹ Following the withdrawal, the government invited CSO representatives to a dialogue on democracy requirements. The purpose was to give CSOs an opportunity to present their views regarding the proposed democracy requirements before the government continues its work.²⁰ The main points of criticism concerned the design of the democracy requirement. Among other things, the role and responsibility of CSO representatives and risks linked to freedom of opinion as well as political governance of civil society were discussed. The criticism also questioned the

¹⁸ Sweden, Ministry of Culture (Kulturdepartementet) (2022) [*Statens stöd till trossamfund samt demokrativillkor vid stöd till civilsamhället*](#), government bill, 2 August 2022.

¹⁹ Sweden, Ministry of Culture (Kulturdepartementet) (2022) [*Återkallelse av regeringens proposition 2021/22:272 Statens stöd till trossamfund samt demokrativillkor vid stöd till civilsamhället*](#), official letter, 15 November 2022.

²⁰ Sweden, Ministry of Culture (Kulturdepartementet) (2022) [*Statsrådet Jakob Forssmed i samtal med civilsamhället om demokrativillkor*](#), Article, 15 December 2022.

assessment of infringements of the democracy requirement and the legal uncertainty in the redefinition of certain concepts that might entail.²¹

The Swedish Agency for Support for Faith Communities (*Myndigheten för stöd till trossamfund*) is currently conducting a pilot study on foreign funding of faith communities.²² The present government has announced its intention to initiate an inquiry into the possibilities of introducing a ban on foreign funding of faith communities and other CSOs connected to extremism, including Islamic extremism.²³ The present government has also suggested an investigation to ensure that CSOs receiving support from the Inheritance Fund adhere to democratic values.²⁴

²¹ Sweden, Ministry of Health and Social Affairs (*Socialdepartementet*) (2022) [*Minnesanteckningar från sakråd den 13 december 2022 med anledning av propositionen Statens stöd till trossamfund samt demokrativillkor vid stöd till civilsamhälle*](#), 13 December 2022.

²² Sweden, Sweden, Ministry of Culture (*Kulturdepartementet*) (2022) [*Uppdrag till Myndigheten för stöd till trossamfund om förstudie inför en kommande utredning om utländsk finansiering av trossamfund*](#), government assignment, 29 July 2022.

²³ Sweden, Tidö Agreement – Agreement for Sweden ([*Tidöavtalet – Överenskommelse för Sverige*](#)), October 2022, page 45.

²⁴ Sweden, Prime Minister's Office, '[Statement of Government Policy](#)', Speech, 18 October 2022.

2. Promising practice in 2022

2.1. The Swedish Institute for Human Rights initiates dialogue with civil society

On 1 January 2022, the Swedish Institute for Human Rights (*Institutet för mänskliga rättigheter*) commenced operations. According to one of the Institute's sub-goals for its operations the Institute shall, in dialogue with representatives of civil society, conduct independent and quality assured investigations and analyses of the current human rights situation in Sweden.²⁵ In the beginning of March 2022, the Institute announced that it had initiated a dialogue with civil society actors. The first dialogue was conducted with Swedish disability rights organisations. Conducting a dialogue with disability rights organisations is considered as an important part of the Institute's responsibility to fulfil its role as the independent national mechanism required by Article 33(2) of the CRPD.²⁶ During spring 2022, the Institute continued to conduct dialogues with CSOs representing children's and young person's rights, student organisations as well as Sami organisations. The aim has been to identify how the future CSO dialogues should be designed and to identify areas of rights to highlight in the Institute's continued work.²⁷ Dialogues with CSOs has been one of the Institute's main tasks during 2022.

²⁵ Sweden, Swedish Institute for Human Rights (*Institutet för mänskliga rättigheter*) (2022) [*Årsrapport 2022*](#), 25 March 2022, page 16.

²⁶ Sweden, Swedish Institute for Human Rights (*Institutet för mänskliga rättigheter*) (2022) [*Institutet inleder dialog med civilsamhället*](#), website, 4 March 2022.

²⁷ Sweden, Swedish Institute for Human Rights (*Institutet för mänskliga rättigheter*) (2022) [*Dialogen fortsätter*](#), website, 19 May 2022.

3. Visa for human rights defenders

3.1. Entry and stay for human rights defenders (HRDs) at risk

Dedicated visa scheme for HRDs at risk available in your country	No
Other type of visa or alternative legal entitlement or derogation clause applied to HRDs	Yes (<i>for artists under threat</i>)

Human rights defenders (HRDs) at risk can enter and reside in Sweden temporarily under an ordinary Schengen visa for visits lasting less than 90 days²⁸ or under a visitor's permit for visits lasting more than 90 days,²⁹ however, there is no dedicated entitlement or visa scheme for HRDs in Sweden.³⁰

Swedish municipalities or regions can offer professional artists who live under threat in their home country a sanctuary to protect freedom of expression.³¹ The person and possibly accompanying family then applies for a residence permit as a guest artist. The Migration Agency can grant a two-year residence permit, which gives artists the right to practice their profession. It does not grant the holder of the permit the right to work

²⁸ Sweden, Swedish Migration Agency (*Migrationsverket*), '[Visit Sweden for less than 90 days – apply for a visa](#)', website, 19 October 2022.

²⁹ Sweden, Aliens Act (*Utlänningslag [2005:716]*), Chapter 5, Section 10, 1 June 2022.

³⁰ Sweden, E-mail correspondence with representative of the Swedish Migration Agency, 15 November 2022.

³¹ A sanctuary refers to a municipality, city, or region that, through a political decision, has established a sanctuary through an agreement with an international organisation. See Swedish Migration Agency (*Migrationsverket*) Legal position: residence permit for guest artists ([Rättsligt ställningstagande: uppehållstillstånd för Fristadskonstnärer](#))[file:///C:/Users/fr0245va/Work Folders/Downloads/220926300 \(1\).pdf](file:///C:/Users/fr0245va/Work%20Folders/Downloads/220926300%20(1).pdf), 23 September 2022.

within the framework of an employment.³² The application fee is SEK 1,500.³³ Guest artists can, together with any accompanying family, apply for a permanent residence permit as guest artists before the two-year residence permit expires. The guest artists must, among other things, demonstrate their ability to earn a living as self-employed professionals.³⁴ There is also a possibility to apply for a work permit, a residence permit as a family member to someone living in Sweden or asylum.³⁵

The government has compiled a list of foreign countries outside the EU whose citizens require a visa to enter Sweden.³⁶ For temporary stays that do not exceed 90 days out of a 180-day period, the Migration Agency apply the EU Visa Code. The visa is mostly issued for multiple entry into all Schengen countries. However, in some exceptional cases, a visa valid solely for entering Sweden can be issued in accordance with Article 25 of the EU Visa Code. According to the Migration Agency, this is used when it lies in the national interests to issue a visa even though the entry conditions are not fully met. This is also used when Sweden must issue a visa due to international obligations.³⁷

A foreign citizen may apply for a visa for the following purposes: visit relatives and friends; business or a conference; tourism; medical treatment; religious purposes; studies, research or as a doctoral exchange student; and volunteer work or internship. Different requirements apply depending on the purpose of the visit and the applicant is required to present supporting documents relating to the purpose of the travel. Depending on the country of origin, an application for a visa can be conducted through

³² Sweden, Aliens Act (*Utlänningslag [2005:716]*), Chapter 5, Section 5, 1 June 2022. See also Swedish Migration Agency (*Migrationsverket*) Legal position: residence permit for guest artists (*Rättsligt ställningstagande: uppehållstillstånd för Fristadskonstnärer*)[file:///C:/Users/fr0245va/Work Folders/Downloads/220926300 \(1\).pdf](file:///C:/Users/fr0245va/Work%20Folders/Downloads/220926300%20(1).pdf), 23 September 2022.

³³ Sweden, Swedish Migration Agency (*Migrationsverket*), '*Fristad åt förföljda konstnärer*', 1 November 2022.

³⁴ Swedish Migration Agency (*Migrationsverket*) Legal position: residence permit for guest artists (*Rättsligt ställningstagande: uppehållstillstånd för Fristadskonstnärer*)[file:///C:/Users/fr0245va/Work Folders/Downloads/220926300 \(1\).pdf](file:///C:/Users/fr0245va/Work%20Folders/Downloads/220926300%20(1).pdf), 23 September 2022.

³⁵ Sweden, Swedish Migration Agency (*Migrationsverket*), '*Fristad åt förföljda konstnärer*', 1 November 2022.

³⁶ Sweden, Government Offices (*Regeringskansliet*) '*List of foreign citizens who require Visa for entry into Sweden*', website, 19 August 2020.

³⁷ Sweden, E-mail correspondence with representative of the Swedish Migration Agency, 15 November 2022.

an external service provider, through the Migration Agency's e-service or by handing in a form directly to the embassy.³⁸

Foreign citizens of a country outside the EU who want to enter and stay in Sweden for more than 90 days, and foreign citizens who are in Sweden on a Schengen visa and want to extend their visit, must apply for a visitor's permit. To obtain such a permit, the applicant must: 1) be able to support him/herself during the stay in Sweden 2) have a valid passport; and 3) have a return ticket or financial means to buy a ticket. A foreign citizen may apply for a visitor's permit for the following purposes: visiting a friend, relative or partner; tourist; business or conference visits; access medical treatment; conduct studies or research; religious purposes; volunteer, trainee or European Solidarity Corps; and following an extraordinary event. An extraordinary event can, for example, be an ash cloud or a pandemic making it impossible to travel.³⁹ The Migration Agency decides if an event is extraordinary. There is currently no ongoing extraordinary event.⁴⁰

³⁸ Sweden, Swedish Migration Agency (*Migrationsverket*), '[Visit Sweden for less than 90 days – apply for a visa](#)', website, 19 October 2022.

³⁹ Only applicable for extended stay.

⁴⁰ Sweden, Swedish Migration Agency (*Migrationsverket*), '[Visit Sweden for more than 90 days](#)', website, 19 October 2022.