

# **Standing and operational space of non-governmental organisations (NGOs) in contributing to respecting and promoting fundamental rights in EU Member States**

## **Sweden 2017**

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## 1 Regulatory environment for the work of non-governmental organisations

Title of legislation and reference	Topic (please make reference to categories A-F see guidelines)	Effect on civil society (positive or negative) Please include reference to source of information
<p>1. Ordinance on government grants to organisations founded on ethnic grounds, (<i>Förordning [2008:63] om statsbidrag till organisationer bildade på etnisk grund</i>)<sup>1</sup>, Section 16.</p> <p>The Administrative Court in Stockholm (<i>Förvaltningsrätten i Stockholm</i>) case number 1641-14<sup>2</sup></p>	C	<p><b>Positive.</b> Section 16 of the Ordinance on government grants to organisations founded on ethnic grounds (<i>Förordning [2008:63] om statsbidrag till organisationer bildade på etnisk grund</i>) stipulates that decisions in accordance with the ordinance are not subject to appeal.<sup>3</sup></p> <p>The Swedish Agency for Youth and Civil Society (<i>Myndigheten för ungdoms- och civilsamhällesfrågor</i>) is responsible for administering the government grants to civil society organisations. The Swedish-Turkish National</p>

<sup>1</sup> Sweden, Ordinance on government grants to organisations founded on ethnic grounds (*Förordning [2008:63] om statsbidrag till organisationer bildade på etnisk grund*), Section 16, 21 February 2008, available at: [http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-200863-om-statsbidrag-till\\_sfs-2008-63](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-200863-om-statsbidrag-till_sfs-2008-63).

<sup>2</sup> Sweden, Administrative Court in Stockholm (*Förvaltningsrätten i Stockholm*), case number 1641-14, 13 June 2014.

<sup>3</sup> Sweden, Ordinance on government grants to organisations founded on ethnic grounds (*Förordning [2008:63] om statsbidrag till organisationer bildade på etnisk grund*), Section 16, 21 February 2008, available at: [www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-200863-om-statsbidrag-till\\_sfs-2008-63](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/forordning-200863-om-statsbidrag-till_sfs-2008-63).

		<p>Association (<i>Svensk-Turkiska Riksförbundet</i>) appealed the rejection of appeals to the Administrative Court in Stockholm (<i>Förvaltningsrätten i Stockholm</i>), which in turn ruled in its favour.<sup>4</sup> The court decided that based on a previous decision by the Supreme Administrative Court (<i>Högsta förvaltningsdomstolen</i>), the right to appeal in such cases is a civil right protected by the European Convention on Human Rights Article 6.1.<sup>5</sup> The Swedish Agency for Youth and Civil society in turn appealed this decision to the Administrative Court of Appeal (<i>Kammarrätten</i>) as well as to the Supreme Court of Administration, but lost in the second instance and were not granted permission to appeal (<i>prövningstillstånd</i>) by the Supreme Court of Administration.<sup>6</sup></p>
2. The Swedish Income Tax Act	D and C	<b>Positive.</b> The amendment of Chapter 7, Section 3 of

<sup>4</sup> Sweden, Administrative Court in Stockholm (*Förvaltningsrätten i Stockholm*), No. 1641-14, 13 June 2014.

<sup>5</sup> Sweden, Supreme Administrative Court (*Högsta förvaltningsdomstolen*), HFD 2011 ref. 10, available at: <https://lagen.nu/dom/hfd/2011:10>.

<sup>6</sup> Sweden, Administrative Court of Appeal in Stockholm (*Kammarrätten i Stockholm*), No. 4611-14, 21 May 2015.

Sweden, Supreme Administrative Court (*Högsta förvaltningsdomstolen*), No. 3714-15, 23 March 2016.

<p>(<i>Inkomstskattelagen [1999:1229]</i>), Chapter 7, Section 3, 1 January 2016.<sup>7</sup></p>		<p>the Swedish Income Tax Act (<i>Inkomstskattelagen [1999:1229]</i>) entered into force 1 January 2016.<sup>8</sup> The amendment was done as a consequence of a decision by the Supreme Administrative Court (<i>Högsta förvaltningsdomstolen</i>) in 2013 which led the Swedish Tax Agency (<i>Skatteverket</i>) to proclaim that non-profit organisations had to pay full sales tax on sales of second hand items donated to them if the revenue was used to finance regular non-profit operations.<sup>9</sup> The law was amended to clarify that sales tax must not be deducted on the non-governmental organisations' (NGO) second-hand sales of donated items if the revenue is used to finance its non-profit operations.<sup>10</sup></p>
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<sup>7</sup> Sweden, the Swedish Income Tax Act (*Inkomstskattelagen [1999:1229]*), 16 December 1999, Chapter 7, Section 3, 1 January 2016, available at: [www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/inkomstskattelag-19991229\\_sfs-1999-1229](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/inkomstskattelag-19991229_sfs-1999-1229).

<sup>8</sup> Sweden, the Swedish Income Tax Act (*Inkomstskattelagen [1999:1229]*), 16 December 1999, Chapter 7, Section 3, 1 January 2016, available at: [www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/inkomstskattelag-19991229\\_sfs-1999-1229](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/inkomstskattelag-19991229_sfs-1999-1229).

<sup>9</sup> High Administrative Court of Stockholm (*Högsta Förvaltningsdomstolen i Solna*), No. 2988-13, 16 September 2013, available at: <http://www.hogstaforvaltningsdomstolen.se/Domstolar/regeringsratten/Avg%C3%B6rande/2013/September/2988-13.pdf>.

<sup>10</sup> Sweden, Swedish Tax Agency (*Skatteverket*), Legal guidance (*Rättslig vägledning*), 30 December 2015, available at:

<p>3. Act on the approval of gift recipients concerning tax reduction for gifts (<i>Lag [2011:1269] om godkännande av gåvomottagare</i>)<sup>11</sup></p> <p>Swedish Income Tax Act (<i>Inkomstskattelagen [1999:1229]</i>), Chapter 67, Sections 20– 26.<sup>12</sup></p>	<p>C</p>	<p><b>Negative.</b> Due to parliament’s decision to repeal the Act on the approval of gift recipients concerning tax reduction for gifts (<i>Lag [2011:1269] om godkännande av gåvomottagare</i>),<sup>13</sup> as well as Sections 20– 26 of Chapter 67 of the Swedish Income Tax Act (<i>Inkomstskattelagen [1999:1229]</i>) it is no longer possible to apply for a tax deduction of a maximum of SEK 1500 (€ 157) per year for gifts to non-profit organisations in a pre-approved list from the Swedish Tax Agency (<i>Skatteverket</i>). The deduction would amount to 25 % of the total gift. In order to receive the maximum deduction of SKE 1500 the gift must be SEK 6000 (€ 628).<sup>14</sup></p>
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[www4.skatteverket.se/rattsligvagledning/edition/2015.16/323768.html#update\\_20151230175633](http://www4.skatteverket.se/rattsligvagledning/edition/2015.16/323768.html#update_20151230175633).

<sup>11</sup> Sweden, Act on the approval of gift recipients concerning tax reduction for gifts (*Lag [2011:1269] om godkännande av gåvomottagare*), repealed on 1 January 2016, available at, [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20111269-om-godkannande-av-gavomottagare\\_sfs-2011-1269](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20111269-om-godkannande-av-gavomottagare_sfs-2011-1269).

<sup>12</sup> Sweden, Swedish Income Tax Act (*Inkomstskattelagen [1999:1229]*), 16 December 1999, Chapter 67, Sections 20–26, repealed on 1 January 2016, available at: [www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/inkomstskattelag-19991229\\_sfs-1999-1229](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/inkomstskattelag-19991229_sfs-1999-1229).

<sup>13</sup> Sweden, Act on the approval of gift recipients concerning tax reduction for gifts (*Lag [2011:1269] om godkännande av gåvomottagare*), repealed 1 January 2016, available at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20111269-om-godkannande-av-gavomottagare\\_sfs-2011-1269](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-20111269-om-godkannande-av-gavomottagare_sfs-2011-1269).

<sup>14</sup> Sweden, Swedish Tax Agency (*Skatteverket*), official web page, Tax reduction for gifts, available at: [www.skatteverket.se/privat/skatter/betalaochfatillbaka/skattereduktioner/skattereduktionfor\\_gavor.4.5fc8c94513259a4ba1d800064144.html](http://www.skatteverket.se/privat/skatter/betalaochfatillbaka/skattereduktioner/skattereduktionfor_gavor.4.5fc8c94513259a4ba1d800064144.html).

## **2 EU Member State government funding for non-governmental organisations – trends and developments 2011-2016**

### **2.1 Overall amount of government funding**

The latest survey, carried out in 2009, showed that the overall amount of government funding had increased from 2003. The Swedish Agency for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor, MUCF*) conducts annual check-ups with the non-profit associations (*ideella föreningar*) on what they consider to be their main source of income. In 2012 and 2014, the organisations stated that their main source of income were their member fees.<sup>15</sup>

According to MUCF the government distributes around SEK 10 billion (€ 1.05 billion) annually to different civil society organisations, through 103 different government grants. These grants are regulated by grant ordinances (*bidragsförordningar*). MUCF is not aware of any existing surveys that cover the whole field of grants. The grants are listed under numerous government departments and consequently also under different expense areas in the state budget. In addition, the secondary and primary municipalities (*landsting och regioner och kommuner*) also administrate grants to civil society organisations.<sup>16</sup>

Statistics Sweden (*Statistiska Centralbyrån, SCB*) an administrative agency whose main task is to supply customers with statistics for decision making, debate and research, has recently initiated gathering statistics on civil society and also defining the area in regards to which organisations and types of associations should be considered a part of the statistical population. The agency presented statistics on the distribution of grants for 2014 as follows:

- 1) For primary municipalities (*kommuner*): Grants (as opposed to purchase of services) to civil society – defined as non-profit associations and co-operative societies and foundations (*stiftelser*) which are not part of the municipalities' own operations – amounted to SEK 1.8 billion (€ 188.2 million). The corresponding sum for 2013 was SEK 1.76 billion (€ 184.1 million) and SEK 1.88 billion for 2012 (€ 196.6 million).
- 2) For secondary municipalities (*regioner och landsting*) the sum of grants (as opposed to purchased services) to civil society in 2014

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<sup>15</sup> Sweden, National Association for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*).

<sup>16</sup> Sweden, National Association for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*).

amounted to SEK 1.9 billion (€ 198.7 million) according to the same definition.<sup>17</sup>

## 2.2 Distribution of government funding

There are no significant changes in the distribution of government funding, neither at the levels or in the areas covered during the reporting period.<sup>18</sup>

## 2.3 Restrictions (or other changes) on NGO funding from other sources

There are no legal restrictions on NGOs to receive funding from other sources. However, some grants require the organisations to account for all of their financing, for example the Swedish Inheritance Fund (*Allmänna arvsfonden*) which is a public foundation that distributes funds to non-profit actors working in the field of children and youth and people with disabilities. Their financing comes from decedent estates (*dödsbon*) in cases where the deceased person had no family to inherit them and no written testament, and the assets are therefore accrued by the foundation.<sup>19</sup>

## 3 Access to the decision-making process for non-governmental organisations working on fundamental rights

Title of legislation/policy	Reference	Short summary (max 500 characters)
The policy/practice of submitting legislative proposals for referral for consideration ( <i>remissrunda</i> ).	Information from the Swedish Parliaments' web page on the legislative process. <sup>20</sup>	After a government-appointed commission of inquiry has submitted its report, the government sends it to relevant public agencies, organisations and

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<sup>17</sup> Sweden, Statistics Sweden (*Statistiska centralbyrån*) (2016), Civil Society 2014 (*Det civila samhället 2014*), report 2016:1, 20 December 2016, pp. 30–31, available at: [www.scb.se/hitta-statistik/statistik-efter-amne/naringsverksamhet/naringslivets-struktur/civila-samhallet/pong/publikationer/det-civila-samhallet-2014/](http://www.scb.se/hitta-statistik/statistik-efter-amne/naringsverksamhet/naringslivets-struktur/civila-samhallet/pong/publikationer/det-civila-samhallet-2014/).

<sup>18</sup> Sweden, National Association for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*).

<sup>19</sup> Sweden, National Association for Youth and Civil Society (*Myndigheten för ungdoms- och civilsamhällesfrågor*).

<sup>20</sup> Sweden, Swedish Parliament, Makes laws web page, available at: [www.riksdagen.se/en/how-the-riksdag-works/what-does-the-riksdag-do/makes-laws/](http://www.riksdagen.se/en/how-the-riksdag-works/what-does-the-riksdag-do/makes-laws/).

		<p>municipalities in order to hear their opinions on the proposals. This is known as the referral of a report for consideration (<i>remissrunda</i>). Which agencies and organisations are consulted directly (e.g. sent the report) depends on the report's contents. However, anyone, including private individuals and other NGOs, is entitled to obtain a copy of the report and submit their comments to the government. Representatives of various NGOs often want the opportunity to present their comments to the government face-to-face. They can then contact the government.</p> <p>The Swedish policy to include NGOs in decision-making processes is based on Chapter 7, Section 2 of the Instrument of Government (<i>Regeringsform [1974:152]</i>),<sup>21</sup> which</p>
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<sup>21</sup> Sweden, Instrument of Government (*Regeringsform [1974:152]*), Chapter 7, Section 2, 1 January 2011. The section was amended to remove the conditional element of the section – that the possibility to comment etc. was to be limited “to the extent needed” (*i den omfattning som behövs*). However, the stipulation about the associations’ and individuals’ possibilities to comment etc. has been included since the new Instrument of Government

		<p>stipulates that associations and individuals must be given the opportunity to give their opinions and comments on the government's proposals and activities (<i>beredning av regeringsärenden</i>).<sup>22</sup></p>
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#### 4 Further information

During the period in question, a number of commissions of inquiry have submitted their reports to the government, which may impact the situation for NGOs at a later stage.

The two most important reports are:

- 1) Additional measures against money laundering and terrorist financing – fourth Money Laundering Directive – Coordination – new Act on money laundering (*Ytterligare åtgärder mot penningtvätt och finansiering av terrorism – fjärde penningtvätts-direktivet – samordning – ny penningtvättslag, SOU 2016:8*),<sup>23</sup> where the commission proposes the introduction of an obligation for foundations, non-profit organisations and others who collect money for a philanthropic purposes, or for the last five years have been engaged in such activities, to upon request provide information to the Police (*Polisen*). Furthermore, the commission proposes that the organisations that are engaged in fundraising must be required to register the person, who is in charge of the organisation itself. Currently, organisations are able to engage in fundraising without

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was introduced 28 February 1974, available at: <https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/kungorelse-1974152-om-beslutad-ny-regeringsform-sfs-1974-152>.

<sup>22</sup> Sweden, the Constitution of Sweden, The Instrument of Government, Chapter 7, Art. 2, available at: [www.riksdagen.se/en/SysSiteAssets/07.-dokument--lagar/the-constitution-of-sweden-160628.pdf/](http://www.riksdagen.se/en/SysSiteAssets/07.-dokument--lagar/the-constitution-of-sweden-160628.pdf/).

<sup>23</sup> Sweden, Additional measures against money laundering and terrorist financing – fourth Money Laundering Directive – Coordination – new Act on money laundering, government inquiry report (*Ytterligare åtgärder mot penningtvätt och finansiering av terrorism – fjärde penningtvättsdirektivet – samordning – ny penningtvättslag, SOU 2016:8*), available at: [www.regeringen.se/rattsdokument/statens-offentliga-utredningar/2016/02/sou-20168/](http://www.regeringen.se/rattsdokument/statens-offentliga-utredningar/2016/02/sou-20168/).

any information about their heads or direction of the organisation. The report has been referred to the Legislative Council (*Lagrådet*) for consideration.

- 2) Palette for a strong civil society (*Palett för ett stärkt civilsamhälle*)<sup>24</sup> where the commission proposes the introduction of more long-term funding and an increase in the funding of the non-profit organisations themselves, rather than their projects, i.e. a change from project funding to organisation funding. The report has been submitted for referral.

So far no government proposal has been presented on the basis of either inquiry report.

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<sup>24</sup> Sweden, Palette for a strong civil society, government inquiry report (*Palett för ett stärkt civilsamhälle*, *SOU 2016:13*), available at: [www.regeringen.se/492b2d/contentassets/907a5e554a23428f9aef3c2d7221a2de/palett-for-ett-starkt-civilsamhalle-sou-2016\\_13.pdf](http://www.regeringen.se/492b2d/contentassets/907a5e554a23428f9aef3c2d7221a2de/palett-for-ett-starkt-civilsamhalle-sou-2016_13.pdf).