
Sweden

Criminal Code Chapter 29 Section 2

In assessing criminal value, the following aggravating circumstances shall be given special consideration in addition to what is applicable to each and every type of crime : (...) 7. “whether a motive for the crime was to aggrieve a person, ethnic group or some other similar group of people by reason of race, colour, national or ethnic origin, religious belief or other similar circumstance.”

Criminal Code Chapter 16 Section 8

A person who, in a disseminated statement or communication, threatens or expresses contempt for a national, ethnic or other such group of persons with allusion to race, colour, national or ethnic origin, or religious belief shall, be sentenced for agitation against a national or ethnic group to imprisonment for two years or, if the crime is petty, to a fine (L 1988 :835)

Case Law

THE SUPREME COURT OF SWEDEN

JUDGMENT

Case No.

issued in Stockholm on 29 November 2005

B 1050-05

PLAINTIFF

Prosecutor General

Box 5553

114 85 Stockholm

DEFENDANT

Åke Ingemar Teodor Green

Attorney and Public Defender : Percy Bratt, Member of the Swedish Bar,
Advokatbyrån Bratt & Feinsilber Aktiebolag, Box 24164, 104 51 Stockholm

NATURE OF CASE

Agitation against a national or ethnic group *et al*

DECISION APPEALED FROM

Judgment issued by the Göta Court of Appeal on 11 February 2005 in case No.
B 1987-04.

THE SUPREME COURT	Postal address	Telephone +46 (0)8 617 64 00	Office hours
Riddarhustorget 8	Box 2066	Facsimile +46 (0)8 617 65 21	08.45 – 12.00
	103 12 Stockholm	E-mail: hogsta.domstolen@dom.se	13.15 – 15.00
		www.hogstadamstolen.se	

JUDGMENT

The Supreme Court upholds the judgment issued by the Court of Appeal.

For services rendered for the defence of Åke Green before the Supreme Court, Percy Bratt is hereby granted compensation from the Swedish Treasury in the amount of sixty-eight thousand and forty Swedish kronor (SEK 68,040.00), which amount shall include value added tax in the amount of SEK 13,608.00.

SUBMISSIONS BY THE PARTIES BEFORE THE SUPREME COURT

The Prosecutor General has requested that Åke Green shall be convicted of agitation against a national or ethnic group *et al*, and that the penal sanction for this should be imprisonment. In connection with this, the Prosecutor General's amended description of the crime reads as follows:

'On 20 July 2003, in Borgholm, before at least about 50 persons, Åke Green did hold a sermon entitled 'Is homosexuality congenital or the powers of evil meddling with people'. The sermon included the following statements:

"Legalising partnerships between two men or two women will clearly create unparalleled catastrophes. Already, we are seeing the consequences through the spread of AIDS. Although not all HIV infected people are homosexuals, AIDS once stemmed from homosexuality. Subsequently, innocent people can naturally have been infected by this terrible illness, without having anything to do with the homosexuality that is the underlying cause of it."

“The Bible discusses and teaches us about these abnormalities. And sexual abnormalities are a serious cancerous growth on the body of a society.

The Lord knows that sexually perverse people will even force themselves upon animals. Not even an animal is safe from the sexual needs and the burning urges of human beings. They can even do things like this.”

“Corrupters of boys. Even at the time the Bible was written, the Lord knew what lay ahead. We have experienced, and are experiencing this, and it disgusts us. In the First Epistle to the Corinthians, 1 and 10, Paul speaks of perverted people. The expression, “perverted people,” is translated from “one who lies with boys” in the original. Those who lie with boys are the perverted people the Bible speaks of. However, I would like to emphasize that not all homosexuals are paedophiles. And not all homosexuals are perverted. Nevertheless, the door to forbidden areas has been opened, leading to sinful feelings and thoughts. The paedophiles of today do not start out as paedophiles, but begin by changing their social intercourse. That is how it starts. Being faithful in a homosexual relationship is no better than changing your partner on an everyday basis. It is not a better relationship and is just as contemptible in the eyes of God.’

“I abandon purity and seek corruption.” Paul tells us they choose knowingly. Homosexuality is a sickness, i.e. a wholesome and pure thought being replaced by a tainted thought, a wholesome heart being replaced by a sick heart. That is what happened. It is a wholesome body being ruined as a result of a change, according to Paul. Is homosexuality something you choose? The answer is yes. You choose it. You are not born with it. You simply choose it. It is a replacement. Without a doubt, that is how it is. Anything else would be treachery against humanity.”

Through the sections of his sermon set out above, viewed in their context, Åke Green has disseminated statements showing contempt for homosexuals with reference to their sexual orientation. The intention of Åke Green was to spread his beliefs in a manner that would attract significant attention.

Åke Green has opposed the claim of the Prosecutor General.

REASONING OF THE COURT

Chapter 16, Section 8 of the Criminal Code provides that a person becomes guilty of agitation against a group by making a statement or otherwise spreads a message that threatens or expresses contempt for an ethnic group or any other group of people with reference to their race, skin colour, nationality or ethnic origin, religious belief or sexual orientation. On 1 January 2003, an amendment of the Act criminalized incitement against homosexuals as a group. The *travaux préparatoires* specified that homosexuals are a vulnerable group in society, and are often victims of crimes as a result of their sexual orientation and that Nazis and other groups with racist ideologies agitate against homosexuals and homosexuality, as a part of their propaganda and interlinked with their general racist and anti-Semitic campaigns (Govt. Bill 2001/02:59, page 32 *et seq.*).

In conjunction with the amendment of the Act, there was a discussion regarding “expressing contempt,” which is an element of the crime (see Govt. Bill 2001/02:59, page 21 *et seq.*). This element was introduced in 1970, and in the case law has been broadly interpreted (see NJA 1982, p. 128 and 1996, p. 577). However, not every statement of a demeaning or degrading nature is included in this concept. Statements that are not considered to go beyond the limits of objective criticism of certain groups are not liable to punishment. For a statement to trigger criminal liability, it must clearly overstep the limits of objective and responsible debate regarding the group in question. Naturally, the principles of freedom of speech and the right to criticize may not be used to protect statements expressing contempt for a group of people, for example, because they are of a certain nationality and hence are inferior, (see Govt. Bill 1970:87, p. 130 compared to Govt. Bill 2001/02:59, p. 14 *et*

seq. and 37 *et seq.*). However, the purview of criminal behaviour may not extend to an objective discussion about, or criticism against, homosexuality. Criminalization must not be used to restrict freedom of speech or to threaten free public debate. In addition, the freedom of science shall be maintained. This also means that these kinds of statements, which are best contested or corrected in a free and open debate, shall not be criminalized (Govt. Bill 2001/02:59, p. 35 *et seq.*).

As a result of a demand by the Swedish Council of Free Churches during the legislative process leading up to the amendment in 2003 for a clear definition of what is criminal, and an exclusion of sermons and similar situations from that definition, the Government made the following statement regarding the purview of criminality here (Govt. Bill. P. 41 *et seq.*):

“As previously observed, the purpose of this legislative solution is the underscore that the same principles are to be used in considering whether an act against homosexuals, for example, is within the purview of the provisions regarding incitement against a group, as when considering an act against any of the other groups that are protected by these provisions. In response to those views expressed by the Swedish Council of Free Churches (FSR), the Government wishes to state that our proposal to criminalize incitement on the grounds of sexual orientation is not intended to restrict free and objective debate, any more than does the current law against incitement against ethnic groups. The purpose, therefore, is not to serve as an obstacle to discussions of homosexuality, bisexuality or heterosexuality, whether in churches or elsewhere in society. It must also be possible for homosexuals and others to reply to and correct erroneous opinions in free and open discourse, and thus counteract prejudices that otherwise might well be preserved and continued in secret.

The present legislation regarding agitation against groups also contains limitations so that not every statement that includes judgments regarding a group, and not every expression of contempt, is criminalized. This is

reflected in the *travaux préparatoires* that provide that an action is criminal only if it oversteps the limits of objective and responsible discourse regarding the group in question. When determining whether an action constitutes criminal incitement against a group (e.g. homosexuals), the statement or message must always be examined in its context, in the same way as in determining whether an action constitutes incitement against an ethnic group. The reason behind the action must be considered in doing so.

Naturally, a certain allowance must be made for criticism and similar expressions that are not criminalized. The determining factor is how the message appears when objectively examined. In addition, the context must clearly demonstrate that the intent of the perpetrator was to spread a message that constitutes a threat against, or expresses contempt for, the group in question. In this context, one should consider the express instructions contained in the Freedom of the Press Act and the constitutional Freedom of Speech Act. This means that those determining cases of violations of the freedom of speech or freedom of the press, or who are charged with protecting those freedoms, must bear in mind that these principles constitute the basis of a free society, look more to the purpose than to the actual expression, and give those charged the benefit of the doubt.

What is now being proposed is the criminalization of incitement against collectively defined groups on the basis of sexual orientation. Thus, this concerns insulting judgments and threatening statements primarily regarding homosexuals as a group, based on the fact that this group has this sexual preference. Merely citing and discussing religious scriptures, for example, does not fall within the purview of criminalized behaviour pursuant to this proposal. However, it should not be permissible to use this kind of material to threaten, or to express contempt for, homosexuals as a group, any more than it would be permissible to use religious texts to threaten, or express contempt for, Muslims or Christians. It is important here to distinguish between statements and communications that refer to sexual orientation, *per se*, and express threats or contempt against the collective on these grounds, from other statements and communications that relate to behaviour or the expression of a sexual preference, but in no way intend to insult or threaten the entire group of people who have that sexual orientation. Analogously, it must be allowed, as it is today regarding religious matters, to discuss various lifestyles and philosophies of life, for example.”

During the Riksdag's consideration of the amendment of 2003, the Constitution Committee stated its opinion, in response to a member's bill, that the concept of this legislation did not include having special rules for statements made in the context of a sermon, for example, as opposed to those applying to the same statements made in some other context. The committee agreed with the view the Chancellor of Justice expressed in a submission to the committee to the effect that there should be no general rules prescribing special treatment as the motion requests, for statements that are normative or prescriptive.

According to the committee, in sermon situations, citing scripture, and only urging an audience to adhere to the precepts contained therein, should normally not lie within the criminalized area (Report 2001/02:KU23, p. 36 *et seq.*).

In the first of the sections cited by the Prosecutor General in the amended description of the crime, Åke Green linked homosexuality with the origin and spread of AIDS. In the second section, he speaks of sexual abnormalities (apparently including homosexuality in this group) as a deep cancerous growth, and about sexual use of animals in connection with a Biblical verse from Leviticus 18:22-30, which begins "you shall not lie with a man, as a man lies with a woman," but also refers to bestiality. In the third section, he refers to the First Epistle to the Corinthians, using the expressions "corrupter of boys," "perverted people" and "paedophiles" when speaking of homosexuals. Finally, before addressing the First Epistle to the Corinthians 6:18, he characterizes homosexuality as something sick, and a corrupted thought that displaces a pure one.

These statements should be assessed on the basis of the content they directly express rather than through a critical reading of their exact wording. The basis

for this assessment should be how a member of the audience listening to Åke Green's sermon must have perceived these statements.

Another basis for this assessment is that Åke Green, at the time he made his statements, acted out of his Christian conviction to improve the situation of his fellow man, and did so according to what he considered to be his duty as a pastor.

The statements in question cannot be considered to be direct expressions of Biblical verses referred to by Åke Green, and must be seen as insulting judgments about the group in general, even though he was not completely categorical, and made certain reservations to the effect that not all homosexuals are like those he is criticizing. Åke Green has claimed that his statements are not directed against homosexuals as a group, but rather targets those behaviours that the Bible, as he sees it, unambiguously characterizes as a sin. Nevertheless the fundamental point in these statements is the sexual preference, *per se*, even though he is actually referring to the practice of homosexuality. Neither is it possible to draw a sharp distinction between the sexual preference, *per se*, and such practice of it, which constitutes the focus of that sexual preference. These statements can clearly be deemed to have overstepped the limits of an objective and responsible discourse regarding homosexuals as a group. Åke Green has intentionally spread these statements in this sermon before the congregation, with the awareness that they could be perceived as insulting. According to the meaning of Chapter 16, Section 8 of the Criminal Code, as expressed in the *travaux préparatoire*, these statements can therefore be deemed to have expressed contempt for homosexuals as a group.

The issue, however, is whether consideration to freedom of religion and freedom of expression should favour giving the word “contempt” a more restrictive interpretation than what a direct reading of the statutory text and its legislative history would.

The 2003 amendment was intended to satisfy the requirements regarding the limitation of freedom of speech, based on our constitutional protection of this right, as well as the European Convention on Human Rights and Fundamental Freedoms (Govt. Bill 2001/02:59, 34 *et seq.*).

The Supreme Court, however, must now determine whether Chapter 16, Section 8 of the Criminal Code should not be applied, because such an application would violate the Constitution (cf. NJA 2000, p. 132 and 2005, p. 33) or the European Convention on Human Rights (cf. Govt. Bill 1993/94:117, p. 37 *et seq.* and report 1993/94:KU24, p.17 *et seq.*).

Chapter 2, § 1, sub-section 1, point 6 of the Instrument of Government Act defines freedom of religion as the freedom to practice one’s religion alone or with others. This freedom may not be restricted (Chapter 2, § 12, sub-section 1 of the Instrument of Government Act). Its definition is narrow, and such aspects that fall within other freedoms such as freedom of speech, may be limited in the same way as these freedoms (Holmberg-Stjernquist, *Grundlagarna*, p. 79). An act that is generally criminalized is not protected merely because it occurs in a religious context, as the constitutional protection means a prohibition against provisions that expressly target a certain religious practice, or which, despite a more general wording, apparently are intended to hinder a certain religious direction.

It is apparent that the constitutional provision regarding freedom of religion cannot absolve Åke Green from criminal liability. Nevertheless, it must be born in mind, as shown below, that freedom of religion with a broader definition has been accorded great importance in the constitutional protection of civil rights and liberties.

Chapter 2, § 1, sub-section 1, point 6 of the Instrument of Government Act provides that freedom of speech may be limited to a certain extent by statute (Chapter 2, §§ 12 and 13 of the Instrument of Government Act). Generally, this kind of restriction may be done only for achieving a purpose that is acceptable in a democratic society, and may never exceed that which is necessary in light of the purpose for which it is created, and may not go so far as to constitute a threat against the free exchange of opinions, which is one of the foundations of democracy, and may not be done only on the grounds of political, religious, cultural or other such philosophy (§12, second sub-section). In addition, § 13, first sub-section, lists a number of special interests for which freedom of speech may be restricted. To this list may be added the principle that this freedom may otherwise be limited if especially important reasons justify this. The second sub-section of this section indicates that in considering which restrictions may be imposed pursuant to the first sub-section, the importance of having the broadest possible freedom of speech in political, religious, labour, scientific and cultural matters shall be considered.

The constitutional protection of freedom of speech does not appear to constitute a reason not to convict Åke Green according to the indictment (cf. Chapter 11, § 14 of the Instrument of Government Act). Neither does the constitution otherwise prevent him from being convicted pursuant to the provisions regarding incitement against a group.

The assessment to be made now is the extent to which the European Convention on Human Rights affects the criminal liability of Åke Green. Freedom of religion is regulated in Article 9 of that document, with freedom of speech regulated in Article 10. From the start, we can note that the first of these freedoms is more extensive here than in the Instrument of Government Act, but to a certain degree, this can be limited by an ordinary statute. Freedom of speech is the same under both regulatory schemes, except that the possibilities of imposing limitations are narrower under the Convention.

Freedom of religion pursuant to Article 9 includes the freedom to practice one's religion or belief alone or together with others, in public or in private, through religious services, study, customs and rituals. Freedom of speech pursuant to Article 10 includes the freedom to receive and disseminate information and thoughts without the interference from government authorities. Both of these freedoms may be made subject to limitations embodied in statutes, and which are necessary in a democratic society in order to maintain public safety, protect health or morality or to defend the rights of other persons. In general, freedom of religion can also be restricted in order to maintain public safety, and freedom of speech can be restricted to prevent disorder or crime, as well as to protect a person's good name and reputation.

The Criminal Code provision regarding incitement against a group fits within the limits set forth by the European Convention on Human Rights (cf. Chapter 2 § 23 of the Instrument of Government Act). The question, however, is whether applying these provisions in Åke Green's case would be a violation against the commitments of Sweden under the Convention. In making that

determination, the case law of the European Court of Human Rights must be considered (“the European Court”) (see report 993/94:KU24, p. 19).

The primary matter of interest here in the European Court’s application of Article 9, which can be deemed to be a special case of protecting the freedom of speech as it relates to the expression of thoughts and ideas based on a religion in a sermon-like situation (cf. Danielius, *Mänskliga rättigheter i europeisk praxis*, 2nd edition, p. 306, and the judgment of the European Court dated 25 May in the case of Kokkinakis v. Greece, p. 31, Publications Series A, No. 260-A). The determining factor appears to be whether the restriction of Åke Green’s freedom to preach is necessary in a democratic society. This means that it must be assessed whether the restriction is proportionate to the protected interest. In assessing such an issue, the Signatory State to Convention is accorded a certain flexibility known as a margin of appreciation (cf. Danielius, op. cit. 302, and, *inter alia*, the European Court’s judgment of 4 December 2003 in the case of Gündüz v. Turkey, p. 37, Reports of judgments and decisions, 2003-XI p. 229).

Considering the central role that religious conviction plays for an individual, it can be assumed a certain restraint in applying the European Convention to accept restrictions as legitimate pursuant to Article 9. The same principles apply if Åke Green’s statements are to be evaluated pursuant to Article 10. The case law of the European Court in applying Article 10 can also provide some guidance even when the evaluation is being made on the basis of Article 9.

One starting point for this evaluation is the statement of the European Court in its judgment of 7 December 1976 in the case of Handyside v. United Kingdom

(Publications Series A No. 24).

“Freedom of expression constitutes one of the essential foundations of [a democratic] society, one of the basic conditions for its progress and for the development of every man. . . it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no "democratic society". (Danelius, *op. cit.* p 306)

The European Court, in various cases, has underscored the importance of freedom of speech in political contexts (cf. e.g. the Court's judgements on 27 February 2001 in the case of *Jerusalem v. Austria*, p. 32, Reports of judgments and decisions 2001-IX p. 69, and on 10 July 2003 in the case of *Murphy v. Ireland*, p. 67, Reports of judgments and decisions 2003-IX p. 1). A similar approach can be assumed to apply in religious contexts (see the judgment in the *Kokkinakis* case, p. 31).

At the same time, the Court has also underscored that a person who uses his or her rights and freedoms pursuant to Article 10, as indicated in the second subsection of that section, has responsibilities and obligations. In religious contexts, these should include a duty to avoid, to the extent possible, statements that are unjustifiably insulting to others and constitute attacks on their rights. These statements therefore do not contribute to any form of public discourse that will lead to progress in relations among people. In addition, the state generally is accorded a certain latitude, known as a margin of appreciation, in regulating

freedom of speech regarding matters that can be deeply insulting to personal views on issues of morality and religion (see e.g. the European Court's judgment of 4 December 2003 in the *Gündüz* case, p. 37).

It should also be noted that Article 10 protects not only the content of opinions and information, but also the way these are disseminated (see e.g. the European Court's judgment of 23 September 1994 in the case of *Jersild v. Denmark*, p. 31, Publications Series A, No. 298). The same principles apply correspondingly to Article 9 (European Court's judgment of 26 September 1996 in the case of *Manoussakis et al v. Greece*, p. 47, Reports of judgments and decisions, 1996-IV p. 1346).

When the European Court determines whether an alleged restriction is necessary in a democratic society, the court considers whether the restriction meets a pressing social need, whether it is proportionate to the legitimate purpose to be achieved, and whether the reasons asserted by the national authorities to justify it are relevant and sufficient (the Court's judgment of 26 April 1979 in the case of *Sunday Times v. United Kingdom*, p. 62, Publication Series A No. 30). In the case of modes of expression that disseminate, advocate, encourage or justify hate based on intolerance (including religious hate), which is known as "hate speech", the European Court is of the opinion that it can be necessary to punish, or even prevent statements of this nature. A comprehensive assessment shall be made of the circumstances, including the content of what was said and the context in which the statements were made, in order to determine whether the restriction is proportionate in relation to the purpose, and whether the reasons for it are relevant and sufficient. The nature and severity of the penal sanction shall also be considered in this context (See

judgment in the Gündüz case, p. 40; cf. also the Court's judgment of 9 June 2004 in the case of Abdullah Aydın v. Turkey, p. 35; application 42435/98, not published).

In the European Court's judgment of 23 September 2004 in the case of Feridun Yasar et al v. Turkey, p. 35, application 42713/98, not published), the Court determined in the case of the majority of the plaintiffs that they had stated their opinions (at two party congresses) in the role of politicians participating in Turkish political life, and had not urged others to use violence, armed resistance or revolt, and that this was not a question of hate speech, which, in the eyes of the Court was the determinative factor to be considered. Another plaintiff had, by his statements, created a doubt as to his attitude toward using violence to achieve independence (for the Kurds), which prompted the Court to opine that the punishment in his case could be deemed to relate to a pressing social need, but that the nature and severity of the punishment were not proportionate. The plaintiffs had therefore been victims of a violation of Article 10 (Judgment pages 27-29).

In a comprehensive assessment of the circumstances of Åke Green's case, in light of the case law of the European Court, it is at first clear that there is no question there of the kind of hateful statements known as "hate speech." This even applies to his most extreme statement, in which he describes sexual abnormalities at a cancerous growth, as that statement, viewed in light of what he said in connection with this in his sermon, is not something that can be deemed to encourage or justify hatred of homosexuals. The way he expressed himself perhaps cannot be deemed that

much more derogatory than the wording of the Bible verses in question, but must be viewed as extreme also when considering what he was preaching to his audience. He made his statements in a sermon to his congregation regarding a theme found in the Bible. Whether the belief approach on which he has based his statements is legitimate should not be considered in the determination of the case (European Court's judgment of 26 September 1996 in the case of *Manoussakis et al v. Greece*, p. 47).

Under these circumstances, it is likely that the European Court, in a determination of the restriction of Åke Green's right to preach his Biblically-based opinion that a judgment of conviction would constitute, would find that this restriction is not proportionate, and would therefore be a violation of the European Convention on Human Rights.

The expression "contempt" in the provision regarding incitement against a group cannot be considered to have such a fixed meaning so as to lead to an actual conflict of law between the European Convention on Human Rights and the Criminal Code (cf. report 1993/94:KU24 pp. 18 *et seq.*). Admittedly, according to the *travaux préparatoires*, the intent was that statements of such a nature as the Prosecutor General has cited in the amended description of the crime, were meant to be deemed as an expression of contempt, and within the purview of the provisions. One of the reasons for receiving the European Convention as Swedish law, however, was to create an express basis to directly apply the Convention before Swedish courts (See Govt. Bill 1993/94:117 p. 33). The Supreme Court has also, in several decisions, established that it must be possible to depart from this type of statement made during the legislative process or in case law when this is required pursuant to the interpretation of

the Convention expressed in the decisions of the European Court (see most recently, NJA 2005 p. 462, cf. previous cases, e.g. NJA 1988 p. 572 and 1991, p. 188, 1992, p.532 and 2003 p. 414). As a result of the aforementioned, the criminal provisions regarding agitation against a group in this case should be interpreted more restrictively than what the *travaux préparatoires* would seem to indicate, in order to achieve an application of these provisions that is in line with the Convention. As stated immediately above, such an application that conforms to the Convention would not permit a judgment of conviction against Åke Green, given the present circumstances of this case.

In light of what is stated above, the indictment of Åke Green shall be dismissed.

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

(Signature)

The following persons have participated in this decision: Justices of the Supreme Court Munck, Regner (the reporter), Blomstrand, Calissendorff and Skarhed.

Supreme Court referee responsible for preparing this case: Ihrfelt

Third report on Sweden

Adopted on 17 December 2004

Strasbourg, 14 June 2005



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

- **Fundamental Law on Freedom of Expression and Freedom of the Press Act**

8. Sweden has two constitutional laws regulating the exercise of freedom of expression in the media: the Fundamental Law on Freedom of Expression, which applies to media such as radio, television and recordings of sounds, pictures and text, and the Freedom of the Press Act, which applies to printed material. Both laws contain provisions prohibiting hate speech which are equivalent to those contained in the criminal offence of racial agitation⁶. However, if committed through a means of communication falling under the scope of the constitutional laws, such offences are not prosecuted by the Prosecutor General but by the Chancellor of Justice, according to a specific procedure. ECRI notes that prosecutions of hate speech under the Fundamental Law on Freedom of Expression and the Freedom of the Press Act are very rare. It is reported for instance that between 1997 and 2001, of the approximately 600 cases of hate speech submitted to the Chancellor of Justice, only 9 (or 1.5%) were tried in court⁷. Non-governmental organisations have expressed concern that, as a result of the restrictive approach to prosecutions under the Fundamental Law on Freedom of Expression and the Freedom of the Press Act, explicitly racist material is legally disseminated in Sweden through means of communication covered by these laws. In its second report ECRI noted that, in order to improve this situation, the Swedish authorities planned to adopt amendments extending the time within which offences committed through certain means of communication must be prosecuted. These means of communication, widely used by the White Power movement⁸, are technical recordings, such as music CDs, which do not carry the date of publication. ECRI is pleased to note that these amendments have been in force since 1 January 2003. However, although the Swedish authorities report that there are more investigations at present than before the adoption of the amendments, it does not appear that the latter have so far led to an increase in the number of cases of hate speech tried in court.

Recommendations:

9. ECRI recommends that the Swedish authorities ensure that hate speech disseminated through means of communication covered by the Fundamental Law on Freedom of Expression and the Freedom of the Press Act is effectively countered. In this respect, ECRI draws the attention of the Swedish authorities to its General Policy Recommendation No. 7, where it recommends that the constitution “should provide that the exercise of freedom of expression [...] may be restricted with a view to combating racism”.

⁶ See below, Criminal law provisions.

⁷ This compares with approximately 1800 cases of hate speech submitted to the Prosecutor General and 373 cases (or 20,7%) tried in court under the criminal offence of racial agitation.

⁸ See below, Racial violence and harassment.

Sweden

Supreme Court: http://www.hogstadomstolen.se/default_4185.aspx

The screenshot displays the homepage of the Swedish Supreme Court (Högsta domstolen). The browser window shows the URL www.hogstadomstolen.se/default_4185.aspx. The website features a search bar at the top right and a navigation menu with tabs for 'Avgöranden', 'Förhandlingar', 'Prövningstillstånd', 'Frågor och svar', 'Justitieråd', and 'Arbeta på Högsta domstolen'. The main content area includes a large image of the court's interior, a contact information box for Högsta domstolen (Postadress: Box 2066-103 12 Stockholm; Besöksadress: Riddarhusgränd 9 111 29 Stockholm; Tel: 08-561 666 00; E-Post: hogsta.domstolen@dom.se), and several news sections: 'Nyheter från Sveriges Domstolar' (Attunda tingsrätt dömer till livstids fängelse för två mord och ett mordförsök), 'Rättshjälp och taxor 2011', 'Lånqa fängelsestraff för nya droger', 'Utnämnt justitieråd' (Regeringen har den 2010-12-16 utnämnt hovrättslagmannen Martin Borgeke till justitieråd), and 'Genvägar' (Lagrummets vägländande avgöranden, Begäran om förhandsavgörande från EU-domstolen, Arkiv och avgifter, Lediga anställningar). The footer contains links for 'Domstol.se', 'Kontakt', 'Om webbplatsen', and 'Frågor & svar'.

Case law: Religion, race, ethnic origin, national origin

The screenshot shows the website of the Swedish Supreme Court (Högsta domstolen). The search bar contains the text "hets mot folkgrupp". The search results are displayed as a list of links to legal documents and news items. The first result is a document from 2005-11-03 titled "Betänkandet (SOU 2000:88) Organiserad brottslighet, hets mot folkgrupp, hets mot homosexuella, m.m., straffansvarets räckvidd". The second result is a news item from 2007-11-19 titled "Nytt från Europadomstolen 10 2007". The third result is a news item from 2006-09-29 titled "Nytt från Europadomstolen 7 2006".

Högsta domstolen
SVERIGES DOMSTOLAR

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Sök

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hets mot folkgrupp

Sökrresultat

Du har sökt efter: hets mot folkgrupp
18 resultat påträffades. Visa: 10 träffar per sida

1. Betänkandet (SOU 2000:88) Organiserad brottslighet, hets mot folkgrupp, hets mot homosexuella, m.m., straffansvarets räckvidd

Utgivnen: - 12 februari 2001 - Typ: - Domstolsverkets remissvar - Läs remissvar - 1590-2000 (pdf 7 kB) - Till Regeringens publikation - SOU 2000:88 - Senast ändrad: - 2005-11-03 - Skriv ut -

Datum: 2005-11-03

2. Nytt från Europadomstolen 10 2007

INNEHÅLL - Månadens nyhetsblad innehåller i huvudsak uppgifter ... DOMAR - Domar och beslut mot Sverige - Beslut förklara ... om medhjälpt till hets mot folkgrupp. - Högsta domstolens dom den 7 november 2007 i mål B 2115-06 i fråga om hets mot folkgrupp - ALLMÄNT Domstolen ...

Datum: 2007-11-19

3. Nytt från Europadomstolen 7 2006

The screenshot shows the continuation of the search results from the Swedish Supreme Court website. The results are displayed as a list of links to legal documents and news items. The fourth result is a news item from 2006-09-29 titled "Nytt från Europadomstolen 7 2006". The fifth result is a news item from 2006-01-18 titled "Nytt från Europadomstolen 1 2006". The sixth result is a news item from 2008-03-17 titled "Nytt från Europadomstolen 3 2008". The seventh result is a document from 2009-11-19 titled "6. 2006". The eighth result is a document from 2010-04-28 titled "7. Europarättsliga". The ninth result is a document from 2010-04-28 titled "8. Remissvar".

Datum: 2006-09-29

4. Nytt från Europadomstolen 1 2006

INNEHÅLL - Månadens nyhetsblad innehåller i huvudsak uppgifter ... DOMAR - Domar och beslut mot Sverige - Mörmor mot Sverige, ... B 802-05 i fråga om hets mot folkgrupp. - RÅ:s överklagande till Högsta domstolen av ovan angiven dom avseende hets mot folkgrupp. - ALLMÄNT Enligt ...

Datum: 2006-01-18

5. Nytt från Europadomstolen 3 2008

INNEHÅLL - Månadens nyhetsblad innehåller i huvudsak uppgifter ... DOMAR - Domar och beslut mot Sverige - Beslut avskirva ... B 7165-07 i fråga om hets mot folkgrupp. - Högsta domstolens beslut ... B 7165-07 i fråga om hets mot folkgrupp. - Tingsrätten dömde ...

Datum: 2008-03-17

6. 2006

Avgrändaren 2006 - Domar i brottmål - 2006-12-29 B 1419-05 - Betydelsen av ... inte att en vårdnadshavare mot den andra vårdnadshavarens vilja ... är att bedöma som hets mot folkgrupp. (Jfr NJA 2005 s. 805.) 2006-06-12 B ...

Datum: 2009-11-19

7. Europarättsliga

Europarättsliga avgrändaren - Samredovisning av europarättsliga avgrändaren. ... svensk lag trots att den har ritats mot enbart konsumenter utom Sverige. - ... om homosexuella. Åtal för hets mot folkgrupp har ogiltats med hänvisning till Europakonventionens ...

Datum: 2010-04-28

8. Remissvar

Datum: 2008-03-17

6. 2006

Avgränden 2006 - Domar i brottmåll - 2006-12-29 B 1419-05 - Betydelsen av ... inte att en vårdnadshavare **mot** den andra vårdnadshavarens vilja ... är att bedoma som **hets mot folkgrupp**. (JF NJK 2005 s. 805.) 2006-06-12 B ...

Datum: 2009-11-19

7. Europarättsliga

Europarättsliga avgränden - Särredovisning av europarättsliga avgränden. ... svensk lag trots att den har riktats **mot** enbart konsumenter utom Sverige. ... om homosexuella. Åtal för **hets mot folkgrupp** har ogillats med hänvisning till Europakonventionens ...

Datum: 2010-04-28

8. Remissvar

Här hittar du Domstolsverkets remissvar - Betänkandet (SOU 2009:122) Att ... [2001-02-19] - Betänkandet (SOU 2000:88) Organiserad brottslighet, **hets mot folkgrupp**, **hets mot** homosexuella, m.m. straffansvarets räckvidd - [2001-02-12] Betänkandet Att verka ...

Datum: 2005-11-03

9. 2005-11-29 B 1050-05

Dom i brottmåll: B 1050-05 - I en predikan har gjorts nedsättande uttalanden om homosexuella. Åtal för **hets mot folkgrupp** har ogillats med hänvisning till Europakonventionens artiklar 9 och 10. - Tillhörande dokument - B ...

Datum: 2010-04-12

10. 2006-07-06 B 119-06 Dom + skiljaktigheter

Sida 1 (36) - HÖGSTA DOMSTOLENS - DOM - Måll nr - meddelad i Stockholm den ... TK - Ombud: PÖ - SAKEN - **Hets mot folkgrupp** - ÖVERLAGADE AVGÖRANDET Hovrätten för ... domstolen - 1. - FV för **hets mot folkgrupp** enligt 16 kap. 8 § brottbalken till ...

Datum: 2007-04-02

<< < 12 > >>

Domstol.se | Kontakt | Om webbplatsen | Frågor & svar

démarrer Courrier entrant p... Hogsta domstolen... Annexes Jurisprud... Jurisprudence So... Jurisprudence à cu... SWE - J - 2 - Micr... Microsoft Excel ... 15:00

Public Policies

Välkommen till DO

Diskrimineringsombudsmannen (DO) arbetar mot diskriminering som har samband med kön, könsidentitet eller könsuttryck, etnisk tillhörighet, religion eller annan trosuppfattning, funktionsnedsättning, sexuell läggning och ålder.



Beställ DO:s material

2010-12-22

Behöver din skola eller du som arbetsgivare verktyg för att bättre arbeta förebyggande mot diskriminering? Vill du läsa fördjupande rapporter om diskriminering? Undrar du hur du kan ta tillvara på dina rättigheter? Nu kan du på ett enklare sätt beställa DO:s material via DO:s nya varukorgsfunktion.

[Beställ DO:s material](#)

AKTUELLT

DO utvecklar rutiner för effektivare ärendehantering

2010-12-21

DO genomför ett antal åtgärder för att få en effektivare handläggning av ärenden. Målet är att individ- och granskningsärendena ska handläggas effektivt, strategiskt och rättssäkert.

[DO utvecklar rutiner för effektivare ärendehantering](#)

AKTUELLT

Förlikning med Primärvården i Södra Bohuslän ger kvinna 25 000

2010-12-20

Kvinnan med invandrarbakgrund sökte läkarhjälp för sina psykiska besvär. Men hon fick inget sjukintyg och upplevde att hon blev kränkande bemött av läkaren. Nu har DO och landstinget i Västra Götaland nått en förlikning som innebär att kvinnan får 25 000 kronor.

[Förlikning med Primärvården i Södra Bohuslän ger kvinna 25 000](#)

AKTUELLT

DO utbildar arbetsgivare och fack om jämställda löner

2010-12-16

I dag deltar ett 80-tal personalansvariga och fackliga representanter i DO:s utbildning i hur man systematiskt arbetar för att uppnå jämställda löner.

[DO utbildar arbetsgivare och fack om jämställda löner](#)

[Läs mer Aktuellt på DO](#) [Pressmeddelanden](#)

Tipsa en vän Facebook Twitter MySpace



Aktuellt Planforskolan.se

Planforskolan.se är ett gratis webbverktyg som ska hjälpa er som arbetar i förskolan eller skolan med det planmässiga arbetet mot diskriminering och kränkande behandling.

[Planforskolan.se](#)

Anmälningssblanketter

Vill du anmäla diskriminering till DO? Här kan du ladda ned anmälningssblanketter.

[Anmälningssblanketter](#)



Förlikningar och domstolsärenden

Här hittar du DO:s alla stämningar, förlikningar och domstolsärenden.

[Förlikningar och domstolsärenden](#)



Husmodellen – skolan

Husmodellen är en enkel och konkret granskningsmetod som kan bidra till att upptäcka risker för diskriminering och trakasserier i skolan. Finns också för förskolan.

[Husmodellen – skolan](#)

Diskrimineringsombudsmannen (DO)
 Box 3686
 103 59 Stockholm
 Telefon 08-120 20 700
 E-post do@do.se

Begränsade öppettider

2010-12-22

DO har begränsade öppettider mellan den 23 december 2010 till och med den 7 januari 2011.

[Begränsade öppettider](#)

DO positiv till ett utvidgat skydd mot åldersdiskriminering

2010-12-20

DO är positiv till förslaget om ett utvidgat förbud mot åldersdiskriminering i diskrimineringslagen. Det skriver myndigheten i sitt remissvar till Integrations- och jämställdhetsdepartementet.

[DO positiv till ett utvidgat skydd mot åldersdiskriminering](#)

Hovrätten tar upp mål mot Krokoms kommun

2010-12-17

Diskrimineringsombudsmannen har stämt Krokoms kommun för etnisk diskriminering av medlemmarna i Jovnevaerie sameby. Hovrätten har nu sagt ja till prövningstillstånd.

[Hovrätten tar upp mål mot Krokoms kommun](#)

DO i media

2010-12-22 Arbetaren
 62-åring blev åldersdiskriminerad

2010-12-21 Norrköpings Tidningar

[Kvinna anmäler utbildningsföretag till DO](#)

2010-12-17 SVT Jämtlandsnytt
 Hovrätten tar upp diskriminering

2010-12-17 Vårdfokus
 Diskriminering. 'Facket borde ta ett större ansvar'

Third report on Sweden

Adopted on 17 December 2004

Strasbourg, 14 June 2005



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

guidance in this respect. In accordance with this General Policy Recommendation, ECRI recommends in particular that the Swedish authorities: extend antidiscrimination legislation to all levels of education; provide in law the possibility to adopt positive measures to promote equality of persons irrespective, *inter alia*, of racial and ethnic origin in all fields of life; place public authorities under a statutory duty to promote equality and prevent discrimination in carrying out their functions, and provide for effective, proportionate and dissuasive sanctions for cases of discrimination.

26. ECRI recommends that the Swedish authorities closely monitor the implementation of the antidiscrimination legislation and take all the necessary measures, including changes to legislation, in order to improve such implementation.

Administration of justice

27. In its second report, ECRI recommended that the Swedish authorities monitor the situation as concerns racism and racial discrimination in the criminal justice system. ECRI is pleased to note that in May 2003 the Swedish authorities instructed the different criminal justice agencies to develop strategies against racism and racial discrimination. It has been reported to ECRI, however, that these strategies have often tended to focus extensively on work already underway against perpetrators of racist activities rather than investigating and addressing discrimination, including possible structural discrimination, within the agencies themselves. The Swedish authorities have highlighted, however, that these strategies include a broad range of measures aimed at combating discrimination within the agencies, such as education and awareness-raising initiatives and attitude surveys amongst employees.
28. ECRI notes that, as part of the work currently underway on structural discrimination, research is being carried out within the Stockholm University on the reasons behind the disproportionate impact of criminal justice functions on persons of immigrant background, in areas such as convictions for crimes or remand in juvenile custody.

Recommendations:

29. ECRI encourages the Swedish authorities to intensify their efforts to disclose and address patterns of discrimination in the criminal justice system. To this end, it recommends that they support research in these areas and that they monitor the implementation of strategies of the criminal justice agencies against racism and racial discrimination.

Specialised bodies and other institutions

- *The Ombudsman against Ethnic Discrimination (DO)*

30. ECRI notes that, in accordance with a recommendation it made in its second report, the competence of the DO has been extended to the fields of discrimination covered by the Prohibition of Discrimination Act¹⁸. ECRI also welcomes that there has been a three-fold increase in the budget of the DO from 2003 to 2005. ECRI notes, however, that there are still areas of work covered by the DO's mandate that it has not been able to tackle extensively.
31. ECRI notes that the Parliamentary Committee which is currently reviewing the entire field of antidiscrimination legislation¹⁹ is also considering the possibility of merging the Ombudsmen who presently oversee the implementation of different antidiscrimination laws, including the DO, into one single institution as well as the status and functions of this institution. In this connection, ECRI stresses that in its General Policy Recommendation No. 2²⁰, it has made recommendations concerning the need to ensure the independence and accountability of institutions such as the one envisaged and ways to guarantee them. ECRI also stresses that, in its General Policy Recommendation No. 7, it recommends that the competence of national specialised bodies to combat racism and racial discrimination include: assistance to victims; investigation powers; the right to initiate and participate in court proceedings; monitoring legislation and advice to legislative and executive authorities; awareness-raising of issues of racism and racial discrimination among society, and promotion of policies and practices to ensure equal treatment.

Recommendations:

32. ECRI recommends that the Swedish authorities continue to ensure that the DO is given all the necessary resources to carry out all the work covered by its mandate effectively.
33. ECRI recommends that, in the framework of the current review of the mechanisms to ensure oversight of antidiscrimination legislation, the Swedish authorities take into account ECRI's General Policy Recommendations No. 2 and No. 7, notably as concerns the areas highlighted above.

- *The Swedish Integration Board*

34. ECRI notes that, since its second report, the Swedish Integration Board, which is the central administrative authority for integration issues with overall responsibility for ensuring that integration policy goals permeate different sectors of society, has been reorganised and that its research and development functions have been strengthened. Since ECRI's second report, the Board has increasingly focused on discrimination as part of its work on integration. This is also reflected in the funding and support given by the Board to the Centre

¹⁸ See Civil and administrative law provisions.

¹⁹ See Civil and administrative law provisions

²⁰ CRI (97) 36: ECRI General Policy Recommendation n° 2: Specialised bodies to combat racism, xenophobia, antisemitism and intolerance at national level.

against Racism and to local antidiscrimination bureaus²¹. ECRI welcomes the increased attention payed by the Board to issues of discrimination, although it has been highlighted that this results in the need for the areas of work of the Board and the DO to be more clearly defined.

- ***The Council for Ethnic Equality and Integration***

35. The Council for Ethnic Equality and Integration, which comprises representatives of the government, organisations catering for the interests of immigrants, other non-governmental organisations, religious communities and labour market partners, is a consultative body for the government on integration issues. Many have questioned the effectiveness of this body so far and ECRI notes that consideration is being given to re-organising its membership.

- ***Local antidiscrimination bureaus***

36. There are at present 13 local antidiscrimination bureaus in Sweden. These bureaus, established at the initiative of local non-governmental organisations, provide advice and assistance to victims of discrimination. ECRI is pleased to note that, since its second report, the funds provided by the Swedish authorities to these bureaus have increased. ECRI also notes that the DO provides training to these bureaus in order to improve their knowledge of antidiscrimination legislation.

- ***Centre against Racism***

37. ECRI notes that the Centre against Racism was established in 2003 and inaugurated in March 2004. The Centre, which is a largely State-funded independent umbrella organisation with a base of over one hundred non-governmental organisations working in the field of racial discrimination, has as its main tasks to gather, develop and disseminate knowledge of racism and discrimination and to contribute to shaping public opinion on these issues.

Recommendations:

38. ECRI recommends that the Swedish authorities ensure that the areas of work carried out by different institutions at central level on issues of discrimination are clearly defined so as to maximise their effectiveness.

39. ECRI recommends that the Swedish authorities ensure that the Council for Ethnic Equality and Integration gives persons of immigrant origin an opportunity to provide a meaningful input to governmental policies on integration.

Education and awareness-raising

40. As mentioned below²², since ECRI's second report, more attention has been paid in Sweden to understanding and disseminating knowledge about different forms of racial discrimination. ECRI notes that the Swedish authorities have provided the DO and other Ombudsmen with funds to carry out an awareness

²¹ See below.

²² Integration policies and the fight against racial discrimination

raising campaign on the new antidiscrimination legislation. ECRI also notes that the 2002-2004 National Human Rights Action Plan, which addressed racism, xenophobia and racial discrimination as one of its priority issues, is currently being evaluated and that a new Human Rights Action Plan is being drawn up.

41. In its second report, ECRI noted that racist ideologies were being spread among school children, notably through propaganda disseminated by members of extremist movements²³, and recommended that the Swedish authorities produce and disseminate material concerning racism and racial discrimination and providing information about the history and cultures of the various minority groups living in Sweden. ECRI welcomes the fact that, since its second report, the Living History Forum has been established as a permanent agency with the task of promoting work with democracy, tolerance and human rights, with the Holocaust as a starting point. The work of the Forum must reach children and young people and also adults who work with children and young people. ECRI notes, however, that education in human rights is not compulsory in schools in Sweden, although the Swedish authorities report that such education exists in a number of schools.
42. ECRI notes that the Living History Forum and the National Council for Crime Prevention have released in October 2004 the results of an extensive survey carried out throughout Sweden among school children of 14-18 years of age, which examines their attitudes towards, *inter alia*, racism, antisemitism and islamophobia and their vulnerability to and participation in these phenomena. ECRI notes that the results of the survey indicate that the vast majority of youths professes a positive attitude towards different minority groups and that 1.7% of the pupils, almost exclusively children born in Sweden, were found to be highly intolerant. The study also indicates that 14% of the children had been insulted in relation with their ethnic origin over the course of the previous twelve months and that this percentage includes 40% of children born abroad from parents born abroad and 9% of children with a completely Swedish background. According to the study, approximately 7% of the children reported having come into contact with material produced by racist extremist organisations.

Recommendations:

43. ECRI encourages the Swedish authorities to pursue and intensify their efforts to raise the awareness of the general public and target groups of the issues pertaining to racial discrimination, including awareness of the legal framework in force against discrimination. ECRI recommends that racism and racial discrimination feature prominently in the Human Rights Action Plan which is currently being drawn up.
44. ECRI recommends that the Swedish authorities pursue their efforts to counter all forms of racism among school children. In this respect, it recommends that they introduce human rights education as a compulsory subject in all schools in Sweden. ECRI also recommends that the results of the survey on racism, antisemitism and islamophobia among school children are used to elaborate targeted policy responses by the different central and local agencies responsible for tackling these issues in their respective areas of competence.

²³ Racial violence and harassment

Recommendations:

75. ECRI recommends that the Swedish authorities address the problem of racial discrimination in access to public places such as bars and restaurants. To this end, it recommends that full use be made of the existing criminal and civil antidiscrimination provisions. It also recommends that the Swedish authorities make full use of the provisions regulating the issuing and withdrawal of licenses to serve alcohol in order to combat discrimination. ECRI furthermore recommends that the Swedish authorities intensify their efforts to raise the awareness of those working in the entertainment industry of the need to combat racism and racial discrimination.

- **Other areas**

76. ECRI notes that children of immigrant background are reported to be considerably more likely than other children (over twice as likely if they are under twelve years of age and over three times as likely if they are between thirteen and eighteen years of age) to be assigned to residential care.

Recommendations:

77. ECRI recommends that the Swedish authorities research and address the disproportionate representation of children of immigrant background among children assigned to residential care.

Vulnerable groups

- **Roma communities**

78. Roma communities in Sweden are reported to continue to suffer disadvantage and discrimination in the closely intertwined fields already highlighted in ECRI's second report. This part of the Swedish population reportedly continues to experience blatant discrimination in housing and harassment by neighbours, discrimination in access to public places such as restaurants and shops, and discrimination by potential employers. Low school attendance and high drop-out rates from schools as well as limited enjoyment by Roma in practice of their right to education in their mother tongue are further areas of concern that have been highlighted. ECRI further notes that society in general, but also the authorities, are reported to have limited knowledge of Roma people, their situation and the reasons for this situation. On the other hand, a long history of discrimination has contributed to making many Roma distrustful of the authorities. In its second report, ECRI recommended that the Swedish authorities further develop strategies to improve the situation of the Roma communities in Sweden. ECRI notes that since then, the DO has carried out a project on Roma that has resulted in concrete proposals for action being made to the Swedish authorities. As a result of this process, ECRI is pleased to note, *inter alia*, that the DO will be provided with targeted funds to continue its work on Roma. This work will not only focus on individual cases of discrimination, but also on structural discrimination. ECRI also understands that the National

Agency for School Improvement will be focussing specifically on advancing the position of Roma and other national minorities in education and that the Children's Ombudsman will assess the situation of Roma children in Sweden in the light of the standards contained in the Convention on the Rights of the Child. The Swedish authorities have also reported that they plan to carry out an awareness raising campaign for the general public on the situation of young Roma persons in Sweden.

Recommendations:

79. ECRI recommends that the Swedish authorities pursue and intensify steps to improve the situation of Roma in Sweden and combat and prevent racism and racial discrimination against this part of the Swedish population. ECRI draws once more the attention of the Swedish authorities to its General Policy Recommendation No. 3³⁰, which proposes a range of legislative and policy measures which governments can take to this end. ECRI emphasises in particular its recommendation to “develop institutional arrangements to promote an active role and participation of Roma/Gypsy communities in the decision-making process, through national, regional and local consultative mechanisms, with priority placed on the idea of partnership on an equal footing”.

- **Muslim communities**

80. In its second report, ECRI recommended that the Swedish authorities keep the situation as concerns Islamophobia under review. ECRI notes that official hate crime figures do not currently distinguish between Islamophobic hate crimes and other types of hate crimes. However, it has been reported to ECRI that, following the rise in Islamophobia in Sweden subsequent to the events of 11 September 2001, this phenomenon has not significantly decreased. Since ECRI's second report, the Swedish authorities have intensified their efforts to help young people, and particularly girls, who are at risk of honour-related violence. While ECRI welcomes the fact that efforts are made to help those persons who are at risk of this type of violence, it notes that there are consistent reports indicating that the manner in which these issues have featured in public debate and in the media have further contributed to a climate where Muslims are the targets of generalisations and stereotypes.

Recommendations:

81. ECRI recommends that the Swedish authorities take steps to effectively combat and prevent racism and discrimination towards Muslims. In this respect, it draws the attention of the Swedish authorities to its General Policy Recommendation No. 5, which proposes a range of legislative and policy measures governments can take to this end. ECRI also recommends that the Swedish authorities do their utmost to avoid that any measures taken to help persons at risk of honour-related violence result in generalisations and stereotypes concerning the members of the Muslim communities.

³⁰ CRI (98) 29: ECRI General Policy Recommendation n° 3: Combating racism and intolerance against Roma/Gypsies, European Commission against Racism and Intolerance

- ***Jewish communities***

82. In its second report, ECRI recommended that the Swedish authorities further develop initiatives to combat antisemitism, including initiatives to raise awareness of Nazi crimes and the Holocaust. ECRI notes that since its second report, work in these areas has continued, especially through the Living History Forum³¹. However, the extent to which individual schools and municipalities carry out work against antisemitism is reported to vary considerably. There are also civil society organisations carrying out work in schools with pupils and teachers to equip them to combat and react to manifestations of antisemitism. Official statistics indicate that antisemitic hate crimes rose slightly in 2002 and decreased slightly in 2003. However, antisemitic propaganda, especially disseminated through the Internet is reported to have increased considerably and not to have been countered effectively by the Swedish authorities. There are also reports indicating that the political leadership has been less ready and vocal in identifying and condemning antisemitism than other forms of racism.

Recommendations:

83. ECRI recommends that the Swedish authorities continue and intensify their efforts to counter all manifestations of antisemitism, including through initiatives in the field of education. ECRI recommends that the Swedish authorities take steps to counter antisemitic propaganda disseminated through the Internet. More generally, ECRI draws the attention of the authorities to its General Policy Recommendation No. 9, which proposes a range of measures they can take to combat antisemitism.

- ***Sami communities***

84. In its second report, ECRI recommended that the Swedish authorities strengthen their efforts to resolve the conflicts opposing the Sami population, which is entitled to use land in connection with reindeer breeding in traditional areas, and landowners. ECRI notes that a Boundary Commission appointed in January 2002 to define the boundaries for Sami reindeer breeding rights will submit its findings in December 2004. It also notes that a Commission for Hunting and Fishing was appointed in April 2003 to clarify the scope of the Sami hunting and fishing rights and how these resources should be administered. The findings of this commission are expected in December 2005. The Swedish authorities report that they intend to submit a bill on the ratification of the ILO Convention No. 169 to Parliament once the findings of these commissions have been analysed. It has been noted that there is a need to further enhance the influence of the Sami in decisions concerning the use of natural resources, including forestry, tourism, and mining, which affect their traditional means of subsistence. Work is reportedly underway to improve involvement of the Sami in these decisions, including through the transfer of certain administrative responsibilities from the County Administrative Boards and the Board of Agriculture to the Sami Parliament.

³¹ See Education and awareness raising

members of ethnic minority groups indirectly, data on national and ethnic origin are not collected. ECRI notes that there is a cautious attitude towards collection of such data in Sweden. It notes, however, that there is no outright prohibition to collect data broken down by national and ethnic origin in Swedish legislation, although, understandably, the collection of such data is made conditional on the existence of certain safeguards. ECRI considers that the absence of such data in Sweden limits the general awareness of the need to take positive measures to improve the position of certain disadvantaged groups.

Recommendations:

99. ECRI recommends to the Swedish authorities to improve their monitoring systems by collecting relevant information broken down according to categories such as religion, language, nationality and national or ethnic origin, and to ensure that this is done in all cases with due respect to the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group. These systems should be elaborated in close co-operation with civil society organisations and take into consideration the gender dimension, particularly from the point of view of possible double or multiple discrimination.

Racial violence and harassment

100. In its second report, ECRI recommended that the Swedish authorities monitor the situation as regards racial violence and harassment. Official figures indicate that the number of racist, xenophobic and antisemitic crimes reported to the police in Sweden in 2003 was approximately 3600. These crimes include common offences such as murder, manslaughter and assault, but also racial agitation and discrimination. These figures indicate that in the last two years reported xenophobic offences – mainly violent offences, threats and harassment -- have decreased slightly in comparison with previous years. Antisemitic offences, which include a considerable number of offences of racial agitation, have remained fairly constant. As already noted by ECRI in its second report, although the majority of racist, xenophobic and antisemitic crimes are committed at the individual level, a considerable proportion of these crimes have links with the so-called White Power movement, which in Sweden designates right-wing extremists who use or advocate the use of violence for political aims. The proportion of White Power-related crimes, which has been constantly increasing since 1998, was about 40% of the total number of reported racist, xenophobic and antisemitic crimes in 2002 and 2003. Within these, the most common offence was racial agitation, although an increase was notable in all categories of offences, including assaults, except graffiti and discrimination. The Swedish authorities have stressed that, although these figures call for continued attention to countering racial violence and harassment and the White Power movement, they also reflect, at least in part, an increased awareness of the general public of the issues around racism, xenophobia and antisemitism and a better ability of the police to record these crimes.
101. ECRI continues to be concerned, however, at the active presence of the White Power movement in Sweden. In its second report, ECRI recommended that the Swedish authorities take measures to combat this movement and, in particular, to combat the production and distribution of hate music, which represent a considerable source of funds for these organisations. Since ECRI's second

report, however, the production and distribution of hate music and the holding of hate music concerts has reportedly continued to flourish. Non-governmental organisations report that dissemination of racist, xenophobic and antisemitic propaganda on the Internet has also dramatically increased and that none of the offences committed through the Internet are prosecuted. ECRI notes that initiatives aimed at supporting youths who wish to leave White Power organisations have continued. The Swedish authorities also report that they are considering taking a firmer approach as concerns the granting of authorisations for demonstrations and gatherings.

102. In its second report, ECRI noted that parties which had resorted to explicitly racist and xenophobic propaganda had obtained local government seats. These parties are reported to have close links with the White Power movement, which manifest themselves not only at the ideological level, but also through the participation of members of these parties in violent White Power activities. In this respect, ECRI notes with concern that, at the last municipal elections, the Swedish Democrats experienced an almost four-fold increase in the electoral support obtained in 1998 and now hold a number of seats in municipal councils.

Recommendations:

103. ECRI recommends that the Swedish authorities ensure a firm response to racial violence and harassment. ECRI reiterates in this connection the recommendations made with regard to the implementation of the existing criminal law provisions against racial agitation and racially aggravated offences. ECRI recommends in particular that the Swedish authorities ensure that racial agitation committed through the Internet is prosecuted and punished.
104. ECRI recommends that the Swedish authorities intensify their efforts to counter the White Power movement. It reiterates in this connection the recommendations made with regard to the need to prohibit racist organisations and the participation in their activities. ECRI recommends that particular efforts be devoted to countering the production and dissemination of hate music.
105. ECRI recommends that the Swedish authorities take measures to tackle the exploitation of racism and xenophobia in politics. In this respect, ECRI recommends, in accordance with its General Policy Recommendation No. 7, that the Swedish authorities consider enacting legislation to withdraw public financing from organisations that promote racism, xenophobia and antisemitism.

II. SPECIFIC ISSUES

Integration policies and the fight against racial discrimination

106. In its second report, ECRI considered that there was a need for Sweden to define its vision of an integrated society more clearly. ECRI also identified a need for Swedish society as a whole to better understand the various forms of racial discrimination operating within it, including indirect discrimination and structural or institutional discrimination, and to fully acknowledge the role that discrimination plays in preventing an integrated society. ECRI is pleased to note that, since its second report, discrimination has increasingly been in focus in Sweden and that integration policies have started to better reflect the