

The Independent Fact Group

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Subject: MV Estonia - anti whistleblower law (The Foreign Espionage Act)

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Methodology:

In the course of this task, we have assumed that the solution of a problem is never better than the validity of the basic assumptions. As a result, we have stipulated some methodological principles, of which the following are the most fundamental:

1. All scenarios must be considered to be true until the contrary is proved.
2. All observations, assumptions or statements on which a scenario is based must be considered false until the contrary is proved.

We have defined a number of criteria for concluding that an observation, assumption or statement may be considered to be true or false, and processes and routines for the route to be taken in clarifying an observation, assumption or statement. These criteria involve technical, empirical, statistical and/or semantic requirements which, if they are relevant, must all be met if the observation, assumption or statement is to be classified as an objective fact.

Summary

The Independent Fact group **warns** with this report about dismantling freedom of speech and the press, which also entails an extreme limitation of the possibility of carrying out work in a free democracy.

The constitutional change that will now take place in Sweden prevents in practice all investigative journalism, both that which takes place in and through established media and that which organizations carry out. It limits the work for increased transparency and disclosure of the shortcomings of states and authorities, corruption, and possible criminal activities.

It means that the whistleblower takes over the goalkeeper role and suddenly stands as the perpetrator and, in the best case, risks imprisonment between 2 and 6 years.

The Foreign Espionage Act

Translation from the Swedish Parliament's website regarding Proposition 2021/22:55.

https://www.riksdagen.se/sv/dokument-lagar/dokument/proposition/utlandsspioneri_H90355

"International cooperation promoting peace and security is largely based on trust and on the fact that the cooperating countries can protect the secret information that occurs within the cooperation framework. The aim is to strengthen the protection of such collaborations against espionage-like acts. The Swedish government proposes that the crimes of foreign espionage, aggravated foreign espionage, and disclosure of secret information in international cooperation will be introduced into the criminal code.

As a result, it becomes a criminal offense to, under certain circumstances, e.g., unauthorized disclosure of secret information that occurs within Sweden's international collaborations and could damage Sweden's relationship with another state or an international organization.

An act shall not constitute a crime if justifiable in view of the purpose and other circumstances.

The criminal provisions on unauthorized and grossly unauthorized positions with a secret mission and negligence with a secret mission are expanded to cover acts that have their basis in foreign espionage.

Foreign espionage and the forms of unauthorized positions with a secret mission and negligence with a secret mission that have their basis in foreign espionage are also criminalized as violations of freedom of press and expression. Freedom of communication and freedom to acquire information with the aim of making it public, or publishing it, is restricted in the case of foreign espionage, aggravated foreign espionage, and aggravated unauthorized position with a secret mission based on foreign espionage."

"An act shall not constitute a crime if it is justifiable, taking into account the purpose and the circumstances in general."

We note that this disclaimer is not only an ambiguous clause but also constitutes a paradox because the person suspected of a crime can only be acquitted if the prosecutor deems the act justifiable.

The Foreign Espionage Act has no place in a democracy. It restricts freedom of expression, freedom of information, and freedom of communication, which are fundamental foundations of our democracy. It thus threatens our democracy and forces self-censorship, not only among journalists but among everyone who conducts investigative work to uncover irregularities.

It thus means the most significant and most serious limitation of free and independent media's opportunities to review and reveal wrongdoing linked to Sweden's international collaborations within the EU, NATO, and various nations such as Turkey and Saudi Arabia.

And talking about Turkey

Turkey: The new "disinformation" law could jail journalists for three years!

Press freedom organisations warn bill will "subdue public debate" in run-up to next year's general elections.

<https://www.theguardian.com/world/2022/oct/13/turkey-new-disinformation-law-could-jail-journalists-for-3-years>

The Independent Fact Group commentary and report conclusion:

The amendment of the Swedish constitution through the law on foreign espionage is a historic mistake.

It brings a new era, not least concerning the investigation into the sinking of the MV Estonia, where around 15.000 documents have been classified as a secret concerning the kingdom's security, where the armed forces and customs were caught red-handed for illegally using a civilian passenger ferry for military transport. Shipments that took place regularly for several years and included close to 100 transports.

The Independent Fact Group finds ourselves, within the meaning of the new law, to meet the grounds for prosecution.

However, our international lawyers judge that legal action against our organization would be hopeless, even if they would succeed in finding "the guilty" with new secret means of coercion that the law allows for.

The law will not hinder us in our continued work, which is why we are now releasing a new report, "MV Estonia shipwreck scenario," the day before the vote in the Swedish parliament.

The Independent Fact Group
Troon, Scotland 15th of November 2022