

# The Fundamental Law on Freedom of Expression

## Chapter 1. Basic provisions

**Art. 1.** Every Swedish citizen is guaranteed the right under this Fundamental Law, vis-à-vis the public institutions, publicly to express his or her thoughts, opinions and sentiments, and in general to communicate information on any subject whatsoever on sound radio, television and certain similar transmissions, through public playback of material from a database, and in films, video recordings, sound recordings and other technical recordings.

The purpose of freedom of expression under this Fundamental Law is to secure the free exchange of opinion, free and comprehensive information, and freedom of artistic creation. No restriction of this freedom shall be permitted other than such as follows from this Fundamental Law.

References in the Fundamental Law to radio programmes shall apply also to television programmes and to the content of other certain transmissions of sound, pictures or text made using electromagnetic waves, as well as to the content of certain public playbacks from a database.

Technical recordings are understood in this Fundamental Law to mean recordings containing text, pictures or sound which may be read, listened to or otherwise comprehended only using technical aids.

A database is understood in this Fundamental Law to mean a collection of information stored for automatic data processing.

**Art. 2.** Every Swedish citizen is guaranteed the right to communicate information on any subject whatsoever to authors and other originators, as well as to editors, editorial offices, news agencies and enterprises for the production of technical recordings for publication in radio programmes or such recordings. He or she also has the right to procure information on any subject whatsoever for such communication or publication. No restriction of these rights shall be permitted other than such as follows from this Fundamental Law.

**Art. 3.** There shall be no prior scrutiny by a public authority or other public body of a matter which is intended for release in a radio programme or technical recording. Nor is it permitted for public authorities or other public bodies to prohibit or prevent the release or dissemination to the general public of a radio programme or technical recording on grounds of its known or expected content, except by virtue of this Fundamental Law.

The provisions of paragraph one notwithstanding, provisions may be laid down in law concerning the scrutiny and approval of moving pictures in films, video recordings or other technical recordings intended for public showing, and moving pictures in such playback of material from a database referred to in Article 9, paragraph one, point 3.

No public authority or other public body may prohibit or prevent the possession or use of such technical aids as are necessary to receive radio programmes or comprehend the content of technical recordings on grounds of the content of a radio programme or technical recording, except by virtue of this Fundamental Law. The same applies to any ban on the construction of landline networks for the transmission of radio programmes.

**Art. 4.** Public authorities and other public bodies may not intervene against any person on grounds that he or she has abused the freedom of expression or contributed to such abuse in a radio programme or technical recording, except by virtue of this Fundamental Law. Nor may they intervene against the programme or recording on such grounds, except by virtue of this Fundamental Law.

**Art. 5.** Any person entrusted with passing judgment on abuses of the freedom of expression or otherwise overseeing compliance with this Fundamental Law should bear in mind that the Freedom

of Expression is fundamental to a free society. He or she should direct his or her attention always to the aim rather than the manner of presentation. In case of doubt, he or she should acquit rather than convict.

**Art. 6.** This Fundamental Law applies to transmissions of radio programmes which are directed to the general public and intended for reception using technical aids. Such transmissions of radio programmes are understood to include also the provision of live broadcasts and recorded programmes which are specifically requested, provided the starting time and the content cannot be influenced by the receiver.

In the case of radio programmes transmitted by satellite and emanating from Sweden, the provisions of this Fundamental Law concerning radio programmes in general apply.

Exceptions to this Fundamental Law in respect of radio programmes intended primarily for reception abroad and radio programmes transmitted by landline but not intended for reception by a wider public may be laid down in law. Such exceptions may not however relate to the provisions of Articles 2 and 3.

**Art. 7.** In the case of simultaneous and unmodified onward transmission in this country of radio programmes under Article 6 emanating from abroad or transmitted to Sweden by satellite but not emanating from Sweden, only the following provisions apply:

Article 3, paragraph one, prohibiting prior scrutiny and other restrictions;

Article 3, paragraph three, on the possession of technical aids and the construction of landline networks;

Article 4, prohibiting interventions except by virtue of this Fundamental Law;

Article 5, on the attitude to be adopted in applying this Fundamental Law;

Chapter 3, Article 1, on the right to transmit radio programmes by landline; and

Chapter 3, Articles 3 and 5, on special legislative procedures and examination before a court of law.

If the Riksdag has approved an international agreement concerning radio programmes, provisions under Article 12, paragraph two, may not constitute an obstacle to onward transmission of radio programmes in breach of the agreement.

Chapter 10, Article 2, contains provisions concerning the right to communicate and procure information and intelligence for publication in radio programmes emanating from abroad.

**Art. 8.** In the case of radio programmes or part-programmes consisting of live broadcasts of current events, or of religious services or public performances arranged by some person other than the person operating the programme service, the following provisions are not applied:

Article 2, on the right to communicate and procure information for publication;

Article 4, prohibiting interventions;

Article 5, on the attitude to be adopted in applying this Fundamental Law;

Chapter 2, on the right to anonymity;

Chapters 5 to 7, on freedom of expression offences, liability rules and supervision, prosecution and special coercive measures;

Chapter 9, on court proceedings in freedom of expression cases; and

Chapter 10, Article 2, on the right to communicate and procure information for publication in radio programmes emanating from abroad.

**Art. 9.** The provisions of this Fundamental Law concerning radio programmes apply also, in cases other than those stated in Article 6, paragraph one, sentence two, when the editorial office of a printed periodical or radio programme, an enterprise for the professional production of printed matter or matter equated with printed matter under the Freedom of the Press Act, or of technical recordings, or a news agency, with the aid of electromagnetic waves:

1. supplies to the general public, in response to a special request, information taken from a database the content of which can only be modified by the person carrying on the activity,

either by direct transfer, or indirectly by the production of a technical recording, written document or picture;

2. otherwise, in accordance with a prior agreement, supplies information to the public by direct transfer from a database under point 1; or
3. by means of public playback, supplies information to the public from a database under point 1.

The provisions of paragraph one apply also to any other person holding a valid certificate of no legal impediment to publication in respect of such activity. The issue of such a certificate requires that:

- the activity is organised in the manner referred to in paragraph one and transmissions emanate from Sweden;
- a qualified responsible editor has been appointed and has accepted the appointment; and
- the activity has a name such that it cannot easily be confused with the name of another activity under this Article.

A certificate of no legal impediment to publication is valid for ten years from the date of issue. The certificate lapses thereafter. The certificate may be renewed, for ten years at a time with effect from the expiry of the preceding ten-year period, always providing the preconditions exist for issue of such a certificate. The certificate may be rescinded if the preconditions for its issue no longer pertain, if the activity has not commenced within six months from the date of issue of the certificate, or if the person carrying out the activity has given notice that it has been discontinued. If the certificate lapses or is rescinded, provisions laid down in law or other statute apply.

More detailed rules concerning the issue, lapse, renewal and rescinding of a certificate of no legal impediment to publication are laid down in law.

Every database shall have a name. More detailed provisions concerning such names are laid down in law.

Provisions concerning penalties for persons offending against a provision under paragraph four or five are laid down in law.

**Art. 10.** This Fundamental Law applies to technical recordings which have been published. A technical recording is deemed to have been published when it has been delivered for dissemination to the general public in Sweden by being played, sold or otherwise made available.

A technical recording shall not be deemed to have been delivered for dissemination to the public in Sweden merely on the grounds of its being sent to a recipient abroad.

The question whether or not this Fundamental Law is applicable is examined in individual cases on the basis of what can be presumed concerning dissemination. Unless otherwise indicated by the circumstances, this Fundamental Law shall be regarded as applying to a recording containing information under Chapter 3, Article 13, and Chapter 4, Article 4.

**Art. 11.** Chapter 1, Article 7, paragraph two of the Freedom of the Press Act establishes that certain radio programmes and technical recordings shall be equated with periodicals.

**Art. 12.** The provisions of Chapter 1, Articles 8 and 9 of the Freedom of the Press Act to the effect that provisions may, without hindrance of fundamental law, be laid down in law concerning originators' rights, certain commercial advertising, the provision of credit information and the manner in which information is procured shall apply also to radio programmes and technical recordings without hindrance of fundamental law.

The rules contained in this Fundamental Law do not preclude the laying down in law of other provisions concerning bans on commercial advertising in radio programmes or the conditions applying to such advertising. The same applies to provisions concerning bans on and conditions applying to other advertising and the transmission of programmes financed wholly or in part by some person other than the person operating the programme service.

**Art. 13.** This Fundamental Law does not apply to pornographic images of persons whose pubertal development is not complete or who are under the age of eighteen.

## **Chapter 2. On the right to anonymity**

**Art. 1.** The originator of a radio programme or technical recording is not obliged to disclose his or her identity. The same applies to a person taking part in such an item and to a person who has communicated information under Chapter 1, Article 2.

**Art. 2.** In cases concerning liability under penal law, damages or special legal effects on account of freedom of expression offences occurring in a radio programme or technical recording, no person may inquire into the identity of the originator of the item, or of a person who took part in it, made it available for publication or communicated information under Chapter 1, Article 2.

If a person has been declared to be the originator of an item or to have taken part in it, the court may however examine whether he or she is liable. The same applies should any person in the case acknowledge himself or herself to be the originator or person who took part.

Paragraph one does not preclude consideration in the same court proceedings both of cases which concern freedom of expression offences and of cases which concern offences under Chapter 5, Article 3.

**Art. 3.** A person who has been concerned in the production or dissemination of an item comprising or intended to form part of a radio programme or technical recording and a person who has been active in a news agency may not disclose what has come to his or her knowledge in this connection concerning the identity of the person who originated the item or made it available for publication, took part in it or communicated information under Chapter 1, Article 2.

The duty of confidentiality under paragraph one does not apply:

1. if the person in whose favour the duty of confidentiality operates has given his or her consent to the disclosure of his or her identity;
2. if the question of identity may be raised under Article 2, paragraph two;
3. if the matter concerns an offence specified in Chapter 5, Article 3, paragraph one, point 1;
4. in cases when the matter concerns an offence under Chapter 5, Article 2 or 3, paragraph one, point 2 or 3, a court of law deems it necessary for information to be produced during the proceedings as to whether the defendant, or the person suspected on reasonable grounds of the offence, is the person in whose favour the duty of confidentiality operates under paragraph one; or
5. when, in any other case, a court of law deems it to be of exceptional importance, with regard to a public or private interest, for information concerning identity to be produced on examination of witnesses or of a party in the proceedings under oath.

In examination under paragraph two, point 4 or 5, the court shall scrupulously ensure that no questions are put which might encroach upon a duty of confidentiality in excess of what is permissible in each particular case.

**Art. 4.** No public authority or other public body may inquire into the identity of:

1. the originator of an item released or intended for release in a radio programme or technical recording or a person who has taken part in such an item;
2. the person who made available or intended to make available for publication an item in a radio programme or a technical recording; or
3. the person who communicated information under Chapter 1, Article 2.

This prohibition does not preclude inquiry in a case in which this Fundamental Law permits prosecution or other intervention. In such cases a duty of confidentiality under Article 3 shall however be respected.

Nor may a public authority or other public body intervene against a person because he or she has, in a radio programme or a technical recording, made use of his or her freedom of the press or assisted therein.

**Art. 5.** A person who, whether through negligence or by deliberate intent, breaches a duty of confidentiality under Article 3 shall be sentenced to pay a fine or to imprisonment for up to one year. The same applies to a person who, whether through negligence or by deliberate intent, communicates false information in a radio programme or technical recording concerning the identity of the person who originated the item or made it available for publication, took part in it or communicated information therein.

Inquiries made in breach of Article 4, paragraphs one and two, are punishable by a fine or imprisonment for up to one year, if made deliberately.

Deliberate intervention in breach of Article 4, paragraph three, provided the said measure constitutes summary dismissal, notice of termination, imposition of a disciplinary sanction or a similar measure, is punishable by a fine or imprisonment for up to one year.

Legal proceedings may be instituted on account of an offence under paragraph one only provided the injured party has reported the offence for prosecution.

## ***Chapter 3. On transmission, production and dissemination***

### **Radio programmes**

**Art. 1.** Every Swedish citizen and every Swedish legal person has the right to transmit radio programmes by landline.

The freedom which follows from paragraph one does not preclude the publication in law of provisions concerning:

1. the obligation of network owners to make space available for certain programmes, to the extent necessary with regard to the public interest in access to comprehensive information;
2. the obligation of network owners to make space available for transmissions, to the extent necessary with regard to the interest of network competition in respect of such transmissions, or the public interest in having access to such transmissions;
3. the obligation of network owners to take steps to assure listeners of influence over programme choice;
4. the obligation of those who transmit television programmes to design the transmissions in a manner that allows people with functional disabilities access to the programmes by means of subtitling, interpretation, spoken text, or similar technical aids; or
5. interventions against programming prominently featuring depictions of violence, pornographic images, or agitation against a population group.

**Art. 2.** The right to transmit radio programmes other than by landline may be regulated in an act of law containing provisions on licensing and conditions of transmission.

The public institutions shall seek to ensure that radio frequencies are utilised in such a way as to result in the widest possible freedom of expression and freedom of information.

The opportunity shall exist for organised groups of persons to obtain a licence to broadcast sound radio programmes on local radio transmissions, insofar as available frequencies permit. More detailed provisions in this connection are laid down in law.

**Art. 3.** In the case of restrictions of the right to broadcast of the nature envisaged in Articles 1 and 2, the provisions of Chapter 2, Articles 21 to 23 of the Instrument of Government concerning restrictions of fundamental rights and freedoms apply.

**Art. 4.** A person broadcasting radio programmes is free to determine independently the content of the programmes.

**Art. 5.** Questions concerning the right to broadcast radio programmes are examined before a court of law or a commission, the composition of which is laid down in law and whose chair shall hold currently, or shall have held previously, an appointment as a permanent salaried judge. Examination of a Government decision shall take place before a court of law and need relate only to the legality of the decision.

If the matter relates to a question of intervention on account of an abuse of the freedom of expression, the case shall be examined by a court of law sitting with a jury, in accordance with detailed rules laid down in law. This does not however apply if the matter relates to a violation of provisions or conditions regarding commercial advertising, other advertising or transmission of radio programmes under Chapter 1, Article 12, paragraph two.

**Art. 6.** Provisions may be laid down in law concerning the obligation to retain recordings of radio programmes and make them available for subsequent scrutiny, and to furnish them to archives.

**Art. 7.** Provisions aimed at preventing the dissemination through radio programmes of maps, drawings or pictures which represent Sweden, either in whole or in part, and which contain information of significance for the defence of the Realm, may be laid down in law.

### **Technical recordings**

**Art. 8.** Every Swedish citizen and every Swedish legal person has the right to produce and disseminate technical recordings. Scrutiny and approval under Chapter 1, Article 3, paragraph two, may however be required for the right to show in public a film, video recording or other technical recording containing moving pictures.

**Art. 9.** Provisions concerning an obligation to retain copies of technical recordings and make them available for scrutiny may be laid down in law. Provisions may also be laid down in law concerning an obligation to furnish copies of such recordings to a public authority and provide information in connection with such obligation.

**Art. 10.** No postal service or other common carrier may refuse to forward technical recordings on grounds of their content other than in cases where forwarding would constitute a violation under Article 13, paragraph three or four.

A common carrier who accepts a technical recording for forwarding shall not be regarded as the disseminator of the recording under Chapter 6.

**Art. 11.** The provisions laid down in law concerning a case in which, for gainful purposes, a person supplies to a person under the age of fifteen a film, video recording or other technical recording containing moving pictures with detailed representations of a realistic nature which include acts of violence or threats of violence against persons or animals apply without hindrance of this Fundamental Law.

**Art. 12.** The rules set out in this Fundamental Law do not preclude the laying down in law of provisions concerning penalties and special legal effects in respect of a person who:

1. exhibits pornographic pictures on or at a public place by displaying them or the like in a manner liable to cause offence to the general public;

2. supplies pornographic pictures by post or other means to a person who has not ordered them in advance; or
3. disseminates among children and young persons technical recordings which by reason of their content might have a brutalising effect or result in other serious danger to the young.

The same applies in respect of penalties and special legal effects for a person who offends against provisions concerning the scrutiny and approval of films, video recordings or other technical recordings containing moving pictures which are intended for public showing, and of moving pictures in such a public playback from a database under Chapter 1, Article 9, paragraph one, point 3.

Provisions aimed at preventing the dissemination through technical recordings of maps, drawings or pictures which represent Sweden, either in whole or in part, and which contain information of significance for the defence of the Realm, may be laid down in law.

**Art. 13.** Copies of technical recordings produced in Sweden and intended for dissemination in this country shall be provided with clear information indicating who caused the recording to be made and where, when and by whom the copies were made. More detailed rules in this connection may be laid down in law.

A person who produces a technical recording and thereby offends, through negligence or by deliberate intent, against paragraph one, or against rules referred to therein, shall be sentenced to pay a fine or to imprisonment for up to one year.

A person who disseminates a technical recording which lacks, through negligence or by deliberate intent, any of the information prescribed in paragraph one shall be sentenced to pay a fine. The same shall apply if such information is incorrect and this fact is known to the disseminator.

A person who knowingly disseminates a technical recording after it has been impounded or confiscated under this Fundamental Law shall be sentenced to pay a fine or to imprisonment for up to one year.

**Art. 14.** Provisions concerning an obligation of a person who professionally sells or rents films, video recordings or other technical recordings containing moving pictures to notify this circumstance to a public authority for registration may be laid down in law or, where the content of such notification or the detailed procedure for lodging such notification is concerned, by virtue of law.

### **Pre-ordered copies of recordings, written documents and pictures**

**Art. 15.** The name of the database and information about when, where and how the recording, written document or picture was produced shall be apparent from such a technical recording, written document or picture under Chapter 1, Article 9, paragraph one, point 1. The person carrying on the activity shall ensure that the recording, written document or picture carries such information. More detailed rules concerning this matter may be laid down in law.

A person who, through negligence or by deliberate intent, offends against paragraph one, or against rules referred to therein, shall be sentenced to pay a fine or to imprisonment for up to one year.

A person who, through negligence or by deliberate intent, supplies a technical recording, written document or picture under Chapter 1, Article 9, paragraph one, point 1, which lacks any of the information prescribed in paragraph one, shall be sentenced to pay a fine. The same applies if such information is incorrect and this is known to the person supplying the recording, written document or picture.

## **Chapter 4. On responsible editors**

**Art. 1.** Radio programmes and technical recordings shall have a responsible editor. A programme editor shall be appointed for each radio programme or programme service, or part thereof, in accordance with more detailed provisions laid down in law.

The responsible editor is appointed by the person operating the broadcasting service or causing the technical recording to be made.

**Art. 2.** The responsible editor shall be a Swedish citizen. It may be prescribed in law that also a foreign national may be a responsible editor.

A person who is a responsible editor shall be domiciled within the Realm. No person who is a minor or an undischarged bankrupt, or for whom an administrator has been appointed under special provisions of law, may be a responsible editor. Information shall be available to the general public concerning the identity of the responsible editor.

**Art. 3.** The responsible editor shall have the power to supervise the public release of the item and to determine its contents in such a way that nothing may be included therein against his or her will. Any restriction of these powers shall be null and void.

**Art. 4.** The identity of the responsible editor shall be apparent from a technical recording. The responsible editor shall ensure that every copy of the recording carries such information. The identity of the responsible editor of the database shall be apparent from a technical recording, written document or picture under Chapter 1, Article 9, paragraph one, point 1. The responsible editor shall ensure that every copy carries such information.

Information concerning the responsible editor of a radio programme shall be kept available to the general public in accordance with more detailed provisions laid down in law.

**Art. 5.** A responsible editor appointed for a sound radio programme service may appoint one or more deputies. The provisions of Articles 2 to 4 concerning responsible editors shall apply also to deputies. If the appointment of the responsible editor is terminated, appointments as deputies are also terminated.

**Art. 6.** A person who, through negligence or by deliberate intent, offends against Article 1 shall be sentenced to pay a fine or, if the circumstances are exceptionally aggravating, to imprisonment for up to one year. A person who, through negligence or by deliberate intent, offends against Article 4, paragraph one, shall be sentenced to pay a monetary fine.

Penalties may be laid down in law for persons who offend against provisions of law laid down by virtue of Article 4 or 5.

## **Chapter 5. On freedom of expression offences**

**Art. 1.** The acts listed as freedom of the press offences in Chapter 7, Articles 4 and 5 of the Freedom of the Press Act shall be regarded as freedom of expression offences if they are committed in a radio programme or technical recording and are punishable under law. Under the same conditions, unlawful portrayal of violence whereby a person intrusively or protractedly portrays in moving pictures gross acts of violence against persons or animals, with intent to disseminate the item, shall also be regarded as a freedom of expression offence unless the act is justifiable with regard to the circumstances.

**Art. 2.** Acts which under Chapter 7, Article 2 of the Freedom of the Press Act shall not be regarded as freedom of the press offences because they are committed by means of communications in which the offence is concealed, shall not be regarded as freedom of expression offences either.

**Art. 3.** If a person communicates information under Chapter 1, Article 2, or, without being liable under Chapter 6, contributes to an item intended for publication in a radio programme or technical

recording, either as an author or other originator, or by taking part in the radio programme, and thereby renders himself or herself guilty of:

1. high treason, espionage, gross espionage, gross unauthorised trafficking in secret information, insurrection, treason or betrayal of country, or any attempt, preparation or conspiracy to commit such an offence;
2. wrongful release of an official document to which the public does not have access, or release of such a document in contravention of a restriction imposed by a public authority at the time of its release, where the act is deliberate; or deliberate disregard of a duty of confidentiality in the cases specified in a special act of law;
3. provisions of law concerning liability for such an offence apply.

If a person procures information or intelligence for a purpose referred to in Chapter 1, Article 2, and thereby renders himself or herself guilty of an offence under paragraph one, point 1, provisions of law concerning liability for such an offence apply.

The provisions of Chapter 2, Article 22, paragraph one of the Instrument of Government concerning special legislative procedures shall apply also to proposals for provisions under paragraph one, point 3.

**Art. 4.** Provisions of law concerning penal sanctions on account of offences under Article 1 shall apply also when the offence is to be regarded as a freedom of expression offence.

Rules are set out in Chapter 8 concerning damages on account of freedom of expression offences.

When a person is convicted of defamation or using insulting language or behaviour under Article 1, paragraph one, the court may rule, on a petition by the other party, that, if the offence was committed in a radio programme, the verdict of the court shall be reproduced in full or in part in a radio programme transmitted by the same broadcasting service. The court may decide that the obligation to reproduce the verdict shall relate to a summary prepared by the court.

**Art. 5.** In determining penal sanctions on account of a freedom of expression offence, the court shall pay particular attention to whether a correction has been published.

**Art. 6.** A technical recording which contains a freedom of expression offence may be confiscated. If the offence is unlawful portrayal of violence, provisions of law concerning special legal effects in other respects shall apply.

In the event of confiscation, all copies intended for dissemination shall be destroyed. It shall further be ensured that material capable of being used specifically to duplicate the technical recording concerned cannot be used to make further copies.

## **Chapter 6. Liability rules**

**Art. 1.** Liability under penal law for freedom of expression offences committed in a radio programme or technical recording rests with the responsible editor. If a deputy is acting in place of the responsible editor, liability rests with the deputy.

In the case of direct broadcasts of radio programmes other than programmes under Chapter 1, Article 8, it may be laid down in law that a person taking part in a programme shall himself or herself be liable for his or her own utterances.

**Art. 2.** Liability under penal law for freedom of expression offences which would otherwise rest with the responsible editor rests with the person responsible for appointing the responsible editor if:

- there was no qualified responsible editor at the time when the offence was committed;
- the responsible editor was appointed for appearance's sake or was manifestly incapable of exercising the powers set out in Chapter 4, Article 3; or

- information concerning the responsible editor has not been kept available to the general public in the prescribed manner.

If a deputy was acting in place of the responsible editor but was no longer qualified at the time when the offence was committed, or if his or her appointment had been terminated or some circumstance pertained concerning him or her of a nature set out in paragraph one, point 2 or 3, liability for freedom of expression offences rests with the responsible editor.

If a technical recording lacks the information prescribed in Chapter 3, Article 13, paragraph one, concerning who caused it to be made, and clarity cannot be reached concerning his or her identity, or he or she has no known domicile in Sweden and cannot be reached in Sweden during the court proceedings, liability for freedom of expression offences committed in the technical recording rests with the disseminator instead of with the person stipulated in paragraph one.

The provisions laid down in paragraph three concerning a case in which information is lacking apply also if the information provided implies that the person who caused the technical recording to be made is domiciled abroad, or if the information is incorrect and this fact is known to the disseminator.

**Art. 3.** If legal proceedings are instituted on account of a freedom of expression offence and the defendant considers some circumstance pertains as a result of which he or she shall not be liable, he or she shall adduce this circumstance prior to the main hearing. If he or she fails to do so, he or she will be regarded as liable.

**Art. 4.** The person liable under this Chapter for a freedom of expression offence in an item shall be regarded as having had knowledge of the content of the item. He or she shall also be regarded as having consented to its publication.

## ***Chapter 7. On supervision, prosecution and special coercive measures***

**Art. 1.** The rules laid down in Chapter 9, Articles 1 to 4 of the Freedom of the Press Act concerning supervision and prosecution shall apply also with regard to radio programmes and technical recordings, and freedom of expression cases. The Chancellor of Justice may delegate a public prosecutor to act as prosecutor in a freedom of expression case which concerns liability or confiscation on account of unlawful portrayal of violence, agitation against a population group, offences against civil liberty, unlawful threats, threats made against a public servant or perversion of the course of justice committed in a technical recording. The right to institute legal proceedings may not however be delegated where the matter concerns the freedom of expression offences agitation against a population group or offences against civil liberty.

In the case of radio programmes, the period within which legal proceedings may be instituted for a freedom of expression offence is six months from the date on which the programme was broadcast, or, where the matter concerns the making available of information under Chapter 1, Article 9, paragraph one, points 1 and 2, from the date on which the information was no longer kept available. Concerning such public playback from a database under Chapter 1, Article 9, paragraph one, point 3, the period is six months from the date of the playback. In the case of technical recordings, the period is one year from the date on which the recording was published. In the case of recordings which lack any of the information prescribed under Chapter 3, Article 13, however, the rules laid down in law concerning the period during which an action may be brought apply, with the limitation that legal proceedings may not be instituted more than two years from the date on which the recording was brought to the attention of the Chancellor of Justice.

**Art. 2.** If a freedom of expression offence has been committed in a technical recording and no one is liable under Chapter 6 for the offence, the public prosecutor or the plaintiff may apply to have the recording confiscated instead of instituting legal proceedings. The same applies if no summons can be served in Sweden on the person liable for the offence.

**Art. 3.** The provisions laid down in Chapter 10 of the Freedom of the Press Act concerning the impoundment of printed matter shall apply also concerning the impoundment of technical recordings. In the case of recordings, written documents or pictures under Chapter 1, Article 9, paragraph one, point 1, where the matter concerns impoundment for the purpose of investigation on account of a freedom of expression offence, the provisions of Chapter 10, Article 14 of the Freedom of the Press Act apply. In the case of technical recordings, the provisions laid down in paragraphs two and three of this Article however apply in place of Chapter 10, Articles 6 and 8, paragraph two of the Freedom of the Press Act. If the time referred to in Chapter 10, Article 4 of the Freedom of the Press Act is insufficient with regard to the scope of the impoundment or for any other reason, the court may allow an extension following a submission from the Chancellor of Justice. Such extension shall not relate to a period in excess of what is unavoidably necessary and may not amount to more than two weeks in all. The provisions of Chapter 10, Article 3, paragraph two of the Freedom of the Press Act do not apply if the Chancellor of Justice has delegated a public prosecutor to act as prosecutor in a freedom of expression case under Article 1, paragraph one of this Chapter. The provisions of Chapter 10, Articles 2, 4 and 14 of the Freedom of the Press Act and of this Article regarding the duties of the Chancellor of Justice apply in such a case also to the public prosecutor.

All impoundment orders shall indicate which passage or passages in the item occasioned the order. If it is not possible when effecting an impoundment order under Chapter 10, Article 14 of the Freedom of the Press Act to indicate every such passage in detail, the passages which are being adduced as of a criminal nature shall be set out in a separate decision as soon as possible after the event. Impoundment relates only to the specific discs, reels or other such parts of the recording in which the passages occur.

Proof of an impoundment order shall be furnished as soon as possible, and free of charge, to the person against whom impoundment has been effected and to the person who caused the technical recording to be made. Such proof shall indicate the passage or passages in the recording which occasioned the order.

**Art. 4.** It may be laid down in an act of law that a commission, the composition of which is laid down in law and whose chair shall hold currently, or shall have held previously, an appointment as a permanent salaried judge, shall examine whether a radio programme which has been transmitted by some means other than landline complies with the provisions or other conditions applying to such transmissions. Such a commission may only express an opinion and enjoin the transmitter to observe the provisions or conditions. The act of law may prescribe that an injunction of the commission may be associated with penalties. Questions concerning liability for freedom of expression offences and the imposition of penalties are always examined by a court of law under Chapter 3, Article 5.

**Art. 5.** It may be laid down in an act of law that there shall be special supervision to ensure that there is no abuse of the freedom of expression in films, video recordings or other technical recordings containing moving pictures by means of unlawful portrayal of violence, and to ensure that recordings of this nature which contain violence or threats of violence are not disseminated for gainful purposes to persons under the age of fifteen. It may be prescribed in this connection that a supervising authority shall be empowered to take temporarily into safekeeping a copy of a film, video recording or technical recording containing moving pictures which it can be presumed includes unlawful portrayal of violence.

**Art. 6.** The provisions concerning restrictions of fundamental rights and freedoms contained in Chapter 2, Articles 21 to 23 of the Instrument of Government apply in respect of provisions under Articles 4 and 5.

## **Chapter 8. On damages**

**Art. 1.** Damages on grounds of the content of a radio programme or technical recording may only be awarded in cases in which the item contains an offence against the freedom of expression.

Provisions of law apply in respect of damages on account of offences under Chapter 5, Articles 2 and 3.

**Art. 2.** The person who is liable under penal law according to Chapter 6 is liable also for damages. Damages may also be claimed from the person who operates the programme service or caused the technical recording to be made.

In cases under Chapter 1, Article 8, the perpetrator is liable for damages on account of offences committed by him or her during the transmission. Damages may also be claimed from the person who operates the programme service.

**Art. 3.** If the person liable under penal law has no known domicile in Sweden at the time of the offence and cannot be reached here during the court proceedings, with the result that liability passes under Chapter 6, Article 2, paragraph three, to some other person, damages may still be claimed also from the first-named, insofar as this is permitted in law.

**Art. 4.** The provisions of Chapter 6, Article 4 of this Fundamental Law shall apply also in respect of damages on account of freedom of expression offences committed in a radio programme or technical recording. The provisions of Chapter 11, Articles 3 to 5 of the Freedom of the Press Act on private claims for damages in certain cases shall apply also in respect of such damages.

## **Chapter 9. On court proceedings in freedom of expression cases**

**Art. 1.** The provisions laid down in Chapter 12 of the Freedom of the Press Act concerning court proceedings in freedom of the press cases shall apply also in respect of the corresponding cases relating to radio programmes and technical recordings (freedom of expression cases). The reference in Chapter 12, Article 2 of the Freedom of the Press Act to Chapter 8 of the Freedom of the Press Act shall relate in this connection to Chapter 6 of this Fundamental Law. Persons appointed jurors for freedom of the press cases shall be jurors also for freedom of expression cases.

## **Chapter 10. On radio programmes and technical recordings emanating from abroad etc.**

**Art. 1.** The provisions laid down in Chapters 1 to 9 and Chapter 11 also apply to technical recordings produced abroad and delivered for dissemination in Sweden. The provisions otherwise laid down concerning the person who caused the recording to be made shall apply instead in this connection to the person who delivered it for dissemination in Sweden.

The provisions of Chapter 13, Article 6 of the Freedom of the Press Act shall however apply in relevant parts in respect of the right to communicate and procure information and intelligence for publication and the right to anonymity. In this connection, the reference to Chapter 1, Article 1, paragraphs three and four of the Freedom of the Press Act shall relate to Chapter 1, Article 2 of this Fundamental Law; the reference to Chapter 3 of the Freedom of the Press Act shall relate to Chapter 2 of this Fundamental Law; the reference to Chapter 3, Article 3 of the Freedom of the Press Act shall relate to Chapter 2, Article 3 of this Fundamental Law; and the reference to Chapter 7, Article 3, paragraph one, point 2 of the Freedom of the Press Act shall relate to Chapter 5, Article 3, paragraph one, point 2 of this Fundamental Law.

**Art. 2.** Whatever applies under Article 1 in respect of the right to communicate and procure information and intelligence and the right to anonymity applies also to radio programmes broadcast from transmitters outside Sweden and to technical recordings not delivered for dissemination in Sweden, if the information was communicated or procured in Sweden, regardless of whether the

recording was made in Sweden or abroad. Exceptions to the right to communicate and procure information in respect of radio programmes transmitted from the high seas or the airspace over the high seas may however be laid down in law.

## **Chapter 11. General provisions**

**Art. 1.** The provisions laid down in Chapter 14, Articles 1 to 3 of the Freedom of the Press Act concerning the re-opening of closed cases, examination of freedom of the press cases before a higher instance and prompt handling of such cases shall apply also in respect of corresponding cases under this Fundamental Law. Provisions laid down in an act of law or other statute apply in all respects not specially regulated in this Fundamental Law or in an act of law adopted by virtue of this Fundamental Law.

Foreign nationals are equated with Swedish citizens in respect of freedom of expression under this Fundamental Law unless otherwise provided in law.

## **Transitional provisions**

### **Transitional provisions 1991**

1. This Fundamental Law comes into force on 1 January 1992.
2. The new provisions shall not apply to radio programmes transmitted before the Law comes into force.
3. In the case of films and sound recordings delivered for dissemination before the Law comes into force, the new provisions shall apply with the following exceptions:
  - a) a film or sound recording shall be regarded as having been delivered for dissemination on the date on which this Fundamental Law comes into force;
  - b) the provisions of Chapter 2, Chapter 3, Article 13, paragraphs one to three, Chapter 4, Chapter 6, Articles 1 to 5, and Chapter 10, Article 1, paragraph one, sentence two, shall not apply;
  - c) the disseminator of a film shall be liable under law for a freedom of expression offence committed in the film, if dissemination would have been punishable also under older provisions;
  - d) liability for freedom of expression offences in a sound recording rests with the originator and the person who has taken part in the recording, if they are to be regarded as the perpetrators, and with the person who caused the recording to be made and the disseminator, always provided that their actions would have been punishable also under older provisions;
  - e) contrary to the provisions of Chapter 8, Article 2, paragraph one, damages may be claimed for the content of a film or sound recording, from the person liable in penal law under points (c) and (d);
  - f) the new provisions do not apply in respect of dissemination before the Law comes into force of films portraying sexual violence or coercion, or intrusive or protracted portrayal of gross violence against persons or animals;
  - g) the new provisions are not applied if criminal proceedings have been instituted before the Law comes into force. If application of the new provisions would have resulted in freedom from penal sanctions, such shall however not be exacted.

### **Transitional provisions relating to 1998 amendments**

1. This Act comes into force on 1 January 1999.

2. In the case of technical recordings not covered by earlier wording and delivered for dissemination before the Act comes into force, the new provisions shall apply with the following exceptions:

a) a technical recording shall be regarded as having been delivered for dissemination on the date on which this Act comes into force;

b) the provisions of Chapter 2, Chapter 3, Article 13, paragraphs one to three, Chapter 4, Chapter 6, Articles 1 and 2, and Chapter 10, Article 1, paragraph one, sentence two, shall not apply;

c) the disseminator of a technical recording shall be liable under law for a freedom of expression offence committed in the recording, if the act would have been punishable also under older provisions;

d) contrary to the provisions of Chapter 8, Article 2, paragraph one, damages may be claimed for the content of a technical recording from the person liable in penal law under point (c), if a liability for damages would have existed under provisions of ordinary law;

e) the new provisions do not apply in respect of dissemination before the Act comes into force of technical recordings with pictures which include portrayal of sexual violence or coercion;

f) the new provisions are not applied if criminal proceedings have been instituted before the Act comes into force. If application of the new provisions would have resulted in freedom from penal sanctions, such shall however not be exacted.

3. The older provisions shall be applied to sound recordings delivered for dissemination before the Act comes into force.

4. Older provisions are applied in cases affecting portrayal of children in pornographic pictures if criminal proceedings have been instituted before the Act comes into force.

#### **Transitional provisions relating to 2002 amendments**

1. This law comes into force on 1 January 2003.

2. Older provisions apply to such making available of information under Chapter 1, Article 9, as occurs before the law comes into force.

3. The new provision in Chapter 7, Article 1, paragraph two, sentence one, concerning the period of limitation for freedom of expression offences committed by making available information under Chapter 1, Article 9, applies only to information which still forms part of the database when the law comes into force.

4. The new provision in Chapter 7, Article 1, paragraph two, sentence three, applies only to technical recordings published after the law comes into force.