

The Fundamental Law on Freedom of Expression (1991:1469)

up to and including Swedish Code of Statutes (SFS) 2018:1802

Chapter 1. Freedom of expression according to this Fundamental Law

Purpose and basic principles

Art. 1. Everyone is guaranteed the right under this Fundamental Law, vis-à-vis the public institutions, publicly to express their 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 by virtue of this Fundamental Law.

Scope

Definitions

Art. 2. In this Fundamental Law the following terms have the following meanings:

programmes: the content of sound radio, television, or other transmissions of sound, images or text made using electromagnetic waves, as well as the content of certain public playbacks from a database;
technical recordings: recordings that contain text, images or sound that can only be read, listened to or otherwise comprehended using technical devices;
database: a collection of information stored for electronic data processing.

Transmissions

Art. 3. This Fundamental Law applies to transmissions of programmes which are directed to the general public and intended for reception using technical devices.

The provision to the general public of programmes transmitted live or recorded programmes which are specifically requested is also considered to be transmissions of programmes, provided the starting time and the content cannot be influenced by the receiver.

The provisions regarding programmes in this Fundamental Law also apply to programmes transmitted by satellite emanating from Sweden.

Provision from databases

Art. 4. The provisions of this Fundamental Law regarding transmissions of programmes are also applied when information from a database, the content of which can only be modified by the person carrying out the activity, is provided to the public using electromagnetic waves

1. by one of the following:
 - a) the editorial office of a printed periodical or a programme;
 - b) an enterprise for the professional production of such printed matter referred to in the Freedom of the Press Act or of technical recordings;
 - c) a news agency; or
 - d) someone else, provided there is a certificate of no legal impediment to publication for the activity under Article. 5; and
2. in one of the following ways:
 - a) transmission by special request;
 - b) transmission by prior agreement;
 - c) production of technical recordings, printed matter or images; or
 - d) public playback.

Even if certain information in the database has been added by another person, this Fundamental Law applies to such parts of the database where it is clear that the information originates from the person carrying out the activity.

The provisions in this Article do not apply to what is provided from a database referred to in Article 3, paragraph two.

Special provisions regarding databases with certificates of no legal impediment to publication

Art. 5. A certificate of no legal impediment to publication is issued if:

1. the activity is organised in the manner referred to in Article 4 and transmissions emanate from Sweden;
2. a qualified responsible editor has been appointed and has accepted the appointment; and
3. the activity has a name such that it cannot easily be confused with the name of another activity under Article 4.

Art. 6. A certificate of no legal impediment to publication is valid for ten years. The certificate then ceases to apply.

The certificate may be renewed, provided the preconditions exist for issue of such a certificate. It is renewed for ten years at a time with effect from the expiry of the preceding ten-year period.

If the preconditions for issuing a certificate no longer exist, it may be rescinded. The same applies 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 the activity has been discontinued.

Art. 7. Every database shall have a name.

Provisions regarding the issue, discontinuation, renewal and withdrawal of a certificate of no legal impediment to publication may be laid down in law.

Provisions concerning penalties for persons breaching a provision under paragraph two may be laid down in law.

Technical recordings

Art. 8. 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 general public in Sweden merely on the grounds of its being sent to a recipient abroad.

The question of 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 16 or Chapter 4, Article 5.

Programmes and technical recordings equated with printed matter

Art. 9. Chapter 1, Articles 5 and 6 of the Freedom of the Press Act establish that certain programmes and technical recordings shall be equated with printed matter.

Basic provisions

Freedom to communicate and procure information

Art. 10. All persons shall be free to communicate information on any subject whatsoever, for the purpose of publication in programmes or technical recordings (freedom to communicate information).

This freedom concerns information provided to:

- an author or other person who may be deemed to be the originator;
- an editor, editorial office or news agency; or
- an enterprise producing technical recordings.

All persons shall furthermore have the right to procure information on any subject whatsoever in order to communicate or publish it under paragraph one (freedom to procure information).

No restriction of these freedoms shall be permitted other than by virtue of this Fundamental Law.

Ban on censorship and ban on other obstructive measures

Art. 11. There shall be no prior scrutiny by a public authority or other public body of that which is intended for release in a programme or in technical recordings. Nor is it permitted for a public authority or other public body to take any action not authorised under this Fundamental Law to

prohibit or prevent the production, publication or dissemination to the public of a programme or a technical recording on grounds of its content.

Art. 12. Notwithstanding the provisions of Article 11, rules may be laid down in law concerning the scrutiny and approval of moving images in such playback of material from a database referred to in Article 4, paragraph one, point 2d. The same is true for moving images in technical recordings intended for public showing.

Art. 13. It is not permitted for public authorities or other public bodies to prohibit or prevent possession or use of such technical devices as are necessary to receive programmes or comprehend the content of technical recordings, if the action has no support in this Fundamental Law. The same applies to any ban on the construction of cable networks for the transmission of programmes.

Principle of exclusivity

Art. 14. A public authority or other public body may not intervene against any person because he or she has abused the freedom of expression or contributed to such abuse in a programme or a 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.

Instructions regarding application

Art. 15. Any person entrusted with passing judgment on abuses of the freedom of expression or otherwise overseeing compliance with this Fundamental Law should always bear in mind in this connection that the freedom of expression is fundamental to a free society, direct his or her attention always more to subject matter and thought than to expression, to the aim rather than the manner of presentation, and, in case of doubt, acquit rather than convict.

Exceptions from fundamental law

Live broadcasts

Art. 16. In the case of 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 10, on the right to communicate and procure information for publication;
- Article 14, prohibiting interventions;
- Article 15, on the attitude to be adopted in applying this Fundamental Law;
- Chapter 2, on the right to anonymity;
- Chapters 5–8, on freedom of expression offences, offences against the freedom to communicate information and the freedom to procure information, liability for freedom of expression offences, supervision and prosecution and special coercive measures; and
- Chapter 11, Article 7, on the right to communicate and procure information for publication in programmes emanating from abroad.

Certain matters that may be regulated by law

Art. 17. Provisions concerning the following may be laid down in law:

1. the transmission of programmes intended primarily for reception abroad; or
2. programmes transmitted by cable but not intended for reception by a wider public.

Such provisions may not however apply to what is stated in Articles 10–13.

Art. 18. The provisions of Chapter 1, Articles 11 and 12 of the Freedom of the Press Act to the effect that rules may be laid down in law concerning originators' rights, certain commercial advertising, the provision of credit information, product information and the manner in which information is procured also applies to programmes and to the content of technical recordings.

Art. 19. Notwithstanding the provisions of this Fundamental Law, rules may be laid down in law concerning bans on commercial advertising in programmes or the conditions applying to such advertising.

The same applies to provisions concerning bans on and conditions applying to such advertising and the transmission of programmes financed wholly or in part by someone other than the person operating the programme service.

Art. 20. Notwithstanding the provisions of this Fundamental Law, rules may be laid down in law concerning bans on the publication of personal data:

1. which reveal ethnic origin, skin colour or other similar circumstance, political opinions, religious or philosophical conviction or membership of a trade union;
2. concerning health, sex life or sexual orientation;
3. which consist of genetic data or biometric data enabling the unambiguous identification of a natural person; or

the provisions of paragraph one only apply if:

1. the personal data are included in a data collection that has been arranged in such a way that it is possible to search for or compile the data; and
2. with regard to the nature of the activities and the forms under which the data collection is made available, there is a particular risk of improper violation of individuals' personal privacy.

Exceptions regarding child pornography

Art. 21. 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. The right to anonymity

Art. 1. The originator of a programme or technical recording is not obliged to disclose his or her identity. The same applies to a person taking part in such a production and to a person who has communicated information for publication under Chapter 1, Article 10.

Art. 2. In cases concerning liability, damages or special legal effects on account of freedom of expression offences occurring in a programme or technical recording, no person may enquire into the identity of the originator of the production, or of a person who took part in it, made it available for publication or communicated information under Chapter 1, Article 10.

If a person has been declared to be the originator of a production 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.

Notwithstanding the provisions of paragraph one, cases which concern freedom of expression offences may be examined in the same court proceedings as cases which concern offences under Chapter 5, Articles 4 and 5.

Duty of confidentiality

Art. 3. A person who has been concerned in the production or dissemination of a production comprising or intended to form part of a programme or technical recording may not disclose what has come to his or her knowledge in this connection concerning the identity of the person who originated the production or made it available for publication, took part in it or communicated information under Chapter 1, Article 10.

The duty of confidentiality under paragraph one also applies to a person who in some other way has been active in an enterprise that produces technical recordings or transmits programmes, or in a news agency.

Art. 4. The duty of confidentiality under Article 3 does not apply in the following cases:

1. 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. it is permitted under Article 2, paragraph two to consider the question of identity;
3. the matter concerns one of the offences under Chapter 5, Section 4, paragraph one, point 1;
4. in a matter concerning an offence under Chapter 5, Article 3 or 4, paragraph one, point 2 or 3, a court of law deems it necessary for information to be produced as to whether the defendant, or the person suspected on reasonable grounds of the offence, has communicated information or contributed to the production. In such a case, the information shall be provided during proceedings; or
5. 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 one, 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.

Ban on inquiries

Art. 5. A public authority or other public body may not inquire into the identity of:

1. the originator of an item published or intended for publication in a 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 10.

The ban under paragraph one does not prevent inquiries into identity where necessary for the purpose of such prosecution or other action against him or her if the action is not contrary to the provisions of this Fundamental Law. In such cases, the duty of confidentiality under Article 3 shall be respected.

Ban on reprisals

Art. 6. A public authority or other public body may not intervene against a person because he or she has in a programme or a technical recording made use of his or her freedom of expression or assisted in such use.

Penalties

Art. 7. A fine or imprisonment for up to one year shall be imposed on a person who:

1. through negligence or deliberate intent breaches a duty of confidentiality under Article 3;
2. through negligence or deliberate intent in a programme or a technical recording communicates incorrect information concerning the identity of a person who originated the production or made it available for publication, took part in it or communicated information in it;
3. through deliberate intent makes inquiries in breach of Article 5; or
4. through deliberate intent intervenes in breach of Article 6, if the said action constitutes summary dismissal, notice of termination, imposition of a disciplinary sanction or a similar measure.

Legal proceedings may be instituted on account of an offence under paragraph 1, points 1 and 2 only if the injured party has reported the offence for prosecution.

Chapter 3. The right to transmit, produce and disseminate

Transmission of programmes

The right to transmit by cable

Art. 1. Every natural and legal person has the right to transmit programmes by cable.

Art. 2. Notwithstanding the freedom which follows from Article 1, provisions may be laid down in law 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 or provide such programmes by transmission from a database under Chapter 1, Article 4, paragraph one, point 2a, to make the

programmes accessible to people with functional disabilities by means of subtitling, interpretation, spoken text, or similar technical devices;

5. the obligation of those who transmit television programmes or provide such programmes by transmission from a database under Chapter 1, Article 4, paragraph one, point 2a, to promote the production of and accessibility to programmes of European origin; or

6. interventions against continued programming prominently featuring depictions of violence, pornographic images, or agitation against a population group.

Transmission other than by cable

Art. 3. The right to transmit radio programmes other than by cable 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.

Art. 4. The opportunity shall exist for organised groups of persons to obtain a licence to transmit sound radio programmes on local radio broadcasts, insofar as available frequencies permit. More detailed provisions on this may be laid down in law.

Certain conditions determining restrictions on the right to transmit

Art. 5. In the case of restrictions on the right to transmit programmes envisaged in Articles 2–4, the provisions of Chapter 2, Articles 21–23 of the Instrument of Government concerning restrictions of fundamental rights and freedoms apply.

Editorial independence

Art. 6. A person transmitting radio programmes is free to determine independently the content of the programmes.

Judicial examination

Art. 7. Questions concerning the right to transmit programmes are examined before a court of law or a tribunal, 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. A government decision shall be examined before a court of law and need relate only to the legality of the decision.

If the matter relates to an 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 provisions laid down in law. This does not however apply if the matter relates to a breach of provisions or conditions regarding commercial advertising, other advertising or transmission of programmes under Chapter 1, Article 19.

Obligation to retain recordings and legal deposits

Art. 8. Provisions may be laid down in law concerning the obligation to retain recordings of programmes and keep them available for subsequent scrutiny and to furnish them to archives.

Exception for maps, drawings or pictures representing Sweden

Art. 9. Provisions aimed at preventing the dissemination through programmes of maps, drawings or images which represent Sweden, either in whole or in part, and which contain information of significance for the defence of the country, may be laid down in law.

Production and dissemination of technical recordings

The right to produce and disseminate technical recordings

Art. 10. Every natural and legal person has the right to produce and disseminate technical recordings. Scrutiny and approval under Chapter 1, Article 12 may however be required for the right to show in public a film, video recording or other technical recording containing moving images.

Exceptions from the right to disseminate technical recordings

Art. 11. Notwithstanding the provisions of this Fundamental Law, provisions laid down in law shall apply in cases 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 images with detailed representations of a realistic nature which include acts of violence or threats of violence against persons or animals.

Art. 12. Notwithstanding the provisions of this Fundamental Law, rules may be laid down in law on penalties and special legal effects in respect of a person who:

1. exhibits pornographic images in or at a public place by displaying them or showing them in a similar way liable to cause offence to the general public;
2. supplies pornographic images 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 breaches provisions concerning the scrutiny and approval of films, video recordings or other technical recordings containing moving images which are intended for public showing, and of moving images in such a public playback from a database under Chapter 1, Article 4, paragraph one, point 2 d.

Art. 13. Provisions aimed at preventing the dissemination through technical recordings of maps, drawings or images which represent Sweden either in whole or in part, and which contain information of significance for the defence of the country, may be laid down in law.

Obligation to retain copies and legal deposits

Art. 14. 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 to provide information in connection with such an obligation.

Obligation to forward technical recordings

Art. 15. No person who has an obligation under an act of law or other statute to forward technical recordings may refuse to do so or make this obligation subject to special conditions on grounds of their content. However, this does not apply if forwarding would constitute a violation such as that under Article 18, paragraph two or Article 19.

Anyone who has an obligation under paragraph one and who has accepted a technical recording for forwarding shall not be deemed to be the disseminator of the recording.

Indication of origin

Art. 16. Copies of technical recordings shall be provided with clear information indicating who caused the recording to be made, whether the copy was produced in Sweden and whether it is intended for dissemination here. It shall also be stated when, where and by whom the copies were made. More detailed provisions in this connection may be laid down in law.

Notification of sales or rental activities

Art. 17. Provisions concerning an obligation of a person who professionally sells or rents films, video recordings or other technical recordings containing moving images 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.

Penalties

Art. 18. A person who produces a technical recording and thereby breaches through negligence or by deliberate intent, Article 16, or provisions referred to therein, shall be sentenced to payment of a fine or to imprisonment for up to one year.

A person who disseminates a technical recording which lacks, through negligence or deliberate intent, any of the information prescribed in Article 16 shall be sentenced to payment of a fine. The same applies if such information is incorrect and this fact is known to the disseminator.

Art. 19. A person who knowingly disseminates a technical recording after it has been impounded or confiscated under this Fundamental Law shall be sentenced to payment of a fine or to imprisonment for up to one year.

Recordings, printed matter and images from a database

Art. 20. The name of the database and information about when, where and how the recording, printed matter or image was produced shall be apparent from such a technical recording, printed matter or image under Chapter 1, Article 4, paragraph one, point 2c. The person carrying out the activity shall ensure that the recording, printed matter or image carries such information. More detailed provisions in this connection may be laid down in law.

Art. 21. A person who breaches, through negligence or by deliberate intent, Article 20 or provisions referred to therein, shall be sentenced to payment of a fine or to imprisonment for up to one year.

A person who, through negligence or by deliberate intent, supplies a technical recording, printed matter or image under Chapter 1, Article 4, paragraph one, point 2 c, which lacks any of the information prescribed in Article 20, shall be sentenced to payment of a fine. The same applies if such information is incorrect and this is known to the person supplying the recording, printed matter or image.

Chapter 4. Responsible editors

Requirements and powers

Art. 1. Programmes and technical recordings shall have a responsible editor. A programme editor shall be appointed for each 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 natural person who is domiciled in Sweden. No person who is a minor or who has been declared bankrupt, or for whom an administrator has been appointed under special provisions of law, may be a 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 printed therein against his or her will. Any restriction of these powers shall be null and void.

Information about responsible editor

Art. 4. Information shall be available to the general public concerning the identity of the responsible editor. More detailed provisions in this connection may be laid down in law.

Art. 5. 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 such a technical recording, printed matter or image which following an order has been produced from a database under Chapter 1, Article 4, paragraph one, point 2c. The responsible editor shall ensure that every copy carries such information.

Deputies

Art. 6. The responsible editor of a programme service may appoint one or more deputies. The provisions of Articles 2–4 also apply to deputies. If the appointment of a responsible editor is terminated, appointments as deputies shall also be terminated.

Penalties

Art. 7. A person who, through negligence or by deliberate intent, breaches Article 1 shall be sentenced to payment of a fine. If the circumstances are exceptionally aggravating, the penalty shall be imprisonment for up to one year.

A person who, through negligence or by deliberate intent, breaches Article 5 shall be sentenced to payment of a fine.

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

Chapter 5. Offences against the freedom of expression, the freedom to communicate information and the freedom to procure information

Acts regarded as freedom of expression offences

Art. 1. The acts listed as freedom of the press offences in Chapter 7, Articles 2–20 of the Freedom of the Press Act shall be regarded as freedom of expression offences if they are committed in a programme or technical recording and are punishable under law.

Art. 2. Under the conditions stated in Article 1, unlawful portrayal of violence whereby a person intrusively or protractedly portrays in moving images gross acts of violence against persons or animals, with intent to disseminate the production, shall also be regarded as freedom of expression offences. However, this does not apply if the act is justifiable with regard to the circumstances.

Art. 3. An announcement in an advertisement or other such communication shall not be regarded as a freedom of expression offence if it is not readily apparent from the content that liability for such an offence may be incurred. If the communication is punishable, having regard also to circumstances which are not readily apparent from its content, provisions laid down in law shall apply.

The same applies to a communication conveyed in cypher or by other means secret from the general public.

Offences against the freedom to communicate and procure information

Art. 4. If a person communicates information under Chapter 1, Article 10 with a view to making it public in a programme or technical recording, thereby rendering himself or herself guilty of any of the following offences, provisions of law concerning liability for such an offence apply:

1. insurrection, high treason, espionage, gross espionage, gross unauthorised handling of secret information, treason, 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; and

3. deliberate disregard of a duty of confidentiality, in cases specified in a special act of law.

Paragraph one applies in a similar manner if the offence is committed by a person who, without being liable under the provisions of Chapter 6, contributes as an author or originator to a production intended to be published in a programme or technical recording or participates by performing in the programme.

The provisions of Chapter 2, Article 22, paragraph one of the Instrument of Government shall apply in respect of proposals for provisions under paragraph one, point 3.

Art. 5. If a person procures information under Chapter 1, Article 10, paragraph two, with the purpose of publication in a programme or technical recording, or with the purpose of communicating information, thereby rendering himself or herself guilty of an offence under Article 4, paragraph one, provisions of law concerning liability for such an offence apply.

Further provisions concerning offences against the freedom of expression

Sanctions

Art. 6. Provisions of law relating to penal sanctions for offences under Articles 1 and 2 apply also in a case in which the offence is deemed to be a freedom of expression offence.

When determining sanctions, it shall be taken into account whether an item of published information has been amended, and whether the amendment has consequently been published in an appropriate manner.

Publication of the judgment

Art. 7. If the defendant is convicted for defamation or insulting language or behaviour in a programme under Article 1, the court may decide, at the request of the opposite party, that the judgment shall be reproduced, in full or in part, in a programme transmitted by the same broadcasting service.

The obligation to reproduce the judgment may relate to a summary prepared by the court.

Confiscation

Art. 8. 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 also apply.

In the event of confiscation, all copies intended for dissemination shall be destroyed. Such confiscation should also imply that measures are taken to ensure that material capable of being used specifically to duplicate the technical recording concerned cannot be used to make further copies.

When assessing the matter of confiscation, it shall be specially taken into account whether an item of published information has been amended, and whether the amendment has consequently been published in an appropriate manner.

Chapter 6. Liability for freedom of expression offences

Who is liable

Responsible editor and deputy

Art. 1. The responsible editor is liable for freedom of expression offences committed in a programme or technical recording.

If a deputy is acting in place of the responsible editor, the deputy is liable.

Art. 2. The responsible editor is liable, even in cases when a deputy is acting in place of the responsible editor, provided:

1. the deputy was no longer qualified at the time when the offence was committed;
2. the deputy was appointed for appearance's sake or was manifestly incapable of exercising the powers set out in Chapter 4, Article 3; or
3. information concerning the deputy has not been kept available to the general public in the prescribed manner.

The person operating the broadcasting service or causing the technical recording to be made

Art. 3. The person operating the broadcasting service or causing the technical recording to be made is liable for freedom of expression offences, provided:

1. there was no qualified editor at the time when the offence was committed;
2. 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
3. information concerning the responsible editor has not been kept available to the general public in the prescribed manner.

Disseminator

Art. 4. A person who disseminates a technical recording is liable for freedom of expression offences instead of the person stated in Article 3, if information as to who has caused the recording to be made under Chapter 3, Article 16:

1. is missing and it is not possible to ascertain the person's identity;
2. refers to a person who has no known domicile in Sweden and cannot be reached in Sweden during the court proceedings;
3. refers to a person who is domiciled abroad; or
4. is incorrect and this fact is known to the disseminator.

Liability for certain live broadcasts

Art. 5. In the case of live broadcasts of programmes other than programmes under Chapter 1, Article 16, 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.

Special regulations on the liability of the responsible editor for information in a database

Art. 6. If a responsible editor of a database under Chapter 1, Article 4, paragraph one, points 2 a–c has been notified by the Chancellor of Justice or the injured party that the database contains certain information that may represent a freedom of expression offence, and the responsible editor removes the information from the database within two weeks of receipt of the notification, he or she cannot be held liable for the information. This applies only if it can be assumed that the information was first made available from the database earlier than one year prior to the notification.

More detailed provisions on notifications under paragraph one may be laid down in law.

Art. 7. If a responsible editor of a database under Chapter 1, Article 4, paragraph one, points 2 a–c without prior notification under Article 6 has been served a summons petitioning for liability or damages for a freedom of expression offence concerning certain information in the database, and the responsible editor removes the information from the database within two weeks of having been served the summons, he or she cannot be held liable for the information.

Notwithstanding paragraph one, the responsible editor may be held liable if it can be assumed that the information began to be available from the database one year before the responsible editor was served with the summons or later.

Objection to liability

Art. 8. If a person who is accused of a freedom of expression offence wishes to invoke a circumstance which under this Chapter would entail that he or she would not be held liable, this circumstance shall be invoked prior to the main hearing. Otherwise the court may not take the circumstance into consideration.

The significance of liability

Art. 9. A person who is liable for a freedom of expression offence under this Chapter shall be deemed to have had knowledge of the content of the programme or the technical recording and allowed it to be transmitted or published.

Chapter 7. Supervision and prosecution

Main rule for supervision and prosecution

Art. 1. The provisions laid down in Chapter 9, Articles 1–7 of the Freedom of the Press Act concerning supervision and prosecution shall apply also with regard to programmes, technical recordings and freedom of expression cases, unless otherwise indicated by the provisions in this Chapter.

Delegation by the Chancellor of Justice of tasks of a public prosecutor

Art. 2. The Chancellor of Justice may, in the case of technical recordings, delegate a public prosecutor to act as a prosecutor in a freedom of expression case which concerns liability or confiscation on account of unlawful threats, agitation against a population group, unlawful portrayal of violence, threats made against a public servant, obstructing the course of justice or offences against civil liberty. 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.

Time limits for public prosecution

Art. 3. The period within which public prosecution may be brought for a freedom of expression offence is in the case of:

1. programmes six months from the date on which the programme was broadcast;
2. provision of information under Chapter 1, Article 4, paragraph one, points 2 a–c six months from the date on which the information was no longer kept available;
3. public playback from a database under Chapter 1, Article 4, paragraph one, point 2 d six months from the date of the playback; and
4. technical recordings one year from the date on which the recording was published.

In the case of technical recordings which lack any of the information prescribed under Chapter 3, Article 16, however, the rules laid down in law concerning the period during which an action may be brought apply, with the limitation that public prosecution may not be brought more than two years from the date on which the recording was brought to the attention of the Chancellor of Justice.

Confiscation without prosecution

Art. 4. 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 injured party 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.

Examination and supervision in certain cases

Art 5. Provisions may be laid down in law that a tribunal, 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 programme which has been transmitted by some means other than cable complies with the rules or other conditions applying to such transmissions.

Such a tribunal may only express an opinion and enjoin the transmitter to observe the provisions or conditions. The act of law may prescribe that an injunction delivered by the tribunal 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 7.

Art. 6. Provisions may be laid down in 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 images by means of unlawful portrayal of violence. Such supervision may also 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.

Provisions may be laid down in law that an authority upon supervision shall be empowered to take temporarily into safekeeping a copy of a film, video recording or technical recording containing moving images which it can be presumed includes unlawful portrayal of violence.

Art. 7. The provisions concerning restrictions of fundamental rights and freedoms contained in Chapter 2, Articles 21–23 of the Instrument of Government apply in respect of provisions under Articles 5 and 6.

Chapter 8. Special coercive measures

Impoundment of technical recordings

Principal rule

Art. 1. 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, unless otherwise indicated by the provisions in this Chapter.

Special rules concerning impoundment

Art. 2. When the Chancellor or Justice has decided on impoundment or established that such impoundment shall take place, the court may, following a request from the Chancellor of Justice, allow an extension under Chapter 10, Article 4 of the Freedom of Press Act, if the time is insufficient with regard to the scope of the impoundment or for any other reason. 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.

Art. 3. If the Chancellor of Justice has delegated a public prosecutor to act as prosecutor in a freedom of expression case under Chapter 7, Article 2, the provisions of this Chapter and of Chapter 10, Articles 2, 4 and 12 of the Freedom of the Press Act regarding the tasks of the Chancellor of Justice shall also apply to the public prosecutor. However, the provisions of Chapter 10, Article 3, paragraph two of the Freedom of the Press Act concerning the notification of impoundment do not apply to a public prosecutor.

Art. 4. Impoundment orders regarding technical recordings shall contain information indicating which section or sections in the production occasioned the order.

If it is not possible when effecting an impoundment order under Chapter 10, Article 12 of the Freedom of the Press Act to indicate every section in detail that has given rise to the impoundment order, the sections which are being adduced as of a criminal nature shall be set out in a separate decision after the event. Such a decision shall be issued as soon as possible.

Impoundment relates only to the specific discs, reels or other such parts of the recording in which the sections occur.

Art. 5. Proof of an impoundment order shall be presented to the person against whom the impoundment has been made and to the person who caused the technical recording to be made. Such proof shall contain information indicating which section or sections in the recording occasioned the order. Such a decision shall be presented as soon as possible.

Impoundment of recordings, printed matter and images from a database

Art. 6. The provisions concerning an impoundment order under Chapter 10, Article 12 of the Freedom of the Press Act apply to a freedom of expression offence concerning a recording, printed matter or image which has been ordered from a database under Chapter 1, Article 4, paragraph one, point 2 c. However, what is prescribed in Articles 4 and 5 applies in the case of technical recordings instead of Chapter 10, Articles 7 and 10.

Chapter 9. Damages

General conditions

Art. 1. A claim for damages based on a breach of the freedom of expression through the content of a programme or a technical recording may be based only on the fact that the programme or the technical recording to which the claim relates contains a freedom of expression offence.

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

The provisions regarding damages in this Chapter shall also apply in relevant parts to claims under Chapter 5, Article 7 that a judgment regarding defamation or using insulting language or behaviour shall be reproduced in a programme.

The provision in Chapter 6, Article 9 also applies in respect of damages as a result of freedom of expression offences in a programme or a technical recording.

Who is liable

Art. 2. A person who is liable for a freedom of expression offence under Chapter 6 is also liable for damages.

A claim for damages can also be directed towards the person who operates the programme service or has caused the technical recording to be made.

If a responsible editor is not liable for a freedom of expression offence as a consequence of Chapter 6, Articles 6 and 7, neither is he or she liable for damages.

Art. 3. In the case of live broadcasts under Chapter 1, Article 16, the perpetrator is liable for damages as a result of offences he or she has committed in the broadcast.

Claims for damages may also be directed towards the person who operates the programme service.

Art. 4. If the person who has been liable for a freedom of expression offence in a technical recording 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 4, Articles 1 and 2 to the person who disseminates the recording, a claim for damages may still also be directed towards the person who has been liable. This applies to the extent that such damages can be awarded in law.

Art. 5. If a person is liable for damages on account of a freedom of expression offence in his or her capacity as a representative for a legal person, a claim for damages may also be directed towards the legal person.

If a guardian, trustee or administrator is liable in that capacity for damages on account of a freedom of expression offence, a claim for damages may also be directed towards the person for whom the guardian, trustee or administrator has been appointed.

A claim for damages under this Article may be made if and to the extent that grounds exist in law for such a claim.

Art. 6. If two or more persons are liable for damages under this Chapter, they shall be jointly liable for the damages. Concerning liability between them, provisions laid down in law shall apply.

Damages in cases when the penalty for the offence cannot be imposed

Art. 7. A claim for damages in connection with a freedom of expression offence can be made despite the fact the penalty for the offence cannot be imposed because of statutory time limits or any other reason.

Chapter 10. 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 also apply in respect of corresponding cases referring to programmes and technical recordings (freedom of expression cases). The reference in Chapter 12, Article 3 of the Freedom of the Press Act to Chapter 8 of the Freedom of the Press Act shall apply to Chapter 6 of this Fundamental Law.

Those who have been appointed as jury members for freedom of the press cases shall also be jury members for freedom of expression cases.

Chapter 11. Programmes and technical recordings from abroad

Onward transmissions of programmes from abroad

Art. 1. In the case of simultaneous and unmodified onward transmission of programmes under Chapter 1, Article 3 emanating from abroad or transmitted in Sweden by satellite but not emanating from Sweden, the provisions of this Fundamental Law apply only as regards:

- ban on censorship and ban on other obstructive measures under Chapter 1, Article 11;
- possession of technical devices and construction of cable networks under Chapter 1, Article 13;
- ban on interventions under Chapter 1, Article 14;
- the attitude to be observed under Chapter 1, Article 15 in applying this Fundamental Law;
- the right to transmit programmes by cable under Chapter 3, Article 1; and
- special rules for legislation and judicial examination under Chapter 3, Articles 5 and 7.

In addition, provisions on the freedom to communicate and procure information in Articles 4 and 7 shall be applied.

If the Riksdag has approved an international agreement concerning programmes, such provisions on advertising referred to in Chapter 1, Article 19 may not prevent onward transmission of programmes if this should conflict with the agreement.

Technical recordings from abroad

Art. 2. The provisions in Chapters 1–10 and Chapter 12 are applicable to such technical recordings that have been produced abroad and have been released for dissemination in Sweden. The provisions of this Fundamental Law which refer to the person who has caused the recording to be made shall then instead apply to the person who releases the recording for dissemination here in Sweden.

Freedom to communicate and procure information

Art. 3. The provisions on the freedom to communicate and procure information in Chapter 1, Article 10 also apply to technical recordings that have been produced abroad and that have been released for dissemination here but that are not primarily intended for dissemination in Sweden.

However, paragraph one does not apply if:

1. the communication or procurement contains an offence against the security of the country;
2. the communication contains such a release or provision as that referred to in Chapter 5, Article 4, paragraph 1, point 2; or
3. the communication constitutes a deliberate disregard of a duty of confidentiality.

Art. 4. The provisions on the freedom to communicate and procure information in Article 3 shall be applied to a technical recording which has not been released for dissemination in Sweden, if the information has been communicated or procured here.

Art. 5. The communicator has in such cases as those referred to in Articles 3 and 4 the right to anonymity under Chapter 2.

The provision on the exception from the duty of confidentiality in Chapter 2, Article 4, point 3 shall also cover other offences against the security of the country than those specified there.

Art. 6. If a communication or procurement is punishable under Articles 3 or 4, the provisions on offences against the freedom to communicate and procure information in this Fundamental Law shall apply.

Cases relating to liability or damages on account of such an offence are handled in accordance with the provisions regarding freedom of expression cases, unless otherwise indicated in Chapter 10, Article 1 of this Fundamental Law and Chapter 12, Article 1, paragraph 2 of the Freedom of the Press Act.

Art. 7. If a programme is broadcast from a transmitter outside Sweden, Articles 3–6 apply as regards the right to communicate and procure information and to be anonymous, provided the information has been communicated or procured here.

In the case of programmes broadcast from the open sea or from the air above the open sea, exceptions from the right to communicate or procure information may however be laid down in law.

Chapter 12. General provisions

Art. 1. The provisions laid down in Chapter 14, Sections 1–3 of the Freedom of the Press Act concerning the re-opening of closed cases, the appointment of a new jury and prompt handling of such cases also apply in respect of corresponding cases under this Fundamental Law.

International legal assistance

Art. 2. In respect of international legal assistance, the provisions of law shall apply. Such assistance may not be provided in breach of Swedish general legal principles in the area of the freedom of expression.

Non-Swedish citizens and non-Swedish legal persons

Art. 3. For those who are not Swedish citizens or Swedish legal persons, special restrictions may be laid down in law in respect of freedom of expression under this Fundamental Law.

Matters not regulated in this Fundamental Law

Art. 4. 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.

Transitional provisions

2018:1802

1. This Act comes into force on 1 January 2019.

2. The provisions of Chapter 6, Articles 6 and 7 shall also apply to information in a database which began to be provided before entry into force.