

# **THE EXTRADITION FOR CRIMINAL OFFENCES ACT (1957:668)**

Promulgated 6 December 1957

With amendments up to and including SFS 2003:1158

## **Section 1**

A person present in Sweden, who is in a foreign state suspected, accused or sentenced for an act that is punishable there may, in accordance with the provisions of this Act, be extradited to that state following a decision by the Government.

This Act does not apply if the Act (1959:254) on Extradition for Criminal Offences to Denmark, Finland, Iceland and Norway or the Act (2003:1156) on surrender from Sweden according to the European arrest warrant is applicable in relation to the other state. (SFS 2003:1158)

## **Conditions for extradition**

### **Section 2**

A Swedish national may not be extradited under this Act. (SFS 2003:1158)

### **Section 3**

Repealed by Act 2003:1158.

#### **Section 3 a**

Repealed by Act 2003:1158.

#### **Section 3 b**

Repealed by Act 2003:1158.

#### **Section 3 c**

Repealed by Act 2003:1158.

## **Section 4**

Extradition may be granted only if the act for which it is requested corresponds to an offence for which imprisonment for one year or more is prescribed by Swedish law. If the person has been sentenced for the act in the requesting state, he may be extradited only if the sentence is deprivation of liberty for at least four months or other institutional custody for a corresponding period.

If extradition to another state is to take place for an act referred to in the first paragraph, extradition to that state may also be simultaneously granted for another act corresponding to an offence according to Swedish law.

If the person has been sentenced to a joint sanction in the requesting state for an act referred to in the first paragraph, and for another act corresponding to an offence according to Swedish law, extradition for the acts may be granted, provided the joint sanction is deprivation of liberty for at least four months or other institutional custody for a corresponding period. (SFS 2003:1158)

## **Section 5**

Extradition may not be granted for acts mentioned in the provisions of Chapter 16 of the Penal Code relating to offences committed by members of armed forces or of Chapter 21 of the Penal Code or of the Total Defence Service Act (1994:1809).

In derogation of the foregoing, if the act also constitutes an offence which is otherwise extraditable, the person may be extradited for that offence. (SFS 1994:2066)

## **Section 6**

Extradition may not be granted for a political offence.

If the act also constitutes a non-political offence, extradition may be granted for that offence, provided, in the particular case, the act is predominantly of a non-political nature.

The first paragraph does not apply where rejection on this ground would be contrary to an international agreement applying between Sweden and the requesting state. (SFS 2003:1158)

## **Section 7**

A person may not be extradited if, on account of his origin, belonging to a particular social group, his religious or political views, or otherwise on account of political circumstances, he would run the risk of being subjected in the foreign state to persecution which is directed against his life or liberty or is otherwise of a harsh nature, or if he does not enjoy protection against being sent to a state in which he would run such a risk.

## **Section 8**

Extradition may not be granted where in a particular case, in view of the youth, state of health or any other personal circumstances of the person concerned, due account also being taken of the nature of the act and the interests of the foreign state, it is considered to be manifestly incompatible with basic standards of humane treatment.

## **Section 9**

If the person for whom extradition is requested has been sentenced for the act in the foreign state, his extradition may not be granted unless the judgment is substantiated by the supporting documentation and does not give rise to a serious objection in other respects.

If no judgment concerning the act has been pronounced in the foreign state, the request for extradition shall be based on a detention decision issued by a competent authority in that state. In the case of an act for which extradition is possible according to Section 4, second paragraph, the request may, however, be based on other documentation. The request may not be granted unless there is probable cause for believing that the person has committed the act.

By agreement with a foreign state it may be decided that, in relation to that state, a conviction or such detention decision as issued by a court of law or a judge shall be accepted unless in a particular case the final judgment or detention decision is manifestly wrong. It may be stipulated in such an agreement that a judgment rendered without the sentenced person being personally present at the court hearing of the matter shall be accepted only if the person's right of defence can nevertheless be deemed to have been adequately provided for, or if he is entitled, according to an assurance given by the foreign state in the extradition case, to demand a retrial which safeguards that right. (SFS 1979:98)

## **Section 10**

If judgment in respect of the alleged offence has been rendered in Sweden regarding the person for whom extradition is requested, or if a decision has been made for waiver of prosecution in accordance with Chapter 20, Section 7 of the Swedish Code of Judicial Procedure or corresponding provision in another enactment, extradition may not be granted for that offence.

Extradition may further not be granted if a penalty for the offence would be time-barred according to Swedish law.

If the question of liability for the offence has been adjudicated by a judgment having legal force pronounced in a state other than the state requesting extradition, and if the offence was committed in the former state or if that state has acceded to the European Convention on Extradition of 13 December 1957 or an agreement as referred to in Chapter 2, Section 5 a, fourth paragraph of the Penal

Code or has concluded a special agreement with Sweden on extradition for criminal offences, the person for whom extradition is requested may not be extradited for that offence,

1. if he or she has been acquitted,
2. if he or she has been found guilty of the offence but no sanction has been imposed,
3. if the sentence passed has been served in its entirety or is still being served, or
4. if the sanction imposed has lapsed according to the law of the state where the judgment was entered.

The third paragraph shall not apply to offences committed in the state requesting extradition or against that state or against an assembly or a public institution in that state, nor to an offence referred to in Chapter 2, Section 3, item 6 or 7 of the Penal Code, unless proceedings for the purpose of conducting a criminal prosecution have taken place at the request of the state which requested extradition or after the person for whom extradition has been requested has been extradited from that state for the purpose of criminal prosecution. (SFS 2003:1158)

#### **Section 11**

A person who is being prosecuted in Sweden for another offence, for which imprisonment is prescribed, or who has been sentenced to imprisonment or some other form of institutional custody, may not be extradited so long as that impediment prevails. The same shall apply if a preliminary investigation has been instituted with reference to an offence as aforesaid.

Notwithstanding the provisions of the first paragraph, a person may be extradited to stand trial for the act for which the foreign state has requested extradition, subject to the condition that he shall subsequently be surrendered to a Swedish authority in accordance with that which the Government decides. (SFS 1975:292)

#### **Section 12**

When extradition is granted the following conditions, when applicable, shall be prescribed:

1. Except with special consent in accordance with Section 24, the person extradited may not be prosecuted or punished in the foreign state for any other offence committed prior to his extradition or, except in cases referred to in Section 13, second paragraph, be extradited to another state, unless he has failed, although unimpeded from so doing, to leave the country within forty-five days after the trial and after serving the sentence or other penalty imposed on him for the offence with respect to which he was extradited, or has returned to the said country after having left it.
2. A person extradited may not be prosecuted for the offence in a court which has only been given ad hoc or emergency powers to try such cases. The government, however, may grant exemptions from this provision where it is considered compatible with legal security to do so.
3. A person who is extradited may not have the death penalty imposed for the offence.

In cases referred to in Section 5 or Section 6, it shall be specially stated that the person extradited may not be punished under a provision concerning offences committed by members of armed forces or for a political offence.

The Government shall otherwise prescribe such conditions as are considered necessary. (SFS 1975:292)

**Section 12 a**

Where provided by an international agreement which is binding on Sweden, the person extradited may, in addition to that provided by Section 12, first paragraph, item 1, be prosecuted or punished for another offence which he or she committed before being extradited, provided he or she has consented thereto. (SFS 2003:1158)

**Section 13**

If two or more states request extradition of the same person, a decision on the state to which the person is to be extradited shall be made following due consideration of the nature of the offence or offences, the time and place of commission, the chronological order of the requests, the nationality and residence of the person concerned and any other relevant circumstances.

Where the requests relate to different offences, it may be stipulated that the person to be extradited to one state shall subsequently be extradited to another state, subject to conditions to be determined in accordance with Section 12.

**Procedure****Section 14**

A request for extradition shall be made in writing. It may be transmitted by telefax or, subject to agreement in the individual case, by other means. The request shall be made to the Ministry of Justice.

The request shall be accompanied by a copy of the detention decision or judgment referred to or, in cases referred to in Section 4, second paragraph, by any other documentation on which the request is based. Unless mentioned in the aforesaid documents, information shall be given concerning the person's nationality and residence, the nature of the offence, the time and place of its commission and the penal provisions applicable in the foreign state. A description of the person shall also be provided where possible. (SFS 2001:612)

**Section 15**

Before the Government makes a decision on the request, the Prosecutor-General shall deliver a statement of opinion on the matter. In addition, if the person referred to in the request has not consented to being extradited, the case shall be tried by the Supreme Court. The request shall, however, be rejected immediately if there is a manifest reason why it should not be granted. (SFS 1981:1090)

**Section 16**

The Prosecutor-General shall, as basis for the statement of opinion, conduct the necessary investigation in accordance with the rules applicable to preliminary investigations in criminal cases.

In the course of the investigation, the Prosecutor-General or a prosecutor conducting the investigation may request supplementary information from a competent authority in another state if the other state so permits.

Coercive measures shall be subject to the general rules prescribed for criminal cases. A decision by the court shall apply pending determination of the matter or, if extradition is granted, until extradition has been enforced. However, if the Supreme Court considers that there is an impediment to extradition according to Sections 1 to 10, the decision shall cease to apply immediately. In the event of an impediment to extradition as referred to in Section 11, first paragraph, the decision shall not apply while the person is arrested or detained, is serving a sentence of imprisonment or otherwise placed in institutional custody owing to a suspicion of an offence as referred to therein.

Coercive measures may also be imposed after extradition has been granted.

The court's decision on coercive measures may be appealed to the Supreme Court, without any time limit.

A person who is detained in an extradition case may request a new hearing within three weeks from the date of the last decision made. (SFS 2003:1158)

#### **Section 17**

When the investigation has been completed, the Prosecutor-General shall submit the case, together with his or her statement of opinion, to the Supreme Court. If the person subject to the request has consented to being extradited, the case and the statement of opinion shall instead be submitted to the Government. (SFS 1981:1090)

#### **Section 18**

The Supreme Court shall decide whether extradition may be lawfully granted in accordance with Sections 1 to 10 of this Act.

A hearing shall be held if it is considered necessary to do so. A hearing may not be refused unless a previous hearing must be considered sufficient or the matter is considered to be obvious. Regardless of the case being pending in the Supreme Court, the question of coercive measures shall be examined by a court of first instance unless the Supreme Court decides otherwise. In other respects the case shall be dealt with in accordance with the procedure prescribed for criminal cases generally. The remuneration of public defence counsel, witnesses or any other persons heard in the case shall be borne by the state unless there are special reasons why it should be refunded by the person for whom extradition has been requested. (SFS 1996:1628)

#### **Section 19**

Repealed by Act 1980:182.

#### **Section 20**

When the Supreme Court has issued its decision, the matter shall be reported to the Government. If the Supreme Court has considered extradition to be subject to an impediment according to Sections 1 to 10, the request may not be granted. However, it may be decided by agreement with a foreign state that a matter may be referred to international arbitration if it is considered that there is an impediment to extradition according to Section 8 or Section 9.

When extradition is granted, a period of time shall be determined within which the foreign state shall collect the person to be extradited. The period fixed may not, in the absence of extraordinary reasons, exceed one month from the date on which the requesting state was informed of the decision.

The police authority shall enforce extradition decisions. If the person to be extradited is at large, he or she may be taken into custody and detained in custody by the police authority, if necessary to enable enforcement of the extradition, though not for more than forty-eight hours. (SFS 2003:1158)

#### **Section 21**

When extradition is granted, the Government may order any property seized to be surrendered to the foreign state; and in this connection, such conditions may be prescribed as are considered justified considering individual rights or the public interest. (SFS 1975:292)

#### **Section 22**

The Government or the Ministry of Justice will decide the remuneration payable out of public funds to public defence counsel for work before the Government. (SFS 1992:109)

#### **Coercive measures pending an extradition request**

### **Section 23**

Any person who is in a foreign state suspected, accused or sentenced for an offence which is extraditable within the meaning of this Act may, at the request of a competent authority in the foreign state or owing to the person being posted as wanted there, immediately be arrested or made subject to a travel prohibition or a reporting obligation by a prosecutor, in accordance with the rules generally applicable to criminal cases. Seizures of property may also be effected in such cases.

A decision to use coercive measures shall be reported without delay to the court which, following a hearing as prescribed for criminal cases, shall expeditiously examine the measure and, if the arrest or travel prohibition or reporting obligation is upheld, shall forthwith notify the Head of the Ministry of Justice thereof. If the Head of the Ministry considers that there is an impediment to extradition or that for some other reason it should not take place, he shall procure a Government order revoking the measure. Otherwise the foreign state shall be notified of the measure through the Ministry of Justice. The notification shall indicate a time limit set by the Head of the Ministry of Justice for submitting an extradition request. This period may not exceed forty days from the date on which the person was arrested or a travel prohibition or reporting obligation was imposed, as provided in the first paragraph. When an extradition request is received, the Ministry of Justice shall immediately notify the authority that first decided on the measure. Such notification shall also be given if an extradition request is not received within the allotted time.

No appeal may be made against the court's decision. A person who has been arrested or on whom a travel prohibition or reporting obligation is imposed may, however, request a new hearing within three weeks of the date of the last decision, to consider whether the measure shall be upheld.

If no request for the extradition of a person who has been arrested or on whom a travel prohibition or reporting obligation was imposed has been made within the time referred to in the second paragraph, the person arrested shall be released or the travel prohibition or reporting obligation shall be revoked. The same shall apply where an extradition request is rejected in accordance with Section 15. If the person arrested is not released in other cases, an application for his detention shall be filed with the court no later than the eighth day after the date on which the Prosecutor-General was notified of the extradition request. Failing a request as aforesaid, the person arrested shall be released immediately. (SFS 2000:567)

### **Miscellaneous provisions**

#### **Section 24**

Notwithstanding the conditions prescribed for extradition, the Government may, if so requested by the foreign state, consent to the person extradited being tried for an offence committed before his extradition, other than that for which he was extradited, or to his being extradited to another state. The provisions governing requests for extradition shall, where relevant, apply to such a request.

Consent may be given only if the relevant documents show that there are legal grounds for extradition in respect of the act.

If documents received show that the request cannot be lawfully granted, or if the Government considers that there are other grounds for not granting the request, it shall be rejected immediately. Otherwise the case shall be examined by the Supreme Court, unless the person to whom the request refers has consented to extradition. If the Supreme Court considers that there is an impediment, the request may not be granted. (SFS 1981:1090)

#### **Section 25**

When extradition has been requested, criminal proceedings for the alleged offence may not be instituted unless the request has been rejected.

If extradition is granted after criminal proceedings have been instituted, this circumstance shall be deemed to constitute an impediment in the criminal case. (SFS 1975:292)

#### **Section 26**

The Head of the Ministry of Justice may permit transit through Sweden of a person extradited from one foreign state to another, provided that the person concerned is not a Swedish national and there are no other extraordinary reasons against granting permission. A request for transit shall be made to the Ministry of Justice.

Consent for transit of a Swedish national through Sweden may be granted provided that there would not have been any impediment to his or her extradition to the receiving state according to Section 2 or Section 4 of the Act (1959:254) on Extradition for Criminal Offences to Denmark, Finland, Iceland and Norway.

If permission has been granted in accordance with the first or second paragraph, the police authority may, provided it is necessary for the transport to be implemented, take into custody and detain in custody the person to be extradited, though not for more than forty-eight hours.

When permission for transport is requested regarding a person to be extradited to a Member State of the European Union, Chapter 8, Section 2 of the Act (2003:1156) on surrender from Sweden according to the European arrest warrant shall apply instead of the provisions contained in the first to third paragraphs. (SFS 2003:1158)

#### **Section 26 a**

If a person has been extradited to Sweden for trial in this country on condition that the person extradited will later be returned to the foreign state, the police authority in the place where the trial was held shall ensure that the person extradited is returned.

If the person to be returned is at large, he or she may be taken into custody and detained in custody by the police authority if necessary to enable the return to be implemented, though for not more than forty-eight hours. (SFS 2003:1158)

#### **Section 27**

The international agreements referred to in this Act are to be announced by the Government. (SFS 2003:1158)

#### **Section 28**

Repealed by Act 2003:1158.

#### **Section 29**

Repealed by Act 2003:1158.

#### **Section 30**

Repealed by Act 2003:1158.

#### **Section 31**

Repealed by Act 2003:1158.

#### **Section 32**

Repealed by Act 2003:1158.

#### **Section 33**

Repealed by Act 2003:1158.

**Section 34**

Repealed by Act 2003:1158.

**Section 35**

Repealed by Act 2003:1158.

**Section 36**

Repealed by Act 2003:1158.

**Section 37**

Repealed by Act 2003:1158.

**Section 38**

Repealed by Act 2003:1158.

**Section 39**

Repealed by Act 2003:1158.

**Section 40**

Repealed by Act 2001:612.

**Transitional provisions**

1957:668

This Act enters into force on 1 January 1958. The Extradition of Criminals Act of 4 June 1913 (No. 68) is repealed by the Act.

If an extradition request has been made prior to the new Act entering into force but has not been determined before then, the matter shall be adjudicated in accordance with the new Act. Earlier law may, however, be applied concerning the procedure for the matter.

Provisions in an agreement with a foreign state which apply for Sweden on the entry into force of the new Act, shall be complied with even in derogation of the provisions of this Act.

1975:292

This Act enters into force on 1 July 1975.

Provisions in an agreement with a foreign state which apply for Sweden on the entry into force of the new Act, shall be complied with even in derogation of the provisions of this Act.

2003:1158

1. This Act enters into force on 1 January 2004.
2. Older provisions still apply to matters concerning extradition that have been instituted at the time of entry into force.
3. Older provisions still apply in relation to a state that on 1 January 2004 was a Member of the European Union and which, when the matter was instituted, has not implemented the Council Framework Decision 2002/254/RIF of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, though only if the matter was instituted before 1 January 2005.

