



## **Act on criminal responsibility for genocide, crimes against humanity and war crimes**

**SFS 2014:406**

Published  
11 June 2014

issued on 28 May 2014.

In accordance with a decision by the Riksdag (the Swedish Parliament)<sup>1</sup>, the following is enacted.

### **Genocide**

#### **Section 1**

A person is guilty of *genocide* if he or she, with the intention of completely or partly destroying a national, ethnic, racial or religious group as such,

1. kills a member of the group,
2. causes a member of the group serious pain or harm or subjects this person to severe suffering,
3. inflicts living conditions on members of the group that are calculated to lead to the complete or partial destruction of the group,
4. takes measures that are calculated to prevent children being born in the group, or
5. forcibly transfers a child under the age of eighteen from the group to another group.

The penalty is imprisonment for a fixed term of at least four and at most eighteen years or for life.

### **Crimes against humanity**

#### **Section 2**

A person is guilty of *crime against humanity* if he or she, if the act constitutes or is part of a widespread or systematic attack on a civilian population,

1. kills a person belonging to the population,
2. causes a person belonging to the population serious pain or harm or subjects this person to severe suffering through torture or other inhumane treatment,

<sup>1</sup> Govt bill 2013/14:146, Committee Report 2013/14:JuU10, Riksdag Communication 2013/14:261.

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3. subjects a person belonging to the population to serious sexual abuse through rape, enforced prostitution or other comparably serious act,

4. with the intention of affecting the ethnic composition of a population or of perpetrating other grave violations of customary international law, deprives a forcibly impregnated woman belonging to the population of her liberty,

5. causes a person who belongs to the population to enter into sexual slavery or, in contravention of customary international law, forced labour or other such state of coercion,

6. in contravention of customary international law deports or forcibly transfers a person who belongs to the population,

7. in contravention of customary international law deprives a person who belongs to the population of their liberty,

8. subjects persons who belong to the population to persecution by, in contravention of customary international law, depriving them of fundamental rights on the basis of political, racial, national, ethnic, cultural, religious, gender or other reasons that are prohibited under customary international law, or

9. on behalf of a state or a political organisation, or with their authorisation, support or acquiescence, in order to deprive a person in the population of the protection of the law for a prolonged period of time,

a) deprives this person of their liberty, if the deprivation of liberty is followed by a refusal to acknowledge this or to provide information about the person's fate or whereabouts,

b) after a deprivation of liberty has occurred, refuses to acknowledge this or to provide information about the fate and whereabouts of the person deprived of liberty, or

c) after such a refusal has been made, maintains the deprivation of liberty.

The penalty is imprisonment for a fixed term of at least four and at most eighteen years or for life.

## War crimes

### *Protected person*

#### **Section 3**

In this Act, 'protected person' means a person who, being wounded, sick, shipwrecked, a prisoner of war or a civilian or in some other capacity, enjoys special protection under the Geneva Conventions of 12 August 1949, Additional Protocol I to these Conventions from 1977, or otherwise under customary international law applicable in armed conflicts or during occupation.

### *War crimes against persons*

#### **Section 4**

A person is guilty of a *war crime* if he or she, if the act is part of or otherwise connected with an armed conflict or occupation,

1. kills a protected person,
2. causes a protected person serious pain or harm or subjects this person to severe suffering through torture or other inhumane treatment,
3. subjects a protected person to a medical or scientific experiment that is not undertaken in that person's interest and seriously endangers his or her life or health,
4. harms a person who is *hors de combat*,
5. subjects a protected person to serious sexual abuse through rape, enforced prostitution, sexual slavery or other comparably serious act,
6. with the intention of affecting the ethnic composition of a population or of perpetrating other grave violations of customary international law, deprives a forcibly impregnated protected person of the female sex of her liberty,
7. subjects a protected person to humiliating or degrading treatment that is calculated to seriously violate their personal dignity,
8. in contravention of customary international law deports or forcibly transfers a protected person,
9. enforces or imposes a punishment on a protected person without he or she having been given a fair trial beforehand,
10. takes a protected person hostage with the intention of inducing a State, person or organisation to perform or refrain from an action, or
11. recruits to national armed forces or armed groups, or uses for direct participation in hostilities, a child who has not reached the age of fifteen.

The penalty is imprisonment for at most six years.

#### **Section 5**

A person is guilty of a *war crime* if he or she, if the act is part of or otherwise connected with an international armed conflict or occupation,

1. on behalf of an occupying power has part of the occupying power's civilian population transferred to occupied territory,
2. forces a national of a State that is an adversary in the conflict to participate in military operations against their own State or forces a protected person to serve in the armed forces of a hostile power, or
3. in contravention of customary international law deprives a protected person of their liberty or unjustifiably delays repatriating a prisoner of war or a civilian who has been deprived of liberty.

The penalty is imprisonment for at most six years.

#### *War crimes against property*

#### **Section 6**

A person is guilty of a *war crime* if he or she, if the act is part of or otherwise connected with an armed conflict or occupation, plunders or, without military necessity, engages in extensive destruction, appropriation or confiscation of another's property.

The penalty is imprisonment for at most six years.

*War crimes through the abolition of the right of access to a court*

**Section 7**

A person is guilty of a *war crime* if he or she, if the act is part of or otherwise connected with an international armed conflict or occupation, wholly or largely abolishes the right of a national of the adversary State to have access to a court hearing regarding civil or other civic rights.

The penalty is imprisonment for at most six years.

*War crimes concerning specially protected missions or emblems*

**Section 8**

A person is guilty of a *war crime* if he or she, if the act is part of or otherwise connected with an armed conflict or occupation,

1. directs an attack against personnel, installations, equipment, units or vehicles engaged in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, provided that these are entitled to the protection given to civilians or civilian property under customary international law,

2. directs an attack against personnel, buildings, equipment, medical units or transport operations that are entitled under customary international law to use the emblem of the red cross or the red crescent or another similarly recognised international emblem, or

3. in contravention of customary international law uses an emblem referred to in point 2 for military purposes or uses a parliamentary flag, the flag of the United Nations, an enemy flag or military insignia or uniforms in a manner that leads to death or serious personal injury.

The penalty is imprisonment for at most six years.

*War crimes through the use of prohibited methods of warfare*

**Section 9**

A person is guilty of a *war crime* if he or she, if the act is part of or otherwise connected with an armed conflict or occupation,

1. directs an attack against a civilian population as such or against individual civilians not directly participating in the hostilities,

2. directs an attack against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, cultural property, hospitals or assembly points for sick and wounded persons, or other civilian property, provided that these are not military objectives,

3. directs an attack against towns, villages, dwellings or buildings that are undefended and are not military objectives,

4. directs an attack against a military objective that will lead to civilians being killed or injured, civilian property being destroyed or serious damage being caused to the natural environment on a scale that is disproportionate to the concrete and direct overall military advantage anticipated,

5. by treacherous means kills or injures someone belonging to the adversary's national armed forces or armed groups,

6. orders or threatens that no quarter will be given,

7. uses a protected person so as, by his or her presence, to prevent the adversary attacking certain places or areas or national armed forces or armed groups or to promote their own military operations, or

8. with the intention of using starvation as a method of warfare deprives a civilian population of the necessities of life.

The penalty is imprisonment for at most six years.

#### *War crimes through the use of prohibited weapons*

##### **Section 10**

A person is guilty of a *war crime* if he or she, if the act is part of or otherwise connected with an armed conflict or occupation,

1. uses poison or poisonous weapons,
2. uses biological or chemical weapons, or
3. in contravention of customary international law uses some other weapon that by its nature can cause superfluous damage or unnecessary suffering or is indiscriminate.

The penalty is imprisonment for at most six years.

#### *Gross war crimes*

##### **Section 11**

If a crime listed in Sections 4–10 is to be regarded as gross, the perpetrator shall be sentenced for a *gross war crime* to imprisonment for a fixed term of at least four and at most eighteen years or for life. In assessing whether the crime is gross, special consideration shall be given to whether the act is committed as part of a plan or policy or as part of extensive crimes or whether the act has caused death, severe pain or injury or severe suffering, extensive damage to property or particularly serious damage to the natural environment.

#### **Subjective prerequisite concerning the age of a child**

##### **Section 12**

A person shall also be found guilty as prescribed in Section 1, first paragraph, point 5 or Section 4, first paragraph, point 11, of an act committed against a child under a certain age if that person did not realise but had reasonable cause to assume that the child had not reached that age.

#### **Liability of superior**

##### *Extended perpetratorhood*

##### **Section 13**

A military or civilian superior who fails to take measures that he or she could possibly have taken and that were necessary and reasonable to prevent a subordinate answerable to the superior and under the superior's effective control from committing genocide, a crime against humanity or a war crime shall be regarded as a perpetrator of the crime.

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*Failure to exercise control*

**Section 14**

A military or civilian superior who deliberately or by gross negligence fails to exercise particular supervision of a subordinate answerable to him or her and under his or her effective control shall be sentenced to imprisonment for at most four years for *failure to exercise control*, if the subordinate has committed genocide, a crime against humanity or a war crime that the superior should have foreseen and could have prevented.

*Failure to report a crime*

**Section 15**

A military or civilian superior who, when it is possible without risk of the superior revealing crimes of his or her own, fails to report, for investigation and prosecution, a reasonable suspicion that a subordinate answerable to him or her and under his or her effective control has committed genocide, a crime against humanity or a war crime shall be sentenced to imprisonment for at most four years for *failure to report a crime*.

**Attempts etc.**

**Section 16**

Attempt, preparation or conspiracy to commit or failure to reveal an act of genocide, a crime against humanity or a war crime is punishable in accordance with Chapter 23 of the Swedish Penal Code.

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This Act enters into force on 1 July 2014, when the Genocide Act (1964:169) will cease to apply.

On behalf of the Government

JAN BJÖRKLUND

BEATRICE ASK  
(Ministry of Justice)