

Act (1976: 19) on international co-operation concerning prosecution for crime

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Scope of the law

§ 1 This Act, in accordance with an order of the Government, applies in respect of the transfer of prosecution for crimes to or from a state that has acceded to the European Convention of 15 May 1972 on the Transfer of Prosecution in Criminal Cases. In the case of traffic offenses, however, the law does not apply in relation to a state that has acceded to the European Convention of 30 November 1964 on Penalties for Road Traffic Offenses.

Transfer of prosecution from Sweden to another state

Section 2 If someone is suspected of a crime under Swedish law, a request for transfer of the prosecution to another state may be made

1. if the suspect is domiciled in the other state,
2. if the suspect is a citizen of the other state or if this state is his original home country,
3. if the suspect undergoes or is to undergo a custodial sentence in the other state,
4. if prosecution for the same or another crime has been initiated against the suspect in the other state,
5. if the transfer of prosecution is called for investigative reasons,
6. if enforcement in the other State of the sentence due to the crime can be assumed to increase the possibilities for the convict's social adjustment;
7. if the suspect's personal presence cannot be ensured at a hearing in this country but at a hearing in the other state, or
8. if a judgment due to the crime cannot be enforced in this country even using extradition proceedings but enforcement can take place in the other the state.

If the issue of liability for the act has been tried in this country by a judgment that has gained legal force against the suspect, a petition under the first paragraph may only be made if a sanction has been imposed by the judgment but this can not be enforced here even using extradition and the other state does not recognize the principle on the enforcement of a foreign judgment or refuses to enforce such a judgment.

The government or an authority determined by the government decides on a petition in accordance with this section.

Section 3 After a request has been made in accordance with section 2, no prosecution may be brought for the crime. Other measures for prosecution may be taken until the decision of the other State in connection with the petition has been received.

If prosecution is transferred after the prosecution has been brought, this circumstance shall be considered to constitute an obstacle to proceedings in the criminal case.

Judgments that have been issued in this country against the suspect for the crime may not, except as regards individual claims in connection with the crime, be enforced after the petition has been made.

§ 4 Notwithstanding § 3, action for prosecution or enforcement may be taken in this country

1. if the other state announces that it has decided not to take action in connection with the petition or suspend such measures or that it has rejected the petition or revoked its approval to this,

2. if the petition is withdrawn before the other State has notified that it has decided to take action in connection therewith.

Section 5 If a petition pursuant to Section 2 has been omitted, the period for limitation of prosecution in this country is extended by six months.

Transfer of prosecution from another state to Sweden

Examination of petition for transfer of prosecution

Section 6 If someone in another state is suspected of a crime in accordance with its law, the prosecution on request from that state may be transferred to Sweden, if there are reasons to do so with the corresponding application of section 2.

The prosecution may only be transferred in cases where the act would have been a crime under Swedish law, if it had been committed in this country, and in such a case the perpetrator would have been subject to liability also under Swedish law. If the offense was committed by a person in a public position in the other State or against such person or public institution or property of a public nature in that State, the offense shall be deemed to have been committed by a person in a public position in this country or against a person, institution or property the country corresponds to the one against which it has been committed.

Section 7 The petition may not be approved

1. if obstacles to prosecution in this country exist in accordance with ch. § 5 a of the Criminal Code,

2. if the statute of limitations has entered into the other state according to its law before the petition is filed,

3. if the statute of limitations has expired according to Swedish law before the petition was received,

4. if the prosecution would be contrary to Sweden's international obligations, or

5. if the prosecution would be contrary to the foundations of the legal system in this country.

Section 8 The petition may be rejected

1. if the suspect is not domiciled in Sweden,

2. if the suspect is not a Swedish citizen and was not domiciled in Sweden at the time

of the crime,

3. if the crime is of a political nature or a purely military or tax offense,
4. if there are reasonable grounds for believing that the petition was based on race, religion, nationality or political opinion,
5. if the act was committed outside the territory of the other State, or
6. if the other State has not complied the provisions relating to the procedure provided for in the Convention referred to in the first sentence of section 1.

§ 9 Decisions whereby the petition has been approved shall be revoked

1. if it appears that the condition according to § 6 for transfer of the prosecution is not obvious or that there are grounds for rejection according to § 7 1 or 2, or
2. if grounds for rejection according to § 7 3--5 emerges before prosecution has been brought here.

§ 10 Decisions whereby the petition has been approved may be revoked

1. if the suspect's personal presence at a hearing in this country can not be ensured or a future sentence due to the crime can not be enforced here,
2. if grounds for refusal according to § 8 appear before prosecution has been brought here, or
3. otherwise, if the other State agrees.

Section 11 The Government or an authority determined by the Government examines a matter referred to in Sections 6-10.

Effect of petition for transfer of prosecution

Section 12 If both in this country and in the other state prosecution is dependent on a declaration, a declaration made in the other state has the same effect as a declaration made in this country.

If a declaration is required only in this country, action for prosecution may be taken even if a declaration has not been made, if the person who has the right to make a declaration has not objected to this within one month of being notified of his right to make such an objection.

Section 13 If a request from another state for the transfer of prosecution has been approved, prosecution may be brought in this country, even if such an appointment as referred to in ch. § 5 or § 5 a third paragraph of the Criminal Code has not been announced.

For an act referred to in the petition, it is judged as for a crime which according to Swedish law corresponds to the act according to what is stated in section 6, second paragraph. If the prosecution can take place in this country only with the support of this law, a penalty may not be imposed which is to be regarded as more severe than the most severe punishment provided for the crime according to the law of the other state.

Section 14 A measure for bringing an indictment or preliminary investigation, which has been taken in accordance with the law of the other state, has the same validity in this country as if it had been taken by a Swedish authority. However, it may not be granted a greater evidentiary effect than it has in the other state.

A measure taken in the other State which, according to the law of that State, entails an extension of the period within which a sanction can be imposed has a corresponding effect in this country.

Temporary coercive measures

Section 15 If another state has announced its intention to make a petition pursuant to section 6 in respect of an act for which prosecution in this country can only take place on the basis of this Act, the suspect may be arrested or detained in this country at the request of the other state; if detention for the crime may take place according to Swedish law and it can reasonably be feared that the suspect deviates or removes evidence. In the case of such a coercive measure, what is prescribed in Swedish law is otherwise applied.

If, in cases referred to in the first paragraph, a petition for transfer of prosecution accompanied by prescribed documents has been received from another state, all the coercive measures that could have been used under Swedish law in respect of the crime may be used in this country.

Section 16 Coercive measures referred to in section 15 shall be lifted immediately if the right to prosecute returns to the other state.

The person who has been arrested or detained shall be released immediately if a request for transfer of prosecution has not been received within 18 days from the day on which he was deprived of his liberty due to the decision on arrest or detention or if the documents accompanying the request have not been received. within 15 days of receipt of the request. The time for deprivation of liberty according to section 15, first paragraph, may in no case exceed 40 days.

Final provisions

Section 17 If another state has made a petition pursuant to section 6 in respect of an act for which prosecution in this country can only take place on the basis of this Act or has made a petition for action pursuant to section 15, the person referred to in the petition shall, if necessary, be provided legal aid. applies to defendants in criminal cases. Compensation that has been issued by public funds to public defenders must always remain with the state. *Lag (1996: 1638)* .

Section 18 With regard to the procedure in a case pursuant to this Act, the Government or an authority determined by the Government shall issue the necessary regulations.

Transitional provisions

1976: 19

This law enters into force on the date determined by the government.

The Act does not apply to co-operation concerning prosecution for crimes that have been committed before the convention mentioned in section 1, first sentence, has entered into force between Sweden and the other state.