

# Act (2000: 562) on international legal assistance in criminal cases

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## 1 chap. Introductory provisions

**Section 1** This Act contains provisions on legal aid in criminal cases in Sweden and abroad.

This chapter contains provisions on the scope of the law.

I 2 kap. There are general provisions on legal aid in Sweden. I 3 kap. there are general provisions on legal aid abroad.

I 4 kap. there are special provisions on various forms of legal aid.

I 5 kap. there are provisions on conditions on restrictions on use, immunity, secrecy, division of confiscated property between states, recovery of costs and implementing regulations and announcements.

## Scope

**Section 2** Legal aid under this Act includes the following measures:

1. interrogation in connection with a preliminary investigation in a criminal case,
2. taking of evidence in court,
3. telephone  
interrogation,
4. interrogation by videoconference,
5. attachment, seizure and house search and other measures referred to in 28 chap. the Code of Judicial Procedure,

6. covert interception of electronic communications and covert surveillance of electronic communications,
7. covert camera surveillance,
8. covert room interception,
9. covert data interception,
10. technical assistance with covert interception of electronic communications, covert surveillance of electronic communications and covert data interception in accordance with section 2, first paragraph 1 and 2 of the Act (2020: 62) on covert data interception,
11. permission for cross-border covert interception of electronic communications, covert surveillance of electronic communication and secret data reading in accordance with section 2, first paragraph 1 and 2 of the Secret Data Reading Act,
12. transfer of detainees for questioning, etc., and
13. forensic examination of a deceased person.

The law does not prevent assistance from being provided with any measure other than that specified in the first paragraph if it can be done without coercive measures or other coercive measure.

There are special provisions regarding surrender, extradition and service. There are also special provisions on legal aid in criminal cases for certain international bodies. *Lag (2020: 65)*.

**Section 3** If another state applies for legal aid in Sweden with a measure in a legal proceeding that concerns an investigation or prosecution for a crime by a natural or legal person, the requested assistance shall be provided in accordance with the provisions of this Act.

**Section 4** Legal aid in Sweden is provided by a prosecutor or court, unless otherwise stated in this Act.

**Section 5** Legal assistance pursuant to section 2 shall also be provided

1. in cases which in the applicant state or in Sweden are handled in an administrative procedure or in a procedure other than a criminal procedure,
2. in cases concerning damages for wrongful deprivation of liberty, prosecution or judgments, or
3. in cases dealt with jointly with criminal cases.

The first paragraph 1 applies only to the extent that it has been agreed in an international agreement that is binding on Sweden.

**Section 6** Legal assistance pursuant to section 2 shall also be provided in cases concerning pardon, suspension of sentence or execution of a sentence, conditional release or interruption in the execution of a sentence and in similar cases.

**Section 7** This Act contains certain provisions that a Swedish prosecutor may apply for legal aid abroad. The law does not prevent a Swedish prosecutor from otherwise applying for legal aid abroad to the extent that the other state allows it.

A Swedish court may only apply for legal aid abroad in accordance with the provisions of this Act.

What is stated in this Act on legal aid abroad shall also apply in applicable parts in relation to the tribunals specified in the Act (1994: 569) on Sweden's cooperation with the international tribunals for violations of international humanitarian law and the court specified in the Act (2002: 329) on co-operation with the International Criminal Court. *Lag (2013: 447)* .

**Section 7 a** This Act does not apply if the Act (2017: 1000) on a European Investigation Order is applicable. *Lag (2017: 1005)* .

**Section 8** This Act does not apply when criminal record information is exchanged on the basis of Council Framework Decision 2009/315 / JHA of 26 February 2009 on the organization of the Member States' exchange of information from the criminal record and the content of the information. For such exchange, the Act (1998: 620) on debit registers and regulations issued on the basis of that Act applies instead. *Lag (2012: 764)* .

## Chapter 2 General provisions on legal aid in Sweden

### General conditions

**Section 1** Legal aid referred to in Chapter 1 Section 2, first paragraphs 1-9 and 13 shall be submitted under the conditions that apply to a corresponding measure during a Swedish preliminary investigation or trial in accordance with the Code of Judicial Procedure or another law or constitution and in accordance with the special provisions of this Act.

Legal aid referred to in ch. Section 2, first paragraph 10-12 is submitted in accordance with the special provisions of this Act.

I 5 kap. Section 2 contains provisions that legal aid may be combined with conditions in certain cases. *Lag (2020: 65)* .

**Section 2** Legal aid referred to in Chapter 1 § 2 first paragraph 1-4, 10 and 12 may be submitted even if the act to which the application relates does not correspond to a crime under Swedish law. Legal aid referred to in ch. § 2 first paragraph 5-9, 11 and 13 may only be submitted if the act to which the application relates corresponds to a crime under Swedish law (double criminality), unless otherwise follows from ch. Section 20 regarding house searches and seizures. *Lag (2020: 65)* .

### Application

**Section 3** An application for legal aid in Sweden according to this Act may be made by a foreign prosecutor, investigating judge, other judge or court or by someone else who

according to an international agreement that is binding on Sweden may make such an application.

**Section 4** An application for legal aid in Sweden according to this Act should contain

- information about the foreign court or authority that handles the case,
- a description of the legal proceedings that are ongoing,
- information about the act in question, time and place for it, and reference to the provisions applicable in the requesting state,
- an indication of the measure sought and, where appropriate, the capacity in which a person should be heard,
- the names and addresses of the persons implicated in the case.

I 4 kap. Sections 8, 11, 14, 24 a, 25, 25 b, 25 c, 26 a, 28 c, 29 and 29 a contain special provisions on what an application must further contain in certain types of measures.

If the case is urgent or if enforcement is desired within a certain time limit, this must be stated and justified.

An application for legal aid must be made in writing by post, courier or fax. It may also, by agreement in the individual case, be sent in another way. *Lag (2020: 65)* .

**Section 5** An application for legal aid and attached documents shall be written in Swedish, Danish or Norwegian or accompanied by a translation into one of these languages, unless the body that processes the application in accordance with this Act allows otherwise in the individual case.

**Section 6** An application for legal aid in Sweden in accordance with this Act shall be submitted to the Ministry of Justice, which submits the application to the Public Prosecutor's Office or to the competent court unless the application is to be examined by the Government.

The Ministry of Justice may, after consultation with the Public Prosecutor's Office, submit the application directly to the competent prosecutor.

An application from a state that is a member of the European Union or from Iceland, Norway, Switzerland or Liechtenstein may be made directly to a competent prosecutor or court. The same applies if it has been agreed in an international agreement that is binding on Sweden that the application may be sent directly. *Lag (2011: 1208)* .

## **Jurisdiction and transfer to another prosecutor or district court**

**Section 7** An application which according to this Act is processed by a court shall be processed by the district court in whose area the requested measure shall be taken unless otherwise provided in this Act.

The government or the authority determined by the government issues regulations on which prosecutors are authorized to handle cases under this Act.

If it emerges that a prosecutor or a district court is not competent to process the application, this must be submitted to the competent prosecutor or district court. After consultation, the application may also be submitted in another case if appropriate.  
*Lag (2005: 491)* .

## **Notifications**

**Section 8** If it has been requested by the foreign authority, the prosecutor or district court handling the case shall confirm that the application has been received, unless the requested action can be taken immediately.

If a requested action is not taken within the time limit specified in the application and it can be assumed that this will complicate the procedure in the requesting state, the prosecutor or district court handling the case shall without delay notify the foreign authority when the requested action can be taken.

If, during the prosecution of a prosecutor in a legal aid case, it emerges that it may be appropriate to take action other than that requested, the prosecutor shall immediately inform the requesting State.

*Lag (2005: 491)* .

## **Incomplete applications and obstacles to enforcement**

**Section 9** If the application does not contain the information needed for the processing, the requesting state shall be given the opportunity to supplement the application. If the application can be accepted only in part or under certain conditions, the requesting State shall be informed of the obstacles which exist and be given an opportunity to comment or supplement or amend the application.

## **The procedure**

**Section 10** Applications for legal aid shall be processed promptly. Unless otherwise provided in this Act, the same procedure applies as when a corresponding measure is taken in a Swedish preliminary investigation or trial. The court may decide that the proceedings shall be wholly or partly in a foreign language, if appropriate.

**Section 11** If an application contains a request for a certain procedure, this shall be applied, unless the requested procedure is contrary to basic principles in the Swedish legal system.

**Section 12 A** person who is to be heard or otherwise perform something in accordance with this Act has the right to refuse, if there is support for it in Swedish law or in the law of the requesting state.

## **Public defender, plaintiff's counsel and support person**

**Section 13** A suspect, defendant or plaintiff who is to be heard in accordance with this Act, or who is otherwise affected by a requested measure, has the same right to a public

defender, plaintiff's counsel or support person as in a Swedish preliminary investigation or trial.

I 4 kap. Section 3 contains special provisions on public defenders.

## **Examination of the application and decision on rejection**

**Section 14** An application for legal aid shall be rejected if an approval of the application would violate Sweden's sovereignty, entail a danger to national security or contravene Swedish general legal principles or other essential interests.

An application for legal aid may also be rejected if

1. the act has the character of a political crime,
2. the act constitutes a military crime, unless the act also corresponds to another crime according to Swedish law which is not a military crime,
3. it in Sweden has issued a judgment or decision on failure to prosecute or a criminal warning regarding the act, or
4. the circumstances are otherwise such that the application should not be approved.

The second paragraph does not apply if a refusal would be contrary to an international agreement that applies between Sweden and the requesting state. The second paragraph 1 does not apply to an application from a state that is a member of the European Union or from Norway or Iceland. *Lag (2015: 84)*.

**Section 15** Decisions on rejection of any of the grounds specified in section 14 are made by the Government. If a prosecutor or a court finds that an application should be rejected on any such ground, the application must be submitted to the government. An application may be submitted there for consideration of the issue of refusal in other cases as well.

In other respects, the body that handles the case examines whether the conditions that apply according to the law are met. If the application has been submitted to the Ministry of Justice and it is obvious that the application must be rejected, the responsible Minister may, instead of forwarding the application in accordance with section 6, directly decide on the rejection of the application. *Lag (2015: 106)*.

**Section 16** A decision to reject an application shall contain the reasons that determined the outcome.

## **Re-accounting**

**Section 17** When the processing of the case has been completed, it shall be reported to the Ministry of Justice for forwarding to the requesting state. If the application has been sent directly in accordance with section 6, second paragraph, the matter shall instead be reported directly to the applicant authority.

## **Chapter 3 General provisions on legal aid abroad**

**Section 1** The provisions of Chapter 2 Section 4, first and third paragraphs, shall be applied when applying for legal aid abroad, unless otherwise follows from an international agreement that is binding on Sweden or from requirements from the receiving state.

I 4 kap. Sections 9, 10, 13, 24 b, 26, 26 c and 31 a contain special provisions on what an application must further contain in certain types of measures. *Lag (2013: 836)* .

**Section 2** An application from a Swedish prosecutor or court that a measure referred to in this Act shall be taken abroad shall be sent to the Ministry of Justice for forwarding to the foreign state.

An application for legal aid in Denmark, Finland, Iceland or Norway is sent directly to the competent authority. The application may also be sent directly to the competent authority in another state if this has been agreed in an international agreement that is binding on Sweden or if that state otherwise allows it.

3 § I 5 kap. Section 1 contains provisions on what applies when legal aid provided to Sweden is subject to conditions.

## **Chapter 4 Special provisions on various forms of legal aid**

### **Interrogation in connection with a preliminary investigation in a criminal case**

**Section 1** An application for questioning in Sweden in accordance with the provisions on preliminary investigation in criminal cases is processed by prosecutors.

Representatives of the applicant authority may attend the hearing and may, with the consent of the prosecutor, ask questions directly to the person being heard.

### **Taking of evidence in court**

#### **Taking of evidence before a Swedish court**

**Section 2** An application for the taking of evidence before a Swedish court through an interrogation, written document or inspection is processed by the district court.

The case shall be considered as taking evidence outside the main hearing. The party must be notified of the time and place of the taking of evidence, but need only be called if the party is to be heard or otherwise fulfill something at the taking of evidence.

**Section 3** When taking evidence, a public defender may, in accordance with ch. the Code of Judicial Procedure is ordered for the suspect or defendant also in other cases than those referred to in ch. § 13, if there are special reasons.

**Section 4 A** judge at the foreign court or a representative of the authority that requested the taking of evidence may participate in this and may, with the consent of the court, ask questions directly to the person being heard.

**Section 5** If the requesting state has made a request to that effect, the Swedish prosecutor may participate in the taking of evidence to safeguard the interests of the requesting state.

## **Taking of evidence before a foreign court**

**Section 6** In a case or matter before a Swedish court, the court may decide that evidence shall be taken up in a foreign court. Such taking of evidence may refer to an inspection, written evidence or interrogation with a witness, expert, party, plaintiff or someone referred to in ch. 36. § 1 second and third paragraphs of the Code of Judicial Procedure.

**Section 7** If measures referred to in Chapter 23 Sections 13-15 of the Code of Judicial Procedure shall be taken before a foreign court and the foreign state requires that the application must first be tried by a court in Sweden, a district court may, at the request of a prosecutor, decide that such measures be taken abroad.

## **Telephone interrogation**

### **Interrogation with someone in Sweden**

**Section 8** A foreign authority may hold a telephone interrogation with a person who is in Sweden and who consents to the interrogation.

If the foreign authority needs the assistance of a Swedish prosecutor or court during the interrogation, the authority can apply for legal assistance with a telephone interrogation. Such an application for legal aid at trial is processed by the district court. An application for legal aid with a telephone interrogation during a preliminary investigation is being processed by prosecutors. The application must state that the person to be heard consents to a telephone interview.

The time of an interrogation referred to in the second paragraph and other practical matters in connection with the interrogation shall be decided after consultation with the authority of the requesting State. The person to be heard shall be informed of the time and place of the hearing.

The identity and consent of the telephone interrogation must be checked. If the requesting state so requests or if there are special reasons, section 11, second paragraph, shall apply. In that case, section 12 shall also apply. *Lag (2005: 491)* .

### **Interrogation with someone abroad**

**Section 9** The provisions of the Code of Judicial Procedure on interrogation by telephone at the main hearing may be applied when the person to be heard is in another state if that state allows it.

If the other state requires its authorities to assist in the interrogation, the Swedish court shall apply for legal assistance with the telephone interrogation.

If a Swedish court needs the assistance of a foreign authority with a telephone interrogation, the court may apply for legal assistance with the interrogation if such assistance has been agreed in an international agreement with the other state or if that state otherwise provides such assistance.

An application for legal aid with a telephone interrogation must state that the person to be heard consents to a telephone interrogation.

*Law (2005: 708) .*

**Section 10** Prosecutors may hold telephone interviews during a preliminary investigation with a person who is in another state if that state allows it.

The provisions of section 9, second to fourth paragraphs, also apply in respect of an application by a Swedish prosecutor for legal aid.

## **Interrogation through video conference**

### **Interrogation with someone in Sweden**

**Section 11** An application for legal assistance with interrogation through a video conference in court with someone who is in Sweden shall be processed by a district court. Interrogation of a defendant may only take place if he or she consents to the interrogation. The consent must be stated in the application.

During the proceedings in the district court, the case shall be regarded as taking of evidence outside the main hearing. The party must be notified of the time and place of the taking of evidence but need only be called if he or she is to be heard or otherwise fulfill something at the taking of evidence. If necessary, the court may decide on the assistance of an interpreter.

An application for legal assistance with interrogation through a video conference during a preliminary investigation must be processed by prosecutors. Interrogation of a suspect may only take place if he or she consents to the interrogation. *Lag (2013: 836) .*

**Section 12** A witness or expert, who is to be heard at a video conference in accordance with section 11, may be accompanied by a suitable person as personal support (support person) during the hearing.

If the person to be heard requests it or if there is otherwise a reason, the district court may appoint a person to assist the person to be heard in accordance with the first paragraph. With regard to the assistant, Sections 26, 27, 29, 43 and 47 of the Legal Aid Act (1996: 1619) apply. In other respects, the rules of the Code of Judicial Procedure on legal aid apply.

### **Interrogation with someone abroad**

**Section 13** In a case or matter before a Swedish court, the court may, provided that video conferencing in a trial is permitted under Swedish law, apply for legal aid with an inquiry at an authority in another state through video conferencing with a person who is in that state if it has agreed on such legal assistance in an international agreement with the other State or if that State otherwise provides such assistance. In the case of interrogation of a defendant, the application must state that the person to be heard consents to the interrogation.

Prosecutors may apply for legal aid to a foreign authority for questioning through videoconferencing during a preliminary investigation with a person located in another state if such legal aid has been agreed in an international agreement with the other state or if that state otherwise provides such assistance. Interrogation of a suspect may only take place if he or she consents to the interrogation. *Lag (2013: 836)* .

Detention, seizure and house search and other measures referred to in ch. the Code of Judicial Procedure

### **Application and procedure**

**Section 14** A copy of the judgment shall be attached to an application for attachment or seizure in Sweden, if the judgment has been issued in the requesting state. An application for attachment referred to in section 23 should, where applicable, contain information on when prosecution is to be brought or a judgment can be issued in the requesting state.

**Section 15** An application for attachment in Sweden is processed by a prosecutor. He shall immediately examine whether there are conditions for the measure and in such a case submit the matter to the court for a decision.

**Section 16** An application for seizure in Sweden, or for a house search here to search for property that is subject to seizure, is processed by a prosecutor.

Seized executions must be promptly reported to the court for review. The court shall, as soon as possible, hold a hearing on the matter. At the hearing, the provisions of ch. 24 are applied. Section 17, second paragraph, of the Code of Judicial Procedure.

**Section 17** Representatives of the authority that requested the measure may participate in negotiations concerning attachment and seizure and may, with the consent of the court, ask questions to the person affected by the measure.

**Section 18** An application that other measures according to ch. the Code of Judicial Procedure than referred to in section 16 shall be taken in Sweden is handled by prosecutors.

### **Seizure and transfer of property to another state**

**Section 19** Property may be seized and handed over to the requesting state if the property can reasonably be assumed  
- be important for the investigation of the act,

- be confiscated from someone by crime, or
- be confiscated due to crime, if the property could have been confiscated under Swedish law in a lawsuit in Sweden and there are special reasons to hand over the property to the requesting state.

**Section 20** Even if the act to which the application relates does not correspond to a crime under Swedish law, a house search pursuant to section 16 may be made and the property seized and handed over to the requesting state if the application has been made by a state that is a member of the European Union or Iceland, Norway, Switzerland or Liechtenstein and the act may be sentenced to imprisonment in the requesting State.

In such a case of legal aid as is referred to in ch. Section 5, first paragraph 1, a house search may be made and property seized and handed over to the requesting state if the act to which the application relates corresponds to a crime for which under Swedish law or under the law of the requesting state imprisonment is prescribed for six months or more. What has been said now does not apply if the first paragraph is applicable.  
*Lag (2011: 1208)*.

**Section 21** The court shall examine whether the seizure is legally justified and whether the property is to be handed over to the requesting state.

**Section 22** Decisions to transfer confiscated property to another state are enforced by the prosecutor.

### **Seizure and attachment to ensure enforcement in Sweden of foreign confiscation decisions**

**Section 23** If confiscation decided in another state can be executed here and it can reasonably be feared that enforcement in Sweden would otherwise be hindered by the foreign confiscation decision,

1. property that has been confiscated or can reasonably be presumed to have been confiscated due to crime may be seized, or
2. attachment is decided on so much of the assets of the person concerned that corresponds to the value of what has been forfeited or can reasonably be assumed to have been forfeited.

**Section 24** When the court decides on attachment or establishes an executed seizure, the court shall decide how long the measure may last the longest. The fixed time may be extended if there is reason to do so.

If there are no longer grounds for attachment or seizure, the court shall revoke the measure. Before the attachment or seizure is lifted, the court shall give the requesting State an opportunity to comment, unless it is clear that it is not necessary. Otherwise, the measure shall last until the application for enforcement is examined.

### **Development of a DNA profile for a person staying in Sweden**

**Section 24 a** At the request of another state, legal assistance shall be provided with taking a sample for DNA analysis on a person residing in Sweden, analyzing the sample and producing a DNA profile, if the application states

1. for what purpose DNA the profile is needed,
2. that the DNA profile of the person is missing in the requesting state, and
3. that there would have been conditions to take corresponding measures if the person had resided in the requesting state.

*Lag (2011: 906)* .

## **Development of a DNA profile for a person staying abroad**

**Section 24 b** Prosecutors may apply to a foreign authority for legal assistance in taking a sample for DNA analysis of a person residing in that state, analyze the sample and produce a DNA profile, if

1. DNA profile of the person is missing in Sweden, and
2. there would have been conditions to take corresponding measures if the person had resided in Sweden.

An application must contain information that the conditions in the first paragraph 1 and 2 are met and for what purpose the DNA profile is needed. *Lag (2011: 906)* .

## **Legal assistance and technical assistance with covert interception of electronic communications and covert surveillance of electronic communications**

### **Legal assistance in Sweden with covert interception of electronic communications and covert surveillance of electronic communications**

**Section 25** An application for secret interception of electronic communication or secret surveillance of electronic communication by someone who is in Sweden is handled by a prosecutor. The application must state the period during which the measure is desired and such information as is necessary for the measure to be implemented. The prosecutor shall immediately examine whether there are conditions for the measure and in such a case apply for the court's permission for the measure or, when it may take place in accordance with ch. § 21 a of the Code of Judicial Procedure, decide on the measure yourself.

Recordings and records do not need to be examined in accordance with ch. Section 24 of the Code of Judicial Procedure. If the prosecutor has made a decision in accordance with the first paragraph, re-reporting in accordance with ch. § 17 takes place only after the court has decided on secret interception of electronic communication or secret surveillance of electronic communication. Recordings and records may be preserved after the case of legal aid has been closed and re-reporting has taken place in accordance with ch. § 17 only if this is allowed according to ch. 27 Section 24 of the Code of Judicial Procedure.

In the case of notification to an individual according to ch. Sections 31-33 of the Code of Judicial Procedure, the provisions of ch. Section 31, fourth paragraph, and Section 33, second and third paragraphs, of the same Code do not apply. Notification shall be provided as soon as possible after the measure pursuant to the first paragraph has been completed.

The notification shall, in addition to what follows from ch. Section 33, first paragraph, of the Code of Judicial Procedure, be postponed if secrecy applies in accordance with Chapter 18. Section 17 of the Public Access to Information and Secrecy Act (2009: 400). If, due to confidentiality, it has not been possible to provide notification within one year of the measure being terminated, the notification need not be provided. Notification shall not be provided if the investigation concerns crimes that correspond to crimes specified in ch. Section 33, third paragraph, of the Code of Judicial Procedure. *Lag (2014: 1424)* .

### **Immediate transfer of messages or information about messages from Sweden to the requesting state**

**Section 25 a** The court's decision pursuant to section 25 to allow covert interception of electronic communications or covert surveillance of electronic communications may be enforced by immediate transmission of messages or information on messages to the requesting State, if this can be done in a secure manner. Enforcement by immediate transfer may take place only in relation to a State which is a member of the European Union or to Iceland or Norway. The prosecutor examines whether the conditions for immediate transfer exist. If immediate transmission of messages takes place, recording or recording may not be made in Sweden and ch. Sections 31-33 of the Code of Judicial Procedure shall not apply. *Lag (2012: 284)* .

### **Technical assistance in Sweden with covert interception of electronic communications and covert surveillance of electronic communications**

**Section 25 b** Technical assistance with secret interception of electronic communications or secret surveillance of electronic communications in the form of immediate transmission of messages or information about messages may be provided in Sweden in accordance with this section.

Technical assistance shall be provided on application by another State which is a member of the European Union or by Iceland or Norway, if

1. the interception or surveillance concerns someone located in one of those States;
2. the application contains a confirmation that a decision on secret interception of electronic communications or covert surveillance of electronic communications in a criminal investigation has been announced in the requesting State; and
3. immediate transmission of messages or information about messages may take place in a secure manner to the requesting State.

The application must state the period during which the measure is desired.

The application must also contain such information as is necessary for the measure to be implemented. If the person to whom the application relates is not in the requesting

state, it must also appear from the application that such a permit as referred to in section 26 a has been granted by the state where the person is located.

The application must be examined by a prosecutor. Chapter 27 applies to the decision on technical assistance. § 18 first and third paragraphs, § 19 first paragraph, § 20 third paragraph, § 21 second and third paragraphs and § 23 of the Code of Judicial Procedure.

If immediate transmission of messages takes place, recording or recording may not be made in Sweden. *Lag (2012: 284)* .

**Section 25 c** If a state has requested technical assistance pursuant to section 25 b but immediate transfer cannot take place, the prosecutor shall give the requesting state an opportunity to have the application processed as an application pursuant to section 25. However, the examination of legal aid with covert interception of electronic communications or covert surveillance of electronic communications in this case concerns someone who is in another state. If the person to whom the measure relates is not in the requesting state, the application shall state that such a permit as is referred to in section 26 a has been granted by the state where the person is located.

*Lag (2012: 284)* .

## **Legal aid and technical assistance abroad with covert interception of electronic communications and covert surveillance of electronic communications**

**Section 26** Prosecutors may apply to a foreign authority for legal assistance or technical assistance with secret interception of electronic communications or secret surveillance of electronic communications by someone who is in another state or in Sweden.

If the other state requires that the application be first tried by a court in Sweden, the court may, at the request of a Swedish prosecutor, consider the question of allowing the secret interception or secret surveillance to which the application under the first paragraph relates.

The application pursuant to the first paragraph shall state the period during which the measure is desired and such information as is necessary for the measure to be implemented. If the other State requires a permit under the second paragraph, the application shall include a confirmation that such a permit has been issued. If the person to whom the measure relates is not in the state where legal aid or technical assistance is sought, the application shall state that such a permit as is referred to in section 26 c has been granted by the state where the person is located.

If permission is granted in accordance with the second paragraph, the provisions on notification to an individual in ch. Sections 31-33 of the Code of Judicial Procedure apply only when recording or recording of the interception or surveillance takes place in Sweden. *Lag (2012: 284)* .

## **Permission for cross-border covert interception of electronic communications and covert surveillance of electronic communications**

### **Permit in Sweden for cross-border secret interception of electronic communications and secret surveillance of electronic communications**

**Section 26 a** A state that is a member of the European Union or Iceland or Norway may apply for permission to conduct a secret interception of electronic communications or secret surveillance of electronic communications by someone who is in Sweden without a Swedish assistant.

The application is processed by prosecutors. The application must state the period during which the measure is expected to last. The application shall also include a confirmation that a decision on the secret interception of electronic communications or the secret surveillance of electronic communications has been issued in the requesting State.

The prosecutor shall immediately examine whether there are preconditions for covert interception of electronic communications or covert surveillance of electronic communications and, if so, apply for the court's permission for the action.

The conditions that apply according to ch. 27 Sections 18-20, 21 and 22 of the Code of Judicial Procedure shall be applied in the examination of permits.

The court shall also apply the corresponding procedure specified in ch. 27 26 and 28-30 §§ same beam. The district court's decision may not be appealed. *Lag (2012: 284)* .

**Section 26 b** A decision pursuant to section 26 a shall be announced within 96 hours from the receipt of the application or, if there are special reasons, within a maximum of twelve days from the application.

The prosecutor shall immediately notify the requesting state when a decision pursuant to section 26 a has been announced. If permission is refused, the notification shall state that the interception or surveillance may not take place or shall cease immediately. In such a case, the notification shall also state that the material taken up or collected may not be used or that it may only be used under the conditions set by the prosecutor. *Lag (2012: 284)* .

## **Permission from another state for cross-border covert interception of electronic communications and covert surveillance of electronic communications**

**§ 26 c** If a decision on secret interception of electronic communication or secret surveillance of electronic communication in a criminal investigation has been announced in Sweden and the person to whom the decision relates is in another state that is a member of the European Union or in Iceland or Norway, receives notifications or information on messages transmitted to or from the person is intercepted or monitored in the other state, without assistance from that state, if

1. the measure may take place in accordance with an international agreement that is binding between Sweden and the other state, and
2. the other state leaves permission for the action.

The application for a permit is made by a prosecutor. The application must state the period during which the measure is expected to last. The application must also contain a confirmation that a Swedish decision on secret interception of electronic communications or secret surveillance of electronic communications has been announced.

If a decision on covert interception of electronic communications or covert surveillance of electronic communications has been announced in Sweden but the interception or surveillance has not commenced when it becomes known that the person to whom the measure relates is in a foreign state specified in the first paragraph, permission from the other state is sought before the interception or surveillance begins. If the interception or surveillance has already begun in Sweden and the prosecutor wants the interception or surveillance to continue in the other state, he or she must immediately apply for a permit from the other state. In such a case, the interception or surveillance may continue there during the time the question of a permit is being examined.

The second and third sentences of the third subparagraph shall apply *mutatis mutandis* if the interception or surveillance has been carried out on the basis of a permit in a foreign State and it is established that the person to whom the measure relates is in a state other than the one which granted the permit. . *Lag (2012: 284)* .

## **Secret camera surveillance**

### **Secret camera surveillance of someone in Sweden**

**Section 27** An application for secret camera surveillance of someone who is in Sweden is handled by a prosecutor. The prosecutor shall immediately examine whether there are conditions for the measure and in such a case apply for the court's permission or, when it may take place in accordance with ch. § 21 a of the Code of Judicial Procedure, decide on the measure yourself.

Recordings do not need to be examined in accordance with ch. Section 24 of the Code of Judicial Procedure.

If the prosecutor has made a decision in accordance with the first paragraph, re-reporting in accordance with ch. Section 17 takes place only after the court has made a decision on secret camera surveillance. Recordings may be preserved after the case of legal aid has been closed and re-reporting has taken place in accordance with ch. § 17 only if this is allowed according to ch. 27 Section 24 of the Code of Judicial Procedure.

In the case of notification to an individual according to ch. Sections 31-33 of the Code of Judicial Procedure, the provisions of Chapter 4 Section 25, third paragraph, of this Act applies. *Lag (2014: 1424)* .

### **Secret camera surveillance of someone abroad**

**Section 28** If secret camera surveillance is to take place by someone who is in another state and the other state demands that the application be first tried by a court in Sweden, the district court may, at the request of a Swedish prosecutor, decide to allow camera surveillance.

The provisions on notification to an individual in ch. 27 Sections 31-33 of the Code of Judicial Procedure shall not apply. *Lag (2008: 858)* .

## **Secret room tapping**

### **Secret room tapping of someone in Sweden**

**Section 28 a** An application for secret room interception by someone who is in Sweden is handled by a prosecutor. The prosecutor must immediately examine whether there are conditions for the measure and in such a case apply for the court's permission.

Recordings and records do not need to be examined in accordance with ch. Section 24 of the Code of Judicial Procedure.

Recordings and records may be preserved after the case of legal aid has been closed and re-reporting has taken place in accordance with ch. § 17 only if this is allowed according to ch. 27 Section 24 of the Code of Judicial Procedure.

In the case of notification to an individual according to ch. Sections 31-33 of the Code of Judicial Procedure, the provisions of Chapter 4 Section 25, third paragraph, of this Act applies. *Lag (2014: 1424)* .

### **Secret room tapping of someone abroad**

**Section 28 b** If secret room interception is to take place by someone who is in another state and the other state demands that the application be first tried by a court in Sweden, the court may, at the request of a Swedish prosecutor, decide to allow room interception.

Notification according to ch. 27 Section 31 of the Code of Judicial Procedure shall not be submitted. *Lag (2014: 1424)* .

## **Secret data reading**

### **Legal aid in Sweden with secret data reading**

**Section 28 c** An application for secret data reading in Sweden is processed by prosecutors. The application must state the period during which the measure is desired and such information as is necessary for the measure to be implemented. The prosecutor must immediately examine whether there are conditions for the measure and in such a case apply for the court's permission for the measure or, when it may take place in accordance with section 17 of the Secret Data Reading Act (2020: 62), decide on the measure himself.

Recordings and records do not need to be examined in accordance with what follows from section 28, first paragraph, of the Act on Secret Data Reading.

If the prosecutor has made a decision in accordance with the first paragraph, re-reporting in accordance with ch. Section 17 takes place only after the court has made a decision on secret data reading. Recordings and records may be preserved after the case of legal aid has been closed and re-reporting has taken place in accordance with ch. § 17 only if it is allowed according to what follows from § 28 first paragraph of the law on secret data reading.

In the case of notification to an individual in accordance with what follows from section 28, second paragraph, of the Secret Data Reading Act, the provisions of section 25, third paragraph, shall be applied. *Lag (2020: 65)* .

28 d If an application concerns secret data reading pursuant to section 2, first paragraph 1 and 2 of the Secret Data Reading Act (2020: 62), the court's decision pursuant to section 28 c to allow secret data reading may be enforced with application of section 25 a.

*Lag (2020: 65)* .

## **Technical assistance in Sweden with secret data reading**

**§ 28 e** Technical assistance with secret data reading according to § 2 first paragraph 1 and 2 of the Act (2020: 62) on secret data reading in the form of immediate transmission of messages or information about messages may be provided in Sweden according to the conditions that apply according to § 25 b second , third and fifth paragraphs. In the case of secret data reading in a state other than the one that has applied for technical assistance, a permit in accordance with section 28 f must have been issued.

The application must be examined by a prosecutor. For the decision on technical assistance, section 1, section 18, first paragraph 1-3 and third paragraph and section 20, second paragraph, of the Secret Data Reading Act apply.

*Lag (2020: 65)* .

## **Permission from Sweden for cross-border secret data reading**

**Section 28 f** If the application concerns a permit for cross-border secret data reading in accordance with section 2, first paragraph 1 and 2 of the Secret Data Reading Act (2020: 62), what applies to secret interception and secret monitoring of electronic communication according to section 26 a first and second paragraphs 26 b §. The conditions that apply in accordance with Sections 1-6, 11, 14 and 18 of the Act on Secret Data Reading are applied in the permit examination. The court shall also apply the corresponding procedure specified in section 16 of that Act. The district court's decision may not be appealed. *Lag (2020: 65)* .

## **Legal aid and technical assistance abroad with secret data reading**

**Section 28 g** In the case of legal aid and technical assistance with secret data reading in another state, section 26 applies.

Technical assistance may only refer to secret data reading in accordance with section 2, first paragraph 1 and 2 of the Secret Data Reading Act (2020: 62).

If a notification is to be given to an individual, section 28, second paragraph, of the Secret Data Reading Act applies. *Lag (2020: 65)* .

## **Permission from another state for cross-border secret data reading**

**§ 28 h** When a permit for secret data reading according to § 2 first paragraph 1 and 2 of the law (2020: 62) on secret data reading is decided in a criminal investigation in Sweden and the reading or recording will be done in another Member State of the European Union, Iceland or Norway without the assistance of the other State, § 26 c applies. *Lag (2020: 65)* .

## **Transfer of detainees for questioning etc.**

### **Transfer from or to Sweden at the request of another state**

**Section 29** Upon application by another state, for questioning or confrontation in connection with a preliminary investigation or a trial there,

1. a person deprived of liberty in Sweden may be transferred to the other state, or
2. a person deprived of liberty in the other state is transferred to Sweden.

The application pursuant to the first paragraph 1 shall state how long the detainee needs to stay in the other state.

A transfer pursuant to the first paragraph 1 may not take place in order for the detainee to be held liable in court.

*Lag (2013: 836)* .

**Section 29 a** Upon application by another state, a person deprived of his liberty, who is serving a prison sentence in Sweden in accordance with the Act (1972: 260) on international co-operation concerning the enforcement of a criminal conviction, may be transferred to the state where the prison sentence has been imposed. retrial of the judgment. Such a transfer may only take place if the detainee consents to it. The consent must be stated in the application. *Lag (2013: 836)* .

**Section 30** An application for transfer is examined by the Government. However, an application from a state that is a member of the European Union or from Norway or Iceland is examined by a prosecutor.

An application pursuant to section 29, first paragraph 1 or section 29 a may be refused if a transfer entails an extension of the period of deprivation of liberty or if the detainee's presence is required in a criminal case being processed in this country.

If an application pursuant to section 29, first paragraph 1 or section 29 a is approved, it shall be stated in the decision when the detainee is to be returned to Sweden at the latest or, where applicable, released. *Lag (2013: 836)* .

## **Transfer from or to Sweden at the request of a Swedish prosecutor or court**

**Section 31** A Swedish prosecutor or court may, for questioning or confrontation in connection with a preliminary investigation or a trial in this country, request that

1. a person deprived of liberty in Sweden be transferred to another state, or
2. a person who is deprived of liberty in another state is transferred to Sweden.

**Section 31 a** A Swedish court may request that a person deprived of his liberty who, according to the Act (1972: 260) on international co-operation concerning the enforcement of a criminal conviction, is serving a prison sentence sentenced in Sweden in another state, be transferred to Sweden to apply for a re-examination of the judgment to which the enforcement relates. The application must state that the detainee agrees to be transferred. *Lag (2013: 836)* .

## **The opinions**

**Section 32** Before an application for a person deprived of liberty to be transferred to another state is examined, an opinion shall be obtained from the authority responsible for the execution of the deprivation of liberty unless it is obvious that it is not necessary. The same applies before such an application is made by a Swedish court or prosecutor.

## **Transport in and through Sweden**

**Section 32 a** When applying Sections 29, 29 a, 31 and 31 a, the Police Authority shall ensure that the person is taken to the other state or is responsible for transport in Sweden.

*Lag (2017: 131)* .

**Section 33** The responsible Minister may issue a permit for transport through Sweden by a person deprived of his liberty who is to be transferred from one state to another state for questioning or confrontation.

*Lag (2015: 106)* .

## **Detention in Sweden of transferred persons**

**Section 34** A person who is transferred to Sweden shall be taken into custody by the Police Authority.

If a permit has been issued in accordance with section 33, the Police Authority may, if necessary, take the person transferred into custody. *Lag (2014: 639)* .

## **Forensic examination of deceased persons**

**Section 35** An application for a forensic examination in Sweden by a deceased person is processed in accordance with the provisions of the Act (1995: 832) on autopsies etc.

Judges of the foreign court and representatives of the parties may be present at the investigation. *Lag (2002: 331)* .

## Chapter 5 Other provisions

### Terms of use restrictions etc.

**§ 1** If a Swedish authority in a case of legal aid has received information or evidence from another state to be used in the investigation of a crime or in a legal proceeding due to a crime and applies due to an international agreement that is binding on Sweden conditions that limit the possibility of using the information or evidence, Swedish authorities shall comply with the conditions regardless of what is otherwise prescribed by law or other statute.

The provisions of the first subparagraph shall also apply to conditions laid down by another State in order, on its own initiative, without any connection to a case, to provide legal aid in the form of information or evidence for use in the investigation of a crime or in legal proceedings in connection with crime. *Lag (2005: 491)* .

**Section 2** Legal aid provided to another state in accordance with this Act may in individual cases be combined with conditions that are required with regard to an individual's right or that are necessary from a general point of view. The same applies when legal aid, unrelated to a case, is provided to another state in the form of information and evidence for use in the investigation of a crime or in a legal proceeding in connection with a crime.

Conditions referred to in the first paragraph may not be set if they contravene an international agreement that is binding on Sweden. *Lag (2005: 491)* .

**Section 3** The prosecutor or court that has provided legal assistance to another state and thereby imposed conditions in accordance with section 2 may, at the request of an authority in the other state, grant an exemption from the condition. The same applies to conditions that follow directly from provisions in an international agreement that is binding on Sweden.

**Section 4** The provisions of Sections 1-3 also apply in the case of agreements with international organizations.

### Immunity

**Section 5** To the extent that it has been agreed in an international agreement that is binding on Sweden, a person who, after summons in accordance with the agreement, has traveled to Sweden to be heard or otherwise participate in the investigation of a crime

1. shall not be prosecuted or deprived of their freedom or is otherwise subject to restriction thereof due to an act, omission or judgment arising from the time before entry into Sweden and which, in the case of a suspect or defendant, is not intended with the presentation or summons, or

2. not without own consent is required to participate in an investigation other than the application to which.

The first paragraph also applies in administrative and other procedures referred to in ch. 5 and 6 §§.

**Section 6** If a person referred to in section 5 remains in Sweden for more than fifteen days from the time the notification has been received from the authority that has called the person that attendance is no longer required, the immunity ceases. The same applies if he or she returns here after leaving the country.

**Section 7** If the agreement contains a provision that the immunity shall have a smaller scope than that which follows from Sections 5 and 6, that provision shall apply instead.

**Section 8** To the extent that it has been agreed in an international agreement that is binding on Sweden, the provisions on immunity in Sections 5-7 also apply to a detainee who has been transferred to Sweden in accordance with Chapter 4. 29, 31 or 31 a §. *Lag (2013: 836)* .

## **Secrecy**

**Section 9** The disclosure of information in matters of legal aid applies to the restrictions that follow from the Public Access to Information and Secrecy Act (2009: 400). *Lag (2009: 487)* .

## **Duty to provide information and notification ban etc.**

**Section 10** Provisions on the obligation to provide information are found in Chapter 8. Section 2 a of the Act (1998: 1479) on central securities depositories and accounting of financial instruments, Chapter 2 Section 20 of the Swedish Securities Funds Act (2004: 46), Chapter 1 Section 11 of the Banking and Financing Operations Act (2004: 297), Chapter 6 Section 8 of the Act (2006: 531) on special supervision of financial conglomerates, Chapter 1 Section 12 of the Securities Market Act (2007: 528), Chapter 3 Section 14 of the Payment Services Act (2010: 751), Chapter 19 Section 46 of the Insurance Business Act (2010: 2043), Chapter 3 Section 14 of the Electronic Money Act (2011: 755), Chapter 8 Section 25 of the Act (2013: 561) on Managers of Alternative Investment Funds, Chapter 6 Section 11 of the Act (2014: 968) on special supervision of credit institutions and securities companies and Chapter 16 Section 37 of the Occupational Pension Companies Act (2019: 742).

The laws specified in the first paragraph also contain provisions on the prohibition of notification and liability provisions for anyone who violates such a prohibition. *Lag (2019: 755)* .

## **Division of confiscated property between states**

**Section 11 The** Government may decide that property or its value confiscated by a Swedish decision that has gained legal force shall be transferred in whole or in part to another state which during preliminary investigation or trial has provided Sweden with such legal assistance as referred to in this Act or otherwise has provided information or assistance that has been important to the investigation of the crime.

Section 36 of the Act (1972: 260) on International Cooperation Concerning the Enforcement of Criminal Judgments contains provisions on the transfer to another state of property confiscated by a foreign decision.

### **Recovery of costs**

**Section 12 The** Government issues regulations stating that certain costs for measures taken in accordance with this Act may be recovered by the requesting state.

### **Implementing regulations and announcements**

**Section 13 The** Government may, with the support of ch. Section 7 of the Constitution shall issue more detailed regulations on the application of this Act.

*Lag (2020: 385) .*