

Law (2002: 329) on co-operation with the International Criminal Court

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General provisions

Section 1 If the court established by the Rome Statute of the International Criminal Court requests that a measure based on the Charter be taken in Sweden, the provisions of this Act shall apply.

The provisions of §§ 3-20 apply if the investigation or prosecution concerns genocide, crimes against humanity or war crimes.

The provisions of §§ 21-22 apply if the investigation or prosecution concerns crimes directed against the administration of justice of the International Criminal Court.

Sections 23-32 contain provisions on the enforcement of the decisions of the International Criminal Court and on the transport of detainees through Sweden. *Lag (2009: 1282)* .

Section 2 An application referred to in section 1 shall be submitted to the Ministry of Justice. Notifications and reporting of a case to the International Criminal Court shall be forwarded by the Ministry of Justice.

An application and attached documents according to this law must be written in English or Swedish or accompanied by a translation into one of these languages.

Surrender of suspects, defendants and convicts

Section 3 A person who at the International Criminal Court is suspected, prosecuted or convicted of genocide, crimes against humanity or war crimes and who resides in Sweden may be handed over to the court following a decision by the government.

A decision on detention or a judgment given by the International Criminal Court shall be accepted as the basis for a decision on transfer to the Court.

A transfer may be postponed pending the International Criminal Court's decision on whether to consider the matter. Furthermore, a transfer may be combined with conditions or, after agreement with the court, postponed if a preliminary investigation has been initiated or prosecution has been instituted in Sweden for an act other than that to which the application relates.

Section 4 For an application for extradition to the International Criminal Court, the provisions of section 14 of the Extradition Act (1957: 668) apply.

Before the government announces a decision in connection with the petition, an opinion must be issued by the Public Prosecutor. As a basis for his opinion, the Public Prosecutor shall have the necessary investigation carried out in accordance with what applies in the preliminary investigation in criminal cases. If there are special reasons, the government must obtain an opinion from the Supreme Court before deciding the case.

Section 5 In a case concerning surrender to the International Criminal Court, coercive measures may be used without a special investigation having been submitted in support of the fact that the person referred to in the application has committed the stated crime. If the court has requested that the person referred to in the application be deprived of liberty, detention shall take place if it is not obvious that there are no grounds for detention. The person in custody may request that a new hearing be held within three weeks of the decision being last announced. In other respects, what is generally prescribed for criminal cases applies in the case of coercive measures.

Decisions on coercive measures can be announced even after the transfer has been decided. Decisions of the court apply, unless otherwise decided, until the case has been decided or, when the transfer has been decided, until this has been executed.

Section 6 A person who is suspected, prosecuted or convicted of a crime, which according to this Act may give rise to a transfer to the International Criminal Court, may, at the request of the court, or due to a request issued by a court decision, be immediately arrested or ordered travel ban or reporting obligation of a prosecutor according to what generally applies in criminal cases. Seizure may also take place in such a case. An arrest shall be made if it is not obvious that there are no grounds for arrest.

Coercive measures in accordance with the first paragraph may be used without a special investigation having been submitted in support of the fact that the person referred to in the application has committed the stated crime.

If a decision is made on coercive measures in accordance with the first paragraph, section 23, second to fourth paragraphs, of the Extradition Act (1957: 668) shall apply. The time limit for submitting an application for surrender shall, however, be 60 days from the day the person was arrested or a travel ban or notification obligation was announced.

Section 7 The International Criminal Court shall be given an opportunity to comment before a person who, at the request of the court, has been deprived of his or her liberty pursuant to section 5 or 6, is released or imposed a travel ban or an obligation to report.

Section 8 Has been repealed by *law (2003: 1173)* .

Section 9 A decision on surrender to the International Criminal Court shall be enforced by the Police Authority. If the person to be handed over is at large, he or she may, if necessary for the handover to be carried out, be taken into custody and detained by the Police Authority, however for a maximum of 48 hours. *Lag (2014: 640)* .

Section 10 The Government may, at the request of the International Criminal Court, allow that the person who has been handed over to the court may be held liable in court for an act committed before the handover other than the one for which the handover took place.

The Government may further allow that whoever has been handed over to the International Criminal Court may be transferred from the court to another state for prosecution. In the case of such a transfer, section 24 of the Extradition Act (1957: 668) applies.

If consent is not granted in accordance with the second paragraph, the Government shall request that the person handed over to the International Criminal Court be returned to Sweden. *Lag (2011: 1176)* .

Section 11 If someone who has been transferred by the International Criminal Court to Sweden for trial in this country is to be returned to the court, the provisions of section 26 a of the Act (1957: 668) on extradition for crime shall apply.

Section 12 If a state requests the extradition of a person whom the International Criminal Court requests to be handed over to the court, the government decides whether the person shall be handed over to the court or extradited to the state.

Legal aid

Section 13 Upon application by the International Criminal Court, legal aid shall be provided in accordance with the Act (2000: 562) on International Legal Assistance in Criminal Matters, unless otherwise stated in this Act.
Legal assistance may be provided even if the act to which the application relates does not correspond to a crime under Swedish law.

The provisions in ch. Section 14, first paragraph, of the Act on International Legal Assistance in Criminal Cases does not apply if a refusal would conflict with Sweden's obligations to the court.

The provisions in ch. Section 14, second paragraph, Chapter 4 § 33 and § 34 second paragraph of the same law shall not apply.

The International Criminal Court shall be given an opportunity to comment before legal aid is combined with conditions referred to in Chapter 5. Section 2 of the Act on International Legal Assistance in Criminal Matters.

Section 14 Provisions in another law or statute on service and legal aid to a court or authority in another state apply to applications from the International Criminal Court, if they do not contravene the provisions of this Act.

Section 15 If the processing of an application for legal aid in criminal cases from the International Criminal Court reveals that the application is incompatible with such an application for legal aid in criminal cases from another state which is processed in accordance with the Act (2000: 562) on international legal aid in criminal cases, the matter shall be submitted to the Government, which shall decide which of the applications shall have priority.

Obstacle to trial

Section 16 Prosecution and prosecution in Sweden for an act may not take place

1. if the question of liability for the act has been tried at the International Criminal Court,
2. if the court has decided that the question of responsibility for the act shall be tried there despite Swedish preliminary investigation or prosecution, or
3. if the court has applied for the person in question to be transferred to the court due to the act and this application has not been rejected.

Public defender

Section 17 If the International Criminal Court requests that a measure based on the Charter be taken in Sweden concerning the person suspected or prosecuted or convicted of a crime by that court, that person, if he or she so requests, shall be assisted by a public defender. In such matters, the provisions of the Code of Judicial Procedure apply with the exception that follows from section 19.

Remuneration and other costs

Section 18 A witness or a plaintiff or expert in Sweden who has been summoned to be heard by the International Criminal Court has the right to compensation from public funds for his suspension in accordance with regulations issued by the Government.

Section 19 Costs for compensation of public funds paid to public defenders or to others as well as other costs for measures taken in accordance with this Act shall be borne by the state unless otherwise follows from section 20.

Section 20 The Government issues regulations stating that certain costs for measures taken in accordance with this Act may be recovered from the International Criminal Court.

Co-operation in criminal matters directed against the administration of justice of the International Criminal Court

Section 21 In the case of extradition or legal aid to the International Criminal Court in connection with an investigation of or prosecution for crimes against the court's administration of justice, the provisions on extradition in the Act (1957: 668) on extradition for crime and on legal aid in the Act apply (2000: 562) on international legal assistance in criminal cases and in other laws or statutes, which apply to a corresponding request from another state. However, special provisions concerning legal aid to a State which is a member of the European Union or to Norway or Iceland shall not apply.

Lag (2003: 1173) .

Section 22 If the International Criminal Court reports a crime referred to in section 21 for prosecution in Sweden, the case shall be submitted to the Public Prosecutor for processing in accordance with the procedure that applies in a Swedish preliminary investigation or trial in criminal cases.

Section 22 a If the International Criminal Court has, through a final judgment, tried to consider liability for an act directed against the court's administration of justice, the defendant may not be prosecuted in Sweden for the same act in accordance with what applies according to ch. Section 5 a, first paragraph 1-4 of the Criminal Code.

The first paragraph does not apply in respect of crimes referred to in ch. § 1 or 3 § 4 or 7 of the Criminal Code unless the prosecution at the International Criminal Court has taken place after the person has been extradited from Sweden for prosecution.

If prosecution takes place, the provisions in ch. Section 6 of the Criminal Code applies. A provision on the requirement of an indictment is found in Chapter 2. 7 c § the same beam.

Lag (2009: 1282) .

Enforcement of penalties and confiscations

Section 23 The Government may, at the request of the International Criminal Court, decide that a prison sentence issued by the court may be enforced in Sweden. The government may issue the instructions that are needed in the individual case for the execution of the sentence here.

Section 24 A fine handed down by the International Criminal Court or a decision of the court on the confiscation of property or of the value of certain property may, on application by the court, be enforced in Sweden. The application must be submitted to the Swedish Enforcement Agency for action. If the enforcement relates to confiscation of the value of certain property, the Swedish Enforcement Agency determines the forfeited value in Swedish kronor.

The Enforcement Agency's decision may be appealed to a general administrative court. The decision of the Swedish Enforcement Agency and the Administrative Court applies immediately unless otherwise decided. Permission to appeal is required in an appeal to the Court of Appeal. *Lag (2007: 279) .*

Section 25 In the case of enforcement in accordance with Sections 23 and 24, Section 25 of the Act (1972: 260) on international co-operation concerning the enforcement of a criminal conviction shall apply, unless otherwise stated in this Act.

Enforcement may no longer take place if the International Criminal Court has granted pardon or mitigation of sentence and the reduced sentence has been fully enforced or the court has issued another decision which means that the sentence may no longer be enforced. If, after an application pursuant to section 23 or 24 has been approved, a matter of impediment to enforcement arises due to prescription, this matter shall be tried in accordance with the rules applicable to the International Criminal Court.

Issues of conditional release are being considered by the government after the International Criminal Court has had the opportunity to comment. In these cases, the Government may decide that conditional release shall take place at a later date than that which follows from the Criminal Code.

Decisions on the conversion of fines may not be announced.

Section 26 In the case of enforcement in accordance with section 23, the rules on immunity in section 23 of the Act (1972: 260) on international co-operation concerning the enforcement of criminal convictions are applied.

Section 27 In the case of enforcement pursuant to section 23, representatives of the International Criminal Court or the court appointed by it to examine the treatment of the person serving a sentence imposed by the court have the right to visit the place where the person is placed. The person responsible for someone who is serving such a sentence must provide the person conducting the investigation with the assistance he or she needs to be able to fulfill his or her duties.

Section 28 When enforcement of a fine or confiscation has taken place in accordance with section 24, the Swedish Enforcement Agency shall submit what has been received in the enforcement to the International Criminal Court. *Lag (2007: 279)* .

Recognition and enforcement of decisions on compensation to victims of crime

Section 29 A decision on compensation for victims of crime that the International Criminal Court has announced and which has gained legal force, applies in this country and shall be enforced on application here, unless otherwise provided in the second paragraph.

The decision does not apply in this country and may not be enforced here

1. if recognition or enforcement of the decision is manifestly incompatible with the grounds of the legal system in this country, or
2. if a final decision on the same matter has been announced before in this country.

The application pursuant to the first paragraph may be made by the person who has been awarded compensation in the decision. The International Criminal Court may also

make such an application if it has decided that compensation for victims of crime shall be paid through a special administrative fund for victims of crime.

Section 30 If an action is brought before a Swedish court for compensation for victims of crime in a case which is already the subject of a trial at the International Criminal Court and the trial at that court may lead to a decision which according to section 29 applies in this country, the action shall be dismissed or declared dormant. pending the final judgment of the International Criminal Court.

Section 31 An application for enforcement in accordance with section 29 is examined by the Svea Court of Appeal. The application may relate to part of the decision.

The application must be accompanied by an original decision or a certified copy as well as proof that the decision has become final.

An application for enforcement may not be approved without the person who has been obliged to pay compensation having been given an opportunity to comment on the application.

Enforcement takes place in the same way as in the case of a Swedish court judgment that has gained legal force.

Transport of detainees in and through Sweden

Section 31 a If a prison sentence issued by the court is to be enforced in Sweden, the Swedish Prison and Probation Service shall be responsible for the transport of the convicted person in Sweden. In the case of such transport, the following provisions are applied in the Detention Act (2010: 611):

- Chapter 4 Section 4 on body search,
- Chapter 4 § 10 first paragraph on the use of prison, and
- Chapter 8. § 2 a on the possibility of requesting assistance from the Police Authority in certain cases. *Lag (2017: 130)* .

Section 32 The responsible Minister may issue a permit for transport through Sweden by a person deprived of his liberty who, in order to be handed over or extradited or for other purposes, is to be transferred between another state and the International Criminal Court.

During such a transport, the detention shall continue unless the court requests that the person transferred be released.

For air transport without a planned stopover in this country, a permit is not required in accordance with the first paragraph. If an unplanned stopover takes place, the Police Authority shall take the person transferred into custody until an application is made for a permit for transport in accordance with the first paragraph and immediately notify the responsible Minister of this. If no application is made within 96 hours of the unplanned landing, the person must be released immediately.

If a permit has been issued in accordance with the first paragraph, the Police Authority may, if necessary, take the person transferred into custody. In the case of coercive

measures in a case concerning transport, the provisions of section 5 apply. *Lag (2015: 107)* .

Other provisions

Section 33 The Government shall issue more detailed regulations on the application of this Act.

Transitional provisions

2011: 1176

1. This Act enters into force on the date determined by the Government.
2. For cases that have been initiated before the entry into force, section 10 applies in its older wording.