

SWEDEN

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NATIONAL POLICY

In February 2012 the Government adopted an updated National counter-terrorism strategy in a communication to the Riksdag (the Swedish Parliament) *Responsibility and commitment – a national counter-terrorism strategy* (Govt. Com. 2011/12:73). In the Communication the Government presents a national strategy to prevent the emergence of terrorism, to pursue terrorist attacks and to prepare for the eventuality of a terrorist attack occurring nevertheless. In the strategy the Government sets out its view of the starting points, objectives and direction of Swedish counter-terrorism. Also, the Government gives an overview of the measures already taken, started or planned to address future challenges.

The national counter-terrorism strategy adopts a broad approach and covers a range of government agencies and other parts of society. The strategy also covers all forms of terrorism and violent extremism, irrespective of their motive or other background factors. The strategy is divided into three main parts: threats to Sweden, principles for the fight against terrorism and objectives and measures. Objectives and measures to meet the threat of terrorism are structured under three main headings: preventing the occurrence of terrorism, pursuing terrorist attacks and preparing for the eventuality of an attack occurring.

Terrorism is one of several threats directed at human life and health, property, the capability of society to function and, ultimately, national security and our fundamental values. It is up to every responsible state to assume responsibility for security in its own territory.

Sweden's capability to meet the threat of terrorism is well developed.

Attacks in Sweden and on Swedish interests have been averted. Sweden has assisted other countries in pursuing attacks.

Countering terrorism is a high-priority for the Swedish Government. Sweden is determined to uphold the highest possible level of security in the country and to not being a safe haven for planning or supporting terrorism in other countries. For the

Swedish Security Service and other agencies concerned, this means that counter-terrorism is a task that is given high priority.

The Swedish Security Service is responsible for countering terrorist crime and for pursuing attacks in Sweden and on Swedish interests. Terrorist crime can be detected, investigated and prosecuted through the combined capability of the justice system and the intelligence services.

The Government has successively increased the financial resources of the Swedish Security Service and other parts of the Swedish Police. This funding has been provided in order to increase the impact of law enforcement work in general but also specifically to improve the capability to pursue terrorist attacks. In addition, the Security Service has undergone an organisational transformation so as to be able to discharge more effectively its task of protecting democracy.

A number of government agencies and other actors are responsible for preparatory work, such as the protection of functions essential to the operation of society and effective consequence management if Sweden suffers a major attack. The Counter-Terrorism Cooperative Council gathers 14 agencies that all have an important role in meeting the threat from terrorism.

In preventive work all parties have a responsibility for not allowing the originators of terrorist attacks or violent extremism to set the agenda and for ensuring that public debate is conducted within the framework of democracy. Within the framework of the Government's democracy policy, a national action plan setting forth fifteen measures to safeguard democracy against all forms of violence-promoting extremism was adopted in December 2011.

Respect for the principle of the rule of law and our fundamental rights and freedoms is one of the foundations for counter-terrorism work. Action in the fight against terrorism must be taken with full respect for these fundamental rights and freedoms so that the measures cannot be called into question. One linchpin of our society is that legal rules constitute a guarantee against injustices committed

by the state. Some of our rights and freedoms are inviolable and some of them may be restricted in law under certain specific conditions. These restrictions may only be imposed to satisfy purposes acceptable in a democratic society. The purposes may never be so far-reaching that they are a threat to the fundamentals of democracy, such as the free formation of opinion. There must also be an urgent need in society of the particular legislation. This need must be tested against the arguments to the contrary. The laws must also be clear, accessible to the general public and formulated with precision so that the restrictions of rights are predictable. The counter-terrorist activities shall take place within the framework of international law, including human rights and international humanitarian law. At the heart of Swedish counter-terrorism policy is the principle that threats can be combated legitimately only by using methods that belong to an open, democratic and legally secure society. Like other EU countries, Sweden is working both nationally and internationally to gain as much support as possible for this principle. Since international terrorism represents a threat to the safety of us all and to fundamental freedoms and rights, Sweden considers it highly important to take part actively and constructively in the international cooperation that is essential for combating terrorism.

LEGAL FRAMEWORK

Penal law

Terrorist offences

There has been a special law on criminal responsibility for terrorist offences in Sweden since 2003.¹ The Act fulfils the commitments ensuing from the European Union's Framework Decision on Combating Terrorism of 13 June 2002.²

The Act contains a list of certain actions that may lead to penalties under the Swedish Penal Code or other statutes. Under special circumstances these offences are to be considered terrorist offences instead.

According to the special Act, an action is to be regarded as a terrorist offence if it might seriously damage a state or an intergovernmental organisation. It must also be undertaken for certain, specific purposes, such as serious intimidation of a population or a group of population or compelling a government to take a certain decision. Under these circumstances, the acts that constitute terrorist

offences are, for example, murder, kidnapping, sabotage, hijacking, spreading poison or a contagious substance and unlawful handling of chemical weapons. The penalty for terrorist offences is imprisonment for a maximum of eighteen years, or for life. Attempt, preparation or conspiracy to commit a terrorist offence or failure to disclose such an offence is also punishable.

Public provocation, recruitment and training concerning terrorist offences

In 2010 a new act entered into force³. It allows further measures to be taken to prevent terrorism. The act contains provisions for the implementation of the Council of Europe Convention on the Prevention of Terrorism⁴ and the 2008 Council Framework Decision amending the Framework Decision on combating terrorism⁵.

The act imposes particular criminal liability on those who:

- in a message to the public urge or otherwise attempt to entice people to commit particularly serious crime (public provocation),
- seek to, induce another person in a case other than that specified above to commit or otherwise participate in particularly serious crime (recruitment), or
- provide or seek to provide instruction in the making or use of explosives, weapons or noxious or hazardous substances that are particularly likely to be used in particularly serious crime, or in other methods or techniques that are particularly intended for such purposes, if the act has been committed with the knowledge that the instructions are intended to be used for particularly serious crime (training).

'Particularly serious crime' means inter alia terrorist offences and offences referred to in certain specified international agreements. The penalty is imprisonment for at most six years, but if the act is punishable with the same or a more severe penalty under the Act on Criminal Responsibility for Terrorist Offences or under the Swedish Penal Code, the offender shall be sentenced for these crimes and not according to the Act on Criminal Responsibility for Public Provocation, Recruitment and Training concerning Terrorist Offences and other Particularly Serious Crime. In such cases, a maximum sentence of life imprisonment may ensue.

¹ The Act on Criminal Responsibility for Terrorist Offences (2003:148).

² 2002/475/JHA.

³ The Act on Criminal Responsibility for Public Provocation, Recruitment and Training concerning Terrorist Offences and other Particularly Serious Crime (2010:299).

⁴ ETS 196.

⁵ 2008/919/JHA.

The financing of terrorism

Since 2002, Swedish legislation contains a special law on criminal responsibility for the financing of terrorism.⁶ The Act implements the UN Convention for the Suppression of the Financing of Terrorism.

The Act imposes criminal sanctions on collection, provision or reception of funds or other assets with the intention that they should be used or in the knowledge that they are to be used in order to commit particularly serious crime. Attempts to finance terrorism are also punishable offences. The penalty is imprisonment for a maximum of six years, but if the act is punishable with the same or a more severe penalty under the Act on Criminal Responsibility for Terrorist Offences, for example preparation for a terrorist offence, or under the Swedish Penal Code, the offender shall be sentenced for these crimes and not according to the penal provisions of the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in Some Cases. In such cases, a maximum sentence of life imprisonment may ensue.

Banks and financial institutions are required to examine all transactions that may be suspected of involving funds that are to be used to finance terrorism and other serious offences and to report such transactions to the Financial Intelligence Unit (FIU). Corresponding requirements are also imposed on a number of non-financial actors such as real estate agents, casinos, accountants, tax advisors, attorneys or independent legal professionals and professional trade in goods (when engaging in cash transactions equal to 15 000 EUR or more). Regulation concerning this is to be found in an Act on Money Laundering and Terrorist Financing (Prevention)⁷.

Jurisdiction

Swedish courts have universal jurisdiction over terrorist offences and attempts to such offences.⁸ They may also have an extensive authority with regard to other types of punishable terrorist acts committed abroad.⁹

⁶ The Act on Criminal Responsibility for the Financing of Particularly Serious Crime in Some Cases, etc. (2002:444).

⁷ The Act on Money Laundering and Terrorist Financing (Prevention) (2009:62).

⁸ Chapter 2, Section 3, subsection 6 of the Swedish Penal Code.

⁹ Chapter 2, Sections 2 and 3 of the Swedish Penal Code and Section 9 of the Act on Criminal Responsibility for Public Provocation, Recruitment and Training concerning Terrorist Offences and other Particularly Serious Crime (2010:299).

Special sanctions against offences committed in the exercise of business activities – liability of legal persons

If a terrorist offence or other punishable terrorist act has been committed in the exercise of business activities, a penal sanction consisting of a corporate fine may, under certain conditions, also be imposed on the legal person in whose activities the crime has been committed.¹⁰ Corporate fines of a maximum of SEK 10 million may be imposed.

Forfeiture

Property that has been used, or has been intended to be used, as a means to assist a terrorist offence or the financing of terrorism, or whose use constitutes a terrorist offence, may be declared forfeited. Similarly, assets that have been the object of an offence or the proceeds of such offences may be subject to forfeiture.¹¹ In some cases there is also a possibility to forfeit not only proceeds of a specific offence but also proceeds of criminal activity that has not been specified in detail.

Freezing of terrorist assets

Where Sweden is concerned, the UN Security Council Resolutions regarding the freezing of terrorists assets (1267 and 1373) have been primarily implemented at the EU level, through common positions, council decisions and EU regulations. The Act on Certain International Sanctions (1996:95) contains provisions on penalties for violations of prohibitions in EU regulations on sanctions. Internationally, Sweden is actively pressing for an improvement of due process for persons who have been subject to sanctions, including by allowing them the possibility of a right to appeal the decisions to freeze their assets.

Procedural Rules

General remarks

Swedish procedural law does not contain any special regulations with regard to people prosecuted for terrorist offences. This means that there are no legal differences between the processing of criminal proceedings concerning offences related to terrorism and proceedings involving other serious crime. Thus a person suspected of or prosecuted for a terrorist

¹⁰ Chapter 36, Sections 7–10 a of the Swedish Penal Code.

¹¹ Chapter 36, Sections 1–6 of the Swedish Penal Code, Sections 6 and 7 of the Act on Criminal Responsibility for Terrorist Offences and Section 7 of the Act on Criminal Responsibility for the Financing of Particularly Serious Crime in Some Cases, etc.

offence enjoys the same rights as a person charged with another serious crime, including the right to a public defence counsel.

Coercive measures in criminal procedures

Law enforcement agencies may use coercive measures in the context of a preliminary investigation. A distinction is made between coercive measures that are open and those that are covert. Open coercive measures consist of seizure, search of premises, body search, body examination and arrest, apprehension or detention. Covert coercive measures include covert interception of telecommunications, covert telecommunications surveillance, electronic eavesdropping and covert camera surveillance.

i) **Seizure** is a coercive measure by which an agency investigating a crime temporarily confiscates another person's property. The primary aim of seizure is either to secure evidence concerning an offence or to ensure the enforcement of a criminal judgment. According to Chapter 27, Section 1 of the Swedish Code of Judicial Procedure, seizures may be undertaken for three different purposes. First, objects reasonably presumed important to a criminal investigation may be seized. Seizures may also be undertaken in order to restore property taken from a person through a criminal act. Finally seizures may take place in order to ensure the enforcement of forfeiture.

ii) The provisions on **search of premises** in Chapter 28 of the Swedish Code of Judicial Procedure enable the law-enforcement authorities to search premises to which they otherwise would not have access. Two different types of premises search are regulated in the Swedish Code of Judicial Procedure. The purpose of the first is to find objects (search of premises for material) and of the second, to search for people (search of premises for individuals). One of the most important functions of a search of premises is to create the conditions for using other coercive measures allowed for in criminal procedures.

iii) The rules on **detention** are found in Chapter 24 of the Swedish Code of Judicial Procedure. The general rule is that any person deprived of their liberty must be suspected on probable cause of an offence punishable by imprisonment for a term of one year or more. An additional requirement is that, in view of the nature of the crime, the suspect's circumstances or any other factor, there is a risk that he or she will

1. flee or otherwise evade legal proceedings or punishment,
2. impede the inquiry into the matter at issue by removing evidence or in another way, or

3. continue his criminal activity.

If a penalty less severe than imprisonment for two years is not prescribed for the offence, as in the case of a terrorist offence, the suspect is to be detained unless it is clear that detention is unwarranted. A detention order is issued by a court of law, at the request of a prosecutor.

iv) **Covert interception of telecommunications** means that messages that are transmitted, or have been transmitted to or from a telephone number or other address within an electronic communication network are secretly listened to or recorded by means of technical devices in order to relate the content of the message.¹²

v) **Covert telecommunications surveillance** means that information is secretly obtained about

- a) messages within an electronic communication network that are transferred or have been transferred to or from a telephone number or other address,
- b) what electronic communication equipment that have been present within a certain geographical area or
- c) in what geographical area a certain electronic communication equipment is or has been present.¹³ Covert telecommunications surveillance can also be used in order to prevent messages mentioned under a) from reaching their destination. Information on the contents of messages is not included in this form of coercive measure.

As a general principle, permission to conduct covert interception of telecommunications and covert telecommunications surveillance is decided by a court of law. If it is feared that obtaining the court's permission to conduct covert telecommunications surveillance would lead to a delay or other inconvenience that is of fundamental importance for the investigation, the prosecutor may decide to permit such measure while awaiting the decision from the court. When the prosecutor has taken such a decision, he or she should immediately report this to the court and the court should then urgently determine whether or not there are grounds for the measure. If the court comes to the conclusion that there are not enough grounds for the measure, it shall revoke to permission. If the prosecutor's decision to permit the action has been executed before the court has had the opportunity to review it, the court shall determine whether or not there

¹² Chapter 27, Section 18 of the Swedish Code of Judicial Procedure.

¹³ Chapter 27, Section 19 of the Swedish Code of Judicial Procedure.

were grounds for it. If the court finds that there were not enough grounds for the measure, information already obtained cannot be used in a way that would be disadvantageous for a person targeted by it.

Covert interception of telecommunications and covert telecommunications surveillance may be used if a person is reasonably suspected of an offence and the measure is of exceptional importance to the investigation of the offence. Measures must concern

- a) a telephone number or other address or certain electronic communication equipment that is possessed by or has been possessed by the suspect or for which there are other reasons to assume that they have been or will be used by the suspect during the period of time stated in the permission, or
- b) a telephone number or other address or certain electronic communication equipment for which there are exceptional reasons to assume that the suspect has contacted or will contact during the period of time stated in the permission.

In addition to the situation where somebody is justifiably suspected of a crime, covert telecommunications surveillance may also be used in order to establish who can justifiably be suspected of a crime if the measure is of exceptional importance for the investigation. Surveillance that involves obtaining information about messages must only refer to a period of time that has already elapsed.

Interception and surveillance must not refer to messages that are or have been transmitted within an electronic communication network that, with regard taken to its limited scope or other circumstances, must be considered as of limited significance from a general communications standpoint.

It is not allowed to intercept phone calls or other messages between a suspect and his or hers defence counsel.

vi) **Covert camera surveillance** means that remote-controlled TV cameras or other comparable electronic equipment are used for optical surveillance of persons in preliminary investigations without providing notification of the surveillance.¹⁴ As a principle rule, the surveillance may only apply to a place where it can be assumed that the person reasonably suspected of an offence will be present. If there is no one who is reasonably suspected of the offence, covert camera surveillance may be used

to monitor the place where the offence has been committed or an area close to this place in order to establish who may be reasonably suspected of the offence.

vii) Provisions on **electronic eavesdropping** (secret room-tapping or bugging) are found in the Act on Electronic Eavesdropping (2007:978). This Act is time-limited and applies to the end of 2014. Electronic eavesdropping means the recording by technical means of private conversations or non public meetings. Permission to the measure is given by a court of law. A public counsel shall participate in such matters. Secret room-tapping may be used only if a person is reasonably suspected of an offence punishable by imprisonment for at least four years (such as a terrorist offence) or certain other crimes if it can be assumed, in view of the circumstances, that the offence will carry a penalty of more than four years imprisonment, and the measure is of utmost importance to the investigation. Secret room-tapping may only be used in places where there is special reason to believe that the suspect will be staying.

Provisions on covert interception of telecommunications, covert telecommunications surveillance and covert camera surveillance are also found in the **Act on Measures to Prevent Certain Particularly Serious Crimes** (2007:979), which deals with so called preventive coercive measures. The Act enables the use of secret coercive measures if there is special reason to believe that a person will commit serious criminal activity by committing any of certain crimes mentioned in the law, such as terrorist offences. This Act is time-limited and applies to the end of 2014.

There are also provisions on covert interception of telecommunications, covert telecommunications surveillance and covert camera surveillance in **the Act on Measures to Investigate Certain Crimes that are Threats to Society** (2008:854). This Act applies, inter alia, to preliminary investigations of certain offences that pose a threat to national security, such as terrorist offences. Compared with the provisions of the Swedish Code of Judicial Procedure and the Secret Camera Surveillance Act, this Act provides greater scope to use coercive measures such as covert interception of telecommunications, covert telecommunications surveillance and covert camera surveillance. In urgent cases, prosecutors themselves may order the use of coercive measures. If a prosecutor has done so, he or she must immediately report this to the court, which is required to consider the case promptly. This Act is time-limited and applies to the end of 2014.

¹⁴ Chapter 27 Section 20a of the Swedish Code of Judicial Procedure.

The **Act concerning Special Controls in Respect of Aliens (1991:572)** also contains provisions on covert interception of telecommunications and covert telecommunications surveillance. If an expulsion order cannot be enforced, coercive measures may in some cases be used under the Act if such measures are of importance in establishing whether the alien, or an organisation or group to which the alien belongs or promotes the interests of, is planning or preparing any act involving a terrorist offence.

In addition to the above mentioned measures, the Swedish Police and Customs can, in relation to their intelligence activities, secretly obtain information from providers of electronic telecommunication networks and electronic telecommunication services. The conditions for when and what kind of information that can be obtained are regulated in **the Act (2012:278) on Acquiring Information about Electronic Communication in the Law Enforcements Agencies Intelligence Activities**. The information that can be obtained is almost identical to the information obtainable when using covert telecommunications surveillance, please see above v). In short, the information can be obtained if the measure is of particular importance to prevent, hinder or discover criminal activities which entail offences for which the minimum prison term is two years or which entail other certain specified serious crimes, e.g. aggravated financing of terrorism. The possibility to obtain information in relation to the list of certain specified serious crimes applies until the end of 2014. As a general condition for acquiring the information, the motives for acquiring must outweigh the infringement of the targeted person.

Since January 2008 there is a governmental agency with a mandate to supervise the use of secret investigative measures by crime-fighting agencies; the Swedish Commission on Security and Integrity Protection.

International criminal law cooperation

Mutual assistance in criminal matters

Sweden has acceded to all the instruments of any importance in the field of mutual assistance in criminal matters. The most important instrument is the Council of Europe Convention of 1959 on Mutual Assistance in Criminal Matters and the Additional Protocols to this Convention. In the framework of EU cooperation, Sweden has also acceded to the 2000 Convention on Mutual Assistance in Criminal Cases and the Additional Protocol to this Convention. Furthermore, the EU has currently adopted a Directive regarding the European Investigation Order in criminal matters.

Swedish legislation on mutual assistance in criminal cases is based on the assumption that it should be possible to provide such assistance to the same extent and under the same conditions as in national procedures in Sweden. Swedish legislation is general and thus regulates cooperation related to all types of offences, including terrorist offences. The legislation enables mutual assistance in, for example, the taking of evidence through questioning and seizure. Mutual assistance can also be given in interception of telecommunications and controlled deliveries. Sweden can give assistance without demanding reciprocity.

Enforcement of freezing orders

The Act on Recognition and Execution of Freezing Orders in the European Union (2005:500), which entered into force on 1 July 2005, implements the EU Framework Decision on the execution in the European Union of orders freezing property or evidence.¹⁵

The provisions of the Act make it possible for Sweden to execute the freezing orders of other Member States, i.e., orders aimed at ensuring that evidence or forfeited property does not disappear. The Act also enables Swedish prosecutors to transmit such orders from Sweden to other Member States for execution there.

Extradition and surrender

In the extradition area, the most important instrument is a Council of Europe Convention, the 1957 European Convention on Extradition and two Additional Protocols to the Convention. Work is currently underway to enable Sweden to accede also to the Third and Fourth Additional Protocols. Swedish extradition legislation is largely based on the Convention on Extradition but also allows extradition to states with which Sweden has no special extradition agreement.

In relations with other EU states, Sweden applies the Framework Decision on the European Arrest Warrant and the surrender procedures between Member States.¹⁶ Surrender under the European Arrest Warrant is generally required to take place promptly and according to relatively simple procedures. The Framework Decision has been implemented in Swedish law through the Act on Surrender from Sweden according to the European Arrest Warrant (2003:1156) and the Ordinance on Surrender to Sweden according to the European Arrest Warrant (2003:1178).

¹⁵ OJ L 196, 2.8.2003, p 45.

¹⁶ OJ L 190, 18.07.2002, p 1.

Transfer of enforcement of sentences

Through agreements with other states, Sweden can transfer to another state or take over from the other state enforcement of custodial penalties and sentences or of fines and forfeiture. This cooperation is largely based on the Council of Europe conventions: the 1983 Convention on the Transfer of Sentenced Persons, and the Additional Protocol to that Convention, the 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 1970 European Convention on the International Validity of Criminal Judgments. Under both of these latter Conventions, final decisions and judgments on forfeiture can be transferred from one state for enforcement in another.

As regards the transfer of enforcement of sentences between the EU states, two Framework Decisions concerning mutual recognition of financial penalties and confiscation orders¹⁷ have been adopted. These Framework Decisions have been implemented in Swedish law through the Act on Recognition and Execution of Financial Penalties in the European Union (2009:1427) and the Act on Recognition and Execution of Confiscation Orders in the European Union (2011:423) Furthermore, the EU has adopted two Framework Decisions concerning the transfer of enforcement of custodial sentences¹⁸, as well as transfer of the enforcement of suspended sentences, alternative sanctions and conditional sentences¹⁹. Work is underway to implement them into Swedish law.

Other relevant legislation

Protection for victims of crime

The **Tort Liability Act (1972:207)** contains basic provisions on the right to compensation for those suffering injury or damage. It states the criteria for determining whether a victim of crime is entitled to compensation. The general rule in Swedish tort liability legislation is that the person causing the injury or damage – irrespective of whether it was intentional or through negligence – is required to compensate for this injury or damage.

Since 1971 there has been a general possibility for victims of crime to obtain compensation from the state where no perpetrator has been identified and prosecuted and where the perpetrator has lacked the means to pay damages. The **Criminal Injuries**

Compensation Act (1978:413) regulates the crime victim's possibility of receiving compensation from the State for his or her injuries. The Act has been subsequently amended to ensure even further that the victim of crime receives financial compensation. Sweden has ratified the 1983 Council of Europe Convention on the Compensation of Victims of Violent Crimes.

The Criminal Injuries Compensation Act mainly covers personal injuries and compensation for degrading treatment. To a limited extent, there is also a possibility of receiving compensation for damage to property. State criminal injuries compensation supplements other forms of compensation such as damages and insurance compensation. The level of criminal injuries compensation may be adjusted if the victim of crime, through his or her behaviour in connection with the crime or otherwise, has increased the risk of harm.

Decisions on criminal injuries compensation are taken by the Crime Victim Compensation and Support Authority upon application. Where the state pays criminal injuries compensation, the state takes over the injured party's claim against the perpetrator and can seek to recover amounts paid out.

The Criminal Injuries Compensation Act applies if the offence was committed in Sweden, regardless of the victim's nationality, or if the crime was committed abroad against someone who is habitually resident in Sweden.

Preventive measures

Special provisions to prevent people who are not reliable from the point of view of security from taking part in activities that have a bearing on national security are found in the Protective Security Act (1996:627) and the Protective Security Ordinance (1996:633). The legislation is currently under revision.

Protective security involves protecting the buildings, secret documents, etc., of sectors that are important to national security. The protective security should also in other respects prevent terrorism. It primarily concerns public sector activities, but certain private activities are also affected, such as the defence industry. Before a person is employed or take part in an activity which is important to national security or is hired for tasks that are important to the protection against terrorism a security screening should be made. The security screening may among other things comprise a record check.

¹⁷ OJ L 76, 22.3.2005, p 16 and OJ L 328, 24.11.2006, p 59.

¹⁸ OJ L 327, 5.12.2008 p. 27.

¹⁹ OJ L 337, 16.12.2008 p. 102.

Expulsion and refusal-of-entry of aliens

Regulations governing the conditions under which an alien may stay in Sweden are found in the Aliens Act (2005:716). Regarding aliens in need of international protection the basic assumption is that refugees, persons eligible for subsidiary protection and persons otherwise in need of protection who are in Sweden are entitled to a residence permit. A residence permit may, however, be refused to a refugee if there are exceptional grounds for not granting a residence permit in view of what is known about the alien's previous activities or with regard to national security.²⁰

Regarding aliens that have submitted an application for a residence permit for other reasons, particular attention shall be paid when examining the application to whether the applicant has been guilty of any criminal activity or criminal activity combined with other misconduct. A residence permit may in some cases be refused if the alien constitutes a threat to public order and security.²¹

An alien who is not granted a residence permit shall normally be refused entry to or be expelled from Sweden. The refusal-of-entry or expulsion may, however, never be enforced to a country where there is fair reason to assume that the alien would be in danger of suffering the death penalty or being subject to corporal punishment, torture, or other inhuman or degrading treatment or punishment. Nor, in principle, may enforcement take place if the alien risks being subject to persecution in that country. Exception from this rule can, however, be made under certain conditions, if the alien has committed an exceptionally gross offence or if the alien has conducted activities that have endangered national security.²²

Under the Aliens Act, an alien who is not an EEA national or a family member of an EEA national may be expelled if he or she is convicted of an offence that is punishable by imprisonment, provided that the alien is sentenced to a more severe penalty than a fine or that the court sets aside a suspended sentence or probation that has previously been imposed on an alien. A further condition is that it may be assumed that the alien will be guilty of continued criminal activity or that the offence is particularly serious. Expulsion may take place for a certain period or for life.²³ For an EEA national or a family member of an EEA national it is also required

that the expulsion takes place for reasons of public order and security.²⁴

An alien may also be expelled under the Act concerning Special Controls in Respect of Aliens (1991:572), if specially warranted on grounds of national security or it may be feared, in view of what is known about the alien's previous activities and other circumstances, that he or she will commit or be an accessory to a terrorist offence or attempt, preparation or conspiracy to such a crime. The person in question does not need to belong to a certain organisation in order for the Act to be applied.

INSTITUTIONAL FRAMEWORK

Responsible authorities

In Sweden the day-to-day work and operational measures to combat terrorism are dealt with by a number of agencies and authorities responsible to the Government.

Preventing and obstructing the planning and implementation of terrorist acts are measures that come under the responsibility of the **Swedish Police Service**. The main responsibility for combating terrorism lies with the **Swedish Security Service**. One of its key tasks is to identify and follow up networks and individuals who are involved in terrorism in Sweden and internationally. The Swedish Security Service also provides the Government, the Swedish Migration Board and the Migration Court of Appeal with opinions on cases relating to asylum and residence permits. The Swedish Security Service also works closely with the National Financial Intelligence Service to obstruct or prevent the financing of terrorism.

Although the Swedish Security Service has the main responsibility for counter-terrorist activities in Sweden, other parts of the police service are also involved, particularly in crisis situations.

The **National Criminal Police** deals with cases relating to issues such as air and seaport security, and the transport of nuclear materials or weapons. The National Criminal Police also has a national task force whose main responsibility is combating terrorist acts in Sweden.

The main tasks of prosecutors at the **Swedish Prosecution Authority** are to lead criminal investigations (preliminary investigations), decide whether to prosecute and plead in the courts.

²⁰ Chapter 5, Sections 1 first paragraph 1 and 2 of the Aliens Act.

²¹ Chapter 5, Sections 17 and 17 a of the Aliens Act.

²² Chapter 12, Sections 1 and 2 of the Aliens Act.

²³ Chapter 8 a, Sections 1–4 of the Aliens Act.

²⁴ Chapter 8 a, Sections 5 of the Aliens Act.

The **Swedish Prosecution Authority** also engages in international cooperation at both central and local levels. In recent years, the Authority has further developed the activities of public prosecutors so as to be in a better position to fight serious, cross-border crime. Work at local level at the Swedish Prosecution Authority largely takes place at the three international public prosecution offices. Prosecutors at these offices have long experience of, and are specialised in combating organised crime with international ramifications. Terrorist cases investigated by the Swedish Security Service are processed by the Prosecution Office for National Security.

Coordination of the Swedish sector of the European Judicial Network and the Swedish sector of Eurojust, the European body for prosecutor cooperation, is conducted by the Office of the Prosecutor-General.

The **Swedish National Economic Crimes Bureau** is tasked with investigating and prosecuting economic crimes, such as tax crimes and offences against the Market Abuse Penal Act, in the metropolitan regions. The Bureau is also responsible for national coordination of anti-economic crime measures, which can include the financing of terrorism.

The task of the **Swedish Financial Supervision Authority** is to exercise supervision of financial institutions. The Authority is authorised to issue regulations for these institutions on matters relating to the fight against financing of terrorism. With regard to international sanctions, the Authority is also tasked with being the competent authority for receiving information on matters like freezing assets.

The task of the **Swedish Armed Forces** is to defend Sweden and to promote Swedish security through operations nationally and internationally. The Swedish Armed Forces shall also assert Sweden's territorial integrity. Otherwise the Swedish Armed Forces are empowered to provide support for civilian activities, within the agency's existing capabilities and resources. The agency is then required to examine in each specific case whether support can and should be given. In the fight against terrorism, the Swedish Armed Forces have the capability and resources to be able to provide support, primarily to the police.

The **Central Authority** at the Ministry of Justice receives and forwards requests for mutual legal assistance in criminal cases, extradition and transfer of proceedings when these requests are not sent directly to the agency concerned, such as a prosecutor or a court of law. The Central Authority also prepares matters in cases where decisions are to be taken by the Government. It should, however,

be noted that the Central Authority does not have an operational role in these cases.

Inter-agency cooperation

Although the Swedish Security Service is the authority with explicit responsibility for counter-terrorism, many other agencies are involved. The agency to be responsible for coordination in a concrete crisis situation depends on the situation, but the point of departure is that the agency primarily responsible for an issue is also responsible for coordination with other agencies.

The Counter-Terrorism Cooperative Council, which started its work in 2005, brings together the agencies that have important functions in the fight against terrorism. The Swedish Security Service leads the work of the Counter-Terrorism Cooperative Council. The task is to better coordinate the activities of these agencies and to coordinate the exchange of information. At present the Counter-Terrorism Cooperative Council includes the following 14 agencies: the Swedish National Economic Crimes Bureau, the National Defence Radio Establishment, the Swedish Armed Forces, the Swedish Prison and Probation Service, the Swedish Coast Guard, the Swedish Migration Board, the Swedish Civil Contingencies Agency, the National Criminal Police, the Swedish Radiation Safety Authority, the Swedish Security Service, the Swedish Defence Research Agency, the Swedish Transport Agency, the Swedish Customs and the Swedish Prosecution Authority. The Council establishes an effective forum for cooperation between the agencies. The Council has also initiated common exercises and evaluations.

A permanent working group, National Centre for Terror Assessments, in which representatives from the Swedish Security Police, the Military Intelligence and Security Service and the National Defence Radio Establishment take part, produce assessments concerning threats from terrorism against Sweden or Swedish interests.

In December 2012 the National cooperation project for protection against serious IT-threats was initiated, which is a cooperation between the Swedish Security Service, the Swedish Armed Forces and the National Defence Radio Establishment. The task is to analyze and assess threats, vulnerabilities and protective measures concerning serious or otherwise qualified IT-threats against national interests.

Since 1992, informal cooperation has existed between the different agencies responsible for various parts of Swedish non-proliferation efforts. Work is conducted in two reference groups that are

to spread knowledge and prevent the proliferation of weapons of mass destruction. The groups consist of representatives of Swedish Defence Research Agency, the National Defence Radio Establishment, the Swedish Civil Contingencies Agency, the Swedish Coast Guard, the Swedish Inspectorate of Strategic Products, the National Police Board, the Swedish Armed Forces, the Swedish Transport Agency, the National Board of Health and Welfare, the Swedish Radiation Safety Authority and the Swedish Customs Service. Meetings take place once a year in the group working on the operative level. The group for the policy level convenes whenever needed. The Swedish Security Service is responsible for convening meetings of these groups.

Extensive cooperation between law-enforcement agencies also takes place in other areas that involve the prevention of terrorism and counter-terrorism less directly. Both in aliens and customs legislation there are provisions on the obligation of the Swedish Police Service, the Swedish Customs Service and the Swedish Coast Guard to provide assistance to each other when checking people and goods.

In 2006, the Swedish Police Service was given greater powers to request assistance from the Swedish Armed Forces in combating terrorism. The Swedish Police Service is enabled to request help from the Swedish Armed Forces in measures that may entail the use of force or coercion against private individuals, if the police does not have access to the special resources needed to prevent or otherwise intervene against acts that may constitute terrorist offences. The general rule is that the Swedish Police Service may only request support after approval by the Government.

In December 2013 the Government decided that the Armed Forces and the Police should work together so as to develop a capability to transport police on board the Armed Forces helicopters when a rapid response is needed.

The Government has strengthened civil emergency preparedness through the formation of the Swedish Civil Contingencies Agency in January 2009. The Agency is responsible for issues concerning civil protection, public safety, emergency management and civil defence as long as no other authority is responsible. The responsibility refers to measures taken before, during and after an emergency or crisis.

To improve coordination in the Government Offices a Crisis Management Coordination Secretariat has also been established. The senior official for crisis management is responsible for developing, coordinating and following up crisis management in the Government Offices and for the necessary

preparations for this. The overall objective of the Secretariat is to always be able to support the Government in ensuring effective crisis management.

INTERNATIONAL CO-OPERATION

Cooperation in international organisations

The United Nations (UN)

One of the bases of international counter-terrorism cooperation is the work of the UN and its international conventions and protocols related to the fight against terrorism. Sweden has signed or acceded to all the relevant UN instruments.²⁵

The previous process of establishing an overarching convention within the UN framework has come to a standstill. A UN Global Counter-Terrorism Strategy was adopted by consensus in the UN General Assembly in September 2006, during the Swedish Presidency. Sweden is also playing an active role in the UN bodies that are working with counter-terrorism, rule of law issues and the prevention of terrorism.

Since 2002, the United Nations Office on Drugs and Crime in Vienna (UNODC) has included a section working on issues related to terrorism, the Terrorism Prevention Branch (TPB). The TPB provides technical support and advice in order to assist countries in putting legislation into place to enable them to implement the international instruments against terrorism. Sweden is one of the largest donors to UNODC and has allocated a special grant to the TPB.

The Financial Action Task Force (FATF)

Since 2001, the mandate of the FATF has been extended to include combating the financing of terrorism as well as to identify and react to new threats i.a. financing of proliferation of weapons of mass destruction. In recent years the FATF has conducted a comprehensive revision of the 40 recommendations on the combating of money laundering and the 9 special recommendations with regard to the financing of terrorism. In February 2012, the FATF plenary adopted 40 revised recommendations relating to both the combating of money laundering and terrorist financing as well as the financing of proliferation. With respect to the 4th round of mutual evaluations an additional element has been added – the assessment of the effectiveness in the systems established for the combating of money laundering and financing of terrorism.

²⁵ See the table below.

The European Union (EU)

In December 2005, the European Council adopted an overall EU strategy against terrorism, based on previous action plans and declarations, which clearly explains EU policy, the objectives established, how they are to be achieved, the areas in which initiatives have been taken and priorities for the future. In the strategy this policy is divided into four areas of action: prevention, protection, pursuance and response.

Sweden supports EU:s overall efforts to counter terrorism and is playing an active role in those efforts. For example a Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the EU has been adopted after a Swedish initiative.²⁶ The exchange of information and intelligence between police authorities and other law-enforcement agencies is vital to be able to discover, prevent and investigate crimes successfully. Another example is a police in-service training course in discovering and preventing radicalisation at local level that has been produced. The content of the course is being drawn from an EU-funded project with eleven EU countries participating called Community Policing Preventing Radicalisation & Terrorism (Coppra) that the Security Service and the Swedish police have taken active part in.

Within the framework of the Common Foreign and Security Policy (CFSP), discussions are constantly on-going on how to assess terrorism-related issues. Member States exchange information and try to coordinate their actions with regard to counter-terrorism policy discussions in other international forums such as the UN, the Organisation for Security and Cooperation in Europe (OSCE) and the Council of Europe.

Sweden is participating actively in the working groups of the Council dealing with terrorism issues. Sweden has supported a number of capacity building programs with the purpose of strengthening the ability of countries with special needs to combat terrorism. These programs have primarily aimed at strengthening the judiciary and other national institutions, as well as facilitating international cooperation and increasing the respect for human rights.

The OSCE

The operations of the OSCE as a whole are targeted at the prevention and solution of conflicts, which helps to neutralise breeding grounds for terrorism. Ways in which this is done are poverty reduction and work in the field of human rights and democracy, particularly measures to combat intolerance and extremism. The OSCE also provides support, in close cooperation with the UN, to measures to combat the financing of terrorism. Through its Office for Democratic Institutions and Human Rights, the OSCE also makes a practical contribution to the implementation of the UN conventions related to terrorism.

The Euro-Atlantic Partnership Council (EAPC)/Partnership for Peace (PfP)

Sweden is actively contributing to the counter-terrorism work being undertaken in the context of NATO and the EAPC/PfP. Sweden was one of the proactive countries in drawing up the Action Plan against Terrorism adopted at the EAPC summit in 2002. Alongside the Action Plan, other initiatives are implemented in the EAPC/PfP which help to strengthen partner countries' ability to combat and prevent terrorist attacks.

The Council of Europe

Sweden is playing an active role in the Council of Europe's work to combat terrorism. Below is a list of the instruments drawn up in the Council of Europe that Sweden has signed or ratified.

²⁶ OJ L 386, 29.12.2006, p 89.

Relevant Council of Europe conventions

Convention	Signed	Ratified
European Convention on the Suppression of Terrorism (ETS 90)	27/01/1977	15/09/1977
Amending Protocol (ETS 190)	15/05/2003	²⁷
European Convention on Extradition (ETS 24)	13/12/1957	22/01/1959
Additional Protocol (ETS 86)	29/10/1975	02/02/1976
Second Additional Protocol (ETS 98)	06/04/1979	13/06/1979
Third Additional Protocol (ETS 209)	17/11/2010	²⁸
Fourth Additional Protocol (ETS 212)	20/09/2012	²⁹
European Convention on Mutual Assistance in Criminal Matters (ETS 30)	20/04/1959	01/12/1968
Additional Protocol (ETS 99)	06/04/1979	13/06/1979
Second Additional Protocol (ETS 182)	08/11/2001	20/01/2014
European Convention on the Transfer of Proceedings in Criminal Matters (ETS 73)	15/05/1972	07/04/1976
European Convention on the Compensation of Victims of Violent Crimes (ETS 116)	24/11/1983	30/09/1988
Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (ETS 141)	08/11/1990	15/07/1996
Convention on Cybercrime (ETS 185)	23/11/2001	³⁰
Additional Protocol concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems (ETS 189)	28/01/2003	See previous footnote.
Council of Europe Convention on the Prevention of Terrorism (ETS 196)	16/05/2005	30/08/2010
Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (ETS 198)	16/05/2005	³¹

²⁷ A special expert has examined which legislative alterations a Swedish ratification of the Protocol would require. The question of ratification is being prepared within the Government Offices.

²⁸ A special expert has examined which legislative alterations a Swedish ratification of the Protocol would require. The question of ratification is being prepared within the Government Offices.

²⁹ The question of ratification is being prepared within the Government Offices.

³⁰ A special expert has examined which legislative alterations a Swedish ratification of the Protocol would require. The question of ratification is being prepared within the Government Offices.

³¹ A government bill to the parliament was decided on 20 February 2014.

Relevant United Nations Conventions

Convention	Signed	Ratified
Convention on Offences and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963.	14/09/1963	16/12/1966
Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970.	16/12/1970	27/05/1971
Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, concluded at Montreal on 23 September 1971.		Accession 05/06/1973
Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973.	10/05/1974	29/05/1975
International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.	25/02/1980	18/12/1980
Convention on the Physical Protection of Nuclear Material, signed at Vienna and at New York on 3 March 1980.	02/07/1980	01/08/1980
Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on 24 February 1988.	24/02/1988	28/06/1990
Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.		28/06/1990
Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988.		28/06/1990
Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991.	13/11/1992	05/04/2007
International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997.	12/02/1998	23/08/2001
International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999.	15/10/2001	30/05/2002
International Convention for the Suppression of Acts of Nuclear Terrorism, done at New York on 13 April 2005.	14/09/2005	³²
2005 Protocol to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.	14/02/2006	See prev. footnote
2005 Protocol to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.	14/02/2006	See prev. footnote
2010 Convention on the Suppression of Unlawful Acts against the Safety of Civil Aviation		³³
2010 Protocol supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft		See prev. footnote

³² On 27 March 2014 the Government presented a bill with the proposal to ratify the convention in the summer of 2014.

³³ The question of ratification is being prepared within the Ministry of Justice.