



Ordinance on surrender to Sweden according to the European arrest warrant

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The Government prescribes the following.

General provisions

Section 1

This Ordinance contains provisions for the implementation of the Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States.¹

Provisions on surrender from Sweden are given in the Act on surrender from Sweden according to the European arrest warrant (2003:1156) and in the Ordinance on surrender from Sweden according to the European arrest warrant (2003:1179).

Section 2

The terms used in this Ordinance have the same meaning as in the Act on surrender from Sweden according to the European arrest warrant (2003:1156).

A Swedish arrest warrant, as referred to in this Ordinance, is an arrest warrant specified in Chapter 1, Section 3 of the same Act and issued by a Swedish prosecutor or authority.

The issuing authority, as referred to in this Ordinance, is the Swedish prosecutor or authority that issues the arrest warrant.

Issue of a Swedish arrest warrant

Arrest warrant for the purpose of criminal prosecution

Section 3

A Swedish arrest warrant for the purpose of criminal prosecution is issued by a prosecutor. The Prosecutor-General decides which prosecutors are competent to issue a Swedish arrest warrant.

¹ OJ L 190, 18/07/2002, p. 1, Celex 32002F0584.

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An arrest warrant may be issued for a crime for which the requested person has been detained on suspicion on probable cause of the crime and for which a sentence of imprisonment for at least one year is prescribed.

An arrest warrant that is issued for a crime referred to in the second paragraph may also include other crimes of which the requested person is suspected (accessory surrender).

Arrest warrant for the purpose of execution of a custodial sentence or detention order

Section 4

A Swedish arrest warrant for the purpose of execution of a custodial sentence or detention order is issued by the National Police Board at the request of

- the National Prison and Probation Administration for the execution of a prison sentence,
- the National Board of Health and Welfare for the execution of forensic psychiatric care, and
- the National Board of Institutional Care for the execution of institutional care of a minor.

An arrest warrant may be issued for a judgment that has entered into force if a custodial sentence or detention order of at least four months or without a time limit has been imposed.

An arrest warrant issued for a judgment referred to in the second paragraph may also include other judgments concerning the requested person that have entered into force, if the court has imposed a custodial sentence or detention order (accessory surrender).

Proportionality

Section 5

A Swedish arrest warrant may only be issued if it appears justified to do so in view of the nature and seriousness of the crime and the circumstances in general, and when the harm to the individual and the delay and costs that can be expected in the case are taken into account.

If the requested person is under eighteen years of age, an arrest warrant may only be issued if it concerns serious crime or if the young person has a strong connection with Sweden or if there are some other special reasons for requesting surrender to Sweden.

The formulation of the arrest warrant

Section 6

A Swedish arrest warrant shall be drawn up in accordance with the form referred to in Chapter 1, Section 4 of the Act on surrender from Sweden according to the European arrest warrant (2003:1156).

The arrest warrant must state whether it also refers to accessory surrender. If it does, the warrant must also state whether the requested person has been detained for the crime, as well as the sentence imposed or the scale of penalties for the crime.

Transmission and storage

Section 7

A Swedish arrest warrant may be registered in the Schengen Information System (SIS) or in some other system for wanted persons who are suspected of a crime. Registration shall be carried out by the National Police Board. The arrest warrant shall be held in storage by the National Police Board.

If it is known that the requested person is in a particular Member State, then the arrest warrant may be sent directly to the executing authority in that State. In this case the issuing authority is responsible for measures under Section 11. If the arrest warrant has been issued by a prosecutor, a copy of the arrest warrant must be sent to the National Police Board.

Revocation

Section 8

When there is no longer any reason to request the surrender of the person concerned, the arrest warrant shall be revoked. The executing authority in the other Member State and, if the arrest warrant is revoked by a prosecutor, the National Police Board shall be notified immediately of the revocation.

Procedure when the requested person has been found

Information when the person is found

Section 9

When the issuing authority receives information that the requested person has been found, the authority shall immediately forward that information to the National Police Board if the Board has not already received the information.

If some other authority than the issuing authority receives information that the requested person has been found, that authority shall immediately forward the information to the issuing authority.

Relationship to extradition

Section 10

If the other Member State gives notification that an extradition procedure is to be used, the Ordinance containing certain provisions on extradition for criminal offences (1982:306) shall be applied instead of this Ordinance. The issuing authority shall immediately transfer the matter to the authority that is competent under that Ordinance to make extradition requests to the other Member State.

In cases referred to in the first paragraph no new request need be made, if the other State accepts the arrest warrant as a request for extradition.

Translation and transmission

Section 11

When the National Police Board receives information that the requested person has been found in another Member State and an arrest warrant has been registered according to Section 7, first paragraph, the Board shall, immediately:

1. have the arrest warrant translated into the language of the other Member State or into a language that the other State has declared that it will accept, and
2. transmit the arrest warrant to the executing authority in the other State.

Guarantees for surrender

Section 12

The issuing authority examines issues of guarantees that the executing authority requires for surrender. However, in the case of surrender for the purpose of prosecution, the Office of the Prosecutor-General examines issues of guarantees relating to conditions for the return of the requested person.

Transportation

Section 13

The issuing authority is responsible for bringing the requested person to Sweden when the other Member State has agreed to surrender to Sweden. Unless otherwise agreed, the issuing authority shall ensure that the requested person is brought to Sweden within the stated time. If necessary the issuing authority may request assistance from the National Police Board or the police authority designated by the National Police Board.

Other matters

Transfer of the execution of a custodial sentence or detention order

Section 14

If the surrender to Sweden for criminal prosecution has been made on condition that the surrendered person is returned to the other Member State for the execution in that State of a custodial sentence or detention order imposed as a result of the surrender, the prosecutor shall determine whether the prerequisites for return have been fulfilled as soon as the judgment has gained legal force against the person sentenced.

If the surrendered person is to be returned in accordance with the first paragraph, the prosecutor shall immediately notify:

- the National Prison and Probation Administration, if the penalty is imprisonment,
- the National Board of Health and Welfare, if the penalty is forensic psychiatric care,
- the National Board of Institutional Care, if the penalty is institutional care of a minor.

The authority referred to in the second paragraph shall ensure that the execution of the penalty is transferred to the other Member State, that the person is brought there and that the other State is notified. If necessary the authority may request assistance from the National Police Board or the police authority designated by the National Police Board. In connection with the transfer, the other State shall be informed of when execution began and of any period of detention that has taken place in Sweden.

Section 15

If a request for surrender according to a Swedish arrest warrant for the execution of a custodial sentence or detention order has been refused on the grounds that the other Member State is assuming execution of the penalty, the authority referred to in Section 14, second paragraph shall ensure that execution is transferred to the other State. For this purpose the National Police Board shall notify the authority as soon as the Board has been informed about the refusal of the other State.

Consent to extended surrender**Section 16**

A person who has been surrendered to Sweden can consent to prosecution or punishment here for another crime that the person has committed before the surrender. Consent of this kind shall be given in writing on the form adopted by the Office of the Prosecutor-General.

Consent can be given to the official appointed by the Office of the Prosecutor-General, the National Prison and Probation Administration or the National Board of Institutional Care to receive a declaration of this kind, to the chief medical officer at the unit where a sentence of forensic psychiatric care is being executed, to the prosecutor or, on assignment by the prosecutor, to a police officer who is assisting the investigation.

The person who has been surrendered shall be notified of the implications of consent. If possible, the document in which consent is given shall be written in the language that is normally used by the person who has been surrendered. If another language is used a note shall be made on the document of the measures that have been taken to check that the surrendered person has understood the implications of consent.

Procedure for extended surrender**Section 17**

If surrender has been granted to Sweden and the question arises of requesting the permission of the other State for a measure of the kind referred to in Chapter 6, Section 8, first paragraph, point 1 of the Act (2003:1156) on surrender from Sweden according to the European arrest warrant, the second and third paragraphs are applicable. The same applies if a person has been surrendered to Sweden from a Member State of the European Union and a question of this kind arises subsequently.

The request shall contain the information referred to in Section 6. It shall be translated into a language referred to in Section 11, point 1 and sent to the executing authority in the other Member State.

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The following provisions of this Ordinance shall be applied:
Section 3, first paragraph and Section 4, first paragraph on competent authorities,
Section 8 on revocation,
Section 10 on the relationship to extradition,
Section 12 on guarantees, and
Sections 14 and 15 on the transfer of execution.

This Ordinance shall come into force on 1 January 2004.

On behalf of the Government

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