



1991-572

Sweden

UNOFFICIAL TRANSLATION

Act concerning special controls in respect of  
aliens;

issued on 30 May 1991.

In accordance with a decision by Parliament<sup>1</sup>, the  
following is prescribed.

General provisions

#### Section 1

An alien who is not refused entry or expelled under  
the Aliens Act (1989:529) may be expelled from the  
country under this Act, if

1. this is necessary for reasons of the security of  
the realm, or
2. in view of what is known about the alien's  
previous activities and other circumstances, it may  
be feared that he will commit a criminal offence  
involving violence, threat or coercion to achieve  
political ends or be an accessory to such an  
offence.

Sub-section 2 of Section 1 does not apply when  
there is a danger that an offence which has mainly  
the character of a political offence will be  
committed in another state.

#### Section 2

Expulsion orders are issued by the Government. Such  
matters are considered following submission of an  
application by the National Police Board or on the  
initiative of the Government itself.

<sup>1</sup> Bill 1990/91:118, JuU29, rskr.298.

If a police authority, a county administrative board or the Swedish Immigration Board see reason to assume that an expulsion order should be issued under Section 1, the authority in question shall notify the National Police Board to this effect.

### Section 3

Unless the case is particularly urgent, a statement of opinion shall be obtained from the Swedish Immigration Board and a hearing of the case shall be held at a city or district court, before the Government issues an expulsion order.

If there are reasons for doing so, a statement of opinion shall also be obtained from the district court hearing the case.

Decisions on hearings and on obtaining statements of opinion may be taken by the Minister responsible for the matter under the law or an official appointed by the Minister.

### Section 4

An expulsion order shall involve prohibition against the alien's return to Sweden without permission from the Government. The prohibition shall apply for a certain period or without a time limit. If a time-limit applies for the prohibition, the alien shall be informed in the order of the date on which the prohibition ceases to be valid. In addition, the alien shall be informed of the penalty which an infringement of the prohibition can entail under Section 24.

## Section 5

In cases tried under this Act, relevant sections of Chapter 4 Section 15, Chapter 5 Section 5, Chapter 6 Section 4 second paragraph, Section 5 second paragraph and Sections 6-11, Chapter 7 Section 8, Chapters 1-6 Sections 14 and 16, Chapter 9 Sections 1-3, and Chapter 11 Sections 5 and 6 of the Aliens Act (1989:529) shall apply.

## Hearing

### Section 6

A hearing under Section 3 and Chapter 6 Section 7 of the Aliens Act (1989:529) shall be held at the Stockholm City Court or, if there are special reasons for not holding the hearing there, at another city court or district court.

The alien shall be questioned at the hearing.

The National Police Board shall oppose the alien's case at the hearing.

The city or district court may decide that, in addition to the alien, other persons shall be questioned at the hearing. If any party tenders oral or written evidence, the court shall examine whether such evidence shall be allowed. Chapter 35 Section 7 of the Code of Judicial Procedure shall apply in this context.

As regards appearance at the hearing, Chapter 6 Section 13 of the Aliens Act shall apply.

## Section 7

Circumstances which can affect a decision on a case shall be carefully examined at the hearing.

The National Police Board shall report on the circumstances in the case and shall be given an opportunity to question the alien and others heard in the case. The National Police Board shall also provide other information needed to carry out hearings. Aliens shall be given an opportunity to present their viewpoints and to express an opinion on the circumstances reported in the case.

The court shall endeavour to clarify obscurities and incomplete information by means of questioning and comment.

Chapter 6 Section 14 second paragraph and Section 15 of the Aliens Act (1989:529) shall apply at hearings.

The court's statement of opinion under Section 3 may also be based on documents or other information which may not be distributed to parties under Chapter 14 Section 5 first paragraph of the Act on Secrecy (1980:100).

## Custody and surveillance

### Section 8

An alien may be taken into custody, if an expulsion order under this Act has been issued or if it is probable that such an order will be issued and there is reason to assume that the alien will

otherwise go into hiding or pursue criminal activities in Sweden or if his identity is unclear. If the alien is under 16, he may not be taken into custody unless there are exceptional reasons for doing so. The same applies to his guardian or, if there are several, one of these.

Aliens can be placed under surveillance, if such a measure is deemed adequate, on the conditions specified in the preceding paragraph.

#### Section 9

If an expulsion case has not yet been presented to the Government, the National Police Board may decide that an alien shall be taken into custody or placed under surveillance, even when the prerequisites under Section 8 do not exist. The Government shall be notified forthwith of such a decision. The Minister responsible for the matter under this Act shall examine whether or not this measure should continue to be enforced.

Impediments to enforcement, etc.

#### Section 10

If the Government has decided to order expulsion under this Act but the impediments specified in Chapter 8 Sections 1-4 of the Aliens Act (1989:529) are in conflict with enforcement of the order or if the order should not be enforced for some other special reason, the Government shall order that enforcement shall be inhibited until further notice.

The expulsion order and the inhibition order shall be reviewed when there are grounds for doing so. As long as an expulsion order is still valid but there has been no possibility of enforcing it, the National Police Board shall notify the Government before the end of each calendar year following the year in which the order was issued whether or not there are grounds for reviewing the order.

#### Section 11

The Government may decide that an alien shall report to the police authorities at specific times (duty to report) if an expulsion order under this Act is not enforced until further notice due to inhibition. If the expulsion order is based on Section 1 first paragraph sub-section 2, the Government may also decide that Sections 19-22 shall apply in the alien's case.

The preceding paragraph also applies if an order refusing entry or expulsion under the Aliens Act (1989:529) cannot be enforced and the circumstances regarding the alien are those referred to in Section 1 first paragraph sub-section 1 or sub-section 2. Before an order is issued, a hearing shall be held. If there are grounds for doing so, a statement of opinion shall also be obtained in accordance with Section 3. Sections 6 and 7 apply for hearings.

#### Section 12

A Government order in accordance with Section 11 shall be valid for a maximum period of three years from the date of the order for removal.

## Enforcement

### Section 13

If the Government has not prescribed inhibition, an expulsion order under this Act shall be enforced as soon as possible. The National Police Board shall be responsible for enforcement. However, the Government may order another authority to carry out enforcement. The Government shall issue directions for enforcement of expulsion orders in accordance with Chapter 4 Section 12 second paragraph of the Aliens Act (1989:529).

If the authority enforcing an order finds that enforcement cannot be effected or that additional information is needed, the authority shall inform the Government to this effect. The Minister responsible for the matter under this Act may decide that the order shall not be enforced before the Government has examined whether or not an inhibition order is to be issued.

**Duty to report to the police and coercive measures following a court decision**

### Section 14

If, in the cases referred to in Section 11, there is a danger that an alien will commit or be an accessory to a crime against the security of the realm or an offence specified in Section 1 first paragraph sub-section 2 after the expiry of the three-year time-limit, a duty to report to the police may also be ordered for the period after the expiry of this time-limit. It may, correspondingly, be ordered that Sections 19-22 shall apply to an alien for such a period, if the danger involves an

Cases referred to in the preceding paragraph are tried by the Stockholm City Court after an application has been made by the National Police Board. Orders in such cases shall be issued for a certain period of time and at most three years, from the date the order enters into force.

As regards court procedure, except in the respects specified in the fourth paragraph, the provisions on cases which concern general prosecution of offences for which a sentence of not less than six months imprisonment is prescribed shall apply.

Recourse may not be made to coercive measures by virtue of Chapters 24 and 25 of the Code of Judicial Procedure. A written account or record or recording of an account of the type referred to in Chapter 35 Section 14 of the Code of Judicial Procedure may be used as evidence. The provision in Chapter 14 Section 5 second paragraph of the Act on Secrecy (1980:100) does not apply. Decisions may also be based on documents or other information which may not be distributed to parties under the first paragraph of Section 5.

#### Section 15

In cases of the types referred to in Section 14, the court may, if there are grounds for doing so, decide to order aliens to report to the police authorities or order the application of Sections 19-22 for the period prior to the final decisions on cases.



The court's decisions on the cases referred to in Section 14 apply forthwith, unless other directions are given. If a previous order applies at the time a decision on a case is pronounced, the court may rule that application of the new order shall not commence until the earlier order has expired.

#### Section 16

If, due to altered circumstances, there are grounds for doing so, the National Police Board may rescind or modify, to the alien's advantage, an order which a court has pronounced under Section 14. The National Police Board may also decide on a temporary relaxation of an order and immediately implement the necessary modifications.

#### Section 17

A court order under Section 14 shall cease to apply if the expulsion order in question has been enforced or rescinded.

#### Special provisions on coercive measures

#### Section 18

The extent to which the provisions of Sections 19-22 are to apply to aliens is decided by the Government or a court under this Act.

### Section 19

Aliens may be subjected to search of premises, personal search or physical examination if such measures are of importance in establishing whether an alien, an organization or group of which the alien is a member or for which he is working is planning or preparing action involving violence, threats or coercion for political purposes and which involves an offence for which a sentence of two years' imprisonment is the most lenient sanction prescribed. Taking aliens' fingerprints and photographing aliens is also permitted.

Orders to carry out the measures pursuant to the preceding paragraph are issued by the National Police Board or by a police authority. As regards such measures, relevant sections of Chapter 28 of the Code of Judicial Procedure shall otherwise apply.

### Section 20

For the purposes referred to in the first paragraph of Section 19, the court may, if there are exceptional reasons for doing so, authorize the National Police Board or a police authority to carry out secret telephone interception or, if deemed adequate, secret telephone monitoring.

The court may also, for the purposes referred to in the first paragraph of Section 19, and if there are special reasons for doing so, authorize the National Police Board or a police authority to examine, open or scrutinize postal or telegraphic communications, letters, other sealed documents

or packages addressed to or sent by an alien and which are found in connection with a search of premises, personal search or physical examination or which are found at a post office, telegraph office, railway station or other forwarding station.

In the authorization referred to in the second paragraph, the court may order that an item of mail covered by the authorization and which arrives at a forwarding station may be held until it has been more closely examined, opened or scrutinized. Such authorization shall contain notification that the sender, recipient or any other person may not be informed about the measure without the permission of the officer who has requested the measure.

#### Section 21

The authorizations referred to in Section 20 shall be valid for a certain period which does not exceed one month.

The question of granting authorizations is examined by the Stockholm City Court in response to an application from the National Police Board or a police authority. The Court's decision on authorizations shall apply immediately. As regards procedure, Chapter 27 of the Code of Judicial Procedure shall otherwise be applied in the corresponding manner.

## Section 22

A recording or written record which has been made in connection with secret telephone interception shall be examined as soon as possible. Such examination may only be carried out by the court, the National Police Board, a police authority or a prosecutor. If the recording or written record contains details which are not relevant for the purposes which occasioned the telephone interception, it shall be immediately destroyed after the examination.

An item of mail or other document covered by the authorization under Section 20 may not be subject to detailed examination, opening or scrutiny by any person or organization other than the court, the National Police Board, a police authority or a prosecutor. Such a document shall be examined as soon as possible. When examination of the document has been completed, an item of mail which was found at a forwarding station shall be forwarded to the addressee and any other document returned to the person in whose possession it was found, unless such an item is seized.

## Sanction

## Section 23

A sentence of imprisonment for at most one year or, where there are extenuating circumstance, to a fine shall be passed on

1. any person who aids entry into Sweden of an alien subject to prohibition under Section 4,
2. any person who hinders or attempts to hinder enforcement of an expulsion order pursuant to this Act, or
3. an alien who infringes the instructions to report to the police ordered under Section 11 or 14.

Attempts or preparations to commit an offence as specified in the first paragraph sub-section 1 shall be sentenced in accordance with Chapter 23 of the Penal Code.

If, while under prosecution for an offence pursuant to the first paragraph sub-section 3, an alien continues to commit such an offence, the offences he is guilty of prior to each prosecution shall be regarded as separate offences.

#### Section 24

An alien residing in Sweden although he did not have the right to return to Sweden under an enforced expulsion order pursuant to this Act, shall be sentenced to imprisonment for up to one year or, if the offence is regarded as a minor offence, to a fine. This does not apply, however, if the alien has fled to Sweden to avoid persecution as defined in Chapter 3 Section 2 of the Aliens Act (1989:529).

In the case of minor offences under the preceding paragraph, criminal prosecution shall only be instituted if this is called for in the public interest.

## Other provisions

### Section 25

If the Government is dealing with an expulsion case pursuant to this Act, a prosecution may not be instituted against the alien in question before the Government has taken its decision.

### Section 26

An appeal may not be lodged against a decision by the National Police Board in a matter such as specified in Section 16.

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This Act enters into force on 1 July 1991, when the Act concerning Special Measures to Prevent Certain Acts of Violence with an International Background (Act concerning Terrorism) (1989:530) shall cease to apply.

The provisions contained in Section 10 second paragraph, Section 11 first paragraph and Section 12 - 16 shall apply even when the Government has ordered that an order to refuse entry or an expulsion order shall not be enforced pursuant to Section 17 first paragraph of the Act concerning Terrorism (1989:530), Section 73 of the Aliens Act (1980:376), Section 8 of the Act on Special Measures to Prevent Certain Acts of Violence with an International Background (1973:162) or Section 51 third paragraph of the Aliens Act (1954:193).

The provisions in Section 11 second paragraph and Sections 12 - 16 are also applicable when an order to refuse entry or an expulsion order has been issued under the Act concerning Terrorism (1989:530) or the Aliens Act (1980:376) and when an order refusing entry, a removal order, or an expulsion order has been issued pursuant to the Aliens Act (1954:193). However, if, at the time this Act enters into force, any person is under a liability to report to the police under previous provisions, this order shall apply, even though the three-year time limit specified in Section 12 has expired, up to 31 December 1991, if it has not been rescinded prior to this date. If the provisions of Sections 19 - 22 of the Act concerning Terrorism (1989:530) apply to any person at the time this Act enters into force, the provisions of Sections 19-22 of this present Act shall apply up to the same date (31 December 1991), unless other consequences result from a directive issued by the Government.

In applying Section 23 first paragraph sub-sections 1 and 2 and Section 24, corresponding decisions under previous legislation have equal status with the prohibitions and expulsion orders in these Sections. The corresponding directions issued pursuant to previous legislation have equal status with provisions under Section 23 first paragraph sub-section 2.

If directions which have been replaced by provisions in this Act are referred to in an Act or other legislation, the new provisions shall apply instead.

On behalf of the Government

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