

## Annex

### Extract from the Aliens Act (2005:716)

Actual law paragraphs

Here are the law paragraphs that are relevant to your case.

**Source:** Riksdagen.se/?..//Svensk författningssamling (Swedish law collection)

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Please note that this document contains clippings from the law texts and that there may be more recent updates to the law.

#### 1 Cap.

**§10** In cases involving a child, special consideration shall be given to the health and development of the child and the best interests of the child in general.

#### 4 Cap.

1 § For the purposes of this law, a refugee means a foreigner who:

- is outside the country of which the foreigner is a national because he or she has a well-founded fear of persecution on grounds of race, nationality, religious or political opinion or on grounds of sex, sexual orientation or other membership in a particular social group; and
- cannot, or because of his/her fear does not want, use the protection of this country.

The first subparagraph shall apply irrespective of whether the authorities of the country are responsible for the risk of persecution of the foreigner or whether the foreigner is at risk of persecution by individuals and cannot be presumed to be offered effective protection which is not of a temporary nature. When assessing whether protection is offered, only protection provided by the state or by parties or organizations that control all or a significant part of the territory of the state is taken into account.

The first and second subparagraphs also apply to a stateless foreigner who is outside the country where he or she has previously had his or her habitual residence.

It follows from § 2 b that a foreigner covered by this paragraph is in some cases excluded from being considered a refugee. Law (2014:1400).

1 § For the purposes of this law, "a person in need of subsidiary protection" means a foreigner who, in cases other than those referred to in paragraph 1, is outside the country of which the foreigner is a citizen, because

1. there is justified reason to believe that, upon returning to the home country, the foreigner would be at risk of being punished by death or of being subjected to corporal punishment, torture or other inhuman or degrading treatment or punishment, or as a civilian, would be at serious and personal risk of being harmed by indiscriminate violence resulting from an external or internal armed conflict; and
2. the foreigner cannot, or because of the risk referred to in 1 does not wish, use the home country's protection.

The first subparagraph shall apply irrespective of whether the authorities of the country responsible for the foreigner being at risk referred to there or whether the foreigner is at risk by acts of individuals and cannot be presumed to be offered effective protection which is not of a temporary nature. When assessing whether protection is offered, only protection provided by the state or by parties or organizations that control all or a significant part of the territory of the state is taken into account.

The first and second subparagraphs also apply to a stateless foreigner who is outside the country where he or she has previously had his or her habitual residence.

It follows from paragraph 2 c that a foreigner covered by this paragraph is excluded from being regarded as a person in need of subsidiary protection in certain cases. Law (2014:1400).

1 a § Other persons in need of protection in this law means foreigners who, in cases other than those referred to in §§ 1 and 2 are outside the country of which the foreigners are citizens, because they

1. need protection because of an external or internal armed conflict or because of other serious conflicts in the home country feel well-founded fear of being subjected to serious abuse; or
2. are unable to return to their homeland due to an environmental disaster.

The first subparagraph 1 shall apply irrespective of whether the authorities of the country responsible for the foreigner being at risk referred to there or whether the foreigner is at risk by acts of individuals and cannot be presumed to be offered effective protection which is not of a temporary nature. When assessing whether protection is offered, only protection provided by the state or by parties or organizations that control all or a significant part of the territory of the state is taken into account.

The first and second subparagraphs also apply to a stateless foreigner who is outside the country where he or she has previously had his or her habitual residence.

It follows from paragraph 2 c that a foreigner covered by this paragraph is in some cases excluded from being considered as other person in need of protection. Law (2014:1400).

1 § A foreigner who, on grounds of protection, has applied for a residence permit, shall be declared a refugee (refugee status declaration) if he or she falls within the definition in §1 and is not excluded from being considered a refugee under §2 b.

However, a foreigner may be refused a refugee status declaration if he or she:

1. through a particularly serious crime has shown that allowing him or her to stay in Sweden would be a serious danger to public order and public security; or
2. has carried out activities that endanger national security and there is reason to assume that he or she would continue the activities here.

Law (2009:1542).

1 a § A foreigner who, on grounds of protection, has applied for a residence permit, shall be declared as a person in need of subsidiary protection (subsidiary protection status declaration) if he or she falls within the definition in §2 and is not excluded from being considered as a person in need of subsidiary protection under § 2 c.

A foreigner who has applied for a residence permit on grounds of protection shall be declared other person in need of protection (other protection status declaration) if he or she falls within the definition in § 2 a and is not excluded from being considered as other person in need of protection under § 2 c.

§ 3 of the Law (2016:752) on temporary restrictions on the possibility of obtaining a residence permit in Sweden states that the second subparagraph does not apply during the period from July 20, 2016 to July 19, 2019. *Law (2016:753)*.

2 § For a refugee or stateless person, a special passport document may be issued for travel outside Sweden (travel document). The government may provide additional regulations on travel documents.

3 Cap.

4 § If a residence permit cannot be granted on other grounds, a permit may be granted to a foreigner if, in an overall assessment of the foreigner's situation, there are such extremely distressing circumstances that he or she should be allowed to stay in Sweden. The assessment shall take into account, in particular, the state of health, adaptation to Sweden and the situation in the home country.

For children, the residence permit referred to in the first subparagraph may be granted if the circumstances are particularly distressing.

In the period from July 20, 2016 to July 19, 2019, the deviations from the first and second subparagraphs set forth in §§ 11 and 12 of the Law (2016:752) on temporary restrictions on the possibility of obtaining a residence permit in Sweden shall apply. *Law (2016:753)*.

## Chapter 8

§2 A foreigner who is neither an EEA citizen nor a family member of an

EEA citizen may be rejected

1. if he or she does not have a passport when a passport is required for entry or stay in Sweden,
2. if he or she lacks a visa, residence permit or any other permit required for entry, stay or work in Sweden,
3. if he or she has a visa or is exempt from the requirement of a visa but does not intend to leave Sweden after the visa period or visa-free period has expired, provided that he or she does not have a residence permit or any other permit granting the right to reside in Sweden,
4. if upon the arrival of the foreigner in Sweden, it is found out that he or she intends to visit another Nordic country but does not have the necessary permit for entry there,
5. if he or she avoids providing the requested information at the time of entry, knowingly provides incorrect information relevant to the right of entry in Sweden or deliberately conceal any circumstance that is relevant to that right,
6. if he or she does not meet the entry requirements provided for in Article of 4 Regulation (EC) no 562/2006 of the European Parliament and of the Council of 15 March 2006 on a community code on persons crossing the border (Schengen Borders Code); or
7. if he or she has been rejected or expelled from an EU state or from Iceland, Norway, Switzerland or Liechtenstein and the circumstances are those referred to in Chapter 7, § 6 or the decision on expulsion has been based on the fact that the foreigner has not complied with the provisions in force concerning the entry or residence of a foreigner in that state. *Law (2016:632).*

5 § A foreigner who is not an EEA citizen or a family member of an EEA citizen and who is not rejected under 2 § 1 or 2 may be expelled from Sweden if he or she is staying here but does not have a passport or the permits required to reside in the country.

20 § In a decision on deportation or expulsion issued by the Swedish Migration Service, a migration court or the Higher Migration Court, the country to which the foreigner is to be expelled or deported shall be indicated.

If there are special reasons, more than one country may be indicated in the decision.

A decision of an authority referred to in the first subparagraph relating to expulsion or deportation shall contain the instructions on enforcement which the circumstances of the individual case may give rise to. *Law (2014:198).*

21 § A decision on deportation or expulsion shall contain a time limit within which the foreigner shall voluntarily leave the country in accordance with the decision (time limit for voluntary departure). The time limit shall be set to two weeks if

the foreigner is deported and to four weeks if the foreigner is expelled. If there are special reasons, a longer time limit may be set.

However, a time limit for voluntary departure shall not be provided if

1. there is a risk that the foreigner will evade,
2. the foreigner poses a risk to public order and security,
3. the foreigner by a deportation decision is denied to enter the country,
4. the foreigner is prevented from crossing an external border unlawfully and is deported therefore; or
5. the foreigner is deported by the Swedish Migration Agency with immediate execution.

For EEA citizens and their family members, instead of the first subparagraph, Chapter 12, § 15, third subparagraph is applied. *Law (2017:22)*.

**§ 23** If there is no possibility to set a time limit for voluntary departure according to § 21, the Police Authority's decision on deportation and the Swedish Migration Agency's decision on deportation or expulsion must be reconciled with a re-travel ban, unless there are special reasons related to the foreigner's personal circumstances which prevent such a ban being announced. However, a decision on deportation where a foreigner is rejected to enter the country shall not be reconciled with a re-travel ban.

A decision on deportation or expulsion concerning an EEA citizen or a family member of an EEA citizen or a foreigner granted a residence permit under Chapter 5, §15, may be reconciled with a travel ban only if the decision has been given for the reasons of public order and security. *Law (2014:655)*.

## Chapter 12

**§15 a** If a foreigner has not left the country in accordance with the decision on deportation or expulsion when a time limit for voluntary departure has expired, the authority that has given the time limit shall set a re-travel ban. The re-travel ban shall be set to one year.

However, a re-travel ban referred to in the first subparagraph shall not be set where the decision on deportation or expulsion is not enforceable because of a decision on inhibition, an application for a residence permit or an application for reconsideration or where there are special reasons against such a ban being presented.  
*Law (2017:22)*.

Extract from the Law (2016:752) on temporary restrictions on the possibility of obtaining a residence permit in Sweden

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**3** § The provision on other protection status declaration in Chapter 4, § 3 a, second subparagraph the Aliens Act (2005:716) shall not apply.

**4** § Residence permit under Chapter 5, § 1 of the Aliens Act (2005:716) shall not be granted to a foreigner who is other person in need of protection.

**§ 11** Residence permit under Chapter 5, § 6 of the Aliens Act (2005:716) may only be granted if it would be contrary to a Swedish convention commitment to deport or expel the foreigner.