

Directive 2004/38/EC on the right of citizens of the Union and their family members  
to move and reside freely within the territory of the Member-States

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<b>COUNTRY</b>	<b>SWEDEN</b>	

**Introduction to transposition context:**

Transposition of Dir. 2004/38/EC into Swedish law has been mainly done through the Aliens Act (2005:716) and the Aliens Decree (2006:97). The deadline laid down in the Directive was 30 April 2006. The Swedish main transposing legislation entered into force on 31 March 2006.

**List of transposing legislation:**

- **SFS 2005:716 Aliens Act** – Utlänningslag (2005:716), published in The Swedish Code of Statutes 29 September 2005, entered into force 31 March 2006
- **SFS 2006:97 Aliens Decree** – Utlänningsförordning (2006:97), published in The Swedish Code of Statutes 23 February 2006, entered into force 31 March 2006
- **SFS 2005:661 National Identity Cards Decree** - Förordning ((2005:661) om nationellt identitetskort, published in The Swedish Code of Statutes 1 September 2005, entered into force 1 October 2005
- **SFS 2000:655 Study Grants Decree** - Studiestödsförordningen (2000:655), published in The Swedish Code of Statutes 21 June 2000, entered into force 1 July 2001
- **SFS 1999:1395 Study Grants Act** - Studiestödslagen (1999:1395), published in The Swedish Code of Statutes 16 December 1999, entered into force 1 July 2001
- **SFS 1997:691 Diplomatic and Consular Fees Decree** - Förordning (1997:691) om avgifter vid utlandsmyndigheter, published in The Swedish Code of Statutes 19 September 1997, entered into force 1 November 1997
- **SFS 1992:191 The Fee Regulation** – Avgiftsförordning (1992:191), published in The Swedish Code of Statutes 23 April 1992, entered into force 1 July 1992
- **SFS 1991:572 Special Aliens Control Act** - Lag (1991:572) om särskild utlänningskontroll, published in The Swedish Code of Statutes 30 May 1991, entered into force 1 July 1991
- **SFS 1986:223 Administrative Procedure Act** – Förvaltningslag (1986:223), published in The Swedish Code of Statutes 7 May 1986, entered into force 1 January 1987
- **SFS 1978:02 Passport Act** - Passlagen (1978:02), published in The Swedish Code of Statutes 25 May 1978, entered into force .....
- **SFS 1971:291 The Administrative Court Procedure Act (1971:291)** - Förvaltningsprocesslag (1971:291), published in The Swedish Code of Statutes 4 June 1971
- **SFS 1987:230 Swedish Marriage Code** - Äktenskapsbalken (1987:230)
- **SFS 2004:1117 the Registration of Partnership Act** - Lag om registrerat partnerskap (2004:1117)
- **SFS 1904:26 Law concerning certain international legal relationships in terms of marriage and wardship** - Lag (1904:26 s.1) om vissa internationella rättsförhållanden rörande äktenskap och förmynderskap
- **SFS 2004:168 Communicable Diseases Act/Smittskyddslagen** (2004:168)

In terms of implementation, the official web page of the Swedish Migration Board has been consulted: [www.migrationsverket.se](http://www.migrationsverket.se)

Abbreviations:

- **Chap.** Chapter

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Analysed legislation in conformity? (click as appropriate)

YES   
or/and Stricter

NO   
Incomplete or/and Incorrect

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Art	Citation of the Article of the Directive	Corresponding national provision (legal ref. & art.)	Complete text of national provision (in language of Member State)	Translation into English of national provision	Fully in accord? (y/n)	Comments/Problems
Chapter I <b>GENERAL PROVISIONS</b>						
Art. 2.1	<b>Definitions</b>  For the purposes of this Directive: 1) "Union citizen" means any person having the nationality of a Member State;	Chapter 1 Section 3 b of the Aliens Act (2005:716)	<b>3 b § Med EES-stat</b> avses i denna lag en stat som omfattas av avtalet om Europeiska ekonomiska samarbetsområdet (EES).  <b>Med EES-medborgare</b> avses en utlänning som är medborgare i en EES-stat. Lag (2006:219).	<b>Section 3b</b> In this Act 'EEA state' means a state that is covered by the European Economic Area (EEA) agreement.  'EEA national' means an alien who is a national of an EEA state.	Y	Effective transposition.  The Swedish transposing legislation uses the term "EEA state" which means a state covered by the European Economic Area (EEA) agreement.  The European Economic Area (EEA) includes the 27 EU Members States and the EFTA member states Norway, Iceland and Liechtenstein.
Art. 2.2 (a)	2) "Family member" means: (a) the spouse;	Chapter 3 a Section 2 of the Aliens Act (2005:716)  Chapter 1 Section 1 of the Swedish Marriage Code (SFS 1987:230)  Chapter 1 Section 1 the Registration of Partnership Act (SFS 2004:1117)  Section 7 of Law (1904:26) concerning certain international legal relationships in terms of marriage and wardship	<b>2 § Med familjemedlem till EES-medborgare</b> avses i denna lag en utlänning som följer med eller i Sverige ansluter sig till en EES-medborgare och som är - <b>make eller sambo</b> till EES-medborgaren, .....  <b>1 § Äktenskap</b> ingås mellan en kvinna och en man.[...]  1 § Två personer av samma kön kan låta registrera sitt partnerskap.  7 § Äktenskap som ingåtts utom riket enligt främmande lag anses giltigt till formen, om det är giltigt i den stat där det ingicks.	<b>Section 2</b> In this Act 'a family member of an EEA national' means an alien who accompanies an EEA national to Sweden or joins an EEA national in Sweden and who is - <b>the spouse or cohabiting partner</b> of the EEA national, ..... Chapter 1 Section 1 A woman and a man may enter into marriage [...]  Chapter 1 Section 1 Two persons of the same sex may register their partnership.  Section 7 The marriage that took place in another State pursuant to a foreign law is deemed to be formally valid, if it is valid in the State where the marriage took place.	Y	Effective transposition.  Notably, the term "a family member of an EEA national" as used in the Swedish transposing legislation is wider than that used in the Directive. Since according to the Swedish legislation, a cohabitee relationship is almost equivalent to that of marriage (and also applies to the cohabitees of the same sex), the term "cohabiting partner of the EEA national" covers the spouse or cohabiting partner of the EEA national. Various aspects of the cohabitee relationship are governed in the Swedish Cohabitees Act (2003:382).  The Swedish Marriage Code (SFS 1987:230) only recognises marriages between a man and a woman (Section 1 of the Swedish Marriage Code). Section 7 of Law (1904:26) concerning certain international legal relationships in terms of marriage and

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						<p>wardship states however that the marriage that took place in another State pursuant to a foreign law is deemed to be formally valid in Sweden, if it is valid in the State where the marriage took place. In practice, the question of recognition of same sex marriages contracted in another MS is debatable. Theoretically, Sweden would most likely recognise the same sex marriage that took place in another State. However, this is not obvious. In the court's judgment 2006-08-2003 case nr. 4013-06, the administrative court of Gothenburg has stated that the definition of marriage shall be governed by Swedish law. As the Swedish Marriage Code only recognises marriages between the opposite sexes, the Swedish Administrative Court has concluded that the relationship between two persons of the same sex as considered being marriage elsewhere [in Canada] is not regarded to be marriage in Sweden [but the registered partnership]. Upon the appeal, the judgment was not changed by the Administrative Court of Appeal.<sup>1</sup></p> <p>The Registration of Partnership Act (SFS 2004:1117) lays down a possibility for people of the same sex to register their partnership (Section 1) with effects equivalent to those of marriage, with the exception of the rules concerning filiations and</p>

<sup>1</sup> In this case, the persons were both Swedish citizens who entered into marriage in Canada.

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						adoption.
Art. 2.2 (b)	(b) the partner with whom the Union citizen has contracted a registered partnership, on the basis of the legislation of a Member State, if the legislation of the host Member State treats registered partnerships as equivalent to marriage and in accordance with the conditions laid down in the relevant legislation of the host Member State;	Chapter 3 a Section 2 of the Aliens Act (2005:716)	2 § Med familjemedlem till EES-medborgare avses i denna lag en utlänning som följer med eller i Sverige ansluter sig till en EES-medborgare och som är - <b>make eller sambo</b> till EES-medborgaren, .....	<b>Section 2</b> In this Act 'a family member of an EEA national' means an alien who accompanies an EEA national to Sweden or joins an EEA national in Sweden and who is - <b>the spouse or cohabiting partner</b> of the EEA national, .....	Y	Effective transposition.  Although the Swedish transposing legislation does not explicitly refer to the term "registered partnership", when defining "a family member to an EEA citizen", the first mentioned term is implied. Section 1 of the Swedish Cohabitee Act (2003:376) defines "cohabitee" as two people who live together on a permanent basis as a couple and who have a joint household. Thus, whether the cohabitees are of opposite sexes or of the same sex is of no importance. Furthermore, Sweden treats registered partnership equivalent to marriage in accordance with the Registration of Partnership Act (SFS 2004:1117). In other words, the Swedish legislation provides for two concepts: the registered partnership and the cohabitee relationship (that does not have to be registered).
Art. 2.2 (c)	(c) the direct descendants who are under the age of 21 or are dependants and those of the spouse or partner as defined in point (b);	Chapter 3 a Section 2 of the Aliens Act (2005:716)	2 § Med familjemedlem till EES-medborgare avses i denna lag en utlänning som följer med eller i Sverige ansluter sig till en EES-medborgare och som är .....  - <b>släkting i rakt nedstigande led</b> till EES-medborgaren eller till hans eller hennes make eller sambo, om släktingen är <b>beroende</b> av någon av dem <b>för sin försörjning</b> eller är <b>under 21 år</b> , .....	<b>Section 2</b> In this Act 'a family member of an EEA national' means an alien who accompanies an EEA national to Sweden or joins an EEA national in Sweden and who is ..... - a <b>direct descendant</b> of the EEA national or of his or her spouse or cohabiting partner, if the descendant is <b>dependent</b> on either of them for <b>means of support</b> or is <b>under 21 years</b> of age or .....	Y	Effective transposition.  The transposing legislation refers to the term "spouse or cohabiting partner" which also applies to registered partner. See discussion under Art. 2.2 (b).  To determine the status of dependency of a family member, host Member State must, according to ECJ jurisprudence ( <i>Lebon</i> and <i>Jia</i> ), assess whether the relatives are not in a position to support themselves. Due regard shall be taken not only to their financial, but also social conditions.

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						<p>In <i>Jia</i>, “dependent” relative means the relative who was not in a position to support himself and had a need for material support in his state of origin existing when he applied to join the EC national.</p> <p>In <i>Lebon</i>, it was stated that the status of a dependent member of a worker's family is the result of a factual situation, without being any need to determine the reasons for recourse to the worker's support.</p> <p>The Swedish transposing legislation merely uses the term "dependent on means of support". However, this term is <i>de facto</i> used in a broader meaning encompassing economic, social and emotional dependency. This view is reflected in the Swedish administrative practice, primarily in the guidelines of the Swedish Migration Board. Moreover, similar considerations are incorporated in the Proposition (2004/05:170) to the Aliens Act (2005:716).</p> <p>Thus, the Swedish legislation has incorporated the same broad approach in terms of definition of dependent relative in line with the ECJ case law.</p> <p>In terms of evidence proving the existence of the state of dependency, the Guidelines of the Swedish Migration Board prescribe that it shall be decided on case-by-case basis what requirements may be posed on the evidence itself. With reference to <i>Jia</i> case, the Guidelines</p>

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						mention such examples of documents that may confirm the existence of the state of dependency as a document conforming that the persons have resided at the same address, or that money have been transferred.
Art. 2.2 (d)	(d) the dependent direct relatives in the ascending line and those of the spouse or partner as defined in point (b);	Chapter 3 a Section 2 of the Aliens Act (2005:716)	<b>2 §</b> Med familjemedlem till EES-medborgare avses i denna lag en utlänning som följer med eller i Sverige ansluter sig till en EES-medborgare och som är ..... - <b>släkting i rakt uppstigande led</b> till EES-medborgaren eller till hans eller hennes <b>make eller sambo</b> , om släktingen är <b>beroende</b> av någon av dem <b>för sin försörjning</b> . Lag (2006:219).	<b>Section 2</b> In this Act 'a family member of an EEA national' means an alien who accompanies an EEA national to Sweden or joins an EEA national in Sweden and who is ..... – a <b>direct ascendant</b> of the EEA national or of his or her <b>spouse or cohabiting partner</b> , if the relative is <b>dependent</b> on either of them for <b>means of support</b> .	Y	Effective transposition.  The transposing legislation refers to the term "spouse or cohabiting partner" that also applies to registered partner. See discussion under Art. 2.2 (b).  NB: In the Swedish translation of the Directive, the term "dependent" is wrongly translated. The correct Swedish term is ""beroende" and not "underhållsberättigad". This is noted in the preparatory legislative materials Government bill 2005/06:77 p. 38 (Proposition 2004/05:65)
Art. 2.3	3) "Host Member State" means the Member State to which a Union citizen moves in order to exercise his/her right of free movement and residence.	-			Y	Effective transposition.  The Swedish transposing legislation lacks a definition of the term "Host Member State". By implication, the Swedish transposing legislation uses "Sweden" within the meaning of "Host Member State" as defined by the Directive.
Art. 3.1	<b>Beneficiaries</b>  This Directive shall apply to all Union citizens who move to or reside in a Member State other than that of which	Aliens Act (2005:716) Chapter 3a Section 1, Chapter 1 Sections 5, 6, Aliens Ordinance (2006:97) Chapter 3 <sup>2</sup>	<b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige mer än tre månader utan uppehållstillstånd i enlighet med	<b>Section 1</b> 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for more than three months without a residence	N, Incomplete	Incomplete transposition  Both, the primary and the secondary Swedish transposing legislation, <i>above all</i> , Aliens Act (2005:716) and

<sup>2</sup> As the Swedish transposing legislation regulates the right of other EEA nationals and their family members to move to or reside in Sweden through numerous provisions, it appears to be logical to mention selected provisions for the purpose of exemplification.

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	they are a national, and to their family members as defined in point 2 of Article 2 who accompany or join them.		<p>vad som sägs i detta kapitel...</p> <p><b>5 §</b> Med inresa avses i denna lag att en utlänning passerar in över gränsen för svenskt territorium...</p> <p><b>6 §</b> Med utresa avses i denna lag att en utlänning passerar ut över gränsen för svenskt territorium...</p> <p><b>3 kap.</b> Bestämmelser om visering Undantag från kravet på visering <b>1 §</b> Utöver vad som föreskrivs i 2 kap. 3, 8 och 10 §§ utlänningslagen (2005:716) är nedan angivna utlänningar undantagna från kravet på visering:</p> <p>1. Medborgare i Storbritannien ("British citizen") som har hemlandspass eller den som innehar ett med "British passport" betecknat hemlandspass eller ett av behörig myndighet utfärdat identitetskort, där medborgarskapet är angivet som "British citizen" eller "British National Overseas" (BNO) och som gäller för inresa i Storbritannien.</p> <p>2. Medborgare i Belgien, Bulgarien, Cypern, Estland, Frankrike, Grekland, Irland, Italien, Lettland, Litauen, Liechtenstein, Luxemburg, Malta, Nederländerna, Polen, Rumänien, Schweiz, Slovakien, Slovenien, Portugal, Spanien, Tjeckien, Tyskland, Ungern och Österrike, om de har hemlandspass eller ett identitetskort som är utfärdat av</p>	<p>permit in accordance with what is stated in this Chapter...</p> <p><b>Section 5</b> In this Act 'entry' means that an alien crosses the border into Swedish territory...</p> <p><b>Section 6</b> In this Act 'exit' means that an alien crosses the border out of Swedish territory...</p> <p><b>Chapter 3.</b> Provisions concerning visas Exemptions from the visa requirement <b>Section 1</b> In addition to what is prescribed in Chapter 2, Sections 3, 8 and 10 of the Aliens Act (2005:716), the aliens specified below are exempt from the visa requirement:</p> <p>1. Nationals of the United Kingdom ('British citizen') who have a national passport or persons who possess a national passport designated a 'British passport' or an identity card issued by a competent authority, in which the nationality is stated as 'British citizen' or 'British National Overseas' (BNO) and that is valid for entry into the United Kingdom.</p> <p>2. Nationals of Belgium, Cyprus, Estonia, France, Greece, Ireland, Italy, Latvia, Lithuania, Liechtenstein, Luxembourg, Malta, the Netherlands, Poland, Switzerland, Slovakia, Slovenia, Portugal, Spain, the Czech</p>		<p>Aliens Ordinance (2006:97) effectively regulate the right of other EEA nationals and their family members to move to or reside in Sweden. For instance, Chapter 3a in Aliens Act (2005:716) contains provisions on right of residence for EEA nationals and their family members; Chapter 1 Sections 5 and 6 of Aliens Act (2005:716) define entry and exit using the broad term alien also encompassing EEA nationals, as well as Chapter 3 of Aliens Ordinance (2006:97) contains exemptions from visa requirement for EEA nationals.</p> <p>Finally, the provisions apply to all EU nationals in accordance with the principle of non-discrimination.</p> <p>It follows from Surinder Singh judgment that a Member State must grant leave to enter and reside in its territory to the spouse, of whatever nationality, of a national of that state who has gone, with that spouse, to another member state in order to work there as an employed person and returns to establish herself in the state of which she is a national. A spouse must be granted at least the same rights as would be granted to him under Community law if his spouse had entered and resided in another member state. The Swedish legislation does not explicitly provide for this rule. In terms of implementation, it follows from the Guidelines published at the official web page of the Swedish Migration</p>



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		Chapter 5 Section 3 a p. 2 of the Aliens Act (2005:716)	<p>en behörig myndighet i hemlandet och utvisar medborgarskap...</p> <p><b>3 a § Uppehållstillstånd</b> får, om inte annat anges i 17 § andra stycket, ges till</p> <p>2. en utlänning som på något annat sätt än som avses i 3 § eller i denna paragraf är nära anhörig till någon som är bosatt eller som har beviljats uppehållstillstånd för bosättning i Sverige, om han eller hon har ingått i samma hushåll som den personen och det finns ett särskilt beroendeförhållande mellan släktingarna som fanns redan i hemlandet, .....</p>	<p>Republic, Germany, Hungary and Austria, if they have a national passport or an identity card that has been issued by a competent authority in the country of origin and shows their nationality...</p> <p><b>Section 3a</b> Unless otherwise provided in Section 17, second paragraph, a residence permit may be given to</p> <p>2. an alien who in some way other than those referred to in Section 3 or in this Section is a close relative of someone who is resident in or who has been granted a residence permit to settle in Sweden, if he or she has been a member of the same household as that person and there exists a special relationship of dependence between the relatives that already existed in the country of origin [...]</p>		<p>Board, that Swedish citizens are not regarded as EU/EEA citizens in this context. Family members should therefore apply for a residence permit. However, no exemption from the just mentioned main rule is provided in connection with the situation, when they have exercised the right of free movement and returned to Sweden. Therefore, the conclusion is that the main rule will apply, thus affecting the quality of transposition.</p> <p>According to the Guidelines, no difference in treatment between family members accompanying an EU citizen and those seeking entry to join an EU citizen that is in the territory of MS is made. Like in <i>Jia</i> case, the question of prior unlawful residence in the member state is irrelevant.</p> <p>It follows from Chapter 5 Section 3a p.2 of the Aliens Act that, under certain conditions, an alien who is a close relative of someone who is resident in or who has been granted a residence permit to settle in Sweden may be granted a residence permit. This is in line with the <i>Metock</i> Case, where the European Court of Justice has ruled that, in the case of a married couple, irrespective of when and where the marriage took place and of how the spouse entered the host State, a non-European Union spouse of a citizen of the European Union can reside with that citizen in the European Union (even without</p>

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						having previously been resident in another Member State). However, the overall conclusion still will be incomplete transposition.
Art. 3.2 (a)	Without prejudice to any right to free movement and residence the persons concerned may have in their own right, the host Member State shall, in accordance with its national legislation, facilitate entry and residence for the following persons: (a) any other family members, irrespective of their nationality, not falling under the definition in point 2 of Article 2 who, in the country from which they have come, are dependants or members of the household of the Union citizen having the primary right of residence, or where serious health grounds strictly require the personal care of the family member by the Union citizen;	Chapter 5 Section 3 a p. 2 of the Aliens Act (2005:716)	<b>3 a § Uppehållstillstånd</b> får, om inte annat anges i 17 § andra stycket, ges till 1. en utlänning som har för avsikt att ingå äktenskap eller inleda ett samboförhållande med en person som är bosatt eller som har beviljats uppehållstillstånd för bosättning i Sverige, om förhållandet framstår som seriöst och inte särskilda skäl talar mot att tillstånd ges, 2. en utlänning som på något annat sätt än som avses i 3 § eller i denna paragraf är nära anhörig till någon som är bosatt eller som har beviljats uppehållstillstånd för bosättning i Sverige, om han eller hon har ingått i samma hushåll som den personen och det finns ett särskilt beroendeförhållande mellan släktingarna som fanns redan i hemlandet, .....	<b>Section 3a</b> Unless otherwise provided in Section 17, second paragraph, a <b>residence permit</b> may be given to 1. an alien who intends to marry or enter into a cohabitee relationship with a person who is resident in or who has been granted a residence permit to settle in Sweden, if the relationship appears to be serious and there are no special grounds not to give a permit, 2. an alien who in some way other than those referred to in Section 3 or in this Section is a close relative of someone who is resident in or who has been granted a residence permit to settle in Sweden, if he or she has been a member of the same household as that person and there exists a special relationship of dependence between the relatives that already existed in the country of origin,	N, Incorrect	Incorrect transposition  "Facilitation of entry and residence" within the meaning of the Directive is broader than that used in the Swedish law. In particular, the Directive requires that Member State shall examine the case and give reasoned decision, while the Swedish law treats the issuing of residence permit within the meaning of "facilitation of entry and residence".  According to the Swedish legislation, a resident permit may be given someone who is resident in or who has been granted a residence permit to settle in Sweden, if he or she has been a member of the same household as that person and there exists a special relationship of dependence between the relatives that already existed in the country of origin.  The transposing legislation does however, not mention serious health grounds. In addition, the transposing national provision mentions "the country of origin", but not "the country from which they have come" as required by the Directive.  It is therefore concluded that the transposing legislation is not in full conformity with the Directive.

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Art. 3.2 (b)	(b) the partner with whom the Union citizen has a durable relationship, duly attested.	Chapter 5 Section 3 a p. 1 of the Aliens Act (2005:716)  Chapter 3a Section 2 of the Aliens Act (2005:716)	<p><b>3 a §</b> Uppehållstillstånd får, om inte annat anges i 17 § andra stycket, ges till</p> <p>1. en utlänning som har för <b>avsikt att ingå äktenskap eller inleda ett samboförhållande</b> med en person som är bosatt eller som har beviljats uppehållstillstånd för bosättning i Sverige, om förhållandet framstår som seriöst och inte särskilda skäl talar mot att tillstånd ges,</p> <p><b>2 §</b> Med familjemedlem till EES-medborgare avses i denna lag en utlänning som följer med eller i Sverige ansluter sig till en EES-medborgare och som är - <b>make eller sambo</b> till EES-medborgaren, .....</p>	<p><b>Section 3a</b> Unless otherwise provided in Section 17, second paragraph, a residence permit may be given to</p> <p>1. an alien who <b>intends to marry or enter into a cohabitee relationship</b> with a person who is resident in or who has been granted a residence permit to settle in Sweden, if the relationship appears to be serious and there are no special grounds not to give a permit,</p> <p>Also includes here the cohabitee mentioned in Article 2(2)(b)</p> <p><b>Section 2</b> In this Act 'a family member of an EEA national' means an alien who accompanies an EEA national to Sweden or joins an EEA national in Sweden and who is – <b>the spouse or cohabiting partner</b> of the EEA national, .....</p>	Y	<p>Effective transposition.</p> <p>The Swedish Law does not contain the term of "durable relationship".</p> <p>Here, cohabiting partners are those already covered by Chapter 3a section 2 of the Aliens Act (2005:716).</p> <p>In addition, Swedish legislation allows for granting of residence permit to an alien who <i>intends</i> to marry or enter into cohabitee relationship with a person who has been granted residence permit in Sweden if the relationship appears to be serious and there are no special grounds not to give a permit. It shall be noted that the Swedish transposing provisions do not require the status of cohabitation, but merely refers to the intention to marry or enter into cohabitee relationship.</p> <p>N.B.: Facilitation in this context is also understood as giving a residence permit.</p>
	The host Member State shall undertake an extensive examination of the personal circumstances and shall justify any denial of entry or residence to these people.				N, Incomplete	<p>Incomplete transposition</p> <p>This provision ensures that each case is analysed on a case-by-case basis and that the personal circumstances will be taken into account. However, the Swedish transposing legislation does not contain any similar requirement.</p>

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Chapter II <b>RIGHT OF EXIT AND ENTRY</b>						
Art. 4.1	<p><b>Right of Exit</b></p> <p>Without prejudice to the provisions on travel documents applicable to national border controls, all Union citizens with a valid identity card or passport and their family members who are not nationals of a Member State and who hold a valid passport shall have the right to leave the territory of a Member State to travel to another Member State.</p>	Chapter 2 Section 17 of the Aliens Decree (2006:97)	<p><b>17 §</b> Ett <b>identitetskort</b> för en utlänning som är medborgare i den utfärdande staten som utvisar medborgarskap och som har utfärdats av en behörig myndighet i en EES-stat eller Schweiz gäller som <b>pass</b> vid utlänningens ankomst till och <b>utresa</b> från Sverige samt under den tid utlänningen har rätt att vistas här. Detsamma gäller identitetskort som har utfärdats av behörig myndighet i en annan stat än EES-stat eller Schweiz för en schweizisk medborgares make, för deras barn som är under 21 år eller som är beroende av dem för sin försörjning och för släktingar i närmast föregående led till sådan utlänning eller hans eller hennes make och som är beroende av dem, om familjemedlemmen är medborgare i den staten och medborgarskapet framgår av identitetskortet...</p>	<p><b>Section 17</b> An <b>identity card</b> for an alien who is a national of the issuing state that indicates nationality and that has been issued by a competent authority in an EEA state or Switzerland is valid as a <b>passport</b> upon the alien's arrival in and <b>departure</b> from Sweden and during the time that the alien has a right to stay here. The same applies to identity cards that have been issued by a competent authority in a state other than an EEA state or Switzerland to a spouse of a Swiss national, to their children who are under 21 years of age or who are dependent upon them and to dependent immediate relatives in the ascending line of such an alien or his or her spouse, if the family member is a national of the state and the nationality is shown by the identity card...</p>	N, Incorrect	<p>Incorrect transposition</p> <p>The Swedish transposing provision shall be interpreted a contrario stipulating as a main rule that passport shall grant an alien the right to leave the territory of Sweden to travel to another Member State.</p> <p>Moreover, the provisions apply mutatis mutandis to identity cards issued by a competent authority in Switzerland or in a state other than an EEA state or Switzerland to family members of the nationals of Switzerland who can confirm his/her nationality by the identity card.</p> <p>Section 17 also applies to partners, as they are considered to be family members (see reasoning under Article 2(2) the definition of "the spouse").</p> <p>The Swedish legal regime distinguishes between "internal border" and "external border". The first mentioned term includes the states covered by the Scheme agreement, while the last mentioned term includes other states not covered by the Schengen agreement (also EU non-Schengen EU Member States) (Section 3 of Aliens Decree SFS 2006:97).</p> <p>Article 6 of the Schengen agreement states that "cross-border movement at</p>

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						<p>external borders shall be subject to checks by the competent authorities". Being a party to the Schengen agreement Sweden is obliged to check all persons (also Swedish nationals) crossing an external border (Government Bill Prop. 2005/06:77, p. 59), while no such obligation exists when crossing an internal border.</p> <p>The question is whether the Swedish nationals may leave Sweden to travel to a non-Schengen EU Member State just with his Swedish ID-card or whether the Passport Act obliges him/her to travel with a Swedish passport. The main rule as laid down in section 5 para. 1 of the Passport Act (SFS 1978:302) stipulates that a Swedish national is not allowed to leave the territory of Sweden without a valid passport. The exemption from this rule as prescribed in Section 5 para. 2 applies in cases when a Swedish national crosses the internal border. No such opportunity provided for a Swedish national leaving Sweden to travel to a non-Schengen EU state. This is not in line with the Directive's requirement to be able to leave the country with an ID-card of passport. Consequently, the transposition of Article 4(1) is incorrect.</p>
Art. 4.2	No exit visa or equivalent formality may be imposed on the persons to whom paragraph 1 applies.	Chapter 2 Section 17 of the Aliens Decree (2006:97)	<b>17 §</b> Ett identitetskort för en utlänning som är medborgare i den utfärdande staten som utvisar medborgarskap och som har utfärdats av en behörig myndighet i en EES-stat eller Schweiz gäller	<b>Section 17</b> An identity card for an alien who is a national of the issuing state that indicates nationality and that has been issued by a competent authority in an EEA state or Switzerland is	Y	Effective transposition.  No "exit visa" requirement applies in the Swedish legislation as such since only ID is required.

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			<p>som pass vid utlänningsanskomst till och utresa från Sverige samt under den tid utlänningsansökan har rätt att vistas här. Detsamma gäller identitetskort</p>	<p>valid as a passport upon the alien's arrival in and departure from Sweden and during the time that the alien has a right to stay here.</p>		<p>Swedish legislation covers both arrival and departure.</p> <p>The Swedish legal regime does not contain any obligation for aliens (including third country nationals) to have an exit visa (Government Bill Prop. 2005/06:77, p. 59).</p>
Art. 4.3	Member States shall, acting in accordance with their laws, issue to their own nationals, and renew, an identity card or passport stating their nationality.	<p>Article 4 of the Swedish Passport Act (1978:302) Article 4 of the National Identity Cards Decree (2005:661)</p>	<p><b>4 §</b> Svensk medborgare har rätt att på ansökan erhålla vanligt pass, om annat ej följer av denna lag.</p> <p><b>1 §</b> Den myndighet som enligt 2 § passlagen (1978:302) är passmyndighet kan på ansökan av en svensk medborgare även utfärda ett nationellt identitetskort.</p>	<p><b>Section 4.</b> A Swedish citizen has the right upon application to obtain a common passport, unless otherwise provided in this law.</p> <p><b>Section 1.</b> The authority that in accordance with Section 2 of Passport Act (1987:302) is a passport authority may upon application of a Swedish citizen also issue a national identity card.</p>	Y	<p>Effective transposition.</p> <p>A Swedish citizen can obtain a passport or identity card after submission of application.</p> <p>However, the Swedish transposing legislation does not explicitly require a passport or an identity card to be renewed. As the standard procedure is that one has a possibility to obtain a new id or a passport after expiration, a case of effective transposition is concluded here.</p>
Art.4.4	The passport shall be valid at least for all Member States and for countries through which the holder must pass when travelling between Member States. Where the law of a Member State does not provide for identity cards to be issued, the period of validity of any passport on being issued or renewed shall be not less than five years.	Article 3 of the Swedish Passport Act (1978:302)	<p><b>3 §</b> Pass utfärdas som vanligt pass eller särskilt pass. Om annat inte följer av denna lag eller av föreskrifter som för särskilt angivna fall meddelas av regeringen eller myndighet som regeringen bestämmer, utfärdas vanligt pass med en giltighetstid av fem år. Vanligt pass skall gälla för resa till alla länder, om annat inte följer av denna lag och sökanden inte har begärt att passets giltighetsområde begränsas.</p> <p>Regeringen eller den myndighet</p>	<p><b>Section 3.</b> A passport is being issued as a common passport or a special passport. Unless otherwise provided in this law or decrees issued for each individual case by the Government or an authority appointed by the Government, a common passport is being issued with a duration period of five years. A common passport shall be valid for entry to all countries, unless otherwise provided in this law or the applicant has required that the passport's areas of validity shall be limited.</p> <p>Government or the authority</p>	Y	<p>Effective transposition.</p> <p>In addition to the obligation for the authorities to issue identity cards, the Swedish transposing legislation also requires that the period of validity of the standard passport should, as a rule, be five years.</p> <p>The Swedish passport is at least valid for all Member States, and includes nationality and identity.</p> <p>The question is whether the Swedish nationals may leave Sweden to travel to a non-Schengen EU Member State just with his/her Swedish ID-card, or whether the Passport Act obliges</p>

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			<p>som regeringen bestämmer får meddela närmare föreskrifter om särskilt pass. Därvid kan föreskrivas att sådant pass får utfärdas för den som uppehåller sig utomlands och inte kan styrka sitt svenska medborgarskap eller har förlorat svenskt medborgarskap utan att förvärva medborgarskap i en annan stat. Lag (2005:655).</p>	<p>appointed by the Government may issue closer prescriptions with regard to a special passport. Therewith, it may be prescribed that the passport may be issued for a person who stays abroad and is not able to prove his or her Swedish citizenship or has lost the Swedish citizenship without having acquired citizenship in another country.</p>		<p>him/her to travel with a Swedish passport. The main rule as laid down in section 5 para. 1 of the Passport Act (SFS 1978:302) stipulates that a Swedish national is not allowed to leave the territory of Sweden without a valid passport. The exemption from this rule as prescribed in Section 5 para. 2 applies in cases when a Swedish national crosses the internal border. No such opportunity is provided for a Swedish national leaving Sweden to travel to a non-Schengen EU state.</p>
Art. 5.1	<p><b>Right on Entry</b></p> <p>1. Without prejudice to the provisions on travel documents applicable to national border controls, Member States shall grant Union citizens leave to enter their territory with a valid identity card or passport and shall grant family members who are not nationals of a Member State leave to enter their territory with a valid passport.</p>	Chapter 2 Sections 1 and 8 of the Aliens Act (2005:716)	<p><b>2 kap. Bestämmelser om resehandlingar</b></p> <p><b>1 §</b> En utlänning som reser in i eller vistas i Sverige skall ha pass.</p> <p><b>8 §</b> Kraven på pass, visering, uppehållstillstånd och arbetstillstånd enligt 1, 3, 5 och 7 §§ för <b>inresa</b>, vistelse och arbete gäller inte medborgare i Danmark, Finland, Island eller Norge.</p>	<p><b>Chapter 2. Provisions concerning travel documents</b></p> <p><b>Section 1</b> An alien entering or staying in Sweden must have a passport.</p> <p><b>Section 8</b> The passport, visa, residence permit and work permit requirements stated in Sections 1, 3, 5 and 7 for <b>entry</b>, stay and work do not apply to nationals of Denmark, Finland, Iceland or Norway.</p>	Y	<p>Effective transposition.</p> <p>As a main rule, the Swedish legislation provides for a passport requirement for an alien entering or staying in Sweden.</p> <p>However, this requirement does not apply to nationals of EEA states and Switzerland. Instead, an identity card for an alien who is a national of the issuing state that indicates nationality and that has been issued by a competent authority in an EEA state or Switzerland is required. The same applies to identity cards that have been issued by a competent authority in a state other than an EEA state or Switzerland to relatives of nationals of EEA and Switzerland.</p> <p>N.B.: the term "EEA states" also encompasses Schengen states.</p>
		Chapter 2, Section 1 and 17 of the Aliens Decree (2006:97)	<p><b>2 kap. Bestämmelser om resehandlingar</b></p> <p>Undantag från kravet på passinnehav</p>	<p><b>Chapter 2. Provisions concerning travel documents</b></p> <p>Exemptions from the passport requirement</p>		

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			<p><b>1 §</b> En utlänning som är <b>medborgare i en Schengenstat</b> och som kommer till Sverige direkt från en sådan stat, behöver inte ha pass vid inresa eller vistelse i landet...</p> <p><b>17 §</b> Ett identitetskort för en utlänning som är medborgare i den utfärdande staten som utvisar medborgarskap och som har utfärdats av en behörig myndighet i en EES-stat eller Schweiz gäller som pass vid utlänningens <b>ankomst till</b> och utresa från Sverige samt under den tid utlänningen har rätt att vistas här. Detsamma gäller identitetskort som har utfärdats av behörig myndighet i en annan stat än EES-stat eller Schweiz för en schweizisk medborgares make, för deras barn som är under 21 år eller som är beroende av dem för sin försörjning och för släktingar i närmast föregående led till sådan utlänning eller hans eller hennes make och som är beroende av dem, om familjemedlemmen är medborgare i den staten och medborgarskapet framgår av identitetskortet...</p>	<p><b>Section 1</b> An alien who is a <b>national of a Schengen State</b> and who comes to Sweden direct from such a state does not need to have a passport for entry to or stay in the country...</p> <p><b>Section 17</b> An identity card for an alien who is a national of the issuing state that indicates nationality and that has been issued by a competent authority in an EEA state or Switzerland is valid as a passport <b>upon the alien's arrival</b> in and departure from Sweden and during the time that the alien has a right to stay here. The same applies to identity cards that have been issued by a competent authority in a state other than an EEA state or Switzerland to a spouse of a Swiss national, to their children who are under 21 years of age or who are dependent upon them and to dependent immediate relatives in the ascending line of such an alien or his or her spouse, if the family member is a national of the state and the nationality is shown by the identity card...</p>		
	No entry visa or equivalent formality may be imposed on Union citizens.	Chapter 3 Section 1 of the Aliens Decree (2006:97)	<p><b>Kap 3</b> <b>1 §</b> Utöver vad som föreskrivs i 2 kap. 3, 8 och 10 §§ utlänningslagen (2005:716) är nedan angivna utlänningar <b>undantagna från kravet på visering.</b></p>	<p><b>Chapter 3</b> <b>Section 1</b> In addition to what is prescribed in Chapter 2, Sections 3, 8 and 10 of the Aliens Act (2005:716), the aliens specified below are <b>exempt from the visa requirement.</b></p>	Y	<p>Effective transposition.</p> <p>According to the Swedish legislation, EEA nationals are exempted from the visa requirement.</p> <p>In addition, the Swedish provisions</p>



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			<p>1. Medborgare i Storbritannien ("British citizen") som har hemlandspass eller den som innehar ett med "British passport" betecknat hemlandspass eller ett av behörig myndighet utfärdad identitetskort, där medborgarskapet är angivet som "British citizen" eller "British National Overseas" (BNO) och som gäller för inresa i Storbritannien.</p> <p>2. Medborgare i Belgien, Bulgarien, Cypern, Estland, Frankrike, Grekland, Irland, Italien, Lettland, Litauen, Liechtenstein, Luxemburg, Malta, Nederländerna, Polen, Rumänien, Schweiz, Slovakien, Slovenien, Portugal, Spanien, Tjeckien, Tyskland, Ungern och Österrike, om de har hemlandspass eller ett identitetskort som är utfärdad av en behörig myndighet i hemlandet och utvisar medborgarskap.</p> <p>3. Medborgare i något av de länder som anges i 1 och 2 om de finns upptagna i ett kollektivpass som har utfärdats av en behörig myndighet i hemlandet. .....</p> <p>15. Utlänningar som har uppehållskort eller permanent uppehållskort som har utfärdats i Sverige eller av behörig myndighet i annan EES-stat. Ytterligare undantag från viseringskravet finns i rådets förordning (EG) nr 539/2001 av</p>	<p>1. Nationals of the United Kingdom ('British citizen') who have a national passport or persons who possess a national passport designated a 'British passport' or an identity card issued by a competent authority, in which the nationality is stated as 'British citizen' or 'British National Overseas' (BNO) and that is valid for entry into the United Kingdom.</p> <p>2. Nationals of Belgium, Cyprus, Estonia, France, Greece, Ireland, Italy, Latvia, Lithuania, Liechtenstein, Luxembourg, Malta, the Netherlands, Poland, Switzerland, Slovakia, Slovenia, Portugal, Spain, the Czech Republic, Germany, Hungary and Austria, if they have a national passport or an identity card that has been issued by a competent authority in the country of origin and shows their nationality.</p> <p>3. Nationals of any of the countries specified in point 1 or 2 if they are included in a collective passport that has been issued by a competent authority in the country of origin. .....</p> <p>15. Aliens who have a residence card or a permanent residence card that has been issued in Sweden or by a competent authority in another EEA state. Further exemptions from the visa requirement are contained in Council Regulation (EC) No</p>		<p>allowing for exemptions from the visa requirements list a number of other persons to whom visa requirements do not apply (<i>inter alia</i>, certain categories of refugees or stateless persons, holders of Vatican passports, certain categories of personnel belonging to the military forces, nationals of certain states holding a diplomatic passport, etc.)</p>

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			den 15 mars 2001 om fastställande av förteckningen över tredje länder vars medborgare är skyldiga att inneha visering när de passerar de yttre gränserna och av förteckningen över de tredje länder vars medborgare är undantagna från detta krav. Förordning (2007:680).	539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. Ordinance (2006:262).		
Art. 5.2	2. Family members who are not nationals of a Member State shall only be required to have an entry visa in accordance with Regulation (EC) No 539/2001 or, where appropriate, with national law. For the purposes of this Directive, possession of the valid residence card referred to in Article 10 shall exempt such family members from the visa requirement.	Chapter 3 Section 1, p.15 of the Aliens Decree (2006:97)	<b>Kap 3</b> <b>1 §</b> Utöver vad som föreskrivs i 2 kap. 3, 8 och 10 §§ utlänningslagen (2005:716) är nedan angivna utlänningar <b>undantagna från kravet på visering.</b> ... 15. Utlänningar som har uppehållskort eller permanent uppehållskort som har utfärdats i Sverige eller av behörig myndighet i annan EES-stat. Ytterligare undantag från viseringskravet finns i rådets förordning (EG) nr 539/2001 av den 15 mars 2001 om fastställande av förteckningen över tredje länder vars medborgare är skyldiga att inneha visering när de passerar de yttre gränserna och av förteckningen över de tredje länder vars medborgare är undantagna från detta krav. Förordning (2007:680).	<b>Chapter 3</b> <b>Section 1</b> In addition to what is prescribed in Chapter 2, Sections 3, 8 and 10 of the Aliens Act (2005:716), the aliens specified below are <b>exempt from the visa requirement.</b> ... 15. Aliens who have a residence card or a permanent residence card that has been issued in Sweden or by a competent authority in another EEA state. Further exemptions from the visa requirement are contained in Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. Ordinance (2006:262).	Y	Effective transposition.  Notably, the family members who are not nationals of a Member State are covered by the general provisions concerning an entry visa (including the provisions on exemptions from the visa requirement).  Upon a possession of a residence card or a permanent residence card, family members as above are exempted from the visa requirement.
	Member States shall grant such persons every facility to obtain the necessary visas. Such visas shall be issued free of charge as soon as possible and on the basis of an accelerated procedure.	Chapter 8 Section 4 of the Aliens Decree (2006:97) Chapter 3, Section 2 of the Aliens Decree (2006:97) Annex to the Diplomatic and	<b>Kap 8</b> <b>4 §</b> Avgift tas ut för prövning av ansökan enligt denna förordning i de fall och med de belopp som framgår av tredje och fjärde samt	<b>Chapter 8</b> <b>Section 4</b> Fees may be charged for examining applications under this Ordinance in the cases and in the amounts set out in the	N, Incomple te	Incomplete transposition  According to the Swedish transposing legislation, visas to family members who are not

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		Consular Fees Decree (1997:691)	<p>4 a och 5 §§. För de ansökningar som skall ges in till en svensk beskickning eller ett svenskt konsulat tas avgift ut enligt förordningen (1997:691) om avgifter vid utlandsmyndigheterna. För prövning av ansökan gäller i övrigt 11-14 §§ avgiftsförordningen (1992:191). .....</p> <p><b>Annex till Förordning (1997:691) om avgifter vid utlandsmyndigheter</b> <b>Bilaga Avgiftslista</b> ..... <b>...Visering enligt 3 kap. 4 § utlänningslagen (2005:716)</b> ..... Visering för sådana anhöriga som avses i 3 a kap. 2 § utlänningslagen (2005:716) och 4 kap. 16 § utlänningsförordningen (1997:691) utan avgift .....</p>	<p>third paragraph and in Section 5. For applications that have to be submitted to a Swedish embassy or Swedish consulate fees are charged under the Ordinance concerning Charges at Swedish Foreign Missions (1997:691). Otherwise Sections 11–14 of the Fees Ordinance (1992:191) apply to the examination of applications. .....</p> <p><b>Annex to Ordinance (1997:691) on charges of foreign authorities</b></p> <p><b>Annex The list of charges</b></p> <p>... The issuing of visas in accordance with Chapter 3 Section 4 of Aliens Act (2005:716) ..... The issuing of visas for the dependents as referred to in Chapter 3a Section 2 of Aliens Act (2005:716) and Chapter 4 Section 16 Aliens Ordinance (1997:691) shall be free of charge...</p>		<p>nationals of a Member State are free of charge.</p> <p>However, the Swedish law does not explicitly require that visas shall be issued on the basis of an accelerated procedure.</p> <p>Neither does it include the obligation to facilitate visas for other family members (see comments above at Article 3(2)).</p>
Art. 5.3	3. The host Member State shall not place an entry or exit stamp in the passport of family members who are not nationals of a Member State provided that they present the residence card provided for in Article 10.	Chapter 6 Section 4 of the Aliens Decree (2006:97)	<b>4 §</b> Vid kontroll skall en utlänning som reser in i eller ut från landet över en yttre gräns visa upp sitt pass för polismyndigheten. Polismyndigheten skall anteckna dagen för utlännings inresa eller utresa i passet. Anteckning om inresa eller utresa skall dock inte göras på identitetskort. En sådan anteckning skall inte heller göras i	<b>Section 4</b> When checks are carried out an alien who is entering or leaving the country across an external border shall present his or her passport to the police authority. The police authority shall note the date of the alien's entry or exit in the passport. However, a note of an entry or exit shall not be made	Y	<p>Effective transposition.</p> <p>The Swedish legislation does not require a note of an entry or exit on an identity card or in a passport of an EEA national or a Swiss national or in a passport of an alien who has a residence card or a permanent residence card.</p>

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			<p>ett pass för en EES- medborgare eller medborgare i Schweiz eller i ett pass för en utlänning som har uppehållskort eller permanent uppehållskort.</p> <p>Bestämmelserna i första stycket gäller även när kontrollen sker under medverkan av Tullverket, Kustbevakningen, Migrationsverket eller med hjälp av en särskilt förordnad passkontrollant.</p>	<p>on an identity card. Nor shall such a note be made in a passport of an EEA national or a Swiss national or in a passport of an alien who has a residence card or a permanent residence card.</p> <p>The provisions in the first paragraph also apply when the checks are carried out with the assistance of the Swedish Customs Service, the Swedish Coast Guard or the Swedish Migration Board or with the assistance of a specially appointed passport control officer.</p>		
Art. 5.4	4. Where a Union citizen, or a family member who is not a national of a Member State, does not have the necessary travel documents or, if required, the necessary visas, the Member State concerned shall, before turning them back, give such persons every reasonable opportunity to obtain the necessary documents or have them brought to them within a reasonable period of time or to corroborate or prove by other means that they are covered by the right of free movement and residence.	Chapter 8 Section 1 of the Aliens Act (2005:716), Chapter 6 Section 4 of the Aliens Decree (2006:97)	<p><b>1 § /Upphör att gälla U:</b>den dag regeringen bestämmer/ En utlänning får avvisas</p> <p>1. om han eller hon saknar pass när det krävs pass för inresa eller vistelse i Sverige,</p> <p>2. om han eller hon saknar visering, uppehållstillstånd eller något annat tillstånd som krävs för inresa, vistelse eller arbete i Sverige,</p> <p>.....</p> <p>En EES-medborgare <b>får inte avvisas</b> enligt första stycket 1, om han eller hon på annat sätt än genom innehav av pass kan styrka sin identitet. Detsamma skall gälla en EES-medborgares familjemedlem som inte själv är EES-medborgare.</p> <p>En EES-medborgare och hans eller hennes familjemedlem får inte avvisas enbart på den grunden att han eller hon inte uppfyller vad</p>	<p><b>Section 1</b> An alien may be refused entry</p> <p>1. if he or she has no passport when a passport is required to enter or stay in Sweden,</p> <p>2. if he or she lacks a visa, residence permit or some other permit that is required to enter, stay or work in Sweden,</p> <p>.....</p> <p>An EEA national <b>may not be refused entry</b> under the first paragraph, point 1, if he or she can prove his or her identity by a means other than possession of a passport. The same shall apply to a family member of an EEA national who is not an EEA national himself or herself.</p> <p>An EEA national and a member of his or her family may not be refused entry solely on the</p>	N, Incomplete	<p>Incomplete transposition</p> <p>The Swedish legislation provides that an EEA national may not be refused entry under the first paragraph, point 1, if he or she can prove his or her identity by a means other than possession of a passport. The same shall apply to a family member of an EEA national who is not an EEA national himself or herself.</p> <p>The Swedish law nuanced that if an alien who comes to the country is unable to confirm his or her right of entry, the police shall immediately be informed by the custom/migration to ensure that the alien does not enter the country before the police authority has subjected the alien to checks.</p> <p>Sweden has not, however, transposed the requirements of "have them</p>

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			<p>som sägs i artikel 5.1 c i Schengenkonventionen i fråga om tillräckliga medel för uppehälle. Lag (2006:219)...</p> <p><b>4§</b> Om en utlänning som kommer till landet inte kan styrka sin rätt till inresa, skall Tullverket, Kustbevakningen, Migrationsverket eller passkontrollanten omedelbart underrätta polismyndigheten och se till att utlänningen inte reser in i landet innan polismyndigheten har kontrollerat utlänningen. Vid utresekontroll skall polismyndigheten underrättas om det finns skäl för det. Förordning (2006:262).</p>	<p>grounds that he or she does not fulfil the provisions in Article 5.1 (c) of the Schengen Convention concerning sufficient means of subsistence...</p> <p><b>Section 4</b> If an alien who comes to the country is unable to confirm his or her right of entry, the Swedish Customs Service, the Swedish Coast Guard, the Swedish Migration Board or the specially appointed passport control officer shall immediately inform the police authority and ensure that the alien does not enter the country before the police authority has subjected the alien to checks. In the case of exit checks the police authority shall be notified if there is reason to do so. Ordinance (2006:262)...</p>		<p>brought to them", "within a reasonable period of time" or "to corroborate or prove by other means".</p> <p>In terms of third country national lacking necessary entry visa, the Swedish Government has found it necessary to limit the possibility of expulsion as stipulated in Chapter 8 Section 1 of the Aliens Act. The view of the Swedish Government is reflected in the Government Bill Prop. 2005/06:77 p. 66. Expulsion shall take place only in cases when an alien is not able to provide for documents required by the Swedish rules <i>as well as</i> when identity and nationality cannot be proved by other means. Chapter 3 Section 2 of the Aliens Decree allows for a possibility for a so-called "emergency visa" issued at the Swedish border.</p>
Art.5.5	5. The Member State may require the person concerned to report his/ her presence within its territory within a reasonable and non-discriminatory period of time. Failure to comply with this requirement may make the person concerned liable to proportionate and non-discriminatory sanctions.				n/a	Sweden has chosen not to include such a requirement into national legislation.
Chapter III <b>RIGHT OF RESIDENCE</b>						
Art. 6.1	<b>Right of residence for more than three months</b>  1. Union citizens shall have the right of residence on the territory of another Member State for a period of up to three months without any conditions or any	Chapter 3a Section 1, Chapter 2 Section 5 of the Aliens Act (2005:716)	<b>Kapitel 3a</b> <b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige <b>mer än tre månader utan uppehållstillstånd</b> i enlighet med vad som sägs i detta kapitel.	<b>Chapter 3 (a)</b> <b>Section 1:</b> Right of residence means a right for EEA nationals and their family members to stay in Sweden <b>for more than 3 months without a residence permit</b> in according with this	Y	Effective transposition.  A general rule is interpreted <i>a contrario</i> : an alien staying in Sweden for a period of up to three months is not required to have a residence permit. The Proposition

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	formalities other than the requirement to hold a valid identity card or passport.		Lag (2006:219).  <b>Kap. 2</b> <b>5 §</b> En utlänning som vistas i Sverige <b>mer än tre månader</b> skall ha uppehållstillstånd om inte visering har beviljats för längre tid.	chapter.  <b>Chapter 2</b> <b>Section 5</b> An alien staying <b>more than three months</b> in Sweden must have a residence permit unless a visa has been granted for a longer period.		(2004/05:170) to the Aliens Act (2005:716) treats the right to stay up to three months in Sweden rather as the right of residence than a part of the right to entry (compare, the word "vistelse"/"residence" is used in the relevant text of the Proposition).  Notably, the transposing Swedish legislation grants a special right to EEA nationals and their family members - right of residence for a period longer than three months in Sweden without a residence permit.  Regarding job seekers, see comments to Article 8(1) of the Directive.
Art. 6.2	2. The provisions of paragraph 1 shall also apply to family members in possession of a valid passport who are not nationals of a Member State, accompanying or joining the Union citizen.	Chapter 2 Section 5 and Chapter 3 a Section 1 of the Aliens Act (2005:716)	<b>Kap. 2</b> <b>5 §</b> En utlänning som vistas i Sverige <b>mer än tre månader</b> skall ha uppehållstillstånd om inte visering har beviljats för längre tid.  <b>Kap. 3a</b> <b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras <b>familjemedlemmar</b> att vistas i Sverige <b>mer än tre månader</b> utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).	<b>Chapter 2</b> <b>Section 5</b> An alien staying more than three months in Sweden must have a residence permit unless a visa has been granted for a longer period.  <b>Chapter 3a</b> <b>Section 1</b> 'Right of residence' means a right for EEA nationals and their <b>family members</b> to stay in Sweden for more than three months without a residence permit in accordance with what is stated in this Chapter.	Y	Effective transposition.  The family members of EEA nationals enjoy the same right of residence as EEA nationals themselves.
Art.7.1 (a)	<b>Right of residence for more than three months</b>  All Union citizens shall have the right of residence on the territory of another Member State for a period of longer than three months if they: (a) are workers or self-employed persons in the host Member State; or	Chapter 3 a Section 1, 3 and 4 of the Aliens Act (2005:716)	<b>Kap. 3a</b> <b>1 §</b> Med <b>uppehållsrätt</b> avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige <b>mer än tre månader</b> utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).	<b>Chapter 3 a</b> <b>Section 1</b> ' <b>Right of residence</b> ' means a right for EEA nationals and their family members to stay in Sweden for <b>more than three months</b> without a residence permit in accordance with what is stated in this Chapter.	Y	Effective transposition  According to the transposing legislation, the right of residence may be extended for a longer period than three months, if an EEA national is a worker or a self-employed person in Sweden.

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			<p><b>3 §</b> En EES-medborgare har uppehållsrätt om han eller hon 1. är arbetstagare eller egen företagare i Sverige, .....</p>	<p><b>Section 3</b> An EEA national has a right of residence if he or she 1. is a worker or a self-employed person in Sweden, .....</p>		
Art.7.1 (b)	(b) have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State; or	Chapter 3 a Sections 1 and 3 p.4 of the Aliens Act (2005:716)	<p><b>Kap. 3a</b> <b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige mer än tre månader utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).</p> <p><b>3 §</b> En EES-medborgare har uppehållsrätt om han eller hon .....</p> <p>4. har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning och har en heltäckande sjukförsäkring för sig och familjemedlemmarna som gäller i Sverige. Lag (2006:219).</p>	<p><b>Chapter 3 a</b> <b>Section 1</b> 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for more than three months without a residence permit in accordance with what is stated in this Chapter.</p> <p><b>Section 3</b> An EEA national has a right of residence if he or she .....</p> <p>4. has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden.</p>	Y	<p>Effective transposition.</p> <p>According to the transposing legislation, the right of residence may be extended for a longer period than three months, if an EEA national has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden in accordance with the Swedish legislation.</p>
Art.7.1 (c)	(c) - are enrolled at a private or public establishment, accredited or financed by the host Member State on the basis of its legislation or administrative practice, for the principal purpose of following a course of study, including vocational training; <u>and</u>	Chapter 3 a Section 1, 3, p. 3	<p><b>Kap. 3a</b> <b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige mer än tre månader utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).</p> <p><b>3 §</b> En EES-medborgare har uppehållsrätt om han eller hon .....</p> <p>3. är inskriven som studerande vid en erkänd utbildningsanstalt i Sverige och enligt en försäkran om detta <b>har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning</b></p>	<p><b>Chapter 3 a</b> <b>Section 1</b> 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for more than three months without a residence permit in accordance with what is stated in this Chapter.</p> <p><b>Section 3</b> An EEA national has a right of residence if he or she .....</p> <p>3. is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, <b>has adequate assets to support himself or herself</b></p>	Y	<p>Effective transposition.</p> <p>According to the transposing legislation, the right of residence may be extended for a longer period than three months, if an EEA national is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden.</p> <p>N.B.: "Recognised educational establishment" as defined by the</p>

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			samt har en heltäckande sjukförsäkring för sig och familjemedlemmarna som gäller i Sverige, eller .....	and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden or .....		Swedish transposing legislation may either be public or private.
	- have comprehensive sickness insurance cover in the host Member State and assure the relevant national authority, by means of a declaration or by such equivalent means as they may choose, that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence; or	Chapter 3 a Section 1, 3 p.3, 4 p.3 of the Aliens Act (2005:716)	<b>Kap. 3a</b> <b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige mer än tre månader utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).  <b>3 §</b> En EES-medborgare har uppehållsrätt om han eller hon ..... 3. är inskriven som studerande vid en erkänd utbildningsanstalt i Sverige och enligt en försäkran om detta har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning samt har en heltäckande sjukförsäkring för sig och familjemedlemmarna som gäller i Sverige	<b>Chapter 3 a</b> <b>Section 1</b> 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for more than three months without a residence permit in accordance with what is stated in this Chapter.  <b>Section 3</b> An EEA national has a right of residence if he or she ..... 3. is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden	Y	Effective transposition.  The transposing legislation requires that an EEA national has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden in order to obtain the right of residence for a longer period than three months.  Declaration is replaced by affirmation "by such equivalent means that they may choose" as not been transposed but does not seem to raise conformity problems, especially because under Chapter 3a Section 8 SE authorities only require "an affirmation that he or she has adequate assets to support himself or herself and family members (see the provision at Article 8(3) third indent.
Art.7.1 (d)	(d) are family members accompanying or joining a Union citizen who satisfies the conditions referred to in points (a), (b) or (c).	Chapter 3 a Sections 1, 3 and 4 of the Aliens Act (2005:716)	<b>Kap. 3a</b> <b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige mer än tre månader utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).  <b>4 §</b> En familjemedlem till en sådan EES-medborgare som anges i 3 § 1-2 och 4 har uppehållsrätt	<b>Chapter 3 a</b> <b>Section 1</b> 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for more than three months without a residence permit in accordance with what is stated in this Chapter... ... <b>Section 4</b> A family member of an EEA national as specified in Section 3, points 1-2 and 4 has a	Y	Effective transposition.  Family member of an EEA national have a right of residence in the cases referred to in the Directive, with the exception of indent (c) which according to the Swedish legislation gives a right of residence to spouse or cohabiting partner of the EEA national together with their children under 21 years of age if these children are dependent on either of



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			<p>[...]</p> <p><b>Section 3</b> An EEA national has a right of residence if he or she</p> <ol style="list-style-type: none"> <li>1. is a worker or a self-employed person in Sweden,</li> <li>2. has come to Sweden to seek work and has a real possibility of obtaining employment,</li> <li>3. is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden or</li> <li>4. has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden.</li> </ol>	<p>right of residence [...]</p> <p><b>Section 3</b> An EEA national has a right of residence if he or she</p> <ol style="list-style-type: none"> <li>1. is a worker or a self-employed person in Sweden,</li> <li>2. has come to Sweden to seek work and has a real possibility of obtaining employment,</li> <li>3. is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden or</li> <li>4. has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden.</li> </ol>		<p>them for their means of support (See below Article 7(4) of the Directive). As shown above Section 3 points 1-2 and 4 transposes the cases of workers, self-employed and non-economically active.</p>
Art. 7.2	2. The right of residence provided for in paragraph 1 shall extend to family members who are not nationals of a Member State, accompanying or joining the Union citizen in the host Member State, provided that such Union citizen satisfies the conditions referred to in paragraph 1(a), (b) or (c).	Chapter 3 a Section 1 and 4 of the Aliens Act (2005:716)	<p><b>Kap. 3a</b> <b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige mer än tre månader utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).</p> <p><b>4 §</b> En <b>familjemedlem</b> till en sådan EES-medborgare som anges i 3 § 1-2 och 4 har uppehållsrätt. När det gäller familjemedlemmar till en sådan EES-medborgare</p>	<p><b>Chapter 3 a</b> <b>Section 1</b> 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for more than three months without a residence permit in accordance with what is stated in this Chapter.</p> <p><b>Section 4</b> A <b>family member</b> of an EEA national as specified in Section 3, points 1–2 and 4 has a right of residence. With regard to family members of an EEA</p>	Y	<p>Effective transposition.</p> <p>The same applies to the family members who are non-EEA nationals <i>mutatis mutandis</i>, since the legislation refers generically to family members and does not differentiate nationality.</p>

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			<p>som har uppehållsrätt enligt 3 § 3 skall dock endast EES-medborgarens make eller sambo samt deras barn under 21 år om de är beroende av någon av dem för sin försörjning, ha uppehållsrätt. Lag (2006:219).</p>	<p>national who has a right of residence under Section 3, point 3, however, only the spouse or cohabiting partner of the EEA national together with their children under 21 years of age if these children are dependent on either of them for their means of support have a right of residence.</p>		
Art. 7.3 (a)	<p>3. For the purposes of paragraph 1(a), a Union citizen who is no longer a worker or self-employed person shall retain the status of worker or self-employed person in the following circumstances:</p> <p>(a) he/she is temporarily unable to work as the result of an illness or accident;</p>	Chapter 3 a Section 1 of the Aliens Decree (2006:97)	<p><b>Kap. 3 a</b> <b>1 §</b> /Träder i kraft I:2008-01-01/ En medborgare i en EES-stat som har uppehållsrätt som <b>arbetstagare eller egen företagare</b> enligt 3 a kap. 3 § 1 utlänningslagen (2005:716), behåller sin uppehållsrätt även om han eller hon drabbas av tillfällig arbetsförmåga på grund av sjukdom eller olycksfall.</p>	<p><b>Chapter 3 a</b> <b>Section 1</b> A national of an EEA state who has a right of residence as a <b>worker or a self-employed person</b> under Chapter 3a, Section 3, point 1 of the Aliens Act (2005:716) retains his or her right of residence even if he or she suffers a temporary incapacity for work owing to sickness or an accident.</p>	N, Incorrect	<p>Incorrect transposition</p> <p>According to the Swedish transposing legislation, an EEA national who is a worker or a self-employed person in Sweden retains his or her <i>right of residence</i> even if he or she suffers a temporary incapacity for work owing to sickness or an accident.</p> <p>The provision of the Directive does not however refer to the retention of residence but to the status of worker which is different, since the retaining that status gives special protection to workers and self-employed: they cannot be expelled from the country, acquire the right of permanent residence earlier etc. Thus, the key issue is that they are still workers. The Swedish legislation seems to refer to the right of residence as worker or self-employed and thus indirectly could ensuring that the status of worker or self-employed is actually retained.</p>
Art. 7.3 (b)	<p>(b) he/she is in duly recorded involuntary unemployment after having been employed for more than one year and has registered as a jobseeker with the relevant</p>	Chapter 3 a Section 1 of the Aliens Decree (2006:97)	<p>Detsamma gäller om han eller hon är ofrivilligt arbetslös efter mer än ett års anställning och har anmält sig som arbetssökande vid den</p>	<p>The same applies if he or she is involuntarily unemployed after being employed for more than one year and has registered as a</p>	Y	<p>Effective transposition.</p> <p>The substance is correctly transposed but it refers to the retention of the</p>

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	employment office;		offentliga arbetsförmedlingen.	jobseeker with the public employment services.		right of residence and not to the retention of the status of worker. See above under 7.3 (a).
Art. 7.3 (c)	(c) he/she is in duly recorded involuntary unemployment after completing a fixed-term employment contract of less than a year or after having become involuntarily unemployed during the first twelve months and has registered as a job-seeker with the relevant employment office. In this case, the status of worker shall be retained for no less than six months;	Chapter 3 a Section 1 of the Aliens Decree (2006:97)	En sådan arbetstagare som avses i första stycket, som haft en tidsbegränsad anställning på mindre än ett år, behåller sin uppehållsrätt i sex månader efter det att han eller hon fullgjort sin anställning om han eller hon är ofrivilligt arbetslös och har anmält sig som arbetssökande vid den offentliga arbetsförmedlingen. Detsamma gäller en sådan arbetstagare som avses i första stycket som har blivit ofrivilligt arbetslös under de första tolv månaderna av en anställning och har anmält sig som arbetssökande vid den offentliga arbetsförmedlingen.	A worker referred to in the first paragraph who has had temporary employment for less than one year retains his or her right of residence for six months after completing his or her term of employment if he or she is involuntarily unemployed and has registered as a jobseeker with the public employment services. The same applies to a worker referred to in the first paragraph who has become involuntarily unemployed during the first twelve months of a term of employment and has registered as a jobseeker with the public employment services.	Y	Effective transposition.  The substance is correctly transposed but it refers to the retention of the right of residence and not to the retention of the status of worker. See above under 7.3 (a).
Art.7.3 (d)	(d) he/she embarks on vocational training. Unless he/she is involuntarily unemployed, the retention of the status of worker shall require the training to be related to the previous employment.	Chapter 3 a Section 1 of the Aliens Decree (2006:97)	En sådan arbetstagare eller egen företagare som avses i första stycket som inleder en yrkesutbildning behåller sin uppehållsrätt. Om personen inte är ofrivilligt arbetslös ska han eller hon anses som arbetstagare eller egen företagare endast om yrkesutbildningen har samband med den tidigare sysselsättningen. Förordning (2007:929).	A worker or self-employed person referred to in the first paragraph who begins a vocational training programme retains his or her right of residence. If the person is not involuntarily unemployed he or she shall be deemed to be a worker or self-employed person only if the vocational training programme is associated with the previous occupation. Ordinance (2006:262).	Y	Literal transposition.  Notice that here it is unequivocally clear that the person retains the status of worker.
Art. 7.4	4. By way of derogation from paragraphs 1(d) and 2 above, only the spouse, the registered partner provided for in Article 2(2)(b) and dependent children shall have the right of residence as family members of a Union citizen meeting the conditions under 1(c) above. Article 3(2) shall apply	Chapter 3 a Section 4 of the Aliens Act (2005:716)	<b>4 §</b> En familjemedlem till en sådan EES-medborgare som anges i -2 och 4 har uppehållsrätt. När det gäller familjemedlemmar till en sådan EES-medborgare som har uppehållsrätt enligt 3 § 3 skall dock endast EES-medborgarens	<b>Section 4</b> A family member of an EEA national as specified in Section 3, points 1–2 and 4 has a right of residence. With regard to family members of an EEA national who has a right of residence under Section 3, point	N, Incomplete	Incomplete transposition  The transposing legislation does not include the requirement to facilitate entry and residence to the dependent direct relatives in the ascending lines and those of spouse or registered

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	to his/her dependent direct relatives in the ascending lines and those of his/her spouse or registered partner.		make eller sambo samt deras barn under 21 år om de är beroende av någon av dem för sin försörjning, ha uppehållsrätt. Lag (2006:219).	3, however, only the spouse or cohabiting partner of the EEA national together with their children under 21 years of age if these children are dependent on either of them for their means of support have a right of residence.		partner.
Art. 8.1	<p><b>Administrative formalities for Union citizens</b></p> <p>1. Without prejudice to Article 5(5), for periods of residence longer than three months, the host Member State may require Union citizens to register with the relevant authorities.</p>	Chapter 3 a Section 10 of the Aliens Act (2005:716)	<p><b>10 §</b> En EES-medborgare som har uppehållsrätt och som avser att stanna i Sverige under längre tid än tre månader <b>skall registrera sig</b> hos Migrationsverket....</p> <p>... Det som sägs i första och andra styckena gäller inte för medborgare i Danmark, Finland, Island och Norge. Det gäller inte heller för en utlänning som har ett giltigt uppehållstillstånd eller som inom tre månader från ankomsten till Sverige har ansökt om ett sådant tillstånd. Det som sägs i första stycket skall inte heller gälla EES-medborgare som är arbetsökande. Lag (2006:219).</p>	<p><b>Section 10</b> An EEA national who has a right of residence and intends to stay in Sweden for a period longer than three months <b>must register</b> with the Swedish Migration Board...</p> <p>...The provisions of the first and second paragraphs do not apply to nationals of Denmark, Finland, Iceland and Norway. Nor do they apply to an alien who has a valid residence permit or who has applied for such a permit within three months of arriving in Sweden. The provisions of the first paragraph shall furthermore not apply to an EEA national who is seeking employment.</p>	Y	<p>Effective transposition.</p> <p>Sweden has chosen to adopt the registration requirement for an EEA national who intends to stay in Sweden for a period longer than three months.</p> <p>However, a number of persons are exempted from the registration requirement (such as nationals of Denmark, Finland, Iceland and Norway); an alien who has a valid residence permit or who has applied for such a permit within three months of arriving in Sweden.</p> <p>In addition, in line with the Directive, Sweden does not require registration of an EEA national who is seeking employment.</p> <p>N.B.: it follows from the official site of the Swedish Migration Board that the registration requirement but not a residence permit for an EEA national who intends to stay in Sweden for a period longer than three months is the main rule. A person who does not have right of residence in Sweden but wishes to stay in the country for more than three months must apply for a residence permit. This applies to</p>

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						certain persons that do not have right of residence as family members who are EU/EEA citizens and who are a husband/wife, registered partner, cohabitee, child of a Swedish citizen a husband/wife, registered partner, cohabitee, child of a Swedish citizen of a country that does not belong to the EU/EEA.
Art. 8.2	2. The deadline for registration may not be less than three months from the date of arrival. A registration certificate shall be issued immediately, stating the name and address of the person registering and the date of the registration. Failure to comply with the registration requirement may render the person concerned liable to proportionate and non-discriminatory sanctions.	Chapter 3 a Sections 11-12, Chapter 2 Section 5 of the Aliens Act (2005:716)	<p><b>11 §</b> Om det kan antas att en EES-medborgare eller hans eller hennes familjemedlem är skyldig att registrera sig eller att ansöka om uppehållskort enligt 10 §, får Migrationsverket förelägga honom eller henne att fullgöra denna skyldighet. Migrationsverket får även förelägga EES-medborgaren eller familjemedlemmen att lämna in sådana uppgifter som är nödvändiga för att registrering och utfärdande av uppehållskort skall kunna ske. Lag (2006:219).</p> <p><b>12 §</b> Ett föreläggande enligt 11 § får förenas med vite. Fråga om utdömning av vite prövas av migrationsdomstol på ansökan av Migrationsverket. Vid prövning av en fråga om utdömning av vite får även vitets lämplighet bedömas. Lag (2006:448).</p> <p>5 § En utlänning som vistas i</p>	<p><b>Section 11</b> If it can be assumed that an EEA national or a member of his or her family is required to register or apply for a residence card under Section 10, the Swedish Migration Board may order him or her to fulfil this requirement. The Swedish Migration Board may also order the EEA national or family member to supply such information as is necessary to enable registration to take place and a residence card to be issued.</p> <p><b>Section 12</b> An order under Section 11 may be combined with a conditional financial penalty. The question of imposing a conditional financial penalty is examined by a migration court upon application from the Swedish Migration Board. When the question of imposing a conditional financial penalty is examined, the appropriateness of the conditional financial penalty may also be assessed.</p> <p>Section 5 An alien staying more</p>	Y	<p>Effective transposition.</p> <p>According to the transposing legislation, the deadline for registration may not be less than three months from the date of arrival. A registration certificate shall be issued immediately. In cases where the person fails to comply with the requirements, the transposing legislation provides that the Swedish Migration Board may combine an order to fulfil the registration requirement with a conditional financial penalty.</p> <p>The Swedish Migration Board issues registration certificates to nationals of EEA states. The time, within at the latest, an alien shall register is prescribed to be three months.</p> <p>Although the Swedish law does not explicitly require that the registration certificate shall state the name and address of the person registering and the date of the registration, it applies in practice. The application form for the registration of right of residence for EU/EEA citizens is found at the web site <a href="http://www.migrationsverket.se/blank">http://www.migrationsverket.se/blank</a></p>

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		Chapter 3 a Sections 7 and 11 of the Aliens Decree (2006:97)	<p>Sverige mer än tre månader skall ha uppehållstillstånd om inte visering har beviljats för längre tid.</p> <p><b>Kap. 3 a</b>  <b>7 §</b> Migrationsverket utfärdar 1. registreringsbevis till en medborgare i en EES-stat med uppehållsrätt,  .....  5. permanent uppehållskort till annan utlänning än som avses i 4 och som har permanent uppehållsrätt.  <b>Registreringsbevis</b> och intyg om inlämnad ansökan om uppehållskort <b>skall utfärdas omedelbart...</b></p> <p><b>11 §</b> Vid beräkningen av den tid inom vilken en utlänning enligt 3 a kap. 10 § utlänningslagen (2005:716) senast skall registrera sig eller ansöka om uppehållskort, skall vad som sägs i 4 kap. 2 § om uppehållstillståndsfri tid gälla i motsvarande mån. Förordning (2006:262).</p>	<p>than three months in Sweden must have a residence permit unless a visa has been granted for a longer period.</p> <p><b>Chapter 3 a</b>  <b>Section 7</b> The Swedish Migration Board issues 1. registration certificates to nationals of EEA states with a right of residence,  ...<b>Registration certificates</b> and certificates showing that a residence card application has been submitted <b>shall be issued immediately ..</b></p> <p><b>Section 11</b> When calculating the time within which, at the latest, an alien shall register or apply for a residence card, under Chapter 3a, Section 10 of the Aliens Act (2005:716), what is stated in Chapter 4, Section 2 regarding a residence permit-free period shall apply correspondingly. Ordinance (2006:262).</p>		<p><a href="#">etter/bob/eu/blur_140011_en.pdf</a>.</p> <p>The Swedish Aliens Act refers to the term "the residence permit free period" (Swedish <i>uppehållstillståndsfri tid</i>), which is the first three months of the stay in Sweden (Chapter 2 Section 5).</p>
Art. 8.3	3. For the registration certificate to be issued, Member States may only require that — Union citizens to whom point (a) of Article 7(1) applies present a valid identity card or passport, a confirmation of engagement from the employer or a certificate of employment, or proof that they are self-employed persons,	Chapter 3 a Section 8 of the Aliens Decree (2006:97)	<p><b>Kap. 3 a</b>  <b>8 §</b> I samband med utfärdande av registreringsbevis till en EES-medborgare som har uppehållsrätt enligt 3 a kap. 3 § utlänningslagen (2005:716) <b>får</b> Migrationsverket <b>kräva</b> att sökanden visar upp ett giltigt pass eller ett giltigt identitetskort samt 1. handlingar som styrker att han</p>	<p><b>Chapter 3 a</b>  <b>Section 8</b> In connection with issuing registration certificates the Swedish Migration Board <b>may require</b> the applicant to produce a valid passport or a valid identity card and 1. documents confirming that he or she has employment or conducts activities as a self-</p>	Y	<p>Effective transposition.</p> <p>According to the Swedish legislation, the Swedish Migration Board may require the applicant to produce a valid passport or a valid identity card and documents confirming that he or she has employment or conducts activities as a self-employed person in Sweden.</p>

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			<p>eller hon har en anställning eller bedriver verksamhet som egen företagare i Sverige, .....</p>	<p>employed person in Sweden, .....</p>		<p>The list of documents that <i>are required</i> for registration is obtainable at the homepage of the Swedish Migration Board. Thus, there is an obligation to submit proof.</p> <p>The application form for the registration of right of residence for EU/EEA citizens is found at the web site <a href="http://www.migrationsverket.se/blanketter/bob/eu/blur_140011_en.pdf">http://www.migrationsverket.se/blanketter/bob/eu/blur_140011_en.pdf</a>.</p> <p>It is requested that EU/EEA citizen shall provide for a <b>copy of passport or national ID showing the citizenship</b> and a <b>hiring certificate</b> for employed persons as well as <b>Swedish corporate registration certificate</b> for self-employed persons. Further information on the certificate of employment is found in the Guidelines: "A certificate of employment from the employer stating the period of employment and the form of employment. The certificate of employment must be written and signed by your employer. Apart from the name, address and telephone number of the employer, the name of a contact person at the employer must also be given. The certificate must also include the company's registration number and your duties. It must also state how many hours you will work each week. Although it does not appear to be a case of non-conformity, the issue needs to be highlighted here.</p>

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						<p>In Sweden, the Migration Board follows the principle of unimpeded evidence (Swedish <i>fri bevis prövning</i>), which means that Migration Board has a margin of discretion to determine what type of documents shall be provided in a specific case. This means that the list of documents as required for registration is not exclusive. <i>E.g.</i>, the following documents that may be enclosed for the registration as a self-employed:</p> <ul style="list-style-type: none"> <li>• a marketing plan for the company</li> <li>• a lease agreement for premises necessary for the company's operations</li> <li>• proof of previous experience and expertise within the field in question</li> <li>• invoices from the company</li> <li>• receipts/invoices for materials purchased</li> <li>• VAT accounts</li> <li>• transfer documents if you have purchased an already established business.</li> </ul> <p>As the the list of documents on the Swedish Migration Board website is not exhaustive, it is in full conformity with the Community law.</p> <p>Please, also see the answer on the questionnaire on the practical application of Directive 2004/38/EC obtained from the Swedish Ministry of Justice (page 10).</p>



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	— Union citizens to whom point (b) of Article 7(1) applies present a valid identity card or passport and provide proof that they satisfy the conditions laid down therein,	Chapter 3 a Section 8 of the Aliens Decree (2006:97)	<b>Kap. 3 a</b> <b>8 §</b> I samband med utfärdande av registreringsbevis till en EES-medborgare som har uppehållsrätt enligt 3 a kap. 3 § utlänningslagen (2005:716) får Migrationsverket <b>kräva</b> att sökanden visar upp ett giltigt pass eller ett giltigt identitetskort samt... 3. handlingar som styrker att han eller hon har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning samt har en heltäckande sjukförsäkring för sig och familjemedlemmarna som gäller i Sverige. Förordning (2007:147).	<b>Chapter 3 a</b> <b>Section 8</b> In connection with issuing registration certificates the Swedish Migration Board <b>may require</b> the applicant to produce a valid passport or a valid identity card and... 3. documents confirming that he or she has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden. Ordinance (2006:262)	Y	Effective transposition.  The list of documents that <i>are required</i> for registration in this case is obtainable at the homepage of the Swedish Migration Board. This indicates that there is an obligation to submit proof. It follows from the Guidelines of the Swedish Migration Board that for registration of people with sufficient resources it is required that they provide for certificate or similar document confirming that you have a pension or independent means and Health insurance coverage certificate
	— Union citizens to whom point (c) of Article 7(1) applies present a valid identity card or passport, provide proof of enrolment at an accredited establishment and of comprehensive sickness insurance cover and the declaration or equivalent means referred to in point (c) of Article 7(1). Member States may not require this declaration to refer to any specific amount of resources.	Chapter 3 a Section 8 of the Aliens Decree (2006:97)	<b>Kap. 3 a</b> <b>8 §</b> I samband med utfärdande av registreringsbevis till en EES-medborgare som har uppehållsrätt enligt 3 a kap. 3 § utlänningslagen (2005:716) får Migrationsverket <b>kräva</b> att sökanden visar upp ett giltigt pass eller ett giltigt identitetskort samt... 2. handlingar som styrker att han eller hon är inskriven som studerande vid en erkänd utbildningsanstalt i Sverige och har en heltäckande sjukförsäkring för sig och familjemedlemmarna som gäller i Sverige samt en försäkran om att han eller hon har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning, eller...	<b>Chapter 3 a</b> <b>Section 8</b> In connection with issuing registration certificates the Swedish Migration Board <b>may require</b> the applicant to produce a valid passport or a valid identity card and... 2. documents confirming that he or she is enrolled as a student at a recognised educational institution in Sweden and has comprehensive health insurance for himself or herself and family members that is valid in Sweden, and an affirmation that he or she has adequate assets to support himself or herself and family members or...	N, Incorrect	Incorrect transposition.  The application form for the registration of right of residence for EU/EEA citizens is found at the web site <a href="http://www.migrationsverket.se/blanketter/bob/eu/blur_140011_en.pdf">http://www.migrationsverket.se/blanketter/bob/eu/blur_140011_en.pdf</a> .  It is requested that EU/EEA citizen shall provide for <b>a copy of passport or national ID showing the citizenship</b> and a certificate of acceptance for and duration of studies at “gymnasium” or higher education Certificate, Statement of means of support Health insurance coverage certificate. It follows further from the Guidelines that the following is required: <ul style="list-style-type: none"> <li>• <b>Proof of enrolment on a course programme which is at least at high school level.</b></li> <li>• <b>Assurance</b> [meaning</li> </ul>

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						<p>declaration] that you have sufficient funds for your keep.</p> <ul style="list-style-type: none"> <li>• Proof that you have comprehensive medical insurance that is valid in Sweden.</li> </ul> <p>However, the specific requirement that no specific amount can be states, has not been transpose.d.</p>
Art. 8.4	4. Member States may not lay down a fixed amount which they regard as 'sufficient resources', but they must take into account the personal situation of the person concerned. In all cases this amount shall not be higher than the threshold below which nationals of the host Member State become eligible for social assistance, or, where this criterion is not applicable, higher than the minimum social security pension paid by the host Member State.	-			NT	<p>Not transposed</p> <p>The provision is not transposed into Swedish law. It only follows from the Guidelines of the Swedish Migration Board that for registration of people with sufficient resources it is required that they provide for documents confirming that their finances are secured through, for example, a pension from home country or capital.</p>
Art. 8.5	5. For the registration certificate to be issued to family members of Union citizens, who are themselves Union citizens, Member States may require the following documents to be presented:	Chapter 3 a Section 8 a of the Aliens Decree (2006:97)	<p><b>Kapitel 8</b>  <b>8 a §</b> I samband med utfärdande av registreringsbevis till en EES-medborgare som har uppehållsrätt enligt 3 kap. 4 § utlänningslagen (2005:716) får Migrationsverket kräva att sökanden visar upp <b>ett giltigt pass eller ett giltigt identitetskort och handlingar som styrker familjeanknytningen till den EES-medborgare från vilken uppehållsrätten härleds, registreringsbevis eller andra handlingar</b> som styrker att den EES-medborgare från vilken uppehållsrätten härleds har uppehållsrätt i Sverige samt, i den mån detta är en förutsättning för</p>	<p><b>Chapter 8</b>  <b>Section 7a</b> In connection with issuing of a register certificate to an EEA citizen who has the right of residence in accordance with Chapter 3 Section 4 Aliens Act (2005:716), the Migration Service may require that the applicant shall show a valid passport or a valid identity card or other <b>documents attesting to the existence of a family relationship</b> to the EEA national from whom the right of residence stems, <b>registration certificate</b> or other documents proving that the EEA national from whom the right of residence stems has the right of</p>	Y	<p>Effective transposition.</p> <p>According to the Swedish legislation, the Swedish Migration Board may require from an applicant to provide certain documentations as defined in Article 8.5 of the Directive. The decision is being taken by the Swedish Migration Board on the basis of standard procedure.</p> <p>The list of documents that <i>are required</i> for registration is obtainable at the homepage of the Swedish Migration Board, which indicates that there is an obligation to submit proof. The documents required are those prescribed by Chapter 3a Section 8 of the Aliens Decree (2006:97) (see</p>

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			<p>sökandens uppehållsrätt, <b>handlingar som styrker</b> att han eller hon är <b>beroende</b> av EES-medborgaren eller hans eller hennes make eller sambo <b>för sin försörjning.</b> Förordning (2007:147).</p>	<p>residence in Sweden, as well as to the extent this is a precondition for the applicant's right of residence, <b>documents proving</b> that he or she is <b>dependent</b> on the EEA national or his or her husband/wife or partner <b>for means of support.</b></p>		<p>below). Same comment as for 8(3).</p> <p>“Family members” are defined in Chapter 3 Section 4 of Aliens act. The application form for the registration of right of residence for EU/EEA citizens is found at the web site <a href="http://www.migrationsverket.se/blanketter/bob/eu/blur_140011_en.pdf">http://www.migrationsverket.se/blanketter/bob/eu/blur_140011_en.pdf</a>.</p> <p>It is requested that EU/EEA citizen shall provide for <b>a copy of passport or national ID showing the citizenship and a certificate of kinship, a certificate showing that you are financially dependent on the person living in Sweden.</b></p> <p>It follows further from the Guidelines that the following documents must be enclosed:</p> <ul style="list-style-type: none"> <li>- <b>a marriage certificate (spouses and registered partners)</b></li> <li>- <b>a civil registration certificate, lease agreement or proof of purchase of a residence (co-habitees)</b></li> <li>- <b>a birth certificate (children)</b></li> <li>- <b>a civil registration certificate from the person's home country or a bank statement showing receipt of regular financial support from the child/parent (children over the age of 21 years and parents).</b></li> </ul> <p>As the the list of documents on the Swedish Migration Board website is not exhaustive, it is in full conformity</p>

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						with the Community law (as the Migration Board follows the principle of unimpeded evidence).
	(a) a valid identity card or passport;	Chapter 3 a Section 8 a of the Aliens Decree (2006:97)	...ett giltigt <b>pass</b> eller ett giltigt <b>identitetskort</b> ...	...a valid <b>passport</b> or a valid <b>identity card</b> ...	Y	Literal transposition.
	(b) a document attesting to the existence of a family relationship or of a registered partnership;	Chapter 3 a Section 8 a of the Aliens Decree (2006:97)	... <b>handlingar som styrker familjeanknytningen</b> till den EES-medborgare från vilken uppehållsrätten härleds...	... <b>documents attesting to the existence of a family relationship</b> to the EEA national from whom the right of residence stems..	Y	Effective transposition.
	(c) where appropriate, the registration certificate of the Union citizen whom they are accompanying or joining;	Chapter 3 a Section 8 a of the Aliens Decree (2006:97)	... <b>registreringsbevis</b> eller <b>andra handlingar</b> som styrker att den EES-medborgare från vilken uppehållsrätten härleds har uppehållsrätt i Sverige...	... <b>registration certificate</b> or other documents proving that the EEA national from whom the right of residence stems has the right of residence in Sweden...	Y	Effective transposition.
	(d) in cases falling under points (c) and (d) of Article 2(2), documentary evidence that the conditions laid down therein are met;	Chapter 3 a Section 8 a of the Aliens Decree (2006:97)	... <b>handlingar som styrker</b> att han eller hon är <b>beroende</b> av EES-medborgaren eller hans eller hennes make eller sambo <b>för sin försörjning</b> ...	... <b>documents proving</b> that he or she is <b>dependent</b> on the EEA national or his or her husband/wife or partner <b>for means of support</b> ...	Y	Effective transposition.
	(e) in cases falling under Article 3(2)(a), a document issued by the relevant authority in the country of origin or country from which they are arriving certifying that they are dependants or members of the household of the Union citizen, or proof of the existence of serious health grounds which strictly require the personal care of the family member by the Union citizen;	Chapter 3 a Section 8 a of the Aliens Decree (2006:97)	... <b>handlingar som styrker</b> att han eller hon är <b>beroende</b> av EES-medborgaren eller hans eller hennes make eller sambo <b>för sin försörjning</b> ..	... <b>documents proving</b> that he or she is <b>dependent</b> on the EEA national or his or her husband/wife or partner <b>for means of support</b> ...	N, Ambiguous	Ambiguous transposition  Sweden has not adequately transposed Article 3(2)(a) (see reasoning under Article 3.2 (a)). According to the Swedish legislation, <i>a resident permit</i> may be given someone who is resident in or who has been granted a residence permit to settle in Sweden, if he or she has been a member of the same household as that person and there exists a special relationship of dependence.
	(f) in cases falling under Article 3(2)(b), proof of the existence of a durable relationship with the Union citizen.	Chapter 3 a Section 8 a of the Aliens Decree (2006:97)	... <b>handlingar som styrker familjeanknytningen</b> till den EES-medborgare från vilken uppehållsrätten härleds...	... <b>documents attesting to the existence of a family relationship</b> to the EEA national from whom the right of	Y	Effective transposition.  Here, the proof of the existence of a durable relationship is covered by the

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				residence stems...		broader term "documents attesting to the existence of a family relationship".
Art. 9.1	<b>Administrative formalities for family members who are not nationals of a Member State.</b>  1. Member States shall issue a residence card to family members of a Union citizen who are not nationals of a Member State, where the planned period of residence is for more than three months.	Chapter 3 a Section 10 of the Aliens Act (2005:716)	<b>10 §</b> ...En EES-medborgares familjemedlem som inte själv är EES- medborgare och som har uppehållsrätt <b>skall ansöka om uppehållskort</b> hos Migrationsverket senast tre månader efter det att han eller hon kom till Sverige. [...]	<b>Section 10</b> ...A family member of an EEA national who is not an EEA national himself or herself and who has a right of residence <b>must apply</b> to the Swedish Migration Board <b>for a residence card</b> within three months of arriving in Sweden. [...]	Y	Effective transposition.  The Swedish legislation obliges a family member of a EEA national who is not an EEA national himself or herself, who has a right of residence and who intends to stay in Sweden for a period longer than three months to apply to the Swedish Migration Board for a residence card within three months of arriving in Sweden.
Art. 9.2	2. The deadline for submitting the residence card application may not be less than three months from the date of arrival.	Chapter 3 a Section 10 of the Aliens Act (2005:716)	<b>10 §</b> ...En EES-medborgares familjemedlem som inte själv är EES- medborgare och som har uppehållsrätt skall ansöka om uppehållskort hos Migrationsverket <b>senast tre månader efter det att han eller hon kom till Sverige.</b> Det som sägs i första och andra styckena gäller inte för medborgare i Danmark, Finland, Island och Norge. Det gäller inte heller för en utlänning som har ett giltigt uppehållstillstånd eller som inom tre månader från ankomsten till Sverige har ansökt om ett sådant tillstånd. Det som sägs i första stycket skall inte heller gälla EES-medborgare som är arbetssökande. Lag (2006:219).	<b>Section 10</b> ...A family member of an EEA national who is not an EEA national himself or herself and who has a right of residence must apply to the Swedish Migration Board for a residence card <b>within three months of arriving in Sweden.</b> The provisions of the first and second paragraphs do not apply to nationals of Denmark, Finland, Iceland and Norway. Nor do they apply to an alien who has a valid residence permit or who has applied for such a permit within three months of arriving in Sweden. The provisions of the first paragraph shall furthermore not apply to an EEA national who is seeking employment.	Y	Effective transposition.  The Swedish legislation obliges a family member of a EEA national who is not an EEA national himself or herself and who has a right of residence to apply to the Swedish Migration Board for a residence card within three months of arriving in Sweden.
Art. 9.3	3. Failure to comply with the requirement to apply for a residence card may make the person concerned liable to proportionate and non-discriminatory sanctions.	Chapter 3 a Sections 11-12 of the Aliens Act (2005:716)	<b>11 §</b> Om det kan antas att en EES-medborgare eller hans eller hennes familjemedlem är skyldig att registrera sig eller att ansöka om uppehållskort enligt 10 §, får	<b>Section 11</b> If it can be assumed that an EEA national or a member of his or her family is required to register or apply for a residence card	Y	Effective transposition.  In a case of non-compliance the requirement to apply for a residence card, the transposing legislation

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			<p>Migrationsverket <b>förelägga</b> honom eller henne <b>att fullgöra denna skyldighet</b>. Migrationsverket får även förelägga EES-medborgaren eller familjemedlemmen att lämna in sådana uppgifter som är nödvändiga för registrering och utfärdande av uppehållskort skall kunna ske. Lag (2006:219).</p> <p><b>12 § Ett föreläggande enligt 11 § får förenas med vite.</b></p> <p>Fråga om utdömmande av vite prövas av migrationsdomstol på ansökan av Migrationsverket.</p> <p>Vid prövning av en fråga om utdömmande av vite får även <b>vitets lämplighet bedömas</b>. Lag (2006:448).</p>	<p>under Section 10, the Swedish Migration Board <b>may order</b> him or her <b>to fulfil this requirement</b>. The Swedish Migration Board may also order the EEA national or family member to supply such information as is necessary to enable registration to take place and a residence card to be issued.</p> <p><b>Section 12 An order under Section 11 may be combined with a conditional financial penalty.</b></p> <p>The question of imposing a conditional financial penalty is examined by a migration court upon application from the Swedish Migration Board.</p> <p>When the question of imposing a conditional financial penalty is examined, <b>the appropriateness of the conditional financial penalty may also be assessed</b>.</p>		<p>prescribes a possibility of imposing a conditional financial penalty. The decision is taken by a migration court after application from the Swedish Migration Board. The appropriateness of the conditional financial penalty may be assessed by a migration court, and such an assessment includes a proportionality and non-discrimination assessment in accordance with the Swedish administrative principles. However, as the transposition is optional, no conformity issue arises in this respect. It might be discussible whether the Swedish approach inflicts legal certainty, but this is a matter of assessment.</p>
Art.10.1	<p><b>Issue of residence cards</b></p> <p>1. The right of residence of family members of a Union citizen who are not nationals of a Member State shall be evidenced by the issuing of a document called 'Residence card of a family member of a Union citizen' no later than six months from the date on which they submit the application. A certificate of application for the residence card shall be issued immediately.</p>	Chapter 3 a Section 7 of the Aliens Decree (2006:97)	<p><b>Kap. 3 a</b></p> <p><b>7 §</b> Migrationsverket utfärdar ...2. intyg om inlämnad ansökan om uppehållskort till en utlänning som har ansökt om sådant kort, 3. uppehållskort till annan utlänning än som avses i 1 och som har uppehållsrätt, [...]</p> <p>Registreringsbevis och intyg om inlämnad ansökan om uppehållskort skall utfärdas omedelbart. Upphållskort och permanent uppehållskort skall utfärdas senast sex månader efter ansökan om sådant kort. Intyg om</p>	<p><b>Chapter 3 a</b></p> <p><b>Section 7</b> The Swedish Migration Board issues ...2. certificates showing that a residence card application has been submitted, to aliens who have applied for such cards, 3. residence cards to aliens other than those referred to in point 1 and who have a right of residence, [...]</p> <p>Registration certificates and certificates showing that a residence card application has been submitted shall be issued immediately. Residence cards</p>	Y	<p>Effective transposition.</p> <p>The Directive specifically requests the residence card to be called "Residence Card of a family member of a Union citizen". Although this term is not used in the transposing legislation, there are application rules for "Residence Card of a family member of a Union citizen" available at the official site of the Swedish Migration Board:</p> <p><a href="http://www.migrationsverket.se/english.jsp">http://www.migrationsverket.se/english.jsp</a></p>

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			<p>permanent uppehållsrätt skall utfärdas snarast möjligt. Förordning (2006:262).</p>	<p>and permanent residence cards shall be issued no later than six months after application for such cards. Right of permanent residence certificates shall be issued as soon as possible. Ordinance (2006:262).</p>		<p><a href="http://www.migrationsverket.se/banketter/bob/eu/bluk_144011_en.pdf">http://www.migrationsverket.se/banketter/bob/eu/bluk_144011_en.pdf</a></p> <p>To apply for a residence card of a family member of a Union citizen you must:</p> <ul style="list-style-type: none"> <li>- fill in the Migration Board form Application for a residence card, No. 145011</li> <li>- enclose copies of a valid passport</li> <li>- enclose documents that show that your relative still has right a of residence, i.e. employment certificate or bank statement that shows sufficient means</li> <li>- enclose a marriage certificate or registered partnership certificate (spouses and registered partners)</li> <li>- enclose a civil registration certificate, lease agreement or proof of purchase of a residence (co-habitees)</li> <li>- enclose a birth certificate (children)</li> <li>- enclose a civil registration certificate from the person's home country or a bank statement showing receipt of regular financial support from the parent/ child (parents and children over the age of 21 years).</li> <li>- In the case of children under the age of 18 years, the child's guardian must approve the application by signing it.</li> </ul> <p>In Sweden, a family member of an EU/EEA citizen who has a right of residence in Sweden can also obtain a right of residence. If the family member of an EU/EEA wishes to stay for longer than three months in Sweden, it is obligatory to apply for a</p>

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						residence card. This requirement does not however follow explicitly from the transposing legislation, but is implicitly transposed through the general obligation of the Swedish Migration Board to issue residence cards, as laid down in Chapter 3a Section 7 of the Aliens Decree, and follows from the administrative praxis of the Swedish Migration Board.
Art.10.2 (a)	2. For the residence card to be issued, Member States shall require presentation of the following documents: (a) a valid passport;	Chapter 3 a Section 9 of the Aliens Decree (2006:97)	9 § I samband med utfärdande av uppehållskort får Migrationsverket kräva att sökanden visar upp ett giltigt pass,	<b>Section 9</b> In connection with the issuing of a residence card the Swedish Migration Board <b>may require</b> the applicant to produce a valid passport,	Y	Effective transposition.  The Swedish transposing legislation does not include any compulsory requirement to present the documents as above for the residence card to be issued. However, as the Swedish Migration Board has a margin of discretion, it uses such a requirement as compulsory in its administrative practice. The list is alternative, as the Swedish Migration Board applies the principle of unimpeded evidence (Swedish " <i>fri bevis prövning</i> ").
Art.10.2 (b)	(b) a document attesting to the existence of a family relationship or of a registered partnership;	Chapter 3 a Section 9 of the Aliens Decree (2006:97)	handlingar som styrker familjeanknytningen till EES-medborgaren	documents confirming his or her family ties to an EEA national	Y	Effective transposition.  The form refers to certificate of kinship and as example a marriage certificate.
Art.10.2 (c)	(c) the registration certificate or, in the absence of a registration system, any other proof of residence in the host Member State of the Union citizen whom they are accompanying or joining;	Chapter 3 a Section 9 of the Aliens Decree (2006:97)	registreringsbevis eller andra handlingar som styrker att den EES-medborgare från vilken uppehållsrätten härleds har uppehållsrätt i Sverige samt	a registration certificate or other documents confirming that the EEA national from whom the right of residence is derived has a right of residence in Sweden	Y	Effective transposition.
Art.10.2 (d)	(d) in cases falling under points (c) and (d) of Article 2(2), documentary evidence that the conditions laid down therein are met;	Chapter 3 a Section 9 of the Aliens Decree (2006:97)	i den mån detta är en förutsättning för sökandens uppehållsrätt, handlingar som styrker att han eller hon är beroende av EES-medborgaren eller hans eller	and, insofar as this is a condition for the applicant's right of residence, documents confirming that he or she is a dependant of the EEA national or his or her	Y	Effective transposition.  The form states "certificate showing that you are financially dependent on the person living in Sweden (parents



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			hennes make eller sambo för sin försörjning. Förordning (2006:262).	spouse or cohabiting partner. Ordinance (2006:262).		and children over 21” For children under 21 years of age, please see the full list of the required documents under Article 10.1.
Art.10.2 (e)	(e) in cases falling under Article 3(2)(a), a document issued by the relevant authority in the country of origin or country from which they are arriving certifying that they are dependants or members of the household of the Union citizen, or proof of the existence of serious health grounds which strictly require the personal care of the family member by the Union citizen;	Chapter 3 a Section 9 of the Aliens Decree (2006:97)	i den mån detta är en förutsättning för sökandens uppehållsrätt, handlingar som styrker att han eller hon är beroende av EES-medborgaren eller hans eller hennes make eller sambo för sin försörjning. Förordning (2006:262).	and, insofar as this is a condition for the applicant's right of residence, documents confirming that he or she is a dependant of the EEA national or his or her spouse or cohabiting partner. Ordinance (2006:262).	N, Ambiguous	Ambiguous transposition  Sweden has not adequately transposed Article 3(2) (a) (see reasoning under Article 3.2 (a)). According to the Swedish legislation, a resident permit may be given someone who is resident in or who has been granted a residence permit to settle in Sweden, if he or she has been a member of the same household as that person and there exists a special relationship of dependence.
Art.10.2 (f)	(f) in cases falling under Article 3(2)(b), proof of the existence of a durable relationship with the Union citizen.	Chapter 3 a Section 9 of the Aliens Decree (2006:97)	i den mån detta är en förutsättning för sökandens uppehållsrätt, handlingar som styrker att han eller hon är beroende av EES-medborgaren eller hans eller hennes make eller sambo för sin försörjning. Förordning (2006:262).	and, insofar as this is a condition for the applicant's right of residence, documents confirming that he or she is a dependant of the EEA national or his or her spouse or cohabiting partner. Ordinance (2006:262).	Y	Effective transposition  The Swedish forms states for cohabitants: lease agreement or proof of purchase of a residence (cohabitants)
Art.11.1	<b>Validity of the residence card</b>  1. The residence card provided for by Article 10(1) shall be valid for five years from the date of issue or for the envisaged period of residence of the Union citizen, if this period is less than five years.	Chapter 3 a Section 7 a, para.1 of the Aliens Decree (2006:97)	<b>7 a §</b> Ett uppehållskort enligt 7 § första stycket 3 skall gälla i fem år från dagen för utfärdandet eller under den beräknade vistelsetiden för den unionsmedborgare från vilken uppehållsrätten härleds om denna inte överstiger fem år..	<b>Section 7a.</b> The residence card as mentioned in Section 7 first indent. shall be valid for the period of five years from the day of its issue or for the period of the estimated period of residence of the EU citizen from whom the right of residence is derived, if it does not exceed five years.	Y	Effective transposition.
Art.11.2	2. The validity of the residence card shall not be affected by temporary absences not exceeding six months a year, or by absences of a longer duration for compulsory military service or by one	Chapter 3 a Section 7 a, para.2 of the Aliens Decree (2006:97)	Vistas innehavare av ett sådant uppehållskort som avses i första stycket utanför Sverige längre tid än sex månader per år, förlorar uppehållskortet sin giltighet.	In case if the owner of the residence card as referred to in the first para. resides outside Sweden for a longer period that six months per year, the validity	Y	Effective transposition.

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	absence of a maximum of 12 consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another Member State or a third country.		Giltigheten påverkas dock inte av att innehavaren vistas utanför Sverige längre tid om - vistelsen inte överstiger tolv månader i följd och orsakas av graviditet och förlossning, allvarlig sjukdom, studier, yrkesutbildning, utstationering på grund av arbete eller andra särskilda skäl, eller - vistelsen är orsakad av obligatorisk militärtjänstgöring. Förordning (2007:147).	of the residence card will be lost. The validity is not however affected by the fact that the owner resides outside Sweden for a longer period, if - the residence does not exceed twelve months and is the consequence or is caused by pregnancy, child birth, serious disease, studies, vocational training, or a posting or other special circumstances, or - residence is caused by a compulsory military duty.		
Art.12.1	<b>Retention of the right of residence by family members in the event of death or departure of the Union citizen</b> 1. Without prejudice to the second subparagraph, the Union citizen's death or departure from the host Member State shall not affect the right of residence of his/her family members who are nationals of a Member State. Before acquiring the right of permanent residence, the persons concerned must meet the conditions laid down in points (a), (b), (c) or (d) of Article 7(1).	Chapter 3 a Section 2 of the Aliens Decree (2006:97)	<b>2 §...</b> En utlänning som är familjemedlem enligt 3 a kap. 2 § utlänningslagen och som är EES-medborgare måste uppfylla något av de villkor som anges i 3 a kap. 3 § utlänningslagen för att ha uppehållsrätt, om den person från vilken han eller hon härlett sin uppehållsrätt <b>avlider eller reser ut</b> ur Sverige. Förordning (2006:262).	<b>Section 2</b> ...An alien who is a family member as defined in Chapter 3a, Section 2 of the Aliens Act and who is an EEA national must fulfil one of the conditions stated in Chapter 3a, Section 3 of the Aliens Act in order to have a right of residence, if the person from whom he or she has derived the right of residence <b>dies or leaves</b> Sweden. Ordinance (2006:262).	Y	Effective transposition.  An alien who is a family member who is an EEA national must fulfil one of the conditions stated in Chapter 3a, Section 3 of the Aliens Act in order to have a right of residence, if the person from whom he or she has derived the right of residence dies or leaves Sweden. Those conditions are Article 7(1) conditions.
Art.12.2	2. Without prejudice to the second subparagraph, the Union citizen's death shall not entail loss of the right of residence of his/her family members who are not nationals of a Member State and who have been residing in the host Member State as family members for at least one year before the Union citizen's death.	Chapter 3 a Section 2 of the Aliens Decree (2006:97)	<b>2 §</b> En utlänning som är familjemedlem enligt 3 kap. 2 § utlänningslagen (2005:716) och som inte är EES-medborgare behåller sin uppehållsrätt, om den person från vilken han eller hon härlett sin uppehållsrätt avlider, under förutsättning att familjemedlemmen då har vistats i Sverige som familjemedlem <b>under minst ett år</b> , samt...	<b>Section 2</b> An alien who is a family member as defined by Chapter 3a, Section 2 of the Aliens Act (2005:716) and who is not an EEA national retains his or her right of residence if the person from whom he or she has derived the right of residence dies, provided the family member has then been in Sweden as a family member <b>for at least one year</b> , and ....	Y	Effective transposition.  Family members who are <i>not</i> nationals of a Member State will under certain circumstances (see below) retain his or her right of residence in the case of citizen's death or departure from the host Member State. The common condition is to have resided in SE as a family member for at least one year.

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	Before acquiring the right of permanent residence, the right of residence of the persons concerned shall remain subject to the requirement that they are able to show that they are workers or self-employed persons or that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host Member State, or that they are members of the family, already constituted in the host Member State, of a person satisfying these requirements. 'Sufficient resources' shall be as defined in Article 8(4).	Chapter 3 a Section 2 of the Aliens Decree (2006:97)	<b>2 §</b> En utlännning som är familjemedlem enligt 3 kap. 2 § utlänningslagen (2005:716) och som inte är EES-medborgare behåller sin uppehållsrätt, om den person från vilken han eller hon härlett sin uppehållsrätt avlider, under förutsättning att familjemedlemmen då har vistats i Sverige som familjemedlem under minst ett år, samt 1. är arbetstagare eller egen företagare i Sverige, 2. har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning och har en heltäckande sjukförsäkring som gäller i Sverige, eller 3. är medlem i en familj som redan är bildad i Sverige av en person som uppfyller villkoren i 1 eller 2. [...]	<b>Section 2</b> An alien who is a family member as defined by Chapter 3a, Section 2 of the Aliens Act (2005:716) and who is not an EEA national retains his or her right of residence if the person from whom he or she has derived the right of residence dies, provided the family member has then been in Sweden as a family member for at least one year, and 1. is a worker or a self-employed person in Sweden, 2. has adequate assets to support himself or herself and family members and has comprehensive health insurance that is valid in Sweden or 3. is a member of a family that has already been formed in Sweden by a person who fulfils the conditions in point 1 or 2. [...].	Y	Effective transposition  Although the last sentence has not been transposed, transposition can be considered as effective.
	Such family members shall retain their right of residence exclusively on a personal basis.				NT	Not transposed.
Art.12.3	3. The Union citizen's departure from the host Member State or his/her death shall not entail loss of the right of residence of his/her children or of the parent who has actual custody of the children, irrespective of nationality, if the children reside in the host Member State and are enrolled at an educational establishment, for the purpose of studying there, until the completion of their studies.	Chapter 3 a Section 3 of the Aliens Decree (2006:97)	<b>3 §</b> En EES-medborgares barn som är <b>under 21</b> år och som är inskrivet vid en erkänd utbildningsanstalt för att bedriva studier, och som härlett sin uppehållsrätt från föräldern, behåller sin uppehållsrätt även om föräldern avlider eller reser ut ur Sverige. Detsamma gäller den person som har vårdnaden om barnet. Upphållsrätten kvarstår till dess att den studerande har avslutat studierna. Förordning (2006:262).	<b>Section 3</b> A child of an EEA national who is <b>under 21</b> years of age and who is enrolled at a recognised educational institution in order to pursue studies, and who has derived his or her right of residence from his or her parent, retains his or her right of residence even if the parent dies or leaves Sweden. The same applies to the person who has custody of the child. The right of residence shall continue until the student has	N, Incorrect	Incorrect transposition  It is more favorouable since it refers to any family member retaining custody. On the other hand, it limits the concept of children to 21 years old. This is not in line with the Directive.

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				completed his or her studies. Ordinance (2006:262).		
Art.13.1	<p><b>Retention of the right of residence by family members in the event of divorce, annulment of marriage or termination of registered partnership</b></p> <p>1. Without prejudice to the second subparagraph, divorce, annulment of the Union citizen's marriage or termination of his/her registered partnership, as referred to in point 2(b) of Article 2 shall not affect the right of residence of his/her family members who are nationals of a Member State.</p>	Chapter 3 a Section 4 of the Aliens Decree (2006:97)	<p><b>4 §</b> En utlänning som är familjemedlem enligt 3 a kap. 2 § utlänningslagen och som är EES-medborgare måste uppfylla något av de villkor som anges i 3 a kap. 3 § utlänningslagen för att ha uppehållsrätt, om <b>anknytningen</b> till den person från vilken han eller hon härlett sin uppehållsrätt <b>upphör</b> genom sådan händelse som anges i första stycket. Förordning (2006:262).</p>	<p><b>Section 4</b> An alien who is a family member as defined in Chapter 3a, Section 2 of the Aliens Act and who is an EEA national must fulfil one of the conditions stated in Chapter 3a, Section 3 of the Aliens Act in order to have a right of residence, <b>if ties</b> to the person from whom he or she has derived the right of residence <b>are ended</b> by an event referred to in the first paragraph. Ordinance (2006:262).</p>	Y	<p>Effective transposition.</p> <p>The annulment of the Union citizen's marriage or dissolution of his/her registered partnership or termination of cohabiting relationship shall not affect the right of residence of his/her family members who are nationals of a Member State.</p>
	Before acquiring the right of permanent residence, the persons concerned must meet the conditions laid down in points (a), (b), (c) or (d) of Article 7(1).	See above	See above	See above	Y	Effective transposition.
Art.13.2 (a)	<p>2. Without prejudice to the second subparagraph, divorce, annulment of marriage or termination of the registered partnership referred to in point 2(b) of Article 2 shall not entail loss of the right of residence of a Union citizen's family members who are not nationals of a Member State where:</p> <p>(a) prior to initiation of the divorce or annulment proceedings or termination of the registered partnership referred to in point 2(b) of Article 2, the marriage or registered partnership has lasted at least three years, including one year in the host Member State; or</p>	Chapter 3 a Section 4 of the Aliens Decree (2006:97)	<p><b>4 §</b> En utlänning som är familjemedlem enligt 3 a kap. 2 § utlänningslagen (2005:716) men som inte är EES-medborgare behåller sin uppehållsrätt, om anknytningen till den person från vilken han eller hon härlett sin uppehållsrätt upphör genom äktenskapsskillnad, ogiltigförklaring av äktenskapet, upplösning av det registrerade partnerskapet eller upphörande av samboförhållandet, under förutsättning att han eller hon uppfyller vad som föreskrivs i 2 § första stycket 1, 2 eller 3, samt - äktenskapet, samboförhållandet eller det registrerade partnerskapet har varat i <b>minst tre år</b>, varav minst ett år i Sverige, när förfarandet för äktenskapsskillnad</p>	<p><b>Section 4</b> An alien who is a family member as defined by Chapter 3a, Section 2 of the Aliens Act (2005:716) but who is not an EEA national retains his or her right of residence if ties to the person from whom he or she has derived the right of residence are ended by divorce, annulment of marriage, dissolution of a registered partnership or termination of a cohabiting relationship, provided he or she fulfils the provisions of Section 2, first paragraph, point 1, 2 or 3 and - the marriage, cohabiting relationship or registered partnership has lasted for <b>at least three years</b>, including at least one year in Sweden, when</p>	Y	<p>Effective transposition.</p> <p>Notably, registered partnership is equalized with marriage according to the Swedish legislation.</p>

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			eller ogiltigförklaring av äktenskapet eller upplösning av samboförhållandet eller det registrerade partnerskapet inleds,	the process of divorce or annulment or dissolution of the cohabiting relationship or registered partnership is initiated,		
Art.13.2 (b)	(b) by agreement between the spouses or the partners referred to in point 2(b) of Article 2 or by court order, the spouse or partner who is not a national of a Member State has custody of the Union citizen's children; or	Chapter 3 a Section 4 of the Aliens Decree (2006:97)	- vårdnaden av EES-medborgarens barn har överlåtits på familjemedlemmen,	- custody of the EEA national's child has been transferred to the family member,	Y	Effective transposition; more favourable treatment.  The Swedish legal system acknowledges both, the agreement and the court order. More favourable since it accepts that custody may be retained by any family member.
Art.13.2 (c)	(c) this is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage or registered partnership was subsisting; or	Chapter 3 a Section 4 of the Aliens Decree (2006:97)	- det är befogat med hänsyn till särskilt svåra omständigheter i förhållandet, eller	- it is warranted in view of particularly difficult circumstances in the relationship or	N, Incomplete	Incomplete transposition  The lack of reference to domestic violence makes transposition incorrect.
Art.13.2 (d)	d) by agreement between the spouses or partners referred to in point 2 (b) of Article 2 or by court order, the spouse or partner who is not a national of a Member State has the right of access to a minor child, provided that the court has ruled that such access must be in the host Member State, and for as long as is required.	Chapter 3 a Section 4 of the Aliens Decree (2006:97)	- familjemedlemmen genom överenskommelse mellan föräldrarna eller genom domstolsbeslut har rätt till umgänge med ett underårigt barn och denna umgängerätt måste utövas i Sverige.	- the family member, by agreement between the parents or by court order, has access rights to a minor child and these access rights must be exercised in Sweden.	N, Incomplete	Incomplete transposition  The transposing Swedish legislation does not explicitly state "for as long as is required". Transposition is thus incomplete.
	Before acquiring the right of permanent residence, the right of residence of the persons concerned shall remain subject to the requirement that they are able to show that they are workers or self-employed persons or that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence and have comprehensive sickness insurance cover in the host	Chapter 3a Section 2 of the Aliens Act (2005:716)  Chapter 3 a Sections 2 and 4 of the Aliens Decree (2006:97)	<b>Kapitel 3a</b> <b>2 § Med familjemedlem till EES-medborgare</b> avses i denna lag en utlänning som följer med eller i Sverige ansluter sig till en EES-medborgare och som är - make eller sambo till EES-medborgaren, - släkting i rakt nedstigande led till EES-medborgaren eller till hans eller hennes make eller sambo, om släktingen är beroende	<b>Chapter 3a</b> <b>Section 2</b> In this Act 'a family member of an EEA national' means an alien who accompanies an EEA national to Sweden or joins an EEA national in Sweden and who is - the spouse or cohabiting partner of the EEA national, - a direct descendant of the EEA national or of his or her spouse	Y	Effective transposition.  Although the last sentence has not been transposed, transposition can be considered as effective.

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	Member State, or that they are members of the family, already constituted in the host Member State, of a person satisfying these requirements. 'Sufficient resources' shall be as defined in Article 8(4).		<p>av någon av dem för sin försörjning eller är under 21 år, eller</p> <p>- släkting i rakt uppstigande led till EES-medborgaren eller till hans eller hennes make eller sambo, om släktingen är beroende av någon av dem för sin försörjning. Lag (2006:219).</p> <p><b>Kapitel 3a</b>  <b>4 §</b> En utlänning som är <b>familjemedlem enligt 3 a kap. 2 § utlänningslagen (2005:716)</b> men som inte är EES-medborgare behåller sin uppehållsrätt, om anknytningen till den person från vilken han eller hon härlett sin uppehållsrätt upphör genom äktenskapsskillnad, ogiltigförklaring av äktenskapet, upplösning av det registrerade partnerskapet eller upphörande av samboförhållandet, under förutsättning att han eller hon uppfyller vad som föreskrivs i 2 § första stycket 1, 2 eller 3, samt</p> <p>- äktenskapet, samboförhållandet eller det registrerade partnerskapet har varat i <b>minst tre år</b>, varav minst ett år i Sverige, när förfarandet för äktenskapsskillnad eller ogiltigförklaring av äktenskapet eller upplösning av samboförhållandet eller det registrerade partnerskapet inleds...</p> <p><b>Kapitel 3a</b></p>	<p>or cohabiting partner, if the descendant is dependent on either of them for means of support or is under 21 years of age or</p> <p>– a direct ascendant of the EEA national or of his or her spouse or cohabiting partner, if the relative is dependent on either of them for means of support.</p> <p><b>Chapter 3a</b>  <b>Section 4</b> An alien who is a <b>family member as defined by Chapter 3a, Section 2 of the Aliens Act (2005:716)</b> but who is not an EEA national retains his or her right of residence if ties to the person from whom he or she has derived the right of residence are ended by divorce, annulment of marriage, dissolution of a registered partnership or termination of a cohabiting relationship, provided he or she fulfils the provisions of <b>Section 2, first paragraph, point 1, 2 or 3</b> and</p> <p>- the marriage, cohabiting relationship or registered partnership has lasted for <b>at least three years</b>, including at least one year in Sweden, when the process of divorce or annulment or dissolution of the cohabiting relationship or registered partnership is initiated...</p> <p><b>Chapter 3a</b></p>		

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			<p>2 § En utlänning som är familjemedlem enligt 3 a kap. 2 § utlänningslagen (2005:716) och som inte är EES-medborgare behåller sin uppehållsrätt, om den person från vilken han eller hon härlett sin uppehållsrätt avlider, under förutsättning att familjemedlemmen då har vistats i Sverige som familjemedlem under minst ett år, samt</p> <p>1. är arbetstagare eller egen företagare i Sverige,</p> <p>2. har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning och har en heltäckande sjukförsäkring som gäller i Sverige, eller</p> <p>3. är medlem i en familj som redan är bildad i Sverige av en person som uppfyller villkoren i 1 eller 2.</p> <p>En utlänning som är familjemedlem enligt 3 a kap. 2 § utlänningslagen och som är EES-medborgare måste uppfylla något av de villkor som anges i 3 a kap. 3 § utlänningslagen för att ha uppehållsrätt, om den person från vilken han eller hon härlett sin uppehållsrätt avlider eller reser ut ur Sverige. Förordning (2006:262).</p>	<p><b>Section 2</b> An alien who is a family member as defined by Chapter 3a, Section 2 of the Aliens Act (2005:716) and who is not an EEA national retains his or her right of residence if the person from whom he or she has derived the right of residence dies, provided the family member has then been in Sweden as a family member for at least one year, and</p> <p>1. is a worker or a self-employed person in Sweden,</p> <p>2. has adequate assets to support himself or herself and family members and has comprehensive health insurance that is valid in Sweden or</p> <p>3. is a member of a family that has already been formed in Sweden by a person who fulfils the conditions in point 1 or 2.</p> <p>An alien who is a family member as defined in Chapter 3a, Section 2 of the Aliens Act and who is an EEA national must fulfil one of the conditions stated in Chapter 3a, Section 3 of the Aliens Act in order to have a right of residence, if the person from whom he or she has derived the right of residence dies or leaves Sweden. Ordinance (2006:262).</p>		
	Such family members shall retain their right of residence exclusively on personal basis.				NT	The provision is not transposed.
Art.14.1	<b>Retention of the right of residence</b>  Union citizens and their family members	Chapter 8 Section 2 of the Aliens Act (2005:716)	<p>2 § En utlänning får avvisas</p> <p>1. om det kan antas att han eller hon kommer att sakna tillräckliga</p>	<p><b>Section 2</b> An alien may be refused entry</p> <p>1. if it can be assumed that he or</p>	Y	Effective transposition.  The transposing legislation contains a

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	shall have the right of residence provided for in Article 6, as long as they do not become an unreasonable burden on the social assistance system of the host Member State.		<p>medel för vistelsen i Sverige eller i något annat nordiskt land som han eller hon tänker besöka eller för hemresan, ... En utlännning får avvisas även i andra fall när det har begärts av den centrala utlänningsmyndigheten i ett annat nordiskt land och det kan antas att han eller hon annars beger sig till det landet. Första stycket 1 gäller inte för en EES-medborgare och hans eller hennes familjemedlemmar. Avvisning får dock ske, av andra än arbetstagare, egenföretagare, arbetssökande samt dennes familjemedlemmar, om någon av dem <b>efter inresan i Sverige</b> visar sig utgöra en belastning för biståndssystemet enligt socialtjänstlagen (2001:453). Lag (2006:219).</p>	<p>she will lack adequate funds for the stay in Sweden or in some other Nordic country that he or she intends to visit or for the journey home, ...The first paragraph, point 1 does not apply to an EEA national and the members of his or her family. However, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused entry if any of them, <b>after entering Sweden</b>, proves to be a burden to the social assistance system under the Social Services Act (2001:453).</p>		<p>possibility of refusal of entry into Sweden for EEA nationals and their family members, if they prove to be a burden to the social assistance system under the Social Services Act (2001:453). This rule does not apply to workers or self-employed persons, persons seeking employment and their family members.</p> <p>Notably, the transposing legislation in fact also regulates the situation, when the person already is in the country, although the Swedish wording "får avvisas" (English "may be refused entry") is used here. Obviously, the Swedish words "avvisa" and "utvisa" (English, "refuse entry" and "expel") are used as synonyms here due to the peculiarities of the Swedish language (particularly, with regard to the fact that the word "refuse entry" is used in combination with the word "after entering Sweden"). The Swedish transposing provision is broader and covers both situations - refuse entry and expulsion without differentiating them explicitly.</p> <p>N.B.: As mentioned before, under Swedish law entry includes entry and residence for up to three months.</p>
Art.14.2	2. Union citizens and their family Members shall have the right of residence provided for in Articles 7, 12 and 13 as long as they meet the conditions set out therein.	Chapter 3 a Section 5 of the Aliens Act (2005:716)	5 § Uppehållsrätten finns så länge villkoren är uppfyllda. Lag (2006:219).	<b>Section 5</b> The right of residence exists as long as the conditions are satisfied.	Y	Effective transposition
	In specific cases where there is a reasonable doubt as to whether a Union citizen or his/her family members				NT	The provision is not transposed.



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	satisfies the conditions set out in Articles 7, 12 and 13, Member States may verify if these conditions are fulfilled. This verification shall not be carried out systematically.					
Art.14.3	3. An expulsion measure shall not be the automatic consequence of a Union citizen's or his or her family member's recourse to the social assistance system of the host Member State.	Chapter 8 Section 2 of the Aliens Act (2005:716)	<p><b>2 § En utlänning får avvisas</b></p> <p>1. om det kan antas att han eller hon kommer att sakna tillräckliga medel för vistelsen i Sverige eller i något annat nordiskt land som han eller hon tänker besöka eller för hemresan,</p> <p>2. om det kan antas att han eller hon under vistelsen i Sverige eller i något annat nordiskt land inte kommer att försörja sig på ett ärligt sätt eller kommer att bedriva verksamhet som kräver arbetstillstånd, utan att han eller hon har ett sådant tillstånd, .....</p> <p>Första stycket 1 gäller inte för en EES-medborgare och hans eller hennes familjemedlemmar. Avvisning får dock ske, av andra än arbetstagare, egenföretagare, arbetssökande samt dennes familjemedlemmar, om någon av dem <b>efter inresan i Sverige</b> visar sig utgöra en belastning för biståndssystemet enligt socialtjänstlagen (2001:453). Lag (2006:219).</p>	<p><b>Section 2 An alien may be refused entry</b></p> <p>1. if it can be assumed that he or she will lack adequate funds for the stay in Sweden or in some other Nordic country that he or she intends to visit or for the journey home,</p> <p>2. if it can be assumed that during the stay in Sweden or in some other Nordic country he or she will not support himself or herself by honest means or will engage in activities that require a work permit, without having such a permit, .....</p> <p>The first paragraph, point 1 does not apply to an EEA national and the members of his or her family. However, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused entry if any of them, <b>after entering Sweden</b>, proves to be a burden to the social assistance system under the Social Services Act (2001:453).</p>	N, Incorrect	<p>Incorrect transposition</p> <p>According to the Swedish legislation, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused entry if any of them, after entering Sweden, proves to be a burden to the social assistance system under the Social Services Act (2001:453). The Swedish Government has expressed the view that "burden" shall be interpreted restrictively, meaning that for an expulsion, it is required that the alien in question has made a recourse to the Swedish social assistance system in a more than minute extent (Swedish <i>ringa omfattning</i>). It follows further that an expulsion decision must be based on an assessment in each individual case taken into consideration such circumstances as the length of stay, personal circumstances as well as the amount of the social aid that has been granted (Government Bill Prop. 2005/06:77, pp. 72-73). An expulsion measure may therefore never be the automatic consequence of the Union citizen's or his or her family member's recourse to the social assistance system in Sweden. However, the transposing legislation does not explicitly prescribe that one cannot be expelled out for making</p>

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						<p>recourse to the social assistance, meaning that one cannot automatically become an unreasonable burden for recurring to social assistance. In this context, workers and self-employed can never be considered to be an unreasonable burden.</p> <p>It is therefore concluded a case of non-conformity.</p> <p>Notably, the transposing legislation in fact also regulates the situation, when the person already is in the country, although the Swedish wording "får avvisas" (English "may be refused entry") is used here. Obviously, the Swedish words "avvisa" and "utvisa" (English, "refuse entry" and "expel") are used as synonyms here due to the peculiarities of the Swedish language (particularly, with regard to the fact that the word "refuse entry" is used in combination with the word "after entering Sweden"). The Swedish transposing provision is broader and covers both situations - refuse entry and expulsion without differentiating them explicitly. So there is no specific one for residence for more than 3 months.</p>
Art.14.4 (a)	4. By way of derogation from paragraphs 1 and 2 and without prejudice to the provisions of Chapter VI, an expulsion measure may in no case be adopted against Union citizens or their family members if: (a) the Union citizens are workers or self-employed persons, or	Chapter 8 Section 2 of the Aliens Act (2005:716)	<b>2 §</b> En utlänning får avvisas 1. om det kan antas att han eller hon kommer att sakna tillräckliga medel för vistelsen i Sverige eller i något annat nordiskt land som han eller hon tänker besöka eller för hemresan, ....	<b>Section 2</b> An alien may be refused entry 1. if it can be assumed that he or she will lack adequate funds for the stay in Sweden or in some other Nordic country that he or she intends to visit or for the journey home,	Y	Effective transposition.  EEA nationals and their family members may be refused entry if any of them, after entering Sweden, proves to be a burden to the social assistance system under the Social Services Act (2001:453). This

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			Första stycket 1 gäller inte för en EES-medborgare och hans eller hennes familjemedlemmar. Avvisning får dock ske, av andra än arbetstagare, egenföretagare, arbetssökande samt dennes familjemedlemmar, om någon av dem <b>efter inresan i Sverige</b> visar sig utgöra en belastning för biståndssystemet enligt socialtjänstlagen (2001:453). Lag (2006:219).	..... The first paragraph, point 1 does not apply to an EEA national and the members of his or her family. However, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused entry if any of them, <b>after entering Sweden</b> , proves to be a burden to the social assistance system under the Social Services Act (2001:453).		provision does not apply to workers or self-employed persons who are EEA nationals. The same applies to their family members.  Notably, the transposing legislation in fact also regulates the situation, when the person already is in the country, although the Swedish wording "får avvisas" (English "may be refused entry") is used here. Obviously, the Swedish words "avvisa" and "utvisa" (English, "refuse entry" and "expel") are used as synonyms here due to the peculiarities of the Swedish language (particularly, with regard to the fact that the word "refuse entry" is used in combination with the word "after entering Sweden"). The Swedish transposing provision is broader and covers both situations - refuse entry and expulsion without differentiating them explicitly.
Art.14.4 (b)	(b) the Union citizens entered the territory of the host Member State in order to seek employment. In this case, the Union citizens and their family members may not be expelled for as long as the Union citizens can provide evidence that they are continuing to seek employment and that they have a genuine chance of being engaged.	Chapter 8 Section 2 of the Aliens Act (2005:716)	<b>2 § En utlänning får avvisas</b> 1. om det kan antas att han eller hon kommer att sakna tillräckliga medel för vistelsen i Sverige eller i något annat nordiskt land som han eller hon tänker besöka eller för hemresan, .... Första stycket 1 gäller inte för en EES-medborgare och hans eller hennes familjemedlemmar. Avvisning får dock ske, av andra än arbetstagare, egenföretagare, arbetssökande samt dennes familjemedlemmar, om någon av dem <b>efter inresan i Sverige</b> visar sig utgöra en belastning för	<b>Section 2 An alien may be refused entry</b> 1. if it can be assumed that he or she will lack adequate funds for the stay in Sweden or in some other Nordic country that he or she intends to visit or for the journey home, .....The first paragraph, point 1 does not apply to an EEA national and the members of his or her family. However, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused	Y	Effective transposition.  The requisites "as long as the Union citizens can provide evidence" and "have a genuine chance of being engaged" are included into a broader Swedish term "seeking employment" (the correct Swedish term is "aktiv arbetssökande" - in English, "active jobseeker"), which implies that the person is still looking for a job.  Notably, the transposing legislation in fact also regulates the situation, when the person already is in the country, although the Swedish

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			biståndssystemet enligt socialtjänstlagen (2001:453). Lag (2006:219).	entry if any of them, <b>after entering Sweden</b> , proves to be a burden to the social assistance system under the Social Services Act (2001:453).		wording "får avvisas" (English "may be refused entry") is used here. Obviously, the Swedish words "avvisa" and "utvisa" (English, "refuse entry" and "expel") are used as synonyms here due to the peculiarities of the Swedish language (particularly, with regard to the fact that the word "refuse entry" is used in combination with the word "after entering Sweden"). The Swedish transposing provision is broader and covers both situations - refuse entry and expulsion without differentiating them explicitly.
Art.15.1	<p><b>Procedural safeguards</b></p> <p>The procedures provided for by Articles 30 and 31 shall apply by analogy to all decisions restricting free movement of Union citizens and their family members on grounds other than public policy, public security or public health.</p>	See articles 30 and 31 (Notification of decisions; Procedural safeguards)			N, Incorrect	<p>Incorrect transposition</p> <p>Procedural safeguards are mainly regulated in the Chapter 13 and 14 of the Aliens Act (2005:716), as well as they apply in accordance with the fundamental administrative principles (e.g. transparency, right to judicial redress, right to be heard). Chapter 13 and 14 apply to any restriction of the right of free movement. However, procedural safeguards are not adequately transposed into Swedish law, in particular as concerns notification (See analysis of Articles 30-31 for more details.) For this reason the transposition has been considered incorrect.</p>
Art.15.2	2. Expiry of the identity card or passport on the basis of which the person concerned entered the host Member State and was issued with a registration certificate or residence card shall not constitute a ground for expulsion from	Chapter 8 Section 1 indent 2 of the Aliens Act (2005:716)	1 § /Upphör att gälla U:den dag regeringen bestämmer/ En utlännings får avvisas 1. om han eller hon saknar pass när det krävs pass för inresa eller vistelse i Sverige,	<p><b>Section 1</b>An alien <b>may be refused entry</b></p> <p>1. if he or she has no passport when a passport is required to enter or stay in Sweden,</p> <p>2. if he or she lacks a visa,</p>	Y	<p>Effective transposition.</p> <p>As the expulsion grounds are quoted exhaustively here, it is concluded <i>a contrario</i> that expiry of the identity card or passport do not constitute</p>

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	the host Member State.		<p>2. om han eller hon saknar visering, uppehållstillstånd eller något annat tillstånd som krävs för inresa, vistelse eller arbete i Sverige,</p> <p>3. om det vid utlänningens ankomst till Sverige kommer fram att han eller hon tänker besöka något annat nordiskt land men saknar det tillstånd som krävs för inresa där,</p> <p>...5. om han eller hon inte uppfyller de krav för inresa som föreskrivs i artikel 5 i Schengenkonventionen, eller</p> <p>6. om han eller hon har avvisats eller utvisats från en stat som ingår i Europeiska unionen eller från Island eller Norge och förhållandena är sådana som avses i 7 kape. 6 § eller beslutet om avvisning eller utvisning har grundats på att utlänningen inte har följt gällande bestämmelser om en utlänningens inresa eller vistelse i den staten.</p> <p>En EES-medborgare får inte avvisas enligt första stycket 1, om han eller hon på annat sätt än genom innehav av pass kan styrka sin identitet. Detsamma skall gälla en EES-medborgares familjemedlem som inte själv är EES-medborgare.</p> <p>En EES-medborgare och hans eller hennes familjemedlem får inte avvisas enbart på den grunden att han eller hon inte uppfyller vad som sägs i artikel 5.1 c i Schengenkonventionen i fråga om tillräckliga medel för uppehälle.</p>	<p>residence permit or some other permit that is required to enter, stay or work in Sweden,</p> <p>3. if it comes to light when the alien arrives in Sweden that he or she intends to visit some other Nordic country but lacks the permit required to enter that country,</p> <p>...5. if he or she does not meet the requirements for entry laid down in Article 5 of the Schengen Convention or</p> <p>6. if he or she has been refused entry or expelled from a state belonging to the European Union or from Iceland or Norway under the circumstances referred to in Chapter 7, Section 6 or the refusal-of-entry or expulsion order has been based on the failure of the alien to follow applicable provisions concerning an alien's entry into or stay in that state.</p> <p>An EEA national may not be refused entry under the first paragraph, point 1, if he or she can prove his or her identity by a means other than possession of a passport. The same shall apply to a family member of an EEA national who is not an EEA national himself or herself.</p> <p>An EEA national and a member of his or her family may not be refused entry solely on the grounds that he or she does not fulfil the provisions in Article 5.1 (c) of the Schengen Convention concerning</p>		<p>grounds for expulsion from Sweden.</p> <p>Notably, the transposing legislation in fact also regulates the situation, when the person already is in the country, although the Swedish wording "får avvisas" (English "may be refused entry") is used here. Obviously, the Swedish words "avvisa" and "utvisa" (English, "refuse entry" and "expel") are used as synonyms here due to the peculiarities of the Swedish language. The Swedish transposing provision is broader and covers both situations - refuse entry and expulsion.</p>

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			Lag (2006:219).	sufficient means of subsistence.		
Art.15.3	3. The host Member State may not impose a ban on entry in the context of an expulsion decision to which paragraph 1 applies.	Chapter 8 Section 19 indent 2 of the Aliens Act (2005:716)	<b>19 §</b> När Migrationsverket beslutar om avvisning eller utvisning, får beslutet förenas med förbud för utlänningen att under viss tid återvända till Sverige utan att ha tillstånd av Migrationsverket eller, i ett säkerhetsärendes, regeringen. Ett beslut om avvisning eller utvisning som avser en EES-medborgare eller hans eller hennes familjemedlem, får förenas med ett sådant förbud som avses i första stycket endast om beslutet har fattats på grund av <b>hänsyn till allmän ordning och säkerhet</b> . Lag (2006:219).	<b>Section 19</b> When the Swedish Migration Board orders a refusal of entry or expulsion, the order may be combined with a prohibition against the alien returning to Sweden during a certain period of time without the permission of the Swedish Migration Board or, in a security case, the Government. A refusal-of-entry or expulsion order that refers to an EEA national or a member of his or her family may be combined with such a prohibition as is referred to in the first paragraph only if the order has been issued <b>on grounds of public order and security</b> .	Y	Effective transposition.  A ban on entry in the context of an expulsion decision may be imposed by the Swedish Migration Board. However, a refusal-of-entry or expulsion order that refers to an EEA national or a member of his or her family may be combined with such a prohibition as is referred to in the first paragraph only if the order has been issued on grounds of public order and security.  Therefore, a contrario, there are no other possible grounds.
<b>Chapter IV RIGHT OF PERMANENT RESIDENCE</b>						
<b>Section I. Eligibility</b>						
Art.16.1	<b>General rule for Union citizens and their family members</b> 1. Union citizens who have resided legally for a continuous period of five years in the host Member State shall have the right of permanent residence there. This right shall not be subject to the conditions provided for in Chapter III.	Chapter 3 a Sections 6 and 9 of the Aliens Act (2005:716)	<b>6 §</b> En EES-medborgare som har vistats lagligt i Sverige utan avbrott under minst fem år har permanent uppehållsrätt. Lag (2006:219).  <b>9 §</b> Den permanenta uppehållsrätten gäller utan villkor [..]	<b>Section 6</b> An EEA national who has stayed at least five years in Sweden legally and without interruption has a right of permanent residence.  Section 9: the right of permanent residence is unconditional [...]	Y	Effective transposition.  Here, "without interruption" is used within the meaning of temporary stays outside Sweden that do not add up to a total of more than six months per year or, under certain circumstances, by a longer stay outside Sweden.  Legality is not defined in the legislation.
Art.16.2	2. Paragraph 1 shall apply also to family members who are not nationals of a Member State and have legally resided with the Union citizen in the host Member State for a continuous period of five years.	Chapter 3 a Section 7 of the Aliens Act (2005:716)	<b>7 §</b> En EES-medborgares <b>familjemedlem</b> som inte själv är EES-medborgare och som har vistats lagligt i Sverige utan avbrott under minst fem år med den person från vilken han eller	<b>Section 7</b> A <b>family member</b> of an EEA national who is not an EEA national himself or herself and has stayed at least five years legally and uninterruptedly in Sweden with the person from	Y	Effective transposition

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			hon härleder sin uppehållsrätt, har permanent uppehållsrätt. Lag (2006:219).	whom he or she derives the right of residence, has a right of permanent residence.		
Art.16.3	3. Continuity of residence shall not be affected by temporary absences not exceeding a total of six months a year, or by absences of a longer duration for compulsory military service, or by one absence of a maximum of 12 consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting in another Member State or a third country.	Chapter 3 a Section 8 of the Aliens Act (2005:716)	<b>8 §</b> Det som sägs i 6 och 7 §§ påverkas inte av tillfälliga vistelser utanför Sverige som inte överstiger sammanlagt sex månader per år eller av en längre vistelse utanför Sverige på grund av obligatorisk militärtjänstgöring. Detsamma gäller vid vistelse utanför Sverige under högst tolv på varandra följande månader på grund av graviditet och förlossning, allvarlig sjukdom, studier eller yrkesutbildning, utstationering på grund av arbete i ett annat land eller särskilda skäl. Lag (2006:219).	<b>Section 8</b> The provisions of Sections 6 and 7 are <b>not affected by temporary stays</b> outside Sweden that do not add up to a total of more than six months per year or by a longer stay outside Sweden due to obligatory military service. This also applies to stays outside Sweden for a maximum of twelve consecutive months due to pregnancy and childbirth, serious illness, studies or vocational training, posting abroad due to work in another country or special grounds.	Y	Effective transposition
Art.16.4	4. Once acquired, the right of permanent residence shall be lost only through absence from the host Member State for a period exceeding two consecutive years.	Chapter 3 a Section 9 of the Aliens Act (2005:716)	<b>9§</b> Den permanenta uppehållsrätten gäller utan villkor och kan endast upphöra om utlänningsen har vistats <b>utanför Sverige i mer än två på varandra följande år.</b> Lag (2006:219).	<b>Section 9</b> The right of permanent residence is unconditional and can only expire if the alien has spent <b>more than two consecutive years outside Sweden.</b>	Y	Effective transposition
Art.17.1 (a)	<b>Exemptions for persons no longer working in the host Member State and their family members</b>  1. By way of derogation from Article 16, the right of permanent residence in the host Member State shall be enjoyed before completion of a continuous period of five years of residence by: (a) workers or self-employed persons who, at the time they stop working, have reached the age laid down by the law of that Member State for entitlement to an old age pension or workers who cease	Chapter 3 a Section 5 p. 1 of the Aliens Decree (2006:97)	<b>5 §</b> /Träder i kraft I:2008-01-01/ En EES-medborgare som är arbetstagare eller egen företagare och <b>som upphör att arbeta i Sverige</b> har permanent uppehållsrätt, även om han eller hon inte har vistats här under en fortlöpande period av fem år, om han eller hon, 1. när han eller hon upphör att arbeta har arbetat i Sverige under de tolv föregående månaderna och fortlöpande har vistats i Sverige i minst tre år, samt fyllt <b>60 år</b> eller,	<b>Section 5</b> An EEA national who is a worker or a self-employed person and who <b>stops working in Sweden</b> shall have a right of permanent residence, even if he or she has not stayed here for a continuous period of five years, if he or she 1. when he or she stops working has worked in Sweden during the twelve preceding months and has stayed in Sweden continuously for at least three years, and has passed the age of	Y	Effective transposition.

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	paid employment to take early retirement, provided that they have been working in that Member State for at least the preceding twelve months and have resided there continuously for more than three years.		såvitt gäller arbetstagare, fått <b>pension i förtid</b> i samband med att arbetet upphör...	<b>60</b> or, where a worker is concerned, has taken <b>early retirement</b> following the termination of his or her employment...		
	If the law of the host Member State does not grant the right to an old age pension to certain categories of self-employed persons, the age condition shall be deemed to have been met once the person concerned has reached the age of 60;	Chapter 3 a Section 5 p. 1 of the Aliens Decree (2006:97)	<b>5 §</b> /Träder i kraft I:2008-01-01/ En EES-medborgare som är arbetstagare eller egen företagare och som <b>upphör att arbeta i Sverige</b> har permanent uppehållsrätt, även om han eller hon inte har vistats här under en fortlöpande period av fem år, om han eller hon, 1. när han eller hon upphör att arbeta har arbetat i Sverige under de tolv föregående månaderna och fortlöpande har vistats i Sverige i minst tre år, samt fyllt <b>60 år</b> eller, såvitt gäller arbetstagare, fått pension i förtid i samband med att arbetet upphör, .....	<b>Section 5</b> An EEA national who is a worker or a self-employed person and who <b>stops working in Sweden</b> shall have a right of permanent residence, even if he or she has not stayed here for a continuous period of five years, if he or she 1. when he or she stops working has worked in Sweden during the twelve preceding months and has stayed in Sweden continuously for at least three years, and has passed the age of <b>60</b> or, where a worker is concerned, has taken early retirement following the termination of his or her employment, .....	Y	Effective transposition.
Art.17.1 (b)	(b) workers or self-employed persons who have resided continuously in the host Member State for more than two years and stop working there as a result of permanent incapacity to work. If such incapacity is the result of an accident at work or an occupational disease entitling the person concerned to a benefit payable in full or in part by an institution in the host Member State, no condition shall be imposed as to length of residence;	Chapter 3 a Section 5 p. 2 and 3 of the Aliens Decree (2006:97)	<b>5 §</b> /Träder i kraft I:2008-01-01/ En EES-medborgare som är arbetstagare eller egen företagare och som <b>upphör att arbeta i Sverige</b> har permanent uppehållsrätt, även om han eller hon inte har vistats här under en fortlöpande period av fem år, om han eller hon, .... 2. slutar sitt arbete på grund av en <b>permanent arbetsoförmåga</b> och fortlöpande har vistats i Sverige i mer än två år, 3. slutar sitt arbete på grund av en	<b>Section 5</b> An EEA national who is a worker or a self-employed person and who <b>stops working in Sweden</b> shall have a right of permanent residence, even if he or she has not stayed here for a continuous period of five years, if he or she ..... 2. leaves work because of a <b>permanent incapacity for work</b> and has stayed in Sweden continuously for more than two years, 3. leaves work because of an	Y	Effective transposition.  Although the transposing legislation does not explicitly cover "occupational disease", this is covered by the term "industrial injury" itself, as defined in Chapter 1 Section 2 of the Law on the insurance in cases of industrial injury (1976:380). The most important here whether there exists a causal link between incapacity to work and the <i>industrial</i> injury or disease. Likewise, some of the infective diseases are also covered by the term "industrial



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			arbetskada som berättigar till en förmån som helt eller delvis betalas av en svensk institution, eller .....	<b>industrial injury</b> that entitles a person to a benefit that is wholly or partly paid by a Swedish institution or .....		injury" according to the Swedish law.
Art.17.1 (c)	(c) workers or self-employed persons who, after three years of continuous employment and residence in the host Member State, work in an employed or self-employed capacity in another Member State, while retaining their place of residence in the host Member State, to which they return, as a rule, each day or at least once a week.	Chapter 3 a Section 5 p. 4 of the Aliens Decree (2006:97)	<b>5 §</b> /Träder i kraft I:2008-01-01/ En EES-medborgare som är arbetstagare eller egen företagare och som <b>upphör att arbeta i Sverige</b> har permanent uppehållsrätt, även om han eller hon inte har vistats här under en fortlöpande period av fem år, om han eller hon, ..... 4. efter minst tre års fortlöpande verksamhet och vistelse i Sverige, har <b>fortsatt att arbeta i en annan EES-stat och behållit sin bostad i Sverige</b> till vilken han eller hon återvänt minst en gång i veckan, och den sammanlagda yrkesverksamma tiden uppgår till fem år.	<b>Section 5</b> An EEA national who is a worker or a self-employed person and who <b>stops working in Sweden</b> shall have a right of permanent residence, even if he or she has not stayed here for a continuous period of five years, if he or she ..... 4. after at least three years of continuous activities and stay in Sweden <b>has continued to work in another EEA state and kept his or her home in Sweden</b> to which he or she has returned at least once a week, and the total professionally active time amounts to five years.	N, Incorrect	Incorrect transposition  The Swedish transposing provision mentions "the total professionally active time amounts to five years.", which is a further condition, not foreseen by the Directive.
	For the purposes of entitlement to the rights referred to in points (a) and (b), periods of employment spent in the Member State in which the person concerned is working shall be regarded as having been spent in the host Member State.	Chapter 3 a Section 5 of the Aliens Decree (2006:97)	<b>5 §</b> /Träder i kraft I:2008-01-01/ En EES-medborgare som är arbetstagare eller egen företagare och som upphör att arbeta i Sverige har permanent uppehållsrätt, även om han eller hon inte har vistats här under en fortlöpande period av fem år, om han eller hon, ..... 4. efter minst tre års fortlöpande verksamhet och vistelse i Sverige, har fortsatt att arbeta i en annan EES-stat och behållit sin bostad i Sverige till vilken han eller hon återvänt minst en gång i veckan, och den sammanlagda	<b>Section 5</b> An EEA national who is a worker or a self-employed person and who stops working in Sweden shall have a right of permanent residence, even if he or she has not stayed here for a continuous period of five years, if he or she[...]  4. after at least three years of continuous activities and stay in Sweden has continued to work in another EEA state and kept his or her home in Sweden to which he or she has returned at least once a week, and the total	Y	Effective transposition  It follows from Chapter 3a Section 5 of Aliens Decree that periods of employment spent in the Member State in which the person concerned is working shall be regarded as having been spent in the host Member State. Points 1 and 2 transposed (a) and (b). The Swedish law refers to the situation as mentioned he first paragraph, point 1 or 2, whilst the Directive states: For the purposes of entitlement to the rights referred to in points (a) and (b). Therefore, it

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			yrkesverksamma tiden uppgår till fem år. Om en sådan situation som avses i <a href="#">första stycket 1 eller 2</a> inträffar efter minst tre års fortlöpande yrkesverksamhet och vistelse i Sverige ska yrkesverksamma perioder i den andra staten räknas som om de tillbringats i Sverige. [..]	professionally active time amounts to five years. If a situation referred to in the first paragraph, point 1 or 2, occurs after at least three years of continuous professional activity and stay in Sweden, professionally active periods in the other state shall be counted as if they had been <b>spent in Sweden</b> [..]		follows that (b) has been transposed in Sweden by 3. This point is not referred to by Sweden transposing measure (it only refers to 1 and 2). It does not however inflict the conformity, as in that case, the Directive does not impose any obligation regarding length of residence.
	Periods of involuntary unemployment duly recorded by the relevant employment office, periods not worked for reasons not of the person's own making and absences from work or cessation of work due to illness or accident shall be regarded as periods of employment.	Chapter 3 a Section 5 of the Aliens Decree (2006:97)	<b>5 §</b> /Träder i kraft I:2008-01-01/ En EES-medborgare som är arbetstagare eller egen företagare och som <b>upphör att arbeta i Sverige</b> har permanent uppehållsrätt, även om han eller hon inte har vistats här under en fortlöpande period av fem år, om han eller hon, ..... Perioder av <b>ofrivillig arbetslöshet</b> som registrerats av Arbetsförmedlingen eller perioder av ofrivilliga avbrott i arbetet eller frånvaro från eller upphörande av yrkesverksamheten som beror på sjukdom eller olycksfall, ska anses som yrkesverksamma perioder. .....	<b>Section 5</b> An EEA national who is a worker or a self-employed person and who <b>stops working in Sweden</b> shall have a right of permanent residence, even if he or she has not stayed here for a continuous period of five years, if he or she ..... Periods of <b>involuntary unemployment</b> that have been registered by the public employment services or periods of involuntary interruption of work or absence from or cessation of professional activity that are due to sickness or an accident, shall be regarded as professionally active periods. .....	Y	Effective transposition  "Periods not worked for reasons not of the person's own making" is also covered by "involuntary unemployment" according to the Swedish legislation.
Art.17.2	2. The conditions as to length of residence and employment laid down in point (a) of paragraph 1 and the condition as to length of residence laid down in point (b) of paragraph 1 shall not apply if the worker's or the self-employed person's spouse or partner as referred to in point 2(b) of Article 2 is a national of the host Member State or has lost the nationality of that Member State by	Chapter 3 a Section 5, last sentence of the Aliens Decree (2006:97)	<b>5 §</b> /Träder i kraft I:2008-01-01/ En EES-medborgare som är <b>arbetstagare eller egen företagare och som upphör att arbeta i Sverige</b> har permanent uppehållsrätt, även om han eller hon inte har vistats här under en fortlöpande period av fem år, om han eller hon, ..... .....	<b>Section 5</b> An EEA national who is a <b>worker or a self-employed person and who stops working in Sweden</b> shall have a right of permanent residence, even if he or she has not stayed here for a continuous period of five years, if he or she ..... .....	Y	Effective transposition.  Swedish nationals cannot lose nationality upon marriage. One can argue that, as nationals cannot lose nationality following marriage, the missing transposition is only OK when it is clear that never ever before this was possible. In Sweden, this has never been possible.

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	marriage to that worker or self-employed person.		Villkoren som avser vistelsens och verksamhetens längd i första stycket 1 och villkoret som avser vistelsens längd i första stycket 2 ska inte tillämpas om arbetstagarens eller den egna företagarens make, sambo eller registrerade partner är svensk medborgare.	The conditions in the first paragraph, point 1, concerning the duration of the stay and activity and the condition in the first paragraph, point 2, concerning the duration of the stay, shall not apply if the spouse, cohabiting partner or registered partner of the worker or self-employed person is a Swedish national.		
Art.17.3	3. Irrespective of nationality, the family members of a worker or a self-employed person who are residing with him in the territory of the host Member State shall have the right of permanent residence in that Member State, if the worker or self-employed person has acquired himself the right of permanent residence in that Member State on the basis of paragraph 1.	Chapter 3 a Section 6, subpara 1 of the Aliens Decree (2006:97)	<b>6 §</b> Om en EES-medborgare har permanent uppehållsrätt enligt 5 §, skall även hans eller hennes familjemedlem enligt 3 a kap. 2 § utlänningslagen (2005:716) ha permanent uppehållsrätt. .....	<b>Section 6</b> If an EEA national has a right of permanent residence under Section 5, his or her family members as defined in Chapter 3a, Section 2 of the Aliens Act (2005:716) shall also have a right of permanent residence. .....	Y	Effective transposition  More general than the Directive but it covers everything.
Art.17.4 (a)	4. If, however, the worker or self-employed person dies while still working but before acquiring permanent residence status in the host Member State on the basis of paragraph 1, his family members who are residing with him in the host Member State shall acquire the right of permanent residence there, on condition that: (a) the worker or self-employed person had, at the time of death, resided continuously on the territory of that Member State for two years; or	Chapter 3 a Section 6, p. 1 of the Aliens Decree (2006:97)	<b>6 §</b> Om en EES-medborgare har permanent uppehållsrätt enligt 5 §, skall även hans eller hennes familjemedlem enligt 3 a kap. 2 § utlänningslagen (2005:716) ha permanent uppehållsrätt. Om EES-medborgaren avlider medan han eller hon fortfarande är verksam som arbetstagare eller egen företagare men innan han eller hon har permanent uppehållsrätt skall familjemedlemmen som har vistats tillsammans med arbetstagaren eller den egna företagaren ha permanent uppehållsrätt, om 1. arbetstagaren eller den egna företagaren vid sin död har vistats i Sverige i mer än två på varandra	<b>Section 6</b> If an EEA national has a right of permanent residence under Section 5, his or her family members as defined in Chapter 3a, Section 2 of the Aliens Act (2005:716) shall also have a right of permanent residence. If the EEA national dies while still active as a worker or self-employed person but before he or she has a right of permanent residence, the family member who has been staying here with the worker or self-employed person shall have a right of permanent residence, if 1. the worker or self-employed person has been in Sweden for more than two consecutive years	Y	Effective transposition  NB: The original Decree (SFS 2006:97) was amended by Decree SFS 2006:262 for this provision. The whole Chapter 3a was inserted.

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			följande år, eller ...	at the time of death or ...		
Art.17.4 (b)	(b) the death resulted from an accident at work or an occupational disease; or	Chapter 3 a Section 6, p. 2 of the Aliens Decree (2006:97)	<p><b>6 §</b> Om en EES-medborgare har permanent uppehållsrätt enligt 5 §, skall även hans eller hennes familjemedlem enligt 3 a kap. 2 § utlänningslagen (2005:716) ha permanent uppehållsrätt.</p> <p>Om EES-medborgaren <b>avlider</b> medan han eller hon fortfarande är verksam som arbetstagare eller egen företagare men innan han eller hon har permanent uppehållsrätt skall familjemedlemmen som har vistats tillsammans med arbetstagaren eller den egna företagaren ha permanent uppehållsrätt, om .....</p> <p>2. hans eller hennes <b>död var följden av en arbetsskada</b>. Förordning (2006:262).</p>	<p><b>Section 6</b> If an EEA national has a right of permanent residence under Section 5, his or her family members as defined in Chapter 3a, Section 2 of the Aliens Act (2005:716) shall also have a right of permanent residence.</p> <p>If the EEA national <b>dies</b> while still active as a worker or self-employed person but before he or she has a right of permanent residence, the family member who has been staying here with the worker or self-employed person shall have a right of permanent residence, if .....</p> <p>2. his or her <b>death was the consequence of an industrial injury</b>. Ordinance (2006:262).</p>	Y	<p>Effective transposition.</p> <p>The Swedish transposing legislation does not explicitly cover "disease". However, that would be covered by "industrial injury" under the Law on Insurance in cases of industrial injury (1976:380).</p>
Art.17.4 (c)	(c) the surviving spouse lost the nationality of that Member State following marriage to the worker or self-employed person.				N/A	Swedish nationals cannot lose nationality upon marriage.
Art.18	<p><b>Acquisition of the right of permanent residence by certain family members who are not nationals of a Member State.</b></p> <p>Without prejudice to Article 17, the family members of a Union citizen to whom Articles 12(2) and 13(2) apply, who satisfy the conditions laid down therein, shall acquire the right of permanent residence after residing legally for a period of five consecutive years in the host Member State.</p>	Chapter 3a Section 7 of Aliens Act (2005:716)	<p><b>7 §</b> En EES-medborgares familjemedlem som inte själv är EES- medborgare och som har vistats lagligt i Sverige utan avbrott under minst fem år med den person från vilken han eller hon härleder sin uppehållsrätt, har permanent uppehållsrätt. Lag (2006:219).</p>	Section 7 A family member of an EEA national who is not an EEA national himself or herself and has stayed at least five years legally and uninterruptedly in Sweden with the person from whom he or she derives the right of residence, has a right of permanent residence.	N, Incorrect	<p>Incorrect transposition.</p> <p>The rule stipulated in Chapter 3a Section 7 of Aliens Act on the acquisition of the right of permanent residence by family members to an EEA citizen after legally and uninterruptedly having stayed in Sweden for five years also covers family members of an EEA national to whom Article 12(2) and 13(2) apply.</p> <p>An additional problem is that the</p>

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						Swedish law requires third country family members to <u>live together with the EU citizen</u> to obtain the permanent residence. This can hardly be complied with by the retainees.
Chapter IV						
<b>RIGHT OF PERMANENT RESIDENCE</b>						
<i>Section I. Administrative formalities</i>						
Art.19.1	<b>Document certifying permanent residence for Union citizens</b>  1. Upon application Member States shall issue Union citizens entitled to permanent residence, after having verified duration of residence, with a document certifying permanent residence.	Chapter 3 a Section 7 p. 4 of the Aliens Decree (2006:97)	<b>7 §</b> Migrationsverket utfärdar ..... 4. intyg om permanent uppehållsrätt till en medborgare i en EES-stat som har ansökt om ett sådant intyg och som har permanent uppehållsrätt, och .....	<b>Section 7</b> The Swedish Migration Board issues ..... 4. right of permanent residence certificates to nationals of EEA states who have applied for such certificates and who have a right of permanent residence and .....	N, Incorrect	Incorrect transposition  The residence permit sticker is entered directly into the passport.  The application forms are available at <a href="http://www.migrationsverket.se/english.jsp">http://www.migrationsverket.se/english.jsp</a> . Any residence document to be issued in the form of a sticker is contrary to EU law.
Art.19.2	2. The document certifying permanent residence shall be issued as soon as possible.	Chapter 3 a Section 7 of the Aliens Decree (2006:97)	<b>7 §</b> Migrationsverket utfärdar ..... 4. intyg om permanent uppehållsrätt till en medborgare i en EES-stat som har ansökt om ett sådant intyg och som har permanent uppehållsrätt, och ..... Registreringsbevis och intyg om inlämnad ansökan om uppehållskort skall utfärdas <b>omedelbart</b> . Upphållskort och permanent uppehållskort skall utfärdas senast sex månader efter ansökan om sådant kort. Intyg om permanent uppehållsrätt skall utfärdas snarast möjligt. Förordning (2006:262).	<b>Section 7</b> The Swedish Migration Board issues ..... 4. right of permanent residence certificates to nationals of EEA states who have applied for such certificates and who have a right of permanent residence and ..... Registration certificates and certificates showing that a residence card application has been submitted shall be issued <b>immediately</b> . Residence cards and permanent residence cards shall be issued no later than six months after application for such cards. Right of permanent residence certificates shall be issued as soon as possible. Ordinance (2006:262).	Y	Effective transposition.

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Art.20.1	<p><b>Permanent residence card for family members who are not nationals of a Member State</b></p> <p>1. Member States shall issue family members who are not nationals of a Member State entitled to permanent residence with a permanent residence card within six months of the submission of the application. The permanent residence card shall be renewable automatically every 10 years.</p>	Chapter 3 a Section 7 p. 5 and Section 7b of the Aliens Decree (2006:97)	<p><b>7 §</b> Migrationsverket utfärdar ..... 5. permanent uppehållskort till annan utlänning än som avses i 4 och som har permanent uppehållsrätt. Registreringsbevis och intyg om inlämnad ansökan om uppehållskort skall utfärdas omedelbart. Upphållskort och permanent uppehållskort skall utfärdas senast sex månader efter ansökan om sådant kort. Intyg om permanent uppehållsrätt skall utfärdas snarast möjligt. Förordning (2006:262).</p> <p><b>7 b §</b> En ansökan om permanent uppehållskort skall lämnas in till Migrationsverket innan giltigheten av ett uppehållskort enligt 7 § första stycket 3 löper ut. Migrationsverket skall förnya ett permanent uppehållskort utan särskild ansökan <b>vart tionde år</b>. Ett permanent uppehållskort förlorar sin giltighet om innehavaren vistas utanför Sverige under två på varandra följande år. Förordning (2007:147).</p>	<p><b>Section 7</b> The Swedish Migration Board issues ..... 5. permanent residence cards to aliens other than those referred to in point 4 and who have a right of permanent residence. Registration certificates and certificates showing that a residence card application has been submitted shall be issued immediately. Residence cards and permanent residence cards shall be issued <b>no later than six months after application</b> for such cards. Right of permanent residence certificates shall be issued as soon as possible. Ordinance (2006:262).</p> <p><b>Section 7b.</b> An application for a permanent residence card shall be left in the Migration Service prior to the validity of the residence card in accordance with Section 7 first para. p.3 expires. The Migration Service shall renew the permanent residence card without a special application each tenths year. the permanent residence card loses its validity, if the owner has resided outside Sweden during two following after each other years.</p>	Y	<p>Effective transposition</p> <p>According to the Swedish legislation, the document certifying permanent residence shall be issued no later than 6 months after application for such cards. The permanent residence card should be renewable automatically every 10 years.</p> <p>NB: Under the general regime, the Swedish legislation does not in this context distinguish between permanent residence cards and permanent residence cards for family members. Third country family members obtain "permanent residence cards".</p> <p>When you have been in Sweden legally and with right of residence for five years without a break, you have permanent right of residence. If you would like a permanent right of residence certificate you can apply for a permanent residence card at one of the Migration Board permit units. Application form is available at <a href="http://www.migrationsverket.se/info/material/bob/sokande/eu/euuk_en.pdf">http://www.migrationsverket.se/info/material/bob/sokande/eu/euuk_en.pdf</a></p>
Art.20.2	<p>2. The application for a permanent residence card shall be submitted before the residence card expires. Failure to comply with the requirement to apply for a permanent residence card may</p>	Chapter 3 a Section 7 b of the Aliens Decree (2006:97)	<b>7 b §</b> En ansökan om permanent uppehållskort skall lämnas in till Migrationsverket <b>innan giltigheten av ett uppehållskort</b> enligt 7 § första stycket 3 <b>löper</b>	<b>Section 7b.</b> An application for a permanent residence card shall be left in the Migration Service prior to the validity of the residence card in accordance	Y	<p>Effective transposition</p> <p>The Swedish legislation does not impose any sanctions for failure to submit the application for permanent</p>

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	render the person concerned liable to proportionate and non-discriminatory sanctions.		<b>ut.</b> Migrationsverket skall förnya ett permanent uppehållskort utan särskild ansökan vart tionde år. Ett permanent uppehållskort förlorar sin giltighet om innehavaren vistas utanför Sverige under två på varandra följande år. Förordning (2007:147).	with Section 7 first para. p.3 expires. The Migration Service shall renew the permanent residence card without a special application each tenths year. the permanent residence card loses its validity, if the owner has resided outside Sweden during two following after each other years.		residence card before the residence card expires
Art.20.3	3. Interruption in residence not exceeding two consecutive years shall not affect the validity of the permanent residence card.	Chapter 3 a Section 9 of the Aliens Act (2005:716)	<b>9§</b> Den permanenta uppehållsrätten gäller utan villkor och kan endast upphöra om utläningen har vistats <b>utanför Sverige i mer än två på varandra följande år.</b> Lag (2006:219).	<b>Section 9</b> The right of permanent residence is unconditional and can only expire if the alien has spent more than <b>two consecutive years outside Sweden.</b>	Y	Effective transposition
Art. 21	<b>Continuity of residence</b>  For the purposes of this Directive, continuity of residence may be attested by any means of proof in use in the host Member State.  Continuity of residence is broken by any expulsion decision duly enforced against the person concerned.				N, Incomplete	Incomplete transposition  Consistent with Swedish legal principles.  However, as the transposing legislation does not explicitly stipulate that all means of proof are accepted,transposition is incomplete. Furthermore, the issue of continuity broken by an expulsion decision is not regulated by the transposing legislation. This lack of transposition of breaks of continuity leads to a more favourable treatment.
Chapter V						
<b>PROVISIONS COMMON TO THE RIGHT OF RESIDENCE AND THE RIGHT OF PERMANENT RESIDENCE</b>						
Art. 22	<b>Territorial scope</b>  The right of residence and the right of permanent residence shall cover the whole territory of the host Member State.	Chapter 3 a Section 1 of the Aliens Act (2005:716)	<b>1 §</b> Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige <b>mer än tre månader</b> utan uppehållstillstånd i enlighet	<b>Section 1</b> 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for <b>more than three months</b> without a residence	Y	Effective transposition.  Sweden does not impose any territorial restrictions on the right of residence and the right of permanent

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			med vad som sägs i detta kapitel. Lag (2006:219).	permit in accordance with what is stated in this Chapter.		residence either of its own nationals or EEA nationals. The legislation does not apply to Åland  Please, see Act on the Autonomy of Åland <a href="http://www.lagtinget.ax/text.con?iPage=59&amp;m=228">http://www.lagtinget.ax/text.con?iPage=59&amp;m=228</a>
	Member States may impose territorial restrictions on the right of residence and the right of permanent residence only where the same restrictions apply to their own nationals.	Chapter 2 Sections 1, 3, 5, 7, 8, Chapter 3 Section 1, Chapter 3a Section1 of Aliens Act (2005:716)  Chapter 3 Section1, Chapter 6 Sections 1-5 of Aliens Decree (2006:97)	<b>2 kap. Villkor för att en utlänning skall få resa in i samt vistas och arbeta i Sverige</b> <b>Pass</b> 1 § En utlänning som reser in i eller vistas i Sverige skall ha pass.  <b>Visering</b> 3 § Visering är ett tillstånd att resa in i och vistas i Sverige under en viss kortare tid. En utlänning som reser in i eller vistas i Sverige skall ha visering, om han eller hon inte har uppehållstillstånd eller har ställning som varaktigt bosatt. Lag (2006:219). <b>Upphållstillstånd</b> 5 § En utlänning som vistas i Sverige mer än tre månader skall ha uppehållstillstånd om inte visering har beviljats för längre tid. <b>Arbetsstillstånd</b> 7 § Arbetsstillstånd är ett tillstånd att arbeta i Sverige. En utlänning som skall arbeta i Sverige på grund av anställning här eller utomlands skall ha arbetsstillstånd. <b>Undantag från kraven på pass, visering, uppehållstillstånd och arbetsstillstånd</b> 8 § Kraven på pass, visering, uppehållstillstånd och	<b>Chapter 2. Conditions on which an alien may enter, stay and work in Sweden</b> <b>Passports</b> Section 1 An alien entering or staying in Sweden must have a passport. <b>Visas Section 3</b> A visa is a permit to enter and stay in Sweden for a certain limited period. An alien entering or staying in Sweden must have a visa unless he or she has a residence permit or has long-term resident status. <b>Section 5</b> An alien staying more than three months in Sweden must have a residence permit unless a visa has been granted for a longer period. <b>Section 7</b> A work permit is a permit to work in Sweden. An alien who is going to work in Sweden for reasons of employment here or in another country must have a work permit. <b>Section 8</b> The passport, visa, residence permit and work	Y	Effective transposition.  The Swedish legislation does not impose territorial restrictions on the right of residence and permanent residence.  To enter Sweden, nationals in the majority of countries outside the EU require a visa and a valid passport. This is the main rule laid down in Chapter 2 of Aliens Act. Everyone who wishes to visit Sweden and the other Schengen states will need a <b>passport</b> valid for at least three months after the final date stated in the visa. This requirements applies to the nationals of the countries mentioned on the list available at the official homepage of the Swedish Migration Board. Visitors who arrive from countries that are not on the list can enter Sweden and the other Schengen countries and remain there without a visa for three months.  The visa should be complete and be entered in the passport before entry into the Schengen area. To receive visa, one must have <b>money</b> for go/stay and for the journey home. The Swedish authorities have estimated that a person needs €40



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			<p>arbetstillstånd enligt <a href="#">1</a>, <a href="#">3</a>, <a href="#">5</a> och <a href="#">7 §§</a> för inresa, vistelse och arbete gäller inte medborgare i Danmark, Finland, Island eller Norge. Kraven på uppehållstillstånd och arbetstillstånd gäller inte för EES-medborgare och deras familjemedlemmar som har uppehållsrätt. Kravet på arbetstillstånd gäller inte för en utlänning som har permanent uppehållstillstånd.</p> <p>Undantaget från kravet på pass för inresa gäller dock endast för en sådan medborgare som avses i <a href="#">första stycket</a> som reser eller har rest in i Sverige direkt från en Schengenstat. Lag (2006:219).</p> <p><b>3 kap. Visering</b></p> <p><b>1 §</b> En utlänning får beviljas visering om han eller hon</p> <ol style="list-style-type: none"> <li>1. har ett gällande pass eller annan handling som skall godtas som pass,</li> <li>2. på begäran kan visa upp dokument, av vilka framgår syftet med och förutsättningarna för den planerade vistelsen i landet,</li> <li>3. har en medicinsk reseförsäkring för vistelsen,</li> <li>4. har tillräckliga medel för sitt uppehälle såväl under vistelsen som för återresa till utreselandet eller transitresa till ett sådant tredje land som medger inresa, eller på laglig väg kan skaffa sig sådana medel,</li> <li>5. inte har meddelats</li> </ol>	<p>permit requirements stated in Sections 1, 3, 5 and 7 for entry, stay and work do not apply to nationals of Denmark, Finland, Iceland or Norway.</p> <p>The residence permit and work permit requirements do not apply to EEA nationals and their family members who have a right of residence. The work permit requirement does not apply to an alien who has a permanent residence permit. However, the exemption from the passport requirement for entry only applies to nationals referred to in the first paragraph who are entering or have entered Sweden directly from a Schengen State.</p> <p><b>Chapter 3. Visas Section 1</b></p> <p>An alien may be granted a visa if he or she</p> <ol style="list-style-type: none"> <li>1. has a valid passport or other document that is to be recognised as a passport,</li> <li>2. can, on request, produce documents showing the purpose and conditions of the intended stay in the country,</li> <li>3. has medical travel insurance for the stay,</li> <li>4. has sufficient means of support both for the duration of the stay and for return to the state of departure or transit to a third country that permits entry, or is legally able to obtain such funds,</li> <li>5. has not been given notice of a</li> </ol>		<p>(approximately SEK 370) for each day spent in Sweden. This amount could in certain instances be lower, such as in the case of a young child, if the cost of food and accommodation is paid in advance or if the applicant intends to stay with relatives or friends. You can prove that you have sufficient money for your keep by, for example, producing an account statement from your bank or a document showing that the person inviting you to Sweden promises to cover all expenses during your visit.</p> <p>It is also necessary to have individual <b>medical travel insurance</b> which covers any costs that could arise in conjunction with</p> <ul style="list-style-type: none"> <li>- emergency medical assistance</li> <li>- emergency hospital care</li> <li>- transport to your home country for medical reasons.</li> </ul> <p>The right to enter the Schengen area is examined every time you pass the outer border of the area. At the border control everyone who enters the area must be able to show that they have money for their keep during their visit and for their return journey home and that they have medical travel insurance and documents showing the purpose of their visit. However, the Swedish legislation distinguishes between "external" and "internal borders" (within EU). An internal border may be crossed without any checks being carried out.</p>

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			<p>inreseförbud, samt 6. inte anses äventyra den allmänna ordningen, rikets säkerhet eller någon av Schengenstaternas internationella förbindelser.</p> <p><b>3 a kap. Uppehållsrätt för EES-medborgare m.fl.</b> 1 § Med uppehållsrätt avses en rätt för EES-medborgare och deras familjemedlemmar att vistas i Sverige mer än tre månader utan uppehållstillstånd i enlighet med vad som sägs i detta kapitel. Lag (2006:219).</p> <p><b>3 kap. Bestämmelser om visering Undantag från kravet på visering</b> 1 § Utöver vad som föreskrivs i <a href="#">2 kap. 3</a>, <a href="#">8</a> och <a href="#">10 §§</a> utlänningslagen (2005:716) är nedan angivna utlänningar undantagna från kravet på visering.</p> <p>1. Medborgare i Storbritannien ("British citizen") som har hemlandspass eller den som innehar ett med "British passport" betecknat hemlandspass eller ett av behörig myndighet utfärdat identitetskort, där medborgarskapet är angivet som "British citizen" eller "British National Overseas" (BNO) och som gäller för inresa i Storbritannien.</p> <p>2. Medborgare i Belgien, Bulgarien, Cypern, Estland,</p>	<p>prohibition to enter and 6. is not considered a risk to public order, national security or the international relations of any of the Schengen States.</p> <p><b>Chapter 3a. Right of residence</b> for EEA nationals and others General provisions Section 1 'Right of residence' means a right for EEA nationals and their family members to stay in Sweden for more than three months without a residence permit in accordance with what is stated in this Chapter.</p> <p><b>Chapter 3. Provisions concerning visas Exemptions from the visa requirement</b> <b>Section 1</b> In addition to what is prescribed in Chapter 2, Sections 3, 8 and 10 of the Aliens Act (2005:716), the aliens specified below are exempt from the visa requirement.</p> <p>1. Nationals of the United Kingdom ('British citizen') who have a national passport or persons who possess a national passport designated a 'British passport' or an identity card issued by a competent authority, in which the nationality is stated as 'British citizen' or 'British National Overseas' (BNO) and that is valid for entry into the United Kingdom.</p> <p>2. Nationals of Belgium, Cyprus, Estonia, France, Greece, Ireland,</p>		<p>In terms of travelling from Sweden, this matter is not specifically governed by the Swedish law.</p>

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			<p>Frankrike, Grekland, Irland, Italien, Lettland, Litauen, Liechtenstein, Luxemburg, Malta, Nederländerna, Polen, Rumänien, Schweiz, Slovakien, Slovenien, Portugal, Spanien, Tjeckien, Tyskland, Ungern och Österrike, om de har hemlandspass eller ett identitetskort som är utfärdat av en behörig myndighet i hemlandet och utvisar medborgarskap.</p> <p>3. Medborgare i något av de länder som anges i 1 och 2 om de finns upptagna i ett kollektivpass som har utfärdats av en behörig myndighet i hemlandet.</p> <p>4. Innehavare av resedokument som har utfärdats i enlighet med konventionen den 28 juli 1951 angående flyktingars rättsliga ställning (SÖ 1954:55) eller konventionen den 23 november 1957 angående flyktingar som är sjömän (SÖ 1959:16) och som har utfärdats av en svensk myndighet eller av en myndighet i en stat, som tillträtt och i förhållande till Sverige tillämpar den europeiska överenskommelsen den 20 april 1959 om avskaffande av viseringstvång för flyktingar (SÖ 1960:75).</p> <p>5. Flyktingar eller statslösa personer som är upptagna i ett kollektivpass som har utfärdats dels av en myndighet i ett land som har tillträtt och i förhållande till Sverige tillämpar artikel 13 i den europeiska överenskommelsen den 16 december 1961 om ungdomars</p>	<p>Italy, Latvia, Lithuania, Liechtenstein, Luxembourg, Malta, the Netherlands, Poland, Switzerland, Slovakia, Slovenia, Portugal, Spain, the Czech Republic, Germany, Hungary and Austria, if they have a national passport or an identity card that has been issued by a competent authority in the country of origin and shows their nationality.</p> <p>3. Nationals of any of the countries specified in point 1 or 2 if they are included in a collective passport that has been issued by a competent authority in the country of origin.</p> <p>4. Holders of travel documents that have been issued in accordance with the Convention relating to the Status of Refugees of 28 July 1951 (Swedish Treaty Series 1954:55) or the Convention relating to Refugee Seamen of 23 November 1957 (Swedish Treaty Series 1959:16) and that have been issued by a Swedish authority or an authority in a state that has acceded to the European Agreement on the Abolition of Visas for Refugees of 20 April 1959 (Swedish Treaty Series 1960:75) and that applies this Agreement in relation to Sweden.</p> <p>5. Refugees or stateless persons who are included in a collective passport that has been issued by an authority in a country that has</p>		

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			<p>resor på kollektivpass (SÖ 1968:16), dels enligt överenskommelsen och den av Sverige avgivna deklARATIONEN över nämnda artikel.</p> <p>6. De som innehar Förenta nationernas "laissez passer" och ett intyg om att de färdas i tjänsten som är utfärdat av FN eller något av dess fackorgan eller underordnade organ.</p> <p>7. De som innehar Europeiska gemenskapernas "laissez passer".</p> <p>8. Innehavare av vaticanpass.</p> <p>9. Medborgare i Bolivia, Filippinerna, Förenade Arabemiraten, Makedonien (tidigare jugoslaviska republiken Makedonien), Thailand eller Turkiet som har diplomatpass eller tjänstepass samt medborgare i Marocko och Tunisien som har diplomatpass.</p> <p>10. Besättningsmän i tjänst på luftfartyg som innehar ett flygcertifikat eller ett certifikat för flygbesättning, så länge som de inte lämnar</p> <ul style="list-style-type: none"> <li>- flygplatsen för mellanlandningen,</li> <li>- flygplatsen på bestämmelseorten,</li> <li>- den kommun där flygplatsen ligger, eller</li> <li>- flygplatsen annat än för att bege sig till en annan flygplats på en Schengenstats territorium.</li> </ul> <p>11. Besättningsmän på fartyg som finns upptagna på besättningslistan för fartyget och som har en giltig sjöfartsbok eller</p>	<p>acceded to Article 13 of the European Agreement on Travel by Young Persons on Collective Passports of 16 December 1961 (Swedish Treaty Series 1968:16) and that applies this Article in relation to Sweden, and has been issued in accordance with the Agreement and the declaration made by Sweden on the said Article.</p> <p>6. Persons who possess a United Nations laissez-passer and a certificate showing that they are travelling on official business that has been issued by the United Nations or any of its specialised agencies or subordinate bodies.</p> <p>7. Persons who possess a European Community (EC) laissez-passer.</p> <p>8. Holders of Vatican passports.</p> <p>9. Nationals of the Philippines, Macedonia (the Former Yugoslav Republic of Macedonia), Thailand or Turkey who have diplomatic passports or service passports and nationals of Tunisia who have diplomatic passports.</p> <p>10. Crew members serving on an aircraft who possess a pilot's certificate or a flight crew certificate, as long as they do not leave</p> <ul style="list-style-type: none"> <li>- the intermediate landing airport,</li> <li>- the destination airport,</li> <li>- the municipality in which the airport is located or</li> </ul>		

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			<p>identitetshandlingar för sjömän, så länge de endast tillfälligt lämnar sitt fartyg och uppehåller sig i den tätort som finns närmast den hamn där fartyget ligger.</p> <p>12. Utlänningar som avses i <a href="#">8 §</a> eller <a href="#">4 kap. 6 §</a>.</p> <p>13. Personal tillhörande en främmande stats militära styrka som innehar en militär identitetshandling och som besöker Sverige inom ramen för internationellt militärt samarbete eller internationell krishantering och som omfattas av följande avtal:</p> <p>a) avtalet den 19 juni 1995 mellan de stater som är parter i Nordatlantiska fördraget och de andra stater som deltar i Partnerskap för fred om status för deras styrkor (SÖ 1997:51), och</p> <p>b) avtalet den 13 december 2001 mellan de stater som deltar i den multinationella snabbinsatsbrigaden för FN-insatser om status för deras styrkor (SÖ 2005:6).</p> <p>14. Utlänningar som är under 18 år och som är bosatta i en EES-stat men inte EES-medborgare om</p> <p>a) vistelsen i Sverige avser ett kort besök som deltagare i en skolresa,</p> <p>b) deltagarna i skolresan följs åt av en lärare som har en lista över deltagarna upprättad i enlighet med bilagan till rådets beslut om gemensam åtgärd den 30 november 1994, och</p> <p>c) utlänningarna innehar en handling som gäller som pass vid</p>	<p>- the airport other than to proceed to another airport in the territory of a Schengen State.</p> <p>11. Crew members on ships who are included in the ship's crew list and who have a valid seaman's passport or seaman's book, as long as they only temporarily leave their ship and stay in the population centre closest to the port where the ship is moored.</p> <p>12. Aliens who are referred to in Section 8 or in Chapter 4, Section 6.</p> <p>13. Personnel belonging to the military forces of a foreign state who possess a military identity document and who are visiting Sweden within the framework of international military cooperation or international crisis management and who are covered by the following agreements:</p> <p>a) the Agreement among the states parties to the North Atlantic Treaty and the other states participating in the Partnership for Peace regarding the status of their forces of 19 June 1995 (Swedish Treaty Series 1997:51) and</p> <p>b) the Agreement among the States participating in the Multinational Stand-By High Readiness Brigade for UN Operations regarding the Status of their Forces of 13 December 2001 (Swedish Treaty Series 2005:6).</p>		

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			<p>inresa i Sverige eller deltagarlistan innehåller de uppgifter som anges i artikel 2 i rådets beslut.</p> <p>15. Utlänningar som har uppehållskort eller permanent uppehållskort som har utfärdats i Sverige eller av behörig myndighet i annan EES-stat. Ytterligare undantag från viseringskravet finns i rådets förordning (EG) nr 539/2001 av den 15 mars 2001 om fastställande av förteckningen över tredje länder vars medborgare är skyldiga att inneha visering när de passerar de yttre gränserna och av förteckningen över de tredje länder vars medborgare är undantagna från detta krav. Förordning (2007:1245).</p> <p><b>6 kap. Kontroll- och tvångsåtgärder Passerande av gräns och gränskontroll</b> <b>1 § Inresa och utresa över en yttre</b></p>	<p>14. Aliens who are under 18 years of age and who are resident in an EEA state but are not EEA nationals if</p> <p>a) the intention of the stay in Sweden is a short visit as a participant in a school trip,</p> <p>b) the participants in the school trip are accompanied by a teacher who has a list of the participants drawn up in accordance with the Annex to the Council Decision of 30 November 1994 on a joint action and</p> <p>c) the aliens possess a document that is valid as a passport for entering Sweden or the list of participants contains the information specified in Article 2 of the Council Decision.</p> <p>15. Aliens who have a residence card or a permanent residence card that has been issued in Sweden or by a competent authority in another EEA state. Further exemptions from the visa requirement are contained in Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. Ordinance (2006:262).</p> <p><b>Chapter 6. Controls and coercive measures</b> <b>Border crossing and border control</b></p>		

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			<p>gräns får inte utan tillstånd av polismyndigheten eller, vid in- och utresa med fartyg, Kustbevakningen ske vid annat ställe än ett gränsövergångsställe. I de fall Kustbevakningen givit tillstånd skall polismyndigheten underrättas.</p> <p>Arvidsjaur, Borgholm, Borlänge, Falkenberg, Gotland, Gävle, Göteborg, Halmstad, Helsingborg, Hudiksvall, Härnösand, Härryda, Jönköping, Kalix, Kalmar, Karlshamn, Karlskrona, Karlstad, Kiruna, Kramfors, Kristianstad, Landskrona, Linköping, Luleå, Lysekil, Malmö, Mörbylånga, Mönsterås, Norrköping, Norrtälje, Nyköping, Nynäshamn, Oskarshamn, Oxelösund, Piteå, Ronneby, Sigtuna, Simrishamn, Skellefteå, Skövde, Stockholm, Strömstad, Sundsvall, Svedala, Söderhamn, Söderköping, Södertälje, Sölvesborg, Timrå, Torsås, Trelleborg, Trollhättan, Umeå, Varberg, Värmdö, Västervik, Västerås, Växjö, Ystad, Älvkarleby, Ängelholm, Örebro, Örnköldsvik, Östhammar and Östersund.</p> <p>The police authority decides about opening hours at a border crossing point.</p>	<p>Section 1 Entry and exit across an external border may only take place at border crossing points, except with the permission of the police authority or, in the case of entry and exit by ship, the where the Swedish Coast Guard gives permission the police authority shall be informed.</p> <p>There are border crossing points in the following municipalities: Arvidsjaur, Borgholm, Borlänge, Falkenberg, Gotland, Gävle, Göteborg, Halmstad, Helsingborg, Hudiksvall, Härnösand, Härryda, Jönköping, Kalix, Kalmar, Karlshamn, Karlskrona, Karlstad, Kiruna, Kramfors, Kristianstad, Landskrona, Linköping, Luleå, Lysekil, Malmö, Mörbylånga, Mönsterås, Norrköping, Norrtälje, Nyköping, Nynäshamn, Oskarshamn, Oxelösund, Piteå, Ronneby, Sigtuna, Simrishamn, Skellefteå, Skövde, Stockholm, Strömstad, Sundsvall, Svedala, Söderhamn, Söderköping, Södertälje, Sölvesborg, Timrå, Torsås, Trelleborg, Trollhättan, Umeå, Varberg, Värmdö, Västervik, Västerås, Växjö, Ystad, Älvkarleby, Ängelholm, Örebro, Örnköldsvik, Östhammar and Östersund.</p> <p>The police authority decides about opening hours at a border crossing point.</p>		

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			<p><b>2 §</b> Bestämmelserna i <a href="#">1 § första stycket</a> gäller inte</p> <p>1. medborgare i en Schengenstat som reser direkt in från eller ut till en Schengenstat på ett fritidsfartyg,</p> <p>2. besättningsmän och passagerare på luftfartyg som kommer från en ort utanför Schengenstaterna och som har särskilda skäl, eller</p> <p>3. besättningsmän och passagerare på fartyg som kommer från utrikes ort och som har särskilda skäl.</p> <p>Befälhavaren på ett luftfartyg skall utan dröjsmål anmäla ankomsten och lämna uppgift om luftfartyget samt om personer ombord till polismyndigheten.</p> <p>Befälhavaren, eller en representant för befälhavaren, på ett fartyg skall utan dröjsmål anmäla ankomsten och lämna uppgift om fartyget samt om personer ombord till Kustbevakningen.</p> <p>Anmälningsskyldigheten gäller inte sådana fritidsfartyg som avses i <a href="#">första stycket 1</a>.</p> <p><b>3 §</b> Utlänningar får inte resa in i eller ut från landet över en yttre gräns utan att kontrolleras. Kontrollen genomförs vid ett gränsövergångsställe. Polismyndigheten får besluta att kontroll skall ske även vid ett annat ställe.</p>	<p><b>Section 2</b> The provisions of Section 1, first paragraph do not apply to</p> <p>1. nationals of a Schengen State travelling direct in from or out to a Schengen State on a pleasure boat,</p> <p>2. crew members and passengers on aircraft who come from a place outside the Schengen States and have special grounds or</p> <p>3. crew members and passengers on ships who come from abroad and have special grounds.</p> <p>The commander of an aircraft shall, without delay, report its arrival and provide information about the aircraft and about people on board to the police authority.</p> <p>The commander, or a representative of the commander, of a ship shall, without delay, report its arrival and provide information about the ship and about people on board to the Swedish Coast Guard. This duty to report does not apply to pleasure boats referred to in point 1 of the first paragraph.</p> <p><b>Section 3</b> Aliens may not enter or leave Sweden at an external border without being subject to checks. The checks are carried out at a border crossing point. The police authority may decide that checks shall also take place somewhere else.</p>		



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			<p>Trots vad som sägs i <a href="#">första stycket</a> får, om inte polismyndigheten bestämmer något annat, utländska besättningsmän som finns upptagna på besättningslistan för fartyget och som har en giltig sjöfartsbok eller identitetshandlingar för sjömän tillfälligt lämna sitt fartyg utan att genomgå kontroll och uppehålla sig i den tätort som finns närmast den hamn där fartyget ligger, om de inte bedöms utgöra ett hot mot allmän ordning eller rikets säkerhet.</p> <p><b>4 §</b> Vid kontroll skall en utlänning som reser in i eller ut från landet över en yttre gräns visa upp sitt pass för polismyndigheten. Polismyndigheten skall anteckna dagen för utlänningens inresa eller utresa i passet. Anteckning om inresa eller utresa skall dock inte göras på identitetskort. En sådan anteckning skall inte heller göras i ett pass för en EES- medborgare eller medborgare i Schweiz eller i ett pass för en utlänning som har uppehållskort eller permanent uppehållskort.</p> <p><b>5 §</b> En inre gräns får passeras utan att någon kontroll äger rum. [...]</p>	<p>Despite the provisions of the first paragraph, unless the policy authority decides otherwise, foreign crew members who are included in the crew list for the ship and have a valid seaman's passport or seaman's book may temporarily leave their ship without being subject to checks and stay in the population centre closest to the port where the ship is moored, if they are not deemed to be a threat to public policy or national security.</p> <p><b>Section 4</b> When checks are carried out an alien who is entering or leaving the country across an external border shall present his or her passport to the police authority. The police authority shall note the date of the alien's entry or exit in the passport. However, a note of an entry or exit shall not be made on an identity card. Nor shall such a note be made in a passport of an EEA national or a Swiss national or in a passport of an alien who has a residence card or a permanent residence card. [...]</p> <p><b>Section 5</b> An internal border may be crossed without any checks being carried out.[..]</p>		
Art.23	<p><b>Related rights</b></p> <p>Irrespective of nationality, the family members of a Union citizen who have the</p>	Chapter 2 Section 8 of the Aliens Act (2005:716)	<b>8 §</b> Kraven på pass, visering, uppehållstillstånd och arbetstillstånd enligt 1, 3, 5 och 7 §§ för inresa, vistelse och arbete	<b>Section 8</b> The passport, visa, residence permit and work permit requirements stated in Sections 1, 3, 5 and 7 for entry,	Y	<p>Effective transposition.</p> <p>Although the transposing legislation does not explicitly refer to the case of</p>

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	right of residence or the right of permanent residence in a Member State shall be entitled to take up employment or self employment there.		gäller inte medborgare i Danmark, Finland, Island eller Norge. Kraven på uppehållstillstånd och arbetstillstånd gäller inte för EES-medborgare och deras familjemedlemmar som har uppehållsrätt. Kravet på arbetstillstånd gäller inte för en utlänning som har permanent uppehållstillstånd. Undantaget från kravet på pass för inresa gäller dock endast för en sådan medborgare som avses i första stycket som reser eller har rest in i Sverige direkt från en Schengenstat. Lag (2006:219).	stay and work do not apply to nationals of Denmark, Finland, Iceland or Norway. The residence permit and work permit requirements do not apply to EEA nationals and their family members who have a right of residence. The work permit requirement does not apply to an alien who has a permanent residence permit. However, the exemption from the passport requirement for entry only applies to nationals referred to in the first paragraph who are entering or have entered Sweden directly from a Schengen State.		self-employment here, the work permit also covers self-employment in Sweden.
Art.24.1	<p><b>Equal treatment</b></p> <p>1. Subject to such specific provisions as are expressly provided for in the Treaty and secondary law, all Union citizens residing on the basis of this Directive in the territory of the host Member State shall enjoy equal treatment with the nationals of that Member State within the scope of the Treaty. The benefit of this right shall be extended to family members who are not nationals of a Member State and who have the right of residence or permanent residence.</p>				N, Ambiguous	<p>Ambiguous transposition</p> <p>Equal treatment is a fundamental principle according to the Swedish constitution and is strictly followed by the Swedish authorities. Article 9 of the Instrument of Government (1974:152) provides that "Courts of law, administrative authorities and others performing tasks within the public administration shall have regard in their work to the equality of all before the law and shall observe objectivity and impartiality."</p> <p>In accordance with the Directive, the principle of equal treatment is broad and also comprises granting social assistances, grants, access to work and similar rights. In addition, the novelty is that the equal treatment covers third country family members.</p>

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						Thus, in the Swedish law the principle of equal treatment covering equality before the law applies within the narrower meaning than that required by the Directive. However, it may be argued here that the principle of equal treatment is one of the oldest and basic (often uncodified) principles rooted in the Swedish legal system in particular and the Nordic legal tradition in general, and is implied in the legislation.
Art.24.2	2. By way of derogation from paragraph 1, the host Member State shall not be obliged to confer entitlement to social assistance during the first three months of residence or, where appropriate, the longer period provided for in Article 14(4)(b), nor shall it be obliged, prior to acquisition of the right of permanent residence, to grant maintenance aid for studies, including vocational training, consisting in student grants or student loans to persons other than workers, self-employed persons, persons who retain such status and members of their families.	Chapter 1 Sections 4-6, Chapter 2 Section 4 of Study Grants Act (1999:1395)	<p><b>Kap. 1</b>  <b>4 §</b> Utländska medborgare skall, när det gäller <b>rätt till studiestöd</b> enligt denna lag, <b>jämställas med svenska medborgare</b> om de på grund av anställning eller etablering som egenföretagare här i landet kan härleda rättigheter i fråga om sociala förmåner från</p> <ol style="list-style-type: none"> <li>1. EG-rätten,</li> <li>2. avtalet om Europeiska ekonomiska samarbetsområdet (EES), eller</li> <li>3. avtalet mellan Europeiska gemenskapen och dess medlemsstater å ena sidan, och Schweiz å andra sidan om fri rörlighet för personer.</li> </ol> <p>Första stycket gäller även familjemedlemmar som avses i 3 a kap. 2 § utlänningslagen (2005:716) till sådana utländska medborgare. ...</p> <p><b>5 §</b> Utländska medborgare med permanent uppehållsrätt i Sverige och som kan härleda rättigheter i fråga om sociala förmåner från</p>	<p><b>Chapter 1 Section 4</b>  Foreign citizens shall, when it concerns the right to study grant pursuant to this law, be entitled to the same benefits as Swedish citizens, <b>if they on the basis of employment or self-employment here in the country can derive the rights of social benefits from</b></p> <ol style="list-style-type: none"> <li>1. EU Law,</li> <li>2. EEA agreement, or</li> <li>3. agreement between EC and its Member States on one hand, and Switzerland on the other hand on free movement of persons.</li> </ol> <p>The first paragraph likewise apply to the family members as referred to in Chapter 3a Section 2 Aliens Act (2005:716) to such foreign citizens. ...</p> <p><b>Section 5</b>  Aliens with the right of permanent residence in Sweden who can derive the rights of social benefits from the EU law,</p>	Y, More favourable	<p>Effective transposition; More favourable treatment</p> <p>The Swedish legislation provides for a possibility to obtain maintenance aid (both, student grants and student loans) for studies, if certain conditions are satisfied. In addition, Sweden allows for study aid to be granted, even if the requirement of residence permit is not fulfilled. In this part, the transposition is more favourable.</p> <p>In terms of other rights in the Directive (such as the right to social assistance during the first three months of residence without prior acquisition of the right of permanent residence, Sweden has not made use of this option.</p>

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			<p>EG-rätten skall, när det gäller rätt till studiestöd enligt denna lag, jämföras med svenska medborgare.</p> <p>...</p> <p><b>6 §</b> Utländska medborgare som kan härleda rättigheter i fråga om sociala förmåner från EG-rätten skall, när det gäller rätt till studiestöd enligt denna lag, jämföras med svenska medborgare vid studier i Sverige</p> <p>1. om de har ställning som varaktigt bosatta i Sverige, eller</p> <p>2. om de har ställning som varaktigt bosatta i en annan EU-stat men har uppehållstillstånd i Sverige.</p> <p>...</p> <p><b>Kap. 2</b></p> <p><b>4 §</b> Studiehjälp får lämnas till studerande som är <b>svensk medborgare</b>.</p> <p>Studiehjälp får lämnas också till studerande som inte är svensk medborgare, om den studerande</p> <p>1. är bosatt i Sverige och har permanent uppehållstillstånd här, samt</p> <p>2. har bosatt sig i Sverige huvudsakligen i annat syfte än att genomgå utbildning här.</p> <p>Kravet på permanent uppehållstillstånd i andra stycket 1 gäller inte för medborgare med uppehållsrätt enligt 3 a kap. 3 § utlänningslagen (2005:716) som fått en varaktig anknytning till Sverige.</p> <p>Studiehjälp får lämnas även om kravet på permanent</p>	<p>shall, when it is a question of student aid, shall be entitled to the same benefits as Swedish citizens.</p> <p>...</p> <p><b>Section 6.</b></p> <p>Aliens who can derive the rights of social benefits from the EU law, shall, when it is a question of student aid, shall be entitled to the same benefits as Swedish citizens for studies in Sweden</p> <p>1. if they have a status of permanent residents in Sweden,</p> <p>2. if they have a status of permanent residents in another EU state, but have a residence permit in Sweden.</p> <p>...</p> <p><b>Chapter 2 section 4</b></p> <p>Study aid may be granted to a student who is a Swedish citizen. Study aid may likewise be granted to a student non-Swedish citizen, if the student</p> <p>1. resides in Sweden and has a residence permit here, and</p> <p>2. has established himself or herself in Sweden mainly with other purpose than studies.</p> <p>The requirement of residence permit does not apply to citizens with the right of residence pursuant to Chapter 3a section 3 of Aliens act (2005:716) who has established a permanent link with Sweden.</p> <p>Study aid may be granted, even if the requirement of permanent</p>		

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			uppehållstillstånd i andra stycket 1 inte är uppfyllt, om det finns särskilda skäl för det.	residence permit is not fulfilled, if there are special reasons for this. ...		
Art.25.1	<p><b>General provisions concerning residence documents</b></p> <p>1. Possession of a registration certificate as referred to in Article 8, of a document certifying permanent residence, of a certificate attesting submission of an application for a family member residence card, of a residence card or of a permanent residence card, may under no circumstances be made a precondition for the exercise of a right or the completion of an administrative formality, as entitlement to rights may be attested by any other means of proof.</p>	Chapter 3 a Sections 3-4 of the Aliens Act (2005:716)	<p><b>3 §</b> En EES-medborgare har uppehållsrätt om han eller hon</p> <p>1. är arbetstagare eller egen företagare i Sverige,</p> <p>2. har kommit till Sverige för att söka arbete och har en verklig möjlighet att få en anställning,</p> <p>3. är inskriven som studerande vid en erkänd utbildningsanstalt i Sverige och enligt en försäkrans om detta har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning samt har en heltäckande sjukförsäkring för sig och familjemedlemmarna som gäller i Sverige, eller</p> <p>4. har tillräckliga tillgångar för sin och sina familjemedlemmars försörjning och har en heltäckande sjukförsäkring för sig och familjemedlemmarna som gäller i Sverige. Lag (2006:219).</p> <p><b>4 §</b> En familjemedlem till en sådan EES-medborgare som anges i 3 § 1-2 och 4 har uppehållsrätt. När det gäller familjemedlemmar till en sådan EES-medborgare som har uppehållsrätt enligt 3 § 3 skall dock endast EES-medborgarens make eller sambo samt deras barn under 21 år om de är beroende av någon av dem för sin försörjning, ha uppehållsrätt. Lag (2006:219).</p>	<p><b>Section 3</b> An EEA national has a right of residence if he or she</p> <p>1. is a worker or a self-employed person in Sweden,</p> <p>2. has come to Sweden to seek work and has a real possibility of obtaining employment,</p> <p>3. is enrolled as a student at a recognised educational institution in Sweden and, according to an affirmation to this effect, has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden or</p> <p>4. has adequate assets to support himself or herself and family members and has comprehensive health insurance for himself or herself and family members that is valid in Sweden.</p> <p><b>Section 4</b> A family member of an EEA national as specified in Section 3, points 1–2 and 4 has a right of residence. With regard to family members of an EEA national who has a right of residence under Section 3, point 3, however, only the spouse or cohabiting partner of the EEA national together with their children under 21 years of age if these children are dependent on</p>	N, Incomplete	<p>Incomplete transposition</p> <p>Here, the Directive grants an EU citizen the right not to be imposed a precondition to have a residence card or a residence certificate, when exercising a right or the completion of an administrative formality.</p> <p>The transposing legislation does not unequivocally grant this right.</p>

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				either of them for their means of support have a right of residence.																
Art.25.2	2. All documents mentioned in paragraph 1 shall be issued free of charge or for a charge not exceeding that imposed on nationals for the issuing of similar documents.	Chapter 8 Sections 4-5 of the Aliens Decree (2006:97)	<p><b>4 §</b> Avgift tas ut för prövning av ansökan enligt denna förordning i de fall och med de belopp som framgår av tredje och fjärde samt 4 a och 5 §§.</p> <p>För de ansökningar som skall ges in till en svensk beskickning eller ett svenskt konsulat tas avgift ut enligt förordningen (1997:691) om avgifter vid utlandsmyndigheterna.</p> <p>För prövning av ansökan gäller i övrigt 11-14 §§ avgiftsförordningen (1992:191).</p> <table border="1"> <thead> <tr> <th>Ärendeslag</th> <th>Avgift kr</th> </tr> </thead> <tbody> <tr> <td>Främlingspass (2 kap. 12 §)</td> <td>750</td> </tr> <tr> <td>Provisoriskt främlingspass (2 kap. 14 §)</td> <td>500</td> </tr> <tr> <td>Nödfallsvisering (3 kap. 2 §)</td> <td>det belopp i svenska det belopp i svenska 60 euro</td> </tr> <tr> <td>Sjömansvisering (3 kap. 4 §)</td> <td>det belopp i svenska det belopp i svenska 60 euro</td> </tr> <tr> <td>Gruppvisering i form av Gruppvisering i form av sjömansvisering.</td> <td>det belopp i svenska det belopp i svenska 60 euro</td> </tr> <tr> <td>därutöver för</td> <td>det belopp i</td> </tr> </tbody> </table>	Ärendeslag	Avgift kr	Främlingspass (2 kap. 12 §)	750	Provisoriskt främlingspass (2 kap. 14 §)	500	Nödfallsvisering (3 kap. 2 §)	det belopp i svenska det belopp i svenska 60 euro	Sjömansvisering (3 kap. 4 §)	det belopp i svenska det belopp i svenska 60 euro	Gruppvisering i form av Gruppvisering i form av sjömansvisering.	det belopp i svenska det belopp i svenska 60 euro	därutöver för	det belopp i	<p><b>Section 4</b> Fees may be charged for examining applications under this Ordinance in the cases and in the amounts set out in the third paragraph and in Section 5. For applications that have to be submitted to a Swedish embassy or Swedish consulate fees are charged under the Ordinance concerning Charges at Swedish Foreign Missions (1997:691). Otherwise Sections 11–14 of the Fees Ordinance (1992:191) apply to the examination of applications.</p> <p>Type of case Fee, SEK Alien's passport (Ch.2, Sec. 12) 750 Emergency alien's passport (Ch.2, Sec. 14) 500 Emergency visa (Ch.3, Sec. 2) 315 Seaman's visa (Ch.3, sec 4) 315 Group visa in the form of an emergency visa or seaman's visa, 315 in addition for each person 10 A fee shall not be charged for examination of an application for an alien's passport for an alien who has been received in Sweden within the framework of a decision issued by the Government on the transfer to Sweden of persons in need of protection. A fee shall not be charged for the granting of emergency visas</p>	Y	<p>Effective transposition</p> <p>Swedish administrative authorities do as a rule charge for their services in a non-discriminative manner, which is in accordance with both, national legislation and the Directive.</p>
Ärendeslag	Avgift kr																			
Främlingspass (2 kap. 12 §)	750																			
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			<p>varje person</p> <table border="1" data-bbox="965 280 1296 395"> <tr> <td>svenska</td> <td>det</td> </tr> <tr> <td>belopp</td> <td>i</td> </tr> <tr> <td>svenska</td> <td>1</td> </tr> <tr> <td>euro</td> <td></td> </tr> </table> <p>Avgift skall inte tas ut för prövning av ansökan om - främlingspass för en utlänning som tagits emot i Sverige inom ramen för ett beslut som regeringen har meddelat om överföring av skyddsbehövande till Sverige,  - nödfallsvisering för de utlänningar som avses i 3 a kap. 2 § utlänningslagen (2005:716), 4 kap. 16 § eller 5 kap. 2 § 4,  - nödfallsvisering för barn under sex år,  - nödfallsvisering för skolelever, högskolestuderande, forskarstuderande och medföljande lärare som företar resor för studier eller utbildning, eller  - nödfallsvisering för forskare som avser att bedriva vetenskaplig forskning inom den europeiska gemenskapen. Förordning (2006:1415).  5 § Avgift tas ut för prövning av ansökan om uppehålls- och/eller arbetstillstånd och ställning som varaktigt bosatt i Sverige med 1 000 kr för personer som fyllt 18 år och med 500 kr för personer som inte fyllt 18 år. Vid ansökan om uppehålls- och/eller arbetstillstånd på grund av familjeanknytning enligt 5 kap. 3 eller 3 a §§ utlänningslagen (2005:716) är avgiften 500 kr för personer som</p>	svenska	det	belopp	i	svenska	1	euro		<p>for the aliens referred to in Chapter 3a, Section 2, Chapter 4, Section 16 or Chapter 5, Section 2, point 4 of the Aliens Act (2005:716). Ordinance (2006:302).  <b>Section 5</b> The fee charged for examination of an application for a residence and/or work permit and long-term resident status in Sweden is SEK 1000 for persons aged 18 years or above and SEK 500 for persons under 18 years. The fee for an application for a residence and/or work permit on grounds of family ties under Chapter 5, Section 3 or 3a of the Aliens Act (2005:716) is SEK 500 for persons aged 18 years or above and SEK 250 for persons under 18 years. However, no fee shall be charged to  1. persons referred to in Chapter 4, Chapter 21, Sections 2, 3, 4 or 6 or Chapter 22 of the Aliens Act,  2. persons who are applying for residence and/or work permits under Chapter 5, Section 3, first paragraph, point 1 or 2 of the Aliens Act on grounds of family ties to an alien who has been granted a residence permit under Chapter 4 or Chapter 5, Section 6 of the Aliens Act or corresponding older provisions,  3. persons who are applying for residence and/or work permits under Chapter 5, Section 3, first</p>		
svenska	det													
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			<p>fyllt 18 år och 250 kr för personer som inte fyllt 18 år. Avgift skall dock inte tas ut av</p> <ol style="list-style-type: none"> <li>1. personer som avses i 4 kap., 21 kap. 2, 3, 4 eller 6 §§ eller 22 kap. utlänningslagen,</li> <li>2. personer som söker uppehålls- och/eller arbetstillstånd med stöd av 5 kap. 3 § första stycket 1 eller 2 utlänningslagen på grund av familjeanknytning till en utlänningslag som beviljats uppehållstillstånd med stöd av 4 kap. eller 5 kap. 6 § utlänningslagen eller motsvarande äldre bestämmelser,</li> <li>3. personer som söker uppehålls- och/eller arbetstillstånd med stöd av 5 kap. 3 § första stycket 1 eller 2 utlänningslagen på grund av familjeanknytning till en utlänningslag som beviljats uppehållstillstånd med stöd av 2 kap. 5 b § första stycket 1, 3 eller 4 utlänningslagen (1989:529) i dess lydelse från och med den 15 november 2005,</li> <li>4. EES-medborgare eller anhörig till en EES-medborgare,</li> <li>5. personer som omfattas av avtalet mellan Europeiska gemenskapen och dess medlemsstater å ena sidan och Schweiz å andra sidan om fri rörlighet för personer,</li> <li>6. utlänningslag som avses i 2 kap. 10 § utlänningslagen,</li> <li>7. studerande som av Sida, annan svensk organisation eller mellanfolklig organisation fått stipendier för studier i Sverige,</li> </ol>	<p>paragraph, point 1 or 2 of the Aliens Act on grounds of family ties to an alien who has been granted a residence permit under Chapter 2, Section 5b, first paragraph, point 1, 3 or 4 of the Aliens Act (1989:529) as amended from 15 November 2005,</p> <ol style="list-style-type: none"> <li>4. EEA nationals or relatives of an EEA national,</li> <li>5. persons covered by the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons,</li> <li>6. nationals of Bulgaria and Romania,</li> <li>7. aliens referred to in Chapter 2, Section 10 of the Aliens Act,</li> <li>8. students who have received grants for studies in Sweden from Sida, another Swedish organisation or an international organisation,</li> <li>9. a leader of a preliminary investigation who applies for a residence permit under Chapter 5, Section 15 of the Aliens Act.</li> </ol> <p>A fee under the first paragraph shall not be charged if this is required by international considerations or custom. Ordinance (2006:262).</p>		



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			8. förundersökningsledare som söker uppehållstillstånd enligt 5 kap. 15 § utlänningslagen. Avgift enligt första stycket skall inte tas ut om internationell hänsyn eller sedvänja kräver det. Förordning (2006:1568).			
		Article 3 of the Fee Regulation (1992:191)	3 § En myndighet får ta ut avgifter för varor och tjänster som den tillhandahåller bara om det följer av en lag eller förordning eller av ett särskilt beslut av regeringen.	Section 3. An authority may charge for products and a service provided only if so follows from the law or the decree or a special Governmental decision.		
Art.26	<b>Checks</b>  Member States may carry out checks on compliance with any requirement deriving from their national legislation for non-nationals always to carry their registration certificate or residence card, provided that the same requirement applies to their own nationals as regards their identity card. In the event of failure to comply with this requirement, Member States may impose the same sanctions as those imposed on their own nationals for failure to carry their identity card.	Section 9 of Aliens decree	<b>9 §</b> En utlänning som vistas i Sverige är skyldig att på begäran av en polisman visa upp pass eller andra handlingar som visar att han eller hon har rätt att uppehålla sig i Sverige. Utlänningen är också skyldig att efter kallelse av Migrationsverket eller polismyndigheten komma till verket eller myndigheten och lämna uppgifter om sin vistelse här i landet. Om utlänningen inte gör det, får han eller hon hämtas genom polismyndighetens försorg. Om det på grund av en utlännings personliga förhållanden eller av någon annan anledning kan antas att utlänningen inte skulle följa kallelsen, får han eller hon hämtas utan föregående kallelse. Kustbevakningen skall medverka i polisens kontrollverksamhet som sägs i första stycket genom kontroll av och i anslutning till sjötrafiken. Om kontrollen utövas av Kustbevakningen, skall pass eller andra handlingar visas upp för tjänstemannen vid	<b>Section 9</b> It is the duty of an alien staying in Sweden, when requested to do so by a police officer, to present a passport or other documents showing that he or she has the right to remain in Sweden. It is also the duty of the alien, when summoned by the Swedish Migration Board or the police authority, to visit the Board or the authority and provide information about his or her stay in this country. If the alien does not do so he or she may be collected by the police authority. If, in view of an alien's personal circumstances or for some other reason, it can be assumed that the alien will not obey the summons, he or she may be collected without prior summons. The Swedish Coast Guard shall assist in police control activities described in the first paragraph by controls of and in conjunction with shipping. If controls are exercised by the Swedish Coast	N, Incorrect	Incorrect transposition  Generally, there is no obligation to carry out an ID in Sweden. However, it is an obligation of an alien staying in Sweden to, upon request by a police officer, to present a passport or other documents showing that he or she has the right to remain in Sweden. As no similar obligation is imposed on Swedish nationals, non-conformity is concluded.

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			<p>Kustbevakningen. Kontroll enligt första och andra styckena får vidtas endast om det finns grundad anledning att anta att utläningen saknar rätt att uppehålla sig här i landet eller om det annars finns särskild anledning till kontroll.</p>	<p>Guard, the passport or other documents must be presented to the Swedish Coast Guard official. Controls under the first and second paragraphs may only be undertaken if there is good reason to assume that the alien lacks the right to remain in this country or there is otherwise special cause for controls.</p>		
<p>Chapter VI <b>RESTRICTIONS ON THE RIGHT OF ENTRY AND THE RIGHT OF RESIDENCE ON GROUNDS OF PUBLIC POLICY, PUBLIC SECURITY OR PUBLIC HEALTH</b></p>						
Art.27.1	<p><b>General principles</b></p> <p>1. Subject to the provisions of this Chapter, Member States may restrict the freedom of movement and residence of Union citizens and their family members, irrespective of nationality, on grounds of public policy, public security or public health. These grounds shall not be invoked to serve economic ends.</p>	<p>Chapter 8 Section 1 p. 5, Sections 2 and 8, Chapter 7 Section 6 of the Aliens Act (1991:572) Section 1 of the Special Aliens Control Act (1991:572)</p>	<p><b>Kap. 8, 1§ p.5</b> En utläning får <b>avvisas:</b> ...om han eller hon inte uppfyller de krav för inresa som föreskrivs i <b>artikel 5 i Schengenkonventionen</b>, eller...</p> <p><b>Kap. 7, 6§</b> /Upphör att gälla U:den dag regeringen bestämmer/ <b>Upphållstillstånd får återkallas</b> för den som inte är medborgare i en stat tillhörande Europeiska unionen även i andra fall än som avses i 2 §, om ett beslut om avvisning eller utvisning har meddelats i en stat tillhörande Europeiska unionen eller i Island eller Norge och beslutet är grundat på att det finns <b>ett allvarligt hot mot den allmänna ordningen eller den inre säkerheten och på att</b> 1. utläningen i den beslutande staten har dömts för ett brott för vilket det är föreskrivet fängelse i minst ett år, eller 2. utläningen är skäligen</p>	<p><b>Chapter 8 Section 1 indent.5</b> An alien <b>may be refused entry:</b> ... if he or she does not meet the requirements for entry laid down in <b>Article 5 of the Schengen Convention</b> or...</p> <p><b>Chapter 7 Section 6 A residence permit may be withdrawn</b> from a person who is not a national of a state belonging to the European Union in cases other than those referred to in Section 2, if a refusal-of-entry or expulsion order has been issued in a state belonging to the European Union or in Iceland or Norway and the order is based on there being a <b>serious threat to public order or internal security and on</b> 1. the alien having been convicted in the state issuing the order of an offence for which a sentence of at least one year's imprisonment is prescribed or</p>	<p>N, Incomplete and Incorrect</p>	<p>Incomplete and Incorrect transposition</p> <p>There shall be distinguished between the legislative framework and the practical application, as the Swedish legislation does not provide for a clear picture in terms of how severe the crime shall be to institute an expulsion.</p> <p>First, Swedish legislation contains several provisions regulating expulsion of aliens on ground of public order and security:</p> <p>According to Chapter 8 Section 1 indent. 5 of the Aliens Act (1991:572) an alien may be refused entry if he or she does not meet the requirements for entry laid down in Article 5 of the Schengen Convention (herein provisions on refusal because of public security). Note however that Schengen Convention in principle does not apply to persons protected by Directive 2004/38/EC.</p>

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			<p>misstänkt för att ha begått ett grovt brott eller att det finns starka skäl som tyder på att utlänningen avser att begå ett sådant brott.</p> <p>Första stycket gäller inte en familjemedlem till en medborgare i en stat tillhörande Europeiska unionen eller till en medborgare i Island eller Norge som har utövat sin rätt till fri rörlighet enligt de regler som gäller inom Europeiska unionen. Med familjemedlem avses</p> <ul style="list-style-type: none"> <li>- make eller sambo,</li> <li>- barn under 21 år som är beroende av föräldern för sin försörjning, och</li> <li>- förälder som är beroende av barnet för sin försörjning.</li> </ul> <p>Ett uppehållstillstånd får inte återkallas enligt första stycket innan samråd har skett med den stat som har beslutat om avvisning eller utvisning.</p> <p><b>Kap. 8, 2§ En utlänning får avvisas</b></p> <ol style="list-style-type: none"> <li>1. om det kan antas att han eller hon kommer att sakna tillräckliga medel för vistelsen i Sverige eller i något annat nordiskt land som han eller hon tänker besöka eller för hemresan,</li> <li>2. om det kan antas att han eller hon under vistelsen i Sverige eller i något annat nordiskt land inte kommer att försörja sig på ett ärligt sätt eller kommer att bedriva</li> </ol>	<p>2. the alien being suspected on reasonable grounds of having committed a gross offence or there being strong grounds to indicate that the alien intends to commit such an offence.</p> <p>The first paragraph does not apply to a family member of a national of a state belonging to the European Union or to a national of Iceland or Norway who has exercised his or her right to free movement in accordance with the regulations applying within the European Union. The term ‘family member’ means</p> <ul style="list-style-type: none"> <li>- a spouse or cohabiting partner,</li> <li>- a child under the age of 21 who is dependent on the parent for means of support and</li> <li>- a parent who is dependent on the child for means of support.</li> </ul> <p>A residence permit may not be withdrawn under the first paragraph before consultation with the state that has ordered a refusal of entry or expulsion.</p> <p><b>Chapter 8 Section 2 An alien may be refused entry</b></p> <ol style="list-style-type: none"> <li>1. if it can be assumed that he or she will lack adequate funds for the stay in Sweden or in some other Nordic country that he or she intends to visit or for the journey home,</li> <li>2. if it can be assumed that during the stay in Sweden or in some other Nordic country he or she will not support himself or herself by honest means or will</li> </ol>		<p>Furthermore, point 5 of the same Article, provides that an alien may be refused entry if he or she has been refused entry or expelled from a state belonging to the European Union (or from Island or Norway). A prerequisite is that the alien has failed to follow applicable provisions concerning an alien's entry into or stay in that state, with reference to Chapter 7 Section 6 of the Alien Act according to which there is a serious threat to public order or internal security. Chapter 7 Section 6 of the Alien Act is however not applicable to EU nationals, but applies to third country family members (<i>a person who is not a national of a state belonging to the European Union</i>). A decision on expulsion shall be based on Chapter 8 Section 2 of the Aliens Act, according to which an alien may be refused entry</p> <ul style="list-style-type: none"> <li>• if it can be assumed that during the stay in Sweden or in some other Nordic country he or she will not support himself or herself by honest means or will engage in activities that require a work permit, without having such a permit (p. 2)</li> <li>• if it can be assumed, on the basis of previous imprisonment or some other particular circumstance, that he or she will commit a criminal offence in Sweden or in some other Nordic country (p. 3)</li> <li>• if it can be assumed on the basis of previous activities or otherwise that he or she will</li> </ul>

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			<p>verksamhet som kräver arbetsstillstånd, utan att han eller hon har ett sådant tillstånd, 3. om han eller hon på grund av tidigare frihetsstraff eller någon annan särskild omständighet kan antas komma att begå brott i Sverige eller i något annat nordiskt land, 4. om han eller hon på grund av tidigare verksamhet eller i övrigt kan antas komma att bedriva sabotage, spioneri eller olovlig underrättelseverksamhet i Sverige eller i något annat nordiskt land, eller 5. om det med stöd av lagen (1996:95) om vissa internationella sanktioner har föreskrivits att han eller hon får avvisas.</p> <p>En utlännning får avvisas även i andra fall när det har begärts av den centrala utlänningsmyndigheten i ett annat nordiskt land och det kan antas att han eller hon annars beger sig till det landet.</p> <p>Första stycket 1 gäller inte för en EES-medborgare och hans eller hennes familjemedlemmar. Avvisning får dock ske, av andra än arbetstagare, egenföretagare, arbetssökande samt dennes familjemedlemmar, om någon av dem efter inresan i Sverige visar sig utgöra en belastning för biståndssystemet enligt socialtjänstlagen (2001:453). Lag (2006:219).</p>	<p>engage in activities that require a work permit, without having such a permit, 3. if it can be assumed, on the basis of previous imprisonment or some other particular circumstance, that he or she will commit a criminal offence in Sweden or in some other Nordic country, 4. if it can be assumed on the basis of previous activities or otherwise that he or she will engage in sabotage, espionage or unlawful intelligence activities in Sweden or in some other Nordic country or 5. if, pursuant to the Act on Certain International Sanctions (1996:95), it has been prescribed that he or she may be refused entry.</p> <p>An alien may also be refused entry in other cases when this has been requested by the central aliens authority in another Nordic country and it can be assumed that he or she will otherwise proceed to that country.</p> <p>The first paragraph, point 1 does not apply to an EEA national and the members of his or her family. However, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused entry if any of them, after entering Sweden, proves to be a burden to</p>		<p>engage in sabotage, espionage or unlawful intelligence activities in Sweden or in some other Nordic country or (4)</p> <ul style="list-style-type: none"> <li>if, pursuant to the Act on Certain International Sanctions (1996:95), it has been prescribed that he or she may be refused entry (p. 5)</li> </ul> <p>Chapter 8 Section 2 p. 1 does not apply to EU nationals according to the last para., which is in conformity with the Directive's requirement. On the other hand, EU nationals are not exempted from the expulsion grounds of Chapter 8 Section 2 p. 2 and 5. This is not in line with the Community legislation, and the transposition is incorrect in this part.</p> <p>According to Chapter 8 Section 8 of the Alien Act, an alien may be expelled from Sweden if he or she is convicted of an offence that is punishable by imprisonment. An alien may also be expelled if a court sets aside a suspended sentence or probation that has been imposed on an alien and imposes another penalty.</p> <p>The Special Aliens Control Act (1991:572) furthermore, regulates situations where an alien may be deported that are not regulated in the Aliens Act. One of the grounds listed is public security.</p> <p><b>The Swedish legislation does however not provide that the listed grounds may not be invoked to serve economic ends. It is therefore</b></p>

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			<p><b>Kap. 8, 8§</b> En utlänning får utvisas ur Sverige, om han eller hon döms för ett brott som kan leda till fängelse. En utlänning får också utvisas, om en domstol undanröjer en villkorlig dom eller skyddstillsyn som utlänningen har dömts till och dömer till annan påföljd.</p> <p>En utlänning får dock utvisas endast om han eller hon döms till svårare påföljd än böter och</p> <p>1. om gärningen är av sådant slag och övriga omständigheter är sådana att det kan antas att han eller hon kommer att göra sig skyldig till fortsatt brottslighet här i landet, eller</p> <p>2. om brottet med hänsyn till den skada, fara eller kränkning som det har inneburit för enskilda eller allmänna intressen är så allvarligt att han eller hon inte bör få stanna kvar.</p> <p><b>1 §</b> En utlänning som inte avvisas eller utvisas enligt utlänningslagen (2005:716), får utvisas ur landet enligt denna lag, om</p> <p>1. behövs av hänsyn till <b>rikets säkerhet</b>, eller</p> <p>2. med hänsyn till vad som är känt om utlänningens tidigare verksamhet och övriga omständigheter kan befaras att</p>	<p>the social assistance system under the Social Services Act (2001:453).</p> <p><b>Chapter 8 Section 8 An alien may be expelled from Sweden</b> if he or she is convicted of an offence that is punishable by imprisonment. An alien may also be expelled if a court sets aside a suspended sentence or probation that has been imposed on an alien and imposes another penalty.</p> <p>An alien may, however, only be expelled if he or she is sentenced to a more severe penalty than a fine and</p> <p>1. if, in view of the type of act involved and other circumstances, it can be assumed that he or she will be guilty of continued criminal activity in this country or</p> <p>2. if, in view of the resulting damage, danger or violation of private or public interests, the offence is so serious that he or she should not be allowed to stay.</p> <p><b>Section 1.</b> An alien who is not refused entrance or who is not expelled in accordance with Aliens Act (2005:716), may be expelled from the country pursuant to this law, if this</p> <p>1. necessary on the state security grounds, or</p> <p>2. on the basis of what is known about the alien's previous activities and other</p>		<p><b>concluded that the Swedish legislation is not in conformity with the Directive.</b></p> <p>NB: The Swedish version of the text of the Directive uses the term "utvisning" when describing measures that in some way constitutes a removal of a person from the host country. In the English text version, the term "expulsion" is used (with the exception of Art. 5.4 where the term "turn back" is used). According to Swedish terminology "avvisning" is a decision by an administrative authority when an alien that does not, or does not at the time when the decision to remove the person from Sweden aktualiseras, have had residence permit in Sweden after his entry. "Utvisning" means removal in other situations, for example, as a consequence of that the alien has been convicted for a crime of a certain degree or when the alien has stayed on in Sweden despite his residence permit has expired. Consequently, the Directive's use of the term "utvisning" covers both the above Swedish terms. (Reparatory legislative materials: Government Bill 2005/06:77)</p> <p>Regarding situations that could be considered as public order and public security grounds, they are e.g. terrorist crime (Section 3 of Law on penalties for terrorist crime SFS 2003:148), espionage, etc. (see Chapter 8 Section 2 of Aliens Act) Swedish Security Police /SÄPO deals</p>

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			han kommer att begå eller medverka till terroristbrott enligt 2 § lagen (2003:148) om straff för terroristbrott eller försök, förberedelse eller stämpling till sådant brott. Lag (2005:720).	circumstances may be feared that he or she will commit or concur to the terrorist crime pursuant to Section 2 of Law 2003:148.		<p>with the matters of public security. SÄPO engages in five main areas of activities:</p> <ol style="list-style-type: none"> <li>1). Counter-espionage;</li> <li>2). Counter-terrorism;</li> <li>3). Protection on the Constitution;</li> <li>4). Protective security;</li> <li>5). Dignitary protection.<sup>3</sup></li> </ol> <p>National internal security includes offences with a hate crime motive such as offences motivated by xenophobia, offences related to the White Power ideology, offences motivated by anti-Semitism, offences motivated by homophobia, agitation against an ethnic group.<sup>4</sup> It is also a part of the SÄPO's obligation to prevent and expose offences against national internal security and falls under the area of Protection on the Constitution, which refers to the protection of Swedish domestic society (meaning inter alia preventing and detecting illegal activities which seek to prevent citizens from exercising their constitutional rights and freedoms.<sup>5</sup></p> <p>In practice, an expulsion decision on the grounds of public security, public policy or public health is frequently taken on a case-by-case basis taken into account the interpretation as set forth by the EU jurisprudence. In case of <i>Bouchereau</i>, it was decided</p>

<sup>3</sup> 2007 year report published by the Swedish Security Service <http://www.sakerhetspolisen.se/download/18.59a6ce1f116807f34088000769/SwedSecurity2007webb.pdf>

<sup>4</sup> 2001 year report published by the Swedish Security Service *Offences related to national internal security*  
<http://www.sakerhetspolisen.se/download/18.7671d7bb110e3dcb1fd80009985/pmv2001en.pdf>

<sup>5</sup> 2007 year report published by the Swedish Security Service <http://www.sakerhetspolisen.se/download/18.59a6ce1f116807f34088000769/SwedSecurity2007webb.pdf>

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						<p>by the Court that previous criminal convictions do not in themselves constitute grounds for the imposition of the restrictions on free movement. In case <i>Adoui</i>, it was settled that the concept of public policy presupposes the existence of a genuine and sufficiently serious threat affecting one of the fundamental interests of society. In cases <i>Orfanopoulos and Oliveri</i>, it was further confirmed that previous criminal convictions can be taken into account only in so far as the circumstances which gave rise to that conviction are evidence of personal conduct constituting a present threat to the requirements of public policy.</p> <p>It shall be noted that Chapter 7 Section 6a of the Aliens Act defines the term 'family member' to cover:</p> <ul style="list-style-type: none"> <li>- a spouse or cohabiting partner,</li> <li>- a child under the age of 21 who is dependent on the parent for means of support and</li> <li>- a parent who is dependent on the child for means of support.</li> </ul> <p>The term does not cover distant direct relatives.</p> <p>In accordance with the reasoning above, the overall conclusion is that Sweden has both, incompletely and incorrectly transposed the provision.</p>
Art.27.2	2. Measures taken on grounds of public policy or public security shall comply with the principle of proportionality and shall be based exclusively on the personal conduct of the individual concerned. Previous criminal convictions shall not in themselves constitute grounds for taking	Chapter 1 Section, 8, Chapter 8 Section 2 of the Aliens Act (2005:716)	<p><b>8 §</b> Lagen skall tillämpas så att en utlännings frihet inte begränsas mer än vad som är nödvändigt i varje enskilt fall.</p> <p><b>2 §</b> En utlänning får avvisas</p> <p>1. om det kan antas att han eller hon kommer att sakna tillräckliga</p>	<p><b>Section 8</b> The Act is to be applied so as not to limit the freedom of aliens more than is necessary in each individual case.</p> <p>Section 2 An alien may be refused entry 1. if it can be</p>	N, Incorrect	<p>Incorrect transposition</p> <p>Chapter 1 Section 8 of the Aliens Act provides that the Act is to be applied so as not to limit the freedom of aliens more than is necessary in each individual case.</p>

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	such measures.		<p>medel för vistelsen i Sverige eller i något annat nordiskt land som han eller hon tänker besöka eller för hemresan,</p> <p>2. om det kan antas att han eller hon under vistelsen i Sverige eller i något annat nordiskt land inte kommer att försörja sig på ett ärligt sätt eller kommer att bedriva verksamhet som kräver arbetstillstånd, utan att han eller hon har ett sådant tillstånd,</p> <p>3. om han eller hon på grund av tidigare frihetsstraff eller någon annan särskild omständighet kan antas komma att begå brott i Sverige eller i något annat nordiskt land,</p> <p>4. om han eller hon på grund av tidigare verksamhet eller i övrigt kan antas komma att bedriva sabotage, spioneri eller olovlig underrättelseverksamhet i Sverige eller i något annat nordiskt land, eller</p> <p>5. om det med stöd av lagen (1996:95) om vissa internationella sanktioner har föreskrivits att han eller hon får avvisas.</p> <p>En utlänning får avvisas även i andra fall när det har begärts av den centrala utlänningsmyndigheten i ett annat nordiskt land och det kan antas att han eller hon annars beger sig till det landet.</p> <p><a href="#">Första stycket 1</a> gäller inte för en EES-medborgare och hans eller</p>	<p>assumed that he or she will lack adequate funds for the stay in Sweden or in some other Nordic country that he or she intends to visit or for the journey home,</p> <p>2. if it can be assumed that during the stay in Sweden or in some other Nordic country he or she will not support himself or herself by honest means or will engage in activities that require a work permit, without having such a permit,</p> <p>3. if it can be assumed, on the basis of previous imprisonment or some other particular circumstance, that he or she will commit a criminal offence in Sweden or in some other Nordic country,</p> <p>4. if it can be assumed on the basis of previous activities or otherwise that he or she will engage in sabotage, espionage or unlawful intelligence activities in Sweden or in some other Nordic country or</p> <p>5. if, pursuant to the Act on Certain International Sanctions (1996:95), it has been prescribed that he or she may be refused entry. An alien may also be refused entry in other cases when this has been requested by the central aliens authority in another Nordic country and it can be assumed that he or she will otherwise proceed to that country.</p> <p>The first paragraph, point 1 does not apply to an EEA national</p>		<p>The transposing legislation does not explicitly transpose the requirements that previous criminal convictions shall not in themselves constitute grounds for taking such measures. However, the Directive uses the wording "in themselves". The Swedish legislation may be interpreted in such way that previous criminal convictions shall not <i>in themselves</i> constitute grounds for taking such measures, but may be a basis for assumption that the alien will commit a criminal offence in Sweden or in some other Nordic country. With that, it appears that the Swedish approach is wrong, as the Directive requires that the decision should not be based on previous convictions., and the authorities should base the decision on the personal circumstances. The fact that the person has previous convictions should not lead to consider that the person is a threat to public order and public security. These principles have to be listed precisely in the legislation to avoid administrative arbitrariness. However, in Court's Judgment from . 2007-05-02 /Case B1902-07, the High Court has annulled the Judgment of the High Court on the expulsion of a Romanian national who has committed a brutal thievery. The Court's Judgment contains a direct reference to Art. 27.2 of Directive 2004/38/EC, and is in line with the Donatella Calfa case, where European Court of Justice holds that</p>



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			hennes familjemedlemmar. Avvisning får dock ske, av andra än arbetstagare, egenföretagare, arbetsökande samt dennes familjemedlemmar, om någon av dem efter inresan i Sverige visar sig utgöra en belastning för biståndssystemet enligt socialtjänstlagen (2001:453). Lag (2006:219).	and the members of his or her family. However, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused entry if any of them, after entering Sweden, proves to be a burden to the social assistance system under the Social Services Act (2001:453).		Greek statute requiring an automatic lifetime expulsion from Greece of any foreign national convicted for drug offenses is incompatible with basic freedoms to travel guaranteed by EU law as applied to EU citizen and was not justified by public policy. The Swedish High Court has stated that the crime in this case is not sufficiently serious for the convicted to be expelled, and common preventive measures are not be considered here.
	The personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society. Justifications that are isolated from the particulars of the case or that rely on considerations of general prevention shall not be accepted.	Chapter 8 Section 2 of the Aliens Act (2005:716)	2 § En utlänning får avvisas 1. om det kan antas att han eller hon kommer att sakna tillräckliga medel för vistelsen i Sverige eller i något annat nordiskt land som han eller hon tänker besöka eller för hemresan, 2. om det kan antas att han eller hon under vistelsen i Sverige eller i något annat nordiskt land inte kommer att försörja sig på ett ärligt sätt eller kommer att bedriva verksamhet som kräver arbetstillstånd, utan att han eller hon har ett sådant tillstånd, 3. om han eller hon på grund av tidigare frihetsstraff eller någon annan särskild omständighet kan antas komma att begå brott i Sverige eller i något annat nordiskt land, 4. om han eller hon på grund av tidigare verksamhet eller i övrigt kan antas komma att bedriva sabotage, spioneri eller olovlig underrättelseverksamhet i Sverige eller i något annat nordiskt land, eller	Section 2 An alien may be refused entry 1. if it can be assumed that he or she will lack adequate funds for the stay in Sweden or in some other Nordic country that he or she intends to visit or for the journey home, 2. if it can be assumed that during the stay in Sweden or in some other Nordic country he or she will not support himself or herself by honest means or will engage in activities that require a work permit, without having such a permit, 3. if it can be assumed, on the basis of previous imprisonment or some other particular circumstance, that he or she will commit a criminal offence in Sweden or in some other Nordic country, 4. if it can be assumed on the basis of previous activities or otherwise that he or she will engage in sabotage, espionage or unlawful intelligence activities in Sweden or in some other	N, Incomplete	Incomplete transposition  Decisions taken on the basis of Chapter 8 Section 2 first subparagraph 2, 3 and 4 of Section 8 of the Act, are based on the Alien's own conduct. The language use; "an alien may be reused" also indicate that the decision always is based on an assessment in each individual case.  However, as the transposing legislation does not explicitly transpose the requirements that the personal conduct of the individual concerned must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society, the Swedish legislation is considered in non-conformity with the Directive. On the other hand, the situations listed in Chapter 8 Section 2 of the Aliens Act are of this kind.

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			<p>5. om det med stöd av lagen (1996:95) om vissa internationella sanktioner har föreskrivits att han eller hon får avvisas.</p> <p>En utlänning får avvisas även i andra fall när det har begärts av den centrala utlänningsmyndigheten i ett annat nordiskt land och det kan antas att han eller hon annars beger sig till det landet.</p> <p><a href="#">Första stycket 1</a> gäller inte för en EES-medborgare och hans eller hennes familjemedlemmar. Avvisning får dock ske, av andra än arbetstagare, egenföretagare, arbetssökande samt dennes familjemedlemmar, om någon av dem efter inresan i Sverige visar sig utgöra en belastning för biståndssystemet enligt socialtjänstlagen (2001:453). Lag (2006:219).</p>	<p>Nordic country or</p> <p>5. if, pursuant to the Act on Certain International Sanctions (1996:95), it has been prescribed that he or she may be refused entry. An alien may also be refused entry in other cases when this has been requested by the central aliens authority in another Nordic country and it can be assumed that he or she will otherwise proceed to that country.</p> <p>The first paragraph, point 1 does not apply to an EEA national and the members of his or her family. However, persons other than workers or self-employed persons, persons seeking employment and their family members may be refused entry if any of them, after entering Sweden, proves to be a burden to the social assistance system under the Social Services Act (2001:453).</p> <p>Add Chapter 8 section 2</p>		
Art.27.3	3. In order to ascertain whether the person concerned represents a danger for public policy or public security, when issuing the registration certificate or, in the absence of a registration system, not later than three months from the date of arrival of the person concerned on its territory or from the date of reporting his/her presence within the territory, as provided for in Article 5(5), or when issuing the residence card, the host Member State may, should it consider this essential, request the Member State of origin and, if need be, other Member	Chapter 2 Section 2 of Aliens Act (2005:716)	§ 2 [...] 3. om han eller hon på grund av tidigare frihetsstraff eller någon annan särskild omständighet kan antas komma att begå brott i Sverige eller i något annat nordiskt land [...]	Section 2 [...] 3. if it can be assumed, on the basis of previous imprisonment or some other particular circumstance, that he or she will commit a criminal offence in Sweden or in some other Nordic country, [...]	N, Incomplete	<p>Incomplete transposition</p> <p>This option is implied in Chapter 2 Section 2 of Aliens Act (2005:716). However, the requirement that such enquiries shall not be made as a matter of routine does not explicitly follow from the transposing provision.</p> <p>The reversed obligation (that the Swedish authorities should reply to such requests within the given deadline) is missing.</p>

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	States to provide information concerning any previous police record the person concerned may have. Such enquiries shall not be made as a matter of routine. The Member State consulted shall give its reply within two months.					
Art.27.4	4. The Member State which issued the passport or identity card shall allow the holder of the document who has been expelled on grounds of public policy, public security, or public health from another Member State to re-enter its territory without any formality even if the document is no longer valid or the nationality of the holder is in dispute.				NT	Not transposed  In accordance with the administrative practice. However, administrative practice is not an adequate form of transposition, which makes the transposition incomplete (gap).
Art.28	<b>Protection against expulsion</b>  1. Before taking an expulsion decision on grounds of public policy or public security, the host Member State shall take account of considerations such as how long the individual concerned has resided on its territory, his/her age, state of health, family and economic situation, social and cultural integration into the host Member State and the extent of his/her links with the country of origin.	Chapter 8 Sections 17 a and Section 11 of the Aliens Act (2005:716)	<b>Kap. 8</b> <b>17 a §</b> När en fråga uppkommer om utvisning av en EES-medborgare eller hans eller hennes familjemedlem på grund av hänsyn till allmän ordning och säkerhet, skall <b>hänsyn tas till hans eller hennes anknytning till Sverige</b> i enlighet med vad som sägs i 11 § första stycket. Lag (2006:219). <b>11 §</b> När en domstol överväger om en utlänning bör utvisas enligt 8 §, skall den ta hänsyn till utlänningens anknytning till det svenska samhället. <b>Domstolen skall särskilt beakta</b> 1. utlänningens levnadsomständigheter, 2. om utlänningen har barn i Sverige och, om så är fallet, barnets behov av kontakt med utlänningen, hur kontakten har varit och hur den skulle påverkas av att utlänningen utvisas, 3. utlänningens övriga	<b>Chapter 8</b> <b>Section 17a</b> When a question of expulsion of an EEA national or a member of his or her family on grounds of public order and security arises, <b>account must be taken of his or her ties to Sweden</b> in accordance with the provisions of Section 11, first paragraph.  <b>Section 11</b> When a court considers whether an alien should be expelled under Section 8, it must take into account the alien's ties to Swedish society. <b>The court must pay particular attention to</b> 1. the alien's personal circumstances, 2. whether the alien has any child in Sweden and, if so, the child's need of contact with the alien, the nature of the contact in the past and how it would be affected by the alien's expulsion,	N, Incorrect	Incorrect transposition.  Chapter 8 Section 17 a of the Aliens Act provides that when a question of expulsion of an EEA national or a member of his or her family on grounds of public order and security arises, account must be taken of his or her ties to Sweden in accordance with the provisions of Section 11, first paragraph.  Section 11 provides that when a court considers whether an alien should be expelled, it must take into account the alien's ties to Swedish society. The court must pay particular attention to 1. the alien's personal circumstances, 2. whether the alien has any child in Sweden and, if so, the child's need of contact with the alien, the nature of the contact in the past and how it would be affected by the alien's expulsion, 3. the alien's family situation in other respects and

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		Article 5 of the Act concerning special controls in respect of aliens (1991:572)	<p>familjeförhållanden, och 4. hur länge utlänningen har vistats i Sverige...</p> <p><b>5 §</b> I ärenden enligt denna lag gäller följande föreskrifter i utlänningslagen (2005:716) i tillämpliga delar: ...8 kap. 17 a § om sådana hänsyn som skall tas till anknytningen till Sverige, om fråga uppkommit om utvisning av en EES- medborgare eller en sådan utlännings familjemedlem, .....</p>	<p>3. the alien's family situation in other respects and 4. how long the alien has been in Sweden...</p> <p><b>Section 5</b> For the purposes of this Act, the applicable parts of the following provisions of the Aliens Act (2005:716) apply: ... Chapter 8. paragraph 17a on the extent to which the link with Sweden is to be taken into consideration if matters concerning the expulsion of an EEA citizen or such an alien's family members arise, .....</p>		<p>4. how long the alien has been in Sweden. However, the transposing legislation does not mention all elements mentioned in the Directive. Therefore, the transposition is incorrect.</p> <p>It furthermore follows from Article 5 of the Special Aliens Control Act (1991:572) that the listed provisions in the Aliens Act apply to matters under the Special Aliens Control Act.</p>
	2. The host Member State may not take an expulsion decision against Union citizens or their family members, irrespective of nationality, who have the right of permanent residence on its territory, except on serious grounds of public policy or public security.	Chapter 8 Sections 7 a of the Aliens Act (2005:716)	<p><b>Kap. 8</b> <b>7 a §</b> En utlänning som har uppehållsrätt får utvisas ur Sverige av hänsyn till allmän ordning och säkerhet. Om utlänningen vid tidpunkten för beslutet om utvisning har permanent uppehållsrätt, får han eller hon dock utvisas endast om det finns synnerliga skäl för det. En EES-medborgare som är barn eller som har vistats i Sverige under de tio närmast föregående åren, får utvisas endast om beslutet är oundgängligen nödvändigt av hänsyn till allmän säkerhet. Lag (2006:219).</p> <p><b>12 §</b> En utlänning får utvisas enligt 8 § endast när det finns synnerliga skäl, om han eller hon hade vistats i Sverige med permanent uppehållstillstånd</p>	<p><b>Chapter 8</b> <b>Section 7a</b> An alien who has a right of residence may be expelled from Sweden out of consideration for public order and security. If the alien has a right of permanent residence at the time of the expulsion order, however, he or she may only be expelled if there are exceptional grounds for this. An EEA national who is a child or who has stayed in Sweden during the ten immediately foregoing years may be expelled only if the decision is absolutely necessary out of consideration for public security.</p> <p><b>Section 12</b> An alien may be expelled under Section 8 only when there are exceptional grounds, if he or she had been in Sweden on a</p>	Y	<p>Effective transposition.</p> <p>The Swedish legislation prohibits an expulsion decision against an alien on serious grounds of public policy or public security, except if there are exceptional grounds for this. The same right also applies to family members of the Union Citizen (covered by the broader term "alien"). Terrorist crime (Section 3 of Law on penalties for terrorist crime SFS 2003:148), espionage, etc. Swedish Security Police /SÄPO deals with similar matters. These may be considered as serious and imperative grounds.</p> <p>It follows from Article 5 of the Special Aliens Control Act (1991:572) that Chapter 8 Section 7 a of the Aliens Act apply to matters under the Special Aliens Control Act.</p>

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			<p>sedan minst fyra år när åtal väcktes eller om han eller hon då varit bosatt i Sverige sedan minst fem år. Detsamma gäller för en medborgare i ett annat nordiskt land som hade varit bosatt här sedan minst två år när åtalet väcktes och för en utlänning som har permanent uppehållsrätt i Sverige.</p> <p>Vad som sägs i 7 a § andra stycket gäller även vid utvisning enligt 8 §.</p> <p>En utlänning får inte utvisas, om utlänningen kom till Sverige innan han eller hon fyllt 15 år och vistats här sedan minst fem år när åtal väcktes. Lag (2006:219).</p>	<p>permanent residence permit for at least four years when prosecution was initiated or if he or she had at the time been resident in Sweden for at least five years. This also applies to a national of another Nordic country who had been resident here for at least two years when prosecution was initiated and to an alien who has a right of permanent residence in Sweden. The provisions of Section 7a, second paragraph also apply to expulsion under Section 8.</p> <p>An alien may not be expelled if the alien came to Sweden before he or she attained the age of 15 and had been here for at least five years when prosecution was initiated.</p>		
		Article 5 of the Act concerning special controls in respect of aliens (1991:572)	<p><b>5 §</b> I ärenden enligt denna lag gäller följande föreskrifter i utlänningslagen (2005:716) i tillämpliga delar:</p> <p>1 kap. 13 § om skyndsam handläggning,</p> <p>8 kap. 7 a § om utvisning av utlänningar med permanent uppehållsrätt, EES-medborgare som har vistats i Sverige under de tio närmast föregående åren och EES-medborgare som är barn, .....</p>	<p><b>Section 5</b> For the purposes of this Act, the applicable parts of the following provisions of the Aliens Act (2005:716) apply:</p> <p>Chapter 1. paragraph 13 on rapid processing,</p> <p>Chapter 8. paragraph 7 a on expulsion of aliens with a right of permanent residence, EEA nationals that have been staying in Sweden for the previous ten years and EEA citizens who are children, .....</p>		
	3. An expulsion decision may not be taken against Union citizens, except if the decision is based on imperative grounds of public security, as defined by Member States, if they: (a) have resided in the host Member State	Chapter 8 Section 7 a, second sentence of the Aliens Act (2005:716)	<p><b>Kap. 8</b> <b>7 a §</b> En utlänning som har uppehållsrätt får utvisas ur Sverige av hänsyn till allmän ordning och säkerhet. Om utlänningen vid tidpunkten för</p>	<p><b>Chapter 8</b> <b>Section 7a</b> An alien who has a right of residence may be expelled from Sweden out of consideration for public order and security. If the</p>	Y	<p>Effective transposition.</p> <p>According to the transposing legislation, an EEA national who has stayed in Sweden during the ten immediately foregoing years may</p>

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	for the previous 10 years; or		beslutet om utvisning har permanent uppehållsrätt, får han eller hon dock utvisas endast om det finns synnerliga skäl för det. En EES-medborgare som är barn eller som har vistats i Sverige under de tio närmast föregående åren, får utvisas endast om beslutet är oundgängligen nödvändigt av hänsyn till allmän säkerhet. Lag (2006:219).	alien has a right of permanent residence at the time of the expulsion order, however, he or she may only be expelled if there are exceptional grounds for this. An EEA national who is a child or who has stayed in Sweden during the ten immediately foregoing years may be expelled only if the decision is absolutely necessary out of consideration for public security.		only be expelled if the decision is absolutely necessary out of consideration for public security.  It follows from Article 5 of the Special Aliens Control Act (1991:572) that Chapter 8 Section 7 a of the Aliens Act apply to matters under the Special Aliens Control Act.
		Article 5 of the Act concerning special controls in respect of aliens (1991:572)	<b>5 §</b> I ärenden enligt denna lag gäller följande föreskrifter i utlänningslagen (2005:716) i tillämpliga delar: 1 kap. 13 § om skyndsam handläggning, 8 kap. 7 a § om utvisning av utlänningar med permanent uppehållsrätt, EES-medborgare som har vistats i Sverige under de tio närmast föregående åren och EES-medborgare som är barn, .....	<b>Section 5</b> For the purposes of this Act, the applicable parts of the following provisions of the Aliens Act (2005:716) apply: Chapter 1. paragraph 13 on rapid processing, Chapter 8. paragraph 7 a on expulsion of aliens with a right of permanent residence, EEA nationals that have been staying in Sweden for the previous ten years and EEA citizens who are children, .....		
	(b) are a minor, except if the expulsion is necessary for the best interests of the child, as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989.	Chapter 8 Section 7 a, second sentence of the Aliens Act (2005:716)	<b>Kap. 8</b> <b>7 a §.</b> En EES-medborgare som är barn eller som har vistats i Sverige under de tio närmast föregående åren, får utvisas endast om beslutet är oundgängligen nödvändigt av hänsyn till allmän säkerhet. Lag (2006:219).	<b>Chapter 8</b> <b>Section 7a</b> An EEA national who is a child or who has stayed in Sweden during the ten immediately foregoing years may be expelled only if the decision is absolutely necessary out of consideration for public security.	N, Incorrect	Incorrect transposition  According to the transposing legislation, an EEA national who is a child may only be expelled if the decision is absolutely necessary out of consideration for public security. It follows from Article 5 of the Special Aliens Control Act (1991:572) that Chapter 8 Section 7a of the Aliens Act applies to matters under the Special Aliens Control Act.  Sweden has, however, not transposed

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						the exception provided for in indent. (b). In this respect, it is worth to note that Sweden is a party to the United Nations Convention on the Rights of the Child of 20 November 1989, as referred by the Directive. Thus, Sweden is under obligation to protect the alien minor from being separated from his/her family or deprived of any other right inherent in the Convention by not being subject to expulsion. It is therefore concluded that Sweden has not transposed the wording "necessary for the best interests of the child" in a correct way.
		Article 5 of the Act concerning special controls in respect of aliens (1991:572)	<b>5 §</b> I ärenden enligt denna lag gäller följande föreskrifter i utlänningslagen (2005:716) i tillämpliga delar: 1 kap. 13 § om skyndsam handläggning, 8 kap. 7 a § om utvisning av utlänningar med permanent uppehållsrätt, EES-medborgare som har vistats i Sverige under de tio närmast föregående åren och EES-medborgare som är barn, .....	<b>Section 5</b> For the purposes of this Act, the applicable parts of the following provisions of the Aliens Act (2005:716) apply: Chapter 1. paragraph 13 on rapid processing, Chapter 8. paragraph 7 a on expulsion of aliens with a right of permanent residence, EEA nationals that have been staying <b>in Sweden for the previous ten years and EEA citizens who are children,</b> .....		
Art. 29.1	<b>Public health</b>  1. The only diseases justifying measures restricting freedom of movement shall be the diseases with epidemic potential as defined by the relevant instruments of the World Health Organisation and other infectious diseases or contagious parasitic diseases if they are the subject of protection provisions applying to nationals of the host Member State.	Chapter 3 Section 8 of Communicable Diseases Act (2004:168)	<b>8 §</b> Om det finns skäl att misstänka att någon som anländer till Sverige har smittats av en samhällsfarlig sjukdom, får smittskyddsläkaren besluta att denne samt andra personer som anländer med samma transportmedel skall genomgå hälsokontroll på platsen för inresan.	Section 8 If there is a reason to suspect that a person entering Sweden is contaminated with a dangerous disease, a doctor may decide that this person as well as other persons entering Sweden in the same transport shall be subject to a health control at the check point.	NT	Not transposed  Sweden has not transposed the provision. However, this shall not be interpreted as if there is no possibility to restrict freedom of movement on the basis of protection of public health in Sweden. The general rules of health protection legislation will apply for both, Swedish and non-Swedish nationals.

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						The measure restricting freedom of movement on the basis of contagious diseases does not exist. However, Chapter 3 Section 8 of Communicable Diseases Act (2004:168) opens up a possibility to carry out a health control, when entering Sweden. Further, it contains rules on isolation,
Art.29.2	2. Diseases occurring after a three-month period from the date of arrival shall not constitute grounds for expulsion from the territory.				NT	Not transposed  Sweden has not transposed the provision.  However, this shall not be interpreted as if there is no possibility to restrict freedom of movement on the basis of protection of public health in Sweden. (See above).
Art.29.3	3. Where there are serious indications that it is necessary, Member States may, within three months of the date of arrival, require persons entitled to the right of residence to undergo, free of charge, a medical examination to certify that they are not suffering from any of the conditions referred to in paragraph 1. Such medical examinations may not be required as a matter of routine.	Chapter 3 Section 8 of Communicable Diseases Act (2004:168)	8 § Om det finns skäl att misstänka att någon som anländer till Sverige har smittats av en samhällsfarlig sjukdom, får smittskyddsläkaren besluta att denne samt andra personer som anländer med samma transportmedel skall genomgå hälsokontroll på platsen för inresan.	Section 8 If there is a reason to suspect that a person entering Sweden is contaminated with a dangerous disease, a doctor may decide that this person as well as other persons entering Sweden in the same transport shall be subject to a health control at the check point.	N, Ambiguous	Ambiguous transposition  The Swedish transposing legislation does not indicate that such a health check would be free of charge.
Art.30.1	<b>Notification of decisions</b>  1. The persons concerned shall be notified in writing of any decision taken under Article 27(1), in such a way that they are able to comprehend its content and the implications for them.	Article 21 of the Administrative Procedure Act (1986:223)	21 § En sökande, klagande eller annan part skall underrättas om innehållet i det beslut varigenom myndigheten avgör ärendet, om detta avser myndighetsutövning mot någon enskild. Parten behöver dock inte underrättas, om det är uppenbart obehövt. Om beslutet går parten emot och kan överklagas, skall han underrättas om hur han kan överklaga det. Han skall då också	<b>Section 21</b> Any applicant, appellant or other party shall be informed about the contents of the decision whereby the authority determines the matter if this relates to the exercise of public power in relation to someone. However, the party need not be notified if it is obviously unnecessary. When the decision affects a party adversely and it may be	N, Incorrect	Incorrect transposition  Decisions by the Swedish Migration Board: According to the Administrative Procedure Act (1986:223), the person concerned shall be informed of about the contents of the authority's decision. It is however up to the authority to decide whether the notification shall be effected orally, by ordinary letter, by service or in



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			<p>underrättas om sådana avvikande meningar som avses i 19 § eller som har antecknats enligt särskilda bestämmelser.</p> <p>Myndigheten bestämmer om underrättelsen skall ske muntligt, genom vanligt brev, genom delgivning eller på något annat sätt. Underrättelsen skall dock alltid ske skriftligt, om parten begär det.</p> <p>Denna paragraf tillämpas också när någon annan som får överklaga beslutet begär att få ta del av det.</p>	<p>appealed against, he shall be informed about how to appeal. He shall at the same time be informed of any dissenting opinions under Section 19 or which have been noted under special provisions.</p> <p>The authority decides whether the notification shall be effected orally, by ordinary letter, by service or in some other way. The notification shall, however, always be given in writing, if the party so requests.</p> <p>This Section shall also apply where someone else who is entitled to appeal against the decision requests to see the decision.</p>		<p>some other way. The notification shall, however, always be given in writing, if the party so requests.</p> <p>The Swedish legislation does not contain an absolute right for the person concerned to be notified in writing.</p> <p>Decisions by the Swedish Migration Court: According to the Administrative Court Procedure Act (1971:291), the case shall be presented to a party through a document that states fully the decision, and dissenting opinion, if there is any.</p> <p>The wording "in such a way that they are able to comprehend its content and the implications" has not been transposed.</p>
		Article 31 of the Administrative Court Procedure Act (1971:291)	<p><b>31 §</b> Beslut, varigenom rätten avgör målet, skall tillställas part genom handling som fullständigt återger beslutet och skiljaktig mening, där sådan förekommit. Beslut som kan överklagas skall dessutom innehålla upplysning om vad den skall iakttaga som vill anföra besvär över beslutet.</p> <p>Krävs särskilt tillstånd för prövning i högre rätt, skall beslutet innehålla uppgift om det och om de grunder på vilka ett sådant tillstånd meddelas. Lag (1994:436).</p>	<p><b>Section 31</b> A decision whereby the court determines the case shall be presented to a party through a document that states fully the decision, and dissenting opinion, if there is any. A decision that can be appealed against should also contain information about what should be observed by a party who wishes to present an appeal against the decision.</p> <p>If special leave is required for consideration by a superior court, the decision shall contain information about this and about the grounds on which such leave may be granted.</p>		

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Art.30.2	2. The persons concerned shall be informed, precisely and in full, of the public policy, public security or public health grounds on which the decision taken in their case is based, unless this is contrary to the interests of State security.	Articles 20-21 of the Administrative Procedure Act (1986:223)	<p><b>20 §</b> Ett beslut varigenom en myndighet avgör ett ärende skall innehålla de skäl som har bestämt utgången, om ärendet avser myndighetsutövning mot någon enskild. <b>Skälen får dock utelämnas</b> helt eller delvis .....</p> <p>3. om det är nödvändigt med hänsyn till rikets säkerhet, skyddet för enskildas personliga eller ekonomiska förhållanden eller något jämförbart förhållande, .....</p> <p><b>21 §</b> En sökande, klagande eller annan part skall underrättas om innehållet i det beslut varigenom myndigheten avgör ärendet, om detta avser myndighetsutövning mot någon enskild. Parten behöver dock inte underrättas, om det är uppenbart obehövt. Om beslutet går parten emot och kan överklagas, skall han underrättas om hur han kan överklaga det. Han skall då också underrättas om sådana avvikande meningar som avses i 19 § eller som har antecknats enligt särskilda bestämmelser. Myndigheten bestämmer om underrättelsen skall ske muntligt, genom vanligt brev, genom delgivning eller på något annat sätt. Underrättelsen skall dock alltid ske skriftligt, om parten begär det. Denna paragraf tillämpas också</p>	<p><b>Section 20</b> A decision whereby a matter is determined by an authority shall contain the reasons that settled the outcome when the matter concerns the exercise of public power in relation to someone. <b>The reasons for the decision may, however, be omitted</b> wholly or in part: .....</p> <p>3. if it is necessary out of concern for the national security, the protection of the private or economic interests or some comparable circumstance, .....</p> <p><b>Section 21</b> Any applicant, appellant or other party shall be informed about the contents of the decision whereby the authority determines the matter if this relates to the exercise of public power in relation to someone. However, the party need not be notified if it is obviously unnecessary. When the decision affects a party adversely and it may be appealed against, he shall be informed about how to appeal. He shall at the same time be informed of any dissenting opinions under Section 19 or which have been noted under special provisions. The authority decides whether the notification shall be effected orally, by ordinary letter, by service or in some other way. The notification shall, however,</p>	N, Incorrect	<p>Incorrect transposition</p> <p>It follows from Chapter 13 Section 10 of the Aliens Act that an alien is, always entitled to a statement of the reasons for a decision on a visa if the decision is adverse to the alien and the alien is an EEA national. The provisions of Aliens Act are further supplemented by <i>lex generalis</i>.</p> <p>Generally, the persons concerned shall be informed about reason that settled the outcome, if the decision is adverse to the party.</p> <p>However, the reasons may be omitted, if, <i>inter alia</i>, it is necessary out of concern for the national security, or if the matter is of such urgency that there is no time to formulate the reasons for the decision, or if the matter concerns the issuance of regulations pursuant to Chapter 8 of the Instrument of Government. As the Swedish transposing legislation includes a longer list of exceptions than the Directive, it is concluded a case of non-conformity.</p> <p>Also see Article 21 of the Administrative Procedural Act (1986:223): However, the party need not be notified if it is obviously unnecessary.</p>

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		<p>Article 30 of the Administrative Court Procedure Act (1971:291)</p> <p>Chapter 13 Section 10 of the Aliens Act (2005:716)</p>	<p>när någon annan som får överklaga beslutet begär att få ta del av det.</p> <p><b>30 §</b> Rättens avgörande av mål skall grundas på vad handlingarna innehåller och vad i övrigt förekommit i målet. Av beslutet skall framgå de skäl som bestämt utgången.</p> <p><b>Kap. 13</b> <b>10 §</b> Ett beslut i fråga om uppehållstillstånd eller om tredjelandsmedborgares ställning som varaktigt bosatt i Sverige skall alltid innehålla de skäl som ligger till grund för beslutet. Vid beslut i fråga om visering eller arbetstillstånd får skälen som ligger till grund för beslutet utelämnas. En utlänning har dock alltid rätt till motivering av ett beslut i fråga om visering, om beslutet går utlänningen emot och utlänningen omfattas av avtalet om Europeiska ekonomiska samarbetsområdet (EES) eller av avtalet mellan Europeiska gemenskapen och dess medlemsstater å ena sidan och Schweiz å andra sidan om fri rörlighet för personer, utan att vara medborgare i ett EES-land</p>	<p>always be given in writing, if the party so requests. This Section shall also apply where someone else who is entitled to appeal against the decision requests to see the decision.</p> <p><b>Section 30</b> The determination of a case by a court shall be based on that contained in the documents and what has otherwise been established in the case. The decision shall state the reasons that determined the outcome.</p> <p><b>Chapter 13</b> <b>Section 10</b> A decision on a residence permit or long-term resident status in Sweden for a third-country national shall always contain the reasons on which the decision is based. In the case of a decision on a visa or a work permit, the reasons for the decision may be excluded. An alien is, however, always entitled to a statement of the reasons for a decision on a visa if the decision is adverse to the alien and the alien is covered by the Agreement on the European Economic Area (EEA) or by the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons, without being a</p>		

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			eller i Schweiz. Lag (2006:219).	citizen of an EEA country or Switzerland.		
Art.30.3	3. The notification shall specify the court or administrative authority with which the person concerned may lodge an appeal, the time limit for the appeal and, where applicable, the time allowed for the person to leave the territory of the Member State. Save in duly substantiated cases of urgency, the time allowed to leave the territory shall be not less than one month from the date of notification.	Article 21 of the Administrative Procedure Act (1986:223)	<p><b>21 §</b> En sökande, klagande eller annan part <b>skall underrättas</b> om innehållet i det beslut varigenom myndigheten avgör ärendet, om detta avser myndighetsutövning mot någon enskild. Parten behöver dock inte underrättas, om det är uppenbart obehövt.</p> <p>Om beslutet går parten emot och kan överklagas, skall han underrättas om hur han kan överklaga det. Han skall då också underrättas om sådana avvikande meningar som avses i 19 § eller som har antecknats enligt särskilda bestämmelser.</p> <p>Myndigheten bestämmer om underrättelsen skall ske muntligt, genom vanligt brev, genom delgivning eller på något annat sätt. Underrättelsen skall dock alltid ske skriftligt, om parten begär det.</p> <p>Denna paragraf tillämpas också när någon annan som får överklaga beslutet begär att få ta del av det.</p>	<p><b>Section 21</b> Any applicant, appellant or other party <b>shall be informed</b> about the contents of the decision whereby the authority determines the matter if this relates to the exercise of public power in relation to someone. However, the party need not be notified if it is obviously unnecessary.</p> <p>When the decision affects a party adversely and it may be appealed against, <b>he shall be informed about how to appeal</b>. He shall at the same time be informed of any dissenting opinions under Section 19 or which have been noted under special provisions.</p> <p>The authority decides whether the notification shall be effected orally, by ordinary letter, by service or in some other way. The notification shall, however, always be given in writing, if the party so requests.</p> <p>This Section shall also apply where someone else who is entitled to appeal against the decision requests to see the decision.</p>	N, Incorrect	<p>Incorrect transposition</p> <p>The transposing legislation provides that the person concerned shall be informed about how to appeal the decision by the authority (this includes information about time limit for the appeal). The same obligation applies to court decisions.</p> <p>As a main rule, a refusal-of-entry order shall be enforced as soon as possible. However, enforcement of a refusal-of-entry or expulsion order applying to an EEA national or a member of his or her family who has entered Sweden may take place at the earliest four weeks from the day on which the EEA national or the family member was informed of the order, unless there are exceptional grounds for enforcing the order.</p> <p>However, there is a semantic difference between the wording "enforcement of refusal-of-entry order or expulsion decision" as stipulated by the transposing provision and "the time allowed to leave the territory" as prescribed by the Directive. Indeed, as enforcement constitutes the next stage in the expulsion procedure, it is concluded that the Swedish law narrows the objective of this provision.</p> <p>Furthermore, the Directive prescribes the time allowed to leave the territory shall be not less than one month from the date of notification, but not from</p>

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						the day on which the EEA national or the family member was informed of the order. In addition, the wording of the transposing provision "an alien who is expelled shall leave the country within four weeks from the date when the order becomes final and non-appealable" is against the Directive. It is thus concluded a case of non-conformity.
		Article 31 of the Administrative Court Procedure Act (1971:291)	<b>31 §</b> Beslut, varigenom rätten avgör målet, skall tillställas part genom handling som fullständigt återger beslutet och skiljaktig mening, där sådan förekommit. Beslut som kan överklagas skall dessutom innehålla upplysning om vad den skall iakttaga som vill anföra besvär över beslutet. Krävs särskilt tillstånd för prövning i högre rätt, skall beslutet innehålla uppgift om det och om de grunder på vilka ett sådant tillstånd meddelas. Lag (1994:436).	<b>Section 31</b> A decision whereby the court determines the case shall be presented to a party through a document that states fully the decision, and dissenting opinion, if there is any. A decision that can be appealed against should also contain information about what should be observed by a party who wishes to present an appeal against the decision. If special leave is required for consideration by a superior court, the decision shall contain information about this and about the grounds on which such leave may be granted.		
		Chapter 12 Section 15 of the Aliens Act (2005:716)	<b>Kap. 12</b> <b>15 §</b> En polismyndighets beslut om avvisning, Migrationsverkets beslut om avvisning enligt 8 kap. 4 § andra stycket, Migrationsverkets beslut om avvisning med omedelbar verkställighet och en allmän domstols lagakraftvunna dom eller beslut om utvisning på grund av brott skall verkställas snarast möjligt. I andra fall skall en utlännings	<b>Chapter 12</b> <b>Section 15</b> A police authority's refusal-of-entry order, refusal-of-entry orders made by the Swedish Migration Board under Chapter 8, Section 4, second paragraph [add], refusal-of-entry orders with immediate enforcement made by the Swedish Migration Board and final and non-appealable judgments or orders of a general court on expulsion on account of		

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			<p>som avvisas lämna landet inom två veckor <b>och en utlännning som utvisas lämna landet inom fyra veckor efter det att beslutet vann laga kraft, om inte annat bestämts i beslutet.</b></p> <p>Om utlännningen inte lämnar landet inom den föreskrivna tiden eller det måste antas att utlännningen inte har för avsikt att frivilligt lämna landet inom denna tid, skall beslutet verkställas snarast möjligt av den myndighet som enligt 14 § är ansvarig för verkställigheten.</p> <p>Verkställighet av beslut om avvisning eller utvisning av en EES-medborgare eller hans eller hennes familjemedlem som har rest in i Sverige <b>får ske tidigast fyra veckor från den dag EES-medborgaren eller familjemedlemmen fick del av beslutet,</b> om det inte finns synnerliga skäl för att verkställa beslutet. Lag (2006:219).</p>	<p>a criminal offence shall be enforced as soon as possible.</p> <p>In other cases an alien who is refused entry shall leave the country within two weeks <b>and an alien who is expelled shall leave the country within four weeks from the date when the order becomes final and non-appealable unless otherwise provided in the order.</b></p> <p>If the alien does not leave the country within the prescribed period or if it must be assumed that the alien does not intend to voluntarily leave the country within this period, the order shall be enforced as soon as possible by the authority that is responsible for enforcement under Section 14.</p> <p>Enforcement of a refusal-of-entry or expulsion order applying to an EEA national or a member of his or her family who has entered Sweden may take place <b>at the earliest four weeks from the day on which the EEA national or the family member was informed of the order,</b> unless there are exceptional grounds for enforcing the order.</p>		
Art.31.1	<p><b>Procedural safeguards</b></p> <p>1. The persons concerned shall have access to judicial and, where appropriate, administrative redress procedures in the host Member State to appeal against or seek review of any decision taken against them on the grounds of public policy,</p>	Chapter 14 Sections 2, 3, 6, 9-11 and 13 and Chapter 16 Section 9 of the Aliens Act (2005:716)	<p><b>Kap. 14</b></p> <p><b>2 § En polismyndighets beslut om avvisning får överklagas till Migrationsverket.</b></p> <p><b>3 § Migrationsverkets beslut får överklagas till en migrationsdomstol, om beslutet</b></p>	<p><b>Chapter 14</b></p> <p><b>Section 2 A decision of a police authority on refusal of entry may be appealed to the Swedish Migration Board.</b></p> <p><b>Section 3 A decision of the Swedish Migration Board may</b></p>	Y	<p>Effective transposition</p> <p>The requirement set out in Article 31 of the Directive that all those decisions that limits the free movements of Union citizens and their family members, have been correctly transposed into the Swedish</p>

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	public security or public health.		<p>innebär</p> <ul style="list-style-type: none"> <li>- avslag på en ansökan om visering eller återkallelse av visering för en utlänning som är familjemedlem till en EES-medborgare, utan att själv vara EES-medborgare,</li> <li>- avvisning eller utvisning,</li> <li>- avslag på en ansökan om uppehållstillstånd eller om tredjelandsmedborgares ställning som varaktigt bosatt i Sverige, eller</li> <li>- återkallelse av ett uppehållstillstånd eller av tredjelandsmedborgares ställning som varaktigt bosatt i Sverige.</li> </ul> <p>Migrationsverkets beslut om avslag på en ansökan om arbetstillstånd eller beslut om återkallelse av arbetstillstånd får överklagas till en migrationsdomstol, om frågan om tillstånd har behandlats i samband med ett beslut om avvisning eller utvisning. Lag (2006:219).</p> <p><b>6 §</b> Migrationsverkets beslut enligt 4 kap. 3 och 4 §§ i fråga om <b>flyktingförklaring eller resedokument eller om återkallelse av flyktingförklaring</b> får överklagas till en <b>migrationsdomstol.</b></p> <p><b>9 §</b> Beslut av en polismyndighet eller av Migrationsverket om förvar får överklagas till en <b>migrationsdomstol.</b></p> <p>Beslut om förvar får överklagas</p>	<p><b>be appealed to a migration court</b> if the decision entails</p> <ul style="list-style-type: none"> <li>– rejection of an application for a visa or withdrawal of a visa from an alien who is a family member of an EEA national, though not an EEA national himself or herself,</li> <li>– refusal of entry or expulsion,</li> <li>– rejection of an application for a residence permit or for long-term resident status in Sweden for a third-country national or</li> <li>– withdrawal of a residence permit or of long-term resident status in Sweden for a third-country national.</li> </ul> <p>A decision of the Swedish Migration Board to reject an application for a work permit or a decision to withdraw a work permit may be appealed to a migration court, if the question of the work permit has been dealt with in a refusal-of-entry or expulsion order.</p> <p><b>Section 6</b> A decision of the Swedish Migration Board under Chapter 4, Section 3 or 4 concerning a <b>declaration of refugee status or travel documents or the withdrawal of a declaration of refugee status may be appealed to a migration court.</b></p> <p><b>Section 9</b> A detention order made by a police authority or the Swedish Migration Board may be appealed to a</p>		<p>legislation. The Swedish Migration Board serves as an appellate body on, <i>inter alia</i>, a refusal of entry decisions, expulsions and withdrawals of residence permit.</p> <p>The transposing legislation <i>inter alia</i> provides:</p> <p>A decision of a police authority on refusal of entry may be appealed to the Swedish Migration Board.</p> <p>A decision of the Swedish Migration Board may be appealed to a migration court if the decision entails</p> <ul style="list-style-type: none"> <li>• rejection of an application for a visa or withdrawal of a visa from an alien who is a family member of an EEA national, though not an EEA national himself or herself,</li> <li>• refusal of entry or expulsion</li> </ul> <p>A decision of the Swedish Migration Board concerning a declaration of refugee status or travel documents or the withdrawal of a declaration of refugee status may be appealed to a migration court.</p> <p>A detention order made by a police authority or the Swedish Migration Board may be appealed to a migration court.</p> <p>A decision of the Swedish Migration Board in special cases on questions concerning the treatment or placement of aliens being held in detention may be appealed to a migration court</p>

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			<p>särskilt och utan begränsning till viss tid.</p> <p>Om ett beslut om förvar har fattats av det statsråd som har till uppgift att föredra ärenden enligt denna lag, prövar Regeringsrätten på framställning av utlänningen, om åtgärden skall bestå.</p> <p><b>10 §</b> Migrationsverkets beslut i särskilda fall i frågor om behandlingen eller placeringen av utlänningar som hålls i förvar enligt 10 kap. 20 § eller 11 kap. 3-13 §§ får överklagas till en <b>migrationsdomstol</b>.</p> <p><b>11 §</b> I ett <b>säkerhetsärende</b> gäller i stället för det som sägs i 3 § att ett beslut av Migrationsverket i fråga om avvisning, utvisning, uppehållstillstånd eller arbetstillstånd får överklagas till <b>regeringen</b>. Beslut i fråga om arbetstillstånd får dock överklagas endast i de fall frågan om tillstånd har behandlats i samband med ett beslut om avvisning eller utvisning.</p> <p>Migrationsverkets beslut enligt första stycket får överklagas även av Säkerhetspolisen.</p>	<p><b>migration court.</b></p> <p>A detention order may be appealed separately and without limitation to a certain period of time.</p> <p>If a detention order has been issued by the Government Minister responsible for cases under this Act, the Supreme Administrative Court examines, at the request of the alien, whether the measure shall remain in force.</p> <p><b>Section 10</b> A decision of the Swedish Migration Board in special cases on questions concerning the treatment or placement of aliens being held in detention under Chapter 10, Section 20 or Chapter 11, Sections 3–13 may be appealed to a <b>migration court</b>.</p> <p><b>Section 11</b> In a security case a decision of the Swedish Migration Board on refusal of entry, expulsion, a residence permit or a work permit is not covered by the provisions of Section 3 and may instead be appealed to the <b>Government</b>. A decision concerning a work permit may, however, only be appealed in the cases where the question of the permit has been dealt with in a refusal-of-entry or expulsion order.</p> <p>A decision of the Swedish Migration Board under the first</p>		<p>Section 11</p> <p>In a security case a decision of the Swedish Migration Board on refusal of entry, expulsion or a residence permit may instead be appealed to the Government.</p> <p>A decision of the Swedish Migration Board under the first paragraph may also be appealed by the Swedish Security Service.</p> <p>A decision of a migration court is appealed to the Migration Court of Appeal. A decision of a migration court in a case of refusal of entry that has been examined by a police authority as the administrative authority of first instance may not be appealed. A decision of a migration court on detention that has not been made after an appeal concerning the question of detention, may be appealed separately to the Migration Court of Appeal. Decisions of the Migration Court of Appeal are not subject to appeal.</p>



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			<p><b>13 §</b> En polismyndighets eller Migrationsverkets beslut i säkerhetsärenden i frågor som avses i 6-10 §§ överklagas till Migrationsöverdomstolen. Detsamma gäller för beslut av Regeringskansliet i säkerhetsärenden enligt 8 § första och andra styckena. Vad som är föreskrivet om förvar i 9 § andra och tredje styckena gäller även i säkerhetsärenden. Migrationsverkets beslut i säkerhetsärenden i fråga om förvar får överklagas även av <b>Säkerhetspolisen.</b></p> <p><b>Chapter 16</b> <b>9 §</b> En migrationsdomstols beslut överklagas till <b>Migrationsöverdomstolen.</b> En migrationsdomstols beslut i mål om avvisning som i första instans prövats av en polismyndighet får dock inte överklagas. En migrationsdomstols beslut om förvar i annat fall än efter överklagande i förvarsfrågan, får överklagas särskilt till Migrationsöverdomstolen. Migrationsöverdomstolens beslut får inte överklagas.</p>	<p>paragraph may also be appealed by the <b>Swedish Security Service.</b></p> <p><b>Section 13</b> A decision of a police authority or the Swedish Migration Board in a security case in the matters referred to in Sections 6–10 may be appealed to the <b>Migration Court of Appeal.</b> The same applies to decisions of the Government Offices in security cases under Section 8, first and second paragraphs. The provisions of Section 9, second and third paragraphs on detention also apply to security cases. Decisions of the Swedish Migration Board in security cases concerning detention may also be appealed by the Swedish Security Service.</p> <p><b>Chapter 16</b> <b>Section 9</b> A decision of a migration court is appealed to <b>the Migration Court of Appeal.</b> A decision of a migration court in a case of refusal of entry that has been examined by a police authority as the administrative authority of first instance may not be appealed. A decision of a migration court on detention that has not been made after an appeal concerning the question of detention, may be appealed separately to the</p>		

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				Migration Court of Appeal. Decisions of the Migration Court of Appeal are not subject to appeal.		
		Article 2 of the Act concerning special controls in respect of aliens (1991:572)	<b>2 a §</b> Migrationsverkets beslut i fråga om utvisning får överklagas till regeringen. I övrigt får beslut som meddelas av en förvaltningsmyndighet enligt denna lag överklagas endast i de fall som det anges i denna lag. Säkerhetspolisen får överklaga Migrationsverkets beslut enligt denna lag, om det kan överklagas och går Säkerhetspolisen emot. När ett beslut enligt denna lag överklagas är såväl Migrationsverket som Säkerhetspolisen utlännings motparter vid handläggningen i Migrationsöverdomstolen och hos regeringen. Lag (2005:720).	<b>Section 2.</b> 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. If a police authority, a country 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. (1991:572)		
Art.31.2	2. Where the application for appeal against or judicial review of the expulsion decision is accompanied by an application for an interim order to suspend enforcement of that decision, actual removal from the territory may not take place until such time as the decision on the interim order has been taken, except: — where the expulsion decision is based on a previous judicial decision; or — where the persons concerned have had previous access to judicial review; or — where the expulsion decision is based on imperative grounds of public security under Article 28(3).	Chapter 12 Section 13 a of the Aliens Act (2005:716)	<b>Kap. 12</b> <b>13 a §</b> Om en EES-medborgare eller hans eller hennes familjemedlem efter inresan i Sverige har överklagat en polismyndighets beslut om avvisning eller Migrationsverkets beslut om avvisning eller utvisning och i samband med överklagandet yrkat inhibition av beslutet, får beslutet inte verkställas innan frågan om inhibition har prövats. Lag (2006:219). Bestämmelser om inhibition finns också i 18-20 §§.	<b>Chapter 12</b> <b>Section 13a</b> If, after entering Sweden, an EEA national or a member of his or her family has appealed against a refusal-of-entry order issued by a police authority or a refusal-of-entry or expulsion order issued by the Swedish Migration Board and, in connection with the appeal, has applied for a stay of enforcement of the order, the order may not be enforced before the question of a stay of enforcement has been examined.	Y	Effective transposition; More favourable treatment  The transposing legislation does not allow for any exceptions. The Swedish legislation is therefore considered more favourable than the Directive.  It follows from Article 5 of the Special Aliens Control Act (1991:572) that Chapter 12 Section 13 a of the Aliens Act apply to matters under the Special Aliens Control Act.

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		Article 5 of the Act concerning special controls in respect of aliens (1991:572)	<b>5 §</b> I ärenden enligt denna lag gäller följande föreskrifter i utlänningslagen (2005:716) i tillämpliga delar: ..... 12 kap. 1-5 §§, 13 a §, 15 § fjärde stycket och 21-23 §§ om verkställighet av beslut om utvisning, .....	<b>Section 5</b> For the purposes of this Act, the applicable parts of the following provisions of the Aliens Act (2005:716) apply: ..... Chapter 12, paragraphs 1-5, 13 a, 15, fourth section, and 21-23 on enforcement of expulsion decisions, .....		
Art.31.3	3. The redress procedures shall allow for an examination of the legality of the decision, as well as of the facts and circumstances on which the proposed measure is based. They shall ensure that the decision is not disproportionate, particularly in view of the requirements laid down in Article 28.	Article 30 of the Administrative Court Procedure Act (1971:291)	<b>30 §</b> Rättens avgörande av mål skall grundas på vad handlingarna innehåller och vad i övrigt förekommit i målet.  Av beslutet skall framgå de skäl som bestämt utgången.	<b>Section 30</b> The determination of a case by a court shall be based on that contained in the documents and what has otherwise been established in the case.  The decision shall state the reasons that determined the outcome.	Y	Effective transposition.  The requirement to ensure that the decision is not disproportionate has not been explicitly referred to by the transposing Swedish legislation. However, this is covered by the general procedural principles of proportionality and review of legality. For more details regarding revision of facts, please, see reasoning under Article 28.
Art.31.4	4. Member States may exclude the individual concerned from their territory pending the redress procedure, but they may not prevent the individual from submitting his/her defence in person, except when his/ her appearance may cause serious troubles to public policy or public security or when the appeal or judicial review concerns a denial of entry to the territory.	Chapter 8 Section 20, Chapter 16 Section 5 of the Aliens Act (2005:716)	<b>Kap. 8</b> <b>20 §</b> En utlännning som med stöd av 13, 19 eller 21 § har förbjudits att återvända till Sverige under viss tid eller utan tidsbegränsning får ges särskilt tillstånd av Migrationsverket att göra ett kort besök här, om besöket gäller synnerligen viktiga angelägenheter. Om det finns särskilda skäl, får ett sådant tillstånd ges också på ansökan av någon annan än utlännningen. Om en utlännning har förbjudits att återvända till Sverige i ett säkerhetsärende ges ett sådant tillstånd som avses i första stycket i stället av regeringen.	<b>Chapter 8</b> <b>Section 20</b> An alien who, pursuant to Section 13, 19 or 21, has been prohibited from returning to Sweden for a certain period or for an unlimited time may be given special permission by the Swedish Migration Board to make a short visit to this country, if the visit has to do with exceptionally important matters. If there are special grounds, such permission may also be granted upon application by someone other than the alien. If an alien has been prohibited from returning to Sweden in a security case, such permission	Y	Effective transposition  This provision only becomes relevant in those situations where a public hearing is held in connection with a case according to the Swedish legislation (Chapter 16 Section 5 of the Aliens Act).  Possible obstacles could be that the alien has been refused entry on the basis of another decision than the decision being appealed. In these cases however, the Swedish Migration Board (or in security cases, the Government), can give special permission for the alien to make a short visit to this country, if the visit has to do with exceptionally

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			<p><b>Kap. 16, 5§</b>  <b>Förfarandet är skriftligt.</b>                      I handläggningen får ingå <b>munlig förhandling</b> beträffande viss fråga, när det kan antas vara till fördel för utredningen eller främja ett snabbt avgörande av målet.</p> <p>I migrationsdomstol skall muntlig förhandling hållas, om en utlänning som för talan i målet begär det samt förhandlingen inte är obehövlig och inte heller särskilda skäl talar mot det.</p> <p>Muntlig förhandling skall vidare hållas i migrationsdomstol i mål som rör utvisning eller vägran att förnya ett uppehållstillstånd för en utlänning som omfattas av avtalet om Europeiska ekonomiska samarbetsområdet (EES) eller avtalet mellan Europeiska gemenskapen och dess medlemsstater å ena sidan och Schweiz å andra sidan om fri rörlighet för personer. Även i mål som rör avvisning eller där ansökan om uppehållstillstånd har avslagits skall muntlig förhandling hållas i migrationsdomstol, om det begärs av en utlänning som omfattas av avtalen och som ansökt om uppehållstillstånd. I dessa fall behöver dock muntlig förhandling inte hållas, om detta skulle <b>strida mot den nationella säkerhetens</b></p>	<p>as is referred to in the first paragraph is instead granted by the Government.</p> <p><b>Chapter 16 Section 5</b>                      A <b>written procedure</b> is followed.                      The handling of a case may include an <b>oral hearing</b> on a particular question, if it can be assumed to be advantageous for the investigation or to promote a rapid resolution of the court action.</p> <p>An oral hearing shall be held in a migration court if an alien who is conducting an action so requests and the hearing is not unnecessary and there are further no special grounds for not holding it.</p> <p>An oral hearing shall also be held in a migration court in court actions concerning the expulsion of or refusal to renew a residence permit for an alien covered by the Agreement on the European Economic Area (EEA) or by the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the Free Movement of Persons. An oral hearing shall also be held in a migration court in court actions concerning refusal of entry or where an application for a residence permit has been rejected if this is requested by an alien covered by these Agreements who has</p>		<p>important matters. It can also be noted that in order to be able to implement the requirement of public hearing according to Chapter 16 Section 5 of the Aliens Act, EEA nationals and their family members should as a general rule be allowed entry into Sweden in order to be able to attend the public hearing. (See preparatory legislative materials Government bill 2005/06:77 p. 95 (Proposition 2004/05:65).</p>

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			<p><b>intresse.</b></p> <p>Om en utlänning som har kallats vid vite att inställa sig personligen till en förhandling uteblir, får rätten förordna att han eller hon skall hämtas till rätten antingen omedelbart eller till en senare dag.</p>	<p>applied for a residence permit. In these cases, however, an oral hearing need not be held if this would <b>conflict with the interests of national security.</b></p> <p>If an alien who has been summoned under a conditional financial penalty to appear in person at a hearing does not attend, the court may order that he or she be brought before the court either immediately or at a later date.</p>		
Art.32.1	<p><b>Duration of exclusion orders</b></p> <p>1. Persons excluded on grounds of public policy or public security may submit an application for lifting of the exclusion order after a reasonable period, depending on the circumstances, and in any event after three years from enforcement of the final exclusion order which has been validly adopted in accordance with Community law, by putting forward arguments to establish that there has been a material change in the circumstances which justified the decision ordering their exclusion.</p>	Chapter 8 Sections 14 and 20 a of the Aliens Act (2005:716)	<p><b>Kap. 8</b></p> <p><b>14 §</b> Om regeringen finner att en allmän domstols dom eller beslut om utvisning på grund av brott inte kan verkställas eller om det annars finns särskilda skäl för att beslutet inte längre skall gälla, får regeringen upphäva avgörandet helt eller delvis. Därvid får regeringen fatta beslut också i fråga om uppehållstillstånd och arbetstillstånd.</p> <p>Om domen eller beslutet om utvisning inte upphävs kan, i fall som avses i första stycket, ett tidsbegränsat uppehållstillstånd och arbetstillstånd meddelas av regeringen. Utvisningsbeslutet får inte verkställas medan tillståndet gäller.</p> <p><b>20 a §</b> Om en EES-medborgare eller hans eller hennes familjemedlem har meddelats ett</p>	<p><b>Chapter 8</b></p> <p><b>Section 14</b> If the Government finds that a judgment or order of expulsion on account of criminal offences issued by a general court cannot be enforced or if there are some other special grounds why the order shall no longer apply, the Government may set aside the order wholly or in part. In connection with this, the Government may also make a decision regarding a residence permit and work permit.</p> <p>If the judgment or order of expulsion is not cancelled, the Government can, in cases referred to in the first paragraph, issue a temporary residence permit and work permit. The expulsion order may not be enforced while the permit is valid.</p> <p><b>Section 20a</b> If an EEA national or a member of his or her family has been issued a prohibition</p>	N, Incomplete	<p>Incomplete transposition</p> <p>According to the Swedish legislation, the Government may set aside the order wholly or in part, if circumstances require doing so. However, the Swedish legislation does not define whether persons excluded on grounds of public policy or public security may submit an application for lifting of the exclusion order, nor when. Nor is the time limit for the Member State concerned to reach a decision on this application defined. Although it is a general principle that bodies shall reach a decision "skyndsamt" (in English, "quickly"), the normal case is that this not followed by the authorities due to the heavy work load.</p>

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			förbud att återvända till Sverige enligt 19 § andra stycket, får regeringen helt eller delvis upphäva förbudet om det finns särskilda skäl för att förbudet inte längre skall gälla. Lag (2006:219).	against returning to Sweden under Section 19, second paragraph, the Government may set aside the prohibition wholly or in part if there are special grounds why the prohibition shall no longer apply.		
	The Member State concerned shall reach a decision on this application within six months of its submission.				N, Incomplete	Incomplete transposition  The Swedish legislation does not define the time limit for the Member State concerned to reach a decision on the application.
Art.32.2	2. The persons referred to in paragraph 1 shall have no right of entry to the territory of the Member State concerned while their application is being considered.				Y	Effective transposition.  It follows from Chapter 8 Section 19, 14 and 20a that an expulsion order/decision on prohibition to return to Sweden, apply until otherwise set aside/cancelled by the Government.
Art.33.1	<b>Expulsion as a penalty or legal consequence</b>  1. Expulsion orders may not be issued by the host Member State as a penalty or legal consequence of a custodial penalty, unless they conform to the requirements of Articles 27, 28 and 29.	Chapter 8 Sections 8 and 11 of the Aliens Act (2005:716)	<b>Kap. 8</b> <b>8 §</b> En utlänning får utvisas ur Sverige, om han eller hon döms för ett brott som kan leda till fängelse. En utlänning får också utvisas, om en domstol undanröjer en villkorlig dom eller skyddstillsyn som utlänningen har dömts till och dömer till annan påföljd.  En utlänning får dock utvisas endast om han eller hon döms till svårare påföljd än böter och 1. om gärningen är av sådant slag och övriga omständigheter är sådana att det kan antas att han eller hon kommer att göra sig skyldig till fortsatt brottslighet här i landet, eller	<b>Chapter 8</b> <b>Section 8</b> An alien may be expelled from Sweden if he or she is convicted of an offence that is punishable by imprisonment. An alien may also be expelled if a court sets aside a suspended sentence or probation that has been imposed on an alien and imposes another penalty.  An alien may, however, only be expelled if he or she is sentenced to a more severe penalty than a fine and  1. if, in view of the type of act involved and other circumstances, it can be assumed that he or she will be guilty of	N, Incorrect	Incorrect transposition.  According to the Swedish legislation, an alien who is convicted of an offence that is punishable by imprisonment may be expelled from Sweden. Likewise, an alien may also be expelled if a court sets aside a suspended sentence or probation that has been imposed on an alien and imposes another penalty.  The right to be heard as a fundamental right shall be weighted against the interest of a Member State to follow the expulsion order. Due regard shall be taken to the requirements of Articles 27, 28 and 29 of the Directive. The transposing

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			<p>2. om brottet med hänsyn till den skada, fara eller kränkning som det har inneburit för enskilda eller allmänna intressen är så allvarligt att han eller hon inte bör få stanna kvar.</p> <p><b>11 §</b> När en domstol överväger om en utlänning bör utvisas enligt 8 §, skall den ta hänsyn till <b>utlänningsens anknytning till det svenska samhället</b>. Domstolen skall <b>särskilt beakta</b></p> <p>1. utlännings levnadsomständigheter, 2. om utlänningen har barn i Sverige och, om så är fallet, barnets behov av kontakt med utlänningen, hur kontakten har varit och hur den skulle påverkas av att utlänningen utvisas, 3. utlännings övriga familjeförhållanden, och 4. hur länge utlänningen har vistats i Sverige.</p> <p>En utlänning som är flykting och som behöver en fristad i Sverige får utvisas endast om han eller hon har begått ett synnerligen grovt brott och det skulle medföra allvarlig fara för allmän ordning och säkerhet att låta utlänningen stanna här. Utvisning får också ske om utlänningen i Sverige eller utomlands har bedrivit verksamhet som har inneburit fara för rikets säkerhet och det finns</p>	<p>continued criminal activity in this country or 2. if, in view of the resulting damage, danger or violation of private or public interests, the offence is so serious that he or she should not be allowed to stay.</p> <p><b>Section 11</b> When a court considers whether an alien should be expelled under Section 8, it must take into account <b>the alien's ties to Swedish society</b>. The court must <b>pay particular attention to</b></p> <p>1. the alien's personal circumstances, 2. whether the alien has any child in Sweden and, if so, the child's need of contact with the alien, the nature of the contact in the past and how it would be affected by the alien's expulsion, 3. the alien's family situation in other respects and 4. how long the alien has been in Sweden.</p> <p>An alien who is a refugee and who needs a haven in Sweden may only be expelled if he or she has committed an exceptionally gross offence and it would entail serious danger to public order and security to allow the alien to stay here. Expulsion may also take place if the alien has engaged in activities in Sweden or abroad that have entailed a danger to national security and there is reason to assume that he</p>		<p>legislation does not fully ensure this right and thus is not in conformity with the Directive (Please, see reasoning under Articles 27, 28 and 29).</p>

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			<p>anledning att anta att han eller hon skulle fortsätta sådan verksamhet här.</p> <p>En utlänning som har en flyktingförklaring skall anses som flykting med behov av fristad i Sverige, om det inte är uppenbart att han eller hon inte längre är flykting med ett sådant behov.</p>	<p>or she would continue with such activities here.</p> <p>An alien who holds a declaration of refugee status shall be deemed to be a refugee in need of a haven in Sweden unless it is obvious that he or she is no longer a refugee in such need.</p>		
Art.33.2	<p>2. If an expulsion order, as provided for in paragraph 1, is enforced more than two years after it was issued, the Member State shall check that the individual concerned is currently and genuinely a threat to public policy or public security and shall assess whether there has been any material change in the circumstances since the expulsion order was issued.</p>	<p>Chapter 8 Sections 17 and Chapter 12 Section 17 third indent of the Aliens Act (2005:716)</p>	<p><b>Kap. 8</b> <b>17 §</b> När en fråga om avvisning eller utvisning prövas skall hänsyn tas till om utlänningen på grund av bestämmelserna i 12 kap. inte kan sändas till ett visst land eller om det annars finns särskilda hinder mot att beslutet verkställs.</p> <p><b>Kap. 12</b> <b>17 §</b> Om en annan myndighet än Migrationsverket skall verkställa ett beslut om avvisning eller utvisning och denna myndighet finner att den inte kan verkställa beslutet eller att den behöver ytterligare besked, skall myndigheten underrätta Migrationsverket. Detsamma gäller om utlänningen hos myndigheten åberopar att det finns sådana hinder som avses i 1, 2 eller 3 § mot verkställigheten eller det på annat sätt kommer fram att det kan finnas sådana hinder.</p> <p>Migrationsverket skall i sådana fall ge anvisningar om verkställigheten eller vidta andra åtgärder.</p> <p>Om en allmän domstols dom eller beslut om utvisning på grund</p>	<p><b>Chapter 8</b> <b>Section 17</b> When a question of refusal of entry or expulsion is examined, account shall be taken of whether the alien cannot be sent to a certain country on account of the provisions in Chapter 12, or whether there are any other special impediments to enforcing the order.</p> <p><b>Chapter 12</b> <b>Section 17</b> If some other authority than the Swedish Migration Board is to enforce a refusal-of-entry or expulsion order and this authority finds that it cannot enforce the order or that it needs additional information, the authority shall notify the Swedish Migration Board. The same applies if an alien invokes the existence of an impediment to enforcement referred to in Sections 1, 2 or 3 in contact with the authority or if it comes to light in some other way that there may be such impediments. In such cases the Swedish Migration Board shall provide directions on enforcement or take other measures.</p>	Y	<p>Effective transposition.</p> <p>If a judgment or order of a general court concerning expulsion of an EEA national or a member of his or her family on account of a criminal offence is to be enforced more than two years after the decision was issued, the police authority shall investigate whether the circumstances on which the order was based have changed, before enforcing the order.</p>



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			<p>av brott av en EES-medborgare eller av hans eller hennes familjemedlem skall verkställas mer än två år efter det att avgörandet meddelades, skall polismyndigheten innan beslutet verkställs utreda om de omständigheter som låg till grund för beslutet har ändrats. Om det vid utredningen kommer fram att omständigheterna har ändrats på ett sådant sätt att utvisningsbeslutet inte längre bör gälla, skall ärendet lämnas över till Migrationsverket som med ett eget yttrande skall lämna över ärendet till regeringen för prövning enligt 8 kap. 14 §. Verkställighet får i sådant fall inte ske innan regeringen har avgjort ärendet. Lag (2006:219).</p>	<p>If a judgment or order of a general court concerning expulsion of an EEA national or a member of his or her family on account of a criminal offence is to be enforced more than two years after the decision was issued, the police authority shall investigate whether the circumstances on which the order was based have changed, before enforcing the order. If it comes to light in the investigation that the circumstances have changed in such a way that the expulsion order should no longer apply, the case shall be turned over to the Swedish Migration Board, which shall turn over the case, attaching its own opinion, to the Government for examination under Chapter 8, Section 14. In such a case enforcement may not take place before the Government has made a decision on the case.</p>		
Art.34	<p><b>Publicity</b></p> <p>Member States shall disseminate information concerning the rights and obligations of Union citizens and their family members on the subjects covered by this Directive, particularly by means of awareness-raising campaigns conducted through national and local media and other means of communication.</p>				Y	<p>Effective transposition.</p> <p>The provision is not transposed into Swedish legislation. However, this provision only requires practical implementation. The Swedish Migration Board and the National Board of Trade is responsible for providing information to the public about the Directive and conduct awareness-raising campaigns. <a href="http://www.migrationsverket.se">www.migrationsverket.se</a></p>

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Art.35	<p><b>Abuse of rights</b></p> <p>Member States may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Directive in the case of abuse of rights or fraud, such as marriages of convenience. Any such measure shall be proportionate and subject to the procedural safeguards provided for in Articles 30 and 31.</p>	-	<p><b>6 §</b> Till böter, eller när omständigheterna är försvarande, fängelse i högst sex månader döms</p> <p>1. den som uppsåtligen eller av oaktsamhet inte gör anmälan som föreskrivs i en förordning som har utfärdats med stöd av denna lag.</p> <p>2. den som i en anmälan eller ett ansökningsärende enligt denna lag eller enligt en förordning som har utfärdats med stöd av denna lag medvetet lämnar oriktig uppgift eller medvetet underlåter att tala om något förhållande av betydelse.</p>	<p><b>Section 6</b></p> <p>A fine or, in aggravating circumstances, a sentence of imprisonment for not more than six months shall be imposed on</p> <p>1. a person who intentionally or through negligence does not make a report prescribed in an ordinance issued pursuant to this Act,</p> <p>2. a person who knowingly supplies incorrect information or knowingly fails to mention a circumstance of importance in a report or in a case concerning an application under this Act or an ordinance issued pursuant to this Act.</p>	N, Incorrect	<p>Incorrect transposition</p> <p>In terms of implementation, marriage of convenience is not allowed in Sweden and may lead to refusal, termination or withdrawal any right conferred by this Directive, which is in line with the administrative practice of the Swedish Migration Board. However, the transposing legislation does not provided for a requirement that this decision shall be subject to the procedural guarantees of Art. 30 and 31.</p>
Art.36	<p><b>Sanctions</b></p> <p>Member States shall lay down provisions on the sanctions applicable to breaches of national rules adopted for the implementation of this Directive and shall take the measures required for their application.</p> <p>The sanctions laid down shall be effective and proportionate. Member States shall notify the Commission of these provisions not later than 30 April 2006 and as promptly as possible in the case of any subsequent changes.</p>	Chapter 3 a Sections 11-12 and Chapter 9, Chapter 20 Section2 Section 9 of the Aliens Act (2005:716)	<p><b>Kap. 3 a</b></p> <p><b>11 §</b> Om det kan antas att en EES-medborgare eller hans eller hennes familjemedlem är skyldig att registrera sig eller att ansöka om uppehållskort enligt 10 §, får Migrationsverket förelägga honom eller henne att fullgöra denna skyldighet. Migrationsverket får även förelägga EES-medborgaren eller familjemedlemmen att lämna in sådana uppgifter som är nödvändiga för att registrering och utfärdande av uppehållskort skall kunna ske. Lag (2006:219).</p> <p><b>12 §</b> Ett föreläggande enligt 11 § får förenas med vite.</p> <p>Fråga om utdömande av vite prövas av migrationsdomstol på ansökan av Migrationsverket.</p> <p>Vid prövning av en fråga om utdömande av vite får även vitets</p>	<p><b>Chapter 3 a</b></p> <p><b>Section 11</b> If it can be assumed that an EEA national or a member of his or her family is required to register or apply for a residence card under Section 10, the Swedish Migration Board may order him or her to fulfil this requirement. The Swedish Migration Board may also order the EEA national or family member to supply such information as is necessary to enable registration to take place and a residence card to be issued.</p> <p><b>Section 12</b> An order under Section 11 may be combined with a conditional financial penalty. The question of imposing a conditional financial penalty is examined by a migration court</p>	Y	<p>Effective transposition</p> <p>An order by the Swedish Migration Board to supply information necessary to enable registration to take place and a residence card to be issued may be combined with a conditional financial penalty. The question of imposing a conditional financial penalty is examined by a migration court. The court shall assess the appropriateness of such a financial penalty.</p> <p>Furthermore, if an alien fails to present a passport or other documents showing that he or she has the right to remain in Sweden, he may be summoned by the Swedish Migration to supply such information. If the alien does not obey this order, he or she may be collected by the police authority.</p>

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			<p>lämplighet bedömas. Lag (2006:448).</p> <p><b>9 §</b> En utlänning som vistas i Sverige är skyldig att på begäran av en polisman visa upp pass eller andra handlingar som visar att han eller hon har rätt att uppehålla sig i Sverige. Utlänningen är också skyldig att efter kallelse av Migrationsverket eller polismyndigheten komma till verket eller myndigheten och lämna uppgifter om sin vistelse här i landet. Om utlänningen inte gör det, får han eller hon hämtas genom polismyndighetens försorg. Om det på grund av en utlännings personliga förhållanden eller av någon annan anledning kan antas att utlänningen inte skulle följa kallelsen, får han eller hon hämtas utan föregående kallelse.</p> <p>Kustbevakningen skall medverka i polisens kontrollverksamhet som sägs i första stycket genom kontroll av och i anslutning till sjötrafiken. Om kontrollen utövas av Kustbevakningen, skall pass eller andra handlingar visas upp för tjänstemannen vid Kustbevakningen.</p> <p>Kontroll enligt första och andra styckena får vidtas endast om det finns grundad anledning att anta</p>	<p>upon application from the Swedish Migration Board.</p> <p>When the question of imposing a conditional financial penalty is examined, the appropriateness of the conditional financial penalty may also be assessed.</p> <p><b>Section 9</b></p> <p>It is the duty of an alien staying in Sweden, when requested to do so by a police officer, to present a passport or other documents showing that he or she has the right to remain in Sweden. It is also the duty of the alien, when summoned by the Swedish Migration Board or the police authority, to visit the Board or the authority and provide information about his or her stay in this country. If the alien does not do so he or she may be collected by the police authority. If, in view of an alien's personal circumstances or for some other reason, it can be assumed that the alien will not obey the summons, he or she may be collected without prior summons.</p> <p>The Swedish Coast Guard shall assist in police control activities described in the first paragraph by controls of and in conjunction with shipping. If controls are exercised by the Swedish Coast Guard, the passport or other documents must be presented to the Swedish Coast Guard official.</p>		

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			att utlänningen saknar rätt att uppehålla sig här i landet eller om det annars finns särskild anledning till kontroll.'	Controls under the first and second paragraphs may only be undertaken if there is good reason to assume that the alien lacks the right to remain in this country or there is otherwise special cause for controls.		
Art.37	<b>More favourable national provisions</b>  The provisions of this Directive shall not affect any laws, regulations or administrative provisions laid down by a Member State which would be more favourable to the persons covered by this Directive.				Y	Effective transposition  See Articles 12.2 (b), 24.2, 31.2.
Art.38	1. Articles 10 and 11 of Regulation (EEC) No 1612/68 shall be repealed with effect from 30 April 2006. 2. Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC shall be repealed with effect from 30 April 2006. 3. References made to the repealed provisions and Directives shall be construed as being made to this Directive.				Y	Effective transposition  The legal amendments introduced in Swedish legislation following the transposition of the Directive contain correct the references.
Art.39	No later than 30 April 2008 the Commission shall submit a report on the application of this Directive to the European Parliament and the Council, together with any necessary proposals, notably on the opportunity to extend the period of time during which Union citizens and their family members may reside in the territory of the host Member State without any conditions. The Member States shall provide the Commission with the information needed to produce the report.					

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Art.40	<p><b>Transposition</b></p> <p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 April 2006.</p>				Y	<p>Effective transposition.</p> <p>The transposing legislation entered into force on 31 March 2006.</p>
	<p>When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.</p>	<p>Article 18 a of the Ordinance on the Swedish Code of Statues (1976:725)</p>	<p><b>18 a §</b> Om en ny eller ändrad författning helt eller delvis genomför EG-direktiv, skall en hänvisning till direktivet göras i den författningssamling där författningen kungörs. ...</p>	<p><b>Section 18a.</b> If a new or an amended statute partially or fully transpose a EU Directive, it is required that a reference to the Directive shall be made in the code of statues where the statute is being proclaimed. ...</p>	Y	<p>Effective transposition</p> <p>When new legislation is adopted it shall be accompanied by a reference to the Directive in question on the occasion of its official publication.</p>
	<p>2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive together with a table showing how the provisions of this Directive correspond to the national provisions adopted.</p>				Y	<p>Effective transposition</p> <p>The provision has been implemented in practice.</p>