



# Sweden

## Narrative National Report

**Author:** Associate Professor Frantzeska Papadopoulou Skarp,  
Law Faculty Stockholm University

“The content of this report represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.”



## Table of Contents

<b>PART I: LEGAL FRAMEWORK .....</b>	<b>8</b>
I.1 Legislation affecting civil enforcement.....	8
I.2 Enforceable titles.....	8
I.3 Service of documents to parties and third parties .....	9
I.4 Legal remedies, appeal and objection.....	12
I.5 Postponement, suspension and termination of enforcement .....	12
I.6 Counter enforcement .....	14
I.7 Objects and exemptions on enforcement .....	15
I.8 (Court) penalties and fines .....	16
I.9 Access to information on the domicile and assets of the debtor .....	16
<b>PART II: ORGANIZATION OF ENFORCEMENT.....</b>	<b>17</b>
II.1 The status of the judicial officer.....	17
II.2 Supervision over enforcement .....	18
II.3 Access to the premises.....	18
II.4 Obstructing the judicial officer from carrying out enforcement .....	19
II.5 Time of enforcement .....	19
II.6 Mediation .....	19
<b>PART III: ENFORCEMENT PROCEDURES .....</b>	<b>19</b>
III.1 Initiation and end of the enforcement procedure .....	19
III.2 Enforcement against movable assets to settle pecuniary claims .....	21
III.3 Attachment on the bank account of the debtor.....	22
III.4 Enforcement against savings deposits and current accounts.....	22
III.5 Enforcement on immovable property .....	22
III.6 Enforcement against wages and other permanent pecuniary income .....	24
III.7 Attachment under the debtor’s debtor.....	25
III.8 Enforcement against shares .....	25
III.9 Other attachment procedures .....	25
III.10 Handing over movable assets .....	25
III.11 Enforcement in reinstatement of employee to work .....	26
III.12 Eviction .....	26
III.13 Enforcement of obligations to act, refrain from acting or suffer action.....	26
III.14 Sequestration of goods .....	27

<b>III.15 Enforcement of foreign enforceable documents from non-EU States .....</b>	<b>27</b>
<b><i>PART IV: ENFORCEMENT COSTS .....</i></b>	<b>28</b>
<b>IV.1 The costs of enforcement .....</b>	<b>28</b>
<b><i>PART V: LINKS, LITERATURE AND SOURCES .....</i></b>	<b>29</b>



## INTRODUCTION TO THE ENFORCEMENT SYSTEM

The responsibility and authority of enforcement procedures is vested with the Enforcement Authority (Kronofogdenmyndigheten). Since 2006 and after a substantial reorganization of the authority it constitutes a national body.

The Enforcement Authority in Sweden has a double role, the one being actually that of enforcement while the other of a more preventive role.

The enforcement tasks of the Authority could be summarized to the following:

- Enforcement of monetary claims;
- Enforcement assistance (eviction, getting back objects, documents);
- Notice to unknown creditors, which means urging unknown creditors to report claims to the Enforcement Authority when an estate of the deceased or an association is wound up, for example;
- Registration of personal property purchases remaining with the seller, which is intended to protect the buyer from attachment of the property for the seller's debts, or its inclusion in the seller's bankruptcy estate;
- Protest, which means certifying that a bill has not been paid on the due date;
- Application for cancellation of a lost document, which is intended to allow a person who has lost an original document to assert, the loss notwithstanding, a right expressed in that document.

Apart from actually enforcing rulings and decisions and proceeding to the recuperation and sequestration of objects, the Enforcement Authority also has the task to follow development in the society, to map the trends in debts (ages, situation, family situation). The objective with regards to this task is to actually work proactively and develop means of help to prevent debtors ending up in the Enforcement Authority.

Furthermore, the Enforcement Authority documents debtors, their respective debts as well as the grounds for the debts. This database is made available to the public. This means that a third party may contact the Enforcement Authority in order to receive information as to whether a certain natural or legal person is in the list of debtors, the amount of the debt and the legal basis for that. However, access to further information and documentation will be subject to a confidentiality control.

### Service of Documents

Naturally, an important aspect and part of enforcement proceedings is that of service of documents.

One could not however claim that the Enforcement Authority has the same status in Sweden as judicial officers, who actually have a broader mandate. The service of documents is proceeded by the courts and public authorities themselves, very often by means of simplified procedures, by traditional post or even in some cases electronically.

With regards to the international service of documents, this is one of the central tasks of the



County Administrative Board of Stockholm.

The County Administrative Board of Stockholm is the Central Authority for international service of documents in Sweden, which is part of the country's international judicial cooperation.

International service of documents means that the person to be served (be it a natural person or a business) is located in another country. The Central Authority provides assistance with service of documents in Sweden upon the request of a foreign authority, and abroad at the request of a Swedish authority or individuals residing in Sweden. The Central Authority also plays an advisory role in the issues related to service of documents.

**The Central Authority assists with service of documents in Sweden at the request of a competent foreign body, such as a Ministry of Justice, Public Prosecutor's Office, court, law firm or bailiff.**

The laws of the requesting state determine who has jurisdiction to send a request for assistance with service of documents. In addition, a request for assistance with service of documents can always be submitted to the Central Authority via diplomatic channels.

Service of documents in Sweden with the assistance of the Central Authority is handled by postal services and/or the Swedish Police Authority. The Central Authority endeavours to ensure that service of documents is executed as quickly, smoothly and cost-effectively as possible. However, processing times may vary.

**The role of the Central Authority is to:**

- review all requests received;
- identify the addressee of the service documents;
- ensure that the service of documents is executed in accordance with Swedish law;
- inform the requesting foreign party whether or not the service of documents has been executed.

The Central Authority cannot help with the interpretation of the content of the served documents. In such cases, we refer the addressee to the foreign party for more information and assistance.

Most international agreements regulating international service of documents allow direct service of documents from abroad. In practice, this means that a competent foreign party may transmit service of documents in a case or legal matter directly to the addressee via postal service. In this context, it is important to emphasize the rights of the addressee – namely the right to refuse to accept a document written in (or translated into) a language other than Swedish, and which the addressee does not understand (§ 4a of the Service of Documents Act (2010:1932)).

As a general rule, service of documents activities are subject to confidentiality (Chapter 22, § 5 of the Public Access to Information and Secrecy Act (2009:400)).

**The ability of individuals to effect service of documents abroad is very limited and differs from state to state. In certain countries (e.g., Belgium, France, the Netherlands and**



**Germany) an equivalent to Swedish service of documents companies exists, which can assist with service of documents.**

Direct service of documents by postal service is an option. However, service of documents via postal service cannot be used if direct service of documents from abroad is prohibited under the law of the other state, or if it can be presumed that the mail service in the country in question is unreliable.

**An individual may request for the Central Authority's assistance with service of documents abroad if:**

- the individual her/himself has already attempted to serve the addressee in the other state, but it has not been possible to do so, or
- it is not possible for the individual her/himself to request for assistance with service of documents in the other state.

The Central Authority assists with international service of documents with the help of Swedish embassies and consulates. Most countries allow diplomats and consular officers to execute service of documents. However, such service of documents is usually limited to citizens of the country represented by said diplomat/consular officer. Therefore, the ability of the Central Authority to assist with service of documents may be limited. Before submitting a request, one should therefore consult the Authority about whether it is possible to obtain assistance with international service of documents.

**A request for service of documents abroad to the Central Authority should include:**

- The applicant's contact information.
- Information about the addressee (name, address, nationality, date of birth, a functional telephone number, and email address).
- Information about her/his own attempts to execute service of documents.
- Summary of the content of the documents that are to be served.
- Billing address for any additional costs in conjunction with the service of documents.

**Requests and documents for service must always be sent in duplicate.**

Processing times, method of service of documents, and any extra costs vary greatly depending on the country.

Certain countries require that the service of documents document be translated into the official language of said country, regardless of the addressee's nationality. When serving documents in the USA, South Africa and Australia, the document must always be translated into English. The applicant is responsible for ensuring that the application is translated.

**International service of documents activities are well-regulated through a wide range of specific international agreements, as well as treaties regarding international legal assistance in both civil and criminal matters.**

Sweden participates in most of these agreements and has also signed bilateral agreements regarding mutual legal assistance in criminal matters, for instance with the United States,

Canada and Australia.

The provisions on the service of documents cooperation between the Nordic countries are defined in the Nordic agreement of 1974 on mutual legal assistance through service of documents and the taking of evidence.

Swedish judicial authorities which need to execute service of documents abroad in a case or legal matter are therefore usually able to request for assistance with service of documents. This is done directly with the foreign counterpart, based on relevant international agreements.

Courts also have the possibility of executing service of documents via postal service, unless this is inappropriate in the given circumstance (for example, if it can be presumed that the postal service is unreliable in the country in which the service of documents is to occur, or if said country opposes direct service of documents from abroad.

**The Central Authority's assistance with service of documents abroad can only be requested if:**

- the authority has already attempted to serve the addressee itself in the other state, but it has not been possible to do so,
- it is not possible for the authority itself to request for assistance with service of documents in the other state, or
- the second state requires that a request for service of documents be sent via a central authority.

Service of documents via the Central Authority is executed with the help of Sweden's foreign authorities. The method of service of documents, deadlines, any costs and the requirements imposed in the application and the service of documents vary greatly depending on the country.

**The authority's request for service abroad to the Central Authority should include:**

- The applicant's contact information.
- Information about the addressee (name, address, nationality, date of birth, a functional telephone number, email address and company registration number, if a company is to be served).
- Information about its own attempts to execute service of documents.
- Justification for requesting help from the Central Authority.
- Summary of the content of the documents that are to be served.
- Billing address for any additional costs in conjunction with the service of documents.
- Information about the deadline for reporting the service of documents assignment and the reasons therefor.

**Requests and service of documents must always be sent in duplicate.**



## Translation and Legalization

Certain countries require that the documents which are to be served are translated into the official language of said country, regardless of the addressee's nationality. Certain countries also require that the documents are legalized. Legalization, which can be executed in Swedish, English, French and Spanish, is a stamp certifying that the signature on a document is authentic. You apply for legalization at the Legalization Office of the Ministry for Foreign Affairs.

The applicant is responsible for ensuring that the necessary documents are translated and legalized.

### **PART I: LEGAL FRAMEWORK**

#### **I.1 Legislation affecting civil enforcement**

The legislation of central relevance to the enforcement procedure includes:

- The Service Act;<sup>1</sup>
- The Enforcement Code;<sup>2</sup>
- The Enforcement Regulation;<sup>3</sup>
- The Service Regulation;<sup>4</sup>
- The Swedish Code of Judicial Procedure;<sup>5</sup>
- Law on Demand for Payment and Enforcement Assistance.<sup>6</sup>

#### **I.2 Enforceable titles**

Private enforcement matters are, as mentioned above, mainly based on court judgments, but also some other titles of execution. Examples of enforceable titles of execution are: judgments of the general courts, the District Court, the Court of Appeal, the Supreme Court, the Administrative Court, the Administrative Court of Appeal and the Administrative Supreme Court. In addition, some private documents can be enforced, such as contracts for child and spousal support. The general rules about enforceable titles can be found in chapter 4 of the Enforcement Code. Titles of execution, such as judgments, must in principle be legally binding. An important exception is that all titles and judgments involving an obligation to pay

<sup>1</sup> **Delgivningslag (2010:1932)** t.o.m. SFS 2020:399, available on: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningslag-20101932\\_sfs-2010-1932](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningslag-20101932_sfs-2010-1932)

<sup>2</sup> **Utsökningsbalk (1981:774)** t.o.m. SFS 2019:841, available on: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsbalk-1981774\\_sfs-1981-774](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsbalk-1981774_sfs-1981-774)

<sup>3</sup> **Utsökningsförordning (1981:981)** t.o.m. SFS 2018:1808, available on: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsforordning-1981981\\_sfs-1981-981](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsforordning-1981981_sfs-1981-981)

<sup>4</sup> **Delgivningsförordning (2011:154)** t.o.m. SFS 2019:779, available on: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningsforordning-2011154\\_sfs-2011-154](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningsforordning-2011154_sfs-2011-154)

<sup>5</sup> **Rättegångsbalk (1942:740)** t.o.m. SFS 2020:728, available on: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/rattgangsbalk-1942740\\_sfs-1942-740](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/rattgangsbalk-1942740_sfs-1942-740)

<sup>6</sup> **Lag (1990:746) om betalningsföreläggande och handräckning** t.o.m. SFS 2018:501, available on: [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1990746-om-betalningsforelaggande-och\\_sfs-1990-746](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1990746-om-betalningsforelaggande-och_sfs-1990-746)



can be enforced without being legally valid. Default judgments can also be enforced in the same way as injunctions to pay.

- i. Enforcement orders issued on the basis of court and arbitration judgements, sentences, decisions and rulings;
- ii. Court orders;
- iii. Court judgements and rulings (in certain cases);
- iv. Court decrees, resolutions of institutions and officials regarding the application of interim measures;
- v. Court judgements regarding restriction of legal entity activities and legal entity liquidation;
- vi. Orders in administrative offence proceedings in so far as they relate to pecuniary enforcement;
- vii. Enforcement authority's decisions regarding eviction of natural persons from residential premises and other prosecutor's orders in so far as they relate to pecuniary enforcement;
- viii. Resolutions of other institutions and officials whose enforcement in civil proceedings is determined by law.
- ix. Foreign court and arbitration judgements are enforced in cases provided for by international contracts and laws.

Court judgements, sentences, decisions, rulings and orders are enforced after entering into force, unless urgent enforcement is ordered by the court. Urgent enforcement of a procedural court order must be specified in the enforcement order. Documents shall enter into force at the end of their appeal period, if no appeal has been lodged.

### **I.3 Service of documents to parties and third parties**

#### **I.3.1 Legal basis**

The legal framework regulating service of documents to parties and third parties is included in the Service Act and in the Service Regulation, as well as in the Swedish Code of Judicial Procedure.

#### **I.3.2 The legal capacity to serve documents**

Serving documents is the mandate of the courts, authorities and private parties, to officially inform private parties, companies and individuals about decisions, rulings etc. in law regulated forms.

It is normally the authority itself that handles the task of serving documents. In certain cases, and after the request of one of the parties, the authority may decide to proceed with one of the parties caring for serving documents (see 8 § in Serving Documents Act). One example for this is the Enforcement Authority's summary procedures.

Private judicial officers can apply for certification. Employees in certified judicial officer companies have the mandate to serve documents physically but have in general very limited

possibilities to serve documents in other ways. The Enforcement Authority, as well as other authorities and courts may serve documents in all ways possible.

Serving documents plays of course a very important role in the Swedish legal system. It concerns providing evidence that the addressee has received the decision/ruling or other document or has been formally informed of its contents as well as when this has been done.

The standard procedure of serving documents by public authorities, judicial documents is by means of mail and courier service providers. In fact a court will proceed to serving documents by means of a judicial officer only when the addressee does not certify receipt of the documents sent by mail. Authorities apply in the majority of cases a simplified procedure of serving documents. This means that the authority will send a letter to the address registered as the addressee formal address (folkbokföringsadress). Under the precondition that this letter is not returned, the documents will be sent to this address and the addressee will be considered served after a period of ten days has elapsed.

The Code of Civil Procedure provides that documents can also be served by registered mail or via courier service providers. In certain cases, documents can be served electronically. Serving documents electronically has expanded during the past few years. It is mostly used to serve documents to lawyers and legal representatives. The electronic platform used is such to ensure security of the procedure as such, as well as to preserve the secrecy of the content of the documents served.

The method of service of court documents is chosen by the court or public authority and will depend on certain factors such as for instance who the addressee is and whether he/she has a lawyer.

In cases where a judicial officer is appointed to serve documents, he/she may search for the addressee until the addressee is found and serve him/her the relevant documents. If the addressee refuses to accept the documents in the presence of the judicial officer, the documents shall be deemed as served. The applicant shall be issued an acknowledgement of receipt approved by the judicial officer, stating that the document has been served or that the recipient refused to accept the document.

The geographical jurisdiction of judicial officers for the service of documents is the same as for the enforcement of court judgements.

Documents must be served under a court order by a judicial officer on business days between 6 a.m. and 10 p.m. When serving extrajudicial documents upon request, the date and time of service shall not be limited.

When serving documents, judicial officers may use the Population Register (Folkbokföring) to obtain information about residential addresses, as well as use social insurance data to obtain information about a relevant person's place of work.

If a judicial officer undertakes to serve documents by court order, the judicial officer shall have the right to obtain the necessary data for the addressee from the register of natural persons, register of legal entities and state registers (information about the workplace, place of residence, etc.) free of charge. It is not an absolute requirement that the applicant has information on the address/working place of the addressee, however this could considerably

speed up the procedure.

### **1.3.3 The contents of the documents to be served**

There is no predefined form or content for the documents to be served.

When documents are served upon request or by court order, an acknowledgement of receipt of the document shall be filled out indicating the recipient's name, surname, title of company (when serving upon another person related to the recipient, it is necessary to specify the name and surname of that person, and his/her relation to the recipient), date of service (refusal to accept), signature of the person who received the documents.

### **1.3.4 Service upon the addressee or other persons**

Documents may be served upon the addressee personally. However this requirement is not very strict since documents may be served by regular post.

Judicial documents may be served at the place of residence or other specified address, or at the addressee's workplace. The same applies for extra-judicial documents.

Judicial documents served upon legal entities are served upon the members of the board of the company at their place of residence.

When the addressee is a legal entity, the person accepting the served documents must indicate the date of receipt of said documents, his/her name and surname, title of legal entity, his/her position, and sign the documents.

Documentation on the the service of documents is necessary. The debtor or addressee has to sign and send back to the Enforcement Authority

In certain cases it is necessary to proceed with service of documents with the help of a bailiff. In these cases, it is only authorised bailiffs that may be employed, according to 31§ Service Act.

When a bailiff is engaged in the service of documents, this may be done in three different ways, either by serving the documents to the addressee directly, by serving the documents to another person (family member) or by public notification outside of the home of the addressee.

In cases where the addressee is hospitalized, or in the penitentiary, the serving of documents may be performed by the personnel of the institution in case. However, this possibility must be controlled from case to case.

The Enforcement Authority has the possibility to choose any appropriate method of service of documents, depending on the particularities of the case, the needs, the amount or nature of the enforcement.

### **1.3.5 The use of new technologies**

In Sweden documents are nowadays served very often electronically. It has however been established that documents must be served in such a way as to ensure that these documents (all information contained therein) are served upon the addressee (become known to the addressee).

Upon service of the first procedural document electronically, subsequent documents may be served upon the same recipient electronically.

The electronic system that has been used to serve documents has been either email or a special electronic platform.

### **I.3.6 Probative value of the service of documents**

The method of service of documents does not have any special probative value.

### **I.4 Legal remedies, appeal and objection**

When the Enforcement Authority has reached a decision concerning enforcement, the decision may be subject to appeal at the Court of First Instance depending on the legal basis of the decision on enforcement.

Almost all decisions by the Enforcement Authority can be appealed against by the debtor or by a third party. The appeal is to be directed to the District Court but sent to the Enforcement Authority. According to the Enforcement Code all who are concerned by the decision have a right to appeal. Some preparatory decisions in the procedure cannot be appealed. If the Authority refuses to correct its decision, the decision to attach can be appealed. Decisions that can be appealed against must include a written instruction on how to appeal.

The main provision of the Enforcement Code provides for a period of appeal of three weeks from service of the decision. In decisions concerning the attachment of earnings there is no time limit of appeal. A third party can also appeal without time limit. The written appeal must contain information on the decision that is appealed against, what change is demanded, the grounds for a change, the evidence referred to and what the complainant wants to prove by it.

Before sending the appeal on to the court the Authority adds a statement of its own and encloses the file of the case. The court can decide to stop the enforcement, if there are sufficient grounds. In most cases the decision by a Court of Appeal can be directly enforced by the Enforcement Authority. The decision by the District Court can be appealed against before the Court of Appeal if it decides to grant a review dispensation. Enforcement decisions by the Courts of Appeal can be appealed against before the Supreme Court and reviewed if the court decides to grant a review dispensation.

### **I.5 Postponement, suspension and termination of enforcement**

The Enforcement Authority has the possibility to decide on the suspension of enforcement. This means that during the term of suspension, the Enforcement Authority does not proceed to enforcement actions. A suspension or postponement of enforcement will only be allowed if that decision is based on the personal circumstances of the debtor (for instance if the debtor is unable to pay because of illness, unemployment).

A suspension for a longer period of 12 months will only be possible in exceptional circumstances.

The Enforcement Authority may suspend enforcement in situations where proceeding with enforcement could not be expected to have positive results, or where the costs are excessive. This is no clear obligation to the Enforcement Authority. In fact this leads to the suspension

of enforcement only in cases when it concerns estate of a deceased or companies that are in liquidation. With regards to other debtors' enforcement proceedings they proceed until the debts are time-barred.

Other grounds for the suspension of enforcement include cases where the Tax Authority has initiated an aggressive enforcement procedure.

The decision to suspend enforcement is a decision that has to be motivated. When enforcement is terminated because it concerns an estate of deceased (dödsbo) or a company under liquidation, this has to be based on a debtor investigation, while when the enforcement is suspended because of the actions of the Tax Authority, no such report is necessary.

Under certain circumstances the enforcement proceedings may be re-enacted.

#### **1.5.1 Request for postponement by the creditor**

The Enforcement Authority may postpone enforcement after being requested to do so by the creditor.

#### **1.5.2 Request for postponement by the debtor**

The possibilities of the debtor to request a postponement are limited and based on personal circumstances that would make it difficult if not impossible for the enforcement proceedings to proceed. Thus, the Enforcement Authority may decide to postpone enforcement in cases where the debtor is seriously ill, the illness is not chronic and a document verifying the illness is provided by a medical institution; if the debtor is undergoing treatment in a hospital; if, in the case of eviction proceedings, the debtor or his/her family member becomes ill, the illness is not chronic and a document verifying the illness is provided by a medical institution.

The debtor is not required to pay a deposit when requesting a postponement. The fact that the debtor submits a request of postponement will not in itself be a basis for the suspension or delay of the enforcement.

The Enforcement Authority will inform the creditor of the postponement of the enforcement.

There is no specific time limit for processing the request for postponement, there is however a necessity of processing it in an as timely manner as possible. There is no maximum time limit for postponement of enforcement.

#### **1.5.3 Request for postponement by the third party**

The Enforcement Authority may not suspend enforcement at the request of a third party.

#### **1.5.4 Suspension of enforcement**

The Enforcement Authority must suspend enforcement proceedings in the following cases:

- In the case of death of the debtor or creditor, or after the reorganisation or liquidation of a legal entity, if transfer of rights and obligations is possible;
- If the debtor loses their legal capacity;
- If bankruptcy or restructuring proceedings are initiated against the debtor;
- Upon receipt of a settlement agreement between the creditor and the debtor;

- When the time limit for lodging an appeal is renewed, if the basis for issuing an enforcement order was the contested decision. However this does not apply to enforcement that must be proceeded urgently.

### **I.5.5 Termination of enforcement proceedings**

Enforcement proceedings may be terminated in certain cases such as:

- When the claims of the creditor are satisfied;
- When the plaintiff is restituted the enforceable title;
- When the enforceable title becomes part of a bankruptcy procedure;
- When the creditor waives claims of enforcement or when the creditor and debtor reach some form of settlement agreement;
- When the enforceable title is annuled in a court proceeding;
- When the debtor has no assets or income that could be recovered.

### **I.6 Counter enforcement**

A counter enforcement procedure is not provided. However, there is the possibility for the Enforcement Authority to proceed to corrections, in particular where the information upon which enforcement was based has proven to be wrong or where important information has been missing. The law (4th Chapter 33-35§§ UB) provides for the possibility of the Enforcement Authority to proceed to such ratifications without having to resort to a court proceeding.

The Enforcement Authority has thus the possibility to proceed to either corrections, ammendments or complete reversal of the enforcement decision. This possibility of the Enforcement Authority to correct its own decisions remains open even if a party has initiated appeal procedures.

The Enforcement Authority should inform the applicant on the possibility that the decision may be ammended, or annuled. However, there is no obligation to serve the applicant.

Should the Enforcement Authority decide not to proceed to amendment of its enforcement decision, this will not be subject to appeal. In case a party wants to appeal, then the appeal should be directed against the enforcement decision as such. However, when the Enforcement Authority decides to proceed to ammendment, or annul the enforcement decision, this shall be subject to appeal.

When the Enforcement Authority decides not to proceed to any ammendments of the decision (after a request of a party), this is not equivalent to an appeal by that same party. Thus, the Enforcement Authority, when concluding that no ammendments are to be done to the enforcement decision, will not be expected to treat the request for ratifications as an appeal and send the case directly to the court (see court ruling NJA 1982 C104 (RIC 10/83).

An enforcement decision shall be annuled when the property recovered has been shown to be owned by a third party, or when the sale of the recovered property is not expected to provide for any surplus that could be used to recover debts. An enforcement decision shall be rectified when for some reason the object of enforcement should not have been

recovered.

In principle all of the decisions of the Enforcement Authority may be appealed to the Court of First Instance. The right to appeal is reserved to any party on whom the decision has a negative impact. The right to appeal enforcement decisions has been the subject-matter of several court decisions. An employer that considers the recovery of salary to be inaccurate may not appeal the decision (NJA 1975 s. 64). Similarly, a debtor to the debtor not appeal the decision (NJA 1999 s, 622), or a bank may not appeal the decision to recover a bank account (RH 2006:51).

## **I.7 Objects and exemptions on enforcement**

### **I.7.1 Exemptions**

Certain objects and amounts are exempted from enforcement. These are specified in 5th Chapter UB. Natural persons shall be able to preserve their household, farming, labour, educational supplies and other property necessary for them to continue with their labour or education (beneficieegendom). The same applies for such things and equipment that is necessary for the care of children or the disabled. Furthermore, bank accounts concerning funds necessary for the debtor to deal with immediate needs shall not be recovered. In certain situations, objects or real estate given to the debtor under a precondition of transfer ban, may be exempted from enforcement.

The right to pension may not be subject to enforcement if the debtor is dependent on this for his/her survival and/or in order to be able to fulfill his/her alimony or child support obligations.

The Swedish Copyright Act includes certain exemptions on enforcement. Manuscripts, art that has not been subject to exhibition or put out for sale may not be subject to enforcement.

Damages that have been awarded to the debtor may not be subject to enforcement before these have actually been paid out. Even when this has been done, damages may be exempted from enforcement in several situations, for instance, when the debtor needs these for his/her subsistence. However, this exemption does not cover damages awarded as a result of a labour law-based procedure.

A general rule provides that in order for an object to be subject to enforcement there has to be an expectation that this will lead to a surplus (4th Chapter 3 § UB). Furthermore, exemptions on enforcement apply in general for objects of value under 200 SEK (if this is not the total sum of the debt).

Savings could be exempted from enforcement for a period of time or even indefinitely. Examples when savings may be considered necessary for the subsistence of the debtor, include, for instance, when the debtor is unemployed, when he/she is a writer or lives on royalties that are payable at certain time during the year.

### **I.7.2 Enforcement on property of a foreign country**

The question whether an enforcement on the property of a foreign country is possible, has been tried in the Supreme Court case NJA 2011 s. 475. In the specific case that concerned real estate, the Court concluded that the property could not be exempted from enforcement since

it was not predominantly used for the foreign country's official duties. The Court considered also that the reason behind the ownership of the property was not of such nature to justify exempting it from enforcement.

When an application on enforcement on property of a foreign country or international organization is handed in, the Ministry of Foreign Affairs has to be informed about both the case as well as about the enforcement procedures that are to be followed.

### **1.8 (Court) penalties and fines**

The debtor may be required to solemnly swear on the correctness of the information concerning his/her property. He/she is also informed that if it can be later on shown that he/she has deliberately withheld information, they may be charged under 15th Chapter of the Penal Code to prison and/or fines.

Furthermore, the debtor may be required by the Enforcement Authority to provide a list with objects, incomes etc. Failure to provide this could be sanctioned by means of a penalty order.

### **1.9 Access to information on the domicile and assets of the debtor**

Access to information is vital for enforcement proceedings. The Enforcement Authority is under an obligation to proceed to a thorough investigation of the debtor's financial assets and employment (see 4th Chapter 9 § UB), while at the same time the debtor is under the obligation to actually provide all necessary and required information in order for the Enforcement Authority to proceed (4th Chapter 14 § UB). How extensive this investigation will be depends on the case at hand and on the information that becomes available in the case.

In the investigation, the Enforcement Authority has the support of various functions, such as access to databases, the Tax Authority registry as well as the possibility to contact and request information from other authorities, employers, banks and insurance companies. Information usually also comes from the creditor/applicant. Finally, information on the assets of the debtor will come during meeting with the creditor and access to his/her domicile.

All investigation activities need to be registered in the Enforcement Authority's database, where even a statement of the properties that have been found during the process have to be listed.

The address used by the Enforcement Authority is the one that exists in the Population Register (Folkbokföring) or the address that has been provided by the applicant. If the debtor has an unknown address, the Enforcement Authority has to note the reason and continue the investigation by for instance checking the Tax Authority's registries, the social security database, the Unemployment Agency, and the company registry. Furthermore, it has to proceed with investigation on the internet. All investigation has to be registered and if a new address is found, then this has also to be noted in the database. If the Enforcement Authority comes across an address for the debtor that is not included in the contact details available at the Tax Authority and in particular in the Population Register (Folkbokföring), then the Authority is under the obligation to inform the Tax Authority and provide all relevant information. The Authority shall inform the Tax Authority also where there is reason to believe that the debtor has left Sweden.



The debtor is under the obligation to provide information on his/her assets and to do so either in writing or during a hearing with the Enforcement Authority. In both cases, the debtor has to certify in writing that the information provided is accurate. Such information will include every asset, even such that will be later on exempted. Furthermore, the debtor will be under the obligation to explain how and under which circumstances assets were sold and to whom. The information provided by the debtor will also concern the location where the assets are to be found. The Enforcement Authority may request a new list of assets after a period of time has elapsed.

The Enforcement Authority has the possibility to complete any information that originates from the debtor with a hearing. The content of hearings will be documented in protocols.

## **PART II: ORGANIZATION OF ENFORCEMENT**

### **II.1 The status of the judicial officer**

In Sweden, enforcement is the responsibility of the Enforcement Authority. The employees of the Authority are the executive officers. The responsibility of the executive officer as such is in his/her capacity as a state employee and not in his/her own right.

With regards to responsibility, the focus is the responsibility of the Enforcement Authority as such and not of a specific executive officer. Should the Enforcement Authority make payments to the wrong party, the Authority shall as soon as possible rectify the mistake and if needed compensate the damage by its own means.

The executive officer must be active in the enforcement procedure and take all legal measures on own initiative to properly protect the interests of the applicant and execute enforcement within the shortest possible time, without violating the rights of other parties to the enforcement procedure.

#### **II.1.1 Ethics and deontology of executive officers**

Executive officers may not be involved in enforcement cases where they or someone close to them has an interest in the case. According to the 1st Chapter 4§ of UB, the Enforcement Authority will apply the conflict of interest rules as these are specified in 4th Chapter 13 § Procedural Rules Act. In cases where the executive officer is aware of a reason why a conflict of interest may exist, he/she has to report this to his/her superiors (see 1 Chapter 5 § UB). Until a further decision is reached in this respect, the executive officer will only proceed to such actions and decisions that are of immediate urgency. Having handled a previous case against the same addressee is not per se a case of conflict of interest. In general, executive officers should avoid to handle cases where their impartiality could be questioned, as for instance if they are acquainted with.

The rules of ethical conduct and rules of conflict of interest are those prescribed by the 4th Chapter 13 § Procedural Rules Act.

Damages could be awarded in case of erroneous decisions taken by the Enforcement Authority that have a negative impact on a party. Damages will be decided by the Chancellor of Justice (Justitiekanslern – an independent body that supervises authorities and civil servants).

## II.2 Supervision over enforcement

Taking into consideration the fact that the responsibility of enforcement is vested with the Enforcement Authority, the supervision is proceeded in the same way as with other public authorities in Sweden, that is by the Chancellor of Justice.

The duties of the Chancellor of Justice are set forth in two legal instruments: The Act (1975:1339) concerning the supervision exercised by the Chancellor of Justice and the Ordinance (1975:1345) concerning the duties of the Chancellor of Justice.

The main tasks of the Chancellor of Justice are to:

- Act as the Government's ombudsman in the supervision of authorities and civil servants.
- Represent the State in legal disputes, primarily actions for damages against the State.
- Ensure that the limits of the freedom of the press and other media are not transgressed and act as sole prosecutor in cases concerning offences against the freedom of the press and the freedom of expression.

The Chancellor of Justice is free to raise issues on the supervision of authorities of his or her own motion. The majority of cases are however initiated by private parties by means of submitting a written complaint, thus drawing the Chancellor's attention to malpractice or abuse of powers within the public administration. It falls within the competence of the Chancellor of Justice to reach out of court settlements on behalf of the State in actions for damages ("voluntary settlement of claim"). Individuals may therefore turn directly to the Chancellor of Justice with a written application for compensation. If the application is rejected by the Chancellor, the right to initiate court proceedings remains.

## II.3 Access to the premises

Access to the premises of the debtor is to be considered an exceptional measure, to proceed with only if the Enforcement Authority has reasons to believe that the debtor has at his/her premises objects of value and/or of relevance for the enforcement. The Enforcement Authority will seek the cooperation of the debtor and proceed to any effort to have the debtor participate in the executive officer's inspection of the premises. However, this is a requirement only in cases where there is reason to believe that such a contact will contribute to expediting the case. In case the debtor refuses to participate and/or avoids to do so, the executive officer might still proceed with the inspection. Access to the premises should not be proceeded with before 6:00 in the morning and after 21:00 in the evening. The executive officer will inform the debtor that he/she comes from the Enforcement Authority and will be prepared to identify himself/herself. Access to the premises shall be made in a way to both ensure that all possibly interesting artefacts from an enforcement perspective shall be noted without however compromising the integrity of the debtor nor causing any unnecessary damage. If the debtor is absent and there is a child/children at the premises, access should be interrupted and planned for another date. Exceptions to this rule are possible if the execution officer has plausible reasons to believe that the debtor is avoiding the Enforcement Authority or if access to the premises is a matter of urgency for some reason.

During access to the premises, the executive officer will also confiscate all objects of value

and/or of relevance to the enforcement at the spot.

#### **II.4 Obstructing the judicial officer from carrying out enforcement**

If the judicial officer is obstructed from carrying out enforcement, obstructions may be eliminated with the help of the police. According to the 3rd Chapter 5 § UF the executive officer may ask for the removal of the debtor or of any other party that obstructs access to the premises or in any other way behaves in an improper way. In that case the executive officer may ask the assistance of the police 3rd Chapter 3 § UF.

In cases prescribed by legislation, the police must provide the necessary assistance to the judicial officer in carrying out enforcement and eliminating the obstructions. The party that obstructs access to the premises may be charged with fines accord to 17th Chapter 13 § second paragraph Penal Code.

#### **II.5 Time of enforcement**

Enforcement may only be carried out on business days from 6 a.m. to 9 p.m. This general rule has some very limited exceptions that apply only in urgent cases where enforcement may become difficult or impossible if it is not carried out urgently.

The Enforcement Authority is under the obligation to proceed in a timely manner, taking into consideration the particularities of each case. If there is reason to believe that enforcement will be endangered in case of even short delays, the Authority will have to proceed in an urgent manner.

#### **II.6 Mediation**

The Enforcement Authority provides no mediation services. However, agreements between the creditor and debtor are encouraged. Such agreements will lead to the settlement of claims (monetary or others) and to the closure of the enforcement proceedings.

### **PART III: ENFORCEMENT PROCEDURES**

#### **III.1 Initiation and end of the enforcement procedure**

##### **III.1.1 Initiation of enforcement**

Enforcement proceedings that are handled by the Enforcement Authority are of different categories depending on the legal basis for this. In the core of the enforcement activities is the enforcement of pecuniary demands according to 1<sup>st</sup> Chapter 3 § UB. However, the Enforcement Authorities will also enforce decisions to recuperate objects or proceed to the sale of an apartment. The mandate of the Enforcement Authority will depend on whether this is provided for under relevant legislation or under 18<sup>th</sup> Chapter UF.

The creditor shall submit a request to the Enforcement Authority for the commencement of the debt recovery. In the absence of the creditor's claim, the recovery process cannot begin. The request has to be made under a standardized form and is subject to payment of fees to the Enforcement Authority.

The application has to be signed by the applicant or by his/her attorney.

In cases where an application does not contain all necessary information, the applicant shall be given the possibility to complete it. The Enforcement Authority will inform the applicant

that if the application is not completed it could be rejected (2 Chapter 8 § UF). In case an application is rejected, the Authority will not charge an application fee.

The Authority has the mandate of investigating the application's legal basis throughout the procedure. This means that the procedure may be interrupted even if it is initially initiated.

### **III.1.2 Determination of the means and object of enforcement**

The applicant has to determine the legal basis of the demand, the total exact amount, as well as to explain how this sum has been calculated. The Enforcement Authority will contact the debtor, inform of the applicant's claims and ask for the immediate settlement of the debt. Should the debtor not settle the debt, the Enforcement Authority will proceed with a decision to recovery, initiating thus also the investigation of the debtor's assets. The scope and means taken during the investigation will depend on the amount of the debt, the debtor and the information made available about the debtor, by mainly the applicant.

Naturally, the object of the investigation is the debtor. However, if it is shown that the debtor has no financial means and no assets, the Enforcement Authority could proceed and investigate the financial means and assets of the spouse of the debtor.

The enforcement document (the document constituting the legal basis of the enforcement) could be a court decision, a court ruling, a decision on a certain debt from an authority, fines or penalties as well as an unpaid invoice. There is no requirement as to a further enforcement decision or some additional ruling.

The Enforcement Authority's mandate is limited only to Sweden. This means that it may not proceed to enforcement outside Swedish territory. If it is shown in a certain case that enforcement in Sweden is not possible, contact should be sought with the applicant to explain the situation. The applicant will then decide whether to pursue enforcement in the relevant jurisdictions.

An application of enforcement may be handed-in in any of the offices of the Enforcement Authority; it will then be assigned to the appropriate department depending on respective workload as well as other factors. Enforcement on real estate is usually vested to a department in the same geographical area as the real estate in question. Other criteria used to distribute applications among departments could be the residence of the debtor.

The enforcement cases handled by the Enforcement Authority are divided into two major categories, public cases (a-mål) and private cases (e-mål). Public cases are the ones based on claims submitted by public authorities (see 1 Chapter 6 § UB). All other cases are private. Among public cases we have the enforcement of decisions of public authorities on taxes, penalties, custom duties. The enforcement document will be the decision of the public authority. Among private cases are loans, invoices, evictions. In private cases, there is usually a court ruling as a legal basis; this is, however, not necessary. A loan that has not been paid on time may constitute a legal basis for enforcement.

The Enforcement Authority is facilitated in its mandate by the use of extensive databases, such as REX, REgin, Init and Medea. When it comes to the sale of real estate there is a special IT system, Duffex, while for the sale of movables there is Vera.

### **III.1.3 Withdrawal of enforcement**

The applicant may at any time request the withdrawal of the enforcement.

### **III.1.4 Enforceability of the enforcement document**

The enforceability of the enforcement document will depend on the nature of the document. In cases where a person chooses not to execute the decision of a court or of a public authority within the time specified by the applicable law, where it fails to execute a specific obligation or to pay a certain invoice, this obligation will be submitted to the Enforcement Authority and constitute an enforceable decision.

Some general rules concerning the enforceability of the enforcement document applied by the Enforcement Authority include:

1. whether the enforcement document is submitted for enforcement by an eligible person;
2. whether the enforcement document was submitted for enforcement within the relevant period of limitation (or whether the claim has been subject to a statute of limitation);
3. whether, in the event of death of the applicant or the debtor, the enforcement document is submitted for enforcement by the successor – whether the legal succession of rights and obligations took place after the death of the recoveror or the debtor;
4. whether, in the event of liquidation or reorganization of the creditor or the debtor as a legal entity, the enforcement document is submitted for enforcement by the legal successor – whether the legal succession of rights and obligations of the legal entity took place;
5. whether there are any obvious obstacles to accept the enforcement document for enforcement (for instance territorial limitations).

## **III.2 Enforcement against movable assets to settle pecuniary claims**

### **III.2.1 General aspects of enforcement of movable assets**

When considering enforcement against movable assets, the Enforcement Authority will first of all need to consider whether the movable assets in question fall under one of the categories of assets exempted from enforcement, such as objects necessary for work, care of disabled, care of children, personal items, clothes etc.

Priority is given to the property that is not mortgaged or otherwise encumbered and is the easiest property to levy the execution upon.

### **III.2.2 Sale of personal movable property**

Sale is arranged as a public auction by the Enforcement Authority in its own premises or by an auction firm. If suitable, property can also be sold informally by the Enforcement Authority. The auction is announced in the local daily press at least one week before the auction. If the property is believed to be of interest to a wider audience, announcements are published in the national press and magazines. Before the sale the property is exhibited to

prospective buyers.

Before the sale the Enforcement Authority has evaluated the property. An auction starts with a presentation of the conditions for the sale. Bidding is made by bid and overbid. The highest bid may only be accepted if it is likely that no higher bid can be reached. If the highest bid is accepted, the buyer must pay the whole amount at once. If the price is over 2 000 SEK, the buyer can be permitted a respite and only pay a deposit of 25 percent of the purchase sum as down payment. When the buyer has fulfilled their obligation by paying the purchase, they get the property. If the buyer does not fulfil their obligations a new attempt is made to sell the property. A protocol of the auction is kept. The auction can be appealed within three weeks from the day of the auction. After the property has been sold the Enforcement authority distributes the purchase sum between the creditors in the list of parties.

### **III.3 Attachment on the bank account of the debtor**

In the investigation proceeded by the Enforcement Authority, bank accounts are very often subject to enforcement. Banks are under the obligation to provide the Enforcement Authority with information concerning the accounts of the debtor. The same applies to savings deposits and current accounts.

The obligation to disclose information on the debtor's bank accounts has to be proportional to the enforcement proceeding and to the debt to be covered. Thus, information on a bank account covering the debt should be considered to be satisfactory. Information may not be required only on the grounds of investigating the debtor's sources of income.

When the Enforcement Authority proceeds to enforcement against a bank account, the bank will be formally informed (6<sup>th</sup> Chapter 3 § UB). After that the bank will not be able to pay the contents of the bank account to anyone else than to the Enforcement Authority.

### **III.4 Enforcement against savings deposits and current accounts**

Information with regards to this part are provided under III.3.

### **III.5 Enforcement on immovable property**

#### **III.5.1 General issues concerning enforcement on immovable property**

Rules concerning enforcement on immovable property differ in certain respects from those concerning movable property. The reason for that is that immovable property has very often a higher economic and social value. Furthermore, in countries such as Sweden the real estate market is largely based on mortgage deeds, something that makes enforcement more complicated.

One important aspect in this respect is also the definition of what actually constitutes immovable property. Apart from the land, and the buildings in the land in question, the term immovable property can also include machines, tools, trees, ornaments. This category of objects is rather broad and includes anything that is intended to be permanently used in the building (or land) in question. The same actually applies also for machinery that is found in industrial buildings. They are also considered to be part of the immovable property. There are however exceptions to this general rule. The most notable exception concerns the situations where there is a building owned by a third party built on the land of the debtor

("ofri grund"). The same exception applies when a tenant has bought and installed machinery in the building (such as for instance washing machines etc.).

In cases where two or several parties own the same property and only one of them has debts that lead to an enforcement procedure, the Enforcement Authority may proceed to enforcement and order the sale of the whole property under certain circumstances (See, 8<sup>th</sup> Chapter, 9§ UB).

In Sweden the sale of immovable property is divided into two phases as a rule. Phase one includes signing the pre-agreement and making an advance payment. Phase two consists of the final agreement, the payment of the remaining amount of money and the official transfer of property rights. Between phase one and two there is a period of time, in some cases several months, where the two parties hold conditioned rights. In cases where the debtor is the buyer, the Enforcement Authority will be able to proceed to enforcement on the immovable property if phase two is completed. On the other hand, when the debtor is the seller, the enforcement will be carried out on the sum of money paid, if phase two is completed, or on the immovable property, if the parties decide not to proceed to phase two.

In order for enforcement on immovable property to be considered beneficial, it has to be documented that the sale of the immovable property will create value that will cover the demands of the creditor.

### **III.5.2 Sale of immovable property**

An enforcement action related to real estate is entered into the land register. The condition for enforcement is that there is a value above the mortgage. After the enforcement action the real estate is sold by the Enforcement Authority on public auction. The property can also be sold informally by a real estate firm. Before the sale the real estate is evaluated and described in a protocol that is available to the public. An announcement is published in the daily press at least three weeks before the auction. The property is exhibited to prospective buyers.

Before an auction a supervisory meeting is held and the officer in charge of the auction goes through a list of parties concerned, often including banks and other loan associations. A protective amount is fixed to cover the costs and the mortgages with a better right than that of the creditor, or the distraint if the actual debt for which the real estate is sold is not based on a mortgage.

An auction starts with a presentation of the conditions for the sale. Bidding is made by bid and overbid and the highest bid is accepted. The enforcement officer in charge of the proceeding can refuse to accept the highest bid on grounds that a higher bid can be achieved at a new auction. If the highest bid is accepted the buyer must pay 10 percent of the purchase sum as down payment. At a certain time after the auction a session is held to distribute the purchase sum between the creditors in the list of parties. The auction can be appealed within three weeks from the day that it was conducted. If the auction becomes legally binding, the buyer can move into the house. Should the debtor refuse to move out he can be evicted by the Enforcement Authority at no cost for the buyer. Distress sale on auction of ships and airplanes is regulated in a way similar to real estate. No detailed account will be presented in this case.

Immovable property is registered in the Register of Immovable Property.

### **III.6 Enforcement against wages and other permanent pecuniary income**

Enforcement against wages and other permanent pecuniary income is the most usual enforcement means employed by the Enforcement Authority.

The enforcement against wages and other pecuniary income shall concern this part of the income that is not necessary for the debtor's and the debtor's family subsistence (7<sup>th</sup> Chapter 4 § UB). It is the Enforcement Authority that decides what the amount payable every month will be. In order to calculate this sum, the Authority updates its guidelines for the calculation of the amount necessary for the debtor and the debtor's family subsistence every year.

Enforcement against wages is possible irrespective of whether the wages concern monthly payments, daily compensation, holiday pay. It is furthermore possible to proceed to enforcement even in situations where the employee is also the owner of the company/employer.

Apart from the salary, enforcement is also possible on bonus or also such amounts that are paid by the employer to the employee in order to cover costs related to the work (travelling, car expenses).

Other compensation paid for contributing to the work of a company could also be relevant for enforcement, such as for instance compensation to board members.

Dentists or doctors receive compensation for their services from the County Council. This compensation could be relevant for enforcement.

Royalties for patent rights can be relevant for enforcement proceedings in the same way as wages.

Enforcement against pension is possible in the same way as salary.

Enforcement is also possible against unemployment benefits and sickness benefit.

There are certain exemptions to what could be relevant under enforcement against wages and this is for instance:

- Invalidity benefit;
- Income from work performed in penitentiary;
- Social services benefits;
- In natura compensation (housing or food).

As it has previously been stated in this report, in order to decide upon the amount of money that is to be enforced against wages and permanent incomes, the Enforcement Authority has to decide what is the sum that has to be left to the debtor in order for him/her and his/her family to be able to survive. In calculating this amount, the Authority takes into consideration whether the debtor has children, whether the children live with the debtor, whether the debtor pays child support or alimony, day care for children, sickness (debtor or debtor's family member) that causes costs, costs related to the need for help (when the debtor is of an advanced age), living costs (payment of rent, or interest for loan). However, the Authority



has the possibility to not accept to take into consideration costs that are too high.

### **III.7 Attachment under the debtor's debtor**

When there is monetary debt to the debtor that is due for payment, the Enforcement Authority will request the debtor's debtor to pay this debt directly to the Authority (see 9<sup>th</sup> Chapter 11-13 § UB).

Should the debtor's debtor not proceed to payment voluntarily, the Enforcement Authority will without delay proceed to enforcement procedures.

In cases where the debt is not yet due for payment, the Enforcement Authority will contact the debtor's debtor and try to reach an agreement concerning the future payments of the debt. There is also a possibility for the Authority to proceed to a cut of the debt if this is necessary/or if it contributes to a more expediated procedure.

### **III.8 Enforcement against shares**

Shares are documented in an electronic platform, Euroclear. It is an IT-service that is certified by the Swedish Financial Inspection Authority (Finansinspektionen). In this registry, there is a documentation of shares and financial portfolios for every shareholder. In some cases, it is the bank that is registered in Euroclear and not the actual owner. In this case, the bank will be requested to provide information to the Enforcement Authority in the same way as with bank accounts.

If the Enforcement Authority decides to proceed to enforcement against shares, this will be noted in Euroclear. When the shares are sold by the Enforcement Authority, this note is removed from Euroclear.

Enforcement is also possible against funds. However, the enforcement procedure will be more complicated in the case of funds than in the case of shares, since there is no registry in the Euroclear platform. At the same time selling the funds will also present certain complications, taking into consideration the role, function and valuation of funds.

### **III.9 Other attachment procedures**

#### **III.9.1 Employer's right to set-off**

The act of employer's right to set-off gives the employer the right to make deductions, set-offs from the wage of the employee for certain claims he/she may have. The employee can for instance be liable for damages because he/she has violated a collective agreement between the employer's association and the trade-union by resigning from his/her work before the required period of notice has expired. In these cases, the employer applies to the Enforcement Authority, which then establishes an amount which is not subject to distraint for the employee. The Authority does not decide on the employer's right to a set off, a right which can be challenged by the employee. No title is needed by the employer. The amount not subject to distraint is similar to the one applied at the attachment of earnings. The decision of the Authority cannot be appealed but changed by the Authority upon application by the employee, if he/she can show cause.

#### **III.10 Handing over movable assets**

The court shall specify in its judgment which item(s) is (are) to be transferred to the recoveror.

When the recoveror is awarded certain items specified in the court decision, the judicial officer shall take those items from the debtor or a third party and hand them over to the recoveror. If the items specified in the decision are not available, the judicial officer shall draw up a relevant certificate confirming this, and the enforcement document shall be returned to the recoveror. If the items cannot be handed over because they are defective, incomplete, or if they cannot be handed over for other reasons, the judicial officer shall draw up a certificate stating that the judgment cannot be enforced and the enforcement order shall be returned to the recoveror.

### **III.11 Enforcement in reinstatement of employee to work**

Not applicable in the context of the Swedish enforcement system.

### **III.12 Eviction**

The basis for an eviction can be a court judgment, a decision in the summary debt recovery procedure, a decision by a court in a divorce case, decisions by a regional rent tribunal or a rents and tenancies court of appeal, protocol of a distress auction of real estate or settlement confirmed by a court.

The tenant is notified by the Enforcement Authority beforehand, if it is possible. The local Social Welfare Authority of the city or municipality is also notified. The property of the debtor is removed from the home or the lock is changed in the door to prevent entry by the debtor. In the latter case the landlord lets the tenant in to fetch his/her property at a later date decided upon by the parties. If the property of the debtor is removed, the Enforcement Authority is charged with storing it. Property of no value is discarded with. The debtor must take care of his/her property before the end of a certain period of time. If he/ she does not, the property is sold to pay for the rent of the storage premises. After the procedure the debtor is notified of the eviction, if he/ she has not been present.

In some matters an authority in charge of a particular field of responsibility can request the Enforcement Authority directly to take action, without a court order. The road authority can for instance request to have illegally placed signs or advertisements along a road removed, according to the road act.

### **III.13 Enforcement of obligations to act, refrain from acting or suffer action**

#### **III.13.1 Enforcement of the decision for division of items**

The transfer of an asset will be a matter for the court to decide. The general rules of recovery of enforcement expenses apply.

#### **III.13.2 Enforcement of the decision in which the debtor has a duty to perform certain action, tolerate certain actions, or to omit certain actions**

The final decision is made by the Enforcement Authority; the decision may be appealed before the District Court in whose territory the debtor lives. The most usual procedure in this respect concerns cases where a party is expecting to return an object or documents to the plaintiff.

When submitting an enforcement document to the Enforcement Authority, the necessary enforcement expenses must be paid. A reminder to take certain actions in good faith is sent

to the debtor; if the debtor fails to comply with the obligation within the specified period, the Enforcement Authority may apply to the court for a fine.

If the enforcement document is enforced, the enforcement case is closed, and the enforcement document is returned to the issuing authority. The recoveror initiates a new procedure at the court, receives an enforceable decision/ruling and subsequently turns to the Enforcement Authority.

### **III.14 Sequestration of goods**

The general courts are responsible for issuing orders of precautionary measures. There are provisions in the Judicial Procedure Code and the act on order to pay and decision of enforcement assistance. The applicant must show that delay may result to danger and that there is a risk that the debtor will abscond, remove property or in a similar way attempt to avoid the fulfilling of his/her duties. He/she must also generally demonstrate probable cause and put up security for any damage that might be caused to the debtor by the action. It is then up to the Enforcement Authority to carry out the provisional action of enforcement. After this action the debtor is forbidden to transfer the property or in any other way dispose of it in a harmful way to the creditor. A provisional action does not give the creditor a priority right.

In relation to public matters precautionary measures are possible, according to the Securing of Payment Act, e.g., concerning taxes, contributions and customs duties. In a situation of risk an Administrative Court can provisionally order an enforcement action/attachment of the creditor's property until the debt is paid or enforcement could be carried out. In principle the same rules apply as in cases of ordinary provisional enforcement/attachment. Certain conditions have to be fulfilled: the State must have a claim, the claim has to be matured and the claim has to amount to a considerable sum. There also has to be a manifest risk that the debtor will not pay. The Enforcement Authority is responsible for carrying out the order. To avoid the securing of payment the debtor is allowed to offer security.

The request for sequestration may be submitted to the Court before the submission of the lawsuit concerning the matter in question. In this case the plaintiff will have a month to submit the lawsuit. If the plaintiff fails to do so, the order of sequestration will be annulled.

An order for sequestration is possible during the legal proceedings, or at the time of the court ruling.

In order for sequestration to be possible, the plaintiff must show that there is probable cause for the debt in question. It also has to be shown that in the absence of sequestration the debtor might disappear, or the object might be destroyed, lost. Very often the plaintiff was to provide a deposit security of equal value as the subject-matter of sequestration.

### **III.15 Enforcement of foreign enforceable documents from non-EU States**

In order for court rulings or other documents originating from a non-EU country to be enforceable, the plaintiff has to request enforceability by a Swedish District Court.

In order for enforceability to be possible it has to be supported by an international convention (or bilateral agreement) that provides that such rulings or other documents would be enforceable in Sweden.

The international conventions that are usually employed as a legal basis for enforcement are the Brussels Convention<sup>7</sup> and the Lugano Convention<sup>8</sup>.

There is of course the possibility to enforce arbitral awards under the New York Convention<sup>9</sup>. The procedure for the enforcement in the countries-members of the New York Convention, is also provided under the articles of the convention.

## **PART IV: ENFORCEMENT COSTS**

### **IV.1 The costs of enforcement**

In order to initiate procedures at the Enforcement Authority, the applicant must pay the application fees (varying from 300 to 600 SEK). This is the general rule with the exception of procedures concerning claims based on child support or damages for victims of crimes.

The fees will be recuperated by the debtor in the end.

There is possibility to apply for legal aid in order to cover the expenses related to enforcement.

Other costs in relation to enforcement, such as attorney's fees, may be recuperated by the debtor if the debt amounts to a sum exceeding 23.650. For conflicts concerning sums under this amount, each party will bear their own costs.

<b>Fees</b>	<b>Type of application</b>	<b>Amount</b>
<b>Order of payment and Sequestration</b>	Order of payment	300 kr
	Sequestration	300 kr
	European order for payment	300 kr
<b>Enforcement</b>	Enforcement	600 kr/ year
<b>Eviction</b>	Enforcement	300 kr for every identified person but maximum 3 000

<sup>7</sup> Text as amended by the Convention of 9 October 1978 on the accession of the Kingdom of Denmark, Ireland and the United Kingdom of Great Britain and Northern Ireland - hereafter referred to as the '1978 Accession Convention' - by the Convention of 25 October 1982 on the accession of the Hellenic Republic - hereafter referred to as the '1982 Accession Convention' - and by the Convention of 26 May 1989 on the accession of the Kingdom of Spain and the Portuguese Republic - hereafter referred to as the '1989 Accession Convention'.

<sup>8</sup> Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters OJ L 339, 21.12.2007, p. 3–41 (BG, ES, CS, DA, DE, ET, EL, EN, FR, GA, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV) - Special edition in Croatian: Chapter 19 Volume 014 p. 281 - 319

<sup>9</sup> 1958 - Convention on the Recognition and Enforcement of Foreign Arbitral Awards - the "New York" Convention

<b>Fees</b>	<b>Type of application</b>	<b>Amount</b>
<b>Infringement investigation</b>		5 000 kr
<b>Sale of immovable property</b>		Preparation costs 1 % of the tax value, alternatively 0,75% of the market value
<b>Sale of movable property</b>		Sale cost 2 % of the tax value, alternatively 1,5 % of the market value  4% of the price for which the good has been sold in the auction

## **PART V: LINKS, LITERATURE AND SOURCES**

### **Legal Acts**

Delgivningslag (2010:1932) t.o.m. SFS 2020:399. Available at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningslag-20101932\\_sfs-2010-1932](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningslag-20101932_sfs-2010-1932)

Utsökningsbalk (1981:774) t.o.m. SFS 2019:841. Available at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsbalk-1981774\\_sfs-1981-774](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsbalk-1981774_sfs-1981-774)

Utsökningsförordning (1981:981) t.o.m. SFS 2018:1808. Available at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsforordning-1981981\\_sfs-1981-981](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/utsokningsforordning-1981981_sfs-1981-981)

Delgivningsförordning (2011:154) t.o.m. SFS 2019:779. Available at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningsforordning-2011154\\_sfs-2011-154](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/delgivningsforordning-2011154_sfs-2011-154)

Rättegångsbalk (1942:740) t.o.m. SFS 2020:728. Available at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/rattegangsbalk-1942740\\_sfs-1942-740](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/rattegangsbalk-1942740_sfs-1942-740)

Lag (1990:746) om betalningsföreläggande och handräckning t.o.m. SFS 2018:501. Available at [https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1990746-om-betalningsforelaggande-och\\_sfs-1990-746](https://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/lag-1990746-om-betalningsforelaggande-och_sfs-1990-746)

### **Literature**

Heuman, Lars, "Specialprocess; utsökning och konkurs", (2020)

Gregow, Torkel "Kvarstad och andra säkerhetsåtgärder : enligt 15 kap. rättegångsbalken", Institutet för Rättsvetenskaplig Forskning (2014).



Westerberg, Peter, "Det provisoriska rättsskyddet i tvistemål. Bok 3 En funktionsstudie över kvarstad och andra civilprocessuella säkerhetsåtgärder", Jurisförlaget i Lund (2004)

### **Handbooks**

Handbok om delgivning (Kronofogdemyndigheten) Available at

[https://www.kronofogden.se/download/18.958e8ae16379721b85c186/1536929249234/Handbok\\_Delgivningshandboken\\_2018.pdf](https://www.kronofogden.se/download/18.958e8ae16379721b85c186/1536929249234/Handbok_Delgivningshandboken_2018.pdf)

Handbok om utsökning (Kronofogdemyndigheten). Available at

[https://www.kronofogden.se/download/18.31a8d8ed16902466852aea/1572250233675/Handboken\\_Utm%C3%A4tning.pdf](https://www.kronofogden.se/download/18.31a8d8ed16902466852aea/1572250233675/Handboken_Utm%C3%A4tning.pdf)

