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Sweden

ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS

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This country-specific Q&A provides an overview of enforcement of judgments in civil and commercial matters laws and regulations applicable in Sweden.

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SWEDEN

ENFORCEMENT OF JUDGMENTS IN CIVIL AND COMMERCIAL MATTERS



1. What international conventions, treaties or other arrangements apply to the enforcement of foreign judgments in your jurisdiction and in what circumstances do they apply?

Sweden is a Member State of the European Union ("EU"), meaning that enforcement of foreign judgments is primarily regulated by EU law. The Brussels I Regulation (Regulation (EU) No 1215/2012 of the European Parliament and of the Council on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters) is of particular significance for the EU Member States and, thus, Sweden.

Additional legal instruments of relevance for certain enforcement matters, including the relationship between Sweden and non-EU member states, are:

- The Convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, also known as the 2007 Lugano Convention, which is closely related to the Brussels I Regulation and is applicable between the EU Member States and the EFTA countries (Iceland, Liechtenstein, Norway, Switzerland).
- Regulation (EC) No 805/2004 of the European Parliament and of the Council 2004 creating a European Enforcement Order for uncontested claims. The aim of this regulation is to regulate cross-border enforcement of uncontested debt collection judgments, court settlements, and authentic instruments.
- EU Regulation 1896/2006 on creating a European Order for Payment Procedure (2012), which applies to cross-border cases concerning the judicial recovery of uncontested pecuniary claims.
- Regulation (EC) No 861/2007 of the European Parliament and of the Council establishing a

European Small Claims Procedure and amended by Regulation (EU) No 2015/2421. The purpose of this regulation is to simplify the enforcement of judgements with claims not exceeding EUR 5,000.

- Act (1977: 595) on the recognition and enforcement of Nordic judgments in the field of private law. This Swedish legislation is based on the Nordic Convention on the Recognition and Enforcement of Judgements in Civil Matters (1977) that governs the enforcement of judgments relating to claims under private law. However, the Nordic Convention is not usually applied as the Brussels I regulation and the Lugano Convention have priority over the Nordic Convention.
- Convention of 30 June 2005 on Choice of Court Agreements, also known as the Hague Choice of Court Convention. This convention regulates enforcement of foreign judgments based on exclusive choice of courts agreements between parties that are residents in the Contracting States.

Another document worth mentioning is the Convention of 2 July 2019 on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters, also known as the Hague Judgments Convention, which the European Union acceded to on 29 August 2022. Subject to the declaration made by the EU on 29 September 2022, it exercises competence over all the matters governed by this Convention, and all the EU Member States, except for Denmark, are bound by the Convention by virtue of the accession of the European Union.

As of now, there are only two Contracting States of the Convention – the EU and Ukraine, which ratified the instrument on the same day of 29 August 2022. Therefore, the Convention will enter into force on 1

September 2023 and will apply between the EU, with all its Member States except for Denmark, and Ukraine in accordance with Articles 28(1) and 29(1) thereof. Noteworthy is that the convention, subject to section 23 thereof, will not apply to judgements given by a court in an EU Member State when seeking recognition or enforcement in another EU Member State. These judgements will still be recognised and enforced in accordance with the Brussels I Regulation and other EU Regulations listed above.

In addition, Sweden has ratified several other international treaties, including the Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, also known as the 1965 Hague Convention, which simplifies and expedites the serving of judicial and extrajudicial documents to parties in another convention state. The Convention on the Recognition and Enforcement of Foreign Arbitral Awards, or the New York Convention of 1958, which contains provisions governing the enforcement of foreign arbitral awards, also applies in Sweden.

2. What, if any, reservations has your jurisdiction made to such treaties?

In relation to the specific treaties mentioned above, Sweden has not made any reservations, only clarifications in relation to national law.

On 11 June 2015, in accordance with Article 21 of the Hague Choice of Court Convention, the EU made a declaration that it, with certain exceptions, would not apply the Convention to insurance contracts.

The EU, subject to Article 18 of the Hague Judgments Convention, declared on 29 September 2022 that it would not apply to non-residential leases (tenancies) of immovable property situated in the European Union.

3. Can foreign judgments be enforced in your jurisdiction where there is not a convention or treaty or other arrangement, e.g. under the general law?

There is to some extent both domestic law and case law that can be applied to various specific foreign judgments regardless of the place of origin which are not directly based on international conventions and treaties. However, the possibilities to enforce foreign judgments in commercial matters in the absence of conventions or treaties are very limited. Hence, the accepted general rule is that such judgments are not possible to enforce in

Sweden.

4. What basic criteria does a foreign judgment have to satisfy before it can be enforced in your jurisdiction? Is it limited to money judgments or does it extend to other forms of relief?

As we touched on previously, judgments from the EU Member States, the EFTA members, 2005 and 2019 Hague Conventions parties and Nordic countries are enforceable in Sweden in accordance with the provisions set forth in these instruments and, thus, in essence do not require any further Swedish procedures. In addition to monetary claim judgments, it is also possible to enforce judgments ordering other forms of relief.

Despite the fact that these judgments are in principle to be directly recognized and enforced, it is nevertheless conceivable for a party to request that recognition is to be refused, as well as for a party to request for a declaration that there are no grounds for refusal of recognition of the judgement. See more under question 5 below.

5. What is the procedure for enforcement of foreign judgments pursuant to such conventions, treaties or arrangements in your jurisdiction?

In general, a party that is seeking the enforcement of a foreign judgment shall apply for a declaration of enforceability from the competent district court. If the Brussels I Regulation is applicable and the legal proceedings were commenced on or after 10 January 2015, the party makes the application directly to the Swedish Enforcement Agency. Upon fulfilment of the necessary formality requirements outlined in the applicable convention or treaty, the court shall declare the foreign judgment enforceable. The party against whom enforcement is sought is not a party to the proceedings at this stage and, hence, is not permitted to plead its case during this stage of the proceedings. The proceedings are conducted on an ex parte basis.

Assuming the judgment is determined to be enforceable by the court, the declaration of enforceability must be served with the judgment to the debtor. The declaration of enforceability is at this stage possible to appeal. The appeal must be filed within one month of service of the declaration of enforceability to the district court.

The district court does not have the power to carry out the execution of judgments that are deemed enforceable

in Sweden. The execution of the foreign judgment is instead handled by the bailiff at the Swedish Enforcement Authority.

Article 13 of the 2019 Hague Judgments Convention stipulates that, in general, the procedure for recognition, declaration of enforceability or registration for enforcement, and the enforcement of judgment are governed by the law of the requested State. Therefore, the procedure described above will be applicable.

6. If applicable, what is the procedure for enforcement of foreign judgments under the general law in your jurisdiction?

See question 3 above.

7. What, if any, formal requirements do the courts of your jurisdiction impose upon foreign judgments before they can be enforced? For example, must the judgment be apostilled?

In general, the foreign judgment must be enforceable in the country of its origin to have the same effect in Sweden. Moreover, requirements such as a certified translation, may also be applicable. The Swedish courts impose only those formality requirements as set forth in the relevant instrument, e.g., pursuant to Article 42 of the Brussels I Regulation. The general rule is that the judgment does not have to be apostilled, but a certified copy is usually required in Sweden.

8. How long does it usually take to enforce or register a foreign judgment in your jurisdiction? Is there a summary procedure available?

It usually takes a couple of months to receive the declaration of enforceability from the district court. If the decision is appealed, it may take over a year to receive a final decision. There is not really a summary procedure available apart from what is already stated in the treaties and conventions. (Naturally, the actual execution performed by the bailiff at the Swedish Enforcement Agency may take longer and its decisions may be appealed on in relation to, inter alia, the seizing of assets, etc.)

9. Is it possible to obtain interim relief (e.g. an injunction to restrain disposal of

assets) while the enforcement or registration procedure takes place?

A party may apply for interim measures such as sequestration orders, suspension orders and other interim security measures, if a foreign judgment has been recognized and declared enforceable.

10. What is the limitation period for enforcing a foreign judgment in your jurisdiction?

The limitation period in Sweden is typically ten years with the possibility to extend the period by giving notice to the designated party. In specific situations a shorter period may apply. There is also no set time limitation for the enforcement of foreign judgments under the Brussels I Regulation, Lugano Convention and 2005 and 2019 Hague Conventions.

Article 13 of the 2019 Hague Convention covers the rules of the law of the requested State which stipulate a limitation period for enforcement of a judgment, unless the "Convention provides otherwise". Since Article 4(3) of the Convention prescribes that the judgment "shall be enforced only if it is enforceable in the State of origin", the limitation period for its enforcement in Sweden will depend on the relevant limitation period in the State where the judgment was made, thus it can be less than 10 years in particular cases. Article 4(3), however, does not preclude the requested State from refusing to enforce a foreign judgment if the applicable limitation period in the State of origin is longer than in the requested State, that is, more than 10 years in case of Sweden.

11. On what grounds can the enforcement of foreign judgments be challenged in your jurisdiction?

If any of the following conditions are met, refusal of recognition or enforcement may be considered if:

1. The judgment violates the rule of law in Sweden (ordre public).
2. The judgment conflicts with another judgment between the parties that has been ruled in another Member State.
3. The defendant was not properly served, or judgment was given in default of appearance.
4. A provision in a treaty has not been fulfilled, for example the provisions on exclusive competence in the

2005 Hague Choice of Court Convention.

In case the recognition and enforcement decision is sought under the 2019 Hague Judgments Convention, there might be additional grounds for postponement or refusal set out in Article 7 thereof.

12. Will the courts in your jurisdiction reconsider the merits of the judgment to be enforced?

No, the courts will not reconsider the merits of the foreign judgment. However, in order to be able to assess, e.g., whether the judgment violates ordre public in Sweden pursuant to Article 45 of the Brussels I Regulation, the court may examine the merits of the foreign judgment.

13. Will the courts in your jurisdiction examine whether the foreign court had jurisdiction over the defendant? If so, what criteria will they apply to this?

If the enforceability of the foreign judgment is based on the Brussel I Regulation, Lugano Convention, the 2005 Hague Choice of Court Convention or the 2019 Hague Judgments Convention, the enforcing court may, under certain conditions and for specific sorts of disputes, examine whether the foreign court had jurisdiction to decide the case. If the court finds that the foreign court lacked jurisdiction, this could be a justification for not recognizing and declaring the judgment unenforceable. It is necessary to refer to the specific legislation applicable in each case because this will be determined by a variety of factors such as the type of dispute, the legal basis for enforceability and the individual facts in the case.

14. Do the courts in your jurisdiction impose any requirements on the way in which the defendant was served with the proceedings? Can foreign judgments in default be enforced?

As a general rule the courts impose such requirements, and the court may dismiss an application for a declaration of enforceability if the defendant was not properly served. If the legal basis for the recognition and enforcement of a foreign judgment is the Lugano Convention, the Brussel I Regulation or the Hague Judgments Convention, the court can refuse enforcement of the judgment if the defendant was not served with a summons application or was served but

not in an adequate and timely manner to enable the party to prepare their defence or the case was determined in default of appearance. The specific legislation of the jurisdiction where the judgment was decided will in general regulate how the summons application should and will be served.

15. Do the courts in your jurisdiction have a discretion over whether or not to recognise foreign judgments?

No, not more than has already been stated (see, in particular, in respect to issues of ordre public).

16. Are there any types of foreign judgment which cannot be enforced in your jurisdiction? For example can foreign judgments for punitive or multiple damages be enforced?

As outlined in the general presumption above, any type of foreign judgment may be recognized and enforced in Sweden as such, and the court will not review the subject matter or merits of the case. The accepted general rule is that judgments ordering punitive or multiple damages can be enforced in Sweden.

17. Can enforcement procedures be started in your jurisdiction if there is a pending appeal in the foreign jurisdiction?

The general rule in Sweden is that a judgment does not need to be final in order for a party to commence enforcement proceedings. In general, if the applicable convention or treaty allows enforcement despite the existence of an appeal proceeding, such as the Brussels I Regulation, enforcement proceedings can be commenced. However, according to the 2005 Hague Choice of Court Convention, the opposite applies.

Moreover, in case the 2019 Hague Judgments Convention applies, since the judgment cannot be enforced in the requested State if it is not enforceable in the State of origin (see Article 4(3)), the enforcement will not be performed in Sweden if the enforceability is suspended in the State of origin due to the pending appeal.

18. Can you appeal a decision recognising or enforcing a foreign judgment in your jurisdiction?

Yes, the debtor will have one month, or two months if they reside outside of Sweden, to appeal the decision. See question 5 above.

19. Can interest be claimed on the judgment sum in your jurisdiction? If so on what basis and at what rate?

The enforcement of interest claims can only be enforced in Sweden to the extent the court of origin has stipulated in the judgment. If the judgment is silent on interest, then interest cannot be claimed on the judgment sum.

20. Do the courts of your jurisdiction require a foreign judgment to be converted into local currency for the purposes of enforcement?

The judgment debtor's payment in the currency stipulated in the judgment will always be accepted by the Swedish Enforcement Authority. Moreover, payment in any currency possible to convert, such as USD or EUR, will also be accepted.

21. Can the costs of enforcement (e.g. court costs, as well as the parties' costs of instructing lawyers and other professionals) be recovered from the judgment debtor in your jurisdiction?

In most cases, the court will rule that the judgment debtor is responsible for paying the legal costs in the event the decision of enforcement is unsuccessfully appealed by the judgment debtor. As a general rule, it is not possible to recover other costs. However, the work performed by the bailiff of the Swedish Enforcement Authority is free of charge, except for a minor registration fee.

22. Are third parties allowed to fund enforcement action in your jurisdiction? If so, are there any restrictions on this and can third party funders be made liable for the costs incurred by the other side?

Third party funding is allowed and there are no restrictions. The third party will, as a general rule, never be liable for costs incurred by the judgment debtor.

23. What do you think will be the most significant developments in the enforcement process in your jurisdiction in the next 5 years?

The main crucial development will be predetermined by the EU's accession to and Ukraine's ratification of the 2019 Hague Judgments Convention that started the countdown to the instrument's entry into force and may prompt other states to sign and ratify the document. Being an international instrument with a broader scope than the 2005 Hague Choice of Court Convention, i.e., not limited to only commercial contracts, the 2019 Hague Judgments Convention has a potential to create a universal mechanism of recognition and enforcement of foreign judgments in civil and commercial matters, as compared to the geographically limited Brussels I and Lugano Convention regimes.

Moreover, the prospective signature and ratification of the 2019 Hague Judgments Convention by the United Kingdom, which, as a result of Brexit, is currently only a party to the 2005 Hague Convention, would constitute a highly expected progress in the enforceability of judgments of courts from the UK.

24. Has your country ratified the Hague Choice of Courts Convention 2005? If not, do you expect it to in the foreseeable future?

The 2005 Hague Choice of Courts Convention was ratified by Sweden in 2015, following the EU's accession to the treaty in 2014. Before the ratification, Swedish case law supported the main principles in the Convention.

25. Has your country ratified the Hague Judgments Convention 2019? If not, do you expect it to in the foreseeable future?

As was mentioned above, the European Union acceded to the 2019 Hague Judgments Convention on 29 August 2022. This automatically made Sweden, as well as all other Member States except for Denmark, also a Contracting Party to the Convention without the need to additionally sign, ratify, accept, or approve it by virtue of the EU's subsequent declaration and the EU law, according to which the EU has the exclusive authority to ratify instruments that regulate this area on behalf of its Member States. The Convention will enter into force as between the EU and Ukraine on 1 September 2023. Sweden has also approved a law amendment that enters

into force on 1 September 2023 and complements the 2019 Hague Judgment Convention in relation to specific

procedures, such as from which court a party shall apply for a declaration of enforceability.

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