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Questionnaire SWEDEN

European Order for Payment Procedures (EOPP No. 1896/2006)

and

European Small Claims Procedure (ESCP No. 861/2007)



European Order for Payment

- Competent authority = Swedish Enforcement Authority (*Kronofogden*)
 - Act (2008:879) concerning a European Order for Payment (*lag om betalningsföreläggande*)
 - Regulation (2008:892) on a European Order for Payment (*förordning om europeiskt betalningsföreläggande*)
- Application by mail in Swedish or English
- Application fee SEK 300 (appr. EUR 30)
 - Must be paid in advance



Service

- Enforcement Authority is responsible for service
- Service with receipt of acknowledgment
 - Act on Service (2010:1932) (*delgivningslagen*)
 - National level: digital service if a debtor has digital mailbox

If the Enforcement Authority fails to serve, the application is dismissed
(*cf.* § 6 Act [2008:879])

**The time frame to serve varies extremely according to the
Enforcement Agency**



Response to service

- Sign acknowledgment of receipt (service receipt) and return it in the envelope included, or
- Send an e-mail to the Enforcement Authority + case number + the name of the debtor + social security number + the name of the applicant and/or legal representative

The acknowledgment of receipt is evidence that the debtor has received information on the claim



Requirements before issuing an EOP

- Does the application fulfill formal requirements?
 - Civil and commercial matters (Art. 2)
 - Cross-border case (Art. 2)
 - Applicable in time (Art. 33)
- A summary control of cause of action. Is the claim well-founded?
 - Not obviously unfounded
 - Point of departure is the information provided by the applicant
- ❖ A decision issued in 30 days after the fee of SEK 300 has been paid



Debtor's alternative

- What happens next depends on the debtor
 1. Comply with the claim
 2. Does not contest, and does not comply with the claim
"The passive situation"
 3. Contest the claim within 30 days
The defence must be signed by the debtor, otherwise not dealt with



1. If the debtor complies with claim and pays?

- If the debtor pays, he or she shall inform the Enforcement Authority in writing = the applicant withdraws the claim
- The Enforcement Authority close the case after applicant's message that he or she withdraws the claim



2. Does not contest, or comply with the claim?

If the debtor does not contest, and does not pay

- The Swedish Enforcement Authority issues a decision that the EOP is enforceable
- The decision is sent appr. 32-35 days to debtor
 - 30 days opposition

A decision to declare EOP enforceable cannot be appealed in Sweden, § 12 Act (2008:879)



3. If the claim is contested?

- If the claim is contested, the case will be transferred to court
 - If the applicant so requests
 - The debtor "dispose of" the applicability of the Regulation
- The Enforcement Authority will close the case
 - The case will also be closed if the applicant does not request a transfer of the case to court
- The court will try whether the claim is correct or not, in a summary fashion

To contest a claim in court may entail additional expenses

- Additional fees = court fee SEK 900 (appr. EUR 90), additional fee SEK 600 (appr. EUR 60) for the transfer of the case, and costs for litigation



Lis pendens

- PROBLEMATIC IN SWEDEN!
- Enforcement Authority ./.. District court
- Sec. 13 § 6 of the Code of Judicial Procedure
- Case: Parliamentary Ombudsmen (JO), Dnr 4131-2007



Swedish National Procedures

- Act (1990:746) on payment orders and judicial assistance (*lag om betalningsföreläggande och handräckning*)

1,2 million national payment orders

Year 2020: 350 EOPs (previously 150)

- Differences compared to national small claims procedure:
 - Under Swedish national law an application can be made digitally, this is not the case for EOP → An application must be filed on the Standard Form
 - Decision valid and enforceable in EU, save Denmark
 - No need to attend court proceedings



Latest Swedish Case Law

- DIFFICULTIES
- PROBLEM NO OVERVIEW

- Juno Database – keywords
- InfoTorget – notices of important case law
- Case number – contact with each court



European Small Claims Procedure

- Competent authority = district court (tingsrätt)
 - Act (2008:1038) on European Small Claims Procedure (*lag om europeiskt småmålsförfarande*)
- Court fees = SEK 900 (appr. EUR 90)



Counterclaims in the European Small Claims Procedure?

- If a Swedish court has jurisdiction concerning the main claim, it also has jurisdiction concerning a counterclaim
 - *Cf.* Art. 8(3) Brussels I Regulation 1215/2012
 - Only if the counterclaim is founded on the same contract or facts as the main claim

If counterclaim exceeds EUR 5 000 (Art. 2.1), the claim and counterclaim not proceed within the ESCP Regulation, but according to national procedural law (Art. 5.7)



Swedish law on counterclaims

- Sec. 10 § 14 Code of Judicial Procedure (1942:740) (*Rättegångsbalk*)
 - The court with jurisdiction to hear the main claim, has jurisdiction over a counterclaim
- Sec. 14 § 3 Code of Judicial Procedure = join cases if same or connected cause
- Sec. 14 § 7 Code of Judicial Procedure = same "form" of litigation is applicable to claim and counterclaim



Swedish Remedies?

- Appeal
 - Handed in to district court within three weeks, § 6 Act (2008:1038) → Court of Appeal → Swedish Supreme Court
- Reopening
 - Default judgments = an application for reopening shall be handed in to the district court within one month, § 5 Act (2008:1038)
- Art. 18 Review of the judgment



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Thank you for your
attention!