

**Train 2 EN4CE** Project is being funded by the European Union's Justice Programme (2014-2020)



# Questionnaire SWEDEN

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

and

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



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## 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

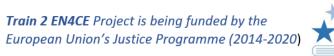




#### Debtor's alternative

- 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"
  - 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 applicablility 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

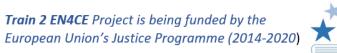




## Lis pendens

- **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)



#### ★ ★ ★ ★ Train 2 EN4CE

#### 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





# Thank you for your attention!