

ONE-MINUTE GUIDE TO SWEDISH LAW – PART 1

Swedish Legal System

Sweden has a civil law system of the Nordic subgroup. The Swedish constitution is based on four basic laws. One of these basic laws, the Freedom of the Press Act, is one of the oldest of its kind. Written law is the highest source of law, supplemented inter alia by preparatory work of the law concerned and precedent from the courts of highest instance. Laws are passed by the Swedish Parliament. Since Sweden is a member of the European Union, Swedish law is subject to European Union law.

Contracts

Swedish contract law is based on freedom of contract. Some rights and obligations in contractual relations are set forth in law, although such only apply unless otherwise agreed as a general rule. Exceptions include consumer protection regulations for instance. In case of uncertainty regarding the meaning of a contract, it shall primarily be determined by the mutual intention of the parties at the time when the contract was concluded. Contracts do not generally require certain form for validity but there are exceptions, such as contracts concerning real estate acquisitions.

Employment

Employees in Sweden generally benefit from high protection of employment by law. Important regulations are set forth in the Employment Protection Act. The requirements for dismissal of employees are high and the dismissal process is highly regulated. In case of dismissal due to redundancy, employees shall be dismissed by order of time employed. Some employees are excluded from the Employment Protection Act, for example employees in leading positions. Employment law is widely supplemented by collective agreements. There are extensive negotiation rights by law and a large proportion of the working population are members of trade unions.

Marketing Practice

In Sweden, there are regulations and restrictions regarding marketing of products. All marketing shall be performed pursuant to good marketing practice. In essence, marketing may not be deceptive, aggressive, or otherwise improper. There are specific restrictions for the sale and marketing of certain products, such as alcohol, tobacco, gambling, pharmaceuticals and financial products. There are regulatory authorities and sanctions may be imposed if marketing is performed in breach with legal requirements. There is also a self-regulatory organisation, the Swedish Advertising Ombudsman. The Swedish Advertising Ombudsman receives complaints against commercial advertising and provides guidance for good marketing practice based on the Consolidated ICC Code.

Real Estate

There are no general restrictions for foreign investors to acquire or lease real estate in Sweden. However, the use of the property may be restricted for any owner or usufructuary due to planning or

environmental regulations for example. Real estate acquisition contracts and certain types of land lease contracts require certain form for validity. All ownership records and many land lease records are kept in a public real estate register. There is a constitutional right to roam in Sweden known as *allemansrätten* that gives any person the right to access privately or publicly owned land and use certain resources like picking fruit and berries. The right is not without restrictions. For example, it does not apply to private gardens and may be restricted in nature reserves and other protected areas.

Public Procurement

The value of public procurement in Sweden corresponds to roughly 1/6 of Sweden's BNP. Public procurement is regulated by several laws. EU Directives have been implemented, which for instance means that free movement within the EU internal market must not be limited as a result of public procurement and that the process must be transparent, fair and non-discriminatory. The result of a public procurement process may be appealed to an administrative court for reviewing.

Corporate reorganization and insolvency

If a company becomes insolvent, a district court may declare a debtor bankrupt following an application by the debtor itself or a creditor. When bankruptcy is declared, the court appoints a trustee to manage the bankruptcy estate. The trustee's assignment is to utilise the assets of the bankruptcy estate in favour of the creditors jointly. The assets in a bankruptcy estate includes everything that belonged to the debtor, but also assets returned to the bankruptcy estate as a result of clawback actions.

In some cases, a company with financial difficulties may avoid bankruptcy by reconstruction, a procedure governed by law, usually involving renegotiation of delinquent debts. A basic qualification for reconstruction is that there is a prospect for the company to eventually become profitable. In similarity to bankruptcy procedures, reconstructions are managed by a trustee appointed by the court. A trustee is also appointed in cases of liquidation, the process of dissolving a company in Sweden that is not insolvent.

Financial Family Law

Inheritance succession is governed by law in Sweden, but may be altered by a will. However, children of the deceased are entitled to a statutory share of inheritance equal to half of the property that would have been inherited by the heir notwithstanding the will. There are strict form requirements for wills. As of late 2004, there is no inheritance tax in Sweden.

As to marriage, the property of a spouse becomes marital property in marriage and the marital property shall be divided equally between the spouses after a divorce as a general rule. The spouses may agree otherwise. Similar rules apply for unmarried partners, although only two types of property may become such common property by law equivalent to marital property.

In case of disputes regarding the distribution of property, in both situations mentioned above, the court may appoint an estate administrator to decide on the distribution of the estate. Such decision may be appealed.

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The purpose of the “one-minute guide” is to give you a brief introduction to Swedish law only, based on the legislation as of 2019. It cannot substitute legal advice.