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General Direction Justice and Home Affairs
Unit A3 Judicial Cooperation in civil matters
JAI/A3/2001/03

**STUDY ON MATRIMONIAL PROPERTY REGIMES
AND THE PROPERTY OF UNMARRIED COUPLES
IN PRIVATE INTERNATIONAL LAW AND INTERNAL LAW**

ADDENDUM
SWEDEN

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Addendum to Swedish report in project No JAI/A3/2001/02 regarding the practical functioning of the private international law regarding matrimonial law.

1. Research of court cases

A search on the key word “dissolution of marriage” (Sw. *äktenskapsskillnad*) among cases from the Swedish Supreme Court and Courts of Appeal decided during the period 1990 to 2002 and published on the data base www.infоторget.sema hits 20 relevant cases among 202 decisions. The cases are divided according to the following:

* Six decisions regard *enforcement* of a foreign decision on *maintenance* to a former spouse. These are the cases NJA 2000C68, NJA 1999C74, NJA 1996C10, NJA 1995C57, NJA 1995C22 and NJA 1993C32.

* Six decisions regard *recognition of foreign decisions on dissolution of marriage*. These are the cases NJA 1997C91, NJA 1993C65, NJA 1993C81, NJA 1992C12, NJA 1992C1 and NJA 1991C141.

* Five decisions regard Swedish jurisdiction in divorce cases, foremost in regard to asylum seekers without domicile in the country. These are the cases NJA 1996C48, NJA 1995 p. 238, NJA 1994 p. 302, NJA 1991A2 and RH 1993:76

* One decision relates to *choice of law* regarding the commencement of divorce proceedings (RH 1999:48).

* One decision regards a polygamous marriage (RH 1994:74).

* One decision on maintenance to a former spouse according to Islamic law includes issues on *choice of law* and *ordre public* (RH 1993:116).

A similar search on “international” (Sw. *internationell*) hits 180 cases from the Swedish Supreme Court and Courts of Appeal published on the data base

www.infоторget.sema and decided during 1990 to 2002 hits 9 cases that are relevant to the current issues. The cases are divided according to the following:

- * Five cases (NJA 1996C48 and NJA 1995 p. 238, NJA 1994 p. 302, RH 1993:76 and RH 1993:76) regard Swedish jurisdiction on divorce.
- * Two cases (NJA 1997C91 and NJA 1993C65) regard recognition of foreign (American and Serbian) judgements on divorce.
- * Two cases relates to maintenance issues (RH 1993:116 and RH 1992:83).

A search on “division of property” (Sw. *bodelning*) on cases from the Swedish Supreme Court and Courts of Appeal decided during the period 1990 to 2002 and published on the data base www.infоторget.sema hits but one relevant case among 140 cases.

- * This is the case RH 1993:116 which relates to maintenance (See above).

A search on the key word “marriage contracts” (Sw. *äktenskapsförord*) among cases from the Swedish Supreme Court and Courts of Appeal decided during the period 1990 to 2002 and published on the data base www.infоторget.sema hits one relevant cases among 31 decisions.

- * This is the case NJA 1997 p. 37 regarding registration of a marriage contract including a choice-of-law clausul.

Note also 2.4.3.1 regarding information obtained from the Svea Court of Appeal in answer to a written request, 8 April 2002. According to the Svea Court of Appeal it is most unusual with requests for enforcement of foreign court decisions regarding property of spouses or former spouses.

2. Views expressed by practitioners

According to Swedish practitioners foreign court orders on maintenance to former spouses may pose significant problems. This is due foremost to the fact that Swedish court orders on life-long maintenance to a former spouse are virtually non-existent and the amount of maintenances for transitional periods are set to comparatively low amounts.

3. Some numerical data

- * Of the Swedish population 11, 3 per cent are foreign born, 5, 4 per cent are foreign citizens.

- * The groom where not registered in Sweden in 2 495 marriages out of 37 400 marriages entered into during the year of 2000.

- * 21 502 divorces took place during the same year.

Sweden

Population by marital status, period and type

Source: www.scb.se

	1990		1995		2000		2002	
	Population	Foreign citizens	Population	Foreign citizens	Population	Foreign citizens	Population	Foreign citizens
Single	3.997.691	241.652	4.283.982	259.099	4.419.932	222.757	4.495.509	220.634
Married	3.424.305	191.349	3.287.301	211.130	3.138.386	186.919	3.104.890	185.181
Widowers/widows	572.077	9.689	565.578	12.159	541.498	12.787	527.527	12.650
Divorced	596.557	41.014	700.635	49.409	782.976	54.849	812.862	55.634

Sweden Foreign-born persons by marital status, period and type

	2001		2002	
	Foreign-born persons	Population	Foreign-born persons	Population
Single	347.613	4.456.408	357.396	4.495.509
Married	474.885	3.118.989	484.181	3.104.890
Widowers/widow	50.962	534.910	51.784	527.527
Divorced	154.514	798.821	160.102	812.862