

SWEDEN

Global litigation guide



About

Welcome to The Global Litigation Guide (the **“Guide”**) which has been prepared by DLA Piper’s civil litigation experts around the world for the purpose of presenting key aspects of civil litigation in jurisdictions in which DLA Piper operates.

For each country, the Guide focuses on the following aspects:

- Overview of court system
- Limitation
- Procedural steps and timing
- Disclosure and discovery
- Default judgment
- Appeals
- Interim relief proceedings
- Prejudgment attachments and freezing
- Costs
- Class actions

This global Guide provides practitioners, in-house counsel and clients with a comparative source of reference that covers some of the intricacies of civil litigation in 30 jurisdictions worldwide. DLA Piper has prepared separate guides that deal with matters that are closely related to civil litigation, such as DLA Piper’s guide to [Legal Professional Privilege](#) and (coming soon) DLA Piper’s guide to Third Party Funding. Criminal or administrative litigation (as well as litigation relating to other specialist areas of law that require different procedures such as tax and employment) are outside the scope of the Guide.

The Guide is not a substitute for legal advice. Should you have a civil claim, or if you would like further information, please contact any of the individuals listed in the Guide.

About DLA Piper

DLA Piper is a global law firm with lawyers located in more than 40 countries throughout the Americas, Europe, the Middle East, Africa and Asia Pacific, positioning us to help clients with their legal needs around the world.

For further information visit www.dlapiper.com.

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Sweden

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Overview of court system

Sweden has a civil law tradition. There are three levels of civil courts in Sweden:

- District Courts;
- Courts of Appeal; and
- the Supreme Court.

Which District Court has jurisdiction to hear a dispute usually depends on the domicile of the defendant, but other criteria may apply depending on the type of dispute (e.g. in real estate disputes and consumer disputes).

Limitation

Should a party wish to commence proceedings in Sweden, it must bear in mind that a claim must be filed within the general ten-year statutory limit, except for business to consumer claims, which must be filed within two years. The time limit can be renewed by service of notification of the debt, service of application of summons or enforcement measures.

Procedural steps and timing

A typical civil lawsuit in Sweden starts with the claimant's summons application. The summons application must contain the claimant's requests for relief and the legal grounds to support them. It should also include a preliminary statement of evidence but, in practice, claimants are permitted to submit the statement of evidence once the matters in dispute have been clarified further to avoid unnecessary litigation costs.

A writ of summons is then issued by the court and served on the defendant. The defendant is normally granted two weeks for filing its statement of defense. Depending on the nature and complexity of the case, the court may request further clarification and / or elaboration from the parties in writing, usually within two weeks for each submission, and a preliminary court hearing is scheduled within a few months (although, in practice, the time may vary considerably depending on the court's workload). The main purposes of the preliminary hearing are to fix a timetable for the remainder of the case and to focus the case on the issues in dispute to avoid unnecessary evidence and pleadings. The judge also has a statutory obligation to try to settle the dispute, which is a fairly common outcome of preliminary hearings. After the hearing, the court will request the parties to submit their final statements of evidence and the main hearing is scheduled.

In a straightforward civil lawsuit, the time from serving the writ until the preliminary hearing will be 3 to 6 months, and the main hearing will usually be held in approximately 12 to 18 months. The judgment is handed down within a few weeks of the main hearing. The proceedings can, of course, be far lengthier if the case is complicated.

Legal representation is not mandatory in civil cases. Where parties are represented, it is not necessary for counsel to be admitted to the Swedish bar or even to hold a law degree to be allowed to appear.

Disclosure and discovery

In Sweden, the parties must present evidence to substantiate their claims but are free to determine which evidence they want to rely on. Practically everything is admissible and will be evaluated freely by the court, which will also decide the weight to give to each piece of evidence. The court will typically make no investigations of its own or assess evidence other than that which the parties have presented.

It is possible to request documents to be produced by the other party or third parties, but fishing expeditions are not permitted. The requesting party should identify the specific documents – or a narrowly defined category of documents – it is seeking and it must have a legitimate interest in seeking them. Furthermore, the applicant must show that the requested documents are relevant to the matter in dispute. The request is not limited to hard copy documents and can entail any (electronic) device holding information. After hearing the opposing party, the court will decide on the request. Attorneys and certain other professionals may refuse disclosure on the grounds of protecting legal professional privilege, and documents containing trade secrets may also be exempt from being disclosed. The court may only order a party to produce documents when they are requested by the other party, and thus a document production order cannot emanate from the court's discretion.

Default judgment

If a defendant fails to appear in the proceedings in person or through an attorney, the claimant may be awarded a default judgment. In the default judgment, the court will award the relief sought by the plaintiff in the statement of claim, unless the relief in question is evidently unfounded.

A defendant confronted with a default judgment has the option to object within one month to the court that has rendered the default judgment, in which case the matter will be re-opened.

Appeals

If a party wishes to appeal a judgment of a District Court, the party is required to seek leave to appeal from the Court of Appeal. The timeframe to request such leave is three weeks from the date of the District Court's judgment. After that timeframe, only extraordinary grounds for appeal are allowed. There are three such extraordinary grounds under Swedish law, namely if:

- a new trial is possible due to new evidence becoming available which could not have been brought in the first trial;
- the party for some extraordinary reason was unable to file an appeal within the stipulated time; and
- if the appellant alleges a serious procedural error.

The three grounds may all lead to an overruling of a judgment that has entered into legal force. It is, however, very rarely seen in Swedish civil law cases. The timeframe in which the Court of Appeal usually resolves appeals of District Court judgments is usually about 12 months.

The Supreme Court generally only deals with legal precedents (i.e. when it is deemed important to establish a precedent for the lower courts), and it is necessary to obtain leave to appeal in the Supreme Court. Leave to appeal must be sought within four weeks of the date of the Court of Appeal's judgment. The Supreme Court usually decides on leave to appeal within 3 to 4 months and resolves the appeal within 6 to 24 months of granting leave to appeal.

Interim relief proceedings

The Swedish judicial procedure provides tools to obtain interim relief. The (prospective) claimant may request interim relief during or prior to the initiation of substantive proceedings. The type of relief that may be granted will depend on the measures that are required to secure the claimant's interests until the case is decided. The most common types of interim relief are attachment or freezing of assets (for further detail see [Prejudgment attachments and freezing orders](#)) or prohibition to perform certain actions i.e. breach a non-compete clause.

Prerequisites for obtaining interim relief are:

- that the claimant can show that the claims have reasonable merit;
- that the relief sought would be in jeopardy unless the measure is granted; and

- that the claimant can provide sufficient collateral for the possible damage caused by the interim relief.

If the court is satisfied that the prerequisites are met, the relief can be granted before the defendant has been served. If the relief sought is granted, the claimant must initiate the proceedings or arbitration within one month.

A claim for interim relief may be granted within a day, and no later than within a week of filing the application for interim relief. The defendant may appeal against an interim relief judgment within three weeks. As in almost all Swedish court proceedings, representation by an attorney is not mandatory.

Prejudgment attachments and freezing orders

In Sweden, prejudgment attachments / freezing orders are types of interim relief. A request to attach / freeze assets of a debtor should be filed in the court that will hear the substantive claim (or is hearing the substantive claim if the request is made while the proceedings are pending). All assets that may be subject to enforcement (for example, immovable and moveable assets, claims on third parties and shares) may be attached or frozen.

The judge will assess whether the evidence *prima facie* supports the creditor's claims and may decide not to hear the debtor's response before granting the measure (i.e. the measures may be granted *ex parte*) if there is a risk that the property will be disposed of in the meantime. A prejudgment attachment must be followed by a claim on the merits within one month, otherwise the attachment will be lifted. The creditor can be held liable for damage inflicted on the debtor by the attachment.

Costs

Court fees are low in Sweden (about EUR300). Payment of this court fee is made by claim, meaning that it will need to be paid once:

- by the claimant when filing the writ of summons; and
- by the defendant when (and if) filing a counterclaim.

Aside from the court fee for application, there are no more fees to the court in civil proceedings.

In terms of recovery of attorney fees and other disbursements the losing party will usually have to pay all of its own costs and the reasonable costs incurred by the opposite party. If the parties are successful and unsuccessful on different issues of the case, the court may order them to cover the costs *pro rata* in accordance with their relative success, or carry their own costs.

Class actions

In Sweden, class actions are heard by 21 designated District Courts, with at least one located in each county. Class actions based on environmental law are examined by one of the five District Courts that are designated as environmental courts. Disputes between consumers and business operators can be brought as group actions by the Consumer Ombudsman before the National Board for Consumer Disputes.

A class action may be filed by private individuals, organizations (in respect of consumer law or environmental law matters) and public entities such as the Consumer Ombudsman or the Environmental Protection Agency.

The prerequisites for initiating a class action include:

- that the group can be identified and defined;
- that the action is based on circumstances that are common for all the members of the group; and
- that a class action is appropriate.

There is no minimum number of claimants required before a group action can be brought. If the court finds that all of the above conditions are satisfied, the action will proceed as a group action under the Group Proceedings Act. Otherwise, the court will dismiss the action.

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