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# Matrimonial property regimes



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European Judicial Network  
(in civil and commercial  
matters)

## 1 Is there a statutory matrimonial property regime in this Member State? What does it provide?

Yes, there is such a system in place. It contains rules on maintenance obligations between spouses during and after marriage. It also lays down rules on rights and obligations during and after marriage in respect of spouses' assets and liabilities, common residence and household effects, and any gifts they have given each other.

## 2 How can spouses arrange their matrimonial property regime? What are the formal requirements in this case?

Spouses can have assets of two kinds: marital property and individual property. All property of a spouse is deemed to be marital property unless it is individual property. As a general rule, marital property is to be included in any division of property. Property can be made individual in the following ways:

- a) by marriage contract; this must be in writing, dated and signed by the spouses and registered with the Swedish Tax Agency.
- b) by conditions in the case of gifts;
- c) by terms in a will;
- d) by the express wish of a beneficiary in respect to life insurance, accident insurance, health insurance, personal pension savings or savings in a PEPP (Pan-European Personal Pension) product.

## 3 Are there restrictions on the freedom to arrange a matrimonial property regime?

Yes, there are restrictions. For example, there are safeguards that apply during the marriage with regard to the common residence and household effects of the spouses. A spouse may not sell, rent out or dispose in any other way of property constituting the common residence of the spouses without the consent of the other spouse. The rules even apply if the property is individual under the marriage contract, but not if the property is individual as a result of terms in a gift or will. Another example applies to the division of property. The spouses' common residence and household effects will be allocated to the spouse who is most in need of the property. This may, under certain conditions, apply even if the property is wholly owned by the other spouse. The spouse to whom the joint residence is assigned must then compensate the other spouse in other property or money. Another example relates to the death of one spouse. The surviving spouse then has the right to receive property of a certain minimum value, even if such property is individual property or has been left in a will to someone else.

## 4 What are the legal effects of divorce, separation or annulment on the matrimonial property?

There are no rules on legal separation or marriage annulment in Swedish law. A marriage is dissolved in Swedish law by the death of one spouse or by divorce. When a marriage is dissolved, the property of the spouses is divided between them through the division of the estate. In some cases, there may be a right to maintenance, at least for a transitional period, for one of the spouses.

## 5 What are the effects of death of one of the spouses on the matrimonial property regime?

A marriage is dissolved in Swedish law by the death of one spouse or by divorce. When a marriage is dissolved, the property of the spouses is divided between them by division of the estate. In the event of the death of one of the spouses, it is the deceased spouse's heirs and testamentary heirs who must divide the estate with the surviving spouse. However, joint heirs in the direct line must wait for their inheritance until both spouses have died.

## 6 Which authority has the competence to decide in a case relating to a matrimonial property regime?

The division of the estate can be done by the parties themselves. If the parties agree, the only formal requirement is that the division of the estate be made in writing and signed by both parties. If the parties fail to reach an agreement, a court may appoint an executor to decide on the division of the estate. The parties may challenge the executor's decisions in court.

## 7 What are the effects of the matrimonial property regime on legal relationships between a spouse and a third party?

Each of the spouses is liable for their own debts. Thus, the creditors of one spouse are not entitled to be paid out of the property of the other spouse, whether that property is marital property or that spouse's individual property. There are also rules to protect creditors from a situation where property is jointly withheld by the spouses. For example, a spouse cannot decide to include his or her individual property in the division of property if the purpose is to escape a creditor's claim.

## 8 A short description of the procedure for the division, including partition, distribution and liquidation, of matrimonial property in this Member State.

As a general rule, marital property is to be included in any division of property. However, there are a number of exceptions. Each spouse may remove as much of his or her marital property as corresponds to his or her debts. Each spouse may also remove clothing and other property used personally, as well as any personal gifts.

Certain pension entitlements can also be excluded from the division of the estate. The value of the remaining marital property will then normally be shared equally between the spouses. If the property is divided by lot, each spouse has the right to his or her own property as a matter of priority. Special rules exist in relation to shared housing and household effects.

## 9 What is the procedure and documents or information typically required for the purpose of registration of immovable property?

Anyone who acquires immovable property with ownership must apply for title thereto with the land registration authority (*Lantmäteriet*). However, a spouse or cohabitee who obtains immovable property through division of the estate is not required to seek title to the acquisition except where the property previously belonged to the other spouse or cohabiting partner. In the case of acquisition by division of the estate, the instrument of division

of the estate must be submitted with the application for property title.

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