

Adapting rights in rem - Sweden

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1 Which are the rights in rem that could arise from a succession under the law of this Member State?

In principle, any person who receives property by succession takes over the property with *full ownership rights*. If the deceased was married, the estate is to go to the surviving spouse with *free right of disposal*. This means that the spouse can do whatever he or she wants with the property during his or her lifetime – even use it up completely – but may not dispose of it by will. Nor may the spouse cause a substantial reduction in his or her property by gift or any other comparable act without due consideration for the first deceased's heirs.

Furthermore, the deceased can stipulate by will that someone is to receive *usufruct* over the property. Unless otherwise stipulated by will, the usufructuary manages the property and is entitled to any income from it but must also pay any necessary costs for the property. The usufructuary must also take into account the owner's rights and best interests and may not transfer the usufruct. The owner of the property may not transfer or otherwise dispose of the property without the usufructuary's consent.

2 Are these rights in rem recorded in a register of rights in immovable or movable property and, if so, is such recording compulsory? In which register(s) are they recorded and what are the registration requirements and procedure?

Anyone who has acquired immovable property with ownership rights must apply for the acquisition to be registered (registration of title) in the land register which is kept by the *National Land Survey of Sweden (Lantmäteriet)*. As a general rule, the application should be made within three months of the acquisition. Any person applying for registration of title must submit the acquisition deed and the other documents that are necessary to substantiate the acquisition. In the case of a purchase, this means that the purchase document must be submitted. If the property is acquired by inheritance, it is in some cases (if there is only one party to the estate) sufficient in principle to submit the registered estate inventory in the original, together with a certified copy. In other cases, the estate distribution document must also be submitted in the original and with a certified copy. Other documents may also be required to be submitted, such as the consent of the chief guardian if a party to the estate is under age or legally incompetent. In some cases, registration of title may be sought through the submission of a will which has gained legal force instead of an estate distribution document.

Usufruct which has been granted through a written document is to be entered in the land registry. Applications for registration are to be made to the *National Land Survey of Sweden*, and the document submitted on which the entitlement is based.

Rights in rem in movable property are not registered.

3 Which effects are linked to the registration of the rights in rem?

The person who applied for registration of title most recently is regarded as the owner of the property.

As a general rule, if usufruct has been registered, it applies to a new owner of the property.

4 Are there specific rules and procedures in place for the adaptation of a right in rem to which a person is entitled under the law applicable to the successions in case the law of the Member State in which the right is invoked does not know such right in rem?

No.

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