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TENLAW: Tenancy Law and Housing Policy in Multi-level Europe

National Report for

SWEDEN

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ZERP Tenancy Law Project

Country report on Sweden

Part 1: Housing situation and housing policies (space: 40-70 pages, 1 space, 12pt)

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1. The current housing situation

1.1. General Features

A. Historical evolution of the national housing situation and housing policy

- Please describe the historic evolution of the national housing situation and housing policies briefly.
    - In particular: Please describe briefly the evolution of the principal types of housing tenures from the 1990s on. Explain the growth and decline of the different tenures and the reasons why that happened (e.g. privatisation or other policies).
    - In particular: What is the role of migration within the country, immigration or emigration from/towards other countries inside and outside the EU (including war migration as in Ex-Yugoslavia)

In conjunction with the industrial revolution in the late 1800s, construction of apartment buildings started to house the workforce. As the working class in the cities grew, tenancies became a social issue. The industrialization of Sweden did not just mean urbanization, but also a new way of looking at tenancies. Liberal ideas of freedom of contract and the owner's right to freely dispose of their property broke through. These were expressed in the act from 1907[1] (The act on access right to immovable property/Lag om nyttjanderätt till fast egendom) that regulated jurisdictions such as rent, leasehold and tenancy. It was very market liberal. The law was based on a virtually unlimited freedom of contract. It contained no binding rules on tenure, the provisions of the individual lease was supposed to govern it instead. This law can be said to have laid the foundations for the modern rent act.

However, this unlimited freedom of contract was found to have negative social effects. Especially in times of crisis and war, it became apparent that the liberal ideas did not work effectively. Shortage situations were used by property owners to raise rents in a way that was not socially acceptable. Therefore a temporarily price regulation on tenure was introduced already during the First World War. The Rent Increase Act (Hyresstegringslagen)[2] forbade rent increases and termination of contract without the approval of the Rent Tribunal. The temporary regulation was prolonged one year at a time but in 1923 the Parliament decided not to prolong it and it ceased.

In the political debate after the war voices were raised that security of tenure should be permanently introduced in rental law. In connection with the abolishment of the Rent Increase Act in 1923, a commission was appointed which would suggest some reforms in the legislation. However, no changes in the legislation was made. The issue of tenants' security of tenure was debated in the Parliament on many occasions during the 1920 and 1930's, but permanent rules on security of tenure were not introduced until 1939[3] by changes in the act from 1907. These rules resulted in an "indirect" security of

[1] SFS 1907:36
[2] SFS 1917:219
[3] SFS 1939:364

tenure which entitled the tenant damages for unjustified termination of the contract. Damages were limited to largely cover the cost of moving.

Three years later, in 1942, a temporarily regulation was once again introduced due to the Second World War. The rent control act (Lag om hyresreglering m.m.)[4] came into force. It contained a general prohibition on rent increases, as well as a "direct" security of tenure. The rents were practically fixed to the levels prevailing in 1942, and a rent increase needed permission from the authorities. The security of tenure meant that a balancing of interests should be made between the tenant and the landlord. This balancing were in many cases settled in the tenant's favor and the practice was therefore that the tenancy normally was extended. It is worth mentioning that government price regulations was not only limited to the rental market, but also to the market of cooperative apartments. The Cooperative Control Act (Lagen om kontroll av upplåtelse och överlåtelse av bostadsrätt m. m.)[5] was introduced in 1942 and controlled transfer prices of cooperative apartments. However, this time the rent control and the price control of cooperative apartments was kept when the war ended.[6] In 1969 the price control of cooperative apartments was abolished and transfer prices for cooperative apartments were freed. This development meant increasing differences between the different tenures although the trade with cooperative apartments still was subject to other restrictions.

The rent control was gradually phased out, and in 1956 the Security of Tenure Act (besittningsskyddslagen)[7] was introduced. The introduction of this act also marked a significant change in the approach to rents. The principle of authority determined rents was abandoned in favor of a comparative trial with similar apartments. For the first time the connection was made that the ceiling of the rent shall be determined by a comparison with other tenancies in the locality. This idea still remains in the current tenancy law even if the terms and conditions have changed. The Security of Tenure Act of 1956 was intended to be temporary, and the Government appointed new investigations of the rental law both in 1957 and 1963.[8] This led to a bill on the reform of the rental law tabled by the Government in 1968.[9]

The reform of the rental sector was comprehensive but some parts were kept of the act from 1939 and in part, even of the act from 1907. The government proposal was passed by the Parliament and the new rules came into force in 1969.[10] The act was introduced almost unchanged into The Swedish Land Code of 1970 (Jordabalken)[11], which contains statutory rules about real estate. The provisions on tenancy are contained in Chapter 12, often called the Tenancy Act. This framework has subsequently come to be called the 'utility value' system, i.e. that rents shall be determined by a comparison with similar

[4] SFS 1942:429
[5] SFS 1942:430
[6] Swedish Board of Housing, Building and Planning, "Bostadspolitiken - Svensk politik för boende, planering och byggande under 130 år", (2007) p. 75
[7] SFS 1956:568
[8] SOU 2000:33 pp. 15-18
[9] Prop. 1968:91
[10] SFS 1968: 346
[11] SFS 1970:994

tenancies in an area. With the new rules a permanent security of tenure was introduced, which meant a restriction on ownership and thus a departure from the principles of the act from 1907. In 1974 it was legislated that rental trials should primarily be done through a comparison with rents in the public housing stock.[12]

Until the First World War, it was mainly private actors constructing housing in Sweden. The government and the municipalities lacked instruments to influence housing construction. Apartment buildings were built on speculation and market forces ruled entirely. But during the great housing distress that arose in the late 1910s the cities started to intervene themselves and built shelters to alleviate the housing shortage. In the 1930s, Sweden had very low-quality housing compared to the rest of Europe, and overcrowding was a major problem. In the postwar period from 1946 until the 1960's the biggest challenge for the housing policy was the shortage of apartments with adequate space and equipment. There was a housing shortage due to the increased urbanization and the housing stock was outmoded.[13] During that time the population living in urban areas rose from 60 to 85 per cent. This redistribution of the population together with an increased number of one and two-person households led to a greater demand for housing.[14]

HSB (Hyresgästernas Sparkasse- och Byggnadsförening) was formed in 1923 by the Swedish Union of Tenants in Stockholm. The aim was to build and manage good and affordable housing for its members. HSB quickly became a major construction company and to build and manage good housing with low housing costs was an important driving force. But the quality and well-being was also important visions of the accommodation. In the 30's HSB began to build efficient housing that would be functional and fit families' every need. Rather than build a room and kitchen, more efficient floor plans was chosen with a small kitchen, dining room, bathroom and bedroom on the same surface. Hot water quickly became standard, a refrigerator and a elevator as well. Another housing cooperative organization formed during the same time is Riksbyggen, which was started during the housing crisis in the 1940s by the unions for construction workers. The following year the first housing society was registered in Gothenburg and in the spring of 1942, 142 dwellings were ready for occupancy. The aim of introducing cooperative apartments was to give the individual the ability to purchase a home with relatively low purchase price and reasonable housing costs. The idea behind this was that the housing association would incur debt, not the individual.[15]

In 1930 the first act on cooperative apartments (Lagen den 25 april 1930 om bostadsrättsföreningar)[16] was introduced, and this laid the foundation for cooperative apartments as a tenure in Sweden. The Act's objective was mainly to provide security for the residents and to prevent unhealthy associations formed with insufficient economic viability. However, a sort of housing associations (not to be compared with

[12] SOU 2000:33 pp. 19-32
[13] Ibid p. 20
[14] Borgegård and Kemeny "Sweden: high-rise housing in a low-density country", in R. Turkington, R. van Kempen and E. Wassenberg (eds.) "*High-rise housing in Europe: current trends and future prospects"* Delft: Delft University press (Housing and Urban Policy Studies 28) 2004 pp. 31-48
[15] SOU 2002:21 s. 95
[16] SFS 1930:115

cooperative apartments) began to form already in the late 1800s and by the time the act was introduced, it existed a relatively large number of housing associations and a few housing companies. The Act from 1895 on Economic Associations was intended to partially regulate these housing associations.[17] This means that both rental housing and cooperative housing as tenures started without any specific regulation in Sweden.

The "owner-occupied-housing-movement" (egnahemrörelsen) was another important factor which made it possible for low-income households to acquire or improve their own home. The movement was a response to the supply and housing problems that had arisen both in urban and rural areas after the large population increase in the 1800s. It was founded in the late 1800s and in the initial phase mainly intended for for agricultural workers, small farmers and lower officials. It begun as a rural movement but spread during the early 1900s even to the larger cities and in the same time to more social groups. In 1904 a state fund was introduced for loans to home-owners. In the 1930s, the movement became a political matter and owner-occupied housing areas could be found across the country, partly funded by state and municipal funds.[18]

The Parliament passed a bill in 1946 outlining the housing policy for years to come which focused on an extensive new building programme to cater for the shortage of dwellings and also raise the standard of living. This was a time of economic growth and labour immigration. Through new production and redevelopment the aim was to catch up with the shortage. In this case redevelopment meant tearing down and replace the old house stock. The building was financed by the Government with subsidised loans and by establishing new not-for-profit companies. These companies were owned and managed by the municipalities, and this is how the Swedish municipal housing market came into being.[19] Public housing companies, however, had occurred since the 1930s, when the government introduced special loans along with rent subsidies for building houses for families with many children (i.e. "barnrikehus").[20] General government lending was introduced in 1942. This meant that all housing construction- both private and municipal and cooperative - was able to get preferential loans if certain minimum requirements for the apartments were met. The purpose of those general loans was to avoid segregation in the form of category accommodations. For low-income families a financial support in the form of housing benefit was introduced instead.

In the end of the 1950's, it was clear that despite the fact that housing construction was high and that large parts of the housing stock had been modernized, demand would remain high. It was also clear that if the housing stock was too small it could be a barrier to growth. Therefore, a housing project called The Million Programme was implemented between 1965 and 1974. The aim was a million new dwellings within ten years, and the idea was that everyone should be able to have a home at an affordable price. This could be solved by tax subsidies which made it possible for families with children to rent or to buy a home of their own. Another precondition for the new constructions were state

[17] Victorin and Flodin, *"Bostadsrätt med en översikt över kooperativ hyresrätt",* 2011, p. 44
[18] http://www.byggnadsvard.se/byggnadskultur/bebyggelsehistoria
[19] http://www.sabo.se/om_sabo/english/Sidor/Housing.aspx
[20] Hedman "Den kommunala allmännyttans historia – Särtryck av underlag till utredningen om allmännyttans villkor (SOU 2008:38)" p. 7

loans and interest subsidies for the municipal housing companies. The construction industry became highly industrialized and produced standardized housing of all types. The result of the project turned out as expected, with about 1,006,000 new dwellings built.[21] Sweden's housing stock grew by 51 percent between 1960 and 1990, which means it had become possible for everyone to have a modern home in a couple of decades.[22] During this period, the public housing sector built a large number of housing units. But the private sector was also active and therefore many of the constructed dwellings were detached houses, not multi-family houses.[23]

In the late 1960's there were signs that the housing shortage had changed to a housing surplus, and the demand for the newly built dwellings had waned. The migration from rural areas shifted to a counter urbanization creating new challenges for the housing policy.The Million programme was criticized on account of its largescale and the sterile environment that surrounded the apartment buildings. A large part of the older house stock had also been demolished in the process. The housing shortage had disappeared but at a price.[24]

During the 1970s the problem was rather surplus than shortage, and the interest shifted to managing and developing the existing house stock rather than demolishing it. Parts of the house stock were still outdated but social segregation in the rental housing constructed by The Million Programme attracted the most attention. Those who lacked financial opportunities to buy a house of their own were dependent on renting a dwelling in a multi-family house. Poor accessibility and public service together with a somewhat dull environment made the residential areas of the Million programme less attractive. Empty apartments created economic problems for the state which had funded the construction with state loans for the municipal housing companies, and these companies were dependent on rental income to balance the accounts. During this period there were huge subsidies to owned housing; the state's subsidized interest rate was lower than the inflation and all interest costs were deductible against the marginal tax rate. People who owned their homes did not only live for free, they even earned money on their housing.[25]

The "Wallpaper Reform" was implemented in 1975, which meant that the tenants of public housing now were allowed to do smaller refurbishments in their apartments if it was done in a professional way. This reform also strengthened the influence of tenants in other ways.[26]

In 1980 the Tenement Assignment Act (bostadsanvisningslagen)[27] was introduced, which gave a municipality the right to decide that some or all apartments in an area

[21] Swedish Board of Housing, Building and Planning, "Bostadspolitiken - Svensk politik för boende, planering och byggande under 130 år", (2007) p. 20
[22] Borgegård and Kemeny, "Sweden: high-rise housing in a low-density country", in R. Turkington, R. van Kempen and E. Wassenberg (eds.) "*High-rise housing in Europe: current trends and future prospects"* Delft: Delft University press (Housing and Urban Policy Studies 28) 2004 pp. 31-48
[23] http://www.sabo.se/om_sabo/english/Sidor/Housing.aspx
[24] K. Ramberg, *Allmännyttan. Välfärdsbygge 1850-2000*, (Byggförlaget, 2000) pp. 132-133
[25] Bo Sandelin & Bo Södersten, *Betalt för att bo,* 1978
[26] http://www.sabo.se/om_sabo/english/Sidor/Housing.aspx
[27] SFS 1980:94

should be leased through the municipal housing board. A property owner was thus obliged to inform the municipal housing board if an apartment became vacant. This would create opportunities for a mixed population composition in all neighborhoods. In 1987[28] the law changed, and it was up to the rent tribunal to decide when a municipality and a landlord could not agree on a deal. The typical deal would be for instance that the private landlord leased half of the apartments through the municipal housing board and the landlord would be free to rent out the rest himself.[29] The act was repealed in 1993.

From 1980 to 1990, managing and developing the housing stock continued to be the main problem, together with a shortage of small apartments and student apartments. The economic crisis in the early 1990's made it clear that the housing subsidies must be reduced. Government expenditure on interest subsidies had increased rapidly due to high interest rates and an unregulated credit market, which prompted the Government to take action.[30] From the turn of the century onwards, the focus on housing policies has been a rational use of energy and availability, but also indoor environment and ecology.[31] There are regional differences in the availability of housing, with a housing shortage in growth regions and a surplus in large rural parts of the country. As a result, particularly the municipal housing companies in these areas are struggling with economic loss.[32]

Swedish housing policy in the post-war period has focused on providing good-quality housing for the whole population, without any purpose to build or grant special housing for low-income households. The aim has been to create good housing for everybody, by taking a broad approach to the complexities of the housing market. The thought behind this strategy has been that by improving the overall housing situation, the situation for vulnerable households would also improve.

There was a change in Swedish housing policy in the last decade of the 20th century, when special economic regulations that had previously existed for the public housing sector were abolished. These companies had previously received subsidised loans and beneficial taxation, but are now competing with the private housing sector on equal terms. In 1990-91 the tax reform came into effect and led to higher housing costs for the whole housing sector, and all the actors had to face a completely new situation.[33]

The housing stock increased between 1990 and 2007 from just over 4 million dwellings to nearly 4.5 million apartments. The number of dwellings increased by 10.5 percent, while Sweden's population grew by about 7 percent. In the three metropolitan areas the

[28] SFS 1987:1274 Law on Housing Assignment (Lag om Bostadsanvisning)
[29] Swedish Board of Housing, Building and Planning, "Bostadspolitiken - Svensk politik för boende, planering och byggande under 130 år", (2007) p. 92
[30] Swedish Board of Housing, Building and Planning, "Bostadspolitiken - Svensk politik för boende, planering och byggande under 130 år", (2007) p. 21
[31] Swedish Board of Housing, Building and Planning, "Bostadspolitiken - Svensk politik för boende, planering och byggande under 130 år", (2007) p. 16
[32] Swedish Board of Housing, Building and Planning, "Bostadspolitiken - Svensk politik för boende, planering och byggande under 130 år", (2007) p. 22
[33] http://www.sabo.se/om_sabo/english/Sidor/Housing.aspx

population increased slightly more than the housing stock. In the other municipalities the housing stock increased significantly more than the population.

When it comes to changes in the different tenures from the 1990s and onwards, the biggest change is the share of tenancies in multi-family houses, which has declined. Between 1990 and 2007, the share of tenancies in multi-family houses decreased from 75 % to 69 %. At the same time, the share of owner-occupied apartments in multi-family houses increased. The sharpest decline in rental units, and the largest increase of owner-occupied dwellings during this period of time was in Stockholm. The distribution between rental and owner-occupied dwellings did not change outside the metropolitan areas.

A major factor behind the decline in the proportion of rental units and the increased proportion of owner-occupied apartments are sales of existing rental properties to housing cooperatives. 75 percent of these sales, measured in the number of apartments transferred, took place in Stockholm. The great increase in sales of rental properties to housing cooperatives in Stockholm began in the private sector at the end of the 1990s. Politicians had no influence over the decisions on these sales. Then came the extensive sales of rental properties owned by the public utility housing companies (allmännyttan) in 2000 and 2001.[34] Since 1990, almost 150 000 tenancies have been sold to housing cooperatives and have become cooperative apartments.[35] On July 1, 2007, the permit requirement was abolished. This meant that municipalities no longer needed permission from the county administrative board (Länsstyrelsen)[36] when selling public utility apartments.[37]

The proportion of multi-family buildings and one or two dwelling houses has remained stable over the period with a small preponderance of multi-family houses in the country as a whole, with a clear preponderance of multi-family houses in urban areas and with the predominance of detached houses in the smaller municipalities. For one or two dwelling houses, the share of owner occupation was about 80 % in both 1990 and 2007.[38]

In the end of the 1980s until the beginning of the 90s, it turned out in retrospect to have been built too much in the wrong places. This was due to the financial crisis and thereby changed conditions (lower inflation, reduced growth, increased unemployment, cut in subsidies etc.) There were especially too many rental apartments in the privately owned stock in municipalities without universities outside metropolitan areas. After a peak in 1991 with about 67,000 completed apartments construction fell greatly from year to year

[34] Swedish Board of Housing, Building and Planning, "Bostadsmarknaden 2008-2009 – med slutsatser av Bostadsmarknadsenkäten 2008", (2008) pp. 123-124
[35] NBO, "Boligpolitikk i Norden", (2010) pp. 5
[36] The function of the County Administrative Boards is to be a representative of the state in the 21 different counties in Sweden, and to serve as a link between the inhabitants, the municipal authorities, the Central Government, the Swedish Parliament and the central state authorities.
[37] Swedish Board of Housing, Building and Planning, "Försäljningar av allmännyttiga bostäder efter upphävandet av tillståndsplikten", (2010) pp. 3-5
[38] Swedish Board of Housing, Building and Planning, "Bostadsmarknaden 2008-2009 – med slutsatser av Bostadsmarknadsenkäten 2008", (2008) pp. 123-125

until 1995, when the number of newly built apartments was about 13 000. New construction remained at the low level and even lower for six-seven years. Since then there has been an increase. In the years of 2006 and 2007 approximately 30 000 dwellings were completed. In municipalities outside of metropolitan areas without universities, where it had been built too many privately owned houses with rental units, demolitions of houses owned by public utility housing companies increased.[39] In 2013, approximately 22 000 dwellings were constructed.[40]

In Sweden, 40 % of the population live in metropolitan urban areas. Over 2 million, or 22 percent, live in Stockholm. This means that Sweden now is outpacing other countries with its rapid rate of urbanization. This trend is expected to continue and especially Stockholm continues to grow strongly. Most municipalities with housing shortages are also located in the three metropolitan regions; Stockholm, Gothenburg and Malmö.[41] According to a survey carried out by the Swedish Union of Tenants seven percent had sometime refrained from seeking jobs in metropolitan areas because of the housing shortage. Four percent had one or several times said no to jobs in the country's metropolitan areas because of the housing shortage.[42]

The situation is quite different in small municipalities with fewer than 25 000 inhabitants, where the population decline. Nearly 70 percent of these municipalities (119 municipalities) reduced its population in the year of 2011.[43]

Immigration is also highly concentrated to the metropolitan areas. Over the past fifteen years, Sweden's population has increased mainly due to more people immigrating to Sweden than those who emigrated. Population projections indicate that immigrants will continue to contribute to a significant portion of the population increase in the foreseeable future, with more people applying for asylum and receiving a residence permit in Sweden in recent years.[44] In 2012, more than 111,000 people had received work and residence permits in Sweden. That is the highest annual figure to date and represents an increase of 19 percent compared with 2011.[45]

For the majority of the immigration groups, a concentration to the metropolitan areas is common. This is especially true for those who have been granted asylum in Sweden and have chosen their own place to settle in. The cities of Malmö and Gothenburg are chosen to a greater extent than Stockholm. Especially Malmö has had a large influx in recent years, partly by refugees and partly by immigrants from Denmark. Those

[39] Swedish Board of Housing, Building and Planning, "Bostadsmarknaden 2008-2009 – med slutsatser av Bostadsmarknadsenkäten 2008", (2008) pp. 123-125
[40] Swedish Board of Housing, Building and Planning, "Bostadsmarknaden 2013-2014 - med slutsatser av Bostadsmarknadsenkäten 2013", (2013) p. 7
[41] National Housing Credit Guarantee Board, "Samband mellan bostadsmarknad, arbetskraftens rörlighet och tillväxt" (2008) pp. 16-17
[42] The Swedish Union of Tenants, "Påverkar bostadsbristen viljan att söka och ta jobb i storstadsregionerna?", (maj 2012) pp. 2-3
[43] Swedish National Board of Building, Housing and Planning, "Boverkets lägesrapport - oktober 2012" pp. 7-8
[44] Statistics Sweden, Demographic reports 2008:4, "Immigrants' migration patterns" (2008) pp. 3
[45] The Swedish Migration Board, http://www.migrationsverket.se/info/6627.html, (search completed 30.11.2012)

relocated in municipalities by the Swedish Migration Board and quota refugees are more diffusely spread over the country's geography, and the majority of these refugee categories also remain settled where they were relocated.

The housing areas chosen by immigrants also vary between different immigrant groups. Labour immigrants, and especially those from countries outside Europe, often settle in attractive areas. In contrast, immigrant family members and persons granted asylum settle in the less attractive housing areas. These tendencies have been more apparent in Sweden after five years of time. Aften ten years of time, those people have not managed to settle into more high-income areas.

In 1985 Sweden introduced a new system for refugees, where individuals were unable to choose their place of residence themselves, but was placed in a municipality by the State. This system became known as "The whole of Sweden Strategy". The strategy was intended to prevent the concentration of immigrants in the metropolitan areas. During the period 1987-1991 about 90 percent of the refugees were placed in municipalities under contract with the Swedish Immigration Board. But as soon as applicants received their permanent residence permit an extensive internal move to metropolitan regions took place. The concentration that the "All of Sweden Strategy" was intended to counteract only became delayed for a year.

"The whole of Sweden Strategy" ended July 1, 1994 when a new law entered into force that give immigrants the right to choose their place of residence if they arrange an accommodation on their own. If they can not arrange accommodation themselves, they are assigned an accomodation by the Swedish Immigration Board. An average of 46 percent of those who was granted asylum in 1997-2007 arranged an accomodation on their own.[46] This right is debated in Sweden because it creates a very uneven distribution of immigrants between the municipalities, and some municipalities (e.g. Malmö and Södertälje[47]) are struggling to find accomodation, pre-school places etc.

According to the Swedish National Board of Housing, Building and Planning 93 municipalities have stated that refugees who obtain long-stay residence permits and intend to settle permanently in the municipalities, have particularly difficult to find a housing. A majority of these municipalities are in urban areas and among the larger towns where there is a university. Half of all the municipalities stated that the shortage of rental properties is a significant problem in order to meet the need for housing for refugees.[48]

A lot of people who immigrate to Sweden do not stay; repatriation is common especially for labour immigrants and citizens from the Nordic countries.[49]

[46] Statistics Sweden, Demographic reports 2008:4, "Immigrants' migration patterns" (2008) pp. 20
[47] Södertälje is very close to the greater Stockholm and you can reach it by metro.
[48] http://www.boverket.se/Boende/Analys-av-bostadsmarknaden/Bostadsmarknadsenkaten/Riket-grupper/Flyktingar/ (search completed 30.11.2012)
[49] Statistics Sweden, Demographic reports 2008:4, "Immigrants' migration patterns" (2008) pp. 77-78

When it comes to emigration from Sweden to other countries, 51 179 people emigrated in 2011 making it a record-year of emigration. The number of people who emigrated was higher in 2011 than ever before, even more than in the year of 1887 when emigration to America peaked. A total of 163 countries were represented among the emigration countries, and the most popular country for emigraters was Norway. Denmark, The United Kingdom and America were also common countries for emigration. The emigration to China significally increased, where 1787 people moved.[50]

B. Current situation

- Give an overview of the current situation.
  - In particular: What is the number of dwellings? How many of them are rented vs. owner-occupied? What would be the normal tenure structure (see summary table 1)? What is the most recent year of information on this?

According to a report by the Swedish National Board of Building, Housing and Planning there are approximately 2.5 million dwellings in apartment buildings, of which 1 588 717 are tenancies, 947 102 are cooperative apartments and 566 are condominimums. Counted on the total number of apartment units in apartment buildings the percentage of rental units is 63 percent and the percentage of cooperative apartments are 37 percent.

There are 2 million dwellings in one- and two dwelling buildings in Sweden.[51] According to calculations made by Statistics Sweden there were 4 524 292 dwellings in Sweden in 2011.[52]

Most housing statistics are available by dwelling type rather than tenure in Sweden. This means that statistics are separated between one or two dwelling houses and multi-dwelling houses. The term one or two dwelling house covers one dwelling houses and free-standing two dwelling houses. The one dwelling houses can be free-standing or connected to other houses. Free-standing one dwelling houses are free-standing houses with one dwelling, whereas one dwelling houses that are connected to other houses consist of several one dwelling houses in a row or in pairs. But each of the dwellings has a entrance of its own. It's called a terraced house if the different houses directly abut each other. But if they are divided by e.g. a garage, they are called semidetached houses. In free-standing two dwelling houses are the individual dwellings situated either one above the other, or next to each other. Those next to each other have a shared outer entrance. The term multi-dwelling house includes houses that are not one or two dwelling houses.[53]

[50] http://www.scb.se/Pages/Article____333969.aspx (search completed 30.11.2012)
[51] Swedish National Board of Building, Housing and Planning, "Boverkets lägesrapport - oktober 2012" pp. 7, 11
[52] http://www.scb.se/Pages/TableAndChart____335518.aspx
[53] http://commin.org/en/bsr-glossaries/national-glossaries/sweden/hustyp.html (search completed 2012-11-19)

2012	Multi-dwelling houses	One- or two dwelling houses	Total
The whole country	2 536 385	2 014 394	4 550 779
Percent	55,7%	44,3 %	

Type of tenure	Percentage of population	Percentage of households
Tenancy	30,4	36,1
Sublet tenancy	1,4	2,0
Cooperative apartment	16,8	19,4
Condominimum	48,8	38,5
Special housing	0,3	0,7
Other	2,3	3,4
Sum	100,0	100,0

*Statistics from Statistics Sweden (HEK 2012)

Country	**Numbers**		
	Owner	**Tenant**	**Total**
Romania	7 133 000	260 000	7 393 000
Croatia	1 335 000	107 000	1 442 000
Lithuania	1 191 000	103 000	1 294 000
Slovakia	1 722 000	190 000	1 912 000
Hungary	3 342 000	444 000	3 786 000
Bulgaria	2 222 000	360 000	2 582 000
Spain	14 199 000	3 080 000	17 279 000
Latvia	674 000	156 000	830 000
Estonia	468 000	117 000	585 000
Poland	10 550 000	2 651 000	13 201 000
Czech Republic	3 255 000	926 000	4 181 000
Slovenia	595 000	189 000	784 000
Portugal	2 961 000	1 055 000	4 016 000
Greece	2 980 000	1 175 000	4 155 000
Italy	18 070 000	7 147 000	25 217 000
Ireland	1 171 000	492 000	1 663 000
Finland	1 733 000	818 000	2 551 000
Belgium	3 140 000	1 590 000	4 730 000
Cyprus	198 000	102 000	300 000
United Kingdom	17 385 000	8 959 000	26 344 000
Luxembourg	128 000	72 000	200 000
Sweden	2 821 000	1 686 000	4 507 000
France	16 492 000	10 979 000	27 471 000
Denmark	1 590 000	1 178 000	2 768 000
Netherlands	4 246 000	3 195 000	7 441 000
Austria	1 827 000	1 824 000	3 651 000
Germany	18 036 000	21 854 000	39 890 000
Switzerland	1 295 000	2 027 000	3 322 000

Households and tenure 2011 (subletting included)

C. Types of housing tenures

- Describe the various types of housing tenures.
    - Home ownership
        - How is the financing for the building of homes typically arranged (e.g. own equity, mortgage based loan, personal loan, mix, other)
        - Restituted and privatised ownership in Eastern Europe
    - Intermediate tenures:
        - Are there intermediate forms of tenure classified between ownership and renting? e.g.
            - Condominiums (if existing: different regulatory types of condominiums)
            - Company law schemes: tenants buying shares of housing companies
            - Cooperatives
    - Rental tenures
        - Are rental tenures with and without a public task distinguished? If so, how are they called and what is their share in the housing stock?
        - How is the financing for the building of rental housing typically arranged?

    (Please be brief here as the questionnaire returns to this question under 3)

    - What is the market share (% of stock) of each type of tenure and what can be said in general on the quality of housing provided?
      Please consider the following criteria: type of building (single family versus multifamily versus high-rise; plus definition); construction period; number of rooms, number of square meters or average number of rooms or average useful floor area per dwelling and per person; availability of bath/shower, hot running water and/or central heating, etc.)

        - For EU-countries, Housing Statistics in the European Union would be a possible source, although more updated data would be preferred, if available

    - Which actors own these dwellings (private persons, profit or non-profit organisations, etc.)?

There are four different regulatory types of tenure in Sweden; dwellings with right of tenancy, condominimums, dwellings in cooperative housing societies and co-operative rental dwellings (kooperativ hyresrätt).

Nearly 70 % of the population are home owners in Sweden. Of all home owners, 81 % have a home loan.[54] The financing for the building of homes is typically arranged by a mortgage based loan. Mortgages represent the largest portion of households' total indebtedness in Sweden. In order to increase consumer protection and attempt to curb an unhealthy development on the credit market, the Financial Supervisory Authority implemented new rules regarding mortgages collateralised by homes on the 1st October 2010. The new rules means that new loans can't exceed 85 per cent of the home's market value.[55] Sweden has one of the highest rates of ownership with a mortgage based loan in Europe, among the Netherlands and Denmark.[56]

In Sweden, rental tenures with and without a public task are not distinguished. Sweden has by definition no social housing. But about half of the rental sector is owned by municipally owned housing companies, whose goal is to provide housing for all, regardless of gender, age, origin or incomes. After time on a waiting list, the dwellings are allocated. There is no upper income limit for potential tenants to avoid stigmatisation, and as long as tenants afford the rent, no lower income limit. Some tenants will need a housing allowance to be able to pay the rent.

In practice, the usual tenants are not wealthy people, but there are a lot of middle-income households living in houses owned by municipal housing companies. For Swedes in general, there is not much difference between private and public rental housing, perhaps mainly because rents do not differ significantly. The rents don't differ that much because dwellings of equal ‘utility value’ should have about the same rent, according to the ‘utility value’ principle.[57]

Sweden has a couple of intermediate forms of tenure that are somewhat unique. A co-operative apartment (a 'bostadsrätt') is a housing co-operative based on a tenant-ownership, where the tenant is a member of the housing co-operative and owns a share of the house. This form of tenure must be distinguished from owner-occupied apartments, or condominiums. These became available in apartment buildings for the first time under Swedish law on the 1st of May 2009. It had previously only been allowed in one or two dwelling houses. There were 182 condominiums in Sweden in 2010.[58]

A small fraction, less than 1 % of the total dwelling stock, consists of co-operative rental dwellings.[59] Co-operative rental dwellings are a mediate between rented and co-

[54] Swedish Bankers' Association: Bank- & finance statistics 2011 p. 6
[55] Swedish Bankers' Association: Bank- & finance statistics 2011 p. 6
[56] First European Quality of Life Survey: Social dimensions of housing p. 53f
[57] http://www.europolitics.info/sweden-social-housing-under-businesslike-principle-art321378-3.html
[58] http://www.scb.se/Pages/PressRelease____335520.aspx
[59] Housing Statistics inte the European Union 2010, s. 65

operative apartments where the tenant rents from an economic association but does not own a share of the house.[60]

Rental tenures with and without a public task are not distinguished, since the term social housing is not used in Sweden. There are no rental tenures for lower income households especially, since there is no higher income limit to become a tenant.

When it comes to financing for building rental housing is in Sweden, there are no state loans provided for construction of housing. Only commercial ones. The Swedish Board of Housing, Building and Planning may provide a credit guarantee.[61]

In Sweden, there were 4 524 292 million dwellings in 2011. Of these dwellings, 56 percent were located in multi-dwelling houses, and 44 percent in one or two dwelling buildings. Based on the number of households in Sweden in 2010 there are statistics based on tenure. Of a total of 4 582 000 households in Sweden in 2010, 41 percent lived in rented dwellings, 20 percent in co-operative apartments, 34 percent in owner-occupied dwellings (self-owned one or two dwelling buildings) and 5 percent lived in other forms of tenure.[62]

When it comes to the age distribution of the housing stock, the most recent data is from 2008. The share of buildings completed before 1919 was 12.1 percent, the share completed between 1919-1945 was 14.7 percent, between 1946-1970 37 percent, between 1971-1980 16.8 percent, between 1981-1990 9.4 percent and between 1990-2000 5.5 percent. The share of the housing stock built after 2010 was 4.6 percent.[63]

According to EQLS[64], 74,3 % of the Swedish respondents report positive conditions regarding the quality of housing. This means having at least one room per person and perceiving none of the housing deficits, i.e rot in windows, doors or floors, damps or leaks and lack of indoor flushing toilet. There is a significant difference when it comes to the perceived quality of housing between house owners and tenants. In the survey, 79 % of home owners report a good quality of housing compared to 67,6 % among tenants.[65]

The average number of rooms per dwelling in 2008 was 4.2 rooms. The kitchen is usually not counted as a room in Sweden.[66] The average useful floor area per dwelling of the total dwelling stock in 2008 was 92.8 square metres.[67]

[60] http://www.boverket.se/Boende/Sa-bor-vi-i-Sverige/Upplatelseformerboendeformer/(search completed 2012-11-09)
[61] Analys av bostadsbyggandet i Norden – huvudrapport, p. 44
[62] Swedish National Board of Building, Housing and Planning, "Boverkets lägesrapport - oktober 2012" pp. 11-12
[63] Housing statistics in the European Union 2010, p. 54
[64] EQLS means First European Quality of Life Survey
[65] First European Quality of Life Survey: Social dimensions of housing p. 49f
[66] Housing statistics in the European Union, p. 52
[67] Housing statistics in the European Union 2010, p. 51

In 2010, 100 percent of the total dwelling stock had bath or shower, hot running water and central heating in Sweden.[68]

According to a study by The Swedish National Board of Housing, Building and Planning were more of those living in one-family houses satisfied with the residential environment than those living in apartment buildings. One-fifth of those who live in apartment buildings feel that they are disturbed by noise from neighbors.[69] In owner-occupied apartments the owner is responsible for maintenance and it's in the owner's interest to maintain a high standard for future sales. Hence, such apartments often have a significantly higher standard. In the case of rental units, maintenance is the landlord's responsibility. The tenant is however protected by rules of minimum acceptable standard in the Tenancy Act.

When it comes to statistics on ownership of these dwellings, the data to be found is ownership of dwellings in completed buildings from 2010.

Dwellings in completed buildings by type of building and type of ownership (2010)[70]

All dwellings	The state/county council/municipality	Public utility	Cooperative housing societies	Private owners
19 500	2 %	13 %	30 %	56 %

Statistics of 2012

Type of housing	Type of tenure	State, counties, municipalities	MHC:s	Nationwide cooperative	Other cooperative	Private owners	Total
multi-dwelling houses	tenancy	708	2858	0	137	4349	8052
	cooperative apartment	0	18	1106	7289	0	8413
	condominimum	0	0	0	0	192	192
one- or two dwelling houses	tenancy	0	278	0	8	115	401
	cooperative apartment	0	0	28	527	2	557
	condominimum	0	0	0	0	8378	8378
Totalt		708	3154	1134	7961	13036	25993
Percent		2,7	12,1	4,4	30,6	50,2	100,0

D. Other general aspects of the current national housing situation

[68] Housing statistics in the European Union 2010, p. 53
[69] http://www.boverket.se/Planera/Sverigebilder2/Hur-mar-husen/Hur-upplever-de-boende-inomhusmiljon/
[70] Statistics Sweden

- Are there lobby groups or umbrella groups active in any of the tenure types? If so, how are they called, how many members, etc.?
- What is the number (and percentage) of vacant dwellings?
- Are there important black market or otherwise irregular phenomena and practices on the housing market (especially the rental market)?

The Swedish Union of Tenants, the Swedish Property Federation and Swedish Association of Public Housing Companies are the most active lobby groups on the Swedish rental tenure market.

The Swedish Union of Tenants has 525 000 households as members organized in 1 438 local chapters. The Union negotiates rents for most tenants in Sweden, as well as provide legal service to its members and represent members with its lawyers in legal forums such as rent tribunals, district courts and courts of appeal. A membership charge covers legal service from the Union of Tenants. The Union of Tenants conducts advocacy work in relation to housing policy at a national level. When the Swedish Parliament is working to enact new laws in the housing area the Union is often consulted. Since 1983 has the headoffice of the International Union of Tenans (IUT), been located in the premises of The Swedish Union of Tenants in Stockholm. IUT has also an office in Brussels. IUT is an international movement with 61 member associations in 45 countries. IUT has the purpose of safeguarding the interests of tenants.which is a international movement that has 60 member associations in 45 countries.[71]

The Swedish Property Federation has almost 17 000 property owners as members, organized in 4 regional property associations. Their members are owners or managers of premises, rental apartment buildings, industrial properties and cooperative housing societies. The Federation represents the private property owners' interests by giving advice on economical, legal and technical issues as well as keeping in contact with politicians and mass media. Education is one of the main tasks of the Federation, and it holds a number of courses and conferences each year. The Federation both support and initiates research within its field of interest. It is a member of member of the European Property Federation (EPF).[72]

The Swedish Association of Public Housing Companies (SABO) is the organisation of the municipality owned public housing companies in Sweden, with approximately 300 companies as wembers which manages about 729 000 dwelling units (20 percent of the total housing stock in Sweden). There is 1,4 million people living in SABO homes. Members of SABO are provided with expertise in different fields and can get help to cooperate with national authorities and organizations. SABO also arranges conferences and can act as an consultant.

There are lobby groups for cooperative housing societies aswell. HSB is Sweden's largest housing cooperative organization with its 3 900 housing societies and 548 000

[71] http://www.hyresgastforeningen.se/In_English/Sidor/who-we-are.aspx
[72] http://www.fastighetsagarna.com/systemsidor/in-english

members. HSB works with construction of housing, home savings and management of housing societies within its cooperation. HSB (Hyresgästernas Sparkasse- och Byggnadsförening) was formed in 1923 by the Swedish Union of Tenants in Stockholm. The aim was to build and manage good and affordable housing for its members. HSB quickly became a major construction company and to build and manage good housing with low housing costs was an important driving force. But the quality and well-being was also important visions of the accommodation. In the 30's HSB began to build efficient housing that would be functional and fit families' every need. Rather than build a room and kitchen, more efficient floor plans was chosen with a small kitchen, dining room, bathroom and bedroom on the same surface. Hot water quickly became standard, a refrigerator and a elevator as well. HSB was a pioneer in a wide range of areas. The first day-care centers was to be found in their housing, as well as the first refuse rubbish chutes for instance. Despite the austere economy with housing shortages in the years after the First World War, HSB was able to build housing with unique architectural qualities. Since then, HSB has contructed nearly half a million dwellings.[73]

Another housing cooperative organization is Riksbyggen, which was formed during the housing crisis in the 1940s by the unions for construction workers. The following year the first housing society was registered in Gothenburg and in the spring of 1942, 142 dwellings were ready for occupancy. Today is nearly half a million Swedes living in homes managed by Riksbyggen. Riksbyggen works with new construction of cooperative apartments and is also one of the largest property managers in Sweden.[74]

Both HSB and Riksbyggen try to affect public opinion in matters covering such issues as home savings, environment and energy usage, and are bodies considering proposed legislation within the field of property law.

Another lobby organization is Bostadsrätterna (until 2011 it was called bostadsrättsorganisationen SBC). The organization has 6 000 socities as members and works with information and advocacy. The organization is a body considering proposed legislation for issues related to property law, and it also represents its members against the state and municipalities.[75]

Villaägarnas Riksförbund (Swedish Homeowners Association) is a national organization working to protect and promote the interests of homeowners. They have 313 000 households as members and they are found throughout Sweden. The Association does public relations work and also communicates the key interests of homeowners to the various government bodies, as well as to other influential opinion leaders. The Association offers member benefits as well as free professional advice and a monthly magazine. It is a member of the International Union of Property Owners.[76]

For some time now, the trend has been that the number of vacant apartments decreases. In September 2011 27 000 dwellings were vacant, which means 1,9 % of all tenancies in multi-family houses. The number of apartments available for immediate rent

[73] http://www.hsb-historien.se/
[74] http://www.riksbyggen.se/Om-Riksbyggen/
[75] http://www.bostadsratterna.se/om-oss
[76] http://www.villaagarna.se/om-villaagarna/About-Villaagarnas-Riksforbund/

was about 16 000 (or 1.1 percent).[77] In March 2013 there were 13 648 dwellings vacant, 5709 in the public sector and 7939 in the private sector. This represents approximately 0.9 % of the total stock of rented dwellings.[78]

There is no clear definition of what a black housing market is in Sweden, although the Swedish National Board of Building, Housing and Planning has made a definition which is divided into unauthorized subletting, trading with leases and fraud. Unauthorized subletting, when the holder of a master lease is subletting a flat without a permission from the landlord, creates an unsafe situation for the person who subleases the flat. The tenant who subleases is liable to pay too much in rent and also lacks a security of tenure. Furthermore, subletting an apartment without prior permission constitutes grounds for termination of the master lease. The principle is that the rent the holder of the master lease is allowed to charge when subletting should be the same rent as he or she is paying. It is not intended that the holder of the master lease makes money when subletting. Subletting should be seen as an opportunity for a tenant who can get a permission under special circumstances, for example if a tenant is studying abroad.

The current law does not prohibit paying for a contract but it is illegal to sell a lease. The sentence for trading with leases is a fine or up to two years in prison. According to the Tenancy Act a tenant is under certain circumstances allowed to swap apartments for both a different rented apartment, a villa or a cooperative apartment, as long as the tenant does not charge a fee (although permission is needed from the landlord, or if the landlord refuses, the rent tribunal).

A complaint is rarely made to the police when it comes to the parts of the black housing market dealing with unauthorized subletting and trading of leases. The cases which are reported to the police and leading to prosecution usually are concerned with fraud.[79]

It is impossible to define the extent of the black housing market in number of transactions or financial turnover since it is a criminal activity. Therefore, the figures present in discussions and debates must be considered unsafe. The existence of a black housing market is mainly linked to areas with housing shortages and preferably shortage of rental properties. A report from the Swedish Property Federation from 2006 indicated that the trade with leases is worth 1.2 billion a year i Stockholm.[8081]

Summary table 1 Tenure structure in Sweden, most recent year

Home ownership	Renting			Interme-diate	Other	Total

[77] Statistics Sweden, Yearbook of Housing and Building Statistics 2012 p. 33
[78] Statistics Sweden
[79] Swedish Board of Housing, Building and Planning, " Dåligt fungerande bostadsmarknader" (2011) pp. 11-21
[80] Swedish Property Federation,"Missbruket av bytesrätten" (2006)
[81] This figure is based on an estimate by the landlord association (see footnote) and it is not independently verified.

				tenure		
		Renting with a public task, if distinguished	Renting without a public task, if distinguished			
54 %*	41 %	-	-		5 %	100%

Note: The assumption is that the overall tenure structure is based on the stock of non-vacant principal dwellings. If this is not the case in your country, please specify what type of accommodation the numbers include (think of holiday dwellings, second homes, collective homes, hotels, caravans, ships, vacant dwellings, non-permanent habitation). Moreover, please mention if the numbers are not based on dwelling stock, but on households.
For EU-countries Housing Statistics in the European Union would be a possible source, although more updated data would be preferred, if available.

*In this table, cooperative apartments are regarded as home ownership although formally it is not ownership. However, the owner has the right to freely sell it to the highest bidder and also has the right to make almost any changes to the apartment, except when there is a genuine risk of damage to the building or a cultural value.

1.2 Economic factors

A. Situation of the housing market

- What is the current situation of the housing market? Is the supply of housing sufficient/ insufficient and where is this the case (possibly in terms of areas of scarcity of dwellings in growth areas versus shrinkage areas)? What have been the effects of the current crisis since 2007?
- How is the demand for housing expected to develop? What is the expectation about the growth and decline in number of households in the future in a scenario of average economic development? Is there a year forecasted where growth in number of households will stabilize or will start declining?
- What is the number/percentage of families/households depending on rental housing (vs. owner-occupancy and other forms of tenure)? What is the number/percentage of immigrants among them?

There is a shortage of rental housing in Sweden, especially in Stockholm, Göteborg and Malmö, but also in the university towns. Overall, there is a net shortage of 92 000 to 156 000 dwellings in the whole country, depending on which economic model is used. This means that the supply needs to increase by between 102 000 and 163 000 homes where there are shortages, and reduced by 7 000 to 10 000 homes in the regions where there is a surplus.[82]

Housing construction has been very low in Sweden, from 1995 until today with a shorter peak right before the financial crisis of 2008. Only a little over 20 000 apartments have been built on average per year since then. Particularly in Stockholm and in Malmö the population has grown faster than the number of apartments in the past two decades. There has been an increased housing density in Stockholm and Malmö over the last four years.[83]

The total population is expected to grow from 9,5 million today to 11,3 million people in 2060. It is assumed to be a faster population growth than previously forecasted. The new forecast shows 900,000 more people in 2060 than estimated before. The population will be greater due to higher assumptions about childbearing and survival, and changes in assumptions about immigration and emigration.[84]

This question is partly answered above, please see table 1. There are large differences in housing between native-born and foreign-born groups. People who are born in Sweden usually live in one or two family houses, and less often in apartment buildings.

[82] http://www.boverket.se/Om-Boverket/Nyhetsarkiv/Vad-ar-bostadsbrist/
[83] The Swedish National Board on Building, Housing and Planning: Bostadsbristen ur ett marknadsperspektiv, p. 17
[84] http://www.scb.se/Pages/PressRelease____333990.aspx

For people born in the Nordic countries, EU countries and countries in North America and Oceania the forms of accommodation vary less from native-born compared with people from other countries. People born in Africa are strongly overrepresented in apartment buildings and seriously underrepresented in houses and cooperative apartments.[85]

B. Issues of price and affordability

- Prices and affordability:
  - What is the typical cost of rents and its relation to average disposable income (rent-income ratio per household)? (Explanation: If rent is 300€ per month and disposable household income 1000€ per month, the rent-to-income ratio is 30%).
  - To what extent is home ownership attractive as an alternative to rental housing
  - What were the effects of the crisis since 2007?

In 2011, the average rent in Sweden was 5 781 SEK per month for an average apartment.[86] (For 2012, the average rent was 5 960 SEK).[87]

The average disposable income per household was 275 200 SEK a year in 2011, or 22 900 SEK a month.[88] That makes a rent-to-income ratio of 25 %.

The Swedish tax system encourages house purchase over other investment options.[89] For owner occupiers, 30% of mortgage interest can be deducted.[90] If price rises, there is a capital gains tax of 30% on two-thirds of the rise. However, this can be deferred as long as another owner occupied property is bought, and this rule applies to heirs as well. Cooperative apartments have their own tax regime, though it roughly approximates in average incidence to that for owner occupation. For both tenures it is possible to get a tax rebate on 50% of the cost of repair, renovation and extension work. In 2008 the national real estate tax along with a wealth tax was abolished, the national real estate tax to be replaced by a lower property fee.[91] These recent tax changes have helped to sustain the buoyancy of house prices.

A large part of the wealth of Swedish households (60 percent in 2011) consists of wealth from home ownership. The price increases in Sweden on cooperative apartments and

[85] Statistics Sweden, Integration – a description of the situation in Sweden, p. 49-50
[86] http://www.scb.se/Pages/PressRelease____321024.aspx
[87] Statistics Sweden, Statistical Yearbook of Sweden 2013, p. 164
[88] http://www.scb.se/Pages/TableAndChart____163552.aspx
[89] SOU 2014:1 - it shows that the tax system is unjust and that the rent sector is disadvantaged in comparison to owners of cooperative apartments and homeowners.
[90] www.skattemyndigheten.se
[91] This property fee is called a municipal property fee. It is a misnomer since the money goes to the State and it has nothing to do with the municipalities.

owner-occupied housing have been exceptional over the last couple of years. This means that both one or two dwelling houses and cooperative apartments have generated higher returns than shares over the past 16 years and the risk of negative returns have been quite small. For example, a person who bought a cooperative apartment in 1995 has had the highest yield (more than 12 percent per year) on his investment. But studies have shown that owner-occupied housing appear to be overvalued, which means a great risk of falling house prices and low returns in the future. The central bank has been concerned that a bubble may be growing within the housing market, and a commission was set up to investigate the operation of the housing market in 2010. Their recommendations did not lead to any actions but the matter is still being subject to political debate.[92]

When it comes to the risks of home ownership, the size of home mortgages plays a major role. Growing household indebtedness is explained by the growth of home mortgages, and mortgages now account for 75 percent of the total household debt. The part of household debt which doesn't include mortgages increase along with the disposable income. The total sum of car loans, student loans and pure consumption loans amount to over 40 per cent of an average disposable income and has done so since the early 1990s. Home mortgages are now 125 percent of the total disposible income, the proportion has doubled in the last ten years. Total household debt is thus 165 percent of the total disposable income. Low interest rates, interest-only loans, high maximum leverage and short-term market value of homes with the possibility of realizing equity are factors that make it easy to borrow money. These conditions in combination with rising house prices create a price and mortgage spiral both in Sweden and in other countries.[93] Antoher explanation to the increase of home mortgages is the increase of construction of self-owned houses as well as a lot of conversions of rental units to cooperative ones in the metropolitan areas.[94]

The Swedish economy, and especially the housing market and housing construction, was significantly affected by the recession in the context of the financial crisis in the autumn of 2008. The lengthy rise in home prices began to slow down during the course of 2007, and in the second half of 2008 home prices began to fell. Between 2006 and 2009, housing construction decreased with 65 percent. Interest rates has remained at a historically low level. The repo rate was down to 0.25 percent during the second half of 2009 and first half of 2010. The banks started to introduce stricter requirements on their customers, and in October 2010, the Swedish Financial Supervisory Authority (Finansinspektionen) introduced a mortgage cap. This further subdued lending growth by restricting mortgages to 85 percent of the property's value. The Swedish monetary policy has been strongly expansionary, which contributed to a rapid recovery in the economy and especially in the housing market. House prices in Sweden have continued to rise since, albeit at a slower pace in 2011, while most other countries saw the house prices fall. But during the latter part of 2011, the economy weakened in Sweden and there was great concern in the financial markets. The Swedish Central Bank lowered the

[92] Ball, Michael: RICS European Housing Review 2011, p. 84-86
[93] National Housing Credit Guarantee Board "Vägval i bostadskarriären", marknadsrapport, maj 2012, pp. 7-13
[94] http://www.evidensgruppen.se/sites/default/files/Om_hushallens_skuldsattning_manus_och_omslag.pdf

repo rate by 25 basis points to 1.75 percent in December 2011. Residential house prices began to decline slightly in 2011, and imposing stricter requirements on mortgage repayments were being discussed.[95]

C. Tenancy contracts and investment

- Is the return (or Return on Investment (RoI)) for rental dwellings attractive for landlords-investors?
  - In particular: What were the effects of the crisis since 2007?

IPD Sweden Residential Property Index

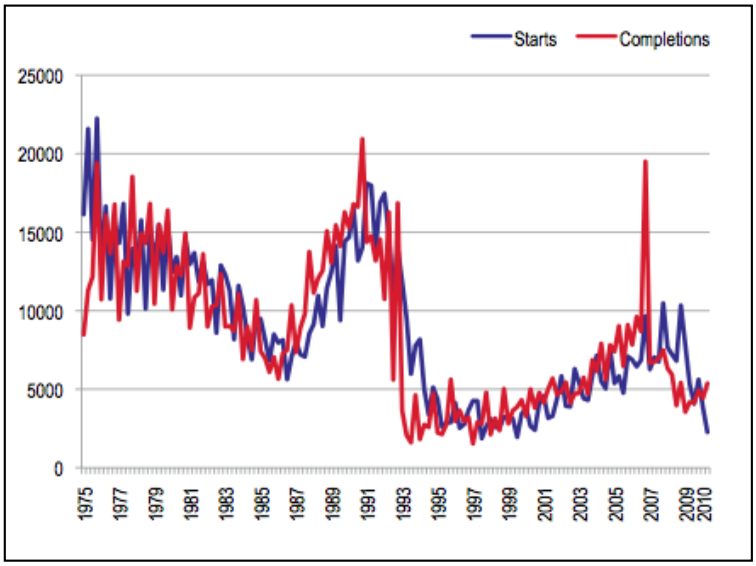
The total return on investments in residential property in Sweden since 2003 has developed as stated in the figure. In 2011, residential properties returned 7.7%, and in 2012 7,5 %.[96] According to a recent study[97], 42 % of the respondants consider Sweden

[95] http://www.scb.se/Pages/Article____333926.aspx
[96] IPD Svenskt Bostadsindex (www.ipd.com/sweden)

to be very attractive as a location for real estate investments and 58 % consider it to be attractive. A annual survey conducted by the Swedish union of tenants shows that property owners in Scania consider it profitable to own and manage apartment buldings.[98] But the Swedish Property Owner Federation claims that it is much more profitable to build cooperative apartments than rental dwellings and that the rent setting system is a major obstacle for new construction.[99]

Sweden has a low housebuilding rate, one of the lowest in Europe along with the Netherlands and the UK. It is difficult to draw any direct conclusion of why, but there are explanations that are more likely than others. These are: high construction costs, the rental regulation[100], taxes and subsidies and an inefficient planning and building permit process.[101] In the 1990s, the cost of building new housing increased significantly. A tax reform reduced interest deductions and interest subsidies, and the sales tax on housing increased. With the reduction in subsidies, housebuilding reached a low point of 11 000 units in the late 1990s. There was a small rise in the 2000s, but fell again with the onset of the financial crisis, and remains low by both international and historical standards.

Housebuilding 1975-2010[102]



In 2006 there was a policy change in Sweden and the subsidies introduced in 2000 were withdrawn. This caused a massive housing start that year which then fell because of the financial crisis. With no more state stimulus packages, housing output remains at a low level and there are poor prospects for sustained expansion. A report from the National Board of Housing, Building and Planning show that the subsidies were important for the construction of rental units.[103]

Housing construction costs are the highest in Europe, according to Eurostat, at around 55% above the EU average. According to Statistics Sweden production costs has risen a lot since 1998, and especially for multi-dwelling buildings. The costs for transportation and materials have increased the most. One explanation to why the material costs are rising so fast can be

[97] Ernst & Young, "Real Estate Asset Investment Trend Indicator Sweden 2013" p. 8
[98] Hyresgästföreningen: "Är det en bra affär att äga hyreshus?" (2012)
[99] Fastighetsägarna: "Varför byggs det så få hyresrätter?" (2012)
[100] However, a report by Christine Whitehead showed that a rent control system only has minor effects on housing construction. (The Private Rented Sector in the New Century - a comparative approach, Sept. 2012, p . 36)
[101] National Housing Credit Guarantee Board, "Finanskrisens påverkan på bostadsbyggandet i Europa", (2011) p. 20-24
[102] Statistics Sweden
[103] Swedish National Board of Building, Housing and Planning, "Många mål få medel", (2004)

bad competition in the production of building materials.[104] Salaries for construction workers is another contributing factor to the high cost of construction in Sweden.[105]

- To what extent are tenancy contracts relevant to professional and institutional investors?
  - In particular: may a bundle of tenancy contracts be included in Real Estate Investment Trusts (REITS) or similar instruments?
  - Is the securitization system related to tenancies in your country? Are commercial (or other) landlords allowed to securitize their rental incomes? If yes: Is this usual and frequent?

Not relevant in Sweden. Tenancy contracts does not represent a value that can be transfered, therefore it makes little sense to include them in REITS.

Securitization is allowed in Sweden, but unusual, and Swedish property companies have been restrictive with this type of financing. In 2001 the Parliament decided to improve the conditions to carry out securitization.[106]

D. Other economic factors

- What kind of insurances play a role in respect to the dwelling (e.g. insurance of the building, the furniture by the landlord; third party liability insurance of the tenant?)?
- What is the role of estate agents? Are their performance and fees regarded as fair and efficient?

In Sweden, both the landlord and the tenant need insurance. The landlord needs insurance for damages on the property, and the tenant needs household insurance to cover what he owns and his furniture.

Estate agents work mainly with purchase and sale of property, but might in rare cases help a property owner letting his item if he's having problems getting it sold.[107] They usually don't receive payment if an item is not sold. Vacant dwellings in Sweden are normally allocated by the owner, and municipal housing companies usually do it after time on a waiting list . MHC:s sometimes provide rental allocation boards which may be used by private landlords. But their participation is voluntarily. Private rental allocation boards are allowed but are subject to a license. A real estate agent can not legally handle a housing property for the sole purpose of renting it out unless they have a housing allocation license.

[104] Ball, Michael (2011), RICS European Housing review, pp. 81-89
[105] National Housing Credit Guarantee Board, "Finanskrisens påverkan på bostadsbyggandet i Europa", (2011) p. 38-39
[106] Prop. 2000/01:19
[107] An estate agent will either have a real estate license or a housing allocation license. I know of no instance where an agent have both.

Since October 1, 2003, a person must be registered as a real estate agent at the The Swedish Estate Agents Inspectorate to be able to professionally allocate rental units. The obligation to register does not apply for lawyers nor those realtors who exclusively allocate municipal rental properties, rental properties for students free of charge, rental properties for recreational purposes, commercial rental units or allocation of rental units to rooms where the rental period is maximum two weeks.[108]

E. Effects of the current crisis

- Has mortgage credit been restricted? What are the effects for renting?
- Indicate the current figures on repossession (seizures of houses in case of mortgage credit default of the buyer)? Have repossessions affected the rental market?
- Has new housing or housing-related legislation been introduced in response to the crisis?

In autumn 2010, new rules came into force regarding mortgage loans. The Swedish Financial Supervisory Authority provided new guidelines for mortgage loans which stated that new mortgage loans should not exceed 85 percent of the home's market value. This became more commonly known as a mortgage cap. The rules took effect on October 1 2010 and the aim is to increase consumer protection and suppress unhealthy developments in the credit market. The new rules have been the subject of much debate because they risk shutting out first-time buyers who can't afford to get a second mortgage for the remaining 15%.

Repossessions have not affected the rental market in Sweden.

Summary table 2 (please complete the cells with +)

	Landlord	Tenant
Crisis effects	+ No direct effect	
Return on investment	+ No direct effect	
Affordability		+ No direct effect
Local differences (in need, RoI and affordability)	+No direct effect	+ No direct effect
Insurance	+No effect	+ No effect

If needed, please make a table per type of renting tenure distinguished in table 1.

The reason that the crisis does not effect the rental sector directly is that the market forces do not effect rents directly. Reduced interest rates lower the rents in the long run and reduced housing production raises the rents in the long run.

1.3 Urban and social aspects of the housing situation

[108] SFS 2011:666 Estate Agents Act (fastighetsmäklarlagen), section 5

A. Urban aspects

- What is the distribution of housing types in the city scale (e.g.: are rented houses mainly in the city centres and owner occupied in the suburbs?) vs. the region scale (e.g.: more rented houses in the big cities, less in the villages?)
- Are the different types of housing regarded as contributing to specific "socio-urban" phenomena, e.g. ghettoization and gentrification
- Do phenomena of squatting exist? What are their – legal and real world – consequences?

There are large regional differences in the types of housing available in Sweden. Generally speaking, the larger a population centre is, the greater the percentage of the population living in apartment buildings is. The most common form of housing in smaller towns are one or two dwelling houses. In towns with a population of 100,000 or more 73 percent of the population live in apartment buildings. In towns with a population of 200-499 inhabitants less than 10 percent live in apartment buildings. Stockholm has the highest proportion of dwellings in apartment buildings with 73 percent. The lowest proportion of dwellings in apartment buildings, 37 percent, have the counties of Gotland and Halland.[109]

The discussion of segregation in Sweden is usually about segregated suburbs in the three major cities. There are no ghettos but there are segregated areas.[110] There is a tendency in some residential areas of Stockholm, Gothenburg and Malmö and in some other major cities to develop a domination of rented apartments which are inhabited of higher concentrations of tenants of non-Swedish origin. The inner-city areas are often inhabited by high-income earners with a lower procentage of immigrants. If you take Stockholm for example, the proportion of people with foreign backgrounds vary widely between the different municipalities. In the municipality of Botkyrka people with non-Swedish origin are a majority, 53.8%, compared with 16.9 % of the population in Norrtälje and 31.9 % in the region as a whole.[111] The concentration of immigrants in some areas may be partly explained by a desire to live in areas with a large population with the same ethnic background as themselves.

In Stockholm, Gothenburg and Malmö there are several examples of gentrification where working class dominated areas in the central city centres have received a large influx of people with much higher incomes. Some examples are Södermalm in Stockholm and Haga in Gothenburg. This trend has been reinforced by the conversion of rental apartments to cooperative ones.

[109] Boverkets lägesrapport 2012, p. 9-11

[110] An often used definition of ghetto is "an extreme form of residential concentration; a culture, religious or ethnic group is ghettoized when a high proportion of the group lives in a single area , and b) when that group accounts for most of that group in the area" (*The dictionary of human geography*, 2000).

[111] Hårsman, B: *Ethnic Diversity and Spatial Segregation in the Stockholm Region*, Urban Studies, Vol. 43, No. 8, 1341–1364, July 2006, p. 1348

Squatting has occured in Sweden but organized squatting does not exist. If an empty house is occupied, the police and the Enforcement Authority would help the owner to evict the occupiers. There is no special legislation that cover squatting in Sweden.

B. Social aspects

- What is (are) the dominant public opinion(s) towards certain forms of rental types or tenure forms? (e.g. is renting considered as socially inferior?) In particular: Is only home ownership regarded as a safe protection after retirement?
- What is the typical attitude of tenants towards different forms of tenure (e.g. owners of privatised apartments in former Eastern Europe not feeling and behaving as full owners)

According to a interview study within the OSIS project conducted in Gävle in 2005, the meaning of housing differed very little between the tenures, but the respondents recognized a difference in costs. Renting was perceived as an increasingly expensive alternative to home ownership when the interest rates are so low, but not as a socially inferior alternative.

The first and most important reason for home ownership is that it seems to be a financially advantageous alternative, but according to the respondents there are exceptions at both ends of the life cycle. For young people as well for the elderly, renting was considered to be an acceptable alternative. Mortgage payments for home owners was considered a good way of saving, or "paying money to yourself".

The majority of respondents felt financially secure about their housing and claimed that as long as they prioritized their housing costs, nothing would happen to them. This was something that applied to both renters and owners. Many of the respondents believed the risks to be small in general terms, but were aware of the reduce in income after retirement. Some of the respondents were considering moving and downsizing in order to get smaller housing costs.

The factors that made homeowners feel secure was equity and low housing costs, due to the low interest payments and monthly fees. An appreciated factor among the respondents was the fact that renters have no unexpected costs for housing maintenance. However, the rent for the tenants will not fall after the retirement, as is the case for homeowners who eventually pay off their mortgages.

According to the respondents, there has previosly been a equality between the different forms of tenure. But factors as lower interest rates on mortgages, rapidly increased house prices and relatively high rents for tentants has changed this to a clear advantage for homeowners, and private homeowners in particular. There has

been a tradition of seeing homeowning as less secure and renting as more secure, but according to the respondents, today the reverse is true.[112]

Summary table 3

	Home ownership	Renting **with a public task**	Renting **without a public task**	Etc.
Dominant public opinion	The best housing alternative	Not distinguished in Sweden	A good alternative for elderly and adolescents In some areas, problems with segregation	
Tenant opinion	The best alternative for those who can afford it			
Contribution to gentrification?	Yes		No	
Contribution to ghettoization?	No		Contribution to segregation, especially in the areas built during the Million Programme	
Squatting?	Almost non-existing in Sweden		No	

[112] Elsinga, M., De Decker, P., Teller, N., Toussaint, J. (eds.), *Home ownership Beyond asset and security. Perceptions of housing related security and insecurity in eight European countries*, p. 238-253

2 Housing policies and related policies

2.1 Introduction

- How is housing policy related to the structure and concept of the (national) welfare state, to other welfare policies and the tax system?

When the Tenancy Bargaining Act (hyresförhandlingslagen)[113] came into force the utility value system hade been running for ten years. The MHC:s had a system where they negotiated the rents with the Swedish Union of Tenants which was developed under the 1950s as a result of an agreement between the Swedish Union of Tenants and SABO. The Union and the Swedish Property Federation agreed on negotiations in 1971. The law on negotiations was passed and was in fact stipulating what was already established on the market.[114] In Sweden both the labour market and the tenancy market has a tradition of prefering regulation by the organisations rather than the state. As a starting point for this tradition one may use the proposed legislation giving the tenats right to barter apartements in 1948.[115] This proposed legislation was not enacted. Instead the Landlord Organisation and the Tenants Union decided to set up a Councilliation Board dealing with the issue.[116] The Swedish rent regulation model based on collective bargaining was in line with this tradition.

If either a landlord or an organization of tenants want to sign a bargaining agreement (förhandlingsordning) either of the parties have the right to turn to the rent tribunal and get a decision on the matter. The rent tribunal shall grant the request from either the landlord or the organization of tenants, if it is reasonable with respect to (i) the tenants organizations qualities, (ii) the number of apartments the agreement is expected to include and (iii) other circumstances. If a majority of the tenants in a building want the organization of tenants to negotiate rent, and it is qualified to do so, than the rent tribunal shall decide in favour of the plea.[117]

It was this act that significantly improved the Union of Tenants' strong position in the Swedish rental market.

Rents for residential apartments in Sweden are normally determined through negotiations between landlords and tenant representatives. The collective rental negotiations are conducted between two parties. One party is the landlord, who is sometimes represented by a property-owner organisation. The Swedish Property Federation can also be the signatory party. The other party is a tenant organisation, which has been assigned to protect the interests of the tenants.

A landlord and the tenant organisation will enter into a formal agreement and between the landlord and the tenant an ordinary tenancy agreement is concluded. However, the

[113] SFS 1978:304
[114] Anna Christensen, *"Hemrätt i hyreshuset: en rättsvetenskaplig studie av bostadshyresgästens besittningsskydd",* 1994, p. 60ff
[115] Prop. 1948:212 p. 1
[116] Government White Paper 1966:14, p. 353
[117] Tenancy Bargaining Act Section 9-11

tenancy agreement includes a bargaining clause which binds the tenant to pay the rent that the landlord and the tenant organisation agree upon. This means that when a negotiation is concluded, the different rent levels can easily be adjusted for those tenants who have a clause in their tenancy agreements. These negotiation operations are not financed by membership charges but by a charge of SEK 12 per month, which is included in the rent charged by the landlord and then passed on to the tenant organisation. If a landlord and a tenant organisation can not agree, the party who requested the negotiation must apply to the Rent Tribunal.

The Swedish housing policy has played an important role in the construction of the Swedish welfare state. Through housing policies the aim has been to promote family formation, increase growth, improve living conditions, facilitate population transfer and keep rents low and stable. Since the 1940s, the general aim for the Swedish housing policy has been to create good and affordable housing for everyone, regardless of gender, age, origin or incomes (there is no upper income limit to live in MHCs in Sweden). The right of good housing is considered to be a social right, and it also appears in the Swedish Constitution. The majority of today's municipal housing companies were created during the 1940 and 1950's, in an attempt to build homes without a vested interest in profit and to maintain stability in the housing market. In the 1960s a new rent setting system was introduced. From now on the rents were to be determined by an "utility value" (bruksvärde), and to find out whether a rent was reasonable or not it should be compared to the rents of the municipal housing companies. This created a "rent ceiling" and it worked as a protection for tenants as well as it held back rents in the private sector.[118]

The housing policy is related to the welfare state through the different forms of assistance for housing consumption the state provides. Low income households and pensioners may be entitled to housing allowances and homeowners can use an interest deduction for rebuilding their homes.

More recently, the EC legal rules on state aid and competition has become increasingly relevant in the Swedish housing policy issues. In 2002, the European Property Federation (EPF) made a complaint to the EC Commission in which they argued that the Swedish housing company receives support from the municipalities which are contrary to state aid rules in the EU. After much debate, the Swedish Parliament passed a new law: The Municipal Housing Companies Act (lag om allmännyttiga kommunala bostadsaktiebolag)[119] which establishes their objective and ground rules. Public housing companies must then promote public benefit and the supply of housing in the municipality for all kinds of people. To do so, they operate under ‘business like principles’, its exact meaning is still under debate. But it implies that there will be no direct support, either from the government or from the local authorities, no favorable loans and no special advantages in taxation. They should apply correct pricing, including a certain profit margin, and not apply the ‘cost-price principle’ any longer. A market-based return on investment should be required by the municipalities, based on industry practice and risk. Another adjustment had to be done on the rent setting system which wasn't compatible to EU rules. As stated above, the municipal housing companies had a

[118] SOU 2008:38 pp. 75-80
[119] SFS 2010:879

normative role in the comparisons to find out if a rent is reasonable or not. But now can comparisons be made with negotiated rents in both private and public apartments.[120]

- What is the role of the constitutional framework of housing? (in particular: does a fundamental right to housing exist?)

The right to housing is mentioned in the constitution (2 § The Instrument of Government/ Regeringsformen)[121] But this a merely a goal and cannot be invoked by Swedish courts. Therefore, there is no constitutional right to housing in Sweden.The issue of right to housing is handled under the Social Services Act (socialtjänstlagen)[122] which applies between the citizen and the state (or the municipality which must provide the dwelling) but not between a landlord and a tenant.

2.2 Policies and actors

A. Governmental actors

- Which levels of government are involved in housing policy (national, regional, local); what are they called; how many are there of each?
- Which level(s) of government is/are responsible for designing which housing policy (instruments)?
- Which level(s) of government is/are responsible for which housing laws and policies?

Sweden has a parliamentary form of government. The people are represented by the Parliament (riksdagen) which has 349 members and are elected for a period of four years at a time. The Government (regeringen) governs the state and is answerable to the parliament. In support of its mission to lead the country is the government office. The Government office is divided in different ministries (departement) for the preparation of different matters, and most of the work at the ministries revolves around legislation and the state budget. In Sweden, the Parliament has the legislative power and the Government has the executive power. It is the Civil Parlamentry Standing Committee (socialutskottet), one of the ministries in the government office, that deals with the housing policy since 2010. In the parliament, it is the Committee on Civil Affairs (civilutskottet).[123] When the Government wants to make a proposal for a new law, it must first send a report to relevant authorities, organizations, municipalities and other interested parties, to allow them to comment on the proposal. And in the case of new housing policy proposals, the intestested parties might be the Swedish Property Federation, the Swedish Union of Tenants, HSB, Riksbyggen, The National Board of Helath and Welfare, The Swedish Consumer Agency and the Swedish Association of Public Housing Companies.

[120] http://www.europolitics.info/sweden-social-housing-under-businesslike-principle-art321378-3.html
[121] SFS 1974:152
[122] SFS 2001:453
[123] www.riksdagen.se/www.regeringen.se

The Swedish National Board of Housing, Building and Planning is a central Government authority administered by the Civil Parlamentry Standing Committee and supported by an Advisory Board consisting of delegates who are commissioned by the central government. The National Board is the administrative authority for matters concerning the housing environment, conservation of land and water areas, spatial planning, construction and management of buildings, housing and housing finance. The National Housing Board is also responsible for the central administration of state aid and grants in its field.[124]

The County Administrative board (Länsstyrelsen) is a state authority and the government representatives in the counties. Its most important task is to ensure that the objectives that the parliament and the government held in a number of different policies is achieved while taking into account the different conditions of the county. The County Administrative Board is dealing with state aid for construction of senior housing and sheltered housing, radon remediation of houses and energy subsidies for residential and certain premises. It also compiles information and perform analysis of the county's housing market including support to the work of the municipalities housing supply.[125]

The responsibility for housing policy is shared between the central and the local Government. The state is responsible for the legal and financial issues while the municipalities are responsible for planning and implementation. The municipalities have a political regime structured by a directly elected municipal assembly, elected in the same manner and on the same day as the parliament. Under the municipal assembly there is a municipal executive committee which manages the overall ongoing policy work and in addition there are various committees and boards that manage municipal commitments in different areas. In Sweden there are 290 municipalities. The municipality has a responsibility for housing supply in the way that the municipality should plan the housing supply in order to create opportunities for everyone in the community to live in decent housing. Guidelines for housing shall be adopted by the municipal assembly during each term.[126]

B. Housing policies

- What are the main functions and objectives of housing policies pursued at different levels of governance?
    - In particular: Does the national policy favour certain types of tenure (e.g. rented housing or home ownership (owner-occupation)?

The main focus on both a national and a regional level is the shortage of housing in the urban areas, and the municipal responsibility for housing construction is currently being debated in a number of government inquiries. To solve the problem, the Government

[124] http://www.boverket.se/Om-Boverket/About-Boverket/
[125] www.lansstyrelsen.se
[126] www.skl.se

has taken some different actions. The Government has invested in a new form of tenure, namely condominiums. These became available in apartment buildings for the first time under Swedish law on the 1st of May 2009.[127] It had previously only been allowed in one or two dwelling houses. But since 2009, only about 700 condominimums have been built.[128] The Government has also made it more profitable for owners of co-operative apartments, condominimums and one or two dwelling huses to sublet their property. On February 1, 2013, new rules came into effect that made it possible to charge market rents for those tenures.[129]

You could argue that the Swedish government favoures house-owners, because they are entitled to make interest deductions for their home loans and there is a possibility of a tax rebate on 50% of the cost of repair, renovation and extension work undertaken on their homes. If the house or apartment is sold, there is a capital gains tax of 30 % on two-thirds of any price rises. But this can de deferred as long as another item is bought for at least the same amount of money.

But, at the same time, tenants are favoured by the rules that rents must be set according to the utility value principle.

- Are there measures against vacancies (e.g. fines or forced assignments of vacant houses)?

Yes, according to Section 2 in the Housing Management Act the rent tribunal can decide to put the building under special management if an owner of a rental building do not let apartments in the building and it is indefensible considering the housing supply. However, it is extremely rarely used.

- Are there special housing policies targeted at certain groups of the population (e.g. migrants, Sinti and Roma etc)?

No, there are no special housing policies that target special groups besides housing for the elderly.

C. Urban policies

- Are there any measures/ incentives to prevent ghettoisation, in particular
- mixed tenure type estates
- “pepper potting”
- “tenure blind”

[127] Prop. 2008/09:91
[128] http://www.cmb-chalmers.se/publikationer/agarlagenheter_2013_webb.pdf
[129] Lag (2012:978) om uthyrning av egen bostad

- public authorities “seizing” apartments to be rented to certain social groups

Other “anti-ghettoisation” measures could be: lower taxes, building permit easier to obtain or, in especially attractive localisation - as a condition to obtain building permit, condition of city contribution in technical infrastructure.

There are few state rules in Sweden to prevent segregation. It is up to the municipality to choose how to deal with the problem. However, the Social Welfare Committe in every municipality rents apartments in different areas from MHC:s as well as from private landlords to sublet to socially vulnerable persons. Since the housing allocation act was revoked private landlords cannot be forced to participate in this system. The most important tools are the planning rules: sometime builders are made to produce rental apartments as a condition for being allowed to make the more profitable cooperative apartments and business apartments as well. The municipalities also have a statutory right to purchase co-operative apartments to sublet it to person with social problems.[130] Such rights are seldom used as the municipality has to buy the apartment from the owner at market price. If it is an expensive apartment of high standard it would be unfair to give it to a person with social problems. Today 11 000 cooperative apartments are owned by municipalities and sublet.[131]

- Are there policies to counteract gentrification?

No. Cooperative apartments and ownership homes are sold in a free market. The rent control may be viewed as one way to combat gentrification, but it is a side effect of protecting the tenants home.

- Are there any means of control and regulation of the quality of private rented housing or is quality determined only by free market mechanisms? (does a flat have to fulfil any standards so that it may be rented? E.g.: minimum floor area, equipment, access to technical and/or social infrastructure and/or public transport, parameters such as energy efficiency, power/water consumption, access to communal services such as garbage collection. If so: how are these factors verified and controlled?)

A tenant in both private and municipal housing is protected by rules on minimum acceptable standard in the Tenancy Act[132], such as access to hot and cold water, a toilet, shower, stove, refrigerator etc. If these requirements aren't met, a tenant can make an application to the Rent Tribunal and require the landlord to fix the errors. The Rent Tribunal may impose a penalty if the landlord does not comply with the injunction.

[130] The Act on Cooperative Apartments (bostadsrättslagen, SFS 1991:614) states that a a municipality can never be denied membership in a housing cooperative (chapter 2 § 4), and always has the right to sublet its apartment (chapter 7 § 10).
[131] http://www.boverket.se/Global/Webbokhandel/Dokument/2008/Hyreskontrakt_via_kommunen.pdf
[132] Tenancy Act § 18a

- Does a regional housing policy exist? (in particular: are there any tools to regulate housing at regional level, e.g.: in order to prevent suburbanisation and periurbanisation? Is it possible to distribute local taxes so that villages can afford the limitation of housing areas?)

This is regarded as a problem in Sweden. There is now an ongoing investigation regarding "Regional planning and housing supply" which will present its conclusions in March 2015.[133] There are no municipal housing or other property taxes. Therefore municipalities do not gain from allowing housing being contructed. Housing is being contructed because there is a housing shortage. The problem with segregation and gentrifiction is partly caused by the fact that some small municipalities want to keep people with low income out and only permit the construction of expensive housing.

The County council take part in the planning process. For instance, coordinating the building of housing in different municipalities with the public transportation needs in a certain area.

D. Energy policy

- To what extent do national and or local energy policies affect housing?

All energy policies are decided on a national level. The Swedish parliament decided in June 2006 that energy consumption in homes should be reduced by one-fifth per unit in 2020. By 2050, the energy consumption should be halved. By 2020, the reliance on fossil fuels for energy use in buildings should be smaller. Economic support is provided for transition to district heating, biomass-fired heating system, heat pump or solar heating.[134]

The energy policies affect housing construction, because there are stringent requirements on energy consumption for new houses. The legislation provides a maximum level of energy use per square meter, and in 2021 the rules will be even more strict.[135]

Between a landlord and a tenant the energy policies have no effect; a tenant can't demand to have a certain type of heating for example.

There are of course government regulations about rented housing that does not affect that there is a valid contract which are described elsewhere in the report, such as the rules on energy performance certification of buildings.

[133] Dir 2013:78
[134] http://www.energimyndigheten.se/en/
[135] http://www.energimyndigheten.se/sv/Hushall/Bygga-nytt-hus/

Summary table 4

	National level	Lowest level (e.g. municipality)			
Policy aims					
1)Sufficient housing for everybody	x	x			
2) Energysaving	x				
Environmental issues	x				
3) Consideration for peripheral areas	x	x			
Laws					
1) All laws	x				
2) Etc.					
Instruments					
1) Subsidization	x	x			

Subsidization

2.3 Subsidization

- Are different types of housing subsidized in general, and if so, to what extent? (give overview)

Families with children and young people aged between 18 and 29 with a low income might be entitled to housing allowance (bostadsbidrag). The amount depends on the income, how much the housing cost and how many children there is in the family. A person who has activity or sickness compensation can be entitled to housing supplement (bostadstillägg), and the same applies for pensioners. The amount received is based on income and the housing costs. The right of housing allowance or supplement applies whether you are a tenant or a home owner.[136] A tenant with little or no income can also get a rent guarantee from the municipality, which makes it easier to obtain a lease. Costs for interest rates are deductable 30 % for homeowners and owner of cooperative apartments.

Formally, there is a possibility to get a purchase guarantee for first-time buyers, which is a government guarantee covering interest payments on home purchases. The purpose is to provide assistance to households who want to buy a home but aren't able to get home loans even though they have a long-term solvency. It may be due to individual risk factors such as not being known at the bank in the past, individual credit history and more. The guarantee works as an insurance policy for the lender who insure against the risk of losing interest income for a home loan.[137] However, this possibility is not used in practice.

- Explain the different forms of subsidies for tenants, (certain) landlords and, if relevant, housing associations or similar entities acting as intermediaries (e.g. direct, by means of investment loans, tax privileges). Which level of government is competent to assign the subsidies? Is there a right to certain subsidies or does the public administration have discretion in whom to assign the subsidy?

For the information on subsidies for tenants, see above. It is the Swedish Social Insurance Agency (Försäkringskassan) that administers the subsidies. The Agency makes a schematic investigation after it receives an application.

When it comes to financing for building rental housing is in Sweden, there are no state loans provided for the construction of housing. It is possible to apply for investment support for projects that create senior housing through new construction or remodeling.

[136] www.forsakringskassan.se
[137] http://www.boverket.se/Bidrag--Stod/Forvarvsgarantier/

This applies for the adoption of both cooperative, rental and co-operative rental dwellings.[138]

If a person already living in a home is getting disabled he or she can get a grant to adapt his or her home to the new disability.

- Have certain subsidies been challenged on legal grounds (in particular: on the basis of competition law or budget law)?

In 2002, the European Property Federation (EPF) made a complaint to the EC Commission in which they argued that the Swedish housing company receives support from the municipalities which are contrary to state aid rules in the EU. After much debate, the Swedish parliament passed a new law: The Municipal Housing Companies Act which establishes their objective and ground rules. Public housing companies must then promote public benefit and the supply of housing in the municipality for all kinds of people. To do so, they operate under 'businesslike principles', its exact meaning is still under debate. But it implies that no direct support, either from the government or from the local authorities, no favorable loans and no special advantages in taxation.[139]

- Summarise these findings in tables as follows:
-

Summary table 5

Subsidization of landlord	Rental and cooperative rental apartments	One or two dwelling houses and cooperative apartments
Subsidy before start of contract (e.g. savings scheme)		
Subsidy at start of contract (e.g. grant)	Investment support to build senior housing	Investment support to build senior housing (applies to the building of cooperative apartments)
Subsidy during tenancy (e.g. lower-than market interest rate for investment loan, subsidized loan guarantee)		

Summary table 6

Subsidization of tenant	Rental and cooperative rental apartments	
Subsidy before start of contract (e.g. voucher	Rent guarantee Unemployed persons may	

[138] http://www.boverket.se/Bidrag--Stod/Hyreshus/Investeringsstod-till-aldrebostader/
[139] http://www.europolitics.info/sweden-social-housing-under-businesslike-principle-art321378-3.html

allocated before find a rental dwelling)	get a grant for moving costs if they find work elsewhere. [140]	
Subsidy at start of contract (e.g. subsidy to move)		
Subsidy during tenancy (in e.g. housing allowances, rent regulation)	Housing allowance or supplement	

Summary table 7

Subsidization of owner-occupier	One or two dwelling houses	Cooperative apartments
Subsidy before start of contract (e.g. savings scheme)		
Subsidy at start of contract (e.g. grant)	Purchase guarantee	Purchase guarantee
Subsidy during tenancy (e.g. lower-than market interest rate for investment loan, subsidized loan guarantee, housing allowances)	Housing allowance or supplement Costs for interest rate are deductable	Housing allowance or supplement Costs for interest rate are deductable

2.4 Taxation

- What taxes apply to the various types of tenure (ranging from ownership to rentals)?
    - In particular: Do tenants also pay taxes on their rental tenancies? If so, which ones?

No, tenants do not pay taxes on their tenancies.[141]

Owners of one or two dwelling houses and apartment buildings have to pay a property fee. For one or two dwellings houses it is 7 074 SEK or 0.75 % of the assessed value if that provides a lower fee. For apartment buildings it is 1 210 SEK per apartment or 0,3 % of the assessed value. No fee is required for condominiums until 2016. If the house or apartment is sold, there is a capital gains tax of 30 % on two-thirds of any price rises. But this can de deferred as long as another item is bought for at least the same amount of money.[142]

[140] I regard this as an unemployment policy and not a housing policy. Please see the webpage of Arbetsförmedlingen (www.arbetsformedlingen.se) for more information on financial support for jobseekers.
[141] There is no connection whatsoever between the landlord's payment of taxes and tenant's security of tenure.
[142] http://www.skatteverket.se/privat/skatter/fastigheterbostad/fastighetsavgiftfastighetsskatt.4.69ef368911e1304a625800013531.html

When immovable property (for ownership houses and condominiums but not for cooperative apartments) is acquired the buyer must also pay stamp duty, in order to receive a title deed for the property. The stamp duty is 1.5% of the purchase price for natural persons and 4.25% for legal entities. If the new owner needs to take out a new mortgage loan and there isn't any previous mortgage deed, it will cost 2% of the mortgage deed's value in tax.

Apartment buildings are counted as commercial property and taxed as a commercial activity at a rate of 22 % on any excess. (Only one or two dwelling houses and land intended to be provided with such a house, can be counted as private residential property). Rent are recognized as income and all expenses of the property may be deducted, even depreciation. Any interest on loans used for the acquisition of property or equipment are deductible.

The tax rate on the sale of commercial property is 27 percent of earnings, compared with 22 percent for private residential properties.[143]

- Is there any subsidization via the tax system? If so, how is it organised? (for instance, tenants being able to deduct rent from taxable income; landlords being able to deduct special costs; homeowners being treated favourably via the tax system)
- In what way do tax subsidies influence the rental markets?

Only for homeowners, please see above, who can deduct their costs for interest rate. There is also a possibility of using "rotavdrag", which is a tax subsidy for individuals, and may be used for costs for maintenance, repair and conversion and extension work on your home. The work must be performed in or in close proximity to a dwelling that you own and that you live in (hence, not available for tenants). The maximum amount deductable is 100 000 SEK per person per year.[144]

From 2013 onwards, the tax-free amount is twice as big for individuals who sublet their cooperative apartment or house; up to the amount of 40 000 SEK. For owners of one or two dwelling houses 20 percent of the rent is deductible. If a cooperative or rental apartment is sublet, the whole fee or rent paid may be deducted by the owner or the tenant.[145]

The Government expected that the subletting of private homes would increase with the new rules on increased flat-rate deduction, but it is too early to determine if they had any effect.

- Is tax evasion a problem? If yes, does it affect the rental markets in any way?

According to the the Swedish tax agency at least 46 billion SEK disappears every year in tax that should have been paid on international transactions. It's a third of the

[143] http://www.skatteverket.se/download/18.18e1b10334ebe8bc8000115067/kapitel

[144] https://www.skatteverket.se/privat/skatter/fastigheterbostad/rotrutarbete.4.2e56d4ba1202f95012080002966.html

[145] http://www.skatteverket.se/privat/svarpavanligafragor/rantorochutdelning/privatrantorfaq/jagharhyrutminbostadhurbeskattasdet.5.18e1b10334ebe8bc8000118317.html

total tax gap of 133 billion SEK. A large part of the money are invested in tax havens. The tax agency has in recent years checked arrangements with foreign companies used for tax evasion purposes. Owners of small and medium enterprises move its assets and profits to holding companies in for example Luxembourg or Malta in order to avoid taxation in Sweden. Since the tax agency started a project called the National Project for International Transactions (Riksprojektet Utlandstransaktioner), increasing numbers have voluntarily started to report income from tax havens.[146]

It is unclear how the rental markets are affected by tax evasion in Sweden. The low rate of vacancies means that most landlords report incomes from paying tenants. It is easy to evict a tentant who stops paying.

Summary table 8

	Home-owner		Landlord	Tenant	Cooperative association	Coop. owner
Taxation at point of acquisition	Stamp duty Mortgage deed tax		Stamp duty Mortgage deed tax	-	Stamp duty Mortgage deed tax	
Taxation during tenancy	A property fee		A property fee Business income tax	-	A property fee on dwellings and property tax	

[146]http://www.skatteverket.se/omskatteverket/omoss/beskattningsverksamheten/specialgranskningar/utlandstransaktioner.4.58a1634211f85df4dce800011401.html

					on premises Business income tax VAT[147]	
Taxation at the end of tenancy	A capital gains tax of 30 % on two-thirds of any price rises		Taxation of any gain upon sale	-	-	Taxation of any gain upon sale (deductions can be made)

3. Regulatory types of rental and intermediate tenures[148]

3.1 Classifications of different types of regulatory tenures

- Which different regulatory types of tenure (different regulation about contracts and tenant security) do you classify within the rental sector? What are their shares in dwelling stock (compare summary table 1)?

The whole rental sector in Sweden is covered by the Tenancy Act. The rules in the the Tenancy Act apply to both private and municipal landlords, as well as when individuals sublet their house or apartment.

The only exception is when individuals rent out their house or cooperative apartment, then the rules on rent regulation does not apply (provided that the letting is not part of a commercial activity). When a person is letting a dwelling which he or she temporarily has no need for it is normally not counted as a commercial activity. But if the person is letting three or more dwellings it is normally considered as a commercial activity. If a person is letting several homes, the new rules only apply to the first lease. For the other dwellings the rules in the Tenancy Act apply.

The new rules came into force in February 2013 and means that the parties are free to agree on the size of the rent. If the agreed rent significantly exceeds the cost of capital and operating costs of the property the Rent Tribunal, after an application by the tenant, can put it down. The landlord is not entitled to receive any rent increases from the Rent Tribunal. The "cost of capital" is calculated as a reasonable rate of return on the property's market value. If the dwelling was purchased recently the purchase price can give a good indication of its market value. A benchmark for the cost of capital is that four

[147] In some cases, a cooperative association has to account for VAT. For example if the association lets parking spaces

[148] **I.e. all types of tenure apart from full and unconditional ownership.**

percent is currently an acceptable level. The calculation is not related to the owners actual borrowing costs. The question on whether the property is mortgaged or not is irrelevant to how high rent that may be charged. The "operating costs" refer to costs that the landlord has to hold the property in the condition it was when it was let. Such costs can be a fee to the housing society, wear of the furniture or the cost of electricity and broadband. It is the actual costs that shall be reimbursed.

There is no longer an opportunity for the tenant to apply to the Rent Tribunal to get back the amount he or she paid in addition to the cost of capital and operating costs. That is a difference to the Tenancy Act which gives the sub-tenant the right to recover the amount paid in excess of reasonable rent for up to a year. The most important difference is that utility value rents are being replaced by market rents.[149]

3.2 Regulatory types of tenures without a public task

- Please describe the regulatory types in the rental sector in your country that do not have a public task. This category may be called private or market rental housing.[150]
  - Different types of private regulatory rental types and equivalents:
    - Rental contracts
      - Are there different intertemporal schemes of rent regulations?
      - Are there regulatory differences between professional/commercial and private landlords?
        - Briefly: How is the financing of private and professional/commercial landlords typically arranged (e.g. own equity, mortgage based loan, personal loan, mix, other)

Sweden does not have the sectioning of the rental sector between tenures with and without a public task. Please see the answer above.

There are regulatory differences between private landlords and the MHC:s. The law on MHC and the Municipality act requires these companies to act:

1. For the benefit of public utility
2. Give the tenants opportunity to accomodation influence and influence in the company
3. Promote housing supply

[149] http://www.regeringen.se/content/1/c6/20/72/35/4d06d424.pdf
[150] Market rental housing means housing for which the rent price determines the conclusion of contracts and not some social rules of allocation based on need.

4. Bound by rules of limited dividend
5. Bound by the locating principle in the Municipality act. They are not allowed to operate outside the geographical territory of the municipality

Beyond this, business-like principles should apply. In essence, all of these things can be true for private companies as well, created in their charter.

Building of rented housing is typically financed by mortgage based loans, but private landlords finance their construction with own equity to a greater extent.

- Apartments made available by employer at special conditions

If an employee has the right to use an apartment as a part of their employment contract the tenant enjoys protection by the Tenancy Act. If the employment is terminated, the lease may be terminated by the Rent Tribunal if it is not unreasonable. But if the tenancy has lasted for more than three years, the Tenancy Act states that "exceptional" reasons are required.[151] These rules in the Tenancy Act can be derogated by an collective agreement on a central level.

- Mix of private and commercial renting (e.g. the flat above the shop)

A "bokal" is a form of housing that combines housing and commercial renting. The housing is mainly aimed towards small businesses and has been relatively uncommon in Sweden. The MHC in the municipality of Malmö for example, has 17 contracts where the tenant rents both an apartment for himself to live in as well as the shop below. The tenants in those "bokaler" have signed a waiver of security of tenure, so that the landlord can be sure that both the leases will be terminated if either of the contracts would cease. This will only be vaild for four years and only with the permission from the Rent tribunal. eventually will the normal rules apply with much stronger protection for the housing contract. Note that in Sweden these "bokaler" does not have mixed contracts, the shop and the flat have separate contracts with separate legal rules. One commercial contract with less protection and one housing contract with extensice protection.[152] If the shop and the housing really is one unit, the unit has to be classfied as either a housing or a commercial contract.[153]

- Cooperatives
- Company law schemes
- Real rights of habitation
- Any other relevant type of tenure

Sweden has a tenure called cooperative rental housing but it is only a small fraction of the total house stock. There are a couple of regulatory differences between cooperative rental housing and ordinary rental housing. First of all, the cooperative association can determine the rent without the requirement of negotiations with a tenant organization.

[151] Tenancy Act § 46 p. 9: normally the Rent tribunal decides that the tenant has to move if the tenancy has lasted shorter than three years. But if more than three years have passed, it will be very difficult for the landlord to win the case. § 46 p. 8 concerns positions that are associated with housing compulsion but these are rare. One example is the residence of the Prime minister.
[152] http://www.mkbfastighet.se/templates/Page.aspx?id=125332
[153] Tenancy Act 1 §: if the unit is fully used as a residence or at least to a not "insignificant part" it should be classified as a housing contract and not as a commercial one.

The individual tenant can not request a reduction of the rent in the Rent Tribunal. Secondly, the tenant has no influence over refurbishments and improvements carried out by the association. But the tenant has a security of tenure and a number of other rights according to the Tenancy Act.[154]

3.3 Regulatory types of tenures with a public task

- Please describe the regulatory types of rental and intermediary tenures with public task (typically non-profit or social housing allocated to need) such as
  - Municipal tenancies
  - Housing association tenancies
  - Social tenancies
  - Public renting through agencies
  - Privatised or restituted housing with social restrictions
  - Public entities (e.g. municipalities) taking over private contracts, typically for poor tenants to counteract homelessness
  - Etc.

- Specify for tenures with a public task:
  - selection procedure and criteria of eligibility for tenants
  - typical contractual arrangements, and regulatory interventions into, rental contracts
  - opportunities of subsidization (if clarification is needed based on the text before)
  - from the perspective of prospective tenants: how do I proceed in order to get “housing with a public task”?

Municipal housing in Sweden is not equal to social housing, since there is no upper income level to become a tenant. But there is something called "social contracts", where a municipality rent apartments from private landlords and MHC's to sublet to poor tenants or tenants wih social problems. The apartments are normally subjects to supervision and / or specific conditions or rules. The municipalities also have the right to buy cooperative apartments from housing socities to sublet. There were approximately 11 000 apartments in Sweden sublet in this way in 2007. Eligible for one of those apartments are persons who are unable to obtain a lease because they are not approved as tenants for various reasons on the ordinary housing market.[155] This is pepper potting.

- Draw up summary table 9 which should appear as follows:

Rental housing **without a public task** (market rental housing for which the	Main characteristics • Types of landlords

[154] http://www.sabo.se/kunskapsomraden/boende_och_sociala_fragor/koop_hr/Sidor/vad_ar.aspx
[155] http://www.boverket.se/Global/Webbokhandel/Dokument/2008/Hyreskontrakt_via_kommunen.pdf

ability to pay determines whether the tenant will rent the dwelling); for example different intertemporal schemes of different landlord types with different tenancy rights and duties	• Public task • Estimated size of market share within rental market • Etc.
1) All letting	The Swedish Rent Act covers all types of landlords and property types, with the exception when private houseowners and owners of cooperative apartments sublet their property.
Rental housing for which a **public task** has been defined (Housing for which government has defined a task; often non-profit or social housing that is allocated according to need, but not always)	
1) "Social contracts"	It is usually a municipality which sublet to tenants with social problems. The Rent Act applies.

- For which of these types will you answer the questions in Part 2; which regulatory types are important in your country?

Rental housing without a public task.

Part 2: Tenancy Law (space: 80-130 pages, 1 space, 12pt

Introductory Remark: If necessary, please distinguish private and "public task tenancies" throughout the whole part 2.

Table of contents

1. Origins and development of tenancy law

What are the origins of national tenancy law and where was and is it laid down (civil code, special statute, case law)?

In conjunction with the industrial revolution in the late 1800s, construction of apartment buildings started to house the workforce. As the working class in the cities grew, tenancies became a social issue. The industrialization of Sweden did not just mean urbanization, but also a new way of looking at tenancies. Liberal ideas of freedom of contract and the owner's right to freely dispose of their property broke through. These were expressed in the act from 1907[156] (The Act on access right to immovable property/Lag om nyttjanderätt till fast egendom) that regulated jurisdictions as rent, leasehold and tenancy. It was very market liberal. The law was based on a virtually unlimited freedom of contract. It contained no binding rules on hiring and tenure. Such questions were instead governed by the provisions of the individual lease. This law can be said to have laid the foundations for the modern rent act.

However, this unlimited freedom of contract was found to have negative social effects. Especially in times of crisis and war, it became apparent that the liberal ideas did not work effectively. Shortage situations were used by property owners to raise rents in a way that was not socially acceptable. Therefore temporarily price regulation on hiring and tenure was introduced already during the First World War. The rent increase act

[156] SFS 1907:36

(Hyresstegringslagen)[157] forbade rent increases and termination of contract without the approval of the Rent Tribunal. The temporary regulation was prolonged one year at a time but in 1923 the Parliament decided not to prolong it and it ceased.

But in the political debate after the war voices were raised that security of tenure should be introduced permanently in rental law. In connection with the abolishment of the rent increase act in 1923, a commission was appointed which would suggest some reforms in the legislation, but no changes in the legislation were made. The issue of tenants' security of tenure was debated in the Parliament on many occasions during the 1920 and 1930's, but permanent rules on security of tenure was not introduced until 1939[158] by changes in the act from 1907. These rules resulted in an "indirect" security of tenure which entitled the tenant damages for unjustified termination of the contract. Damages were limited to largely cover the cost of moving.

Three years later, in 1942, a temporarily regulation was once again introduced due to the Second World War. The Rent Control Act (Lag om hyresreglering m.m.)[159] came into force. It contained a general prohibition on rent increases, as well as a "direct" security of tenure. The rents were practically fixed to the levels prevailing in 1942, and a rent increase needed permission from the authorities. The security of tenure meant that a weighing of interests should be made between the tenant and the landlord. This weighing were in many cases settled in the tenant's favor and the practice was therefore that the tenancy normally was prolonged. It is worth mentioning that government price regulations was not only limited to the rental market, but also applied to the market of cooperative apartments.

The rent control was gradually phased out, and in 1956 the security of tenure act (besittningsskyddslagen)[160] was introduced. The introduction of this act also marked a significant change in the approach to rents. The principle of authority determined rents was abandoned in favor of a comparative trial with similar apartments. For the first time, the connection was made that the ceiling of the rent shall be determined by a comparison with other tenancies in the locality. This idea still remains in the current law even if the terms and conditions have changed. The Security of Tenure Act of 1956 was intended to be temporary, and the Government appointed new investigations on the rental law both in 1957 and 1963.[161] This led to a bill on the reform of the rental law tabled by the Government in 1968.[162]

The reform of the rental sector was comprehensive but some parts were kept of the act from 1939 and in part, even of the act from 1907. The government proposal was passed by the Parliament and the new rules came into force in 1969.[163] The act was introduced almost unchanged into The Swedish Land Code of 1970 (Jordabalken)[164], which contains statutory rules about real estate. The provisions on tenancy are contained in Chapter 12, often called the Tenancy Act. This framework has subsequently come to be

[157] SFS 1917:219
[158] SFS 1939:364
[159] SFS 1942:429
[160] SFS 1956:568
[161] SOU 2000:33 pp. 15-18
[162] Prop. 1968:91
[163] SFS 1968: 346
[164] SFS 1970:994

called the 'utility value' system, i.e. that rents shall be determined by a comparison with similar tenancies in an area. With the new rules a permanent security of tenure was introduced, which meant a restriction on ownership and thus a departure from the principles of the act from 1907. In 1974 it was legislated that rental trials should primarily be done through a comparison with rents in the public housing stock.[165]

Who was the political driving force? Was it based on a particular legal philosophy (e.g. socialism)? Is there a particular philosophy behind the rules (e.g. protection of the tenant's home as in Scandinavia vs. just a place to live as in most other countries)

There has not been one political driving force behind the tenancy legislation in Sweden, the ideas have come from both the left and right side of politics. For example, the Security of Tenure Act of 1956 was introduced under Social Democratic government, and the Tenancy Bargaining Act of 1978 was introduced under rightwing government. It is important to note that the security of tenure for a tenant is not a more leftwing than rightwing idea. The Swedish Union of Tenants has no party political affiliations but is perceived as close to the Social Democratic Party.

As mentioned above, the legislation that laid the foundation of the Swedish Tenancy Act, the act from 1907, was a very market liberal act which contained no direct rules regarding the tenant's security of tenure. But there was still strong tendencies towards protecting tenant interests. A Social Democrat member of parliament, Vilhelm Lundstedt, suggested in a report in 1922 that an indirect security of tenure should be introduced. The issue of tenants' security of tenure was debated in the Parliament on many occasions during the 1920 and 1930's, but permanent rules on security of tenure was not introduced until 1939[166] by changes in the act from 1907. At the same time, a strong union of tenants emerged.

The Security of Tenure Act from 1956 is pervaded with thoughts on the protection of the tenant's home. It should no longer be a mercy for a responsible tenant to stay in his or hers rented apartment, but instead it should be a legal right, a "protection of the home".[167] This idea of a protection of the home is based on a conservative approach and influenced by thoughts on property right.[168]

In 1978 when the Tenancy Bargaining Act (hyresförhandlingslagen)[169] came into force under conservative government the utility value system hade been running for ten years. The MHC:s had a system where they negotiated the rents with the Swedish Union of Tenants which was developed under the 1950s as a result of an agreement between the Swedish Union of Tenants and SABO. The Union and the Swedish Property Federation agreed on negotiations in 1971. The law on negotiations was passed and was in fact stipulating what was already established on the market.[170] If either a landlord or an

[165] SOU 2000:33 pp. 19-32
[166] SFS 1939:364
[167] Bergman, "*Hyresfrågan och hemmets rätt",* s 16
[168] Both the landlord and the tenant can be protected by the conservative notion of property rights. The liberal notion of property rights however favours only the landlord. (Christensen, *"Hemrätt i hyreshuset: en rättsvetenskaplig studie av bostadshyresgästens besittningsskydd",* 1994)
[169] SFS 1978:304
[170] Anna Christensen, *"Hemrätt i hyreshuset: en rättsvetenskaplig studie av bostadshyresgästens besittningsskydd",* 1994, p. 60ff

organization of tenants want to sign a bargaining agreement (förhandlingsordning) either of the parties have the right to turn to the rent tribunal and get a decision on the matter. The rent tribunal shall grant the request from either the landlord or the organization of tenants, if it is reasonable with respect to (i) the tenants organizations qualities, (ii) the number of apartments the agreement is expected to include and (iii) other circumstances. If a majority of the tenants in a building want the organization of tenants to negotiate rent, and it is qualified to do so, than the rent tribunal shall decide in favour of the plea.[171] In Sweden both the labour market and the tenancy market has a tradition of prefering regulation by the organisations rather than the state. As starting point for this tradition one may use the proposed legislation giving the tenats right to barter apartements in 1948.[172] This proposed legislation was not enacted. Instead the Landlord Organisation and the Tenants Union decided to set up a Councilliation Board dealing with the issue.[173] The Swedish rent regulation model based on collective bargaining was in line with this tradition.

It was this act that significantly improved the Union of Tenants' strong position in the Swedish rental market.

What were the principal reforms of tenancy law and their guiding ideas up to the present date?

Please see the answer above.

Human Rights:

- To what extent and in which fields was tenancy law since its origins influenced by fundamental rights enshrined in
    - the national constitution
    - international instruments, in particular the ECHR

Swedish tenancy law has not been influenced by the national constitution, since it contains general objectives and generally has little impact on Swedish legislation. However, the ECHR has had visible effect on Swedish law. The ECHR was incorporated as a law in 1995 (Lag om den Europeiska konventionen angående skydd för de mänskliga rättigheterna och de grundläggande friheterna/Act on the European Convention for the Protection of Human Rights and Fundamental Freedoms),[174] and was given semiconstitutional status by the introduction of Chapter 2 section 19 in The Instrument of Government.[175] This section states that no law or other regulation may be issued in contravention with the ECHR.

The ECHR had visible effect in the Case of Khurshid Mustafa and Tarzibachi v. Sweden from 2009,[176] where the European Court of Human Rights concluded that eviction of a family with three children from an apartment where they had lived for more than six years was not a proportionate measure and therefore was a violation of Article 10 in ECHR. The tenants had been given a notice of termination because they had a satellite

[171] Tenancy Bargaining Act Section 9-11
[172] Prop. 1948:212 p. 1
[173] Government White Paper 1966:14, p. 353
[174] SFS 1994:1219
[175] SFS 1974:152
[176] Application no. 23883/06

dish that went beyond the façade in order to accommodate culture and news in their home language. The Court noted that the dish made it possible for the complainants to receive TV programs in Arabic and Farsi from their home land Iraq. The information they got involved political and social news and was of particular interest to those who are immigrants and who want to keep in touch with their native culture and language. It had at that time been no other possibility for the complainants to have access to such programs and the dish could not have been placed elsewhere. It could not be considered that news through newspapers and radio could replace the information given by TV broadcasts. In addition, the landlord's security concerns had been considered by the national courts which found that the current installation was safe.

Another area where the EU has had visible effect on Swedish law is when the Enforcement Agency distrains upon the housing of an individual in order to collect tax debts. In a recent case from the Supreme Court the Enforcement Agency had decided to issue a writ of execution attaching the appellant's property (a house) to cover his tax debts amounting to 625 000 SEK.[177] The Enforcement Authority had also decided to distrain 6 730 SEK of his salary every month. The value of the property was estimated to 875 000 SEK, but the value of the appellant's share amounted to 437 500 SEK. After payments were made to the creditor and selling costs were deducted, an estimated 36 000 SEK would remain for payment of his debts. One of the tax claims would become statute-barred by the end of 2017, and two of the others by the end of 2018.

The appellants argued that the execution was not justifiable with regard to the situation in the family (one of the children sufferered from a chronic disease and the other was believed to have a neuropsychiatric disability) and the difficulties of finding a new home. They suggested that the distraint of salary could be made with a larger amount over a period of time instead.

The district court did not change the decision from the Enforcement Authority, and the Court of Appeal settled the decision made by the district court. However, the Supreme Court stated that in the application of Chapter 4 section 3 of the Enforcement Code a balancing of interests shall be made and insofar possible, other available property besides housing should be used for payment of the applicant's claim. The Court also stated that individuals has the right to respect for their private and family life under Article 8 in the ECHR, and that the best interest of the child must be taken into consideration according to the The United Nations Convention on the Rights of the Child. In this case other property was available, namely the salary. It could not be assumed that the debts would be fully paid through the distraint of the salary, but a sale of the house would only generate a small amount and create great inconvenience for the appellant and his family. Therefore, the decision from the Court of Appeal was overruled by the Supreme Court and the writ of execution was reversed.

This ruling might also affect tenants when given a notice of termination from the landlord. But in these situations there already is a system of protection through the rules

[177] Ö 2656-13

which state that the Social Welfare Committee must be informed about the termination in the Tenancy Act.

- Is there a constitutional (or similar) right to housing (droit au logement)?

The right to housing is mentioned in the constitution (2 § The Instrument of Government/ Regeringsformen)[178] But this is merely a goal and cannot be invoked by Swedish courts. Therefore, there is no constitutional right to housing in Sweden. The issue of housing is handled under the Social Services Act (socialtjänstlagen) which applies between the citizen and the state (the municipality), but not between a landlord and a tenant.

2. Tenancy regulation and its context

a) General introduction

- As an introduction to your system, give a short overview over core principles and rules governing the field (e.g. basic requirements for conclusion, conditions for termination of contracts by the landlord, for rent increase etc.; social orientation of tenancy law in force; habitability (i.e. the dwellings legally capable of being leased))

There are no special requirements for conclusion, since rental agreements do not have to be in written form. An oral agreement is also valid. But according to section 2 in the Tenancy Act, a written agreement should be drawn up if the tenant or the landlord requests it. However, there is no penalty in the legal rule, if the other party refuses to sign a written agreement.[179]

The key legislation regarding tenancy rights in Sweden is the Tenancy Act[180] (i.e. Chapter 12 in the Land Code), which contains the rules governing the rental of housing and premises. The provisions of the Tenancy Act are mostly mandatory and can not be derogated from by agreement to the tenant's detriment. Therefore, tenant's right are generally considered to be as good or better than a consumer's rights. Contract law applies on conclusion and interpretation of tenancy contracts as stated below.

Tenants have a very strong protection under the Swedish tenancy legislation and the right to terminate contracts is very restricted for landlords. The starting point is that a tenant is entitled to a prolongation of the agreement if he has a protected tenancy and has been given a notice of termination due to any of the situations described in section 46 in the Tenancy Act. If a landlord gives a notice of termination under section 46, he must terminate the contract with a period of notice. The notice of termination will not be valid until the rent tribunal has approved it, and the tenant can simply ignore the notice. If the landlord does not apply to the rent tribunal within one month after the lease expires at the latest, the notice of termination is void.[181] This clearly shows that there is an idea of property right in the Swedish rules on protected tenancies.

[178] SFS 1974:152
[179] Grauers, *Nyttjanderätt*, 2005 pp. 22
[180] SFS 1970:994
[181] Section 49 in the Tenancy Act

If a tenancy is forfeited due to misconduct by the tenant and one of the situations in section 42 in the Tenancy Act applies, the landlord is entitled to give an advance notice of cancellation by applying to the district court. If the tenancy is considered to be forfeited, is the landlord entitled to damages and compensation for his legal costs.

If the tenancy is forfeited on account of delay in payment and the tenant has an arrears of rent, the landlord can also apply to Kronofodgemyndigheten (the Enforcement Authority). But the tenant may not be divested of the unit if the pays the rent within three weeks after he has been served with a notice stating that paying the rent within this time will recover the tenancy, and the notice of termination and the reason for it has been given to the social welfare committee in the municipality where the unit is situated. Furthermore, no eviction order may be made until two more weekdays have passed following the expiry of the three weeks.

The abovesaid applies provided that the tenant does not voluntarily agrees to move. A landlord can not itself evict a tenant, an application to the Enforcement Authority must be made.

A tenant is entitled to carry out painting, wallpapering and comparable measures in the dwelling at their own expense. But if the utility value of the apartment is thereby reduced, the landlord is entitled to compensation for the damage.[182] A judicial review regarding whether or not the utility value has deteriorated can not be made until the tenant moves out.

How a rent increase should be made depends on if the landlord has a principal bargaining agreement (förhandlingsordning) with the Swedish Union of Tenants. Such an agreement requires the landlord to negotiate rents, terms and conditions of housing with the Union.[183] If the landlord is bound by this type of agreement he must send the Union a written notice about what new terms he requests.[184] Then the landlord and the Union negotiate what conditions that should apply. If they do not agree, an application to the rent tribunal must be made. A tenant is bound by the new negotiated rent or term if there is a bargaining clause in the tenancy agreement regarding this matter, but can apply to the rent tribunal for an amendment of the agreement.

A landlord without an agreement with the union must negotiate the rent with each tenant individually. He shall start by informing the opposite party of what new terms and conditions he requests. If an agreement cannot be reached, he is entitled to apply to the regional rent tribunal. This application may be made one month after the opposite party has been informed at the earliest (section 54 in the Tenancy Act.)

When it comes to habitability, the starting point is that all dwellings are legally capable of being leased. However, this does not apply to cooperative apartments and rental apartments, where the association or landlord must approve a sublease. Dwellings that will be rented out are not inspected in advance by any authority, but a tenant who finds defects in the apartment can apply to the rent tribunal. This may lead to the landlord being ordered to remedy the defect through a remediation injunction, issued by the rent

[182] Section 24a

[183] However, the Act is neutral in the sense that it states that the landlord can sign a negotiation agreement with an *organization of tenants* - but in most cases this means the Union of Tenants. Although there are a few examples of local tenant organizations not connected to the Union.

[184] Section 15 in the Tenancy Bargaining Act (SFS 1978:304)

tribunal (section 11 p. 5 in the Tenancy Act). If the landlord fails to perform, the rent tribunal can impose a fine. The ultimate step is compulsory management, where the rent tribunal decides that the landlord's property will be managed by a trustee for a period of three to five years.[185] There are rules concerning habitability in the environmental code aswell (9 kap 9§, 26 kap 9 §, 33 §).[186]

A landlord is not allowed to enter into a rented property unless he has the tenant's consent or has a valid reason for entering, as described in section 26 in the Tenancy Act.

The EU has had visible effect on Swedish tenancy law with regard to the 2011 rent regulation reform, because the risk of it violating EU-law was undeniable an important reason for the reform. The reform has resulted in municipal housing companies now being managed under "businesslike principles" and state aid and other forms of support are not provided anymore. Furthermore, the rent-normative role of the municipal housing companies in the rent setting procedure was removed and replaced by a normative role for collectively agreed rents (provided that the collectively agreed rents remain within a reasonable interpretation of the utility value).[187]

Condominimums became available in apartment buildings for the first time under Swedish law on the 1st of May 2009.[188] It had previously only been allowed in one or two dwelling houses. But since 2009, only about 700 condominimum units have been built.[189] The Government has also made it more profitable for owners of co-operative apartments, condominimums and one or two dwelling huses to sublet their property. On February 1, 2013, new rules came into effect that made it possible to charge market rents for those tenures.[190]

- To what extent is current tenancy law state law or infra-national law (if legislative jurisdiction is divided: what is the allocation of competencies and for which subject matters)

The current tenancy legislation in Sweden is state law.

- Is the position of the tenant also considered as a real property right (and therefore also governed by property law) or (only) as a personal (obligatory) right?

The position of the tenant is not considered as a real property right in Sweden. Chapter 1 section 1 in the Land Code states that only land can be real property. Nor is the position of the tenant a property right, tenancy law is a part of the Swedish Commercial Legislation which is a subsidiary legislation. However, in terms of the tenant's rights there are several similarities to property right. For example, if an authority is to expropriate a property the authority must turn to the district court and await the court's decision before an eviction can be made. A tenant who has a security of tenure can in the same way ignore a notice of termination until the rent tribunal has approved it and one of the situations described in paragraph 46 in the Tenancy Act are fulfilled.

[185] Bostadsförvaltningslagen (Housing Management Act) SFS 1977:792
[186] SFS 1998:899
[187] SOU 2008:38 pp. 37-39
[188] Proposition 2008/09:91
[189] http://www.cmb-chalmers.se/publikationer/agarlagenheter_2013_webb.pdf
[190] Lag (2012:978) om uthyrning av egen bostad

The Swedish word "besittning", in the Swedish term for protected tenancy, "besittningsskydd", shows the close relationship between property right and the tenancy legislation. The term means to have something in your possession and to have the physical control over it.

Swedish property law also contains a dynamic third party protection for the tenant. Chapter 7 section 13 in the Land Code states that [...] a grant referring to a lease or tenancy shall be valid against a new owner of the property unit if the grant was made by written agreement and possession was taken prior to the transfer. This means that the new owner of the property must respect the general rights of the tenant under the tenancy laws.

- To what extent is the legislation divided up into general private law and special statutes? To what extent are these rules mandatory and dispositive? Does the relationship between general and special rules work properly so as to create legal certainty?

In Sweden the legislation is divided up into general contract law and special statutes; the Tenancy Act and the Tenancy Bargaining Act. Those three together basically give the whole picture to what is valid with regard to tenancies. The contract law only contains a few mandatory provisions (i.e. sections 28-36), whilst a very small part of the Tenancy Act and the Tenancy Bargaining Act are dispositive or semi dispositive. Freedom of contract is limited since it is a protective legislation.

Since the tenancy legislation is constructed to protect the weaker party it creates legal certainty at least from the tenant's perspective, and Sweden does not have the same type of legal uncertainty as Denmark for instance. In Sweden tenants do not need to know the workings of the rent regulation and it is possible to ask the rent tribunal to make use of its knowledge on local rent levels.

- What is the court structure in tenancy law? Is there a special jurisdiction or is the ordinary one competent? What are the possibilities of appeal?

The Swedish court structure under tenancy law is quite complex. At first instance there are two options; the district court (tingsrätten) or the rent tribunal (hyres- och arrendenämnden), which is an administrative authority. The general rule is that all cases should be adjudicated by a district court, unless the legal rule specificly states that it should be adjudicated by another authority. This means that there may be two dismissals from a landlord in some cases - one that must be adjudicated by the district court and the other by the rent tribunal.

A large number of tenancy disputes are examined by the eight rent tribunals, whose task it is, under section 4 of the Lease Review Boards and Rent Review Boards Act (Lagen om arrendenämnder och hyresnämnder),[191] to examine disputes concerning, for example, the terms of a tenancy and disputes relating to the renewal of a tenancy agreement. The rent tribunal also mediates in disputes relating to domestic premises and business premises, and in disputes between a cooperative housing association and an owner of a cooperative apartment. Until 1994 a decision from the rent tribunal could be appealed to the Housing Court, but since then the Svea Court of Appeal is the competent body in matters regarding tenancies.

[191] SFS 1973:1988

The procedural differences in the legislation on forfeiture of the tenancy and prolongation disputes are briefly explained below.

Prolongation disputes

If a landlord gives a notice of termination due to any of the situations described in section 46, he must terminate the contract with a period of notice. The notice of termination will not be valid until the rent tribunal has approved it, and the tenant can simply ignore the notice. If the landlord does not apply to the rent tribunal within one month after the lease expires at the latest, the notice of termination is void.[192] This means that the rent tribunal is the competent body when a landlord has terminated the tenancy agreement with a period of notice (usually 3 months for a residential tenant). In these cases, the rent tribunal has to decide whether or not the tenant is entitled to a prolongation of the agreement.

A decision by a rent tribunal in a termination case can be appealed to the Svea Court of Appeal, in accordance with Chapter 12 section 70 in conjunction with section 49 in the Land Code. This is a mix of private and public law systems. No appeal lies against the court's decision, as provided for in section 10 of the Svea Court of Appeal Rent Cases Judicial Procedure Act (Lagen om rättegången i vissa hyresmål i Svea hovrätt).[193] The rent tribunal consists of a rent tribunal judge (hyresråd in Swedish), who is the chairman, and two members from either side of the interest organizations of the rental market. One member from the Swedish Union of Tenants and the other from the Swedish Property Federation. The two members are nominated by each organization and appointed by the Swedish National Courts Administration.[194]

Forfeiture of the tenancy

If the tenancy is forfeited and the landlord is entitled to repudiate the agreement, the district court is the competent body. This applies to both rental apartments and premises. A tenancy is forfeited when the criteria of section 42 in the Tenancy Act are fulfilled, e.g. if the tenant is guilty of misconduct. District court cases can be appealed to one of the six Courts of Appeal depending on the court district. The Supreme Court is the highest instance for district court cases, but a review permit is necessary.[195]

Certain residential rental disputes can also be examined by the Swedish Enforcement Agency in a summary procedure. If a tenancy is forfeited because of unpaid rent or any other criteria under section 42, the landlord may request provisional remedy, i.e. that the tenant should be evicted. But the tenant may not be divested of the unit if he pays the rent within three weeks after he has been served with a notice stating that paying the rent within this time will recover the tenancy, and the notice of termination and the reason for it has been given to the social welfare committee in the municipality where the unit is located. Furthermore, no eviction order may be made until two more weekdays have passed following the expiry of the three weeks.

Nor can the tenant be divested of the unit if he objects to anything in the landlord's application the Enforcement Agency. If this happens, the Enforcement Agency can not

[192] Section 49 in the Tenancy Act
[193] SFS 1994:831
[194] Section 5-6 in the Lease Review Boards and Rent Review Boards Act
[195] Bertil Bengtsson et al, *Hyra och annan nyttjanderätt till fast egendom,* 2013 pp. 29-30

make a decision but the landlord has the ability to refer the dispute to the district court. The later said is true for all disputes handled by the Enforcement Agency, disputes about a legal situation must always be referred to the district court.

- Are there regulatory law requirements influencing tenancy contracts
    - E.g. a duty to register contracts; personal registration of tenants in Eastern European states (left over of soviet system)

No, there is no duty to register contracts nowadays. There was such a duty before the Tenement Assignment Act was repealed in 1988.

    - Regulatory law requirements on - new and/or old - habitable dwellings capable of being rented - e.g. on minimum size, number of bathrooms, other mandatory fittings etc.

As stated above, dwellings that will be rented out are not inspected in advance by any authority. To rent out safe apartments with a very low standard is not illegal in itself, unless the house has been declared unsafe to live in, but tenants are protected in other ways and letting poor apartments can have other consequences.

A tenant who finds deficiencies in the apartment can apply to the rent tribunal, which may lead to the landlord being ordered to remedy the defect (remediation injunction), issued by the rent tribunal (section 11 p. 5 in the Tenancy Act). There are rules regarding the lowest acceptable standard of a dwelling in section 18 a. This section states that a dwelling unit shall be deemed of the lowest acceptable standard if it is provided with equipment within the unit for continuous heating, continuous supply of hot and cold water for domestic and hygienic use, wastewater drainage, personal hygiene - comprising a toilet and washbasin as well as a bath tub or shower, electric power supply for normal domestic consumption, cooking - including a cooker, sink, refrigerator, storage spaces and worktops. In addition to this, there must be access to storage spaces within the property unit and as well as to a domestic laundry facility within the property unit or in a reasonable distance from it. Further more, the building must be free from other than reasonably acceptable defects of solidity, fire safety or sanitary conditions.

If a landlord fails to perform when he has received a decision on a remediation injunction, the rent tribunal can impose a fine. The ultimate step is compulsory management, where the rent tribunal decides that the landlord's property will be managed by a trustee for a period of three to five years.[196] The trustee will collect all rents and do necessary repairs. If the rents are not enough to manage and repair the house, and it is not possible to take out loans, the building may need to be demolished. In this case the tenants can hold the landlord responsible for their damages.

When a new building is constructed, the criteria set out in the Planning och Building Act (plan- och bygglagen)[197] and the Planning and Building Ordinance (plan- och bggförordningen)[198] must be met. This applies whether the action requires planning permission or only a notification, or neither. New construction in the Planning and

[196] Bostadsförvaltningslagen (Housing Management Act) SFS 1977:792
[197] SFS 2010:900
[198] SFS 2011:338

Building Act refer not only to the construction of a new building, but also to the removal of a previously constructed building to a new location. The requirements are defined in the Building Regulations (BBR) issued by the The Swedish National Board of Housing, Building and Planning, and contain mandatory provisions and general recommendations. The Building Regulations apply to the construction of a new building, but they do not apply to the transfer of a building. In certain cases BBR also imposes requirements on the site. The Board has also issued EKS (Swedish application of the Eurocodes).[199]

When it comes to the operation and management of buildings, construction work must be maintained so that the technical characteristics of the works are preserved during an economically reasonable working life. The building's exterior must be held in fostered condition. It is the owner of a building or a site that is responsible for the operation and management. The Building Committee of a municipality can make the owner accountable if maintenance is neglected. In a few cases the building legislation requires retroactive improvements of existing buildings and already landscaped environment.

Such requirements are, for example, to remove easily eliminated obstacles in the public environment and for the safety of elevators. With the removal of easy eliminated obstacles in public buildings and public places are they made more accessible and usable for people with reduced mobility and orientation skills. A building with only housing units is not considered to be a public place.

For buildings containing dwellings there are precise rules in the Planning and Building Ordinance (Chapter 3, section 17). According to these rules, housing shall be designed so that it is possible to create separate rooms with windows to the outside for sleep and rest, socializing and cooking. There shall also be equipment and furnishings for hygiene and cooking. But in homes of up to 55 m^2 do not either the rooms for sleep and rest, or for cooking be detachable. This means that you can have either the kitchen and features for socializing in a room which does not need not be separable with a wall, and therefore only need to have a window. Or you can choose to have sleeping and socializing functions together in one room. In housing for students and young people of up to 35 m^2 neither the room for daily interaction, the room for sleep and rest or cooking need to be detachable. This means that these areas may be in the same room and that only one window is needed. If the housing is designed for a particular group there is an opportunity to bring some features to the common areas. This applies to housing for a group of residents (e.g. senior housing) and housing for students or young people.[200]

There are also rules regarding accessibility, dwelling design, room height and utility rooms in part 3 in the Building Regulations.[201] This part contains general rules on the design of dwellings, rules for dwellings on multiple storeys and rules for dwellings greater than 55 m^2. It states for example that a dwelling shall include at least one room with fittings and equipment for personal hygiene and that dwellings with a residential area greater than 55 m^2 shall be designed to suit the number of people for which they are intended. They shall always have room for a double bed in at least one room or a separable part of a room for sleep and rest.

[199] http://www.boverket.se/Bygga--forvalta/Bygga-andra-och-underhalla/Allmant/Bygga-nytt/
[200] http://www.boverket.se/Bygga--forvalta/Bygga-andra-och-underhalla/Bostadsutformning/
[201] BBR 20, BFS 2013:14

The requirements related to structural design will be reviewed in connection with the application for planning permission, while those relating to the technical features of a building are handled under the technical consultation of which the Building Committee convenes to once a planning permission has been granted.[202]

- Regulation on energy saving

All new buildings in Sweden should have an energy performance certificate. This describes how effective a building is from an energy point of view. It also makes it possible to compare it with similar buildings. In connection with the certification, you will also find out whether the building can be improved, how energy consumption can be reduced and how the operating costs can be brought down. The rules require that the energy performance of a dwelling is clearly indicated in the advertisements when a dwelling is sold or leased. Holiday cottages and buildings that are less than 50 m^2 are exempt from these rules. The energy performance certification is based on an EC directive and the law on Energy Performance Certification of Buildings (lagen om energideklarationer för byggnader)[203] was adopted in 2006. Sweden's energy objective for homes and premises is that energy consumption in 2020 shall be 20 percent lower than it was in 1995.[204]

Energy performance is a measure of how much energy is spent on heating, comfort cooling, domestic hot water and building management energy. The energy performance is measured in kilowatt hours per square meter per year. When a dwelling is leased, it is the Swedish National Board of Housing, Building and Planning that has oversight of that an energy performance certificate has been prepared, shown and handed over, and also that the certificate is included in the advertisement.[205]

b) Preparation and negotiation of tenancy contracts

Preliminary Note: We suggest that for each section (b through g) and each tenancy type some concluding remarks should be provided in a summary table about the rights and duties of tenant and landlord and the main characteristics (in telegram style).

Example of table for b) Preparation and negotiation of tenancy contracts

	Main characteristic(s) of tenancy type 1	Main characteristic(s) of tenancy type 2, etc.	(Ranking from strongest to weakest regulation, if there is more than one tenancy type)
Choice of tenant	A landlord is never obliged to enter into a contract, and free to choose whomever he likes as long as he is		

[202] http://www.boverket.se/Bygga--forvalta/Bygga-andra-och-underhalla/Bostadsutformning/
[203] SFS 2006:985
[204] http://www.boverket.se/Global/Webbokhandel/Dokument/2010/tresteg_eng_a4_ny.pdf
[205] http://www.boverket.se/Bygga--forvalta/Energideklaration/Hyra-eller-hyra-ut/

	not acting in a discriminatory manner.		
Ancillary duties	No ancillary duties mentioned in the Tenancy Act, but the general provisions of the Contract Act apply as well as the principle of the right to compensation for culpa in contrahendo.		

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- Freedom of contract
    - Are there cases in which there is an obligation for a landlord to enter into a rental contract?

No, there are no cases where a landlord is obliged to enter into a contract. And unlike Denmark for instance, there is no right for an individual applicant to jump the queue with regard to a certain apartment within the queuing system of the municipal housing companies.

But the Social Welfare Committe in every municipality rents apartments in different areas from MHC:s as well as from private landlords to sublet to socially vulnerable persons. Since the housing allocation act was revoked private landlords cannot be forced to participate in this system. The municipalities also have a statutory right to purchase co-operative apartments to sublet it to person with social problems.[206] Such rights are seldom used as the municipality has to buy the apartment from the owner at market price.

- Matching the parties
    - How does the landlord normally proceed to find a tenant?

Private landlords usually choose their tenants themselves. Sometimes, a landlord may join a municipal allocation board where the dwellings are allocated after some time on a waiting list. A municipality is not obliged to operate an allocation board, some does not. If a municipality has an allocation board, it can not force private landlords to join since their participation is voluntarily. Some allocation boards supplies dwellings from both private and municipal landlords, such as Boplats Syd in Malmö and the Housing Authority of Stockholm (Stockholm stads bostadsförmedling). It costs around 25 € per year to be a part of the waiting list. Private rental allocation boards are allowed but they are subject to a license.

[206] The Act on Cooperative Apartments (bostadsrättslagen, SFS 1991:614) states that a a municipality can never be denied membership in a housing cooperative (Chapter 2 section 4), and always has the right to sublet its apartment (Chapter 7 section 10).

- What checks on the personal and financial status are lawful and usual? In particular: May the landlord ask for a salary statement? May he resort to a credit reference agency and is doing so usual?

Since freedom of contract applies, the landlord is free to check both the personal and financial status of an intended tenant. It is common that both private and municipal landlords request a credit report before entering into a rental contract. A landlord can also ask for a birth certificate, a certificate of employment and references from previous accommodations. If a tenant does not have a fixed income, many landlords will require a guarantor or charge a deposit.

- How can information on the potential tenant be gathered lawfully? In particular: Are there blacklists of "bad tenants"? If yes, by whom are they compiled? Are they subject to legal limitations e.g. on data protections grounds?

Information on the potential tenant can be gathered lawfully simply by asking the potential tenant for it. Because freedom of contract prevails, it is in the potential tenant's interest to ensure that the landlord gets the right information. It is easy to buy credit information, were the taxable income for the last year, registered property and debts with the Swedish Enforcement Agency are registered.

Lists of bad tenants are only in conflict with the the Personal Data Act (personuppgiftslagen),[207] if they are in electronic form. The Personal Data Act is based on Directive 95/46/EC which aims to prevent the violation of personal integrity in the processing of personal data. Hence, a list in writing and shared by mouth is allowed and many landlords most likely have some sort of list of tenants quilty of misconduct.

- What checks may and does the tenant carry out on the landlord (e.g. to avoid being trapped by a swindler landlord)

A tenant can check the blacklist of landlords which is developed by the Swedish Union of Tenants and published in their magazine. All landlords who receives a decision on an remedial injunction or compulsory management as provided in the Housing Management Act (bostadsförvaltningslagen)[208] against them ends up on the list.

- Services of estate agents *(please note that this section has been shifted here)*
  - What services are usually provided by estate agents?
  - To what extent are estate agents regulated? In particular: are there rules on how an agent should present a house, i.e. on the kind of information which needs to be given?
  - What is the usual commission they charge to the landlord and tenant? Are there legal limitations on the commission?

Estate agents work mainly with purchase and sale of property, but might in rare cases help a property owner letting his item if he's having problems getting it sold.[209] Estate

[207] SFS 1998:204
[208] SFS 1977:792
[209] An estate agent will either have a real estate license or a housing allocation license. I know of no instance where an agent have both.

agents are generally not necessary for rented accommodation because of the housing shortage - a landlord setting legal rents will have a series of potential tenants to choose from. The need for an agent may only arise if the landlord wants to find a person willing to pay very much for the apartment.

An estate agent can not legally handle a housing property for the sole purpose of renting it out unless they have a housing allocation license. Since October 1, 2003, a person must be registered as a real estate allocator at the The Swedish Estate Agents Inspectorate to be able to professionally allocate rental units. The obligation to register does not apply for lawyers nor those realtors who exclusively allocate municipal rental properties, rental properties for students free of charge, rental properties for recreational purposes, commercial rental units or allocation of rental units to rooms where the rental period is maximum two weeks.[210]

According to section 65 a in the Tenancy Act no party may receive, make an agreement on or request payment from a tenancy applicant for the offer of a dwelling unit for other than recreational purposes. Such payment may, however, be made in connection with commercial housing procurement on grounds prescribed by the Government or by the authority nominated by the Government. With regard to the queue charges of the municipal housing companies, special provisions apply under the Housing Supply Act (lag om kommunernas bostadsförsörjningsansvar).[211] Any person intentionally offending against passage one shall be fined or sentenced to not more than six months of imprisonment. If the crime is aggravated, a sentence of up to two years' imprisonment shall be passed. Any party having received unlawful payment is duty bound to return it.

A licence for rented housing allocation is needed because the fee from the applicant must be in line with the service offered otherwise such fees could become a way of selling contracts and thus evading the rent regulation.

- Ancillary duties of both parties in the phase of contract preparation and negotiation ("culpa in contrahendo" kind of situations)

There are no ancillary duties mentioned in the Tenancy Act, but in the conclusion of a contract between a landlord and a tenant the Contracts Act (Lag om avtal och andra rättshandlingar på förmögenhetsrättens område)[212] is applicable. A contract occurs when a party accepts another party's offer either verbally or in writing. The contract is then valid unless there are grounds for invalidity.[213] When a tenancy agreement has been prepared the rules on period of notice etc. in the Tenancy Act are applicable, even if the tenant never moves in.

The liability in connection with contract negotiations is not explicitly regulated in Swedish law. But the principle of the right to compensation for culpa in contrahendo apply, i.e. compensation corresponding to the negative contractual interest when the other party has negotiated in a negligent way and this has caused damage.[214]

[210] SFS 2011:666 Estate Agents Act (fastighetsmäklarlagen), section 5
[211] SFS 2000:1383
[212] SFS 1915:218
[213] The grounds for invalidity are listed in Chapter 3 in the Contracts Act.
[214] Ramberg & Ramberg, *Allmän avtalsrätt,* 2010, pp. 63-65

c) Conclusion of tenancy contracts

Example of table for c) Conclusion of tenancy contracts

	Main characteristic(s) of tenancy type 1	Main characteristic(s) of tenancy type 2, etc.	Ranking from strongest to weakest regulation, if there is more than one tenancy type
Requirements for valid conclusion	A tenancy agreement can be both oral and in writing.		
Regulations limiting freedom of contract	There are no such regulations, except for when parts of an agreement are		

	more burdensome than the Tenancy Act and therefore become void.		

- Tenancy contracts
    - distinguished from functionally similar arrangements (e.g. licence; real right of habitation; Leihe, comodato)
    - specific tenancy contracts, e.g. contracts on furnished apartments; student apartments; contracts over room(s) only (e.g. student rooms); contracts over rooms or apartments located in the house in which the landlord lives himself as well. Please describe the legal specificities in these cases.

A mentioned above, there is no difference between how a tenancy agreement and any other type of contract is concluded, the Contracts Act apply for both types.

As to specific tenancy contracts, there are no contracts issued by the Swedish authorities. If a private person is to sublet an apartment for instance, he or she will either buy a contract in a book shop or buy a template online. There are also free templates available online. Private landlords often buy standard contracts from the Swedish Property Federation. The Swedish Union of Tenants provides contracts for sublease as well as for furnished rooms free of charge on their web page. There are no requirements to use a certain type of contract for a furnished room or a student room for instance, since a rental contract also can be oral.

However, it is important to emphasize that parts of an agreement between a landlord and a tenant can be void if they are more burdensome to the tenant than the rules of the law. This applies to, for example, rules on the period of notice for a tenant. Even if the parties have agreed on one months notice, the tenant is entitled to three months if the landlord gives the notice of termination and the tenant may choose between one and three months.

- Requirements for a valid conclusion of the contract
    - formal requirements
    - is there a fee for the conclusion and how does it have to be paid? (e.g. “fee stamp” on the contract etc)
    - registration requirements; legal consequences in the absence of registration

      Note: If relevant, please distinguish the various existing registers, e.g. land register, tax register, register of domicile.

The following conditions are required for a valid conclusion of a tenancy agreement; an oral or written agreement on lease of property, relating to the tenure of a house or part of a house, and some sort of compensation is paid for the tenure. The rules in the Contracts Act on how a contract is concluded apply. The contract shall, in principle, be preceded by an offer from one party and an acceptance by the other party. A promise to

lease an apartment can be seen as an offer.[215] Section 2 in the Tenancy Act states that a tenancy agreement shall be drawn up in writing if the landlord or tenant so request.

No, there are no fees for the conclusion of a contract, and according to section 65 a in the Tenancy Act no such fees are allowed.

There are no registration requirements for tenancy agreements. A tenant has a dynamic third party protection even without registration. Chapter 7 section 13 in the Land Code states that [...] "a grant referring to a lease or tenancy shall be valid against a new owner of the property unit if the grant was made by written agreement and possession was taken prior to the transfer". This means that the new owner of the property must respect the general rights of the tenant under the tenancy laws.

- Restrictions on choice of tenant - antidiscrimination issues
    - EU directives (see enclosed list) and national law on antidiscrimination

As long as a landlord's selection of tenants not can be considered discriminatory in any way, he can choose whomever he wants to be a tenant. However, if a landlord exposes for example a prospective tenant for discriminatory behavior in conflict with the Discrimination Act (diskrimineringslagen)[216], the tenant can report it to the Equality Ombudsman (Diskrimineringsombudsmannen).[217] That is free of charge. The Swedish Discrimination Act protects individuals against discrimination in working life, in higher education, at school, in shops, on hospital visits, in contact with social insurance staff and in many other areas. The Equality Ombudsman can represent a victim in the district court without no added cost for the victim.[218] A violation of the Discrimination Act may result in discrimination award, which should be both a compensation for the violation and a discouragement from further discrimination, but never a new contract.

- Limitations on freedom of contract through regulation
    - mandatory provisions in rental contracts, in particular: mandatory minimum requirements of what needs to be stated in a tenancy contract

There are no minimum requirements of what must be stated in a tenancy contract since a tenancy agreement also can be oral. But as previously mentioned, if a tenant and a landlord agrees on something which is more burdensome for the tenant than the rules of the law that is void. The tenancy legislation in Sweden is protective of the tenant because the landlord is considered to have a superior position. This is why most of the rules in the Tenancy Act is mandatory for the benefit of the tenant. If a particular rule is not mandatory, it is stated in the legal text. This is often expressed by using "this does not apply if agreement has been made to the contrary", see for example section 7 in the

[215] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 64-65
[216] SFS 2008:567
[217] The Equality Ombudsman (DO) is a government agency that seeks to combat discrimination and promote equal rights and opportunities for everyone, and primarily concerned with ensuring compliances with the Discrimination Act
[218] An example of a case filed by the Equality Ombudsman is ANM 2011/981. A landlord refused to let a Roma woman move into an apartment when he found out about her ethnicity. The woman received a compensation of 50 000 SEK for the ethnic discrimination.

Tenancy Act. If an agreement has been made in violation of a mandatory rule of the law, the landlord must comply with the statutory rule. A tenant can choose - if he believes that the terms of the contract are more favorable, he may choose to refer to them.[219]

- control of contractual terms (EU directive and national law); consequences of invalidity of contractual terms

For contractual terms the Contracts Act apply, which is a dispositive legislation on the formation and validity of contracts. The Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts has been implemented through the Consumer Contracts Act (lag om särskilda avtalsvillkor i konsumentförhållanden).[220] The Act has a limited applicability when it comes to rental agreements because the Tenancy Act in Sweden contains mandatory rules in protection of the tenant, but is applicable to other consumer contracts. Please note that this law can forbid the landlord (business provider) to apply a clause in the future. But it does not render a clause invalid in the civil contract.

The Swedish Contracts Act differs from the PECL (Principles of European Contract Law) on some points. The starting point in Swedish contract law is that an offer is binding and the ability to revoke an offer or an acceptance is very small. An offer or an acceptance can be revoked if the revocation reaches the recipient before the recipient has read the original message or at the same time the offer reaches him.[221] This differs to the provisions of Article 2:202 of the PECL. In Swedish contract law an offer must be directed to a group of receivers that can be delineated to be counted as an offer, which also differs compared to PECL.[222] According to Article 2:201 (3) the presumption is that, for example, an ad is an offer but limited to the advertiser's sales capacity for that commodity.

After the implementation of 2002/65/EC, The Distance and Doorstep Sales Act applies on "distance selling" and give costumers as well as tenants a right to withdraw a contract within 14 days of signing it in these cases.[223]

- statutory pre-emption rights of the tenant

The Property Acquisition Rights (Conversion to Tenant-Ownership) Act (lag om rätt till fastighetsförvärv för ombildning till bostadsrätt eller kooperativ hyresrätt)[224] makes it possible for the tenants to acquire an apartment building on the same terms that would be offered to a buyer who wants to continue with the rental management. This Act gives the tenants the right to acquire a rental property under the following conditions:

1. The tenants must be represented by a co-operative housing association.

2. The co-operative housing association has given a notice of interest to the land registration authority that it wishes to acquire the property and a note has been made in the real property register.

3. In order for a notice of interest to be entered in the real-property register, at least 2/3 of the tenants in the rented apartments must be members of the co-operative housing

[219] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 69-70
[220] SFS 1994:1512
[221] Ramberg & Ramberg, *Allmän avtalsrätt,* 2010 pp. 89-90
[222] Ramberg & Ramberg, *Allmän avtalsrätt,* 2010 pp. 84-85
[223] Distans- och hemförsäljningslagen (SFS 2005:59)
[224] SFS 1982:352

association. The tenants must have declared in writing that they are interested in a conversion of the property. The tenants also must be registered on the property.

4. While the notice of interest is valid (for two years) the property may not be transferred fully or partially, or be subject to a company distribution for example before the co-operative housing association has received an offer of first refusal (hembud in Swedish).

5. Such an offer is made to rent tribunal through a written proposal of a purchase agreement signed by the property owner.

6. A decision from the co-operative housing association to adopt the offer of first refusal must be made on a general meeting by a qualified majority - i.e. at least 2/3 of the tenants in the building who are also members in the association.[225]

A tenant is always protected when a conversion is made - he always has the right to remain a tenant if he so wishes. The co-operative housing association simply becomes the new landlord.

- Are there provisions to the effect that a mortgagor is not allowed to lease the dwelling (charged by the mortgage) or similar restrictions?

No, there are no such restrictions. The mortgagors principal right is the right to sell the property and to be paid by the sum received. The debtor may chose to sell the property at any time. The mortgagor can not rent the property without the permission of the owner. If the owner prefers to sell rather than to rent to the mortgagor, the latter cannot force the debtor to rent it out. There is no need for restrictions.

d) Contents of tenancy contracts

Example of table for d) Contents of tenancy contracts

	Main characteristic(s) of tenancy type 1	Main characteristic(s) of tenancy type 2, etc.	Ranking from strongest to weakest regulation, if there is more than one tenancy type
Description of dwelling	The habitable surface is usually indicated in the tenancy agreement.		
Parties to the tenancy contract	Practically anyone can lawfully be a landlord/tenant - it can be		

[225] Bertil Bengtsson et al, Hyra och annan *nyttjanderätt till fast egendom,* 2013, pp. 346-348

	several persons and both natural and legal persons.		
Duration	Maximum duration is 25 years within a detailed development plan. There is no mandatory minimum duration.		
Rent	Rents are determined through a utility value system and not based on demand.		
Deposit	Increasingly common, no special rules in the Tenancy Act apply besides section 28a.		
Utilities, repairs, etc.	Usually is heat/water/waste collection included in the rent and household electricity charged separately for apartments. Repairs and maintenance is usually solely the landlord's responsibility.		

- Description of dwelling; indication of the habitable surface (and consequences in case of the provision of wrong data)

If the habitable suface that is specified in the tenancy agreement is found to be faulty, the tenant could require a lower rent or seek damages. In order to require a lower rent the tenant must apply to the rent tribunal, and to seek damages he needs to make an application to the district court. However, neither the Tenancy Act or the legislation in general contain some provisions governing the issue of damages in a case like this.

There is a court case from 2002[226] in which a tenant found out that the habitable surface was 8 m^2 smaller than what was stated in the tenancy agreement.

The Supreme Court considered that the information about the size of an apartment is so important for the determination of the rent, it normally should be considered as a pledge of which the person supplying the information (usually the landlord) is strictly responsible for. That means that the landlord has a strict liability for such information. But in this case the court found that the tenant could not be considered to have suffered any damage, and her claim was dismissed. Her claim for a reduction of the rent under section 11 and 16 of the Tenancy Act was not approved either. The tenant could not show that the rent for her apartment would have been lower if the right number of habitable surface had been known during the negotiation with the Swedish Union of tenants.

In a case from the Court of Appeal from 2009[227], however, a tenant was entitled to damages due to the landlord's breach of contract. The landlord had indicated that the

[226] NJA 2002 p. 477
[227] RH 2009:70

apartment was approximately 57 m^2, but in reality it was 52 m^2. The court found that a deviation of about 5 m^2 was too much for an apartment of that size.

- Allowed uses of the rented dwelling and their limits
    - In particular: to what extent are mixed (residence/commercial) contracts lawful and usual (e.g. having a shop, a legal office or a doctor's studio in the dwelling)

According to section 23 in the Tenancy Act the tenant may not use the apartment for a purpose other than that intended to avoid the risk of forfeiting the tenancy. The landlord, however, may not adduce deviations of no importance to him.[228] Usually it is stated in the tenancy agreement what the apartment is to be used for; in agreements for residential premises it is stated that the apartment must be used as a dwelling. The tenant is then basically bound by this, if he does not get the the landlord's consent to use the apartment for another purpose. The landlord is responsible that the apartment are not used in a way that causes any inconvenience for the other tenants.

There are no mixed contracts under Swedish law, it must be either a commercial contract or a housing contract. It must be separate contracts because different legal rules apply for dwellings and premises. If a shop and the dwelling really is one unit, the unit has to be classfied as either a housing or a commercial contract.[229] This is also the case with so called "bokaler" (please see part 1).

- Parties to a tenancy contract
    - Landlord: who can lawfully be a landlord?
    - does a change of the landlord through inheritance, sale or public auction affect the position of the tenant?

Practically anyone can lawfully be a landlord in Sweden, both natural and legal persons. The most common situation is that the landlord is also the owner of the property, but that is no prerequisite for the rental rules to apply. The Tenancy Act also applies when the landlord lets a house on a non-freehold property and the house therefore is not real property. If the landlord consists of several persons, they are jointly obligated to the tenant. Therefore, all acts in their capacity as a landlord needs to be taken jointly.[230] A primary tenant who sublets his or hers apartment becomes a landlord for the secondary tenant.

If a property is transferred to a new owner it will generally not affect the validity of the tenancy agreements concluded between the former owner and tenants of the transferred property. The new owner will in most cases be bound by the agreements and will become the new landlord. If a written tenancy agreement exists and the tenant

[228] There very are few cases regarding this matter in terms of dwellings. In NJA 1920 p. 581 a lawyer leased a dwelling consisting of six rooms and a kitchen. In two of the rooms he pursued his business and he got about ten visits from clients a day. The landlord argued that the tenancy was forfeited because the tenant did not have permission to manage his business in the apartment, and that there were disadvantages due to the many client visits. But the tenant was not considered to have used the apartment for any other purpose than for residential purposes, and the tenancy was not forfeited.
[229] Section 1 of the Tenancy Act: if the unit is fully used as a residence or at least to a not "insignificant part" it should be classified as a housing contract and not as a commercial one.
[230] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 65-66

has acceded the apartment, the new owner is bound by the agreement according to Chapter 7 section 13 in the Tenancy Act. If there is no written contract or if there is a written contract but the tenant has not acceded the apartment the new owner is bound in the following situations:

- if the transferor has made a proviso concerning the grant (Chapter 7 section 11)
- if the new owner had or should have had knowledge of the grant at the time of the transfer. (Chapter 7 section 14)
- if the grant does not apply against the new owner under sections 11-13, the grant shall nontheless remain in force against him if he does not give notice of cancelling the agreement within three months of the transfer.[231] However, the notice of termination must be examined by the rent tribunal and can only be approved if sections 49 and 46 in the Tenancy Act are fulfilled. Hence, it is quite difficult to terminate a tenancy agreement in these cases.

If the transferor has not made a proviso as referred to in section 11 and, consequently, the grant of a right of user will not apply against the new owner, the transferor shall compensate the holder of a right for the damage he suffers.[232]

When it comes to a forced sale of the property on an executive auction, the tenancy shall be notified so that it becomes included in the list of parties concerned. Then the property is offered up for bids, first without a proviso concerning the grant and then with the proviso. If the price offered is lower for the property with a proviso and that damages creditors with superior rights, the property is sold without the proviso.[233] But the new owner must give notice of termination of the tenancy agreement within one month of the access. Otherwise, the agreements are valid against the new owner.[234] The landlord must give the tenants a period of notice of three months and then apply to the rent tribunal.

For residential premises this means that a trustee is in no better position if he tries to evict the the tenants than the original landlord was. However, if the lease is for a long fixed term period and the rent is below market rent for a commercial tenant then there is a possibility to give a notice of termination to raise the rent. According to the Tenancy Act there are two ways of giving a notice of termination to a commercial tenant, a notice of an amendment of the conditions and a notice of removal.

If, however, the property is assessed as a rental housing unit, residential tenancies for an indefinite period of time which are based on a written document are always valid against the new owner if the tenant took possession of the dwelling before the executive sale.[235]

- Tenant:
- Who can lawfully be a tenant?

[231] Chapter 7 section 14 in the Land Code
[232] Chapter 7 section 18 in the Land Code
[233] Chapter 12 section 39 of the Enforcement Code (utsökningsbalken, SFS 1981:774)
[234] Chapter 12 section 46 of the Enforcement Code
[235] Chapter 7 section 16 in the Land Code

The Tenancy Act does not contain any special requirements for a tenant. A tenant may be a natural or a legal person and can be one or several persons. If several tenants are renting an apartment, they have a joint responsibility to the landlord.[236]

- Which persons are allowed to move in an apartment together with the tenant (spouse, children etc)?

According to the Tenancy Act, anyone can move into the apartment together with the tenant, as long as it does not entail detriment to the landlord.[237] Situations that can entail detriment to the landlord are for example when a tenant has too many lodgers and it causes damage to the apartment.

- Changes of parties: in case of divorce (and equivalents such as separation of non-married and same sex couples); apartments shared among students (in particular: may a student moving out be replaced by motion of the other students); death of tenant

Section 32 in the Tenancy Act contains a principle prohibition on transfers of the apartment. However, several exceptions apply.

A divorce can under certain conditions entitle a spouse to be assigned the tenancy. It must be the case of an apartment that is intended to be used as the couple's joint housing, one of the spouses is in most need of the dwelling and it is otherwise reasonable for one of the spouses to be assigned the dwelling. Who will be assigned the dwelling is not not a question for the tenancy legislation, it is regulated in Chapter 11 section 8-10 in the Marriage Code (äktenskapsbalken).[238] A dispute between the spouses is tried by the district court. If a tenancy has been awarded to one spouse through an estate division or a distribution of an estate, the spouse enters into the stead of the tenant or of the estate of the deceased. This also applies for a surviving spouse who is the sole heir. These types of change of parties does not require consent from either the landlord or from any authority. According to the Tenancy Act[239], the landlord must accept the spouse as a sole tenant without any examination of the spouse's suitability.

In this matter a registered partnership has the same legal effect as a marriage. However, the Marriage Code became gender neutral on 1st of May 2009, which means that same-sex couples now can marry. And registered partnerships were converted to marriages, thus they do not exist anymore.

Similar rules apply to what in Sweden is called a "sambo", which means a cohabitant. Two people who live together on a permanent basis as a couple and who have a joint household are cohabitants. To count as a cohabitant some criteria must be fulfilled; the cohabitant must live with his/her partner on a permanent basis, it can not be a relationship of short duration.[240] The cohabitant and his/her partner must live together as a couple, in a partnership normally including sexual relations. The cohabitant must

[236] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 66-67
[237] Section 41.
[238] SFS 1987:230
[239] Section 33.
[240] The relationship must have lasted at least six months.

share a household with his/her partner, which means sharing chores and expenses. Whether the cohabitants are of the same sex is of no importance.

There are two possibilities for a cohabitant to take over the tenancy according to the Cohabitees Act. If the dwelling has been acquired for joint use, it can be assigned one of the cohabitants through an estate division.[241] If the dwelling has not been acquired for joint use, it can be assigned one of the cohabitants under section 22 in the Cohabitees Act (sambolagen).[242] This section says that one cohabitant may be entitled to take over the apartment, if he is in most need of the dwelling and such a takeover can be considered reasonable when taking the circumstances in general into account. If the cohabitees do not have or have had children together, this applies only if there are extraordinary reasons for doing so.

If the cohabitants can not agree, the dispute is tried in the district court. When the dwelling has been assigned one of the cohabitants, he or she may enter into the stead of the tenant or of the estate of the deceased.

If a cohabitant can not be assigned the dwelling according to the rules in the Cohabitees Act, he or she may be entitled the tenancy under section 34 in the Tenancy Act. Section 34 gives a tenant who is not intending to use his dwelling unit the right to transfer it to a person closely connected to the tenant ("närstående" in Swedish). According to the preparatory work this can be a spouse, a child, a parent, a grandparent, a cohabitant, a cousin or another relative. Two friends can never be considered as "närstående".

The person who the dwelling can be transferred to must also long-term live together with the tenant and the rent tribunal must grant permission for the transfer. Such permission shall be granted if the landlord can reasonably be satisfied with the change. The permission can be made conditional. This also applies if the tenant dies during the term of the tenancy and his estate wishes to transfer the tenancy to a distributee or some other "närstående" of the tenant who was long-term cohabiting with him.

A spouse or a cohabitant who does not have a share in the tenancy, can have an independent right of prolongation of the agreement if the tenant gives a notice of termination or takes any other measure to bring it to an end or if he or she is otherwise not entitled to prolongation of the agreement. The spouse or the cohabitant, if he or she has his or her home in the unit, is entitled to take over the tenancy and to have the tenancy agreement prolonged for his or her own part, insofar as the landlord can be reasonably satisfied with him or her as a tenant. The aforesaid also applies when the landlord has given notice of cancellation of the tenancy agreement on grounds of forfeiture. If the tenant is deceased, his or her surviving spouse or cohabitee will have the same right if the estate of the deceased is not entitled to prolongation and this has not been occasioned by the surviving spouse or cohabitee.[243]

If the landlord does not wish to consent to a prolongation of the tenancy agreement he shall request the spouse or cohabitee to move no later than one month after the tenancy relation with the tenant ended. Any such request is of no effect unless the landlord, within a month thereafter, refers the dispute to the regional rent tribunal or the

[241] Under section 3-21 in the Cohabitees Act
[242] SFS 2003:376
[243] Under section 47 in the Tenancy Act

person requested moves in any case before the period for referral has expired. If, however, the request has been made more than one month before the expiry of the term of the tenancy, referral can be made until the expiry of the term of the tenancy.

If a tenancy agreement is concluded with several tenants it becomes void for all the tenants if one of them gives a notice of termination. However, the co-tenants are entitled to have the tenancy agreement prolonged for their own part if the landlord can reasonably be satisfied with them as tenants.[244]

If a tenant is deceased all right and obligations are taken over by the tenant's estate. The estate is entitled to terminate the contract with one month's notice.[245] This also applies for a surviving spouse, cohabitant or a "närstående". If the landlord wants to give the estate a notice of termination, the regular rules on the period of notice apply which usually means three months.

- Subletting: Under what conditions is subletting allowed? Is subletting being abused e.g. with the aim of circumventing the legal protection of tenants (when the tenant is offered not an ordinary lease contract but a sublease contract only)?

A tenant is normally not allowed to sublet his or hers apartment without prior consent from the landlord.[246] If the tenant still sublets without a permission, and does not take corrective action after being given a reprimand or ask for permission to the lease without delay, he or she risks to forfeit the tenancy.

If the landlord does not give permission for the subletting the tenant can apply to the rent tribunal. The rent tribunal can give permission under the conditions specified in section 40 in the Tenancy Act. The section states that the tenant must have notable reasons (beaktansvärda skäl) for the grant; age, illness, temporary employment in another locality, special family circumstances or comparable circumstances and the landlord does not have any justifiable reasons to refuse consent.

By special family circumstances means for example when a couple is moving in together as cohabitants and one of them wants to keep his or hers apartment for a period of time to see how it goes. Temporary employment in another locality is equated with temporary studies elsewhere. A tenant can also receive a permission for a longer trip abroad (usually a trip of at least three months). An elderly person who moves to a retirement home has the right to sublet, even if it is unclear whether or not the person will be able to return home.

The permission from the rent tribunal shall be limited to a fixed term and may be combined with provisions.[247] For example, a tenant usually receives permission for one year when he or she wants to try the life as a cohabitant. When the permission has expired, the tenant can reapply for a new permission from the rent tribunal. Permission is normally given for one year at a time and seldom for more than a total of three

[244] Section 47
[245] Under section 5 in the Tenancy Act
[246] A general exception to this rule is found in section 39, which applies when a tenancy leased by a municipality. Such an apartment may be sublet without requiring the consent of the landlord. The landlord shall nevertheless immediately be notified of the sublease.
[247] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 168-169

years.[248] If the subtenant can reasonably be accepted as as a tenant the landlord usually do not have any justifiable reasons to refuse a permission. The subtenant's solvency normally lack significance because it is the primary tenant that remains liable for the payment of the rent. The decisions from the rent tribunal in these matters can not be appealed.

There are rogue landlords who will try to circumvent the legal rules and offer the tenant a sublease contract only. This is often arranged by the use of a front man, such as a separate company or a relative, which in turn will sublet to the tenant. In these situations the subtenant can have the same right as a primary tenant under certain conditions.[249]

The first condition is that there is a community of interest between the property owner and the grantor. It may also be presumed that the legal relation is being used in order to evade a statutory provision which favours a tenant when this community of interest is considered along with the circumstances generally. If these conditions are fulfilled, the lessee and the tenant have the same right in relation to the property owner as they would have had if the property owner had granted their right of user. In other words, the subtenant is entitled to a prolongation of the agreement.[250][251]

- Is it possible, and if yes under what conditions, to conclude a contract with a multiplicity of tenants (e.g. group of students)?

Yes, it is possible to conclude a contract with several persons. These persons then have a joint responsibility to the landlord. It is important to note that if either of the persons on the contract gives the landlord a notice of termination the contract becomes void, also in relation to the co-tenants. However, the co-tenants are entitled to have the tenancy agreement prolonged for their own part if the landlord can reasonably be satisfied with them as tenants.[252]

- Duration of contract
  - Open-ended vs. limited in time contracts
    - for limited in time contracts: is there a mandatory minimum or maximum duration?

Theroretically, there is a maximum duration for limited in time contracts of 50 years or for a person's lifetime under Swedish law, but the prolongation rights apply.[253] This means that the contract is not limited in time with regard to the tenant, due to assymetrical binding. A grant of real property within a detailed development plan,

[248] Charlotte Andersson, *Lägenhetsbyten och andrahandsuthyrning,* 2008, pp. 51-52
[249] Under Chapter 7 section 31 in the Land Code
[250] In NJA 1992 p. 598 a landlord had let an entire floor to her daughter. The daughter divided the floor into two apartments and sublet one of them. When the agreement between the landlord and the daughter expired, the landlord tried to evict the subtenant. The Supreme Court found that the subtenant had a protected tenancy and that he was entitled to a prolongation of the agreement. The landlord and her daughter had a community of interest, they had both tried to make the subtenant move and the landlord had said that she intended to let the apartment to one of her grandchildren.
[251] Please see NJA 2003 p. 540, where there was a community of interest between the property owner and the grantor but no evasion of the rules. The subtenant was not entitled to a prolongation.
[252] Section 47
[253] This means that there is no incentive for limited in time contracts for landlords.

however, is not binding for more than twenty-five years.[254] There is no mandatory minimum duration.

However, the Tenancy Act is based on the principle that all tenancy agreements for residential apartments are equipped with a security of tenure, regardless of the length of the tenancy.[255] This means that if a landlord and a tenant have agreed on a fixed term contract of two weeks, it ceases to apply at the expiry of the term, unless otherwise is agreed.[256] But unless the landlord requests the tenant to leave within one month after the expiry of the term and refers the dispute to the rent tribunal within one month after that, or the tenant in any case moves before the period of referral has expired, the agreement is prolonged for an indefinite period.[257] If the request has been made more than one month before the expiry of the term of the tenancy, a referral can be made until the expiry of the term of the tenancy. But even if the landlord gives the tenant a notice of termination in time, one of the grounds in Section 46 in the Tenancy Act must be fulfilled otherwise the tenant has a right of prolongation of the agreement.

Limited in time contracts make no sense for the landlord with regard to residential premises as the tenant will always be free to move with three months notice. Futhermore a tenant can not be evicted merely because the time limit has elapsed, he has the same protected tenancy as tenants with open ended contracts have.

If the landlord wants to make sure that the tenant will not have the right of prolongation of the agreement, a waiver of security of tenure (avstående från besittningsskydd) must be signed. The landlord and tenant must use a specially compiled document for this (outside of the tenancy agreement, otherwise it is not valid) and it must be approved by the rent tribunal. In the following instances the agreement applies without such approval:

1. The agreement is made after the tenancy has begun and refers to a tenancy combined with the right of prolongation.

2. The agreement is made for a period not exceeding four years from the commencement of the tenancy and refers to

(a) a dwelling unit in a one or two dwelling house not included in a commercially operated rental activity and the landlord will settle in the the dwelling or transfer it or

(b) a sublet dwelling unit and the landlord will settle in the dwelling or

(c) a sublet cooperative apartment and the landlord will either settle in the dwelling or transfer it

(d) a dwelling in a condominimum property not included in a commercially operated rental activity and the landlord will settle in the the dwelling or transfer it.[258]

[254] Chapter 7 section 5 in the Land Code
[255] There are of course exceptions to this principal rule, for example regarding subtenants who have rented an apartment for less than two years or tenants who have rented a furnished room for less than nine months.
[256] If, however, the tenancy has lasted for more than nine consecutive months, notice of cancellation shall always be given in order for the agreement to cease to apply.
[257] Section 3 in combination with section 49 in the Tenancy Act.
[258] Section 45a in the Tenancy Act

If a spouse or cohabitant have their home in the dwelling when the agreement is made, but do not having a share in the tenancy, the agreement shall apply against them only if he or she has accepted it. This means that the spouse or cohabitant must sign the agreement too.

The rent tribunals have forms to make such agreements on their webpage.[259]

- Other agreements and legal regulations on duration and their validity: periodic tenancies ("chain contracts", i.e. several contracts limited in time among the same parties concluded one after the other); prolongation options; contracts for life etc.

Chain contracts are very rare with regard to residential premises since they cannot be combined with a index clause and the landlord is bound by the rental conditions under the whole rental period if he has agreed on a fixed term contract. This means that the landlord ends up in a disadvantageous position. However, chain contracts are quite common in commercial leases where the tenancy automatically is prolonged three or five years at a time unless one of the parties give a notice of termination. A commercial contract with a fixed term of at least three years may be combined with a index clause.[260]

As for prolongation options, a contract applies for a indefinite period or is concluded for a fixed term - there is nothing in between. A tenancy agreement applying for an indefinite period must be cancelled in order to cease to apply. A contract valid for the tenant's life is a fixed term contract according to a case from 1999.[261] This means that the landlord can not bring about a change in the rental conditions against the will of the tenant during the tenant's lifetime.

- Rent payment
  - In general: freedom of contract vs. rent control
  - Rent control: how is it legally framed; when does it apply; who carries it out; what are the consequences when the parties agree on an excessive rent

In Sweden the rents are determined through a utility value system (bruksvärdessystem), which determines what a reasonable rent for an apartment is. Before 2011 the municipal housing companies had a normative role for all rents (including apartments owned by private landlords) but they have now been replaced with the normative role of collectively negotiated rents instead.[262] The Tenancy Act states that the rent shall be established at a reasonable amount. The rent can not be considered to be reasonable if it is palpably higher than the rent for units of equivalent utility value.[263] (The meaning of the term "palpably" will vary depending on the circumstances, but approximately 2-5 percent).

[259] http://www.hyresnamnden.se/Besittningsskydd/
[260] Section 19 in the Tenancy Act
[261] RH 1999:60
[262] Prop. 2009/10:185
[263] Section 55

Setting the rent according to the utility value system is done in two steps. First of all other apartments whose rent has been determined in a bargaining agreement and that have a utility value as similar as possible to the apartment in question must be found. The rent for the apartment in question is then based on the highest rents of the comparable apartments. It is the parties who must provide data for the comparison. If relevant comparative material is missing the rent tribunal will make an equitable asessment instead.

If the parties have agreed on an excessive rent the tenant shall start by informing the landlord of what new terms and conditions he requests. If an agreement cannot be reached, the tenant is entitled to apply to the regional rent tribunal. This application may be made one month after the opposite party has been informed at the earliest. A landlord who has a bargaining agreement with the Swedish Union of Tenants (please see above) can not agree on an excessive rent. He is bound by the collective rent bargaing agreement with the Union. If the landlord still agrees with the tenants on an excessive rent the agreement is invalid and he must repay the excess plus interest.[264]

Changes in contract law (including rent law) applies to all contracts unless something else is stated. This means that changes in the rent regulation almost always applies to old contracts as well as new (however the special rules regarding new houses are the exception).

- Maturity (fixed payment date); consequences in case of delayed payment

Unless the parties have agreed otherwise, the rent shall be paid not later than the last weekday preceding the beginning of each calendar month.[265]

If the payment is delayed more than one week after payment day the tenancy is forfeited and the landlord is entitled to give the tenant an advance notice of cancellation.[266] However, the landlord must also serve the tenant with a notice saying that paying the rent within three weeks will recover the tenancy, and the notice of cancellation and the reason for the same have been given to the social welfare committee in the municipality where the unit is situated, the tenant may not be divested of the unit if the rent is paid within this period of time or deposited with the County Administrative Board.

The tenant can nor be divested of the unit if the social welfare committee, within the time indicated above, has notified the landlord in writing that the committee will take responsibility for payment of the rent. Nor yet if the tenant has been prevented from paying the rent within the three weeks due to illness or some similar unforeseen circumstance and the rent has been paid as soon as possible, though not subsequent to the eviction dispute being determined by the court of first instance.[267]

If a tenant believes that he is entitled to a reduction of the rent, as a compensation for damage or for the remediation of a defect or if he has any other counter-claim against the landlord he can deduct the corresponding amount from the rent and deposit the

[264] Section 23 in the Tenancy Bargaining Act
[265] Section 20
[266] Section 42, first paragraph
[267] Section 44

amount with the County Administrative Board. This applies to disputes not connected to the lease aswell.[268] The County Administrative Board is obliged to immediately inform the landlord about the deposit.

If a tenant repeatedly is being late with the rent, the landlord can give a notice of termination with a period of notice. Then he can apply to the rent tribunal claiming that the tenant has neglected his obligations to such an extent that in fairness the agreement ought not to be prolonged.[269] When determining if the tenant is entitled to a prolongation, the overall picture of the tenant's behavior during the lease is of interest. The landlord's interest vs. the tenant's interest of keeping the apartment shall be considered.

- May the tenant exercise set off and retention rights over the rent payment? (i.e. the tenant withholding the rent or parts of it when the landlord does not respect his contractual duties, e.g. does not repair a defect);

A person always has the right to set off, that is a general rule under Swedish law. However, if a tenant sets off rent because he belives that he has a counterclaim against the landlord, he risks being given a notice of termination for unpaid rent. A tenant may also withhold rent and make use of his retention right, but at his own risk. If he is given a notice of termination and he does not pay the rent within the time frame of three weeks as mentioned above, he will be evicted of the apartment. Then no social considerations will be taken into account.

It is safer for the tenant to deposit the rent with the County Administrative Board, then there is no ground for terminating the contract.

- May claims from rental agreements be assigned to third parties (i.e. may the landlord assign his rent claim to a bank?)

Yes, a bank is able to buy all claims. However, this right is rather pointless which makes such assignments rare in Sweden. The rental income from a property is secure in the sense that it is relatively easy to terminate a tenant who does not pay the rent.

Furtermore, it is not a protected claim in case of a bankruptcy.

- May a rent payment be replaced by a performance in kind (e.g. reparation, renovation)? Does the tenant have a statutory right to this effect? Could a lien of the “tenant-contractor” create problems in that case? (a lien is a statutory right of a contractor to ensure his being paid for his performances, e.g. improvements to the house, e.g. § 648 BGB)

If the apartment is not in the condition the tenant is entitled to claim the apartment has defects. If it occurs a defect in the apartment before or during the rental period, and the landlord neglects to take action within a reasonable amount of time, the tenant may remedy the defect at the landlord’s expense.[270] What a reasonable time is depends on the nature of the defect. For a worn floor it can be quite a long time but for a toilet that

[268] Section 21
[269] Section 46 paragraph 2
[270] Section 11 paragraph 1

does not work action must be taken immediately. The tenant risks losing his money if he has acted too quickly, or if he has no proof of that the landlord has been notified.

The right to self-help is therefore rarely used. For residential tenants it is much easier to make use of a remedial injunction instead.

- Does the landlord have a lien on the tenant's (movable) property in the house (Vermieterpfandrecht as in § 562 BGB, which functions as a guarantee for the payment of the rent by the tenant)? If yes, what is the scope of this right? How is it enforced?

No, the landlord does not have a lien on the tenant's movable property.

- Clauses on rent increase
  - Open-ended vs. limited in time contracts
  - Automatic increase clauses (e.g. 3% per year)
  - Index-oriented increase clauses

According to the Tenancy Act, such clauses are not allowed for residential tenants. The rent for the dwelling shall be specified in the tenancy agreement or, if the agreement has a bargaining clause, in the collective rent bargaining agreement. Automatic increase clauses are allowed for non-residential premises if the agreement is conducted for a fixed period of time and the rental period is at least three years.[271]

- Utilities
  - Describe the usual kinds of utilities (e.g. basic utilities like the supply of water, gas and electricity vs. additional utilities, i.e. services such as waste collection) and their legal regulation
  - Responsibility of and distribution among the parties:
    - Does the landlord or the tenant have to conclude the contracts of supply?
    - Which utilities may be charged from the tenant?
    - What is the standing practice?

As stated above, the amount of rent shall be determined in the tenancy agreement, or if the agreement contains a bargaining clause, in the bargaining agreement. However, this does not apply to compensation for expenses relating to the supply of heat, hot water or electric current or charges for water and sewerage, if if the tenancy agreement includes a bargaining clause and the basis of payment computation has been established through a bargained agreement or through a decision from the rent tribunal. Or if the unit is situated in a single- or two-family dwelling, or if the cost of the utility is charged to the tenant by individual metering.[272]

Usually, when renting an apartment in an apartment building, most tenancy agreements have a total rent where the heat and water supply are included in the rent, as well as

[271] Section 19
[272] Section 19

waste collection. The household electricity is usually charged separately by a separate contract between an electricity supplier and the tenant. Another cost that usually is in addition to the rent, is the cost of broadband which usually is supplied by an external provider.

When individuals rent one or two dwelling houses from other individuals they usually conclude contracts directly with the supplier. Gas stoves are relatively uncommon in Sweden.

- How may the increase of prices for utilities be carried out lawfully?

An increase of prices of utilities may be carried out through an increase of the rent, but the rent increase must be negotiated with the Swedish Union of Tenants if the landlord has a principal bargaining agreement or if there is no such agreement, with each tenant individually. If the parties can not agree, the rent tribunal must make a decision about the increase.

The price regulation is the same regardless for the landlords reason for raising the rent, see general principles.

- Is a disruption of supply by the external provider or the landlord possible, in particular if the tenant does not pay the rent?

As long as there is a valid contract, the landlord is never allowed to disrupt the supply. If a landlord would disrupt the supply of heat for example, it would constitute a criminal act, i.e. arbitrary conduct. But if the tenancy is forfeited and three weeks have passed without the tenancy being recovered, the landlord can act as if the agreement has been terminated and turn off the power and water. The tenant is entitled to damages only if the contract is not terminated, i.e. the tenant has paid the rent.

A disruption of supply is possible if the tenant has a contract concluded directly with the provider and if he stops paying the bills.

- Deposit:
  - What is the legal concept (e.g. is the deposit an advance rent payment or a guarantee deposit to cover future claims of the landlord)?
  - What is the usual and lawful amount of a deposit?
  - How does the landlord have to manage the deposit (e.g. special account; interests owed to the tenant?)
  - What are the allowed uses of the deposit by the landlord?

There are no rules regarding deposits in the Tenancy Act besides section 28a. This section states that the tenant is entitled to get his deposit back after two years from the date the commitment entered into force (a period of notice of nine months applies). This right can not derogated from by agreement.

The use of deposits is rare, but is usually used as a guarantee for future claims due to damage to the apartment or unpaid rents. It is therefore important that the parties agree on what should apply for the deposit. The deposit will usually be paid back when the lease period is over. The rent tribunal can only mediate about a claim for a deposit which

has not been repaid, if the tenant wants a decision on the matter he has to apply to the district court.

If a tenant has a requirement of a security in his tenancy agreement, it is possible to get the fairness of the clause tried. If the clause is considered unreasonable, it will be repealed. One can assume that the authorities applying the law will not accept conditions of safety set out in a routine manner. Particularly high restrictiveness can be predicted on different conditions on deposits. If a collateralisation deteriorates, it does not give the landlord the right to terminate the contract - the tenant still has a protected tenancy.[273]

As stated above, there is no lawful amount mentioned in the tenancy legislation but the most common amount of deposit is one to three months rent. There are no rules on how the landlord has to manage the deposit as to special accounts etc., and neither on how the landlord is allowed to use to deposit.

- Repairs
    - Who is responsible for what kinds of maintenance works and repairs? What kind of repairs or works may lawfully be assigned to the other party (especially the tenant)

The landlord is responsible for all maintenace works and repairs and for keeping the dwelling in such condition that, according to the general view in the locality, it is fully serviceable for the purpose intended.[274] The landlord shall, at reasonable intervals of time, arrange for papering, painting and other customary repair in the dwelling because of the deterioration of the unit from age and use. What a reasonable interval of time is varies depending on the size of the apartment and how many tenants living there. When it comes to painting and wallpapering the interval has become wider and is now about twelve to fourteen years. It is important to note that the landlord's obligation to repair does not occur simply because a certain amount of time has elapsed since the previous repair, it is also required that the apartment is in need of maintenance.

The above said does not apply, however, if an agreement has been made to the contrary and the tenancy agreement refers to a single-family dwelling or a holiday cottage, or the tenancy agreement includes a bargaining clause and the derogatory provisions have been included in a bargained agreement.[275]

If the rented property is a single family home or a holiday cottage, the parties may agree that the tenant will be responsible for maintenance. Through a collective bargaining agreement it can be determined that the mandatory rule of the landlord's obligation to do customary repair shall not apply. The idea is that a residential tenant who is being offered repair is able to abstain it, and in return be able to get lower rent or a rebate. This is called tenant-controlled apartment maintenance and is quite common among the municipal housing companies.[276]

Residential tenants entitled to carry out painting, wallpapering and comparable measures in the dwelling at their own expense. This means that a tenant has a right to

[273] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, p. 79
[274] Section 15 in combination with section 9
[275] Section 15
[276] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 87-88

exchange perfect fittings with other fittings, if he so prefers. The idea is that the tenant shall be allowed to change the apartment to accommodate his or hers taste. But if the utility value of the apartment thereby is reduced, the landlord is entitled to compensation for the damage. But a judicial review regarding whether or not the utility value has deteriorated can not be made until the tenant moves out. However, the landlord's duty to repair what is broken is not affected by these rules.

If the tenancy agreement refers to a single-family dwelling which is not intended to be let permanently or a cooperative apartment, the parties may agree that this rule shall not apply.[277]

- Connections of the contract to third parties
    - Rights of tenants in relation to a mortgagee (before and after foreclosure)

If a property is brought to an executive auction on a forced sale, the tenancies shall be notified so that they become included in the list of parties concerned. The property is offered up for bids, first without a proviso concerning the grant and then with the proviso. If the price offered is lower for the property with a proviso and that damages creditors with superior rights, the property is sold without the proviso.[278] But the new owner must give notice of termination of the tenancy agreement within one month of the access. Otherwise, the agreements are valid against the new owner.[279] The landlord must give the tenants a period of notice of three months and then apply to the rent tribunal. In this situation, the trustee is in no better position if he tries to evict the the residential tenants than the original landlord was. The bankruptcy does not make it easier for the trustee. Hence, a tenant with a protected tenancy remains in his apartment. The provisions on terminating agreements are however important with regard to commercial contracts.

If the property is sold with the proviso, the tenancy agreements are valid against the new owner. If, however, the property is assessed as a rental housing unit, residential tenancies for an indefinite period of time which are based on a written document are always valid against the new owner if the tenant took possession of the dwelling before the executive sale.[280]

[277] Section 24a
[278] Chapter 12 section 39 of the Enforcement Code (utsökningsbalken, SFS 1981:774)
[279] Chapter 12 section 46 of the Enforcement Code
[280] Chapter 7 section 16

e) Implementation of tenancy contracts

Example of table for e) Implementation of tenancy contracts

	Main characteristic(s) of tenancy type 1	Main characteristic(s) of tenancy type 2, etc.	Ranking from strongest to weakest regulation, if there is more than one tenancy type
Breaches prior to handover	Section 11 in the Tenancy Act. Tenant entitled to self-help, advance notice of cancellation, rent reduction, damages or a remedial injunction.		
Breaches after handover	Tenant entitled to self-help, advance notice of cancellation, rent reduction, damages or a remedial injunction.		
Rent increases	Must be negotiated with the Union of Tenants (in case of a principal bargaining agreement) or tried by the rent tribunal.		
Changes to the dwelling	A tenant may carry out painting, wallpapering and comparable measures in the dwelling at his own expense.		
Use of the dwelling	A tenant may keep pets but not produce smells if it disturbs his neighbours A tenant may not use the apartment for a purpose other than that the intended A tenant may not remove an internal wall		

	A tenant may not fix pamphlets in the building		

- **Disruptions of performance (in particular "breach of contract") prior to the handover of the dwelling**
    - In the sphere of the landlord:

      - Delayed completion of dwelling

      - Refusal of handover of the dwelling by landlord (in particular: case of "double lease" in which the landlord has concluded two valid contracts with different tenants over the same house)

      - Refusal of clearing and handover by previous tenant

      - Public law impediments to handover to the tenant

If the dwelling had not been completed when the agreement was entered into and if the unit is still not ready when possession is to be taken, the tenant is entitled to a reasonable reduction of the rent and is entitled to give notice of immediate cancellation of the agreement as indicated in section 11. Section 11 states that if the defect cannot be remedied without delay or the landlord, after being called upon to do so, neglects to take action as soon as possible, the tenant may give notice of cancellation of the agreement. Such notice, however, may only be given if the defect is of substantial importance. Notice of cancellation of the agreement may not be given after the defect has been remedied by the landlord.

Notice of cancellation may also be given before the agreed possession date if it is obvious that the dwelling will not then be usable for the purpose intended. The tenant is also entitled to compensation for damage unless the landlord shows that the delay was not caused by neglect on his part.[281]

If the landlord refuses to hand over the dwelling the tenant may turn to the Enforcement Authority and claim judicial assistence. If the landlord has concluded two valid contracts with different tenants over the same house the tenant may claim damages from the landlord by applying to the district court. He may also sue the other tenant and claim to have a better right to the dwelling than him. But if the other tenant has the apartment in his possession and has a better right to it, he will not be evicted. This may thus be handled under the principles of civil law, he can not get help from the authorities. Rental units are not registrered in Sweden so it is not possible to decide which tenant has the better right that way.

When a previous tenant refuses to clear and hand over the unit is the tenant entitled to a reasonable reduction of the rent for the period of time he is unable to use the unit or part of it. If the impediment is not removed immediately after the landlord has been notified of the state of affairs, the provisions of section 11, concerning the right of the tenant to give notice of cancellation of the agreement on account of a defect in the unit, shall apply. The tenant is also entitled to compensation for damage unless the landlord shows that

[281] Section 13 in the Tenancy Act

the delay was not caused by neglect on his part.[282]

If a public authority prohibits the use of the unit for the intended purpose, before the possession date and on account of the condition of the unit, the agreement ceases to apply even if the decision has not acquired force of law. If the condition occasioning the decision is due to neglect by the landlord or if the latter does not inform the tenant of the decision without delay, the tenant is entitled to compensation for damage.[283]

- In the sphere of the tenant:
  - refusal of the new tenant to take possession of the house

Whether or not the new tenant takes possession of the house, he is obliged to pay rent until eather one of the parties terminate the contract. The landlord can be entitled to terminate the contract if the apartment in question is not the tenant's primary residence.[284]

- **Disruptions of performance (in particular "breach of contract") after the handover of the dwelling**
  - **Defects of the dwelling**
    - Notion of defects: is there a general definition?

There is a defect in an apartment when the apartment not is in the condition that the tenant is entitled to claim or if there are impediments in the tenancy. According to Section 9, the landlord shall provide the unit in such condition that, according to the general view in the locality, it is fully serviceable for the purpose intended unless better condition has been agreed on. According to Section 15, the landlord shall keep the unit in such condition as is indicated in Section 9, unless otherwise agreed or an agreement has been made to the contrary and it refers to a singe-family dwelling, or the provisions have been included in a bargained agreement.

For example, if the apartment is not ready when possession is to be taken, if the apartment is not vacated in time by the party who is to move, or if any of the situations mentioned in section 16 has occured during the rental period. Section 16 states that if the unit is damaged during the term of the tenancy without the tenant being liable for the damage, or if the landlord defaults on his duty of maintenance (regarding wallpapering and painting etc.) or if an impediment or detriment otherwise occurs in the tenancy without any negligence from the tenant, the apartment has a defect.

- Examples: Is the exposure of the house to noise from a building site in front of the house or are noisy neighbours a defect? What about damages caused by a party or third persons? Is the occupation of the house by third parties such as squatters considered as a defect in the legal terms?

Defects in an apartment are usually related to physical defects, such as a stove that does not work. However, a tenant can also suffer inconveniences for many other reasons. There may be a case of lack of water supply or heating supply, poor cleaning

[282] Section 14
[283] Section 10
[284] Section 46 paragraph 10

of the stairs or disruptive behavior from another tenant. But even impediments and detriments that the landlord has no control over such as noise from a neighboring property principally falls in under the rules of impediments in the tenancy. However, traffic disruptions are normally not considered as impediments.[285]

Squatting is very rare in Sweden, but if a house was occupied and the squatters behaved in a disturbing way to the other tenants it would probably be considered a defect.

- Discuss the possible legal consequences: rent reduction; damages; "right to cure" (to repair the defect by the landlord); reparation of damages by tenant; possessory actions (in case of occupation by third parties) what are the relationships between different remedies; what are the prescription periods for these remedies

The sanctions that may be considered by the tenant when a defect occurs in the apartment at the handover or during the rental period are the right to self-help, an advance notice of cancellation, rent reduction, damages or a remedial injunction.

If the apartment is not in the condition that the tenant may claim he may remedy the defect at the landlord's expense. A prerequisite is that the landlord neglects to take action as within a reasonable amount of time after he has been told about it. It is enough that the tenant sends a registered letter to the landlord, in order to fulfill his obligation to tell the landlord about the defect. If there is a right to self-help the landlord is required to pay what it cost to remedy the defect. The right to self-help is rarely used nowadays, as an remedial injunction often is more effective.

Has the defect a substantial importance for the tenancy, may the tenant be entitled to an advance notice of cancellation. This applies if the defect cannot be remedied without delay or if the landlord does to take action as soon as possible. A notice of cancellation of the agreement may not be given after the defect has been remedied by the landlord.

Besides the sanctions already mentioned, a tenant can make a reasonable reduction of rent for the time the apartment has defects or there are impediments in the tenancy. The landlord's liability is strict, i.e. the tenant is entitled to an equitable reduction of the rent regardless of who or what caused the defect or if it occurred by accident. The right to a reduction of rent applies even if the landlord has made every effort to eliminate the defect or impediment. However, the defect must be fairly durable. An important exception from this rule is that the parties may agree that the tenant shall not be entitled to a reduced rent for the impediments that can arise when the landlord performs work to put the apartment in the agreed condition, regular maintenance or other work specified in the tenancy agreement. Such a clause is usually a standard term in residential leases.

A tenant may also claim compensation for the damage he suffers because of the defect or impediment. The prerequisites for damages is that the landlord through negligence or misconduct caused the tenant damage. The landlord can escape liability if he proves that the defect is not due to his negligence or misconduct. Damages include not only personal injuries and damage to property, but also economic loss.

[285] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, p. 91

If a defect occurs in a residential apartment, the tenant can apply to the rent trubunal for a remedial injunction. A remedial injunction may be considered when the apartment is damaged, when the landlord fails to do the periodic maintenance or for other reasons which create impediments in the tenancy. It may also be considered when the landlord does not maintain the common areas. When the rent tribunal submits a landlord to remedy a defect the tribunal shall also determine a specific date when action must be taken at the latest. A remedial injunction may be combined with a fine, often when there is reason to assume that the landlord will not follow the injunction. A decision from the rent tribunal on a remedial injunction can be appealed to the Svea Court of Appeal.[286]

- **Entering the premises and related issues**

  - Under what conditions may the landlord enter the premises?

A tenant disposes the dwelling himself, and the landlord has no right to enter the apartment without the tenant's consent. However, the landlord is entitled to gain access to the unit without respite in order to exercise necessary supervision or carry out improvements which cannot be deferred without damage. The landlord may also have less urgent improvements carried out in the unit which do not cause substantial impediment or detriment in the right of user, if he gives the tenant a notice at least one month in advance. Such works, however, may not be carried out during the last month of the tenancy without the tenant's consent. If the landlord wishes to carry out other work in the unit, such as work which may cause substantial impediment to the right of user, the tenant may give notice of cancellation of the agreement within a week of receiving a notice. When the unit is to let, it is the duty of the tenant to allow it to be shown at a suitable time.[287]

It is for the landlord to prove that the tenant has received a notice of the planned improvements. To simply send a registered letter to the tenant is not appropriate in this case.

- Is the landlord allowed to keep a set of keys to the rented apartment?

Yes, but only if the right to keep extra keys is included in the tenancy agreement. And the keys do not entitle the landlord to enter the premises whenever he likes, he may only enter in the situations mentioned above to avoid the risk of damages.[288]

- Can the landlord legally lock a tenant out of the rented premises, e.g. for not paying rent?

No, a landlord can never lawfully lock a tenant out for not paying rent, it would make him guilty of arbitrary conduct. If he locks the tenant out the tenant can turn to the Enforcement Authority which will help the tenant to enter the apartment.

The exception is if the apartment is abandoned, because it entitles the landlord to take it back.[289] If the apartment is abandoned and the landlord does not know where the tenant

[286] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 92-98
[287] Section 26 in the Tenancy Act
[288] Holmqvist & Thomsson, *Hyreslagen en kommentar,* 2013, the commentary to section 26 in the Tenancy Act.
[289] Section 27 in the Tenancy Act

is, the tenant can not be served with a message on how to recover the tenancy.

- **Rent regulation (in particular implementation of rent increases by the landlord)**
    - Ordinary rent increases to compensate inflation/ increase gains
    - Is a rent increase after renovation measures, e.g. upgrading the energy performance of the house, or similar lawful and dealt with in a special procedure?
    - Rent increases in “housing with public task”
    - Procedure to be followed for rent increases
        - Is there some orientation at the market rent; if yes, how is the market rent measured/calculated (e.g. statistical devices such as a Mietspiegel [= rent statistics for a certain area])?
    - Possible objections of the tenant against the rent increase

All rent increases are carried out in the same way and it depends on whether or not the landlord has a principal bargaining agreement with the Swedish Union of tenants and the tenants have a bargaining clause in their tenancy agreements, or if the landlord lacks such an agreement and then has to negotiate the rents with the tenants individually.

A principal bargaining agreement requires the landlord to negotiate rents, terms and conditions of housing with the union. If the landlord is bound by this type of agreement he must send the union a written notice about what new terms he requests. Then the landlord and the union negotiate what conditions that should apply. If they do not agree, an application to the rent tribunal must be made. A tenant is bound by the new negotiated rent or term if there is a bargaining clause in the tenancy agreement regarding this matter, but can apply to the rent tribunal for an amendment of the agreement.

A landlord without an agreement with the union must negotiate the rent with each tenant individually. He shall start by informing the opposite party of what new terms and conditions he requests. If an agreement cannot be reached, he must refer the dispute for a decision by the rent tribunal. The application to the rent tribunal may be made one month after the opposite party has been informed at the earliest (section 54 in the Tenancy Bargaining Act).[290]

There are no market rents for residential premises in Sweden. However, the Swedish Union of Tenants along with the Property Federation have statistics regarding their members which they use in the negotiation progress.

The most common objection of the tenant against a rent increase is that the apartment has a low standard and is in need of a renovation. Obviously, a low standard affects the rent level, but at the same time the landlord is required to renovate the apartment with

[290] SFS 1978:304

reasonable intervals of time. If he refuses to do so, the tenant can apply for an remedial injunction.

Sometimes a landlord has taken measures that increase the utility value of the apartments which means large rent increases for tenants, such as tiling the bathrooms in connection with a pipe replacement. In these cases a common complaint is that the renovation was unnecessary and that the apartment has become too luxurious. But the truth is that the entire bathroom has to be torn out in connection with a pipe replacement in most cases and the landlord often wishes to upgrade to a modern standard in the bathroom at the same time.

- **Alterations and improvements by the tenant**
    - Is the tenant allowed to make (objective) improvements on the dwelling (e.g. putting in new tiles)?

Yes, a residential tenants are entitled to carry out painting, wallpapering and comparable measures in the dwelling at their own expense. Some examples of comparable measures are installation of blinds, tiling of kitchen and bathrooms, replacement of baseboards, laying of carpeting on a linoleum floor, replacement of interior doors and knobs and set of wooden paneling in the hall and rooms. In this way, the Swedish tenancy legislation gives a tenant considerable freedom to customize his home to fit his personal taste. This is an important difference to the legislation in Denmark and Finland, where a similar right does not exist.

But if the utility value of the apartment is reduced due to the changes made by the tenant, the landlord is entitled to compensation for the damage. However, if the tenancy agreement refers to a single-family dwelling which is not intended to be let permanently or to a cooperative apartment, the parties may agree that this rule shall not apply.[291]

- Must, and if yes under what conditions, improvements of the dwelling by the tenant be compensated by the landlord?

No, improvements to the dwelling by the tenant can only be compensated if the tenant is entitled to self-help because of defects (please see above). The tenant not entitled to any compensation otherwise.

Section 55b states that if a tenant has paid for rebuilding, alteration or maintenance work or measures of comparable significance in his unit, the landlord may be credited for that improvement in connection with the assessment of rent for the unit only if there are special reasons for it.

- Is the tenant allowed to make other changes to the dwelling?
    - in particular changes needed to accommodate a handicap (e.g. building an elevator; ensuring access for wheelchairs etc)?
    - fixing antennas, including parabolic antennas

If a person is disabled he might be entitled to a home adaptation allowance for adaptation of the solid features in the dwelling. The landlord must approve of the

[291] Section 24a

measures and is free to say no to such adaptations. The tenant is only entitled to make the changes in the apartment that is stated in section 24a, installing a handle to make it easier to get in and out of a bathtube for instance. Landlords may refuse to agree to an adaptation even when a tenant has gotten an allowance and a promise of compensation for removal of the installations. There is no preferential treatment for a disabled person within these rules in the Tenancy Act.

Normally the landlord must approve before a tenant installs an antenna, since the landlord is responsible for the safety of the property and there is a risk that the antenna will fall down. But the European Court of Human Rights concluded that the eviction of a family with three children from an apartment simply because they would not comply with the landlord's rules on antennas, was not a proportionate measure and therefore was a violation of Article 10 in the ECHR.[292] However, in this case the family had followed the landlord's rules to a certain extent, because they had moved the dish from the outside of the balcony onto the balcony, and fastened it carefully. There is no reason to believe that the rent tribunal and the Svea Court of Appeal would not follow this ruling in future cases.

- **Maintenance measures and improvements, in particular upgrading the energy performance of the house by the landlord**
    - What kinds of maintenance measures and improvements does the tenant have to tolerate?
    - What conditions and procedures does a landlord who wants to make renovations need to respect (e.g. giving adequate [i.e. sufficiently long] notice; offer an alternative dwelling; offer a rent reduction to compensate for disturbances)?

A landlord may carry out improvements to the property which are a raising of the standard and have a not insignificant effect on the utility value of the dwelling or take measures entailing not a immaterial change to a dwelling or to the communal parts of the property, only if they have been approved by the tenants concerned.[293] If the tenant refuses to consent permission can be granted by the rent tribunal. If the measures concern the communal parts of the property, they must have been approved by the tenants of more than half of the dwellings concerned or permission must be granted by the rent tribunal.

Improvements which raise the standard and have a not insignificant effect on the utility value are for example renovation of kitchens and bathrooms to a higher standard, glazing of balconies or fixing up laundry rooms or patios to a higher standard. Hence, ordinary maintenance and repairs such as wallpapering or replacing a worn-out refrigerator with a new one are outside the scope of the provision.

An application to the rent tribunal shall be granted if the landlord has a notable interest in the measure being taken and it is not oppressive to the tenant. When considering

[292] Case of Khurshid Mustafa and Tarzibachi v. Sweden, application no. 23883/06
[293] Section 18 d in the Tenancy Act

whether or not it is oppressive to the tenant, the landlord's interest shall be balanced against the various interests which tenants in general may presumably have. Circumstances relating solely to the individual tenant may also be taken into consideration if there is special cause for it. However, a tenant can not object to a renovation that gives the apartment a standard that tenants would normally expect from a modern apartment. In these cases the landlord's interest is stronger.

The landlord must inform the tenants in writing about the measures and then wait at least two months before applying to the rent tribunal if they can not agree.

The tenants are entitled to compensation for disturbances unless they have waived that right through a clause in their tenancy agreement. If the landlord is carrying out such radical measures in the house that the tenants will have to move, he must obtain replacement flats. The tenants also have the right to return to their apartments once the renovation is finished.

Uses of the dwelling

- Keeping animals; producing smells; receiving guests; prostitution and commercial uses (e.g. converting one room in a medical clinic); removing an internal wall; fixing pamphlets outside.

A tenant is entitled to keep pets as cats, dogs or other animals in his apartment as long as they are not being disruptive to the neighbors or destroying the apartment. Sometimes there is a ban on pets in the landlord's regulations, but such a provision is not automatically valid against the tenant. It may be generally considered permissible for a tenant to hold pets unless there is a particular reason or interest for the landlord to have such a provision, for example in houses made for allergic tenants. Hence, a defiance of the ban does not normally mean a forfeiture of the tenancy.[294]

If the tenant is producing smells and thereby is disturbing other tenants, or if it can be assumed that the apartment is likely to be damaged, the landlord must give the tenant a chance to take corrective action before he gives him a notice of termination. The landlord must therefore send a notice to the tenant and request him to rectify with a registered letter, and at the same time inform the social welfare committe in the municipality where the tenant lives. If the tenant refuses to take corrective action and the problem with the smell continues, the landlord may give the tenant a notice of termination. He must then apply to the district court and claim forfeiture under section 42 paragraph 6 in the Tenancy Act.

If the apartment is used for criminal activity or prostitution, it can be forfeited under section 42 paragraph 9. It is then required that the premises are wholly or to a substantial extent used for casual sexual relations for payment.[295] It should be noted that the landlord is required to cancel the lease if he becomes aware that there is prostitution going on in one of his apartments to avoid criminal liability.[296]

[294] Holmqvist & Thomsson, *Hyreslagen en kommentar,* 2013*,* the commentary to section 25 in the Tenancy Act
[295] Nils Larsson et al, *Bostadshyresavtal i praktiken*, 2010, p. 192
[296] Chapter 6 section 8 in the Swedish Penal Code (Brottsbalken) SFS 1962:700

According to section 23 in the Tenancy Act the tenant may not use the apartment for a purpose other than that intended to avoid the risk of forfeiting the tenancy.[297] The landlord, however, may not adduce deviations of no importance to him.[298] Usually it is stated in the tenancy agreement what the apartment is to be used for; in agreements for residential premises it is stated that the apartment must be used as a dwelling. The tenant is then basically bound by this, if he does not get the the landlord's consent to use the apartment for another purpose. The landlord is responsible that the apartment are not used in a way that causes any inconvenience for the other tenants.

A tenant is entitled to a put his personal touch on the apartment to a certain extent. He does not need to obtain the landlord's consent, nor inform him. The repairs the tenant is entitled to do are "painting, wallpapering or comparable measures."[299] Some examples of what comparable measures might be are; installation of blinds, tiling of the kitchen or the bathroom, replacement of baseboards, inlay of carpeting on a linoleum floor, replacement of interior doors and knobs and putting up wood paneling. These types of changes does not need to be reset when the tenant moves out, as long as they are made in a workmanlike manner. However, the tenant's choice of colours and wallpaper may not differ too much from what a conventional tenant would choose. If the apartment's user-value is reduced by the tenant's actions, he may be liable to pay damages to the landlord. The landlord can not force the tenant to restore the apartment and neither can the inadequate performance actualize a notice of termination from the landlord. The only sanction may be that the tenant is obliged to pay the landlord for the reduced use value once he moves out.

The tenant is not entitled to undertake any major changes in the apartment or on its furnishings. The tenant may not change the apartment's floor plan by removing a wall or making an arch between two rooms. The tenant may neither tear out solid kitchen units and set up other ones in its stead. Nor may he turn a separate shower room or dressing room into a sauna or divide a room with a permanently mounted partition wall. Hence, a tenant who removes a wall in his apartment may forfeit the tenancy.[300]

If there is a message board set up in the hallway of an apartment building for instance, it is the landlord who decides what notices may be put up there. The tenant has no right to put up notices. The landlord may have rules regarding the message board and those rules are the tenants required to folllow. This situation can be compared to the case regarding the parabolic antenna mentioned above. In this case, the Swedish courts ruled in favor of the landlord since he is responsible for the safety of the property and the exterior of the house. But the European Court of Human Rights concluded that the eviction was not a proportionate measure and therefore was a violation of Article 10 in

[297] Under section 42 paragraph 4 in the Tenancy Act. The tenant must be given a chance to take corrective action before the landlord terminates the contract.

[298] There very are few cases regarding this matter in terms of dwellings. In NJA 1920 p. 581 a lawyer leased a dwelling consisting of six rooms and a kitchen. In two of the rooms he pursued his business and he got about ten visits from clients a day. The landlord argued that the tenancy was forfeited because the tenant did not have permission to manage his business in the apartment, and that there were disadvantages due to the many client visits. But the tenant was not considered to have used the apartment for any other purpose than for residential purposes, and the tenancy was not forfeited.

[299] Section 24a in the Tenancy Act

[300] Holmqvist & Thomsson, *Hyreslagen en kommentar,* 2013*,* the commentary to section 24a in the Tenancy Act

the ECHR.[301] The Court noted that the antenna made it possible for the tenants to accommodate culture and news in their home language. This ruling has forced Swedish courts to change their minds regarding antennas, but it is still obvious that a landlord is in control of the message board.

- Is there an obligation of the tenant to live in the dwelling? Are there specificities for holiday homes?

A tenant who does not use the apartment as his primary residence runs the risk of getting a notice of termination from the landlord. The landlord may claim that the tenant has a lack of need of the dwelling, which is a ground that breaks the protected tenancy according to section 46 paragraph 10 in the Tenancy Act. In such a court matter the rent tribunal must do a weighing of interests between the landlord and the tenant. If the tribunal finds that the tenant has an interest worthy of protection (skyddsvärt intresse in Swedish) he will remain in his apartment. The tenant may argue e.g. that the apartment is a necessary complement to his usual residence and show that he uses the complementary apartment at least 2 - 3 times a week. But if the tenant never has lived in the apartment and he only wants to keep it to eventually be able to swop it to another apartment, or to use it for his children's housing needs in the future, he has no interest worthy of protection.[302]

The tenancy protection is weaker for holiday homes than for permanent housing and during the first nine months the tenant has no tenancy protection.[303] But even after those nine months the tenant has a very weak protection if he rents the holiday home from another individual. If the grant does not form part of a commercially conducted rental activity and the individual has such an interest in disposing the unit that the tenant reasonably should move, the rent tribunal most likely will decide that he does not get to stay there.[304] Most individuals who let their holiday homes will ask the tenant to sign a waiver of tenure to avoid a trial in the rent tribunal.

- **Video surveillance of the building**

  Is the surveillance of certain parts (e.g. corridors) of the building lawful and usual?

No, it is not usual to video monotor parts of an apartment building in Sweden. Authorization for video surveillance is needed if one intends to monitor a location that the public has free access to. In this context, it is irrelevant if the site is a public or private area.

But stairwells in multi-family houses are not considered to be freely accessible for the public. However, consent of those affected by the monitoring is required. Even if consent is not available from all parties, monitoring may still be permitted if the camera surveillance needed to prevent crime and if this need outweighs the integrity interest. It is the Swedish Data Inspection Board (Datainspektionen) that is the supervisory

[301] Case of Khurshid Mustafa and Tarzibachi v. Sweden, application no. 23883/06
[302] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 206-207
[303] Section 45 paragraph 2 in the Tenancy Act
[304] Section 46 paragraph 6 in the Tenancy Act

authority for places to which the public has no access. Regardless of where the camera surveillance takes place the monitoring site must be carefully signposted.[305]

f) Termination of tenancy contracts

Example of table for f) Termination of tenancy contracts

	Main characteristic(s) of tenancy type 1	Main characteristic(s) of tenancy type 2, etc.	Ranking from strongest to weakest regulation, if there is more than one tenancy type
Mutual termination	A tenant can always terminate a contract! A landlord bound by the agreement if it is fixed term contract		
Notice by tenant	Tenant may choose between statutory/agreed period		
Notice by landlord	Landlord must use the statutory period		
Other reasons for termination	A landlord may only terminate the contract under section 42/46 in the Tenancy Act		

[305] The Camera Monitoring Act (Kameraövervakningslag) SFS 2013:460

- **Mutual termination agreements**
- **Notice by the tenant**
    - Periods and deadlines to be respected

A tenant can always give the landlord a notice of termination, even if they have a fixed term agreement. The period of notice is usually three months and the agreement will then expire from the turn of the month occurring immediately after three months from the notice.[306] This applies provided that no other period has been agreed upon. If a period of notice of e.g. one month has been agreed the tenant may choose between the statutory and the agreed period. If the parties have agreed on a period of notice of more than three months, that period applies for the landlord but not for the tenant - he may choose the statutory period of three months instead.[307]

When the term of the tenancy has expired, the tenant shall leave the unit not later than the following day and shall no later than 12 o'clock that day make the unit available. If that day comes on a Sunday, another public holiday, a Saturday, Midsummer's Eve, Christmas Eve or New Year's Eve, the unit shall instead be vacated on the next following weekday.[308]

- May the tenant terminate the agreement before the agreed date of termination (in case of contracts limited in time); if yes: does the landlord then have a right to compensation (or be allowed to impose sanctions such as penalty payments)?

Yes, please see above. No, the landlord does not have a right to compensation or to impose sanctions. The landlord is only entitled to damages when the tenancy is forfeited.

- Are there preconditions such as proposing another tenant to the landlord?

No, there are no such preconditions.

- **Notice by the landlord**
    - Ordinary vs. extraordinary notice in open-ended or time-limited contracts; is such a distinction exists: definition of ordinary vs. extraordinary (= normally related to fundamental breaches of the contract, e.g. in cases of massive rent arrears or strong antisocial behaviour)

An ordinary period of notice is three months for a landlord as well, unless another period is agreed. However, a shorter period of notice than three months for an open-ended contract (or a fixed term contract lasting for more than three months) is not valid when the landlord terminates the contract. If the tenant and the landlord agree on a period that is less advantageous for the tenant than the statutory right, that agreement is void.

[306] Section 5 in the Tenancy Act
[307] Section 3 in the Tenancy Act
[308] Section 7 in the Tenancy Act

A tenancy agreement concluded for a fixed term cease to apply at the expiry of the term, unless otherwise agreed. If, however, the tenancy has lasted for more than nine consecutive months, notice of termination shall always be given in order for the agreement to cease to apply. If the parties have a fixed term agreement the landlord is bound by that term and he can not give an advance notice of cancellation. He can only terminate the contract to the date the rental period expires or in case of a breach of contract of the tenant.[309] If the landlord is aware of and accepts that the tenant remains in possession of the dwelling for more than 1 month after expiry of the term, without requiring the tenant to vacate the premises, the tenancy will continue for an indefinite term and the one of the situations mentioned in Section 46 must be fulfilled in order for the tenancy to cease.[310]

If the tenancy is forfeited, the landlord may terminate the contract without a period of notice according to section 42 in the Tenancy Act.

- Statutory restrictions on notice:
  - for specific types of dwellings, e.g. public dwellings; rental dwellings recently converted into condominiums (if there exists a special form of protection in this case as in German law) etc.

The same rules apply for all dwellings when it comes to the period of notice. The only difference are the rules on notice for commercial leases which usually is much longer, most often nine months.

- in favour of certain tenants (old, ill, in risk of homelessness)

There are no special rules regarding certain tenants, the same rules apply for all tenants. The only exception is the rule on period of notice for estates. If the tenant has died, the estate may give notice of cancellation of one month within one month of his demise. If the dwelling unit has been rented by a married or unmarried couple conjointly and one of them dies, this right passes to the estate of the deceased and the surviving spouse or cohabitee together.[311]

- for certain periods

According to section 4, there are special rules for certain periods. If a fixed-term tenancy agreement is to be terminated and a longer period of notice has not been agreed on, notice shall be given no less than
1. one day in advance if the rental period of the tenancy is shorter than two weeks,
2. one week in advance if the rental period of the tenancy is longer than two weeks but shorter than three months,
3. three months in advance if the rental period of the tenancy is longer than three months and the tenancy refers to a dwelling unit.

- after sale including public auction (“emptio non tollit locatum”), or inheritance of the dwelling

[309] Section 4 in the Tenancy Act
[310] Section 3 paragraph 2 in the Tenancy Act
[311] Section 5 in the Tenancy Act

If the property unit has been taken over by the creditors before the possession date, the tenant may give notice of cancellation of the agreement and it will cease to apply immediately. He is also entitled to compensation for damages. Notice of cancellation shall, however, be given within one month from when the tenant became apprised of that the property unit had been distrained. But if the property unit has been distrained after the possession date, there is no right of termination with a shorter notice or compensation for damages.[312]

If a property is transferred to a new owner it will generally not affect the validity of the tenancy agreements concluded between the former owner and tenants of the transferred property. The new owner will in most cases be bound by the agreements and will become the new landlord. If a written tenancy agreement exists and the tenant has acceded the apartment, the new owner is bound by the agreement according to Chapter 7 section 13 in the Tenancy Act. If there is no written contract or if there is a written contract but the tenant has not acceded the apartment the new owner is bound in the following situations:

- if the transferor has made a proviso concerning the grant (Chapter 7 section 11)
- if the new owner had or should have had knowledge of the grant at the time of the transfer. (Chapter 7 section 14)
- if the grant does not apply against the new owner under sections 11-13, the grant shall nontheless remain in force against him if he does not give notice of cancelling the agreement within three months of the transfer.[313] However, the notice of termination must be examined by the rent tribunal and can only be approved if sections 49 and 46 in the Tenancy Act are fulfilled. Hence, it is quite difficult to terminate a tenancy agreement in these cases.

If the transferor has not made a proviso as referred to in section 11 and, consequently, the grant of a right of user will not apply against the new owner, the transferor shall compensate the holder of a right for the damage he suffers.[314]

When it comes to a forced sale of the property on an executive auction, the tenancy shall be notified so that it becomes included in the list of parties concerned. Then the property is offered up for bids, first without a proviso concerning the grant and then with the proviso. If the price offered is lower for the property with a proviso and that damages creditors with superior rights, the property is sold without the proviso.[315] But the new owner must give notice of termination of the tenancy agreement within one month of the access. Otherwise, the agreements are valid against the new owner.[316] The landlord must give the tenants a period of notice of three months and then apply to the rent tribunal.

- Requirement of giving valid reasons for notice: admissible reasons

A landlord may only terminate the contract when any of the situations mentioned in section 42 or 46 in the Tenancy Act has occured.

[312] Section 29 in the Tenancy Act
[313] Chapter 7 section 14 in the Land Code
[314] Chapter 7 section 18 in the Land Code
[315] Chapter 12 section 39 of the Enforcement Code (utsökningsbalken, SFS 1981:774)
[316] Chapter 12 section 46 of the Enforcement Code

It is stated in section 42 that the tenancy is forfeited and the landlord is entitled to cancel the agreement in advance in the following situations:

1. if, in the case of a dwelling unit, the tenant delays paying the rent by more than one week after the payment day and Section 55 d, passages five-seven, do not indicate otherwise,
2. if, in the case of non-housing premises, the tenant delays paying the rent by more than two weekdays after the payment day,
3. if the tenant transfers the tenancy without necessary consent or permission or otherwise places another party in his stead or sublets the unit and, after being called upon to do so, does not without delay either rectify the matter or apply for permission and have the permission granted,
4. if the unit is used contrary to section 23 or 41 and the tenant does not rectify the matter immediately after being called upon to do so,
5. if the tenant or any other party to which the tenancy has been transferred or the unit let causes, through negligence, the occurrence of vermin in the unit or, through omission to inform the landlord of this, contributes to the spread of vermin in the property unit,
6. if the unit is otherwise neglected or the tenant or another party to whom the tenancy has been transferred or the unit sublet neglects any point to be observed under section 25 in the use of the unit or does not take the care stipulated in that section and the matter is not rectified without delay after being called for,
7. if, in conflict with section 26, admittance to the unit is refused and the tenant cannot show valid excuse,
8. if the tenant neglects a contractual obligation extending beyond his obligations under this chapter and it must be deemed of exceptional importance for the landlord that the obligation be discharged, or
9. if the unit is used wholly or to a substantial extent for economic or suchlike activity which is of a criminal nature or in which criminal procedure forms a not insignificant part or is used for casual sexual relations in return for payment.

If the landlord has given the tenant a notice of termination he is entitled to a prolongation of the agreement unless any of the situations mentioned in section 46 has occured. These are:

1. the tenancy is forfeited without the landlord having cancelled the agreement in advance,
2. the tenant has otherwise neglected his obligations to such an extent that in fairness the agreement ought not to be prolonged,
3. the building is to be demolished and it is not unreasonable to the tenant for the tenancy to end,
4. the building is to be extensively altered and it is not obvious that the tenant can remain in occupation of the unit without notable inconvenience to the carrying out of the rebuilding and it is not unreasonable to the tenant for the tenancy to end,
5. the unit is no longer to be used as a dwelling and it is not unreasonable to the tenant for the tenancy to end,
6. the tenancy refers to a unit in a single- or two-family dwelling and the grant does not form part of a commercially conducted rental activity and the grantor has such an interest in disposing of the unit that in fairness the tenant should move,
7. the agreement refers to a cooperative apartment and the owner has such an interest

in disposing of the apartment that in fairness the tenant should move,
8. the tenancy is dependent on national or municipal government employment of a kind associated with compulsory residence within a certain area or on employment in agriculture or on other employment, if it is of such a kind that it is necessary for the employer to dispose of the unit for letting to the incumbent of the employment, and the employment has ended,
9. the tenancy depends on an employment other than referred to in paragraph 8 which has ended and it is not unreasonable to the tenant that the tenancy also should end and, if the tenancy has lasted for more than three years, the landlord has exceptional reasons for breaking the tenancy, or
10. it is otherwise not in conflict with the accepted practice in tenancy relations or otherwise unreasonable to the tenant for the tenancy to end.

- Objections by the tenant

If the tenant has received a notice of termination according to section 46 he can simply ignore it. The tenant does not have to object to the notice of termination, even if he wants to remain in the apartment. The notice will not be valid until the rent tribunal has approved it, and it is the landlord that has to apply to the tribunal.

If the landlord has cancelled the agreement in advance because of forfeiture of the tenancy he may apply to the to the Enforcement Authority and claim that the tenant shall be evicted. If the tenant's breach of contract consists of non-payment of rent, the tenant must first be served with a notice saying that he may recover the tenancy if the rent is paid within three weeks and the social welfare committe has to be informed. If the tenant does not object to the landlord's application, the Enforcement Authority will pass a decision stating that the tenant must move a certain date. But if the tenant objects, the dispute must be referred to the district court instead.

- Does the tenancy have “prolongation rights”, i.e. the statutory right to stay for an additional period of time (outside the execution procedure)?

No, there is no statutory right to stay for an additional period of time outside the execution period under Swedish law, but there is the possibility of a period of grace.

If the rent tribunal decides that the tenancy shall cease, a reasonable respite for vacation may be granted in the decision if the landlord or tenant so requests. But if the tenancy is forfeited without the landlord having cancelled the agreement in advance, a respite may only be granted at the tenant's request if the landlord approves of it.[317]

- Challenging the notice before court (or similar bodies)

As stated in section 49, the notice of cancellation is of no effect unless the landlord refers the dispute to the rent tribunal no later than one month after the expiry of the term of the tenancy.

- in particular claims for extension of the contract or for granting of a period of grace under substantive or procedural law

[317] Section 52 in the Tenanacy Act

The tenant is entitled to remain in possession of the dwelling until the question of prolongation of the tenancy has been finally determined by the rent tribunal and the judgment has gained legal force.[318] According to section 50 in the Tenancy Act the aforesaid shall not apply if the rent tribunal has ruled that an order for the tenant to move may be enforced even though it has not acquired the force of law. This possibility is however rarely used.

If the landlord or tenant so requests a reasonable respite for vacation may be granted in the decision from the rent tribunal. But if the tenancy is forfeited without the landlord having cancelled the agreement in advance, a respite may only be granted at the tenant's request if the landlord approves of it.[319]

If the tenancy is forfeited and the landlord has terminated the agreement in advance under section 42 in the Tenancy Act, the tenant runs the risk of paying damages if he does not move.

- **Termination for other reasons**

- Termination as a result of execution proceedings against the landlord (in particular: repossession for default of mortgage payment)

Please see above.

- Termination as a result of urban renewal or expropriation of the landlord, in particular:

  - What are the rights of tenants in urban renewal? What are the rules for rehousing in case of demolition of rental dwellings? Are tenants interested parties in public decision-making on real estate in case of urban renewal?

If a building with rental apartments is to be demolished, the landlord has to give the tenants a notice of termination and apply to the rent tribunal. In most cases, the tenants have signed a waiver of security of tenure before moving into a building that is to be demolished. If so, a trial in the rent tribunal is not needed and the tenant is not entitled to a replacement dwelling.

The rent tribunal will decide that the tenant does not have a right to a prolongation of the agreement if the building is to be demolished and it is not unreasonable to the tenant for the tenancy to end. However, the landlord must show that the demolition is imminent by displaying proper investigation such as a demolition permit. The rent tribunal must also take the tenant's ability to find another dwelling into consideration. If the conditions on the housing market are such that it is difficult for the tenant to find an appropriate dwelling himself, it's often unfair to the tenant that the tenancy ends. This does not apply if the tenant can be offered another dwelling that he can reasonably be satisfied with.

All circumstances are important in evaluating whether or not the replacement dwelling is suitable, such as the tenant's age and special needs, the location of the building and the size and equipment of the apartment. The apartment should in principle be available to the tenant when the rental period expires or when the question of prolongation is

[318] Section 49 in the Tenancy Act
[319] Section 52 in the Tenanacy Act

determined if that is after the rental period expires. In some cases there is no obligation for the landlord to provide the tenant with a new dwelling, e.g. if the apartment is mainly used for overnight stays or for recreational purposes. There is no obligation for the landlord to pay removal costs, but many landlords still pay such compensation voluntarily. In doubtful cases, the tribunal might rule in favor of the landlord when taking this compensation into account. If a tenant has been forced to move due to a demolition he has no right to get an apartment in the building constructed after the demolition.[320]

If an urban renewal is to take place, a new detailed development plan probably is needed. The regulation of land use and of building within a municipality is exercised through detailed development plans. Where required for securing the purpose of the comprehensive plan or for safeguarding national interests, area regulations may be adopted for limited areas of the municipality, which are not covered by a detailed development plan. Each municipality must also prepare an up-to-date comprehensive plan, which covers the entire municipality and provides guidance for decisions about the use of land and water areas and on the development and preservation of the built environment. The comprehensive plan is not binding for authorities or individuals.[321]

The formal planning process is governed by the Planning and Building Act[322] and it is designed to try whether a proposed land use is appropriate. Public and private interests are weighed against each other in the process and those affected by the proposal shall be consulted. In the effort to prepare a proposal for a detailed development plan the municipality must consult the affected parties and the owners of co-operative apartments, tenants and residents who are affected by the plan. If there is a principal bargaining agreement with a tenant's association for an affected property, or the association is connected to a national organization in whose area the property concerned is located, the association must be consulted. Those authorities, associations and those other individuals which have an essential interest in the plan shall also be offered an opportunity to consultation.[323] It is the municipal assembly that makes the decision and it may be appealed to the County Administrative Board and to the Government as a final instance.

If a building is to be demolished, a demolition permit or a notification to the Building Committee is generally required. The Building Committee is in some cases required to inform neighbors and other affected and give them an opportunity to comment on the application.[324] Their opinions will then be part of the evidence behind the Building Committe's decision.[325]

g) Enforcing tenancy contracts

[320] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 197-199
[321] http://www.boverket.se/Global/Webbokhandel/Dokument/2005/Legislation.pdf
[322] Plan- och bygglagen (SFS 2010:900)
[323] Chapter 5 section 11 the Planning and Building Act
[324] Chapter 9 section 25
[325] http://www.boverket.se/Vagledningar/PBL-kunskapsbanken/Lov--byggande/Om-handlaggning-av-lov-anmalan/Horande-av-grannar-och-andra-berorda/

Example of table for g) Enforcing tenancy contracts

	Main characteristic(s) of tenancy type 1	Main characteristic(s) of tenancy type 2, etc.	Ranking from strongest to weakest regulation, if there is more than one tenancy type
Eviction procedure	Handled by the Enforcement Authority		
Protection from eviction	The social welfare committe may take responsibility of the payment of rent		
Effects of bankruptcy	No special rules apply		

- Eviction procedure: conditions, competent courts, main procedural steps and objections

The eviction procedure is handled by the Enforcement Authority. If any of the grounds stated in section 42 of the Tenancy Act is fulfilled, the landlord may apply for an eviction at the Enforcement Authority without a previous notice of termination to the tenant. An application to a district court for the termination of the tenancy or for the eviction of the tenant counts as notice of termination after the tenant has been properly served. The same applies for an application under the Payment Orders and Enforcement Assistance Act[326] to the Enforcement Authority for the eviction of a tenant.[327] If the tenant objects to anything in the landlord's application to the Enforcement Authority the dispute must be referred to the district court. The court will try the tenant's formal and material objections to the termination.

If the landlord has terminated the tenancy agreement due to any of the grounds stated in section 46, the question of prolongation must first be settled by the rent tribunal in favor of the landlord before an eviction can be made. The rent tribunal will try the tenant's formal and material objections to the termination.

- Rules on protection ("social defences") from eviction

If the tenancy is forfeited due to non-payment of rent, the tenant has a chance of recovering the tenancy by paying the rent within three weeks. This period of time starts when he is served with a notice explaining how he may recover it and a notice is sent to the social welfare committe in the munipality where the apartment is located. If the tenant does not pay on time, he will be evicted. However, a tenant may not be evicted from the dwelling if the social welfare committee notifies the landlord in writing that the committe will take responsibility for the payment of rent. This must be made within the three weeks of time. Nor may the tenant be evicted if he has been prevented from

[326] Lagen om betalningsföreläggande (SFS 1990:746)
[327] Section 8 in the Tenancy Act

paying the rent within the three weeks due to illness or some other similar unforeseen circumstance and the rent is paid as soon as possible. This must be when the eviction dispute is being determined by a court of first instance at the latest.[328]

The social welfare committe in each municipality will in most cases help an evicted person to get a new dwelling, especially if it is a family with children.

- May rules on the bankruptcy of consumers influence the enforcement of tenancy contracts?

No special rules regarding this matter apply.

h) Tenancy law and procedure "in action"

Preliminary notice: To the extent that scientific sources are lacking, reporters are welcome to use any evidence (also newspaper articles, online sources, private interviews or even their own experience and opinion) in this section.

The practical role of private rented housing can only be realistically assessed when the practical functioning of the legal system in this field ("tenancy law in action") is taken into account:

What is the legal status and what are the roles, tasks and responsibilities of associations of landlords and tenants?

Both the associations for tenants and for landlords, the Swedish Union of Tenants and the Swedish Property Federation, have an important legal status. The associations have a significant proportion of Swedish tenants and landlords as their members and they affect the public debate with their lobbying. They work as consultation bodies when a proposal is referred from the Parliament which means that they also affect new legislation within their field of interest. As mentioned previously, one member of each association also forms part of the rent tribunal. The rent tribunal consists of a chairman, who is a lawyer with judicial experience, and one person representing tenant interests and the other representing landlord interests.

The Union negotiates rents for most tenants in Sweden, as well as providing legal service to its members and represent members with its lawyers in legal forums such as rent tribunals, district courts and courts of appeal.[329] The Federation represents the private property owners' interests by giving advice on economical, legal and technical issues as well as keeping in contact with politicians and mass media. It will also represent their members with their own lawyers for an additional cost. Education is one of the main tasks of the Federation, and it holds a number of courses and conferences each year. The Federation both support and initiates research within its field of interest.[330]

The Swedish Association of Public Housing Companies is the organisation of the municipality owned public housing companies in Sweden, with approximately 300 companies as wembers which manages about 729 000 dwelling units (20 percent of the total housing stock in Sweden). There is 1,4 million people living in SABO homes.

[328] Section 44 in the Tenancy Act
[329] http://www.hyresgastforeningen.se/In_English/Sidor/who-we-are.aspx
[330] http://www.fastighetsagarna.com/systemsidor/in-english

Members of SABO are provided with expertise in different fields and can get help to cooperate with national authorities and organizations. SABO also arranges conferences and can act as an consultant.

What is the role of standard contracts prepared by associations or other actors?

Standard contracts issued by the Property Federation play an important role, most landlords that are members will most likely use them. The same applies for sublease contracts from the Union, especially since they are available to everyone and not only to their members. The rent tribunals used to issue contracts but do not anymore. They do however issue agreements to waive the security of tenure for tenants on the webpage.

How are tenancy law disputes carried out? Is tenancy law often enforced before courts by landlords and tenants and/or are - voluntary or compulsory - mechanisms of conciliation, mediation or alternative dispute resolution used?

At first instance there are two options regarding tenacy law disputes; the district court (tingsrätten) or the rent tribunal (hyres- och arrendenämnden), which is an administrative authority. The general rule is that all cases should be adjudicated by a district court, unless the legal rule specificly states that it should be adjudicated by another authority. A large number of tenancy disputes are examined by the eight rent tribunals, whose task it is to examine disputes concerning, for example, the terms of a tenancy and disputes relating to the renewal of a tenancy agreement.

The rent tribunal will usually try to resolve the dispute through mediation in the first place. During the oral preparation in the district courts will also try to mediate between the parties to reach a conciliation. Both the rent tribunal and the district court are able to confirm the conciliation if both parties so request.

Tenancy law is enforced before the rent tribunal and the district court by both landlords and tenants. However, in some cases, it is only the landlord that may enforce a matter, e.g. disputes regarding a a tenant's right to prolongation of the agreement. The notice of termination is void unless an application is made and the rent tribunal makes a decision on the matter.

Do procedures work well and without unreasonable delays? What is the average length of procedures? Are there peculiarities for the execution of tenancy law judgments (e.g. suspensions of, or delays for, eviction)?

According to recent statistics from Swedish National Courts Administration from 2013, the average length of civil case procedures in district courts are 7,1 months or shorter in 75 % of the cases. The government's goal regarding civil case procedures is seven months. Procedures in the rent tribunal are 7,1 months long or shorter in 75 % of the cases, and the goal of the government is 4 months.[331] However, if the length of procedures is reported according to an average case or matter, the circulation time is shorter. For 2012, the average length was 3,4 months for civil cases decided in the district courts, 1,8 months in the Courts of Appeal and 2,7 months for matters decided in the rent tribunals.[332]

[331] http://www.uddevallatingsratt.domstol.se/Ladda-ner--bestall/Statistik/Statistik-over-malutveckling-omloppstider-och-installda-forhandlingar/Forklaringar-ordlistor-och-bakgrundsfakta/

[332] Årsredovisning 2012 - Sveriges domstolar p. 14

There are no statistics for matters regarding solely judicial assistance from the Enforcement Authority, and it would not be very accurate considering that judicial assistence not only can be requested in tenancy matters. However, there are statistics on the processing time for matters regarding injunctions to pay and judicial assistence from the Enforcement Authority. The processing time from application to decision (utslag in Swedish - when no objection was raised) was 59 days in 2012 and 58 days in 2011. In the cases where an objection was raised the processing time was 98 days in 2012 and 93 days in 2011.[333]

However, in recent years there have been several cases where the Office of the Chancellor of Justice (Justitiekanslern in Swedish) has granted a number of persons damages due to long delays in the procedure. The average processing time of the court cases where the Office of the Chancellor of Justice has granted individuals damages is 4 years and 8 months.[334]

Are there problems of fairness and justice? Are there problems of access to courts especially for tenants? What is the situation concerning legal fees, legal aid and insurance against legal costs?

Following a government decision in 2004 a commission was appointed which would identify and analyze the mechanisms underlying structural/institutional discrimination on grounds of ethnicity and religion. One of the reports examines the structural/institutional discrimination in the justice system. Although there are several studies that show the existence of structural and institutional discrimination in the justice system in Sweden it is not officially recognized in Sweden that such discrimination exists, unlike for instance the UK. The report shows that discrimination against people with immigrant backgrounds are present in a number of areas within the justice system, from police intervention to court practice. The report includes studies showing that stereotypes and negative perceptions of "the others" affects court practice. It was noted in the report that this research area is a low priority and that large investments in further research is needed.[335]

When it comes to the accessibility, The Courts of Sweden (Sveriges domstolar in Swedish, an umbrella term that covers all Swedish courts) adopted a specific treatment approach in 2010 that includes a range of measures which applies to all courts, including the rent tribunals.[336] In connection with this, the Swedish courts have developed an action plan for the period of 2011-2014. This includes measures relating to user surveys, treatment policies, skill development, internal treatment, opening hours to the public, accessability by phone and by e-mail, introduction of one day when all courts are open to the public, a follow-up of the treatment strategy and the development of a new action plan. During the fall a mobile app was launched called The Court Guide. A person who have been called to court can quickly get the necessary information in order to prepare for what will happen. New videos showing how the district courts and

[333] Årsredovisning 2012 - Kronofogden p. 18
[334] http://centrumforrattvisa.se/wpcontent/uploads/files/Rapport%20om%20JKs%20skadeståndsnivåer%2020120213(1).pdf
[335] SOU 2006:90 pp. 3-6
[336] Ju2008/10177/DOM

administrative courts work have also been launched via the app and through the website.[337]

In terms of accessibility from a geographical perspective, there are eight rent tribunals and 48 district courts throughout Sweden. Between 1999 and 2006 the organization of the district courts was reformed and a number of courts were merged with larger judicial districts as a result. The number of district courts decreased from 96 in 1999 to 55 in 2006. It was considered that larger district courts would create better opportunities for improvements of the court operations. The mergers have led to that more parties and witnesses have got a longer road distance to their district court premises. It is however a relatively limited distance increase of an average 13.9 kilometers for criminal cases. But several district courts and rent tribunals operate in more places than the district court office is situated, which means that the judicial operations are maintained at more than one place when the judicial districts are made larger.[338]

Most individuals have a insurance against legal costs as a part of their home insurance, or as a part of their villa or holiday home insurance. It can also be included in boat or car insurances. This legal protection will cover a percentage of the legal costs up to a maximum amount. For instance, Folksam's[339] insurance covers 80 % of the costs up to 200 000 SEK. If a person does not have insurance, he can sometimes have a right to legal aid under the Legal Aid Act.[340] But the legal aid does not cover the whole cost; the individual still needs to pay a legal aid fee which is a percentage of the total cost of his legal representation. It is a person's financial circumstances and the total cost of his legal representative that determines how much he should pay.

Legal aid includes a part of the cost for a lawyer or a legal practitioner for up to 100 hours, but it can be increased if there are special reasons. The whole cost can be covered in the case of a person under the age of 18 who is lacking income or wealth. It also includes the cost of evidence in a general court, the Market Court and the Labour Court, investigation costs up to 10 000 SEK (excluding VAT), costs for interpretation and translation, the court application fee, copies of documents from authorities and documents that have been served etc., and the cost of a mediator.[341] It is the court that decides whether or not a person is entitled to legal aid, but is is the Legal Aid Authority that is handling the payment.

There are no fees in the rent tribunal and one can not be required to pay the other party's litigation costs. The insurance against legal costs usually does not apply and legal aid is generally not granted. But legal representation is usually not needed for matters in the rent tribunal. The chairman uses direction of proceedings and asks questions in order to sort out the circumstances that are relevant to the dispute. The same applies for when cases are appealed from the rent tribunal to the Svea Court of Appeal, with few exceptions e.g. when a tenant wants permission to transfer the apartment to a cohabitant (section 34). Then the losing party has to pay the other party's litigation costs. However, for these costs the insurance against legal costs might apply.

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[337] http://www.domstol.se/Om-Sveriges-Domstolar/Pressrum/Nyheter-ochpressmeddelanden/Domstolarna-satsar-stort-pa-okad-oppenhet/

[338] Ju2006/10464/DOM pp. 8-23

[339] Folksam is one of the biggest insurance companies in Sweden.

[340] Rättshjälpslag (SFS 1996:1619)

[341] http://www.rattshjalp.se/In-English/In-English/

There is a court application fee of 450 SEK to apply to the district court. The general rule is that the losing party must pay both their own litigation costs as well as the opposite party's.[342] The exception to this rule are the "small claims" (småmål in Swedish) where, among other things, there is a limitation as to how much compensation a party may be required to pay the opposite party. "Small claims" refers to dispositive civil cases where the value of what is claimed in the case does not exceed half of the the price base amount[343] under the National Insurance Act.[344] The insurance against legal costs may apply and a party can apply for legal aid according to the conditions mentioned above.

- How about legal certainty in tenancy law? (e.g.: are there contradicting statutes, is there secondary literature usually accessible to lawyers etc?)

The Courts of Sweden (an umbrella term for all the courts in Sweden) has legal certainty as its key overall objective.[345] According to a ranking by the World Justice Project (WJP) Sweden comes in first place in the world in four of eight areas regarding legal certainty. These include the absence of corruption and how open the authorities and the government are. Sweden receives its lowest score regarding civil law, mainly because of the perception that legal proceedings take a long time.[346]

There are no contradicting statutes in tenancy law since there only is one tenancy act and the secondary literature is easily accessible for anyone. However, the Swedish tenancy legislation is a bit tricky even for lawyers and it is not easy for an individual to understand the meaning of the legal text.

Are there “swindler problems” on the rental market (e.g. flats fraudulently advertised on the internet as rental offers by swindlers to whom the flats do not belong)?

Yes, there are problems with swindlers advertising with offers on apartments, especially on Sweden's biggest webpage for classifieds called Blocket. The swindlers will show an apartment and then ask for a large deposit in advance.[347] This has been an issue primarily in Stockholm, Gothenborg and Malmö where it is almost impossible to find a tenancy with a good location without many years in a housing queue.

Are the areas of “non-enforcement” of tenancy law (such as legal provisions having become obsolete in practice)?

No.

What are the 10-20 most serious problems in tenancy law and its enforcement?

In my interpretation of this question I chose to address problems in the Swedish housing market at large, which means I also addressed political problems.

1. Shortage of rental dwellings

[342] Under Chapter 18 section 8 in the Swedish Code of Judicial Procedure. Rättgångsbalk (SFS 1942:740)
[343] The price base amount is currently 44 500 SEK.
[344] Lag om allmän försäkring (SFS 1962:381)
[345] http://www.domstol.se/Om-Sveriges-Domstolar/Domstolarna/
[346] Mark David Agrast et al, *The WJP Rule of Law Index 2012-2013,* p. 141
[347] http://www.hemhyra.se/riks/bedragare-hyrde-ut-lagenhet-27-ganger

The shortage of rental dwellings is a big problem in Sweden, especially in Stockholm, Gothenburg and Malmö and in the university towns. [348] Overall, there is a net shortage of 92 000 to 156 000 dwellings in the whole country, depending on which economic model is used. This means that the supply needs to increase by between 102 000 and 163 000 homes where there are shortages, and reduced by 7 000 to 10 000 homes in the regions where there is a surplus.[349] Almost half of the municipalities in Sweden (43 %) indicate that they have a shortage of housing.[350]

The shortage creates problems since the best opportunities of finding a job are in the urban areas.[351] According to a survey made by the Swedish Union of Tenants has seven percent sometime refrained from seeking jobs in these areas because of the housing shortage. Four percent have one or several times said no to jobs in the country's metropolitan areas because of the housing shortage.[352]

When the Commission presented its Alert Mechanism Report on the prevention and correction of macroeconomic imbalances, the Swedish housing market was the focal point. According to the analysis, the Swedish housing shortage can be partially explained by the Swedish rent-setting system based on user value rather than on demand. The Commission's proposal was to gradually introduce market rents.[353]

2. The existence of a black market

There has been an emergence of a black market in Sweden as a result of the housing shortage, mainly linked to areas with housing shortages and preferably shortage of rental properties. The current law does not prohibit paying for a contract but it is illegal to sell a lease. The sentence for trading with leases is a fine or up to two years in prison. It is very rarely made a complaint to the police when it comes to the parts of the black housing market dealing with unauthorized subletting and trading of leases. The cases which are reported to the police and leading to prosecution usually have to do with fraud.[354]

It is impossible to define the extent of the black housing market in number of transactions or financial turnover since it is a criminal activity. Therefore, the figures present in discussions and debates must be considered unsafe. Although, a report from the Swedish Property Federation from 2006 indicated that the trade with leases is worth 1.2 billion a year i Stockholm.[355]

3. Fraud

It is not uncommon for scammers to advertise apartments that are being sublet and then demand large sums of rent in advance or a large deposit from the person who wants to

[348] National Housing Credit Guarantee Board, "Samband mellan bostadsmarknad, arbetskraftens rörlighet och tillväxt" (2008) pp. 16-17
[349] http://www.boverket.se/Om-Boverket/Nyhetsarkiv/Vad-ar-bostadsbrist/
[350] http://www.dn.se/ekonomi/stor-bostadsbrist-i-sverige/
[351] http://www.svd.se/naringsliv/har-finns-jobben-2013_7271403.svd
[352] The Swedish Union of Tenants, "Påverkar bostadsbristen viljan att söka och ta jobb i storstadsregionerna?", (maj 2012) pp. 2-3
[353] European Economy, Occasional papers 141, *Macroeconomic imbalances - Sweden 2013,* april 2013
[354] Swedish Board of Housing, Building and Planning, " Dåligt fungerande bostadsmarknader" (2011) pp. 11-21
[355] Swedish Property Federation,"*Missbruket av bytesrätten*" (2006)

rent. After the payment has been made, it appears that neither the apartment or the lessor exists. A prospective tenant must always make clear that the apartment he is interested in actually exists.[356]

4. Very low construction of housing and high rents for newly constructed apartments

The problem with the low construction goes of course hand in hand with the shortage of rental apartments as well as high rents for newly constructed apartments. As mentioned previously, housing construction has been very low in Sweden especially after the financial crisis of 2008. Only a little over 20 000 apartments have been built on average per year since then. Particularly in Stockholm and in Malmö the population has grown faster than the number of apartments in the past two decades. According to the National Housing Credit Guarantee Board, it needs to be built at least 35 000 - 40 000 new apartments each year to meet the need.[357]

It is difficult to draw any direct conclusion of why, but there are explanations that are more likely than others. These are: high construction costs, the rent regulation, taxes and subsidies and an inefficient planning and building permit process.[358] In 2006 there was a policy change in Sweden and long existing subsidies were withdrawn. This caused a massive housing start that year which then fell because of the financial crisis. Between 2006 and 2009, housing construction decreased with 65 percent. With no more state stimulus packages, housing output remains at a low level and there are poor prospects for sustained expansion. A report from the National Board of Housing, Building and Planning shows that the subsidies were important for the construction of rental units.[359] It is being frequently discussed at the moment if the lack of government grants may be one reason to why so few buildings are being constructed.

When the rents of all newly constructed rental properties (since 2006) were mapped it showed that the rent for a newly built apartment can be twice as high as for an older apartment. A newly constructed tenancy of 75 square meters costs on average 9 000 SEK per month. The most expensive newly constructed apartments are located in Stockholm, Gothenburg and Malmö.

One reason to why newly constructed apartments are more expensive is that the construction cost for multi-family buildings rose 29 percent between 2005 and 2010. It costs an average of 33 000 SEK per square meter to construct a new apartment.[360] Another reason to why landlords can charge higher rents for new apartments are that they are excluded from the utility value principle for fifteen years.[361]

5. False sublease contracts

There are rogue landlords who will try to circumvent the legal rules and offer the tenant a sublease contract only. This is often arranged by the use of a front man, such as a separate company or a relative, which in turn will sublet to the tenant. In these situations

[356] Swedish National Board of Building, Housing and Planning, "*Dåligt fungerande bostadsmarknader",* (2011) p. 15
[357] http://www.dn.se/ekonomi/stor-bostadsbrist-i-sverige/
[358] National Housing Credit Guarantee Board, "*Finanskrisens påverkan på bostadsbyggandet i Europa*", (2011) p. 20-24
[359] Swedish National Board of Building, Housing and Planning, "*Många mål få medel",* (2004)
[360] http://www.dn.se/ekonomi/har-ar-hyrorna-hogst/
[361] Under Section 55c in the Tenancy Act. A principal bargaining agreement is required.

the subtenant might have the same right as a primary tenant under certain conditions.[362] The first condition is that there is a community of interest between the property owner and the grantor. It may also be presumed that the legal relation is being used in order to evade a statutory provision which favours a usufructuary when this community of interest is considered along with the circumstances generally. If these conditions are fulfilled, the lessee and the tenant have the same right in relation to the property owner as they would have had if the property owner had granted their right of user. In other words, the subtenant is entitled to a prolongation of the agreement.[363]

However, it can be rather difficult for the tenant to prove that there is a front man-relation going on and that he in fact has a protected tenancy. If the tenant is not able to prove the relation, he has no protection during the two first years of the tenancy and only a very weak protection after that as a subtenant.

6. The rules on compulsory management work poorly in some cases

Previously, a permission from the rent tribunal was required in order to buy a rental property.[364] The purpose was to prevent people who were less suitable as landlords to acquire and manage rental properties. When the law on acqusition of rental property ceased in 2010, the Housing Management Act was tightened to safeguard tenants' interest of an acceptable property management. The requirements for special management (compulsory management and management injunction) was reduced for a limited time, during a trial period, after a rental property has changed hands. The rent tribunal may issue decisions on such management already if there is reason to believe that the property owner does not meet the requirements under the Act regarding the management of the property, if an application has been received by the rent tribunal within three years after the property owner applied for a deed on the property.

The problem is that the legislation on compulsory management may come across as toothless in some cases, namely when there is no trustee available. Then the rent tribunal must decline a request for compulsory management, no matter how good reasons there are for such a decision. The municipal housing company in the locality will often take on the management, but if it refuses the tribunal can not in any way force it.[365]

Another problem is that sometimes the rents are simply not enough to manage the building, especially if the maintenance is very neglected. If it is not possible to take out loans, the building may have to be demolished. There is no authority that can give financial support in these cases.

7. Complicated tenancy legislation

[362] Under Chapter 7 section 31 in the Land Code
[363] In NJA 1992 p. 598 a landlord had let an entire floor to her daughter. The daughter divided the floor into two apartments and sublet one of them. When the agreement between the landlord and the daughter expired, the landlord tried to evict the subtenant. The Supreme Court found that the subtenant had a protected tenancy and that he was entitled to a prolongation of the agreement. The landlord and her daughter had a community of interest, they had both tried to make the subtenant move and the landlord had said that she intended to let the apartment to one of her grandchildren.
[364] Law on the acquisition of rental property (Lag om förvärv av hyresfastighet) SFS 1975:1132
[365] http://www.hemhyra.se/orebro/usel-vard-kan-slippa-tvangsforvaltning

The Tenacy Act is rather difficult to read and interpret, even for lawyers and people with knowledge of the tenancy legislation. It is difficult to find lawyers who are skilled in tenancy law.

One example of the complexity are the rules on protected tenancy. According to Swedish law, a tenant receives a protected tenancy the first day he moves into the dwelling. But that rule is nowhere to be found in the Tenancy Act, it can only be understood if one knows the basics of tenancy law. If a tenant has a limited in time contract of one week, it is stated in section 3 that the agreement expires when the rental period expires. But in the last passage of that section it says that unless the landlord requests the tenant to move within a month of the expiry of the rental period, the tenancy is prolonged for an indefinite period. No further reference is made. But in section 46 it is stated that if the landlord has requested the tenant to move, he is entitled to a prolongation of the agreement (unless any of the situations 1-10 is fulfilled).

8. Increasing residential segregation

The discussion of segregation in Sweden is usually about segregated suburbs in the three major cities. There is a tendency in some residential areas of Stockholm, Gothenburg and Malmö and in some other major cities for areas to develop which are dominated by rented apartments and often inhabited of higher concentrations of tenants of non-Swedish origin. The inner-city areas are often inhabited by high-income people with a lower procentage of immigrants. If you take Stockholm for example, the proportion of people with foreign backgrounds vary widely between the different municipalities. In the municipality of Botkyrka people with non-Swedish origin are a majority, 53.8%, compared with 16.9 % of the population in Norrtälje and 31.9 % in the region as a whole.[366] The concentration of immigrants in some areas may be partly explained by a desire to live in areas with a large population with the same ethnic background as themselves.

Recent studies (from 2012) have shown that the residential segregation in Sweden has doubled during the last twenty years. In Rosengård (a district in Malmö) and in Rinkeby (a suburb to Stockholm) more than nine out of ten has a background in another country.[367]

9. Homelessness

According to a report from the National Board of Health and Welfare (Socialstyrelsen) were 34 000 persons in homelessness in 2011, and 4 300 of these were in acute homelessness. Most of them are men, and many have addiction problems. Mental health problems and eviction were also reported as common causes. About 36 percent of the people in the survey had social contracts and the like and 7 percent had so called "training apartments". About 20 percent were involuntarily living with relatives, friends or were temporarily subletting. About 17 percent were in prison, in an institution or in different types of support accommodation and were to be discharged within three months of time.

[366] Hårsman, B: *Ethnic Diversity and Spatial Segregation in the Stockholm Region*, Urban Studies, Vol. 43, No. 8, 1341–1364, July 2006, p. 1348

[367] http://www.svd.se/nyheter/inrikes/bostadssegregationen-har-fordubblats_7707488.svd

About 14 percent of the people in the survey were in acute homelessness, and they were referred to shelters, emergency accommodation, tents, hostels and hotels. Barely one percent lacked accommodation and stayed outdoors or in public places.[368]

The survey shows that homelessness and exclusion from the housing market has increased in Sweden and is now established in wider groups of the population than it was previously. But the number of people sleeping outdoors or in public places was reported to have fallen markedly. One conclusion from the Board's interview with 13 municipalities is that families with children are generally given priority for long-term housing solutions (the secondary housing). Single people with severe social problems has to stand back and risk getting stuck in emergency housing solutions instead of long term ones. It is clear that preventive work, structural changes and individual support is needed to prevent homelessness.[369]

What kind of tenancy-related issues are currently debated in public and/or in politics?

Please see above. All the bullets 1-9 are being frequently discussed at the moment.

3. Analysing the effects of EU law and policies on national tenancy policies and law

a) EU policies and legislation affecting national housing policies

b) EU policies and legislation affecting national tenancy laws

a) and b) are supposed to include:

EU social policy against poverty and social exclusion

consumer law and policy

competition and state aid law

tax law

energy saving rules

private international law including international procedural law

anti-discrimination legislation

constitutional law affecting the EU and the European Convention of Human Rights

[368] National Board of Health and Welfare, "*Hemlöshet och utestängning från bostadsmarknaden 2011 - omfattning och karaktär*", 2011, pp. 24-25
[369] Ibid pp. 72-73

harmonization and unification of general contract law (sources such as the Common European Sales Law, the Common Framework of Reference or the Principles of European Contract Law may be considered here)

fundamental freedoms

- e.g. the Austrian restrictions on the purchase of secondary homes and its compatibility with the fundamental freedoms;
- cases in which a licence to buy house is needed – is this compatible with the fundamental freedoms?

The only significant example of EU policies and legislation influencing national tenancy law is the reform from 2011, which consisted of two parts. Firstly, a requirement for the municipal housing companies to operate under "businesslike principles" was introduced and all direct support was removed. Secondly, the rent-normative role of the municipal housing companies was abolished.

In 2002, the European Property Federation (EPF) made a complaint to the EC Commission in which they argued that the Swedish municipal housing companies received support from the municipalities which was contrary to state aid rules in the EU. A committee was appointed by the Swedish Government to investigate whether those rules were compatible with EC law.[370] After much debate, the Swedish parliament passed a new law: The Municipal Housing Companies Act[371] which establishes their objective and ground rules. Public housing companies must now promote public benefit and the supply of housing in the municipality for all kinds of people. To do so, they must operate under "businesslike principles" (its exact meaning is still under debate). But it implies that no direct support, either from the government or from the local authorities, no favorable loans and no special advantages in taxation can be given.[372] They should apply correct pricing, including a certain profit margin, and not apply the 'cost-price principle' any longer. A market-based return on investment should be required by the municipalities, based on industry practice and risk. The municipal housing companies may however in some cases be able to receive aid, if the Commission has approved it in a particular case, and if it would be acceptable under EC law on small amounts of aid (de minimis) or rules on so-called group exemption (gruppundantag?).[373]

The committe noted that it was unlikely that the rent-normative role of the municipal housing companies was compatible with EC competition law, since it meant that one market actor controls the economic conditions for its competitors. The municipal housing companies had previously had a normative role in the rent-setting procedure in the comparisons to find out if a rent was reasonable or not. These rents had been normative for rents charged by private rental housing companies aswell. It was suggested that the rent-normative role of the municipal housing companies should be abolished. Instead, in order to safeguard the collective bargaining system, a normative role for collectively agreed rents in connection with a rent tribunal review was introduced (provided that the collectively agreed rents remain within a reasonable interpretation of the utility value).

[370] SOU 2008:38
[371] Lagen om allmännyttiga kommunala bostadsaktiebolag (SFS 2010:879)
[372] SOU 2008:38 p. 25
[373] Ibid p. 28

This means that comparisons now can be made with negotiated rents in both the private and public sector.[374]

Swedish tenancy law has not been influenced by either the national constitution or the ECHR. The Swedish Constitution contains general objectives and has generally little impact on Swedish legislation. The ECHR was incorporated as a law in 1995 (Lag om den Europeiska konventionen angående skydd för de mänskliga rättigheterna och de grundläggande friheterna/Act on the European Convention for the Protection of Human Rights and Fundamental Freedoms),[375] and was given semiconstitutional status by the introduction of Chapter 2 section 19 in The Instrument of Government.[376] This section states that no law or other regulation may be issued in contravention with the ECHR. The ECHR has had influence in the Case of Khurshid Mustafa and Tarzibachi v. Sweden from 2009,[377] where the European Court of Human Rights concluded that eviction of a family with three children from an apartment where they had lived for more than six years was not a proportionate measure and therefore was a violation of Article 10 in ECHR. Another area where the EU has had visible effect on Swedish law is when the Enforcement Agency distrains upon the housing of an individual in order to collect tax debts. In a recent case from the Supreme Court the Enforcement Agency had decided to issue a writ of execution attaching the appellant's property (a house) to cover his tax debts amounting to 625 000 SEK.[378] The Enforcement Authority had also decided to distrain 6 730 SEK of his salary every month. The value of the property was estimated to 875 000 SEK, but the value of the appellant's share amounted to 437 500 SEK. After payments were made to the creditor and selling costs were deducted, an estimated 36 000 SEK would remain for payment of his debts. One of the tax claims would become statute-barred by the end of 2017, and two of the others by the end of 2018. The appellants argued that the execution was not justifiable with regard to the situation in the family (one of the children suffers from a chronic disease and the other is believed to have a neuropsychiatric disability) and the difficulties of finding a new home. They suggested that the distraint of salary could be made with a larger amount over a period of time instead. The district court did not change the decision from the Enforcement Authority, and the Court of Appeal settled the decision made by the district court. However, the Supreme Court stated that in the application of Chapter 4 section 3 of the Enforcement Code a balancing of interests shall be made and insofar possible, other available property besides housing should be used for payment of the applicant's claim. The Court also stated that individuals has the right to respect for their private and family life under Article 8 in the ECHR, and that the best interest of the child must be taken into consideration according to the The United Nations Convention on the Rights of the Child. In this case other property was available, namely the salary. It could not be assumed that the debts would be fully paid through the distraint of the salary, but a sale of the house would only generate a small amount and create great inconvenience for the appellant and his family. Therefore, the decision from the Court of Appeal was overruled by the Supreme Court and the writ of execution was reversed.

[374] Ibid p. 37
[375] SFS 1994:1219
[376] SFS 1974:152
[377] Application no. 23883/06
[378] Ö 2656-13

Neither the EU consumer protection legislation has significantly influenced tenancy law, because Swedish tenants have a better protection under the provisions of the Tenacy Act. The Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts has been implemented through the Consumer Contracts Act (lag om särskilda avtalsvillkor i konsumentförhållanden).[379] The Act has a limited applicability when it comes to rental agreements because the Swedish Tenancy Act contains mandatory rules in protection of the tenant, but is applicable to other consumer contracts. However, this law can forbid the landlord (business provider) to apply a clause in the future, but it does not render a clause invalid in the civil contract.

After the implementation of 2002/65/EC, The Distance and Doorstep Sales Act applies and give costumers as well as tenants a right to withdraw a contract within 14 days of signing it in the case of "distance selling".[380] The Government has proposed new measures to enhance consumer protection in contracts made at a distance and outside commercial premises in a new bill implementing the directive 2011/83/EC on a joint consumer protection in the EU.[381]

The Swedish Contracts Act differs from the PECL (Principles of European Contract Law) on some points. The starting point in Swedish contract law is that an offer is binding and the ability to revoke an offer or an acceptance is very small. An offer or an acceptance can be revoked if the revocation reaches the recipient before the recipient has read the original message or at the same time the offer reaches him.[382] This differs to the provisions of Article 2:202 of the PECL. In Swedish contract law an offer must be directed to a group of receivers that can be delineated to be counted as an offer, which also differs compared to PECL.[383] According to Article 2:201 (3) the presumption is that, for example, an ad is an offer but limited to the advertiser's sales capacity for that commodity.

EU law has affected energy saving rules in Sweden through new rules on energy performance certification. The energy performance certification is based on an EC directive and the law on Energy Performance Certification of Buildings (lagen om energideklarationer för byggnader)[384] was adopted in 2006.

A new Discrimination Act came into force on 1 January 2009[385], and it implements the Racial Equality Directive 2000/43/EC and the The Employment Equality Framework Directive 2000/78/EC. The new act is a more effective and comprehensive anti-discrimination legislation. At the same time the Equality Ombudsman (Diskrimineringsombudsmannen) was set up and it has oversight of the compliance with the law.[386]

[379] SFS 1994:1512
[380] Distans- och hemförsäljningslagen (SFS 2005:59)
[381] Prop. 2013/14:15
[382] Ramberg & Ramberg, *Allmän avtalsrätt,* 2010 pp. 89-90
[383] Ramberg & Ramberg, *Allmän avtalsrätt,* 2010 pp. 84-85
[384] SFS 2006:985
[385] SFS 2008:567
[386] The Equality Ombudsman (DO) is a government agency that seeks to combat discrimination and promote equal rights and opportunities for everyone, and primarily concerned with ensuring compliances with the Discrimination Act

There is no need of a licence to buy a house in Sweden and no restrictions on the purchase of secondary homes.

Typical national cases:

1. Prolongation disputes in the rent tribunal

One of the most common court matters in the rent tribunal are prolongation disputes, when a landlord has given a tenant a notice of termination under section 46 in the Tenancy Act.

A typical situation when a landlord might terminate the contract under section 46 paragraph 2, i.e. when the tenant has otherwise neglected his obligations to such an extent that in fairness the agreement ought not to be prolonged, is when a tenant is acting in a disturbing way to his neighbours. He might play loud music or have too many late parties or produce bad smells by keeping too many pets in his apartment. Paragraph 2 covers negligence which is not serious enough to forfeit the tenancy (under paragraph 1) but yet so grave that the agreement cannot reasonably be prolonged.

The starting point is that the tenant is entitled to a prolongation of the agreement. It is the landlord who must prove that there are sufficient reasons for breaking the protected tenancy. The rent tribunal will require evidence showing that the disturbance has taken place, and the landlord may for instance request that the tenant's neighbors and the janitor are heard as witnesses or hand in police reports. The claimed disturbances must be fairly precise and all disturbances that are not recognized by the tenant must be fully supported by evidence.

The rent tribunal must do an assessment of reasonableness (skälighetsbedömning). In the determination of the tenant's right to a prolongation the overall picture of the tenant's behaviour during the rental period is of interest as well as his willingness to take corrective action. The landlord's interest must be weighed against the tenant's interest of keeping the apartment. In this weigh up distressing personal circumstances may be taken into account. The assessment of whether the tenant should be refused a prolongation is thus highly dependent on the circumstances of each case. Special circumstances, mainly social reasons, can sometimes lead to a prolongation of the agreement even when the tenant has acted negligent.[387]

2. Rent disputes in the rent tribunal

Another common court matter in the rent tribunal are rent disputes, where a typical situation is a landlord who wants to raise the rent. How a rent increase should be made depends on if the landlord has a principal bargaining agreement (förhandlingsordning) with the Swedish Union of Tenants. Such an agreement forces the landlord to negotiate rents, terms and conditions of housing with the Union. If the landlord is bound by this type of agreement he must send the Union a written notice about what new terms he requests. Then the landlord and the Union negotiate what conditions that should apply. If they do not agree, an application to the rent tribunal must be made. A tenant is bound by the new negotiated rent or term if there is a bargaining clause in the tenancy

[387] Nils Larsson et al, *Bostadshyresavtal i praktiken,* 2010, pp. 194-195

agreement regarding this matter, but can apply to the rent tribunal for an amendment of the agreement.

A landlord without an agreement with the union must negotiate the rent with each tenant individually. He shall start by informing the opposite party of what new terms and conditions he requests. If an agreement cannot be reached, he is entitled to apply to the rent tribunal. This application may be made one month after the opposite party has been informed at the earliest.

According to section 55 in the Tenancy Act, the rent shall be determined to a reasonable amount if the parties cannot agree. The rent is not to be deemed fair if it is palpably higher than the rent for units of equivalent utility value. In this assessment collectively agreed rents under the Tenancy Bargaining Act shall primarily be taken into account. If no comparison is possible with apartments in the locality, rents for apartments in another locality with a comparable rental situation and otherwise similar conditions in the rental market may be considered instead.

Two apartments are equivalent if they have the same utility value. The starting point of the legislation is that the utility value reflects tenants' values, and that differences in rent between different apartments correspond to differences in utility value and that rent-setting shall be perceived as fair and equitable. The utility value of an apartment is determined by factors such as

-the apartment's condition; size (the number of rooms and area), equipment (primarily in the kitchen and bathrooms), standard on repairs, planning, sound isolation etc.

-benefits connected to the apartment; elevator, laundry room, garage, planted courtyard, garden, good janitorial services etc.

-the location of the property, its environment, proximity to services, etc.[388]

In general, the apartments must be completed during the same period of time to be considered equivalent, since the construction year often is reflected in the apartment's planning and standard. The utility value rule is based on accessible information about comparable apartments in the court matter, whose rents form a rent level. It is the parties who shall submit the investigation on similar apartments to the rent tribunal and make it possible for the rent tribunal to inspect the apartments.

If there is a lack of investigation of equivalent apartments a direct comparison can not be made. The assessment must then be based on a general assessment of reasonableness (allmän skälighetsbedömning). Such an assessment means that the rent tribunal more freely must determine whether a party is justified in his claim or not. It may be based on the investigation the partners adduced and with other circumstances relevant to the case also taken into consideration. It is questionable how legally secure such an assessment is.

3. Permission to sublet a tenancy from the rent tribunal

There are several court matters in the rent tribunal regarding permission for the tenant, such as permission to transfer the apartment to a "närstående", to sublet the apartment and to swop apartments. The basic construction is the same for all court matters in the

[388] Prop. 1983/84:137 p. 72

sense that if the landlord says no, the tenant may not interpret the law himself without risking to forfeit the tenancy.

A typical situation is a tenant who wants to sublet his apartment to try the life as a cohabitant, and the landlord will not give permission. The tenant must then apply to the rent tribunal which will most likely give him permission to sublet his apartment for one year since the tenant has notable reasons (beaktansvärda skäl) for the grant. It is seldom that the landlord has any justifiable reasons to refuse consent.

4. **Rent setting case**

Even if a tenant has agreed on the rent in an agreement, the tenant has the opportunity to lower the rent by sending the landlord a note. If no agreement is reached the tenant can apply to the rent tribunal for a decision on the matter. The tribunal bases its decision on negotiated rents of similar apartments in the vicinity. The tenant should therefor examine these rents in order to know how high the rent should be.

5. Several persons in a single bed room apartment

The Tenancy Act contains implied restrictions on the amount of people in the sense that the tenant has an obligation to look after the apartment. If too many people are residing in the apartment it could lead to disturbances and the land lord may be entitled to dismiss the tenants. However, two persons living in a single bedroom apartment do not run the risk of forfeiting the apartment.

6. The tenant wants to transfer the apartment to a friend he is co-habitating with

A tenant who wants to transfer the apartment has only the right to do so to a "närstående" individual. This means that the land lord has no obligation to accept if the tenant wants to transfer the apartment to i.e. a friend.

7. The tenant wants to barter the apartment

A tenant who wants to barther the apartment must have a notable reason for doing so. A notable reason can be for example if the tenant has the need for a bigger apartment because he or she is expecting a child or wants to get a smaller apartment for financial reasons. If the land lord denies the request to barter, the tenant can apply to have the rent tribunal make a decision.

8. Remedy injunction

If a tenant has a defect in the apartment and the land lord refuses to do something about the defect, the tenant can apply to the rent tribunal. The tribunal can then decide that the land lord has to remedy the defect within a certain timeframe under the threat of penalty payment.

9. Improvement order

If the apartment does not the meet the minimum requirements set out in Section 18a in the Tenancy Act the tenant can apply to the rent tribunal for an improvement order under the threat of penalty payment. These requirements could concern, for instance, heating, the supply of hot and cold water, electricity and so forth.

10. Mediation

The rent tribunal can mediate in all disputes regarding the relationship between a tenant and a land lord (and also between the owner of a co-operative apartment and the housing society) as long as the dispute has not been brought in front of the district court or the Enforcement Authority. The district court can refer a dispute to the rent tribunal for mediation in an going case.

Table: Transposition of European Directives Affecting Residential Tenancies in Sweden

SUBJECT	EUROPEAN DIRECTIVES	SWEDISH TRANSPOSITION
PUBLIC PROCUREMENT		

Public procurement	Directive 2004/18/EC of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJEU 30.4.2004 L 134/114) (Previous legislation repealed).	The Public Procurement Act (SFS 2007:1091) and Act (SFS 2007:1092) on procurement in the water, energy, transport and postal services
CONSTRUCTION		
Construction materials: free movement and certification	Now replaced by Regulation (EU) 305/2011 (OJEU 4.4.2011/ L88/5) (Replaces Directive 89/106/EEC, OJEC 11.02.1989 Nº L40/12)	Directly applicable as from 1 July 2013 (Replaces BFS 1999:17 under Section 38 in Ordinance 1994:1215)
Hazardous substances	Directive 2011/65/EU of 8 June 2011 on the restriction of the use of certain hazardous substances in electrical and electronic equipment (OJEU 01.07.2011 Nº 174/88). (Replaces Directive 2002/95/EC from 2 January 2013, OJEU 13.2.2003 Nº 139/19).	Ordinance (2012:861) on hazardous substances in electrical and electronic equipment and Swedish Chemicals Agency's direction (KIFS 2008:2) on chemical products and biotechnical organisms (Replaces Ordinance (1998:944) on Prohibition, etc. in some cases associated with the handling, import and export of chemical products, Ordinance (2005:209) on producer responsibility for electrical and electronic products)
Lifts	Directive 2006/42/EC on Machinery of 17 May 2006 (OJEC 9.6.2006 L157/24) (replacing Directive 95/16/EC on lifts, OJEC 07.09.1995 Nº L 213/1).	Direction AFS 2008:3 and AFS 2009:5
ENERGY EFFICIENCY - BUILDINGS		

Energy saving targets/ large buildings	Directive 2012/27/EU of 25 October 2012 on energy efficiency (OJEU 14.11.2012 Nº L315/1). This amended Directives 2009/125/EC and 2010/30/EU and repealed Directives 2004/8/EC and 2006/32/EC.	A memorandum proposes four new laws to be introduced; law on energy audits of large companies, law on voluntary certification for certain energy services, law on energy metering in buildings and act on certain cost-benefit analyzes of energy.
Energy efficiency of new and existing buildings	Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings (OJEU 18.06.2010 Nº L153/13). (The previous directive was 2002/91/EC).	Act on Energy Performance Certification of Buildings (SFS 2006:985)
Renewable energy use in buildings.	Directive 2009/28/EC of 23 April 2009 on the promotion of the use of energy from renewable sources (OJEU 5.6.2009 Nº L140/16) Replaces Directives 2001/77/EC and 2003/30/EC	Act on guarantees of origin for electricity (SFS 2010:601)
UTILITIES		
Electricity	Directive 2009/72/EC of 13 July 2009 concerning common rules for the internal market in electricity. (OJEU 14.8.2009 Nº L211/55)	Amendments of the Electricity Act (SFS 1997:857)
Natural gas.	Directive 2009/73/EC of 13 July 2009 concerning common rules for the internal market in natural gas (OJEU 14.8.2009 Nº L 211/94).	Natural Gas Act (SFS 2005:403)
Procurement of communication services	Directive 2009/136/EC on consumer protection in the procurement of communication services (OJEU 18.12.2009 Nº L337/11). Amending Directives 2002/22/EC and 2002/58/EC and Regulation (EC) Nº 2006/2004	Amendments of the Act on Electronic Communications (SFS 2003:389)
ENERGY EFFICIENCY – FITTINGS IN BUILDINGS		
Lighting	Delegated Regulation (EU) Nº 874/2012 of 12 July 2012 supplementing Directive 2010/30/EU with regard to energy labelling of electrical lamps and luminaires (OJEU 26.9.2012 Nº L 258/1).	Law concerning the labeling of energy-related products (SFS 2011:721)

Heating and hot water	Directive 82/885/EEC of 10 December 1982 on the performance of heat generators for space heating and the production of hot water in new or existing non-industrial buildings and on the insulation of heat and domestic hot-water distribution in new non-industrial buildings (OJEC 31.12.1982 Nº L 378/19). Amending Directive 78/170/EEC	Amendments of Planning and Building Act 1987:10
Boilers	Directive 92/42/EEC of 21 May 1992 on efficiency requirements for new hot-water boilers fired with liquid or gaseous fuels (OJEC 22.06.1992, Nº L 167). (Amended by Directive 93/68/EEC of 22 July 1993, BOE 27.03.1995 Nº 73).	BFS 2011:11- EVP 3
ENERGY EFFICIENCY – APPLIANCES		
Energy labelling	Directive 2010/30/EU of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (OJEU 18.6.2010 Nº L 153/1)	Law concerning the labeling of energy-related products (SFS 2011:721)
Air conditioners	Delegated Regulation (EU) Nº 626/2011 (OJEU 6.7.2011 Nº L178/1).	As above
Dishwashers.	Commission Directive 97/17/EC (OJEC 07.05.1997 Nº L118/1) Delegated Regulation (EU) Nº 1059/2010 (OJEU 30.11.2010 Nº L314/1).	As above.
Electric ovens	Commission Directive 2002/40/EC (OJEC 15.05.2012 Nº L 128/45).	As above
Lamps	Commission Directive 98/11/EC (OJEC 10.3.1998 Nº L 71/1).	As above
Refrigerators and freezers	Commission Directive 94/2/EC (OJEC 17.2.1994, No L45/1). Delegated Regulation (EU) Nº 1060/2010 (OJEU 30.11.2010 Nº L314).	As above
Televisions	Delegated Regulation (EU) Nº 1062/2010 (OJEU 30.11.2010 Nº L314/64).	As above

Tumble driers	Delegated Regulation (EU) Nº 392/2012 (OJEU 9.5.2012 Nº L123/1).	As above
Washing machines	Commission Directive 95/12/EEC (OJEC 21.06.1955 No. L136/1). Delegated Regulation (EU) Nº 1061/2010 (OJEU 30.10.2010 Nº L314/47).	As above
CONSUMER PROTECTION		
Information and consumer rights.	Directive 2011/83/EU on consumer rights (OJEU 22.11.2011 Nº L 304/64). Repeals Directives 85/577/EEC (contracting away from business premises) and 97/7/EC (distance contracting).	Amendments of the Consumer Sales Act (SFS 1990:932)
Unfair commercial practices	Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market and (OJEU 01.6.2005 Nº L 149/22) Amending Directives 84/450/EEC, 97/7/EC, 98/27/EC and 2002/65/EC and Regulation (EC) Nº 2006/2004.	Amendments of the Marketing Act (SFS 1995:450)
Unfair terms	Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJEC 21.04.1993 Nº L 095). Amended by the Consumer Rights Directive 2011/83/EU (above)	The Terms of Contract in Consumer Relationships Act (SFS 1994:1512)
HOUSING LAW		
Choice of law	Regulation (EC) Nº 593/2008 on the law applicable to contractual obligations - Rome I (OJEU 04.07.2008 Nº L 177/6).	Act on the Law Applicable to Contractual Obligations (SFS 1998:167)
Jurisdiction	Regulation (EC) Nº 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJEC 16.01.2001 Nº L 12/1).	Regulation with provisions on recognition and international enforcement of certain rulings (2005:12)
DISCRIMINATION		

Sex.	Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services (OJEU 21.12.2004 Nº L 373/37).	Amendements of the Discrimination Act (SFS 2008:567)
Racial or ethnic origin.	Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (OJEC 19.07.2000 Nº L 180/22).	As above
EEA NATIONALS		
Free movement for workers	Regulation (EEC) Nº 1612/68 on free movement for workers within the Community (OJEC 17.04.1964 Nº L 257/2).	Not available
Equality in granting housing, aids, subsidies, premiums or tax advantages to workers moving within the EU.	Recommendation 65/379/EEC by the Commission to the Member States on the housing of workers and their families moving within the Community (OJEC 27.07.1965 Nº L 137/27).	Not available
Free movement for European citizens and their families	Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJEU 30.04.2004 Nº L 158/77) amending Regulation (EEC) Nº 1612/68 (free movement of workers) and repealing numerous earlier Directives	Amendments of the Aliens Act (SFS 1989:529)
Family reunification	Directive 2003/86/EC on the right to family reunification (OJEU 03.10.2003, Nº L 251/12).	See above
Third country nationals	Directive 2003/109/EC concerning the status of third-country nationals who are long-term residents (OJEU 23.01.2004 Nº L 16/44).	See above

Third country nationals	Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (OJEU 18.06.2009 Nº L 155/17).	Amendments of the Social Security Code (SFS 2010:110)

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