



**Atelier 1 - Une justice équitable et efficace : le développement économique mondial équitable, un droit pour tous les justiciables**

Panel 1 - Justice et exécution équitable et efficace

**Workshop 1 – Fair and Efficient Justice: an Equitable Global Economic Development, a Right for Every Justiciable**

Panel 1 – Fair and Efficient Justice and Enforcement

## **Efficient and Fair Enforcement – the New Role of an Enforcement Agent**

**Eva Liedström Adler**

*Director General of the Swedish Enforcement Authority*

Dear Mr. President,  
Dear colleagues,

First, I would like to thank you for inviting me to make a speech at this workshop – I am very honoured.

The main topic for the workshop is efficient and fair enforcement, and the first thing that comes to my mind is if you can combine being both efficient and on the same time fair and what role must the enforcement agent have in the future? - I hope I will be able to answer this question when I conclude my speech!

When we talk of efficiency we normally think about cutting time or costs or both, but efficiency can also include efficient tools to get information necessary to carry out an enforcement case. Normally efficient tools also save time but not always costs. The costs depend on the way you collect information.

In Sweden, the liability for both the debtor and third parties to provide information about assets is very useful. Of course the debtor is obliged to provide information about all his or her assets and can be forced to inform us and if the debtor obstruct -- there are compulsory measures we can use like questioning or file an application to a district court to put the debtor in detention. The same compulsory measures can be used against a third party that is not cooperating. But, the liability for third parties also include that acts about secrecy cannot stop a third party's liability to provide us with information about assets, so for instance banks cannot hide behind bank-secrecy and refuse to give us information that we need.

To put a person in detention can maybe sound a bit doubtful, but Sweden have had a case in the European Court – Göthlin ./.. Sweden - and the court found it proportional to place a debtor in detention since he refused to inform us where he was hiding attached goods that we had attached for a tax claim. The European court noted that there was a possibility for the debtor to be released immediately at any time if he had chosen to inform us about where the assets were hidden, and that



there was court proceeding at least every 14 days to decide if the debtor should be released or continue to be in detention.

Another thing that makes the enforcement efficient is of course direct access to information and in Sweden we have direct access to some registries like the tax-registry where we find a lot of useful information like information about the income, employer, real estates and some other information. Another registry is the vehicle registry.

During the last decade Sweden has tried to develop technical solutions to get information about assets. This has speeded up the enforcement process significantly – and also saved us a lot of money. All major banks are now connected to a “file-exchange system” where we send a file with the name of the debtor and the personal digits and the amount to be enforced. The banks run the files through their system and returns a file with all the information they can find about money, funds, shares and other valuables – even information about safes. The information is automatically transferred to our case management system and shows up for the judicial officer in an inbox in the system.

If we then attach for instance money on a bank account, we simply just notify the bank via a mail sent as secured mail and the bank just returns this mail to us with information that the money is blocked and the amount of money they have blocked. Normally banks block money within 10-15 minutes. This electronic communication with banks has really proved to be efficient for both the Enforcement Authority and for the banks.

Efficiency is one thing but enforcement must also strike a fair balance between the creditor’s interests, and the debtor’s interests. All measures we take must be proportional, meaning that we should never cause more harm, cost or damage to the debtor than necessary in order to enforce a claim. Access, to information about attachable assets are therefore – according to me - of crucial importance when we talk about fair enforcement. The perfect balance is if we have a variety of different attachable assets at the same time to choose between and then can evaluate which asset will cover the claim with the least cost, loss and damage for the debtor.

Fair enforcement must also include possibilities to stop enforcement actions, if there are reasons to believe that the actions should not be carried out or if there are any other reason that makes the continuation of the proceeding doubtful. This possibility to stop the proceeding should not only be entrusted to a judge – also a judicial officer should have this power and be entitled to make a decision to temporarily stop the proceeding. The European court of Human Rights have noted the importance of safeguards in the enforcement proceeding in their decision Rousk ./.. Sweden.

To ensure that the parties are guaranteed that the enforcement is carried out in a correct way and that the decisions of the judicial officer are lawful and well grounded, the parties must always have a possibility to appeal and get a second opinion of a court.

To conclude my speech, it is my opinion necessary with a big “smörgåsboard” of information about different assets possible to attach in order to guarantee a fair balance between the creditor and the debtor and to guarantee that the enforcement actions are proportional. Therefore a powerful and efficient access to information about assets is necessary. So, back to my starting question, “if you can combine being both efficient and on the same time fair” --- my answer is yes!

What could even improve this efficient and fair enforcement would be access to information about assets in other countries than your own. Today’s modern technology makes it possible to transfer



assets from one country to another within a second or two. In order to keep up the efficiency in the enforcement process, there must be better possibilities to get information about assets outside your own country, but that needs changes in legislation and cooperation between countries and it also can involve cooperation with different institutions. In this work, the UIHJ could be a key-player!

As I have pin-pointed, the access to information about assets is of crucial interest for the efficiency but also to guarantee the fairness, but we will never get there if the liability to inform the judicial officer is not compulsory. Therefore there must be efficient compulsory measures to use when a debtor or a third party is not cooperating, and even detention can be acceptable according to the European Court of Human Rights.

Finally, my last remark is that the modern Judicial officer must be well educated if he or she shall be competent enough to make all decisions in order to guarantee that the measures are proportional and to stop the proceedings when there are doubts about continuing. The judicial officer should be a mix of a “bonus pater familias” and the impartial judge!

Thank you for your attention!