



Reports of Cases

OPINION OF ADVOCATE GENERAL
SHARPSTON
delivered on 13 September 2012¹

Case C-461/11

Ulf Kazimierz Radziejewski
v
Kronofogdemyndigheten i Stockholm

(Reference for a preliminary ruling from the Stockholms tingsrätt (Sweden))

(Freedom of movement of workers — Debt relief — Residence requirement)

1. A person may become so ensnared in debt that he cannot reasonably be presumed to be able to extricate himself in the near future. In Sweden, such debtors can apply for debt relief² ('skuldsanering') whereby a public authority (Kronofogdemyndigheten: 'the KFM') discharges them entirely or partly from the obligation to pay the debt. A precondition for eligibility for Swedish debt relief is, however, that the applicant must reside in Sweden. That requirement appears to be imposed for reasons that relate to (i) the effectiveness of debt relief decisions, (ii) the need for complete and correct information on the debtor's position and (iii) a concern that the scheme might otherwise undermine the application of EU law governing the opening of insolvency proceedings. In the present proceedings, the referring court asks whether the residence requirement is liable to prevent or deter a worker from leaving Sweden to exercise his right to freedom of movement.

Legal framework

European Union law

Treaty on the Functioning of the European Union

2. Article 45 TFEU provides:

'1. Freedom of movement for workers shall be secured within the Union.

2. Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.

¹ — Original language: English.

² — For a more detailed description of the type of relief made available by the measure in question, see points 10 to 14 below.

3. It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:

- (a) to accept offers of employment actually made;
- (b) to move freely within the territory of Member States for this purpose;
- (c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
- (d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission.

...'

The Insolvency Proceedings Regulation

3. According to recital 2 in the preamble to Council Regulation (EC) No 1346/2000 ('the Insolvency Proceedings Regulation'),³ '[t]he proper functioning of the internal market requires that cross-border insolvency proceedings should operate efficiently and effectively'. Recital 4 states that '[i]t is necessary ... to avoid incentives for the parties to transfer assets or judicial proceedings from one Member State to another, seeking to obtain a more favourable legal position (forum shopping)'.

4. In accordance with recital 6, the Insolvency Proceedings Regulation 'should be confined to provisions governing jurisdiction for opening insolvency proceedings and judgments which are delivered directly on the basis of the insolvency proceedings and are closely connected with such proceedings'.

5. Article 1(1) of the Insolvency Proceedings Regulation provides:

'This Regulation shall apply to collective insolvency proceedings which entail the partial or total divestment of a debtor and the appointment of a liquidator.'

6. Article 2(a) defines 'insolvency proceedings' as 'the collective proceedings referred to in Article 1(1)' and states that '[t]hese proceedings are listed in Annex A'.⁴ Annex A lists the proceedings in the various Member States to which the regulation applies. The Council may amend that list, in accordance with Article 45, acting either on an initiative by Member States or on a proposal from the Commission.

7. Annex A does not list 'skuldsanering' under 'SVERIGE' (Sweden).

3 — Regulation of 29 Jan 2000 on insolvency proceedings (OJ 2000 L 160, p. 1), as amended.

4 — See also recital 9 in the preamble to the Insolvency Proceedings Regulation.

The Brussels I Regulation

8. Council Regulation (EC) No 44/2001⁵ ('the Brussels I Regulation') on jurisdiction, recognition and enforcement of judgments in civil and commercial matters 'cover[s] all the main civil and commercial matters apart from certain well-defined matters'.⁶

9. Article 1 of the Brussels I Regulation states:

'1. This Regulation shall apply in civil and commercial matters whatever the nature of the court or tribunal. It shall not extend, in particular, to revenue, customs or administrative matters.

2. The Regulation shall not apply to:

...

(b) bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;

...'

National law

10. Paragraph 4 of the skuldsaneringslagen (2006:548) ('Law on debt relief') defines the conditions under which natural persons are eligible for complete or partial debt relief. Swedish nationality is not a condition. Paragraph 4 states:

'Debt relief may be granted to a debtor who is resident in Sweden and a natural person, if:

1. the debtor is insolvent and so indebted that he or she cannot be presumed to have the means to pay his or her debts within a foreseeable period and
2. it is reasonable, having regard to the debtor's personal and economic situation, that he or she should be granted debt relief.

A person who is registered in the population register in Sweden shall be regarded as being resident in Sweden for the purposes of application of subparagraph 1.

For the purposes of application of subparagraph 2, particular attention shall be paid to the circumstances in which the debts arose, the efforts made by the debtor to meet his or her obligations and the manner in which the debtor has cooperated in the handling of the case for debt relief.

If the debtor is a trader, debt relief may be granted only if the economic situation surrounding the trading activity is simple to investigate.'

11. Through registration in the population register in Sweden, a person enjoys rights and becomes subject to obligations, such as the right to vote or the obligation to pay taxes.

5 — Regulation of 22 December 2000 (OJ 2001 L 12, p. 1), as amended. The Brussels I Regulation replaces, in relations between the Member States (except Denmark), the Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (OJ 1972 L 299, p. 32).

6 — Recital 7 in the preamble to the Brussels I Regulation.

12. Paragraph 13 of the Law on debt relief provides that an application for debt relief is to be rejected if it does not satisfy the requirements set out in Paragraph 4.

13. Paragraph 14 of the Law on debt relief states that the KFM must inquire, to the extent necessary, about the personal and financial circumstances of the debtor with other administrative authorities. In accordance with Paragraph 17, the debtor may be heard. In that event, the debtor must attend a meeting with the KFM and provide the necessary information.

14. At the hearing, the Swedish Government confirmed that the debt relief procedure operates as follows. The debtor applies to the KFM for debt relief and must declare all income and expenditure. Based on the information available, the authority determines whether the applicant is in principle eligible and, if so, initiates the debt relief procedure. That decision is made public in Sweden. The creditors, whatever their nationality and wherever they reside, are invited to submit their claims and, where relevant, may be asked to provide information. Next, the KFM and the debtor together prepare a debt relief plan (or instalment schedule) which is sent to all known creditors who have a right to be heard. Following that process, the authority takes a final decision on whether to cancel or reduce the debt. That decision is published. Its validity is limited in time (for example, to five years). It may be appealed. The KFM can itself annul the debt relief decision, notably when the financial situation of the debtor changes.

The main proceedings and the question referred

15. Mr Radziejewski is a Swedish national. Until 2001, he and his wife worked and resided in Sweden. In 1996, they became insolvent because their business went bankrupt. Their resulting debt was incurred in connection with activities that took place in Sweden. Their creditors are all Swedish undertakings.

16. Since 1997, the earnings of Mr Radziejewski and his wife have been subject to an earnings attachment order administered by the KFM, under which instalments to repay the debt are collected through their Swedish employer's withholding (part of) their earnings.

17. In 2001, Mr Radziejewski was offered employment by a Swedish employer in Belgium. He and his wife therefore moved to Belgium and have resided there ever since. They now both work for the same Swedish employer. They do not currently have a registered residence in Sweden.

18. In 2011, Mr Radziejewski applied to the KFM for debt relief. On 29 June 2011, the KFM rejected that application because Mr Radziejewski was not resident, and did not have a registered residence, in Sweden. The KFM did not examine whether he satisfied the other requirements for obtaining debt relief.

19. Mr Radziejewski appealed against the decision of the KFM before the Stockholms tingsrätt (Court of first instance, Stockholm: 'the referring court'). The appeal is based, inter alia, on the argument that the residence requirement infringes the freedom of movement of workers within the European Union.

20. The referring court has decided to stay the proceedings and refer the following question to the Court for a preliminary ruling:

'Can the requirement for residence in Sweden in Paragraph 4 of the skuldsaneringslagen (2006:548) (Law on debt relief) be regarded as being liable to prevent or deter a worker from leaving Sweden to exercise his right to freedom of movement and thus be regarded as running counter to the provision on the freedom of movement for workers within the Union provided for in Article 45 [TFEU]?'

21. Written observations have been submitted by the KFM, Mr Radziejewski, the Swedish Government and the European Commission.

22. At the hearing held on 24 Jan 2012, the Swedish Government and the Commission presented oral argument.

Assessment

Preliminary remarks

23. The referring court asks the Court whether the residence requirement at issue in the main proceedings is liable to prevent or deter a worker from leaving Sweden to exercise his right to freedom of movement and is therefore contrary to Article 45 TFEU. It does not ask the Court to consider possible justifications for that requirement. Nor does the reference explain the objectives of the residence requirement. It thus would appear that the referring court has yet to make the necessary findings of fact in those respects.

24. By contrast, the KFM, the Swedish Government and the Commission have all addressed – albeit in an incomplete and brief manner – the question of whether the residence requirement can be justified and on what basis.

25. For reasons explained in this Opinion, I propose that the Court gives an affirmative answer to the question referred. In order to provide the referring court with the necessary additional assistance, I shall go on to address the possible justification(s) for the residence requirement based on the limited information that could be gleaned from the written observations and the hearing.

Does Article 45 TFEU preclude a Member State from rendering eligibility for debt relief contingent on residence?

26. By its question, the referring court essentially asks the Court whether Article 45 TFEU precludes a Member State from rendering eligibility for debt relief conditional on residence in that Member State. It asks in particular whether the residence requirement constitutes an obstacle to the freedom of movement of workers.

27. All workers are potential beneficiaries of the free movement rights conferred by Article 45 TFEU. They must be free to move at any time within the territory of the Member States for the purpose of accepting an offer of employment and to stay there during, and remain there following, that employment.

28. The Court has held that ‘all of the [Treaty] provisions ... relating to the freedom of movement of persons are intended to facilitate the pursuit by nationals of the Member States of occupational activities of all kinds throughout the European Union, and preclude measures which might place nationals of the Member States at a disadvantage when they wish to pursue an economic activity in the territory of another Member State’.⁷ For that reason, a restriction exists if a national law ‘preclude[s] or deter[s] a national of a Member State from leaving his country of origin in order to exercise his right to freedom of movement’.⁸

7 — Case C-325/08 *Olympique Lyonnais* [2010] ECR I-2177, paragraph 33 and case-law cited.

8 — *Olympique Lyonnais*, cited in footnote 7 above, paragraph 34 and case-law cited.

29. In the present case, the Law on debt relief offers relief to debtors who cannot be presumed to have the means to pay their debts within a foreseeable future and whose personal and economic situation renders it reasonable that they should be granted debt relief. If the grant of that benefit is made contingent on residence in Sweden, a person who would otherwise be eligible for debt relief might not move to another Member State to take up employment there. A restriction on the freedom of movement of workers thus results from the fact that the residence requirement may deter a debtor from moving to another Member State to take up employment. By the same token, a debtor (such as Mr Radziejewski) who has moved from Sweden to another Member State in order to work there is placed at a disadvantage solely because he has exercised his free movement rights.

30. The KFM argues that the lack of harmonised rules on recognition of its debt relief decisions abroad is what constitutes the obstacle to free movement. That argument misses the point. Harmonisation is evidently an important and useful means towards realising the internal market. But in areas where no harmonisation exists, Member States must none the less comply with their treaty obligations.

31. I therefore consider that a residence requirement such as that at issue here is liable to restrict the freedom of movement of workers and is therefore in principle prohibited under Article 45 TFEU.

Justification

Introduction

32. Whether a measure that is found to restrict the freedom of movement of workers can be justified depends on whether that measure (i) pursues a legitimate objective, (ii) ensures the achievement of the said objective and (iii) does not go beyond what is necessary for that purpose.⁹

33. From the Swedish Government's written observations and the legislative history of the Law on debt relief as described therein, it would appear that the residence requirement is imposed for two reasons: it is intended to guarantee the effectiveness of a debt relief decision and to ensure that debt relief is granted on the basis of complete and correct information about the debtor. At the hearing, the Swedish Government elaborated a further ground of justification, namely to ensure that the Swedish debt relief scheme does not undermine the application of the Insolvency Proceedings Regulation to other procedures, listed in Annex A, that fall within the scope of application of that regulation.

34. I emphasise at the outset that it is for the referring court to make the necessary detailed findings of fact. That said, it appears to me that there is material to suggest that the restriction on the freedom of movement of workers resulting from a residence requirement such as that at issue in the main proceedings cannot be justified.

Guaranteeing the effectiveness of a debt relief decision

35. The first objective of the residence requirement is said to be to avoid granting debt relief in cases where such relief is likely to be ineffective because the debtor will not be able to invoke the decision against the creditor.

36. In my view, that is a legitimate objective.

⁹ — *Olympique Lyonnais*, cited in footnote 7 above, paragraph 38 and case-law cited.

37. Within the context of a single Member State, debt relief such as that at issue discharges a debtor from (part of) his debts. If a creditor none the less seeks recovery and payment of a debt covered by the debt relief decision, the debtor has a legal basis to claim that the debt is no longer due. In circumstances such as those at issue, the courts of the Member State where such debt relief is granted are bound by an administrative authority's decision that a debt no longer exists as a matter of private law. Before those courts, the decision is thus fully effective.

38. By contrast, if the creditor sues the debtor in another Member State where the courts can take jurisdiction, it is less evident that the debt relief decision will produce the same effect. Whether and where a creditor will sue his debtor depends on what courts can take jurisdiction and where that creditor has an interest in suing. If the action concerns a civil or commercial matter, Article 2(1) of the Brussels I Regulation provides that, as a general principle, the creditor should sue in the courts of the Member State where the debtor resides (irrespective of his nationality). Additional and exclusive heads of jurisdiction may exist depending on the type and the subject-matter of the action. Article 5(1)(a) of that regulation provides, for example, that a person residing in one Member State may be sued also in the courts of a different Member State where performance of a contractual obligation is due.¹⁰

39. EU law does not oblige courts of other Member States to recognise and enforce Swedish debt relief decisions.

40. The Brussels I Regulation does not apply to a decision such as that of the KFM under the Law on debt relief. That regulation aims to realise the 'free movement of judgments' in civil and commercial matters.¹¹ In particular, it sets out, in Chapter III, rules governing the recognition and enforcement of 'any judgment given by a court or tribunal of a Member State, whatever the judgment may be called, including a decree, order, decision or writ of execution, as well as the determination of costs or expenses by an officer of the court'.¹²

41. While this regulation applies in principle to action taken before a court to recover a debt, it does not apply to debt relief such as that at issue. A Swedish debt relief decision appears to be an act by an administrative body that is not, other than in the cases set out in Article 62 of the Brussels I Regulation, a 'court' within the meaning of that regulation.¹³ Moreover, the KFM's decision intervenes in the relationship between a debtor and his creditors and forces the latter to accept that the debt owed to them is either reduced or cancelled. It is an administrative act taken in the exercise of public powers that extinguishes, without court intervention, (part of) a debt as a matter of private law. That basis is sufficient to conclude that the Brussels I Regulation does not apply. It is therefore not necessary to consider whether the debt relief procedure falls within the scope of Article 1(2)(b) of that regulation.

42. Nor does the Insolvency Proceedings Regulation apply because Annex A to that regulation does not list 'skuldsanering' or debt relief. On the basis of the limited facts available, it would also appear that, as the Swedish Government explained at the hearing, the Swedish debt relief procedure does *not* entail the partial or total divestment of a debtor which 'involves the debtor losing the powers of management which he has over his assets'.¹⁴

10 — See also, for example, Articles 15 and 16 of the Brussels I Regulation which provide for heads of jurisdiction in cases regarding consumer contracts (thus including consumer debt).

11 — See recital 6 in the preamble to the Brussels I Regulation.

12 — Article 32 of the Brussels I Regulation.

13 — The KFM is characterised as a 'court' in summary proceedings concerning orders to pay and assistance. See Article 62 of the Brussels I Regulation: '[i]n Sweden, in summary proceedings concerning orders to pay ... and assistance ..., the expression 'court' includes the 'Swedish enforcement service' (kronofogdemyndighet)'.

14 — See Article 1(1) of the Insolvency Proceedings Regulation. See also Case C-341/04 *Eurofood* [2006] ECR I-3813, paragraphs 46 and 54.

43. Given that no harmonised rules exist on enforcement and recognition abroad of a decision such as the KFM's debt relief decision, I accept that such debt relief may be ineffective to the extent that the debtor cannot invoke it against such of his creditors as choose to sue him abroad for the recovery of the debt(s) owed to them. A Member State may thus legitimately be concerned about the need to ensure the effectiveness of such decisions and may wish to take action to reduce or eliminate¹⁵ the risk that such debt relief will be ineffective.

44. Next, the referring court must consider whether the residence requirement is appropriate to achieve that objective.¹⁶

45. A practical example may help to illustrate what considerations are, in my view, relevant to that assessment.

46. Let us suppose that in proceedings before a Belgian court, a creditor seeks to attach assets held in Belgium to enforce payment of a debt owed by a Swedish debtor who lives and works in Belgium. If that claim concerns a civil or commercial matter within the meaning of Article 1(1) of the Brussels I Regulation, that regulation will determine whether the Belgian court can take jurisdiction.

47. If that Swedish debtor had applied for and received debt relief from the KFM, he would be unable to rely on that decision to defeat his creditor's claim (unless Belgian law provides that its courts must recognise that decision). The debt relief decision would thus be ineffective in that particular context.

48. If that debtor were, on the contrary, resident in Sweden, it might be correspondingly more likely that his main interests, including his assets, lay in Sweden. In principle, it might therefore be more likely that his creditors would sue in the Swedish courts, where the debt relief decision would be fully effective.

49. In short, therefore, if the debtor is resident in Sweden, the debt relief decision is, on the whole, likely to be fully effective. If the debtor is not resident in Sweden, the debt relief decision will still give exactly the same protection in Sweden, but overall the debtor may have less protection.

50. To be proportionate, the residence requirement must not go beyond what is necessary to achieve the stated objective. That is a matter for the referring court to determine, but the following observations may be of assistance.

51. In the absence of a legal basis for recognition of Swedish debt relief decisions abroad, Sweden can guarantee only that a debt relief decision is effective in Sweden.

52. Debtors resident in Sweden can nevertheless apply for and receive debt relief despite the possibility that that decision will have no effect if their creditors sue them abroad (because, for example, they hold assets there). Debtors outside Sweden, by contrast, are denied the opportunity of applying for debt relief despite the possibility that they may be sued in Sweden, where such a decision would be effective.

53. The residence requirement is thus an *absolute* condition for eligibility that is imposed in response to the *possibility* that a creditor *may* decide to seek payment of the debt in the courts of another Member State which *may* decide to give no effect to the Swedish debt relief decision. The existence of that possibility cannot justify imposing a residence requirement on all applicants for debt relief.

15 — It is for the referring court to determine whether the objective pursued is to eliminate the risk or to reduce its occurrence.

16 — The KFM argues that the elimination of the residence requirement will not resolve the problem of the lack of recognition abroad of a Swedish debt relief decision. That may very well be true but showing that does not establish whether, and how, the imposition of a residence requirement contributes to the first objective.

54. In that regard, I consider it critical to consider the general context in which the alleged risk may arise. Such debt relief is only available where an insolvent debtor is so indebted that he or she cannot be presumed to have the means to pay his or her debts within a foreseeable period of time and accordingly requests that he be discharged from part or all of the debt. It is difficult to imagine that all or most debtors applying for debt relief will hold assets abroad. If any assets are still available, their location (rather than the debtor's place of residence) is what will matter to the creditor wishing to attach them to enforce payment of the debt.

55. In those circumstances, it appears disproportionate to deny an applicant debt relief solely because he does not reside in Sweden, thus ignoring the possibility that he might in fact be most likely to be sued in the Swedish courts.

56. The facts underlying the main proceedings illustrate this point well. Mr Radziejewski appears to have no assets outside Sweden that may be of interest to his creditors. The salary that he receives in Belgium is subject to a Swedish earnings attachment order. All his known debts arose in Sweden. All his known creditors are Swedish. Whether his creditors would really seek to sue him in Belgium is unclear. His circumstances demonstrate that in order to guarantee that a debt relief decision is only issued if it will be effective, it would be sufficient to assess on an individual basis whether such a decision would give effective protection in Sweden and to refuse to issue it if it is shown (*quod non*) that debt relief would be liable to have no effect in Sweden.

57. I add that the residence requirement excludes an entire category of debtors solely because they do not reside in Sweden *at the time of their application* for debt relief. By contrast, it was confirmed at the hearing that a debtor who has been granted debt relief but subsequently moves abroad and thus no longer satisfies the residence condition is not necessarily excluded from the scheme, provided that he remains registered in the Swedish population register. In my opinion, such arbitrary application of the residence requirement is not reconcilable with the requirement that the residence requirement be proportionate in relation to its stated objective.

Obtaining complete and correct information about the debtor

58. Sweden argues that the residence requirement ensures that the KFM can discover, collect, examine and verify information regarding the personal and financial position of the debtor. If the debtor resides outside Sweden – the argument runs – it is difficult to obtain the necessary information, other than from the debtor himself, and hence to verify it.

59. A debt relief decision must clearly be based on a proper and detailed assessment of the actual personal and financial position of the debtor. I accept that the competent authority of a Member State must be in a position to collect, examine and verify the necessary information so as to make an informed decision about whether the debtor is eligible for debt relief. That is fully consistent with the principle of sound administration. Measures taken for that purpose thus have a legitimate objective.

60. I further accept that it may be administratively simpler to carry out that verification process if the debtor is resident in Sweden because it may be easier (i) to arrange a meeting between the KFM and the debtor and (ii) to collect and verify information that is available, for example, in data bases and registers held by Swedish authorities. If relevant information is held by the authorities of another Member State, the KFM cannot readily access it and may need to request it from that Member State or the debtor. To that extent, the residence requirement may appear to be an appropriate condition to impose.

61. The referring court will then need to examine whether the residence requirement does not go beyond what is necessary to achieve the objective of obtaining complete and correct information about the debtor.

62. First, depending on the actual circumstances of a case, there may be no need to seek, access or obtain information outside Sweden.

63. Second, I give weight to the Commission's argument that the residence requirement is purely formal and that the Swedish authorities can easily establish the financial situation of an applicant such as Mr Radziejewski based on his tax return, the taxes paid on his salary by his Swedish employer and the earnings attachment order which is administered by the KFM itself. I note that Paragraphs 14 and 17 of the Law on debt relief require the KFM to make enquiries of other administrative authorities, to the extent necessary, about the personal and financial circumstances of the debtor, and enable the KFM to hold a meeting with the debtor. Apart from the information submitted by the debtor and that received from other authorities, the KFM may also receive information from creditors.

64. If the debtor resides abroad, I accept that there may be information that the KFM cannot collect or verify without the permission of both the debtor and an authority in another Member State or without obtaining the documentation produced by the latter. In individual cases where such information is deemed necessary, it is difficult to see why the KFM should not make such a request or ask the applicant himself to provide the necessary documentation. In that regard, the Law on debt relief provides that the KFM shall take into account whether the debtor has cooperated in the procedure.¹⁷ There are thus incentives for the debtor, even if he resides outside Sweden, to cooperate.

65. Finally, the Law on debt relief appears to be framed in terms that make a physical meeting between the debtor and the KFM optional rather than mandatory. If that is right, a *general* residence requirement would appear to go beyond what is necessary to ensure that in *certain* cases the debtor will attend a meeting with the KFM. If such a meeting is only required in certain circumstances, there would appear to be other less restrictive means of providing an opportunity for the debtor to clarify his position and for the KFM to assess the latter's credibility.¹⁸

Avoiding undermining the application of the Insolvency Proceedings Regulation

66. The Swedish Government argued at the hearing that the Swedish debt relief scheme must not be allowed to undermine the application of the Insolvency Proceedings Regulation to procedures that do appear in Annex A. The position of the Swedish Government appears to be that, absent the residence requirement, a debtor might apply in Sweden for debt relief instead of in the Member State where he should apply according to the Insolvency Proceedings Regulation.¹⁹

67. In my opinion, this argument must fail.

68. Ensuring the coherent and consistent application of EU law is clearly a legitimate objective. However, based on the very limited information available, I do not consider that the residence requirement could be justified on that basis.

69. Sweden must naturally comply with the jurisdictional rule in Article 3(1) of the Insolvency Proceedings Regulation, according to which jurisdiction to open *insolvency proceedings covered by that regulation* lies with the courts of the Member State within whose territory the centre of a debtor's main interests are situated. The Swedish courts or other authorities cannot open such proceedings if the debtor's main interests are not in Sweden. By contrast, the Swedish courts (and administrative authorities) remain fully competent to entertain *other proceedings not covered by that regulation* without undermining the rule in Article 3(1) thereof. The Swedish Government's position here puzzles

17 — See Paragraph 4 of the Law on debt relief.

18 — It is true that an impecunious debtor resident abroad might find it financially impossible to pay for travel back to Sweden to attend such a meeting in person. It is not beyond the bounds of what is technologically feasible to arrange, for example, a video conference call at the local Swedish embassy or consulate in such circumstances.

19 — See Article 3(1) of the Insolvency Proceedings Regulation.

me. On the one hand, it considers its debt relief procedure to be in this context equivalent to those listed under the Insolvency Proceedings Regulation. On the other hand, in the context of its arguments regarding the effectiveness of debt relief, it emphasises that the ‘skuldsanering’ procedure is neither listed in Annex A nor entails the divestment of a debtor.²⁰

70. I therefore see no connection between the residence requirement and the coherent and consistent application of EU law on insolvency proceedings.

Conclusion

71. In the light of these considerations, I am of the opinion that the Court should answer the question raised by the Stockholms tingsrätt to the following effect:

Article 45 TFEU must be interpreted as meaning that a residence requirement such as that included in the skuldsaneringslagen (2006:548) (Law on debt relief) as a condition for obtaining debt relief constitutes a restriction on the freedom of movement of workers because it is liable to prevent or deter a worker from leaving Sweden to take up employment in another Member State.

²⁰ — See point 42 above.