



Nordic Employment Law Bulletin - July 2023



Nina Wedsted
Partner, Head of Employment,
Denmark



Riikka Autio
Partner, Head of Employment,
Finland



Per Benonisen
Partner, Head of Employment,
Norway



Rajvinder Singh Bains
Partner, Norway



Björn Rustare
Partner, Head of Employment,
Sweden



Johan Zetterström
Partner, Sweden

In our monthly Nordic Employment Law bulletin our employment lawyers across the Nordic region highlight relevant news and trends on the Nordic employment market scene. The bulletin intends to provide high-level knowledge and insight. Want to learn more? Our experts will be happy to hear from you.



Highlights from Denmark

- **A shop steward's legal position in connection with termination of a collective agreement:** The Danish High Court found that the basis for the union representative's function had ceased in the situation where the acquiring company had renounced the collective bargaining agreement in connection with a business transfer. The Danish High Court also found that the shop steward's protection against dismissal under a framework agreement only applied for a period that was to be calculated from the cease of the function corresponding to the collectively agreed or contractually determined notice for termination of employee shop stewards, which in this case was 9 months.
- **A political elected sector chairman was protected by the Danish Discrimination Act:** In the specific case articles of association resulted in that the sector chairman was prevented from running for reelection due to her age and the sector chairman claimed that she had been exposed to age discrimination. The case was referred to the European Court of Justice for a preliminary ruling as to whether a political elected chairman in a union was covered by council directive 2000/78/EC on establishing a general framework for equal treatment in employment and occupation. The European Court of Justice found that the sector chairman was covered by the last-mentioned directive including the prohibition against age discrimination. Thus, the case before the High Court only concerned which compensation the sector chairman was entitled to. The High Court ruled that the compensation should be set at DKK 25,000 according to the nature of the violation due to age discrimination.



Highlights from Finland

- **The new Government Programme proposes significant changes to employment laws** – The Prime Minister Petteri Orpo’s Government has proposed in its Government Programme several measures relevant for employers intended to be implemented during the Government’s four-year term in office. However, normal procedures and preparatory work for legislative changes must be first completed and the Finnish Parliament must accept the Government’s proposals before any changes in the legislation will enter into force.

The most significant proposed changes include, among other, the following:

- The threshold for scope of application of Co-operation Act would be increased from 20 employees to 50. The minimum redundancy negotiation periods would be reduced by half.
 - Post-employment re-employment obligations after redundancies would apply only to companies employing at least 50 employees.
 - The first day of statutory (i.e. not CBA based) sick leave would be unpaid for sick leaves shorter than 5 days (excluding occupational accidents or diseases).
 - For up to 1 year, fixed-term employment agreement would not require a justified reason.
 - The notice to be given prior to furloughs would be reduced to 7 days.
 - Several measures are being proposed to limit industrial actions.
 - For employers applying a generally binding collective labour agreement, local bargaining would be allowed and even if the employees have not elected a shop steward on the basis of the collective labour agreement.
- The proposed changes are intended to alleviate the challenges companies may face in employing workforce and especially to enhance operating conditions of small and medium-sized companies.

The Government’s Programme also includes employment targets and measures to reach those targets. As part of these targets, changes are proposed to preconditions for work-based residence permits and to certain employers’ obligations. Some of the proposed changes have been regarded as negative both for the employers but especially for the foreign workforce. Furthermore, the coverage of unemployment benefits shall be restricted.

In terms of the EU Pay Transparency Directive, the Government has announced to promote pay transparency in accordance with the minimum provisions of the Directive.



Highlights from Norway

- **The Norwegian Government is implementing an approval scheme for the staffing industry.** The approval scheme entails that staffing agencies must provide documentation to demonstrate compliance with already imposed obligations, such as documenting the existence of written employment contracts and occupational accident insurance. The new scheme is intended to ensure compliance with hiring regulations and weed out frivolous staffing agencies. In companies that hire labor from unapproved staffing agencies, the employee will be able to demand permanent employment with the hiring company. Violations of the approval scheme may also result in fines, and the Labour Inspection Authority (nor: *Arbeidstilsynet*) has been given clear instructions to prioritize inspections of the hiring and hiring out activities from staffing agencies in 2023. The approval scheme will come into force on January 1st 2023, with a transitional period until March 31st 2024.
- **The Norwegian Government has presented a proposition that includes changes to the rules on written employment contracts and the duration of probationary periods.** The proposals aim to implement EU Directive 2019/1152 and provide more predictable working conditions for employees, especially those in temporary or part-time positions. The proposals include expanded requirements for the employment contract in the WEA Section 14-6, such as the hirer's identity when the employee is hired from a staffing agency, right to competence development that the employer may offer, and any right to absence paid by the employer other than ordinary holiday. The proposal also includes a limitation on the duration of probationary periods in temporary employment to not exceed half of the employment relationship's duration. Additionally, new provisions have been proposed regarding what should be considered when information is missing from the employment contract, including that a permanent position should be assumed if the contract does not state whether it is temporary, and the employee's statement should be considered when the employment contract does not specify the scope of the position.

The hearing bodies have been given a deadline of September 1st 2023 to submit their inputs on the proposal.

- **The current unemployment rates in Norway:** As of May 2023, the unemployment rate in Norway is 1.7% of the total workforce, according to new figures from NAV (the Norwegian Labour and Welfare Administration). The statistics show a decrease in unemployment in Norway, with the figures having decreased by 0.2% since January 2023. The data also indicates that unemployment is highest among individuals with professional backgrounds in tourism and transportation, construction and engineering, as well as service occupations and industrial work.



Highlights from Sweden

- **No change on minimum wages.** A government inquiry has been conducted into how the EU directive on minimum wages should be introduced in Sweden. The report has now been submitted to the government and it states that the overall purpose of the directive is already fulfilled by the Swedish model for wage formation. The report states that no changes to Swedish legislation will be necessary. As Swedish law does not provide for any minimum wage, this was by no means a foregone conclusion. The only measure proposed is to instruct The Swedish National Mediation Office to report to the European Commission the information it requests.
- **Scandalous labour law firm once again in the spotlight.** In June, a three-part documentary series was released on Swedish public service television (SVT) about the founder of a scandalous labour law firm. As avid readers will know, we have written about this law firm earlier in the Nordic Employment Law Bulletin and how its lawyers, who are *not* members of the Swedish Bar Association, often racked up huge bills with little to show for it in terms of value for the clients. We can once again conclude that it is important to choose your legal representative with care.
- **Despite concerns for the economy, unemployment rate remains low** - In May 2023, the Swedish Public Employment Service had the lowest level of registered unemployed persons since 2009, 319,000 people, corresponding to 6.1 percent of the labour force. Last year, by comparison, it was 6.8 percent. At the same time, however, figures for June show that the number of people being made redundant is rising.

Services

Employment
