



Nordic Employment Law Bulletin - November 2024



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



Johan Zetterström
Partner, Lawyer



Björn Rustare
Partner, Lawyer

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

- **Bill on the Danish Act on Accommodation of Employees:** On 2 October 2024, the Danish Minister of Employment submitted a bill that, as a starting point, applies when an employer provides housing for one or more employees. The purpose is to introduce certain minimum requirements for the accommodation employers provide to their employees. It is, among other things, proposed that employers must ensure that the accommodation is not unhealthy to the employees and that the accommodation fulfils certain requirements. Moreover, it is proposed that the Danish Working Environment Authority supervises whether the accommodation provided by the employer for one or more employees fulfils the requirements. If the bill is adopted in the Danish Parliament, the Danish Act on Accommodation of Employees will enter into force on 1 July 2025.
- **Bill on Amendments to the Danish Act on Posting of Employees etc:** On 2 October 2024, the Danish Minister of Employment submitted a bill which amends the Danish Act on Posting of Employees etc. The purpose is to strengthen the effort against the use of illegal labour. It is, among other things, proposed that a foreign company who is registrable in the Register of Foreign Service Providers (RUT) must upload a copy of the service contract as well as the employment contracts and residence and work permits of the individuals concerned. Furthermore, it is proposed that service providers must ensure that anyone employed by the company can present valid identification to the Danish Working Environment Authority. If the bill is adopted in the Danish Parliament, the amendments will enter into force on 1 January 2025.



Highlights from Finland

- **RSU's and pay transparency** - The Ombudsman for equality has again rendered a statement regarding gender equality and employee rewarding – this time concerning Restricted Stock Units. A non-birthing employee had been on parental leave for 9 months shortly after the employer's financial year 2022 had ended. The employee was not awarded RSU's from 2022 because according to the employer RSU's are not part of an employee's compensation but long-term incentives and rather a means to invest in prominent employees. In any event the employer considered the employee's performance had not been on a level that the employee would have been awarded RSU's even if the employee had not used parental leave. The Ombudsman reminded in its statement that equal pay applies to all parts of compensation separately and also to a wide range of compensation types paid for work performed, in money or fringe benefits, regardless of timing of the payment or whether it is the actual employer who shall pay the compensation. Thus' RSU's are within the scope of equal pay. Furthermore, the terms of incentive plans may be flexible but an employer must be able to demonstrate objective criteria for not awarding an employee the incentive in question. Transparent criteria and terms are therefore essential. In this case, due to intransparent criteria for awarding RSU's and incoherent proof of the employee's performance, the Ombudsman stated the employer had discriminated against the employee due to the parental leave.
- **Proposed changes to right to work in Finland:** The Government proposal to amend the Aliens Act is now in the handling of Parliament. It is proposed that as of 1 April 2025, if an employee is working in Finland on work-based residence permit and the employment ends, the employee will have 3 months to find new employment. Otherwise or if the employee is not granted residence permit on other grounds, the employee must exit Finland. However, the time period would be 6 months in case of specialists (including EU Blue Card holders), top and middle management, internally posted specialists and management, and in case an employee has resided in Finland over 2 years on the basis of work-based residence permit. Employers will have an obligation to provide the Immigration Office information on terminated employments.

If the proposal is approved employees could in the future become employed in another sector. At the moment work-based residence permits are granted to apply only on a specific sector. However, an additional requirement is that the other sector is classified as labor shortage sector in Finland.

- **Reasonable accommodations during trial period:** The Supreme Court held in its recent decision 2024:63 that an employer had terminated an employee's employment during trial period without justified reasons and discriminated against the employee on the basis of the employee's hearing disability. The court held that the employee's hearing difficulties had appeared during employment and at the latest the employer became aware of the disability in the hearing preceding the termination where the employee had notified the employer that due to a hearing disability the employee cannot perform all duties and tasks assigned to the employee. The employee did not ask for any accommodations. As the employee was not able to perform essential parts of the employee's tasks, the employer terminated the employment on the basis of trial period. In court, the employer also claimed lack of trust as a termination reason as it considered the employee should have clearly indicate of the disability before the employment. The Supreme Court decided that the fact that the employer had become aware of the disability triggered employer's obligation to investigate whether the employee could continue with the help of reasonable accommodations even though the employer might have become aware of the need of the accommodations only at the end of the trial period.

As it is not possible to extend the length of the trial period to investigate the need and possibilities of accommodations, it is recommended to investigate such needs in good time if need arises and, based on the ruling, at the employer's own initiative.



Highlights from Norway

- **Proposed clarifications to the regulations on temporary employment:** The Norwegian government has presented a proposal for consultation aimed at clarifying the regulations on temporary employment for internship work. Under Section 14-9 (2) letter c of the Norwegian Working Environment Act, employers are currently permitted to temporarily employ individuals for "*work as a trainee*" without further specification. The government now proposes an amendment to this provision, restricting the use of temporary employment to "*internship work during an educational program*". This amendment clarifies that the provisions permitting temporary employment for internship work will no longer apply to specialization following the completion of education. The intent is to prevent the use of internship arrangements for general skills development within the workforce.

A regulation is also proposed to permit certain exceptions, particularly for healthcare professionals in specialized qualification programs post-graduation, such as doctors in the early stages of their specialization.

The deadline for submitting feedback on this proposal is November 29, 2024.

- **The Norwegian Government's 2025 Budget Proposal – key employment highlights:** The Norwegian Government presented its 2025 budget proposal on October 7, 2024, which includes some relevant updates for employers. The main labor-related proposals are:
 - **Removal of the employer tax surcharge:** The special employer tax for wages exceeding NOK 850,000 is set to be discontinued as of January 1, 2025, following criticism that it strained businesses.
 - **Combatting unethical labor practices:** NOK 20 million will be allocated to strengthen efforts against labor exploitation, social dumping, and labor crime, with NOK 18 million dedicated to increasing the Norwegian Labor Inspection Authority's presence and monitoring capabilities.
 - **Expanding workforce participation:** the government also aims to boost employment through expanded labor market programs, adding NOK 468 million in subsidies and introducing flexible rules to help those with disabilities re-enter the workforce.

Highlights from Sweden

- **New Precedents on "Just Cause" in Swedish Employment Law:** The Swedish Labour Court made the headlines this October 2024 with two landmark cases addressing the requirement of "just cause" (Sw. *Sakliga skäl*) for termination due to personal reasons. These cases are noteworthy as they are the first to interpret the significant changes made in 2022 to the Swedish Employment Protection Act. In both instances, the court found that the employer had just cause for termination. The court emphasized in the judgements that the employers had taken less drastic measures to achieve a change before proceeding to termination. This included action plans to enable improvement, warnings reminding the employee that continued lack of improvement could lead to termination, and reasonable time for the employee to correct their behaviour.

The outcome would likely have been the same also under the old rules, but the cases suggest that the threshold for "just cause" is slightly lower than before.

- **Tesla strike continues:** The Tesla strike is now on its second year, making it the longest strike in Sweden in over a hundred years. In terms of recent developments, the Solna district court ruled against Tesla in its case against the Swedish postal service, Postnord, over a union-led postal blockade that left license plates piling up at the post offices. Tesla argued it was a system-threatening issue, but Postnord maintained it could not intervene due to the blockade and that the state must remain neutral in labor disputes. The court ruled in favor of Postnord, emphasizing that labor disputes should be resolved by the parties, not the state. Tesla has until 1 November 2024 to appeal.
- **Sweden Gears up for Historic Collective Bargaining in 2025:** Sweden is a highly unionized country, with collective bargaining being a crucial instrument to determine salaries and terms and conditions of employment. The CBAs normally run for three-year periods, and many of them will expire in the spring of 2025.

The 2025 negotiations will cover an unusually large portion of the Swedish labour market and the labour parties are now gearing up for difficult discussions on topics such as wage increases and working hours. Stay tuned for further developments.

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