Nordic Employment Law Bulletin - October 2024

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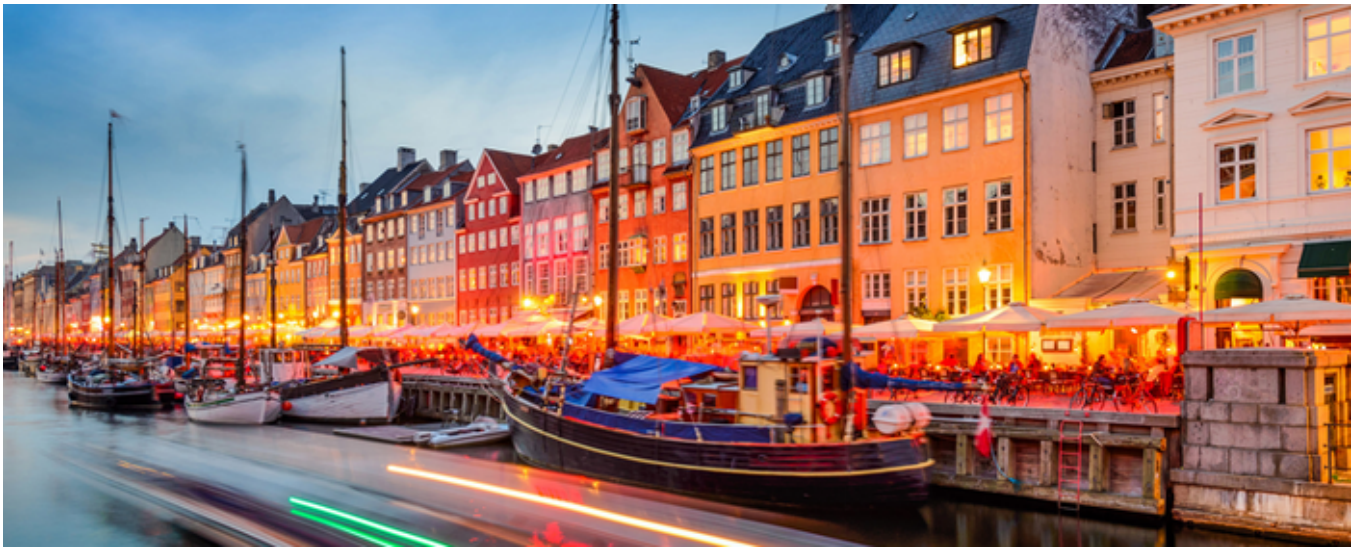
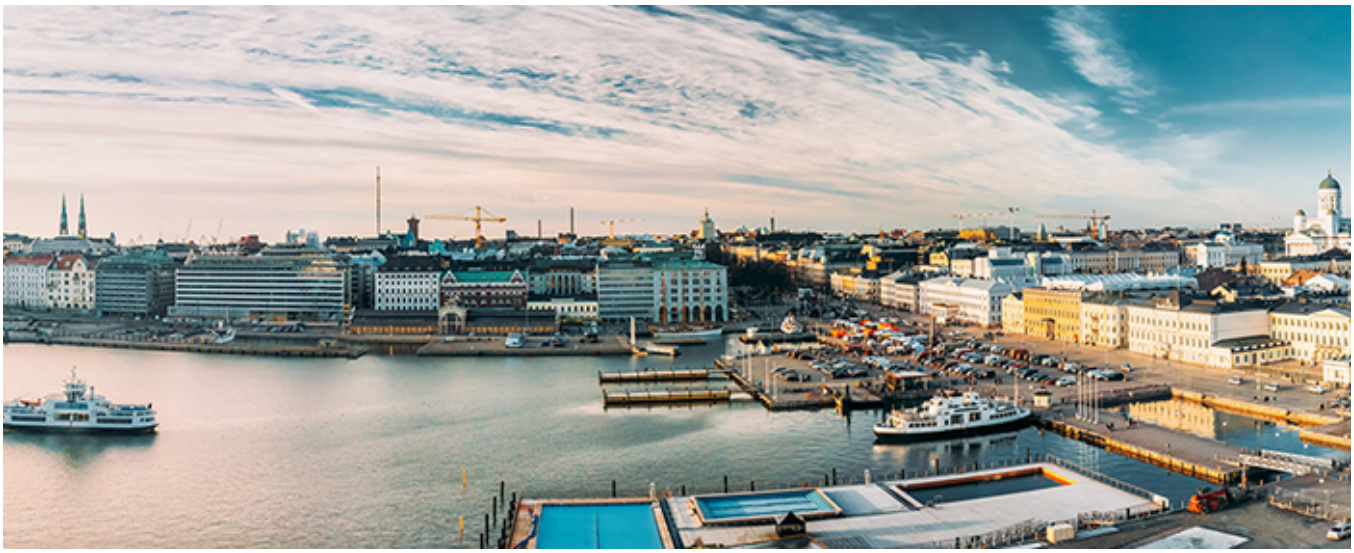
In our monthly Nordic Employment Law bulletin our employment lawyers across the Nordic region highlight relevant news and trends on the Nordic employment market scene. The bulletin intends to provide high-level knowledge and insight. Want to learn more? Our experts will be happy to hear from you.



Highlights from Denmark

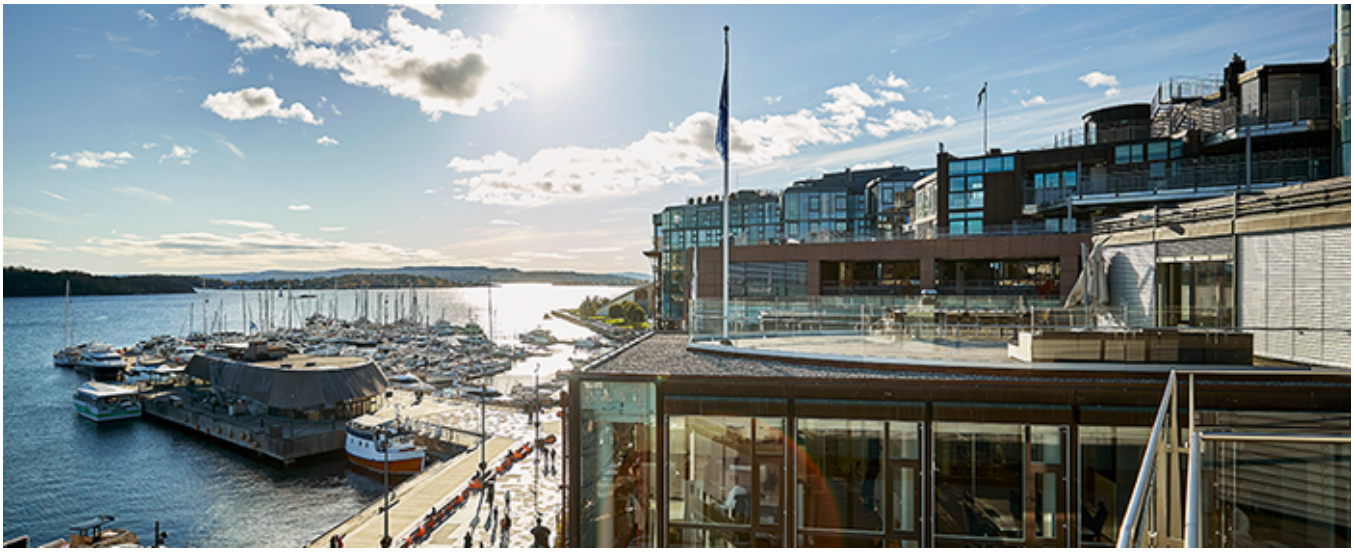
- **Agreement on more young people in spare time jobs:** A broad majority in the Danish Parliament agree that more young people should have a spare time job. Today, fewer young people have a spare time job than in the 1980s. The parties have, among other things, agreed to abolish the labour market contribution for individuals under the age of 18 and the period where young people over the age of 15 are allowed to work is extended from 06-20 to either 06-22 or 07-23. The initiatives require amendments to the current legislation. No bills have been proposed in the Danish Parliament yet.



Highlights from Finland

- **The Finnish government submits its proposal on promoting local bargaining to Parliament:** The government is planning to change the rules on local agreements in relation to collective bargaining agreements. The planned implementation date for the changes is 1 January 2025. As a result of the reform, local collective bargaining would be possible regardless of whether the company belongs to an employers' association or what type of employee representation the company has. At present, it is possible to derogate from many provisions of labour law by means of a collective bargaining agreement between national employers' associations and labour unions.

  In future, this would also be possible for company-specific collective agreements. Currently, the law also prevents an employer who is bound by a generally applicable collective bargaining agreement from entering into local agreements that deviate from certain provisions of the labour legislation, even if the collective bargaining agreement allows this. The reform would remove the prohibitions on local bargaining and the law would explicitly provide for the possibility of concluding local agreements in undertakings that are not members of any employers' association but are nevertheless obligated to apply a collective bargaining agreement due to its generally binding nature.



Highlights from Norway

- **New ruling from the Supreme Court clarifying the scope of occupational injury insurance coverage for remote work (HR-2024-1571-A):**
  The Norwegian Supreme Court recently clarified the scope of occupational injury insurance, ruling that injuries occurring during a lunch break while working from a home office falls outside the scope of the insurance coverage. This differs from the established coverage applicable to employees working on the employer's premises, where injuries occurred in breaks during the working time are typically compensated for.

  In this particular case, a doctor suffered a foot injury while taking a lunch break at her home office. The Supreme Court initially emphasized the significant connection between the conditions for coverage, which require the employee to be "in the course of employment" and "at the workplace", as stipulated in the National Insurance Act. Further, the Supreme Court clarified that this connection must be interpreted more strictly when incidents occur outside the traditional workplace. For employees working from a home office, the question is whether they are still deemed to be "in the course of employment" at the time of the injury.

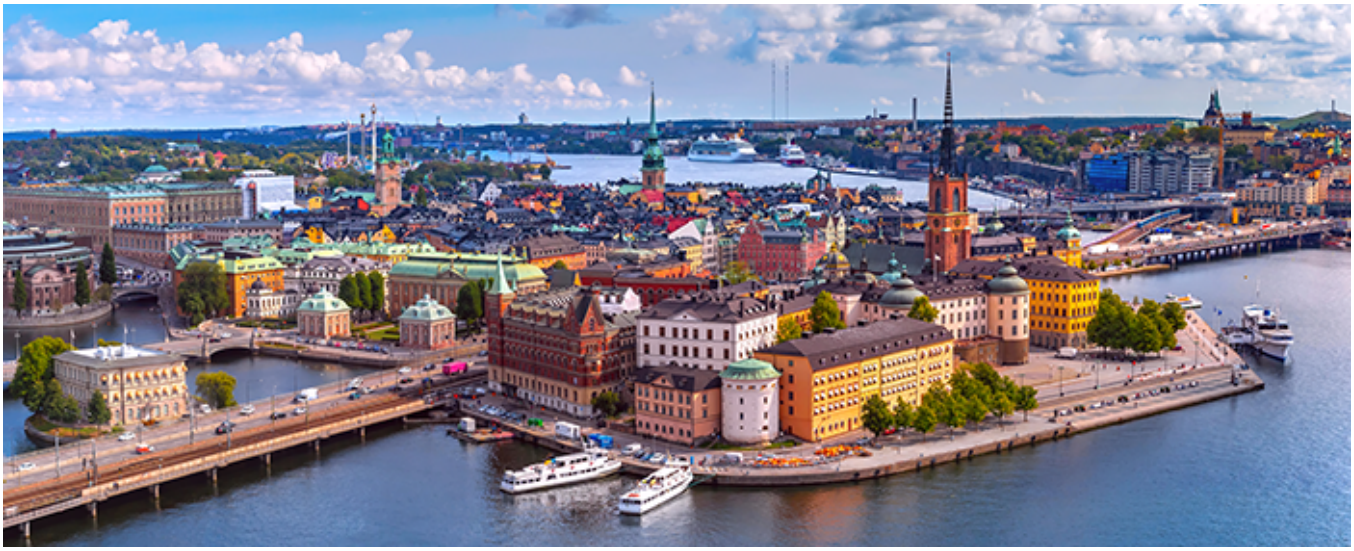
  The Supreme Court, under dissenting votes (3-2), ultimately determined that the injury in this particular case did not meet the statutory condition of occurring "in the course of employment". Including it would mean a too expansive interpretation of the National Insurance Act.
- **Proposal for a new exception to the rules of hired labour - agricultural sector**: In 2022 the Norwegian Parliament passed a legal amendment to the Working Environment Act, which removed the possibility of hiring labour when the work to be performed is of a temporary nature. The amendment entered into force on 1 April 2023, and the restriction applies to all industries with some exceptions, such as healthcare professionals and certain employee groups with specialized expertise. Following the amendment, the government has listened to the social partners, and proposed an additional exception for the agricultural sector having seasonal needs to allow farmers to hire relief workers (nw. *avløsere*) from farming relief work teams (nw. *avløserlag*) in certain specific situations when temporary work is required. A new provision is proposed to be included in the regulations on hiring from staffing agencies, and a provision in the Working Environment Act that authorises such a rule to be laid down in regulations. We at DLA Piper will be monitoring the developments closely.

- **Could recent judgements from ECJ require amendments to overtime pay practices in Norway?** In judgements C-660/20 (Lufthansa) dated 19 October 2023 and the joined cases of C-184/22 and C-185/22 dated 29 July 2024 the Court of Justice of the European Union (CJEU) ruled on a question regarding part-time employees' entitlement to overtime pay and concluded that in principle part-time employees are discriminated against if they must work the same amount as full-time employees in order to receive overtime pay.

  The judgements challenge the Norwegian legal framework on overtime work and overtime pay, which stipulates that employees who work part-time are not entitled to overtime pay until their working hours exceed the legal limit for ordinary working hours, i.e. 40 hours a week or 37,5 hours if the employer is bound by a collective bargaining agreement (CBA), i.e. the same threshold applies for both full-time employees and part-time employees. However, should the legal principle stipulated by the CJEU rulings apply to workers in Norway as an example, a part-time employee in a 50 per cent position could be entitled to overtime pay for

work exceeding 20 hours a week.

Certain Norwegian trade unions have advocated that the judgements will lead to legal amendments in Norway and to a reduced use of part-time employees, encouraging employment on full-time contracts. We at DLA Piper are monitoring the developments closely.



Highlights from Sweden

- **Sweden's Price Base Amount gets a boost:** A new price base amount has been established. This change will impact all employers with pensions and other benefits tied to the price base amount. The price base amount is fundamental within social insurance and the tax system, used to calculate the maximum tax-free daily allowance, car benefit value, and maximum deduction for pension costs etc. The price base amount should not be confused with the income base amount, which is used in various other calculations and plays a central role in determining certain financial benefits, such as the national public pension, sickness benefit, and parental benefit. The new level of the income base amount will be established later in the fall.

  Starting January 1, 2025, the price base amount will increase by SEK 1,500, bringing it to SEK 58,800.

- **Fashion Faux Pas?** In a recent reorganization at fashion giant H&M, employees were offered new positions with reduced working hours. According to the collective agreement (a similar provision also exists in the Employment Protection Act), employees who experience a reduction in working hours due to reorganization are entitled to a transition period with unchanged salary and benefits. The twist in this situation was that two of the targeted employees were on parental leave, raising the question of whether H&M violated the prohibition against disadvantaging employees on parental leave by allowing the transition period to run during their leave.

- Typically, if an employee on parental leave is laid off, the notice period starts when they return to work. However, the situation for a reduction of working time is different. The court ruled that the transition period is there to help employees adjust to their new financial reality. For those not on parental leave, this means getting their usual salary during the transition. For those on parental leave, it means continuing to receive their parental leave benefits. Essentially, everyone stays in the same financial boat they were in before the transition period started.

  In conclusion, the employees received the transition period they were entitled to, and their financial situation remained unchanged. In fact, they even received a longer transition period as they were on parental leave.

- **The 24-Month Rule for Temporary Workers is here!** Ladies and gentlemen, we know this is old news for our loyal readers, but we simply cannot let October pass by unnoticed, especially after gearing up for this moment for 2 years.

  Since the rules about temporary agency workers came into effect on October 1, 2022, we are now at the 24-month mark when they are triggered for the first time. In other words, if a company has had a temporary agency worker on-site for 24 months within a 36-month period calculated from October 1, 2022, they need to either:

1. Offer them a permanent position, or
2. Give them a payout equivalent to 2 months' salary (or 3 months, according to certain CBAs).

   We assume you are all over this and stepping into October well-prepared – but if not, you know where to find us!

Tjänster	Employment , Employment