Nordic Employment Law Bulletin - March 2025

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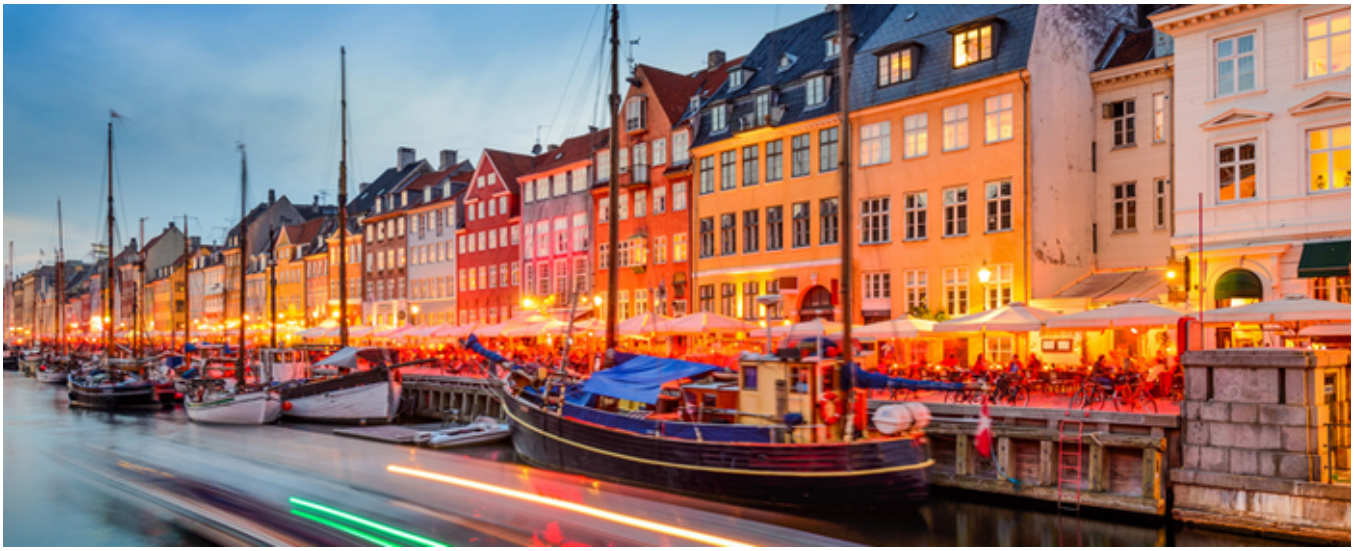
In our monthly Nordic Employment Law bulletin our employment lawyers across the Nordic region highlight relevant news and trends on the Nordic employment market scene. The bulletin intends to provide high-level knowledge and insight. Want to learn more? Our experts will be happy to hear from you.



Highlights from Denmark

- **Judgment re the Danish Share Options Acts of 2004 and 2019.** In a judgment handed down on 21 February 2025, the Danish Supreme Court decided when the Danish Share Option Acts of 2004 and 2019, respectively, apply. On 1 January 2019, the 2019 Share Option Act came into force. It repealed section 5 of the 2004 Share Option Act, abolishing the rules on "good leaver" and "bad leaver". Following the repeal of section 5 of the Share Option Act, there was freedom of contract to regulate the terms and conditions applying to non-exercised share options upon the end of an employment relationship. However, this applies only if the scheme is subject to the 2019 Act.

  In the case at issue, two employees had, as part of their employment, been granted Restricted Stock Units ("RSUs") and share options under award agreements:

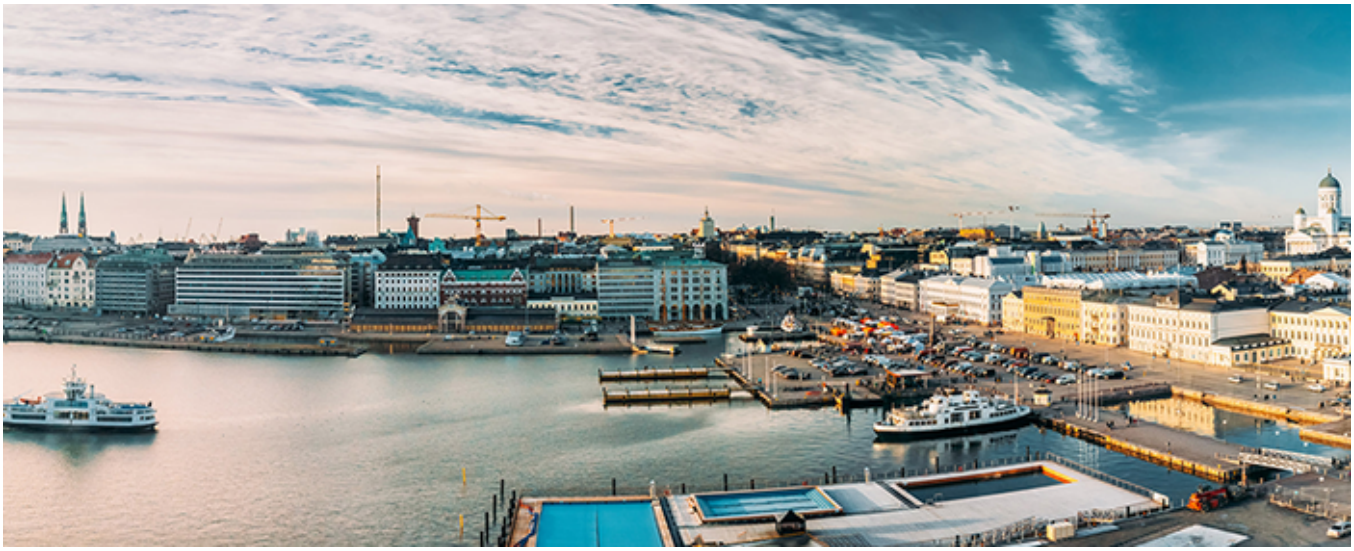
  - in January 2019 under a share option plan from 2010 (the “2010 Plan”); and
  - in September 2020 under a share option plan from 2019 (the “2019 Plan”).

  Both award agreements provided that RSUs and share options that had not been exercised would lapse upon the end of the employment relationships.

  The Supreme Court found that neither the 2010 Plan nor the 2019 Plan were “schemes” subject to section 1 of the Share Option Act, as the plans did not contain any binding commitment from the employer to grant warrants or share options that the individual employee could rely on.

  As a result, the employees were not entitled to the RSUs and share options until the award agreements in January 2019 and September 2020.

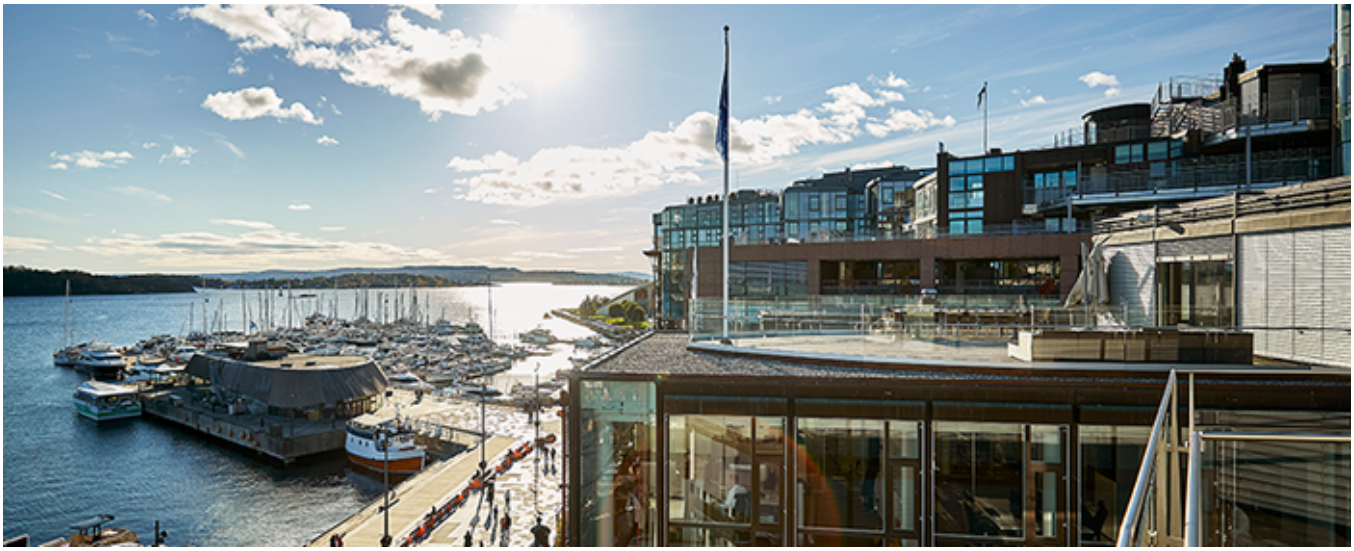
  On this basis, the Supreme Court found that the grants were subject to the 2019 Share Option Act. The condition in the award agreements providing for the employees forfeiting their entitlement to any RSUs and share options that had not been exercised at the end of the employment relationship was therefore not invalid.



Highlights from Finland

- The first negotiation results in CBA negotiations have been reached in the technology sector and chemical industry regarding blue and white collars where salaries will be increased with 7,8% in a 3-year period. The more detailed allocation of the increases per year and the total cost effect will be determined in each CBA. This opening negotiation result will be guiding the negotiations that are still ongoing.

- The Ministry of Economic Affairs and Employment has initiated consultation round on amendments to grounds for terminating employment due to reasons relating to the employee's person. Based on the Government Programme, the purpose is to amend the termination grounds stipulated in the Employment Contracts Act in a way that in the future termination would not require both proper and weighty reasons but only proper reasons. However, termination for arbitrary, minor or discriminatory reasons would not be allowed. The aim is to enhance recruitment opportunities of small and medium-sized employers but also to clarify termination grounds in certain situations, such as poor performance. The government proposal is expected in June 2025. The government proposal to amend the Employment Contracts Act with respect to grounds for fixed-term agreements, layoff notice period time and re-employment obligations after employment has ended due to redundancy is expected on week 35 in August.



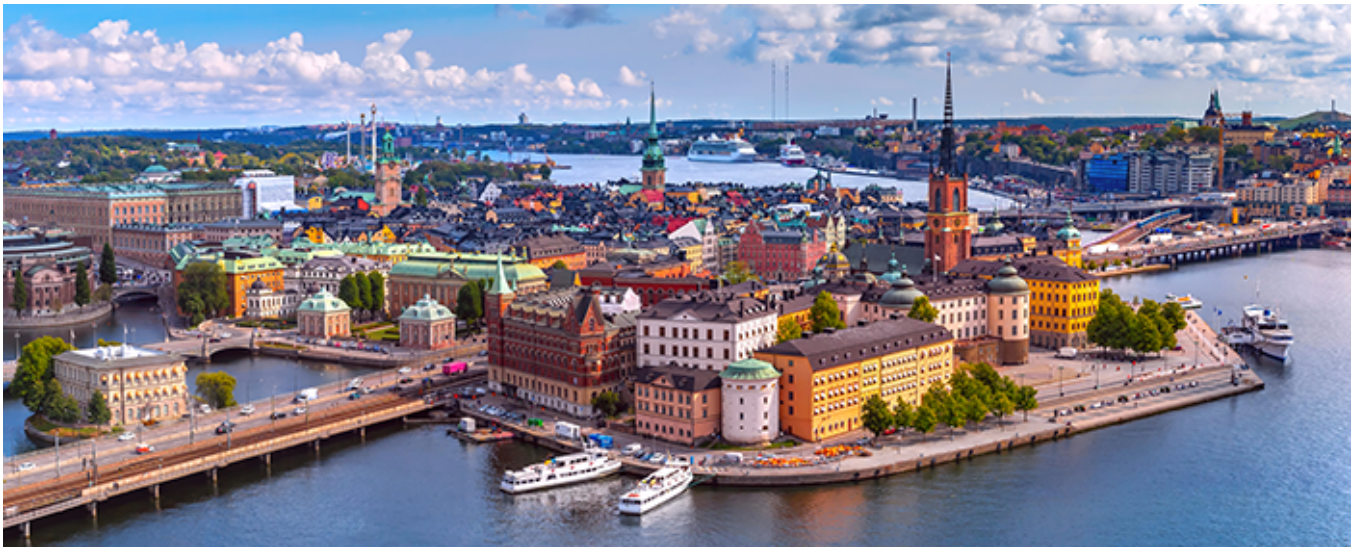
Highlights from Norway

- **New decision from the Court of Appeal addressing classification of contractors as employees (LB-2024-85425):** The Court of Appeal recently ruled in a case concerning a choir singer who claimed employee status after her engagement was not extended. The singer had been engaged with the choir since 2007 under successive fixed term contracts but was informed in 2022 that her engagement would not be extended due to change in her voice. She filed a lawsuit seeking permanent employment, invalidation of dismissal, pension rights, and compensation.

  In its assessment, the Court of Appeal applied established criteria for determining employee status, including the obligation to provide personal labor, use of the employer's premises and equipment, and the employer's risk for the provided result. While these factors were present, the court emphasized the singer's autonomy in selecting assignments and her influence within the choir's governing body. This demonstrated a lack of dependency typical and subordination characteristics of an employment relationship. Based on an overall assessment, the court concluded that the singer was an independent contractor rather than an employee.

- **Stricter requirements for using apprentices in public contracts:** The Norwegian Government has liberalized the use of apprentices in public contracts, effective from August 2025. Businesses entering into public contracts will need to ensure that at least one apprentice is employed per contract. For larger projects, a minimum of 10% of the workforce must be apprentices. This measure aims to address the ongoing shortage of apprenticeship opportunities and increase the number of skilled workers in industries with high demand.

  The new regulation seeks to ensure that businesses working in public section projects actively contribute to bridging the apprenticeship gap. To enforce compliance, contracting authorities will have the right to impose necessary sanctions if suppliers or subcontractors fail to meet the apprenticeship requirements.



Highlights from Sweden

- **Supreme Court to Ban Background Checks?**- In two similar cases, the Swedish Supreme Court examined the impact of the EU General Data Protection Regulation on the confidentiality of personal data in criminal judgments. In one of the cases, a news agency which provides materials to other news organisations requested access to numerous criminal case documents. The Supreme Court determined that the personal data within these documents was confidential, but should be disclosed with reservations. These reservations restricted the news agency's right to disclose the documents to the public or to paying customers in certain ways, while still allowing the agency to continue its journalistic activities. This complex balancing of interests is likely to affect access to criminal judgments in such databases. Looking ahead, if the use of service "one stop shop" service providers will not be possible, employers might shift more towards asking employees to provide extracts of their criminal records during recruitment.

- **New Law Expands Criminal Liability for Trade Secret Use** - The draft law aims at strengthening the protection of trade secrets by extending criminal liability. The proposal seeks to criminalise unauthorised use or disclosure of trade secrets by individuals who have lawful access to them, such as employees or contractors. Under current law, individuals with lawful access are not held liable. The proposed criminalisation applies to technical trade secrets that are critical in productions of various kinds. The proposed penalties include fines or imprisonment for up to two years, with more severe penalties for serious offences. Attempts and preparations to commit such offences are also proposed to be punishable. The amendments are proposed to enter into force on 1 January 2026.

- **Do after-work events and conferences by the Adriatic Sea help companies avoid "temporary work agency"-classification?** – This question emerged from a recent ruling by the General Court in Malmö where it was to be determined whether a company should be classified as a temporary work agency. The company's employees were working 40% of the time as reinforcement resources for client companies and 60% on projects not considered agency work. A general assessment, in line with recent EU case law previously reported in this newsletter (December 2024), was conducted. Interestingly, factors such as that the employees were well-educated and highly paid were considered. Furthermore, after-work events and a conference abroad were seen as signs that the consultants were not merely hired to be immediately placed at client companies. As this ruling is from a first-instance court, we are awaiting further cases regarding the applicability of the Swedish Agency Work Act and to clarify its applications.

Tjänster	Employment , Arbeidsrett