Nordic Employment Law Bulletin - May 2025

Björn Rustare
Partner, Advokat

Nina Wedsted
Partner, Head of Employment, Denmark

Per Benonisen
Partner, Head of Employment, Norway

Johan Zetterström
Partner, Advokat

Marie Louise Aagaard
Partner

Riikka Autio
Partner, Head of Employment, Finland

Rajvinder Singh Bains
Partner, Norway

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 from the Danish Supreme Court.** In a judgment handed down on 15 April 2025, the Danish Supreme Court decided whether a dismissed employee who was referred to fertility treatment was entitled to a severance pay due to an unfair dismissal under the Danish Act on Equal Treatment of Men and Women (the "**Act**").
  Shortly after the employee was employed, she was referred to fertility treatment and she informed her manager and team about this. A few days later the employee went on holiday and when she returned, she was dismissed without any written reason. The employee had a consultation with the fertility clinic after the dismissal.

  Section 9 of the Act states that an employer is prohibited to dismiss an employee or expose the employee to other less favorable treatment because the employee has made a claim to exercise the right to absence, has been on leave due to childbirth, or has made a request for changes of the working conditions, or otherwise because of pregnancy, maternity or adoption.

  Based on previous case law from the Danish Supreme Court it is a condition for an employee to be covered by the protection of section 9 that an actual treatment has been initiated that has made it possible to become pregnant.

  In cases where actual treatment has not been initiated, the employee is protected against dismissal under section 4 of the Act if the dismissal is otherwise justified by the possibility of pregnancy.

  In this case the employee began actual fertility treatment after she was dismissed. Therefore, the Danish Supreme Court found that section 9 of the Act was not applicable.

  The dismissal occurred shortly after the employee had informed her manager that she intended to start fertility treatment, she did only work 29 days in total just as she was dismissed without any written reason. Given these circumstances, the employee demonstrated facts that gave reason to assume that the dismissal was in violation of section 4 of the Act. Consequently, it was up to the employer to prove that the dismissal was not due to the fertility treatment. The employer could not discharge this burden of proof. Therefore, the Danish Supreme Court found that the dismissal was in violation of the section 4 of the Act, and the employee was entitled to a severance pay. The severance pay amounted to 6 months' salary.

Highlights from Finland

- **Is a high salary request an acceptable reason for rejecting a job applicant? —** Yes, at least under certain circumstances according to the Supreme Court ruling 2025:50. A job applicant was not interviewed for a role because the applicant's salary request was considered high. The person selected was of opposing gender and less qualified. Therefore, the assumption of discrimination was established. In such case the employer must present objective reasons for its decision to overrule the assumption. The Supreme Court stated that a salary request is subject to negotiations. If it exceeds the salary level determined by the employer "only a little", a more qualified applicant cannot be superseded, but the employer must find out whether the applicant is willing to discuss the salary – especially if the salary range of the role is not defined in the job ad. A salary request clearly exceeding the determined salary level may lead to the applicant being rejected without further discussions. The Supreme Court did not give guidance on how big the gap between the employer's and the applicant's expectations must be but stated that the employer's selection methods as a whole must be appropriate and careful consideration must be exercised in the selection process. The salary request of the rejected applicant was EUR 6,000 while the selected applicant had requested EUR 5,000 and accepted the job with EUR 4,500.

- **Changes to the Co-operation Act as of 1 July 2025** — The Finnish Parliament has accepted the Government proposal to amend the Co-operation Act and especially with respect to change negotiations in connection with redundancies. The changes will enter into force on 1 July 2025 and going forward
  - Employers that regularly employ 20-49 employees are required to conduct change negotiations in connection with redundancies only if the employer is considering measures to reduce the number of at least 20 employees over a 90day period.
  - Lay-offs lasting maximum of 90 days would not require change negotiations in companies with less than 50 employees.
  - The minimum duration of the change negotiations will be 3 weeks or 7 days, depending on the planned measures and the company's headcount.
  - An employee's employment must not end before 30 days have elapsed from the date the proposal to commence change negotiations was submitted to the employment authority.
  - The obligations regarding the continuous dialogue in companies regularly employing 20-49 employees will be alleviated.

Highlights from Norway

- **Proposed changes to the Norwegian Working Environment Act -** The Norwegian government has proposed legislative amendments to the Working Environment Act aimed at strengthening the enforcement powers of the Labour Inspection Authority. The proposals include new powers to obtain information from third parties, secure evidence with court approval, and issue administrative fines on-site during inspections. It is also proposed to extend the statute of limitations for imposing administrative fines from two to five years, and to allow the Authority the possibility to impose fines on individuals in leadership roles. Moreover, the proposals would require police assistance when needed and necessary, including the use of force, and grant inspectors the authority to take direct measures to access worksites, such as breaking locks. The Authority's power to issue orders would also be expanded to cover enforcement of inspection access. If the proposed changes are adopted, corresponding changes would also be made to the General Application Act, the Procurement Act, and the Immigration Act.

- **Proposed changes to the Norwegian requirements for domestic shipping and offshore services -** The Norwegian government has proposed significant amendments to the General Application Act and relevant sector-specific legislation to ensure that workers on vessels operating in Norwegian territorial waters and on the continental shelf are paid in line with Norwegian wage levels. A similar proposal was submitted for consultation in May 2024, but met resistance from the EFTA Surveillance Authority (ESA), which with its compatibility with EEA rules regarding the free movement of services and maritime cabotage. Despite these concerns, the Norwegian government maintains that the proposal is consistent with Norway's EEA obligations.

  The proposal entails an extension of the General Application Act to cover vessels engaged in domestic maritime transport—including coastal shipping, cruises, and service vessels—regardless of flag or country of registration. The proposal also introduces obligations under sector-specific laws, including the Petroleum Act, requiring licence holders to ensure that personnel on vessels providing services —such as supply, anchor handling, standby and construction vessels—are paid according to Norwegian wage conditions.

- **New court ruling regarding reclassification risk (TOSL-2024-140889) —** In a recent ruling from the Oslo District Court, a majority of the court found that three bicycle couriers working for the food delivery platform were in fact employees, despite being formally classified as independent contractors. The court emphasized that the actual conditions of the working relationship – particularly the food delivery platform's control over work allocation via its app, the courier's economic dependency, and the integration of the courier's tasks into the food delivery platform's core business – pointed clearly to classifying the relationship as an employment relationship under Norwegian law.

  As a result, all three couriers were granted permanent employment status and awarded compensation for unpaid overtime, holiday pay and non-economic damages. The minority opinion, which emphasized the couriers' flexibility and lack of fixed hours, argued in favour of contractor status. The ruling underscores the risk of misclassification and has been appealed by the food delivery.

Highlights from Sweden

- **Makeover of the unemployment insurance, from time cards to pay slips —** The Swedish government will shortly reform the unemployment insurance system by basing future benefits on applicants' income. The current system requires individuals who become unemployed to submit a so called "employer certificate" where the employer reports, among other things, how many hours the former employee has worked per month — a process that is administratively cumbersome for the employer. Following the reform, unemployment insurance funds (Sw. A-kassa) will be able to use information directly from the employer declarations already submitted to the Swedish Tax Agency. This process will be more accurate and will reduce the administrative burden on employers as well as the risk of incorrect payments, whether unintentional or fraudulent. This reform will be implemented on 1 October 2025.

- **Increase in Discrimination Complaints to the Equality Ombudsman —** Since 2015, there has been a significant increase in discrimination complaints to the Equality Ombudsman (DO), with the number of reports rising by 132%. Reports have grown from 2,237 to 5,182 per year, the majority concerning alleged discrimination in the workplace. Most of these complaints related to disabilities. Despite this, only a few resulted in formal investigations. In 2024, 303 investigations were initiated. For an investigation to proceed, the case must clearly involve discrimination under the law and have a chance of being thoroughly investigated. The head of the legal unit at DO, Karin Ahlstrand Oxhamre, says to TT News Agency that "The fact that the DO does not initiate supervision does not mean that we have assessed the situation as less serious, or that it has not involved discrimination". The number of unreported incidents is believed to be significant.

- **Court Rules "Curtains Down" on Strip Clubs' Night Work —**In Sweden, the Working Hours Act is clear that night work between midnight and 05:00 is off-limits, except under specific circumstances such as the nature of the work, public needs, or other special conditions. Exceptions can also be made if a collective agreement is concluded or approved by a central workers' organisation, or if the Work Environment Authority grants an exemption. Some strip clubs attempted to navigate this by signing a collective agreement with the Union for Stage and Cultural Workers ("Sokaf"), a newly formed union, hoping it would secure an exemption. However, the Authority clarified that Sokaf is too small to qualify as a central organisation, making the clubs' workaround more a misstep than a masterstroke. The decision was challenged in court. The court upheld the Authority's ruling, concluding that Sokaf lacks the status needed to negotiate exceptions under the law. The appeal was dismissed, and the curtain falls on night work for these venues when the clock strikes twelve.

Tjänster	Employment , Arbeidsrett