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Sweden: Obligation to consider alternatives to collective dismissals

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Sweden

Phase:

Management

Type: [Obligation to consider alternatives to collective dismissals](#)

Last modified: 10 December, 2021

Native name: **Lag (1982:80) om Anställningsskydd**

English name: **Employment protection act (1982:80)**

Article

7, 22

Description

For a termination due to redundancy to be justly caused, the employer is obliged to investigate the possibility of internal redeployment to vacant positions within the company.

If any vacant position exists, the employer must offer it to the employee if this is reasonable. If there are no possibilities of redeployment to vacant positions, the order of priority for the redundancies is based on seniority, i.e. a last-in-first-out principle.

The employer is also obliged to inform the concerned trade unions. However, there is no specific obligation to consult on the alternatives to dismissals.

Comments

An example of a conflict which highlighted the difficulties in determining what constitutes a dismissal and what constitutes a redeployment took place in 2015, where employees at a supermarket in Örebro were given [new employment contracts with fewer weekly working hours](#). The workers felt pressured to sign the new contracts and the case eventually ended up in the labour court. According to the Commercial Employees' Union, the workers were in effect dismissed, and that the order of priority rules should have been complied with. But the employer argued that the workers were only redeployed, and that therefore no consideration to the order of priority rules had to be paid. The labour court ruled in favour of the employer.

The ruling has sparked a fierce debate as many unions feared that, as a result, employers would start 'redeploying' workers systematically in order to reduce their working hours. This fear has been addressed in the recent social partner agreement on changes to the Employment protection act (currently in the process of being redrafted into a legal amendment). According to the amended law, planned to come into force on 30 June 2022, in the event of a reorganisation whereby one or more employees in an operating unit (among those with the same or equivalent work tasks) are offered reassignment to new positions that only entails a reduced employment rate (and no change of tasks), the employer must observe the following rules:

- Employees with a shorter period of employment shall be offered redeployment before employees with a longer period of employment.
- An offer with a lower employment rate must be submitted before an offer with a higher employment rate.

Cost covered by

Not applicable

Involved actors other than national government

Trade union

Thresholds

No, applicable in all circumstances

Sources

- 📖 DG Employment, Social Affairs and Equal Opportunities/Héra (2011), Selected companies' legal obligations regarding restructuring
- 📖 Ius Laboris (2011), Individual dismissals across Europe, Brussels
- 📖 Ius Laboris (2009), Collective redundancies guide, Brussels
- 📖 Lagen om Anställningsskydd
- 📖 Karin Nilsson (2016) 'Hyvlat' arbetstid på Coop avgjord i AD
- 📖 Sofie Rehnström (2016), Las måste upprätthållas även efter hyvlingsdomen
- 📖 Niklas Beckman & Patrik Karlsson (2016), LO förstärker arbetsmarknadens klyftor
- 📖 En reformerad arbetsrätt – för flexibilitet, omställningsförmåga och trygghet på arbetsmarknaden Ds 2021:17

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