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European Monitoring Centre on Change

Sweden: Selection of employees for (collective) dismissals

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Sweden

Phase:

Management

Type:

Selection of employees for (collective) dismissals

Last modified: 10 December, 2021

Native name:

Lag (1982:80) om Anställningsskydd

English name:

Employment protection act (1982:80)

Article

22

Description

Under the order of priority rules, employees with a longer period of employment have priority to stay in the company over employees with a shorter period of employment. This is commonly referred to as the 'last-in-first-out' principle. Based on the aggregate period of employment within the organisation, a seniority list is drawn up for each unit and for each group of employees who belong to the same collective agreement. If employees have an equal length of employment, priority to stay is given to the older employee.

One important condition for continued employment is that the employee has sufficient qualifications for one of the alternative posts left in the unit after the structural reorganisation. However, according to the law, the employee only needs to fulfil certain minimum requirements, i.e. they do not have to be the best suited for a particular post to be entitled to continued employment. An organisation with up to 10 employees may exempt a maximum of two employees from the last-in-first-out principle, if they are of particular importance to operations.

Workers with disabilities and union representatives usually enjoy special protection against being chosen for redundancy. Selection based on sex, nationality, union membership or similar grounds is illegal.

Comments

If there is a collective agreement in place, the parties are allowed to stipulate other criteria than in the Employment protection act. Most importantly, upon the announcement of the dismissals, further derogations may be agreed upon by the employer and the local union. As the employer often wants to dismiss employees by other criteria than in law or collective agreement and the unions are free to agree on any (non-discriminatory) alternative selections, this provides the unions with a very strong negotiating lever. This may, for example, secure compensation for older dismissed workers. If there is no collective agreement at the affected workplace, the employer must act in accordance with the order of priority rules as stipulated in the Employment protection act.

Employer organisations have long wished to see the Act reformed to allow for more flexibility, which is opposed by trade unions. As a result of a compromise with the Centre Party and the Liberals, the government tasked social partners to present a joint suggestion for amending the law. The social partners negotiated and (with the exception of the Swedish Trade Union Confederation) reached an agreement in the autumn of 2020 (available [here](#)), which is currently in the process of being redrafted into a legislative proposal by the government.

One of the key principles in the Employment protection act is the 'last-in-first-out' rule, whereby companies needing to restructure / lay off staff have to consider the employment tenure, meaning that the last one to be hired should be the first one to be laid off. Under the new proposal, 'last-in-first-out' will still be the guiding principle in the event of a shortage of work. However, if the parties cannot agree on an order of precedence, the employer may by law exempt three employees from the right to continued employment. An employer who is bound by the main agreement may instead exclude three blue-collar workers and three white-collar workers per operating unit, or 15% of the blue and white-collar workers whose employment may be terminated. However, the exemption may not exceed 10% of the workers at the operating unit. Employers with only one operating unit covered by the agreement can instead choose to exclude a total of 4 employees. Another significant change in the new proposals is that, in the case of disputes over unfair dismissals, the employer would not always have to pay the salary of the affected employee until the issue is resolved, as is the case today. It would also become more difficult in general for employers to dismiss employees for 'personal' reasons, and there would be greater opportunities for employers to get funds for adjustment and skills support for staff, even when they are not covered by collective agreements. The proposal is expected to pass through the parliament and the amended act will enter into force on 30 June 2022.

Cost covered by

Not applicable





Involved actors other than national government

Employer organisation
Trade union

Thresholds

No, applicable in all circumstances

Sources

-  Ius Laboris (2011), 'Individual dismissals across Europe', Brussels
-  Ius Laboris (2009), 'Collective redundancies guide', Brussels
-  Storrie, D. (2005), 'Collective dismissals in Belgium, France, Germany, Sweden and the UK: Some legal, institutional and policy perspectives', Working paper from the MIRE project
-  Watson Wyatt (2006), 'Employment terms and conditions report Europe', Volume I, Brussels, Belgium
-  [Lagen om Anställningsskydd](#)
-  [The Confederation of Swedish Enterprise \(2020\) Överenskommelse om trygghet, omställning och anställningsskydd på den svenska arbetsmarknaden](#)

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