

Sweden: Staff information and consultation on business transfers

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Sweden

Phase:

Anticipation

Type:

Staff information and consultation on business transfers

Last modified: 10 December, 2021

Native name:

Lag (1982:80) om Anställningsskydd; Lag (1976:580) om Medbestämmande i Arbetslivet

English name:

Employment protection act (1982:80); Co-determination act (1976:580)

Article

6b, 7 and 25 of the Employment protection act; 28 of the Co-determination act

Description

In the framework of a transfer of an economic entity or part of an economic entity (including public sector and seagoing vessels) which retains its identity (for example, the sale of the business) the transferee has to take over all employment contracts without changing any rights and obligations of the workers for one year following the transfer. However, contracts can only be transferred with the consent of the employee in question. Employees have a right to object to being transferred within reasonable time. In this case, these employees remain in the employment of the transferor.

Both the transferor and the transferee have to inform and consult with the employee organisations before a decision to realise a transfer of undertaking is taken. If there is a collective agreement at the workplace, the trade union representatives bound by the collective agreement are to be informed and consulted. If there is no collective agreement, every trade union that has members that will be affected by the transfer need to be informed and consulted.

The consultation procedure has no fixed length, and the employee organisation does not have the right to declare void any decision of the employer.

Comments

The legislation does not specify which information needs to be provided, but in practice this should include detailed information about the transfer and any potential restructuring of the company, including potential consequences for the employees. Collective agreements may contain additional provisions that need to be observed.

Regarding 'retention of identity after transfer', the Swedish labour court decided that necessary criteria are:

- the type of business or undertaking concerned;
- the similarity between the activities;
- whether customers are transferred;
- the duration of any interruption in the performance of the activities;

and sufficient criteria are:

- whether tangible or intangible assets have been transferred;
- whether the majority of employees are retained.

To qualify as a transfer of undertaking, all of the necessary and at least one of the sufficient criteria must be met.

The ongoing reform process of the Employment protection act will not affect the employer's obligation to keep staff and trade unions informed in the case of business transfers.

Cost covered by

Not applicable




Involved actors other than national government

Trade union

Thresholds

No, applicable in all circumstances

Sources

-  Ius Laboris (2009), 'Transfers of undertakings guide', Brussels
-  Lagen om Anställningsskydd
-  Lagen om medbestämmande i arbetslivet

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