



# The EU and the Swedish collective agreement model

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# The EU and the Swedish collective agreement model

THE SWEDISH COLLECTIVE AGREEMENT MODEL is based on the regulation of wages and various working and employment conditions in agreements between the social partners (trade union organisations and employer organisations) and the management of compliance and settlement of disputes by the parties themselves. There are three central trade union organisations in the Swedish labour market: The Swedish Trade Union Confederation (LO), the Confederation of Professional Employees (TCO) and the Swedish Confederation of Professional Associations (Saco). Together they have 50 affiliated trade unions in the private and public sectors, with a total of more than 3.4 million members.

The Swedish collective agreement model combines security, influence and sound conditions for employees with industry adaptation, stability and similar competitive conditions for employers. This is a model that strengthens Sweden and creates growth and prosperity. However, relations in the Swedish labour market are influenced by the rest of the world and the collective agreement model is facing several major challenges. The Swedish membership of the European Union is one such challenge.

LO, TCO and Saco have a positive basic approach to the EU and are convinced that European cooperation has the potential to promote sustainable growth and employment. At the same time fundamental trade union rights and freedoms must be guaranteed and the Swedish collective agreement model safeguarded.

This publication aims to provide basic information about the Swedish collective agreement model and to highlight some central aspects that the EU institutions should take into account when drawing up various legal instruments and political policy documents.

# The Swedish collective agreement model

## **Collective agreements determine pay and maintain industrial peace**

The Swedish system of regulation of wages and conditions of employment, collective agreements, emerged in the course of history and is an arrangement between trade union organisations, employer organisations and the State. Collective agreement negotiations are a method of jointly setting wages and other conditions of employment. When agreements between the social partners have been signed they are binding on both parties and their members. Industrial peace – the no-strike rule – is then applicable.<sup>1</sup> Before an agreement is signed both parties have the right to take industrial action to enforce negotiation demands. Strikes (employee party) and lockouts (employer party) are democratic rights for free and independent parties, and are protected by the Swedish Constitution.

## **The State's involvement is restricted**

The Swedish collective agreement model means that the social partners are separate and independent (autonomous). The State's involvement is very restricted and is mainly limited to basic legislation on collective agreements and industrial action, mainly in the Act on Co-determination at Work (1976:580), and to facilitating for the social partners in other respects. One example of this is the mediating role of the National

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<sup>1</sup> Employees are entitled, however, to take sympathy action directed at another employer that does not have an agreement.

Mediation Office in collective bargaining. Furthermore, labour law legislation is often semi-discretionary. This makes it possible for the parties to fully or partly deviate from the legislation through collective agreements.

### **The social partners are responsible for wage formation in the Swedish labour market**

In many EU countries a minimum wage is determined by law or collective agreement that is declared to be generally applicable and thus valid for all workers in a particular industry. Sweden has chosen another route. Wages are regulated in collective agreements between the social partners and the agreement has independent status.

Some Swedish collective agreements do not contain explicit minimum wages but only calculation models or principles for pay setting. It is then the social partners at local level that must ensure that wages are set at individual level in accordance with the agreement.

Through a high organisation rate on both employee and employer sides and the principle that when there is a collective agreement at a workplace it must be applicable to everyone working there, about 90 per cent of all Swedish employees are covered by collective agreements. There are currently more than 650 collective agreements on wages and general terms and conditions of employment in Sweden.

# The collective agreement also regulates many other things

A WIDE RANGE OF other conditions apart from wages are also determined by collective agreements, such as forms of employment, period of notice, working hours, holidays, sick pay and various insurance schemes. The provisions of collective agreements and the Act on Co-determination at Work concerning negotiations in disputes between employer and employee also mean that the absolute majority of disputes are settled in negotiations between the social partners without them needing to go to court.

The autonomy of the parties also means that it is the responsibility of the trade unions and the employers to ensure compliance with the rules of collective agreements. The work carried out in many countries by central government agencies (for example labour inspectorates) is in Sweden mainly carried out by the social partners and primarily by the trade union organisations.

## **A unique model that delivers results**

The collective agreement system and strong autonomy of the social partners has served and is still serving Sweden well. Before the collective agreement model gained its strong position the Swedish labour market was characterised by many major disputes. Due to the obligation to keep industrial peace between the parties, applicable during the period they are bound by collective agreement with each other, Sweden today is one of the countries in Europe with least working days lost due to strikes or lockouts.

Another important reason for the Swedish model is that regulation via collective agreement is more flexible and adaptable to different sectors than legislation can ever be. One reason to allow the social partners responsibility for wage formation is that jointly they are best suited to determining the size of the pay margin, and how wages should be weighed against other conditions such as working hours, holidays, pension provision etc.

In the past twenty years real wages in Sweden have grown in pace with the general productivity trend, thus contributing to Sweden's comparatively stable current economy. Thanks to responsible wage formation, Swedish competitiveness has not deteriorated. The situation is similar for our Nordic neighbours. There too the social partners are responsible for wage formation within the framework of collective agreements.

### **A model with strong support that should be safeguarded**

The Swedish collective agreement model has strong support, from the trade unions, the employers and the State. Though there are various collective agreement systems in existence around Europe, the Swedish model is almost unique. This is important for the EU institutions to take into account.

It is of utmost importance, both for employees and for the Swedish economy, that the Swedish collective agreement model and the autonomy of the social partners is not restricted, either nationally or by the EU.

# The EU and the Swedish model

## **What does the EU say about collective agreements and industrial relations?**

The Treaty on the Functioning of the European Union (Title X on social policy) contains a number of provisions that are to ensure that models such as the Swedish model are safeguarded. When the EU implements measures in the labour market area differences in national practices must be taken into account, in particular in the field of contractual relations (Art. 151). The EU must also promote the role of the social partners and facilitate dialogue between the social partners, respecting their autonomy (Art. 152). Laws adopted within the framework of this chapter may not apply to pay, the right of association or the right to strike (Art. 153.5).

The Charter of Fundamental Rights of the European Union also contains relevant provisions, for example concerning freedom of assembly and of association (Art. 12), which give everyone the right to form and to join trade unions for the protection of his or her interests, and the right to negotiate and to take collective action, including strike action (Art. 28).

## **Fundamental trade union principles for EU work**

Issues concerning collective agreements and autonomy of the social partners often arise when drawing up directives and regulations under EU law. Even though the Treaty stipulates that differences in national practices and national systems must be taken into account, EU legislation, for example within the context of the internal market, influences conditions in the national labour market.

The challenge lies in combining cross-border cooperation in Europe with the retention of the various collective agreement models in Member States and the independence of the social partners, not least to promote a sustainable climate in the labour market and continued high level of competitiveness. In addition, a balance must be struck between economic freedoms and fundamental trade union rights in the EU internal market. Trade union demands must be possible to uphold and equal treatment regarding pay and other conditions of work must apply in the country in which the work is carried out, regardless of the country the worker is from.

Here are some central aspects that EU institutions should take into account when they are drawing up various legal instruments and resolutions.

***Fundamental trade union rights and freedoms must be respected***

EU activities and legislation must respect fundamental trade union rights and freedoms. In some EU legal instruments (directives or regulations) there may be reason to write explicitly that they may not be interpreted in any way to impact negatively on the exercise of fundamental rights and freedoms, for example the right to strike, as they are recognised in Member States.

***EU legal instruments must respect collective agreements and the autonomy of the social partners***

As far as Sweden is concerned, it is important that relevant EU legal instruments enable national implementation via collective agreements and do not constitute obstacles to the Swedish industrial relations model. The legal instruments should expressly respect collective agreements and not affect the social

partners' right of self-determination or their mutual relations, for example the right to negotiate, enter into or apply collective agreements in accordance with national legislation or practice.

### ***Wage formation falls under national competence***

In some legal instruments it may be appropriate to establish that application shall fully respect national practice and the national systems of wage formation.

The Swedish Trade Union Confederation (LO), the Confederation of Professional Employees (TCO) and the Swedish Confederation of Professional Associations (Saco) oppose the introduction of a European minimum wage for all EU countries, regardless of whether it is decided through legislation or collective agreement. Wage formation falls under national competence and must be dealt with under national practice and national systems for relations in the labour market.

The European Trade Union Confederation (ETUC), where LO, TCO and Saco are members, holds a joint position in this matter and is of the opinion that minimum wage systems should only be introduced in countries where the social partners consider it to be necessary.

### ***Minimum directives, not harmonisation, in the labour market area***

Under the Treaty on the Functioning of the European Union, EU legal instruments concerning conditions in the labour market, such as health and safety at the workplace or the information and consultation of workers, must be minimum directives (Art. 153.2 (b)). It is important that this principle is upheld so that it is possible for Member States to introduce and retain provisions that go further and give better protection than EU legislation.

However, in recent years the European Commission has expressed an increasingly negative attitude to Member States' being able to have greater ambitions. Part of this is the introduction of the concept of "gold plating", which is a derogatory term for when Member States exceed the minimum requirements of EU legislation (overregulation).

A considerably worse alternative to minimum directives are directives or regulations with content that aims to harmonise Member States' legislation in the labour market area, in other words to make it the same. In practice this constitutes an obstacle to retaining or introducing better national legislation in the area to which the legal instrument refers.

Nor should the EU harmonise certain aspects concerning the relation between employer and employee, for example by creating a joint definition of terms such as worker or self-employed person.

### ***The EU's regulatory reform must not lead to a worse situation for workers***

The European Commission's ambition to continually simplify the EU regulatory framework and reduce the administrative and regulatory burden for companies in Europe is often commendable. However, in this work the EU must respect workers' rights and health and safety protection at workplaces.

Protection of the working environment and other rights in the area of working life must apply to all workers, regardless of form of employment or size of company. Consequently, LO, TCO and Saco are against the European Commission invoking the principle that all micro enterprises (companies with up to 10 employees) should as a rule be exempted from all future EU legislation.

*Trade agreements with third countries must not undermine collective agreements*

LO, TCO and Saco are in favour of free trade. Increased trade within the EU and between the EU and third countries is of benefit to the Swedish economy and to trade union members. Free trade must not, however, lead to competition for poor conditions of employment. Nor should it be possible to regard rules on protection of workers as constituting barriers to trade.

The international community has agreed on an absolute basis of labour standards, the ILO Core Conventions, which contain the fundamental rights and obligations for workers and trade unions. The Core Conventions are of utmost importance for protecting workers and free trade agreements must rest on the principle that the parties must respect the fundamental rights under these Conventions.

The EU's trade and investment agreements with third countries must not be able at all to affect rules on protection of workers in national legislation and collective agreements or collective trade union rights such as the right of association, the right to negotiate and the right to take industrial action.

### ***The Brussels Office of the Swedish Trade Unions***

The Brussels Office of the Swedish Trade Unions (the Swedish Trade Union Confederation, the Confederation of Professional Employees and the Swedish Confederation of Professional Associations) is tasked with monitoring cooperation in the European Union and supporting the central organisations and their affiliates in their work to promote European policy that is in keeping with their members' interests and needs.

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