



Nordic Employment Law Bulletin - March



Per Benonisen
Partner, Faggrupeleder
arbeidsrett



Rajvinder Singh Bains
Partner



Kaja Kaarby
Senioradvokat



Ane Bergo
Senioradvokat



Anniken Sjøvold
Fast advokat

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

- **New rules for working from home.** The parties of the Danish Parliament have agreed to amend the rules in the Danish Working Environment Act (the "Act").

According to the current rules, employees are allowed to use their own equipment when they are working from home provided that the equipment fulfils certain standards. If it does not meet the standards laid down in the Act, employers are obligated to provide the necessary hardware. This only applies if the employee is either working from home full-time or if the employee is working from home on a regular basis at least one day a week. However, according to the new rules, the employer is only obligated to provide the necessary hardware if the employee works from home at an average of more than two days per week over the course of a month.

The above change is expected to take effect at the end of April 2022.



Highlights from Finland

- **Negotiations of the Collective Labour Agreements are ongoing and already completed in some sectors.** Negotiation results have been reached for example within Technology, Chemistry, Commercial and ICT sectors. Generally applicable Collective Labour Agreements stipulate, inter alia, mandatory salary increases for the term of the Collective Labour Agreements which is mainly 2-3 years.
- **A working group appointed by the Ministry of Social Affairs and Health has introduced a draft proposal for a government bill to temporarily amend the Act on Occupational Health and Safety.** The working group proposes that under certain conditions employers would be entitled to process employee's data concerning covid-19 vaccination or covid-19 infection given that the work performed contains evident threat of exposure to covid-19 and the data is necessary for conducting risk assessment at the workplace or to take necessary measures to prevent or reduce the risk of exposure. The Finnish Government will handle the proposal within the coming weeks.
- **The national recommendation on remote work ends on Monday 28 February 2022.** Employers are still encouraged to follow the instructions provided by regional health authorities, as the situation in different regions may change rapidly, and controlled return to workplaces is advisable. In addition, return to workplaces and other protective measures should be based on risk assessment in accordance with the Act on Occupational Health and Safety.



Highlights from Norway

- **Supreme Court decision on employer's duty to facilitate an employee's special needs due to reduced capacity for work (Nw. tilretteleggingsplikt).** The Norwegian Supreme Court rendered on 16 February 2022 a decision on the scope of the employer's duty to facilitate for an employee who was dismissed after having his working capacity permanently reduced to 50 per cent. The facilitation criteria "as far as possible" under the Working Environment Act (the "WEA") section 4-6 does not, according to the Supreme Court, require an employer to allow an employee to continue in an interim 50 per cent position permanently or for that matter require the employer to establish a new 50 per cent permanent position to comply with the obligations pursuant to the WEA. This would only exceptionally be the case and would require "weighty reasons" to be implemented.
- **An employee's secret recording of a conversation with the employer was allowed as evidence by the Court of appeal.** In connection with a dispute regarding a temporary lay-off an employee made a secret recording of a meeting with the chairperson of the company. Following a specific assessment of the circumstances, the Court of the appeal allowed the recording to be used as evidence. The Court stated that such a recording can be allowed as evidence even though it has been collected in breach of the Personal Data Act or GDPR.
- **No need for requiring employers to secure holiday pay in a locked account.** A selected committee appointed by the Norwegian Ministry of Labour and Social Inclusion has recently adopted a report and concluded that most employers comply sufficiently with the duty to disburse holiday pay to their employees in due time. Therefore, it would be disproportionate to propose enforcing measures in this regard (e.g. suspense account, bank guarantee, a separate holiday pay scheme or state guarantee). The committee has nevertheless suggested "softer" efforts to prevent non-compliance with timely payment of holiday pay, such as a clarification of the payment obligation in the Holiday Act, a guide on the topic holiday pay and extension of information/consultation with regard to the employer's payment obligations.



Highlights from Sweden

- **Returning to normal. As of 9 February 2022, all Covid-19 restrictions for employers have been lifted.** For employers outside of the healthcare sector and educational system this means that they can carry out their business as usual and that the employees are welcome back to the office without any further recommendations. Certain travel restrictions still apply from outside of the EU/EEA.
- **The Supreme Court renders its first ruling on exploitation of labor.** The Swedish Supreme Court has rendered its very first verdict where an employer was found guilty of human exploitation (Sw. människoexploatering). A married couple from Bangladesh took up an employment in a restaurant where they had been promised free room and board as well as an hourly wage. The working hours significantly exceeded mandatory maximums and no wages were paid. While the circumstances in this case may be extreme, the verdict should serve as a reminder for all employers to monitor employees' working hours.
- **Bishop defrocked after extramarital affair.** A bishop in the Church of Sweden has been removed from his position after having had an extramarital affair. The affair had been going on for years and the bishop failed to take measures to end the affair even after it had become public. In a "unique and historic" decision, the Church decided to defrock the bishop, stating that the bishop's actions had damaged the reputation and trust necessary for the position.