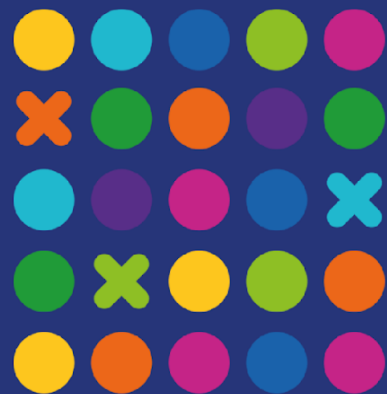




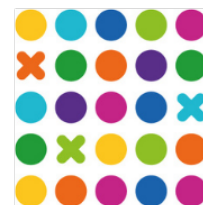
Deliverable No. D2.3: National and Comparative Job Quality and Inclusive Working Conditions Reports

Swedish Report on Care Workers' Job Quality and Inclusive Working Conditions

Partner: Lund University

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June 2024



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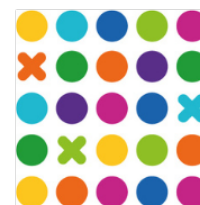
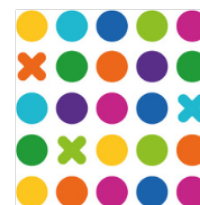


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1. Introduction¹

The aim of this national report is to analyse job quality and inclusive working conditions of care workers in Sweden. The report focuses on labour law analysis, but also includes analysis of law and policy, industrial relations, and labour market characteristics, as well as analysis of the interplay between national law and EU/European and international law.²

The content and outline of the national report is as follows. Section 2 discusses various aspects of care work and domestic care work, including labour market characteristics, and current debates. Section 3 addresses social partners and industrial relations, fundamental trade union rights and collective bargaining, and employee influence. Section 4 presents a discussion on employment status, flexible forms of employment, and employment protection, while Section 5 presents a discussion on wages and benefits. Section 6 focuses on working time, health and safety, implications of the COVID-19 pandemic, and training and competence development. Section 7 discusses social security coverage and benefits. Section 8, finally, provides some concluding remarks.

The CARE4CARE project studies a selected group of care workers, namely, care workers in the public and private care sector, and in formal and informal economies, who perform paid work and provide personal assistance and/or health assistance to elderly persons, sick persons, and persons with a disability. Focus is on care workers who have at most a Bachelor's degree.

This national report is drafted on the basis of a common WP2-questionnaire. The report combines a legal-analytical method, i.e. an analysis of legal sources in order to clarify, systematise, and evaluate the content of labour law, with a socio-legal approach and an integration of labour law and industrial relations perspectives.³ The materials subjected to study are legislation and preparatory works at Swedish, EU/European, and international level, collective agreements, case law from the Swedish Labour Court and the Court of Justice of the European Union, legal doctrine and industrial relations research, and reports, statistics, and policy documents at Swedish, EU/European, and international level.

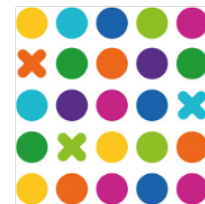
Sweden is a member of the EU since 1995. The Swedish labour law and industrial relations system is built on self-regulation, autonomous collective bargaining, a tradition of collaboration and social partnership, and strong legal rights and industrial relations practices of employee influence and information, consultation, and co-determination through a single-channel trade union system. There is no statutory minimum wage or system for extension of collective agreements. Collective bargaining regulates wages and other working conditions and is characterised by 'organised decentralisation' and an emphasis on local and individual bargaining within a framework of national, sectoral, and multi-employer collective bargaining.⁴ The trade unionisation rate is about 70 per cent, the employers' organisation rate is about 90 per cent, and the collective bargaining coverage rate is

¹ This study has received ethical approval by the Swedish Ethical Review Authority (project title: 'CARE4CARE: en studie av arbetsvillkoren och arbetssituationen för care workers', dnr 2023-04438-01).

² See also the Swedish national report written within the framework of CARE4CARE WP3, Jenny Julén Votinius, 'Discrimination map' and inequalities in the care sector. *Swedish Report*. The Swedish national reports within CARE4CARE WP2 and WP3 were drafted in a coordinated way and partly overlap as regards topics and content. This report also draws on previous research on EU law and on collective bargaining and decentralisation in Sweden, including in the public health care sector, see Mia Rönnmar, 'Labour and equality law' in Catherine Barnard and Steve Peers (eds), *European Union Law* (4th edn, Oxford University Press 2023), 630–661 and Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022). – Furthermore, we would like to express our thanks to the participants at the Swedish national stakeholder meetings for generously sharing their time and providing us with rich materials and important comments and perspectives.

³ See e.g. Mark Van Hoecke (ed.), *Methodologies of Legal Research. Which Kind of Method for What Kind of Discipline?* (Hart Publishing 2011) and Amy Ludlow and Alysia Blackham (eds), *New Frontiers in Empirical Labour Law Research* (Hart Publishing 2015).

⁴ See Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).



about 90 per cent.⁵ Swedish labour law legislation is often semi-compelling and provides scope for deviations by way of collective agreements, also to the detriment of individual employees. If the legislation in question implements EU law, there is a limited scope for collective bargaining through a ban against collective agreements deviating from rights afforded by EU law (the so-called 'EU ban', *EU-spärr*). Thus, there is a crucial interplay between legislation and collective bargaining. It is the role of the social partners to safeguard a general level of pay and employment conditions. Supervision and enforcement of terms and conditions of employment are carried out to a large extent by the trade unions or the social partners in cooperation. Effective enforcement depends to a large degree on the workplace being covered by a collective agreement.⁶

The Swedish labour law and industrial relations system is a representative of the Nordic labour law and industrial relations system and shares some common features with the systems in the other Nordic countries, such as a tradition built on voluntarism, statutory non-intervention, and importance of social partners and collective bargaining.

Sweden, and the Swedish welfare state and social security system, have been described in terms of a coordinated market economy (Hall and Soskice), a social democratic welfare state (Esping-Andersen) and a Scandinavian social security system. The Swedish welfare state is publicly funded and comprehensive. At the same time, it is oriented towards the individual. Every adult person should be able to support themselves and live independently according to their own choices taking into account the services, benefits, and, if needed, additional support provided by the public system (Section 7).⁷

The overall regulatory framework of the care sector in Sweden is characterised by uniformity. This is in line with Swedish labour law in general, which has a uniform and extensive scope and a high degree of equal treatment of different categories of employees. Normally the same legislation applies to all employees irrespective of labour market sector, trade union organisation, form of employment, and position. There are minor differences as regards labour law regulation in the public and private sector, although the (1994:260) Public Employment Act provides some specific rules for public sector employment, for example, as regards recruitment, employment protection, collective action, secondary employment, and disciplinary sanction, especially for employees in the state sector, but to some extent also for employees in the regional and municipal sector, including the care sector.⁸ Furthermore, the constitutional framework, including the (1974:152) Instrument of Government (*Regeringsformen*) applies differently in the public and private sector, respectively. The Instrument of Government, and its declaratory provision on social rights and catalogue of fundamental rights and freedoms, apply, in principle, only between individuals and the public. The provisions on fundamental rights in the Instrument of Government, are thus applicable to public employers, but not to employers and employment relationships in the private sector of the labour market. Furthermore, in relation to a number of fundamental rights of importance to labour law a certain overlap exists between the (1974:152) Instrument of Government and the European Convention of Human Rights, applied as domestic Swedish law since 1995.⁹ The European Convention of Human Rights gives rise to both

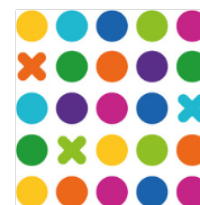
⁵ See Medlingsinstitutet, *Avtalsrörelsen och lönebildningen 2022. Medlingsinstitutets årsrapport* (Medlingsinstitutet 2023), 148 ff. and Medlingsinstitutet, *Avtalsrörelsen och lönebildningen 2023. Medlingsinstitutets årsrapport* (Medlingsinstitutet 2024).

⁶ See e.g. Niklas Bruun and Jonas Malmberg, 'Lex Laval – Collective Actions and Posted Work in Sweden' in Roger Blanpain and Frank Hendrickx (eds), *Labour Law between Change and Tradition. Liber Amicorum Antoine Jacobs* (Kluwer Law International 2011).

⁷ See Gøsta Esping-Andersen, *The three worlds of welfare capitalism* (Polity Press 1990), Peter A. Hall and David Soskice (eds), *Varieties of Capitalism. The Institutional Foundations of Comparative Advantage* (OUP 2001), Henrik Berggren and Lars Trägårdh, *The Swedish Theory of Love – Individualism and Social Trust in Modern Sweden* (University of Washington Press 2022), and Martina Axmin, *Access to Cross-Border Healthcare for Older Persons in the European Union: the Interplay between EU Law and Swedish Law* (Lund University 2020).

⁸ See Kent Källström and Jonas Malmberg, *Anställningsförhållandet. Inledning till den individuella arbetsrätten* (6th edn, Iustus 2022), 35 f., Karl Pfeifer, *Lagen om offentlig anställning. En kommentar* (Norstedts Juridik 2019), and Anderz Andersson et al., *Kommunal arbetsrätt* (4th edn, Studentlitteratur 2014).

⁹ See further, Mia Rönnmar, 'Fundamental Rights and Swedish Labour Law' in Janice R. Bellace and Beryl ter Haar (eds), *Research Handbook on Labour, Business and Human Rights Law* (Edward Elgar 2019), 84–100.



negative and positive obligations for States. The individual is protected from interference from the State. However, the State may also have a positive obligation to adopt measures to secure fundamental rights protection in relationships between individuals, i.e. in employment relationships and in relations between trade unions and employers, both in the public and private sector. Such a positive obligation exists, for example, in relation to the right to respect for private and family, freedom of association and freedom of expression. Thus, this is a difference in relation to the (1974:152) Instrument of Government and its catalogue of fundamental rights, which applies only to public employers.¹⁰

The ILO, the Council of Europe, and the EU provide a fundamental rights framework of relevance for working conditions of care workers in Sweden, including ILO Fundamental Conventions on fundamental rights, such as freedom of association and occupational safety and health,¹¹ and ILO Conventions and Recommendations on other aspects, such as, domestic work, flexible forms of employment, employment protection, wages, working time, health and safety, violence and harassment at work, and social security and social protection. The fundamental rights framework of the Council of Europe entails the European Convention of Human Rights (discussed above) and the revised European Social Charter, including a recognition of fundamental rights, such as the freedom of association, right to collective bargaining, and right to collective action, and several other rights linked to aspects of job quality and working conditions. In the EU, the EU Charter of Fundamental Rights encompasses rights, freedoms and principles of importance to EU labour law and the regulation of job quality and working conditions, including, for example, the respect for private and family life (Article 7), the freedom of expression and information (Article 11), the right to information and consultation (Article 27), the right to collective bargaining and collective action (Article 28), the protection against unjustified dismissals (Article 30), and the right to fair and just working conditions (Article 31), including aspects of working time, annual leave, and health and safety.¹²

EU labour law is an area of shared competence and interplays with Swedish law, in complex, and sometimes conflictual ways. EU law is regulated by a mix of Treaty provisions, fundamental rights and general principles of EU law, secondary law, collective agreements at EU level, case law from the Court of Justice, and various policies and soft law measures. Several EU Directives have throughout the years been adopted on topics related to job quality and working conditions, and subsequently implemented in Swedish law: in the area of employee influence, the Directives on Transfers of Undertakings, Collective Redundancies, European Works Councils, and Information and Consultation,¹³ and the Whistleblowing Directive;¹⁴ in the area of flexible forms of employment and employment protection, the Part-Time Work Directive, the Fixed-Term Work Directive, and the Temporary Agency Work Directive,¹⁵ the Directive on Transparent and Predictable Working Conditions,¹⁶ the Directives on Transfers of Undertakings and Collective Redundancies, and several Directives on non-discrimination; in the area of health

¹⁰ See further, for example, Petra Herzfeld-Olsson, 'Folkrätten i arbetsrätten' in Rebecca Stern and Inger Österdahl (eds), *Folkrätten i svensk rätt* (Liber 2012), 217 f.

¹¹ See ILO Conventions No 87, 98, 155, and 187.

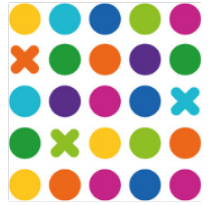
¹² See, for example, Jean-Michel Servais, *International Labour Law* (7th edn, Kluwer Law International 2022), Edoardo Ales *et al.* (eds), *International and European Labour Law. Article-by-Article Commentary* (Nomos 2018), Matti Mikkola, *Social Human Rights of Europe* (Karelactio 2010), Niklas Bruun *et al.* (eds), *The European Social Charter and the Employment Relation* (Hart Publishing 2017), Filip Dorssemont, Klaus Lörcher, and Isabelle Schömann (eds), *The European Convention on Human Rights and the Employment Relations* (Hart Publishing 2013), and Steve Peers *et al.* (eds), *The EU Charter of Fundamental Rights: A Commentary* (2nd edn, Hart 2021).

¹³ Directives 2001/23/EC, 98/59/EC, 2009/38/EC, and 2002/14/EC.

¹⁴ Directive 2019/1937/EU.

¹⁵ Directives 97/81/EC, 1999/70/EC, and 2008/104/EC.

¹⁶ Directive 2019/1152/EU.



and safety, working time, and leave, the Framework Directive on Health and Safety,¹⁷ the Working Time Directive,¹⁸ and the Work-Life Balance Directive;¹⁹ and in the area of minimum wage, the Directive on adequate minimum wages in the EU.²⁰ In the EU, the substantive content of social security is, in principle, a matter for the respective Member States and national legislation. However, the coordination of social security in the EU and between the Member States was implemented early on to facilitate the free movement of workers.²¹

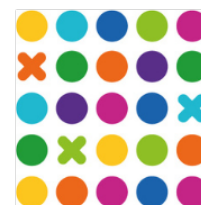
¹⁷ Directive 89/391/EEC.

¹⁸ Directive 2003/88/EC.

¹⁹ Directive 2019/1158/EU.

²⁰ Directive 2022/2041/EU. – For a discussion on the international and EU/European legal framework related to care workers and aspects of gender equality, non-discrimination, and labour migration, see CARE4CARE WP3 reports.

²¹ See Regulation 883/2004 (OJ [2004] L 166/1). See also Frans Pennings, *European Social Security Law* (7th edn, Larcier Intersentia 2022).



2. Care work and domestic care work

2.1. The care sector, care workers, and domestic care work

The public sector in Sweden is large and includes a broad range of publicly funded government and welfare-state activities. This sector is divided into a state sector and a local government sector, where local government in turn is divided into regions and municipalities. The state sector covers government, parliament, and state agencies, and the regional and municipal sector covers core care work activities such as health care, elder care, care for persons with a disability, and childcare, but also primary and secondary education. Around 270,000 employees work in the state sector, while around 1.2 million employees work in the regional and municipal sector; about 75 percent of these employees work in the municipal sector. There are twenty-one regions and 290 municipalities in Sweden. In 2020, regions across Sweden employed around 285,000 employees. Seventy-nine per cent of all regional employees are engaged in a healthcare branch or profession.²²

The care sector in Sweden is mainly public with a relatively small but growing private care sector, i.e. care services are mainly provided by public entities but also by private entities. Around 80 percent of care services in Sweden are provided by regions and municipalities.²³ In the private care sector, care services are provided by private commercial companies, including temporary work agencies, and by private non-profit organisations. In addition, private care services are, to a very small extent, offered by individual care workers who are personal assistants and provide care services directly to the care recipient, who is a person with a disability. In general, in care services, an important distinction is made between residential care services, where care is provided in establishments to a group of care recipients, and home care services, where care is provided in the individual home of the care recipient. In Europe, two different models of employment are commonly used in home care services: either care work is carried out by domestic care workers who are employed directly by the care recipient or his or her family, this is common, for example, in Italy and Spain, or care work is carried out by domestic care workers who are employed by public or private entities, which is the dominant model of employment used in Sweden in elder care and also as regards personal assistants. In the public sector, health care is primarily organised by the regions, while the municipalities organise elder care, care for persons with a disability, and some health care.

Swedish elder care policy is based on the principle of ageing in place, encouraging elderly to remain in their homes for as long as possible with various forms of support.²⁴ The great majority of elderly persons live in their homes with or without care services. In 2020, only 4 percent of the age group 65–79 and 11 percent of persons above 80 lived in residence homes for elderly.²⁵

Likewise, in disability policy, the promotion of individual support and solutions for individual independence is a cornerstone in all parts of life including housing.²⁶ Around 14 000 persons with a disability are entitled to personal assistance.²⁷ There are around 100 000 personal assistants, 22 percent of whom are relatives to the assistance users. In the majority of cases these relatives are parents caring for a child with a disability.²⁸ Many personal

²² SKR, *Personalen i välfärden. Personalstatistik för kommuner och regioner 2020* (SKR 2021).

²³ Statistics Sweden, *Finances and providers within education, health care and social services* (Statistics Sweden 2021).

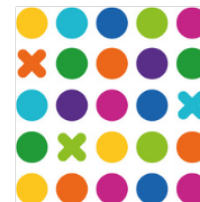
²⁴ Government Inquiry Report, SOU 2017:21, *En nationell kvalitetsplan för vård och omsorg om äldre personer*, 83.

²⁵ Swedish National Board of Health and Welfare, *Behov av och tillgång till särskilda boendeformer för äldre* (Swedish National Board of Health and Welfare 2021) and Swedish National Board of Health and Welfare, *Statistik om socialtjänstens insatser till äldre, April 2023* (Swedish National Board of Health and Welfare 2023).

²⁶ Government Bill, Prop. 2016/17:188 *Nationellt mål och inriktning för funktionshinderspolitiken*.

²⁷ Swedish Social Insurance Agency, *Användning av assistansersättning. Hur assistansanvändarna förlägger sin assistansersättning. Socialförsäkringsrapport 2022:3* (Swedish Social Insurance Agency 2022), 5.

²⁸ Swedish Social Insurance Agency, *Assistansersättning*, Korta analyser 2018:2 (Swedish Social Insurance Agency 2018).



assistants work fixed-term, by the hour, and part-time, with one in five working less than four hours a week. Personal assistants normally work in the home of the care recipient.²⁹ Following a number of different reports on abuses of the labour immigration system involving fraudulent use of work permits for personal assistants, a Government Inquiry Report has proposed that from June 2025 it shall no longer be possible to obtain a work permit to work as a personal assistant.³⁰

In health care, Sweden is the country in the EU which, together with the Netherlands, has the highest proportion of home care beds (and the lowest number of hospital beds). In addition, patients can receive highly specialized medical healthcare at home.³¹

There is a major element of domestic care work in Sweden. A large part of the public care sector is carried out in the form of domestic care work. This is the case in elder care, personal assistance to persons with a disability, and in health care. In 2021, the most common occupation in Sweden was assistant nurse in domestic care and in residence homes for elderly persons.³² Only a smaller portion of assistant nurses work in residence homes, whereas most of these employees carry out their work in private homes, as do approximately 6000 nurses.³³

The situation for domestic workers, the care economy, and global care chains have been highlighted in international scholarship and in research, legislation, and policy at ILO level.³⁴ At Swedish national level, the matter has drawn less attention. This has been explained by the fact that for a long time, paid domestic work – apart from domestic care work in the often publicly-organised form described above – was very rare in Sweden. However, for the last two decades, the demand for household services has increased, and as noted by Calleman, at the same time, globalisation has led to increased access to labour from countries with considerably lower wages than Sweden.³⁵ The Government dealt with the topic in the preparatory works preceding the Swedish ratification in 2019 of the ILO Domestic Workers Convention No 189. Before the ratification Sweden adopted necessary legislative changes in the (1970:943) Act on Working Time etc. in Domestic Work.³⁶ This Act constitutes a rare exception to the basically uniform scope of Swedish labour law and applies to domestic workers, i.e. employees who carry out their work in their employer's home and are employed directly by the employer. In practice, most persons belonging to this very small group of employees are persons employed directly by the care recipient and private households to provide care for persons with a disability, as personal assistants for persons with a disability, or for elderly persons. The (1970:943) Act on Working Time etc. in Domestic Work contains specific provisions on working hours, overtime, and limited employment protection (with no requirement for objective grounds for

Swedish Social Insurance Agency, *Anhöriga till personer med statlig assistansersättning En beskrivning av anhöriga som personliga assistenter, mottagare av personlig assistans och assistansersättningen*, Socialförsäkringsrapport 2018:5 (Swedish Social Insurance Agency 2018). See also Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*.

²⁹ See Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*.

³⁰ See Government Inquiry Report, SOU 2024:15, *Nya regler för arbetskraftsinvandring*.

³¹ SKR, *Fakta om vårdplatser* (SKR 2022), 8, 10 and 23.

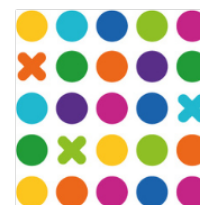
³² Swedish Occupational Register 2021, https://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START_AM_AM0208/.

³³ A recent study on nurses in home elder care is Maria Claesson, *Sjuksköterskans ledarskap i det patientnära vårdandet av äldre personer i kommunens hemsjukvård Att leda i ett mellanrum av närhet och distans*, (University of Borås 2022).

³⁴ See, for example, Adelle Blackett, *Everyday Transgressions: Domestic Workers' Transnational Challenge to International Labor Law* (Cornell University Press 2019), Virginia Mantouvalou, 'Human Rights for Precarious Workers: The Legislative Precariousness of Domestic Labor', *Comparative labor law & policy journal*, 2012, Vol. 34, 133, Vera Pavlou, *Migrant Domestic Workers in Europe. Law and the Construction of Vulnerability* (Hart 2021), and Judy Fudge, 'Global Care Chains: Transnational Migrant Care Workers' in M., Romero, V. Preston, and W. Giles (eds), *When Care Work Goes Global Locating the Social Relations of Domestic Work* (Routledge 2016).

³⁵ See Catharina Calleman, 'Clean Homes on Dirty Conditions? — Regulation and Working Conditions in the Domestic Work Sector in Sweden' in C. Carbonnier and N. Morel (eds), *The Political Economy of Household Services in Europe* (Palgrave 2015) and Catharina Calleman, 'Domestic services in a "land of equality": the case of Sweden', *Canadian Journal of Women and the Law*, 2011, Vol. 23 (1), 121–139.

³⁶ Government Bill, Prop. 2017/18:272 *ILO:s konvention om anständiga arbetsvillkor för hushållsarbetsare*.



dismissal and a shorter notice period). In all other matters, including health and safety, this group of employees is covered by general labour legislation.

There is a minor element of undeclared work in the Swedish care sector. Generally, Sweden is estimated to be one of the countries in the EU with the lowest share of undeclared work.³⁷ However, at the same time, the topic of undeclared work is high on the political agenda in Sweden, where it constitutes an important element of the wider range of abusive practices in working life that are referred to as working life crime.³⁸ The sectors most likely to report competition from undeclared work are construction, restaurants and transportation.³⁹ There are no estimates on the incidence of undeclared work in the care sector.

CARE4CARE studies a selected group of care workers, namely home caregivers, basic care workers, health professionals in nursing with a Bachelor's degree, and health professionals in nursing with a Master's degree.⁴⁰ The definitions and demarcations of specific categories of care workers or care occupations are linked to actual care work tasks, professional occupational licenses and protected titles, and trade union and labour market organisation.

Home care givers are persons who provide personal assistance and domestic care for persons with a disability in their homes. There are no specific requirements as regards education or qualifications for this care occupation of personal assistant for persons with a disability (*personlig assistent*).

Basic care and nursing workers are persons who perform low-complexity and varied care and nursing tasks, and who are involved in personal care, domestic help, and hygiene and health services. These persons work e.g. in hospitals, residences for the elderly, day care centers, and in the care recipients' homes. There are two care occupations: care assistant (*vårdbiträde*) and assistant nurse (*undersköterska*). For care assistants, there is no standardised requirement as regards education or qualification, however, in practice, many employers require upper secondary school (*gymnasium*). For assistant nurses, an upper secondary school diploma from a health and care programme is required. Since 1 July 2023, assistant nurse is a protected professional title, requiring a license from the National Board of Health and Welfare (*skyddad yrkestitel*). Anyone who had a permanent position as an assistant nurse when the requirement entered into force is able to continue to use the title until 30 June 2033 without a certificate.

Health professionals in nursing with a Bachelor's degree are persons who work e.g. in hospitals, residences for the elderly, day care centers, or in home care. The care occupation of nurse (*sjuusköterska*) requires a Bachelor's degree in nursing. Nurse is a protected professional title, requiring a license from the National Board of Health and Welfare (*legitimation*).

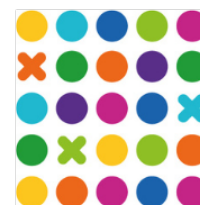
Health professionals in nursing with a Master's degree are persons who normally work in hospitals, but also can be employed in residences for the elderly or in advanced health care in homes. The care occupation of specialized nurse (*specialistsjuusköterska*) requires a Master's degree in nursing. Some specialist nurse professions, such as midwife and radiographer, are protected professional titles which require a licence from the National Board of

³⁷ See European Labour Authority, *Tackling undeclared work in the personal and household services sector September 2021* (European Labour Authority 2021) and European Labour Authority, *Extent of undeclared work in the European Union February 2023* (European Labour Authority 2023).

³⁸ Government Inquiry Report, SOU 2023:8, *Arbetslivskriminalitet: arbetet i Sverige, en bedömning av omfattningen, lärdomar från Danmark och Finland*. Delbetänkande av Delegationen mot arbetslivskriminalitet and Carin Håkansta *et al.*, 'Power resources and the battle against precarious employment: Trade union activities within a tripartite initiative tackling undeclared work in Sweden', *Economic and Industrial Democracy*, 2022, 1–28.

³⁹ Confederation of Swedish Enterprise, *Konkurrensen med den svarta sektorn – ett stort problem för företagen och samhällsekonomin* (Confederation of Swedish Enterprise 2021).

⁴⁰ In this Swedish national report, the focus is on care and health care in the area of nursing. Categories of care workers and care occupations, such as *s au pair*, physiotherapist, audiologist, ambulance paramedic, speech therapist, occupational therapist, and physician are excluded.



Health and Welfare (*legitimation*). Other specialist nurse professions may apply for a recognition of a specialist qualification from the National Board of Health and Welfare.⁴¹

2.2. Labour market characteristics

The Swedish labour market features high employment rates, high employment continuity over the life course, and relatively low gender disparities in labour market integration. From the 1970s, the female participation in employment has increased significantly from an already high level, and since the mid-1980s the difference in employment rates between men and women has been very small, with 77 percent for women and 80.5 percent for men in 2023.⁴² This development corresponded to the gradual introduction of reforms to increase women's participation in the labour market, including gender neutral parental leave and comprehensive public child care.⁴³ While Sweden is often referred to as a model for gender equality, the labour market is one of the most gender segregated across Europe, although slowly becoming less so.⁴⁴ The pronounced gender segregation has been attributed to the rapid increase in women's labour force participation between the 1970s and 1990s, when a large proportion of Swedish women entered the labour market in already female-dominated occupations, including in care work occupations.⁴⁵ Thus, with respect to care workers, the gender segregation is very pronounced. In 2021, the most common occupation in Sweden was 'assistant nurse in home care, home health care and residence homes for the elderly'.⁴⁶ The gender composition of this group was 89 percent women and 11 percent men. This is similar to what applies for nurses, where women accounted for 88 percent, as well as for assistant nurses generally, and home care assistants for elderly. Moreover, women account for around 70 percent of care assistants and personal assistants for persons with a disability.⁴⁷ This is in contrast to the entire workforce, where the shares of men and women are virtually equal with women making up over 48 percent.⁴⁸

⁴¹ In the joint wage statistics of the social partners, each employers' organisation applies their own classification system. Municipalities and regions use the Labour Identification System (*Arbetsidentifikation*, AID) with about 225 occupational codes for different areas of work. Companies in the private sector use various systems, most frequently the Business Sector Occupational Classification (*Näringslivets yrkesklassifikation*, NYK14), with around 1,000 occupational codes. It is based on Statistics Sweden's SSYK codes, with some additions determined by the Confederation of Swedish Enterprise together with the employers' organisations. Other private employers use for instance IPE (Internal Position Evaluation) and BAS (Befattnings- och arbetsvärderingssystem / Position and work evaluation system). There are also many other systems in place, which have been developed by the social parties together or by one of them, or by external consultants. Some occupations in the care sector are clearly distinguished from others in that they require a license from the National Board of Health and Welfare, which also functions to classify these occupations (see above). See Government Inquiry Report, SOU 2022:4, *Minska gapet. Åtgärder för jämställda livsinkomster*, 241, Confederation of Swedish Enterprise, *Näringslivets Yrkesklassifikation 2021 – NYK. Beskrivning av klassifikationen – Systematisk beskrivning* (Confederation of Swedish Enterprise 2021), and Johanna Kumlin, *Sakligt motiverad eller koppling till kön? En analys av arbetsgivares arbete med att motverka osakliga löneskillnader mellan kvinnor och män. Report 2016:1* (Equality Ombudsman 2016), 52.

⁴² See Statistics Sweden, *Labour Force Surveys* (Statistics Sweden 2021) and Dominique Anxo, 'Towards an Active and Integrated Life Course Policy: the Swedish Experience' in Dominique Anxo, Gerhard Bosch and Jill Rubery (eds) *The welfare state and life transitions: a European perspective* (Cheltenham 2010), 113.

⁴³ See Christina Bergqvist, 'The Welfare State and Gender Equality' in Jon Pierre (ed.) *The Oxford Handbook of Swedish Politics* (Oxford University Press 2016) and Jonas Hinnfors, 'Swedish Parties and Family Policies 1960–1980: Stability Through Change' in Rolf Torstendahl (ed.) *State Policy and Gender System in the Two German States and Sweden 1945–1989* (Uppsala universitet 1999).

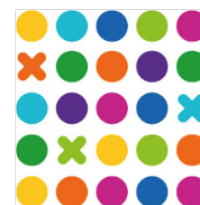
⁴⁴ See Ingvill Bagøien Hustad *et al.*, 'Occupational Attributes and Occupational Gender Segregation in Sweden: Does It Change Over Time?', *Frontiers in Psychology*, 2020, 11 and Anne Lise Ellingsæter, 'Scandinavian welfare states and gender (de)segregation: recent trends and processes', *Economic and Industrial Democracy*, 2013, Vol. 34, 501–518.

⁴⁵ See Helinä Melkas and Richard Anker, 'Occupational segregation by sex in nordic countries: an empirical investigation', *International Labor Review*, 1997, Vol. 136, 341–364.

⁴⁶ See Swedish Occupational Register 2021.

⁴⁷ See Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*, 237.

⁴⁸ See Swedish Occupational Register 2021.



Most employees have a permanent and full-time employment.⁴⁹ In the care sector, however, the percentage of fixed-term employment and part-time employment are both above average. This applies not least to the groups of care workers studied in CARE4CARE, all of whom work, as we have seen, in occupations that are clearly female-dominated. In the care sector the share of fixed term employment is between 20 and 25 percent, depending on care, occupation, and branch. There are however important differences between both occupations and areas where care work is carried out.⁵⁰ Thus, while only around 10 percent of the nurses in municipalities and regions are employed on fixed-term employment contracts, the opposite applies for care assistants: 66 percent of those employed in the municipalities have a fixed term employment contract. Assistant nurses can be found somewhere in between these two extremes.⁵¹

Fixed-term employment contracts are more common in elder care and among personal assistants for persons with a disability than in other parts of the care sector. In elder care, where the great majority of the care workers are employed by regions or municipalities and work in special housing or in domestic care for the elderly,⁵² many employees have fixed-term employment contracts: most notably care assistants, of whom 60 percent has a fixed-term employment contract, while the corresponding figure for assistant nurses is 16 percent.⁵³ Fixed-term employment contracts are even more common for personal assistants for persons with a disability. Here, the majority or 64 percent are employed by a private care company, and only around 25 percent work for municipalities. There is also a small number of personal assistants who are employed by private non-profit organisations, such as cooperatives, and an even smaller number of four percent, are employed directly by the care recipient.⁵⁴ For most personal assistants for persons with a disability, the collective agreement allows exceptions to the Employment Protection Act (1982:80). As a result, eight out of ten personal assistants are employed on a fixed-term for the duration of the assignment (Section 5).⁵⁵

A particular form of fixed-term employment is when the employee is paid per hour (sometimes also called on call work). Hourly employees are common for care assistants and assistant nurses particularly in elder care. In 2021, more than half of all hourly paid employees in municipalities worked in elder care and the care of persons with a disability, with care assistants accounting for around one quarter (around 27 000 employees). In total, 42 percent of the care assistants employed in municipalities were paid by the hour. In the regions, assistant nurses account for almost 40 percent of the hourly paid employees. In total, 18 percent of the assistant nurses, and 9 percent of the nurses in regions were paid by the hour.⁵⁶

While the prevalence of fixed-term employment displays considerable variation across occupational groups and areas of care in, part-time employment remains generally common across the entire care sector. More than half of care workers work part-time, making them one of the groups in the labour market with the highest proportion of part-time employees.⁵⁷ In health care, part-time employments accounts for just over 30 percent in municipalities and regions and just under 40 percent in the private sector. For assistant nurses and care assistants in elder care, and personal assistants for persons with a disability, the proportion of part-time employment is

⁴⁹ Fixed-term employment contracts make up around 14 percent and part-time employment contracts around 20 percent of all employment contracts, see Statistics Sweden, Labour Force Surveys, 2021.

⁵⁰ See Mats Larsson, *Anställningsformer år 2022. Fast och tidsbegränsat anställda efter klass och kön år 1990–2022* (LO 2022), 11.

⁵¹ See SKR, staff statistics <https://skr.se/skr/arbetsgivarekollektivavtal/uppfoljninganalys/personalstatistik.46484.html>

⁵² 85 percent work for region or municipality, assistant nurses amount to 45 percent and 24 percent are care assistants.

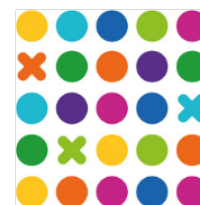
⁵³ See Swedish National Board of Health and Welfare, *Vård och omsorg för äldre. Lägesrapport 2023* (Swedish National Board of Health and Welfare 2023), 55.

⁵⁴ See Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*, 86.

⁵⁵ See Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*, 65.

⁵⁶ See SKR, *Personalen i välfärden. Personalstatistik för kommuner och regioner 2022* (SKR 2023), 36 ff.

⁵⁷ See SKR, *Personalen i välfärden. Personalstatistik för kommuner och regioner 2022* (SKR 2022), 24.



higher, around 50 percent for those employed in private companies and slightly lower for employees in municipalities and regions.⁵⁸ There are significant differences in terms of working hours among part-time employees. Among nurses, it is unusual to work less than 70 percent of a full-time job, and a large proportion of part-time nurses work more than 81 percent of a full-time job.⁵⁹ The situation is quite different for personal assistants for persons with a disability, where 20 percent work less than four hours a week and many combine their work with studies or other work.⁶⁰

In 2022, the average retirement age for the entire Swedish labour market was 64.8 years (64.8 for women and 64.9 for men). The care sector shows a very similar picture, with an average retirement age of 65 for nurses, 64.4 years for assistant nurses, 64.2 years for care assistants, 64.5 years for home carers, and 64.7 years for personal assistants for persons with a disability.⁶¹ In 2023, following an increase in the statutory pension-related age limits, that entered into force at the turn of 2022/2023, the general average retirement age rose sharply to 66 years. This sharp increase is likely to moderate in 2024, as the marginal effect of the legislative change fades.⁶²

Labour market statistics relating to origin of employees alternately covers the two categories 'persons with a foreign background', and 'foreign-born persons', where the former refers to the larger groups of persons born abroad, as well as persons born in Sweden with two foreign-born parents. In the care sector, the occupational groups with the highest share of employees with foreign background are assistant nurses and care assistants; in elder care, one in three in these occupational groups have a foreign background.⁶³ This is even more evident among young workers, those under the age of 30; for instance, 41 percent of the young care assistants have a foreign background, the majority of whom are men.⁶⁴ Narrowing the focus to only those born abroad, this category too makes up a larger share in the care sector than in other sectors, and particularly so for those born outside Europe. In the entire labour market, this group represents 9 percent, in the public care sector 12.5 percent and in the private care sector they represent just over 20 percent. One explanation mentioned in this context is that many private care companies are run by people born in non-European countries; around 12 percent of operational managers in the private care sector are born outside Europe. In care companies, some of which have a specific language or cultural profile, managers with a foreign background are much more likely to employ people with a foreign background.⁶⁵ Among personal assistants for a person with a disability, 28 percent are born outside Sweden.⁶⁶ The majority of these, 36 percent, work directly for the care recipient. This figure, which contrasts to what applies for total number of personal assistants, where only 4 percent work directly for care recipient, is related to the fact that persons with a disability born abroad are more likely to have personal assistants who are also their relatives.⁶⁷ Among those born abroad who work in the care sector, only very few are labour immigrants, i.e. people whose right to reside in Sweden is based on a work permit. Between 2019 and 2023, the yearly average

⁵⁸ See Swedish National Board of Health and Welfare, *Vård och omsorg för äldre. Lägesrapport 2023* (Swedish National Board of Health and Welfare 2023), 55. See also Swedish Gender Equality Agency, *Analys av den könssegregerade arbetsmarknaden. Förutsättningar för en bredare rekryteringsbas till välfärden. Underlagsrapport 2023:8* (Swedish Gender Equality Agency 2023), 27.

⁵⁹ See Vårdförbundet, *"Jag orkar inte jobba mer än deltid". Så kan hållbara heltider ge fler kollegor i vården* (Vårdförbundet 2023).

⁶⁰ See Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*, 1.

⁶¹ See Pensionsmyndigheten, statistics 2023-04-25: <https://www.pensionsmyndigheten.se/nyheter-och-press/pressrum/da-gar-olika-yrkesgrupper-i-pension>

⁶² See Pensionsmyndigheten, *Pensionsåldrar och arbetslivets längd – svar på regeringsuppdrag 2024* (Pensionsmyndigheten 2024).

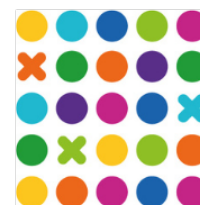
⁶³ See Vårdföretagarna, *Vårdfakta 2022. Fakta och statistik om den privat drivna vård- och omsorgsbranschen* (Vårdföretagarna 2022).

⁶⁴ See SKR, *Unga och välfärdsjobben. Intresse, attityder och tankar kring jobben i kommuner och regioner* (SKR 2022).

⁶⁵ In companies where the managers have a non-European background, 37 percent of the employees have a foreign background. The same group represent 27 percent in companies where the managers have a Swedish background, see Vårdföretagarna, *Privat vård och omsorg. En integrationsmotor i vår tid* (Vårdföretagarna 2018).

⁶⁶ Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*, 95.

⁶⁷ Government Inquiry Report, SOU 2020:1, *Översyn av yrket personlig assistent. Ett viktigt yrke som förtjänar bra villkor*, 96.



of work permits issued by Swedish Migration Agency was 29 permits for nurses, 63 permits for assistant nurses, 43 permits for care assistants and 103 permits for carers including personal assistants for disabled persons.⁶⁸

2.3. Current debates

Several of the current debates on care work and the care sector in Sweden relate to ongoing international and European debates and policy discussion in this area.⁶⁹ In Sweden, the two main current debates are the debate on the skills and staff shortage and challenges of recruitment and talent management in the care sector, and the debate on the low level of wages and poor quality of working conditions, including health and safety concerns, especially stress, workload, and the promotion of a sustainable and healthy working environment, and flexible forms of employment. These two debates are closely interrelated.⁷⁰

Sweden's municipalities and regions estimate that by 2031, due to retirements within the public care sector and a general increased need of staff, they will need to recruit more than 30 000 new nurses, 93 000 assistant nurses, and 20 000 new care assistants.⁷¹

The debate highlights the problem of work force turnover and the fact that care workers leave their professions. Thus, it is emphasised that future talent management in the care sector depends not only on recruitment and training of new employees, but also crucially on retainment of employees, extended working lives for older employees, and shifts from part-time to full time employment in the care sector. The debate points to the fact that these developments in turn require investments and improvements in wage levels, sustainable working lives, health and safety, and professional development and training. Employers' organisations in the private sector emphasise that private care services successfully promote labour market inclusion of new groups of workers, including immigrants.

In the public sector, and in care work, both which are female dominated, the pay levels are typically lower than in the private sector and in occupations where most employees are men (Section 5).

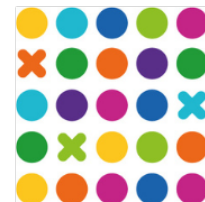
Previous research on decentralised collective bargaining in the Swedish public health care sector, based *inter alia* on interviews with the social partners, also emphasise these two main debates. In relation to wage-setting, representatives of the Swedish Association of Health Professionals at national, sectoral and local level highlight the problem of small pay rises and limited wage development for nurses in the course of their professional careers. Thus, in recent years, it has been a trade union strategy to work to achieve specific recognition and wage increases for experienced, skilled nurses and to engage in a joint social partner project on career development for nurses. Furthermore, these trade union representatives point to the shortage of general and specialised nurses, and the fact that many nurses leave the public health care sector or the profession altogether. Thus, a key trade union priority, apart from increasing wages, is to promote healthy working hours and recovery as well as

⁶⁸ Swedish Migration Agency, statistics on work permits, <https://www.migrationsverket.se/English/About-the-Migration-Agency/Statistics/Work.html>

⁶⁹ See e.g. for example, ILO, *Care Work and Care Jobs for the Future of Decent Work* (ILO 2018), ILO, *Decent work and the care economy*, Report VI, International Labour Conference, 112th Session, 2024 (ILO 2024), ILO, *Social Dialogue Report 2022: Collective bargaining for an inclusive, sustainable and resilient recovery* (ILO 2022), and European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the European care strategy*, COM/2022/440 final.

⁷⁰ For a social scientific analysis of the working situation of Swedish care workers, especially nurses in the public sector, see Paula Mulinari and Rebecca Selberg, 'Real utopias at work: conflicts and dreams among nurses in the public sector' in Hazel Conley and Paula Koskinen Sandberg (eds), *Handbook of Gender and Public Sector Employment* (Edward Elgar 2023), 22–36 and Rebecca Selberg and Paula Mulinari, 'Exit spirals in hospital clinics: Conceptualizing turnover contagion among nursing staff', *Scandinavian Journal of Public Administration*, 2022, Vol. 21(1), 87–107.

⁷¹ See SKR, *Välfärdens kompetensförsörjning. Personalprognos 2021–2031 och hr välfärden kan möta kompetensutmaningen* (SKR 2022).



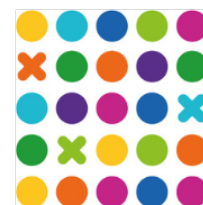
competence development.⁷²

The collective bargaining round and industrial conflict in the public care sector in the spring and summer of 2024 related to aspects of health and safety, including stress and workload, and demands for a sustainable working environment and working time reduction (Section 3). Ongoing debate on temporary agency work in the care sector concerns *inter alia* aspects of talent management and health and safety (Section 4.1). Furthermore, in recent years, increasing attention has been paid to quality deficiencies in the care sector, particularly in elder care, due to insufficient knowledge of the Swedish language among employees.⁷³ Some municipalities have introduced language tests in recruitment to certain parts of the care sector, including elder care and personal assistance for persons with a disability. This development has been received positively by the Municipal Workers Union, although at the same time the trade union cautions against the risk of ethnic discrimination in connection with the tests. Statutory language tests are required for certain care occupations.⁷⁴

⁷² See Mia Rönmar and Andrea Iossa, CODEBAR. *Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022)

⁷³ The matter has for instance been addressed in several Government Inquiry Reports, it has been the subject of a comprehensive report from the Municipal Workers' Union, and in their yearly reports, the Health and Social Care Inspectorate (IVO) has repeatedly highlighted serious negative effects of language shortcomings, see Government Inquiry Report, SOU 2019:20, *Stärkt kompetens i vård och omsorg*, 118, Government Inquiry Report, SOU 2020:80, *Äldreomsorgen under pandemin – Delbetänkande av Coronakommissionen*, 107, Government Inquiry Report, SOU 2021:52, *Vilja välja vård och omsorg – En hållbar kompetensförsörjning inom vård och omsorg om äldre*, 145, and Kommunal, *Svenska språket – A och O inom äldreomsorgen* (Kommunal 2019).

⁷⁴ See Johan Erlandsson, 'Så många kommuner har språktest i äldreomsorgen', *Kommunalarbetaren* 2022-12-14. – See Jenny Julén Votinius, 'Discrimination map' and inequalities in the care sector. *Swedish Report. WP3* (CARE4CARE 2024), for further discussion on measures taken in Sweden to facilitate access for labour migrants and immigrants in various care occupations.



3. Fundamental trade union rights, social partners and industrial relations, collective bargaining, and employee influence⁷⁵

3.1. Social partners and industrial relations

The Swedish labour law and industrial relations system is characterised by an emphasis on self-regulation, autonomous collective bargaining, and a tradition of collaboration and social partnership. The trade unionisation rate is about 70 per cent (although, there are important differences between various labour market sectors, between blue-collar and white-collar employees, and between younger and older workers), the employers' organisation rate is about 90 per cent, and the collective bargaining coverage rate is about 90 per cent. The overall trade union organisation rate in the public sector, where most care work is carried out, is about 80 per cent.⁷⁶ Thus, there is a major influence of the social partners in the labour market in general, including in the care sector.

The Confederation of Swedish Enterprise (*Svenskt Näringsliv*, SN) organises the majority of private-sector employers. The Swedish Agency for Government Employers (*Arbetsgivarverket*) is the employers' organisation for government agencies. The Swedish Association of Local Authorities and Regions (*Sveriges Kommuner och Regioner*, SKR) is the employers' organisation for local governments, i.e. for regions and municipalities, and Sobona is the employers' organisation for local government companies. Thus, SKR and Sobona are employers' organisations in the public care sector. To a large extent the social partners and the collective bargaining framework are the same for the regional and municipal sectors. Due to the constitutional and public-law principle of local self-government, the collective agreements concluded by SKR and Sobona are so-called 'recommendation agreements', which every region and municipality then puts into force by signing collective agreements.⁷⁷

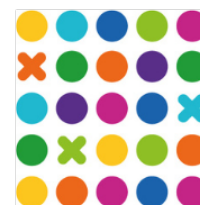
In the private care sector, one large employers' organisation, representing private commercial care companies, is the Association of Private Care Providers (*Vårdföretagarna*), which is a member of the Confederation of Swedish Enterprise and a part of the Employers' Organisation for the Swedish Service Sector (*Almega*), a grouping of service sector employers' organisations. The Competence Agencies of Sweden (*Kompetensföretagen*), representing temporary work agencies and other staffing, outplacement, and recruitment companies, is also a member of the Confederation of Swedish Enterprise, and part of the Employers' Organisation for the Swedish Service Sector (*Almega*). Furthermore, two independent employers' organisations in the care sector are Fremia and the Employer Alliance (*Arbetsgivaralliansen*), both representing private non-profit and values-based organisations, including civil society organisations and cooperative enterprises.

Industry-wide industrial unions dominate in Sweden, and the trade union movement is centralised, with three top trade-union confederations: the Swedish Confederation of Trade Unions (*LO*), organising blue-collar employees; the Swedish Confederation for Professional Employees (*TCO*), organising white-collar employees; and the Swedish Confederation of Professional Associations (*SACO*), organising professionals with qualifications from higher education/university graduates (in SACO, the organisation in craft unions is important).

⁷⁵ This Section draws on previous research on industrial relations and collective bargaining in the Swedish labour market, including the public health care sector, see Mia Rönmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).

⁷⁶ See Medlingsinstitutet, *Avtalsrörelsen och lönebildningen 2022. Medlingsinstitutets årsrapport* (Medlingsinstitutet 2023), 148 ff. and Medlingsinstitutet, *Avtalsrörelsen och lönebildningen 2023. Medlingsinstitutets årsrapport* (Medlingsinstitutet 2024).

⁷⁷ See Vilhelm Persson, 'Sweden – Local Government in Sweden: Flexibility and independence in a unitary state' in C. Panara and M. Varney (eds), *Local Government in Europe. The 'fourth' level in the EU multilayered system of governance* (Routledge 2013), 305–329, Anderz Andersson et al., *Kommunal arbetsrätt* (4th edn, Studentlitteratur 2014), 28 ff., and Kent Källström, Jonas Malmberg, and Sören Öman, *Den kollektiva arbetsrätten. En lärobok* (3rd edn, Iustus 2022), 85.



PTK, the Council for Negotiation and Cooperation, is a cross-sectoral council for negotiation and cooperation for 25 private-sector, white-collar and university graduates/professional trade unions, and OFR, the Public Employees' Negotiation Council (*Offentliganställdas förhandlingsråd*) is a cross-sectoral council for negotiation and cooperation for 14 public-sector, white-collar and university graduates/professional trade unions. Professional Alliance (*Akademikeralliansen*) is a collaboration among SACO-affiliated trade union federations in the public sector.

In the public and private care sector, employees are organised in the following way: the LO-affiliated blue-collar trade union, the Swedish Municipal Workers' Union organises assistant nurses, care assistants, and personal assistants for persons with a disability, and the TCO-affiliated white-collar trade union, the Swedish Association of Health Professionals, affiliated with TCO, organises general and specialised nurses.⁷⁸

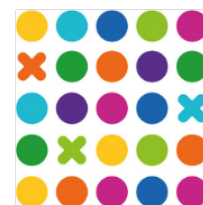
Swedish trade unions are voluntary, non-profit organisations. There is no specific legislation for such organisations or labour market organisations in general. A trade union is an association of employees, and under its by-laws, the union is charged with safeguarding the interests of the employees in relation to the employer (Section 6 of the (1976:580) Co-determination Act (*Medbestämmandelagen*, MBL)). There are minimal formal requirements for forming a trade union, and recognition of trade unions is automatic. As regards their internal affairs, trade unions enjoy extensive freedom of self-regulation. There are no statutory or common-law procedures or criteria for determining the representativity of trade unions. All trade unions enjoy the same basic statutory rights to freedom of association, general negotiation, collective bargaining, and collective action (Section 3.2). Instead of establishing certain procedures or criteria for representativity, Swedish law affords privileges to so-called *established trade unions*, i.e. trade unions that are currently or customarily bound by a collective agreement with the employer (or the employers' organisation). Established trade unions organise the majority of employees in the Swedish labour market. In practice, owing to the principles of labour market organisation, the dominance of nationwide industrial unions, and the policies and practices of the central trade-union confederations and the Confederation of Swedish Enterprise, there are only a few so-called minority trade unions, with a nationwide syndicalist trade-union movement represented by the SAC confederation and the Swedish Dockworkers Union as two exceptions.⁷⁹

Social partner relations are generally cooperative, in the Swedish labour market overall and in the care sector. Previous research on decentralised collective bargaining in the Swedish public health care sector, based *inter alia* on interviews with the social partners, highlights that social partner relations at cross-sectoral, sectoral, and local level are generally good and built on dialogue, trust, and respect. Representatives of both employers and trade unions emphasise the importance of continuous social partner collaboration, as well as work at various levels and on various issues, separate from actual collective bargaining negotiations; examples include the project on 'full-time employment as a norm' together with the Swedish Municipal Workers' Union and the project on career development together with the Swedish Association of Health Professionals.⁸⁰ – However, in the spring and summer of 2024, the difficult collective bargaining round between SKR and Sobona and the Swedish Municipal Workers' Union, and the industrial conflict between SKR and Sobona and the Swedish Association of Health Professionals, respectively, have caused strain on these relations (Section 3.2).

⁷⁸ Medical doctors are organised by the Swedish Medical Association (*Sveriges Läkarförbund*), affiliated with SACO.

⁷⁹ See also Mia Rönnmar, 'Autonomous Collective Bargaining in Sweden under Pressure' in Julia López López (ed.), *Collective Bargaining and Collective Action. Labour Agency and Governance in the 21st Century* (Hart 2019), 189–212.

⁸⁰ See Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).



3.2. Fundamental trade union rights and collective bargaining

3.2.1. Freedom of association and right to collective action

In Sweden, there is constitutional, statutory, and collective bargaining regulation on fundamental trade union rights and the freedom of association, the right to collective bargaining, and the right to collective action, which interplays with international and EU/European law. The (1976:580) Co-determination Act is a key statute in this area.⁸¹

The positive side of the freedom of association is protected by the (1974:152) Instrument of Government and the (1976:580) Co-determination Act.⁸² Freedom of association is defined as a right of the employer and the employee to belong to an employers' organisation or a trade union, to exercise the rights of membership, and to participate in such an organisation and the establishment thereof (Section 7 MBL). A violation of the freedom of association is deemed to have occurred where an employer or employee, or the representative of either, engages in such conduct detrimental to the other party as a consequence of such party's exercise of his or her freedom of association, or where an employer or employee, or the representative of either, engages in conduct towards the other party for the purpose of inducing that party not to exercise his or her right to freedom of association (Section 8 MBL). The violation of the freedom of association of an individual member also constitutes a violation of the activities of the employers' organisation or the trade union.⁸³

There is a wide scope for collective action. The mutual right to take collective action is protected by the (1974:152) Instrument of Government, and more specifically regulated in the (1976:580) Co-determination Act (Sections 41 to 45 MBL). The right to take collective action can be further specified or limited by way of legislation or collective agreement. A peace obligation, and social truce, follows from the collective agreement and is strictly upheld by the Swedish Labour Court; during the period of validity of a specific collective agreement, collective action must not be taken. Furthermore, collective action may not contravene peace obligation provisions in collective agreements. Basic agreements on collective action and social truce cover large parts of the Swedish labour market, including the care sector (see further below). Sympathy action is allowed, and the right to take sympathy action is vast and applies even during the peace obligation as long as the primary collective action is permitted. There is no general principle of proportionality in Swedish law on collective action. If no peace obligation prevails, collective action is permitted. A measure of collective action, however, must always be decided by the relevant organisation in due order. The (1976:580) Co-determination Act and basic agreements provide for rules on notice, mediation, postponement of collective action, and other measures to favour a responsible bargaining process. The National Mediation Office (*Medlingsinstitutet*) plays a central role in mediation. In addition, the Labour Court can make interim decisions on the lawfulness of collective actions.^{84 85}

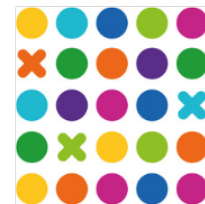
⁸¹ See Government Bill, Prop. 1975/76:105: Bilaga 1, *Arbetsrättsreform: Lag om medbestämmande i arbetslivet*, Örjan Edström, *Medbestämmandelagen. En kommentar* (Karnov Group 2020), and Jonas Malmberg et al., *Medbestämmandelagen. En kommentar. Del I 1–32 §§* (Norstedts Juridik 2018).

⁸² The negative side of the freedom of association is protected by Article 11 of the European Convention on Human Rights, and the Convention was incorporated into Swedish law in 1995. See also *Gustafsson v Sweden*, judgment of the European Court of Human Rights of 25 April 1996.

⁸³ See further Petra Herzfeld Olsson, *Facklig föreningsfrihet som mänsklig rättighet* (Iustus 2003). Folke Schmidt et al., *Facklig arbetsrätt* (rev. edn, Juristförlaget 1997), 108 ff.

⁸⁴ See Kent Källström, Jonas Malmberg, and Sören Öman, *Den kollektiva arbetsrätten. En lärobok* (3rd edn, Iustus 2022), 49 ff., Folke Schmidt et al., *Facklig arbetsrätt* (rev. edn, Juristförlaget 1997), 97 ff, and e.g. Labour Court judgment AD 1998:17.

⁸⁵ On EU law, freedom to provide services, and the 'Laval case' (Case C-341/05 *Laval un Partneri Ltd v Svenska Byggnadsarbetareförbundet*, EU:C:2007:809) in relation to Swedish law, collective action, and collective bargaining, see e.g. Andrea Iossa, *Collective Autonomy in the European Union. Theoretical, Comparative and Cross-border Perspectives on the Legal Regulation of Collective Bargaining* (Lund University 2017), Mia Rönnmar, 'The Impact of Viking and Laval in Swedish Labour Law and Industrial Relations' in Mark Freedland and Jeremias Prassl (eds), *EU Law in the Member States. Viking and Laval and Beyond* (Hart Publishing 2015), and Mia Rönnmar, 'Autonomous Collective Bargaining in



In the public sector, the (1994:260) Public Employment Act entails some restrictions on the right to collective action. Section 23 of the Act states that in work that comprises the exercise of official power or which is unavoidably necessary in order to ensure the exercise of official power, collective action may only be implemented in the form of lockout, strike, refusal of overtime or blockade of new employment. In addition, collective action aimed at influencing domestic political circumstances is not allowed in the public sector.

The basic agreement for regions and municipalities,⁸⁶ which applies in the public care sector, regulates collective action. Employees are, despite ongoing collective action, obliged to carry out so-called protective work (*skyddsarbete*), i.e. work which is necessary to prevent danger for human beings or damage on property (Section 27). If a party to an industrial conflict makes the assessment that a collective action measure is threatening public interest (*samhällsfarlig stridsåtgärd*), it should initiate negotiations with the other party aimed at avoiding, limiting, or terminating the collective action measure. Negotiations should first be conducted at local level, and in case of a refusal to negotiate from one of the parties or if the parties cannot agree, the issue is to be sent to a central committee (with members appointed by the social partners), which will assess the collective action measure. If the committee finds that the measure threatens public interest it has the power to request the parties to avoid, limit, or terminate the collective action measure.⁸⁷

The social partners strive for consensus and compromises, and the level of industrial conflict, in the labour market in general and in the care sector is very low.⁸⁸

In the spring and summer of 2024, the collective bargaining round in the public care sector has been particularly challenging. A new collective agreement between SKR and Sobona and the Swedish Municipal Workers' Union could only be reached after difficult negotiations, mediation, and notices of collective action from the trade union. Similarly, a new collective agreement between SKR and Sobona and the Swedish Association of Health Professionals could only be reached after difficult negotiations, mediations, and two months of collective action from the trade union, by way of refusal of overtime, blockade of new employment, and strike action.

The industrial conflict between SKR and Sobona and the Swedish Association of Health Professionals was not primarily related to the level of wages, but to trade union concerns as regards health and safety, including stress and workload, and demands for a sustainable working environment. The social partners have partly different perspectives and proposed solutions on how to address these issues and the skills and staff shortage, future recruitment and talent management in the care sector. The main conflicting issue in the industrial conflict was the trade union's claim for general working time reduction for all members. The new collective agreement comprises new provisions on working time reduction for some categories of members, including some nurses who work night, shift, and inconvenient hours. The collective agreement also includes joint intentions to continue social partner dialogue and work aimed at improving health and safety, promoting a sustainable working life, and future talent management (Section 2.3).

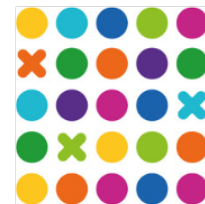
In this industrial conflict, protective work was ordered by the employers at numerous occasions with reference to the provision in the basic agreement. The trade union legally challenged the employers' decisions and action in several instances, resulting in ongoing disputes on the correct interpretation and application of the basic agreement. Furthermore, following local negotiations between employers and trade union representatives,

Sweden under Pressure' in Julia López López (ed.), *Collective Bargaining and Collective Action. Labour Agency and Governance in the 21st Century* (Hart 2019), 189–212.

⁸⁶ See *Kommunalt Huvudavtal, KHA 94*, i lydelse fr.o.m. 2022-10-01.

⁸⁷ See Birgitta Nyström, 'Regulating Strikes in Essential Services – Sweden' in Moti Mironi and Monika Schlachter (eds), *Regulating Strikes in Essential Services. A Comparative "Law in Action" Perspective*, Studies in Employment and Social Policy, Vol. 52 (Kluwer Law International 2019), 409–439. See also Kent Källström, Jonas Malmberg, and Sören Öman, *Den kollektiva arbetsrätten. En lärobok* (3rd edn, Iustus 2022), 49 ff.

⁸⁸ See e.g. Medlingsinstitutet, *Avtalsrörelsen och lönebildningen 2023. Medlingsinstitutets årsrapport* (Medlingsinstitutet 2024), 30 ff.



agreements were made in several instances on the avoidance or limitation of collective action with reference to the threatening of public interest.

3.2.2. Right to collective bargaining and the collective bargaining system

Collective agreements constitute an important legal source in Swedish labour law. The majority of an employee's terms and conditions of employment, including wages, are regulated by collective agreements. There is no minimum-wage legislation or system for extension of collective agreements. In principle, this means that in workplaces not covered by a collective agreement, no minimum wage applies. However, in practice, almost complete coverage of collective bargaining has been achieved, as the collective bargaining coverage rate is about 90 percent. An important characteristic of the (1976:580) Co-determination Act, and Swedish labour law legislation in general, is its so-called 'semi-compelling' nature, which allows for deviations by way of collective agreement, both to the advantage and detriment of individual employees. The employer may also apply such collective agreements to employees who are not members of the contracting trade union, as long as they are engaged in work to which the collective agreement refers. Thus, collective agreements can be used to adapt the legislation to the circumstances of a certain sector or company.⁸⁹

A collective agreement is statutorily defined as 'an agreement in writing between an organisation of employers or an employer and an organisation of employees about conditions of employment or otherwise about the relationship between employers and employees' (Section 23 MBL).⁹⁰ Within its area of application, a collective agreement is legally binding, not only for the contracting parties to the agreement but also for their members (Section 26 MBL). In addition, an employer bound by a collective agreement is obligated to apply this agreement to all employees, irrespective of trade union membership.⁹¹

A collective agreement has both a normative and mandatory effect (Section 27 MBL). Unless otherwise provided for by the collective agreement, employers and employees being bound by the agreement may not deviate from it by way of an individual employment contract. Such a contract is null and void, and breaches of the collective agreement are sanctioned by the payment of economic and punitive damages (Sections 54 and 55 MBL).

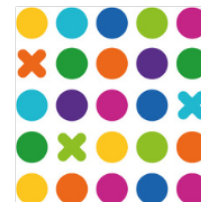
Since the 1990s, a clear trend has emerged towards individualisation and decentralisation of industrial relations and wage-setting in Sweden. Thus, collective bargaining is characterised by 'organised decentralisation', and an emphasis on local and individual bargaining within a stable framework of national sectoral and multi-employer collective bargaining.⁹² Collective agreements are entered into at different levels. There are three main categories of collective agreements: *national cross-sectoral collective agreements* (also referred to as basic, main, or master

⁸⁹ For influential labour law scholarship on collective bargaining in the Swedish and Nordic context, see e.g. Axel Adlercreutz, *Kollektivavtalet. Studier över dess tillkomstshistoria* (CWK Gleerup 1954), Niklas Bruun, *Kollektivavtal och rättsideologi. En rättsvetenskaplig studie av de rättsideologiska premisserna för inlemmandet av kollektivavtalet och kollektiva kampåtgärder i finsk rättsordning efter år 1924*, Juridiska föreningens i Finland publikationsserie No 46 (Juridica 1979), and Mikael Hansson, *Kollektivavtalsrätten. En rättsvetenskaplig berättelse* (Iustus 2010).

⁹⁰ According to Section 23 para. 2 MBL an agreement shall be deemed to be in writing also when its contents have been recorded in approved minutes or where a proposal for an agreement and acceptance thereof have been recorded in separate documents.

⁹¹ See Kent Källström and Jonas Malmberg, *Anställningsförhållandet. Inledning till den individuella arbetsrätten* (6th edn, Iustus 2022), 192, Anna Christensen, 'Den etablerade fackföreningen och minoritetsorganisationen' in Reinhold Fahlbeck and Carl Martin Roos (eds), *Perspektiv på arbetsrätten. Vänbok till Axel Adlercreutz* (Juridiska Föreningen i Lund 1983), 9–35, and Swedish Labour Court judgements AD 1977:49 and AD 2014:31.

⁹² See Franz Traxler, 'Farewell to labour market associations? Organized versus disorganized decentralization as a map for industrial relations' in Colin Crouch and Franz Traxler (eds), *Organized Industrial Relations in Europe: What Future?* (Aldershot 1995), 3–19, Christian Lyhne Ibsen and Maarten Keune, *Organised Decentralisation of Collective Bargaining: Case studies of Germany, Netherlands and Denmark*, OECD Social, Employment and Migration Working Papers No. 217 (OECD 2018), and Christer Thörnqvist, 'The decentralization of industrial relations: The Swedish case in comparative perspective', *European Journal of Industrial Relations*, 1995, 71–87.



agreements), regulating aspects such as pensions, collective action and industrial peace, cooperation and co-determination, and employment protection, transitions, and restructuring; *national sectoral collective agreements*, forming the core of the collective bargaining system and regulating wages and terms and conditions of employment; and *local collective agreements*.⁹³ A local collective agreement may not deviate from collective agreements at a higher level (cf. Section 27 MBL). In most cases, sectoral collective agreements set only minimum standards, allowing employers, trade unions, and employees to agree on better terms and conditions of employment by way of a local collective agreement or individual employment contracts.⁹⁴

Local collective agreements are used to implement and operationalise the national sectoral collective agreements, for example, as regards wage negotiations and wage setting. Local collective agreements can also regulate other terms and conditions of employment, such as working time and working-time allocation, selection of employees to be dismissed in redundancy situations,⁹⁵ and cooperation and co-determination issues.⁹⁶ Local collective bargaining within the framework of national cross-sectoral or sectoral collective bargaining is conducted under a peace obligation. Local collective bargaining negotiations, i.e. negotiations at company/organisation level, are commonly carried out by the employer and the local club of a sectoral trade union (in the absence of a local trade union club, a district (a regional section of the trade union, serving members at various companies/organisations) can participate in negotiations).⁹⁷

There is an elaborate framework of collective agreements in the care sector.⁹⁸

In *the public care sector*, the employers' organisations SKR and Sobona have concluded a number of collective agreements with the Swedish Municipal Workers' Union and the Swedish Association of Health Professionals (and numerous other trade unions, beyond the care sector). At the national, sectoral level, collective agreements on wages and terms and conditions of employment are concluded with the Swedish Municipal Workers' Union (*HÖK 24 Kommunal* and *PAN 24* on personal assistance) and with the Swedish Association of Health Professionals (*HÖK 24 OFR Hälso- och sjukvård*). These national, sectoral collective agreements contain the same appendix, General provisions 24, *Allmänna bestämmelser 24*, AB 24, with regulation on general terms and conditions of employment throughout the regional and municipal sector and for all employees.⁹⁹

The collective bargaining round in the spring and summer of 2024 resulted, despite challenging negotiations, mediation, notices of collective action, and collective action, in the conclusion of new national, cross-sectoral and sectoral collective agreements between SKR and Sobona and the Swedish Municipal Workers' Union and the Swedish Association of Health Professionals, respectively, i.e. in *HÖK 24 Kommunal*, *PAN 24*, *HÖK 24 OFR Hälso- och sjukvård*, and *Allmänna bestämmelser 24*, AB 24. The sectoral agreements with the Swedish Municipal Workers'

⁹³ See Kent Källström, Jonas Malmberg, and Sören Öman, *Den kollektiva arbetsrätten. En lärobok* (3rd edn, lustus 2022), 84 ff. and Medlingsinstitutet, *Avtalsrörelsen och lönebildningen 2023. Medlingsinstitutets årsrapport* (Medlingsinstitutet 2024).

⁹⁴ See Jonas Malmberg et al., *Medbestämmandelagen. En kommentar. Del I 1–32 §§* (Norstedts Juridik 2018), 245 f., Jonas Malmberg, *Anställningsavtalet. Om anställningsförhållandets individuella reglering* (lustus 1997), and Swedish Labour Court judgement AD 1997:45.

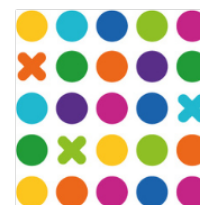
⁹⁵ Thereby deviating from statutory rules on employment protection and principles of seniority, a so-called *avtalsurlista* (Section 4.2). – Another type of local collective agreement is an application agreement (a so-called *hängavtal*), i.e. a collective agreement concluded between a local trade union and an employer who is not a member of an employers' organisation, thus obliging the employer to apply the provisions of the relevant national, sectoral collective agreement. The resort to application agreements is also a tool for extending minimum wage protection to workplaces not covered by national, sectoral collective bargaining. Furthermore, an unorganised employer can conclude 'independent' company agreements (*företagsavtal*) with a local trade union.

⁹⁶ See Jonas Malmberg et al., *Medbestämmandelagen. En kommentar. Del I 1–32 §§* (Norstedts Juridik 2018), 186 f.

⁹⁷ For more information and analysis of local collective bargaining in Sweden and decentralisation developments, see Mia Rönmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).

⁹⁸ The following presentation and discussion of collective agreements in the care sector is not exhaustive but focuses on a selection of key collective agreements.

⁹⁹ See Section 9.2.1 for full references to the collective agreements.



Union and the Swedish Association of Health Professionals (*HÖK 24* and *PAN 24*) were only concluded for a one-year-period. It is common for national sectoral agreements to be concluded for a period of two or three years. Thus, the one-year-period, together with statements made by the employers' organisations and trade unions after the conclusion of the collective agreements, indicate that difficult issues remain to be discussed and resolved between the social partners in the collective bargaining round of 2025. The wage increase was set in line with the 'industry mark' (see Section 5 for a further discussion on wages and wage formation), and new provisions on, for example, working time reduction and allocation, was introduced.

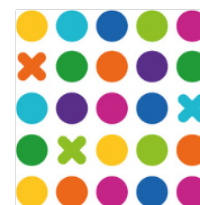
In addition, there are other important national, 'cross-sectoral' collective agreements concluded by SKR and Sobona and numerous trade unions for the overall regional and municipal sector. One such collective agreement is the transition agreement, renegotiated in late 2021 in light of the content of the new main, national cross-sectoral collective agreement on security, transition, and employment protection,¹⁰⁰ concluded in the private sector, and forming the basis for a major legislative and collective bargaining reform of Swedish employment protection (Section 4.2.) (*Överenskommelse om Kompetens- och omställningsavtal, KOM-KR*, this agreement was concluded with a large number of trade unions and covers all employees). Other such important collective agreements are the agreement on cooperation and co-determination (*Samverkansavtalet*) and the basic agreement for regions and municipalities (*Kommunalt huvudavtal*), both concluded with a large number of trade unions (Section 3.3). Furthermore, a collective agreement for the overall regional and municipal sector relates to the management of crisis situations (*Krislägesavtal*, this agreement was concluded with a large number of trade unions and covers large groups of employees) and was important in handling the COVID-19 pandemic (Section 7.2).¹⁰¹

In relation to local collective bargaining in the public health care sector, previous research on decentralised collective bargaining, based *inter alia* on interviews with the social partners, highlights that the legal scope for local collective bargaining is perceived as clear and broad. Provisions in the national, sectoral collective agreements for blue-collar, white-collar, and professional/university graduate employees, respectively, clarify areas in which there is scope for local collective bargaining, for example in relation to wages and wage-setting processes, and working time and working-time allocation. This research also discusses the collective-bargaining structure as such in the regional and municipal sector, and in the public health care sector, with separate, sectoral collective agreements for various trade unions/groups of trade unions (*HÖKs*) with a focus on wages, and one common 'cross-sectoral' collective agreement with general provisions and regulation of other terms and conditions of employment, covering all employees (*Allmänna bestämmelser 20, AB 20*, now *Allmänna bestämmelser, AB 24*, constituting an appendix to all *HÖKs*). In the interviews, the Head of Negotiations of SKR describes *AB 20* as a 'co-worker agreement' (*medarbetaravtal*), as it applies to the whole sector and all employees. The trade unions do not fully share this view; for example, the General Counsel of the Swedish Municipal Workers' Union opposes the view that *AB 20* creates one common collective-agreement area of application. The employer representatives at national and local level highlight the value of setting (at least) some common rules and standards for the entire sector, not least to counteract 'competition for staff' due to differences in wages and terms and conditions of employment between the public and private health-care sectors, and between different regions, respectively. The trade-union representatives at sectoral level point to the problem that one common collective agreement, *AB 20*, cannot adequately regulate the complex regional and municipal sector, with its wide variety of activities and operation under varying practical conditions (including the '24/7-scheduling' in parts of public health care).¹⁰²

¹⁰⁰ See Svenskt Näringsliv samt PTK, *Huvudavtal om trygghet, omställning och anställningsskydd*, and Svenskt Näringsliv samt LO, *Huvudavtal om trygghet, omställning och anställningsskydd*.

¹⁰¹ See Section 9.2.1 for full references to the collective agreements.

¹⁰² See Mia Rönmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022). – See further Sections 4 to 7 for a discussion on collectively-bargained working conditions in areas, such as flexible forms of employment, employment protection, wages and benefits, and working time.



In the private commercial care sector, the employers' organisation the Association of Private Care Providers has concluded collective agreements with the Swedish Municipal Workers' Union and the Swedish Association of Health Professionals. At the national, sectoral level, the Association of Private Care Providers has concluded collective agreements on wages and terms and conditions of employment with the Swedish Municipal Workers' Union in relation to the elder care sector,¹⁰³ in relation to the health care/care sector,¹⁰⁴ and in relation to personal assistance.¹⁰⁵ Furthermore, at the national, sectoral level, the Association of Private Care Providers has concluded a collective agreement on wages and terms and conditions of employment with the Swedish Association of Health Professionals in relation to the care sector.¹⁰⁶

The employers' organisation the Competence Agencies of Sweden (*Kompetensföretagen*) has concluded a collective agreement on wages and terms and conditions of employment with the Swedish Association of Health Professionals in relation to the health care/care sector.¹⁰⁷ Furthermore, as members of the Confederation of Swedish Enterprise, both the Association of Private Care Providers and the Competence Agencies have adopted the new main agreement on security, transition, and employment protection concluded by the Confederation of Swedish Enterprise, *PTK*, and the Swedish Confederation of Trade Unions (*LO*).

In the private non-profit care sector, the employers' organisation *Fremia* has concluded collective agreements with the Swedish Municipal Workers' Union and the Swedish Association of Health Professionals. At the national, sectoral level, a joint collective agreement on wages and terms and conditions of employment has been concluded with the Swedish Municipal Workers' Union and the Swedish Association of Health Professionals (and with the white-collar and professional trade unions *Vision* and *Akademikerförbunden*).¹⁰⁸ At the national, sectoral level, *Fremia* has also concluded a collective agreement with the Swedish Municipal Workers' Union on wages and terms and conditions of employment for personal assistants.¹⁰⁹ In the context of personal assistance, it is interesting to note that membership in *Fremia* is open both to various private entities, who are employers and offer personal assistance services, as well as to the very small group of individual care recipients, who directly employ their own personal assistants. In addition, *Fremia* and the Swedish Confederation of Trade Unions (*LO*) and *PTK*, the Council for Negotiation and Cooperation, respectively, have adopted a new national main collective agreement on security, transition, and employment protection, based on the main agreement on security, transition, and employment protection concluded by the Confederation of Swedish Enterprise, *PTK*, and the Swedish Confederation of Trade Unions (*LO*).¹¹⁰

The employers' organisation the Employer Alliance (*Arbetsgivaralliansen*) has concluded collective agreements with the Swedish Municipal Workers' Union and the Swedish Association of Health Professionals. At the national, sectoral level, a joint collective agreement on wages and term and conditions of employment has been concluded

¹⁰³ Vårdföretagarna samt Kommunal, *Kollektivavtal, Allmänna villkor och löner, Bransch äldreomsorg (F)*, 2023–2025, giltighetstid 2023-06-01–2025-05-31.

¹⁰⁴ Vårdföretagarna samt Kommunal, *Kollektivavtal, Allmänna villkor och löner, Bransch vård och behandlingsverksamhet samt omsorgsverksamhet (E)*, 2023–2025, giltighetstid 2023-06-01–2025-05-31.

¹⁰⁵ Vårdföretagarna samt Kommunal, *Kollektivavtal, Personlig assistans*, 2023–2025, giltighetstid 2023-07-01–2025-09-30.

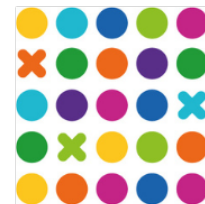
¹⁰⁶ Vårdföretagarna samt Vårdförbundet, *Kollektivavtal, Allmänna villkor och löner, Bransch Vård och behandlingsverksamhet samt omsorgsverksamhet*, giltighetstid 2023-06-01–tillsvidare.

¹⁰⁷ Kompetensföretagen samt Vårdförbundet, *Villkor för vissa anställda vid bemanningsföretagen, Vård- och behandlingsverksamhet, Övrig omsorgsverksamhet*, 2016, giltighetstid 2016-01-01–tillsvidare.

¹⁰⁸ *Fremia* samt Kommunal, *Vision, Vårdförbundet och Akademikerförbunden, Hälsa, vård, och övrig omsorg, Allmänna anställningsvillkor och löneavtal med mera*, gäller fr.om. 2023-10-01–2025-09-30 (Kommunal) och 2023-06-01–2025-05-31 (*Akademikerförbunden*, *Vision* och *Vårdförbundet*).

¹⁰⁹ *Fremia* samt Kommunal, *Personlig assistans*, 2023-10-01–2025-10-31.

¹¹⁰ *Fremia* samt *LO*, *Antagande av Huvudavtal om trygghet, omställning och anställningsskydd*, antaget 5 oktober 2022, and *Fremia* samt *PTK*, *Antagande av Huvudavtal om trygghet, omställning och anställningsskydd*, antaget 31 oktober 2022.



with the Swedish Municipal Workers' Union and the Swedish Association of Health Professionals (and with the white-collar and professional trade unions *Akademikerförbunden*, *Sveriges läkarförbund*, *Vision*, and *Ledarna*).¹¹¹ In addition, the Employer Alliance and PTK, the Council for Negotiation and Cooperation have adopted a new national main collective agreement on security, transition, and employment protection, based on the main agreement on security, transition, and employment protection concluded by the Confederation of Swedish Enterprise, PTK, and the Swedish Confederation of Trade Unions (LO).¹¹² The Employer Alliance and PTK and LO have also concluded a national main collective agreement on cooperation and co-determination.¹¹³

3.3. Employee influence and whistleblowing

In Sweden, there are strong legal rights and industrial relations practices of employee influence and information, consultation, and co-determination. Employee influence is channelled through trade unions and their representatives, at local and national levels, in a single-channel system. Trade unions both negotiate and conclude collective agreements on wages and other terms and conditions of employment, and take part in information, consultation, and co-determination at workplace level. There are no works councils (except for health and safety committees at large workplaces, complementing the working environment activities of so-called safety officers (*skyddsombud*), appointed by the local trade unions that are bound by a collective agreement with the employer or the employers' organisation (Section 6)).¹¹⁴ In general, the assignment of employee representatives has no link to a staff threshold. If at least one of the employees (or a former employee) at the workplace is a member of a trade union, rights to negotiation and collective bargaining will be put in place. However, in principle, rights of information, consultation, and co-determination are provided only to trade unions as employee representatives, and not to individual employees. There are only limited rights of information and consultation for individual employees, such as rights regarding written information on terms and conditions of employment, and dismissal or summary dismissal for personal reasons.¹¹⁵ The traditional organisational structure of Swedish trade unions, their large membership and strength, and the evolving relationship between industrial relations and the labour-law system have prevented an emergence of non-unionised bodies of employee representation at local company level. The result is the establishment of a strict, single-channel system of employee representation.¹¹⁶

An employer is often bound by collective agreements in relation to an LO-affiliated, TCO-affiliated, and SACO-affiliated trade union, respectively. As these collective agreements cover different work and groups of employees, they are not seen as competing collective agreements. Consequently, employee representation is normally performed separately by several trade unions at the workplace.

There is an elaborate regulation of employee representation and information, consultation, and co-determination in the (1976:580) Co-determination Act (MBL) and complementary collective agreements. One aim of the (1976:580) Co-determination Act is to enable an increased element of cooperation and co-determination for employees and trade unions in the area of the managerial prerogative. The employer is obliged to keep the

¹¹¹ Arbetsgivaralliansen Branschkommitté Vård och Omsorg (Kommittén) samt Akademikerförbunden, Svenska Kommunalarbetsförbundet (Kommunal), Sveriges läkarförbund (Läkarförbundet), Vision, Vårdförbundet, Ledarna, *Bransch- och löneavtal Vård och Omsorg perioden 2023-05-01-2025-09-30*.

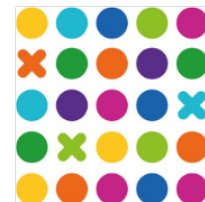
¹¹² Arbetsgivaralliansen samt PTK, *Antagande av Huvudavtal om trygghet, omställning och anställningsskydd*, antaget 1 oktober 2022.

¹¹³ Arbetsgivaralliansen samt PTK och LO, *Samverkansavtal*, antaget 1999-11-30.

¹¹⁴ See Chapter 6 of the (1977:1160) Work Environment Act.

¹¹⁵ See Mia Rönnmar, 'Information, Consultation and Worker Participation – An Aspect of EU Industrial Relations from the Swedish Point of View' in Mia Rönnmar (ed.), *EU Industrial Relations v. National Industrial Relations. Comparative and Interdisciplinary Perspectives* (Kluwer Law International 2008), 15–39.

¹¹⁶ See Vincenzo Pietrogiovanni and Andrea Iossa, 'Workers' representation and labour conflict at company level: The Italian binary star in the prism of the Swedish ternary system', *European Labour Law Journal*, 2017, Vol. 8(1), 45–66.



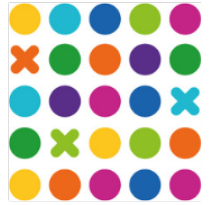
established trade union continuously informed of the manner in which the business is developing with respect to production and finance, and as to the guidelines for personnel policy (Sections 18–22 MBL). The right of information is vital to the trade union's possibilities to influence the employer's decision-making.

Within the framework of the (1976:580) Co-determination Act, one can distinguish among three different types of bargaining and negotiations: collective bargaining intended to regulate matters concerning the relationship between the negotiating parties by means of collective agreement (Section 10 MBL, disputes of interest), negotiations in legal disputes (Section 10 MBL, disputes of rights), and cooperation negotiations aiming at giving employees and trade unions information about and influence over the employer's managerial decisions (Sections 11–13 MBL). The workplace level plays a central role. Negotiation starts first at the local level. If agreement cannot be reached, negotiation continues at the national level. Before the tripartite and specialised Labour Court (*Arbetsdomstolen*) can deal with a legal dispute, local and central negotiations must have been conducted and must have failed. As a result of this rule, an overwhelming number of disputes are resolved through negotiation between the parties.¹¹⁷

All trade unions (with at least one member, or prior member, at the workplace) enjoy a statutory right of general negotiation with the employer on any matter relating to the relationship between the employer and a member of the trade union (Section 10 MBL). Established trade unions enjoy far-reaching rights of information, primary negotiation, and co-determination. According to Section 11 MBL on primary negotiations, the employer is obliged to initiate negotiations with the trade union before making decisions regarding important alterations in the employer's activities and business, such as restructuring, redundancies, work organisation changes and appointments of new managers, or the employment conditions or employment relationship of a member of the trade union, such as transfers and working-time changes. In addition, when the established trade union requests it, the employer is obliged to negotiate with the trade union before making other decisions regarding a member of the trade union (Section 12 MBL). According to the legislative preparatory works, the employer is obliged to negotiate with the trade union in this way, whenever the decision at hand is such that the trade union would likely be interested in negotiating. In addition, the employer is obliged to negotiate in this way with a trade union to which the employer is not bound by a collective agreement, before making decisions dealing with important alterations in the employment conditions or relationships primarily affecting one or more of the trade union's members (Section 13 MBL). As for the timing, negotiation must take place before the employer makes a decision. The negotiation initiative must be taken at such a time as to ensure that the negotiation becomes a natural and effective part of the employer's decision-making process. When it comes to the form and performance of the negotiation, the parties must attend the negotiation, state and motivate their position, and listen to the other party's information and arguments supporting their position. Even if the aim of the negotiation is to reach an agreement, the parties are under no obligation to compromise. There is no 'duty to bargain in good faith' or to conclude a collective agreement (even if the parties actually agree on an issue). A violation of these obligations is sanctioned with economic and punitive damages (Sections 54 and 55 MBL). The right to general and primary negotiations is complemented by other provisions in the area of co-determination, such as provisions on priority of interpretation (a right to decide *ad interim*, for example, in disputes on the employee's obligation to work, Section 34 MBL) and a limited trade-union right of negotiation and veto in cases where the employer wants to engage a particular person to perform certain work on her behalf, without such a person becoming an employee of the employer (this includes engaging temporary agency workers, Sections 38 and 39 MBL).¹¹⁸

¹¹⁷ See Jenny Julén Votinius, 'Sweden' in M. Ebisui, S. Cooney and C. Fenwick (eds), *Resolving Labour Disputes. A comparative overview* (International Labour Office 2016), 235–267.

¹¹⁸ See Mia Rönmar, 'Information, Consultation and Worker Participation – An Aspect of EU Industrial Relations from the Swedish Point of View' in Mia Rönmar (ed.), *EU Industrial Relations v. National Industrial Relations. Comparative and Interdisciplinary Perspectives* (Kluwer Law International 2008), 15–39 and Government Bill, Prop. 1975/76:105: Bilaga 1, *Arbetsrättsreform: Lag om medbestämmande i arbetslivet*.



Representatives of established trade unions are given paid time off for their assignment, and enjoy a far-reaching protection against dismissal, deteriorated terms and conditions of employment, and harassment from the employer according to the (1974:358) Act on Trade Union Representatives (*Förtroendemannalagen*). This protection extends to a period of time after the employee has stopped acting as a trade union representative (so-called *efterskydd*).¹¹⁹

EU Directives in the area of employee influence, e.g. the Directives on Transfers of Undertakings, Collective Redundancies, European Works Councils, and Information and Consultation, have been relatively easily implemented into Swedish law and integrated with Swedish industrial relations. Compared to EU law provisions, rights to information, consultation, and employee participation in Swedish law are generally stronger and more extensive, for example as regards the degree of influence, the subject matter, and the timing.¹²⁰

In addition, important regulation on cooperation and co-determination is found in collective agreements at cross-sectoral, sectoral, and local levels, in the labour market in general and in the public and private care sector. Collective agreements on cooperation and co-determination often put in place a comprehensive system of cooperation, which integrates statutory obligations on information, consultation, and co-determination in various areas. This is, for example, the case in the public care sector. Previous research on decentralised collective bargaining in the public health care sector, integrating case studies, discusses a local collective agreement on cooperation and co-determination, which was concluded within the framework of the national 'cross-sectoral' collective agreement on cooperation and co-determination (*Samverkansavtalet*), between SKR, Sobona, and a number of public-sector trade unions for blue-collar, white-collar, and professional employees. This local collective agreement sets out general responsibilities and goals of cooperation as well as a coherent and comprehensive system of cooperation between the employer and local trade-union representatives. The system of cooperation integrates information, consultation, and co-determination, according to the (1976:580) Co-determination Act, with cooperation and employer responsibilities according to statutory regulation on working environment and non-discrimination, and includes social-partner collaboration as well as human-resource management practices, such as regular workplace meetings between employers and employees, and individual performance management and development talks between employer and employee.¹²¹

In addition to employee influence through trade unions, whistleblowing can fill an important function in the care sector to bring attention to problems, risks, and signs of corruption and breaches of the law, which in turn may impact negatively on the quality of care and on the protection and quality of working conditions of care workers and on the rights of care recipients and care workers.¹²²

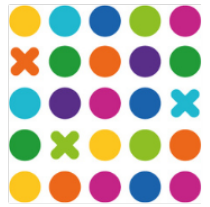
The fundamental right of freedom of expression is protected by international and EU/European law, for example, Article 10 of the European Convention of Human Rights, which entails a positive obligation on the state to protect freedom of expression, and Article 11 of EU Charter of Fundamental Rights. In Sweden, there is constitutional protection of the freedom of expression through the (1974:152) Instrument of Government (*Regeringsformen*), Chapter 2 Section 1(1), the (1991:1469) Fundamental Law on the Freedom of Expression (*Yttrandefrihetsgrundlagen*), and the (1949:105) Freedom of the Press Act (*Tryckfrihetsförordningen*). Due to the varying impact of Swedish constitutional law in the public and private sector, respectively, (Section 1), public sector employees can be said to enjoy stronger protection of freedom of expression than private sector employees, both in principle and in practice.

¹¹⁹ See Government Bill, Prop. 1975/76:105: Bilaga 1, *Arbetsrättsreform: Lag om medbestämmande i arbetslivet*, 219 f.

¹²⁰ See further Erik Sjödin, *Ett europeiserat arbetstagarinflytande. En rättslig studie av inflytandedirektivens genomförande i Sverige* (Iustus 2015).

¹²¹ See Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).

¹²² See e.g. *Heinisch v. Germany*, judgment from 21 July 2011, the European Court of Human Rights.



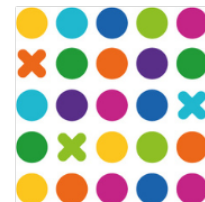
According to basic principles of the employment contract, statutory employment protection, and settled case law from the Swedish Labour Court, all employees, both in the public and private sector, have a right to criticise their employer (*kritikrätt*), to engage in public debate, and to whistle blow and bring problems in the workplace to the attention of public authorities. However, the employee's exercise of the right to criticise must not contravene the principle of loyalty and the contract of employment. The Swedish Labour Court has set out the criteria for this assessment in case law.¹²³

In addition to this regulation and case law on freedom of expression, right to criticise, and employment protection, a specific Act on Whistleblowing was introduced in 2016. In order to implement the EU Whistleblowing Directive,¹²⁴ this Act was replaced by a new Act, the (2021:890) Act on Whistleblowing (or Act on the Protection of Persons Reporting Irregularities, *visselblåsarlagen*).¹²⁵ This new Act applies to persons who, in a work-related context, report information concerning irregularities in the public interest or irregularities in relation to violations of EU law (Section 2). The Act clarifies that it does not limit protection that apply under other acts or on other grounds (Section 4) and offers protection by way of exemption from liability and against obstructive measures and retaliation.

¹²³ See e.g. Swedish Labour Court judgement AD 1994:79. See further Kent Källström and Jonas Malmberg, *Anställningsförhållandet. Inledning till den individuella arbetsrätten* (6th edn, Iustus 2022), 279 ff., Per Larsson, *Skyddet för visselblåsare i arbetslivet – en konstitutionell och arbetsrättslig studie* (Jure 2015), and Susanne Fransson, *Yttrandefrihet och whistleblowing. Om gränserna för anställdas kritikrätt* (Premiss förlag 2018).

¹²⁴ Directive 2019/1937/EU.

¹²⁵ Government Bill, Prop. 2020/21:193, *Genomförande av visselblåsardirektivet*. See also See Sören Öman, *Visselblåsarlagen. En kommentar till lagen om skydd för personer som rapporterar om missförhållanden* (Norstedts Juridik 2021).



4. Employment status, flexible forms of employment, and employment protection¹²⁶

4.1. Employment status and flexible forms of employment

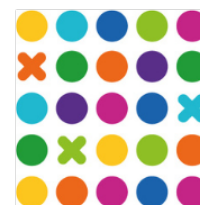
The Swedish notion of employee (*det civilrättsliga arbetstagarbegreppet*) is not statutorily defined, but its content and meaning have been described and developed by the courts in case law and the legislator in preparatory works.¹²⁷ To determine whether an individual is an employee, the court conducts an overall assessment of the situation, taking all relevant factors of each individual case into consideration. The multi-factor test applied by the courts focuses on the respective individual and on whether his/her overall situation is similar to that of an ordinary employee or an ordinary self-employed worker. The courts take a number of factors into consideration, such as personal duty to perform work in accordance with the contract, actual personal performance of work, whether any predetermined work tasks exist, the existence of a lasting relationship between the parties, whether the worker is subject to the instructions and control of the principal/employer as regards the content, time and place of work, whether remuneration is paid, at least in part, as a guaranteed salary, and whether the economic and social situation of the worker is equal to that of an ordinary employee. The notion of employee is a binding mandatory concept. To prevent the contracting parties from circumventing labour law legislation and depriving the employee of protection, the courts are not bound by the description or definition of the relationship given by the parties themselves, for example, in a written contract. The court conducts an independent assessment of the legal nature of the relationship on the basis of the actual situation at hand. However, the parties to the contract are, in principle, free to organise their relationship and the manner in which the work will be carried out, at least in practical terms. A court may find that these practical arrangements and the worker's overall situation best match the description of an ordinary self-employed worker. The development has gone towards a uniform and comprehensive notion of employee, and the extent of the notion of employee has continuously expanded, aiming at providing additional groups of workers the protection afforded by labour law and labour law legislation.¹²⁸ In Sweden, care workers are generally employees.

The Part-Time Work Directive, Fixed-Term Work Directive, and Temporary Agency Work Directive, and the Directive on Transparent and Predictable Working Conditions have been implemented into Swedish law, by way of legislation and collective bargaining. The Part-Time Work Directive, Fixed-Term Work Directive, and Temporary Agency Work Directive are all linked to the EU flexicurity discourse and combine the promotion of flexible employment with protection of flexible employees in various ways. The Part-Time, Fixed-Term, and Temporary Agency Work Directives afford protection to employees by way of a principle of non-discrimination or a principle of equal treatment, which, however, has not been given a coherent design in the Directives. Part-time, fixed-term, and temporary agency work, are frequent forms of flexible employment in the Swedish labour market. We have also seen that there is a high incidence of fixed-term employment and part-time employment in the care sector, well above average (Section 2.1).

¹²⁶ This Section partly draws on previous research on flexible forms of employment and employment protection, see e.g. Mia Rönnmar, 'Fixed-term and zero-hours contracts' in Guy Davidov, Brian Langille, and Gillian Lester (eds), *Oxford Handbook of the Law of Work* (Oxford University Press, forthcoming).

¹²⁷ For a comprehensive study on the employee notion in Swedish law, see Axel Adlercreutz, *Arbetstagarbegreppet: Om arbetstagarförhållandet och därtill hörande gränsdragningsfrågor i svensk civil- och socialrätt*, (P.A. Norstedts & Söners Förlag 1964). – The (1976:580) Co-determination Act, which regulates aspects of collective labour law, including freedom of association, collective bargaining, collective action, and employee influence (Section 3), applies not only to employees, but also to the 'quasi-employee' category of so-called *jämställda uppdragstagare*, i.e. persons who occupy a position of essentially the same nature as that of an employee.

¹²⁸ See e.g. Swedish Labour Court judgements AD 2013:32, AD 2013:92, and AD 2021:13. See also Mia Rönnmar, 'New Forms of Employment in Sweden' in Bernd Waas (ed.), *New Forms of Employment in Europe*, Bulletin of Comparative Labour Relations, Vol. 94 (Kluwer Law International 2016), 355–360.



Fixed-term contracts are regulated in the (1982:80) Employment Protection Act. Permanent employment is the main rule and fixed-term contracts are permitted only when specifically agreed upon in individual employment contracts. In addition, for a fixed-term contract to be legal, the detailed rules in Sections 4–6 of the (1982:80) Employment Protection Act must be adhered to. These provisions are semi-compelling, and collective agreements regulating fixed-term contracts are permitted and frequent, resulting in both a more restrictive and extensive scope for fixed-term contracts.¹²⁹

Fixed-term regulation was importantly reformed in 2007, when a list of fixed-term contracts was replaced by one new form of fixed-term contract, general fixed-term employment (*allmän visstidsanställning*), supplemented by temporary substitute employment, seasonal employment, and probationary employment.¹³⁰ This reform broadened the scope for fixed-term contracts and removed the requirement for objective reasons for the conclusion of a fixed-term contract. However, when an employee had been employed under a general fixed-term employment contract or as a temporary substitute by one employer for a total of two years during the last five years, the contract was automatically converted into an indefinite permanent employment contract. After a certain period of employment fixed-term employees also qualified for a priority right to re-employment.¹³¹ A major reform of Swedish employment protection in 2022 also included the regulation of fixed-term employment (Section 4.2). The reform entailed quicker conversion from fixed-term to permanent employment and quicker qualification for a priority right to re-employment in redundancy situations for fixed-term employees. General fixed-term employment was replaced by specific fixed-term employment (*särskild visstidsanställning*, Section 5a LAS), and a specific fixed-term employment contract is converted into a permanent employment contract after a total period of employment of 12 months within a 5-year-period.¹³²

On-call work, on-demand work, or work paid by the hour (*behovsanställning* or *timanställning*), also sometimes referred to as zero hours contracts, are used in the Swedish care sector (Section 2.1). On-call work does not constitute a separate form of employment in Sweden. An on-call employee is employed either on a permanent contract for an indefinite period or on a fixed-term contract for a definite period (and then often on a separate fixed-term contract for each working day/working period). The specific arrangements as regards the workload, the length and allocation of working time, and the employee's obligation to be 'on call' and accept the work offered are explicitly or implicitly agreed between the parties in the individual employment contract, within the limits set by working time and health and safety legislation. In addition, in some sectors there is collective bargaining regulation on on-call and on-demand work.¹³³ There is limited case law from the Swedish Labour Court in this area, and legal uncertainty as regards some substantive aspects and the contractual limits for these contracts.¹³⁴

¹²⁹ Additional scope for fixed-term contracts can be provided by other legislation (this is, for example, the case in the higher education sector).

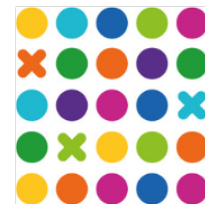
¹³⁰ See Government Bill, Prop. 2006/07:111, *Bättre möjligheter till tidsbegränsad anställning, m.m.*

¹³¹ This reform was challenged from the perspective of EU law. The Swedish Confederation for Professional Employees (TCO) made a complaint to the European Commission regarding Sweden's failure to correctly implement Clause 5 of the (99/70/EC) Fixed-term Work Directive on abuse of successive fixed-term employment. The European Commission issued two reasoned opinions (in 2013 and 2014), and subsequently the Swedish regulation of fixed-term contracts was reformed and a new provision by which general fixed-term employments would be converted into indefinite employments in more cases was introduced, see Samuel Engblom, 'Fixed-Term-at-Will: The new regulation on fixed-term work in Sweden', *International Journal of Comparative Labour Law and Industrial Relations*, 2008, Vol. 24(1), 133–149.

¹³² A new rule on the calculation of the total period of employment has been introduced according to which an employee who has had three or more (short) specific fixed-term employments during one month may include also the time spent in between employments during that month in the calculation of the total period of employment, Section 3(2) LAS.

¹³³ See Annamaria Westregård, 'Precarity of new forms of employment under Swedish labour law' in Jeff Kenner, Izabela Florczak and Marta Otto (eds), *Precarious Work: The Challenge for Labour Law in Europe* (Edward Elgar 2019), 99–113.

¹³⁴ Despite increased attention to problems related to on-call work and zero hours contracts, the Directive on Transparent and Predictable Working Conditions was implemented in Sweden in a rather 'minimalistic' way as regards on-call work and zero hours contracts. No new provisions or measures were proposed in relation to implementation of Articles 10 and 11 regarding minimum predictability for workers with unpredictable work patterns and measures to prevent abusive practices. The conclusion of the Government Bill was that existing



Collective agreements in both the public and private care sector comprise specific regulation of fixed-term employment. In the private care sector, the collective agreement between Fremia and the Swedish Municipal Workers' Union on personal assistance for persons with a disability provides a large scope for fixed-term employment, linked to the specific characteristics of personal assistance and the relation between the personal assistant and the care recipient.¹³⁵ According to the collective agreement, a fixed-term employment contract can be concluded 'for a fixed-term as long as the assignment lasts' (*på viss tid så länge uppdraget varar, SLUV, § 2 Mom 5*). There is no stipulated time-limit for this type of fixed-term employment contract, no provision for conversion of the fixed-term employment contract into a permanent employment contract, and the fixed-term employment contract can be terminated on short notice. The Swedish Municipal Workers' Union legally challenged this provision of the collective agreement (despite the fact that the trade union was a contracting party) on grounds of both Swedish and EU law in a dispute in the Swedish Labour Court relating to an employee, who had been employed on this type of fixed-term contract since 2008. The Labour Court found in a judgement from 2023 that the collective bargaining provision was valid and did not contravene the Fixed-Term Work Directive or the (1982:80) Employment Protection Act.¹³⁶

Part-time work, in Sweden as well as in other countries, is also closely connected to the gendered governance of labour markets and gendered care work practices. In EU gender equality law, these gendered patterns of part-time work have over the years, and in landmark judgments from the Court of Justice of the European Union, successfully been legally challenged as indirect sex discrimination.¹³⁷ Part-time work is regulated by legislation and collective bargaining on working time and by employment contracts (Section 6).¹³⁸

In the Swedish context, a part-time employee has a right to request more working time. Section 25a of the (1982:80) Employment Protection Act states that a part-time employee who has notified his or her employer that he or she desires to have employment at a higher level of occupation, though at most full-time, has a priority right to such employment. This right is contingent upon the employer's need of labour being satisfied by the part-time employee being employed at a higher level of occupation and that the part-time employee is adequately qualified for the new work tasks. If an employer has several production units, the priority right applies to employment at the unit where the employee is engaged part-time.

The reform of employment protection in 2022 also included strengthened protection for part-time employees and the introduction of a new main rule on full-time employment (Section 4.2). According to Section 4a of the (1982:80) Employment Protection Act, employment contracts refer to full-time employment, unless otherwise agreed. If an employment contract does not refer to full-time employment, the employer must indicate the reason for this in writing at the employee's request. The information must be provided within three weeks of the request being presented.

The non-discrimination principle in the Part-Time and Fixed-Term Work Directive has been implemented through the creation of a new Act, the (2002:293) Prohibition of Discrimination of Employees Working Part-Time and

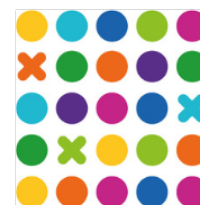
legislation in areas, such as fixed-term contracts, employment protection, working time, and health and safety, together with the Swedish collective bargaining system and its ability to regulate aspects of working time and wages, met the requirements of the Directive and EU law, see Government Inquiry Report, Ds 2020:14, *Genomförande av arbetsvillkorsdirektivet*, and Government Bill Prop. 2021/22:151, *Genomförande av arbetsvillkorsdirektivet*.

¹³⁵ See Fremia samt Kommunal, *Personlig assistans*, 2023-10-01–2025-10-31.

¹³⁶ See Swedish Labour Court judgement AD 2023:33.

¹³⁷ See e.g. Case C-96/80 *Jenkins* [1981] ECR 911 and Case C-170/84 *Bilka-Kaufhaus* [1986] ECR 1607. – See further also CARE4CARE WP3 reports, dealing with aspects of care workers, gender equality, and non-discrimination.

¹³⁸ On working time and part-time regulation, see e.g. Lotti Ryberg-Welander, *Arbetsvillkorsregleringens utveckling. En studie av arbetsvillkorsreglering i fyra länder*, Lund Studies in Sociology of Law 11 (Lund University 2000), and Birgitta Nyström, *EU och arbetsrätten* (6th edn, Norstedts Juridik 2021), 340 ff. and 394 ff.



Employees with Fixed-Term Employment Act. This Act was aligned with other Swedish non-discrimination legislation and contains prohibitions on direct and indirect discrimination.¹³⁹

Since the implementation of the Temporary Agency Work Directive into Swedish law, temporary agency work is regulated in the (2012:854) Agency Work Act.¹⁴⁰ According to Swedish law, a temporary agency worker is an employee of the temporary work agency, who within the framework of his/her employment relationship performs work for a third party, the user undertaking. Labour law provisions, e.g., on employment protection, working time, annual leave, information and consultation, etc., generally apply to all employees, including temporary agency workers. Permanent employment is the main rule also for temporary agency workers as well.

Temporary agency work has been successfully integrated into the autonomous collective bargaining system in Sweden. The temporary agency work sector is principally covered by collective bargaining, also in the care sector as we have seen (Section 3.2.2). To promote quality and legitimacy of temporary agency work, the employers' organisation the Competence Agencies of Sweden has developed a system of authorisation for temporary work agencies. The principle of equal treatment is regulated in Section 6 of the (2012:854) Agency Work Act, which states that '[a] temporary-work agency shall, for the duration of the worker's assignment at a user undertaking guarantee the worker at least the same basic working and employment conditions as would apply if they had been recruited directly by that undertaking to carry out the same job'. Exceptions to the principle of equal treatment are permissible in accordance with Articles 5(2) and 5(3) of the Temporary Agency Work Directive, and consequently Section 8 of the Act provides that the equal treatment principle does not apply to temporary agency workers who have a permanent contract and receive pay between temporary assignments. In addition, the Act states in Section 3 that deviations from the principle of equal treatment may be made through a collective agreement concluded or approved by a central trade union on the condition that the agreement respects the overall protection of workers within the meaning of Directive 2008/2014/EC.^{141 142}

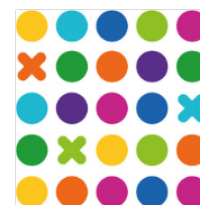
As we have seen, there is a collective bargaining framework for temporary agency work in the Swedish care sector, and temporary agency work is utilised, especially as regards nurses and medical doctors. At the same time, there is current debate, between *inter alia* politicians, employers' organisations, public and private employers, and trade unions, at national, regional, and local levels, about the conditions for and practical use of temporary agency work in the care sector. The debate relates to issues, such as the benefits and costs of this use of temporary agency work, whether or not temporary agency work is an effective way to address skills and staff shortage, talent management, and the promotion of labour market inclusion, for example of immigrants, in the care sector, what the implications of temporary agency work are for health and safety and working conditions, and the effects of existing strict restrictions on the use of temporary agency work put in place in some parts of the public care sector (Section 2.3).

¹³⁹ See Governmental Bill, Prop. 2001/02:97, *Lag om förbud mot diskriminering av deltidsarbetande arbetstagare och arbetstagare med tidsbegränsad anställning, m.m.*

¹⁴⁰ See Government Inquiry Report, SOU 2011:5, *Bemanningsdirektivets genomförande i Sverige*, and Government Bill, Prop. 2011/12:178, *Lag om uthyrning av arbetstagare*.

¹⁴¹ A new provision regarding temporary agency work, the so-called 'two-year rule' (Section 12a of the Act), entered into force on 1 October, against the background of the Temporary Agency Work Directive and case law from the Court of Justice and the new main cross-sectoral collective agreement on security, transition, and employment protection. According to the 'two-year-rule', which is 'semi-compelling, temporary agency workers, who are engaged to work in the same operating unit for 24 months during a period of 36 months, must be offered permanent employment with the entity engaging the temporary agency worker. Alternatively, it is possible to pay financial compensation to the temporary agency worker.

¹⁴² On temporary agency work in the Swedish context, see e.g. Annika Berg, *Bemanningsarbete, flexibilitet och likabehandling. En studie av svensk rätt och kollektivavtalsreglering med komparativa inslag* (Juristförlaget i Lund 2008), Birgitta Nyström, 'Utstationerade bemanningsanställda. En kollision mellan två EU-direktiv' in Jens Fejő et al. (eds), *Festschrift Liber Amicorum et Amicorum in Honour of Ruth Nielsen* (Jurist- og Økonomforbundets Forlag 2013), 233–250, and Niklas Selberg, *Arbetsgivarbegreppet och arbetsrättsligt ansvar i komplexa arbetsorganisationer. En studie av anställningsskydd, diskriminering och arbetsmiljö* (Lunds universitet 2017).



4.2. Employment protection

There is comprehensive statutory employment protection regulation in Sweden. Permanent employment contracts can only be terminated if the requirement for objective grounds, or just cause, in the (1982:80) Employment Protection Act (*Lagen om anställningsskydd*, LAS) is met (Section 7 LAS). Partly separate rules apply in relation to dismissal for personal reasons and dismissal for reasons of redundancy, respectively. All dismissals require objective grounds. Dismissals for personal reasons impose a number of obligations on the employer, including an obligation to provide alternative work, training, and rehabilitation and to take other measures in line with an *ultima ratio*-principle, and involve a close scrutiny of the employer's actions in the individual situation in order to avoid arbitrariness. In contrast, redundancy *per se* constitutes objective grounds for dismissal, and employee protection in dismissals for redundancy therefore instead rely upon seniority rules, the obligation to provide alternative work, and the priority right to re-employment together with employee influence and trade union involvement, and support through collectively bargained transition agreements. Extensive case law from the Swedish Labour Court clarifies the content and strength of the employment protection.¹⁴³

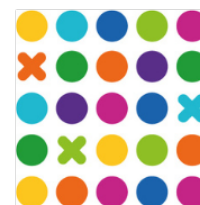
In 2022 there was a major reform of Swedish employment protection, including aspects of fixed-term and part-time employment. This reform was a response to a political agreement on the need for deregulatory employment protection reform (the so-called January Agreement) and the outcome of a parallel process and interplay of legislation and collective bargaining. The final content of the reform was based on a cross-sectoral social partner agreement in the private sector, concluded in 2021, which formed the basis both for the general legislative reform and the conclusion of a new main cross-sectoral collective agreement on security, transition, and employment protection in the private sector (including the private care sector, Section 3.2.2).¹⁴⁴

A new 'semi-compelling' element was introduced in Section 2c LAS, which allows only the top social-partner organisations at cross-sectoral level to deviate from some of the key elements of the statutory employment protection regulation by way of collective bargaining, including interpretation of the notion of objective grounds for dismissal. The reform of the (1982:80) Employment Protection Act entails, in response to employer interests and as regards employment protection for permanent employees, some deregulatory reorientation as regards the notion of objective grounds for dismissal for personal reasons, revised rules for selection of employees in redundancy dismissals with increased scope for unilateral employer exemptions, and new procedures for dismissal disputes, aimed at reducing costs for employers. In response to employee and trade-union interests, the reform includes increased protection for fixed-term and part-time employees, for example, by way of quicker conversion to permanent employment and priority right to re-employment, specific fixed-term employment, and a new main rule on full-time employment (Section 4.1).

Furthermore, the main cross-sectoral collective agreement entails important support for transition and life-long learning, for both permanent and fixed-term employees, of importance both for individual employees' competence development and for the talent management of the Swedish labour market overall, and of specific sectors, including the care sector. Collectively bargained transition support is extended through legislation to companies and employees not covered by collective bargaining. In addition, a new form of study aid, so-called

¹⁴³ For an analysis of Swedish employment protection regulation from the perspective of flexicurity and case law developments from the Swedish Labour Court, see Mia Rönmar and Ann Numhauser-Henning, 'Swedish employment protection in times of flexicurity policies and economic crisis', *International Journal of Comparative Labour Law and Industrial Relations*, 2012, Vol. 28 (4), 443–467. – For more detailed information and discussion about the background, development, and content of the current Swedish employment protection, see e.g. Government Bill, Prop. 1973:129, *Lag om anställningsskydd m.m.*, Government Bill, Prop. 1981/82:71, *Ny anställningsskyddslag m.m.*, and Lars Lunning, Gudmund Toijer, Per Lindblom, *Anställningsskydd. En lagkommentar* (JUNO digital version 11B, Norstedts 2022).

¹⁴⁴ See Government Inquiry Report, SOU 2020:30, *En moderniserad arbetsrätt*, Government Inquiry Report Ds 2021:17, *En reformerad arbetsrätt – för flexibilitet, omställningsförmåga och trygghet på arbetsmarknaden*, Government Bill, Prop. 2021/22:176, *Flexibilitet, omställningsförmåga och trygghet på arbetsmarknaden*, and Svenskt Näringsliv samt PTK, *Huvudavtal om trygghet, omställning och anställningsskydd*, and Svenskt Näringsliv samt LO, *Huvudavtal om trygghet, omställning och anställningsskydd*.



transition study aid is introduced to enable and support employees' life-long learning and general competence provision (Section 6).¹⁴⁵ Previous research has indicated that redundancy dismissals are rare in the public health care sector, and that local collective agreements on selection of employees in redundancy situations are uncommon. Employer and trade union representatives at all levels in the public health care sector emphasised in interviews that the great challenge in the public health care sector is the need to secure current and future talent management, and to address existing, sometimes urgent, staff shortages.¹⁴⁶

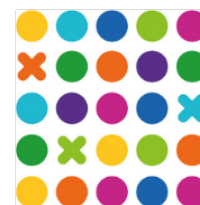
These recent developments clearly reflect the dynamics and interrelation between employment protection and fixed-term contracts, as well as elements of flexicurity, such as more equal treatment of permanent and fixed-term employees through a progressive build-up of rights of fixed-term employees and a weakened employment protection for permanent employees. At the same time, the main cross-sectoral collective agreement emphasises employability and provides strong support for transitions and training. This cross-sectoral collective agreement can be seen as a strengthening of the autonomous collective bargaining system and social partnership. However, this process has also been criticised as the cross-sectoral social partner agreement had a decisive influence on the legislative process and the substantive content of the legislative reform. Not all social partners, for example, not the social partners in the public sector and public care sector, were part of the negotiations, and the agreement and the ordinary legislative referral procedure was curtailed.¹⁴⁷

In late 2021, the social partners in the regional and municipal sector, including the public care sector, renegotiated their transition agreement (*Överenskommelse om Kompetens- och omställningsavtal, KOM-KR*), and adapted it to the content of the cross-sectoral social partner agreement on security, transition, and employment protection; the agreement was also adapted to future legislative reforms. New rights to and strengthened support for transitions, life-long learning, and talent management have been introduced in the agreement (Section 3.2.2 and Section 6).

¹⁴⁵ See Act (2002:856) on transition study aid (*lag om omställningsstudiestöd*).

¹⁴⁶ See Mia Rönmar and Andrea Iossa, CODEBAR. *Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).

¹⁴⁷ See Petra Herzfeld Olsson, 'Den svenska modellen i en ny era', *Juridisk Tidskrift*, 2021/22, Nr 3, 783–798 and Niklas Selberg and Erik Sjödin (eds), *Anställningsskydd i utveckling* (Iustus 2022).



5. Wages and benefits

In Sweden, collective bargaining, together with employment contracts, regulate wages and benefits, in the labour market in general and in the care sector. There is no system of extension of collective agreements and no statutory minimum wage.

In 1997, the social partners in the industry sector, concluded a cross-sectoral collective agreement, the 'Industrial Agreement' (*Industriavtalet*) and introduced a mechanism to ensure that wages on the labour market would not increase at a percentage higher than the growth of the national economy.¹⁴⁸ This mechanism, called the 'industry mark' (*'industrimärket'*), ties the wage increase in various sectors of the Swedish labour market to the wage increase set by national, sectoral collective agreements in the industrial export sector. It uses the degree of international competitiveness as a way to control inflation caused by wage increases and to keep the Swedish economy competitive.¹⁴⁹ Collective bargaining, wage formation, and wage-setting in Sweden are characterised by 'organised decentralisation' and an emphasis on local and individual bargaining within a framework of national, sectoral, and multi-employer collective bargaining.¹⁵⁰

The 'industry mark' functions as a cross-sectoral mechanism for collective-bargaining coordination. However, the 'industry mark' is frequently criticised from the perspective of gender equality, both by scholars and trade union representatives, including in the care sector. They argue that the 'industry mark' makes it difficult to effectively address gender pay gaps and improve wages in female-dominated low-wage sectors.¹⁵¹

In the care sector, there is, as we have seen, an elaborate framework of collective agreements. Previous research has shown that wage-setting mechanisms in the public health care sector range from very decentralised (for example, in relation to white-collar employees, and nurses, organised in the Swedish Association of Health Professionals) to partly centralised wage-setting mechanisms (for example, in relation to blue-collar employees organised in the Municipal Workers' Union).¹⁵² Thus, provisions on wages and wage-setting processes differ in the national, sectoral collective agreements in the public and private care sectors, but generally include elements of local wage-setting processes and individualised wage-setting.

Wages may not be determined on the basis of gender, and collective agreements must be in accordance with the requirements in the (2008:567) Discrimination Act (*Diskrimineringslagen*). To safeguard the principle of equal pay for women and men, the employer must carry out yearly pay audits in collaboration with trade union

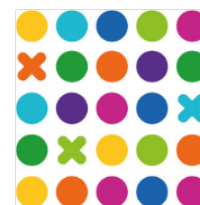
¹⁴⁸ See Grafiska Företagen, Industrierbetsgivarna, IKEM, Livsmedelsföretagen, Gröna arbetsgivare, Teknikföretagen, TEKO, Sveriges Textil- och Modeföretag och Trä- och Möbelföretagen samt GS Facket för skogs-, trä- och grafisk bransch, IF Metall, Livs/Livsmedelsarbetareförbundet, Sveriges Ingenjörer och Unionen, *Industriavtalet. Industrins samarbetsavtal och förhandlingsavtal*.

¹⁴⁹ See Anders Kjellberg, 'Sweden: collective bargaining under the industry norm' in Torsten Müller, Kurt Vandaele and Jeremy Waddington (eds), *Collective bargaining in Europe: towards an endgame. Vol. 3.* (ETUI 2019), 583–603. – The trend towards decentralisation of collective bargaining and wage-setting continued with the introduction of so-called 'figureless collective agreements' (*sifferlösa kollektivavtal*) in parts of the Swedish labour market in which the determination of wage and wage increases is delegated entirely to the local level of negotiations, and often to individual negotiations between the manager and the employee, see Kerstin Ahlberg and Niklas Bruun, 'Sweden: transition through collective bargaining' in T. Blank and E. Rose (eds), *Collective bargaining and wages in comparative perspective: Germany, France, the Netherlands, Sweden and the United Kingdom* (Kluwer Law International), 117–143.

¹⁵⁰ See Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).

¹⁵¹ See Mia Rönnmar, 'The role of equality law in addressing gender inequalities in work and employment relations: experiences from the European Union' in Mia Rönnmar and Susan Hayter (eds), *Making and Breaking Gender Inequalities in Work*, ILERA Publication Series Vol. 4 (Edward Elgar 2024), 97–115 and Lena Svenaeus, *Konsten att upprätthålla löneskillnader mellan kvinnor och män. En rättssociologisk studie av regler i lag och avtal om lika lön* (Lunds universitet 2017), and Jenny Julén Votinius, 'Discrimination map' and inequalities in the care sector. *Swedish Report. WP3* (CARE4CARE 2024).

¹⁵² See Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).



representatives, under the provisions in the (2008:567) Discrimination Act (Chapter 3 Sections 8 and 11).

As a result of the different conditions for wage formation in different parts of the labour market, wage levels differ between the private and public sectors, and also between different occupational groups. In the public sector, and in care work, both which are female dominated, the pay levels are typically lower than in the private sector and in occupations where most employees are men.¹⁵³ In addition, normally, female-dominated occupations display a narrow wage range, thus limiting the possibility of wage progression for those who stay in the profession for many years.¹⁵⁴ The table below shows the average full time monthly pay for the care sector occupations in 2022. In all these occupations, the average wages are lower than in occupations of equal value which are not female dominated.¹⁵⁵

Table 1. Average monthly wage, by gender and occupation 2022

	Men:	Women:	Total:
Nurse (SSYK 2221)	3 773 EUR / 42 200 SEK	3 656 EUR / 40 900 SEK	3 674 EUR / 41 100 SEK
Assistant nurse; home care, home health care and residence homes for the elderly (SSYK 5321)	2 682 EUR / 30 000 SEK	2 753 EUR / 30 800 SEK	2 745 EUR / 30 700 SEK
Assistant nurses; medical and specialised ward (SSYK 5323)	2 759 EUR / 30 900 SEK	2 804 EUR / 31 400 SEK	2 795 EUR / 31 300 SEK
Care assistants (SSYK 5330)	2 384 EUR / 26 700 SEK	2 384 EUR / 26 700 SEK	2 384 EUR / 26 700 SEK
Personal assistant for persons with a disability (SSYK 5343)	2 598 EUR / 29 100 SEK	2 589 EUR / 29 000 SEK	2 598 EUR / 29 100 SEK

Statistics Sweden, Average salary and salary dispersion by sector, occupation (SSYK 2012) and sex 2022

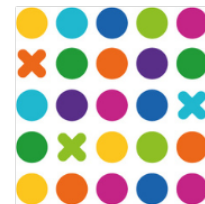
Despite the autonomous collective bargaining system, migration law is relevant in wage-setting. Swedish migration law and policy are currently undergoing comprehensive changes, which are supported by a broad political majority, and where the restructuring of labour immigration is an important element.¹⁵⁶ In the Swedish context, labour migrants are third country nationals with a residence permit granted on the basis of a work permit. The main rule is that an alien who wants a residence or work permit in Sweden must have applied for and been granted such a permit before entering Sweden (Chapter 6 Section 4 of the (2005:716) Aliens Act). A precondition for a work permit is that the applicant can demonstrate an employment contract, signed by both parties, where the terms of employment, wage and insurances including pensions, are in line with the collective agreement or practices in the relevant profession or industry. The wage level must also be above a wage floor. To counteract exploitation and abuse, strengthen the position of labour immigrants, prevent the salaries of labour immigrants from being

¹⁵³ See Medlingsinstitutet, *Löneskillnaden mellan kvinnor och män 2022. Vad säger den officiella lönestatistiken?* (Medlingsinstitutet 2023), Government Inquiry Report, SOU 2015:86, *Mål och myndighet. En effektiv styrning av jämställdhetspolitiken*, and Government Inquiry Report, SOU 2020:46, *En gemensam angelägenhet*.

¹⁵⁴ See Government Inquiry Report, SOU 2015:86, *Mål och myndighet. En effektiv styrning av jämställdhetspolitiken*.

¹⁵⁵ See Swedish Gender Equality Agency, *Analys av den könssegregerade arbetsmarknaden. Förutsättningar för en bredare rekryteringsbas till välfärden. Underlagsrapport 2023:8* (Swedish Gender Equality Agency 2023), 24.

¹⁵⁶ See Government Declarations on Taking Office 2022, Government Inquiry Report, SOU 2024:12, *Mål och mening med integration*, and Government Bill, Prop. 2023/24:1 *Budgetproposition, Utgiftsområde 8, Migration*, 19.



undercut, and discourage competition with low salaries, the wage floor has been increased.¹⁵⁷ The wage floor does not apply to persons who's right to reside in Sweden is based on other grounds, such as protection, family ties, studies, or to those who meet all the requirements for a permanent residence permit. Following a number of different reports on abuses of the labour immigration system specifically identifying fraudulent use of work permits for personal assistants for persons with a disability, a Government Inquiry has proposed that from June 2025 it shall no longer be possible to obtain a work permit to work as a personal assistant.¹⁵⁸

The aim of the Directive on adequate minimum wages in the EU is to establish a framework for adequate statutory minimum wages aimed at achieving decent living and working conditions, to promote collective bargaining on wage-setting, and to enhance effective access of workers to rights to minimum wage protection provided for in national law or collective agreements. The Directive is seen as an important measure to improve working conditions and strengthen collective bargaining. Although the Directive includes guarantees for national systems of industrial relations built on autonomous collective bargaining, such as Sweden (cf. Article 1.1.–1.3.), it has met with criticism, for example, by governments and social partners in Sweden and Denmark, who have argued that the proposal falls outside the legislative competence of the EU and interferes in autonomous collective bargaining and wage formation at Member State level. In the Swedish context, the social partners have jointly pointed to the absence of statutory minimum wages, the practice of 'organised decentralisation' and an emphasis on local and individualised wage-setting.¹⁵⁹

A Government Inquiry set to review measures to implement the Directive has concluded that Swedish law basically fulfils the requirements of the Directive and that no introduction of statutory minimum wages or other legal reforms are necessary.¹⁶⁰ However, it could be argued that this assessment is too narrow, and does not fully take into account the individual rights element of the Directive and existing industrial relations realities and differences as regards trade union membership rates and collective bargaining coverage rates in different labour market sectors in Sweden.¹⁶¹

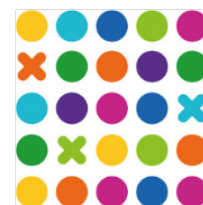
¹⁵⁷ This increase followed a proposal put forward by the previous Government and was adopted with a significant majority in the Parliament, see Chapter 6 Section 2 of the Aliens Act (2006:716). Government Bill, Prop. 2021/22:284, *Ett höjt försörjningskrav för arbetskraftsinvandrare*. Since November 2023, for the granting of a work permit, the wage must be at least at least 80 % of the median salary published by Statistics Sweden, which means a lowest monthly salary of around 2700 EUR. This is irrespective of whether the employment is full-time or part-time. A subsequent Government Inquiry has presented a proposal recommending an additional increase of the recently raised wage floor. The proposal is that that the minimum wage level should correspond to the median salary or to around 3400 EUR / month, see Government Inquiry Report, SOU 2024:15, *Nya regler för arbetskraftsinvandring*. For occupational groups where there is a labour shortage, the proposal is that the Government could instead stipulate that the wage must correspond to the lowest wage set out in a collective agreement or established practice in the profession or industry. This exception could be of relevance for the care sector, where the matter of labour shortage is high on the agenda.

¹⁵⁸ See Government Inquiry Report, SOU 2024:15, *Nya regler för arbetskraftsinvandring* and Nationellt underrättelsecenter, *OLLE – Strategisk rapport om hur personlig assistans och arbetstillstånd otillbörligt och systematiskt utnyttjas av organiserad brottslighet* (Swedish Police 2020). – See further Jenny Julén Votinius, 'Discrimination map' and inequalities in the care sector. *Swedish Report. WP3* (CARE4CARE 2024).

¹⁵⁹ Cf. Article 153.5 TFEU. The Danish government has brought an action for annulment of the Directive to the Court of Justice. – For an industrial relations analysis of minimum wage regulation, see e.g. Irene Dingeldey, Damian Grimshaw, and Thorsten Schulten (eds), *Minimum Wage Regimes. Statutory Regulation, Collective Bargaining and Adequate Levels* (Routledge 2021). Similar criticism, for basically the same reasons, has been raised by Swedish social partners towards the (2023/970/EU) Pay Transparency Directive.

¹⁶⁰ See Government Inquiry Report, SOU 2023:1655, *Genomförandet av minimilönedirektivet*.

¹⁶¹ See e.g. Jenny Julén Votinius, Birgitta Nyström, and Mia Rönnmar, *Remiss: Genomförandet av minimilönedirektivet*, Written remit response to the Government Inquiry Report, drafted on behalf of the Faculty of Law and Lund University, Dnr V 2023/1665 (Lund University 2023). See further Niklas Selberg and Erik Sjödin, 'The Directive (EU) 2022/2041 on adequate minimum wages in the European Union: Much ado about nothing in Sweden?', *European Labour Law Journal*, E-pub ahead of print, 2024 and Petra Herzfeld Olsson and Mette Søsted Hemme, 'Scandinavian States' in Luca Ratti, Elisabeth Brameshuber, and Vincenzo Pietrogiovanni (eds), *The EU Directive on Adequate Minimum Wages. Context, Commentary and Trajectories* (Bloomsbury 2024).



6. Working time, health and safety, implications of the COVID-19 pandemic, and training and competence development

The regulation of working time and health and safety are closely connected, both in EU law and Swedish law, and central to job quality and good working conditions. In Sweden, there is an important interplay between legislation and collective bargaining in this area. The Working Time Directive has been implemented through provisions in the (1982:673) Working Time Act (*Arbetstidslagen*), which through its semi-compelling character affords a large scope for collective bargaining. Collective bargaining regulation on working time issues, at both national, sectoral, and local level is frequent, in the labour market in general, and in the care sector.¹⁶² The (1982:673) Working Time Act contains provisions on, for example, daily rest, breaks, weekly rest periods, maximum weekly working time, overtime, on-call time, and night work. In Swedish law, and within the boundaries set by legislation and collective bargaining, as a main rule working time length (full-time or part-time) is regulated by the employment contract, while working time allocation is regulated by managerial prerogative and the employer's right to direct and allocate work. Part-time work is also seen as a flexible form of employment and the specific regulation on part-time work was discussed above (Section 4.1).

In Sweden, working time aspects related to daily rest are high on the agenda. Collective bargaining regulation in the public sector, including the care sector, recently had to be renegotiated, for example, by SKR, Sobona, the Swedish Municipal Workers' Union, and the Swedish Association of Health Professionals, in response to a legal challenge from the European Commission and claims that Swedish collective agreements contravened the Working Time Directive and its rules in this area. The new collective bargaining regulation and the practical implications of its working time regulation have been debated and criticized, for example, by local trade union representatives and individual employees, from the perspective of a deterioration of work-life-balance.¹⁶³ Furthermore, there is, as we have seen, current discussion in the care sector on working time allocation, working time reduction, and part-time work.¹⁶⁴

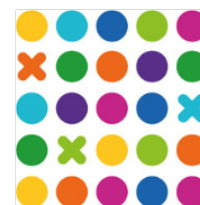
In the Swedish context, employees, including care workers, are entitled according to a number of leave schemes. In this area, Swedish labour law legislation interplays with collective bargaining in vital ways, and regulates important rights and schemes of leave, partly as an implementation of EU law, including, for example, annual leave (with a statutory entitlement of five weeks annual leave, according to the (1977:480) Annual Leave Act (*Semesterlagen*)), study leave, parental leave and other work-family related leaves.

For the last forty-five years, Swedish work and family policies have adapted a holistic approach to the particular needs of working parents, with the gradual introduction and improvement of various measures in different areas. These measures include accessible and affordable public childcare, far-reaching rights to parental leave at a high level of economic compensation, a portion of the leave earmarked for each parent, and a high level of protection against unfair treatment at work in connection with parenthood. In line with the uniform character of Swedish

¹⁶² On decentralised collective bargaining and collective bargaining regulation on working time, in the Swedish labour market in general and in the public health care, the manufacturing, and the retail sectors, see Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022).

¹⁶³ See Erik Sinander, *Memorandum on the regulation of working time for health professionals and municipal workers in Sweden and collective agreements derogating from the Swedish Working Time Act* (European Centre of Expertise 2023), Kerstin Ahlberg, 'Svenska arbetstidsavtal under kommissionens argusöga', *EU & arbetsrätt*, 2023, Nr 1, and Kerstin Ahlberg, 'Kommissionen lägger ned ärende om dygnsvila', *EU & arbetsrätt*, 2023, Nr 4.

¹⁶⁴ On the development of working time regulation in Sweden and in a comparative setting, see e.g. Lotti Ryberg-Welander, *Arbetstidsregleringens utveckling. En studie av arbetstidsreglering i fyra länder*, Lund Studies in Sociology of Law 11 (Lund University 2000), and on current EU and Swedish regulation, see Birgitta Nyström, *EU och arbetsrätten* (6th edn, Norstedts Juridik 2021), 340 ff. and 394 ff.



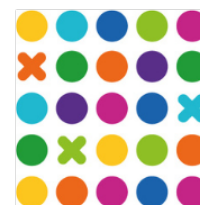
labour law, the statutory right to leave related to the birth of a child or parenthood, in the (1995:584) Parental Leave Act (*Föräldraledighetslagen*), applies equally in all sectors of working life, and implements EU law in this area. Benefits are paid out under the parental benefits scheme of the (2010:110) Social Security Code (*Socialförsäkringsbalken*) (Section 7). The right to maternity leave amounts to seven weeks prior to the estimated delivery date and seven weeks after the delivery (of which two weeks are compulsory). Benefits are paid out at sick pay level under the parental benefits scheme of the (2010:110) Social Security Code, where the days on maternity leave are included in the total amount of days with parental leave benefit.¹⁶⁵ In addition, maternity leave is provided for breastfeeding for as long as needed, which means that the employee must be allowed to interrupt work to breastfeed the child. In connection with the birth of a child there is a right to 10 days off for the other parent of the child (the father or, in same-sex relationships, the other mother). Benefits are paid at sick pay level under the parental benefits scheme. Each parent is entitled to take full-time parental leave from work until their child is 18 months old, with or without paid benefits. In addition, all employees have the right to parental leave when taking up parental leave benefit, which amounts to 240 days for each parent (195 days at sick pay level and 45 days at a low fixed level). Of these days, 90 days are reserved for each parent, the rest of the days may be transferred between the parents at choice. In addition to the regular parental leave, there is a right to temporary parental benefit when caring for a sick child under the age of 12, with 60 benefit days per child, per year paid at sick pay level under the parental benefits scheme. In addition to the statutory regulation, virtually all collective agreements top up the parental leave benefit.¹⁶⁶

The EU Framework Directive on Health and Safety is implemented through provisions in the (1977:1160) Work Environment Act (*Arbetsmiljölagen*). The aim of the Act is to prevent occupational illness and accidents and otherwise ensure a good work environment. The work environment must be satisfactory, taking into account the nature of the work and social and technological developments in society, and working conditions must be adapted to people's differing physical and mental capabilities (Chapter 1 Section 1). The employer is responsible for securing a healthy and safe work environment, and the employer's obligations entail both general and individual work environment adaptation. Employers and employees must cooperate to create a good work environment, and the employer must systematically plan, direct and monitor activities in a manner that ensures that the work environment meets the prescribed requirements for a good work environment. When it comes to individual work adaptation the employer must take into account the particular fitness of the employee to perform the work by adapting the working conditions or taking other appropriate measures. In the planning and organization of work, due account must be taken of the fact that people's fitness to perform working duties differs.

Swedish health and safety regulation contains a strong element of employee influence and trade union involvement. At every workplace where five or more employees are regularly engaged, one or more of the employees shall be appointed as health and safety officers, which are to be appointed by the local trade union; the trade union which is bound by a collective agreement with the employer (Chapter 6 Section 2). The health and

¹⁶⁵ Income-related pregnancy and maternity benefits correspond to sick leave benefits according to Chapter 12 Sections 18 and 19 of the (2010:110) Social Security Code.

¹⁶⁶ See Jenny Julén Votinius, 'Parenthood Meets Market Functionalism – Parental Rights in the Labour Market and the Importance of the Gender Dimension' in Ann Numhauser-Henning and Mia Rönnmar (eds), *Normative Patterns and Legal Developments in the Social Dimension of the EU* (Hart 2013), Jenny Julén Votinius, 'Collective Bargaining for Working Parents in Sweden and Its Interaction with the Statutory Benefit System', *International Journal of Comparative Labour Law and Industrial Relations*, 2020, Vol. 36(3), 367–386, and Anne Lise Ellingsaeter, 'Dual Breadwinner Societies: Provider Models in the Scandinavian Welfare States', *Acta Sociologica*, 1998, Vol. 4, 59–73.



safety officer shall represent the employees on work environment matters and strive for a satisfactory work environment.^{167 168}

Current discussion on health and safety in the care sector focuses on stress and workload and the promotion of a sustainable working life and working environment (Section 2.3 and Section 3). Another area that merits mention in the context of health and safety is protection against harassment. Harassment based on sex and sexual harassment are considered psychological occupational safety and health risks and categorised as forms of victimization. Employers are required to take actions to counteract work environment risks of victimization and are obliged to establish procedures for cases where victimization occurs, and make the procedures known to all employees.¹⁶⁹ In parallel with the health and safety legislation, there is also a protection in the (2008:567) Discrimination Act. When conducted by the employer, harassment related to various non-discrimination grounds, including e.g. gender, ethnicity, and sexual orientation, and sexual harassment constitutes discrimination, for which the employer can be held liable.¹⁷⁰ When conducted by an employee against another employee, it gives rise to an obligation for the employer to investigate the allegations and, where appropriate, take measures to prevent future harassments. An employer who fails to meet these requirements can be held liable.¹⁷¹ The (2008:567) Discrimination Act also requires employers to take active preventive measures to prevent harassment or to sexual harassment.¹⁷² This obligation does not correspond to any particular rights for individual employees, but is a matter for supervision of the Equality Ombudsman.

The COVID-19 pandemic had an important impact on the Swedish labour market and on the care sector.¹⁷³ Care workers were negatively affected by the COVID-19 pandemic in multiple ways. The social partners, social dialogue, and collective bargaining played a major role in the handling of the COVID-19 pandemic. The social partners, at cross-sectoral, sectoral, and local level, engaged in various measures and activities, including postponement of the ordinary rounds of negotiations on national sectoral agreements; temporary re-negotiations and adaptations of national, sectoral agreements in force to assist local social partners and address the extraordinary situation of the pandemic; the conclusion of thousands of local collective agreements on short-time work in the private sector;¹⁷⁴ lay-offs and redundancy dismissals, supported by collective agreements on transitions and restructuring; crisis-management agreements in the public sector, of particular importance for the public health

¹⁶⁷ The health and safety officer shall participate in the planning of new premises, equipment, work processes and work organisation. If a particular task involves immediate or serious danger to the life or health of an employee and if no immediate remedy can be obtained through representations to the employer, the health and safety officer may order the suspension of that work pending a decision by the Swedish Work Environment Authority (Chapter 6 Section 7 of the (1977:1160) Work Environment Act). – At a workplace where fifty or more employees are regularly engaged, there shall be a health and safety committee consisting of representatives of the employer and the employees.

¹⁶⁸ See also Peter Andersson, *Vidta alla åtgärder som behövs. En rättsvetenskaplig studie av arbetsgivarens ansvar att förebygga stressrelaterad ohälsa och uppnå en god psykosocial arbetsmiljö*, Juridiska institutionens skriftserie, Handelshögskolan vid Göteborgs universitet, Skrift 13 (Göteborgs universitet 2013) and Johan Holm, *Ett hållbart arbetsliv. Arbetsgivarens rättsliga ansvar för arbetsmiljö och rehabilitering*, Skrifter från juridiska institutionen vid Umeå universitet, Nr 47 (Umeå universitet 2021).

¹⁶⁹ AFS 1993:17 Victimization at work, repealed through AFS 2015:4 Organizational and social working environment. Victimization is defined as 'recurrent reprehensible or distinctly negative actions, which are directed against individual employees in an offensive manner and can result in those employees being placed outside the workplace community'.

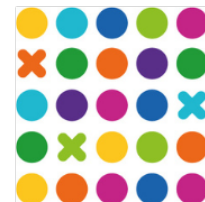
¹⁷⁰ Chapter 1 Section 4 p. 4 and 5 of the Discrimination Act (2008:567).

¹⁷¹ Chapter 2 Section 3 of the Discrimination Act (2008:567).

¹⁷² Chapter 3 Section 6 of the Discrimination Act (2008:567).

¹⁷³ For a thorough review of the handling of the COVID-19 pandemic by the government, government authorities, and regions and municipalities, see the outcome of the work of the so-called 'Corona commission', Government Inquiry Report, SOU 2022:10, *Sverige under pandemin*.

¹⁷⁴ The first collective agreements on short-time work were concluded and implemented in the industry and manufacturing sector to deal with the effects of the 2008 and 2009 economic crisis. The short-time work scheme was later extended to the overall Swedish labour market and complemented by statutory regulation and state financial support; see the (2013:948) Act on Support for Short-time Work.



care sector;¹⁷⁵ proactive and protective measures in the area of disease control and health and safety; and transition to remote work and work from home for large groups of white-collar and professional employees. Furthermore, the government substantially increased investment in financial support to employers; unemployment and sickness insurance; employment services and labour market measures; and higher education and training. At the same time, in the care sector, it became obvious that staff shortages, increasing stress and health and safety risks could not be attributed solely to the COVID-19 pandemic. Instead, these phenomena constitute long-standing problems, which rest for the employers and social partners to resolve.¹⁷⁶

Training and competence development is of key importance not only for the job quality in care work but also for the quality of the care provided. Furthermore, training and competence development relate to the current debate on skills and staff shortage and the overall, and important role, of education, training and competence development for general talent management and recruitment in the care sector. There are multiple perspectives of training and competence development and crucial links to the general educational system, to university education, to vocational training and life-long learning, to active labour market policy and job transitions, as well as to rights of competence development and training on the job within the framework of the employment contract.

In the Swedish context, and within existing employment relationships and the employment contract, there is more emphasis on managerial prerogative, direction and allocation of work, and employees' *obligations* to participate in training and competence development, than on employees' individual *rights*. However, in the context of dismissals for reasons of redundancy the employer's obligation to provide alternative work and the seniority rules imply a limited obligation of the employer to provide training in order for employees to obtain sufficient qualifications.¹⁷⁷

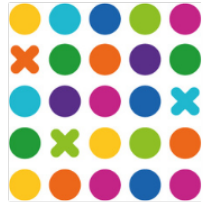
Transition agreements (*omställningsavtal*) are cross-sectoral collective agreements, which cover all sectors (private and public, blue-collar, white-collar, and professional employees) and large parts of the labour market. They constitute a key feature of Swedish labour law and collective bargaining and comprise an important complement to the statutory employment protection regulation on redundancy dismissals, and to active labour market policies and unemployment insurance. The transition agreements provide employees facing dismissal for reasons of redundancy with different rights to severance pay and economic compensation and active transition support measures, by way of coaching, job-searching services, training, and re-education etc. The transition agreements also provide support for employers in re-organisations and redundancy situations. The transition agreements are administered by transition foundations, set up by the social partners and collective bargaining, and the severance pay and transition support are financed by the employers, often through an insurance and premium-based scheme.¹⁷⁸

¹⁷⁵ See Sveriges Kommuner och Landsting och Sobona, Kommunala företagens arbetsgivarorganisation samt Svenska Kommunalarbetareförbundet, OFRs förbundsområde Allmän kommunal verksamhet jämte i förbundsområdet ingående organisationer, AkademikerAlliansen och till AkademikerAlliansen anslutna riksorganisationer samt Brandmännens Riksförbund, *Överenskommelse om Krislägesavtal*, i lydelse 2019-07-01 and Sveriges Kommuner och Regioner och Sobona, Kommunala företagens arbetsgivarorganisation samt Svenska Kommunalarbetareförbundet, OFRs förbundsområden Allmän kommunal verksamhet, Hälso- och sjukvård jämte i förbundsområdet ingående organisationer, Lärarförbundets och Lärarnas Riksförbunds samverkansråd samt AkademikerAlliansen och till AkademikerAlliansen anslutna riksorganisationer samt Brandmännens Riksförbund, *Överenskommelse om Krislägesavtal*, i lydelse 2021-07-01.

¹⁷⁶ See further on the implications of the COVID-19 in the Swedish public health care sector, Mia Rönnmar and Andrea Iossa, *CODEBAR. Comparisons on Decentralised Bargaining: Towards New Relations between Trade Unions and Works Councils? Swedish Country Report* (open access, 2022). On the COVID-19 pandemic, see also, Caroline Johansson and Niklas Selberg, 'COVID-19 and Labour Law: Sweden', *Italian Labour Law E-Journal*, 2020, 13, and Anders Kjellberg, *Den svenska modellen 2020. Pandemi och nytt huvudavtal* (2nd edn, Arena Idé 2021).

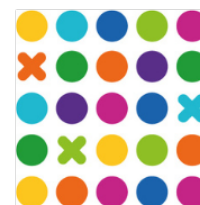
¹⁷⁷ See Mia Rönnmar, *Arbetsledningsrätt och arbetsskyldighet. En studie av kvalitativ flexibilitet i svensk, engelsk och tysk kontext* (Juristförlaget i Lund 2004), Mia Rönnmar and Ann Numhauser-Henning, 'Swedish employment protection in times of flexicurity policies and economic crisis', *International Journal of Comparative Labour Law and Industrial Relations*, 2012, Vol. 28 (4), 443–467 and Carin Ulander-Wänman, 'Arbetsbrist och arbetstagares rätt till kompetensutveckling', *Svensk Juristtidning*, 2017, Nr 8, 613–630.

¹⁷⁸ See Gabriella Sebardt, *Redundancy and the Swedish Model. Swedish collective agreements on employment security in a national and international context* (Iustus 2005).



The new main cross-sectoral collective agreement on security, transition, and employment protection concluded in the private sector in 2022 replaces and integrates previous transition agreements between the Confederation of Swedish Enterprise, PTK, and the Swedish Confederation of Trade Unions, LO (Section 4.2). This agreement adds to existing protection and entails important support for transition and life-long learning, for both permanent and fixed-term employees, of importance both for individual employees' competence development and for the talent management of the Swedish labour market overall, and of specific sectors, including the care sector. Collectively bargained transition support is extended through legislation to companies and employees not covered by collective bargaining. In addition, a new form of study aid, so-called transition study aid is introduced to enable and support employees' life-long learning and general competence provision. This main agreement, and the statutory employment protection reform, has also impacted on the re-negotiation of the transition agreement in the public care sector.¹⁷⁹

¹⁷⁹ See Act (2002:856) on transition study aid (*lag om omställningsstudiestöd*).



7. Social security coverage and benefits

Labour law and social security law have close links. Social security has developed as part of industrial society and is complementary to, and dependent on, wage work. Social security provides protection against risks and maintenance in situations in which a person is unable to earn a living through wage work, owing to, for instance, old age, sickness, unemployment or childbirth.¹⁸⁰ In the EU, the substantive content of social security is, in principle, a matter for the respective Member States and national legislation. However, the coordination of social security in the EU and between the Member States was implemented early on as a way to facilitate the free movement of workers. Through soft law and the open method of coordination, various welfare state, social policy, and social security aspects are also being coordinated, for example, as regards health care, long-term care, and pensions.¹⁸¹

The Swedish welfare state and social security system has been described in terms of a coordinated market economy (Hall and Soskice), a social democratic welfare state (Esping-Andersen), and a Scandinavian social security system. The Swedish welfare state is both publicly funded and comprehensive and oriented towards the individual. Every adult person should be able to support themselves and live independently according to their own choices taking into account the services, benefits, and, if needed, additional support provided by the public system.¹⁸²

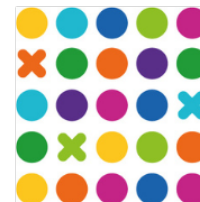
The Swedish social security system has a uniform and extensive coverage and integrates the care sector and care workers. Individuals are insured on an individual basis, irrespective of occupation and civil status. The social security system includes a number of social security benefits, such as pensions, sickness insurance, unemployment insurance, and parental benefits. One main statute is the (2010:110) Social Security Code (*Socialförsäkringsbalk*), which includes the main principles of the social security system, provisions on social security coordination, and regulation of a number of social security benefits, including e.g. pensions, sickness insurance, work injury, and parental benefits. The unemployment insurance is regulated by the (1997:238) Unemployment Insurance Act (*Lagen om arbetslöshetsförsäkring*). The social security system contains both work-based benefits and residence-based benefits. Work-based benefits are related e.g. to old age, sickness, invalidity, work injury, and unemployment. The loss-of-income-principle (*inkomstbortfallsprincipen*) is generally applied in relation to work-based benefits. The qualification requirements, benefit levels, and lengths of payment periods vary depending on the social security benefit. Most social security benefits are financed by contributions paid by employers, but some benefits are tax-financed.¹⁸³ The unemployment insurance represents the so-called Ghent-system, where independent unemployment insurance funds, closely tied to the trade unions, manage the

¹⁸⁰ See Anna Christensen, 'Normativa grundmönster i socialrätten', *Retfærd*, 1997, Vol. 78 and Anna Christensen, 'Normative Patterns and the Normative Field: A Post-Liberal View on Law' in Thomas Wilhelmsson and Samuli Hurri (eds), *From Dissonance to Sense. Welfare State Expectations, Privatisation and Private Law* (Ashgate 1999).

¹⁸¹ See Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems. – See also Frans Pennings, *European Social Security Law* (7th edn, Larcier Intersentia 2022), and in relation to cross-border health care, social security coordination, and the interplay between EU and Swedish law, Martina Axmin, *Access to Cross-Border Healthcare for Older Persons in the European Union: the Interplay between EU Law and Swedish Law* (Lund University 2020).

¹⁸² See Peter A. Hall and David Soskice (eds), *Varieties of Capitalism. The Institutional Foundations of Comparative Advantage* (OUP 2001), Gøsta Esping-Andersen, *The three worlds of welfare capitalism* (Polity Press 1990), Martina Axmin, *Access to Cross-Border Healthcare for Older Persons in the European Union: the Interplay between EU Law and Swedish Law* (Lund University 2020), and Henrik Berggren and Lars Trägårdh, *The Swedish Theory of Love – Individualism and Social Trust in Modern Sweden* (University of Washington Press 2022).

¹⁸³ On the Swedish social security system, see e.g. Titti Mattsson, 'Social-welfare Law' in Michael Bogdan and Christoffer Wong (eds), *Swedish Legal System* (2nd edn, Norstedts Juridik 2022), 102–125, Martina Axmin and Göran Lundahl, *Socialförsäkring och arbetslöshetsförsäkring. En introduktion till viktiga delar av Sveriges välfärdssystem* (2nd edn, Studentlitteratur 2023), Lotti Ryberg-Welander, *Socialförsäkringsrätt. Om ersättning vid sjukdom* (3rd edn, Norstedts Juridik 2018), and Martina Axmin and Jenny Julén Votinius, 'Survivors benefits in Sweden: Social Security Developments, Collective Agreements and Gender Aspects' in Stamatia Devetzi (ed.), (Ibidem-Verlag, forthcoming, *book title yet to be confirmed*).



unemployment insurance.¹⁸⁴

At present, the statutory Swedish social security system, including the sickness insurance and unemployment insurance, is undergoing important reform, and aimed *inter alia* at strengthening the work-first principle (*arbetslinjen*).¹⁸⁵

In Sweden, collective bargaining plays a major and complementary role in social security. In parallel with the public welfare system, almost the entire workforce is also covered by collective agreements which provide occupational insurances for social risks. As we have seen, in Sweden, collective agreements are private contracts (Section 3), and the occupational welfare system is completely separated from the public welfare system. Collectively bargained provisions for pensions, along with financial support in the case of sickness, invalidity, and unemployment have been in place for around a century or more and nowadays, the occupational schemes also cover provisions relating to parenthood.¹⁸⁶

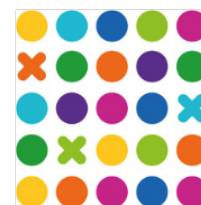
Collective agreements on occupational welfare are normally concluded at the national, cross-sectoral level. Thus, each such collective agreement covers a large part of the labour market, for example, all private blue-collar employees, all private white-collar employees, all employees in regions and municipalities, or all state employees. Through these cross-sectoral collective agreements, the social partners have formed joint insurance companies and, normally, disputes are settled by bi-party arbitration boards. This very comprehensive occupational welfare system, which tops up the public welfare system, covers about 90 percent of the entire workforce, namely all employees covered by a collective agreement, i.e. all employees working for an employer bound by a collective agreement. In recent years, occupational schemes for risks covered by the public social security system have gained increasing importance. In social science scholarship, this development has been explained by reference to a combination of the strong position of the social partners, and a general decline in the statutory welfare system, including an erosion of statutory benefits, starting in the early 1990s.¹⁸⁷

¹⁸⁴ See e.g. Anders Kjellberg, 'The Swedish Ghent system and trade unions under pressure', *Transfer – European Review of Labour and Research*, 2009, Vol. 15 (3–4), 481–504.

¹⁸⁵ See e.g. Government Bill, Prop. 2023/24:128, *En arbetslöshetsförsäkring baserad på inkomster*, Government Inquiry Report, SOU 2024:26, *En utvärdering av förändringar i sjukförsäkringens regelverk under 2021 och 2022*, Government Inquiry Report, SOU 2023:30, *Ett trygghetssystem för alla – nytt regelverk för sjukpenningsgrundade inkomst*, and Government Inquiry Report SOU 2023:53, *En ändamålsenligt arbetsskadeförsäkring – för bättre ekonomisk trygghet, kunskap och rättssäkerhet*. – On the work-first welfare state, see Sara Stendahl, Thomas Erhag, and Stamatia Devetzi (eds), *A European Work-First Welfare State* (Centrum för Europaforskning 2008).

¹⁸⁶ See Olle Jansson et al. (2018) Sweden: Supplementary Occupational Welfare with Near Universal Coverage. In David Natali, Emmanuele Pavolini and Bart Vanhercke (eds), *Occupational Welfare in Europe: Risks, Opportunities and Social Partner Involvement* (European Trade Union Institute 2018), 55–77 and Caroline Johansson, 'Occupational Pensions and Unemployment Benefits in Sweden', *International Journal of Comparative Labour Law and Industrial Relations*, 2020, Vol. 36(3), 339–366.

¹⁸⁷ See Paula Blomqvist and Joakim Palme, 'Universalism in Welfare Policy: The Swedish Case Beyond 1990', *Social Inclusion*, 2020, Vol. 8(1), 114–123. Compare Bent Greve, 'At the Heart of the Nordic Occupational Welfare Model: Occupational Welfare Trajectories in Sweden and Denmark', *Social Policy & Administration*, 2018, Vol. 52(2), 508–518. – See further Martina Axmin and Jenny Julén Votinius, 'Survivors benefits in Sweden: Social Security Developments, Collective Agreements and Gender Aspects' in Stamatia Devetzi (ed.), (Ibidem-Verlag, forthcoming, book title yet to be confirmed).



8. Concluding remarks

This report analyses job quality and inclusive working conditions of care workers in Sweden. The focus of the analysis is on labour law, but also includes aspects of industrial relations, policy, and labour market characteristics, and the interplay between Swedish law and EU/European and international law.

Legal and policy developments in the care sector reflect the characteristics of the Swedish labour law and industrial relations system, such as an emphasis on autonomous collective bargaining, a tradition of collaboration and social partnership, and strong legal rights and industrial relations practices of employee influence. There is an important interplay between EU law and Swedish law, with recent legal tension as regards the scope for Swedish autonomous collective bargaining and issues regarding minimum wage, working time, and health and safety.

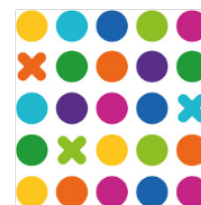
This report highlights core labour law topics and includes an analysis of: characteristics and current debates as regards the care sector, care workers, and domestic care work (Section 2), industrial relations, fundamental trade union rights, collective bargaining, and employee influence (Section 3), employment status, flexible forms of employment, and employment protection (Section 4), wages and minimum wage regulation (Section 5), working time and health and safety, including implications of the COVID 19-pandemic and training and competence development (Section 6), and social security (Section 7).

The care sector in Sweden is mainly public with a relatively small but growing private care sector. Around 80 percent of care services in Sweden are provided by public regions and municipalities. The CARE4CARE project studies a selected group of care workers, namely home caregivers, basic care workers, health professionals in nursing with a Bachelor's degree, and health professionals in nursing with a Master's degree. The definitions and demarcations of specific categories of care workers and care occupations are linked to actual care work tasks, professional occupational licenses and protected titles, and trade union and labour market organisation. In this report, the following categories of care workers and care occupations in Sweden have been studied: personal assistants for persons with a disability, care assistants, assistant nurses, nurses, and specialised nurses. The Swedish development confirms European and global trends of a female-dominated workforce, a workforce with an important element of immigrant workers, and a flexible workforce, with high rates of fixed-term and part-time employment.

In Sweden, social partners and collective bargaining play a key role in the care sector, both in the public and private care sector. The semi-compelling character of most labour law legislation encourages and enables collective bargaining on various aspects of job quality and working conditions, such as wages, working time, leave, and flexible forms of employment. The collective bargaining coverage rate is about 90 percent and there is an elaborate collective bargaining framework at cross-sectoral, sectoral, and local level, which is characterised by 'organised decentralisation'. Important national cross-sectoral, main, agreements provide long-term regulation of important aspects, including cooperation and co-determination, collective action, employment protection, transition and competence development, and social security.

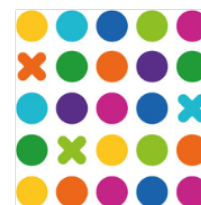
Legal regulation and practical application of employee influence is of great importance in the labour market in general, and in the care sector. Trade union representatives engage in information, consultation, and co-determination at the workplace, and health and safety representatives are involved in health and safety activities at work. A comprehensive legislative framework is complemented in important ways by national, cross-sectoral collective agreements on cooperation and co-determination. At workplace level, local collective bargaining and employee influence interact and often reinforce one another.

The two main current debates on care work and the care sector in Sweden are the debate on the skills and staff shortage and challenges of recruitment and talent management, and the debate on the low level of wages and poor quality of working conditions, including health and safety concerns, especially stress, workload, and the



promotion of a sustainable and healthy working environment. These debates are closely interconnected. Given the Swedish labour law and industrial relations system, these challenges must be addressed by the social partners through social dialogue and collective bargaining. However, the difficult collective bargaining negotiations and the industrial conflict in the public care sector in the spring and summer of 2024 indicate that there are conflicting perspectives and a need for further dialogue and policy development between the social partners.

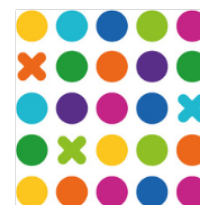
Against the background of the ageing Swedish population and current and future skills and staff shortage in the care sector, the development in the area of digitalisation, AI, and new technology (including E-health and remote care) presents both an important future potential and challenge for the care sector and for care work. In order to promote improved working conditions, job quality, and care quality in this context, it is important to engage employers, care workers, and social partners through collective bargaining and employee influence and social partner cooperation, and to take health and safety concerns into account.



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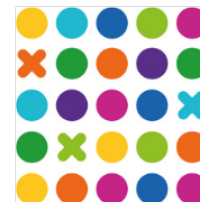
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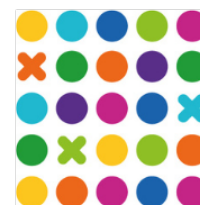
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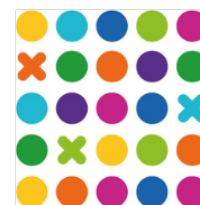
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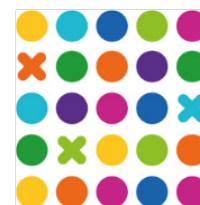
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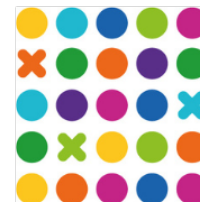
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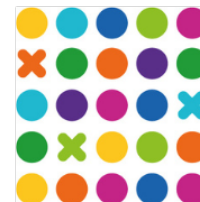
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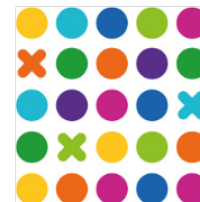
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9.2.1. Public sector

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Sveriges Kommuner och Landsting och Arbetsgivarförbundet Pacta samt Svenska Kommunalarbetsareförbundet, OFRs förbundsområden Allmän kommunal verksamhet, Hälso- och sjukvård respektive Läkare jämte i förbundsområdena ingående organisationer, Lärarförbundets och Lärarnas Riksförbunds Samverkansråd, AkademikerAlliansen och till AkademikerAlliansen anslutna riksorganisationer, *Samverkansavtalet. Avtal om samverkan och arbetsmiljö*, oktober 2017 (med Partsgemensam kommentar).

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Sveriges Kommuner och Landsting och Sobona, Kommunala företagens arbetsgivarorganisation samt Svenska Kommunalarbetsareförbundet, OFRs förbundsområde Allmän kommunal verksamhet jämte i förbundsområdet ingående organisationer, AkademikerAlliansen och till AkademikerAlliansen anslutna riksorganisationer samt Brandmännens Riksförbund, *Överenskommelse om Krislägesavtal*, i lydelse 2019-07-01.

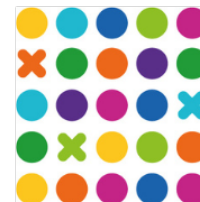
Sveriges Kommuner och Regioner och Sobona, Kommunala företagens arbetsgivarorganisation samt Svenska Kommunalarbetsareförbundet, OFRs förbundsområden Allmän kommunal verksamhet, Hälso- och sjukvård jämte i förbundsområdet ingående organisationer, Lärarförbundets och Lärarnas Riksförbunds samverkansråd samt AkademikerAlliansen och till AkademikerAlliansen anslutna riksorganisationer samt Brandmännens Riksförbund, *Överenskommelse om Krislägesavtal*, i lydelse 2021-07-01.

Sveriges Kommuner och Regioner och Sobona, Kommunala företagens arbetsgivarorganisation samt Svenska Kommunalarbetsareförbundet/Kommunal, OFRs förbundsområde Allmän kommunal verksamhet jämte i förbundsområdet ingående organisationer, OFR förbundsområde läkare (Sveriges läkarförbund), OFR:s förbundsområde Hälso- och sjukvård (Vårdförbundet), Lärarförbundets och Lärarnas Riksförbunds Samverkansråd samt AkademikerAlliansen och till AkademikerAlliansen anslutna riksorganisationer, *AB 20/Allmänna Bestämmelser 20*, Bilaga till samtliga HÖK:ar, i lydelse 2022-01-01 (med Kommentarer).

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Sveriges Kommuner och Regioner och Sobona, Kommunala företagens arbetsgivarorganisation samt OFRs förbundsområde Hälso- och sjukvård jämte i förbundsområdet ingående organisationer, *Huvudöverenskommelse om lön och allmänna anställningsvillkor samt rekommendation om lokalt kollektivavtal m.m. – HÖK 24 OFR Hälso- och sjukvård*, avtalsperiod 28 juni 2024 till och med 31 mars 2025.

Sveriges Kommuner och Regioner och Sobona, Kommunala företagens arbetsgivarorganisation samt Svenska Kommunalarbetsareförbundet/Kommunal, *Huvudöverenskommelse om lön och allmänna anställningsvillkor samt rekommendation om lokalt kollektivavtal m.m. – HÖK 24 Kommunal*, avtalsperiod 1 april 2024 till och med 31 mars 2025.



Sveriges Kommuner och Regioner och Sobona, Kommunala företagens arbetsgivarorganisation samt Svenska Kommunalarbetareförbundet, *Överenskommelse om lön och anställningsvillkor för personlig assistent och anhörigvårdare* – PAN 24, i lydelse 2024-04-17.

9.2.2. Private sector, commercial

Grafiska Företagen, Industriarbetsgivarna, IKEM, Livsmedelsföretagen, Gröna arbetsgivare, Teknikföretagen, TEKO, Sveriges Textil- och Modeföretag och Trä- och Möbelföretagen samt GS Facket för skogs-, trä- och grafisk bransch, IF Metall, Livs/Livsmedelsarbetareförbundet, Sveriges Ingenjörer och Unionen, *Industriavtalet. Industrins samarbetsavtal och förhandlingsavtal*.

Svenskt Näringsliv samt PTK, *Partsöverenskommelse om trygghet, omställning och anställningsskydd*, 2020-12-04 (med bilaga 1 utkast till Huvudavtal om trygghet, omställning och anställningsskydd och bilaga 2 Principöverenskommelse om Parternas gemensamma krav på staten).

Svenskt Näringsliv samt LO, *Partsöverenskommelse om trygghet, omställning och anställningsskydd*, 2021-11-10 (med bilaga 1 utkast till Huvudavtal om trygghet, omställning och anställningsskydd, bilaga 2 Principöverenskommelse om Parternas gemensamma krav på staten och bilaga 3 utkast till Kollektivavtal om omställningsförsäkring för arbetare).

Svenskt Näringsliv samt PTK, *Huvudavtal om trygghet, omställning och anställningsskydd*, 22 juni 2022.

Svenskt Näringsliv samt LO, *Huvudavtal om trygghet, omställning och anställningsskydd*, 22 juni 2022.

Vårdföretagarna samt Kommunal, *Kollektivavtal, Allmänna villkor och löner, Bransch äldreomsorg (F)*, 2023–2025, giltighetstid 2023-06-01–2025-05-31.

Vårdföretagarna samt Kommunal, *Kollektivavtal, Allmänna villkor och löner, Bransch vård och behandlingsverksamhet samt omsorgsverksamhet (E)*, 2023–2025, giltighetstid 2023-06-01–2025-05-31.

Vårdföretagarna samt Kommunal, *Kollektivavtal, Personlig assistans*, 2023–2025, giltighetstid 2023-07-01–2025-09-30.

Vårdföretagarna samt Vårdförbundet, *Kollektivavtal, Allmänna villkor och löner, Bransch Vård och behandlingsverksamhet samt omsorgsverksamhet*, giltighetstid 2023-06-01–tillsvidare.

Kompetensföretagen samt Vårdförbundet, *Villkor för vissa anställda vid bemanningsföretagen, Vård- och behandlingsverksamhet, Övrig omsorgsverksamhet*, 2016, giltighetstid 2016-01-01–tillsvidare.

9.2.3. Private sector, non-profit

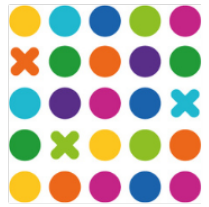
Arbetsgivaralliansen samt PTK och LO, *Samverkansavtal*, antaget 1999-11-30.

Arbetsgivaralliansen samt PTK, *Antagande av Huvudavtal om trygghet, omställning och anställningsskydd*, antaget 1 oktober 2022.

Arbetsgivaralliansen Branschkommitté Vård och Omsorg (Kommittén) samt Akademikerförbunden, Svenska Kommunalarbetareförbundet (Kommunal), Sveriges läkarförbund (Läkarförbundet), Vision, Vårdförbundet, Ledarna, *Bransch- och löneavtal Vård och Omsorg perioden 2023-05-01–2025-09-30*.

Fremia samt LO, *Antagande av Huvudavtal om trygghet, omställning och anställningsskydd*, antaget 5 oktober 2022.

Fremia samt PTK, *Antagande av Huvudavtal om trygghet, omställning och anställningsskydd*, antaget 31 oktober 2022.



Fremia samt Kommunal, Vision, Vårdförbundet och Akademikerförbunden, *Hälsa, vård, och övrig omsorg*,
Allmänna anställningsvillkor och löneavtal med mera, gäller fr.om. 2023-10-01–2025-09-30 (Kommunal) och 2023-
06-01–2025-05-31 (Akademikerförbunden, Vision och Vårdförbundet).

Fremia samt Kommunal, *Personlig assistans*, 2023-10-01–2025-10-31.



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