

The Swedish Model

*– the Importance of Collective
Agreements in Sweden*

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Fundamental labour law in Sweden is laid down in legislation, for instance procedural rules for the right to negotiate and basic regulations for all who work in Sweden. Important examples of labour legislation are the Co-Determination Act and the Employment Protection Act. Labour legislation is to a high extent of a collective kind, and lays down frameworks and procedural rules.

The contents of individual labour contracts is to a high degree established in collective agreements.

There is no statutory minimum wage. There is actually no legislation stipulating that wages should be paid at all. Collective agreements and individual contracts are the only ways to define how much a worker should be paid for the work performed.

Without a collective agreement, an employer can pay as low a salary as possible, as long as the employee accepts it.

Some labour legislation is semi-discretionary, which means that labour legislation can be derogated from by a collective agreement but not by a personal contract between the employer and the worker.



The collective agreement model is based on strong trade unions and employers organisations. A high degree of membership is a key feature.

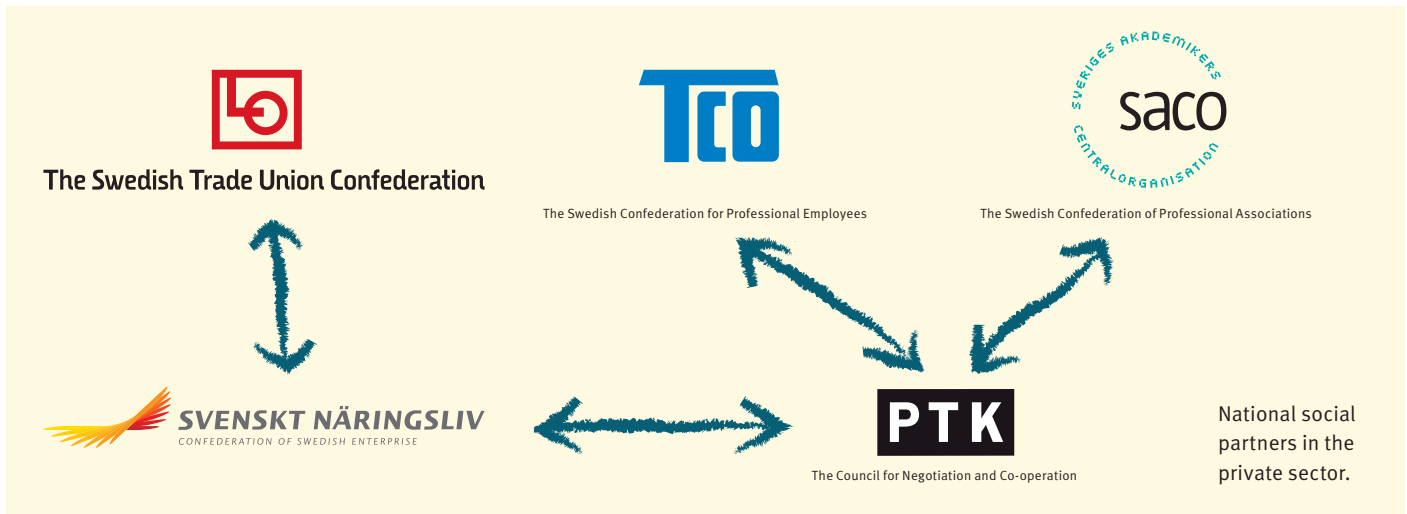
About 90 per cent of the workers in Sweden are protected by collective agreements.

About 70 per cent of all workers in Sweden are affiliated to a trade union. This high level of unionisation coupled with the absence of legal provisions restricting the organisations' activities means that there is a considerable degree of autonomy for the social partners to conclude collective agreements.

National collective agreements covering pay and general conditions of employment are negotiated by the social partners, via a central bargaining process. There are over a hundred national contracting parties in the Swedish labour market, covering over 650 collective agreements at national level. During the contractual period, the parties are under obligation to maintain industrial peace.

The obligation to maintain industrial peace applies during the term of the collective agreement. The peace obligation means that industrial action may not be resorted to for the purpose of changing the agreement or to obtaining benefits that are not included in the agreement.

During negotiations for a new agreement industrial action is allowed. Industrial action must be duly approved by a trade union organisation in order to be regarded as permissible. According to the Co-Determination Act, a party intending to take industrial action must, in due time, give advance notice in writing to the counterparty and also to the National Mediation Office.



Brief description of the social partners

The trade union movement consists of trade unions re-grouped in three major confederations: the Swedish Trade Union Confederation, LO; the Swedish Confederation for Professional Employees, TCO; and the Swedish Confederation of Professional Associations, Saco. The trade unions of TCO and Saco have formed two negotiating coalitions; one for the public sector, OFR; and one for the private sector, PTK.

Employers in the private sector are represented by the Confederation of Swedish Enterprise, while local municipalities are organised within the Swedish Association of Local Authorities and Regions, and state employers are represented by the Swedish Agency for Government Employers.

The division of competence between different trade unions is rather clear, according to the trade unions' own statutes. Therefore it is seldom questioned what trade union is to be representative and to have the right to sign a collective agreement.

Collective agreements foster stable and long-term relations in the labour market.

The Co-Determination Act, paragraph 23, contains the definition of what a collective agreement is:

- The term collective agreement means an agreement in writing between an employers' organisation or an employer and an employees' organisation, regarding conditions of employment or otherwise regarding the relationship between the employer and the employee.
- The collective agreement is also required to cover the relationship between employer and employee and includes obligations for the parties.
- The collective agreement applies to all workers at the workplace in question, i.e., not only trade union members. The agreement may be local and apply only to one company or nationwide and apply to a whole industry. Only trade union organisations are entitled to conclude collective agreements, not individual workers.
- The collective agreement is automatically binding for both the members of the trade union and for the companies that are members of the employers' organisation concluding the agreement.

A worker who is not union member has no explicit rights under the collective agreement. But to avoid social dumping, trade unions claim that the levels of benefits laid down in the collective agreements should also be paid to non-members. This is in order to not make it more advantageous to employ a non-unionised worker than a trade union member.

Collective pay agreements in Sweden are usually sectoral agreements. They are concluded between trade unions and employers' associations. The trade unions have various sectoral agreements for different industries. It is not very common to conclude central agreements for only one company. A subsidiary agreement with the same contents as the sectoral agreement is concluded with employers who are not members of an employers' association, but want to have a collective agreement nevertheless.

Sectoral agreements are often supplemented by local collective agreements. Local collective agreements often stipulate how sectoral collective agreements are to be applied more in detail.

Collective agreements usually contain regulations concerning:

- How pay is to be determined, both minimum pay and the level of pay for more experienced workers
- The length and scheduling of working hours
- Overtime, duty hours, standby etc and the compensation level
- Calculation of pay deductions
- Holidays and holiday pay
- Schemes for occupational pension, group life insurance, severance pay, sickness and work injuries insurances.



Basic agreement

In addition, the collective agreement contains rules concerning the negotiation procedure. These may be:

- How and when negotiation must be requested so as to retain acquired rights
- Rules as to when and how the parties may resort to industrial action
- Rules specifying the conduct of negotiations, mainly in terms of procedure, in case of disputes concerning the application of the collective agreement
- Contravention of a collective agreement may lead to liability to pay damages
- The application of a collective agreement can be brought into court for trial
- The interpretation of a collective agreement is to be based on what has been the intent of the parties
- Conflicts that cannot be settled by negotiation are to be referred to the Labour Court.

These regulations are sometimes found in special basic agreements. The basic agreement that has served as a model for the rest of the labour market is the one between the Swedish Employers' Confederation, SAF, now the Confederation of Swedish Enterprise, and LO. It is called the Saltsjöbaden Agreement, since it was signed after an epoch-making bargaining round in Saltsjöbaden in 1938. The main parts of this agreement still apply.

Participation agreements

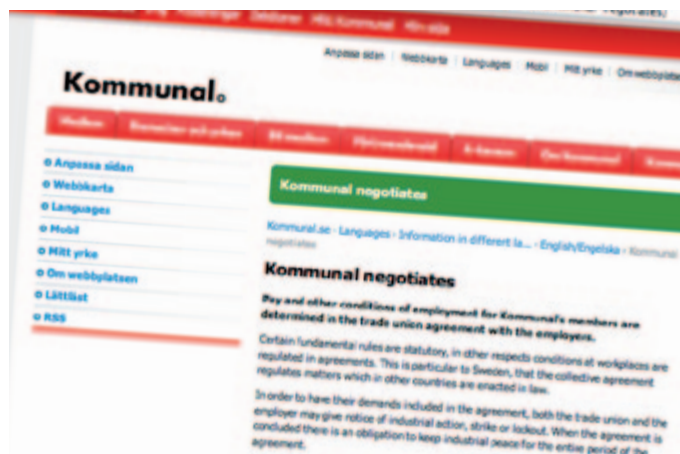
According to the Co-determination Act, trade unions have gained the right to conclude collective agreements with their counterparties, the employers, in co-determination issues. These agreements are called agreements on participation and efficiency. The purpose of co-determination agreements includes creating varied and fulfilling forms of work and meaningful job content. The agreements also usually include regulations concerning skills development.

Every member has access to the text of the relevant collective agreement.

The National Mediation Office is an agency with the mission to mediate in labour disputes and to promote an efficient wage formation process. It is also responsible for public statistics relating to wages and salaries.

A party intending to take industrial action is obliged to notify both the counterparty and the Swedish National Conciliators' Office at least seven days in advance. The National Conciliators' Office will then appoint a conciliation officer with the task of mediating between the parties.

In the event of an industrial dispute of major significance, the government may appoint a special conciliation officer or a Conciliation Commission.



Swedish collective agreements for work carried out in Sweden?

LO is of the basic opinion that Swedish collective agreements should apply to all work carried out in Sweden.

But there is a new trend: workers are posted from companies based in other countries. Foreign companies with temporary activity in Sweden have become more and more common. Since collective agreements need to be signed to be applicable, Swedish trade unions face a tough task in negotiating with many employers from other countries, not always willing to conclude an agreement with Swedish levels of pay and other benefits. And as mentioned above, if there is no collective agreement laying down the level of wages to be paid, there is no other regulation concerning fair pay to fall on, not even a legislative minimum wage.

Explanation of the importance of the Laval case

A Latvian company, Laval, was commissioned with the task of refurbishing a school in the municipality of Vaxholm in Sweden. The Latvian workers were employed by Laval, but the company refused to sign a collective agreement with the The Swedish Building Workers' Union, Byggnads. In order to be valid, the subcontracting agreement signed earlier stipulated that a Swedish collective agreement be signed with a Swedish union. The negotiations broke down during autumn 2004 and the Swedish union Byggnads decided on a blockade against Laval in order to accomplish the signing of a collective agreement on wages and other conditions of work. Laval then chose to bring action in the Labour Court regarding the lawfulness of the industrial action.

Laval maintained that the blockade which the Swedish Building Workers' Union, Byggnads, initiated with the backing of the Electricians' Union, Elektrikerna, was unlawful according to EU law. Laval, sponsored by the the Confederation of Swedish Enterprise, was of the opinion that the right to strike in Sweden was an obstacle that made it more

difficult for the company to implement the right of free movement. Laval considered that it was sufficient to apply the wage conditions of the Latvian collective agreement, signed after Byggnads's demand for a Swedish agreement. In May 2004, the EU was enlarged to include countries in Eastern Europe with lower labour costs for the employer. The Laval conflict was a direct consequence of the differences in labour costs – something from which the employers try to benefit.

The Swedish Labour Court submitted questions to the European Court of Justice, ECJ. The first question concerned the Swedish labour market model according to which the union and the employer share responsibility for the labour market. The question was whether this is compatible with EU legislation concerning foreign companies operating in another EU country on a temporary basis.

The ECJ confirmed that the Swedish labour market model is not an obstacle to the free movement of labour. The ECJ also stated that the conditions required of foreign companies must be so clear that the salary costs for posted workers can be calculated in the home country. Thereby, the decision also implies a limitation of the free right to negotiate. As regards the possibility to supersede the foreign agreements and replace them with Swedish agreements for work carried out in Sweden, the ECJ considered that Swedish labour legislation discriminates against foreign companies.





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What is a collective agreement worth? The answer can be: a lot! The wage level, the right to insurance coverage and an occupational pension scheme are perhaps the most important examples of what is regulated in a Swedish collective agreement. Without a collective agreement, you are not sure to get paid at all!

In this leaflet, we describe the basic features of the Swedish collective agreements and the important role they play in the regulation of the Swedish labour market.

Wages are commonly defined through collective bargaining. This is the case not only concerning the lowest wages, but also for wages of experienced workers. Therefore, the protection of the social partners' right to free negotiations is crucial in order to ensure the maintenance of a fair and convenient wage-setting procedure.

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ISBN 978-91-566-2703-3