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EUROPEAN SOCIAL CHARTER

13th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF SWEDEN

(Articles 2, 4, 5, 6, 21, 22, 26 and 29)

for the period 01/01/2009 – 31/12/2012)

Report registered by the Secretariat on 31 October 2013

CYCLE 2014

REVISED EUROPEAN SOCIAL CHARTER

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The Revised European Social Charter

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(Articles 2, 4, 5, 6, 21, 22, 26 and 29[1]

for the period 01/01/2009 – 31/12/2012)

[1] Sweden has not ratified Article 2.1, 2.2, 2.4, 2.7, 4.2, 4.5 or 28.

Thirteenth report

Submitted by the Government of Sweden

in accordance with Article 21 of the Revised European Social Charter on the measures taken to give effect to the following provisions of the

Revised European Social Charter

Articles 2, 4, 5, 6, 21, 22, 26 and 29 for the period of the 1st of January 2009 to the 31st of December 2012.

Article 2.1, 2.2, 2.4, 2.7, 4.2, 4.5 or 28 has not been ratified by Sweden.

In accordance with Article 23 of the Revised Charter, copies of this report have been communicated to

(1) Svenskt Näringsliv (Confederation of Swedish Enterprise)
(2) Sveriges Kommuner och Landsting (the Swedish Association of Local Authorities and Regions)
(3) Arbetsgivarverket (Swedish Agency for Government Employers)
(4) Landsorganisationen i Sverige (the Swedish Trade Union Confederation)
(5) Tjänstemännens Centralorganisation (the Swedish Confederation of Professional Employees)
(6) Sveriges Akademikers Centralorganisation (the Swedish Confederation of Professional Organisations).

List of Contents

Article 2 – All workers have the right to just conditions of work

Article 2§3 to provide for a minimum of four weeks' annual holiday with pay

Reference is made to the previous reports, with the following addition.

The Swedish national defence has been reformed. The work force now consists of employees rather than soldiers performing their mandatory military service. Due to this a new act regarding certain employments within the National Defence went into force on the 1st of July 2012. Employees covered by the new act are squad Leaders, soldiers and sailors. The act regulates the possibility to employ this category of employees and matters related to the category. Inter alia, the employees shall now be employed on longer-term contracts and the contract shall be made over continuous service or for occasional service. As a starting point the employment shall last from six (6) to eight (8) years, with the possibility of extension. The total length of service as a Squad Leader, Soldier or Sailor shall not exceed sixteen years, of which more than twelve years of continuous duty.

Regarding the Committee's questions in conclusions 2010

The Committee has asked for information about the proposed amendments to the annual leave legislation. The 1977:480 Annual Leave Act was amended in minor respects on 1 April 2010. The aim of the reform was primarily to simplify the legislation. Through the modifications the short-termed employees also have been given the same rights to holiday entitlement and holiday pay as employees with a permanent contract, although certain exceptions can be made through an agreement between the employee and the employer. Following, are some examples of the changes that were made.

Employees who work at home or during such circumstances that the employer cannot supervise the work, are now given the same holiday rights as other employees.

The rules concerning earned holiday pay during sick leave have been revised. Absences due to illness or occupational injury cease to be holiday pay-set when the employee have been absent, entirely or partially, during an entire accrual year, April 1 to March 31, without longer intermission than 14 continuous days.

The estimating of holiday pay has been simplified and a new simpler optional way of calculating holiday pay has been introduced, the Same-Wage rule. The Same Wage rule is based on how holiday pay is calculated in collective agreements. Mainly the rule means that the employee's normal wage and a holiday supplement is paid during the holiday

A new rule have also been introduced that clarifies that employees who work part time or irregular working hours shall be entitled to equally long leave as an employee who is working full time or an employee with regular working hours.

Article 2§5 to ensure a weekly rest period which shall, as far as possible, coincide with the day recognized by tradition or custom in the country or region concerned as a day of rest

Reference is made to the previous reports, with the following addition.

1 August 2011, amendments were made in the Working Hours Act. Now, employers can allow employees to work extra hours without special permission from the Swedish Work Environment Authority. This applies *if* there are special circumstances and the situation has not been possible to resolve in any other way.

Regarding emergency overtime, the employer no longer has to seek permission from the Swedish Work Environment Authority. Also, a safety representative can ask for actions on the basis of the Working Hours Act if the employer does not follow the rules concerning overtime and emergency overtime.

The amendment does not affect the validity of collective agreements. This means that if there already exist a collective bargaining contract, apart from the Working Hours Act, the rules of the collective agreement are applicable even though the Act has changed.

Article 2§6 to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship

Reference is made to previous reports.

Regarding the Committee's questions in conclusions 2010

The Committee has asked how employers inform the employees that are excluded from the field of application of the Employment Protection Act on the conditions applicable to the employment contract or relationship. These employees are being informed via the employment contracts. The Act (1970:943) concerning working hours, etc. in domestic work covers employees in domestic work. This regulation stipulates that if either the employee or the employer requests it, the employment contract shall be in written form.

Article 4 – The right to a fair remuneration

Article 4§1 Decent remuneration

Reference is made to previous reports, with the following addition.

Wage spectrum

According to statistics from the National Mediation Office (Medlingsintitutet) in 2012, the average wage amounted to 29 800 SEK (€3,423) gross per month.[2] How much a wage earner obtains after tax (net pay) is due to the tax level that applies in the wage earners municipality. However, an estimated average gives a net pay of 22 400 SEK (€2.573) per month.

The gross wage for earners in the 10th percentile amounted to 20 000 SEK (€2,297) or 15 600 SEK (€1,792) net per month, which is 70 per cent of the average net pay (€1,792/€2,573). This means that 10 per cent of all earners have wages equal to, or below this amount.

According to OECD, in comparison to other countries Sweden has a highly compressed wage structure (See chart below).

Wage spectrum in Sweden in comparison to average in OECD 2011

Ratio	Sweden	Average OECD
P90/P10	2,31	3,37
P90/P50	1,66	2,02
P50/P10	1,39	1,67

Source: OECD Employment Outlook 2013, chart appendix N.

Minimum wages

Sweden has no legislation regarding minimum wages. However stipulations regarding minimum wage can be found in collective agreements decided by the social partners. These wages are decided on factors like age, work experience and period of employment. The wages are generally lowest in the trade sector. According to the agreements in the trade sector this year, the lowest average monthly wage for 18-year-olds[3] amounts to 18 185 SEK (€2,089) gross. This means a net pay of 14 300 SEK (€1,643). With such a comparison, the minimum wages in Sweden amounts to 64 per cent of the average wage (€1,643/€2,573).

[2] The exchange rate is based on information from SCB for the whole year of 2012 (where €1=8,7053 SEK).
[3] There is no consideration taken to employees younger than 18 on the grounds that these presumably cannot be considered as full-time employees.

Article 4§3 Non-discrimination between men and women with respect to remuneration

Reference is made to previous reports, with the following in addition.

Active measures

Under the Discrimination Act (2008:567 – Diskrimineringslagen, DL), employers and employees are to cooperate on active measures to bring about equal rights and opportunities in working life regardless of, among other things, sex. They are in particular to endeavour to equalise and prevent differences in pay and other terms of employment between women and men who perform work which is to be regarded as equal or of equal value. They are also to promote equal pay growth opportunities for women and men (Chapter 3, Section 1 of DL).

Every three years the employer is to conduct a 'pay survey' in order to discover, remedy and prevent non-objective gender differences in pay and other terms of employment. Every third year an employer with at least 25 employees shall also draw up an action plan for equal pay (Chapter 3, Sections 10 and 11, DL).

As in the JämO's (Jämställdhetsombudsmannen, the Equal Opportunities Ombudsman, now within the Equality Ombudsman) previous review, the Swedish Government (the Government) instructed the Equality Ombudsman (Diskrimineringsombudsmannen, DO) in the spring of 2013 to increase its work with conducting pay surveys at different places of work. This follow-up should provide answers to whether employees have continued to apply a systematic approach since the last review. The DO initiated work in April 2013 to review the actions plans for achieving equal pay for 470 major Swedish employers. This mandate will run for the period 2013 to 2014 with a total appropriation of SEK 9 million.

The Government made a decision in July 2012 to appoint an Inquiry to conduct an unbiased review of the rules on active measures contained in the Discrimination Act. The Inquiry is to deliver a report by 1 February 2014.

Pay disparities between women and men in 2011

It is stipulated in the Government's Instructions for the National Mediation Office that the Office is to analyse wage trends from a gender-equality perspective. The pay analysis conducted by the National Mediation Office for 2012 shows that the unweighted pay difference between women and men amounted to 14 per cent, which may be compared with 16 per cent at the time of the previous report, which related to data for 2004. The single most important explanation for the pay disparity is that women and men work in different occupations where there are different levels of pay. Other factors that have a bearing are age, sector, education and whether the work is full- or part-time.

The pay disparity between women and men was studied using a 'standard weighting' that takes account of, for example, occupation, working hours and level of education. The unexplained pay difference amounted to 6 per cent upon such an analysis, which may be compared with eight per cent in 2004. The pay analysis does not provide any answer to whether the remaining disparity is due to discrimination, although this may comprise part of the explanation.

Trends in salary statistics show that the pay disparity has reduced for all sectors (private sector as well as central and local government) and that pay for women in all age groups is approaching the pay for men. Statistics indicate that the fastest moving trend is for women over the age of 45, which may be explained by more women being appointed to managerial positions.

Although the trend is generally heading in the right direction, the analysis shows that pay disparities are also found on entry to the labour market after certain courses have been taken; for example, the salary for newly graduated male engineers is higher than that for newly graduated female engineers. The statistical analysis does not explain whether there are any non-objective pay differentials.

The National Mediation Office compared and analysed the proportion of women and men working in the 355 most common occupations in Sweden in 2005, 2009 and 2011. Trends during these years indicate that the labour market has generally become slightly less disaggregated by gender. The analysis also indicates that the proportion of women in the most male-dominated occupations has increased while the proportion of women in the most female-dominated occupations has reduced.

Article 4§4 Reasonable notice of termination of employment

Reference is made to previous reports, with the following addition.

1 July 2012 a new act regarding certain employments within the National Defence was implemented. This new act has stipulations different from the Employment Protection Act. Section 20 of the new Act stipulates:

The minimum period of notice for both the National Defence as employer and the employee shall be three months. The National Defence can grant the employee a shorter period of notice.

The employee is entitled to notice of termination of employment of

- four months, if the aggregate length of employment with the employer is at least six years but less than eight years,
- five months, if the aggregate length of employment with the employer is at least eight years but less than ten years, and
- six months, if the aggregate length of employment with the employer is at least ten years.

Regarding the Committees questions in conclusions 2010

In accordance with the statement (submitted to the Government Committee in October 2011) regarding the conclusion of non-conformity regarding the Swedish application of Article 4§4, the situation referred to no longer exists. The agreement for the metal working industry was changed over 10 years ago and the agreement for the painting industry was changed in April 2010. To the Governments knowledge, there is no collective agreement left, that is not in conformity with Article 4§4 of the Revised European Social Charter.

After contact with the Swedish Painters´ Union (Svenska Målareförbundet) in August 2013, it is established that the current collective agreement in the painting industry is now formulated without an age limit. Instead the notice of termination is based on the length of the employment, with a similar structure to the Employment Protection Act. What differentiates the painters' agreement somewhat from the Employment Protection Act is the scale of notice of termination of employment. In the painters´ agreement the maximum time for notice of termination is four months, while the maximum time for notice of termination in the Employment Protection Act is five, respectively six months.

Article 5 – The right to organise

Reference is made to previous reports.

Regarding the Committee's questions in conclusions 2010
The Committee has asked for information about whether all closed shop clauses have been removed in the sectors concerned. In August 2013, the Government has been in contact with the Swedish Electricians' Union (*Svenska Elektrikerförbundet*) as well as the Swedish Painters' Union (*Svenska Målareförbundet*), who confirm that there are no closed shop clauses in any of the collective agreements.

Article 6 – The right of workers to bargain collectively

Article 6§1 Joint consultation

Reference is made to previous reports.

Article 6§2 Negotiation procedures

Reference is made to previous reports. Please, see also article 6§4 and appendix with information from the National Mediation Office for 2009-2012.

Article 6§3 Conciliation and arbitration

Reference is made to previous reports.

Article 6§4 Collective action

Reference is made to previous reports, with the following addition.

Certain amendments to the law have been made in addition to this.

Legislative changes after the so-called Laval case
Certain adjustments have been made in respect of industrial action as a result of the judgment issued by the European Court of Justice (ECJ) on 18 December 2007 in the Laval case (Case C-341/05). In the Laval case, the ECJ *inter alia* provided further clarification as regards the contents of the EU Posting of Workers Directive (96/71/EC), and concluded that the industrial action at hand was contrary to the freedom to provide services in the Treaty on the Functioning of the European Union. After the Laval case, it was deemed necessary to amend the Swedish legislation on industrial action with regard to posted workers. These new legislative changes were, to the extent possible, designed to preserve the Swedish labour market model. The statutory amendments entered into force on 15 April 2010. The core of these statutory amendments comprises a new Section 5a of the Foreign Posting of Employees Act (1999:678). Briefly, the amendments mean that it is only permissible under certain conditions for a trade union to take industrial action against a foreign employer with a view to bringing about a collective agreement for workers posted to Sweden. The conditions demanded by the Swedish employees' organisation must (1) correspond to the conditions of a central industrial agreement applied to the corresponding workers in Sweden, (2) only refer to minim rates of pay or other minimum conditions in certain fields, and (3) be more advantageous to the workers that the conditions implied by statutory provisions. Industrial action of this kind may not be taken if the employer shows that the workers already have conditions which are at least as advantageous as the minimum conditions in a central Swedish agreement for the industry. Industrial action taken despite these requirements not being met is to be considered unlawful under the Co-determination Act (1976:580). Under the new statutory rules, surveillance and enforcement of safeguards for workers posted abroad and activity to ensure that providers of services from other countries do not compete unfairly by means of low conditions of pay and service in the fields indicated by the Posting of Workers Directive remain the responsibility of the union organisations. The Swedish Work Environment Authority is to assist with information concerning collective agreement conditions which may be applicable in connection with foreign posting. A trade union organisation shall provide the Work Environment Authority with such terms of collective agreement for which it may have occasion to resort to industrial action.

Legislative changes in the Foreign Branch Offices Act

A change in the Foreign Branch Offices Act (1992:160), section 2, has entered into force. The change means that the requirements for a representative responsible for the business operations in Sweden has been removed as regards natural persons resident in the EEA, but still applies as regards natural persons residing outside the EEA. The change was deemed necessary in order for the legislation to comply with the EU Services Directive (2006/123/EC).

Legislation regarding contact person and obligation to report posting of workers
Further, a statutory amendment to the Foreign Posting of Employees Act entered into force on 1 July 2013. This amendment means that a foreign employer must report that it posts workers to Sweden. The content of the report is regulated by a new ordinance (2013:352), which entered into force 1 July 2013. Further, the employer must appoint a contact person in Sweden, which shall be authorised to receive notice on behalf of the employer. The contact person shall further be able to provide documentation demonstrating that the requirements of Foreign Posting of Employees Act, as regards employment conditions for posted workers, are met.

The purpose of the legislation is twofold; to ensure that the Foreign Posting of Employees Act works in practice and to ascertain that posted workers are ensured protection in accordance with the requirements of the "hard core" of the EU Posting of Workers Directive. The legislation will, from a practical point of view, facilitate the work of Swedish trade unions and authorities as they may acquire knowledge about employers who post workers to Sweden. Such knowledge may also, where applicable, facilitate negotiations regarding collective bargaining agreements. Should the contact person receive notice of a request for collective bargaining negotiations, the foreign employer must participate in negotiations in order to prevent being subject to industrial action (according to the Co-Determination Act). The legislation has been drafted in order to comply with relevant EU law.

Legislative changes regarding posted agency workers
Furthermore, the Foreign Posting of Employees Act was amended on 1 January 2013 in conjunction with the implementation of Directive 2008/104/EC of the European Parliament and of the Council on Temporary Agency Work in the 'Temporary Agency Work Directive'. This statutory amendment means that industrial action against an employer for the purpose of regulating conditions for posted agency workers through a collective bargaining agreement may only be taken if the conditions demanded:
(1) correspond to the conditions contained in a collective bargaining agreement concluded at the central level that are generally applied throughout Sweden to corresponding workers within the temporary agency work sector and respect the overall protection of workers referred to in the Temporary Agency Work Directive,
(2) relate only to pay or conditions in certain areas, and
(3) are more favourable for the workers than prescribed by law.
Such industrial action may not be taken if the employer shows that the workers have conditions that in all essential respects are at least as favourable as the conditions contained in such a central collective bargaining agreement in the temporary agency work sector, or the collective bargaining agreement that applies at the user undertaking, i.e. the undertaking where the temporary agency workers perform their

work. In other words, in contrast to the provisions otherwise applicable to foreign postings, the new rules mean that the employee organisations can take industrial action to establish conditions in certain areas, going above the minimum level.

Assignment of a Commission regarding posting of workers

On 27 September 2012 a Commission was assigned, which shall be composed of representatives of all parties in the parliament, with the purpose of evaluating the changes of the Foreign Posting of Employees Act after the Laval case.

The Commission shall investigate the situation of posted workers in Sweden. After having made such an investigation, the commission shall, in summary:

- evaluate whether the application of the regulation ensures that fundamental employment conditions of posted workers in Sweden can be safeguarded;
- in terms of foreseeability, assess and evaluate the practice of the Swedish Work Environment Authority's statutory task of providing information and the trade unions' obligation to submit information on collective bargaining agreements to the Swedish Work Environment Authority, and if necessary propose legislative changes in this regard;
- consider necessary changes to safeguard the Swedish labour market model in an international context.

During the investigation, the Commission shall pursue a dialogue with representatives of the social partners on the Swedish labour market. The proposals of the Commission shall further include an analysis of the consequences, if any, in relation to relevant international regulations. The Commission shall present its work on 31 December 2014. The Government will in due time submit further information regarding the conclusions of the commission.

Please see appendix with information from the National Mediation Office for 2009-2012.

Article 21 – The right of workers to be informed and consulted within the undertaking

Reference is made to previous reports, with the following addition.

During the reporting period Sweden has implemented the EU directive on European work councils (Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting employees (Recast)) through the law (2011:427) on European work councils. From June 6th, 2011, this law replaced the law (1996:359) on European work councils. The new law clarifies terms such as transnational matter, information and consultation. The law also includes new rules as regards negotiations on the establishment of a European work council or other procedures for informing and consulting employees. Furthermore the law specifies which obligations lie on the community-scale undertaking or group of undertakings as regards the information to be submitted to the employees in view of such negotiations. Community-scale

undertakings or groups of undertakings with certain collective agreements are exempted from the law.

Regarding the Committees questions in conclusions 2010

Concerning European Co-operative Societies – the Committee asks for information on the implications of this legislation for the information and consultation of employees within enterprises.

There are no European Co-operative Societies in Sweden, consequently there are no effects.

The Committee considers that all categories of employee (in other words all employees with an employment contract with an undertaking, whatever their status, length of service or workplace) must be taken into account when calculating the number of employees covered by the right to information and consultation. Consequently, the Committee asks whether this is the scope of Sweden's legislation, particularly as regards the calculation of these minimum thresholds.

There are no thresholds in Swedish legislation. Therefore, the 1976 Co-determination Act covers all employees.

The Committee asks whether the amendments to the co-determination in the workplace legislation that came into force on 1 February 2005 have altered the situation.

There have not been any changes in the legislation concerning the issue. There is neither any case law nor new studies regarding the impact of the provisions. Just like Sweden stated in the previous report, the effects of the provision from 2005 are difficult to assess.

The Committee asks for detailed information about the monitoring system regarding the respect for the right of employee representatives to information and consultation in undertakings.

In Sweden there is no authority that monitors the compliance with information and consultation rights. According to the Swedish labour market model the employee representatives themselves, ensure that their rights in this respect are not violated via the right to claim damages in, as a last resort, Court.

Article 22 – The right to take part in the determination and improvement of the working conditions and working environment

Reference is made to previous reports, with the following addition.

Work environment legislation primarily comprises the Work Environment Act (1977:1160), the Work Environment Ordinance (1977:1166) and approximately 100 regulation booklets issued by the Swedish Work Environment Authority.

The Swedish Work Environment Authority is the supervisory authority. The authority is entitled to receive the information, documents and samples and to order the investigations required to exercise supervision. The authority is entitled to be afforded access to premises to carry out its supervisory work. The Swedish Work Environment Authority may issue to the person who has safety responsibility such orders or prohibitions as are needed to secure compliance with the Act or with regulations made under the same. Orders and prohibitions may be issued in conjunction with a pre-determined fine for default. The Government may prescribe that special penalty charges are imposed in matters under the Work Environment Act.

As mentioned in the previous report The Government forwarded the bill *Elevers och studerandes medverkan i arbetsmiljöarbetet, m.m.* (Participation of pupils and students in work environment work, etc.) (Government Bill 2008/09:138) on 5 March 2009 to the Parliament(Riksdag), where it also has been adopted. In consequence, certain changes have been made to the Work Environment Act. These changes involved, among other things, an amendment of the rules relating to safety officers, which means that pupils, students and their representatives are afforded greater opportunities to pursue work environment issues. In this aspect, pupils and students are seen as employees.

The exclusion in the Work Environment Act for work done in the employer's household has been removed, which means that the Act now encompasses all kinds of work. Appeals against decisions issued by the Swedish Work Environment Authority in individual cases are now to be made to the administrative court instead of the Government as was previously the case.

The Swedish Work Environment Authority made decisions during the period 2009 to 2012 regarding a large number of new provisions in the work environment area. Examples of new regulations for the reporting period are:

2009

- Workplace design - additional texts including clarification and comments are supplemented.
- Use of personal protective equipment – Regulations has changed.
- Chemotherapy - An amendment whereby the Swedish Work Environment Authority believes that there are grounds for manage drug MabThera different than other medicines containing monoclonal antibodies.
- Artificial Optical Radiation - The regulation is introduced to meet the requirements of the national implementation of EU Directive.
- Machinery - Amendment to adjust the text in accordance with EU Directive.
- Construction work - Amendment in regulation.

2010

- Rock and mining work - Automated robotic machinery has come on the market. The rules provide, inter alia, higher skill requirements for machine and vehicle operators and increased requirements for coordination between the various contractors.
- Amendment of the regulations on occasional lifting of persons using cranes or trucks.
- Diving work- The new regulations focus on planning, risk assessment, skills, staffing and dive leader's central role in the systematic work.
- Amendment of the regulations on chemical safety risks.
- Changes as a result of the Lisbon Treaty.

2011

- New rules for chemical and health risks and hygiene levels.
- New rules concerning genetically modified microorganisms (GMM).

2012

- Provisions on the work environment for minors.
- Ergonomics.
- The use of portable chainsaws and brush saws.

The Swedish Work Environment Authority has conducted special compliance initiatives targeted at, for example, the work environment for women, the temporary employment sector, schools, violence and menaces, young people, asbestos, trucks, forestry, care services and trade. In addition to this, a compliance method called 'screening' is being tested in the graphics sector on the mandate of the Government. The idea of screening is that the Swedish Work Environment Authority conducts compliance work at all undertakings within a sector and examines both work relating to the work environment that is being conducted at the undertaking and the actual work environment. In addition, the Swedish Work Environment Authority actively participates in EU compliance campaigns.

In 2010, the Government adopted a national action plan for work environment policy for the period 2010 to 2015. This action plan prioritises initiatives relating to regulations and compliance, counselling and support, new risks and initiatives to recognise the importance of the work environment and develop and disseminate knowledge. Furthermore, priority has been afforded to initiatives that promote conditions at the workplace for receiving and retaining people coming from some form of exclusion and initiatives for the development of knowledge and exchange of experiences. In order to promote a greater awareness and knowledge of work environment issues throughout society, priority is also to be given to initiatives to increase active involvement and also to increase the dissemination of knowledge about and increase the focus on the work environment in education.

The Swedish Work Environment Authority (TSWEA) is the liaison office (contact authority) in Sweden when it comes to posting. They provide information about the terms of work and employment that are valid in Sweden. They also cooperate with

other liaison offices in other countries within EU and EES in these matters. They have since 2009 an extended role for providing information concerning working conditions for posted workers.
Also during the reporting period, TSWEA have launched a special website (safeatwork.se) and folders for persons coming to work temporarily in Sweden, with information in different languages about the terms of work and employment that are valid in Sweden for different sectors. They have focused on the building and restaurant sector.

In 2012 a feasibility study on how Sweden works on the problems associated to the issue of so called "grey enterprises" (undeclared work and organized crime) was developed. The preliminary study presented a proposal to develop a comprehensive strategy for the coming years' of work. A seminar was arranged where attitudes towards grey enterprises were discussed.

Work Environment Authority has developed an interactive health and safety training on threats and violence in the workplace as well as a series of reports and brochures on psychosocial work environment and threats and violence in the workplace.

Article 26 – The right to dignity at work

Article 26§1 - Sexual harassment

Reference is made to previous reports, with the following addition.

Sexual harassment complaints received (2009-2012)
The Equality Ombudsman (Diskrimineringsombudsmannen, DO) received 88 complaints relating to sexual harassment in working life during the period 1 January 2009 to 31 December 2012. The DO settled five such matters during the same period. One judgment was pronounced during the period in question for cases pursued by the DO. A brief summary of the circumstances of the matters in question is provided below.

It is primarily women who report complaints to the DO in relation to sexual harassment. In general, it may be observed that these matters are often difficult to investigate as the events sometimes happened a long time ago. Word against word situations is often involved.

<u>DO's settlements</u>

ANM 2011/1319, ANM 2011/1599
Two employees at a forestry company filed a complaint about being harassed by their supervisor. The parties entered into a settlement whereby the employees each received SEK 60,000.

ANM 2009/1936

A woman was given notice of termination by her employer when she announced her pregnancy. Her supervisor had sexually harassed her on an almost daily basis during the time she had worked there, asking questions about her sex life. The DO and the employer concluded an agreement, which gave the woman SEK 75,000.

ANM 2009/699
A woman filed a complaint about being sexually harassed while working as a conference hostess for an insurance company. The DO concluded a settlement with the employer for SEK 100,000.

JämO 2008/1239
A woman filed a complaint with the JämO (the Equal Opportunities Ombudsman, now within the Equality Ombudsman)stating that she had pointed out to her manager on several occasions that a colleague was subjecting her to sexual harassment, but the employer did nothing to stop this harassment. Instead the woman was stopped from making further trips and her fixed-term employment was terminated prematurely. The DO concluded a settlement with the employer for SEK 95,000.

DO's matters at court

Labour Court (AD) 2011 no. 13
Issue of whether a supervisor, owing to certain statements and a drawing, subjected two employees to: first, discrimination in the form of ethnic harassment, harassment on grounds of gender and sexual harassment; second, reprisals. The employer was ordered to pay SEK 25,000 and SEK 35,000 in damages respectively to the two employees for sexual harassment in relation to both employees and ethnic harassment in relation to one of the employees.

DO's preventive work to combat sexual harassment in working life (2006–2013)

The DO organises continuous training courses on the responsibility of employers to conduct goal-oriented work to combat harassment and sexual harassment within the framework of their activities.

The DO sent out a newsletter in 2012 to all employers with ten or more employees to make them aware of their responsibilities under the provisions of the Discrimination Act (Chapter 3 of DL). In addition to the newsletter, this mailing included the entire act, guidance produced by the DO as support for the work of employers involving active measures (which includes sexual harassment) and a folder of materials and tools provided by the DO. This mailing encompassed 41,544 employers.

The DO conducts systematic reviews of the work of employers involving active measures. Such reviews may include sexual harassment. One of the aims of the DO's

targeted compliance work is that after a review has been conducted employers should conduct work that lives up to the requirements of the Act.

The authority has observed in the course of previous major reviews increased activity on the part of the object subject to the compliance work, and it may here be reasonable to assume that activity related to an employer's obligation to prevent and hinder harassment and sexual harassment increases in conjunction with compliance work being undertaken.

There has been a telephone hotline for the DO since 2012 that is specifically used to answer questions about the scope and meaning of the provisions on active measures. This service provides employers with, among other things, advice and support in respect of the preventive work to combat sexual harassment.

Article 26§2 - Moral harassment

Reference is made to previous reports, with the following addition.

One of the duties of the Equality Ombudsman (Diskrimineringsombudsmannen, DO) is to raise awareness and disseminate knowledge and information about the prohibitions against discrimination, both among those who risk discriminating against others and those who risk being subject to discrimination.

As the DO consider combating harassments and discrimination in working life a priority area, a special project has been carried through in order to mobilize the Swedish social partners for this work. Interviews with trade unions and employers showed their need for different kinds of support. The DO has therefore developed methods and compiled best practice, check lists and training manuals. They are all available free of charge at the DO's webpage. The project was carried out in close cooperation with the social partners. The use and the benefit of the different support kits will be evaluated in 2013 in order to develop them and guide the DO in its further work.

Especially worth mentioning is also the *Green house*, a simple method to survey the risks of – or occurrence of – for instance harassments at the work place, the booklet *Equal rights and opportunities in working life* and the book *Active measures in working life – a guidance for employers*.

It is established in the Discrimination Act that the Swedish DO should do training. One of the prioritized areas has been and is combating harassments in work places. Therefore the DO has offered trainings for employers and trade unions since 2009. The number of trainings has increased from five in 2009 to eleven in 2013. From this year the DO offers four different kinds of trainings adapted to the target group´s prerequisites and needs. The engagement of employers in strategic positions is enhanced since it is supposed to strengthen the effects and sustainability of achieved changes.

Regulations concerning rights and obligations on psychosocial work environment can be found in the Work Environment Act (1977:1160), the Regulations on Violence and Menaces in the Working Environment (AFS 1993:2) and the Regulations on Victimization at Work (AFS 1993:17). The Work Environment Authority monitors regulatory compliance. If an employer does not follow the requirements set by the Work Environment Authority, the Authority can order the employer to rectify the deficiencies in the work environment. For such an injunction a contingent fine can be issued.
The Work Environment Authority generally has a strong focus on psychosocial work environment both in their regulatory and information activities.

A special inspection campaign focusing on psychosocial work environment was carried out during 2012. The campaign was part of a wider EU initiative, and Sweden was entrusted to lead the campaign. As part of the campaign, the Work Environment Authority conducted over 300 inspections in industries with a high risk of work-related disorders due to stress and other social and organizational issues in the workplace. Psychosocial work environment is also a key focus area in the Authority's on-going efforts directed toward women's work environment and the Authority is now even starting up a specific inspection campaign in the education sector, where, among other things, focus will be put on harmful stress, threats and violence.

During the period 2011-2014, The Work Environment Authority is conducting a special supervision effort to prevent the risk of intimidation and violence for workers in government authorities.

During the reporting period DO received 413 complaints about harassment associated to one of the grounds of discrimination; sex, transgender identity or expression, religion or other belief, ethnicity, disability, sex, and age. Most complaints concerned ethnicity and or religion, disability or age. In many cases the complaint concerns harassments associated to more than one ground, for example both sex and age. The complainants are both men and women.

DO have reached an agreement with the employer in seven cases. One concerned sexual orientation, three ethnicity, one disability, one sex and one parental leave. In the settlements the complainant have reached economical compensation between 15.000 and 60.000 SEK. The reasons why cases are concluded without DO bringing the case to court varies. In many cases there was not a sufficiently clear link between the harassment and the grounds of discrimination or this was not possible to prove. Another reason is that by Swedish law the trade unions have the first right to represent their members. That means that if the complainant is a member of a trade union DO transmits the case to the union.

The mandate of the DO includes disseminating knowledge and information to organisations, within both the public and private sectors, and to individuals about the prohibition of discrimination and the work to promote equal rights and opportunities. The DO offers guidance to and helps to develop methods for employers, universities,

university colleges and schools, among others. Within the framework of this the DO has produced, among other things:

- *Vägar till rättigheter [Paths to rights]* – A source of inspiration for local anti-discrimination work.
- *Upplevelser av diskriminering [Experiences of discrimination]* – A report about perceived discrimination.
- *Forskningsöversikt om trakasserier inom utbildning och arbetslivet [Research review on harassment in education and working life]* – This report describes, among other things, research relating to the prevalence of harassment, the consequences of harassment for those affected and ways of combatting harassment.

The DO considers that the reports and research inventories issued have helped to generate new knowledge. Knowledge lays the foundation for the development of methods and ways of working and represents a valuable information base when choosing orientation and strategies.

Article 29 – the right to information and consultation in collective redundancy procedures

Reference is made to previous reports, with the following in addition.

The Committee has asked for a detailed description of the collective redundancy procedures and the means of redress in case of failure of the employer to fulfil the obligation to prior information and consultation.

According to Article 28 in the Employment Protection Act (1982:80) (below LAS) sections 11 - 14 of the Employment (Co-determination in the Workplace, below MBL) Act (1976:580) shall apply in respect of the duty of employers to enter into negotiations before a collective redundancy is made.

Before an employer takes any decision regarding changes of the business which can lead to collective redundancies, he or she shall, on its own initiative, enter into negotiations with the employees' organization with which he is bound to negotiate under a collective bargaining agreement, section 11 MBL. The employer must initiate the negotiations in such good time that the views of the employees can be taken into account in before a decision is made. The employer cannot, as a main rule, take and implement a decision before he has fulfilled the duty to negotiate. Only where there is extraordinary cause, the employer may take and implement a decision before he has fulfilled his duty to negotiate.

Where there is a local employees' organization, the obligation to negotiate shall, in the first instance, be fulfilled through negotiations with that organization. If agreement is not reached during these negotiations, the employer shall, upon request, also negotiate with a central employees' organization, section 14 MBL.

In order to make collective redundancies an employer also must decide which employee who shall be made redundant. According to the Employment Protection Act section 22 the employer must observe the rules on priority. In short these rules stipulate that the order of termination is determined on the basis of each employee's total time of employment with the employer. Employees with longer employment times shall have priority over employees with shorter employment times. The employer must negotiate with the trade union on how to apply these rules on priority. Deviations from the priority list can be made in collective agreements.

Where an employer is not bound by a collective bargaining agreement, the employer is obliged to negotiate with all affected employees' organizations, section 13, second paragraph MBL.

According to section 15 MBL, any party who is under an obligation to negotiate shall, in person or through a representative, appear at negotiations meetings, and, where necessary, put forward a reasoned proposal for a solution of the matter to which the negotiations relate. The parties may jointly decide upon a form for negotiations other than through a meeting.

In conjunction with negotiations regarding a decision to terminate employment due to shortage of work, the employer shall in good time notify the other party in writing of the following matters:

1. the reason for the planned termination;
2. the number of employees who will be affected by the termination and the employment categories to which they belong;
3. the number of employees who are normally employed and the employment categories to which they belong;
4. the time period during which it is planned to carry out the termination; and
5. the method of calculation of any compensation to be paid in conjunction with termination in addition to that which is required by to law or applicable collective bargaining agreements.

If an employer doesn’t fulfil the obligation according to the law a trade union whose rights has been violated can take legal action in the Labour court and claim damages. The damages relates to the union's interest in compliance with statutory provisions or provisions in the collective bargaining agreement and to factors other than those of purely economic significance, non-punitive damages. The intention with this kind of damage is to effectively prevent deviations from the law. The refusal to negotiate is regarded as a serious breach of the law. The size of the non-punitive damage that the employer has to pay to the trade union is in practice decided by the court due to the circumstances in each case. Examples of the amounts have been provided for in the latest report.

List of Appendices

1. National Mediation Office Annual Report 2009
2. National Mediation Office Annual Report 2010
3. National Mediation Office Annual Report 2011
4. National Mediation Office Annual Report 2012