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EUROPEAN SOCIAL CHARTER

21th National Report on the implementation of the European
Social Charter

submitted by

THE GOVERNMENT OF SWEDEN

Follow-up to Collective Complaint No. 85/2012

Report registered by the Secretariat on
2 December 2021

CYCLE 2022

REVISED EUROPEAN SOCIAL CHARTER

21st National Report
on the implementation of the
Revised European Social Charter
submitted by

THE GOVERNMENT OF SWEDEN

Follow up of Collective Complaint 85/2012

Twentyfirst report

submitted by the Government of Sweden

in accordance with Part IV, 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

with reference to letter of 7th June 2021 from the Council of Europe to Sweden asking for a simplified report containing the following

I. information on the follow-up given to the decisions of the European Committee of Social Rights relating to the collective complaints:

- Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden, Complaint No. 85/2012, decision on the merits of 03/07/2013, violation of Articles 6§2, 6§4, 19§4a and 19§4b.

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

- Svenskt Näringsliv (Confederation of Swedish Enterprise)
- Sveriges Kommuner och Regioner, SKR (the Swedish Association of Local Authorities and Regions)
- Arbetsgivarverket (Swedish Agency for Government Employers)
- Landsorganisationen i Sverige, LO (the Swedish Trade Union Confederation)
- Tjänstemännens Centralorganisation, TCO (the Swedish Confederation of Professional Employees)
- Sveriges Akademikers Centralorganisation, SACO (the Swedish Confederation of Professional Organisations)

Table of Contents

Information on the follow up given to the decisions of the European Committee of Social Rights relating to the collective complaint:

Swedish Trade Union Confederation (LO) and Swedish Confederation of Professional Employees (TCO) v. Sweden, Complaint No. 85/2012, decision on the merits of 03/07/2013, violation of Articles 6§2, 6§4, 19§4a and 19§4b.

1. Follow up of Collective Complaint No. 85/2012

With reference to the resolution of the Committee of Ministers, adopted 5 February 2014, finalizing the complaint procedure and with regard to previous information provided in national reports, particularly the 17th, 18th and 19th 20th National Reports, and in the collective complaint no 85/2012 the Government would like to add the following.

On 28 June 2018, an EU directive was adopted which amends the Posting of Workers Directive 96/71/EC.¹ The Government has previously submitted information of an inquiry that was tasked to propose how this directive shall be implemented into Swedish law. The inquiry presented its proposal to the Government on the 31 May 2019. On the 2 April 2020, the Government proposed a bill to *Riksdagen*, the Swedish Parliament, to implement the directive into Swedish law². In the bill, the Government proposed legislative amendments that will create more equal conditions for posted workers and domestic workers and enhanced protection for posted workers. The Government also proposed tighter regulations on the notification obligation in connection with the posting of workers. The Parliament voted in favor of the Government's proposal on the 16 June 2020 and the legislative changes entered into force on 30 July 2020 with some transitional provisions.

Short summary of the legislative changes

The possibilities for Swedish trade unions to take industrial action aimed at bringing about a regulation by collective agreement of the terms and conditions for posted workers is extended. Swedish trade unions may take

¹ Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services (Text with EEA relevance)

² Regeringens proposition 2019/20:150 Mer likabehandling och ett stärkt skydd vid utstationering.

industrial action aimed at bringing about a collective agreement of the terms and conditions applying to posted workers for *remuneration*, instead of a *minimum rate of pay* that was the case before the legislative changes went into force. Industrial actions may also be taken to enforce demands for terms and conditions, where applicable, relating to accommodation provided by the employer, and those relating to allowances for or the reimbursement of expenditure to cover travel, board and lodging expenses (article 15 of the Posted Workers Act).

The protection for posted temporary agency workers is increased, partly through the principle of equal treatment in the Agency Work Act is to apply to posted temporary agency workers in Sweden (article 8 of the Posted Workers Act). This means that posted temporary agency workers in Sweden is entitled *inter alia* to the same remuneration as the user undertaking applies to equivalent workers who are employees of the undertaking.

The protection for workers posted for longer periods is strengthened. In addition to the statutory provisions already applicable under the current rules, employers of workers who have been posted in Sweden for more than 12 months are to apply the statutory terms and conditions of employment applicable for equivalent workers in Sweden (article 11 of the Posted Workers Act). Swedish trade unions are also permitted, under certain specified conditions, to resort to industrial action to enforce terms and conditions of employment other than those that under the Posting of Workers Act may otherwise be enforced with the aid of industrial action against a company posting workers in Sweden (article 19 of the Posted Workers Act).

The provisions on the obligation for service providers that post workers to Sweden to make a declaration and to designate a contact person is tightened. Employers that post workers to Sweden is required to report the posting and a designated contact person in Sweden to the Swedish Work Environment Authority from the first day of posting (article 29 and 32 of the Posted Workers Act). Employers that post workers to Sweden are also required to provide documentation to the service recipients in Sweden demonstrating that the report has been submitted to the Swedish Work Environment Authority. Service recipients in Sweden is required to notify the Swedish Work Environment Authority if the service providers that post workers do not demonstrate that the notification obligation has been fulfilled (article 30 and 31 of the Posted Workers Act).