



# **GLOBAL EXPANSION GUIDEBOOK EMPLOYMENT**

*Sweden*



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## INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Employment*.

### GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics that companies need to know. The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, equity compensation, intellectual property and technology, and tax laws in key jurisdictions around the world.

### EMPLOYMENT

As business grows more global, the challenge for in-house counsel and HR professionals responsible for workforce issues and employment law compliance is intensifying. This guide is designed to meet that challenge head on and has been produced in response to feedback from clients in both established and emerging international businesses. We hope it will become an invaluable resource for you.

This 2024 edition of our popular guide covers all of the employment and labor law basics in 63 key jurisdictions across the Americas, Asia Pacific, Europe, the Middle East and Africa. From corporate presence and payroll set-up requirements, language rules, minimum employment rights, business transfer rules, through to termination and post-termination restraints, we cover the whole employment life span.

We have used our global experience and local knowledge to bring you this newest edition of our guide. With over 300 lawyers, DLA Piper's global Employment group is one of the largest in the world, with one of the widest geographical footprints of any global law firm. We partner with our clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to take advice in relation to specific matters. If you wish to speak to any of our contributors, their contact details are set out towards the back.

We hope that you find this guide valuable and we welcome your feedback.

To learn more about DLA Piper's global Employment practice, visit [www.dlapiper.com](http://www.dlapiper.com) or contact:

Brian Kaplan  
Co-Chair, Global Employment practice  
[brian.kaplan@dlapiper.com](mailto:brian.kaplan@dlapiper.com)

Ute Krudewagen  
Co-chair, International Employment practice  
[ute.krudewagen@dlapiper.com](mailto:ute.krudewagen@dlapiper.com)

Pilar Menor  
Co-Chair, Global Employment practice  
[pilar.menor@dlapiper.com](mailto:pilar.menor@dlapiper.com)

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## SWEDEN



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### LEGAL SYSTEM, CURRENCY, LANGUAGE

Civil law. Member of European Union (EU), so required to implement relevant EU directives. The official currency is the Swedish Krona (SEK). The official language is Swedish.

### CORPORATE PRESENCE REQUIREMENTS & PAYROLL SET-UP

A foreign company may engage employees in Sweden with proper payroll registrations, subject to business, corporate and tax considerations. Employers are obliged to pay social security charges on top of gross salary and most benefits. The social security charges amount to 31.42 percent to be borne by the employer. The Swedish personal tax system operates with a progressive rate varying from approximately 29 percent to 55.5 percent, as the austerity tax of 5 percent was abolished as of January 1, 2020.

The employer shall deduct from the gross salary and deliver each employee's personal tax to the Swedish Tax Authority. From January 1, 2019, registered employers additionally receive PAYE forms to complete and send to the Swedish Tax Authority.

### PRE-HIRE CHECKS

#### Required

No pre-hire checks required in general other than right to work checks for non-EU/EEA citizens.

#### Permissible

References and education checks are common and permissible with applicant consent. Employers may ask for criminal records, and for specific roles (eg, childcare positions), it is required. Note, however, that criminal records for the purpose of pre-hire checks normally may not be processed due to data privacy restrictions meaning that when employer has reviewed the excerpt from the police provided by the candidate, it should be returned to the candidate or destroyed.

## IMMIGRATION

Nationals of the Nordic countries, most EU/European Economic Area (EEA) countries and Switzerland are permitted to begin working immediately upon entering Sweden. Most non-EU/EEA, non-Nordic and non-Swiss citizens who intend to enter Sweden to work need a work permit. When employing someone from a non-EU country, the company must notify the Swedish Tax Authority by completing an SKV 1160 form with the name, address and employment period of the employee.

## HIRING OPTIONS

### Employee

Indefinite, fixed-term, full-time or part-time. An employer may not put a part-time or fixed-term employee at a disadvantage by providing a salary or employment terms that are less favorable than those of employees in a similar situation working full-time or those in permanent employment.

### Independent contractor

Independent contractors may be engaged directly by a company. However, engagement may be subject to misclassification exposure. In addition, the hiring of independent contractors may be subject to consultation requirements if the employer is bound by a collective bargaining agreement.

### Agency worker

Agency workers may be hired and assigned to perform work under a user undertaking's supervision and direction. The equal-treatment principle under the Swedish Act on Agency Work requires the employer (ie, the temporary work agency) to ensure that the basic working and employment conditions for the employee who has been assigned to a user undertaking shall be at least those that would have applied if the employee had been employed directly by the user undertaking to perform the same work. As of June 30, 2022, new amendments to the Swedish Act on Agency Work have entered into force to facilitate agency workers to pursue permanent employment and to limit the hiring of agency workers on a permanent basis. Under these new rules, agency workers who have been working at a user's premises for at least 24 months over a period of 36 months should be offered employment with the user directly. The user may, however, opt out of offering agency workers employment and instead pay a compensation equal to 2 months' salary.

## EMPLOYMENT CONTRACTS & POLICIES

### Employment contracts

Issuing written employment agreements is common best practice and is recommended, but it is also possible to conclude an agreement verbally or through action (but the information obligations below would apply regardless).

As a result of Sweden's implementation of the EU Directive on Transparent and Predictable Working Conditions, new information requirements entered into force on June 29, 2022. According to these new rules, the employer is required to, in writing, provide employees information regarding all terms and conditions that are essential to the employment. The written information shall include inter alia the name of the employer, salary, workplace, vacation and type of employment, and the employee shall be provided the information within certain time frames.

(7 calendar days for certain basic conditions and 30 calendar days for other information). However, unless specifically requested by the employee, there is no legal requirement to update any of the employment agreements entered into before June 29, 2022.

## Probationary periods

Permissible. Subject to a statutory limit of 6 months.

## Policies

In general, there is no requirement to have written policies, but they are commonly used. It is generally advisable for an employer to have certain policies (eg, concerning personal data, unilaterally issued benefits and use of work equipment, such as internet access, computers and mobile phones). An employer with at least 10 employees must have a written work environment policy in place and, if 25 or more employees are employed, the employer is required to establish written documentation regarding the active measures that are taken in order to prevent discrimination and promote equality.

## Third-party approval

No requirement.

## LANGUAGE REQUIREMENTS

No statutory requirements, but it would be advisable to ensure that all employees understand the language of the documents provided.

## WORKING TIME, TIME OFF WORK & MINIMUM WAGE

### Employees entitled to minimum employment rights

All.

### Working hours

Standard working hours are 40 hours per week. Working time in excess of such standard working hours is deemed as overtime. The employer may require employees to work overtime for up to 48 hours over a period of 4 weeks, or 50 hours in 1 calendar month, subject to a maximum of 200 hours per calendar year (ie, general overtime). An employer may require – provided that there are special reasons and the situation cannot be resolved in any other way – overtime in addition to general overtime, subject to a maximum of 150 hours per calendar year (ie, additional overtime). Apart from keeping a record of overtime, on-call working hours (Sw: *jourtid*), and additional working time (Sw: *mertid*), there is currently no explicit legal obligation that requires the employer to generally keep records of the employees' standard working hours. All employees must have at least 11 hours of uninterrupted leave in each period of 24 hours (daily rest). Exceptions can be made on a temporary basis, if this is due to special circumstances which could not be foreseen by the employer, provided that the employee is given equivalent compensatory leave. The daily rest period must include the period between midnight and 5 am. Exceptions may be made if, in view of the nature of the work, the needs of the public or other special circumstances, the work must be carried out between midnight and 5 am. Employees must also receive at least 36

hours of consecutive leave in each period of 7 days (weekly rest), however, exceptions may be made temporarily if due to special circumstances which could not be foreseen by the employer.

## Overtime

There is no statutory right to overtime payments. However, collective bargaining agreements typically include a right to overtime payments for employees. The rate payable for overtime depends on the business and any applicable collective bargaining agreements. Moreover, it is common to compensate for overtime by offering 5 additional paid holidays instead.

## Wages

There are no statutory regulations on minimum wages in Sweden other than for employees on work permits. However, collective bargaining agreements typically include provisions regarding minimum wage and salary. Thus, subject to any collective bargaining agreements and non-discrimination laws, an employer and employee may freely agree upon the level of salary to be paid as well as any future salary increases.

## Vacation

Employees are entitled to a minimum of 25 days of paid holiday – public holidays excluded – per holiday year after the 1st holiday year of employment (ie, qualifying year), pursuant to the Swedish Holiday Act. For white-collar employees and professionals, 30 days of annual holiday is common (as compensation for no overtime payment), either by individual contract or by a collective bargaining agreement.

## Sick leave & pay

Pursuant to the rules in the Swedish Sick Pay Act, an employee is entitled to sick pay from the employer in case of absence due to illness. An employee is entitled to sick pay from the 1st day of illness for a maximum period of 14 days. Sick pay amounts to 80 percent of the salary the employee loses due to illness, and a salary deduction is then made from the sick pay, which corresponds to 20 percent of an average week's pay (karensavdrag).

After the first 14 days, the Social Insurance Agency takes over the responsibility to pay. Other benefits may be paid in accordance with the individual employment agreement or a collective bargaining agreement.

If an employee is expected to be on sick leave for more than 60 days, their employer must make a plan for how the employee will return to work. The plan should be made within 30 days of the 1st day of sickness.

## Maternity/parental leave & pay

Employees are entitled to parental leave under the Parental Leave Act. The mother is entitled to 7 weeks before birth as well as 7 weeks after birth (both included in the 480 days mentioned below), of which 2 weeks before or after the birth are mandatory. The father is entitled to 10 days in connection with the birth to be taken at the same time as the mother. Parents are also entitled to full parental leave until the child has reached the age of 18 months or, provided that the parent is still in receipt of a full parental allowance, for a period of time after the child has reached 18 months of age. As of July 1, 2024, new rules will enter into force in the Parental Leave Act which will allow parents to take parental allowance on the same day for a total of 60 days during the first 15 months after the child's birth. Also, parents having joint custody will be entitled to transfer 45 days of parental allowance to another person to allow for more flexible parenthood, and for parents having single custody, the transfer entitlement will be 90 days.

The employer is not required to pay the employee any salary during the time they are on parental leave, although the employee will accrue holiday during the parental leave as if the employee had worked for up to 120 days or, in case of a sole parent, up to 180 days. Instead, an employee is entitled to a parental allowance from the government. Parental leave is closely related to the right to parental allowance. Parental allowance is paid by the Swedish state for, at most, 480 days, until the child has reached 12 years of age (8 years for children born before 2014). For children born January 1, 2014 and after, parental allowance is paid for, at most, 96 days when the child is between the ages of 4 and 12. Similar rights to parental leave are also available to employees adopting a child. Of the 480 days, a number of days are reserved for each parent respectively: 60 days if the child is born prior to 2016, and 90 days if the child is born in 2016 or later.

## Other leave/time off work

Employees are entitled to take up to 120 days' leave to provide temporary care for a child under the age of 12 in the event of sickness. Employees are also entitled to take unpaid emergency leave in the event of a family member's illness, accident or death requiring the employee's immediate presence. There is no statutory limit on the number of days of emergency leave (although the issue may be regulated by collective agreements).

## DISCRIMINATION & HARASSMENT

The Discrimination Act covers discrimination on the grounds of sex, ethnic origin, religious or other belief, disability, sexual orientation, age and transgender identity or expression. The Discrimination Act contains provisions on active measures, supervision and invalidity of discriminatory provisions in individual and collective bargaining agreements, entitlement to compensation and legal proceedings. The employer is required to take positive action to promote equal rights and opportunities irrespective of any of the protected characteristics.

## WHISTLEBLOWING

Whistleblowing is regulated by the Swedish Act (2021:890) on protection of persons reporting irregularities (the Whistleblower Act). The Whistleblower Act entered into force on December 17, 2021 to implement the European Parliament's and the Council's directive on the protection of persons reporting violations of EU law. See "Whistleblowing Laws in Europe: An international guide."

## BENEFITS & PENSIONS

In general, benefits are either introduced by the individual contract of employment or by the collective bargaining agreement. The benefits provided to an employee usually depend on their level of seniority in the organization. Common benefits, at least for persons at a more senior level, are additional paid holidays, contributions to a private pension insurance, health and life insurance, a company car or car allowance and contributions from the employer during parental leave in addition to what is paid by the Swedish state. Collective bargaining agreements typically include provisions regarding payment of pension contributions into private pension insurance. Benefits are generally subject to social security charges to be paid by the employer and taxes to be paid by the employee.

## DATA PRIVACY

The General Data Protection Regulation (Regulation (EU) 2016/679) ("GDPR") applies to the processing of employees' personal data. The employer must ensure that the principles relating to processing of employees' personal data are fulfilled (eg, that personal data shall be correct, adequate and relevant in relation to the purposes of the processing and may not be retained for a longer period than is necessary for the purposes of the processing); there must be a legal basis for the processing, such as performance of the employment agreement; and the employee must receive adequate information regarding the processing. Special rules apply to transfers of personal data outside the EU/EEA. Sweden has also issued national laws and regulations in addition to the GDPR including the Swedish Data Protection Act (2018:218) and the Data Protection Ordinance (2018:219), which regulates general aspects of data protection where the GDPR allows (eg, processing of personal identity numbers and processing of data relating to criminal convictions and offences).

## RULES IN TRANSACTIONS/BUSINESS TRANSFERS

The Swedish Employment Protection Act (EPA) enacts the European Union's Acquired Rights Directive regarding business transfers. The EPA provides that, in the event of the transfer of an undertaking or business, or a part thereof, from one employer to another, the rights and liabilities of the employer are also transferred. The transferor and transferee have a duty to inform and consult with trade unions if the respective company is bound by a collective agreement, or if any trade union whose members employed by the company will be affected by the transfer. Any dismissal connected to the transfer would be in breach of the EPA, unless for an economic, technical or organizational reason.

## EMPLOYEE REPRESENTATION

Sweden has a high rate of trade union affiliation among employees. The Co-Determination Act (*medbestammandelagen*) consists of rules regulating collective agreements, rules of procedure regarding negotiations, consultations and employee representation. Pursuant to the Co-Determination Act, both employees and employers have the right to belong to an organization of employees or employers and to exercise the rights of membership in such organization. The right of association may not be infringed upon.

Collective bargaining in Sweden is centralized, and historically, bargaining in the private sectors has taken place on 3 levels: national (between the Confederation of Swedish Enterprises and the employee federations); industrywide (between industrywide organizations on both sides); and local (between the company and the local union). Legally binding agreements are concluded at all levels of bargaining.

The concept of works councils, aside from European Works Councils, is not recognized in Sweden. Instead, employees' influence is safeguarded by the trade unions.

## TERMINATION

### Grounds

The EPA requires that the employer has "just cause" in order to terminate an employment. The EPA distinguishes between termination due to personal reasons (eg, poor performance, misconduct or disloyalty) or economic reasons (eg, restructuring, reorganization or closing down of business). Redundancy is generally deemed to constitute just cause for termination under the EPA – the employer must, however, follow the substantive and

the formal rules laid down by the EPA. Conversely, termination due to personal reasons is deemed a last resort by the courts, and the burden of proof that the misconduct amounts to just cause is on the employer. An employee that has grossly neglected their obligations towards the employer may be summarily dismissed (also known as termination without notice).

## Employees subject to termination laws

The Employment protection rules in the EPA apply regardless of the employment period and form of employment, and to all employees, with only a few minor exceptions (eg, employees in managerial or similar positions in respect of salary, position and job assignment; members of an employer's family; employees engaged in the employer's household; and employees assigned public temporary work).

## Restricted or prohibited terminations

If employment is terminated due to redundancy, the notice period for an employee on full parental leave does not commence until the employee returns to work, or the date the employee would have returned to work. If an employee is given notice of termination during the employee's vacation, the notice of termination shall be deemed effective no earlier than the day after the vacation ends.

Moreover, termination of employment may not be in violation of applicable anti-discrimination laws (eg, the Discrimination Act and the Parental Leave Act). Employees who also are trade union representatives (*fackliga förtroendeman*) may be protected under the Trade Union Representative in the Workplace Act (*lag om facklig förtroendemens ställning på arbetsplatsen*).

## Third-party approval for termination/termination documents

Not required.

## Mass layoff rules

If 5 or more employees may be affected by a potential redundancy, the employer is obligated to notify the Swedish Public Employment Service in writing. The notification is subject to confidentiality/professional secrecy and shall be submitted at least 2 months prior to the 1st notice period expiring (provided that not more than 25 employees are affected). If 26 or more employees are at risk, the notice period is 4 months, and if more than 100 employees are at risk, the notice period is 6 months. Additionally, standard redundancy rules under the EPA must be adhered to.

## Notice

The minimum statutory period of notice for termination for the employer is 1 month, and the period of notice increases by 1 month for every 2 years of service, up to a maximum of 6 months when the employee has a length of service of 10 years or more. However, it is permissible to have longer notice periods, and this is common both in individual employment contracts and in collective bargaining agreements. A CEO should, according to Swedish case law, be provided a notice period of at least 6 months, including any severance pay (please see further below), upon terminating the employment.

The EPA includes extensive formal and substantive rules to observe in relation to termination. An employer who intends to terminate an employee's employment for personal reasons shall notify the employee and their trade union at least 2 weeks in advance prior to handing over the termination notice. Thereafter, the employee and

their trade union have a right to request consultations. The termination cannot be effected until the consultations are concluded. In case of termination without notice (ie, summary dismissal), the notification shall be given at the latest 1 week before the termination becomes effective.

## Statutory right to pay in lieu of notice or garden leave

Employees have a duty to work during the notice period. Payment in lieu of notice is not customary, is tax disadvantageous for the employee and is subject to the employee's consent. Garden leave is subject to an employee's consent.

## Severance

Severance pay is not mandatory in a case of termination of employment by the employer. However, at least in mid-size to large companies, it is not uncommon to include a severance payment on top of the notice period for a managing director (typically not covered by employment protection) in the employment agreement. For the managing director, notice and severance pay combined normally corresponds to 6 to 12 months' fixed compensation. Additionally, in a specific termination situation, it is common for the employer to pay a severance payment in addition to notice in a settlement agreement, especially if it is unclear whether just cause for termination exists or if there are other issues (eg, non-compliance with the last-in-first-out rule, or LIFO).

## POST-TERMINATION RESTRAINTS

There are no specific statutory rules under Swedish law prohibiting post-contractual restraints other than that they must be reasonable in order to be enforceable. Instead, the rules are normally contained in collective bargaining agreements and individual employment agreements, which may allow post-contractual restraints under certain circumstances. However, such restraints may be deemed unreasonable and set aside or adjusted by a Swedish court.

### Non-competes

The period of restriction depends on how long such a restriction can be objectively justified. A period of 9 months is common. In some cases, it may be possible to have a longer period depending, inter alia, on the expected lifetime of the employer's trade secrets to which the employee is privy. Nevertheless, the duration should generally not be longer than 18 months. In order for a non-competition clause to be valid, the employee must be entitled to compensation during the restricted period. The compensation does not need to exceed 60 percent of the employee's previous salary with the employer. Moreover, a non-competition clause may only be used where it is justified – for example, for employees with key or management positions with access to trade secrets.

### Customer non-solicits

Permissible, but may be adjusted by a court ruling if deemed unreasonably strict (eg, due to the length of the restrictive period).

### Employee non-solicits

Permissible. Non-solicitation clauses should not, however, extend beyond the legitimate interest to equalize the competitive advantage gained by the employee through the knowledge of the former employer's employees.

Pursuant to case law, the restricted period for a non-solicitation clause should normally not exceed 6 months.

## WAIVERS

Enforceable. The employee may sign a settlement agreement waiving statutory rights.

## REMEDIES

### Discrimination

Any individual or legal entity that violates prohibitions against discrimination and retaliation or fails to fulfill obligations to investigate and take measures against harassment, may be ordered to pay compensation to the individual who has been affected by the breach.

### Unjust dismissal

Employees may challenge the lawfulness of a termination of employment due to redundancy or due to personal reasons. If the termination is found unjust and deemed invalid, the employee may be entitled to reinstatement, backpay, compensation for loss of income and damages for other losses suffered and the infringement of the employee's rights. If the employer refuses to comply with a court's judgment regarding reinstatement, the employer is additionally liable for damages equal to a certain number of monthly salaries, as a main rule ranging from 16 to 32. If the employee does not ask for reinstatement, the employee will be entitled to economic damages to cover lost salary, capped at a maximum of 32 monthly salaries. In addition to economic damages, the employee will be entitled to general damages.

The protection of whistleblowers is regulated by the Swedish Act on protection against reprisals for workers reporting serious irregularities (2021:890) (the Whistleblower Act). The Whistleblower Act stipulates that individuals who are subjected to reprisals by their employer in violation of the provisions in the Whistleblower Act are entitled to damages.

### Failure to inform & consult

Failure to inform and consult with relevant trade unions may cause a liability to pay damages to trade unions. Damages seldom exceed SEK 150,000 per breach.

## CRIMINAL SANCTIONS

An employer who intentionally or negligently fails to comply with an order or prohibition issued by the Swedish Work Environment Authority pursuant to certain regulations may be fined or sentenced to imprisonment for a maximum of 1 year.

## KEY CONTACTS



### **Björn Rustare**

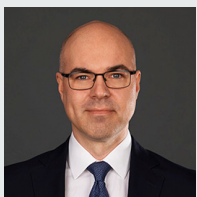
Partner

DLA Piper Sweden

[bjorn.rustare@se.dlapiper.com](mailto:bjorn.rustare@se.dlapiper.com)

T: +46 8 701 78 07

[View bio](#)



### **Johan Zetterström**

Partner

DLA Piper Sweden

[johan.zetterstrom@se.dlapiper.com](mailto:johan.zetterstrom@se.dlapiper.com)

T: +46 72 142 02 23

[View bio](#)

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