



Labour Policy on Fixed-Term Employment Contracts

Sweden

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Introduction

- Aim: to describe and analyse the legal regulation of fixed-term employment in Sweden
- Fixed-term employment on the rise: 16.1 per cent of all employees in 2008, 10 per cent in 1990 (EU-15 average in 2008 14.1 per cent)
- Fixed-term employment more common in the service sector, among women, among young people
- Lower trade unionisation rate among fixed-term employees

The Swedish industrial relations and labour law system



- Self-regulation, autonomous collective bargaining, social partnership, juridification and EU membership
- The 'semi-compelling' character of labour law legislation
- Uniform and extensive personal scope of labour law
- Traditionally, a high degree of equal treatment of different categories of employees



Early regulation of fixed-term employment contracts

- Statutory employment protection in 1974 – and a need for regulation of fixed-term employment contracts
- Managerial prerogative and a free right to hire
- Basic principles (still valid):
 - Permanent employment contracts (an indefinite period of time, dismissal and just cause-requirement) and fixed-term employment contracts (limited period of time, termination at the expiry of the agreed term)
 - Permanent employment contracts as the main rule (burden of proof), only when agreed upon and specifically provided for by law or collective agreements
- From a strict regulation, objective reason, fixed-term, specified season or specified task and temporary substitute employment ... to probationary employment and temporary peak in the employer's workload ... to agreed fixed-term employment ...
- Statutory reforms and 'shifts' in case law ... increased opportunities to use fixed-term employment contracts ... a long and complicated statutory 'catalogue'

The Fixed-Term Work Directive and flexicurity



- Permanent employment as the main rule and a twofold purpose
- Numerical and functional flexibility and flexicurity as an integrated strategy to enhance flexibility and security in the labour market
- Flexible and reliable contractual arrangements, reduced labour market segmentation and equal treatment of permanent employees and fixed-term employees
- Non-discrimination, deregulation of employment protection, a 'tenure track'-approach and progressive employment protection
- A new 2002 Act on the prohibition of discrimination of fixed-term and part-time employees
- Existing regulation in the 1982 Employment Protection Act was deemed satisfactory as regard the use of successive fixed-term employment contracts



Current regulation on fixed-term employment contracts I

- Fundamental reform in 2007: to simplify and clarify the regulation and to increase the opportunities to use fixed-term employment contracts
- An innovation: *general fixed-term employment* (no objective reason) for a total of two years during the last five years ... automatic conversion into a permanent employment contract
- Temporary substitute employment for a total of two years during the last five years ... automatic conversion into a permanent employment contract
- In addition, seasonal employment, fixed-term employment contracts for employees above the age of 67 years and probationary employment



Current regulation on fixed-term employment contracts II

- Right to information and a priority right to re-employment
- Labour dispute resolution and legal sanctions (automatic conversion into a permanent employment contract, legal declaration of a permanent employment contract and financial and punitive damages)
- Trade union legal challenge of the Swedish implementation of the Fixed-Term Work Directive
- Limited case law as regards non-discrimination of fixed-term employees and, as of yet, no success in claiming discrimination



Concluding remarks

- Too early to evaluate the full effects of the 2007 reform (basically accepted by the social partners)
- Normalising the fixed-term employment contract for a short duration, limiting the scope for successive employment contracts, a progressive build up of rights for employees – in line with the Fixed-Term Work Directive
- Collective bargaining serves to ‘cushion the blow’ of statutory reforms
- Possible negative side-effect of limiting the maximum duration of successive fixed-term employment contracts – the risk of employees not being offered further employment when the critical time limit is approaching
- Flexicurity, increased numerical flexibility and procedural flexibility traditionally built into the Swedish system