VINGE

Employment protection extended until employee reaches 69 years of age

According to the Swedish Employment Protection Act an employee is entitled to remain in employment until the expiry of the month in which he or she reaches 67 years of age. In February, the Government referred a proposal to the Council on Legislation for consideration according to which it was proposed that the age up to which an employee is entitled to remain in employment shall be raised to 69. After this time, an employer shall be entitled to terminate the employee's employment without objective grounds. The proposal also entails a replacement of the requirement of written notice for termination of the employment by implementing a simplified termination procedure instead. In addition, it is also proposed that the age limit at which a fixed-term employment will no longer convert to a permanent employment shall be raised to 69 years of age and that the special form of fixed-term employment for older employees shall be removed.

It is proposed that these amendments shall enter into force in two stages. On 1 January 2020, the amendments in respect of employment protection for older employees shall enter into force and the age limit shall be raised to 68 years of age. On 1 January 2023, the age limit shall be raised to 69 years of age.

Decisions from the Swedish Labour Court regarding non-solicitation undertakings

The Swedish Labour Court has published two decisions involving an assessment of the legitimacy of two separate provisions regarding non-solicitation of employees in the gaming industry. In these decisions the Swedish Labour Court states – for the first time – that such undertakings might limit competition on the labour market. However, the Swedish Labour Court further states that an employer may have a legitimate interest, by means of a non-solicitation undertaking, in limiting the former employee's competitive advantage of being able to recruit former colleagues. Accordingly, during a period of transition from the termination date, such clauses may be enforced in order to give the former employer the possibility to adjust its business and/or organisation to the new situation.

Despite this legitimate interest of the employer, the clauses were found to be unreasonable since they were not limited in scope to employees with whom the former employee had actually worked or employees with specific qualifications. In addition, the limitations did not apply only to active recruitment but also to the hiring of employees from the former employer who on their own initiative applied for positions in the new business. Further, the Swedish Labour Court found that any legitimate interest ought to have ceased due to the period that had passed in each case from the termination of the employment, six and 18 months respectively.