

REPORT
on the Free Movement of Workers
in Sweden in 2008-2009

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October 2009

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Introduction

This report deals with Sweden and the free movement of workers in the European Union (EU) during the year 2008 and the beginning of 2009. The report focuses on the application of Council Regulation 1612/68 and issues related to Directive 2004/38 and more within the framework of the EC Treaty, Article 39.¹ Legal amendments in Swedish law will be in focus on certain areas embraced by the regulations.

Amendments in Swedish national legislation and judicial practice are dealt with as well as draft legislation and judicial practice. Further, we will particularly comment on the access to employment in the public sector. Published literature, articles in periodicals etc. in 2008 and partially 2009 on the matters dealt with are listed.²

The report also deals with equal treatment and access to work, matters concerning family members in connection with workers from other Member States, the relationship between Regulation 1612/68 and Regulation 1408/71 concerning social security and more.³ Further, certain case law from the ECJ will be dealt with and EU enlargement issues will be illuminated.

Further, the report put the focus on that in the year 2008 and the beginning of the year 2009, EC law concerning watchmen and real estate agents as well as statutory audits of annual accounts and consolidated accounts, has been transposed into Swedish law. New regulations on labour immigration from third countries have been approved by the Riksdag, and the amendments will in practice take effect in the year 2009.

Concerning procedural matters it is the Migration Board that deals with applications for right of residence etc. Appeals against decisions taken by the Migration Board should in the first phase be dealt with in any of the three Immigration Courts, and the Migration Court of Appeal is the final legal instance for appeal.

(Concerning the term *EU citizens* used in the report; referring to the EEA agreement and the agreement between the EU and Switzerland the term EU citizen also should *embrace citizens from EEA countries outside the EU as well as Swiss citizens.*)

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- 1 Regulation (EEC) No. 1612/68 on freedom of movement for workers within the Community. Council Directive 68/360/EEC of 15 October 1968 on the abolition of restrictions on movement and residence within the Community for workers of Member States and their families and Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC.
 - 2 The following juridical periodicals have been examined systematically: *Svensk Juristtidning (SvJT)*, *Juridisk Tidskrift (JT)*, *Svensk skattetidning*, *Skattenytt*, *Ny juridik*, *Europarättslig Tidskrift (ERT)*, *Riksdag och departement*, *Lag & avtal*, *Arbetsmarknad och arbetsliv* and *Förvaltningsrättslig tidskrift*. In the periodicals listed recent case law from the European Court of Justice is regularly presented.
 - 3 Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community.

Chapter I

Entry, Residence, Departure

1. ENTRY

In principle foreigners should show a passport before entering Swedish territory (the Aliens Act ch. 2 § 1). However, concerning EU citizens and their family members, an *identity card* should be accepted for entry and stay in Sweden (the Aliens Ordinance § 17; compare the Directive 2004/38, article 5.1).⁴

1.1. Transposition of provisions specific for workers

Article 7(1a) of Directive 2004/38/EC. The Article deals with the right of residence for more than three months for by example workers that are Union citizens. The article has been transposed into Swedish law by the introduction of ch. 3a concerning the right of residence in the Aliens Act.⁵ Compared with the former legislation the term worker was defined in a broader way.

Article 7 (3 a-d) of the Directive 2004/38/EC. A worker that ceases to work for different reason should legally still be considered as a worker. However, if the worker has become unemployed after not longer than one year of employment, the worker should not keep his status as a worker for more than six months, and if the worker has been temporary employed less than one year he or she will keep his or her residence right for six months, if he or she has been involuntarily unemployed and if he or she has registered as a job-seeker at the employment office (the Aliens Ordinance ch. 3a § 1).⁶ Further, a worker that begins a vocational training will maintain the right to residence.

Article 8(3a) of the Directive 2004/38/EC. In order to register the Union citizenship for residence periods more than three months, a Member State may only require an identity card or passport and a confirmation of engagement from the employer or a certificate of employment. The regulation has been transformed into Swedish law by an amendment of the Aliens Ordinance ch. 3a § 8, and concerning workers the requirement for the granting of a residence right, is that the worker shows a passport or identity card, and further a document certifying that he or she has an employment in Sweden. Further, the Union citizen's duty to register at the Swedish Migration Board – if he or she has the intention to stay for more than three months – is regulated in the Aliens Act ch. 3a § 10.

Article 14 (4 a-b) of Directive 2004/38/EC. Under certain circumstances an expulsion measure may in no case be adopted against Union citizens or their family members if the citizen is for example a worker, or if the citizen is a job-seeker and he or she is continuing to seek employment and, further, if he or she has a genuine chance to be engaged. Following from Article 14(1) Union citizens and their family members should have a right of residence

4 Restrictions on the right to enter Sweden could be imposed referring to public order or security.

5 Government's proposition 2005/06:77, p. 43. Further regulations on the matter have been introduced in the Aliens Ordinance.

6 Compare the Government's proposition 2005/06:77, p. 43.

as long as they do not become an unreasonable burden on the social system of the host Member State.⁷

Matters concerning expulsion are dealt with in the Aliens Act ch. 8, and in accordance with ch. 8 § 1(6) an EU citizen – including a worker and his or her family members independent of nationality – may not be *refused entry* referring to the reason that the citizen does not have sufficient means for living.

A foreigner that has a right of residence may be *expelled* from Sweden referring to public order or security (the Aliens Act ch. 8 § 7a).⁸ If the foreigner has a permanent right of residence there must be particular reasons for such a decision, and if the foreigner has children in Sweden or has been staying in Sweden for the last ten years, he or she may be expelled only if the measure is absolutely necessary referring to public security. (EU citizens cannot be expelled referring to the health criteria.⁹)

Article 17 of Directive 2004/38/EC. The Article deals with exemptions for persons no longer working in the host Member State and their family members, regarding the right to permanent residence to be granted by the host state after the worker's engagement has ceased.

These matters are regulated in accordance with the Directive in the Aliens Act ch. 3a § 5. (Further, the family members' entitlements in these respects are regulated in § 6).

Article 24(2) of Directive 2004/38/EC concerning the right to equal treatment and the possibility for a Member State to make an exception from right to social assistance (including benefits referring to article 14.4b of the Directive) during the first three months of stay. Concerning social assistance, a local authority should consider the need expressed by people staying the municipality independent of nationality. The term to 'stay' in the local municipality is of vital importance in accordance with the Social services Act (2001:453). In principle, for periods of stay up to three months and not having residence in the local community, a person staying there is entitled only to acute social assistance in emergency situations.¹⁰

1.2. Situation of job-seekers

A job-seeker should be granted a residence right if he or she has a real chance to get a job (the Aliens Act ch. 3a § 3[2]). Further, a job-seeker being a Union citizen is explicitly *not* embraced by the duty to register for staying more than three months in accordance with the Aliens Act ch. 3a § 10. The reason is that a job-seeker's stay in Sweden is supposed to be temporary, and if he or she will get a job the person should register as a worker etc.¹¹ However, if the job-seeker wants to enjoy benefits at the employment office, he or she must register at an employment office.

Concerning the recital 9 of *Directive 2004/38/EC*, a job-seeker is embraced by the general right to stay in Sweden for a period not exceeding three months without any requests for formalities beyond the duty to have a passport or a valid identity card.

7 The meaning of the term 'unreasonable burden on the social system' has still not been developed in Sweden by the Migration Board in the legal praxis concerning refused entry. Compare Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, p. 43.

8 Government's proposition 2005/06:77, p. 76 and 196.

9 Government's proposition 2005/06:77, p. 78.

10 Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, pp. 25 f.

11 Government proposition 2005/06:77, p. 110.

Furthermore, the right to stay is going beyond the three months rule in accordance with the recital and in the light of the judicial practice from the European Court of Justice, and in the Government's proposition there is an explicit reference to Case C-292/89 *Antonissen*.¹²

In accordance with the Aliens Act ch. 8 §§ 1 and 2, in general an EU citizen could not be refused entry referring to insufficient means for staying in Sweden. In accordance with the Aliens Act ch. 8 § 2, an EU citizen who has not been qualified for a right of residence – which means that the stay is less than three months – could be refused entry (the term covers also the situation when the foreigner already is in Sweden) if he or she is an unreasonable burden on the social system.¹³ However, from this rule there is an exception for job-seekers, workers, self-employees as well as family members of those categories. Hence, in the coming practice regarding job-seekers a key issue is the criteria for being a job-seeker since the definition in the Directive also embraces that the person should have a chance to get a job (compare the Directive article 14.4b). (During the year 2009 this matter has not been dealt with in the legal practice.) Concerning Case C-138/02 *Collins* and the right to social assistance, a public investigation in 2005 stated that a job-seeker very probably could have a right to equal treatment regarding social benefits.¹⁴ The crucial matter is if a person should be considered as a job-seeker, and a criterion on the matter is that a person is registered as a job-seeker at an employment office and, further, that he or she has 'a real chance to get a job'. In a guideline report from the National Board of Health and Welfare it is said that after 'approximately' six months the job-seeker must have 'a real chance to get a job' etc.¹⁵ (Concerning job-seekers right to public assistance, see also Chapter IV below.)

In Case C-258/04 *Ioannidis* the ECJ ruled that it is contrary to the Treaty, Article 39, for a Member State to refuse to grant a tide over allowance ('arbetslöshetsunderstöd' in Swedish) to a national of another Member State seeking his first employment, and who is not the dependent child of a migrant worker residing in the Member State granting the allowance, on the sole ground that he completed his secondary education in another Member State.¹⁶

In different respects Swedish law on the matter was sharpened up in 2006, and the so called 'study provision' (studerandevillkoret) was taken away from January 1, 2007. The meaning is that a former student is not entitled to unemployment benefit and this should apply independent on nationality.

12 Government's proposition 2005/06:77, p. 44. Furthermore, in accordance with the Aliens Act ch. 8 § 2, an EU citizen who has not been qualified for a right of residence – which means that the stay is less than three months – could be expelled if he or she is an unreasonable burden to the social system (see Government's proposition 2005/06:77, p. 72 f.; compare p. 193 ff.). However, there is an exception for job-seekers, workers, self-employees, as well as family members of those categories. Also in a report presenting up to date guidelines in 2008 for the granting of social entitlements for job-seekers there is a reference to the *Antonissen* case, see Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, p. 35.

13 See again Government's proposition 2005/06:77, p. 72 f.; compare p. 193 ff.

14 Official report SOU 2005:34 Socialtjänsten och den fria rörligheten, p. 162.

15 Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, p. 59.

16 Further, concerning social assistance to EU citizens that are staying in a local municipality, there is also reason to consider the Social services Act (2001:453) ch. 2 § 2 and ch. 4 § 1. The meaning is that a person, independent of nationality, should be entitled to assistance. Referring to *Collins* a public investigation in 2005 came to the conclusion that a job-seeker is entitled to social assistance, but he or she may not be a burden to the social system.

2. RESIDENCE

An EU/EEA citizen who is an employee, self-employed person, a provider or recipient of services, a student or a person who has sufficient means to support him or herself, should have a right to reside in Sweden. Further, EU citizens having a right to residence and their family members shall register with the Migration Board.

However, an EU citizen who is a job-seeker or has his or her residence in another Member State and returns to that state at least once a week, is not embraced by the duty to register in Sweden. (Concerning job-seekers, see above!)

The right of residence in accordance with Directive 2004/38 is regulated in the Aliens Act, ch. 3a, which – as mentioned above – was introduced in 2006.¹⁷ The term right of residence means a right for EU citizens and their family members to stay in Sweden for more than three months without a residence permit.¹⁸ The right of residence should be granted immediately if the requirements are fulfilled and should remain for as long as the requirements are fulfilled.

In the Aliens Act ch. 3a §§ 3 and 4 there are further specifications of the categories embraced by the right of residence.¹⁹ They are workers, self-employees, job-seekers having a real chance to get a job, students or other persons having sufficient means for maintenance for themselves and family members, and, further, a health insurance also covering accompanying family members.

An EU citizen with a right of residence should register at the Migration Board if he or she has the intention to stay in Sweden for more than three months (the Aliens Act ch. 3a § 10).²⁰

As stated above the possibility to refuse entry for a person that does not correspond to the requirement of having sufficient means for staying in Sweden should not apply to EU citizens (the Aliens Act ch. 8 § 2; compare the Directive 2004/38, article 6.1). However, in accordance with the Directive a Member State might not expel a person as long as he or she does ‘not become an unreasonable burden on the social assistance system’ (article 14.1).²¹

A foreigner with a right of residence should have this right as long as the preconditions are fulfilled. Otherwise, or if the foreigner will not be granted a residence permit, the foreigner could be expelled referring to the Aliens Act ch. 8 § 7.²²

An EU citizen and his or her family members (if they are third-country nationals; see also Chapter V) should be granted a *permanent right of residence* after five years of legal stay without interruption (the Aliens Act ch. 3a §§ 6 and 7). However, the provisions are not affected by temporary stays abroad up to six months or military service for a longer period (§ 8).

Further, temporary stay abroad up to twelve months for pregnancy and childbirth, serious illness, studies or vocational training, posting abroad due to work in another country, should not be considered as a break of the five-year period.²³

17 Government proposition 2005/06:77.

18 Introduced through Act 2006:219. Government’s proposition 2005/06:77, p. 70 ff.

19 Government’s proposition 2005/06:77, p. 70 ff.

20 Government’s proposition 2005/06:77, p. 110.

21 Compare the Official report SOU 2005:34 Socialtjänsten och den fria rörligheten, presented in 2005 referring to, among others, the *Collins* Case C-138/02.

22 Concerning the use of the terms expulsion and turning away (or rejection or turn back), see Government’s proposition 2005/06:77, p. 74 ff.

23 Further specifications are presented in the Aliens Ordinance ch. 3a §§ 5 and 6.

In December 2008 new Swedish regulations came into force in order to facilitate labour immigration from third countries (for further comments, see Chapter IX Miscellaneous). Hence, a permanent residence permit may be granted to a third country national that, during the last five years, have had a residence permit for work for at least four years (amendment of the Aliens Act ch. 5 § 5).²⁴

The Migration Board is in charge of issuing the documents giving proof of the right of residence (the Aliens Ordinance ch. 3a §§ 7–10). A foreigner that applies for a right of residence should show a passport or identity card and documents showing his or her status as a worker etc., and that he or she has sufficient means and a health insurance.

(Concerning family members, see also Chapter VI.)

3. DEPARTURE

The possibility to refuse entry or to expel a person that does not correspond to the requirement of having sufficient means for staying in Sweden should not apply to EU citizens (compare the Directive 2004/38, article 6.1). Neither should a family member that is not an EU citizen him or herself be refused entry referring to insufficient means.²⁵

An EU citizen that has a right of residence may be expelled from Sweden referring to public order or security (the Aliens Act ch. 8 § 7a).²⁶ If the EU citizen has a permanent right of residence there must be ‘exceptional grounds’ for such a decision, and if the foreigner has children in Sweden or has been staying in Sweden for the last ten years, he or she may be expelled only if the measure is absolutely necessary out of consideration for public security. (EU citizens cannot be expelled referring to the health criteria.²⁷)

4. REMEDIES

A decision of a police authority to refuse entry and more may be appealed to the Migration Board (the Aliens Act ch. 14 § 2). A decision taken by the Migration Board may be appealed to a migration court, if the decision entails, for instance, a rejection of an application for a visa or withdrawal of a visa from a foreigner who is a family member of an EEA national, though not an EEA national him- or herself (the Aliens Act ch. 14 § 3).

In general, a decision of a migration court is appealed to the Migration Court of Appeal (the Aliens Act ch. 16 § 9). A foreigner who is entitled to appeal against a refusal-of-entry (or expulsion) order can declare that he or she will refrain from appealing against that part of the order or judgement; i.e. declaration of acceptance, that cannot be withdrawn (the Aliens Act ch. 15 §§ 1 and 3).

When a police authority has taken a decision to refuse entry or has enforced a refusal-of-entry or expulsion order, referring to the Aliens Act ch. 8, the Migration Board should immediately be informed (the Aliens Ordinance ch. 7 §§ 2 and 3). Further, there are regulations concerning information between State authorities when decisions on refused entry etc. have

24 Government’s proposition 2007/08:147 Nya regler för arbetskraftsinvandring.

25 Government’s proposition 2005/06:77, pp. 61 and 64.

26 Government’s proposition 2005/06:77, p. 76.

27 Government’s proposition 2005/06:77, p. 78.

been taken by the Migration Board or a migration court (see for instance the Aliens Ordinance ch. 7 § 4).

Texts in force

Utlänningslagen (2005:716), the Aliens Act.²⁸

- Utlänningsförordningen (2006:97), the Aliens Ordinance.²⁹
- Passlagen (1978:302), the Passport Act.
- Lagen om särskild utlänningskontroll (1991:572), the Act on special control of foreigners.

Draft legislation, circulars, etc.

The Swedish Migration Board has suggested that EU citizens should not have to register themselves at the Board, and a public investigation appointed by the Government to deal with the national registration matters should consider a solution of the matter.³⁰ The committee should present the results from the investigation not later than September 1, 2009. An amendment in line with the committee directions would mean that non-Nordic citizens from other Member States would be treated in the same way as Nordic citizens.

Judicial practice

In the year 2008 the Migration Court of Appeal took 25 final decisions. Most cases dealt with third-country nationals but three cases were connected to the free movement of persons and one of these cases dealt with an EU citizen.³¹

The cases referring to EC law and the free movement of persons were about an abolition of a sending away decision (MIG 2008:9; Bulgarian citizen; oral dealing had not been practiced), proof of permanent residence for a third-country national (MIG 2008:22; the applicant could not show proof of residence in other EU Member States) and the necessity of making a check with the Schengen information system before the granting of a residence permit (MIG 2008:25).

In Case 3248-07 the Administrative court of appeal in Jönköping dealt with the situation that a *job-seeker* from another Member State (Poland) residing in the local municipality had been granted only acute social assistance from the local authority's social service. A reason was that it could not be shown that the applicant did not have a chance to get a job. However, the court stated that the local authorities should try if the applicant after a more careful investiga-

28 The Aliens Act came into force on March 31, 2006, replacing the former Aliens Act 1989:529. Government's proposition 2004/05:170 Ny instans- och processordning i utlännings- och medborgarskapsärenden.

29 The Aliens Ordinance came into force on April 30, 2006, replacing the former Aliens Ordinance 1989:547.

30 Committee directions (supplementary) 2008:56 Tilläggsdirektiv till Folkbokföringsutredningen (Fi 2007:11). The committee directions refer to Directive 2004/38/EC and the current duty to register at the Migration Board in accordance with the Aliens Act ch. 3a §§ 10 and 11 § when staying in Sweden for more than three months.

31 The judicial practice concerning these matters are available at http://www.domstol.se/templates/DV_Info-Page_869.aspx.

tion regarding the job-seekers financial situation, should be entitled to economic relief from the local municipality.

Miscellaneous (administrative practices, etc.)

In 2007 a public investigation presented a proposal meaning that persons that are not Swedish citizens – but have the right to settle in Sweden – should be entitled to get an identity card issued by the Swedish state.³² Hence, a new identity card should be available from June 1, 2009. A precondition for the right to obtain the suggested identity card is that the person is registered in Sweden. The card will be issued by the National Tax Board, and the fee for the card must not exceed 400 SEK to be paid by the foreigner, in accordance with the Government's decision in 2008.³³

Recent legal literature

Lokrantz Bernitz, Hedvig, Unionsmedborgares fria rörlighet enligt EU:s rörlighetsdirektiv – ett svenskt perspektiv, *Europarättslig tidskrift*, 2008, pp. 72–86.

32 Official report SOU 2007:100 Id-kort för folkbokförda i Sverige. The intention was that by introducing such an identity card to facilitate for persons belonging to the target group to open a bank account in a Swedish bank.

33 *Riksdag & Departement*, no. 32/08.

Chapter II

Access to Employment

1. EQUAL TREATMENT IN ACCESS TO EMPLOYMENT

Concerning the right to assistance from employment agencies, there are no restrictions regarding EU citizens and other categories taking advantage of the right to free movement (compare Regulation 1612/68). The starting point for the employment agency is the ‘customer’s’ need, i.e. the employer recruiting employees, and the agency does not primarily consider the nationality of the person in search of work.

The State authority in charge of the local employment agencies is the Swedish Employment Agency (Arbetsförmedlingen). The authority issues general advices and administrative regulations for the local dealing. From an administrative regulation it follows that among other EU citizens should give proof on their right to work in Sweden. Concerning EU citizens, that right follows from the fact that they are EU citizens. Further, it is stipulated that a person that has the right to work in Sweden also should have the right to register at the employment office and to get service from the employment office.³⁴

Furthermore, in another administrative regulation issued by the Employment Agency there are detailed guidelines for the dealing with job-seekers from other Member States having so called E303 certificates.³⁵ The administrative regulation refers to certain articles of Regulation 1408/71 and Regulation 574/72. The employment office should register job-seekers having the E303 certificate.

Further, the job-seeker should have a point of time for a next visit, information on the conditions for the right to unemployment benefits, when and how benefits should be paid etc. Even if the applicant cannot show an E303 certificate he or she should be registered. (There is a corresponding administrative regulation for job-seekers up to three months and their right to unemployment benefits based on E 303.³⁶)

The most important restrictions for access to employment – in the private as well as in the public sector – are the rules making access dependent on authorisation and/or the possession of a certain diploma, showing that the applicant has the necessary professional qualifications.

Beyond that, in the private sector nationality requirements can be upheld only if the employment is regulated by the Security protection Act (Säkerhetsskyddslagen 1996:627). This is the case if the work is subject to certain restrictions referring to the need of security protection, i.e. protection against espionage, sabotage and other crimes that might threaten State security.

As will be dealt with in Chapter V, Swedish citizenship is required for certain posts only in the public sector, especially in the Swedish State.

34 The Swedish Employment Agency’s statute-book AMSFS 2007:20 Ändring i Arbetsmarknadsstyrelsens administrativa föreskrifter om handläggning av arbetsförmedlingsärenden §§ 35 and 36 (reprinted with amendments in November 29, 2007). The statute-book is available at http://www2.ams.se/regelbok/dokument/lagr_fort_b.htm

35 The Swedish Employment Agency’s statute-book AMSFS 2006:16 om arbetsförmedlingens handläggning av ärenden rörande arbetssökande som beviljats eller ansöker om intyg E303.

36 The Swedish Employment Agency’s statute-book AMSFS 2007:41 Föreskrifter om ändring i Arbetsmarknadsstyrelsens administrativa föreskrifter (AMSFS 2005:16) om arbetsförmedlingens handläggning av ärenden om ersättning till tremånaderssökande, see in particular §§ 2 and 3.

Considering Directive 2005/36/EC on the recognition of professional qualifications, further amendments have been made in Swedish law in 2008, especially concerning *real estate agents* (fastighetsmäklare).³⁷ The amended regulation concerning the real estate agent profession is the Ordinance (1995:1028) on real estate agents.³⁸ Also the Swedish Judicial Board for Public Lands and Funds (Kammarkollegiet) issues regulations on the matter with further specifications.³⁹

Concerning *watchmen* (väktare), at March 16, 2009, a Government proposition was presented founded on the above mentioned proposal concerning watchmen and the transposition of Directive 2005/36/EC. The amendments that will be made in the Act (1974:191) on security companies (lagen om bevakningsföretag) are suggested to come into force at June 1, 2009.⁴⁰ The amendments establish a procedure for the authorization of security companies established in the EU and the recognition of the staff employed by these companies.⁴¹ For such persons a notification should be made in advance to the county administrative board in order to get the qualifications recognised.

At February 12, 2009, a Government proposition was presented with the aim to transpose Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts.⁴² An auditing company from another Member State should be recognized in Sweden if the company has been recognized in another Member State. In order to be recognized in Sweden an auditor settled in another Member State should have an exam for auditing issued by another Member State.

Further, in 2009 a decision was taken to introduce certain qualification requirements for work as hospital orderly for animals (djursjukvårdare).⁴³

2. LANGUAGE REQUIREMENT

In the private sector language requirements are not regulated by law. However, in practice they can be used as a requirement for access or promotion by a private employer on condition that they do not interfere with Swedish discrimination law or Community law.

Text(s) in force

- Lagen ([1997:238](#)) om arbetslöshetsförsäkring, the Act on unemployment insurance.⁴⁴

37 Justitiedepartementet (the Ministry of Justice), Promemoria angående erkännande av yrkeskvalifikationer för fastighetsmäklare och väktare (JU2007/9676/PO,L2).

38 The amendment of Ordinance 1995:1028 was introduced through Ordinance 2008:758.

39 Kammarkollegiets författningssamling KAMFS 2008:8; for instance in § 7 there are particulars on the extent of higher education requested for full recognition etc.

40 Government's proposition 2008/09:157 Genomförande av EG-direktivet om erkännande av yrkeskvalifikationer för väktare. Compare Lagrådsremiss den 5 februari 2009 Genomförande av EG direktivet om erkännande av yrkeskvalifikationer för väktare.

41 The amendments will be made in Lagen (1974:191) om bevakningsföretag; i.e. the Act on security companies.

42 Government's proposition 2008/09:135 Revisionsutskott m.m. – genomförande av 2006 års revisorsdirektiv, transposing Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC.

43 The Government's proposition 2008/09:09 Verksamhet inom djurens hälso- och sjukvård.

- Förordningen [\(1997:835\)](#) om arbetslöshetsförsäkring, the Ordinance on unemployment insurance.
- Lagen (1974:191) om bevakningsföretag, the Act on security companies.

Draft legislation, circulars, etc.

In 2008 a public investigation presented a proposal on mandatory unemployment insurance.⁴⁵ A starting point was that not all employees on the Swedish labour market are members in the voluntary unemployment insurance, which was considered to be a problem. The investigation also considered the relationship with Regulations 1408/71 and 574/72. The investigator claimed that the proposal meant that the application of EC co-ordination regulations would be facilitated if the proposal should be accepted and that the proposal was in conformity with EC law.⁴⁶ However, the proposal was rejected by the Government, and it will probably not lead to any amendments in law.

Miscellaneous (administrative practices, etc.)

The administrative practice concerning the dealing at the employment offices there are regulation in the Swedish Employment Agency's statute-book AMSFS 2007:20 (reprinted with amendments in November 29, 2007).⁴⁷

Recent legal literature

Ingmanson, Staffan, Direktiv 2005/36/EG om erkännande av yrkeskvalifikationer och dess genomförande i svensk rätt, *Europarättslig tidskrift*, 2008, p. 113–147.

44 A remodelling of the unemployment insurance was introduced in 2007 following Government's proposition 2006/07:89 Ytterligare reformer inom arbetsmarknadspolitiken, m.m.

45 Official report SOU 2008:54 Obligatorisk arbetslöshetsförsäkring.

46 Official report SOU 2008:54 Obligatorisk arbetslöshetsförsäkring, pp. 375 ff.

47 AMSFS 2007:20 Ändring i Arbetsmarknadsstyrelsens administrativa föreskrifter om handläggning av arbetsförmedlingsärenden §§ 35 and 36. The statute-book is available at http://www2.ams.se/regelbok/dokument/lagr_fort_b.htm.

Chapter III

Equality of Treatment on the Basis of Nationality

1. WORKING CONDITIONS

Referring to Swedish constitutional law public power shall be exercised with respect for the equal worth of all and the liberty and dignity of the private person (the Instrument of Government ch. 1 § 2). The public institutions shall also combat discrimination of persons on grounds of, inter alia, national or ethnic origin and linguistic affiliation (ch. 1 § 3).

The more detailed rules on discrimination, which also can be invoked against private employers and rules in collective agreements, are laid down in discrimination law. However, Swedish national discrimination law does not rule out discrimination on grounds of EU nationality as regards working conditions and social and tax advantages. In this case the direct effective provisions of Regulation 1612/68 should apply.

2. SOCIAL AND TAX ADVANTAGES

According to Article 7.2 of Regulation 1612/68 migrating workers shall enjoy the same social and tax advantages as workers from the host Member State. The article has direct effect and there is no specific national legislation intended to implement it.

Another central Community rule on the subject is Article 24 of Directive 2004/38/EC, according to which migrating workers and members of their families shall enjoy equal treatment with nationals of the host state. However, the host state shall not be obliged to confer entitlement to social assistance during the first three months of the stay, an exception where there is no regulation in Swedish law.

Concerning the right to social assistance, in principal the Social Protection Act makes no difference between Swedish nationals and nationals from other Member States.⁴⁸ The decisive criterion is that the person seeking social assistance is lawfully resident in Sweden.

As regards tax advantages, judgements from the ECJ form the background to a governmental proposal on new rules concerning tax deductions and tax exemptions for payments to pensions funds established in other Member States.⁴⁹

From the EC case law follows that a system for life assurance and pensions under which tax deductions and tax exemptions for payments are granted only for payments under contracts entered into with pension institutions established in one Member State, whereas no such tax relief is granted for payments made under contracts entered into with pension institutions established in other Member States contravene Articles 39, 43, 49 and 50 EC.

In December 2007 the Government had advised new rules in order to adapt Swedish tax legislation to EC case law.⁵⁰ In February 2008 the Riksdag approved a Government's propo-

48 The Social services Act (2001:453), ch. 4 § 1.

49 The ECJ cases referred to is Case C-150/04 *Commission v. Denmark* and Case C-522/04 *Commission v. Belgium*.

50 Finansdepartementet (the Ministry of Finance), Nya skatteregler för pensionsförsäkring, Promemoria February 1, 2007, and Finansdepartementet (the Ministry of Finance), Skr. 2006/07:47, Meddelande om kommande ändringar av skattereglerna för pensionsförsäkring (1 februari 2007).

sition on amended regulations of tax law regarding assurance and pensions.⁵¹ The intention was to adopt Swedish law to EC law and to prevent tax evasion. Hence, the requirements concerning establishment should embrace all EU Member States (including EEA states) and the restriction on the transferring of pension assurances was taken away at May 1, 2008.

Further, in October 2008 the Government presented a proposition meaning amendments of the regulations concerning the taxation of personnel options regulated in the Income tax Act (1999:1229).⁵² Hence, the former demand on taxation on the options when a person moves abroad was abolished on January 1, 2009. The amendment follows from EC law and a judgement from the Swedish supreme administrative court (Case no. 6324-06).

(Further, concerning social and tax advantages see also Chapter VII on case law from the ECJ.)

3. OTHER OBSTACLES TO FREE MOVEMENT OF WORKERS

Swedish citizens residing in Sweden are entitled to receive an identity card issued by police authorities. EU-citizens were entitled to receive identity cards from the Swedish Cashier Service (Svensk Kassaservice) through the banking system. However, this service has been terminated as from 30 April 2008 and EU citizens and their families now do not have access to the Swedish cashier service. This situation means that citizens from other Member States now have difficulties to apply for official documents, open a bank account, apply for a Swedish driving licence, to receive registered mail etc. In a report to the European Parliament the situation has been considered to be a barrier to free movement.⁵³

However, as stated above in Chapter I, section *Miscellaneous*, in accordance with the Government's decision in 2008, a new Swedish identity card for persons registered in Sweden should be available from June 1, 2009.⁵⁴ (However, it is not known to the reporter if the new ID card will fully correspond to the card issued by the former Swedish Cashier Service.)

Another obstacle to the free movement of workers and the possibility to get a job in Sweden could be dependent of the foreigner's insufficient knowledge in the Swedish language. In order to stimulate new immigrants' learning in Swedish language, an experimental activity will be introduced in a number of local municipalities at October 1, 2009.⁵⁵ A certain economical bonus will be granted those who fulfil the studies in Swedish in time. The primary target group is refugees, asylum seekers and their relatives, but the measure could also be suitable for other groups such as workers, including job-seekers and family members from other Member States.

51 Government's proposition 2007/08:55 Nya skatteregler för pensionsförsäkring, m.m. Amendments of the Act (1999:1229) on income-tax law (Lag om inkomstskatt).

52 Government's proposition 2007/08:152 Slopåd avskattning för personaloptioner. See also Official report Ds 2006:23 Slopåd avskattning för personaloptioner.

53 Committee on Legal Affairs of the European Parliament, Citizens' Rights and Constitutional Affairs, *Application of Directive 2004/38/EC of 29 April Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Executive summary*, Legal Affairs, Brussels, February 2009.

54 *Riksdag & Departement*, no. 32/08. Compare Official report SOU 2007:100 Id-kort för folkbokförda i Sverige. The intention was that by introducing such an identity card to facilitate for persons belonging to the target group to open a bank account in a Swedish bank.

55 Government's proposition 2008/09:156 Sfi-bonus – försöksverksamhet för att stimulera nyanlända invandrare att snabbare lära sig svenska.

4. SPECIFIC ISSUES: FRONTIER WORKERS (OTHER THAN SOCIAL SECURITY ISSUES), SPORTSMEN/SPORTSWOMEN, MARITIME SECTOR, RESEARCHERS, ARTISTS

4.1. Frontier workers

In Scandinavia there is a long tradition of free movement of workers, and the Nordic countries have developed a far going co-operation establishing an open Nordic labour market.⁵⁶ Today the Nordic labour market – established in 1954 – is regulatory dominated by Community law. However, in particular concerning frontier workers, there has not been any public debate in Sweden on the matter.

There is a tendency towards increased commuting between the Nordic countries. Between 2001 and 2004 the increase was 26 percent and per year the figure was 8 percent, according to a report from the Nordic Council of Ministers (Nordiska ministerrådet).⁵⁷ In the year 2004 around 71,000 persons had income from work in another Nordic country, and among these workers 36,582 individuals were characterized as commuting workers.

In 2004 most of the commuters were commuting from Sweden to Norway and from Sweden to Denmark. Further, it is more usual that men are working commuters compared with women, and many are young people.⁵⁸

However, the most significant development today is relying on the Öresund bridge between Malmö and Copenhagen. The labour market in the region embraces in the main the Danish Copenhagen area and the Malmö area in Sweden. The national employment offices in both countries provide information about employments and information concerning taxes, social security, double settling and more.⁵⁹

In the southern part of Sweden cross border working between Malmö and Copenhagen has developed very fast, and in the region around 10,000 persons are regularly commuting between Sweden and Denmark as frontier workers. Ninety percent of those frontier workers are living in the Skåne province and are commuting to Copenhagen.⁶⁰

Many – especially Danish citizens – have also moved to Sweden, but they still work in Denmark commuting from Sweden. In the year 2005 around 3,500 Danish settled in Sweden. The main reasons – beyond the Öresund bridge – are lower living costs including cheaper houses in Sweden.⁶¹ Further, referring to Danish immigration law, many Danish citizens settle in Sweden when they marry a third country national.⁶²

56 Concerning development of the common Nordic labour market and labour mobility in Scandinavia, see Nordiska ministerrådet (the Nordic Council of Ministers), *The Common Nordic Labour Market at 50*. Report TemaNord 2008:506. Copenhagen 2008. See also Kruse, *Den gemensamma nordiska arbetsmarknaden och EU*, Köpenhamn 1997.

57 Nordiska ministerrådet (the Nordic Council of Ministers), *Arbetspendling i Norden – en kunskapsöversikt*. Rapport TemaNord 2008:523. Copenhagen 2007.

58 Nordiska ministerrådet (the Nordic Council of Ministers), *Arbetspendling i Norden – en kunskapsöversikt*. Rapport TemaNord 2008:523. Copenhagen 2007.

59 In both countries also the surrounding local municipalities and area representatives are participating. From Sweden especially Helsingborg, Lund and Landskrona municipalities and Region Skåne have great interest in future developments.

60 The figures are very roughly estimated, see Öresundspendlarna, Öresundsbro konsortiet & Öresundskommittén, January 2006, available at <http://www.oresundskomiteen.dk/regionen-i-siffror/se/publikationer/pendlereSV.pdf> For more statistical figures concerning commuting between Denmark and Sweden, see <http://www.oresundskomiteen.dk/neobuilder.php?id=2004101216323264000056251>.

61 For further details, see the report *Bro, bostad, bil och kärlek – ökar flyttströmmen från Danmark till Skåne* (published by Malmö stad, Migrationsverket, Region Skåne, Skatteverket, Öresundskommittén, February

Many factors have an impact on migration and commuting between the Nordic countries. For instance taxes, social entitlements and unemployment benefits. Concerning taxes, in 2003, the Danish and Swedish Governments signed an agreement on certain tax matters and more. The agreement facilitated commuting between the two Member States between Sweden and Denmark in the Öresund region. Tax reductions for travelling between the countries for work were also granted in Denmark. Further, workers and commuters moving between the countries should be granted tax reduction for pension insurances paid in the other country (concerning pension insurances paid in another Member State, see also Chapter III, point 2).

In accordance with the above mentioned agreement between the Danish and Swedish Governments concerning compensation for tax decline – when people, for instance, work in Denmark but are settled in Sweden – the state where the work is performed should pay an amount for levelling out tax income between Sweden and Denmark.⁶³

In accordance with the above mentioned agreement between the Danish and Swedish Governments concerning compensation for tax decline when people, for instance, work in Denmark but are settled in Sweden. Hence, the state where the work is performed should pay an amount for levelling out tax income between Sweden and Denmark.

The Öresund committee (Öresundskomiteen) is an organised political platform for the development of further integration, strengthening the infrastructure, accessibility and integration through culture and more. Many projects of co-operation have been conducted between Denmark and Sweden and there is an ongoing economical integration within the region. Further, the committee has published a number of reports concerning, for instance, actual problems, regional statistics, residence market, commuting and future perspectives.⁶⁴

Concerning unemployment benefits and cross-boarder work in the Nordic countries, the Swedish state authority in charge of the supervision over the unemployment benefit insurance (the Swedish Unemployment Insurance Board, AIF) in 2008 published a report on problems and suggestions on the matter.⁶⁵ The report points at problems with the co-ordination of national regulations, different conceptualisation of cross-border problems in neighbouring countries, and the need for more knowledge regarding benefits, national regulations etc. both at national local employment offices as well as among the cross-boarder workers themselves.

In 2008 the Nordic Council of Ministers established a certain forum to focus on obstacles concerning the borders between the Nordic countries. A great challenge to the forum is said to be to promote co-ordination of national laws in the Nordic countries in order to take away obstacles and to avoid the raising of new obstacles.⁶⁶

2006) available at http://www.oresundskomiteen.dk/regionen-i-siffror/se/publikationer/bro_bil_bostad_karlek.pdf.

62 Nordiska rådet, *Arbetspendling i Norden – en kunskapsöversikt*. Rapport TemaNord 2008:523. Copenhagen 2007.

63 The agreement on certain tax matters will be subject to renegotiations in 2009. Riksdag & Departement, no. 8/09, p. 14.

64 See <http://www.oresundskomiteen.dk/Fakta-och-publikationer/Publikationer-och-analyser/Publikationer-och-analyser> A short overview regarding the problems and what has been achieved has been presented Öresundskomiteen, *En liten bok om broar mellan två välfärdsystem.*, 2008, available at <http://www.oresundskomiteen.dk/Fakta-och-publikationer/Publikationer-och-analyser/Arbetsmarknad>

65 IAF (Inspektionen för arbetslöshetsförsäkringen), *Gränsarbetare i Norden. En redovisning och analys av hur tillämpningen av regelverket för arbetslöshetsförsäkringen fungerar avseende personer som är bosatta i Sverige och arbetar i ett annat nordiskt land*. Rapport 2008:8 (2008-08-27, Dnr 2008/1452MO).

66 The web site Norden (with information and more from the Nordic Council on Ministers) January 30, 2008: <http://www.norden.org/webb/news/news.asp?id=7612&lang=1>

Finally, the development of co-operation between the neighbour states has also enjoyed financial support from the EU. According to information from the Government Sweden will be granted 232 million Euro for developing projects within the framework of the European territorial collaboration during the period 2007–2013.⁶⁷

Concerning the ECJ Case *C-212/05 Hartmann* dealing with the German child-care allowance and residence requirements. A German working in Germany but settled in Austria claimed that it was indirect discrimination to refuse his Austrian spouse child-care allowance because she was living in Austria.

In Sweden a proposal to introduce a child-care allowance was presented in 2007. In 2008 a Government proposition was presented before the Riksdag and a new Act on local governmental child-care allowance was introduced.⁶⁸ In order to be entitled to the new allowance from a local government, the child should be between 1 and 3 years of age, and both the child and one of the parents must be a registered resident of the municipality (§ 3).

The amendment that came into force on July 1, 2008, means that the local governmental child-care allowance should be embraced both by Regulation 1612/68 and 1408/71.⁶⁹ In principle this means that a Swedish child-care allowance will be co-ordinated with the corresponding benefits in other Member States.

However, the new allowances should be introduced on the local level by municipalities, and the Swedish Social insurance office and the Swedish Association of Local Authorities and Regions (SKL), representing the local municipalities and county councils, have concluded an agreement on the matter and further regulations concerning the coordination of the new allowance with other family benefits have been developed.⁷⁰

4.2. *Sportsmen/sportswomen*

The starting point in Swedish law is that professional athletes are considered either to be workers or self-employed persons, and that the same rules should apply to them as to other economically active persons. However, beside this the sporting associations on the national level apply their own rules and practices.

Rules on the composition of teams of professional players have been adopted by the sporting associations for basketball, ice-hockey, football and volleyball.⁷¹ From the statutes it follows that no restrictions as regards the number of players from other Member States exist. Hence, an unlimited number of players from other Member States could be on the

67 The Government's website <http://www.regeringen.se/sb/d/2712/a/14891> (October 10, 2007).

68 Lag (2008:307) om kommunalt vårdnadsbidrag. Government's proposition 2007/08:91 Vårdnadsbidrag – familjepolitisk reform. See also Socialdepartementet (the Ministry of health and social affairs), Vårdnadsbidrag. Familjepolitisk reform. Socialdepartementet, S2007/10526/SF.

69 Government's proposition 2007/08:91 Vårdnadsbidrag - familjepolitisk reform, p. 51.

70 Concerning guidelines see the administrative circular issued in 2008 by the Swedish Association of Local Authorities and Regions: Sveriges Kommuner och Landsting, Cirkulärnummer 08:51 Kommunalt vårdnadsbidrag. EG-rättens betydelse för handläggning m.m. (2008-06-19). The agreement was concluded in September 2008; the document is available at <http://www.skl.se/artikel.asp?C=7093&A=55068>

71 See ch. 3 § 4 of the Swedish Basketball Associations' Competition statutes <http://www.basket.se/files/%7BCD68A21C-76BE-435C-852C-F8BD664BCA2C%7D.pdf>; ch. 4 § 3 of the Swedish Hockey Associations' Competition statutes <http://www.swehockey.se/files/%7B7730BAB7-E55F-419A-BE65-82BE9A5FF8FB%7D.pdf>; the Swedish Football Associations' Competition statutes <http://www.svenskfotboll.se/files/%7B4CECF608-8F81-4A90-B0FD-9A56443C8254%7D.pdf> and § 140 of the Swedish Volleyball Associations' Competition statutes <http://www.volleyboll.se/t3.aspx?p=713659>.

players list in teams playing on top-level. However, the number of players from third countries can be restricted.

A foreigner from any other country outside the EU should be treated as an EU-national, if he or she has been staying in Sweden for at least three years. Otherwise, regarding players from third countries, there should be not more than three players on the players list.

Especially concerning football, new amended regulations on certain matters taken by the Swedish Football Association at the assembly in December 2007, were coming into force in March and April 2008.⁷² Concerning international transfer of players there is a reference to the FIFA regulations meaning that the FIFA regulations on the matters should always apply (the Swedish Football Association's competition statutes § 20.1).

Further, at the Sweden Football Association's Representative Assembly in December 2006 – later on confirmed at the Assembly in December 2007 – the organisation took a decision regarding 'home ground players'. On a player list with 16 players in a team, at least 7 players should have been registered in a Swedish football club for at least three years, during the period when the individual player was between the age of 15 and 21 years (the Football Association's statutes [from 2008] § 5).

According to representatives of the above mentioned sporting associations a professional player, at the termination of the contract, is free to go to another club even if no transfer fee is paid by the transferring club.⁷³ However, as regards young football players the Swedish Football Association has decided to observe UEFA's recommendations 'Investing in the Local Training of Players'. The aim of the UEFA recommendations is to secure the development and training of young players in football clubs 'in order to safeguard the future of our sport'.

Concerning reimbursement for the training and education of young players (between the age of 12 and 21 years), the Swedish Football Association's competition statutes regulate that when a young player signs a professional contract as a professional player, the new club should pay a fee in accordance with the statutes § 17.4. For instance if the player is 18 years old the fee is 50,000 SEK (around 4,300 Euros), and if the player is 21 years old the fee is 125,000 SEK (around 10,760 Euros) in the highest league in Sweden (Allsvenskan).

4.3. The maritime sector

In Sweden employment and working conditions are regulated in law and collective agreements. The general terms on working and employment conditions are regulated in collective agreements within the framework of law. Furthermore, regarding the maritime sector there are administrative regulations issued by the Swedish Maritime Administration (Sjöfartsverket). Beyond that, also EC Regulations and Swedish discrimination law should apply, the latter for instance regarding recruitment, employment and promotion.⁷⁴

72 <http://www.svenskfotboll.se/files/%7B4CECF608-8F81-4A90-B0FD-9A56443C8254%7D.pdf>

73 See also §§ 135 of the Swedish Volleyball Associations' Competition statutes, ch. 3 §§ 7 and 8 of the Swedish Basketball Associations' Competition statutes, ch. 4 §§ 6 and 7 of the Swedish Hockey Associations' Competition.

74 The Act on Discrimination (2008:567). Government's proposition 2007/08:95 Ett starkare skydd mot diskriminering.

The *pay and wage level* concerning seamen is regulated in collective agreements on the Swedish labour market.⁷⁵ Further, such a regulation in a collective agreement cannot set aside EC law on the matter and the reporter has not observed any indication meaning that nationals from other Member States (or of any other nationality) should be treated in a way that would be contrary to EC law.

Another factor when setting individual wages is how many years a seaman has been working on vessels, and here the collective agreement makes no difference between Swedish vessels and vessels registered in other countries (Storsjöavtalet § 5 mom. 3). One factor for deciding certain criteria of relevance for the wage level is education, and regarding this the most important collective agreement refers to Swedish upper secondary level of education for seamen (Storsjöavtalet § 5 mom. 3).⁷⁶

A crucial issue might be if the employer engages a contractor providing labour for work on a vessel. On this matter the collective agreement stipulates that the terms of the agreement between the employer and the contractor – regulating the contractor’s employees’ working conditions – should be founded on a collective agreement concluded between the Swedish trade union SEKO and the contractor (Storsjöavtalet § 21). This would mean that the contractor’s employees should have the same working conditions and will enjoy equal treatment in these respects as ordinary employees that are members of the Swedish trade union are entitled to.

This regulation – § 21 in the collective agreement – will probably contravene foreign contractors to get a contract with a Swedish shipowner, a contract meaning that the foreign contractor should not provide labour on other terms than what follows from the Swedish collective agreement. Hence, this clause could possibly be questioned from EC law and the competition rules, and further the regulation could constitute a practical obstacle on the free movement of services. However, if the foreign contractor concludes a collective agreement with the Swedish trade union SEKO the obstacle would disappear and at the same time the contractor’s employees would enjoy full equal treatment.

Directive 1999/63/EC concerning the Agreement on the organisation of working time for seafarers was transposed through amendments to the Act (1998:958) on rest periods for seafarers (Lagen om vilotid för sjömän).⁷⁷

75 The collective agreement *Storsjöavtalet* between SEKO (Facket för service och kommunikation) and SARF (Sjöfartens Arbetsgivareförbund) with general terms on wage- and employment conditions for seamen 2008–2010, the collective agreement *Färjeavtalet* between SEKO (Facket för service och kommunikation) and SARF (Sjöfartens Arbetsgivareförbund) with terms on wage- and employment conditions for seamen on *ferry*s 2008–2010, and the collective agreement *Allmänna anställningsvillkor (2007–2010) för personal i skärgårdstrafik* between SEKO (Facket för service och kommunikation) and ALMEGA Tjänsteföretagen – Turism och sjöfart, with general terms on wage- and employment conditions for seamen on boats in *archipelago traffic*. These Collective agreements are available in Swedish at <http://www.seko.se/default.asp> (follow links ‘Sjöfolk’ and thereafter ‘Avtal’).

76 Storsjöavtalet § 5 mom. 3 means that time spent in the mentioned education should be equalised with working time when calculating years in the seaman profession.

77 Only minor amendments were made to the Act when implementing Directive 1999/63/EC (Government’s proposition 2001/02:108 *Vissa frågor om sjömäns vilotid*), since prior to this Sweden had implemented the ILO Convention no. 180. In principle, clauses 1–12 of the directive correspond with the ILO convention. The directive clauses 13–16 have no equivalence in the ILO convention, thus they were implemented when transposing the directive (see Government’s propositions 1997/98:128 *Lag om vilotid för sjömän m.m.*, p. 15, and 1999/2000:119 *Instrument antagna av Internationella arbetskonferensens åttiofjärde möte, ILO:s elfte sjöfartssession m.m.*, p. 29). In accordance with the Ordinance (1998:962) on rest periods for seafarers § 1, the Act (1998:958) should not apply to certain state authorities, for instance the police and the national defence. Instead the general Working time Act (1982:673) should apply.

A citizen from another Member State that is qualified for a certain position on a vessel based on an education that fulfils formal qualification requirements in another Member State should be allowed the corresponding Swedish formal competence. An application on the matter should be handed in to the Swedish Transport Board (Transportstyrelsen), which issues the proof of qualification for employment on a Swedish vessel. An amendment on the matter was coming into force in January 1, 2009.⁷⁸ Further, a third country national from another state might be granted the same proof of qualifications if he or she fulfils the requirements.

Concerning nationality conditions for access to the posts of captains and first officers of ships, a commander-in-chief should be an EU citizen and, further, he or she should be more than 20 years of age (the Vessel Safety Ordinance 2003:438, Fartygssäkerhetsförordningen, ch. 4 § 2).⁷⁹

Further, in 2006 a public investigation was appointed in order to investigate if there should be a certain certificate on qualification for a position as a pilot (lots) to guide ships on the sea. In 2007 the investigation presented a report suggesting that the requirements for being a pilot (lots) should be regulated in law and that there should not be any requirement for Swedish citizenship.⁸⁰ However, it was also suggested that further investigations should be made by the military authorities, since a pilot (lots) in certain situations must have access to information of military interest referring to state security.

4.4. Researchers/artists

The starting point in Swedish law is that *artists*, depending on the facts of the case, are considered being either employed or self-employed, and that the same rules should apply as for Swedish artists. (Further, concerning artists and sportsmen, see 'Draft legislation' below.)

Concerning taxes, for artists having their residence outside Sweden there is a certain Act (1991:591) on a special income tax for non-resident artists, athletes and others. The act embraces both nature and legal persons domiciled or resident outside Sweden (§ 3). The taxable income includes cash payments or other remuneration for artistic or sporting activities, performed in Sweden (or on board a Swedish vessel) (§§ 7 and 8).

On April 16, 2009, a Government proposition concerning taxes to be imposed on artists and athletes/sportsmen were presented before the Riksdag.⁸¹ Foreign athletes/sportsmen could make a request for paying taxes in accordance with the Act (1999:1229) on income tax in Sweden. On the other hand they will have the right to tax reductions for expenses related to the activity. The proposal means an adaptation to EC law and the practice developed by

78 Förordning (2007:237) om behörigheter för sjöpersonal § 5 (amendment through SFS 2008:1113). See also the administrative regulation issued by the Swedish Maritime Administration SJÖFS 2007:12 Sjöfartsverkets föreskrifter om bemanning.

79 Compare Case C-405/01 *Colegio de Oficiales de la Marina Mercante Española v Administración del Estado* and Case C-47/02 *Albert Anker, Klaas Ras and Albertus Snoek v Bundesrepublik Deutschland*. An amendment that came into force on January 1, 2009, referred to the Swedish Transport Board as the competent authority for the recognition of formal qualifications for employments in certain positions (amended through SFS 2008:1144).

80 SOU 2007:116 Lotsa rätt!

81 Government's proposition 2008/09:182 Beskattning av utomlands bosatta artister, m.fl. See also Lagrådsremiss 26 mars 2009 Beskattning av utomlands bosatta artister m.fl.; concerning the practice from the ECJ (see the referral, pp. 31–37) and Finansdepartementet (The Ministry of Finance), Beskattning av utomlands anställda artister, m.fl. (Memorandum December 11, 2008.)

the ECJ referred to (for instance case C-527/06 *Renneberg* and more; see Chapter VII). The amendment should come into force on January 1, 2010. Concerning discrimination against artists as regards wage and working conditions; according to representatives for the Artists Union in Sweden they have not heard about cases where artists from other Member States have been discriminated against.

4.5. Access to study grants

Nationals from other Member States with the status of Community workers and members of their families should enjoy equal treatment as regards student grants and study loans in accordance with the Study loan Act (1999:1395) ch. 1 §§ 4 and 5.⁸² These entitlements also embrace persons having a permanent right of residence (ch. 1 § 6).

Further, certain grants for students at the age of at least 16 years are embraced. Hence, also study grants (studiebidrag), grants for board and lodging (inackorderingstillägg) and extra grants (extra tillägg), should be granted to studying family members of EU citizens.

However, concerning EU citizens' right to study loan, there is a requirement that the individual must belong to a category that is entitled to study loan. Hence, workers and self-employees established in Sweden should be treated equal to Swedish citizens (the Study loan Act § 4). Concerning other categories the requirement is that an individual must have a permanent residence right in Sweden (§ 5). The educational institution for the studies must be recognised by the Swedish Government in order to entitle the student to the benefits.

In the Study grant Ordinance (2000:655) there are further regulations on the matter. For instance an educational institution must be under the state's supervision (§§ 4.1 and 15.1). However, concerning study grants for studies in a non-Nordic country (with some exceptions) the pupil must have been national registered in Sweden during the last two years.⁸³

Further, non-Swedish EU citizens may be entitled to study loans for studying abroad. The crucial criterion for these entitlements is if the applicant fulfils the general requirements in the Aliens Act for being considered as a worker, family member of an EU citizen etc.⁸⁴

Text(s) in force

- Regeringsformen (1974:152), the Instrument of Government.
- Lagen (1991:591) om särskild inkomstskatt för utomlands bosatta artister, idrottsmän m.fl., the Act on a special income tax for non-resident artists, athletes and others.
- Studiestödslagen (1999:1395), the Study Loan Act.

82 Ingmanson, *Migrerande studenter: välfärdsturister eller framtidsbyggare?*, *Europarättslig Tidskrift (ERT)*, 2007, p. 241–274.

83 This restriction is also mentioned in Committee on Legal Affairs of the European Parliament, Citizens' Rights and Constitutional Affairs, *Application of Directive 2004/38/EC of 29 April Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. Executive summary*. Legal Affairs, Brussels, February 2009. (However, it is not clear from the report mentioned if this restriction should be considered as a problem in a free movement of workers perspective.)

84 Information on the matter is provided by the State authority in charge: CSN (Centrala studiestödsnämnden; The Central study benefit commission [not officially translated]), see CSN Fact sheet: Swedish student aid for non-Swedish nationals for studies abroad, available at <http://service.csn.se/CSNOrder/GemensammaFiler/Blanketter/4201B.pdf>.

- Studiestödsförordningen (2000:655), the Study grant Ordinance.

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Lindholm, Johan, Idrottens särart och EU:s konkurrensrätt, *Europarättslig tidskrift*, 2008, pp. 914–933.

Lindholm, Johan, Alla idrottsliga regler måste vara förenliga med EG-rätten – EG-domstolen begränsar idrottens rättsliga särställning, *Svensk idrottsforskning*, no. 2/2008, pp. 34–38.

Chapter IV

Relationship between Regulation 1408/71 and Article 39 and Regulation 1612/68

Traditionally, the granting of Swedish (and Nordic) social benefits has depended on where a person has his or her national registration address. However, when the Social Security Act (1999:799) was taken, some social benefits or social security became explicitly related to where a person has his or her residence and other social benefits were based on work.⁸⁵ Hence, the application of Regulation 1408/71 and the relationship to Regulation 1612/68 at the application of Swedish national law were clarified.

Basically the Regulation 1612/68 embraces workers and their family members, and the right to equal treatment regarding social benefits referring to 1612/68, for instance housing allowance, implies that the worker is residing in Sweden.

The benefits that should be granted to a person based on residence and work respectively are listed in the Social Security Act ch. 3.⁸⁶ In principle, a social benefit that is not covered by Regulation 1408/71 and residence should be granted to a worker etc. referring to Regulation 1612/68, article 7.2, and the principle of equal treatment, even if the worker is not settled in Sweden (for instance if he or she is a cross-boarder commuter working in Sweden but living in another Member State).⁸⁷

The State authority in charge of the application of Regulation 1408/71 is the Swedish Social Insurance Agency (Försäkringskassan; concerning unemployment benefits, see footnote).⁸⁸ Comments on the application of regulations concerning benefits based on work or residence have been published in instructions issued by the former Swedish National Insurance Board (Riksförsäkringsverket) and there are short comments on the classification on social benefits in relationship to Regulation 1408/71 and Regulation 1612/68.⁸⁹

In order to have the right to the following social benefits a person must have his or her *residence* in Sweden (the Social Security Act ch. 3 § 1):

- Health care (sjukvård).
- Parent's allowance, basic level (föräldrapenning på lägstnivå och grundnivå).
- Sickness benefit and activity benefit as guarantee benefit (sjuk- och aktivitetsersättning).
- Rehabilitation (referring to the Act 1962:381 on public insurance ch. 22).

Further, in accordance with the Social Security Act ch. 3 § 2, a person working in Sweden is also comprised by:

⁸⁵ Government's proposition 1998/99:119 Socialförsäkringens personkrets.

⁸⁶ In an instruction issued by the former Swedish National Insurance Board in 2004 – to be applied by the Social Insurance Agency – there was a general and very short comment on the classification on social benefits in relationship to Regulation 1408/71 and Regulation 1612/68. Riksförsäkringsverket, *Tillämplig lagstiftning, EU, socialförsäkringskonventioner, m.m.* Vägledning 2004:11, Stockholm 2004.

⁸⁷ Official report SOU 2005:34 Socialtjänsten och den fria rörligheten, p. 57.

⁸⁸ However, the Swedish Unemployment Insurance Board (Inspektionen för arbetslöshetsförsäringen) is responsible for issues relating to unemployment benefits.

⁸⁹ Riksförsäkringsverket, *Tillämplig lagstiftning, EU, socialförsäkringskonventioner, m.m.* Vägledning 2004:11, Stockholm 2004, pp. 35 f. (In the instruction there is an explicit reference to the Regulation 1612/68, article 7.) The instruction is available on the website <http://www.forsakringskassan.se/press/publikationer/vagledningar/index.php>

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- Child allowance (barnbidrag).
- Prolonged child allowance (förlängt barnbidrag).
- Support for having a car (disabled people).
- Adoption allowance (bidrag vid adoption av utländska barn).
- Special additional pension benefit (to State pension), when taking care of a sick or disabled child (särskilt pensionstillägg vid vård av sjukt eller handikappat barn).
- Assistance allowance (assistansersättning).
- Housing allowance (bostadsbidrag).
- Housing supplementary allowance for pensioners (bostadstillägg för pensionärer).
- Maintenance benefits (underhållsstöd).
- Guarantee pension (statlig garantipension).
- Handicap allowance and Care allowance (handikappersättning och vårdbidrag).
- State pension (including early retirement pension [förtidspension]), survivor's pension (efterlevandepension) and survivor's support to children (efterlevandestöd till barn). State pension is depending on how many years you have been living in Sweden.
- Allowance for elderly (älderförsörjningsstöd) more than 65 years of age.
- State dental care support (statligt tandvårdsstöd).

In order to be entitled to the following social entitlements in accordance with the Social Security Act, the requirement is that the person is *working* in Sweden and (the Social Security Act ch. 3 § 4):

- Sickness benefit (sjukpenning).
- Maternity allowance (havandeskapspenning).
- Parents' allowance, on basic level or beyond the basic guarantee level (föräldrapenning).
- Temporary parents' allowance (tillfällig föräldrapenning; for instance if the child is sick).
- Income related sickness benefit and income related activity benefit (inkomstrelaterad sjukersättning och inkomstrelaterad aktivitetsersättning).
- Rehabilitation and rehabilitation benefit (for industrial injury) decided by the Social insurance office.

In accordance with the Social Security Act ch. 3 § 5, a person working in Sweden is also comprised by

- The industrial injury insurance (arbetskadeförsäkring).
- Compensation for taking care of a member of the family (närståendevård).
- Income based old-age pension.
- Survivor's pension and survivor's maintenance to children regarding income related survivor's pension and widow's pension with some exceptions (efterlevandepension och efterlevandestöd till barn i fråga om inkomstgrundad efterlevandepension och änkepension med vissa undantag).

Further, *unemployment benefit* is an important part of the social security system. Basically the Swedish unemployment insurance consists of a basic insurance and income loss insurance. In order to receive money both from the basic insurance and the income loss insurance, a person has to fulfil the work condition.

Concerning *social assistance*, in 2008 the National Board of Health and Welfare, presented a report and guidelines for local authorities providing public social assistance. In ac-

cordance with the report, a worker that is an EU citizen should have fully right to equal treatment as Swedish citizens regarding social assistance.⁹⁰ On the local level, if a person does not have his or her residence in a municipality, the person only has the right to basic assistance in acute situations, for instance this could mean assistance for travelling to the municipality where the person has his or her residence.⁹¹

Job-seekers from other Member States should have the same right to public social assistance as Swedish citizens (concerning job-seekers, see also Chapter I, section 1.1). This follows explicitly from the guidelines for local governments issued by the National Board of Health and Welfare.⁹² However, if the job-seeker is drawing unemployment benefit from his home state he or she does not have a right to social assistance during the first three months stay.

A general precondition for the right to public social assistance is that the job-seeker is lawfully staying in Sweden as a job-seeker, and a proof of the individual's status is that he or she is registered at a Swedish employment office as a job-seeker.⁹³ Further, he or she must be disposed to accept a job offer from an employer or take part in labour market measures and more.

An EU national that has become unemployed and is searching for a new job, is entitled to equal treatment as a Swedish job-seeker in the same situation.⁹⁴ However, if the employment has lasted not more than six months the right to equal treatment is limited to a six months period. After 'approximately' six months the job-seeker must have 'a real chance to get a job' etc. (see above Chapter I, section 1.2).

Concerning tide over allowances for unemployed persons, there are different allowances – many of them are paid directly to employers and could be meant for certain groups, for instance refugees – in order to facilitate the recruitment of unemployed people. In general, job-seekers from other Member States are embraced by the same entitlements as nationals if they fulfil the requirements.

Text(s) in force

- Lag (1962:381) om allmän försäkring, the Act on public insurance.
- Socialförsäkringslag (1999:799), the Social Security Act.
- Socialtjänstlagen (2001:453), the Social Services Act.
- Lag (1997:238) om arbetslöshetsförsäkring, the Act on unemployment insurance.

90 Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, p. 32.

91 Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, p. 26. See also the Supreme Administrative Court Case RÅ 1995 ref. 70, which also prescribe the same practice for individuals living in other countries.

92 Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, p. 36.

93 In Case 3248-07 the Administrative court of appeal in Jönköping meant that a job-seeker from another Member State was entitled only to acute social assistance from the local social service. A reason was that it could not be shown that the applicant did not have a chance to get a job.

94 Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, p. 59.

Draft legislation, circulars, etc.

In an administrative circular from Svenska kommunförbundet (now the Swedish Association of Local Authorities and Regions) there are general guidelines regarding the free movement and the right to public assistance from local municipalities.⁹⁵

Judicial practice

In Case 3248-07 the Administrative court of appeal in Jönköping meant that a *job-seeker* from another Member State was entitled only to acute social assistance from the local social service. A reason was that it could not be shown that the applicant did not have a chance to get a job. (The case is also referred to in Chapter I above.)

Miscellaneous (administrative practices, etc.)

On April 1, 2009, the Riksdag's Social insurance committee arranged an open *seminar concerning EU and social insurance* for people moving within the EU. The seminar dealt with the union citizenship, the EU Commission and the co-ordination of social benefits, the ECJ and social insurances and more.⁹⁶

Recent legal literature

McGlynn, Claire (review of:), Laura Carlsson: Searching for equality – sex discrimination, parental leave and the Swedish model with comparisons to EU, UK and US law, Iustus Förlag, 2007 (438 pp.), *Juridisk Tidskrift*, no. 3/2007-08.

Hollander, Anna, (review of:) Vicki Paskalia: Free movement, social security and gender in the EU, *Europarättslig tidskrift*, no. 1/2008, pp. 307–309.

Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008.

Wennberg, Lena, *Social Security for Solo Mothers in Swedish and EU Law. On the constructions of normality and the boundaries of social citizenship*, Iustus Periodical writing from the Department of Law, Umeå University, Iustus, Uppsala/Umeå 2008. (Dissertation.)

95 Kommunförbundets Cirkulär 2004:38 Regler om den fria rörligheten inom EU och socialtjänstens ansvar (2004-05-06). The circular is available at http://uno.skl.se/brsbibl/cirk_documents/2004038.doc

96 The programme is available at <http://www.riksdagen.se/webbnav/index.aspx?nid=5864&utskutfrID=965&-utskutfrID=200809>.

Chapter V

Employment in the Public Sector

1. ACCESS TO PUBLIC SECTOR

1.1. Nationality condition for access to positions in the public sector

Decisions on employment matters in the public sector should be ruled by objectivity and should be taken on impartial grounds and individuals must be treated equally.⁹⁷ However, when the employment is in the exercising authority there is a restriction on the right to equal treatment regarding employment in the public sector in accordance with Article 39.4 of the EC Treaty.⁹⁸ Hence, Sweden citizenship is prescribed as a condition for certain employments in the State.

Further, for many positions in the public sector there are different *qualification requirements*. These requirements should also apply to employments in the private sector. Concerning for instance the health-care sector the employer could be a public institution or a private firm; and in addition to that a person exercising a certain profession could be self-employed.

Restrictions meaning demands for *Swedish citizenship* are founded in the Constitution ch. 11 § 9. Further requirements are regulated in the Act on public employment as well as in different ordinances giving instructions concerning courts and other public authorities.

Hence, according to the Act on public employment, §§ 5 and 6, a non-Swedish citizen cannot join the police force or be employed as a prosecutor within the judicial system or be employed by the army (see also Lagen 1994:261 om fullmaktsanställning; the Act on employment with letters of appointment).

In addition to these regulations the Government can prescribe Swedish citizenship as a condition for employment connected to exercising authority or for positions that are of significance to State security. Further, there are many public functions (for instance committees with elected representatives exercising public authority), which are embraced by a requirement for Swedish citizenship.

A consequence of the demand for Swedish citizenship for certain positions is that foreigners are excluded from particular employments in the public sector, for instance the position as head of authority that is directly under the Riksdag and positions at the Government offices directly under the Government. However, a position as a judge within the judicial system is not exclusively reserved for Swedish citizens, since it is possible for an experienced lawyer to obtain a position as a judge.⁹⁹

97 Mulder, *Ingående av offentlig anställning*, in Aune, H. et al. (editors), *Arbeid og rett. Festskrift til Henning Jakhellns 70-årsdag*, Cappelen Damm, Oslo 2009, p. 467–476.

98 See Nyström, *EU och arbetsrätten*, Stockholm 2002, p. 162 ff.

99 The Swedish Code of procedure ch. 8 § 2 was amended in the year 2002 and the demand for Swedish citizenship was taken away (Government's proposition 2001/02:92 Avskaffande av medborgarskapskrav för advokater m.fl.). The amendment came into force on July 1, 2002. Already before this amendment the Code of procedure had been amended in line with the Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained, and the amendment in 2002 was correcting some imperfections. (Government's proposition 1998/99:108 Advokaters etableringsrätt.)

In the year 2000 an Official report was presented dealing with the requirements for Swedish citizenship for employment and more in the public sector.¹⁰⁰ According to the investigation committee the guiding principle should be the right to equal rights and liabilities for persons residing in Sweden irrespective of citizenship. However, the judgement made by the investigation committee was that Swedish citizenship should be required when the motivation is State security and Sweden's relations to other countries. Also public activities that interfere with the citizens' legal relations should still be reserved for Swedish citizens.

In March 2009 there are still many demands for Swedish citizenship, for instance concerning employments as law clerks at the district courts (*tingsrätter*).¹⁰¹ Also at the Swedish enforcement service (*kronofogdemyndigheten*) there is still a demand for Swedish citizenship for the access to many positions such as Head of the enforcement district, Inspector at the enforcement service and Assistant at the enforcement service.¹⁰²

A common denominator for these positions is that the officials are exercising authority towards the citizens. To sum up, a schematic look at the positions for which there are demands for citizenship shows that Swedish citizenship requirements are most frequent for positions in the public sector in the following areas:

- The Riksdag (for instance positions as head of offices in the Riksdag, the Riksdag's accountants etc.).
- The courts (for instance prosecutors etc. with some exceptions).
- The police force (most positions as policemen and leading positions).
- The military force.
- The enforcement service (many positions).
- Other (leading positions in the Electricity security board; *Elsäkerhetsverket*).¹⁰³

Beyond these amendments there have also been amendments concerning the requirements for Swedish citizenship to become an elected representative in certain commissions and

100 Official report SOU 2000:106 *Medborgarskapskrav i svensk lagstiftning*. See also Sandesjö & Björk, *Nya medborgarskapslagen med kommentarer*, Stockholm 2005. A complete follow up made by the reporter in February 2006 of the regulations stipulating requirements for Swedish citizenship for employments in the public sector showed that, compared with the situation in the year 2000, most requirements for Swedish citizenship still were present. However, for two positions amendments had been made – in comparison with the state of affairs in the year 2000 – meaning that the requirements for Swedish citizenship for obtaining certain positions had been abolished for positions as Clerks in a court of appeal (*överrättsnotarie*) and Clerks in an administrative court of appeal (*kammarrättsaspirant*).

101 See *Förordning (1996:381) med tingsrättsinstruktion § 44* ('Endast den som är svensk medborgare får inneha eller utöva en anställning som tingsnotarie').

102 See *Förordning (2006:883) med instruktion för Kronofogdemyndigheten § 22* ('Endast den som är svensk medborgare får anställas som rikskronofogde, biträdande rikskronofogde, chefskronofogde, kronofogde, biträdande kronofogde, kronofogdeaspirant, kronokommissarie, kronoinspektör eller kronoassistent.'). The Ordinance 2006:883 replaced the former Ordinance 1988:784 on 1 July, 2006, and concerning Swedish citizenship as a requirement for employment, there was no amendment.

103 Another example that might not be controversial is the demand for Swedish citizenship in accordance with the Security protection Act (1996:627; *Säkerhetsskyddslagen*). Employments may be subject to certain restrictions referring to the need for 'security protection'. Such restrictions should be founded on a need for protection against espionage, sabotage, terrorism etc. (6 §). The holder of a position that is classified as subject to certain security in the public sector (the state, local authority or county council) must be a Swedish citizen (29 §). The Government is in charge of making the classification of a position for security reasons, but the authority to classify can be delegated to authorities under the Government, and this possibility is used in many cases. Further, in individual cases the Government may admit an exception to the rule on Swedish citizenship (29 §).

committees, but such commissions – see footnote – are not to be considered as employments and, hence, I will not go deeper into the matter.¹⁰⁴

Finally, in 2007 a public investigation suggested that there should be a certain certificate of qualification for a position as a pilot (lots) to guide ships on the sea.¹⁰⁵ Further, the suggestion meant that the amendment should come into force in 2009, but still in March 2009 no amendments have been made (compare Förordning (1982:569) om lotsning m.m.).

1.2. Language requirements

Appointments for employment in the public sector should be ruled by objectivity. In accordance with the Constitution and the Act on public employment (§ 4) merit and competence should be decisive, but competence should be the most important criterion. The required merits and skills are defined by the employer for each position before recruitment, and requirements should be based on the post subject to the recruitment procedure.

A request for language skills should basically be based on the qualifications necessary for the employment. Considering the Act on public employment § 4, good language skills – and especially in Swedish – could in practice be a very important qualification when the recruitment is made if skills in Swedish language is considered to be important for the performance of the work.

For access to some employments knowledge of the Swedish language is a formal requirement. For a position as a teacher in schools the requirement for a certain proof of competence will be issued only if the applicant has ‘the knowledge in Swedish language that is necessary’.¹⁰⁶ However, the regulation should only apply when the applicant has another mother language than Swedish, Danish, Faeroese, Icelandic or Norwegian.

Concerning the regulation of professions, another example is the veterinary profession, which in Sweden is generally regulated in the Act (1994:844) on the competence for exercising the veterinary profession. In the Ordinance (1994:845) on the competence for exercising the veterinary profession 1 §, it is stipulated that a foreign veterinary has to complete his education concerning Swedish law and the Swedish language on a basic level.

However, for access to most regulated professions within healthcare there are no absolute requirements for the Swedish language, but language competence could be an important qualification to consider.¹⁰⁷

1.3. Recognition of professional experience for access to the public sector

The right to equal treatment for employment in the public sector should be secured through the regulations referred to above (see section 1.2 concerning language requirements). Be-

104 The amendments were made in the following laws: lagen (1919:426) om flottning i allmän flottled (dealing with members of floating boards), lagen (1952:166) om häradssällmanningar samt allmänningsstyrelser och ekonominämnder enligt lagen (1952:167) om allmänningsskogar i Norrland och Dalarna tas bort (dealing with members in boards for common land forests in Northern Sweden).

105 Official report SOU 2007:106 Lotsa rätt! (presented in January 8, 2008).

106 The School Act 1985:1100, ch. 2 § 4b.

107 Compare SOSFS 2007:23 [M] Socialstyrelsens föreskrifter om erkännande av yrkeskvalifikationer inom hälso- och sjukvården, issued by the National Board of Health and Welfare in December 2007, but came into force in January 2008. The SOSFS mentioned is available at http://www.socialstyrelsen.se/Amnesord/utbildning_o_kompetens/legitimationer/Eusprakforfatteng.htm (2008-03-11).

yond that the equal treatment principle is founded on Regulation 1612/68 and EC law should apply for instance concerning nationality and discrimination. Further, there is discrimination law which means that the employer should treat for instance applicants for different positions equally independent of sex, disability, ethnic background etc.

(Several of the regulated professions enumerated in Chapter II can be exercised both in the private and public sector, e.g. doctors. However, the same professional qualification requirements and the same rules of recognition apply in both cases.)

2. WORKING CONDITIONS

On the Swedish labour market the wage setting is subject to collective bargaining. In principal, the wage setting is not regulated in law beyond restrictions that follow from the principal of equal treatment, discrimination law etc. Further, within the framework of the collective agreements the individual employee's wage setting is subject to individual bargaining conducted by the local trade union, and the individual him or herself. The starting point for the wage setting is the work to be performed and the individual's assignments, competence and experience.

However, the collective agreement should in principle only apply to members of the trade union, but this does not mean that the individual wage setting is free for non members since the employer normally should apply the same conditions to non-members' employment. Concerning employments in the Swedish State there is an explicit regulation meaning that the collective agreement should apply to all employees independent of membership in the trade union.¹⁰⁸

Text(s) in force

- Lagen (1994:260) om offentlig anställning, the Act on public employment.
- Anställningsförrordningen (1994:273), the Public employment Ordinance.

Draft legislation, circulars, etc.

In December 2008 a public investigation suggested to lower the restrictions on the right to choose a lawyer or a legal assistant before a trial in court.¹⁰⁹ Before the State reimbursed the costs for the solicitor as long as it would not cost too much. This restriction – in practice on the right to choose a solicitor – had been criticized by the Commission.¹¹⁰

Later on June 4, 2009, the Riksdag's standing committee on law dealt with a referral on the matter.¹¹¹ A court or a public authority should give an advance notification concerning

108 The Ordinance (1976:1021) on state collective agreements § 7.

109 Ds 2008:85 Den enskildes val av rättsligt biträde.

110 The Commission has claimed that that the Swedish regulation is a restriction on the free movement of services; KOM:s ref SG [2008] D/200455, matter no. 2005/4709. The Swedish Government has disputed the Commission's position on the matter (the Swedish Ministry of Foreign Affairs UD2008/4458/RS).

111 Lagrådsremiss Den enskildes val av rättsligt biträde, 4 juni 2009 (referral to the Riksdag's standing law council).

the reimbursement of additional costs dependent on distance. The meaning is that increased expenses for the State should not any longer be a reason for refusing a certain lawyer. Further, the lawyer and the client could make an agreement on the reimbursement concerning additional costs. The amendment is suggested to be made in the Code of Judicial Procedure ch. 21 § 10 and will probably come into force on January 1, 2010.

In 2008 a public investigation has suggested amendments of the School Act (1985:1100) meaning increased requirements on teachers in schools. The problem behind is problems with the general level and a great number of unauthorized teachers. The committee suggests the introducing of a certain certificate or authorization of teachers and a thought is that this will stimulate unauthorized teachers to study for a degree. Foreign teachers' degrees should, according to the proposal, be reviewed by the Swedish Agency for Higher Education (Högskoleverket) and should correspond with the Swedish requirements.¹¹²

Recent legal literature

Mulder, Johan Bernard, Ingående av offentlig anställning, in Aune, H. et al. (editors), *Arbeid og rett. Festschrift til Henning Jakhellns 70-årsdag*, Cappelen Damm, Oslo 2009, pp. 467–476.

112 Official report SOU 2008:52 Legitimation och skärpta behörighetsregler, p. 263.

Chapter VI

Members of the Worker's Family and Treatment of Third Country Family Members

1. RESIDENCE RIGHTS: TRANSPOSITION OF DIRECTIVE 2004/38/EC

The term *family member* of an EU citizen or his or her husband/wife/cohabitant is defined in the Aliens Act ch. 3a § 2 and means ‘an alien who accompanies an EEA national to Sweden or joins an EEA national in Sweden and who is

- the spouse or cohabiting partner of the EEA national,
- a direct descendent of the EEA national or of his or her spouse or cohabiting partner, if the descendent is dependent on either of them for means of support or is under 21 years of age or
- a direct ascendant of the EEA national or of his or her spouse or cohabiting partner, if the relative is dependent on either of them for means of support.’¹¹³

In accordance with the Aliens Act ch. 3a § 1 family members of an EU citizen have a right to stay in Sweden for more than three months without a residence permit.¹¹⁴ The right of residence should be granted immediately if the requirements are fulfilled and should remain for as long as the requirements are fulfilled. The family member with a right of residence should register him or herself at the Migration Board if the stay is longer than three months (the Aliens Act ch. 3a § 10). In the Aliens Act ch. 3a §§ 3 and 4 there are further specifications of the categories embraced by the right of residence (see also Chapter I).¹¹⁵

Family members of persons within those categories mentioned above are also entitled to the right of residence (the Aliens Act ch. 3a § 3). Further, family members of persons that are *not* workers, self-employees, job-seekers must have a health insurance (ch. 3a § 3.3).

If the family member of an EU citizen that has a right to residence is a third-country national, the family member should apply for a *residence card* within three months (the Aliens Act ch. 3a § 10 [in line with Directive 2004/38/EC]).¹¹⁶ The residence card should be issued by the Swedish Migration Board. However, the regulation on residence card should not apply to citizens or family members if the citizen is Norwegian, Finnish or Danish or EU citizens that are job-seekers.

Family members of an EU citizen should be granted a *permanent right of residence* after five years stay without interruption (the Aliens Act ch. 3a §§ 6 and 7). Temporary stay abroad up to six months or military service for a longer period should not influence the calculation of the five-year period (§ 8). Further, neither should temporary stay abroad up to twelve months for studies or vocational training, maternity and childbirth, serious illness,

113 The categories ‘spouse or cohabiting partner’ includes registered partner. This follows from ch. 3 § 1 in the Act (1994:117) on registered partnership. Amendment in 2005 through SFS2005:447. The term ‘registered partner’ means a married partner as well as a cohabitant (which is not a requirement from the Directive); see Government’s proposition 2005/06:77, pp. 71 and 183. See also Government’s proposition 2004/05:137 Assisterad befruktning och föräldraskap.

114 See also Government’s proposition 2005/06:77, p. 70 ff.

115 See also Government’s proposition 2005/06:77, p. 70 ff.

116 See also Government’s proposition 2005/06:77, p. 117 f. and p. 119.

posting of the worker or any other particular reason, be considered as a break of the five-year period.¹¹⁷

Family members they must show proof of the relationship. If the application is for a permanent right of residence the applicant must show proof of the length of the stay and also – if relevant – proof of the relationship.

Concerning entry, from 2006 family members of an EU citizen that are not EU citizens themselves must show a passport since the new Directive 2004/38 does not stipulate that a family member that is a third-country national is entitled to enter Sweden by showing an identity card.¹¹⁸ Hence, the regulation on this matter was sharpened at the transposition of the Directive. A motive was the risk that false identity documents could be used when entering Sweden.¹¹⁹

1.1. Situation of family members of job-seekers

Family members of job-seekers are entitled to the right of residence (the Aliens Act ch. 3a § 4 referring to § 3.2 concerning job-seekers having a ‘real chance to get a job’).¹²⁰ Further, if the family member has a right of residence he or she is embraced by the right to equal treatment as family members of other categories mentioned above.¹²¹

1.2. Application of Metock judgement

The *Metock case* concerned four Africans married to Irish citizens.¹²² The Irish authorities claimed that the marriages did not mean that they should be entitled to residence permits in Ireland. The Africans should, according to the authorities, have been staying lawfully in another EU State. However, the ECJ did not agree to the position taken by the Irish authority.

The Swedish Migration Board’s practice concerning immigration of family members is in line with the case. The regulation referred to is the Aliens Act ch. 3a § 10, section 3, from which it follows that the third country national as a family member to an EU citizen should apply for a residence card not later than three months after the arrival in Sweden.

Further, in an internal message at September 17, 2008, in the Migration Board it was stated that the *Metock case* should not have influence on the Board’s practice, since the Aliens Act should apply in line with the ECJ judgement.

117 Further specifications are presented in the Aliens Ordinance ch. 3a §§ 5 and 6.

118 See Government’s proposition 2005/06:77, p. 63.

119 Government’s proposition 2005/06:77, p. 64. Before 2006 family members that were not EU citizens themselves could enter Sweden by showing an identity card (compare the former Directive 68/360).

120 Family members of persons that are *not* workers, self-employees, job-seekers must have a health insurance (the Aliens Act ch. 3a § 3.3).

121 Compare Socialstyrelsen (the National Board of Health and Welfare), *EG-rätten och Socialtjänsten – en vägledning*, Stockholm 2008, pp. 47 f.

122 Case C-127/08 *Blaise Baheten Metock and Others v Minister for Justice, Equality and Law Reform* (Reference for a preliminary ruling from the High Court [Ireland]).

1.3. How the problems of abuse of rights (marriages of convenience) are tackled

In accordance with the Aliens Act ch. 5 § 3, a foreigner that is married or a cohabitant to a person, that has his or her residence in Sweden or has been granted a residence permit, should be granted a residence permit. Further, in accordance with ch. 5 § 3a, a residence permit may be granted to a foreigner who's intention is to marry a person with a residence right in Sweden, 'if the relationship is considered to be serious'. Hence, if the intention is not serious the problem is how to examine that.

The Migration Court of Appeal has dealt with pro forma marriages (or marriages of convenience) in two cases.¹²³ In principle, if there is a marriage certificate the starting point is that it should be presumed that the foreigner that is married to a person having a residence permit should be granted a residence permit referring to the Aliens Act ch. 5 § 3.

The State has the burden of proof to show that the marriage is a pro forma marriage. Hence, by example in Case UM1227-06 the Migration Board had to show circumstances that could lead to the conclusion that the marriage was not serious. In the case referred to the court discussed circumstances such as that the parties had not exchanged wedding-rings (because one of the parties had been married before), and further, the parties had presented reasonable explanations to that fact.

2. ACCESS TO WORK

Family members of EU citizens and persons having a permanent right of residence in another Member State have right to access to work in Sweden, i.e. they do not have to apply for a work permit, and they should have the right to equal treatment.

3. THE SITUATION OF FAMILY MEMBERS OF JOB-SEEKERS

A family member to a job-seeker having a right of residence in accordance with the Aliens Act (ch. 3a § 3.2), has the right to residence as a family member (ch. 3a § 4). (Further, see above section 1.1.) If the family member to the job-seeker is a EU citizen, he or she of course has an independent right to be a job-seeker and to accept an offer to work. If the family member is a third country national, he or she should in principle apply for a work permit, and such a permit could be granted for a limited period.

4. OTHER ISSUES CONCERNING EQUAL TREATMENT (SOCIAL AND TAX ADVANTAGES)

Concerning social and tax advantages, see Chapter III, point 2, and Chapter VII with comments on the case law from the ECJ.

¹²³ The Migration Court of Appeal cases UM1227-06 and UM1004-06 (both cases in the year 2007).

Chapter VII

Relevance/Influence/Follow-up of recent Court of Justice Judgments

C-287/05 Hendrix

Case *C-287/05 Hendrix* is about a Dutch frontier worker who worked and lived in the Netherlands. While continuing to work in the Netherlands, he transferred his residence to Belgium. Before his removal he was entitled under Dutch legislation to a benefit for handicapped people which is listed in Annex IIa of Regulation 1408/71 as a non-exportable special non-contributory benefit. Therefore, once Mr Hendrix had left the country, the Dutch competent institution stopped paying that benefit applying the said provisions of Regulation 1408/71. However, as Mr Hendrix continued to be active as a worker in the Netherlands, the ECJ was asked whether the withdrawal of the benefit is not contrary to Article 39 or Article 18 EC Treaty.¹²⁴

The corresponding benefit in Swedish law is the disablement allowance (*handikappersättning*), and this benefit is listed in the Social security Act (1999:799) as a benefit based on residence (see above Chapter IV).¹²⁵ Hence, a preliminary conclusion is that in accordance with Swedish law the disablement allowance should not be paid if, for instance, a frontier worker living and working in Sweden moves to Denmark for residence but continues working in Sweden.

*C-527/06 Renneberg*¹²⁶

The ECJ judgement has been considered in Swedish tax law and an amendment of the Income tax Act (1999:1229) was coming into force on January 1, 2008.¹²⁷ In the Government's proposition there was an explicit reference to Case *C-183/06 Lakebrink* mentioned also in *Renneberg*. The intention was to adapt the Swedish legislation to EC law and to facilitate the movement on the labour market. The increased right to tax reduction for interest rate (*ränta*) paid in another Member State should be granted people having residence in the EU and income solely (or almost solely) from work in Sweden, if the interest rate has not been subject to tax reduction in the home Member State. Further, on March 26, 2009, a referral was sent to the Riksdag's standing committee on law for consideration, and the proposal is referring to the *Renneberg* case and more.¹²⁸ (See above Chapter III, section 4.5.)

124 The ECJ stated that Article 39 EC and Article 7 of Regulation 1612/68 must be interpreted as not precluding national legislation, meaning that a special non-contributory benefit listed in Annex IIa to Regulation No 1408/71 may be granted only to persons who are resident in the national territory. However, implementation of that legislation must not entail an infringement of the rights of a person in a situation such as that of the applicant in the main proceedings which goes beyond what is required to achieve the legitimate objective pursued by the national legislation.

125 See also Lag (1998:703) om *handikappersättning* och *vårdbidrag* regulating the disablement allowance.

126 In Case *C-527/06 R.H.H. Renneberg v Staatssecretaris van Financiën*. Reference for a preliminary ruling under Article 234 EC from the Hoge Raad der Nederlanden (Netherlands).

127 Government's proposition 2007/08:24 *Vissa personbeskattningsfrågor*. Amendments were made in ch. 42 § 1, third section. Further, see *Skattenyheter* 1/08 den 9 januari 2008, information from the Swedish Tax Agency.

128 Lagrådsremiss 26 mars 2009 *Beskattning av utomlands bosatta artister m.fl.*; concerning the practice from the ECJ, see the referral, pp. 31–37.

C-94/07 Raccanelli¹²⁹

A doctoral student researcher was preparing a doctoral thesis on the basis of a grant contract concluded with an association operating in the public interest. A question was – referring to the circumstances – if the researcher should be considered to be a worker in the host Member State. According to Swedish law a criterion for being a worker is remuneration (wage), and a person having a scholarship should not be considered to be a worker. Further, it should be noted that scholarships granted to doctoral students are not contrary to Swedish law, even if there is for different reasons a strive to engage doctoral students as employees.¹³⁰

129 Case C-94/07 *Andrea Raccanelli v Max-Planck-Gesellschaft zur Förderung der Wissenschaften eV*. Reference for a preliminary ruling from the Arbeitsgericht Bonn.

130 Compare the Higher Education Ordinance (1993:100; Högskoleförordningen) ch. 5 § 1; a university or higher education institution ‘may’ (means is ‘allowed’ to) have certain employments for doctoral students.

Chapter VIII

Application of Transitional Measures

In 2003 the Swedish Riksdag approved the Government proposition to ratify the Treaty on the enlargement of the EU.¹³¹ In 2004 the Swedish Riksdag did not approve the former Government's suggestion to introduce – for the first two years after the affiliation of the new Member States – certain transition rules for citizens from these States (except for Malta and Cyprus).¹³² However, it was stated that the development concerning the immigration from the new Member States should be observed, and a list of measures to be taken in order to follow up the migration from the new Member States was presented by the Government.¹³³

The position taken by the Riksdag in 2004 not to introduce certain transitional rules for citizens from the new Member States were not changed in 2006 before the affiliation of Rumania and Bulgaria to the EU on January 1, 2007.¹³⁴ Hence, no transitional arrangements has been made.

Free movement of services and the Enlargement

Concerning the free movement of workers the priority in the Swedish debate has been the free movement derived from the EC Treaty, article 49, and the free movement of services. The very extensive debate in Sweden in 2005–2008 and still in 2009 has focused on the free movement of services and the posted workers' wages.¹³⁵

A starting point for the debate was a case before the Labour Court in 2004 (Labour Court *Cases AD 2004 no. 111* and *2005 no. 49*). (See the ECJ.) In *Case C-341/05 Laval un Partner* referring to a conflict between a contractor from Latvia and Swedish trade unions, the ECJ took the decision that Swedish law on the matter, giving national trade unions the right to industrial action in order to establish a collective agreement to apply in Sweden, even if the foreign employer already is bound by a collective agreement concluded in another Member State, was contrary to EC law.

Draft legislation, circulars, etc.

In an official report the so called Laval committee in December 2008 presented suggestions for amendments of Swedish law referring to the Laval case.¹³⁶ The report has been subject to

131 Government's proposition 2003/04:25 om Europeiska unionens utvidgning 2004.

132 Government's communication Regeringens skrivelse 2003/04:119 Särskilda regler under en övergångsperiod för arbetstagare från nya medlemsstater enligt anslutningsfördraget.

133 Government's communication Regeringens skrivelse 2003/04:119 Särskilda regler under en övergångsperiod för arbetstagare från nya medlemsstater enligt anslutningsfördraget.

134 See Government's proposition 2005/06:106 Bulgariens och Rumäniens anslutning till Europeiska unionen.

135 For an analysis of the debate, see Edström, The free movement of services in conflict with Swedish industrial relations model – or was it the other way around?, in Nils Wahl & Per Cramér, *Swedish Studies in European Law, Volume 1, 2006*, Oxford: Hart Publishing 2006, p. 129–156.

136 Official report SOU 2008:123 Förslag med anledning av Lavaldomen. For an extensive summary, see the report, p. 41–87.

an extensive debate in Sweden concerning the Swedish industrial relations model in an EC law perspective.

Recent legal literature

Edström, Örjan, The Free Movement of Services and the Right to Industrial Action in Swedish Law – in the Light of the Laval Case, in Mia Rönnmar (editor), *EU Industrial Relations v. National Industrial Relations – Comparative and Interdisciplinary Perspectives*, Kluwer Law International, Austin, Boston, Chicago, New York, the Netherlands 2008, p. 169–191.

Edström, Örjan, The Free Movement of Services, Industrial Action and the Swedish Industrial Relations Model – the Legal Structure and Actors’ Acting in the Laval Case, in Peter Wahlgren (editor), *Law and Society, Scandinavian Studies in Law*, volume 53, Stockholm 2008, p. 421–446.

Gerdes, Christer & Wadensjö, Eskil, *Immigrants from the New Member States and the Swedish Welfare State*. Sieps, report 2008:9, Stockholm 2008.¹³⁷

Lidgard, Hans Henrik (review of:), Susanne St Clair Renárd: Fri rörlighet för tjänster, Iustus förlag, 2007, 366 pp., *Juridisk Tidskrift*, no. 3/2007-08, p. 760–764.

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Sigeman, Tore, Utstationeringsavtal i stället för kollektivavtal, i *Lag & Avtal* (published Jun 6, 2009).

(The list on literature, articles and debate concerning the Laval case is not complete.)

¹³⁷ The report is available at http://www.sieps.se/publ/rapporter/2008/bilagor%202008/2008_09.pdf.

Chapter IX

Miscellaneous

Labour immigration from third countries. At December 15, 2008, new regulations for labour immigration from third countries were coming into force due to a decision by the Riksdag.¹³⁸ The previous consideration of labour market has been abolished. The employer is now the one who decide the need for labour (before it was a decision taken by the Employment service). The Migration Board should consider if the pay and the other conditions of employment are on a level with existing collective agreements or what is customary in the trade.¹³⁹

Concerning the need for labour immigration to Sweden, in a report from the Statistics Sweden (Statistiska Centralbyrån) in 2008, the investigator estimated that the number of immigration to Sweden must increase from around 20,000 to 300,000 persons from year 2030 in order to meet the need for labour in the Swedish welfare state. The reason is the demography among the Swedish population.¹⁴⁰

In 2008 an amendment was made concerning foreign *researchers* and their family members coming to Sweden from third countries. If a reception agreement has been concluded between the responsible authority (for instance a university) and a researcher, the researcher should be granted a residence permit, provided that the foreigner does not constitute a threat to public order, security or health. The residence permit should be granted for at least one year or shorter if the assignment is for a shorter period than one year. (Amendment of the Aliens Ordinance ch. 4 § 7a introduced through SFS 2008:290.¹⁴¹) The amendment has been made transposing Directive 2005/71/EC on a specific procedure for admitting third-country nationals for the purposes of scientific research.

Discrimination law. At January 1, 2009, a new Act (2008:567) on Discrimination was coming into force.¹⁴² The previous seven discrimination laws meaning that the employer should treat for instance applicants for different positions in working life equal depending on sex, disability, ethnic background etc. were abolished, since the new act covers the same areas. An important matter is that the ban of age discrimination in EC law now was introduced in Swedish law.

Sex criminals committing crimes against children should be prevented to work in other EU Member States. Further, the Swedish police should request for information on crimes committed against children also from other Member States.¹⁴³

In 2008 a suggestion was presented in order to open for increased co-operation between both national universities and universities in other Member States, and to facilitate the participation in the EU programme Erasmus Mundus.¹⁴⁴ Swedish universities must have a pos-

138 Government's proposition 2007/08:147 Nya regler för arbetskraftsinvandring.

139 During the first two weeks 459 foreigners have applied for work permit referring to the new regulation. The largest groups are applicants from India (219 persons), China (43 persons) and Thailand (34 persons). The Migration Board's website 2008-12-30.

140 Riksdag & Department, no. 28/2008.

141 Government's proposition 2007/08:74 Genomförande av EG-direktivet om ett särskilt förfarande för tredjelandsmedborgares inresa och vistelse i forsknings syfte. See also the foregoing Official report SOU 2006:93 Gästforskare – nya regler för inresa, vistelse och arbete.

142 Prop. 2007/08:95 Ett starkare skydd mot diskriminering.

143 Justitiekommitténs betänkande 2008/09:JuU11 Rambeslut om utbyte av uppgifter ur kriminalregister (the Riksdag's standing committee on justice) and the Government's proposition 2008/09:1 Budgetpropositionen.

144 Official report Ds 2008:80 Gemensamma examina.

sibility to issue joint degrees together with other universities in Sweden as well as educational institutes for higher education in other countries in line with the Bologna process. Hence, the proposal – if it leads to a Government proposition to be approved by the Riksdag – means amendments in Swedish law on higher education in order to open up possibilities for universities to issue joint degrees based on studies in different universities.

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145 The report is available at http://www.sieps.se/publ/rapporter/2008/bilagor%202008/2008_09.pdf.

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The official Swedish website to different Acts, Government's propositions, the State authorities' statute books, judicial practice and more (in Swedish although some information is translated into English):

http://62.95.69.15/sfs/sfst_form2.html (search form in Swedish)

The Swedish Migration Board, official website with information, statistics on migration and more:

<http://www.migrationsverket.se/english.jsp> (in English)

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The National Courts Administration, official website link to guiding judicial decisions in Swedish courts:

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http://www.migrationsverket.se/pdffiler/statistik/statistik_5_2008.pdf

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146 The report is available at http://www.socialstyrelsen.se/NR/rdonlyres/E3F1BA56-2FC5-4FEB-8827-34D7220E0C96/11781/20081263_rev.pdf (The report is written by professor, Dr. Thomas Erhag.)

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148 The publication is available at <http://www.oresundskomiteen.dk/Fakta-och-publikationer/Publikationer-och-analyser/Arbetsmarknad>.