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**Intergenerational Bargaining:
towards integrated bargaining for younger and older workers in EU countries**

Sweden - Country Report

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Intergenerational Bargaining in Sweden

1. Introduction

In Sweden, as in the EU more generally, there is a need to advance the inclusion of both younger and older workers in the labour market, to combat youth unemployment and promote active ageing and longer and healthier working lives for older workers. Demographical developments and an ageing population together with the employment and labour market implications of the economic crisis form an important background.

This report aims to provide a discussion and analysis of intergenerational bargaining in Sweden. Here, intergenerational bargaining refers to the integration of policies and strategies for younger and older workers through collective bargaining and social dialogue. The integration may be both direct and indirect. Focus is on collective bargaining and three case studies on introduction agreements for younger workers, collective agreements on partial retirement for older workers, and transition agreements, respectively. However, the report also outlines the general framework for intergenerational bargaining in Sweden, by way of labour law, industrial relations and collective bargaining, the pension system, the labour market situation of younger and older workers, and policy debates.

Younger and older workers must be defined in a contextual way.² EU statistics often cover the age groups of 15–24 and 55–64. National and EU legislation, policy initiatives and collective bargaining measures may have a different and broader or more limited scope.

This report combines a legal-analytical method – an analysis of the legal sources to clarify and systematise the content of Swedish labour law, including collective bargaining – with a socio-

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² For a discussion of older workers and the elderly, see, for example, A. Numhauser-Henning, 'An Introduction to the Norma Elder Law Research Environment', in A. Numhauser-Henning (ed.), *Introduction to the Norma Elder Law Research Environment. Different Approaches to Elder Law* (Norma, Lund 2013), 27.

legal approach, and an integration of industrial relations perspectives.³ The materials subjected to study are legislation, preparatory works, collective agreements, case law, legal doctrine, reports and policy documents, and industrial relations research. In the case studies, analysis of the specific collective agreements is complemented by interviews with social partners and other actors in the labour market, to gain further insights into the context, goals, content and implementation of collective agreements and the views and strategies of the trade unions and employers' organisations. Eleven interviews were conducted (four with blue-collar trade unions; three with white-collar/professional employees trade unions; two with employers' organisations in the private sector; one with employers' organisations in the public sector; and one with a transition foundation, established by the social partners by way of collective agreement).⁴ The interviews are also relevant for the discussion about the general framework for intergenerational bargaining in Sweden. The selection of case studies and the interviews are discussed further in Section 3.1.

The outline of the report is as follows. Section 2 provides a discussion and analysis of the framework for intergenerational bargaining in Sweden and the labour market situation of younger and older workers. Section 3 presents and analyses three case studies of intergenerational bargaining, namely, introduction agreements for younger workers, collective agreements on partial retirement for older workers, and transition agreements. Section 4 provides a concluding analysis.

2. Intergenerational Bargaining and Younger and Older Workers in the Swedish Labour Market – a Framework

2.1. Swedish labour law and industrial relations, autonomous collective bargaining and the pension system

2.1.1. *Industrial relations and autonomous collective bargaining*

Swedish industrial relations are characterised to a large extent by self-regulation, state non-intervention, and autonomy of the social partners. The relationship between trade unions and employers' organisations/employers has traditionally been characterised by cooperation and social partnership. Organisation rates on both sides of the labour market are high. The overall trade union organisation rate in 2012 was about 70 percent and the employers' organisation rate was about 90 percent. Among younger workers the trade union organisation rate is lower. In 2012

³ Cf., for example, M. Van Hoecke (ed.), *Methodologies of Legal Research. Which Kind of Method for What Kind of Discipline?* (Hart Publishing, Oxford 2011) and M. Rönmar (ed), *EU industrial relations v. national industrial relations. Comparative and interdisciplinary perspectives* (Kluwer Law International, Alphen aan den Rijn 2008).

⁴ See further Sections 3.1 and 5.5.

the trade union organisation rate in the age group 16–24 was 36 percent, and in the age group 25–29 it was 57 percent.⁵

In the Swedish autonomous collective bargaining system, collective agreements constitute an important legal source. The majority of an employee's terms and conditions of employment are regulated by collective agreements. A collective agreement is statutorily defined as 'an agreement in writing between an organisation of employers or an employer and an organisation of employees about conditions of employment or otherwise about the relationship between employers and employees', Section 23 of the (1976:580) Co-determination Act (MBL). Within its area of application, a collective agreement is legally binding, not only for the contracting parties to the agreement but also for their members, Section 26 MBL. In addition, an employer bound by a collective agreement is obliged to apply it to all employees, regardless of trade union membership. A collective agreement has both a normative and mandatory effect, Section 27 MBL.⁶ There is no minimum wage legislation or system for extension of collective agreements. However, in practice, the coverage of collective bargaining is almost complete and a *de facto erga omnes* effect is achieved. In 2012 the collective bargaining coverage rate was about 90 percent.⁷ In line with the autonomous collective bargaining system, it is the responsibility of the trade unions to safeguard a general level of pay and employment conditions.⁸ Supervision and enforcement of terms and conditions of employment are carried out to a large extent by the trade unions or the social partners in cooperation. Effective enforcement depends to a large degree on the workplace being covered by a collective agreement.⁹

The freedom of association and the right to take collective action is protected by the Swedish Constitution, and the (1976:580) Co-determination Act also contains an elaborate regulation of freedom of association, collective bargaining, collective action and information, consultation and co-determination, complemented by collective agreements. An important characteristic of the (1976:580) Co-determination Act – and Swedish labour law legislation in general – is its so-called 'semi-compelling' nature, which allows for deviations by way of collective agreement,

⁵ See National Mediation Office, *Avtalsrörelsen och lönebildningen 2013. Medlingsinstitutets årsrapport* (National Mediation Office, Stockholm 2014), 31 ff.

⁶ See J. Malmberg, *Anställningsavtalet* (Iustus, Uppsala 1997), 144 ff. Unless otherwise provided for by the collective agreement, employers and employees being bound by the agreement may not deviate from it by way of an individual employment contract. Such a contract is null and void, and breaches of the collective agreement are sanctioned by the payment of economic and punitive damages. In most cases collective agreements set minimum standards only, allowing employers, trade unions, and employees to agree on better terms and conditions of employment by way of a local collective agreement concluded at workplace level, or an individual employment contract.

⁷ See National Mediation Office, *Avtalsrörelsen och lönebildningen 2013. Medlingsinstitutets årsrapport* (National Mediation Office, Stockholm 2014), 31 ff.

⁸ The trade unions do this by trying to force employers who are not members of an employers' organisation (and thereby not automatically bound by collective agreements), to conclude 'application agreements' (*hängavtal*). If agreement cannot be reached by way of negotiations, the trade unions have the right to take collective action.

⁹ Cf. N. Bruun and J. Malmberg, 'Lex Laval – Collective Actions and Posted Work in Sweden' in R. Blanpain and F. Hendrickx (eds), *Labour Law between Change and Tradition. Liber Amicorum Antoine Jacobs* (Alphen aan den Rijn, Kluwer Law International, 2011), 17.

both to the advantage and detriment of individual employees. Thus, collective agreements can be used to adapt the legislation to the conditions of a certain sector or company. Swedish labour law is thus characterised by an important interplay between legislation and collective bargaining (also when it comes to transposing EU labour law directives). Worker participation is channelled through trade unions and their representatives, at local and central levels, in a so-called *single-channel system*. Trade unions both negotiate and conclude collective agreements on wages and other working conditions, and take part in information and consultation at workplace level.

Collective agreements are entered into at different levels. Nationwide collective agreements are concluded at sectoral level, and supplemented by local collective agreements concluded at workplace level. In addition, some master agreements are concluded at national top level. In recent decades there has been a trend towards individualisation and decentralisation of industrial relations and wage negotiations.¹⁰ Today, wages are set mostly through local bargaining within the framework of national sectoral bargaining. In 2013 there were about 670 national sectoral collective agreements in force.¹¹

In general, Swedish labour law is characterised by a uniform and extensive personal scope, and a traditionally high degree of equal treatment of different categories of employees, such as blue- and white-collar employees and private- and public-sector employees. When it comes to younger and older workers, some age-related regulation in legislation and collective bargaining applies despite the ban on age discrimination (Section 2.1.2.), and this is linked to the traditional role played by age in the organisation of the labour market and the design of labour law. Age has served as a legitimate social and economic stratifier. Thus, Swedish labour law encompasses, for example, mandatory retirement, seniority rules (based on the last-in-first-out principle) to be applied in redundancy situations and some seniority-based benefits and working conditions (such as annual leave and notice periods¹²). Traditionally, length of service influenced wage-setting, and there might still be some indirect influence of this factor and an expectation from employees that the wage will increase with the length of service. However, there are few (if any) directly seniority-related wage provisions in the collective agreements. Instead, aspects such as the employee's qualifications and performance are central in individual wage-setting. Some collective agreements (for example, in the hotel, restaurant, retail and sanitation sectors) regulate

¹⁰ Cf. *inter alia* K. Ahlberg and N. Bruun, 'Sweden: transition through collective bargaining', In: T. Blanke and E. Rose (eds), *Collective Bargaining and Wages in Comparative Perspective: Germany, France, the Netherlands, Sweden and the United Kingdom* (Kluwer Law International, Alphen aan den Rijn 2005).

¹¹ See National Mediation Office, *Avtalsrörelsen och lönebildningen 2013. Medlingsinstitutets årsrapport* (National Mediation Office, Stockholm 2014).

¹² In addition to the general length of service element present in the regulation of notice periods, some collective agreements contain provisions on extended notice periods for older workers, for example, from the age of 55, see, for example, Labour Court judgement AD 2004:69.

minimum wages/lowest entry wages for younger workers (for example, those aged 16, 17, 18 and 19).¹³

2.1.2. Age discrimination

The (2000/78/EC) Employment Equality Directive introduced the ban on age discrimination in secondary EU law.¹⁴ The Directive bans discrimination on the grounds of religion or belief, disability, age or sexual orientation as regards employment and occupation. The Employment Equality Directive encompasses prohibitions on direct and indirect discrimination, harassment, and instruction to discriminate, as well as provisions on positive action and active measures, and a rule on a reversed burden of proof. The protection against age discrimination covers all chronological ages, and both younger and older workers are protected. Discrimination on grounds of age can be justified to a greater extent than discrimination on other grounds.¹⁵ According to Article 6, differences of treatment on grounds of age do not constitute discrimination if they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market, and vocational training objectives, and if the means of achieving that aim are appropriate and necessary. Much of the case law on age discrimination of the Court of Justice of the European Union concerns mandatory retirement schemes, and the Court has accepted mandatory retirement rules and found them justifiable, *inter alia* with reference to intergenerational fairness in terms of access to employment for younger workers.¹⁶

The Swedish (2008:567) Non-Discrimination Act, a so-called single non-discrimination act, implements the Employment Equality Directive and other EU equality directives. The Act not only gathers different discrimination grounds but is also applicable in part outside the realm of working life; for example, in goods and services, public employment services, education, health

¹³ See, for example, J. Julén Votinius, 'Age Discrimination and Labour Law in Sweden', in: A. Numhauser-Henning and M. Rönmmar (eds), *Age Discrimination and Labour Law. Comparative and Conceptual Perspectives in the EU and Beyond* (Kluwer Law International, Alphen aan den Rijn forthcoming 2015).

¹⁴ In addition, Article 21 of the EU Charter of Fundamental Rights contains an 'open list of discrimination grounds' and states that '[a]ny discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, *age* [my emphasis] or sexual orientation shall be prohibited'. The Court of Justice of the European Union has also held that EU law encompasses a general principle of non-discrimination on grounds of age, see C-144/04 *Werner Mangold v. Rudiger Helm* [2005] ECR I-09981 and Case C-555/07 *Seda Küçükdeveci v. Swedex GmBH & Co* [2010] ECR I-00365.

¹⁵ With the exception of part-time and fixed-term work, cf. the non-discrimination principle in the (1997/81/EC) Part-Time and (1999/70/EC) Fixed-Term Work Directives.

¹⁶ Cf., for example, B. ter Haar and M. Rönmmar, *Intergenerational Bargaining, EU Age Discrimination Law and EU Policies – an Integrated Analysis*, Report for the project 'Inter-generational Bargaining: towards integrated bargaining for younger and older workers in EU countries' (2014) and E. Dewhurst, 'Intergenerational balance, mandatory retirement and age discrimination in Europe: How can the ECJ better support national courts in finding a balance between the generations?' 2013 50 *Common Market Law Review* 1333.

care, social services, and social security.¹⁷ The Non-Discrimination Act covers protection against discrimination on grounds of sex, ethnicity, religion and other belief, sexual orientation, disability, age and transsexual identity/expression, and contains prohibitions on direct and indirect discrimination, harassment, and instruction to discriminate, and provisions on a reversed burden of proof, positive action and active measures. Chapter 2 Section 2 p. 4 of the Act contains the provision for justification of age-related differences.^{18 19}

2.1.3. Flexible work

Flexible work has increased in Sweden, as in other EU Member States. Fixed-term work is regulated in the (1982:80) Employment Protection Act (LAS). In Sweden permanent employment is the main rule and fixed-term employment contracts are permitted only when agreed upon, and when specifically provided for by law or collective agreements. In order for a fixed-term employment contract to be legal, the detailed rules of the (1982:80) Employment Protection Act must be adhered to, Sections 4, 5 and 6. These provisions are semi-compelling, and collective agreements regulating fixed-term contracts in specific, narrower or broader ways are frequent.²⁰ The regulation on fixed-term work was amended in 2007, and this reform partly represents a new standpoint on fixed-term employment contracts. A long list of fixed-term employment contracts has been replaced by a new form of fixed-term employment contracts – the general fixed-term employment, Section 5 LAS, supplemented only by temporary substitute employment, seasonal employment, fixed-term contracts for employees above the age of 67 years – enabling fixed-term employment for older workers after reaching the mandatory retirement age – and probationary employment.²¹ Thus, the scope for fixed-term employment contracts has broadened. The employer is free to conclude general fixed-term employment contracts, and there is no requirement for objective reasons. However, when an employee has been employed under a general fixed-term employment contract or as a temporary substitute by one employer for a total of two years during the last five years, the contract is automatically converted into an indefinite permanent employment contract, Section 5 subsection 2 LAS. The non-discrimination principle in the (1999/70/EC) Fixed-Term Work Directive was implemented through the creation of a new Act, the (2002:293) Prohibition of Discrimination of Employees Working Part-Time and Employees with Fixed-Term Employment Act. The European Commission has issued two reasoned opinions in relation to the Swedish implementation of the (1999/70/EC) Fixed-Term

¹⁷ See Governmental Bill Prop 2007/08:95 and Governmental Inquiry Report SOU 2006:22.

¹⁸ Up to this point, case law from the Swedish Labour Court has been limited regarding age discrimination; see, for example, Labour Court judgements AD 2013:64 and AD 2014:28.

¹⁹ When it comes to age discrimination, Swedish law goes further than EU law, and extends the ban on age discrimination beyond working life, for example to, goods, services, social security and health care, see Government Bill Prop. 2011/12:159.

²⁰ In addition, provisions on fixed-term employment contracts in specific statutes or regulations, for example for universities and higher education, have priority before the provisions in the (1982:80) Employment Protection Act.

²¹ See Government Bill Prop. 2006/07:111.

Work Directive. The Commission claims that Sweden has failed to correctly implement Clause 5.1 of the Framework Agreement of fixed-term work on measures to prevent abuse arising from the use of successive fixed-term employment contracts or relationships. In 2012 a Government Inquiry Report on a new form of fixed-term employment contract, the education employment contract (*utbildningsanställning*), was presented.²² The Government Inquiry Report proposed to introduce a new provision, Section 5a, in the (1982:80) Employment Protection Act. The education employment contract was aimed at making labour market establishment easier for younger persons and to provide an incentive for smaller companies to employ. This new fixed-term employment contract was meant to complement existing measures and employment contracts for workplace-based education and training and labour market policies for younger persons. Many collective agreements already contain provisions on employment contracts linked to introduction, education and apprenticeship – such as introduction agreements, as illustrated by one of the case studies in this report (Section 3.3.). An education employment contract would be available to persons under the age of 23, for a maximum of 18 months. It presupposes an agreement concluded between the employer and the employee regarding a training element. An education employment contract would (as probationary employment) automatically be transformed into a permanent employment contract after 18 months. Up until that point, however, the employer is free to terminate the contract, without showing just cause or objective reasons. This proposal was criticised, for example, for intervening in existing collective agreements and social partner autonomy, and for expanding the scope for fixed-term employment. The Governmental Inquiry Report has not yet resulted in any legislative changes.

Temporary agency work is regulated in the (2012:854) Agency Work Act (which also transposes the (2008/104/EC) Temporary Agency Work Directive).²³ The temporary agency work sector is principally covered by collective bargaining, and all collective agreements ensure a guaranteed wage, between assignments, of about 80 to 85 percent of normal wages. The principle of equal treatment is regulated in Section 6 of the Act, which states that ‘[a] temporary-work agency shall, for the duration of the worker’s assignment at a user undertaking guarantee the worker at least the same basic working and employment conditions as would apply if they had been recruited directly by that undertaking to carry out the same job’. Exceptions to the principle of equal treatment are permissible with regard to pay in accordance with Article 5(2) of the Directive, and Section 8 of the Act provides that the equal-treatment principle does not apply to temporary agency workers who have a permanent contract and receive pay between temporary assignments. In addition, the Act states in Section 3 that deviations from the principle of equal treatment may be made through a collective agreement concluded or approved by a central trade union on the condition that the agreement respects the overall protection of workers within the meaning of Directive 2008/2014/EC.

²² See Government Inquiry Report SOU 2012:80.

²³ See Government Inquiry Report SOU 2011:5 and Government Bill Prop. 2011/12:178.

According to Swedish law, a temporary agency worker is an employee of the temporary work agency, who within the framework of his/her employment relationship performs work for a third party, the user undertaking. Labour law provisions, e.g. on employment protection, working time, annual leave, and information and consultation generally apply to all employees, including temporary agency workers. Permanent employment and open-ended contracts are the main form of contract for temporary agency workers as well, Sections 4–6 LAS. Fixed-term work is somewhat more common for temporary agency workers.²⁴

2.1.4. *Employment protection*

Statutory employment protection and the (1982:80) Employment Protection Act apply to all employees, whether in private or public employment, from the first day of employment.²⁵ Small companies are not exempted. The employer may dismiss a permanent employee for personal reasons or for reasons of redundancy. The employer must have just cause (or objective grounds) for dismissal, Section 7 LAS. Coupled with this basic just-cause requirement are different rules obliging the employer (depending on whether the dismissal relates to personal reasons or reasons of redundancy) *inter alia* to negotiate with trade unions, give notice, provide the employee with alternative work, warn the employee, retrain the employee, apply seniority rules, and if necessary conditions are met, re-employ dismissed employees. Thus, in line with an *ultima ratio* principle, the employer must make an effort to avoid dismissing employees by first taking less radical measures. The vulnerability of older workers has influenced the design of employment protection regulation in Sweden, and many other EU Member States.²⁶ In comparison, Swedish employment protection is traditionally viewed as relatively strong.

Redundancy is a broad concept, encompassing different reasons of an economic, organisational or other business-related character. The legislator and the courts give the employer a unilateral right to decide when and if a redundancy situation exists.²⁷ Redundancy *per se* amounts to just cause.²⁸ The statutory seniority rules imply that the priority and selection of employees is to be made according to the last-in-first-out principle, i.e. according to each employee's total period of employment with the employer (and in the event of equal periods of employment, giving priority to senior age, Section 22 LAS). The employee has to have sufficient qualifications for the tasks which remain after the redundancy. In principle, the order of dismissals encompasses all

²⁴ About 80 % of temporary agency workers are permanently employed, see Government Inquiry Report SOU 2011:5.

²⁵ Some minor groups of employees, however, such as employees in an upper management position and the employer's family members, are excluded (cf. section 1 subsection 2 of the (1982:80) Employment Protection Act).

²⁶ In Sweden, for example, an important background to the first Employment Protection Act from 1974 was the need for social protection of especially vulnerable workers due to old age or sickness, and the need to counteract a segmented labour market, with a division between young and well-educated employees on the one hand, and old, disabled and less educated employees on the other. See Governmental Bill Prop. 1973:129, 126.

²⁷ See for example Labour Court judgements AD 1993:61 and AD 1993:101.

²⁸ Cf., for example, Labour Court judgements AD 1993:101 and AD 1995:152.

employees in the same production unit and who are covered by the same collective agreement (redundancy unit). However, the seniority rules are semi-compelling and the employer and in virtually all respects, the trade union may deviate from the statutory rules when determining the order of dismissals by concluding a local collective agreement, a so-called *avtalssturlista*.²⁹

The Swedish seniority rules, and the last-in-first-out principle, are potentially indirectly age-discriminatory (with a directly age-discriminatory element, in the way in which the employee's age is decisive in situations when the period of employment of two or more employees is the same).³⁰ However, there are signs that seniority rules such as these may be found acceptable according to EU law.³¹ ³² Transition agreements – presented in one of the case studies in this report – provide an important, collectively-bargained complement to employment protection in redundancy situations (Section 3.4.). There is no statutory severance payment.³³

Thus, employment protection regulation may provide for various kinds of special protection for older workers. In Sweden it is a general rule that sickness or old age does not constitute objective grounds for dismissal. The employer has extensive obligations to rehabilitate the employee and to adjust the working environment and the job duties or tasks. An employee can be dismissed only after such measures have been taken, and the employee can no longer perform work of any importance for the employer.

Mandatory retirement is regulated through the '67-year rule', in Sections 32a and 33 LAS. An employee has a right to stay in employment up until the age of 67, when the employer may terminate the employment relationship after one month's notice and without having to provide objective grounds for dismissal. If the employer does not make use of this possibility, the permanent employment relationship continues; however, it does so with limited employment protection (for example, the employee has one month's notice, and is given no right of priority in

²⁹ The principal restriction is that the decided order of dismissals must not go against so-called good labour market practice, or be blatantly discriminatory or offensive, see Labour Court judgements AD 1983:107, AD 1996:114 and AD 2002:37. – An employer with at most ten employees may, before the order of dismissals is determined, exempt at most two employees who in the opinion of the employer are of particular importance for future activities, Section 22 subsection 2 LAS.

³⁰ Some directly age-discriminatory elements, such as providing extra protection for employees above the age of 45, were removed from the (1982:80) Employment Protection Act in 2007.

³¹ Cf. B. ter Haar and M. Rönmar, *Intergenerational Bargaining, EU Age Discrimination Law and EU Policies – an Integrated Analysis*, Report for the project 'Inter-generational Bargaining: towards integrated bargaining for younger and older workers in EU countries' (2014).

³² If the employee is actually dismissed, this employee has a priority right to re-employment, a rule that facilitates access to employment for older workers. Any employment opening within nine months from the expiry of the former employment should be offered to employees dismissed by redundancy, on the condition that the employees are sufficiently qualified and have been employed in total for more than 12 months during the last three years with the employer (Section 25 LAS). The order of employees being offered employment is decided in accordance with the last-in-first-out principle.

³³ See further M. Rönmar and A. Numhauser-Henning, 'Swedish employment protection in times of flexicurity policies and economic crisis', *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 28, No 4, 2012, 443–467.

accordance with seniority rules or rules on re-employment in redundancy situations).³⁴ In the *Hörnfeldt*³⁵ judgement, this Swedish system has been tried and found acceptable according to EU law. The Court of Justice of the European Union found that according to Article 6(1) of the Framework Directive the Swedish rule – which allows an employer to terminate an employee’s employment contract on the sole ground that the employee has reached the age of 67, and which does not take account of the level of the retirement pension which the person concerned will receive – is allowed, because that measure is objectively and reasonably justified by a legitimate aim relating to employment policy and labour-market policy and constitutes an appropriate and necessary means by which to achieve that aim.

2.1.5. The pension system

Sweden’s ageing population brings challenges. In 2060, persons above 65 years are estimated to make up 25 percent of the population. Life expectancy will increase as will the dependency ratio.³⁶ This development is common in the EU, and the EU Active Ageing Policy (especially highlighted during the 2012 Year of Active Ageing in the EU) implies generating better opportunities and working conditions for the participation of older workers in the labour market, combating social exclusion through fostering active participation in society, and encouraging healthy ageing. One target area of this policy is increased labour market participation of 55+ persons.³⁷

The Swedish pension system was reformed in the late 1990s, following broad political consensus. Increased pension costs, slow growth and the demographical outlook formed a background, and the aim was the achievement of sustainable pensions. The pension system is built on a lifetime earnings principle and a flexible retirement age. The system provides freedom to combine work with pensions. The pension system has three components: income pension, based on a person’s full life-time earnings and financed on a pay-as-you-go-basis; premium pension, a smaller, funded part of the income-based pension, invested in a fund of the individual’s own choice or in a ‘default’ fund; and guarantee pension, which provides a basic income for all persons, irrespective of earlier earnings.³⁸ Statutory pension is payable from the age of 61. However, the pension amount will increase the longer retirement is postponed, and every employee has a right to stay in employment up until the age of 67. The average retirement age is about 65 years (and from the

³⁴ Coupled with this is also an unlimited access to fixed-term employment contracts after 67 years.

³⁵ Case C-141/11 *Hörnfeldt v. Posten Meddelande AB*.

³⁶ Today the dependency ratio in Sweden is 0.72, and is estimated to have increased to 0.92 by 2020, see SCB, *Statistical Yearbook of Sweden 2014* (SCB, Stockholm 2014), 83 ff. See also T. Bengtsson and K. Scott, ‘Population Ageing and the Future of the Welfare State: The Example of Sweden’, *Population and Development Review* 37 (Supplement), 2011, 158–170.

³⁷ See European Commission, *Active Ageing Report 2012* and Decision 940/2011/EU 14 September 2011 by the European Parliament and the Council, EUT L 246.

³⁸ The social security system also provides a means-tested housing supplement for pensioners. – Contributions are paid jointly by the employee and the employer or social insurance.

age of 65 guarantee pension can be claimed), which is high in a comparative European perspective.³⁹ The statutory pension system is complemented by collectively bargained occupational pension schemes, which cover about 90 percent of the Swedish workforce (occupational pensions can normally be paid from the age of 55).^{40 41}

In 2013 a Government Inquiry Report aimed at reviewing different pension-related age limits and analysing different ways to prolong working life was presented. Even though the number of hours worked by older workers is increasing, the increase has been found to be too slow to be sustainable, given the increasing life expectancy, the dependency ratio, and costs for pensions, health care and the welfare system in general. The Inquiry Report therefore proposes a number of measures, including initiatives to improve the working environment, strengthen opportunities for older people to preserve and develop their skills, increase information, strengthen the financial incentives and combat age discrimination. These measures will help in the long term to ensure a higher actual retirement age. The Inquiry Report also proposes changes to different pension-related age limits, to increase the actual retirement age and the number of hours worked by older people already in the short term. The introduction of a recommended retirement age (related to the development of average life expectancy) is proposed. This should be a clear, non-choice alternative for the retirement of older people who wish to achieve an acceptable pension. Pension-related age limits could then be linked to this recommended retirement age. Against this background the Inquiry Report proposes, for example, to raise the 61-year age limit for the earliest age at which people are entitled to draw their pension to 62 years in 2015; to raise the age limit referred to in the (1982:80) Employment Protection Act from 67 to 69 in 2016; and in 2017 to raise the 55-year age limit for occupational and private pensions to 62 years.⁴² To change existing pension norms – for example, from the existing norm about ‘a right and a duty to retire at a certain age’ to pension norms such as ‘you have both a right and a duty to work according to your abilities’, and ‘to retire is a personal/individual choice’ – is challenging.⁴³

³⁹ In 2012 the average retirement age was 64.6 years, see Government Inquiry Report SOU 2013:25, 123 f.

⁴⁰ See Government Inquiry Report Ds 2013:35, 17. – Added to this are private pension insurances.

⁴¹ See the (2010:110) Social Security Code, see also T. Erhag, ‘Changing Normative Patterns in Statutory Old-Age Pensions: Reflections on the Development Due to Pension Reform and EU Citizenship’, In: A. Numhauser-Henning and M. Rönmmar (eds), *Normative Patterns and the Legal Development in the Social Dimension of the EU* (Hart Publishing, Oxford 2013).

⁴² See Government Inquiry Report SOU 2013:25.

⁴³ Cf. A. Numhauser-Henning, ‘Labour Law in a Greying Labour Market – in Need of a Reconceptualisation of Work and Pension Norms. The Position of Older Workers in Labour Law’, *European Labour Law Journal*, 2013(2).

2.2. Younger and older workers in the Swedish labour market and policy debates

The Swedish labour market is characterised by high employment rates and high employment continuity over the life course.⁴⁴ The employment rate in Sweden in 2013 for the age group 20–64 reached 79.8 percent. In 2013 the employment rate of older workers in the age group 55–64 was 73.6 percent.⁴⁵ About 15 to 17 percent of all employees in Sweden have a fixed-term employment contract, and this figure has been relatively stable for several years. The corresponding rate for younger workers in the age group 20–24 is 50 percent and for older workers in the age group 65–74 it is also 50 percent.⁴⁶ The part-time employment rate (part-time employment as a percentage of total employment) in Sweden in recent years has been about 24 to 25 percent. Temporary agency workers account for about 1.5 percent of all employees in Sweden.

The average unemployment rate in 2014 is about 7 percent. The youth unemployment rate (15–24 years) in Sweden in recent years has been about 24 percent. However, this way of measuring youth unemployment is debated in Sweden (for example, the way in which it includes students).⁴⁷ Another frequently used and valuable measurement of social exclusion and labour market disengagement of younger workers is the NEET rate, i.e. the share of young people aged 15–24 years not in employment, education or training. In Sweden the NEET rate is about 8 percent.

Sweden has a strong tradition of active labour market policies for all workers, including younger and older workers. There are a number of labour market initiatives specifically targeted at combating youth unemployment and increasing the labour market inclusion of younger workers. Changes have been made in the education system aimed at reducing the number of early school-leavers and enabling a transition from school to work. The job guarantee for young people is an ‘umbrella programme’ targeting young people aged 16–24 who have been made unemployed and who have registered with the Swedish Public Employment Service, *Arbetsförmedlingen*, for a total of three months over a four-month period. The programme entails intensified support, study and career guidance and job-seeking activities etc. Employers are also offered financial incentives. The social-security contributions are halved if an employer employs a person under the age of 26 year (regardless of whether or not that young person has been unemployed), and in the new-start jobs programme, companies that hire long-term unemployed younger workers receive tax subsidies.⁴⁸ VAT for restaurants has been halved.⁴⁹ In October 2014 the new social

⁴⁴ D. Anxo, ‘Towards an Active and Integrated Life Course Policy: the Swedish Experience’, In: D. Anxo, G. Bosch and J. Rubery (eds), *The Welfare State and Life Transitions: a European Perspective* (Cheltenham 2010), 113.

⁴⁵ See Eurostat, Labour Force Survey. Cf. also P. Záková, ‘Sun spots on the Swedish labour market?’, *EC Fin Country Focus*, May 2013.

⁴⁶ Among younger workers in the age group 15–19, 80 percent had a fixed term employment in 2013. See J. Julén Votinius, ‘Age Discrimination and Labour Law in Sweden’, In: A. Numhauser-Henning and M. Rönmar (eds), *Age Discrimination and Labour Law. Comparative and Conceptual Perspectives in the EU and Beyond* (Kluwer Law International, Alphen aan den Rijn forthcoming 2015).

⁴⁷ Cf., for example, E. Oscarsson, *Ungdomsarbetslöshet – Mått, orsaker och politik* (SACO, Stockholm 2013).

⁴⁸ The new start-jobs programme also covers other persons who have been outside the labour market for a long time, and newly arrived immigrants.

democratic-green government commissioned *Arbetsförmedlingen* to prepare the successive introduction of a 90-day youth guarantee, entailing a limit for how long a young person may be unemployed before he or she is offered a job, a measure that will result in a job, or an education.⁵⁰ The emphasis on introduction agreements – as shown in one of the case studies in this report (Section 3.2.) – together with the economic subsidy for employments resulting from these agreements is another initiative aimed at younger workers. However, in the wake of the economic crisis, Sweden has not – as have some other EU Member States – introduced specific labour law reforms aimed at combating youth unemployment through the ‘levelling-down’ of employment rights for younger workers.⁵¹

The interviewed social partners and labour market actors were asked to describe the labour market situation of younger and older workers, and to point to important problems and issues in this regard. As regards younger workers, basically all interviewees pointed to the problematic situation of high youth unemployment (several also pointed to the difficulty of measuring youth unemployment), and younger workers’ difficulties in entering the labour market and establishing themselves there more firmly.⁵² Many were concerned about young persons who lack necessary, relevant education. Several trade unions pointed to the lower trade unionisation rate among younger workers as an important problem that they were trying to address.⁵³

As regards older workers, many interviewees pointed to the need for active ageing and to prolong working life. However, their answers highlighted that the situation differs between different sectors and between blue-collar and white-collar employees. In some sectors – such as the industry sector and the municipal and regional sector (for example, as regards health and elder care) – trade unions and employers’ organisations emphasised the difficulty, especially for blue-collar employees, to continue working until ‘normal’ retirement age. In this context the interviewees pointed to examples such as heavy, strenuous and stressful work tasks and increased demands for productivity. As a result, employees retire early (with low pensions), reduce their working time, or go on sick leave (however, according to *Teknikföretagen* the actual retirement age in the industry sector has increased in recent years, from 58 to 61 years). At the same time, several interviewees (such as *Svenskt Näringsliv* and *TRR Trygghetsrådet*) also emphasised that

⁴⁹ See, for example, Regeringskansliet, *Insatser på arbetsmarknaden för unga* (Stockholm), *Sweden’s national reform programme 2014. Europe 2020 – the EU’s strategy for smart, sustainable and inclusive growth*, and J. Julén Votinius, ‘Age Discrimination and Labour Law in Sweden’, In: A. Numhauser-Henning and M. Rönningmar (eds), *Age Discrimination and Labour Law. Comparative and Conceptual Perspectives in the EU and Beyond* (Kluwer Law International, Alphen aan den Rijn forthcoming 2015).

⁵⁰ See Government decision A/2014/3636/A *Uppdrag att förbereda genomförandet av en 90-dagarsgaranti för ungdomar*.

⁵¹ See further J. Julén Votinius, ‘Young Employees – Securities, Risk Distribution and Fundamental Social Rights’, *European Labour Law Journal*, Vol. 5, 2014, No. 3–4, 387–410.

⁵² The white-collar trade unions *TCO* and *Unionen* highlighted that they had few members in the age group 15–24, and that younger workers in their sectors were instead between 25 and 35 years old, and had entered the labour market after having completed university studies.

⁵³ *Unionen* reported that they had succeeded in breaking the trend, and were recruiting younger workers to a greater extent; however, older workers are still over-represented in their different decision-making bodies etc.

older workers are more attractive at the labour market today than before. Even if it is somewhat harder for older workers than for younger workers to get a new job after redundancy, older workers today manage transitions rather successfully, and the age when it becomes difficult to get a new job is rising.

A common key theme in the interviews was the central role played by competence, qualifications and education, and the urgent need to secure future competence provision. This forms an important background to the introduction agreements (Section 3.2.). *Teknikföretagen* and *IF Metall* in the industry sector emphasised the lack of education and qualifications of young workers, and *SKL* and *Kommunal* in the municipal and regional sector pointed to the demographic situation in the public sector, with many employees soon retiring, and the resulting need to recruit new staff.

Contentious issues in the general policy debates in Sweden in relation to the labour market situation of younger and older workers include youth unemployment, youth wages, the scope for flexible employment contracts and the strength of employment protection, and implications of seniority rules and the last-in-first-out-principle in redundancy dismissals. The interviews highlighted the same issues.

The private employers' organisations *Svenskt Näringsliv* and *Teknikföretagen* strive for lower entry wages for younger workers in order to enable them to enter the labour market. *Teknikföretagen* held that since there is little difference between the entry wage and the wage one can expect after a certain time in the profession, employers are more prone to choosing persons with documented experience. The blue-collar trade unions *LO*, *IF Metall* and *Kommunal* opposed lower entry wages, and emphasised the long-standing principles of equal pay for work of equal value and that wages are set according to the work tasks (and irrespective of the age of the worker). They also maintained that lower wages would not create jobs. The political parties, the Centre Party and the Liberal Party, have proposed the introduction of lower entry wages for younger workers as a way to combat youth unemployment. These proposals were opposed not only by the trade unions, but also by the Director General of the National Mediation Office, on the basis that they would interfere with autonomous collective bargaining and the prerogatives of the social partners to set wages and conditions of employment.

Younger workers are over-represented when it comes to fixed-term work. The trade unions, such as *LO* and *Kommunal*, emphasised that this is a big problem, and that younger workers are 'caught' in flexible forms of work, such as fixed-term work, part-time work and temporary agency work (and *TCO* made a complaint to the European Commission, which resulted in the reasoned opinions in relation to the Swedish implementation of the (1999/70/EC) Fixed-Term Work Directive). This creates insecurity, results in low income and makes it difficult for younger workers to establish themselves in the labour market, start families, acquire appropriate housing etc. The employers' organisation *SKL* declared that they did not entirely share *Kommunal's* view of the situation of fixed-term employment and part-time employment in their sector, and emphasised that it is important to take the age structure into account when evaluating the

statistics. In the age group 16–24 many are fixed-term employees, and study at the same time. In the age group 63+ many have retired, and the fixed-term employment with wages per hour is not the main source of income. *SKL* also pointed to the way in which they and *Kommunal* in their sector had handled the problem of successive fixed-term employment contracts by concluding a collective agreement with a solution that is more favourable for employees, and especially for younger workers who are in the beginning of their careers, than the solution contained in the (1982:80) Employment Protection Act. The provision provides for a quicker transformation of the fixed-term employment contract into a permanent employment contract (after more than three years in temporary substitute employment or general fixed-term employment within a five-year period).

In general, *Svenskt Näringsliv* and *Teknikföretagen* emphasised the problems caused by the employment protection regulation, by way of, for example, insider-outsider problems and lock-in effects, and advocated a reform of the (1982:80) Employment Protection Act. They argued that the construction and content of the Act provides an advantage for older workers, and that, for example, the seniority rules do not make it easier for younger workers to enter the labour market. According to *Teknikföretagen* many small companies find it difficult to evaluate the risks of an incorrect recruitment (in terms of, for example, costs and the content and length of the dismissal procedure). This results in employers requiring higher qualifications than necessary in a recruitment situation. This disadvantages younger workers, immigrants and blue-collar workers in a transition situation (as it is difficult for them to document their experience). The trade unions were generally in favour of the existing employment protection regulation. According to *TCO* it is difficult to prove the claim that employment protection and seniority rules favour older workers at the expense of younger workers. Other trade unions agreed that the construction and content of the employment protection may in part favour older workers. According to *Unionen's* analysis, it would be easier for younger persons to enter the labour market if the employment protection regulation was removed, but at the same time many older workers would be removed from the labour market and would not be able to re-enter. *IF Metall* and *Kommunal* pointed to a general acceptance among their members of the seniority rules, and to perceptions that it is fair that a person who is older and has worked longer get to stay, as he or she may find it more difficult to get another job (see further Section 3.4., where the seniority rules and their close links to the transition agreements are explored further).

Perhaps surprisingly, the age-discriminatory character of the seniority rules has not been the subject of much debate in Sweden (and only a couple of the interviewees highlighted this aspect). Instead the discussion has revolved around the need for protection against arbitrary dismissals, the need for increased labour market flexibilisation and a right for employers to choose which employees to maintain in a redundancy situation, based on the needs of the business and the qualifications of the employee, and the above-mentioned links between the seniority rules and youth unemployment and the inclusion of younger workers and their entry into the labour market.

3. Intergenerational Bargaining – Three Case Studies

3.1. Introduction

Swedish labour law, industrial relations and collective bargaining lack a clear intergenerational perspective, as well as an articulated debate on intergenerational conflict or solidarity. The interests of younger and older workers, and the labour market inclusion of these groups, are to a large degree dealt with separately and in parallel. The strategies to combat youth unemployment and to promote active ageing and a prolonged working life for older workers, respectively, are largely seen as separate, equally important and non-conflicting strategies. The interviews with the social partners and labour market actors confirm these conclusions.

Generally, labour law and collective bargaining in Sweden have a uniform scope. However, some age-related regulation exists (such as mandatory retirement and seniority-based benefits and working conditions). Employment protection and the seniority rules are seen by some as affording necessary protection for older workers, while others view them as barriers for the entry of younger workers into the labour market.

The dominant Swedish public-policy stance towards the position of older workers in working life – and intergenerational redistribution of employment – is reflected in the following quotes from the recent Government Inquiry Report on the pensionable age:

‘Many people still consider that early retirement, or by 65 at the latest, increases welfare. These values are largely based on old ideas and myths. The belief is that older people become healthier, happier and live longer if they stop working early. There is also, even among otherwise educated people, a widespread and fixed belief that older people should give way to young people in the labour force, in order, among other things, to reduce youth unemployment. The Commission’s analyses and the reports on which it bases its findings indicate that studies that are designed to seek to establish causal relationships do not provide any clear support to show that early retirement on average improves health, reduces mortality or increases the quality of life for older people. Nor do economic theory or empirical studies provide any support to show that people who continue to work crowd out younger people from the labour market. ... Early retirement can be regarded as a historical remnant that entails a waste of human capital. It is out of keeping with the times for well-educated and healthy people in their sixties to permanently leave the labour market with a public pension, occupational pension or retirement pension’.⁵⁴

Many of the interviewees – both trade unions and employers’ organisations – emphasise that there is not a given or constant amount of work or jobs that should be shared. The economy and the labour market are more dynamic, and an increased demand for goods and services results in an increased demand for work. The idea that older workers (for example, through early

⁵⁴ See English summary to Government Inquiry Report SOU 2013:25.

retirement) should make room for younger workers is alien to the Swedish context. The interviews confirm that in Sweden, the perspective of intergenerational conflict or solidarity is not clearly in focus. The discussion is more complex, and revolves around issues such as: what is needed to enable younger workers to enter and establish themselves in the labour market?; what is needed in order to prevent older workers from retiring early or going on sick leave?; and, what is needed in order to get older workers to work until the ‘normal’ retirement age of 65, and beyond?

Given the lack of direct intergenerational bargaining in the Swedish context, it has not been possible to select only those case studies which display a direct and central intergenerational element. Instead I have chosen to include collective agreements that address the interests and situation of younger workers, *the introduction agreements*, and older workers, *the collective agreements on partial retirement*. I have also chosen to include *the transition agreements*, since they are central to labour market restructuring and company reorganisation, and fundamentally linked to employment protection and redundancy, when the interests and inclusion or exclusion of younger and older workers may be competing. In addition, all three types of collective agreements are recently concluded or subject of renegotiations, and topical and debated. Within each type of collective agreement, I have chosen to study one or a few collective agreements more closely (see further Sections 3.2 to 3.4). The collective agreements chosen cover both the private and public sector of the labour market and blue-collar and white-collar/professional employees.

The analysis of the collective agreements as such is complemented by interviews with social partners and other labour market actors, to gain further insights into the context, goals, content and implementation of the collective agreements and the views and strategies of the trade unions and employers’ organisations. The choice of case studies and collective agreements has guided the choice of interviewees. Eleven interviews were conducted, all with key representatives and spokespersons in the respective organisations, such as chief legal advisors, chief negotiators or senior labour market analysts (see Section 5.4 for a more detailed description). Four interviews were conducted with blue-collar trade unions (with Lasse Thörn and Claes-Mikael Jonsson (separately) at *LO*/the Swedish Trade Union Confederation; with Veli-Pekka Säikkälä at *IF Metall*; and with Johan Ingelskog at *Kommunal*/the Swedish Municipal Workers’ Union). Three interviews were conducted with white-collar/professional employees’ trade unions (with Samuel Engblom at *TCO*/the Swedish Confederation for Professional Employees; with Martin Wästfelt at *Unionen*; and with Camilla Frankelius at *Sveriges Ingenjörer*/the Swedish Association of Graduate Engineers). Two interviews were conducted with employers’ organisations in the private sector (with Patrik Karlsson and Sverker Rudeberg (together) at *Svenskt Näringsliv*/the Confederation of Swedish Enterprise; and with Anders Weihe at *Teknikföretagen (Teknikarbetsgivarna)*). One interview was conducted with an employers’ organisation in the public sector (with Sophie Thörne at *Sveriges Kommuner och Landsting (SKL)*/Swedish Association of Local Authorities and Regions (SALAR)). One interview was conducted with a

transition foundation, established by the social partners by way of collective agreement (with Lennart Alfredsson at *TRR Trygghetsrådet*).

The interviews were semi-structured. In this way the participants could respond to the questions in their own way and the interviewer could seek clarification and further elaboration of the answers. The questions were sent to the interviewees in advance, together with some brief background information about the project and its aim and conceptual framework. The answers were compiled and provided to all interviewees, and any requested corrections, clarifications and additions have been made.

3.2. Case study: Introduction agreements for younger workers

In recent years a number of national sectoral collective agreements, so-called *introduction agreements* for younger workers (*yrkesintroduktionsavtal*), have been concluded in Sweden, and have attracted a lot of attention. Youth unemployment and labour market inclusion of younger workers form one background, and the introduction agreements regulate employments for younger workers, combining work with education, training and supervision.⁵⁵ In 2010 *Teknikföretagen* and *IF Metall* concluded a ‘pioneer’ introduction agreement, *Avtal om yrkesintroduktion*, and introduction agreements have since been concluded, for example, in the health-care and care area in the municipal and regional sector, the retail sector, and the wood and graphical sector.⁵⁶

In 2012 the government started negotiations with the social partners on a tripartite job pact, aimed at tackling youth unemployment. One of the aims was to provide young persons with employment through introduction agreements, partly financed by the state. *Svenskt Näringsliv* later withdrew from the negotiations, but negotiations on further introduction agreements continued at national sectoral level between the social partners. In 2013 the government presented a number of proposals emanating from these and other tripartite consultations, aimed at improving the functioning of the labour market and creating higher employment and lower unemployment through action in three areas: introduction agreements, transition and employability, and short-term working arrangements in times of severe economic crisis.⁵⁷

⁵⁵ However, already prior to these agreements, a number of collective agreements have regulated employments, linked to introduction, education and apprenticeships, for example in sectors such as building and painting, see National Mediation Office, *Avtalsrörelsen och lönebildningen 2013. Medlingsinstitutets årsrapport* (National Mediation Office, Stockholm 2014), 149 ff. Cf. also Olofsson on the apprenticeship system in Sweden in a comparative European perspective, see J. Olofsson, *Läringsutbildning. Svenska erfarenheter och initiativ i ett europeiskt perspektiv*, SIEPS 2014:4 (SIEPS, Stockholm 2014).

⁵⁶ See Arbetsförmedlingen, *Åtterrapporering 2014, Yrkesintroduktionsanställningar, 1 augusti 2014* (Stockholm, 2014), cf. also Regeringen, *Yrkesintroduktionsanställningar – en ny väg till jobb för unga*, 2014 (<http://www.regeringen.se/sb/d/17361/a/223949>).

⁵⁷ See Government Inquiry Report Ds 2013:20.

In January 2014 a government regulation (2013:1157) on a government scheme to support and subsidise introduction employments for younger workers entered into force. The government scheme has been authorised by the European Commission under EU state aid rules.⁵⁸ According to the scheme, an employer who hires a young person within the framework of a collectively bargained introduction agreement⁵⁹ can be awarded financial support corresponding to ordinary employers' social-security contributions and a monthly supervisor grant.⁶⁰ The government has also granted financial support to social partners in different sectors for information campaigns, aimed at promoting the knowledge and use of the agreements. The government has announced that they foresee that up to 30 000 people per year could benefit from introduction employments when the system is fully set up.

The outcome of the support scheme is to be evaluated jointly by four government authorities, tasked to report in mid-2016.⁶¹ In August 2014 *Arbetsförmedlingen* delivered its first follow-up-report on the scheme. The number of applications has increased continuously. During the period between 15 January and 30 June 2014, 188 applications for financial support had been processed, with 153 applications granted and 35 denied (mostly because a collective agreement was lacking).⁶² Fifty-two percent of the employees, in relation to whom financial support was provided, had been registered with *Arbetsförmedlingen*. According to *Arbetsförmedlingen* the relatively low number of applications could be explained *inter alia* by a lack of knowledge among employers about the financial support, and stricter requirements in some introduction agreements about the employees' age and previous education than in the government scheme and corresponding regulation.⁶³

This case study contains a closer study and discussion of the 'pioneer' introduction agreement, *Avtal om yrkesintroduktion*, concluded by *Teknikarbetsgivarna* and *IF Metall* in the industry sector, and two introduction agreements, *Överenskommelse om Bestämmelser för arbetstagare i*

⁵⁸ According to the European Commission the measure will contribute to the fight against youth unemployment, in line with EU objectives, without unduly distorting competition in the Single Market, see decision C(2013)4053 final.

⁵⁹ Including employers bound by application agreements.

⁶⁰ The employments must contain education, amounting to at least 15 percent, and the employees must be between 15 and 24 years and lack relevant professional experience or be unemployed and registered with *Arbetsförmedlingen*. The financial support will be awarded for the duration of the employment, but not longer than 12 months, and the employer and employee must agree on an individual educational plan. *Arbetsförmedlingen* makes decisions on financial support.

⁶¹ The evaluation assignment has been given to *Statskontoret* (Swedish Agency for Public Management); *Konjunkturinstitutet* (National Institute of Economic Research); *Konkurrensverket* (Swedish Competition Authority); and *Institutet för arbetsmarknads- och utbildningspolitisk utvärdering* (Institute for Evaluation of Labour Market and Education Policy), Government decisions A2014/558/A, A2014/559/A, A2014/560/A and A2014/561/A.

⁶² See *Arbetsförmedlingen, Åtterrapporering 2014, Yrkesintroduktionsanställningar, 1 augusti 2014* (Stockholm, 2014). Of these 153 decisions, 37 regarded women and 116 regarded men. Most applications related to male-dominated sectors of the Swedish labour market. Forty-three of the granted applications related to the introduction agreement concluded between SKL and *Kommunal BAL 13*, and 30 to the introduction agreement concluded between *Teknikarbetsgivarna* and *IF Metall*.

⁶³ Internally, *Arbetsförmedlingen* continues to educate its staff to increase the information about these employments and incorporate the procedure for the financial support into the ordinary work of the authority.

arbetslivsintroduktionsanställning – BAL 13 and Överenskommelse om Bestämmelser för arbetstagare i utbildnings- och introduktionsanställning – BUI 13, concluded by *SKL*⁶⁴ and *Kommunal* in the health-care and care area in the municipal and regional sector.

The introduction agreement concluded by *Teknikarbetsgivarna* and *IF Metall* declares initially that the industry is facing a large generational renewal in the upcoming years, which increases the need for new employees. Today, work entails greater requirements on theoretical education and qualified professional experience. Recruitment measures are therefore vital to secure the future long-term competence provision of the industry. The aim of the introduction agreement is to stimulate companies in the industry sector to offer specific introduction employments to younger people in order to enable them to work and develop in their professional life in the Swedish labour market.⁶⁵ Introduction employments are aimed at younger persons under the age of 25 who lack relevant professional experience.⁶⁶ The introduction employment contract is a fixed-term employment contract, which may last for 12 months, with a possibility for an extension of up to 12 months.

With the support of a local collective agreement, an introduction employment contract can be concluded between an employer and an employee, and this can be done irrespective of previous employees' priority rights to re-employment.⁶⁷ Every introduction employment shall be combined with supervision and an individual educational plan regarding work tasks and educational and introductory elements. The employer and the employee are free to terminate the introduction employment contract with one month's notice. If there is no termination, the introduction employment contract is transformed into a permanent employment contract.⁶⁸ A monthly wage is applied, and constitutes at least 75 percent of the minimum wage specified in the *Teknikavtalet IF Metall* collective agreement.⁶⁹

A common theme in the interviews – which is particularly articulated by *Teknikföretagen* and *IF Metall*, the contracting parties to this agreement – was that the introduction agreements in general are not labour market measures that can be expected to quickly grow into large volumes (contrary to the declarations of the government). The introduction agreements are only one way of combating youth unemployment and promoting younger workers' entry into the labour market. Another important aim of the agreements is to ensure provision of current and future competence (for example, by remedying the lack of educated younger workers and improving the transition from education to working life). The competence provision is not only a common interest of the social partners, but a shared responsibility. According to *TCO*, the development in this area is an example of how the political system can misunderstand the collective bargaining system and the

⁶⁴ And Arbetsgivarförbundet Pacta.

⁶⁵ § 1 Avtalets syfte.

⁶⁶ § 2 Tillämpningsområdet.

⁶⁷ According to the (1982:80) Employment Protection Act.

⁶⁸ § 3 Anställning för yrkesintroduktion.

⁶⁹ § 4 Lön.

social partners. The introduction agreements are about securing the future core group of employees and building up competence. The government scheme with financial contributions is instead sometimes described as a 'quick fix' for youth unemployment.

Several interviewees emphasised that it is a great advantage that the education of younger workers within the framework of the introduction agreements can be adapted and company-specific. *Svenskt Näringsliv* and *Teknikföretagen* promote the principle of equal treatment and criticised the fact that the government scheme requires that the employer is bound by collective agreement. In contrast, *LO* and *IF Metall* emphasised the need and value of collectively bargained terms and conditions of employment. *Teknikföretagen* pointed to the success of the apprenticeship system in Germany, and that the introduction agreement was an attempt to create something similar. However, it is problematic that many of the institutions that are in place in Germany, such as local chambers of commerce, are lacking in Sweden. The Swedish wages within the introduction agreement are also much higher than the corresponding compensation within the German system. *IF Metall* emphasised that they did not want to conclude an agreement on lower wages for young workers. According to them, the difficult question in the industry sector is not the level of wages, but the competence provision. *Teknikföretagen*, *LO* and *IF Metall* all expressed clear concern about and criticism against *Arbetsförmedlingen*, in connection with the introduction agreements and the government scheme on financial contributions and in general. *LO* found *Arbetsförmedlingen*'s inexperience with this kind of measure problematic, and reported that they had received signals that a significant portion of *Arbetsförmedlingen*'s discussions with employers revolved around the financial compensation, which is not the aim or focus of the introduction agreements. In addition, *Teknikföretagen* said that they had received signals from some member companies that they associate the introduction employments with *Arbetsförmedlingen*, which is problematic because *Arbetsförmedlingen* has a less than satisfactory reputation with many companies.

The social partners involved in this introduction agreement agreed that there were no direct intergenerational elements in the aim or content of the agreement. However, they could identify indirect intergenerational implications of the introduction agreement linked to generational renewal, competence provision, and supervision, training and education. They pointed to the fact that supervision and education are likely to be provided by experienced – often older – workers, who will transfer their knowledge and experience to the younger workers. *Teknikföretagen* reported that since companies are under hard pressure, with lean organisations and just-in-time production, some companies were concerned about 'apprenticeship solutions' such as these causing productivity problems. *LO* emphasised that an important part of these agreements is that older workers can act as supervisors. Apart from the crucial transfer of knowledge and experience, it can help older workers to stay in the job and in working life longer. If they are supervisors they might not need to reduce their working time, be on sick leave, or retire early.

As regards future development, *Svenskt Näringsliv* pointed to the risk of future competition between introduction employments and different labour market measures (that might be

economically subsidised to a larger extent). It is too early, though, to know which factors will enable or limit the growth and expansion of the system with introduction agreements. *LO* emphasised that the system is not finished, and that there is room for development and improvement within the introduction agreements, for example as regards the structure, content, educational elements and organisation.

SKL and *Kommunal* have concluded two different introduction agreements, aimed at partly different groups of workers, BUI13 and BAL13.⁷⁰ BUI13, *Överenskommelse om Bestämmelser för arbetstagare i utbildnings- och introduktionsanställning*, initially declares that the agreement is aimed at providing specific educational and introduction employments to persons who have completed a (secondary) education in health-care and care and who lack relevant professional experience, to enable them to develop their skills and work and develop their careers in the Swedish labour market. Thus, introduction employments according to this agreement are not reserved for younger workers. The aim of the introduction employment is that it, after 12 months, will result in a permanent employment with the employer offering the introduction. An introduction employment shall be combined with educational and introductory elements, supervision and an introduction plan. Of the total working time, a maximum of 75 percent may be used for the work tasks that follow from the employment contract. Introduction employment contracts can be concluded irrespective of previous employees' priority rights to re-employment.⁷¹ The employee shall be in probationary employment for a maximum period of 12 months. The probationary employment contract can be freely terminated with one month's notice. If there is no termination, the probationary introduction employment contract is transformed into a permanent employment contract.⁷² A monthly wage is applied, and constitutes 75 percent of the relevant minimum wage.⁷³

BAL13, *Överenskommelse om Bestämmelser för arbetstagare i arbetslivsintroduktionsanställning* initially declares that the agreement is aimed at providing work-life introduction employments in the health-care and care sector to persons between 19 and 25 years – since autumn 2014 the upper age limit has been removed⁷⁴ – who are unemployed and need a work-life introduction to enter the labour market. An introduction employment shall be combined with educational and introductory elements, supervision and an introduction plan. Of the total working time, a maximum of 75 percent may be used for the work tasks that follow from the employment contract. Introduction employment contracts can be concluded irrespective of

⁷⁰ In the introduction agreements, *SKL* and *Kommunal* recommend their members, i.e. employers (such as regions and municipalities) and trade unions to conclude local collective agreements with the same content as BUI 13 and BAL13.

⁷¹ § 1 Inledande bestämmelser.

⁷² § 6 Anställningsform, upphörande m.m.

⁷³ § 15 Löneform.

⁷⁴ On the condition that the introduction agreement has been implemented and there are actual possibilities to offer adequate introduction, professional and/or language education, cf. the interviews with the representatives of *SKL* and *Kommunal* and See National Mediation Office, *Avtalsrörelsen och lönebildningen 2013. Medlingsinstitutets årsrapport* (National Mediation Office, Stockholm 2014).

previous employees' priority rights to re-employment.⁷⁵ The employee is employed on a fixed-term employment contract for a period of 12 months. The introduction employment contract can be freely terminated with one month's notice.⁷⁶ In contrast to BUI13, there is no automatic transformation into a permanent employment contract. A monthly wage is applied, and constitutes 75 percent of the minimum wage for employees above the age of 19.⁷⁷

The initiative to conclude these introduction agreements came from *Kommunal*, and met with *SKL*'s approval. The government and the developments in other sectors also served as encouragement for the conclusion of the agreements. BUI13 and BAL13 serve partly different aims, and have different target groups. In the interviews both *SKL* and *Kommunal* stressed that the future competence provision is the key question. *SKL* pointed to the fact that the number of jobs with high competence requirements is increasing, and that it is an important societal question to find jobs for the persons who lack education. The municipal and regional sector is a large part of the Swedish labour market, and should play an active role in this context. *Kommunal* emphasised the need to increase the attractiveness of the professions within the health-care and care sector. *SKL* underlined that almost everyone who completes a secondary education in the health care sector is employed. BUI13 creates a good start in working life with supervision and educational elements for those who lack relevant professional experience and are new in the labour market or new in the sector. Instead of a number of short-term fixed-term employment contracts, they are offered a good introduction, combining work and education. *Kommunal* highlighted the way in which the employees are made employable and receive a secure permanent employment contract as soon as possible. Both *SKL* and *Kommunal* underlined that, in contrast, BAL13 is aimed at all persons outside of the labour market, not only younger persons, and at providing persons with a first working-life experience, whereafter they can educate themselves further or apply for other jobs. An aim is also to get more people interested in health-care professions. *Kommunal* held that there might be a certain intergenerational tension in the practical application of the introduction agreements, since the introduction employments may be offered irrespective of the priority right to re-employment of former employees. Older workers with such priority rights may therefore be 'side-stepped'. At the central trade union level, this is not seen as a problem (because it relates only to relatively few persons), but it has caused some debate and conflict at local level. *Kommunal* aims to follow the development closely. The government scheme with financial contributions has not been particularly important, but according to *Kommunal*, it can serve as an incentive for employers to join the system.

⁷⁵ § 1 Inledning.

⁷⁶ § 6 Anställningsform, upphörande m.m.

⁷⁷ § 15 Löneform.

3.3. Case study: Collective agreements on partial retirement for older workers

In the Swedish labour market, several collective agreements, for both blue-collar and white-collar employees, offer possibilities for employees to apply for partial retirement from the age of 60 or 62.⁷⁸ This case study contains a closer study and discussion of provisions on partial retirement for older workers, recently included in collective agreements in the industry sector, *Teknikavtalen*, between *Teknikarbetsgivarna* and the blue-collar trade union *IF Metall* and the white-collar and professional employees' trade unions *Unionen/Sveriges Ingenjörer*, respectively.

According to *Teknikavtalet IF Metall* employees can apply for a right to partial retirement from the age of 60 years. If partial retirement is granted, the employment contract is transformed into a part-time employment contract. The employee shall submit a written application about partial retirement six months before the partial retirement is meant to enter into force. Not later than two months after the employer receives the application, he or she shall inform the employee and the local trade union whether the application is approved. The employer can deny the application for partial retirement if, from an objective perspective, the partial retirement in question could cause a considerable disturbance in the business or activity.⁷⁹ In the contracting parties' Common Commentary to these provisions they clarify that their starting point is that employees in the future must work longer and to a higher age than today. For many employees this will result in pressures that make it necessary to work somewhat less at the end of working life by decreasing the degree of activity from full-time to part-time. The aim of the provisions of partial retirement is thus to provide an opportunity for a longer working life and create fruitful conditions for generational renewal. The parties agree that these provisions do not entail an obligation for the employer to consider solutions, such as the conclusion of new part-time employment contracts or the engagement of temporary agency work, in order to realise partial retirement. The employer must consider the possibility to grant partial retirement in a serious and constructive way. The parties also agree that the demands that can be put on the employer in the context of partial retirement are clearly lower than in parental leave situations, for example. The demands are also clearly less than in situations related to the rehabilitation and accommodation of sick employees. The employer's assessment shall be made in a serious way and with good intentions, and from the starting point that it is in the interests of both parties that employees can continue their professional life in a way that benefits the business. It is possible that two employees apply for partial retirement at the same time. It might be difficult for the employer to recruit new employees to replace the employees who share an employment due to partial retirement. The fact that the employer experiences such difficulties, in relation to competences and qualifications etc., is no reason to deny the application of partial retirement. Instead, in such a situation it should be

⁷⁸ See National Mediation Office, *Avtalsrörelsen och lönebildningen 2013. Medlingsinstitutets årsrapport* (National Mediation Office, Stockholm 2014), 137.

⁷⁹ § 9 Mom. 8 Kollektivavtalad deltid i pensioneringssyfte. If the application has been denied and the employee wants to have the application tried in accordance with the negotiation procedure, the employee shall notify the local trade union, which shall ask for a local negotiation. The dispute shall then concern partial retirement with an activity rate of 50 percent, § 9 Mom. 8:3 Förhandling och tvist.

common for the employer to start a recruitment process with the aim of securing the relevant competence before the employee in question fully retires. In this context partial retirement can contribute to a smoother generational renewal.

The provisions on partial retirement in *Teknikavtalet Unionen/Sveriges Ingenjörer* are, in principle, the same. Employees covered by this agreement can apply for a right to partial retirement from the age of 60 years, and on the same conditions.⁸⁰ The contracting parties' Common Commentary to the provisions is also basically the same. If several employees apply for partial retirement at the same time, the need to recruit personnel for a new full-time position does not in itself constitute a considerable disturbance in the business or activity.

According to *Svenskt Näringsliv*, these provisions for partial retirement were a demand from the trade unions that the employers could support. In principle, they relate to increased contributions to pensions within the occupational pension scheme, with a possibility, under certain circumstances, to take partial retirement. The background to the agreements on partial retirement is to be found in the systems on working-time reduction, where a part of the growth and productivity increase has been taken out as working-time reduction. According to *Unionen*, partial retirement represents a sort of 'life course perspective' on working time. Some of the productivity increase can be used for partial retirement instead of wage increases. This system does not create intergenerational conflict. Everybody understands that it is good to save for one's future pension. The funds set aside can also be used for ordinary occupational pension benefits. The employers' organisations and trade unions involved in these agreements all agree that it will take a long time before adequate funds to finance partial retirement – fully or to a large degree – are built up. For example, *Svenskt Näringsliv* stressed that viewed from the perspective of the level of future pension benefits, it seems that for the foreseeable future many employees will make the assessment that they will need to use these funds as ordinary old-age pension from the age of 65. According to *Sveriges Ingenjörer*, the agreement on partial retirement, in principle, makes no distinction between older and younger workers. However, employees who are already older will not have time to save up as much money as employees who are younger.

Teknikföretagen emphasised that these provisions are about creating individual opportunities and security, which enables workers to stay longer in employment. According to *Teknikföretagen* the trade union argumentation is about the same on both the blue-collar and white-collar side (even if white-collar employees generally can work longer). Both *Teknikföretagen* and *Unionen* pointed to these agreements as examples of the autonomous collective bargaining system, and a successful way of regulating an issue before it is dealt with by legislation. There is great competence among older workers that the companies want to utilize for a longer time. *SKL* confirmed the employer interest in maintaining older workers in employment longer. However, the idea of partial retirement is somewhat controversial. Within *Svenskt Näringsliv*, four out of

⁸⁰ § 3 Mom. 4 Kollektivavtalad deltid i pensioneringssyfte. If the application has been denied and the employee wants to have the application tried in accordance with the negotiation procedure, the employee shall notify the local trade union, which shall ask for a local negotiation. The dispute shall then concern partial retirement with an activity rate of 80 percent, § 3 Mom. 4:3 Förhandling och tvist.

five main sectors have concluded similar agreements (i.e. industry, trade, transport and building), but the employers' organisation within the services sector, *Almega*, has refused to conclude agreements on partial retirement. *IF Metall* emphasised that their goal with this agreement on partial retirement is to enable employees to work longer instead of retiring early with a low pension. According to *IF Metall* it is also a question of generational renewal, where an older worker can stay on while a younger worker is offered employment and is trained on the job by an older worker.

There is no collectively agreed right to partial retirement in the municipal and regional sector. However, *SKL* clarified that the national sectoral agreement does not hinder such solutions, and that local collective agreements can be concluded or unilateral employer offers made. The issue of partial retirement has not been emphasised in the sector in recent years. *SKL* also stressed that it is important to make adjustments in the working situation and environment for older workers at the company, and at business level to secure competence provision. Partial retirement is one such solution, aimed also at generational renewal. *Kommunal* said that they were curious about the recent agreements concluded in the industry sector. Some of *Kommunal*'s members also work in areas and professions (such as elder care), where partial retirement could enable employees to continue working at least until 'normal' retirement age.

3.4. Case study: Transition agreements

Transition agreements (earlier often called employment security agreements, *trygghets- och omställningsavtal*) cover all sectors (private and public, blue-collar, white-collar and professional employees) and large parts of the labour market. They constitute a key feature of Swedish labour law and collective bargaining, and an important complement to the statutory employment protection regulation on redundancy dismissals – but also to the active labour market policies and the unemployment insurance. The first transition agreements were concluded in the 1970s.⁸¹ The transition agreements provide employees facing dismissal owing to reasons of redundancy different rights to severance pay and economic compensation and active transition support measures, by way of coaching, job-searching services, training and re-education etc.⁸² They also provide support for employers in re-organisations and redundancy situations. In an original legal and empirical study of these agreements, Sebardt concludes that most of the transition agreements have shifted focus towards the realisation of the individual's employability on the

⁸¹ See Sebardt for a historical account of the early agreements and the developments in this area, G. Sebardt, *Redundancy and the Swedish Model. Swedish Collective Agreements on Employment Security in a National and International Context* (Iustus förlag, Uppsala 2005).

⁸² Additional income insurances may follow from the membership in a trade union. This is, for example, the case with *Sveriges Ingenjörer*.

open labour market.⁸³ The transition agreements are administered by transition foundations, set up by the social partners and collective bargaining, and the severance pay and transition support are financed by the employers, often through an insurance and premium-based scheme.

This case study contains a closer study and discussion of the leading transition agreement between *Svenskt Näringsliv* (SN) and *PTK* (Council for Negotiation and Cooperation, a joint negotiation organisation of trade unions, representing private-sector white-collar and professional employees): *Omställningsavtalet*, covering private-sector and white-collar and professional employees. However, the transition agreement in the municipal and regional sector and the transition agreement between *Svenskt Näringsliv* and *LO* for private-sector blue-collar employees are also discussed.

The SN-PTK Transition agreement initially declares that the main idea of the agreement is that the company continuously sets aside economic funds to be used in connection with redundancy situations. Thereby the company's needs as regards the composition of the workforce as well as the dismissed employees' demands for economic compensation and assistance to get a new job can be accommodated in a redundancy situation. In a redundancy situation, this in turn implies an obligation for the parties involved to seek, at either party's request, to reach a local collective agreement on the selection of employees to be dismissed (*avtalsurlista*). The parties have a common responsibility to ensure that the remaining workforce enables the company to achieve productivity, profit and competitiveness.⁸⁴ The companies pay a fee to *TRR Trygghetsrådet* to cover their activities, severance pay (*avgångsersättningen*, *AGE*) and the transition support (*omställningsstödet*).⁸⁵

The aim of the Transition agreement is to mitigate the transition problems that occur both for employees and for companies in redundancy situations, due to reorganisation, restructuring, rationalisation and economic loss. The employees made redundant shall receive financial help during a transition period and help to find a new job. Companies facing redundancy shall be provided with staffing conditions that to the greatest extent possible enable their future activity.⁸⁶ Severance pay (*AGE*) is awarded to an employee if the employee has worked for a company connected to *Trygghetsrådet* and been dismissed for reasons of redundancy, is at least 40 years old, has been permanently employed for a continuous period of five years in the company⁸⁷ and

⁸³ See G. Sebardt, *Redundancy and the Swedish Model. Swedish Collective Agreements on Employment Security in a National and International Context* (Iustus förlag, Uppsala 2005), cf. Government Inquiry Report SOU 2002:59.

⁸⁴ § 4 in Överenskommelse om Omställningsavtal. Appendix A to Omställningsavtalet state that the parties in a redundancy situation shall assess the needs and demands of the company when it comes to staffing. If these needs cannot be met through an application of the (1982:80) Employment Protection Act, the parties shall agree on another selection of employees to be dismissed. This selection is to be made with specific consideration of the company's possibilities to conduct competitive business and thereby offer continued employment.

⁸⁵ § 7 in Överenskommelse om Omställningsavtal.

⁸⁶ § 1 in Omställningsavtal.

⁸⁷ If the employee has been dismissed for reasons of redundancy from another company connected to *Trygghetsrådet*, he or she is entitled to count periods of employment with the previous employer as well.

becomes unemployed when the employment relationship is terminated.⁸⁸ Transition support can be offered to an employee who has worked at least 16 hours per week for one year with one and the same company and who has been dismissed for reasons of redundancy by a company connected to *Trygghetsrådet*.

In 2011 *Svenskt Näringsliv* and *LO* presented a unique common report on the actual practical consequences of the seniority rules in the (1982:80) Employment Protection Act and collective agreements. The main difference between employers' organisations and trade unions as regards the seniority rules relates to the application of the seniority rules and the ways in which an employee's personal characteristics should be taken into consideration. The employers' organisations want greater emphasis to be put on the employee's personal characteristics, in order to be able to maintain the employees with the best competence and qualifications, while the trade unions want these qualities to be taken into consideration only to a very limited extent, in order to limit the scope for arbitrariness.⁸⁹ At about the same time, a similar common report presenting the actual practical consequences of the seniority rules was presented by *PTK* and *Svenskt Näringsliv*.⁹⁰ They have since started to renegotiate their transition agreement. *Svenskt Näringsliv*, for example, wants to set aside the statutory seniority rules and the last-in-first-out-principle, and link the selection of employees in redundancy situations entirely to the employee's competence and qualifications. *PTK* wants to broaden the scope of the agreement to include fixed-term employees and employees who have to leave their employment due to sickness or health problems, and to strengthen the right to education and competence development for all employees, also during an existing employment relationship.⁹¹ *PTK* has also emphasised that from their perspective, future seniority rules must still fulfil requirements of security, transparency and legal certainty.⁹² The renegotiations are currently at a standstill.

At first glance, the transition agreements appear to apply to all employees. However, the way in which the agreements (such as the SN-PTK Transition agreement) establish different qualification criteria related to a certain age or period of employment for the granting of severance pay and transition support, favours older workers and disfavors younger workers (and is potentially directly and indirectly age-discriminatory). In addition, younger workers are more often fixed-term employees, and suffer from being excluded from the scope of the transition agreements. These negative implications for younger workers are emphasised by several interviewees, and are at the centre of the re-negotiations. In the SN-PTK Transition agreement, the transition support has a broader and more inclusive scope than the severance pay (AGE). In

⁸⁸ §8 i Omställningsavtalet.

⁸⁹ See S. Rudeberg and J. Ingelskog, *Faktiska konsekvenser av turordningsreglerna i LAS och avtal – en rapport av Svenskt Näringsliv och LO*, 2011.

⁹⁰ See S. Rudeberg and H. Hedlund, *Faktiska konsekvenser av turordningsreglerna i LAS och avtal. En rapport av Svenskt Näringsliv och PTK*, 2011.

⁹¹ Cf. the TRS Transition agreement, which now also includes employees who have to leave their employment due to sickness.

⁹² See S. Rudeberg and H. Hedlund, *Faktiska konsekvenser av turordningsreglerna i LAS och avtal. En rapport av Svenskt Näringsliv och PTK*, 2011.

the interview, *Sveriges Ingenjörer* stressed that they would like to develop the SN-PTK Transition agreement so that it assists younger workers to a greater extent. According to *Unionen* there were certain issues that they had not yet been able to address properly, such as the fact that fixed-term employees are not covered by the scope of the Transition agreement. This causes a problem and challenges the model. Fixed-term employees are those who perhaps are in need of the most support.

At the same time, the way in which the SN-PTK Transition agreement in redundancy situations presupposes the conclusion of local collective agreements (*avtalssturlistor*), adapting or setting aside the statutory seniority rules based on length of employment and age only (with a requirement for sufficient qualifications), may favour younger workers in relation to older workers, compared to the application of the statutory employment protection regulation. The interviews reveal different opinions about the practical use of such local collective agreements and the interplay between the statutory employment protection and the Transition agreement. *TRR Trygghetsrådet* reported an increase in the use of such local collective agreements and in the termination of employment through agreements between the employer and the employee. According to *Svenskt Näringsliv*, rather large numbers of such local collective agreements are concluded as regards white-collar employees. However, in practice, *Svenskt Näringsliv* argued, the aim of the Transition agreement and its provisions and recommendations regarding the role and frequency of local collective agreements play a non-existent role for the trade unions' inclination to conclude these agreements. In order for that to happen the employer must pay (for example, by way of 'garden leave' notice periods or additional severance payments). *Sveriges Ingenjörer* stated that in redundancy situations they negotiate and conclude local collective agreements on the selection of employees, and that it is very rare that the statutory rules and the last-in-first-out-principle are applied. In this context they experience no specific problems of older or younger workers being particularly hard-hit. According to *Unionen* there has been an increased pressure to conclude such local collective agreements in recent decades. According to their experience, both in communications with their local trade union representatives and in the practical application of the Transition agreement, parties actually take a responsibility and review the employees' qualifications and competence and the companies' ability to function in the future. The employees who are affected by redundancy understand that the length of employment is not sufficient or something that one can rely on. However, *Unionen* also emphasised that the issue of what kind of responsibility the trade union should carry is a delicate and debated issue. At the same time, most people see that this approach serves its purpose, and that it probably is necessary given that restructuring and redundancies are more frequent. The non-discrimination legislation and ban on age discrimination is important and must be taken into account. *TCO* stressed that the way in which the application of the SN-PTK Transition agreement may favour younger workers is only an indirect intergenerational implication of the agreement. It is not discussed or motivated in terms of intergenerational bargaining or that the older workers shall make room for the younger workers. Instead it has to do with the employer's need to choose key personnel to ensure the future competitiveness of the company. *Svenskt Näringsliv* confirmed that

the Transition agreement did not originally, and still does not, contain a clear intergenerational dimension or focus on older or younger workers, respectively. Recently they have experienced that both older and younger white-collar employees are dismissed at the same time, since many large companies have a need to change their competence profile. When it comes to restructuring, redundancies and transitions, older and more experienced workers are often seen as more predictable. Thus, in a transition situation many companies choose to prioritise workers with at least some years of experience.

In relation to the current state of the re-negotiations of the Transition agreement, *Sveriges Ingenjörer* stated that the price to be paid for increased competence development, in terms of weakened employment protection and greater possibilities for the employer to choose which employees who should stay or go in a redundancy situation, seems too high. There is a risk that the employer would choose to dismiss employees who are sick and older and therefore do not perform as well as the others, and this is not positive for the trade union's members. *Unionen* said that they can accept weakened employment protection for the permanently employed, if in exchange the trade union can get continuous competence development during the employment relationship for all, and get fixed-term employees and people with sickness or health problems included in the transition agreement. *Unionen* aims to increase employability through competence development and wants to emphasise employability as the real security. *Unionen* stressed that they want to make some changes in the existing system, but not discard the whole system and remove 'the length of employment' component entirely, as the employers have suggested. *Unionen* also highlighted that the social partners must be able to regulate these issues if they want to protect and save the Swedish model of autonomous collective bargaining. *Teknikföretagen* emphasised that for employers, a good transition is necessary to gain acceptance for the adaptability to changing conditions and competence change, which is crucial for companies working under global competition.

In more general discussions of the employment protection regulation, a majority of the interviewees stress the current and future key role of competence – the individual employee's competence and the competence requirements of the company or business. In many instances, regardless of the seniority rules and the length of service, the individual's competence does determine how secure an employee really is. This line of reasoning is in agreement with the EU employment policies' emphasis on flexicurity and employability. The interviewees emphasise that younger workers may lack relevant education and experience, but at the same time that their education, competence and knowledge is fresh in comparison with that of older workers. This is also the background for *PTK*'s demands to strengthen the right to education and competence development within the Transition agreement and the existing employment relationship. Against this background, *Teknikföretagen* clarified that they promote a kind of 'single employment contract model', where the right to dismiss is more expansive (however, with a protection against discrimination) and where transition insurances and agreements are vital. Competence provision and transitions are central issues in industry, where the majority of newly recruited personnel have been made redundant in their earlier employment.

The transition agreement in the municipal and regional sector, *Överenskommelse om Omställningsavtal – KOM-KL*, initially declares that the active transition work shall support and help an employee in his or her transition to a new job and thereby complement public, active, labour market policy measures. The financial compensation provides the employee with economic security in this transition.⁹³ The employee's possibilities to find a new job shall increase through the active transition work. Such efforts are successful if unemployment can be avoided or ends as a result of a new job.⁹⁴ The transition agreement offers financial compensation⁹⁵ and active transition measures, and covers permanent employees with a continuous employment of at least one year and with at least a 40-percent activity rate, and who are dismissed for reasons of redundancy or who resign after agreement with the employer after having been included in a list of employees covered by redundancy.⁹⁶

In this transition agreement there is no express mention of local collective agreements on selection of the employees in redundancy situations, or requirements for the conclusion of such local agreements. The interviews confirm that such local collective agreements are rarely used. Instead the statutory seniority rules are employed. According to *SKL* and *Kommunal*, the length of service and the requirement for sufficient qualification are placed in focus, and sometimes become the subject of negotiation (there are also some local collective agreements on the scope of the redundancy unit). According to *SKL*, there is local employer frustration in the municipal sector about the length of the redundancy dismissal process. In redundancy situations offers of early retirement may be made to the oldest group of workers (above 63 or so) and is seen as a way of ending working life in an economically decent way and to spare the employees from having to be involved in a large reorganisation.⁹⁷ *Kommunal* clarified that the (1982:80) Employment Protection Act and the seniority rules are not challenged by the Transition agreement, and that they are very restrictive when it comes to local collective agreements on the selection of employees. The Transition agreement is important, but it is a problem that it does not cover fixed-term employees. *Kommunal* works hard to include these employees in one way or another.

The transition agreement concluded by *Svenskt Näringsliv* and *LO*, *Avtal om en avgiftsbestämd omställningsförsäkring (omställningsavtal)*, aims at mitigating the transitional problems that redundancies cause employees and companies. The employees shall receive financial compensation and support in finding a new job. The companies shall be offered appropriate

⁹³ § 1 Syfte.

⁹⁴ § 2 Målsättning.

⁹⁵ The financial compensation encompasses salary during time off from work (*särskild omställningsersättning och kompletterande omställningsersättning*), see §§ 9 ff. In the interview *SKL* highlighted that the municipality pays the financial compensation directly to the employee, while the transition support measures are financed through premiums paid by the employer, § 8, and administered by the transition foundation, *KOM-KL*.

⁹⁶ § 3 Tillämpningsområde.

⁹⁷ *IF Metall* also said that when faced with an actual redundancy situation, they try to negotiate early retirement for older workers (about 60 years old), so that they can afford to stop working. At the same time a younger worker then can stay.

staffing conditions to promote their future business and activity. According to the transition agreement, employees can be awarded severance pay and transition support measures. In the interview, *IF Metall* emphasised that the severance payment, which is paid from 40 years of age, is an extra protection for older workers when they are made redundant. An employee has a right to transition support measures when they have been permanently employed for at least a year. Since younger workers often have fixed-term employment contracts, these rules are not as favourable for them. The Transition agreement has been good and has helped *IF Metall*'s members to move to new jobs (the average time in unemployment is three months, and seven out of 10 employees have a new job within a year), but more can be done.

4. Concluding Analysis

This report aims to discuss and analyse intergenerational bargaining in Sweden. In this context intergenerational bargaining refers to the integration of policies and strategies for younger and older workers through collective bargaining and social dialogue. The focus is on three case studies about introduction agreements for younger workers, collective agreements on partial retirement for older workers, and transition agreements. The report also outlines the general framework for intergenerational bargaining in terms of labour law, industrial relations and collective bargaining, the pension system, the labour market situation of younger and older workers, and policy debates.

In Sweden, the strong emphasis on *collective bargaining and social partner autonomy* together with strong trade unions and employers' organisations (reflected *inter alia* in a high trade union organisation rate and collective bargaining coverage rate) create favourable basic conditions for intergenerational bargaining. Wages, terms and conditions of employment and other working-life issues are generally collectively bargained.

EU and Swedish law contain a *ban on age discrimination*, but also provide that differences of treatment on grounds of age do not constitute discrimination if they are objectively and reasonably justified by a legitimate aim, including legitimate employment policy, labour market and vocational training objectives, and if the means of achieving that aim are appropriate and necessary. In Sweden some age-related regulation does exist in legislation and collective bargaining, such as mandatory retirement, seniority rules in redundancy dismissals and seniority-based benefits and working conditions. – In general, the introduction agreements are also targeted at younger workers, while the collective agreements on partial retirement are targeted at older workers. The transition agreements regulate restructuring, redundancy and transition in general (but their scope and benefit coverage is often seniority-based). – This age-related regulation is linked to the traditional and legitimate role afforded to age in labour law and in the organisation of the labour market more generally. EU age-discrimination law (for example, through allowing social partners a broad margin of appreciation) in principle enables intergenerational bargaining

and collective bargaining on age-related measures for younger and older workers.⁹⁸ It is interesting to note that relatively few of the interviewees emphasised the perspective of age discrimination and the influence of the ban on age discrimination, even though the focus of the interviews was on problems and issues linked to younger and older workers and on intergenerational bargaining.

The regulation of *flexible work*, especially fixed-term work, is closely connected to *employment protection*, and younger workers are over-represented when it comes to flexible work. The statutory employment protection regulation, along with its interplay with collective bargaining, is a fundamental feature of Swedish labour law. Employment protection in redundancy situations and seniority rules, as well as their important links to the transition agreements, have been central to the discussion in this report. From an intergenerational perspective, employment protection is seen as both providing necessary protection for older workers and hindering the entry of younger workers into the labour market. Swedish law provides for rules on mandatory retirement at the age of 67; these rules have been tried by the Court of Justice of the European Union against the ban on age discrimination, and have been found acceptable.

The Swedish *pension system* underwent a crucial reform relatively early – in the late 1990s – *inter alia* to achieve sustainable pensions and prolong working life for older workers. Further reform is seen as necessary and now the issue of an increased pensionable age is in focus. Also in this case, the Swedish system is characterised by an important interplay between legislation (the statutory pension system) and collective bargaining (occupational pension schemes).

The Swedish *labour market* is generally characterised by high employment rates. In comparative European terms, the labour market situation of older workers in Sweden is good. The employment rate among older workers is high – about 73 percent in the age group 55–64 – and the average retirement age is about 65 years. Still, in some sectors, such as industry and health care – as discussed in this report – it is difficult for employees (especially blue-collar employees) to stay in working life until ‘normal’ retirement age. Thus, there is a need for an adaptation of the work and working environment. There is also a general need for prolonging working life for older workers beyond ‘normal’ retirement age to cover future costs for pensions and the health care system. Here, the collective agreements on partial retirement become relevant. High youth unemployment and younger workers’ difficulties in entering and establishing themselves on the labour market is a fundamental problem, from both an individual and a societal perspective. The debates on ways to combat youth unemployment and promote the labour market inclusion of younger workers revolve around such factors as entry wages for younger workers, the scope for flexible employment contracts, and the strength of the employment protection and implications of the seniority rules.

⁹⁸ See B. ter Haar and M. Rönmar, *Intergenerational Bargaining, EU Age Discrimination Law and EU Policies – an Integrated Analysis*, Report for the project ‘Inter-generational Bargaining: towards integrated bargaining for younger and older workers in EU countries’ (2014).

The discussion of the labour law and industrial relations framework and the three case studies reveal that Swedish labour law and collective bargaining *lack a clear intergenerational perspective*, as well as an articulated debate on intergenerational conflict or solidarity (even though, for example, the employment protection regulation and seniority rules are partly discussed in terms of intergenerational tension). The interests of younger and older workers, and the labour market inclusion of these groups, are basically dealt with separately and in parallel. Likewise, strategies to combat youth unemployment and to promote active ageing and a prolonged working life for older workers are largely viewed as separate, though equally important and non-conflicting strategies.

The *case study on introduction agreements* highlights that apart from combating youth unemployment and promoting labour market inclusion of younger workers, an important aim of the agreements is to secure current and future competence provision. The social partners involved in the introduction agreements subjected to study here emphasised that there are no direct intergenerational elements in the aim or content of the agreements. However, there are indirect intergenerational implications of the introduction agreements linked to generational renewal, competence provision, and supervision, training and education. Supervision and education are likely to be provided by older workers, who will then be able to transfer their knowledge and experience to younger workers. Being supervisors may also help individual older workers to stay in the job and in working life longer. The introduction agreements, to different degrees, are age-related and tied to a specific group of younger workers. For example, one of the agreements in the municipal sector (BUI13) does not contain any age limits, while the upper age limit has recently been removed in the other agreement (BAL13). In this context, *IF Metall*, for example, stressed in the interview that it is not easy to conclude collective agreements that favour one group of workers before another, since this can be seen as discrimination. The case study also highlights the challenges and difficulties of combining a social partner initiative and collective agreements with a governmental financial support scheme and the activities of the Public Employment Service.

The *case study on collective agreements on partial retirement for older workers* emphasises that the aim of the provisions of partial retirement is to provide an opportunity for a longer working life and create fruitful conditions for generational renewal. In line with the strategy on active ageing, this right to partial retirement is not about early retirement or about making room for younger workers. Instead it is a question of prolonging working life from the individual (older) employee's perspective. Thus, these collective agreements also have some, more indirect, intergenerational elements. Apart from prolonging working life for older workers, it is hoped that the partial retirement of older workers will also lead to a corresponding recruitment of younger workers. A crucial question for the realisation of the right to partial retirement is of course the level of economic compensation. And, here, a long-term perspective must be applied in relation to the build-up of adequate funds for partial retirement pension benefits.

The *case study on transition agreements* highlights that in general the transition agreements complement the statutory employment protection regulation in important ways, focus on employability and transitions, and offer redundant employees both severance payment and active transition support. One indirect intergenerational element of the transition agreements relates to the interplay between the transition agreements and the employment protection regulation and the seniority rules. Some transition agreements, such as the SN-PTK Transition agreement, enable and promote the conclusion of local collective agreements that set aside or adapt the last-in-first-out-principle, and may therefore favour younger workers in relation to older workers. At the same time, the scope and content of the transition agreements seem to favour older workers in several other respects. Furthermore, the renegotiations of the SN-PTK Transition agreement, and the trade unions' attempt to expand the scope of the agreement beyond redundancy to include employees who have to leave their employment due to sickness or health problems, contribute to a 'blurring' of the boundary between redundancy and personal reasons. I have previously questioned this 'conceptual dichotomy' which characterises Swedish employment protection.⁹⁹

An important theme in this report is the key role played by *competence, qualifications and education*, and the urgent need to secure future competence provision for the Swedish labour market. In this context, generational renewal is central to collective bargaining developments, such as the introduction agreements and the agreements on partial retirement.

Collective bargaining developments and the case studies display a lack of direct and explicit intergenerational bargaining in the Swedish context. However, several *indirect and implicit intergenerational elements* can be found in the introduction agreements, the collective agreements on partial retirement, and the transition agreements. These indirect intergenerational elements relate, for example, to generational renewal in terms of future competence provision, competence development and transfer of knowledge and experience between older and younger workers, and older workers' participation in education and supervision of younger workers, as a way of adapting the working environment to enable a longer working life.

Intergenerational redistribution of employment between older and younger workers is alien to Swedish public policy and collective bargaining.¹⁰⁰ Thus, Swedish developments are in line with economic research (of both a theoretical and an empirical nature), which emphasises the 'lump of labour fallacy', and opposes propositions that mandatory or premature retirement schemes will help combat youth unemployment or that older workers crowd younger workers out of the labour market.¹⁰¹

⁹⁹ See, for example, M. Rönmar and A. Numhauser-Henning, 'Swedish employment protection in times of flexicurity policies and economic crisis', *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 28, No 4, 2012, 443–467.

¹⁰⁰ In some sectors, for example, as regards engineers and emphasised in the interview with *Sveriges Ingenjörer*, the lack of qualified personnel is the overriding interest, and there is an urgent need both for older workers to stay longer in working life and for younger workers to finish their university education and quickly enter the labour market.

¹⁰¹ On the links between the 'lump of labour fallacy' and labour law and industrial relations, see E. Dewhurst, 'Intergenerational balance, mandatory retirement and age discrimination in Europe: How can the ECJ better support

The case studies, and interviews with social partners, imply that there is *limited integration or synergy* among the three different types of collective agreements. This seems to be the case even though some collective agreements, such as introduction agreements and collective agreements on partial retirement for older workers, are concluded by the same collective bargaining partners. However, fruitful linkages can be found and developed, not least in the practical application of these agreements – for example, when it comes to the educational element and the supervision of younger workers. Some interviewees called for more coordination and further discussion, at cross-industry and confederation level, of crucial overarching issues linked to the labour market inclusion of older and younger workers, the combating of youth unemployment and the promotion of a longer working life. It may be difficult when specific sectoral interests and issues dominate the discussion.

Thus, in the Swedish context, one challenge is to address the interests of both younger and older workers, and the strategies to combat youth unemployment and promote a prolonged working life, appropriately and forcefully. Another challenge – and possibility – is to promote a further integration and coordination between these interests and strategies.

Due to reasons of time, space and the focus of this report, it has not been possible to analyse intergenerational bargaining in the Swedish context from theoretical starting points, such as theories about flexicurity, transitional labour markets or life-course approaches. However, in different ways, Swedish developments and social partner and collective bargaining strategies reflect aspects, such as increased emphasis on flexicurity, employability, and transitions (between education, working life and retirement) and life-course perspectives on conditions such as working time.¹⁰²

national courts in finding a balance between the generations' 2013 50 *Common Market Law Review* 1333, with further references.

¹⁰² See, for example, M. Rönmar and A. Numhauser-Henning, 'Swedish employment protection in times of flexicurity policies and economic crisis', *International Journal of Comparative Labour Law and Industrial Relations*, Vol. 28, No 4, 2012, 443–467. Cf. also T. Wilthagen and F. Tros, 'The Concept of Flexicurity: A New Approach to Regulating Employment and Labour Markets', *Transfer. European Review of Labour and Research*, Vol. 10, No 2, 2004; G. Schmid and B. Gazier (eds), *The Dynamics of Full Employment: Social Integration Through Transitional Labour Markets* (Edward Elgar, Cheltenham 2002); and D. Anxo, G. Bosch and J. Rubery (eds), *The Welfare State and Life Transitions: a European Perspective* (Cheltenham 2010).

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5.4.1. Trade unions

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5.4.3. Transition foundation

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¹⁰³ And further on the trade union side: OFRs förbundsområden Allmän kommunal verksamhet, Hälso- och sjukvård samt Läkare jämte i förbundsområdena ingående organisationer, Lärarnas Samverkansråd samt AkademikerAlliansen och till AkademikerAlliansen anslutna riksorganisationer.