Reconfiguring the Swedish Model: Between Laval and the Swedish (neo)liberal migration regime

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1. **Explore tensions** in the Swedish labour market model following European Union eastern enlargement in 2004, especially arising from posted workers.

2. **Examine impacts** of ‘third country’ labour migration on Sweden’s labour market, following the introduction of a new ‘open’ and employer-friendly migration regime in 2008.
Laval un Partneri
Byggnads ombudsman Lars-Göran Bromander på plats i Vaxholm. Det var han som ställde ultimatumet till det lettiska byggföretaget.
Likums ir jūsu pusē!
Pieprasiet zviedru kopīgumu!

Zviedrītag koplīgums attiecās arī Jums!

Svenskt kollektivavtal gäller dig också!
1. Ban sympathy actions ensure that non-involved employers are not forced into the conflicts of others
2. Legally enforced mediation to get the parties to sign reasonable agreements
3. Mediators to have increased authority to postpone or cancel planned industrial actions
4. Ban conflicts that are a danger to society
5. Make it illegal for organisations without a collective agreement to take industrial action in areas where there is a valid collective agreement
6. Ban on union organisations taking industrial action against companies where they have no members.
A posted worker - sent *temporarily* by an employer established in one Member State (the ‘home’ state) to provide services to an enterprise established in another Member State (the ‘host’ state) *whilst remaining in the employ of the home state employer*.

Article 3 (1) of Directive *requires the ‘host’ state’s labour law* on minimum wages, working time, safety and health and paid annual holidays to *apply to posted workers*.
European Court of Justice Case C341/05
European Court of Justice
18 December 2007

• Blockade to force a foreign service provider to enter into negotiations on pay and sign collective agreements illegal under EU rules on freedom to provide services.

• No obligation on foreign service providers to respect any working standards beyond the minimum standards.

• Swedish labour court fines unions and Swedish government passes ‘minimalist’ law – Lex Laval

• A setback for Swedish unions and for European trade unions – ‘a game changer’ – market-making trumps EU social dimension
Legalised ‘wage dumping’?
‘Collective agreement free zones’

• **Since Laval** unions have not undertaken industrial action to force an employer to abide by a Swedish collective agreement

• **Unions can only request** and not threaten sanctions in order to obtain collective agreements with companies from other EU member states

• **Decline in collective agreement numbers** with foreign employers - 107 in 2007 to 33 in 2011.

• **Complaint from Swedish unions to ILO CEARC upheld** (February 2013). Swedish government urged to amend *lex Laval* and repay penalties – contrary to ILO Conventions 87 and 98.
1 July 2013 *mandatory reporting* by companies posting workers to Swedish authorities (SWEA)

- **Parliamentary committee** set up on *lex Laval* (report due December 2014)

- LO claims 18,000 workers from 800 foreign companies posted to Sweden (construction 15,000 or **20 percent** of total, forestry 1,200 just over **10 percent** of the total)

- Union concerns over ‘**false collective agreements**’

- **Use of fake ‘self-employed’** status

- **Rotation of workforces** every 6 months to avoid taxes

- Recent attempts to pressure main contractors to monitor subcontractors terms and conditions
Sweden
‘the most open migration regime in the OECD’
A new ‘employer-driven’ migration regime

- Sweden moved 2008 from a system that required employers to meet a labour market test of shortage with different rights and entitlements to a single-stream demand-driven system.

- Reforms designed to create a flexible system that would facilitate the recruitment of (highly skilled) workers from Third Countries (outside EU).

- Trade union oversight role in vetting work permits reduced.
• Initial work permit ties the migrant worker to a specified employer and issued for a max of two years.

• Possibility of another two-year extension, during which the migrant worker is required to continue to work in the specified occupation (but is no longer tied to a specific employer).

• Migrant workers have little legal recourse if employer offers a contract with wages significantly less than those set out in the initial job offer which is not legally binding.

• Companies can use the threat of permit loss to extract long hours of work at poor rates of pay and under unsafe conditions.
<table>
<thead>
<tr>
<th>Top 9 occupational groups</th>
<th>No. permits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agricultural, fishery and related labourers</td>
<td>2821</td>
</tr>
<tr>
<td><strong>Computing professionals</strong></td>
<td><strong>2795</strong></td>
</tr>
<tr>
<td>Housekeeping and restaurant services workers</td>
<td>1323</td>
</tr>
<tr>
<td>Helpers and cleaners</td>
<td>798</td>
</tr>
<tr>
<td>Helpers in restaurants</td>
<td>796</td>
</tr>
<tr>
<td><strong>Architects, engineers and related professionals</strong></td>
<td><strong>630</strong></td>
</tr>
<tr>
<td>Food processing and related trades workers</td>
<td>386</td>
</tr>
<tr>
<td>Building frame and related trades workers</td>
<td>362</td>
</tr>
<tr>
<td>Physical and engineering science technicians</td>
<td>338</td>
</tr>
</tbody>
</table>

Source: Migrationsverket 2011.
Trends in recruitment

• Top 4 low-skilled service occupations (housekeeping and restaurant workers, cleaners, kitchen and restaurant helpers) saw 60% (approx) increase of work permits granted between 2009 and 2010.

• In small firms which started recruiting only after the 2008 reform, OECD found ‘significantly lower wages [for resident employees] even after controlling for sector and other characteristics’.

• Many small employers in hotels and restaurants, gardening, agriculture, forestry and subcontracting to local government are outside of Swedish collective agreements.
### Decline in Union Density for Blue-collar Workers

**2006-2010 (%)**  
Source: Kjellberg 2011

<table>
<thead>
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<tbody>
<tr>
<td><strong>A. Blue-collar workers</strong></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Manufacturing</td>
<td>84</td>
<td>81</td>
<td>81</td>
<td>81</td>
<td>79</td>
<td>-3</td>
<td>0</td>
<td>0</td>
<td>-2</td>
<td>-5</td>
</tr>
<tr>
<td>Construction</td>
<td>81</td>
<td>77</td>
<td>73</td>
<td>73</td>
<td>71</td>
<td>-4</td>
<td>-4</td>
<td>0</td>
<td>-2</td>
<td>-10</td>
</tr>
<tr>
<td>Retail/wholesale trade</td>
<td>64</td>
<td>61</td>
<td>57</td>
<td>56</td>
<td>56</td>
<td>-3</td>
<td>-4</td>
<td>-1</td>
<td>0</td>
<td>-8</td>
</tr>
<tr>
<td>Other private services</td>
<td>67</td>
<td>62</td>
<td>58</td>
<td>57</td>
<td>56</td>
<td>-5</td>
<td>-4</td>
<td>-1</td>
<td>-1</td>
<td>-11</td>
</tr>
<tr>
<td>of which: - hotel &amp; rest.</td>
<td>52</td>
<td>47</td>
<td>40</td>
<td>36</td>
<td>36</td>
<td>-5</td>
<td>-7</td>
<td>-4</td>
<td>0</td>
<td>-16</td>
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<tr>
<td>- transport</td>
<td>71</td>
<td>67</td>
<td>63</td>
<td>62</td>
<td>63</td>
<td>-4</td>
<td>-4</td>
<td>-1</td>
<td>+1</td>
<td>-8</td>
</tr>
<tr>
<td>All private services</td>
<td>66</td>
<td>62</td>
<td>58</td>
<td>56</td>
<td>56</td>
<td>-4</td>
<td>-4</td>
<td>-2</td>
<td>0</td>
<td>-10</td>
</tr>
<tr>
<td>Whole private sector</td>
<td>74</td>
<td>70</td>
<td>67</td>
<td>66</td>
<td>65</td>
<td>-4</td>
<td>-3</td>
<td>-1</td>
<td>-1</td>
<td>-9</td>
</tr>
<tr>
<td>Public sector</td>
<td>87</td>
<td>85</td>
<td>83</td>
<td>82</td>
<td>83</td>
<td>-2</td>
<td>-2</td>
<td>-1</td>
<td>+1</td>
<td>-5</td>
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<tr>
<td>Both sectors</td>
<td>77</td>
<td>74</td>
<td>71</td>
<td>70</td>
<td>69</td>
<td>-3</td>
<td>-3</td>
<td>-1</td>
<td>-1</td>
<td>-8</td>
</tr>
</tbody>
</table>
Union density decline 2006-2011 (blue-collar)

Source: Kjellberg 2012

- Building industry -12% (81%>69%)
- Private services -12% (67%>55%)
- Hotel and Restaurant – 19% (52%>33%)
- Transport – 11%
- Total blue-collar decline – 10%
- Majority of decline in exactly occupations recruiting migrant labour under new regime

Source: Kjellberg 2012
Abuse of ‘Third Country’ non-EU migrants
Thai berry pickers demand unpaid wages
Cameroon workers recruited as forest tree planters complain of ‘wages theft’
New control measures

• Swedish Migration Board introduced **new regulations** to screen and follow-up on employers in sectors considered to run a higher risk for abuse.

• Cleaning, hospitality, agriculture, car mechanics, retail, service and temporary work agencies *(staffing)* targeted

• New employers and employers in the specified sector have to show how they can **guarantee the migrant workers’ salary for at least three months**.

• Employers must provide the Swedish Migration Board with **tax statements regarding the migrant workers’ wages for the last three months**.

• Companies operating within the specified sector and registered in a country outside the EU **must have a branch office registered in Sweden**.
Roma berry-pickers provide substitute (EU ‘free movers’) labour
• Worrying examples of ‘labour abuse’, ‘wage theft’ and trade in work permits
• Posted worker system also being abused by employers
• Weak regulatory inspection and enforcement by (uncoordinated) authorities (Swedish Migration Board, Swedish Work Environment Authority, Tax Authority, anti-trafficking police)
• Migration reform fuelling recruitment of low-skilled and low-paying jobs for which there is no apparent local labour shortage
• Recruitment of labour in areas of the labour market where decline in union density is most severe
• Danger of ethnic enclaves developing with formation of racialized secondary labour market