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Sweden's Employment Protection Act Is a Joke

Rasmus Hästbacka

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Labor lawyer Rasmus Hästbacka writes about Sweden's supposedly strong legal protection for workers.

I often find myself in grim negotiations where the employer has already decided to fire workers because they've suffered workplace injuries or illnesses – or because they're union activists or health-and-safety delegates. In such situations, the employer doesn't care one bit about the Swedish Employment Protection Act, abbreviated LAS. Workers are offered a “voluntary” buyout under the threat of a forced buyout. How does that work?

First, you need to understand that firing people in Sweden has never been difficult – at least not legally, only financially costly in some cases. Under Section 39 of LAS, employers can always dismiss workers and then buy them out against their will. Even if you're fired in violation of the law, and even if a court rules that the employer broke the law, the employer can simply buy their way out of the verdict by paying the damages specified in Section 39. In short, the law literally states that money stands above the law.

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Translated from the Swedish union paper Arbetaren. The
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A forced buyout therefore means that you lose your job even if you win in court. The very name of the law – the *Employment Protection Act* – is therefore somewhat misleading. A more accurate name would be the *Law on Employers' Right to Fire Workers on Any Grounds They Please*.

Since all Swedish unions know how Section 39 of LAS works, it's rarely worth pursuing a legal dispute all the way to a verdict. Instead, it becomes a negotiation over the price of the "voluntary" buyout.

Even when unions are prepared to fight all the way to a verdict, it's rare that the affected workers can endure the process. Fired workers must find a new job or try to support their families on unemployment benefits (if that's even possible). Mentally, it can be extremely tough to both fight in court over the old job and try to start a new one. It's also not uncommon for employers to harass workers and break down their confidence, after which the worker accepts a shamefully low offer.

Thus, buyouts usually end up far lower than the damages workers could have received in court.

Under Section 39 of LAS, dismissed workers are entitled to at least 6 and at most 32 months' salary, depending on how long they've been employed. The last time I sat in one of these grim negotiations, the fired worker received 150,000 Swedish kronor (approximately 15,600 US dollars). In the case before that, we managed to secure 12 months' salary. And the case after that resulted in 17 months' salary. That's unusually good – but still far too low, considering the worker shouldn't have been fired at all.

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So, how should unions approach these dirty negotiations? Some syndicalists argue that you should always say NO

to buyouts. I understand the sentiment, but employers can still fire and buy people out regardless.

I think we should dispel all illusions that Sweden's legal system can save people's jobs. The law can help fired workers "own the narrative" to some extent. More precisely, when workers apply for new jobs and are asked whether they were fired from their previous one, they can answer: "Yes, but the employer violated LAS and paid damages for it." The law can also provide a band-aid through damages – but saving workers' jobs requires other methods.

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