

Article 22 of the Constitution of the ILO

REPORT

Report for the period 1 June 2016 to 31 May 2019,
made by the Government of Denmark
on the

Right to Organise and Collective bargaining Convention 1949 (98)

Reference is made to previous reports.

a)

In Denmark, no new legislative or other measures affecting the application of the Convention have been introduced or adopted since the last reporting.

b)

Observation, 2016 – Article 4 of the Convention

The Danish Government is pleased to provide the below mentioned information on development since 2016.

In connection with considerations of a change of tax rules for seafarers working aboard certain special ships (guard and supply ships, pipe laying and cable vessels, wind turbine and construction ships, ice handling ships and ASVs (so-called "hotel ships")) the former Minister for Industry, Business and Financial Affairs in December 2017 asked the organizations to propose a model for ships that primarily carry out such activities on the Danish continental shelf area.

After discussions in the Contact Committee under the DIS Main Agreement, the organizations proposed that the DIS Act should be amended in order to allow Danish trade unions to enter into collective agreement on behalf of all seafarers on ships mainly carrying out the activities concerned in the Danish territorial waters or continental shelf area for more than 14 days a month.

The former minister for Industry, Business and Financial Affairs presented a proposal for an Act amending the DIS Act, which was drawn up in accordance with the organizations' proposal to the Parliament. Parliament passed the act unanimously.

The Act includes seafarers who are engaged in a number of activities which include:

- Certain types of guard service as well as support and service functions,
- Construction, repair and dismantling of oil installations, wind farms or other offshore installations at sea,
- Laying down of pipelines or cables on the seabed,
- Ice handling, and
- Housing of employees, spare parts or workshop facilities for offshore work.

It is a condition for the application of the first sentence that the ships mainly carry out the activities concerned in the Danish territorial waters or continental shelf area for more than 14 days a month.

The new Act is expected to enter into force later this year.

c)

In spring 2017 collective agreements were renewed on the private labour market after negotiations between the social partners.

In spring 2018 the collective agreements were renewed in the public sector after negotiations between the social partners.

No decisions involving questions of principle relating to the application of the Conventions concerned have been given by courts of law or other tribunals.

Reference is made to previous reports.

d)

Copies of this report have been communicated to Local Government Denmark (KL), The Confederation of Danish Employers (DA), The Danish Trade Union Confederation (FH) and The Danish Confederation of Professional Associations (AC).

Employers' organisations:

- The Danish Employers' Confederation, Vester Voldgade 113, DK-1790 Copenhagen V
- Local Government Denmark, Weidekampsgade 10, P.O. Box 3370, DK-2300 Copenhagen

Workers' organisations:

- The Danish Trade Union Confederation, Islands Brygge 32D, DK-2300 Copenhagen S
- The Danish Confederation of Professional Associations, Nørre Voldgade 29, P.O. Box 2192, DK-1358 Copenhagen K

Hearing parties of the Danish Maritime Authority:

- The Danish Shipping
- The Car Ferry Association
- The Trade Association for the Hotel, Restaurant and Tourism Industry (HORESTA)
- The Danish Metalworkers' Union Maritime Section/CO-SEA
- The Public Services Union – Maritime Section
- The United Federation of Danish Workers
- The Maritime Section of the United Federation of Danish Workers
- Lederne Søfart
- Maskinmestrenes Forening
- The Association of Ferry Companies of Danish Small Islands
- Sammenslutningen af Mindre Erhvervsfartøjer
- Træskibssammenslutningen
- SKULD
- The Danish Shipbrokers Association
- Danish Ship Finance
- Danish Freight Forwarders
- Foreningen af Danske Søassurandører
- Danish Maritime
- The Danish Shipping Tribunal, Danish Appeals Boards Authority
- SEA HEALTH & WELFARE

e)

Comments received from the Danish Trade Union Confederation FH:

By way of introduction, FH refers to earlier contributions from LO – The Danish Confederations of Trade Unions to reports on the DIS-Act – most recently in September 2016 and the subsequent comments/updates regarding the government's comments to the ILO to this date.

The independent Committee of Experts in its 2016 report **requested** the Danish government to make every effort to ensure full respect of the principles of free and voluntary collective bargaining so that Danish trade unions could freely represent all their members in collective bargaining process – Danish or equated residents as well as non-residents, working on ships sailing under Danish flag – and that collective agreements concluded by Danish trade unions may cover all their members working on ships sailing under Danish flag regardless of residence.

The Committee of experts also **requested** the Danish government to engage in national tripartite national dialogue and to take the necessary measures to enable all the relevant worker's and employer's organisations to participate therein, if they so wish, so as to find a mutually satisfactory way forward, and to indicate in its next report its outcome and any contemplated measures.

FH finds it deeply regrettable that the Danish government for more than 30 years now, based on varying arguments, has refrained from taking seriously the criticism of the Committee of Experts and the call to bring article 10 of the DIS-Act in accordance with the ILO's conventions.

In the report on Convention 98, the government refers to a recent amendment to the DIS-Act. FH recognises the importance of this change.

However, the amendment to the DIS-Act referred to in the government's report is in no way a sufficient answer to the requests in the report from the Committee of Experts.

The scope of the amendments are limited to vessels operating in Danish territorial waters or continental shelf whereas the amendment will have no effect to vessels already covered by the DIS-Act.

The case regarding the Danish International Ships' Register (DIS) has been ongoing since 1988, at which time FH's predecessor, LO, brought the legislative intervention to the attention of the ILO, and in 1989, when the Committee of Experts decided that article 10, 2 and 3 of the Act is not in accordance with ILO-Conventions 87, 98 and 111.

...

FH finds it urgent that the Danish government initiates actual dialogue on article 10 of the DIS-Act with all parties from the worker-side with a view to bringing it in accordance with the ILO's Conventions.

Attached, is a copy of FH's letter of 16 September 2019.

Reply by the Danish Government:

A number of the remarks made in FH's letter of 16 September 2019 are in line with the previous comments to the reporting on ILO conventions 87 and 98 respectively forwarded by the organisation, including comments given in 2016. In light of this and for the time being, reference is made to previous reportings and remarks forwarded to the ILO by the Danish Government.

The fact remains, that the conditions leading to the establishment of the Danish International Ship Register (DIS) still apply. Traditional shipping nations – such as Denmark – compete with a number of ship registers all over the world, and Danish ships still face fierce international competition. Today, shipping has become even more international by nature, and Danish ships are engaged in voyages all over the world. The ability to easily transfer ships from one ship register to another as well as ship owners' ability to establish abroad remain basic conditions of the shipping industry.

Ships registered in DIS are subject to regulations ensuring seafarers high standards of social conditions, including conditions of employment. Denmark is among the countries that have ratified the ILO Maritime Labour Convention, 2006.

The additional remarks made by FH under convention no. 87 to the recent amendment to the DIS-Act are duly noted.

On a general level the underlying reasons for maintaining the DIS remain. Thus, no amendment to the report has been conducted following the letter from FH.