

## 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

#### **Freedom of Association and Protection of the Right to Organise Convention 1948 (87)**

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)

*Direct request, 2016 – Article 2 of the Convention*

The DIS Main Agreement of 28 February 2013 comprises the majority of social partners in the shipping industry (Danish Shipowners' Association, The Shipowners' Association of 2010, Danish Maritime Officers, Danish Engineers' Association and Danish Metalworkers Union (Maritime Section)).

Paragraph 7, subsection 1, last indent, of the DIS Main Agreement states that seafarers employed under a collective agreement according to Article 10(3) of the Act on the Danish International Register of Shipping (DIS) may choose to be a member of a Danish trade union.

The provision in article 10 of the Act on the Danish International Register of Shipping only regulates which persons general agreements entered into by respectively Danish and foreign unions may cover. There is nothing in Danish law preventing a seafarer not resident in Denmark and working on board a ship registered in DIS to choose to be member of any Danish trade union provided that the membership is in accordance with the individual trade union's own rules.

The DIS Main Agreement of 28 February 2013 has already been enclosed in the previous report from the Danish Government to the ILO (in Danish and in English).

c)

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

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.

...

Regarding the report on Convention 87, FH reiterates that the Danish government’s reference to the fact that a seafarer may, in accordance with the DIS-general agreement, but as an employee in accordance with article 10, 3 of the Act, choose to be a member of a Danish trade union is insufficient and must therefore state the following:

In accordance with article 7 of the DIS-general agreement, only the trade union organisations who are parties to the general agreement may assist seafarers cf. article 10, 3 of the DIS-Act in matters that originate from Danish legislation. Such a membership of a Danish trade union organisation is therefore immaterial to the collective agreement coverage, which is the fundamental precondition to a membership.

The DIS-general agreement is therefore not of importance to FH's criticism of article 10 of the DIS-Act because it clearly appears from the DIS-General agreement, article 1, that the parties' participation to the agreement generally presupposes that they "observe the right to conclude DIS-collective agreements with foreign trade union organisations and observe such concluded agreements in accordance with the DIS-Act."

FH reiterates that, in the construction of article 10 of the DIS-Act, with its division of negotiating powers to Danish and foreign seafarers, a labour law vacuum has been created which does not provide any actual right to collective bargaining for any trade union organisations. A Danish industrial dispute in the form of a strike against ships manned by seafarers without residence in Denmark, in accordance with article 10,3, is illegal since such workers are not covered by a collective agreement concluded in Denmark.

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.*