

## Observation (CEACR) - adopted 2016, published 106th ILC session (2017)

### *Right to Organise and Collective Bargaining Convention, 1949 (No. 98) - Denmark (Ratification: 1955)*

The Committee notes the observations from the Danish Confederation of Trade Unions (LO) received on 27 August 2014, 26 August 2015 and its 2016 observations submitted with the Government's report, as well as the Government's comments on the 2014 and 2016 LO observations.

**Article 4 of the Convention. Right to free and voluntary collective bargaining.** In its previous comment, the Committee observed that section 10 of the Act on the Danish International Register of Shipping (DIS Act) continued to have the effect of limiting the scope of collective agreements concluded by Danish trade unions to seafarers on ships registered in the Danish International Ship Register (DIS) who were Danish or equated residents and of restricting the activities of Danish trade unions by prohibiting them from representing, in the collective bargaining process, those of their members who were not considered as residents in Denmark. It requested the 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 in the collective bargaining process all their members – Danish or equated residents and non-residents – working on ships sailing under the Danish flag, and that collective agreements concluded by Danish trade unions could cover all their members working on ships sailing under the Danish flag regardless of residence. The Committee invited the Government to engage in a tripartite national dialogue with the relevant workers' and employers' organizations on the DIS Act so as to find a mutually satisfactory way forward.

The Committee notes the Government's indication that there has been far-reaching involvement in acting upon the Committee's comments, in particular that: (i) the Government met with the LO, the Danish Metal Workers' Union (DMWU) and the United Federation of Danish Workers (3F) in order to explore the possibilities of holding a tripartite dialogue; (ii) the LO proposed an amendment to section 10 of the DIS Act in order to grant powers to Danish workers' organizations to negotiate collective agreements at international level for seafarers not resident in Denmark but working on board DIS ships and to ensure that collective agreements and Danish wage levels cover all EU/EEA citizens working on board DIS ships; (iii) the Danish Shipowners Association (DSA) expressed a willingness to

enter into further constructive dialogue but was concerned about the consequences of the LO's proposal on Denmark's competitiveness in the global maritime market; (iv) the DSA and the DMWU established a joint working group in the Contact Committee under the Danish International Ship Register Main Agreement (DIS Main Agreement), which stated that there was a formal disagreement in relation to section 10(2) and (3) of the DIS Act but that, in practice, challenges were solved pragmatically through close dialogue and good cooperation between the parties and that Danish trade unions contributed to negotiations and conclusion of collective agreements between Danish shipowners and foreign trade unions; and (v) hoping that the parties to the shipping sector would find common solutions on the matter, the Government welcomed the DSA–DMWU initiative as a way to securing mutually satisfactory employment conditions on DIS ships, which is a prerequisite for any discussion on any possible amendment of section 10 of the DIS Act. In this regard, the Committee notes the LO's statement that although it had requested to initiate tripartite negotiations at least on ten occasions, no significant progress has been made on the matter and that neither the bilateral dialogue between the DMWU and the Danish Maritime Authority nor the joint working group included the LO or the 3F in the dialogue. Claiming that the tripartite dialogue should not be limited to the parties of the shipping sector, the LO calls on the Government to initiate actual dialogue on section 10 of the DIS Act, which differentiates between the negotiating powers of Danish and foreign trade unions and thus creates a legal vacuum in terms of collective bargaining, with all parties from the workers' organizations with a view to bringing it in accordance with ILO Conventions.

While taking due note of the information and materials provided by the Government, including the establishment of a working group on the discussion of the existing disagreement on section 10 of the DIS Act, the Committee observes that several social partners were not involved in the working group and that no significant progress has been made towards addressing the legislative aspect of the matter. As a consequence, section 10 of the DIS Act still has the effect of limiting the scope of collective agreements concluded by Danish trade unions to seafarers on DIS ships who are Danish or equated residents and of restricting the activities of Danish trade unions by prohibiting them from representing, in the collective bargaining process, those of their members who are not considered as residents in Denmark. In this regard, the Committee recalls that the Committee on Freedom of Association had previously considered that section 10(2) and (3) of the DIS Act constituted interference in the seafarers' right to voluntary collective bargaining and amounted to government interference in the free functioning of organizations in the defence of their members' interests (see 262nd Report, Case No. 1470, paragraph 78). ***The Committee, therefore, requests the Government to continue to make every effort to ensure full respect of the principles of free and voluntary collective bargaining so that***

***Danish trade unions may freely represent in the collective bargaining process all their members – Danish or equated residents, as well as non-residents – working on ships sailing under the Danish flag, and that collective agreements concluded by Danish trade unions may cover all their members working on ships sailing under the Danish flag regardless of residence. The Committee requests the Government to engage in a tripartite national dialogue and to take the necessary measures to enable all the relevant workers' and employers' organizations 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.***