LO-Denmark's comments on the government's report regarding ILO Conventions 87 and 98

The following are LO's comments to the government's report on Conventions 87 and 98 regarding the right to organise and the right to collective bargaining.

By way of introduction, LO refers to earlier contributions to reports on the DIS-Act - most recently in September 2013 and the subsequent comments/updates regarding the government's comments to the ILO to this date.

It is important to underline, once more, a few fundamental viewpoints.

LO still finds it deeply regrettable that the Danish government has, for more than 25 years now, on the basis of varying arguments, 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.

The case regarding the Danish International Ships' Register (DIS) has, as everyone knows, been ongoing since 1988, at which time 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.

The LO-led Danish trade union movement maintains this view, regardless of the government's comments and calls to attention the ILO Declaration from 1998 on Fundamental Principles and Rights at Work (FPRW) which" commits (all) Member States to respect and promote principles and rights". A fundamental commitment which has not been met by the Danish side on this matter.

On the contrary, as earlier mentioned, multiple governments have declared that the DIS-Act has come to stay and serves "a decent purpose" which has also been reiterated in this years' report.

The Danish trade union movement once more rejects the Danish government's reference to the DIS-general agreement between certain parties in the shipping industry as a foundation for a national dialogue.

Regarding the report on Convention 87, LO-Denmark 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 repeat 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 LO'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."

LO underlines and 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.

The DIS-Act is a ad hoc Act which, in Denmark, is only applied to shipping and only targets Danish trade unions for seafarers. It is obvious that Denmark, in its targeted efforts to attract foreign tonnage to the DIS-register now, pro-actively, calls attention to business conditions that are favourable to the shipping companies by offering a trade union free zone in accordance with the DIS-Act.

LO finds it relevant in this connection to refer to the CFA Digest para 20 "The Committee has referred to the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, adopted by the Governing Body of the ILO in November 1977, which states that (paragraph 46 of the Declaration, as amended in November 2000): where governments of host countries offer special incentives to attract foreign investment, these incentives should not include any limitation of the workers' freedom of association or the right to organize and bargain collectively"

In this report on Convention 98, the government refers to the bilateral dialogue between, on the one hand, the Danish Metal Workers' Union and, on the other hand, The Danish Maritime Authority as well as the working group/sub-committee of the liaison committee. Once more, we underline that neither 3F (the United Federation of Danish Workers) or LO have been included in this dialogue.

As it appears from the report, there still exists a formal disagreement on the DIS-Act and LO finds that although there may be" national circumstances, such as the history of labour relations and the social and economic context" the freedom of association principles apply uniformly and consistently among countries. Therefore, these fundamental rights also apply in Denmark.

In the report on Convention 98, the government states, among other things, that "However, the underlying reasons for section 10 of the DIS Act still apply".

LO therefore underlines once more that the DIS-Act has existed during alternating market conditions. The conditions that existed during the implementation of the DIS-Act in 1988 are fundamentally different to the conditions of today, and yet the government maintains that the underlying reasons for the DIS-Act still apply.

Finally, it is also argued in the Government's reporting on Convention 98 that "It remains the hope of the Government that the parties of the shipping sector are able to find common solutions in this matter." However, LO finds that the ultimate responsibility for ensuring respect for the principles of freedom of association lies with the Government." It is the responsibility of the Government to ensure the application of international labour

Conventions concerning freedom of association, which is why the government cannot refer solely to “the parties of the shipping sector”.

Finally, once more, LO calls on the government to initiate 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.