

Article 22 of the Constitution of the ILO

REPORT

Report for the period 1 June 2013 – 31 May 2016 made by the Government of Denmark on the

Right to Organise and Collective bargaining Convention 1949 (98)

I -III. Reference is made to the previous reports.

IV. In spring 2014 collective agreements were renewed on the private labour market after negotiations between the social partners. In spring 2015 collective agreements were renewed in the public sector after negotiations between the social partners.

V. Reference is made to the previous report.

VI.

Copies of this report have been sent to the Danish Employers' Confederation (DA), Local Government Denmark (KL), the Danish Confederation of Trade Unions (LO), the Confederation of Professionals in Denmark (FTF) and the Danish Confederation of Professional Associations (AC) which are the most representative employers' and workers' organisations.

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 S

Workers' organisations:

- The Danish Confederation of Trade Unions, Islands Brygge 32D, DK-2300 Copenhagen S
- The Confederation of Professionals in Denmark, Niels Hemmingsensgade 12, DK-1010 Copenhagen K
- The Danish Confederation of Professional Associations, Nørre Voldgade 29, P.O. Box 2192, DK-1358 Copenhagen K

Observation, 2013

Article 4 of the Convention

While noting the divergent views of the Danish Confederation of Trade Unions (LO) and the Government as to whether the DIS Act has been sufficiently subjected to debate, the Committee has invited the Government to engage in a tripartite national dialogue with the relevant workers' and employers' organizations on this issue so as to find a mutually satisfactory way forward, and to indicate in its next report its outcome and any contemplated measures.

With regard to the said overall divergent views on the legislation concerning the Danish International Register of Shipping, reference is made to previous reporting and remarks forwarded to the ILO by the Government.

With regard to the invitation for the Government to engage in a tripartite national dialogue so as "to find a mutually satisfactory way forward", the Government firstly would like to refer to the communication which has taken place with the ILO during the reporting period and which is referred to in the summary below. The consecutive summary of the dialogue, which the Danish Government is pleased to provide, contains information on the efforts taken by the current and the previous Government, including the meetings with the social partners. Finally, the Government wants to stress that these efforts still continue.

On 23 June 2014, the former Minister for Business and Growth discussed ILO's call to "find a mutually satisfactory way forward" in relation to section 10 of the DIS Act with the LO, the Danish Metal Workers' Union (DMWU) and the United Federation of Danish Workers (3F). At the meeting, both the LO and the other workers' organizations had the opportunity to express their views on the DIS Act in general and their desire for a tripartite dialogue. It was agreed that the LO and the other workers' organizations should forward a proposal which could form the basis for a discussion with the other parties in the shipping sector.

On 10 September 2014, the LO submitted a proposal for an amendment of section 10 of the DIS Act. According to the proposal, Danish workers' organizations were to be granted powers to negotiate collective agreements at international level for seafarers not resident in Denmark and working on board DIS ships. In addition, an amendment to the DIS Act was proposed, according to which all EU/EEA citizens working on board DIS ships would be covered by Danish collective agreements and Danish wage levels.

On 16 January 2015, the former Minister for Business and Growth discussed LO's proposal of 10 September 2014 for an amendment of the DIS Act, including the desire for a tripartite dialogue, with the DSA (Danish Shipowners' Association). The DSA expressed satisfaction with the transparency that was created in the case and that the organization had indicated that it was always willing to enter into a constructive dialogue with the union side on important maritime issues similar to the dialogue taking place in the Contact Committee under the DIS Main Agreement. Further, the DSA expressed concerns in terms of the consequences of LO's proposal for an amendment of the DIS Act – concerns that were primarily linked to the shipping industry's competitive situation in the global maritime markets. Finally, the Minister invited the DSA to submit written comments and questions to LO's proposals and stated that, once these comments had been received, they would be submitted to the LO for further discussion.

On 16 March 2015, the DSA submitted its observations regarding the LO proposal of 10 September 2014 for an amendment of the DIS Act. At the same time, the DSA announced that they – along with DMWU – had established a joint working group under the auspices of the Contact Committee under the DIS Main Agreement. The DSA informed that the aim of the joint working group was to clarify the disagreements that exist concerning section 10 of the DIS Act and to consider measures that can provide Danish workers' organisations a more substantial role in relation to seafarers not resident in Denmark and working on board DIS ships.

On 19 March 2015, the DMWU confirmed to the former Minister for Business and Growth that, in light of the ILO's criticism of the DIS Act, they had agreed with the DSA to establish – in accordance with the Danish model – the above joint working group as a subcommittee of the Contact Committee under the DIS Main Agreement.

The former Minister for Business and Growth welcomed the initiative of the joint working group under the DIS Contact Committee and expressed hope that this effort could pave a way in terms of securing employment conditions on DIS ships that would be mutually satisfactory to all parties in the Danish shipping sector. The Minister conveyed that same message to the LO and informed that he found it best to await the outcome of this work before considering further measures.

It is the Government's opinion that it has been and still is following up on the request by the Expert Committee. The Government finds that the social partner's initiative for discussions in the above joint working group under the auspices of the DIS Contact Committee is a positive signal.

On 8 January 2016, the DSA informed that the dialogue with the DMWU was still ongoing and that the Government would be notified when there was news to report. A confirmation that has been followed by the below joint letter (including 2 attachments) from the DSA and DMWU dated 1 June 2016.

On 5 April 2016, the Minister for Business and Growth invited the DSA and DMWU to separate meetings to discuss the state of their dialogue in the joint working group. The above-mentioned meetings with the DMWU and DSA were held on 29 June 2016 and 6 July 2016, respectively.

The Government is aware of the fact that the current reporting period expires on 31 May 2016. Given that the above joint letter from the DSA and DMWU as well as the two meetings constitute an expression of dialogue and negotiations between the parties, the Government has found it relevant and appropriate, as well as in the interest of all parties associated with the discussions relating to the DIS Act, to provide information relating to the contact that the Government has had with the DSA and DMWU during June and July 2016.

On 1 June 2016, and as a prelude to the above meetings held on 29 June 2016 and 6 July 2016, the DSA and the DMWU forwarded the above mentioned joint letter dated 1 June 2016 (including 2 attachments) to the Minister for Business and Growth. In the letter, it is confirmed that discussions in the above-mentioned joint working group under the DIS Contact Committee are ongoing, and a brief summary of the deliberations so far was included. In the joint letter the two parties recognize – as a common approach – that there is formal disagreement concerning the DIS Act. Nevertheless, the two parties also share the view that the "real life" challenges are solved pragmatically between the parties as a result of a close dialogue and good cooperation.

At the above meetings held on 29 June 2016 and 6 July 2016, the Minister for Business and Growth discussed the content of the joint letter and its 2 attachments with the DSA and DMWU, respectively. It was agreed that it would be prudent to forward the letter as well as the 2 attachments to the ILO as part of the current reporting on ILO Convention 98 as an illustration of the ongoing dialogue. The above-mentioned material is enclosed in an English translation.

Both the current and the previous Government have continuously informed the ILO on the status of the case. On 17 November 2014, the former Government informed the ILO of the state of play, including the discussion with the LO and other workers' organizations, LO's concrete proposal for an amendment of the DIS Act as well as the upcoming meeting with the DSA. On 28 September 2015, the current Government provided the ILO with a supplementary state of play in the matter.

The Government holds the opinion that it cannot reasonably be argued that the Government does not intend to take action on the matter of section 10 of the DIS Act. On the contrary, it is the view of the Government that there has been far-reaching Government involvement in acting upon the invitation referred to above since its last ILO reporting in 2013.

The Government would like to underline that the Expert Committee's invitation has its full attention and that it has noted that the invitation refers to finding a mutually satisfactory way forward which in the opinion of the Government will need the support of the industry partners. However, discussions on the DIS Act are not – and have never been – an easy issue, and any process surrounding discussions on this issue takes time. It remains the hope of the Government that the parties of the shipping sector are able to find common solutions in this matter. In the view of the Government, this is a prerequisite for any discussion vis-à-vis any possible amendment of section 10 of the DIS Act.

The Government will in its next report provide an update on the ongoing work related to the Expert Committee's invitation.

As regards the Danish International Register of Shipping, the Government is pleased to follow up on the previous reports by providing the following information.

It goes without saying that the framework conditions under which Danish flagged ships operate in international competition and the international competitiveness of the Danish fleet are still of paramount importance to Denmark. Shipping is one of the most prominent export industries in Denmark. Reference is made to previous reports on the importance of the Danish Register.

Further, the Government would like once more to underline that it is fully aware of the fact that the Danish International Register of Shipping and the surrounding measures had an extraordinary character to ensure the competitiveness of ships under the Danish flag and the related workplaces in Denmark. However, the underlying reasons for section 10 of the DIS Act still apply. The tendency that emerged in the shipping industry some 30 years ago equals in many aspects the developments facing most other European industries – namely the globalisation whereby specific job categories were outsourced to countries with lower labour cost.

Also today there is a risk of ships being transferred to foreign registers, and there are foreign registers which enable shipowners to reduce costs by lowering standards, and which may thus be attractive alternatives to registering a ship under the Danish flag.

The measures for the Danish merchant fleet and the commercial and competitive framework conditions surrounding the shipping industry have maintained and created jobs in the shipping industry, not only for Danish seafarers but also for seafarers of other nationalities.

The Danish International Register of Shipping makes it possible to still maintain a significant number of workplaces for Danish seafarers. In addition, a considerable number of people are employed at shore-based workplaces as a result of maintaining a maritime cluster. The Danish maritime cluster – and the positive effects this cluster generates – would hardly exist without ships under the Danish flag.

It has constantly been the policy and the ambition of Danish Governments that the international Danish Register of Shipping should be based on quality shipping with a high degree of safety and environmental standards for the ships as well as a high degree of employment and social conditions for the seafarers, regardless of their nationality or residence.

For the reporting period until the end of May 2016, Denmark has not received information that the collective agreements concerning wages and general working conditions on board Danish ships, regardless of whether they were concluded by Danish or foreign workers' organizations, are not at an internationally acceptable level or are deviating from the ILO recommendation on minimum wages.