

EUROPE

DENMARK¹²⁸

El affiliates

| | |
|-------------|---|
| BUPL | Danish National Federation of Early Childhood and Youth Educators |
| GL | Gymnasieskolernes Lærerforening (National Union of Upper Secondary Schools) |
| DLF | Danish Union of Teachers |
| DM | Dansk Magisterforening (University Teachers' Union) |
| UED | Union of Education Denmark |

Ratifications

- C. 87 Freedom of Association and the Protection of the Right to Organise (1948) ratified 1951
- C. 98 Right to Organise and Collective Bargaining (1949) ratified 1955
- C. 100 Equal Remuneration (1951) ratified 1960
- C. 111 Discrimination (Employment and Occupation) (1958) ratified 1960
- C. 144 Tripartite Consultations (1976) ratified 1978
- C. 151 Labour Relations (Public Service) (1978) ratified 1981

El affiliates

There are several teachers' organisations in Denmark, with one union for kindergarten teachers (BUPL), one for teachers in primary and lower secondary (DLF), one for teachers in upper secondary (GL) and so on. The teachers' unions are thus not in mutual competition and there is an agreement stipulating which union organises which teachers.¹²⁹

Danmarks Lærerforening (DLF): DLF represents primary and lower secondary teachers in the public sector – along with the school principals in these schools. DLF is organised in 78 local branches. The DLF members in each school elect a school representative, who represents the DLF at school level. The 309 congress delegates meet at least once a year to lay down the framework policy. Membership is voluntary and subject to a subscriptions fee.

¹²⁸ Many thanks to Hjalte Meilvang Danish Union of Teachers and Hans Laugesen, National Union of Upper Secondary School Teachers who contributed with this case study.

¹²⁹ Paragraph based upon draft of DLF speech for El congress 2011. See <http://www.eurofound.europa.eu/eiro/studies/tn1001017s/dk1001019q.htm> for select date on the other Education Unions in Denmark.

| MEMBERSHIP ¹³⁰ | | | |
|----------------------------------|---------------|---------------|---------------|
| Type | Female | Male | Total |
| 1 (Teachers) | 40.026 | 16.474 | 56.500 |
| 2 (Kindergarden class teachers)* | 3.152 | 147 | 3.299 |
| 3 (School principals) | 1.887 | 2.320 | 4.207 |
| 4 (Retired members) | 11.789 | 7.821 | 19.610 |
| 5 (Teacher Students) | 4.485 | 2.242 | 6.727 |
| 6 Special members | 453 | 251 | 704 |
| Total members | 61.792 | 29.255 | 91.047 |

Updated as of 20.03.2013

| Evolution in active* members ¹³¹ | | | | | |
|---|--------|--------|--------|--------|--------|
| 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
| 69.173 | 68.228 | 67.748 | 67.037 | 64.819 | 64.006 |

* Excluding students, special members and retired teachers.

This decreasing trend is due to a reduction in the number of teaching positions. Coverage remains high at an estimated 97% of potential membership.¹³²

Danish primary and lower secondary education system

The Danish Constitution gives all children in the school age the right to free schooling in 'Folkeskolen'. The constitution also provides for the option of home schooling. Denmark thus has compulsory education – but not compulsory school attendance. The school age is defined by Parliament which has extended it over the years. Most recently 'Børnehaveklassen' – a preschool Kindergarten year – was made mandatory in 2009.¹³³ This year had previously been optional. With this change Denmark has 10 years of compulsory schooling, consisting of one year of Kindergarten class and 9 years of primary and lower secondary school. It is also possible to attend an optional 10th Folkeskole year. The Danish Folkeskole is comprehensive without early tracking. It is the responsibility of the municipalities within a legal framework (The Folkeskole Act) set by Parliament.¹³⁴

¹³⁰ DLF website (Danish only): <http://www.dlf.org/files/DLF/Danmarks%20L%C3%A6rerforening%20mener/Tal%20og%20analyser/Statistik%20om%20L%C3%A6rere/I%20L%C3%A6rer-tab%203-medl-fraktion.pdf>

¹³¹ DLF website (Danish only): <http://www.dlf.org/files/DLF/Danmarks%20L%C3%A6rerforening%20mener/Tal%20og%20analyser/Statistik%20om%20L%C3%A6rere/I%20L%C3%A6rer-tab%204-udvikl%20antal.pdf>

¹³² <http://www.eurofound.europa.eu/eiro/studies/tn1001017s/dk1001019q.htm>

¹³³ <http://www.folkeskolen.dk/50630/boernehaveklassen-bliver-obligatorisk-fra-2009>.

¹³⁴ This paragraph is based on: Danish Ministry of Children and Education factsheet "Folkeskolen". http://eng.uvm.dk/Factsheets/~media/UVM/Filer/English/Fact%20sheets/080101_fact_sheet_the_folkeskole.aspx

The primary and lower secondary system consists of 1,318 public schools and 538 private and free schools with 84.68 % of the children attending public school.¹³⁵ 85 % of the expenses of the private schools are borne by the state.¹³⁶

Danish collective bargaining in general (the Danish model)

Denmark has a long tradition of collective bargaining. Ever since the late 19th century, the Danish labour-market has been characterised by collective bargaining agreements between employers and employees. The right to collective bargaining and industrial action has generally been respected since the 'September Settlement' of 1899, which founded the Danish model. This also holds for the public labour-market and therefore also for teachers. The model of a negotiated labour market depends on strong organisations both for employees and for employers.¹³⁷

There has traditionally been a clear division of responsibilities between the government and the social partners (in Denmark often called the labour market partners). The social partners have regulated wages and working conditions through collective bargaining and the government has regulated the welfare system through legislation, although the social partners traditionally are involved in policy formulation and implementation through social dialogue.

The labour market conflict resolution system builds on a distinction between 'conflicts of rights' and 'conflicts of interests'. The former arise where the matter in dispute is already covered by a collective agreement. In the event of a conflict of rights there is generally no right to resort to industrial action. This is often referred to as a peace obligation.¹³⁸ Breaches of agreement are generally resolved by the Labour Court – although differences in interpretations of the agreement is settled through the industrial arbitration tribunal (*Faglige voldgiftsretter*).

A 'conflict of interests' occurs in periods and areas when and where there are no collective agreement in force. In these instances, industrial action, such as strikes or lockouts can occur. These rights apply to both employees and employers.¹³⁹ When the partners fail to come to agreement on their own, the conciliation boards mediate the search for a compromise. If this fails, a precedent of government intervention has developed. However, this intervention is seen as a last resort; the bargaining process has generally been conducted in a consensual manner where the parties try to reach a compromise acceptable to both sides.

¹³⁵ DLF figures via the Danish ministry for Children and Education.

¹³⁶ DLF brochure: <http://www.dlf.org/files/DLF/English/EngelskPjece1.pdf>

¹³⁷ Paragraph based upon draft of DLF speech for EI congress 2011.

¹³⁸ www.eurofound.europa.eu/eiro/country/denmark_4.htm. See also: Working in Denmark - a guide to the Danish labour market: 2. Danish Ministry of Foreign affairs: http://uk.bm.dk/~media/BEM/Files/English/workingindk_english.ashx

¹³⁹ www.eurofound.europa.eu/eiro/country/denmark_4.htm



Another important aspect of collective agreements in Denmark is the obligation of an employer covered by a collective agreement to offer the terms of the agreement to all employees working within the area of the collective agreement. An employee who is not a member of a trade union must nevertheless be offered the same pay and working conditions as other employees.¹⁴⁰

Collective bargaining in education

Like many other countries since the 1970's, Denmark has experienced a general move in the public labour- market away from civil servant employment relation towards something more akin to the contractual employment of private labour markets. Industrial relations and collective bargaining have thus increased in significance.¹⁴¹ Around one fifth of teachers in Folkeskolen still have civil servant status and thus do not have the right to strike. However those teachers starting employment within the past two decades are on contracts covered by the collective agreement and the above summary for the general Danish model therefore applies to them. There has been a tendency for relations in the public sector to be less conflictual than in the private sector. The employers have notably always refrained from initiating lockouts except as a defensive measure after the announcement of union industrial action.¹⁴²

In Denmark the main dividing line in education collective bargaining is between those negotiations taking place with the central state as employer – and those where this role is taken by the municipalities. The former applies for the Gymnasium (GL) and University teachers (DM) as the state is responsible for upper secondary and tertiary education, whereas the latter is the case for the Folkeskole teachers in DLF.

Structure of the collective bargaining for DLF

Collective bargaining to determine wages and working conditions is the accepted norm in the municipal education sector. The general framework agreement for the municipal areas – covering cross-cutting issues for municipal employees such as number of paid holidays and maternity leave – is negotiated by KTO (Association of Local Government Employees Organisations), in which DLF participates through its membership of LC (the central organisation for teachers). Within this framework more teacher specific issues – working conditions, teaching time etc. – is negotiated by LC.¹⁴³ In both of these negotiations the employer side is represented by LGDK (Local Government Denmark – the Association of Danish Municipalities). As all 98 Danish municipalities are members of LGDK and the negotiation competence on the employee side is structured hierarchically as described above, the negotiations

¹⁴⁰ Working in Denmark - a guide to the Danish labour market: 3. Danish Ministry of Foreign affairs: http://uk.bm.dk/~media/BEM/Files/English/workingindk_english.ashx

¹⁴¹ See the recent European-Commission report *Industrial Relations in Europe 2012*.

¹⁴² FAOS (Copenhagen University Employment Relation research center). *Med lockouter skal land bygges*.

¹⁴³ <http://www.eurofound.europa.eu/eiro/studies/tn1001017s/dk1001019q.htm>. Also input from

are very centralised and structured. Although LGDK is both notionally and practically responsible for the employer side during the negotiations, they do not act completely independent from the central state: there is on-going coordination with the Ministry of Finances Department of Modernisation.¹⁴⁴ This makes for a very centralised and undifferentiated bargaining structure, but the previous collective agreement, *OK 2008*, nevertheless allowed for local agreements to be concluded between individual municipalities and the local branches of DLF. This option has been widely used and provides for both flexibility to meet local needs and opportunities for school development. It is the DLF impression that also many participating municipalities were quite satisfied with this possibility.

The 2013 collective bargaining process

The negotiation process with regard to the new 2014 collective agreement represents a radical departure from past trends in several ways.

In Autumn 2012, the Danish government tabled a proposal for reform of the Danish Folkeskole focusing on the so called “whole day school” which was to increase the number of hours children spend in school. In a break with the established tradition of “division of responsibilities” where working conditions are determined by collective bargaining, the financing of this reform seems to require what the municipal negotiators have taken to calling a “normalisation” of teacher working time. This “normalisation” entails putting an end to all agreements on how to allocate teacher working time – most notably the ceiling on how many hours a week a teacher can be assigned to spend in the class room. Under the LGDK proposal, the individual school principals would gain wide discretion in allocation of tasks to teachers – with no guarantee for adequate time for class preparation etc.

The Danish government has denied any coordination of their reform proposal with LGDK, but they have also failed to show convincingly how the reform could be financed without making the teachers spend more time in class (making the same number of teachers teach more class hours). This impression is further strengthened by the fact that the central government as employer has presented virtually similar demands to other teacher groups as those LGDK presented to DLF.

The LGDK has made school principal discretion in allocating working time a non-negotiable demand. DLF presented various compromise proposals, but LGDK refused to negotiate on the central issue of working time. From the employer side, the only solution was for DLF to accept the demand unconditionally.

In a public campaign in support of their proposal, employers at all levels stressed the objective of more teaching, more teacher presence in the class room and more flexibility in the allocation

¹⁴⁴ FAOS (Copenhagen University Employment Relation research center): *Hierakiet i det offentlig aftale system*.



of working time. The Danish Minister for Children and Education, Christine Antorini, repeatedly talked about her deep respect for the fine teachers of Denmark and their excellent work— but always with the caveat that the quality of their work was negatively affected by overly rigid limitations on working time. The general rhetoric was one of pitting the “good” individual teachers against a rigid collective agreement negotiated by a union ‘refusing’ to let the school principals make management decisions to set free the potential of the teachers. While the economic crisis did not feature prominently in this discourse, it was nevertheless present in the implicit premise that the increase in the time students spend in school (and consequently the amount of hours teachers need to teach) could not be financed by increasing budgets.

Unwilling to engage in any serious negotiations, LGDK gave notice of a ‘lockout’ on the 28th February 2013. At the same time, the central government (specifically the Ministry of Finance Department of Modernisation) issued a similar notice to those LC represented teachers working in the state education sector (primarily Private and Free Schools). This represents the first time public employers in Denmark have used ‘lockout’ as an offensive weapon in a collective bargaining process.¹⁴⁵ LGDK and DLF spent the next three weeks trying to reach a compromise in the Conciliation Board, with LGDK still unwilling to seriously negotiate the matter. On the 23th March, the Conciliator declared that the negotiations had collapsed. From the 1st April all non-civil servant LC represented teachers were locked out from the Danish schools and their pay withheld.¹⁴⁶ During the lockout, DLF made several overtures to LGDK, but were rebutted every time. Meanwhile the media campaign continued along the lines described above.

With a well-financed strike fund, DLF was in a position to hold out for some time and the employer side gave up trying to wear down the union and the government intervened. Normally political interventions in Denmark are based upon the compromise proposal of the Conciliator, but due to the lack of real negotiations in the Conciliation Board, there never was a real proposal from the Conciliator. The government thus publically claimed to base its proposal on the new collective agreement for GL, which was quite similar to LGDK’s demands. The proposal (Law 215) was presented on the 25th April and rushed through Parliament using the urgent matters procedure, without consulting DLF or any other employee organisation. In contrast LGDK was involved in the formulation of the legislative proposal. The government presented the intervention as a ‘balanced’ solution, taking account of both employer and employee interests in equal measure. This is an outrageous misrepresentation: on 25th April, DLF President Anders Bondo Christensen described Law 215 as not an “intervention” in the conflict but rather a “subjugation”¹⁴⁷ of the teachers, as

¹⁴⁵ FAOS (Copenhagen University Employment Relation research center). *Med lockout skal land bygges*.

¹⁴⁶ On the chronology of events: see <http://www.dlf.org/english/teachers%27+lock-out+2013>

¹⁴⁷ Not a “indgreb” (intervention) but a “overgreb” (abuse, subjugation).

the law quite obviously met the main LGDK demands with only meagre compensation for the teachers. The intervention was also condemned by EI in a letter to the Danish Prime Minister.¹⁴⁸

This series of events underlines a problematic aspect of industrial relations in the public sector: the government has played an unfair double role. It has been involved in conducting the negotiations – directly as employer on the state level, indirectly in the municipal area – while simultaneously it was responsible for the political intervention that ended the conflict. This is obviously a structural dilemma in public industrial relations, since the government will always have the ultimate ability to intervene in a conflict. This situation requires the government to show restraint in its demand and tactics if the labour-market relation is going to function properly. However, in the present case it failed to do so. LGDK felt certain of government backing during the entire process which gave them very few incentives to engage in real negotiations.

Special negotiations for the general upper secondary teachers

GL, the National Union of Upper Secondary Schools, organises all teachers in the non-vocational upper secondary schools. The number of members has increased, from about 10,500 members for many years to more than 14,000. GL organises about 95% of all general upper secondary school teachers. All have university diplomas with at least 5 years studies. GL is part of the Academic Confederation (AC).

At the beginning of the collective bargaining process every two or three years, each organisation in AC decides whether they want to negotiate on their own, or they want to be part of the negotiations headed by the confederation. If you join, you have the support of the whole confederation in a conflict, as it would involve all unions in the confederation. On the other hand, the majority in the confederation will decide if the result of the negotiation should be accepted, or if they will opt for a labour conflict. If a union decides to join with the AC, they can decide if they want to keep an option open to leave the confederation negotiations, if certain key issues are not solved to its satisfaction. Then they can continue to try to negotiate a better result on their own or call a strike. However, this decision must be made before the negotiations start.

GL has a strike fund of €100 million, but it only makes sense to use the money if there is a chance of getting a better result by calling a strike. GL had decided this time to take part in the negotiations with the confederation, without asking for the option to be able to leave in the middle of the process. The reason for this decision was an evaluation of the situation.

¹⁴⁸ EI letter to the Danish Prime Minister: http://www.dlf.org/files/DLF/English/Lock-out/Denmark_EIProtestLetter.pdf



The Ministry of Finance, the head of the negotiations of all state employees, including all GL members, had very clearly required not only an increase in teachers' class time but also the removal of all negotiated regulations of the working time of the teachers. GL decided that the best chance of an acceptable result was to call on the solidarity of the other unions in the confederation – including have to accept, when AC decided in the end that the outcome was the best possible given the situation.

In the negotiations this year, the Ministry of Finance showed no intention of negotiating their two key requirements, and in the end AC accepted a result on behalf of GL removing all negotiated regulations of teachers' working time. From 1st August 2013, the school principal will decide how the teachers' workload of 37h/week on annual average will be spent, and unless other arrangements are agreed upon by the principal, all hours should be spent at school. There are two differences between the result for the non-academic teachers described above and the AC result for GL: GL-members got a salary compensation four times as large – about € 4,000/year, and were granted a system whereby teachers register the time they spend in total on their job as a teacher. There is a simple registration arriving in the morning and leaving in the afternoon plus the time spent at home preparing and correcting assignments, if the principal has agreed that some functions can be done at home. All this registered time is work hours, and it is then up to the principal to monitor the total time spent by the individual teachers at regular intervals and change teachers' assignments so as to keep their annual workload within the average of 37h/week.

A referendum on the result of these negotiations was held, with 85% of GL members voting no to the negotiated result, but as a majority of the total votes within AC was in favour of the result, it was also accepted on behalf of the GL-members.

Future Perspectives

The negotiation process has received great attention in the rest of the trade union movement. It became clear that the conflict was not a normal industrial relations conflict and the support for DLF and the other LC unions increased markedly. The slogan "Teachers first- who's next?" was widely used by a number of trade unions. There was a growing recognition that the conflict was the expression of a previously unknown style of top-down management of the public sector, with government and parliament backing non-negotiable employer demands.

The course of events can be seen as a break with a public administration policy where social dialogue – including genuine collective bargaining – has been used as a tool for an effective development of public services. It is thus an occasion for extensive analysis of the future strategy of both DLF in particular and the trade union movement in general.

time, one can conclude that new challenges are emerging for collective bargaining in Denmark, especially in the public sector.

| Total public expenditure on education as share of total public expenditure | | Expenditure (public and private) on education as a share of GDP | |
|---|--------|--|-------|
| 2007 | 13.3 % | 1995 | 6.2 % |
| 2008 | 13.4 % | 2000 | 6.6 % |
| 2009 | 13.7 % | 2005 | 7.4 % |
| 2010 | 14.0 % | 2009 | 7.9 % |