

Introduction

1. The Danish labour market model

In the Danish labour market it has traditionally been left to the social partners to establish pay and terms of employment by collective agreements. There is almost an unwritten contract between the social partners and the state that, as far as possible, pay and terms of employment should be determined by collective agreements.

The labour law system is rooted in a negotiating culture with an emphasis on the willingness of management and labour to reach compromises. The Danish Parliament has not imposed a minimum wage or otherwise legislated systematically on terms of employment. With a few exceptions, such as the law on holiday pay, legislation has not extended provisions on pay and terms of employment in collective agreements to cover all employers and employees. The laws on employment conditions have primarily been directed at groups of employees who are on the margins of the collective bargaining system, such as civil servants and salaried employees. The social partners have played an important role in the formation of this legislation and its ongoing adjustment. While the state has played a less prominent role in the labour law system, it has played a significant role in other areas of social and labour market policy. Employees are entitled to a number of largely tax-financed social security benefits as well as a number of general benefits and services in line with other citizens in Danish society.

It is not only the legislature that has played a less prominent role in the labour market. The case law of the courts also shows significant loyalty to both industrial and political compromises expressed in collective agreements and labour legislation. The courts' subordination to Parliament is an expression of the general allocation of powers in the Danish Constitution. The reserved role in relation to collective agreements is reflected in the fact that cases arising from collective agreements are referred to a separate labour law court system. Employers' and employees' organisations are mainly responsible for enforcing collective agreements on pay and terms of employment and the ordinary courts have been careful not to criticise provisions in collective agreements

Introduction

on the basis of general legal principles. The courts' loyalty to both political and industrial compromises has given the legislature and the parties to collective agreements significant room for manoeuvre and this has thus contributed to confirming that the social partners are primarily responsible for pay and terms of employment in the Danish labour market.

The Danish collective bargaining model has resulted in a flexible labour law system supporting a flexible labour market. In recent years the special combination of flexibility and security in the Danish model has been a source of inspiration for European reform strategies in the labour market. In connection with the publication of its Communication: Towards Common Principles of Flexicurity: More and better jobs through flexibility and security (COM(2007) 359 final), the EU Commission referred to the Danish labour market as an example of a successful combination of flexibility and security:

'The Danish Golden Triangle. The Danish labour market shows a successful combination of flexibility and security, offering flexible labour laws and relatively low job protection, extensive efforts on lifelong learning and active labour market policies, and a generous social security system. This goes back to the so-called 'September agreement' of 1899, which traded the right to recruit and dismiss with the development of a public employment benefit system. In the 1960s, with the establishment of the Public Employment Service, the state took over much of the unemployment risk. In the late 1980s and early 1990s, the active labour market policies were added, aiming to motivate the unemployed to seek and accept jobs as well as upgrade their qualifications. Skills development was stimulated by a system of job rotation, allowing workers to train while unemployed persons temporarily replace them. Together, these elements form the so-called Golden Triangle of flexible contractual arrangements, generous social security and welfare schemes and extensive active labour market policies.'

The flexible labour market is not the result of an overriding political strategy to organise the labour market in a particular way. Such a reform strategy is, at most, observable from the beginning of the 1990s when a number of reforms focused on the promotion of an active labour market policy. However, even after the change to an active labour market policy there has not been a narrow politically motivated link between flexible labour law rules, generous social benefits and measures to activate the unemployed.

The flexible labour law system is the product of a long tradition of leaving the settlement of pay and working conditions to be freely negotiated between management and labour. It is this same tradition of collective agreements that has given the Danish model significant challenges in the ever more integrated European social policy. The ongoing harmonisation of working conditions has given the Danish state a role that it has not previously had in the area of labour law.