

Chapter 8

Denmark: the sacred cow of collective bargaining is still alive

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The main principles of collective bargaining in Denmark were established in 1899 with the so-called ‘September compromise’ (*Septemberforliget*). This general agreement, which is sometimes also called the ‘constitution of the labour market’, is still in force. It confers a prerogative on employers and legitimacy on the trade unions to represent the workers’ interests. It also laid the foundation for the voluntarism that still is the main principle of labour market regulation in Denmark. The key issues and basic relations between capital and labour are not regulated by the state but by the two sides in the labour market. The line of demarcation between state regulation and collective bargaining, however, is and always has been contested as regards other issues than pay and working time.

The main argument in this chapter on collective bargaining in Denmark is that it comprises a very stable set of relations that has not changed much and continues to structure cooperation between labour and management. Some of the main features of collective bargaining in Denmark are summarised in Table 8.1.

The most important collective bargaining takes place at national level: in the private sector between employers’ organisations in four or five industries and bargaining cartels of various trade unions, and in the public sector in three areas: central state, regions and municipalities. According to most agreements wages are also bargained at company level. Collective bargaining coverage in the private sector is around 65 per cent and in

Table 8.1 Principal characteristics of collective bargaining in Denmark

Key features	2000	2016/2017
Actors entitled to collective bargaining	Trade unions, employers’ organisations and employers	
Importance of bargaining levels	National sectoral agreements supplemented and adjusted at company level	
Favourability principle/derogation possibilities	National sectoral agreements set minimum standards that can be improved at company level	
Collective bargaining coverage (%)	85	84 (2012)
Extension mechanism (or functional equivalent)	No extension mechanism	
Trade union density (%)	81	77
Employers’ association rate (%)	Around 70	

Sources: Appendix A1.

the public sector close to 100 per cent. One of the main reasons for the high trade union membership rate is the so-called Ghent system of unemployment insurance, which includes a close relationship between trade unions and unemployment funds: workers who join an unemployment fund to be insured against unemployment also tend to join a trade union (Lind 2009).

The voluntarist approach to regulating the labour market is often called the 'Danish model' and has gained 'cult status' among practitioners and researchers; there is a high degree of consensus between trade unions, employers' organisations and the main political parties that the state should intervene as little as possible through legislation.

Industrial relations context and principal actors

The 1899 general agreement was reached after a major industrial conflict that was the culmination of increasing and widespread industrial unrest and trade union development from the 1860s (Jensen and Olsen 1901). The agreement solved the main questions arising from relations between capital and labour and laid down that the signing of a collective agreement would make conflicts illegal. Conflicts were, and still are, legal only if bargaining on a new agreement breaks down. This was even more firmly embedded when the government intervened in a conflict in 1908 and set up a tripartite committee that in 1910 came up with a collective agreement in which norms for the solution of industrial conflict were defined (Norm for Regler for Behandling af faglig strid), and laws that instituted a labour court (Arbejdsretten) and a public institution for conciliation (Forligsinstitutionen). Conflicts concerning the interpretation of existing agreements and rights were not allowed to lead to industrial action, but were supposed to be settled through arbitration or labour court decisions. The use of industrial action was restricted to conflicts of interest: that is, conflicts associated with the renewal of collective agreements or in areas not covered by such agreements.

These three regulations (the general agreement, the norm for conflict solving and the conciliation system) are still in force, but have of course been adjusted a number of times. The process indicates that employers and unions deal with their direct issues mainly without interference from the state, whose principal task is to furnish legitimation and institutions. This voluntarist system, the 'Danish model' (Due et al. 1994), refers mainly to the collective bargaining system, the set of norms and regulations that shape collective bargaining and some special agreements on cooperation committees (Samarbejdsudvalg).

The state, however, is not absent from labour market regulation in a broader context. The entire area of employment and social policy, retirement schemes, health and safety at work, education and training, holidays and some legislation on conditions for specific groups, such as white-collar workers and trainees, are regulated by legislation. Employee representation on company boards is also regulated by statute, while cooperation committees are based upon a collective agreement. This indicates the sometimes accidental division of labour between the state and the industrial parties. Employment policy is of particular relevance for collective bargaining as it influences

market conditions for the exchange of labour in three main ways. First, the level of and access to unemployment benefits compared with wages affects competition in the labour market. High benefits will keep wages high. Second, the number of unemployed will affect the price of labour; and third, training and skilling services improve competitiveness and job opportunities for the unemployed.

The combination of these three elements, which constitute a so-called active labour market policy – also termed ‘flexicurity’ – can pave the road for successful collective bargaining with relatively little risk of conflict. Thus the state and welfare policies are important factors in setting conditions for the collective bargaining system (Knudsen and Lind 2012).

Most trade unions were affiliated with one of the three confederations: the Danish Confederation of Trade Unions (Landsorganisationen i Danmark, LO), the Confederation of Professionals in Denmark (Funktionærernes og Tjenestemændenes Fællesråd, FTF) and the Danish Confederation of Academics (Akademikernes Centralorganisation, AC). As of 1 January 2019 LO and FTF were merged into a new confederation, the Confederation of Trade Unions (Fagbevægelsens Hovedorganisation, FH). In broad terms, LO member unions organise blue-collar and white-collar workers in both the private and public sectors; FTF affiliates represent almost entirely white-collar professionals, usually in the public sector; and AC member unions organise people with an academic education and in both the private and public sectors. LO has traditionally had close ties with the Social Democratic Party (Socialdemokratiet), while FTF and AC have no official party relationship. The formal relationship between LO and the Social Democratic Party ended in the 1990s, however. The trade unions outside the main organisations are not affiliated for a number of reasons. The most important is the Christian Trade Union (Kristelig Fagforening), which originally was very small and founded in protest against the LO and its socialist profile. In recent years, other so-called ‘yellow unions’ that are not members of the three confederations and are in competition with their affiliates have emerged, most notably unions connected to the Professional House (Det Faglige Hus), which is mainly based on cheap membership fees. It offers legal counselling and has no collective agreements and is considered to be more employer-friendly than unions in the traditional confederations.

LO is by far the most important of the main organisations and has 18 member unions, first and foremost the Trade Union for Unskilled Workers (3F), the Metal Workers’ Union (Dansk Metal) and the Trade and Office Workers Union (HK). FTF has around 70 member unions, representing teachers, technicians, social workers and nurses. AC has around 25 member unions representing engineers, doctors, economists and others.

Trade union membership has been declining since the mid-1990s. LO-affiliated unions have borne the brunt of this, losing almost half a million members. One main reason is that fewer people are employed in industries and trades typically covered by LO member unions. Changing occupational structures are also a key explanation of the growth among AC unions and the stability of FTF. LO-affiliated unions have lost members in particular to the ‘yellow unions’, which since 2000 have gained more than 200,000 new members or, tellingly, ‘customers’ as they call them. Neither the traditional trade

Table 8.2 Trade union membership in Denmark ('000)

	1970	1980	1990	1995	2000	2004	2008	2010	2012	2014	2015
Labour force*	2027	2384	2669	2648	2659	2656	2723	2704	2591	2594	2610
LO	894	1250	1423	1510	1459	1386	1251	1201	1123	1050	1026
FTF	156	277	325	332	350	359	359	358	353	346	344
AC	–	70	103	132	150	165	174	137	142	203	217
LH (managerial staff)	–	–	71	75	80	76	74	83	91	95	102
Outside LO, FTF, AC, LH ('yellow unions')	111	197	130	114	123	140	202	271	344	305	328
Total	1162	1794	2051	2163	2162	2127	2062	2050	2053	1999	2017
Total	57	75	77	81	81	80	76	76	79	77	77

Notes: * self-employed not included. The figure for 2015 is estimated. Danmarks Frie Fagforeninger (The Free Trade Union in Denmark) not included. Engineers left the AC in 2009 and rejoined in 2014 (43,000 members in 2009).

Source: Danmarks Statistik, Statistikbanken.

Table 8.3 Confederations' share of total union membership (%)

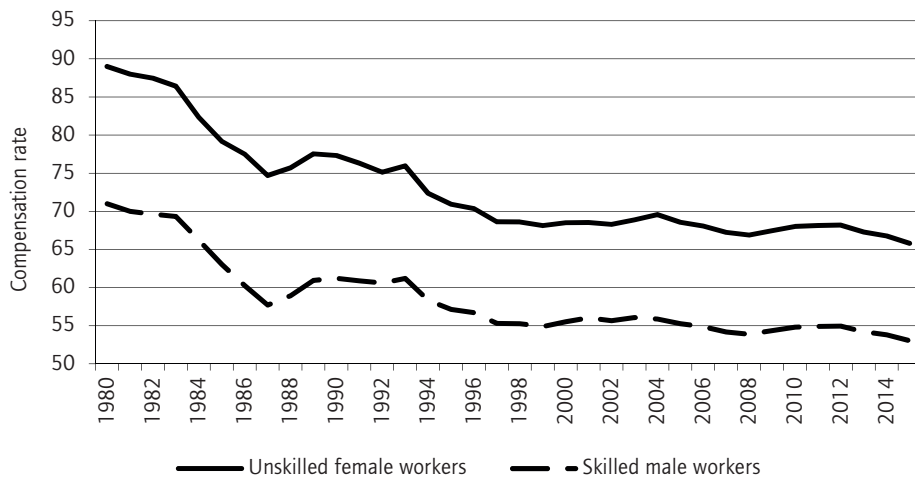
	1970	1980	1990	1995	2000	2004	2008	2010	2012	2014	2015
LO	77	70	69	70	68	65	61	59	54	53	51
FTF	13	15	16	15	16	17	17	17	17	18	17
AC	–	4	5	6	7	8	8	7	7	10	11
LH (managerial staff)	–	–	3	3	4	4	4	4	4	4	5
Outside LO, FTF, AC, LH	10	11	6	5	5	6	10	13	18	15	16

Source: Author's calculations. See remarks to Table 8.2 regarding Engineers' Union.

unions grouped in the LO, FTF and AC nor the employer organisations recognise the alternative unions as part of 'the Danish model'.

Part of the explanation for the decreasing affiliation to the traditional unions, and for falling union membership more generally, must be found in developments in the unemployment insurance system. Denmark, like Sweden and Finland, has a so-called 'Ghent system', which means that unemployment insurance is voluntary and linked to membership of an unemployment fund, which traditionally have been set up and controlled by the trade unions. Limitations on access to unemployment benefits and reductions in benefit rates relative to wages since the 1980s, combined with legislation

Figure 8.1 Compensation rate of unemployed benefits for skilled male workers and unskilled female workers (1979–2015)



Source: CASA, Social Årsrapport 2015.

that loosens the ties between trade unions and unemployment funds, have made it less attractive to insure against unemployment and thus become a trade union member (Lind 2009; Høgedahl 2014). The average compensation rate has fallen from around 80 per cent in the 1970s to approximately 50 per cent in the 2010s (LO 2006; Det økonomiske Råd 2014; CEVEA 2016).

On the employers' side DA (Dansk Arbejdsgiverforening) is the most important organisation, representing the overwhelming majority of organised employers in Denmark. DA has 14 employers' organisations, employing around 46 per cent of private sector employees in 2012 (DA 2014) and the most powerful member organisation is DI (Dansk Industri, Confederation of Danish Industry). The only employers' organisation outside DA is in the finance industry (FA, Finanssektorens Arbejdsgiverforening), which covers around 50,000 employees.

DA has always been a very heterogeneous organisation, with both single company members and big member organisations covering entire industries. For many years, and especially since 1987, organisational restructuring in DA has increasingly aimed at reducing the number of both single company members and member organisations. Since a major reform of DA structure and policies in 1994, no single company can become a member, only employer organisations.

The general strategy with regard to DA's restructuring has been, first, to decentralise collective bargaining to the industry level. It has retained its centralised power in approving or rejecting collective agreements bargained by one of its member organisations, however. All agreements have to be accepted by either the board (*bestyrelsen*) or the

general assembly (*generalforsamlingen*). In reality the absolute power within DA is in the hands of its biggest member organisation, DI, which has around 60 per cent of the votes on the board and the executive committee (forretningsudvalget) and 52 per cent in the general assembly. Second, the intention behind the restructuring has been to reduce all DA's other activities and transfer them to the member organisations. This has resulted in a drastic reduction of DA's resources, but it is still formally organised employers' most important agent.

The restructuring of DA paved the way for more decentralised collective bargaining and a change in trade union bargaining organisation. The trade unions had at that time been discussing new organisational structures for the past 20 years, but could not reach agreement. The change in DA's structure forced the unions to adapt (Lind 1995), however, and in the private sector bargaining took place in five bargaining cartels that resembled DA's structure. Such bargaining cartels consist of trade unions that organise workers within an industry, for instance manufacturing, where there are skilled and unskilled workers. Their unions create a cartel and bargain together. In manufacturing, for instance, the employer organisation is DI (Dansk Industri). Their counterpart on the trade union side is the cartel CO-industri which comprises nine unions.

This structure has since been modified somewhat, but the principle that DA and LO do not bargain directly but rather coordinate the bargaining of their affiliates still applies. In the public sector collective bargaining is divided between the central state, on one hand, and local and regional municipalities, on the other. The trade unions and LO, FTF and AC have formed two corresponding negotiating bodies, the CFU (central state) and KTO (municipalities). They cover approximately 900,000 employees.

During the past 50 years collective bargaining has taken place every second year for almost the entire labour market. During the past 15 years or so, the pattern has been less clear, though, as some agreements have run for three years, the present agreement between DA and LO member organisations is a three-year agreement, 2017–2020, and bargaining in the private and public sector has taken place in different years.

Extent of bargaining

In a country in which collective bargaining is something of a 'sacred cow' and considered to be the most important mode of labour market regulation, it is a paradox that nobody knows the exact number of existing collective agreements. In light of the decreasing number of trade unions and the concentration of bargaining areas after DA's restructuring in the early 1990s, it is a fair assumption that the number of collective agreements has fallen somewhat during the past 20 years, at least if single-employer agreements are excluded.

It is equally difficult to determine collective bargaining coverage. It depends on the method of data collection. Coverage in the public sector is no problem. It is 100 per cent or very close to that because the three areas of public sector employers, namely central state, regions and municipalities, bargain collective agreements for all their employees.

Table 8.4 Collective bargaining coverage (%)

	2000	2005	2010	2012
Private sector	77	77	73	74
Public sector	100	100	100	100
Total labour market	85	85	83	84

Sources: DA: Arbejdsmarkedsrapport, various years.

Survey-based estimates of private sector coverage come up with between 60 and 65 per cent (Scheuer 1996; Ibsen *et al.* 2011), but DA calculations based on registers end up with around 75 per cent (DA 2014). The DA measures are probably too high and the surveys may be too low because not all employees know that they are covered by a collective agreement. The coverage in the private sector therefore may be around 70 per cent and has probably been decreasing slightly during the past 20 years or so (LO 2011). For the labour market as a whole coverage may be around 80 per cent.

Collective agreement coverage is highest in building and construction and in manufacturing (around 90 per cent), 60 per cent in hotels and restaurants and in cleaning, and around 50 per cent in agriculture (Andersen *et al.* 2013).

If an employer has signed a collective agreement all workers are covered, regardless of whether they are trade union members or not. This system of course faces a high risk of ‘free riding’: you do not have to pay trade union membership fees to be paid according to the agreement. Free riding may also arise from the extension of collective agreements, but this does not exist in the Danish labour market mainly because both employers and trade unions are strongly against it (LO 2012).

A special exception regarding collective agreements is the collective agreement for around 100,000 white-collar workers in the private sector retail, office and service work. It is laid down in the collective agreement between white-collar trade union HK and employers’ organisation Dansk Erhverv that it does not cover companies in which fewer than 50 per cent of white-collar workers are HK members. This is a serious problem for the workers and their union and it has been trying to expunge this provision for many years (it was established in 1939), but the employers have refused.

With no extension mechanisms collective agreement coverage relies entirely on ‘free’ collective bargaining, the membership of trade unions and employers’ organisations and the capacity of the unions to conclude collective agreements, which again depends on the willingness of the members to demand and fight for an agreement. As argued in the previous section employment policy and the Ghent system play an important role for trade union membership, but members who join unions because of the unemployment insurance system may not be active in the struggle for a collective agreement. It is remarkable, however, that the coverage of collective agreements has remained relatively stable during the past 20 years or so despite falling trade union membership and the growth of ‘yellow unions’ without collective bargaining. It could indicate that employers have not used this weakening of the unions to avoid collective agreements.

Security of bargaining

An important element in the security of collective bargaining, which is understood here to refer to the main factors that support and maintain collective bargaining, is the acceptance and support from the state, the principal political power in society. In legal terms, the state allows employers and trade unions to conclude collective agreements and in this way determine or influence wages and other working conditions. In Denmark this takes place without statutory intervention. The state simply acknowledges the right of employers and trade unions to settle this issue on their own and restricts itself to providing some legal regulation of dispute resolution.

The security of bargaining was constituted in the general agreement in 1899 when workers' and employers' organisations mutually recognised each other as legitimate bargaining agents. It is possible that employers actually prefer a market without collectively based regulations, but as stipulated in the rules of the main employer organisation, DA, and according to its home page (<http://www.da.dk/>) it still supports collective bargaining: 'In keeping with the Danish tradition of regulating the labour market through collective agreement rather than legislation, DA supports and promotes the use of collective bargaining and considers it vital to ensure that labour markets are regulated through collective agreements as far as possible.'

As long as the employers support the collective bargaining system and the trade unions maintain a high membership rate, the security of bargaining will prevail.

The right to organise was in principle guaranteed in the constitution of 1849, but trade unions and their members had a turbulent time until the general agreement reached in September 1899, when the employers formally accepted trade unions as legitimate representatives of workers. Basically, the constitution forbade the state to interfere with the right to organise and the September agreement made it illegal for employers, who are part of the agreement, to restrict unions in their efforts to organise workers and hinder workers from joining unions. For employers and workers outside the collective bargaining system various laws forbid employers from dismissing or not employing a worker because of trade union membership, for instance the white-collar worker law (Funktionærloven) of 1938 and the law on protection against redundancy because of organisational relations (Lov om beskyttelse mod afskedigelse på grund af foreningsforhold) from 1982 (Kristiansen 2004).

The same principles also apply to the freedom not to join an organisation. In the public sector and as regards general agreements closed shops have probably always been prohibited, but until 2006 trade unions could sign agreements with individual employers stating that only trade union members should be employed. It was estimated that around 220,000 workers were employed in companies with closed shops when they were prohibited by legislation (Bom 2006).

Level of bargaining

The bargaining system as it is today is the result of an ongoing process of decentralisation that started in the early 1980s. It has not resulted in a completely decentralised bargaining structure consisting of single employer agreements, but in a structure based upon nationwide industry-level agreements with options for supplementary local bargaining.

Since the Second World War the most important actors in private sector collective bargaining have been the peak-level confederations LO and DA, which have concluded agreements at cross-sectoral level. After some turbulent years during the 1970s, however, with frequent state intervention in collective bargaining, in the early 1980s LO and DA decided to leave bargaining in the hands of their industry-level affiliates and bargaining cartels. Major organisational changes in DA during the early 1990s completed these 'decentralised' bargaining structures and the agreements in the private sector have ever since been bargained in four or five industries, covering a number of agreements. This means that, apart from a few company-level agreements, the current bargaining structure is still based on national coverage and bargaining has merely moved from the peak-level of cross-sectoral agreements conducted by DA and LO to the industry level, at which bargaining is conducted by the affiliates of DA and LO.

The most radical change in the direction of decentralisation occurred in the early 1990s when wage determination increasingly moved to the individual workplace. DA wanted a more flexible wage-setting system, shifting away from the so-called 'normal wage', which was bargained only at national level and not supplemented by company-level bargaining. In order to replace the normal wage system DA pursued two options. The first was to introduce a so-called 'minimum wage system' according to which the basic wage set by the industry-level agreement can be topped up by wage supplements negotiated at the workplace level. These wage supplements can apply to whole groups of workers or to individuals. The second option was to conclude so-called 'figureless agreements', which means that the centrally concluded multi-employer agreement does not specify any wage level at all and that therefore wages are determined exclusively at company or workplace level. Such flexible wage setting arrangements currently apply to around 85 per cent of the workforce: figureless agreements apply to 20 per cent of the workforce and the minimum wage system to 60 percent (Ibsen and Keune 2018: 27). This in turn means that in the majority of cases the wage level bargained at the national industry level is only a minimum standard for the wages bargained at local level, often several times during the term of an agreement.

In most agreements this right to bargain local wages is set to occur once a year. This is the case, for example, in the most important agreement, namely between the bargaining cartel in manufacturing, CO-Industri, and the employers' organisation in manufacturing, DI. The same goes for the agreement between HK and the employers' organisation, Danish Business (Dansk Erhverv) for white-collar office and private services workers: wages can be bargained once a year, but this agreement does not stipulate any pay level as a figureless agreement. Pay is here entirely up to negotiations between the individual employee and the employer. In line with the favourability principle, local bargaining

cannot result in pay or other working conditions that are below the standards stipulated in the national industry-level agreements.

The bargaining system in the public sector is divided into three areas: state, region and municipality, with bargaining cartels. In the public sector decentralisation of wage setting was introduced in the late 1980s with the so-called 'local wage' system and especially with the introduction of a more individualised system, the so-called 'new wage', in 1998. These wage systems are supposed to supplement the modernisation programme for the public sector that started during the 1980s. After a decade of significant scepticism among public sector employees and their unions these decentralised and individualised wage systems are now broadly accepted and have increased competition and the importance of wages as motivational factors among public sector employees.

There is no doubt that the decentralisation of wage setting has been a significant tendency during the past 20–25 years, but it is also evident that this decentralisation has not been completely and thoroughly implemented in a way that wages are completely individualised and determined at the workplace. This is due to opposition from both trade unions and employers' organisations to control the general level of wages in accordance with competition in the globalised economy.

The present system has been termed 'centralised decentralisation', 'multilevel bargaining' (Due et al 2006) or 'coherent fragmentation' (Lind 2004) in an effort to capture the fact that it is an exaggeration to label collective bargaining in Denmark as decentralised. Especially from an international comparative perspective such a term is imprecise.

Nonetheless, this development has resulted in a power shift in favour of employers as local wage setting is not subject to industrial action (Kristiansen 2004). Disputes are to be settled by arbitration. Local conditions derived from economic factors and company dependence on the capacity of individual employees have become more decisive for pay levels. In addition, decentralisation has strengthened employees' identification with their workplace and its specific conditions and interests, as well as their willingness to subordinate their demands to the company's capacities.

Depth of bargaining

As Robert Michels wrote in his classic study on political parties, 'It is the organisation which gives birth to the elected over the electors, of the mandataries over the mandators, of the delegates over the delegators. Who says organisation, says oligarchy' (Michels 1962: 365). The first chairman of the Danish LO, Jens Jensen, echoed this problem when he said that the 'organisation we are creating must be strong and firm because it shall conquer a world, but it shall also be organised according to democratic principles because it shall develop human beings' (Jensen and Olsen 1901). This issue is not only relevant for the organisational principles of trade unions but also reflected in the centralisation/decentralisation processes of collective bargaining.

The relatively high rate of unionisation of Danish workers is due partly to the unemployment insurance system, the Ghent system, as in Sweden and Finland. This means that many workers join unions to be insured against unemployment rather than to flex their muscles vis-à-vis the employer. Many trade union members thus tend to be passive in trade union affairs, which hardly strengthens the democratic culture in the unions and a commitment to be part of the struggle for better working conditions.

A relatively centralised collective bargaining system furthers the feeling of estrangement among trade union members. The leaders, professionals and delegates take affairs in hand and the rank and file remain passive and sometimes perhaps even uninterested. Despite the decreasing collectiveness and solidarity as the bargaining system becomes more and more decentralised, decentralisation may have the positive effect of getting individuals more closely involved in interest representation for themselves and their colleagues.

The LO trade unions have always talked about ‘walking on two legs’, perhaps derived from Jens Jensen’s words cited above. They should have effective and centralised bargaining power and energetic representation at workplace level. The shop stewards play a crucial role in relations between the members and, in the first place, the local union. Shop stewards are the representatives of both the trade union members and the union. They are supposed to communicate the ideas, needs and wishes of the members to the union and the latter’s policies, regulations and traditions to the members.

The bargaining process often starts a year or so before the deadline with discussions at the workplace or in the local union about the bargaining demands. There has been little research on this process, but presumably it varies a lot in intensity and very few union members participate. The most probable scenario is that shop stewards and local union officials are the main source in formulating demands from the local level of the union.

National bargaining takes place behind closed doors, far away from the rank and file, with sporadic reports in the media. The outcome, however, is often subject to discussion among the members and in the ensuing ballot most follow the recommendations of their trade union representatives. Sometimes trade union leaders recommend ‘yes’ but the members vote ‘no’, but this is very rare.

If a compromise is not reached by the bargaining parties, bargaining is taken to the official conciliator who may be able to outline a new agreement. If this happens DA and LO may accept the outline and it will be sent to the membership for acceptance or rejection. The big issue in this process is that the official conciliator often bunches all the agreements into one big package and in some areas there is actually a massive ‘no’ vote, while in other areas there is a majority ‘yes’ vote. Turnouts for these ballots are usually below 40 per cent, something that also underlines the general impression that nationwide collective bargaining is considered to be out of reach for ordinary trade union members. In 2017 the turnout was rather high, at 51 per cent, and the entire package was given a ‘yes’ vote of 57 per cent. But 60 per cent of the members from one of the major unions, the 3F, voted ‘no’ (Forligsinstitutionen 2017).

Local bargaining has a much more participatory and identifiable character. When centralised bargaining is over, local bargaining begins. For blue-collar workers bargaining is mainly collective, meaning that wages and other conditions are bargained for the shop. White-collar workers negotiate far more individualistically. It is normal that individual pay is not a matter of discussion among colleagues. This also means that wages for white-collar workers are not always understood as regulated by collective agreements.

Surprisingly, it seems that workers in LO-affiliated, mainly blue-collar trade unions are less active in trade union and other work-related activities at the workplace than workers from FTF and AC-affiliated unions. Only 33 per cent of LO workers said they had participated in a ballot during the past year compared with 55 per cent of FTF and 44 per cent of AC members (Caraker *et al.* 2015).

Perhaps ordinary members' consent and support for the system is seen most clearly in cases of conflict (Friedman 2008). If a conflict breaks out, the trade union members follow the directives of the unions and go on strike. It is very rare that critical voices are heard. It is obvious that the bulk of union members are just followers. It is noticeable, however, that a conflict increases workers' involvement in efforts to obtain better working conditions.

The basic principles of 1899–1912 still apply to industrial conflicts. If the parties cannot agree on signing a collective agreement an industrial conflict, whether a strike or a lockout, is a legal option. Such a conflict may involve picketing and secondary picketing, within certain limits: a secondary or 'sympathy' conflict (*sympatikonflikten*) must be proportionate, meaning that it must have a reasonable impact on the outcome of the main conflict (Kristiansen 2004).

When an existing collective agreement terminates, for instance after two years, it is still valid until it is substituted by a new agreement or a conflict breaks out, a so-called 'liberating' conflict. It is not enough for the parties just to say that they consider the old agreement to be terminated. They actually have to start a conflict.

Such conflicts about new agreements are called 'conflicts of interest', as distinct from so-called 'conflicts of interpretation', which are conflicts over the reading of an existing collective agreement. The number of conflicts has been steadily declining over the past 20–30 years (DA 2014), but they can happen on a large scale when existing agreements terminate and a compromise cannot be found. In recent times this has happened in 1998, 2008 and 2013. These can be nationwide conflicts for the entire private or public sector or conflicts for specific areas that for one reason or another could not conclude bargaining.

Most conflicts are illegal; in other words, they take place when there is already a collective agreement. They do, however, not influence the number of employees going out on strike or the number of working days lost to any particular degree as they typically last only one or two days and do not involve many people.

Table 8.5 Industrial conflicts in Denmark, 1996–2016

	Number of conflicts	Illegal conflicts	Number employees	Working days lost
1996	930		65,736	75,700
1997	1,023		75,349	101,700
1998	1,257		502,258	3,173,000
1999	1,079		75,170	91,800
2000	1,081	813	75,656	124,800
2001	832	585	49,460	56,000
2002	1,349	932	110,854	193,600
2003	681	608	44,365	55,100
2004	804	741	75,710	76,400
2005	534	490	32,833	51,100
2006	476	380	79,128	85,900
2007	862	768	61,113	91,700
2008	335	282	91,409	1,869,100
2009	207	168	12,679	15,000
2010	329	300	15,828	18,500
2011	280	260	13,127	15,000
2012	225	214	8,589	10,200
2013	197	176	57,319	930,300
2014	318	297	10,616	16,900
2015	158	138	6,054	9,400
2016	144	139	6,997	15,400

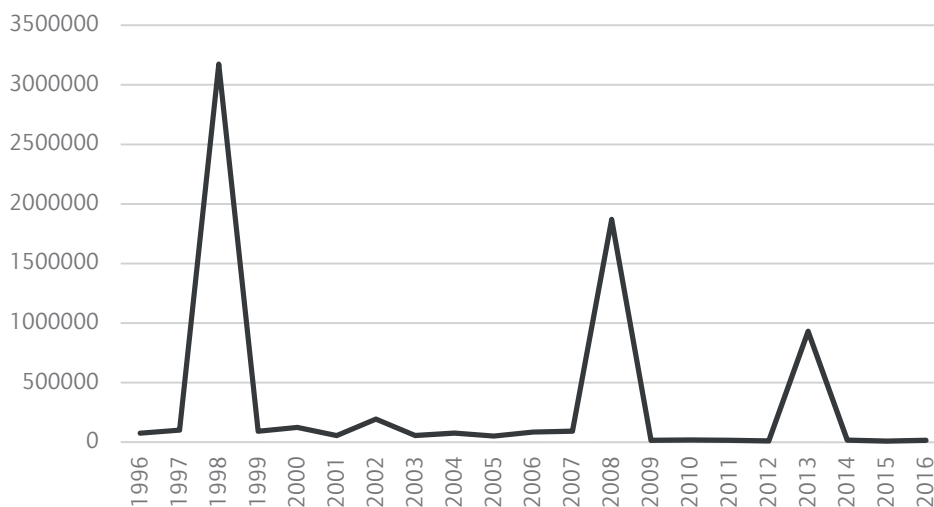
Note: The number of illegal conflicts is included in the overall number of conflicts.

Source: Danmarks Statistik and DA: Konfliktstatistik, various years.

Although the incidence of conflicts has been decreasing steadily during the past 10–15 years, industrial conflicts in Denmark are relatively frequent and comprehensive compared with countries such as Sweden and Norway. Compared with most other European countries Denmark ranks somewhere in the middle (Vandaele 2016).

State intervention in collective bargaining is not a recent phenomenon. During the past 40 years this has happened in 1975, 1977, 1979, 1985 and 1998, and the state has intervened in relation to particular elements of collective agreements on other occasions, such as in 2013 when the government legislated for a new agreement on working time for teachers (Klarskov and Svane 2017). Occasionally, state interventions do not threaten free collective bargaining substantially, but warn trade unions that they have to heed macroeconomic considerations and limitations and strict monitoring by the state.

Figure 8.2 Number of working days lost



Source: Danmarks Statistik.

Degree of control of collective agreements

The other type of conflict in the collective bargaining system, which will be addressed here under the heading ‘degree of control’, is the ‘conflict of rights’, which concerns the interpretation of a collective agreement or violations or breaches of an agreement. In such cases there exists a ‘peace obligation’. Work is supposed to continue while the conflict is being settled. A question of interpretation is dealt with in a system dating from 1910 (Norm for Regler for Behandling af faglig Strid) which sets up a negotiation and arbitration procedure starting at the workplace, involving shop stewards, and ending up in the arbitration court. An alleged breach of an agreement may be dealt with in the labour court, which can issue fines and compensation.

The degree of control of existing collective agreements is considered to be high: if a breach of an agreement is observed the case is taken to the labour court and the violation sanctioned. To observe a breach, however, may depend on resources at the workplace. If it is a small company without shop stewards or an experienced workforce there may be violations of the agreement without anybody noticing it. In big companies with proper workers’ organisation (shop stewards and so on) control is more thorough.

The degree of control with regard to collective bargaining and agreements depends on many factors in relation to bargaining and agreement implementation.

Both trade unions and employers’ organisations consider the collective bargaining system as crucial for the regulation of the labour market, the trade unions perhaps more wholeheartedly than the employers who, according to their statutes, prefer a so-called

'free' market without collective regulation, although if regulation is necessary they prefer collective bargaining to legislation.

Although the bargaining process is becoming increasingly decentralised, the conciliation system is still highly centralised. If the bargaining parties do not reach a compromise they normally send each other a warning that a conflict will commence at the termination of the existing collective agreement (1 March in the private sector and 1 April in the public sector). The Official Conciliator (appointed by the government under the Official Conciliator's Act) may be involved by the parties or on their own initiative to head and supervise further bargaining. If a compromise cannot be reached the conciliator might postpone a conflict twice, for two weeks, and if no compromise can be found after that the conciliator can make his own proposal for a settlement and send it to LO and DA for approval. In the proposal the conciliator will normally use his right of concatenation with regard to various compromises or proposals from the bargaining areas. In this case special rules of concatenation are observed meaning that all the votes are put together in one ballot. The rejection of such a proposal requires not a simple majority of 'no' votes; rather they must represent more than 25 per cent of all potential votes. If participation in the ballot on the new agreements is more than 40 per cent a simple majority is decisive.

Legislation is considered the main threat to this voluntarist 'Danish model'. If the state moves in and regulates issues currently regulated by collective agreements, the industrial parties will be weakened. That is why they are very sceptical of legislation and also extension clauses. It would presumably increase membership losses (Knudsen and Lind 2012) and start a vicious circle, ending with deteriorating working conditions, at least as long as the overwhelming paradigm of political regulation is the strengthening of 'market forces' and 'improving competitiveness' in the global economy. EU influence represents another major threat in this direction: EU directives are seen as an alien element in the Danish system, as are attempts by the European Court to curb collective bargaining, aimed primarily at 'strengthening market competition' (ibid.).

Another issue with regard to maintaining the bargaining system is the establishment of new agreements. EU enlargement has caused a lot of unrest because the free movement of capital, labour, goods and services is considered to pave the way for social dumping. Social dumping typically concerns issues not covered by legislation but by collective agreements, if they are covered at all. If a foreign worker is employed in a Danish company that is covered by a collective agreement, this agreement will be respected. Even if foreign workers are paid lower wages than their Danish colleagues, because the agreement contains local and individualised pay, this does not constitute social dumping. If the company does not have a collective agreement, some key elements, such as wages and working time, are not regulated (apart from the EU working time directive) and will be negotiated directly between the employer and the worker. In other words, such cases are open for social dumping. A trade union can intervene by demanding a collective agreement and, if this cannot be obtained, proceed with legal collective action, which may include picketing involving other unions.

The increased fear of social dumping has also reignited the debate on subcontracting, especially in building and construction. During the past 15 years or so, trade unions have tried to increase the degree of control of collective agreements by including a so-called ‘chain responsibility’ into collective agreements, but the employers have refused: they do not think that companies that contract out can or should be responsible for subcontractors. In 2017, 3F managed to get a paragraph included in the collective agreement for building and construction that stipulates that the shop steward or the union can obtain information about possible subcontractors in a specific building project (Bygge- og anlægsoverenskomsten 2017 mellem Dansk Byggeri og Fagligt Fælles Forbund:125).

All in all, the control of collective agreements is normally considered to be acceptable. There is a system consisting of the labour court and the conciliation and arbitration institutions that works according to accepted procedures. The problem is often that trade unions are not aware of abuses, violations of agreements and social dumping. But if such a case does come to their attention and they take it up, the system seems to work. A recent small case involved a bricklaying company that had employed (contracted with) a number of (Polish) workers purportedly as ‘single-man companies’ to avoid paying them the normal wage rate. 3F took the case to the labour court, which decided that the workers were of course in reality employed in a wage earner–like relationship and decided that the company had acted in breach of the collective agreement (Fagbladet 18 October 2017).

It is difficult to measure the impact of collective agreements, but statistics show that wage increases during the period of a collective agreement are almost the same as the bargained increase, usually a little more (up to 1 per cent) (LO 2017). A recent study tried to find out whether there is a difference between wages set by collective agreements and wages determined outside collective agreements. It found that there is a small difference in favour of wages set by collective bargaining. The study also concluded that wage dispersion is higher outside collective agreements (Ibsen et al 2016).

Scope of agreements

The scope of general agreements, which initially contained the mutual recognition of the parties, and the agreement on arbitration (Norm for Regler for Behandling af faglig strid) has changed over the years. They have become more detailed and include a range of topics. The latest version of the main agreement dates from 1993 and the latest agreement on arbitration dates from 2006. Furthermore a lot of other general agreements have been settled, such as the cooperation agreement (Samarbejdsaftalen) from 1947 (last changed in 2006). The general impression is that changes have been minor and have not narrowed their scope, but rather expanded it.

There is no main agreement for the public sector, but the basic rules and approach follow the same principles as the private sector. The public sector has its own cooperation agreement, which is very similar to that of the private sector.

Table 8.6 Achievements of collective bargaining in the retail sector

1971	Overtime pay
1973	Equal pay for men and women
1983	Freedom from work on a child's first day of sickness
1987	Reduction of the working week from 40 to 37 hours
1991	Right to one week of further training
1993	Occupational pension schemes
1997	Pay during maternity leave, minimum pay scheme for skilled workers
2000	Five more holidays per year
2004	Maternity leave fund
2007	Account for free choice, a right to one week of training of the worker's own choice, compensation for shop stewards
2010	Right to two weeks' training of the worker's own choice
2012	Free-time compensation for working during holidays
2014	More training rights, more money in the account for free choice, longer parental leave

Source: Author's compilation.

The ordinary substantive agreements have changed much more over the years. The main tendency since the 1980s has been decentralisation, meaning that many issues now are dealt with at the company or shop-floor level, first and foremost wages, but also working time which has been made much more flexible, mainly during the 1990s when flexibility was offered in exchange for the introduction and expansion of pension schemes. Maternity leave and the extension of holidays by a week on top of what is laid down in the Holiday Act are a couple of key since the 1980s.

The HK section for retail (HK Handel) details what collective agreements have achieved since 1971 on its homepage. The general picture matches those of a majority of trade unions and provides a useful description of the issues dealt with in collective agreements (see Table 8.6).

An assessment of the content of collective agreements should include the fact that wage increases have been very modest, at around 2 per cent annually for the past 20 years or so, and that occupational pension schemes were traded for more flexible working time during the 1990s.

The most visible and obvious deterioration of collective agreements during the past 20 years is the removal of working time standards for school teachers in 2013. As a result of this local management could decide unilaterally on how teachers spend their working time. After a conflict and government intervention, Local Government Denmark (Kommunernes Landsforening, KL), the employers' bargaining organisation, withdrew their recommendation that municipalities should not conclude a local agreement on working time to substitute the abandoned one. Some municipalities have since concluded agreements similar to the old one. In response to this rough use of power by the government trade unions in the public sector have started to prepare

mutual agreements that allow in future for secondary and supportive action from other organisations than the one whose working conditions have deteriorated (Klarskov and Svane 2017).

The impact of the EU on Danish collective bargaining is twofold: the impact of EU directives and the impact of the free movement of labour, most frequently discussed in terms of social dumping. The Working Time Directive and the Part-Time Directive are examples of EU regulations that have had direct consequences for issues regulated entirely by collective bargaining in Denmark. The Posted Workers Directive and the so-called Service Directive are examples of directives that attempt to directly regulate the level of competition based on the free movement of labour.

The impact of the free movement of labour and capital has not resulted in visible or formal changes in collective bargaining. As mentioned above competition in the labour market has increased and concerns about social dumping have intensified. The increase in competition among workers, especially low skilled and production workers, may have influenced the outcome of collective bargaining in a more indirect way, leading to a very modest wage increase during the years after the 2008 crisis. The fall in average annual wage increases from around 4 per cent before 2008 to 2 per cent after the crisis could be because of uncertainty among workers, but it could also be because the rate of inflation was very low and actually allowed for a modest increase in real wages (LO 2017).

Conclusions

One general conclusion of the examination of collective bargaining in Denmark is that it is still alive. This raises the question, however, is it still kicking? It is the stability and continuity that catch the eye. Changes have been minor, with modest wage increases, consolidation in many areas, a few setbacks and, with a few exceptions, fewer conflicts, although they are still at the upper end or somewhere in the middle in Europe (Vandaele 2011; 2016).

The 'Danish model' is surprisingly stable and it is tempting to use the same words Galenson used back in the 1950s in his book *The Danish System of Labor Relations: A Study in Industrial Peace* (Galenson 1969). He pointed out how important it is that the representatives of labour and capital maintain a cooperative attitude and support a system that makes this possible. The same can be said about the functioning of the collective bargaining system today.

Perhaps it is remarkable that the bargaining system has not been further affected by the hegemony of economic liberalism. The only obvious setback for trade unions has been in public sector bargaining, with the abolition of the working time agreement for teachers. The explanation of this is perhaps that a lot of the other changes in working time regulations that have strengthened management prerogatives have been implemented within the framework of decentralisation: the flexibilisation of working time takes place at workplace level, having been exchanged for the expansion of occupational pension schemes, which took place mainly in the 1990s.

Another explanation is that it has been the part of the population that is outside the reach of collective bargaining and the labour market that has suffered in recent years. Austerity measures generally affect people who are dependent on social services and benefits, as well as people working in teaching and in health and elderly care, who have experienced a drastic intensification of work because spending cuts mean that there are insufficient people to do jobs properly.

To a very large extent such processes are not part of collective agreements, but subject to management decisions, often influenced and legitimised by cooperative committees and other kinds of employee workplace involvement. The so-called welfare state sets the conditions and the local management and employees take over tactical and operational responsibility. Perhaps this reveals the limits of the collective bargaining system: when trade unions accept the employer's prerogative, a substantial part of working conditions are not negotiable.

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All links were checked on 20 December 2018.

Abbreviations

3F	3F (Trade Union for Unskilled Workers)
AC	Akademikernes Centralorganisation (Danish Confederation of Academics)
CFU	Centralorganisationernes Fællesudvalg (Trade Union Bargaining Organisation in the State)
Co-industri	Centralorganisationen af Industriansatte I Danmark (Central Organisation of Industrial Employees in Denmark)
DA	Dansk Arbejdsgiverforening (Confederation of Danish Employers)
DI	Dansk Industri (Confederation of Danish Industry)
FA	Finanssektorens Arbejdsgiverforening (Danish Employers' Association for the Financial Sector)
FH	Fagbevægelsens Hovedorganisation (Confederation of Trade Unions)
FTF	Funktionærernes og Tjenestemændenes Fællesråd (Confederation of Professionals in Denmark)
HK	Handels- og kontorfunktionærernes Forbund (Trade and Office Workers' Union)
KL	Kommunernes Landsforening (Local Government Denmark)
KTO	Forhandlingsfællesskabet (Danish Association of Local Government Employees' Organisation – trade union bargaining organisation for municipalities)
LH	Ledernes Hovedorganisation (Danish Association of Managers)
LO	Landsorganisationen i Danmark (Danish Confederation of Trade Unions)