TOWARDS A EUROPEAN IR-SYSTEM?
THE IMPLICATIONS OF THE MAASTRICHT TREATY FOR DANISH INDUSTRIAL RELATIONS

by

Carsten Strøby Jensen, Jørgen Steen Madsen and Jesper Due

Presented at
The Third Biennial Conference
of the European Community Studies Association (ECSA)
Washington D.C.
May 27-29, 1993

April 1993
University of Copenhagen
Department of Cultural Sociology
FAOS, Industrial Relation Research Group
Linnesgade 22, 1361 K, Copenhagen, Denmark
phone: + 45 35323282, Fax: + 45 35323284

TOWARDS A EUROPEAN IR-SYSTEM? THE IMPLICATIONS OF THE MAASTRICHT TREATY FOR DANISH INDUSTRIAL RELATIONS

by Carsten Strøby Jensen, Jørgen Steen Madsen and Jesper Due

Though aware of the risk of being charged with chauvinism and vast exaggeration of Denmark's potential role, we argue that the Danish No to Maastricht was a turning point, that 2 June 1992 triggered off a series of changed political signals for European integration.

On 2 June 1992, Danes cast their votes in the first national referendum to be held in Europe on the Maastricht treaty. The result was a No, albeit by a very narrow margin, but nonetheless a valid No. The reaction in the other EC countries was twofold: frank amazement, and a firm conviction that the Danish No would not affect the general pattern of European integration. It was clearly indicated that, while it was up to the Danes to decide whether Denmark was to adopt or reject the Maastricht treaty, and that a special arrangement could be devised to accommodate Denmark[1], the drive towards European integration would not be impeded.

Observers were puzzled by the refusal of the Danish electorate to heed the advice of the politicians. After all, some 80 per cent of the members of parliament (the Folketing) had advocated a Yes to the Maastricht treaty. And the same voters had elected these politicians. As we shall see, part of the explanation is to be found in the organisational structure of industrial relations in Denmark.

Following the Danish referendum, Mitterand immediately tried to add impetus to the dynamics of European integration, by decreeing that a similar referendum would be held in France. The result, however, failed to meet Mitterand's expectations. It was a timid Yes, not an overwhelming demonstration of support for EC integration. As a percentage, the French Yes matched the Danish No – suggesting a victory for the notion of a Europe comprised of nation-states rather than a supranational, federal Europe. At the same time John Major was running into unexpected difficulties in gaining support

---

[1]The "special arrangement for Denmark" was agreed at the Edinburgh (summit) meeting of the Council of Ministers. The outcome of a second referendum on 18 May 1993 will determine whether Danes accept or reject the "opt-outs" agreed upon at the Edinburgh meeting. Thus, at the time of writing, Denmark's position with regard to EC co-operation remains undecided.

Our analysis of the attitudes of the Danish IR-actors to the creation of a European IR-system – and of the potential influence of these actors – is based on the assumption that the result of the Danish referendum on 18 May 1993 will be a Yes.

Another Danish No would force both the political actors and labour market actors to conduct a searching reappraisal of their attitudes to EC integration and of Denmark's role. We believe that it would be pointless – and probably impossible – to conduct any analysis of the effects of a new Danish No on the creation of a European IR-system, or to predict Denmark's role in such a situation.

for the Maastricht treaty in the House of Commons. This was a setback, as the UK had been granted sweeping "opt-outs" by the other 11 EC countries, in the form of exemptions from the sections governing the so-called Social Dimension and co-operation on the European labour market.

There are also some indications - as Streeck has pointed out in his proposal for the meeting at which this paper was presented[2] - that the mood of optimism about integration in the EC countries generated by the treaty negotiations conducted prior to the Maastricht meeting has been replaced by a mood of scepticism. In Europe the role of the nation-state shows no signs of staleness.

There is some justification for conducting an analysis - within the framework of politology's classical neofunctionalism - of European integration in the field of EC co-operation during the period commencing in the mid-1980s, when the notion of the Single Market was first promulgated, and ending on 2 June 1992. It can be maintained that the thesis submitted by E.B. Haas on the significance of the spill-over effect is, in the context of political integration in the EC, to a certain extent tenable when applied to this period[3]. The increased economic integration in Europe, generated by the Single Market project, placed co-operation in other areas of policy on the agenda. And the Maastricht treaty can be perceived as the common acceptance by national political elites of the necessity of ceding national political competence to EC co-operation structures in non-trade areas of policy, as a consequence of such economic integration[4]. It can thus be held that the focus on labour market policy derives - to a large extent - from economic co-operation.

As suggested above, the integration logic evident in the pattern of European co-operation has apparently lost its potency following the agreement on the Maastricht treaty reached at government level at the end of 1991. The question is whether it has now become necessary to reassess the thrust and significance of national institutional structures in line with predictions of a federal Europe? This is the question that Streeck poses with regard to the development and nature of industrial relations in Europe. Our paper addresses this question, taking the Danish industrial relations system as the point of departure.

Firstly, we shall briefly outline the key elements in what we refer to as the Danish Model of industrial relations. Secondly, we shall report the main viewpoints

---

[2]Wolfgang Streeck: "The effect of European integration of national industrial relations systems - Proposal for a Panel at the Third Biennial Conference of the European Community Studies Association (ECSA), Washington D.C., May 27-29, 1993."

[3]E.B. Haas: "The Uniting of Europe: Political, Social and Economic Forces, 1950-1957", London, 1958.

[4]Obviously, due attention should also be paid to other major factors influencing the pattern of EC integration in the period 1985-1992, in particular the collapse of the prevailing system in Eastern Europe, symbolised by the demolition of the Berlin Wall. This - perhaps - has exerted greater influence on the political emphasis on closer integration than the creation of the Single Market.

influencing the actors on the Danish labour market, determining their positions on co-operation on the EC's social and labour market policy. The attitudes of the actors to what Streeck terms "upward delegation" and the background forming these attitudes will constitute the core of the analysis. In a Danish context, the actors' willingness to support EC integration in the area of social and labour market policy has also been shaped by consideration of the possibilities of achieving what Streeck refers to as "horizontal interdependence" between the various European IR-systems. The paper also treats some aspects of this phenomenon.

The third section of the analysis concentrates on the problems for the Danish Model which may derive from co-operation on the EC's social and labour market policy. It will include consideration of how these problems influence the willingness of the actors to accept the creation of a European industrial relations system. This part of the analysis thus focuses on the consequences of what Streeck terms "downward intervention". Fourthly - and finally - we shall review the aggregate contribution of the Danish IR-system to the creation of a European IR-system in line with the provisions of the Maastricht agreement.

1. THE DANISH IR-MODEL[5]

Among the characteristic features attributed at various stages to the so-called Nordic or Scandinavian Model are: centralised bargaining to conclude collective agreements between workers' and employers' organisations, close links between the labour market parties and the state, a high rate of unionisation among workers, and a fundamental system-orientation showing a preference for regulation of industrial relations via collective agreements rather than regulation via legislation. These same features also characterise the Danish Model. Today, however, as distinct from the period prior to 1970, it is only in Denmark that the "Nordic Model" has survived in a relatively unadulterated form. Thus, the Danish IR-system, unlike - for example - Sweden's[6], is still typically underpinned by collective agreements between the labour market parties, and these agreements serve as the basic mechanism for regulation of industrial relations.

The Danish Model's special mechanism for regulation of industrial relations traces its origins to a series of disputes between workers' and employers' organisations at the end of the last century; disputes which resulted in the so-called "September Compromise" ("Septemberforlig") in 1899 between the then two main organisations on

---

[5]Walter Galenson's "The Danish System of Labor Relations: A Study in industrial Peace" (Cambridge 1952) is still the best account of the Danish IR-system written by an outside observer. We plan to publish - in late 1993 - a book intended to update Galenson's work, giving an analysis of the development of the Danish IR Model up to the early 1990s.

[6]From the early 1970s, increasingly comprehensive regulation of industrial relations via legislation was introduced in Sweden, under a series of Social Democratic governments.

the Danish labour market. This September Compromise ultimately became the basic, all-important collective agreement; it has regulated - and partly continues to regulate - relations between the parties in the Danish IR-system. The September Compromise - a relatively short document - has been applied as the legitimising source for norms and rules. These norms and rules have exerted an influence throughout this century on the institutionalisation of the Danish IR-system, stamping it with a number of its present characteristics. The employers' management prerogative, i.e. the right to manage and allocate work ("retten til at lede og fordele arbejdet") was one of the key clauses of the September Compromise, which was ceded by the trade unions to the employers' organisations in return for the employers' recognition of the workers' fundamental right to organise in trade unions, with the aim of subsequently concluding collective agreements. During the intervening ninety-three years, the Danish trade union movement has made only very feeble attempts to challenge the clause enshrining the management prerogative.

One of the consequences of this historic compromise was that the Danish workers' and employers' organisations - in contrast with some other European countries - have adopted a normative and political alignment which favours regulation of industrial relations via collective agreements. At the same time this alignment - in favour of regulation by collective agreement - has strengthened the position of both parties on the labour market. Thus, the workers have succeeded in achieving rights on the labour market primarily via membership of trade unions, not via legislation, which has served as an incentives to join a trade union. Similarly, the acceptance by the employers' organisations - based on the principle of voluntarism - of the workers' right to organise, as laid down in the September Compromise, has led to a situation in which the single employer has done less than employers in other countries to prevent workers from joining a trade union. The outcome is that the Danish Model is characterised by a high density of union membership; about 80 per cent of all workers are members of a union.

Similarly, competition between trade union organisations with different political affiliations has been very limited. Further, any trade union strife has usually been resolved by the major trade union groupings, which generally work together in a spirit of co-operation. It is not a question of a variety of organisations who compete with one another, as, for example, in France, Spain and Portugal.

Danish trade unions are affiliated with three Danish organisations: LO, i.e. the Danish Confederation of Trade Unions, FTF, i.e. the Confederation of Salaried Employees and Civil Servants, and AC, i.e. the Danish Confederation of Professional Associations (for graduates etc.). Traditionally, LO has been by far the most dominant main trade union organisation in Denmark. However, with the growth of the public sector since the mid-1960s, FTF and AC have assumed a more central role; in 1991 these two organisations represented some 25 per cent of unionised workers.

These characteristic features of the Danish IR-system (i.e. the high density of union membership and the absence of competing trade union organisations) constitute

a sine qua non for the Danish Model's alignment towards collective agreements.

Similarly, the most important employer organisations in Denmark have shown a preference for regulation via collective agreements since the conclusion of the September Compromise in 1899. And DA, i.e the Danish Employers' Confederation, has at the same time exerted a decisive influence in maintaining the Danish system of collective agreements as an - compared to other IR-systems - essentially centralised system, right up to the end of the 1970s. As the structure of Danish industry and commerce has been - and still is - characterised by a majority of small and medium-sized firms and a minority of (relatively) large firms[7], Danish employers have an obvious interest in centralising the collective bargaining process, so as to curb the trade union organisations in their attempts to play one firm off against another. In a historical perspective, the employers' organisations have exerted pressure on the trade union organisations to accept centralised bargaining[8]. The important collective agreements concluded in the 1950s, 1960s and 1970s, which established a precedent, were thus negotiated at main organisation level, i.e. between DA and LO[9].

One of the consequences of the centralised form of collective bargaining adopted by the Danish Model is that the Danish labour market is characterised by a relatively high degree of homogeneity with regard to workers' pay and terms of employment. For instance, centralised bargaining has meant that, by and large, all groups of workers work for the same number of hours per week, while the trade union organisations, via the centralised bargaining, have managed to ensure - by comparison with other EC countries - a relatively limited wage-spread among Danish workers[10].

Against the background of the development of labour market organisations and collective agreements, the Danish state and the Danish political system have ended up

---

[7]It should be noted that firms classified in Denmark as large would be classified in a European context as small or medium-sized.

[8]H. Clegg's thesis - that it is the employers and their organisations who have the decisive influence on the degree of centralisation in a collective bargaining system - is amply confirmed by the development of the Danish IR-system, cf. Clegg: "Trade Unionism Under Collective Bargaining: A Theory Based on Comparisons of Six Countries", Oxford, 1978.

[9]In strictly formal terms, the collective agreements have always been - and still are - concluded by the member organisations - or cartels composed of these member organisations - affiliated with the main organisations. However, at the urging of DA, a system of synchronised collective bargaining at intervals of two years was created. And during these rounds of collective bargaining in the period referred to it was, in fact, LO and DA who conducted bargaining on the major joint issues involved in all agreements, i.e. the so-called general demands, while the member organisations were restricted to dealing with more specific issues. This heavily centralised system of collective bargaining was backed by a mechanism whereby the final stages of the bargaining were referred to the Public Conciliator institution, where the conciliator exercised his competence to submit conciliation proposals and apply concatenation (linkage) of the votes on these proposals. This pattern was adopted for virtually the entire Danish labour market. As Galenson put it, the Conciliator's proposal became "... the crucial stage in collective bargaining..." (Galenson op.cit., p.112)

[10]Cf. "Finansredegørelsen" (Financial Report) published by the Danish Ministry of Finance, 1991.

playing a relatively circumscribed role in the regulation of industrial relations. The labour market parties, via their close links (on both sides) to certain political parties, have stressed that intervention by the political system – in what they have consistently regarded as "our territory" – is to be tolerated only in exceptional circumstances. And, on the whole, the political system has accepted this non-interventionist role.

Here, however, it should be emphasised that the institutional character of the Danish parliamentary system is one of the prior requirements for the limited role of the state in regulating industrial relations, e.g. in connection with the issue of co-determination for workers. As distinct from – for example – the U.K., the Danish parliamentary system has been characterised by block politics only for very limited periods. Thus neither the Danish Social Democrats nor the right-wing parties, i.e. the Conservatives and the Liberals, have ever had an overall political majority in the Folketing. In a historical perspective, one of the main features of the Danish political scene has been the phenomenon of centrist parties forming part of the parliamentary majority of the government in office. These centrist parties have often had the declared goal of forming a bridge between the Folketing's right-wing and left-wing parties.

Thus, considered in a political perspective, one of the distinguishing features of the Danish parliamentary system is its compromise-oriented political culture, which allows essential political – and hence social – interests to be considered in relation to one another whenever major items of legislation are being drafted. This parliamentary situation has been decisive in making it impossible for either of the labour market parties to secure for itself any essential advantage via legislative initiatives. Thus, the Danish trade union movement has never been capable of achieving a position in which the Danish Social Democrats have managed to secure the interests of the movement via legislation. Though the Social Democratic party has been in office throughout most of the period since the 1930s, it has never had a parliamentary majority on its own. In Sweden, on the other hand, in the 1970s the Swedish trade union movement, via Sweden's Social Democrats, who had an overall majority in the Swedish parliament – succeeded in having legislation passed on economic democracy, despite massive opposition from Swedish employers[11]. A corresponding political opportunity has never presented itself in Denmark, and this is one of the main explanations of two facts: a) the Danish IR model has been capable of surviving, and b) the state has had a relatively circumscribed role in regulating industrial relations.

It is also characteristic of the Danish parliamentary system that the ruling of Denmark for a decade by a non-socialist government, from the early 1980s to early 1993, has not resulted in any undermining of the Danish Model. Denmark's non-socialist government did not at any stage challenge – as Margaret Thatcher did in the U.K. – the right of the trade union movement to exist, or the role of the trade union organisations

[11]Cf. Niels Elvander:"Lokal lönmarkad. Lönbildning i Sverige og Storbritanien", Stockholm, 1992, and Anders S. Olsson: "The Swedish Wage Negotiation System", Uppsala, 1989.

in regulating industrial relations.

However, in the past decade the Danish Model has undergone a number of sweeping changes, although their immediate origins can be traced to a shift in the attitudes of the labour market parties rather than to political intervention. This realignment bears a close resemblance to a number of the changes evident in the development of IR-systems in the rest of Europe[12]. There has thus been an increased tilt towards decentralisation of the collective agreements system. Or, more specifically, the Danish Model has undergone a process-shift towards what we have elsewhere termed "centralised decentralisation"[13]. The employer side has been especially keen on creating an added measure of flexibility to the collective bargaining process, capable of meeting the specific requirements of the single enterprise. Thus in recent years the collective bargaining system in Denmark has undergone a process of "centralised decentralisation".

Numerous trade union - and employer - organisations have been amalgamated to form bigger organisational entities, while at the same time the traditional main organisations, i.e. LO and DA, have ceded some of their competence. This development was initiated by the employers with the aim of reducing the number of employer organisations which still existed at the end of the 1980s - about 150. The target figure is fewer than 10 groupings or federations with a real impact, capable of reducing the number of collective agreements from around 600 to 3-6. Framework agreements can ensure that the single enterprise is allowed greater latitude with regard to determining pay and working conditions.

In line with this trend, the majority of firms in the industrial sector - including the most influential firms - have joined forces to form DI, i.e. the Confederation of Danish Industries, which is today the most important single employer organisation on the Danish labour market. DA, the Danish Employers' Confederation, is - as already indicated - still, in formal terms, the main organisation on the employer side, with DI as one of its affiliated organisations. DI, however, represents more than 50 per cent of DA's aggregate membership, and is thus by far the most important member organisation in DA. DI's goal is to form an entity capable of encompassing the entire area covered by the minimum-wage collective agreement. A vital step was achieved during the round of collective bargaining conducted in early 1993.

The trade union organisations covering the industrial sector effected a corresponding organisational centralisation of competence, by forming "CO-industri" - a cartel -

---

[12]Cf. Anthony Ferner and Richard Hyman (ed.): "Industrial Relations in the New Europe", Oxford, 1992, Cf. also P. Teague & J. Grahl: "Industrial Relations and European Integration", London, 1992.

[13]This is a phenomenon which has become gradually apparent on the Danish labour market. Despite the apparent paradox, the explanation is simple; collective agreements are concluded at decentralised (i.e. local) level, within the framework of centralised (i.e. national) agreements. Transfer of competence is involved, as organisations - on both sides - shrink in number and form new groupings and cartels. We have discussed this development in Due, Madsen, Kjerulf Petersen, Strøby Jensen: "Adjusting the Danish Model: Towards Centralised Decentralization", Copenhagen, 1992.

and empowering it to conclude collective agreements. This organisational centralisation has had the goal of matching the centralisation effected by the employers. One of the results of this organisational development by both sides is that the main organisations on the Danish labour market – LO and DA – now play a far less significant role in the collective bargaining process than they did, as part of their traditional role, in the period 1950–1980. On the other hand, these organisations – as we shall see later – play an important role in relation to developments at a European level.

It should, however, be added that outside the industrial sector any corresponding development has so far reached only the initial phase. The delay is due to the fact that the specific interests of the organisations which will be affected by a transfer of competence to the new aggregations obstruct – or at least delay – the structural changes. There is thus as yet no framework for the ultimate reduction in the number of collective agreements, although in connection with the next rounds of collective bargaining – in 1995 and 1997 – a new breakthrough is to be expected, resulting in the linking of a large number of agreements to form single, more comprehensive agreements covering greater numbers of employers and workers. However, these large-scale agreements will be framework agreements rather than detailed agreements, offering greater flexibility of bargaining for the single enterprise, e.g. on the issue of planning hours of work, pay and further training.

2. THE DANISH MODEL AND A EUROPEAN IR-SYSTEM

"An enlargement in the scope of many industrial-relations systems.....may be expected from the development of the Common Market in Western Europe with a change in competitive product-market conditions brought about by the reduction or eventual elimination of tariffs....New industrial-relations systems, supranational in scope, would be required to replace those which have been confined to individual countries or sectors of the industries in a country. A more uniform set of rules should be expected to arise in such a new system. As new competitive conditions are generally created in the Common Market, changes in the scope of the industrial-relations systems are to be expected."[14] This assertion was made by John T. Dunlop in one of the major works on industrial relations, Industrial Relations Systems, as far back as 1958. Today – 35 years later – it is clear that the creation of a supranational industrial-relations system is neither an inherent nor a necessary consequence of market integration. In historical terms, there have been many attempts to establish the elements of such a European industrial-

[14]J.T. Dunlop: "Industrial Relations Systems", Harvard, 1958, p. 75.

relations system, even though they have turned out be relative failures[15]. Despite the fact that the EC can soon celebrate its 40th anniversary, Europe continues to have widely different IR-systems[16].

The first three questions to be considered are a) to what extent are the national IR actors interested in tolerating what Streeck refers to as "upward delegation", b) in which areas is this "upward delegation" regarded as acceptable and c) does a desire for "upward delegation" on the part of one or more of the actors constitute an expression of an attempt at collective representation of interests at supranational level in relation to supranational problem complexes, or does the desire for "upward delegation" derive primarily from an inclination to handle national disputes at a new level?

Any reply to these questions requires a more detailed analysis of attitudes and viewpoints among the actors involved in the national IR-systems, i.e. the three parties: trade union organisations, employer organisations and the state. The following section is an attempt to conduct such an analysis, based on the Danish IR model.

Danish tripartite concensus - no to a European IR-system

"We still crack the nuts ourselves", was a slogan which appeared in Danish newspapers in the period leading up to the Danish referendum on EC membership in 1972. The slogan was devised as part of a joint advertising campaign launched by the main organisations on the Danish labour market, i.e. LO and DA, and was intended to convince Danes of the importance of voting in favour of EC membership. The thrust of the campaign - and the point of the slogan "We still crack the nuts ourselves" - was to emphasise that a Yes to the EC did not mean a Yes to a European industrial-relations system. Regulation of industrial relations was still to be conducted via the system of organisations and collective agreements forming an integral part of the Danish Model, i.e. the main actors - Denmark's trade union and employer organisations - would continue to play the leading roles.

In 1972 neither the trade unions nor the employer organisations wished to participate in any "upward delegation" of competence to supranational institutions or to supranational trade union and employer organisations. And this viewpoint elicited the full support of the parties elected to the Folketing.

Thus the actors in the Danish Model have in general - up to the mid-1980s and,

---

[15]Cf. - for example - P. Teague: "The European Community: The Social Dimension, Labour Market Policies for 1992", London, 1989; and P. Venturini: "1992: The European Social Dimension", Luxembourg, 1989.

[16]We have discussed the relationship between convergence and diversification in the European IR-systems in Due, Madsen and Strøby Jensen: "The Social Dimension: Convergence or Diversification of Industrial Relations in the Single European Market?", published in the Industrial Relations Journal, No. 2, Vol. 22, 1991.

in fact, until the concept of the Single Market and "Project 1992" were first mooted – been active opponents of "upward delegation" in the field of social and labour market policy. During the period up to the mid-1980s, the Danish trade union movement, along with, inter alia, the U.K.'s TUC, was often out of step with the initiatives and wishes jointly formulated by the European trade union movement via ETUC. For example, on grounds of principle the Danish trade union movement – dissociating itself from the majority of the European trade union movement – could not lend its support to proposals for directives on the regulation of "atypical" work, submitted by the Commission in the early 1980s[17]. The main Danish union aggregations, LO and FTF, which are represented in ETUC, opposed inclusion in EC co-operation measures of factors traditionally discussed and negotiated via the Danish Model's system of organisations and collective agreements. The attitude of the Danish trade union movement and its rejection of a European IR-system were based partly on fear that EC regulation via harmonisation would imply a deterioration of norms and standards on the Danish labour market, and partly on a general mood of scepticism with regard to the EC among Danish workers, which made it impossible for trade union leaders to participate actively in the creation of a European IR-system.

This attitude was echoed by the main Danish employer organisation, i.e. DA, which declared itself in principle an opponent of EC regulation of industrial relations – a position adopted by DA in line with that taken by the other European employer organisations and by UNICE.

During this period, i.e. up to the mid-1980s, successive Danish governments – acting in accord with the labour market parties – expressed these negative viewpoints in the Council of Ministers. The concept of "upward delegation" as applied to social and labour market policy elicited no specific or general interest – from unions, employers or government. There was a desire to keep social and labour market policy as an area restricted solely to national competence. In this context it should be noted that the Danish government in office at any given time has maintained – and still maintains – close contacts with the labour market parties. This is true of most areas of policy, but the contacts are particularly close in cases of initiatives taken with regard to EC social and labour market policy.

Thus, up to the mid-1980s, the viewpoints expressed by the actors in the Danish IR-system were characterised by a broad consensus which asserted that supranational co-operation in the EC was not to become the arena for regulation of industrial relations. And neither the Danish trade union organisations nor employer organisations seriously regarded a European IR-system as constituting a new forum for discussing problems related to "their own" Danish IR-system. Neither LO nor DA believed that

[17]These proposals submitted by the Commission in the early 1980s were later revised and accorded further consideration in connection with the Commission's action programme for the Social Charter. They were again put forward in 1990, and are today supported by the Danish trade union movement.

they could derive any essential strategic or negotiating advantage from raising national discussions to a supranational level. They were adamant in their determination to cling to the Danish Model.

Towards "project 1992" - the end of Danish tripartite concensus

Moves to create the EC's Single Market at the end of 1992 and the subsequent adoption of the Single European Act in 1987 made a dent in the Danish tripartite consensus on some points, while forcing some of the actors to reverse their opinions on "upward delegation" in the area of social and labour market policy.

A change in Danish attitude to EC regulation of industrial relations was initially evident during discussions on the introduction of the practice of reaching decisions on working environment issues by a qualified majority in the EC's Council of Ministers (Article 118A of the Single European Act).

During negotiations on the Single European Act[18], the Danish trade union movement had expressed scepticism with regard to the sharpened common EC regulation of the working environment, implied by the introduction of the practice of reaching decisions by a qualified majority. This scepticism was based on the belief that common European rules and common European standards to cover the working environment would lead to a drastic lowering of Danish national standards in this area, which on a number of points were - on average - considerably higher than in other EC countries. As a consequence of the scepticism of the Danish trade union movement on this issue and of other factors, during the negotiations the Danish government demanded that common European standards for the working environment should not be allowed to block higher and better national standards. This demand was accepted during inter-governmental negotiations, via the introduction of the so-called "environment/working environment guarantee" (Article 100A, paragraph 4, of the Single European Act), which made it possible for the Danish trade union movement to accept European regulation of the working environment.

The strategic choice with which the Danish trade union movement was faced on the issue of common European regulation of the working environment can be described as a choice between a) accepting "upward delegation" of competence to supranational institutions covering this particular field, and b) risking that the effects of what Streeck terms "horizontal interdependence" might imply a lowering of Danish standards for the working environment, as a consequence of the market mechanism.In competition with other European IR regimes, Denmark might find it difficult - in a European context -

---

[18]Cf. - for example - Dansk Metalarbejderforbund (Danish Metalworkers Union): "EF og arbejdsmiljøet - efter EF-pakken" (i.e. "The EC and the Working Environment - consequences of the EC package"), Copenhagen, 1986.

to maintain its high standards for the working environment following the creation of the EC's Single Market. As Streeck puts it: "...horizontal interdependence is the stronger the less capacity there is at supranational level for the governance of external effects; interdependence...can be contained or reduced by upward delegation of authority"[19]. When deciding the position it would adopt during negotiations on the Single European Act, the Danish trade union movement thus chose to aim at reducing the "horizontal interdependence" between working environment regimes in Europe, by agreeing to cede sovereignty via introduction of qualified majority voting in the Council of Ministers, while demanding that any directives adopted in the Council of Ministers on working enviroment should stipulate only minimumprovisions.

Nonetheless, the Single Market project itself and its political component, i.e. the adoption of the Single European Act, were strongly opposed in Denmark. Thus there was no majority in the Folketing for adoption of the Single European Act[20]. The Danish Social Democrats were among the parties opposing Danish adoption of the Single European Act, justifying their position by referring to the element of general deregulation intended to form part of the Single Market project and to the fear that such deregulation would imply increased "horizontal interdependence" between the EC countries, not just in the field of industrial relations, but also in other policy areas. However, the Danish electorate voted Yes to the Single European Act in a referendum, so that Denmark - despite the absence of a parliamentary majority - adopted it[21].

The perspectives emerging from the realisation that a European Single Market would become a reality at the end of 1992 caused a shift in position among the actors in the Danish IR-system on the desirability of creating a European IR-system. And, in turn, this shift in position caused some fractures in the existing Danish tripartite consensus on rejection of the idea of creating a European IR-system. Consensus was replaced by disagreement between the trade union organisations and employer organisations.

From 1987 onwards, the Danish trade union movement, led by LO[22], began to work actively for development of a social dimension in the EC, as a response to the opening moves made by the Commission during the same period. The trade union movement was prepared to accept the outlines for the creation of European industrial

---

[19]Wolfgang Streeck, op. cit., p. 2.

[20]A non-socialist minority government conducted negotiations on Denmark's behalf on the Single European Act.

[21]The situation in 1986 was thus in some respects the reverse of the situation in 1992. In 1986, a parliamentary majority opposed adoption of the Single European Act, while the electorate voted in favour of the Act. In 1992, there was a large majority in the Folketing for adoption of the Maastricht treaty, while a majority of the electorate voted No at the referendum held on 2 June.

[22]FTF, on the other hand, displayed more restraint - until agreement was reached on the Maastricht deal - with regard to adoption of the Social Dimension. The reasons are explained in the following section.

relations. The shift in position by the Danish trade union movement was not- unlike the TUC's shift - rooted in the expectation of achieving improved national standards via EC regulation. In most areas, Danish labour market standards are somewhat higher than the average for the rest of Europe[23], so that there were only very limited expectations that EC regulation would be the direct source of improved working conditions for Danish workers.

The positive support for the Social Dimension displayed by the Danish trade union movement - especially by LO - can be attributed to three factors.

The first element in the argumentation in favour of support for EC regulation is linked to the repeated discussion of the phenomenon known as "social dumping". The tendencies towards deregulation deriving from the creation of the Single Market implies an increasingly important role for the free market forces as a form of regulation. As Streeck suggests, regime-competition between the various IR-systems is gaining added significance, with a subsequent opportunity - for employers - of making inroads on workers' rights secured at national level. The Danish trade union movement thus emphasised the necessity of introducing common EC regulation of certain labour market conditions, with a view to a) protection, i.e. reducing the regime-competition from other EC countries and b) solidarity, i.e. providing active support for improvement of conditions for workers in other countries[24]. LO stated: "In the absence of European trade union rights and minimum social welfare schemes, workers and the national trade union movements will be divided - and thus far weaker - vis-à-vis European capital interests and the European business community, which can operate freely throughout the entire Community."[25] The ideas which appealed most to the Danish trade union movement were those on the creation of a "social threshold", with minimum European levels in a number of areas. At the same time the movement attached fundamental importance to the goal of ensuring that Danish collective agreements were applied whenever firms employed the citizens of other EC countries in Denmark[26].

The second element in the trade union movement's grounds for changing its position is more directly linked to the general internationalisation of the economy and firms in Europe. The growth in the number of transnational companies and the growth

---

[23]The rules for dismissal of employees are an important exception. In relation to - for example - countries in the south of Europe, Denmark has very lax rules governing this point. However, these rules must be considered in the context of an extensive system of unemployment benefits.

[24]LO indicated its concrete support for these views in 1990, when, in contrast with its position in the early 1980s, it gave its backing to the Commission's draft directive on "atypical work".

[25]Quoted from LO: "EF, det indre marked og den sociale dimension - Dansk fagbevægelses position, målsætning og strategi" (i.e. "The EC, the Single Market and the Social Dimension - the Danish trade union movement's position, goals and strategy"), p. 26, Copenhagen 1989.

[26]This issue is currently being treated in the Commission's draft proposal on subcontracting. The directive poses a number of problems in relation to the Danish Model. These will be treated in the following section.

in the importance of these companies to the Danish economy play a role in this context. And the Danish trade union movement, especially LO, insists that it is necessary to be capable of matching the clout of these companies. This explains the movement's comprehensive support for any EC initiatives aimed at - for example - ensuring employee representation on company boards across national boundaries[27]. The Danish trade union movement has thus taken some initiatives to launch discussions of the possibilities of setting up Nordic trade union co-operation with regard to groups (of companies) operating in the region.

The third element used to justify the involvement of the Danish trade union movement in the creation of a European IR-system is more closely related to what we shall refer to as European organisational factors. It can be argued that, since the mid-1980s, LO has developed closer relations with - and increased organisational loyalty to - European trade union co-operation, as organised under the aegis of ETUC. Whereas up to the mid-1980s it could be maintained that the Danish trade union movement revealed a preference for tripartite consensus in the Danish IR-system, being prepared to become a "dissident" in some ETUC matters, the situation now is that LO has reversed its attitude towards the creation of a European IR-system.

However, the increased loyalty to ETUC viewpoints cannot be reduced solely to a shift in national viewpoints in the Danish trade union movement. The changes in the position of the trade union movement must also be considered in the context of changes in the legal and institutional basis for adoption of the Single European Act. The introduction of voting by a qualified majority in the Council of Ministers has made it more important to be capable of establishing political alliances across national boundaries.

In many areas of direct or indirect importance to workers, the national veto-right was abolished, in favour of the mechanism permitting the introduction of EC regulation following adoption of proposals in the Council of Ministers by a qualified majority (e.g. in the case of the working environment, as mentioned earlier). The necessity of being able to establish alliances is also assuming growing importance in the eyes of the trade union organisations, especially in areas where the introduction of special rules or stipulations can have adverse consequences for the IR-system of a single member state. It can be held that the Danish trade union movement - prior to the adoption of the Single European Act - could prevent EC regulation in cases where it judged it to be inappropriate, by exploiting the unanimity requirement, as long as agreement could be forged at national level with the Danish employer organisations and the Danish government. Such unanimity would then imply a Danish No in the Council of Ministers. The introduction of voting by a qualified majority has added an element of uncertainty to this strategy, as in such cases Denmark can be outvoted in the Council of Ministers. This makes it even more important to be capable of persuading other national trade union

[27]This refers primarily to the Commission's draft directive on information and hearing, and to the draft directive on statutes for the European Company.

organisations to support and promote the viewpoints of the Danish trade union movement. However, a prior requirement is involved; in other contexts the Danish trade union movement would have to be prepared to demonstrate loyalty to ETUC viewpoints, even if such viewpoints were not rooted in specific national interests.

The strategic shift in the viewpoints of the Danish trade union movement, and particularly in those of LO, have thus primarily been based on a desire to avoid any adverse consequences - for Danish workers - of the EC Single Market. And the subsequent desire to initiate "upward delegation" to EC institutions is thus also concentrated on areas where the internationalisation of the business community and of market conditions have an impact on the functioning of the Danish IR-system. Referring to the "social threshold", LO stated: "The introduction of the "EC social threshold" does not mean that pay, working conditions and labour market and social policy will in the future become matters to be resolved within the framework of the EC. On the contrary. The collective agreements and the industrial court system underpinning them will still have to be negotiated and agreed upon between the (national) labour market parties in Denmark and in the other EC member states. Similarly, labour market policy matters and social welfare policy matters will still be governed, via agreements and legislation, by the Danish Folketing and the Danish labour market parties."[28]

The main Danish employer organisation - DA - has maintained its traditional policy of dissociating itself from the notion of a European IR-system. In this aloofness DA has been in alignment with the position adopted by UNICE[29]. The fundamental position - as held by some other employer organisations - has been that regulation of pay and working conditions should be conducted as close to the single firm as possible, and within the framework of the tradition of each single member state for regulation of industrial relations.

There are some areas to which this viewpoint does not apply: a) the working environment, for which DA regards it necessary to introduce common European regulation so as to avoid a competitive situation dominated by competition on the lowest possible requirements for the working environment, and b) EC regulatory measures required by the provisions governing the free movement of labour. DA has thus - in line with the majority of employer organisations - been a vigorous opponent (also as a matter of principle) of any steps to develop the Social Dimension. It also opposes employee representation on the boards of transnational companies.

DA's viewpoints on the possibility of - and its interest in - concluding transnational agreements with trade union organisations broadly concur with those expressed

---

[28]Quoted from LO: "EF, det indre marked og den sociale dimension - Dansk fagbevægelses position, målsætning og strategi" (i.e. "The EC, the Single Market and the Social Dimension - the Danish trade union movement's position, goals and strategy"), p. 26, Copenhagen 1989.

[29]Cf. - for example - UNICE: "The Social Dimension of the Internal Market - UNICE position", 30 November 1988, Brussels.

in UNICE. It is fully aware of the implications of concluding collective agreements with the trade unions at European level, which is permissible according to the provisions of the Maastricht treaty on social and labour market policy. During negotiations on the agreement concluded on 31 October 1991 between UNICE, CEEP and ETUC on the possibility of concluding collective agreements at European level, which underpins the involvement of the labour market parties in the Maastricht treaty, DA – unlike some other UNICE actors – adopted a cautious approach. French, Italian, Spanish and Belgian employer organisations were more interested than DA in reaching agreement with ETUC on collective bargaining at European level.

In a Danish context – and in determining the position to be adopted by the Danish government during intergovernmental negotiations on the Maastricht agreement (from early 1990 until December 1991) – DA, for a relatively long time, insisted that the Danish government should oppose, or at least refrain from actively supporting, an amendment of the draft treaty section covering social and labour market policy. DA was of the opinion that the Danish government should not support development of the Social Dimension.

In connection with the intergovernmental negotiations on the Maastricht agreement – and in a Danish context – DA relied heavily on the composition of the then Danish government, which was non-socialist. The government then in office was dominated by the Conservatives and the Liberals; parties with which Danish employer organisations traditionally maintain close links[30]. The government, though certainly non-socialist in its leanings, was of the opinion that the Social Democrats should be involved in determining the Danish position with regard to the treaty amendments. Similarly, the Social Democrats placed an emphasis on the importance of involvement in defining the general thrust of Denmark's negotiating position.

The outcome was that the Danish government, acting in co-operation with the Social Democrats and other smaller parties, devised a joint outline for subsequent formulation of the position to be advocated by Denmark during negotiations on amendments to the treaty. It was agreed – as one of the elements in this approach to the treaty – that Denmark should advocate strengthening of the Social Dimension in EC co-operation as an extension of the initiatives previously taken to promote the Social Charter and the Commission's action programme. Thus Denmark's non-socialist government, despite some internal opposition in the parties, refused – on the basis of a political compromise with the Social Democrats – to argue for the viewpoints of the Danish employer organisations on social and labour market policy issues during negotiations on revision of the treaty with the other EC countries.

The Danish government supported the development of a social dimension, so that throughout this period the employer organisations were the only actors in the Danish IR-system who firmly rejected "upward delegation" of competence in the area of social

[30]LO maintains correspondingly close links with the Social Democrats.

and labour market policy to the EC's institutions.

However, DA's principle-based opposition to the Social Dimension was replaced in Spring 1991 by a more passive acceptance of the development of EC co-operation on social and labour market policy. This shift in DA's attitude can be attributed partly to its failure to win support for its viewpoints from the Danish trade union movement or from the Danish government, and partly to the fact that UNICE - on the basis of experience accumulated in a number of European countries, including Denmark - began to accept the possibility of concluding transnational collective agreements with the European trade union movement, as a measure intended to counter the initiatives towards legislation taken by the Commission during this period.

It is clear from the above that DA has been the most active - and most important - Danish actor on the employer side in relation to developments in the EC. This, however, does not mean that DA, which is influenced by national and international developments in the organisation systems, will be capable of maintaining its present position. "Upward delegation" of competence is relevant not only in the context of the relationships between the EC member states with regard to European co-operation. It also happens to be an issue which is the subject of discussions among labour market organisations at national level.

The question to be briefly addressed in relation to the above is: What impact will the national IR-systems have in determining which organisations will represent the labour market parties at European level?

The problems can be illustrated by considering the case of BKA, the Danish Employers' Federation for Office and Trade. BKA is a member of DA and is thus indirectly represented in UNICE, via DA's membership. BKA, however, is of the opinion that UNICE primarily represents the interests of industrial employers at European level, and BKA's members feel generally dissatisfied with representation by UNICE, which it regards as being less than fully capable of promoting - or less than willing to promote - the interests of the retail trade at European level.

Thus BKA - acting in line with a number of other national employer organisations in the EC for the retail trade - has taken steps to develop its own organisational representation at European level, primarily via CECD, i.e. the Confèdération Européenne de Commerce Détail. CECD - supported, inter alia, by the very active efforts of BKA - has for several years endeavoured to participate in the development of the social dialogue at European level[31]. And, in this context, CECD - with the occasional backing of the Commission - has constantly endeavoured to challenge the legitimacy of UNICE's status as the general representative of the employer side at European level. CECD - again with the support of a number of national employer organisations - has been

[31]Thus CECD concluded - as far back as 1988 - an "agreement" with Euro-FIET, the sector organisation of the European trade union movement, on training in the retail trade. Cf. Euro-FIET & CECD: "Memorandum on Training in the Retail Trade", 19 October 1988.

interested in participating in a social dialogue on a par with the dialogue conducted between UNICE and ETUC, arguing that UNICE is not capable of representing the interests of the retail trade.

In this context, the point to be noted is that when "upward delegation" is discussed by the parties, the pattern of development of organisations and the structures devised for representation will not be as relatively uncomplicated as it is today, if a European IR-system gradually begins to exert greater influence on national industrial relations. As in the case of Denmark, national actors will become increasingly aware of any potential inadequacies in their representation at European level, as this level continues to grow in importance.

An aggregate assessment of the reaction of the actors on the Danish industrial relations scene to the implications of a European IR-system suggests that the trade union organisations and the political system favour such a system (i.e. a European system), whereas Danish employer organisations have vigorously opposed it. The primary justification for establishing a European level is the fear of "horizontal interdependence" between the EC countries and IR regimes, with subsequent general pressure on wages and working conditions in Denmark. In particular, LO's interest in supporting the creation of the Social Dimension is by no means restricted to a desire to discuss national problems in a new European forum. One of the main reasons for this is that Danish workers' pay is higher and working conditions are better than the average for EC countries. Besides, the creation of a European IR-system would pose numerous problems for the Danish actors, including the trade union organisations, in relation to the traditional mode of functioning of the Danish Model. We shall consider these problems in the next section, which discusses in a Danish perspective the consequences of what Streeck terms "downward intervention".

3. TOWARDS ESTABLISHMENT OF A EUROPEAN IR-SYSTEM: CONSEQUENCES FOR THE DANISH MODEL

Since the mid-1980s, as reported in the two previous sections, there has been a growing interest among certain Danish actors in the Danish IR-system in creating the elements of a European IR-system. However, the relatively distinctive characteristics of Danish industrial relations imply that the creation of such a supranational IR-system will pose some problems for the Danish actors. The problem of the consequences of what Streeck terms "downward intervention" from a possible European IR-system, targeted at the Danish IR-system, is thus a pivotal item on the agenda in discussions between the Danish actors playing a role in maintaining and developing the Danish Model.

In this section we shall consider some of the problem complexes confronting the Danish IR-system in connection with the creation of a European IR-system. The analysis will be based partly on the experience gained hitherto from the Commission's

action plan for the Social Charter and the EC regulatory measures so far introduced to cover social and labour market policy, and partly on the provisions of the Maastricht agreement on the same area of policy.

As Streeck suggests, most of the measures so far introduced to regulate social and labour market policy have been intended to deal with specific problems arising in situations in which the EC countries' national IR-systems clash with one another, as, for example in the case of an EC citizen's right to look for a job in another EC country.

Hitherto, only a limited part of the EC measures adopted to regulate the labour market has been aimed at regulation of conditions primarily related to the single, national IR-systems. Among the few are the directives on equal opportunities and the rules for mass dismissals. In addition to these, some of the proposals put forward by the Commission in connection with its action programme may belong to this category. The directive on women's rights in connection with pregnancy is one of the few major proposals from the action programme so far adopted, whereas the proposals on working-hours, on "atypical" work and on information and hearing in transnational companies have not yet been adopted.

New Industrial Relations in Denmark?

In the context of the Danish IR-system, two questions arise, each with a bearing on any assessment of the significance of "downward intervention" for industrial relations. The first question is the extent to which the European initiatives point towards a tangible change (raising/lowering) in the level of the rights of Danish workers, i.e. in relation to the initiatives towards regulation so far tabled at European level. The second question is: Is there any concrete evidence of what might be termed elements of systemic changes in the Danish IR-system, as a consequence of a European IR-system?

The reply to the question of the extent to which the initiatives taken so far at European level exert an immediate influence, either positive or negative, or are expected to have an influence at a later stage, on Danish workers' pay and working conditions, seems to be - in the vast majority of cases - No. There are only a few areas in which the level of workers' rights, as outlined in the draft directives so far submitted by the Commission, is higher than the level of national Danish rights[32]. For example, the directive on leave for pregnant women falls short of the corresponding Danish rules. There are, however, very few cases in which EC regulation has led to a direct reduction

[32]The directives on equal opportunities have resulted in pay improvements for Danish women workers in a number of cases, following a decision by the European Court.

In recent years, the application of the ruling by the European Court that it is the employer who bears the burden of proof required to show that pay differences are due to, for example, a difference in qualifications and not to sex discrimination (Cf. European Court; Decision 109/88, Luxembourg, 1988) has been an important factor for some Danish women workers. Similarly, adoption of the draft directives on the limitation of child work has led to a tightening of the Danish rules covering that area.

in the level of working conditions for Danish workers, and as the section of the Maastricht treaty covering social and labour market policy states that further EC regulation is to be based on minimum provisions, there is no immediate reason to expect any such lowering of Danish national norms and standards.

EC regulation, in fact, has not been directly responsible for any lowering of Danish environmental standards[33]. On the contrary, in certain areas, e.g. in connection with the "screen directive", it has succeeded in covering new areas in Danish legislation on the environment. However, Denmark's problems in demanding the marking of organic solvents as a health hazard are an exception. Such marking is regarded - by the EC - as a technical trade barrier, as a result of disagreement between, inter alia, Denmark and some other EC countries on the validity of the scientific evidence for the possible brain damage caused by these solvents.

The second question, as to the extent to which the creation of a European IR-system suggests systemic changes in the Danish Model, is primarily one of the extent to which - and the manner in which - more comprehensive EC regulation will affect the Danish Model's orientation towards regulation of industrial relations via collective agreements concluded by the labour market parties.

As indicated earlier, regulation of industrial relations in Denmark is generally effected via collective agreements between the labour market parties. Thus, by comparison with other EC countries, relatively few areas are covered by legislation. And any legislation is in virtually all cases introduced at the prompting of - or at least in agreement with - the labour market parties, as in the case of legislation on holidays[34], on the rights of salaried employees and on the environment. Issues related to overtime work, minimum pay, co-determination[35] and defining of the area to be covered by the collective agreements are settled via agreements concluded by the labour market parties.

In relation to the EC regulation so far introduced, as in relation to the proposals so far discussed in connection with the Commission's action programme, the actors in the Danish IR-system have displayed widespread scepticism and reluctance to embark on more comprehensive regulation of industrial relations as a consequence of EC initiatives. This reluctance has been evident in the trade union organisations, employer organisations and in the political parties. There has been an aversion to the introduction

---

[33]There remains, however, the difficult question of the extent to which European standards for the environment and other areas impose a brake on improvements in national Danish standards. European standards can be applied as indicators of the level of national standards, and it can thus be difficult to argue for the imposition of European standards on Denmark in areas in which Danish standards are already higher than EC standards.

[34]Though the right to a paid holiday is covered by legislation, the actual amendments - such as extension of the holiday period - to this legislation are based mainly on collective bargaining between the labour market parties.

[35]In the area of co-determination, however, the workers' right to representation on company boards is regulated by legislation.

of legislation in areas which have traditionally been regulated via collective agreements, while the actors are sceptical at the suggestion of transferring competence from the Danish industrial court system to the European Court of Justice. Though the framework of the industrial court system in Denmark is statutory, the system is nevertheless de facto "the parties' own system". The judges - who constitute the highest level of the industrial court system - are the elected representatives of the two labour market parties, along with a number of judges from the Supreme Court ("Højesteret") nominated by the parties. It should also be noted that cases can be brought before the industrial court only the by the labour market parties; single claimants are referred to the civil courts, and cannot have their cases decided by the industrial court.

Thus it can be held that in the Danish Model workers' rights are rooted in collective agreements or in general agreements concluded between collective organisations. This structure is very different from the structure applied to govern workers' rights in by far the majority of EC countries (apart from the U.K. and Ireland), where general rights are usually tied to the single worker. And it diverges considerably from the EC Court's orientation towards individual rather than collective rights.

Among the actors in the Danish IR-system, there is deep-rooted scepticism with regard to the more systemic consequences of "downward intervention" deriving from common European regulation, in the form of a stronger tilt towards the individual, though in other European countries the rights of the individual are occasionally secured via collective organisation, as is generally the case in Denmark. The trade union organisations are generally negative in their reaction to the suggestion that it is necessary to introduce legislation as a form of regulation in connection with the adoption of EC directives. They fear that such a preference for legislation can - in the longer term - weaken the density of unionisation among Danish workers, and thereby - again in the longer term - reduce the strength of the Danish trade union organisations.

This problem has arisen in connection with a number of directives issued by the Commission as part of its action programme for the Social Charter. In relation to the European Court of Justice, a given EC directive, which - for example - stipulates a number of rights for workers, requires that all workers within a single member-state be covered by the rights stipulated in that directive. In a Danish context, a given right will traditionally have been secured via collective agreements, and as the rate of unionisation in Denmark is high, by far the majority of Danish workers will - de facto - be covered by these rights. The Danish actors have thus been interested in implementing EC directives via the Danish system of collective agreements rather than via legislation covering areas which are not traditionally covered by legislation in the Danish Model. The argumentation has been that the Danish system of organisations and collective agreements ensures - de facto - that all workers achieve the rights stipulated in an EC directive, even though these rights are implemented via collective agreements rather than statutory provisions.

However, in terms of the principles involved - and thus in relation to the

European Court of Justice - the Danish Model poses a problem: the absence of a guarantee that all workers are covered by implementation of an EC directive via collective agreements. There are workers who are not members of trade unions, just as there are employers with whom the trade unions have not concluded a collective agreement. And in Denmark - in contrast with most of the other 11 member states - there is no tradition for applying the so-called "erga omnes" principle via legislation when concluding collective agreements. These groups thus constitute a problem of principle in relation to the European Court of Justice's insistence that the rights enshrined in a directive must provide universal coverage.

In the context of the provisions of the Maastricht treaty governing social and labour market policy, some areas offer the possibility of implementation of directives by the labour market parties. Article 2, paragraph 4 thus states that a member state can delegate to the labour market parties, insofar as it receives a request from these parties, implementation of directives issued under the provisions of sections 2 and 3. It might be assumed that this provision would solve some of the problems (outlined above) posed by the Danish Model. However, Article 2, Paragraph 4 states, that the member state shall adopt the requisite measures so that it is capable on any given date of securing the results stipulated in the relevant directive. Taken together, these provisions show that, although a directive can be implemented at national level via a collective agreement between the labour market parties, e.g. by incorporation in the existing collective agreements, this does not solve the problem posed by the Danish Model, as there will still be groups of workers who are not covered by collective agreements. If implementation is to be effected solely via the collective agreements system, these groups of workers will not be covered by the directive. And the requirement that the results stipulated in the relevant directive be secured will not be (fully) met. The result is that some other form of supplementary legislation will be necessary to ensure that a given directive applies to all workers.

In concrete terms, Denmark and the Danish actors have a number of problems, e.g. in connection with the Commission's draft directive on subcontracting, which is currently being negotiated in the Council of Ministers. The draft proposal on subcontracting is intended to ensure that non-national workers and employers - after a certain period of time - comply with the terms of the national collective agreements when taking on jobs or contracts in another member state. On this issue the Danish Model poses the problem that the Danish government cannot - in principle - guarantee that all workers and employers comply with the terms of the national collective agreements, even though in practice they do so. It has become difficult to demand that non-national workers and employers comply with Danish collective agreements, when the same demand cannot be made with binding effect, e.g. via legislation, on Danish workers and employers.

The actors in the Danish IR-system have been generally negative towards these more systemic consequences of "downward intervention" in the Danish Model. They are

not interested in an increased tilt towards legislation in the Danish Model at the expense of the traditional preference for collective agreements. In reality, however, it is difficult to see how Denmark should be capable of avoiding this orientation towards statutory regulation, if in the future an overall European IR-system is to be underpinned by European legislation as a form of regulation.

Indirect consequences of European co-operation on social and labour market policy

As we reported in the introduction to this paper, the Danish electorate's No to the Maastricht treaty on 2 June 1992 caused some surprise in the other EC countries. One element of this No must be considered in the context of opposition to the tendency towards systemic changes in the Danish IR-system outlined above. Some of the Danish actors – among them some trade union organisations – have feared that EC integration will lead to an undermining of the Danish system of organisations and collective agreements.

At the same time in Denmark there has been a widespread belief that the general social welfare standards might be undermined by EC co-operation on social and labour market policy. "The Social Dimension of the Single Market" is thus in a Danish context regarded as more of a threat to the Danish welfare state model – and thus to Danish social welfare standards – than as a political project, aimed at achieving a general raising of social and labour market standards in the EC countries, including Denmark. The explanations offered for this general Danish perception are a) that in most areas Denmark has higher standards in social welfare policy than other EC countries and b) that Denmark – as in the case of its IR-system – shows a systematic pattern of differences from the other EC countries in its direct organisation of social welfare policy.

In general it can be held that rights to various welfare state benefits in most European countries are achieved via the labour market (i.e. via employment) and via insurance[36]. German workers – for example – are guaranteed access to Germany's health-care services via a health insurance scheme which is linked to the workplace, as are pension entitlements. In Denmark most social welfare rights are – by contrast – tied to the individual, and do not depend on whether the citizen is employed or not, nor on a worker's terms of employment. If we consider the relationship between collective agreements and legislation, just as we discussed it earlier in the context of the Danish IR-system, it is evident that the Danish Model is characterised, among other factors, by a preference for regulation of matters directly pertaining to pay and terms of employment via collective agreements concluded by the labour market parties. For example, a worker's rights in the event of dismissal, which are laid down in collective agreements,

[36]Cf. also Gøsta Esping-Andersen: "The three Worlds of Welfare Capitalism", Oxford, 1990 – for a more detailed treatment of the differences in welfare state regimes in Europe.

are thus linked to trade union membership; they are not individual rights which apply to *all* workers. On the other hand, rights which have been established with a broader aim in terms of social welfare policy, such as geriatric care, health care, pension entitlements[37] etc., are individual rights, regulated via legislation.

Though the initiatives so far taken at European level to promote the Social Dimension have been aimed primarily at regulation of industrial relations and not specifically at social welfare policy regimes, this has done little to allay widespread fears in Denmark that European co-operation on social and labour market policy will lead to a direct (via "downward intervention") or an indirect (via "horizontal interdependence") adaptation of Danish social welfare policy to a more Europeanised (and thus percieved as inferior) social policy regime.

4. CONCLUSION

Our analysis suggests that creation of a European IR-system will pose a number of problems for the Danish Model, which in both the shorter and the longer term already have - and will continue to have - consequences for the willingness of the Danish actors to accept further EC integration in the area of social and labour market policy. At the same time, some of the Danish actors - in particular the trade union movement, represented by LO, and some of the political parties - have for the past four or five years actively supported the development of the Social Dimension at European level. This support has been based primarily on a desire to reduce the competition between the various IR regimes in the EC countries, so as to avoid pressure on the pay and working conditions of Danish workers.

In this section, taking as our point of departure a) the perspectives likely to shape co-operation on the basis of the Maastricht treaty's provisions on social and labour market policy and b) the viewpoints on the treaty and on other factors expressed by the Danish actors, we shall deal briefly with the question of whether the EC - in the foreseeable future - will create an actual supranational system for organisation of industrial relations. And - as an extension of this question - whether this supranational system can be said to exert a tangible influence on the actual pay and working conditions of workers in the member states.

Obviously, the Maastricht treaty paves the way for intensified co-operation in the EC on social and labour market policy, based mainly on two factors[38].

---

[37]However, in recent years there have been moves in Denmark to create pension schemes linked to the labour market. The introduction of labour market pensions can be regarded as an adaptation of the Danish pensions system to European conditions.

[38]As indicated earlier, the U.K. has been granted an "opt-out" from these provisions, which poses a number of political and legal problems for the other member states. In our opinion, prior to the Danish No to the Maastricht treaty and prior to the formulation of the Danish exemptions in Edinburgh, it was

The first factor is that the Commission will be granted a principle-based competence to increase the volume of draft legislation, in line with the initiatives taken in the context of its action programme for the Social Charter. The Commission's possibilities of having proposals decided by a qualified majority in the Council of Ministers have been increased, Which will presumably make it easier to have such proposals adopted in the Council. Thus adoption of the draft proposal on information and hearing in transnational companies must - following ratification of the Maastricht treaty - be regarded as a possibility in the shorter term. However, it is more interesting to consider the fact that the provisions of the Maastricht treaty on a proposal related to "working conditions" can be submitted with a demand for a decision by qualified majority (Article 2, Paragraph 1). If the Commission maintains its offensive in interpretation of the basic thrust of the treaty, as when tabling proposals for its action programme[39], this must be expected to lead to protracted discussions with the member states on the interpretation of the term "working conditions". In many respects, the discussion will be parallel to the discussions held in recent years on the interpretation of the provisions on the "working environment" (Article 118A in the Single European Act). However, the Commission's possibility of maintaining an offensive stance when interpreting the basis of the treaty has been diminished by the post-Maastricht political discussions. Some member states will be particularly interested in the interpretation attempted by the Commission; will it maintain its offensive? At the same time the Maastricht agreement specifies a number of areas to which the treaty's wording on the principle of unanimity must be applied, while it explicitly excludes central issues such as pay and the right to strike from the areas to be covered by EC co-operation. In relation to Denmark, most of the areas outlined in the Maastricht agreement are in accordance with the viewpoints regarded as acceptable by the Danish IR actors. The Danish actors - especially the trade union movement - will be in a position to offer general support for the perspectives involved in new proposals emerging from the Maastricht agreement. However, also in the post-Maastricht period, the Danish Model's tilt towards collective agreements is a real barrier, which makes it difficult for the Danish actors to support the preference for EC regulation via legislation. This will be perceived as a problem, especially if the Commission introduces a high degree of detail in its future proposals. The Danish actors are likely to regard framework regulation, which

---

generally believed in the member states that the U.K. - within a few years - would be induced to participate in the EC's co-operation on social and labour market policy. However, the Danish No and the Danish exemptions have reduced the pressure on the U.K. in the field of social and labour market policy. The U.K. is today not the only EC country with "permanent" exemptions, and can thus put forward stronger arguments for maintaining these exemptions in the longer term.

[39]The draft proposals on "atypical work" and on workingtime were both submitted by the Commission with reference to either "distortion of competition" or "environmental issues", thus indicating that the Commission regards them as proposals to be adopted by a qualified majority. This interpretation of the basic thrust of the treaty elicited some dissatisfaction and opposition in a number of member states, including Denmark.

will exert a less direct impact on the national forms of regulation, as more acceptable.

The other factor involved in the Maastricht agreement which might suggest an intensification of IR co-operation at European level is linked to the opportunity for the labour market parties of adopting a new, more offensive stance at European level. This would be - in principle - a model which closely adheres to the traditions existing on the Danish labour market, which explains why the Danish actors have gone so far as to lend their active support to this option[40]. However, the perspectives in the role of the parties at European level are limited to a marked extent by the fact that the interest of the employer organisations, including UNICE, in the development of a European system of collective agreements has been rooted mainly in a desire to prevent further regulation of industrial relations at European level. In this context it seems plausible to suggest that the prior requirement for reaching agreement between the parties at European level on steps which would pave the way for a European IR-system - and which thus be a major factor in determining the rights of European workers - is massive pressure towards legislation from the Commission and the Council of Ministers. It was precisely as a result of a massive drive towards legislation launched by the Commission in connection with its action programme that the employer organisations were prepared to accept the possibility of concluding transnational collective agreements at European level. The absence of legislative pressure would make it especially difficult to conclude agreements with UNICE, which are acceptable to the trade union organisations. In this context the question is whether the collective agreements perspective at European level would not, to a greater extent, serve to strengthen the national level of industrial relations at the expense of the supranational level? Actors who are fundamentally negative in their attitudes to a European IR-system, or actors who just passively accept Europeanisation without any great enthusiasm, will tend to regard the collective agreements solution as a means of reducing the pace and scope of integration of EC co-operation.

If an overall appraisal is made of the viewpoints of the Danish actors and of their willingness to continue to accept - or even press - for the creation of a European IR-system, it emerges that such willingness is conditional upon a number of factors. As we have described in considerable detail, the willingness to integrate and the interest in integration so far displayed by the Danish trade union organisations are determined by three fixed parameters.

Firstly, the willingness to integrate has been linked to the desire to reduce competition with other IR regimes. This desire to reduce regime-competition has been based on a fear of indirect pressure on the pay and working conditions of Danish workers resulting from the creation of the EC's Single Market. In the future, willingness

---

[40]The Danish employer organisation, DA, thus also supports the increased co-operation at European level, between the labour market parties. DA's publication, "Arbejdsgivere og Europa" (i.e. "Employers and Europe"), Copenhagen, 1993, states: "The strengthened part-role at European level is important, as in principle it constitutes a recognition of collective agreements as a part of labour market policy in the EC." (p. 13).

to accept further integration will thus to a large extent depend on whether there is any evidence that such fears are justified. So far, the Single Market has not resulted in any massive transfer of firms to other parts of the EC, nor in a corresponding transfer of foreign labour to Denmark. The immigration of foreign citizens to Denmark from low-pay countries in the EC has been extremely limited. By 1988, when free movement of labour within the EC region was already permitted, only some 1,500 workers from Portugal, Spain or Greece had moved to Denmark[41]. The Danish trade union movement's incentive to press for increased EC regulation will depend on the presence or absence of increases in this type of pressure, i.e. immigration of foreign workers, perceived threats of lower standards, etc.

The second parameter has the opposite effect; it is rather an incentive to avoid comprehensive European regulation of industrial relations. This is the desire to retain the Danish Model, in the form outlined earlier in this paper. In this context the question is whether future EC regulation can be established so as to pay due attention to national traditions for regulation of industrial relations? If this is not achieved, e.g. by allowing Denmark to implement EC directives via collective agreements between the labour market parties and without legislation, the result will be that the Danish IR actors will regard a European IR-system as appropriate only to a limited extent.

The third important parameter considered by the Danish actors when determining their position relates to what can be termed the degree of political commitment which the national actors feel they have in relation to one another. As we have indicated earlier, in recent years the Danish LO can be said to have taken on a higher degree of commitment in relation to the other trade union organisations in Europe. Whether this sense of commitment will grow or diminish in the longer term will depend primarily on the general political will to integration in the EC countries. If there is a general decline in the willingness to promote the goal of political integration in Europe, it seems plausible to maintain that this too will have implications for the willingness of the IR actors to take on political commitments in the field of social and labour market policy. Any such absence of a general political willingness to work for further integration can act as yet another brake on moves towards closer integration. A European IR-system may be nothing more than a distant mirage.

Acknowledgements

Research for this article was supported by the Danish Ministry of Labour, the Danish Social Science Research Council, the Danish Teachers Union ('DLF'), the Federation of the Trade Unions for State Employees ('STK'), the Union of Commercial and Clerical Employees ('HK/Kommunal'), the Danish Lawyers' and Economists' Association ('DJ-

[41]Quoted from Niels Ploug: "Population and Migration in the Nordic and EC-area", SFI, Copenhagen, 1991.

ØF'), the Society of Engineers, the Danish Nurses Organisation ('DSR'), the Danish Municipal Workers Union ('DKA') and the State Public Servants Trade Union ('COII'). The article has been translated by Sean Martin.