



ILO

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Follow-up to review of ILO Conventions, ref. ACD 36-01-1

Dear Corinne Vargha

File No. 2019 - 1168

Thank you for your letter sent August 2, 2018 on follow-up to the recommendations of the Standard Review Mechanism Tripartite Working Group SRM-TWG.

Denmark attaches great importance to the work of the SRM-TWG and its valuable contributions to the ILO having a clear, robust and up-to date body of international labour standards ILS. Only when ILS respond to the changing patterns of the world of work they will fulfill the purpose of ensuring a high level of protection of workers and taking into account the needs of sustainable enterprises. Denmark continues to support the mandate of the SRM-TWG and the ILO standard initiative. It is vital that this process keeps its momentum in order for modernization to continue.

In your letter Denmark is encouraged to consider

- ratifying the Holiday with Pay Convention (Revised), 1970 (No. 132) and thereby denouncing the Convention No. 52; and
- denouncing the outdated Conventions No. 18 and no. 42, since Denmark has ratified the Social Security (Minimum Standards) Convention, 1952 (No. 102) and accepted the obligations in Part IV (employment injury benefit).

Both issues have now been taken up and discussed by the Danish Permanent ILO Committee, established in accordance to ILO Convention no. 144 (concerning Tripartite Consultations to Promote the Implementation of International Labour Standards). My reply below is made on the basis of an agreed recommendation from the Danish Permanent ILO Committee.

With regard to the Holiday with Pay Convention, it is the overall assessment that Denmark to a large extent already meets the requirements in the Convention. In Denmark, the Holiday Act gives all workers the right to at least five weeks of holiday. Denmark has just adopted a new Holiday Act in 2018, based on a recommendation and report from the social partners. The new Holiday Act introduces the concept "concurrent holiday" - meaning that employees may take holiday in the same year as when the holiday is accrued. This means that holiday is accrued and taken within the same 12-month period (holiday year). For instance, holiday accrued in March may already be taken in April the same year. However, in Denmark, most workers will receive their ordinary salary during holidays, which is

paid at the end of the agreed payment period e.g. monthly and backwards. Therefore it is seen as an obstacle that the holiday payment according to the Convention needs to be paid in advance of the holiday, unless otherwise provided in an agreement applicable to the worker and the employer (art. 7, para 2). A Danish ratification would require legislative measures, and changing the starting point to an earlier payment is assessed to significantly affect the economic balance on which the Danish holiday scheme is built. On this basis, I have followed the agreed recommendation from the Permanent ILO Committee that Denmark is not in a position to ratify the Convention.

With regard to the Conventions No. 18 and no. 42, the Permanent ILO Committee has recommended that Denmark should denounce the ILO Conventions No. 18 and no. 42. The Danish authorities and the social partners share the assessment that the Social Security (Minimum Standards) Convention (No. 102) contains equivalent or even higher level of standards when it comes to employment injury benefit schemes.

Attention should be drawn to the fact that the Danish ratification of C102 does not cover the territory of the Faroe Islands. Further, for now, there are no considerations or requests from the Government of Faroe Islands to revisit the territorial reservation of C102 in so far concerns the territory of the Faroe Islands as C18 remains in force on the Faroe Islands. Thus, the denunciation of C18 by the Kingdom of Denmark will be qualified to concern only the jurisdiction of Denmark. Consequently, such denunciation will not alter the application of C18 to the Faroe Islands.

In accordance with the above, I have decided to follow the agreed recommendation, and Denmark will take further steps in order to denounce the two conventions concerned.

The Danish Permanent ILO Committee and the Danish Parliament have received a copy of this letter.

Yours sincerely



Peter Hummelgaard
Danish Minister of Employment