Contents

CHAPTER 1 THE DANISH LABOUR MARKET IN GENERAL 2
CHAPTER 2 THE DANISH MODEL 4
CHAPTER 3 OUTLINE OF DANISH LABOUR AND EMPLOYMENT LAW 6
CHAPTER 4 COLLECTIVE BARGAINING AGREEMENTS 15
CHAPTER 5 COMMENTS ON INITIAL KEY FACTORS 18

Please note that this booklet does not constitute legal advice and should not be relied upon as such. We endeavour to ensure that all information is true, accurate and reflecting current law, but accept no liability for any errors.
ABOUT THIS BOOKLET

An important factor in many companies’ decision to set up in Denmark has been the acknowledgement of the Danish labour law model as one of the most flexible in Europe.

With this booklet Norrbom Vinding aims to provide key information on and an overview of the Danish labour market and the legal aspects involved in setting up as an employer in Denmark.

The booklet consists of five chapters; the first chapter is a brief description of the Danish labour market, while the second chapter describes what is known as the Danish Model. The third chapter outlines relevant Danish labour and employment law and the fourth chapter describes some very important aspects of entering into and managing collective bargaining agreements. Finally, the fifth chapter comments on various key factors to bear in mind when setting up in Denmark.
CHAPTER 1

THE DANISH LABOUR MARKET IN GENERAL

1. FACTS ABOUT THE DANISH LABOUR MARKET

1.1 The Danish labour market consists of small and medium-sized enterprises (SMEs) as well as large multinational companies. The Danish business sector is generally characterised by a high degree of individual specialisation combined with an excellent ability to adapt to market changes.

1.2 Denmark has a strong reputation for high quality, traditionally in food and design, but in recent years also in telecommunications and IT and in pharmaceuticals and biotech. As a result, a large number of multinational companies have set up in Denmark in recent years, especially in the pharmaceutical and electronics sectors.

1.3 Education is free, from primary school to university. The educational profile in Denmark is characterised by a majority of the population having either a vocational education or a higher education as their highest educational level. In addition, students over 18 are entitled to student grants.

1.4 As far as the workforce is concerned, the labour market comprises more than 50% of the population, which is a relatively high percentage compared to other countries. This is partly due to the very high employment rate of women in Denmark compared to most other countries. In total, the Danish labour market comprises approximately 2.8 million people, and the employment rate in 2012 was more than 75%, one of the highest rates within the EU.
As in other countries, the unemployment rate in Denmark has been affected by the worldwide financial crisis. In 2008, the Danish unemployment rate was as low as 3.5% – one of the lowest in Europe and globally. Since then, however, the unemployment rate has increased and then stabilised in 2013 at approximately 7%, which is still relatively low compared to most other EU countries. So while the Danish economy has been hit by the financial crisis, it is not suffering the same severe consequences as many other European economies.

Danish corporate culture is influenced by a flat hierarchy and open dialogue between management and employees. The most important competitive parameter in Denmark is know-how, and Danish employers offer their employees attractive working conditions, modern facilities and high-quality technical equipment. Competitive development is the first priority and most employers offer their employees supplementary training.

Danes are very devoted to their work, and Danish employees are regarded as being motivated and committed to their work. Danish working culture is oriented towards cooperation, and the working environment is characterised by an open and informal tone.

Most Danish employees have a 37-hour working week, with a paid or unpaid lunch break of half an hour. This is regulated collectively in collective agreements or individually in employment contracts. Apart from the maximum daily/weekly working hours set out in the Danish Working Environment Act and the Danish Act on Implementation of Parts of the Working Time Directive, however, there are no statutory rules on working hours as such.

Due to the fact that the welfare system is largely financed through taxation, the effective average income tax rate is between 32% and 43%, which places Denmark among the countries with the highest tax burden. However, highly skilled employees from abroad can be employed under a more lenient tax regime for 5 years. Finally, the social contributions payable by employers based in Denmark are very low, compared to certain other countries.
2. INTRODUCTION TO THE DANISH LABOUR MARKET MODEL

2.1 Main Features

2.1.1 The Danish labour market has three main features:

- bipartite/tripartite cooperation
- influential employer and employee organisations
- collective agreements as one of the most important sources of law in labour law matters

This combination is known as the Danish Model.

2.2 The Danish Model – Flexicurity

2.2.1 In an international context, the Danish Model is a hybrid. The Danish labour market is as flexible as the British labour market, and at the same time employees benefit from a Scandinavian degree of security.

In recent years, numerous Danish and international studies have confirmed this characteristic feature of the Danish labour market, which is called “flexicurity” in EU terminology due to its combination of flexibility and security.

Essentially, the flexicurity model rests on three pillars: flexible recruitment and termination, an active labour market policy concerning the duty and right to participate in welfare to work programmes and, finally, a relatively high level of accessible benefits in case of unemployment.

2.2.2 The easy access for employers to recruit and dismiss is the most likely explanation for Denmark being among a group of countries, such as the US and the UK, that benefit from a rather high degree of flexibility. In this context, the standard indicator is the average period of continuous employment with the same employer. For example, the average period of continuous employment in Sweden is almost 50% longer than in Denmark, which is probably due to the strong dismissal protection in Sweden.

Flexicurity is considered one of the key advantages of the Danish Model.
2.3 Bipartite/tripartite cooperation

2.3.1 In Denmark, the social partners – trade unions and employer organisations – conclude agreements within each sector in the form of nationwide collective agreements or collective agreements at enterprise level, and central government intervenes as little as possible in the regulation of employment conditions.

This system has been offered as the explanation of the Danish labour market being one of the most peaceful labour markets in the world.

Cooperation with the social partners forms an integral part of national labour market policy in areas such as health and safety at work which are primarily regulated by legislation.

The social partners are always consulted on proposed legislative initiatives on labour market matters before adoption and, apart from the implementation of labour related EU directives, legislative initiatives will rarely come to anything unless they are backed by the social partners.

2.3.2 Trade union membership is common in Denmark. It is estimated that approximately 70% of Danish employees are members of a trade union.

Likewise, a number of Danish employers are members of an employer organisation, although some major companies choose not to be.

In any case, membership of trade unions and other organisations is voluntary following a ruling from the European Court of Human Rights in 2006, making it unlawful to require an employee or employer to be member of a specific organisation or any organisation at all.

The largest central employee organisation is the Danish Confederation of Trade Unions (LO), whose member organisations include trade unions such as the Union of Commercial and Clerical Employees in Denmark (HK) and the United Federation of Danish Workers (3F). The latter organises skilled and unskilled workers in sectors such as manufacturing, building and construction, and transport.

In recent years, however, many conventional trade unions – especially those linked to the Danish Confederation of Trade Unions (LO) – have seen a decrease in membership. This is partly due to competition from new unions that are cheaper and not affiliated to any specific political party. Another reason is that many – especially younger – employees choose not to be members of a union or an unemployment insurance fund at all.

2.3.3 The main central organisation on the employer side is the Confederation of Danish Employers (DA). The main organisation under DA is by far the Confederation of Danish Industry (DI). The Danish Chamber of Commerce (Dansk Erhverv) and the Danish Construction Association (Dansk Byggeri) are also large employer organisations under the Confederation of Danish Employers.

Approximately 70% of Danish employees are members of a trade union.
CHAPTER 3

OUTLINE OF DANISH LABOUR AND EMPLOYMENT LAW

3. SOURCES OF DANISH LABOUR AND EMPLOYMENT LAW ETC.

3.1 Statutes

3.1.1 Unlike some European countries, Denmark does not have a general labour statute conferring certain minimum rights on employees. Instead, legislation is fragmented in the sense that many individual statutes are applicable depending on the type of employment relationship involved. For example, the Danish Salaried Employees Act only applies to salaried employees [white-collar workers], and there are specific statutes which apply to seamen, vocational trainees, civil servants and employees in the agricultural sector.

3.2 Collective agreements

3.2.1 Collective agreements are one of the most important sources of law, covering as much as 75-80% of the Danish labour market. The remaining 20-25% is covered by individual employment contracts and the legislation referred to above.

Collective bargaining and management of collective agreements is described in chapter 4 below.
The role of legislation is limited in the Danish labour market, where collective agreements and individual contracts traditionally play a more predominant role.

3.3 Employment contracts

3.3.1 Naturally, the third source of law is the individual employment contract. As stated below, there is a wide range of employment contracts, and Danish employment law rarely requires the use of specific forms. The employment contract must of course not deviate from (mandatory) legislation or applicable collective agreements.

4. RULES ON RECRUITMENT IN DENMARK

4.1 If a company wishes to set up in Denmark and recruit employees, it will need to register as an employer with the Danish Central Business Register for tax purposes. There are few taxes on the employer as such, and only few social contributions are payable. But employers must withhold income tax from employees’ pay.

4.2 Under statutory law, including implemented EU directives, all employees are entitled to a statement of employment particulars specifying the employee’s place of work, pay, holiday with pay as well as all other material terms and conditions of employment.

4.3 In general, due to the flexibility of the Danish labour market, a wide range of contractual options are available, e.g. fixed-term employment, probationary periods and the like. In addition, employers may hire agency workers for a specified period of time. Finally, as a result of case law, employers are free to employ persons who are not members of a particular trade union or any trade union at all.

4.4 If an employer wishes to hire employees from abroad, it is necessary to distinguish between:

- Nordic nationals (i.e. citizens of Finland, Iceland, Norway and Sweden), who are free to reside and work in Denmark without a residence or work permit or a registration certificate
- nationals from the EU/EEA and Switzerland, who will need a registration certificate if they stay more than 3 months in Denmark (such certificates are obtained rather easily)
- other nationals (third-country nationals), who will need a residence and work permit

4.5 As the tax burden is relatively high in Denmark, a special and lenient tax regime is available to highly skilled employees from abroad provided that they meet certain conditions, including a minimum average salary. The regime applies for a period of 5 years and cannot be extended.

Denmark provides for lenient taxation of highly skilled employees for a period of 5 years.
Pension is voluntary – most employees are covered by company pension schemes or collective agreements.

Stock options are a common feature in Denmark. However, most stock option plans developed in other jurisdictions will have to be modified.
5. RIGHTS AND OBLIGATIONS IN EMPLOYMENT

5.1 Salary, bonus and pensions

5.1.1 In the absence of a collective agreement, the employer is not required to pay the employees a minimum salary, as there is no statutory minimum wage in Denmark. However, the employer must of course remunerate women and men equally if they perform the same work or work of the same value.

5.1.2 The employer may set up a tax privileged pension scheme for the employees. Normally, pension contributions amount to between 10% and 15% of the total salary with a ratio of 1/3 from the employee and 2/3 from the employer, but there are no statutory rules governing this area.

5.2 Stock options

5.2.1 Following a number of court cases, the Danish Stock Option Act was passed in 2004 to specifically govern stock options granted to employees as part of their employment relationship.

5.2.2 The Act applies to all employees; not only to salaried employees. However, managing directors, CEOs and certain other executives are not covered by the Act, and the granting of stock options to such persons will therefore, in the same way as before, only be governed by the provisions of the Danish Contracts Act on unfair contract terms.

5.2.3 The Danish Stock Option Act makes an overall distinction between whether the employment is terminated by the employee or by the employer.

If terminated by the employee, the employee will forfeit all rights in relation to any stock options not exercised at the effective date of termination. This not only includes vested stock options, and thereby stock options that could have been exercised prior to termination, but also any stock options that have not vested at the effective date of termination.

In addition, the employee will also forfeit all rights to any grants made after the effective date of termination.

These rights will be forfeited at the effective date of termination, and the employee is thus not entitled under the Act to exercise already granted stock options even for a short period following termination.

5.2.4 If terminated by the employer other than for breach, the employee will retain all rights under the stock option plan.

Consequently, the employee will also retain all rights under the stock option plan in case of termination due to material changes to the terms of employment relationship or due to redundancy. However, where the employee is in breach, the employee’s rights under the stock option plan will be forfeited.

5.2.5 If the employee is entitled to retain all rights under the stock option plan, this will not only include stock options already granted, but also a pro rata share of the grants made during a financial year which the employee would have been entitled to receive had the employee been employed at the date of the grant.

5.2.6 Finally, the Danish Stock Option Act imposes a duty on the employer to provide the employee with a separate written statement in Danish about the key elements of the stock option plan such as grant criteria and financial implications of participation.
5.3 Maternity/paternity and parental leave

5.3.1 Mothers are entitled under Danish law to 4 weeks of pregnancy leave before the expected date of birth, a compulsory 2 weeks of maternity leave after birth and then 12 weeks of maternity leave. The father is entitled to 2 weeks of paternity leave following birth. Further, 15 weeks after birth, each of the parents is entitled to 32 weeks of parental leave, which may be extended or postponed. Male employees in Denmark normally take shorter paternity leave than they do in the other Scandinavian countries.

5.3.2 Unless otherwise provided by statute, collective agreement, company policy or the individual employment contract, parents on leave are only entitled to benefits and thus not to their full salary. However, women employees covered by the Danish Salaried Employees Act are entitled to receive 50% of their normal pay during pregnancy and maternity leave (14 weeks). Also, parents may not be discriminated against due to leave. This applies both in relation to changes in their employment positions, possible increases in salary or bonus and other employment benefits.

In Denmark, 5 weeks’ holiday is the norm. However, most employers offer an additional week.

5.4 Holiday

5.4.1 All Danish employees are entitled to 5 weeks of holiday each year. Salaried employees (white-collar workers) are entitled to paid holiday and a supplement of 1% of their annual pay. Blue-collar workers receive a holiday allowance equal to 12.5% of their annual pay.

In addition, most Danish employees are entitled – under either a collective agreement or their individual employment contract – to 5 additional days off, which means that Danish employees normally have a total holiday entitlement of 6 weeks per year.

5.5 Working hours and working environment

5.5.1 There are no statutory rules on working hours as such, with the exception of the protective rules contained in the Danish Working Environment Act and the Danish Act on Implementation of Parts of the Working Time Directive. These provisions prescribe that all employees are entitled to an uninterrupted rest period of at least 11 hours for every 24-hour period as well as one weekly rest period of 24 hours. Further, the maximum weekly working hours must not exceed 48 hours over a 4-month period. Stricter rules apply to young employees, while more lenient rules apply in certain sectors or circumstances.

Working hours are normally regulated by collective agreement, which is also the case with overtime. Thus, if no collective agreements apply, no statutory rules on overtime apply and the employer must only comply with the restrictions laid down by the above mentioned Acts.

5.5.2 All employees are entitled to a safe working environment. The Danish Working Environment Authority (Arbejdstilsynet) supervises employers’ compliance with the Danish Working Environment Act, and the Authority may carry out inspections to ensure such compliance. The responsibility of promoting and maintaining a healthy and safe working environment is on the employers.
Cooperation committees are a common feature of the Danish labour market. However, those committees do not have the same codetermination powers as in other European jurisdictions.
5.6 Works councils – board representation

5.6.1 Works councils in the form of employees-only bodies are not a common feature in Denmark. Instead, if they are bound by a collective agreement in this regard, many employers have set up cooperation committees consisting of an equal number of employee and management representatives. The purpose of a cooperation committee is to provide a forum for formalised discussion of issues of general interest to the employees such as major changes at the workplace, introduction of important company policies and the like.

5.6.2 Another means of employee influence is board representation. Companies with more than 35 employees are required to accept employee representatives on their board of directors. The employee representatives are elected by means of an election procedure and serve for terms of 4 years. It should be noted, however, that the task of employee board members is not to represent the employees vis-à-vis the company, but to promote the interests of the company as such.

6. TERMINATION OF EMPLOYMENT

6.1 If the employer wishes to terminate an employment relationship, employees are only protected if they are covered by either a collective agreement containing rules on unfair dismissal or the Danish Salaried Employees Act. There is no general requirement to inform a public agency or a trade union unless specific rules on collective redundancies apply.

6.2 Compared to other countries in the EU, it is relatively easy to dismiss employees in Denmark, which is partly due to the lack of general statutory dismissal protection and partly due to the relatively high unemployment benefits and the fairly easy access to such benefits. However, special rules may apply under either statute law or collective agreements to the dismissal of:

- employees on maternity/paternity or parental leave
- employees from certain minorities or affiliated with trade unions or political parties
- elected or appointed employee representatives such as union representatives, health and safety representatives and employee board members

6.3 The chart below presents a brief overview of the different rules on dismissals.

In Denmark, the dismissal and redundancy rules are quite lenient.
7. NON-COMPETITION AND NON-SOLICITATION

7.1 Agreements with employees concerning post-termination restrictions are allowed as long as such agreements are fair and reasonable. Specific statutory rules apply to salaried employees (white-collar workers); for one thing, any post-termination restrictions must be agreed in writing. In addition, salaried employees must receive compensation for the restriction imposed on their ability to set up a business or take other employment. In return, the employer and employee may agree that the employee must pay a penalty for breach of a post-termination restriction.

Employers are protected against unfair competition from former employees by the Danish Marketing Practices Act. This means that employees are not allowed to use or disclose any business secrets obtained in the course of their employment. Breach is a criminal offence and the employer may apply for an interim injunction to stop such breach.

<table>
<thead>
<tr>
<th>Type of employee</th>
<th>Sources of law as regards the employment relationship</th>
<th>Notice period</th>
<th>Termination pay</th>
<th>Compensation for unfair dismissal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blue-collar workers</td>
<td>Employment contracts and collective agreements</td>
<td>Depends on the employment contract or the collective agreement</td>
<td>Only if provided for in the employment contract or the collective agreement</td>
<td>Only if provided for in the employment contract or the collective agreement</td>
</tr>
<tr>
<td>White-collar workers [salaried employees]</td>
<td>Employment contracts, collective agreements and the Salaried Employees Act</td>
<td>1-6 months depending on the period of continuous employment</td>
<td>1-3 months’ pay for employees with 12-18 years’ continuous employment</td>
<td>1-6 months’ pay depending, inter alia, on the period of continuous employment – the usual level being between 1-4 months</td>
</tr>
<tr>
<td>Managing directors/CEDs</td>
<td>Employment contracts/service agreements</td>
<td>Depends on the employment contract/service agreement</td>
<td>Only if provided for in the employment contract/service agreement</td>
<td>Only if provided for in the employment contract/service agreement</td>
</tr>
</tbody>
</table>
8. CHANGE OF EMPLOYER

8.1 In the event of a transfer of undertaking, the Danish Transfer of Undertakings Act will apply. Implementing the corresponding EU Directive, the Act provides that employment relationships will transfer automatically to the transferee if the transfer is within the scope of the Act (and the Directive).

8.2 In the event of an employer’s bankruptcy, employees are entitled to receive their salary from the Employees’ Guarantee Fund in accordance with the Danish Guarantee Fund Act. The Act implements an EU Directive and covers all employees, regardless of whether they are salaried employees or not.

9. DISPUTE RESOLUTION AND LITIGATION

9.1 Naturally, employment relationships and especially their termination give rise to a number of disputes. Such disputes are dealt with by means of two different dispute resolution systems.

As a general rule, disputes about the interpretation of statutory law must be brought before the ordinary courts, while disputes about the interpretation of collective agreements will normally be settled by industrial arbitration. Disputes about breach of a collective agreement or the lawfulness of an industrial action must be brought before the Danish Labour Court. This Court is composed of qualified judges as well as representatives from both employer and employee organisations.

9.2 Proceedings before an industrial arbitration tribunal are usually rather informal, and there is no requirement for the parties to be represented by counsel. Decisions of industrial arbitration tribunals and the Danish Labour Court cannot be appealed, but on the other hand this procedure is much faster than the ordinary courts. Thus, if a company has negotiated a collective agreement on its own, disputes arising out of the interpretation of the agreement may be settled relatively speedily by industrial arbitration.

9.3 The parties must either appear in person or be represented by counsel in proceedings before the ordinary courts. It may take the ordinary courts several years to decide a case, especially if the case is appealed.
10. GENERAL REMARKS

10.1 As already mentioned, the role and function of a collective agreement is a trademark of the Danish labour market. Collective agreements allow the relevant contracting parties to establish a set of rules that is tailored to that particular industry or company.

10.2 In Denmark, a collective agreement is essentially a legally binding contract obtained by negotiation between an employee organisation and an employer organisation or an individual employer. It lays down the framework conditions applying to the individual employment relationships. Issues such as pay, working hours, other employment conditions, dismissal protection, notice periods, maternity/paternity leave and elected union representatives are dealt with in collective agreements.

Collective agreements play an important role in Denmark.

11. CONCLUSION OF COLLECTIVE AGREEMENTS

11.1 Employers may become a party to a collective agreement in a number of ways.

An employer may choose to join an employer organisation. The advantage of membership is that the employer will be required to adhere to a set of collective agreements which are well-known, and the employer will not need to enter into separate negotiations. The drawback, however, is that the employer will be bound by agreements that do not necessarily reflect its own specific needs in relation to matters such as salary and working time, and the employer will have to hand over the power to make decisions on employment terms and conditions to the labour market organisations.

Therefore, an employer may choose to negotiate its own collective agreement at company level with the relevant trade union(s). This has the advantage that the collective agreement can be tailored to suit the company’s specific needs.
An employer may of course also choose not to enter into a collective agreement at all. By opting out, however, the employer runs the risk of being faced with demands from trade union(s) to sign a collective agreement or else face industrial action such as a strike.

If a trade union wants to conclude or renew a collective agreement, it is entitled to take industrial action against the employer or the relevant employer organisation to support its demands. The trade union may either call a strike or a blockade; the former meaning that union members will stage a work stoppage and the latter that union members will not take up future employment with the employer. These actions may then be supported by secondary action or picketing, whereby other union members are involved in putting pressure on the employer to conclude or renew the collective agreement. The industrial action taken by trade unions may have serious adverse effects on the employer, but this does not make them unlawful (provided that the formal requirements have been met).

Likewise, the employer and/or the relevant employer organisation may take industrial action in the form of a lockout or boycott for the purpose of putting pressure on the employees.

In many jurisdictions, the question of cooperation with trade unions and conclusion of collective agreements is regarded with some scepticism. In Denmark, one of the features of the flexicurity model is that employers often find cooperation with unions quite fruitful, and most union representatives appreciate the necessity of striking a balance between the interests of the employees on the one hand and the needs of the company on the other.

12. SCOPE AND DURATION OF COLLECTIVE AGREEMENTS

12.1 A collective agreement only applies to the employers and employees within its scope. Thus, the concept of erga omnes agreements, i.e. agreements covering all employees not otherwise covered, does not exist in Denmark, unless specifically prescribed by law.

Due to the fact that collective agreements, as opposed to statute law, traditionally govern minimum wages and working hours, there is no statutory minimum wage in Denmark. Also, if no maximum working hours are agreed, the only restrictions are those laid down in the Danish Working Environment Act and the Danish Act on Implementation of Parts of the Working Time Directive (see paragraph 5.5 above).
12.2 An employer must observe the provisions of a collective agreement in respect of all employees covered by the collective agreement in question, who are usually defined as employees performing certain tasks. Collective agreements also apply to employees who are not trade union members.

The employees, on the other hand, are bound by a “peace duty” for as long as the collective agreement is in force. As a result, employees cannot launch a strike while the collective agreement is in force. Should they choose to do so anyway, they will be liable to pay fines if the dispute ends up in the Danish Labour Court.

12.3 This and other obligations binding on the social partners and their members follow from “general agreements”. The general agreement covering the largest area is the General Agreement between the Danish Confederation of Trade Unions (LO) and the Confederation of Danish Employers (DA). In addition, most other general agreements are based on this agreement. The general agreements usually include an assertion of the managerial prerogative and provisions on unfair dismissal, which is particularly relevant for employees who are not covered by the Danish Salaried Employees Act.

12.4 Collective agreements are typically renewed at varying intervals – usually every 2 or 4 years. In the private labour market, collective agreements typically expire on 1 March. Renewal is usually dealt with without disturbing the labour market. The parties do, however, have a right to take industrial action if no satisfactory agreement can be reached. The right to strike or lockout is only exercised on rare occasions.

12.5 It should be noted that due to the importance of collective agreements, many of them stipulate that they will not terminate even if a party gives notice of termination. As a consequence, the agreement will continue in full force and effect until either a new agreement has been made or industrial action has been taken. It may thus be difficult to be released from the obligations of a collective agreement, once concluded.

The term of a collective agreement is usually 2-4 years.
For obvious reasons, this booklet only provides a brief overview, not an exhaustive background to the decision-making process – not even within the human resources area. Issues that should form part of the decision-making process in relation to setting up in Denmark include taxation, infrastructure, company law, etc. Within the human resources area, one of the initial issues to be addressed is ensuring that Danish pay levels and social contributions are generally acceptable to the relevant company and that the company’s needs can actually be met in Denmark.

Often, the issues of employment terms and conditions and how to deal with the delicate matter of trade unions and collective agreements are not addressed until employees are actually being recruited or the unions approach the company with an immediate demand for a collective agreement.

This has in many situations resulted in decision-making under pressure and in decisions that, while perhaps not disastrous, did not provide the company with as good a beginning as it would have had with proper planning and preparation.

In a country where the role of individual contracts and collective agreements is distinctly important and where legislation plays a minor role compared to other jurisdictions, there is a lot to be gained from addressing key issues at an early stage.
Some of the key issues that should be addressed very early in the process are:

- Corporate culture or human resources culture is important in a world which talks of “talent” rather than “staff” or “employees” – and where a major challenge is “baby drought”. In such circumstances, it is important to find out whether the company’s way of doing things in terms of its corporate or human resources culture fits into a Danish context. Are they compatible and can they be implemented, or will adjustments be necessary?

- Standard terms and conditions – or at least standardised terms and conditions – are often a central objective for an international company. The company wants some resemblance between the terms and conditions which are offered in the US, in China and perhaps in Denmark. Can standard contracts and employee benefits be transferred into a Danish context? If this is not fully possible – will it then be possible with a few adjustments?

- Will the company’s stock option plan (or any other incentive scheme) work in Denmark? Probably, the stock option plan will need to be modified – is that acceptable to the company?

- If the company is planning to operate with a number of expatriates – how efficient are the immigration authorities? Are there any restrictions on the company’s access to having expatriates working in Denmark and are such restrictions problematic?

- Is the Danish tax regime sufficiently attractive to ensure a smooth transfer of expatriates to Denmark?

- In relation to trade unions and collective agreements, initial decisions will be crucial. Once a specific collective agreement has been entered into or the company has opted for membership of an employer organisation, it is very difficult to change its legal position under Danish law.

Therefore, one of the most important issues to address at a very early stage is whether the company’s policy should be to avoid collective agreements – and whether this would be possible in a Danish context. If not, will that have a major impact on the decision of whether to set up in Denmark or not?

With respect to negotiation of any collective agreements, it is important to consider whether it would be preferable to negotiate a collective agreement with each relevant trade union individually, to negotiate a general collective agreement with all relevant trade unions or to deal with the issue of collective agreements through membership of an employer organisation.

The above questions are only some of the main questions that should be addressed very early in the process. When setting up a new company in Denmark, employers are given a unique opportunity to shape things – and basically our recommendation is: Do not miss this opportunity.
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