

The Danish arbitration system

There are two arbitration systems for public servants, a disciplinary court for statutory civil servants and an industrial relations court for contractual staff. The disciplinary court and the industrial relations court are both based on law, but on different laws. The Civil Servants' Disciplinary Court is based on the Statute relating to civil servants (Tjenestemandsløven), whereas the Industrial Court is based on labour law. Both courts are joint courts based on parity, and the judges who come from the ranks of the social partners outnumber the legal judges.

In Denmark we make a distinction between **conflicts of rights** (conflicts regarding the interpretation of collective agreements and the legality of industrial conflicts) and **conflicts of interest** (conflicts that are linked to the process of collective bargaining or renewal of collective agreements).

As for **conflicts of interest**, in case the social partners cannot reach agreement, the matter can be taken to the independent Public Conciliator (arbitrator), a mediation mechanism established by law in order to avoid strikes and lockouts in the course of collective bargaining. As statutory civil servants do not have the right to take industrial action, this mediation mechanism only covers contractual staff. When it comes to statutory civil servants, the employer has the right to make one-sided decisions

The advisory council on governmental salaries¹ plays the role of arbitrator in case an agreement covering statutory civil servants cannot be reached.

As for **conflicts of rights**, the employer or the trade unions may take the matter to the disciplinary court (as for statutory civil servants) or the industrial relations court (as for contractual staff). Dismissals however are normally put before the board of dismissals (as for statutory civil servants) or industrial arbitration (as for contractual staff). Compliance with court rulings is mandatory.

¹ The advisory council on governmental salaries is a joint committee, composed of employer representatives, trade union representatives and Members of Parliament. It acts as an advisory committee to the Minister of Finance who will normally follow its opinions. Ultimately, according to the Statute relating to Public Servants, it is the Minister of Finance who determines the wages of statutory civil servants.