Case management in the Danish Labour Court

by Managing Judge Jørn Andersen, Head of Secretariate 19.9.04

1. Preconditions

Before a matter is brought before the Labour Court attempts will usually have been made to settle it by negotiation, and questions of interpretation may have been decided by industrial arbitration.

Contractual negotiation

According to the General Agreement between the Danish Employers' Confederation and the Danish Federation of Trade Unions and the Norm for Rules for the Hearing of Industrial Disputes an effort must be made to settle any disagreement by conciliation.

The existence of the special negotiation procedure implies that only a minor part of the relevant conflicts is continued before judicial dispute-resolving bodies (and it would normally be regarded as a breach of agreement if a party fails to participate in conciliation).

In the event of failure to settle a dispute by *local negotiation* between the employer and the employees' shop steward, the allegedly injured party will submit a petition for conciliation.

The next step is the setting-up of a *conciliation committee* (normally in such a manner that each party to the agreement apoints one member). The conciliators need not be impartial but may not have any personal interest in the matter to be considered. The discussions with the committee are rather informal and often take place on the premises of the firm. The result of the conciliation is forthwith committed to a minute-book, and if the conciliators are unanimous the committee may settle the dispute definetively at variance with the wishes of the parties directly involved.

If the conciliation is futile, the consideration of the dispute may be continued at a *meeting with the organisations*. These meetings are usually attended by several representatives from each organisation and – as in the case of the conciliation committee – the negotiation board may decide the matter definitively if the members are unanimous.

In situations where time is of the essence an alternative procedure is used instead of the above: so-called *joint-meetings* where everybody – including representatives of the central organisations – participate at the same time.

Introduction

The aim of the Labour Court is to participate in a high-quality, rapid and serviceminded dispute resolution**.**

For that reason it is important
that the numerous conflicts at the Labour Court are first and foremost handled by the parties themselves at the lowest possible level
that an appropriate alternative dispute resolution method are used
that the Court has an efficient case management system, proceed with the cases as fast as possible, offer different appropriate methods of dispute resolution and if necessary master a panel consisting of highlig qualified proffesionel judges and lag judges with an in-deputh, practical ledge of the conditions at the Labour market
that the system in transparent and the decisions accissible

Industrial arbitration

The arbitration tribunals are governed by provisions in the General Agreement between the Danish Employers' Confederation and the Danish Federation of Trade Unions or similar general agreements as well as stipulations in the individual collective agreements, which are usually modelled after the Norm for Rules for the Hearing of Industrial Disputes.

The tribunals are usually set up for the purpose of hearing a single, already existing case and each party normally appoints to artibitrators and jointly elect one (or in some cases 3) umpirs).

The umpire (who is most often selected from a small circle of legal professionals such as members of the Presidium of the Labour Court) must meet the same criteria of capasity as judges. For the arbitrators, the only repuirement is that they may have no personal interest in the matter.

The industrial arbitration tribunals are concerned, first and foremost, with disputes over the interpretation of collective agreements which the parties have been unable to resolve by negotiation in accordance with the agreement (and it would normally be regarded as a breach of agreement if a party fails to cooperate in the implementation of the arbitration proceedings).

The arbitration proceedings are normally commenced by a presentation by the parties of their points of view in the form of complaint and defence pleas.

The actual presentation to the industrial arbitration tribunal, which is presided over by the umpire, is in verbal form and in principle in the same manner as before the ordinary courts of law. However, the representatives of the parties are nok always lawyers, and in practice the hearing can be rather informal.

If there is no agreement between the arbitrators as to the result, the matter will be decided definitively by the umpire in a detailed award arranged in the form of an ordinary civil judgement.

2. Proceedings of the Court

Legal action

A matter is brought before the Labour Court by submitting a written complaint plea to the Court with a copy to the other party. In cases between organised parties the secretariate of the Court calls for a written defence plea and setts the time of a preparatory meeting 3 weeks later.

The written complaint and defence pleas shall contain among other things the claims of the parties and brief presentations of the facts supporting the claims.

Preparatory meetings

At the preparatory meetings the Court is composed of one member of the Presidium (the president or one of the vicepresidents) or in certain cases the head of the secretariate.

The parties discuss the case and investigates the possibilities of an amicable solution, and a number of cases in fact are concluded by the parties managing to reach a settlement.

Decisions during preparation

In a substantial number of cases the parties and the judge sitting at the preparatory meeting agree that the matter is not of such a nature as to justify a full-court hearing.

If so, any production of evidence is made then and there or at a subsequent preparatory meeting and, in conclusion, the parties will give a brief oral presentation of their points of view.

The resolution of the case is thereafter entrusted to the president, vicepresident or the head of the secretariate.

The judge will in most cases promptly deliver and explain the result. This is entered in the records of the Court, usually without special grounds, and marks the final conclusion of the case.

Full hearings

If the judge ascentains that it is impossible to reach an agreement between the parties and the parties do not want a decision by a member of the Presidium, a date and hour for a full-court hearing is set.

At the final hearing of the case the president or one of the vicepresidents will sit together with 3 members from employer and 3 members from emplyee side.

Parties not attaced to an organisation or authorits giving recommendations to the Minister of Labour on appointment of judges, may demand that their case are heard and judged by a member of the Presidium alone.

In cases of special interest, the Presidium of the court can be represented by 3 members instead of one.

The principles applicable under the provisions of the Aministration of Justice Act to ordinary civil law cases apply to the procedure of the Labour Court with the neccessary adjustments. In practice the conduct of the hearing is rather informal. While the preparatory meetings are held in camera, the public can attend the hearings.

After the opening of the hearing the representative of the plaintiff presents the case before the Court in an objective manner, including recitation of documents. The representative of the defendent may add his observations to the presentation. Then follows the examination of possible witnesses who like in other Danish courts of law are told that it involves criminal liability if they do not tell the truth. The representatives of both parties and each member of the Court may put questions to the witnesses. After examining the witnesses, the reprentatives of the parties deliver their pleadings and the hearing is declared closed by the presiding judge.

Immediately after the hearing the 7 (or 9) members of the Court sit in camera to discuss what is to be decided and to give their votes. First a member appointed on recommendation by the employer or the employee side gives his vote and explaines his reasons. Then a member appointed on recommendation by the opposite side gets the floor etc. The presiding judge gives his vote as the last one. When all votes have been given, a date for the final adoption of the decision is set.

Before this final meeting is held, the presiding judge draws up a draft of the decision and copies of the draft are sent to the other members of the Court.

On the set date the case is briefly discussed again, and the other members may propose alterations of the draft.

The decision is drawn up according to Danish civil law tradition. It contains an exposition of the claims of the parties, an account of the facts of the case as they have been presented to the Court and a short record of the declarations made by the witnesses and the pleadings made by the representatives of the parties. The Court states which facts and legal rules and principles the decision is bases upon, and the grounds of the decision are given. Finally the conclusion of the Court is specified.

If there are any dissenting opinions, they are not mentioned in the decision or published. Thus the decision appear as if it had been adopted unanimously although dissenting opinions occur very often. The members of the Court are not entitled to reveal to anybody what has been discussed in camera.

The decision and the final wording are adopted according to the majority of votes, and the presiding judge pronounces the decision in the courtroom.

Cases of urgency

Persuant to the Labour Court Act strikes or lockouts in contravention of a collective agreement shall immediately be reported to the organisations, and a joint meeting attended by the organisation is to be held the day after the beginning of the strike or lockout.

When a current industrial action is brought to the Labour Court, the case will be considered a case of urgency. The first preparatory meeting will deal with the case within a week.

Often the defendent already at the preparatory meeting admits that the industrial action in question is in contravention of the collective agreement, and the representative of the defendant promises to direct the members of the organisation who take part in the industrial action to bring the action to an end.

The judge appeals to the members of the organisation to reply with the request of their organisation. If the members of the organisation do not comply with such request immediately, the fine which they are to be imposed because of the action, will increase considerably.

If the defendant does nok admit that the industrial action is en contravention of the collective agreement and the opposite party insists on the claim, a full-court hearing will be fixed, sometimes within 14 days. If the Court cannot deal with all the problems of the case immediately, it can at the end of the hearing deliver an provisional order declaring the industrial action in contravention of the collective agreement. The final decision will normally appear 2-3 weeks later.

3. Review

Dicisions made by the Labour Court and the other dispute resolutions bodier mentioned above cannot be appealed to any other judicial instance.

However, the decision of the Labour Court may be reviewed by the Court itself, as to default judgements if the defendant asks for it within one month but generally merely if the case has been incorrectly elucidated and the defendant only in this manner may avoid a significant loss.

4. Enforcement

Judgements of the Labour Court, decisions by a judge during preparatory meetings and settlements made before the Court can be executed according to the rules of the Administration of Justice Act like ordinary civil judgements and settlements.

In the same way decisiions made by conciliation committees etc. and industrial arbitration tribunals according to the Labour Court Act are enforceable along the same lines as amicable settlements made before an ordinary court of law.

5. Statistics

Out of Denmark's population of, totally 5.200.000 some 2.900.000 persons are estimated to be part of the labour force. 2.700.000 are active: 1.900.000 in the private sector and 800.000 in the public sector.

More than 80% of the employees are organised in trade unions, which are grouped within national federations and, in turn, within a few central organisations. The largest of these is the Danish Federation of Trade Unions.

About 50% of the private employers are organised, too, and the most comprehensive organisation is the Danish Employers' Confederation.

Cases closed

Year	Cases received	Normal judge	Dec. during prep.	Default judge-ment	Settle-ment	Abate-ment	Total	Unde-cided
1986	479	56		27	268	81	432	415
1987	532	81		38	453	446	690	259
1988	429	43		45	373	64	525	172
1989	436	47		38	296	53	434	175
1990	420	40		33	268	68	409	186
1991	399	36		31	261	51	379	206

1992	340	53		23	281	35	392	153
1993	542	40		37	305	62	444	235
1994	467	33	76	40	370	61	504	196
1995	650	25	68	51	282	100	458	346
1996	460	30	72	80	296	99	505	299
1997	703	22	75	204	292	178	696	301
1998	733	12	81	236	285	195	728	295
1999	939	19	127	338	312	289	958	276
2000	992	18	94	342	232	300	892	273
2001	1073	14	98	360	166	326	866	382
2002	1431	17	70	369	202	414	1002	724
2003	1318	14	112	564	185	408	1282	623

- Before 1994 these decisions were counted among the settlements.

(It is supposed that 80% of the disputes at the organised Labour market are solved by the parties themselves.

However, over the past years the Labour Court has received an increasing number of cases.

5-10% concern strikes or lockouts in contravention of collective agreements. Another and 75% of the cases are brought against non-organised employers, mostly on allerged substandard payment of wages etc.

The increasing number of cases has not resulted in a corresponding increase in full hearings. Presumably, the reason is partly that most of the cases of the former type are settled out of court and partly that the decision of a substantial part of the other type of cases has the form of default judgments or are entrusted with the judges (especially the head of secretariate) during preparatory meetings.

As a rule cases brought before the Labour Court will be decided finally upon 3 month to 1 year after the day of registration.

Days	1996	1997	1998	1999	2000	2001	2002	2003
Default	139	53	63	65	58	62	86	105
Dec. during prep.	247	227	227	172	215	187	194	216
Normal	453	489	269	362	385	385	368	298

Appendix 1.

The Labour Court Act (No. 183 of 12'th March, 1997)

§ 1. The Labour Court jurisdiction covers the hearing of and the settlement on the cases referred to in § 9.

Subsection 2. The Court has its seat in Copenhagen but may be opened elsewhere in the country if deemed appropriate.

§ 2. The Labour Court consists of 12 ordinary judges and 31 substitutes for these, as well as 1 president and 5 vicepresidents.

§ 3. The ordinary judges and substitutes for these are appointed by the Minister of Labour on recommendation by the following organisations and authorities:

1) The Danish Employers' Confederation will recommed:
3 ordinary members and 6 substitutes
2) The Danish Confederation of Employers' Association of Agriculture and the Danish Employers' Association for the Financiel Sector will jointly recommend:
1 ordinary member and 4 substitutes
3) The Ministry of Finance, the Association of County Councils in Denmark, the National Association of Local Authorities in Denmark, the Minicipality of Copenhagen and the Municipality of Frederiksberg will jointly recommend:
2 ordinary members and 4 substitutes
4) The Danish Federation of Trade Unions will recommend:
4 ordinary members and 10 substitutes
5) Salaried Employees' and Civil Servants' Confederation, the Danish Confederation of professionel Associations and the Danish Association of Mannagers and Executives will jointly recommend:
2 ordinary members and 7 substitutes

*Subsection 2***.** The appointment, valid for five years counting from a 1st January, shall be made every five years based on the recommendations by organisations and authorities received from the Court. If a recommendation is not received before the end of December, the Minister of Labour will appoint on his own the one or those missing.
*Subsection 3***.** Reappointment may take place.

Subsection 4. If an ordinary judge or substitute retires during the 5-year period, another shall be appointed for the remaining part of the period, upon recommendation by the particular organisation or authority.

§ 4. The president and vicepresidents of the Court who shall all meet the general conditions for being a judge shall be appointed by the Minister of Labour upon recommendation by the ordinary judges of the Court. Such appointment shall be valid until the expiry of the month in which the person concerned completes his/her seventieth year.

§ 5. A secretariat, run by a secretariat head, belongs to the Labour Court. The head of the secretariat is apponted by the Minister of Labour upon recommendation by the president. The person concerned shall meet the general conditions for being a judge.

§ 6. For the Labour Court judges and substitutes, as well as for the presidency and the head of the secretariat, the Administration of Justice Act rules of incapacity for judges shall apply.
Subsection 2. The judges etc. who shall participate in the judgment of the particular case shall, of their own accord, see whether there may be grounds wich may entail incapacity.
Subsection 3. Objections to the capacity of a judge should as far as possible be made immediately upon receipt of the notice as to which judges will participate in the hearing, an should in any case be made prior to the beginning of the hearing. The adjudication on the capacity of a judge shall be made by the presiding judge by way of a decision. During the hearing, the adjudication shall, however, be made by the Court in its entirety. The judge whose capacity has been questioned shall nok be excluded from participating in this adjudication.

§ 7. In Labour Court hearings, with the exceptions mentioned in § 8, a member of the presidency shall participate as the presiding judge, and from the employer and employee sides, respectively 3 ordinary judges or substitutes.

§ 8. Upon request by a party or of its own accord, the presiding judge may decide that the presidincy during the hearing shall consist of 3 members of the presidency.
Subsection 2. A party not attached to one of the organisations or authorities referred to in § 3, subsection 1, may demand that the case be heard and judged without participation by ordinary judges or substitutes. In that case only the presiding judge shall participate in the adjudication on the case, he/she may make a decision to subsection 1.

§ 9. Cases brought before the Labour Court concern

1) breach and interpreting a general agreement adopted by Danish Employers' Confederation and Danish Federation of Trade Unions as well as similar general agreements,
2) breach collective agreements on matters of wages and labour conditions,
3) the lawfulness of warned collective industrial action or notices inssued in this connection provided the central organisation of the party affected or, if the party is not a member of any such organisation, the party itself has, by registered letter within 5 days upon receipt of the notice to which the formal or substantive lawfulness is objected, objected in relation to the particular organisation or single enterprise to the lawfulness of the industrial action or the notice,
4) whether a collective agreement exists,
5) the lawfulness of the use of collective industrial action in support of a demand for agreement in areas in which no collective agreement has been made, and
6) disputes on the competence of official conciliators.
Subsection 2. Work stoppages shall be reported to the organisations immediately, and a joint meeting attended by the organisations for discussion of a work stoppages shall be held the day after carrying it into effect unless the work stoppages has come to an end before holding the joint meeting.
Subsection 3. Cases to subsection 1, subparagraphs 1-3, can be brought before the Labour Court only if the infringement has been made, or the industrial action has been warned or carried into effect by an employers' organisation or by several members of any such organisation, by a single enterprise (sole proprietorship, firm, limited company or a public institution) or by a labour organisation or by members of any such organisation jointly. The right of bringing cases i further conditional upon the particular industrial relations not containing provisions to the opposite.
Subsection 4. In addition to the cases mentioned in subsection 1, cases on disagreement between employers and employees may be brought before the Labour Court when so approved by the court, and provided an agreement to that effect has been made between an employer organisation and an employees' organisation or between a single enterprise and an employees' organisation.

§ 10. If a case in its entirety belongs under industrial arbitration, the Court may dismiss the case. If the parties agree the Court may, however, settle the case. If the case belongs partially under industrial arbetration, the Court may adjourn the case until an arbitral award has been made.

§ 11. Cases which, pursuant to § 9, fall under the jurisdiction of the Labour Court, cannot be brought before the ordinary corts, cf., however, subsection 2.
*Subsection 2***.** An employee may bring an action before the ordinary courts for alleged back pay etc. if the person concerned proves that the industrial organisation concerned does not intend to institate industrial procedure on the claim.

§ 12. In cases mentioned in § 9, subsection 1, subparagraphs 1 and 2, and subsection 4, the Labour Court may impose on the party or parties taking part in the illegal matter a fine which shall accrue to plaintiff.
*Subsection 2***.** No fine can be imposed on the participants in a work stoppage who have resumed work before the holding of the joint meeting referred to in § 9, subsection 2, or who have followed a request from this meeting to go to work unless it be shown that the work stoppage has been devoid of reasonable grounds or may be regarded as part of a systematic action.
Subsection 3. If the breach of the collective agreement is one of failing to pay an amount of money due, the judgment may instead of a fine be one of payment of the amount.
Subsection 4. Unless otherwise agreed in advance, legal liability can be imposed on an organisation as such only provided it has been a party to the matter complained of.
Subsection 5. The fine shall be fixed in allowing for all the circumstances of the case, including to which degree the breach has been venial on the part of the infringer. In judging an work stoppage, it should thus be allowed for whether there were matters on the part of the counterpart of a nature so that the work stoppage may be deemed to be an understadable reaction to same.
Subsection 6. Under special mitigating circumstances the imposition of a fine otherwise deserved may not apply, and it shall be nil and void when illegal behaviour on the part of the counterpart is deemed to have offered reasonable grounds for an illegal strike/lockout. Thes shall also apply when it is proven that a strike/lockout is due to wellbeing factors for which the counterpart is responsible.
Subsection 7. It shall be considered a particular aggravation circumstance that the infringer, though contractually committed by the collective agreement to do so, has refused to have the matter settled by arbitration or has acted in a manner conflicting with a legally made arbitral award or with a judgment pronounced by the Labour Court.
Subsection 8. In cases of injunctions caused by alleged breaches of agreements and of imposition of a fine for this, the court may separate the issue of the fine for later settlement.

§ 13. Action shall be brought by and against the the employers' or employees' organisation concerned regardless of whether breach has been made, or collective industrial action has been warned or carried into effect by or against particular members of the organisation. If an organisation is a member of a more comprehensive organisation, the action shall be brought by and against the latter organisation. If the employer party is a single enterprise, cf. § 9, subsection 3, that has not joined an employers' organisation, the action shall be brought by or against the single enterprise.
Subsection 2. There is no restriction on the right of the parties to be represented in the Labour Court by an attorney.

§ 14. Action shall be brought by delivering af written complaint to the Labour Court.
Subsection 2. The written complaint plea shall contain
1) the names and adresses of the parties,
2) the claim asserted by the plaintiff,
3) a brief presentation of the facts supporting the claim, and
4) stating the documents and other evidence which the plaintiff intends to invoke.

§ 15. The secretariat shall send as soon as possible a copy of the written complaint plea with exhibits to the defendant and shall at the same time request that the party makes a defence plea with any exhibits. If necessary, the secretariat shall have the written complaint plea served to the defendant to the rules of the Administration of Justice Act on service.
Subsection 2. The defence plea shall contain
1) the defendant's claim,
2) a brief presentation of the facts supporting his claim, and
3) stating the documents and other evidence which the defendant will invoke.

§ 16. The preparation of the case for eventual hearing shall take place in one or more preparatory meetings.
Subsection 2. During the preparatory meetings, the case shall be heard by the president, one of the vicepresidents or the head of the secretariat.
Subsection 3. With the consent of the parties, the Court may settle the matter at a preparatory meeting. The settlement can, with the agreement of the parties, be made by a decision sithout reasons in writing.
Subsection 4. The preparatory meetings shall be held with the doors closed. With assent by the parties, the judge may, however, permit parties other than the representatives of the parties to witness the hearings.

§ 17. For the hearing, the rules of the Administration of Justice Act on hearing of civil actions at the court of first instance, with the necessary adjustments, shall apply.
Subsection 2. The hearing shall be with the doors open unless the presiding judge exceptionally decides that the doors shall be closed with a view to order in the court room.

§ 18. The judgment shall be decided by voting following preceding consultation. The consultation and the voting shall be verbal, and the presiding judge shall always vote last. Only the judges who have attended the verbal proceedings in their entirety shall participate in the voting record.
Subsection 2. The decision shall be made according to the majority of votes.
Subsection 3. A draft judgment shall be prepared by the presiding judge after which the final wording shall be agreed upon by the partipating judges.

§ 19. The judgment which shall be delivered in a sitting open to the public by reading of the conclusion shall be accompanied by grounds but not contain any information on the various opinions during the voting.
Subsection 2. The judgment shall impose on the losing party to pay an amount for partial coverage of the costs of the Labour Court. The court may exceptionally impose on both parties to pay part of the amont.

§ 20. The provisions of the Administration of Justice Act on the effect of the non-appearance of a party on the right of having reopened civil action settled by a judgment in default, and of extradinary reopening of civil action, shall apply similarly in cases heard by the Labour Court.
Subsection 2. The presidency of the Labour Court may exceptionally permit cases setteled according to § 16, subsection 3, by the judge, to be reopened when
1) it may be deemed that there is every probability that the case has, without any fault on the part of the applicant, been incorrectly elucidated, and that the case will, following a reopening, produce a materially different outcome.
2) it may be taken for granted that the applicant may only in this manner avoid or make up for a loss significant to him, and
3) the circumstances do otherwise speak in favour of resumption.

§ 21. The judgments of the Labour Court can be executed according to the rules of the Administration of Justice Act on enforcement of judgment.
Subsection 2. Amicable settlements made before the Labour Court, decisions according to § 16, subsction 3, and settlements through conciliation and organisation meetings as well as at industrial arbitration tribunals and boards of dismissal can be executed according to the rules of the Administration of Justice Act on execution of amicable settlements.
Subsection 3. The provisions of the Administration of Justice Act on objections to the justice of judgments etc. made during the enforcement shall apply similarly for objections made during the execution of the Labour Court judgments, orders, and decisions.

§ 22. If adequate rules for settling disagreement of an industrial nature have not been adopted between the parties to the collective agreement concerned, the provisions of the norm agreed at all times between Danish Employers' Confederation and Danish Federation of Trade Ynions for rules for the consideration of industrial dispute shall be considered to apply between the parties.

§ 23. The act shall come into effect on March 15, 1997.
Subsection 2. Act No. 317 of 13th June, 1973, on the Labour Court, is repealed.
Subsection 3. Until, with effect from 1st Januar, 1998, appointment has been made to § 3, the ordinary judges now sitting shall carry on their business. The present presidency of the Court shall remain sitting until a new presidency has been

appointed according to § 4. The present secretary of the court shall remain sitting until a head of the secretariat has been appointed accordin to § 5.
*Subsection 4***.** The cases pending at the time of the act coming into effect shall be heard to the new rules, cf., however, subsection 3.

§ 24. This act shall not apply to the Faroe Islands and Greenland.

Appendix 2.

The Labour Court's guidelines for administrative procedures

The Court has introduced electronic document handling and, in so far as this is possible, also electronic communication.

1. Submission of written complaints

Written complaints with any exhibits must, if possible, be forwarded by mail to ***klageskrifter@arbejdsretten.dk***. A single copy is sufficient if the material is forwarded in hardcopy.

Pending disputes on alleged illegal work stoppages or lockout that should preferably be scheduled for trial as soon as possible must be clearly marked "urgent" and sent by mail to ***aretten@arbejdsretten.dk*** .

Exhibits from employers must be numbered while exhibits from employees must be provided with letters.

Complainants are responsible for forwarding copies of the material to the defendants.

2. Other aspects of case administration

During case administration any contact to the court must be made via ***aretten@arbejdsretten.dk***.

The parties are responsible themselves for forwarding copies of pleadings and exhibits to each other.

Cases involving organised parties.

When the Court has received a complaint, a preliminary hearing is scheduled for the first ordinary court day. This is fixed 3 weeks after receipt of the complaint.

At the same time the Court requests the defendant to submit a defence. The deadline for this is Friday at noon in the week before the court hearing.

If this deadline is not observed the secretariat will reschedule the preliminary hearing for the ordinary court day 3 weeks later.

The complainant may, however, request that the original court hearing is maintained and the defendant may, before Friday at noon, request permission to submit the defence at a later time before the hearing.

The parties may also, before the same deadline, each request a rescheduling of the case for an ordinary court day one - or in special cases - two weeks later.

Reasoned requests of this type must be mailed to the secretariat with a copy to the other party.

Cases regarding alleged illegal work stoppage or lockout

In cases regarding pending disputes where an express request has been made in the forwarding letter accompanying the complaint for scheduling for trial as soon as possible, the secretariat will schedule a directions appointment for the next ordinary court day. It is, however, a prerequisite that the complainant has ensured that the defendant is willing to enter an appearance and that the secretariat is informed and receives the case documents not later than noon on the day of the directions appointment. According to special agreement with the secretariat, preliminary hearings may, in extraordinary cases, be scheduled outside the usual ordinary court day.

In cases regarding non-pending disputes the secretariat will not request a defence but will merely schedule a preliminary hearing for the next ordinary court day, which is at least 6 weeks after receipt of the written complaint.

Cases against unorganised employer.

In these cases the secretariat arranges for the written complaints to be served on the defendant requesting a written defence within 14 days after service and with information about the consequences of omitting to reply.

If the defendant does *not* reply the case will be included on the docket for the first court day of the head of secretariat after the expiry of the deadline. However, the complainant does not need to be represented since the tribunal will issue a default judgment in accordance with the claim if it is found to be justified in the statement of claim contained in the complaint and the other material.

If the defendant *submits a defence* the secretariat will usually obtain a reply from the complainant and a rejoinder from the defendant before a directions appointment is scheduled for further discussion and possibly closing of the case.

3. Preliminary hearings

At the start of the hearing the parties must submit lists stating the names and job titles of the persons present.

Cases involving organised parties

At the preliminary hearing it is assumed that the representatives of the parties, on the basis of pleadings already exchanged, are prepared for a discussion of any formalities as well as the facts of the case with the member of the presidency of the tribunal that presides over the tribunal.

During the hearing a time schedule is made for the further procedure, in so far as this is possible, and deadlines may be fixed for submission of additional necessary pleadings and additional preliminary hearings may be agreed for the purpose of exchanging material or in order to leave the decision of the case to the presiding judge. Furthermore, preliminary or final scheduling for trial may take place.

Cases against unorganised employers

If it is not possible to settle the case amicably or by immediately leaving the decision of the case to the head of secretariat a time schedule is made, if possible, for the further procedure and deadlines may be fixed for submission of additional necessary pleadings and additional preliminary hearings may be agreed for the purpose of exchanging material, pleadings or in order to leave the decision of the case to the head of secretariat.

If the parties, or one of these, want the case to be decided by a member of the presidency of the Court or an actual trial to be held the case will be transferred to the ordinary court day for one of the presiding judges.

4. Trials

Each party must, as soon as possible after scheduling for trial submit 8 hardcopies of all material presented by each of them. If the case is to be heard by an extended presidency they must, however, submit a total of 10 hardcopies of the material. If, upon request from one of the parties, only the presiding judge sits at the trial it is not necessary to submit hardcopies. In the event of an extended presidency in this situation, 4 hardcopies of the material must be submitted.

If, in exceptional cases, pleadings or exhibits are to be submitted less than 14 days before a trial the relevant party must itself as soon as possible forward a hardcopy of the material to each of the judges who are going to sit at the trial as well as a hardcopy to the Court.

If in very exceptional cases, a party wants to submit material to the Court in connection with the trial itself, the necessary number of hardcopies must be submitted before commencement of the trial.

In the material submitted after the case has been scheduled for trial, exhibits must be collected in numerical order and by letters. If the case includes a large number of exhibits a chronological list or other form of list must be available or actual abstracts must be produced where the relevant exhibits are inserted systematically.

Claim documents must also be submitted with summary of the allegations of the parties and, in cases of general importance, collections of the decisions and the literature on which the parties intend to rely. Claim documents and collections of decisions and material must be forwarded in hardcopy to the participating judges one week before the trial, if possible. Furthermore, a copy must be forwarded to the Court.

At the start of the trial the parties must submit lists stating the names and job titles of the persons present, preferably in two copies.