

## **The provisions on company management in the Danish law on public limited companies (Aktieselskabsloven)**

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**It is still a matter of debate whether the Danish system of company management is a one-tier or a two-tier system. Officially, it is a two-tier system. In international comparison it can be defined as a hybrid between a pure two-tier system as found, for instance, in Germany, and a pure one-tier system, as in the UK. The main features of the Danish system are laid down in Chapter 9 of the Danish law on public limited companies.**

Article 49 states the following: A company must have a board (*bestyrelse*) consisting of at least three members. The board is elected directly by the general assembly of shareholders, or indirectly by a shareholders' committee, if so provided by the company rules. The company rules may provide that the public authorities or others appoint one or more members of the board. In companies with 35 employees or more, employees may additionally elect a number of board members, namely half the number of board members elected by the general assembly, but at least two members (in groups – *koncerner* – this figure rises to three members). The majority of the board's members must be elected by the general assembly (or the shareholders' committee).

Article 51 states that the board must appoint a board (*direktion*) consisting of one to three members, unless company rules require a larger number. The majority of board members must be persons who are not directors in the company, and the president of the board is not allowed to perform tasks for the company which do not form a natural part of the duties of the board president.

Article 54 states that the board and the board (*direktion*) shall undertake the management of the company's affairs. The board (*direktion*) conducts the daily management of the company, and in doing so must follow the guidelines and instructions given by the board.

Comment: These are the formal rules. They are not precise as to the exact division of tasks between board and direction. The actual division depends on other provisions in the law, as well as the rules and traditions of the individual company. A trend in recent years has been the professionalisation of the board, but a recent study concluded that on average two of the shareholder-elected board members are passive (Børsen, 25.11.2005, section on Corporate Governance, p. 3).

### **On employee representatives:**

Art. 177 states that a decision to include board members elected by the employees requires that at least half of the company's employees vote in favour. Employee board members are elected by secret ballot. Elections are direct, except in groups where members are selected by an electoral college consisting of representatives from the individual companies in the group.