



Danish contribution to the 2021 Rule of Law Report

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I. Justice System

A. Independence

1. Appointment and selection of judges, prosecutors and court presidents

Regarding the appointment and selection of judges and prosecutors, reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

It must be added that necessary qualifications for becoming a court president include being a judge or being qualified to become a judge, cf. section 42 and 43 of the Administration of Justice Act.

The Judicial Appointments Council (Dommerudnævnelsesrådet) arranges interviews for the position as court president.

Ultimately, court presidents are confirmed by the Minister of Justice as advised by the Judicial Appointments Council.

2. Irremovability of judges; including transfers, dismissal and retirement regime of judges, court presidents and prosecutors

The independence of judges in Denmark is guaranteed by section 64 of The Constitutional Act of Denmark (grundloven) (in the following referred to as the Constitution)¹. The Constitution provides that judges shall be governed solely by the law in the performance of their duties. This means that e.g. the Government or the Parliament cannot decide how a judge must carry out their judicial activities, and judges must not let themselves be influenced by others.

Judges are automatically dismissed at the end of the month of their 70th birthday, cf. section 34 of the Civil Servants Act. Before that date, a judge can only be dismissed by judgement of the Special Court of Indictment and Revision.

As a rule, a judge cannot be dismissed due to age before the age of 65. Furthermore, judges cannot be transferred to other work against their wish. By means of an act, however, it is possible to create new courts or merge courts. In that case, a judge cannot refuse to be transferred or dismissed. This also applies to court presidents.

As for disciplinary and criminal proceedings against judges, reference is made to GRECO's Fourth Evaluation Report, page 30 ff., section 114-119 and the Common core report on Denmark, page 23, section 99².

Prosecutors are included in the collective labour agreement 2018-2021 for academic staff employed by the State. Among other things, the agreement provides rules for dismissal and retirement regimes for employees in the State sector.

¹ The act is available in English at https://www.ft.dk/-/media/sites/ft/pdf/publikationer/engelske-publikationer-pdf/grundloven_samlet_2018_uk_web.ashx.

² United Nations, Common core document forming part of the reports of States parties for Denmark : file:///C:/Users/sori/Downloads/G1834548%20(1).pdf

According to the agreement, prosecutors are covered by the Salaried Employees Act (*funktionærloven*) when it comes to dismissals. The Salaried Employees Act provides prosecutors a term of notice between one to six months depending on the length of service.

As far as the retirement regime of prosecutors goes, the employer pays a pension contribution in the amount of 17.1 % of the salary. A third of the contribution is the contribution of the prosecutor, cf. page 20 of the agreement.

As for transfers, a rotation scheme is a natural part of the road of education to becoming a prosecutor. Upon completion of the initial training, it is mandatory for prosecutors to embark on a two-year rotation scheme with a regional attorney general (*statsadvokat*) or with the Director of Public Prosecutions (*Rigsadvokaten*).

3. Promotion of judges and prosecutors

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

4. Allocation of cases in courts

As for allocation of cases within any court, reference is made to GRECO's Fourth Evaluation Report, page 25, section 86. As for allocation of cases between district courts, the high courts and the Supreme Court, reference is made to the Common core document on Denmark, page 23 ff., section 101-109.³

5. Independence (including composition and nomination of its members), and powers of the body tasked with safeguarding the independence of the judiciary (e.g. Council for the Judiciary)

Reference is made to GRECO's Fourth Evaluation Report on Denmark, page 22 ff., section 73-80.6.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal liability of judges.

Rules on the conduct of judges are primarily set out in the Administration of Justice Act (*retsplejeloven*)⁴, which contains rules that prohibit a judge from deciding a case if there is a conflict of interest. Reference is made to GRECO's Fourth Evaluation Report on Denmark, page 28 ff., section 104-106. In addition, a judge must conscientiously comply with the rules that apply to the duty and prove worthy of the esteem and confidence required by the position. Furthermore, the Criminal Code (*straffeloven*)⁵ contains rules on professional secrecy, and it is forbidden for a judge to receive gifts or other benefits, cf. section 144 of the Criminal Code⁶.

³ United Nations, Common core document forming part of the reports of States parties for Denmark : file:///C:/Users/sori/Downloads/G1834548%20(1).pdf

⁴ <https://www.retsinformation.dk/eli/lta/2019/938/>

⁵ The act is available in Danish at <https://www.retsinformation.dk/eli/lta/2019/976>.

⁶ See subsection 2 as for disciplinary proceedings concerning judges.

As for disciplinary and criminal proceedings against judges, including judicial immunity and criminal liability of judges, reference is made to GRECO's Fourth Evaluation Report, page 30 ff., section 114-119 and the Common core report on Denmark, page 22, section 99.⁷

Judges do not enjoy immunity from judicial misconduct or criminal activity.

As for criminal liability of judges, the Danish Court Administration (*Domstolsstyrelsen*) has the option of requesting the Ministry of Justice to dismiss a judge, if the judge has been found guilty of criminal activity. Then, the case will be presented before the Special Court of Indictment and Revisions (*Den Særlige Klagereet*) to resolve whether there is grounds for dismissal.

In relation to prosecutors, as any other citizen, a prosecutor can be subject to criminal proceedings in the Criminal Code. In 2012, the Independent Police Complaints Authority (ICPA) was established. The main task of the ICPA is to investigate criminal offences committed by police officers and by prosecutors who serve in the Local Prosecution Service in the course of their duties.

Furthermore, prosecutors are subject to different legislation and policies in this area, including the decorum rule in section 10 of the Civil Servants Act, the Code of Conduct within the Police and The Prosecution Service and finally, the publication by the Danish Ministry of Finance, Code VII – Seven Key Duties for Civil Servants in Central Government.⁸ See subsection 20 for further details.

Violation of these rules by prosecutors may result in either disciplinary actions or criminal sanctions⁹. The Director of Public Prosecution acts on behalf of the Ministry of Justice as the appointing authority deciding on disciplinary proceedings against prosecutors.

The Director of Public Prosecution has the mandate to decide on termination of employment, as well as other disciplinary sanctions, for prosecutors employed under the collective labour agreement, up to and including pay scale 38¹⁰. Furthermore, the Director of Public Prosecution decides on disciplinary sanctions for prosecutors with civil servant status up to and including pay scale 38. Employees classified above pay scale 38, and/or appointed by The Queen, are subjected to the authority of the Ministry of Justice.

A disciplinary procedure concerning a statutory civil servant is expressly described in the Civil Servants Act (*tjenestemandsløven*)¹¹. The sanctions available are a formal warn-

⁷ United Nations, Common core document forming part of the reports of States parties for Denmark : file:///C:/Users/sori/Downloads/G1834548%20(1).pdf

⁸ Code VII from 2015 is available in English at https://oes.dk/media/17483/kodex_vii_english_version.pdf.

⁹ In particular the rules on the prohibition or restriction of certain activities as described above (e.g. relating to accessory activities, disqualification, gifts and confidentiality).

¹⁰ Pay scale 38 includes head of departments and executive vice presidents

¹¹ <https://www.retsinformation.dk/eli/ta/2017/511>

ing, reprimand, fine, transfer, demotion and dismissal. In more severe cases, an investigator is appointed, (usually an official from the public administration) who investigates the matter and submits a report. The relevant rules are contained in the collective labour agreement, the Salaried Employees Act, and the Public Administration Act. The Director of Public Prosecution may – on behalf of the Ministry of Justice – choose just to guide the employee, give a formal warning or dismiss the employee. In the most serious cases, the employment relationship may be terminated with immediate effect.

There is no administrative appeals system for disciplinary actions, but a prosecutor may bring a complaint before the Parliamentary Ombudsman or bring the case before the civil court system.

The Director of Public Prosecution has installed a whistle-blower scheme, which includes prosecutors working for The State Prosecutor of Viborg, The State Prosecutor of Copenhagen, The State Prosecutor for Serious Economic and International Crime and The Director of Public Prosecution. The whistle-blower scheme makes it possible for the prosecutors to submit information to The Director of Public Prosecution on criminal offenses and serious or repeated violations of the law or of essential guidelines within The Prosecution Service. Furthermore, the whistle-blower scheme allows the prosecutors to submit information on serious person-related conflicts in the workplace. Information can be submitted via the electronic whistle-blower portal on The Prosecution Service's website, via e-mail or by letter. The information can be submitted anonymously.

7. Remuneration/bonuses for judges and prosecutors

Judges are civil servants. The employment terms for civil servants are laid down in the Civil Servants Act and the Civil Servants' Pension Act (*tjenestemandspensionsloven*)¹² as well as determined by a collective labor agreement. Salary and other employment terms are agreed on by the Ministry of Finance and the central organizations.

All judges in Denmark receive a fixed annual salary, depending on the court they are appointed to. The salary system does not operate with any kind of performance-related salary or other bonuses. As for rules regarding judges' possibility of accessory occupations, reference is made to GRECO's Fourth Evaluation Report on Denmark, page 27, section 95.

Under the collective labour agreements prosecutors, including the Regional State Prosecutors, the State Prosecutor for Serious Economic Crime and the Director of Public Prosecutions, are entitled to an annual salary negotiation. During these negotiations, prosecutors have the opportunity to negotiate a yearly salary increase and/or remuneration. The remuneration is a one-time payment and is awarded individually to prosecutors whose work-efforts and results for the year are beyond expectation.

¹² The act is available in Danish at <https://www.retsinformation.dk/eli/ta/2017/510>.

8. Independence/autonomy of the prosecution service

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

9. Independence of the Bar (chamber/association of lawyers) and of lawyers

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

10. Significant developments capable of affecting the perception that the general public has of the independence of the judiciary

In recent years, there has been no significant changes or developments to the judiciary capable of affecting the general public's perception of the independence of the judiciary.

B. Quality of justice

11. Accessibility of courts (e.g. court fees, legal aid, language)

Rules for court fees in Denmark are set out in the Act of Court Fees (*retsafgiftsloven*)¹³. A claimant is required to pay a court fee upon submitting a claim to a court.

As a starting point, the fee is DKK 500. Where the sum claimed is more than DKK 50 000, the fee is DKK 750 plus 1.2 % of the amount by which the sum claimed exceeds DKK 50 000. Where the sum claimed is more than DKK 50 000, an additional court fee is required to be paid for the final court hearing¹⁴. An upper limit of DKK 75 000 is set for each of the two types of court fee (the fee for submission of the claim and that for the final court hearing)¹⁵.

In some cases (for instance, those related to the exercise of public authority), the upper limit is set at DKK 2 000. In some types of civil cases, including those involving family law, there are no requirement of paying a court fee to the court.

For further information on legal aid, reference is made to the Common core document on Denmark, page 36, subsection 160-164.¹⁶

The language of legal proceedings is Danish. To the extent possible, the proceedings and examinations involving persons who do not master the Danish language must be conducted with the assistance of a translator with a master's degree in translation (language for special purposes) or similar.

¹³ The act is available in Danish at <https://www.retsinformation.dk/eli/ta/2014/1252>.

¹⁴ This fee is the same as the fee paid when the claim is submitted. Therefore, the claimant must pay an additional court fee of DKK 750 plus 1.2% of the amount by which the sum claimed exceeds DKK 50 000.

¹⁵ Please note that the rules concerning court fees will be revised during the spring of 2021.

¹⁶ United Nations, Common core document forming part of the reports of States parties for Denmark : file:///C:/Users/sori/Downloads/G1834548%20(1).pdf

In civil proceedings, however, the use of a translator may be dispensed with when neither party insists on calling in a translator and when the court believes that it has sufficient knowledge of the foreign language, cf. section 149 of the Administration of Justice Act.

For more information on language of legal proceedings, see the section 149 of the Administration of Justice Act.

12. Resources of the judiciary (human/financial/material)

Table 1 shows that the total use of financial resources in the judiciary was DKK 1,841.7 million in 2019 and DKK 1,882.8 million in 2020. Payroll accounts for more than half of the expenses. This also includes expenses related to buildings and other facilities, e.g. rent.

DKK million (2021 price level)	2019	2020
Payroll	1,195.0	1,196.7
Other expenses	646.8	686.1
- Rent	303.1	311.5
- Other goods and services	300.1	317.3
- Depreciation	43.5	57.3
Total	1,841.7	1,882.8

Table 2 shows that the number of full-time employees in the judiciary was 2,012 in 2019 and 2,047 in 2020. The table also shows the distribution of employees by employee groups from which it can be noted that judges and other legal advisers along with office staff constitute the majority.

Full-time employees	2019	2020
Judges and other legal advisers	671	680
Office staff	1,166	1,181
Other personnel	174	186
Total	2,012	2,047

The above only includes the financial, material and human resources directly related to the Courts of Denmark (*Retterne*). Resources related to the Danish Court Administration (*Domstolsstyrelsen*), The Appeals Permission Board (*Procesbevillingsnævnet*), and The Land Registration Court (*Tinglysningsretten*) are not included.

As it appears from the tables above, the total financial resources as well as the number of full-time employees in the judiciary has increased in 2020 compared to 2019.

13. Training of justice professionals (including judges, prosecutors, lawyers, court staff)

The Danish Court Administration is responsible for the training of all personnel at the Danish Courts. The Court Administration normally offers about 250 different training courses annually for the judiciary, among others two 3-day judges conferences for appointed Danish judges and two 3-day conferences for deputy judges. These conferences consists of a number of sessions and workshops of a duration of three hours covering a variety of different, relevant topics. During these conferences, there will be sessions on e.g. European law, the Rule of Law, and specific topics..

In general, the need and the demand for courses is continually evaluated and new topics are incorporated where it is relevant. In addition to the national training of judges, the Court Administration offers international training through our international partners such as ERA (Academy of European Law), EJTN (European Judicial Training Network) and SEND (a cooperation between the Nordic countries for the training of judges). The Danish Court Administration promotes and encourages the judicial staff to participate in the seminars/webinars on EU law topics through these international partners.

The Director of Public Prosecutions has the main responsibility for training and educating the entire Danish Prosecution Service. The Director of Public Prosecutions offers continuous training for all prosecutors and mandatory training for all newly hired prosecutor trainees.

All prosecutor trainees must attend a 3-year training programme. The programme consists of ongoing practical training with mentoring in the local place of employment during the entire period, as well as nine courses with face-to-face training. The programme covers the most common aspects of the job as a prosecutor. Several measures to safeguard against corruption is a fixed part of the training including:

- The role of the prosecutor in investigations (incl. the principle of objectivity)
- Proportionality in the investigation
- Good governance (incl. administrative law)
- Code of conduct in the public sector (incl. integrity and conflict of interest)
- Rules of incapacity
- Transparency in the court system (incl. access to documents and public access to court hearings) and
- Communication with the press

As part of the continuous training, the Director of Public Prosecutions offers courses on freedom of speech for civil servants and administrative law, including access to documents, journaling and rules of integrity.

Furthermore, the Danish Ministry of Finance has developed a codex of central duties for civil servants called “Code VII”. The code contains guidelines for code of conduct. The Agency for Public Finance and Management has developed an e-learning course on Code VII, which is available for all employees in the Danish Prosecution Service.

14. Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

Under certain circumstances, courts may allow defendants, parties, witnesses and other actors to participate via video communication in court hearings in criminal and civil cases. The rules are not identical in criminal and civil cases in relation to when the defendant or a party can participate in the hearing via video connection. If there is a legal basis for using video communication, it is up to the judge in question to decide whether video communication can be used in the trial in question.

Interrogations using telecommunications with images shall be conducted in the way that the person concerned appears before a court or for an authority or person who has been specifically authorized to provide means of communication for use in video meetings in court proceedings. Authorization presupposes that the means of communication meets the requirements for technical facilities, technical safety, quality and the premises.

Witnesses must, as a rule, give evidence to the court at the place where the case is being processed. The court decides that a witness may give evidence via video communication, if it is deemed appropriate and justifiable, including if special considerations for the witness so warrant. The court also decides that a witness may give evidence using telecommunications without image (by telephone), if it would be disproportionately difficult for the witness to give evidence by video communication, and giving evidence via telecommunications without image is found appropriate.

During the partial closure of the courts as a result of COVID-19, the Danish Court Administration and the Danish courts have worked to share best practice for working from a home office, including the use of digital solutions such as video and other telecommunications, so that as many cases as possible have been completed. In connection with these measures, the Danish Court Administration has in several areas recommended the courts to use video communication as far as possible, where there was a legal basis to do so.

15. Use of assessment tools and standards (e.g. ICT systems for case management, court statistics and their transparency, monitoring, evaluation, surveys among court users or legal professionals)

Reference is made to section 14 of the Danish contribution to the Annual Rule of Law Report 2020.

The case handling systems for civil cases and other cases, e.g. criminal cases and probate cases, are to be replaced within the next five years.

The performance of all courts, except from the Supreme Court, is evaluated on a monthly basis based primarily on indicators such as: Number of incoming cases, length of proceedings (timeframes), number of resolved cases, number of pending cases, backlogs, and number of weighted cases. For the Supreme Court, this is done on a quarterly basis.

The Court Administration publishes an annual report on cases with a special focus on crimes regarding violence, weapon possession, and rape. The report includes court statistics.¹⁷

16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation

Denmark has 24 District Courts (first tier) spread across the country whose decisions may be appealed to one of the two High Courts (second tier) located in the Western and Eastern part of the country. Appeals to the Supreme Court in Copenhagen (third tier, final court of appeal) most often requires a special permission from the Appeals Permission Board (Procesbevillingsnævnet), which is granted in cases that may have implications for rulings in other cases, or in cases of special interest to the public.

The Supreme Court also decides on appeals against judgments by the Maritime and Commercial High Court (Sø- og Handelsretten). The Maritime and Commercial High Court is a specialized court that only deals with certain types of cases regarding insolvency and business matters. See more about the Maritime and Commercial High Court in section 15 and 225 of the Administration of Justice Act.

Furthermore, decisions of the Land Registration Court (Tinglysningsretten) are subject to appeal to the High Court of Western Denmark. See more about the Land Registration Court in section 18 of the Administration of Justice Act.

Moreover, the Family Courts have a local department in each of the 24 District Courts.

Lastly, the Housing Courts have a local department in each of the 24 District Courts as well.

C. Efficiency of the justice system

17. Length of proceedings

Reference is made to section 16 of the Danish contribution to the Annual Rule of Law Report 2020. Regarding statistics on the length of proceedings, reference is made to the European Commission’s European Scoreboard, page 8 ff.¹⁸

On 15 December 2020, the Danish Government and the political parties Dansk Folkeparti, Radikale Venstre, Socialistisk Folkeparti, Enhedslisten, Det Konservative Folkeparti and Nye Borgerlige reached an agreement on the economy of the police and the

¹⁷ The annual reports for Danish Courts is available in Danish at <https://domstol.dk/om-os/aarsrapporter/>

¹⁸ [justice scoreboard 2020 en.pdf \(europa.eu\)](https://ec.europa.eu/eurobarometer/eurobarometer-94-2020-justice-scoreboard-2020-en.pdf)

Prosecution Service for the years 2021-2023. The agreement contains, among other things, initiatives that aim to shorten the processing of cases within the police and the Prosecution Service.

Furthermore, the parties agreed to initiate a process of identifying and implementing other initiatives to strengthen the processing of cases and to reduce processing time in all of the criminal justice system.¹⁹

The Danish Government will put forward a proposal in order to streamline the processing of criminal cases in Denmark. The draft law is currently undergoing public hearing and has, in addition, been sent directly to relevant authorities and organisations. The draft law consists of eight main initiatives, which aim to reduce processing time of criminal cases across the criminal justice system. The proposal is expected to be tabled before the Danish parliament in the spring of 2021.

Due to COVID-19, the duration of proceedings within the courts have increased. Therefore, the agreement of the budget law of 2021 provides the courts with additionally DKK 13.3 million annually from 2021-2023 in order to reduce the backlog of cases that have arisen because of the lockdown of the courts in the spring of 2020.

¹⁹ The agreement is available at [Aftale-om-politiets-og-anklagemyndighedens-oekonomi-2021-2023-1.pdf \(justitsministeriet.dk\)](#)

II. Anti-corruption framework

A. The institutional framework capacity to fight against corruption (prevention and investigation / prosecution)

18. List of relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption. Please indicate the resources allocated to these (the human, financial, legal, and practical resources as relevant), e.g. in table format.

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

B. Prevention

19.-20. Integrity framework including incompatibility rules (e.g.: revolving doors) and General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

As stated by the Commission, Denmark does not have specific rules or guidance in place regarding contacts with lobbyists. However, the general rules of confidentiality and disqualification, and the prohibition of bribery in the Criminal Code do apply. These rules apply both to civil servants and ministers, and violation of the rules can be sanctioned.

Political party financing

Following the comprehensive changes to increase transparency of political party financing in 2017, The Ministry of the Interior and Housing established a guide on 9 June 2020 that contains guidance for the understanding of when various forms of contributions to political parties are subject to the existing regulation. The current regulation of party finances is the most transparent ever in Denmark. While no measures are currently planned, The Danish government remains mindful of potential improvements of issues concerning transparency of political party financing.

21. Rules on preventing conflict of interests in the public sector

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

In addition, and as stated by the Commission, ministers are as a main rule required to resign any occupations in private or public companies, undertakings or institutions upon taking office.²⁰

The Commission has also stated that although the Public Administration Act's provisions are applicable to Ministers, it leaves them considerable discretion to report a potential or apparent conflict of interest, without providing much guidance. In addition, it does not contain any enforceability measures.

²⁰ Pursuant to Article 8 of the Act on Remuneration and Pensions for Ministers.

In that context, it should be noted, that all new ministers receive a ministerial handbook, which is updated regularly and contains the relevant regulation regarding governmental work.

The handbook contains all applicable rules and guidelines on integrity-related matters for ministers, including:

- 1) the Ministerial Accountability Act,
- 2) the rules on public administration, including the Public Administration Act and the Access to Public Administration Files Act,
- 3) the rules and guidelines on ministers' acceptance of gifts,
- 4) the rules and guidelines on ministers' occupations and financial interests, including the Act on Remuneration and Pensions for Ministers, and
- 5) the rules and guidelines regarding ministers' expenses, including the transparency scheme for minister's expenses and activities.
- 6) following the general election in June 2019 the handbook has also featured guidelines on conflicts of interest, including the rules outlined in the Public Administration Act.

The handbook contains guidance on many of the same topics addressed in the Code of Conduct for the Public Sector, including rules on conflicts of interest, secondary employment, gifts and other benefits.

As regards the Commission's statement, that the Public Administration Act does not contain any enforceability measures, Denmark would like to draw the Commission's attention to the fact that the primary integrity-related rules are in fact legally sanctioned. This applies to the rules on conflicts of interest, confidentiality and gifts. Lack of compliance with the rules can entail a violation of the Criminal Code, and can therefore be sanctioned.

For ministers a violation of the rules can in some cases be sanctioned in accordance with Section 5 of the Ministerial Accountability Act – for example a minister's lack of compliance with the rules on conflicts of interest in the Public Administration Act.

22. Measures in place to ensure whistle-blower protection and encourage reporting of corruption

In 2020, it was decided by the Danish Government that all ministries should establish internal whistle-blower channels by 1 November 2020. All ministries have complied with this obligation.

Furthermore, the Danish Ministry of Justice is currently in the process of transposing the Directive (EU) 2019/1937 of the European Parliament and the Council of 23 October 2019 on the protection of persons who report breaches of Union law into national law. The material scope of the Directive is limited to breaches of specific areas of Union law. To ensure a comprehensive and coherent legal basis of protection of the whistle-blower in national law, the Danish Government proposes to extend the

material scope of the transposition law to include serious breaches of national law and Union law, and other serious matters. The transposition proposal is foreseen to be discussed in the Danish Parliament in the spring 2021 for the purpose of bringing the transposition law into force by 17 December 2021. Before the transposition law is set into force, the Danish Government will provide guidelines to potential whistle-blowers, authorities, and corporations, especially on the practical implications of the law.

External whistle-blower procedure of the Financial Supervisory Authority (FSA)

The Financial Supervisory Authority (FSA) has two external whistle-blower schemes. One regarding issues related to potential violation of market abuse and a general scheme related to potential violation of the financial regulation by firms under the FSA's supervision.

The whistle-blower scheme regarding potential market abuse was implemented in 2017 directly as prescribed in the market abuse regulation (EU 596/2014), article 32, including the Commission Implementing Directive (EU) 2015/2392. There has not been any changes to the scheme after its implementation.

The general whistle-blower scheme for potential violation of the financial regulation, e.g. the rules on fair business practice and good conduct, was implemented in 2014 in accordance with inter alia the Markets in Financial Instruments Directive (MiFID II) (2014/65/EU) and the Capital Requirements Directive IV (CRD IV) (2013/36/EU). The scheme applies for all financial firms under the Danish FSA's supervision.

Whistle-blower scheme in the area of covid-19 compensation schemes

The Business Authority has an external whistle-blower scheme related to potential violation of the rules of the business related covid-19 compensation schemes.

The whistle-blower scheme was implemented in June 2020 under Act nr. 796 of 9 June 2020 amending the Business Promotion Act (Establishment of a whistle-blower scheme for the business-oriented covid-19 compensation schemes, which are administered by the Danish Business Authority, and introduction of a special duty of confidentiality). In order to encourage the public to report any information about fraud or suspicion about fraud with one or more of the compensation schemes and to guarantee anonymity for the whistle-blowers doing this, according to section 22 a, paragraph 2 and 3, The Business Authority is not allowed to pass on information about the identity of a whistle-blower. This includes information that can be used to deduce the identity of a person who via the whistle-blower scheme, has reported a natural or legal person for violation or potential violation of the rules on compensation schemes. As an exception, The Business Authority may pass on all information received as part of the whistle-blower scheme to The Prosecution of Service and the police and to other authorities for use in their tasks relating to the compensation schemes to counteract the harmful effects of the covid-19 pandemic.

23. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, other).

One of the focus areas on preventing and detecting corruption within the public sector is public procurement. In this context, a recent case involving several salespersons within a large IT-company can be mentioned. The salespersons were convicted and sentenced up to two years in prison for corruption and bribery of persons responsible for procurement and selection of tenders within the public sector. The bribe involved valuable presents, dinners at top-end restaurants, and luxury travels. At present, the Danish Police is investigating a few additional cases of possible bribery within the area of public procurement.

Another focus area is the risk of bribery conducted by Danish companies that have sale and production in countries abroad where production costs are low and corruption more widespread. Although many companies have internal control mechanisms, programs and guidelines in place to prevent employees and partners from using bribes to facilitate business contracts etc., there is still a risk that corruption can be facilitated and enabled by some Danish companies even though the bribe itself has not been carried out on Danish territory.

As mentioned in the 2020 Rule of Law report, the Danish anti-corruption rules are based on ethics and integrity, with few regulations and control measures to prevent corruption.

Furthermore, employees of Danish authorities are introduced to the guidelines “Code VII – Seven Key Duties for Civil Servants in Central Government”, which clearly state that public servants are not allowed to receive gifts or other benefits in their professional relations.

24. Measures taken to address corruption risks in the context of the COVID-19 pandemic.

A new provision has been added to the Criminal Code on 2 April 2020 regarding crimes related to the COVID-19 pandemic. According to the new provision in Section 81 d, the penalty prescribed in a number of sections in the Criminal Code may be increased up to two-fold if the offence was based on or connected to the COVID-19 pandemic.

Sections 122, 144 and 299 (2) of the Criminal Code regarding bribery are included in Section 81 d. Therefore, cases of bribery related to the pandemic may lead to a severe sanction.

25. Any other relevant measures to prevent corruption in public and private sector

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

C. Repressive measures

26. Criminalisation of corruption and related offences

No new legislation or initiatives have been initiated since the 2020 report. Regarding sanction of corruption cases related to the COVID-19 pandemic, reference is made to question 24.

27. Data on investigation and application of sanctions for corruption offences (including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

The Danish State Prosecutor for Serious Economic and International Crime has sent the following data regarding corruption offences:

Table: Number of dismissals, withdrawals of charge (*Påtaleoppgivelse*), withdrawals of charge under specified conditions (*Tiltalefrafald*) and judgements distributed by code related to specific offence 2016-2020

Section	Decision type	2016	2017	2018	2019	2020	Total
Criminal Code Section 122	Dismissals	2	-	2	2	2	8
	Judgments	3	9	18	4	18	52
	Withdrawals of charge (specified conditions)	-	-	2	1	-	3
	Withdrawals of charge	23	2	7	23	7	62
Criminal Code section 144	Dismissals	1	1	3	4	2	11
	Judgments	-	1	6	2	14	23
	Withdrawals of charge	4	1	2	13	3	23
Criminal Code Section 299	Dismissals	-	2	1	-	-	3
	Judgments	3	1	-	1	2	7
	Withdrawals of charge	7	2	-	-	2	11

28. Potential obstacles to investigation and prosecution of high-level and complex corruption cases (e.g. political immunity regulation)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

III. Media pluralism

A. Media authorities and bodies

29. Independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020. In relation to appointments of the The Danish Radio and Television Board, a clarification is in order:

The Minister appoints *nine* members of the Board, including the chair and vice-chair for four years. *One of these appointments is based on nominations from the organisation "Danish Media" and one appointment is based on nominations from The Danish Union of Journalists.*

30. Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media regulatory authorities and bodies

See question 29.

31. Existence and functions of media councils or other self-regulatory bod

The Media Council for Children and Young People is an independent government agency according to Danish film and media legislation. The council has a twofold obligation: Film classification and the promotion of Media Literacy. Besides film classification of works in Danish cinemas, the council - together with The Danish Radio and Television Board - is the regulatory body for classification of distributed works via audiovisual media services according to the EU Audiovisual Media Service Directive (AVMSD).

B. Transparency of media ownership and government interference

32. The transparent allocation of state advertising (including any rules regulating the matter); other safeguards against state / political interference

There are no specific rules on allocation of state advertising. State advertising must comply with the general rules in the Radio and Television Broadcasting Act and the secondary legislation in connection with the Act, primarily based on the AVMSD. The rules *inter alia* stipulate that advertisements for political parties, political movements and elected members or candidates for political assemblies are not allowed on television.

The overall purpose of Danish media policy is to establish framework conditions for ensuring media independence and media pluralism.

Public service is a cornerstone in Danish media policy and regulation. According to the Radio and Television Broadcasting Act and regulation in connection with the Act Danish public service media are organised as independent media undertakings and the state/government cannot interfere in matters pertaining to their activities (programme services and administrative and financial management).

Furthermore, the Danish Act on Media Support provides for aid to commercial printed and digital media. The purpose of the Act is to maintain a diverse and versatile media market that can support the democratic, critical and independent functioning of the media, taking into account freedom of expression and information.

33. Rules governing transparency of media ownership and public availability of media ownership inform

Transparency of media ownership is not regulated directly in the media law. Beneficial ownership is regulated generally by the beneficial ownership act (the BO Act) amending the Companies Act and various other acts.²¹ These regulations shall ensure that corporate and other legal entities are required to obtain, hold and register adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held.

The corporates and other legal entities covered by the BO Act includes all types of businesses including media companies. The beneficial ownership information must be registered at the Danish Business Authority (*Erhvervsstyrelsen*). Beneficial ownership information is directly accessible for the general public on CVR (<https://datacvr.virk.dk/data>).

Competent authorities have full access to sensitive information e.g. personal identification number via a direct application programming interface (API) to the system. The API is an automatic subscription of information on e.g. BO or other information from the CVR. The competent authorities can fully and at any time access all information regarding BOs. API is also available for obliged entities and other ex. data providers, however sensitive information is not included.

C. Framework for journalists' protection

34. Rules and practices guaranteeing journalist's independence and safety

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

35. Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

36. Access to information and public documents

The disclosure of information is primarily secured by the Access to Public Administration Act, which provides access to documents of public administration bodies.

Thus, the Act takes its starting point in openness and transparency and can only be restricted by finely balanced limitations. Those limitations are the result of a delicate balancing exercise carried out by the Danish legislature in 2013. The recast Access to

²¹https://danishbusinessauthority.dk/sites/default/files/media/act_amending_the_companies_act_ect._-_implementation_of_register_of_beneficial_owners.pdf

Public Administration Files Act was adopted by a broad majority in the Danish Parliament on the basis of an extensive and detailed analysis of the existing legislation carried out by a preparatory committee, which included a comparative survey of the legislation of other countries.

The Danish Government notes that the purpose of the restrictions found in the Access to Public Administration Files Act is to ensure the internal and political decision-making process.

Finally, the Danish Government would like to draw attention to the principle laid down in section 14 of the Act. The provision obligates public authorities to consider whether access to documents and information may be granted to a wider extent than required under the Act.

The Danish Government notes that there are currently no plans to reopen and revise the Access to Public Administration Files Act.

37. Lawsuits and convictions against journalists (incl. defamation cases) and safeguards against abuse

Journalists and the media are – just like all other persons – obliged to comply with Danish legislation, including the Criminal Code, when carrying out their work. However, when deciding criminal cases involving an intervention in journalists' right to freedom of expression, the courts conduct a balancing between the right to freedom of expression against other conflicting interest, where the right to freedom of expression is given considerate importance. This also applies to the assessment in defamation cases in regard to which there is a wide right to freedom of expression for the journalists and the media, especially when the media is referring to a statement made by someone else than the media itself.

There is a long tradition of freedom of expression and freedom of press in Denmark ensuring that the media can inform the population without fearing repercussions. Thus, the media plays an important role in the Danish democracy as a forum for public debate and a watchdog exposing abuse of power or corruption.

The Danish Government is planning to submit a legislative proposal in which a more severe sentence for threats aimed at preventing the victim in making use of his or her freedom of speech will be proposed.

IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

38. Framework, policy and use of impact assessments, stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

There have been no changes in the legislative process, as explained in the Danish contribution to the Annual Rule of Law Report 2020, but it can be added that as part of the preparatory work on future legislation, a pre-legislative committee (*lojforberedende udvalg*) can be appointed. This option is normally only used in the preparation of legislation of a more extensive or fundamental character.

The Committee usually consists of relevant Governmental authorities and organizations. This ensures that the interests of the relevant parties is set forth early on in the legislative process and that the necessary expertise is secured in the preparatory work.

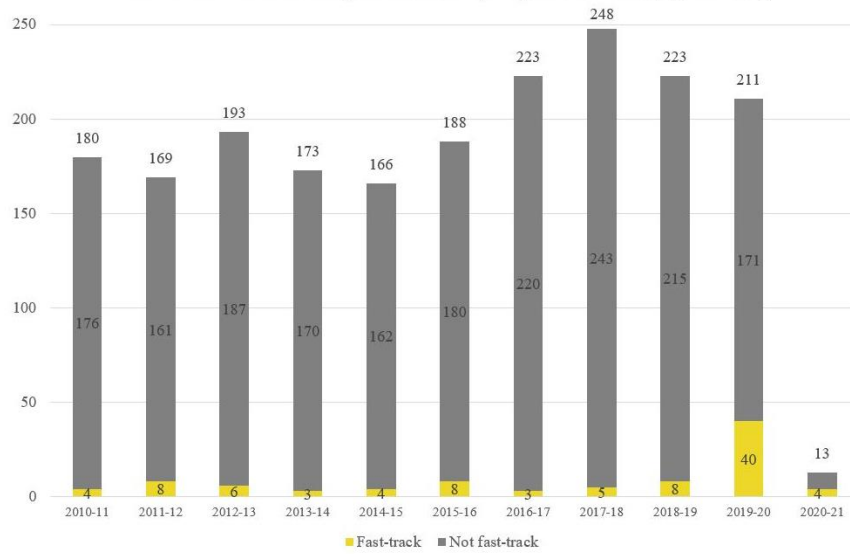
39. Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)

As a rule, draft laws are published for open consultation on a Government portal and are, in addition, sent directly to concerned authorities and organizations. Normally the period for public consultation amounts to four weeks. However, in cases of urgency it is possible to shorten or omit the public consultation if immediate action is required.

As mentioned in the Danish contribution to the Annual Rule of Law Report 2020, the rules for the Parliament's consideration of bills are entailed in the Constitution and the Standing Orders of the Parliament including a number of time limits for the legislative work.²² A Bill must be read three times in Parliament before it can be adopted. The third and final reading shall take place not earlier than 30 days after the introduction and 2 days after the second reading has been concluded, cf. section 13 of the Standing Orders of the Parliament. In cases of extreme urgency, it is possible to deviate from the normal time limits set forth in the Standing Orders of the Parliament, cf. section 42, if at least $\frac{3}{4}$ of the voting members of the Parliament consent to it.

²² The Constitution and the Standing Orders of the Parliament are available in English at https://www.ft.dk/-/media/sites/ft/pdf/publikationer/engelske-publikationer-pdf/grundloven_samlet_2018_uk_web.ashx and https://www.ft.dk/-/media/sites/ft/pdf/publikationer/engelske-publikationer-pdf/forretningsorden_engelsk_2018_samlet_web.ashx.

Number of "fast-track procedures" per parliamentary gathering



Parliamentary gathering	Percentage of fast-track procedures
2010-11	2%
2011-12	5%
2012-13	3%
2013-14	2%
2014-15	2%
2015-16	4%
2016-17	1%
2017-18	2%
2018-19	4%
2019-20	19%
2020-21	31%

For the periods 2019-2020 and 2020-2021, the increase in bills adopted within 30 days after their proposal is due to the COVID-19-crisis. The Danish rules mentioned above stating that at least $\frac{3}{4}$ of the voting members of the Parliament has to consent to the use of the fast-track procedure ensures that these bills are adopted faster based on a broad political backing.

Following the adoption of a bill it must be affirmed by Royal Assent, cf. section 22 of the Constitution.²³ Affirmation of a bill must happen within 30 days after the adoption of the bill. Affirmation can normally not happen within the first 3 weekdays after the adoption of the bill. This is because $\frac{1}{3}$ of the members of the Parliament may, within these first three weekdays from the final passing of the bill, request that the bill be submitted to a referendum. In an emergency, a bill which may be submitted to a referendum may receive the Royal Assent immediately after it has been passed, provided that the bill contains a provision to this effect, cf. section 42, subsection 7.

The procedures described above have been used in a number of cases related to COVID-19 legislation.

40. Regime for constitutional review of laws

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

41. COVID-19: provide update on significant developments with regard to emergency regimes in the context of the COVID-19 pandemic

- judicial review (including constitutional review) of emergency regimes and measures in the context of COVID-19 pandemic

As mentioned in the Danish contribution to the Annual Rule of Law Report 2020, according to well-established case law, the courts are competent to review the constitutionality of acts. The review consists of whether an act is adopted in accordance with the *procedure* laid down in the Constitution and the Standing Orders of the Parliament and if the *content* of the act is in compliance with the Constitution. The constitutionality of emergency acts are reviewed in the same way as other acts.

- oversight by Parliament of emergency regimes and measures in the context of COVID-19 pandemic

As the current Danish Epidemic Act expired 1 March 2021 due to a sunset clause introduced in the spring 2020, the Danish Parliament passed a new Epidemic Act on 23 February 2021.²⁴

The Epidemic Act contains a new set-up designed to provide more transparency and involvement of the Danish Parliament when handling COVID-19 and other future epidemics.

²³ The act is available in English with explanations at https://www.ft.dk/-/media/pdf/publikationer/english/my_constitutional_act_with_explanations.ashx.

²⁴ See the new Danish Epidemic Act on the Danish Parliament's webpage: [L 134 - 2020-21 \(oversigt\): Forslag til lov om epidemier m.v. \(epidemiloven\) / Folketinget \(ft.dk\)](#)

The Act establishes a national Commission of Epidemics in section 7. The commission will consist of delegates from the health authorities, the Ministry of Industry, Business and Financial Affairs, the Ministry of Finance, the Ministry of Justice, the Danish police and the interest groups KL- Local Government Denmark and Danish Regions. The commission is intended to be capable of providing comprehensive and qualified analyses regarding medical, financial, social, and legal issues. Furthermore, the commission can invite representatives from other ministries, interest groups or other experts etc. with relevant qualifications for the discussed topic.

When a minister suggests an executive order on vital and extensive areas enabled in the Epidemic Act, the Commission of Epidemics must deliver an opinion on the suggestion according to section 9 of the act. The opinion of the commission is for instance necessary when restricting public assemblies or when launching restrictions on or banning access to daycare, schools, nursing homes, public institutions and facilities and public transport. The commission's statements are published in order to provide transparency.

Furthermore, the Commission of Epidemics can make recommendations to the Government on its own initiative according to section 10.

To further engage the Danish Parliament in the handling of COVID-19 and future epidemics, section 9 of the act implements parliamentary control. The Danish Parliament has appointed a parliamentary committee of 21 members of the parliament to which suggested executive orders on vital and extensive areas will be presented. This concerns the same areas on which the Commission of Epidemics must make a statement. The parliamentary committee will, before deciding on the Government's suggestion, be presented with the opinion from the Commission of Epidemics. If a majority of the parliamentary committee makes a statement against the Government's suggestion, the Government cannot issue the executive order.

The model of parliamentary control is designed to ensure parliamentary power and involvement when regulating the most critical and delicate areas of handling an epidemic. However, the process is also constructed to ensure the necessary speed and flexibility.

- measures taken to ensure the continued activity of Parliament (including possible best practices)

The Danish Parliament and the courts are exempted from the scope of the current temporary ban on assemblies, events, activities, etc., involving more than five people, see section 14 in executive order no. 42 of 15 January 2021 with a later amendment.²⁵

The Danish Parliament is closed for visitors but essential parliamentary work continues. The parliament has also made other initiatives to create a safer workspace for the parliamentarians, for instance by offering tests, adapting certain meetings to online meetings and ensuring distance at physical meetings.

²⁵ Executive order no. 42 of 15 January 2021: [Retsinformation | Søg dokumenter](#)

B. Independent authorities

42. Independence, capacity and powers of national human rights institutions ('NHRIs'), of ombudsman institutions if different from NHRIs, of equality bodies if different from NHRIs and of supreme audit institutions

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

C. Accessibility and judicial review of administrative decisions

43. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data) and judicial review (incl. scope, suspensive effect)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

44. Implementation by the public administration and State institutions of final court decisions

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

D. The enabling framework for civil society

45. Measures regarding the framework for civil society organisations (e.g. access to funding, registration rules, measures capable of affecting the public perception of civil society organisations, etc.)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

E. Initiatives to foster a rule of law culture

46. Measures to foster a rule of law culture (e.g. debates in national parliaments on the rule of law, public information campaigns on rule of law issues, etc.)

The Commission of Freedom of Expression, established in 2017, was, among other things, tasked with describing and concluding on the overall framework and general conditions of freedom of expression in Denmark. The Commission completed its work in 2020 with the publication of its report and recommendations. The Commission reached the overall conclusion that freedom of expression is well protected in Denmark. However, the Commission points out certain challenges to the freedom of expression, such as situations where people through harassment, coercion or terror attempts to prevent others from taking part in the public debate. The Government will include the Commissions observations and recommendations in its further political work in the area.

With regard to freedom of expression of public servants, a majority of the Commission has recommended that relevant legislation should be passed in order to create better conditions for public servants. The Government is currently looking into ways in which these conditions can be improved.

Furthermore, on 21 December 2020, the Standing Orders Committee of the Danish Parliament submitted a report on the establishment of a new type of inquiry with a particular parliamentary anchoring. The report *inter alia* states that a new parliamentary framework for instituting inquiries and a new type of inquiry – the so-called commissions of scrutiny – should be established. The report also encourages the Government to bring forward the necessary legislative proposals.

The Danish Government agrees that there is a need for a new type of inquiry with a stronger parliamentary anchoring. For that reason, a legislative proposal amending *inter alia* the Act on Commissions of Inquiry has been introduced to the Parliament on 24 February 2021 (Lov om ændring af lov om undersøgelseskommissioner og retsplejeloven).²⁶ The legislative proposal will – if passed by the Parliament – provide a legal basis for the introduction of commissions of scrutiny. To secure the parliamentary anchoring, the proposal entails that the Danish Parliament (and not the Minister of Justice as is the case with commissions of inquiry appointed according to the current Act on Commissions of Inquiry) will set up the commissions, draw up the terms of reference, appoint the members of the commissions, and receive the reports of the commissions.

Other – please specify

Social media plays a big role in our society today and has undoubtedly a lot of advantages. However, content on social media can also – as we have seen on several occasions – hurt democracy and democratic conversations. Hence, what happens on social media can have a great impact in the real world. The Danish Government believes, that social media should be met with requirements that are equal to their role on society today. Therefore, the Danish Government has established two inter-ministerial working groups that are looking into initiatives on how to regulate illegal content on social media as well as improving digital education amongst children and youth to help create a safer environment online. Regarding regulation of illegal content on social media, the working group involves the proposal for a Digital Services Act from the European Commission.

²⁶ https://www.ft.dk/ripdf/samling/20201/lovforslag/1172/20201_1172_som_fremsat.pdf