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I. Justice System

A. Independence

1. Appointment and selection of judges, prosecutors and court presidents (incl. judicial review)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

2. Irremovability of judges; including transfers (incl. as part of judicial map reform), dismissal and retirement regime of judges, court presidents and prosecutors (incl. judicial review)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

3. Promotion of judges and prosecutors (incl. judicial review)

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5. Independence (including composition and nomination and dismissal 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 the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

6. Accountability of judges and prosecutors, including disciplinary regime and bodies and ethical rules, judicial immunity and criminal/civil (where applicable) liability of judges (incl. judicial review)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

7. Remuneration/bonuses/rewards for judges and prosecutors, including changes (significant increase or decrease over the past year), transparency on the system and access to the information

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)¹ as well as determined by a collective labor agreement. Salary and other employment terms are agreed on by the Ministry of Taxation and the central organizations.

All judges in Denmark receive a fixed annual salary, depending on which 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 Special Crime Unit 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.

Generally, salaries of public employees are agreed in collective agreements. Therefore, basic salary is publically disclosed whereas most supplements and individual bonuses are not. In addition, anyone can be given access to information about the salary of public employees, e.g. judges and state prosecutors according to section 21 (3) of the Access to Public Administration Files Act.

8. Independence/autonomy of the prosecution service

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

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 and 2021.

¹ The act is available in Danish at <https://www.retsinformation.dk/eli/lta/2017/510>.

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

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

B. Quality of justice

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

The rules on court fees in Denmark are set out in the Court Fees Act (retsafgiftsloven). A claimant is required to pay a court fee upon submitting a claim to court.

The Danish Parliament has recently adopted a new Court Fees Act, which went into force on 1 October 2021². The purpose of the Act is to simplify the rules on court fees in order to make them easier to understand and apply for individuals as well as public authorities and to incentivize settlements.

According to the previous rules, fees were calculated as a percentage based on the value of the case and were paid by the party taking legal action (the plaintiff/appellant).

According to the new Act, a court fee of either DKK 750 or DKK 1,500 is to be paid at the commencement of legal proceedings as a starting point depending on the nature and value of the case. Moreover, a listing fee is to be paid in cases with a value exceeding DKK 100,000, which is fixed based on the value of the case.

For information on legal aid, reference is made to the Common core document on Denmark, page 36, subsection 160-164.

As for language, 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.

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.

² The new Act is available in Danish at:

https://www.ft.dk/ripdf/samling/20201/lovforslag/166/20201_166_som_vedtaget.pdf

For more information on language, please see the rest of 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 1,903.5 million in 2020 and DKK 1,931.8 million in 2021. Payroll accounts for more than half of the expenses. This also includes expenses related to buildings and other facilities, e.g. rent.

Table 1

Financial resources in the Courts of Denmark

DKK million (2022 price level)	2020	2021
Payroll	1,209.8	1,252.8
Other expenses	693.7	678.9
- <i>Rent</i>	314.9	325.3
- <i>Other goods and services</i>	320.8	318.2
- <i>Depreciation</i>	58.0	35.4
Total	1,903.5	1,931.8

Note: The figures are not the final accounting figures for 2021, as these will only be available later.

Table 2 shows that the number of full-time employees in the judiciary was 2,047 in 2020 and 2,078 in 2021. 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 of the total.

Table 2

Human resources in the Courts of Denmark

Full-time employees	2020	2021
Judges and other legal advisers	680	685
Office staff	1.181	1.202
Other personnel	186	191
Total	2,047	2,078

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 2021 compared to 2020.

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

Concerning the training of prosecutors, reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

The Danish Court Administration is responsible for the training of all personnel at the Danish Courts. The Court Administration offers about 250 different training courses annually for the judiciary, including a 3-day judges conference for appointed Danish judges and a 3-day conference for deputy judges. These conferences consist of a number of sessions and workshops of a duration of 3 hours concerning a variety of different topics relevant for Danish judges and deputy judges. At these conferences, there will be sessions with a broader international view, for example on European law in general or on specific topics or the Rule of Law.

In general, the need and the demand for courses is continually considered and evaluated and international topics are incorporated where it is relevant. In addition to the national training for judges the Court Administration offers international training through our international partners such as ERA (Academy of European Law, EJTIN (European Judicial Training Network) and SEND (a cooperation between the Nordic countries regarding 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.

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)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

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 the Danish contribution to the Annual Rule of Law Report 2021.

16. Geographical distribution and number of courts/jurisdictions (“judicial map”) and their specialisation, in particular specific courts or chambers within courts to deal with fraud and corruption cases.

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

C. Efficiency of the justice system

17. Length of proceedings

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021. Regarding statistics on the length of proceedings, reference is made to the European Commission’s European Scoreboard, page 7 ff.³

On 15 December 2021, the Danish government and the political parties Dansk Folkeparti, Socialistisk Folkeparti and Det Konservative Folkeparti reached an agreement on the financing of the Prison and Probation Service for the years 2022-2025. The agreement contains, among other things, initiatives aiming to increase the number of prison cells and the number of prison officers and thereby contributing to the reduction of processing time in criminal cases across the criminal justice system.

In April 2021, the Danish Government put forward a proposal in order to streamline the processing of criminal cases in Denmark. The proposal was adopted by the Danish parliament in June 2021 and entered into force on 1 July 2021. The law consists of eight main initiatives aiming to reduce processing time in criminal cases across the criminal justice system.

Furthermore, the Danish Government will put forward a new proposal with additional initiatives aiming to streamline the processing of criminal cases in Denmark and to further improve investigation. The proposal is expected to be tabled at the Danish parliament in April 2022.

³ [THE 2021 EU JUSTICE SCOREBOARD \(europa.eu\)](https://ec.europa.eu/justice/scoreboard/)

II. Anti-corruption framework

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

18. List any changes as regards relevant authorities (e.g. national agencies, bodies) in charge of prevention detection, investigation and prosecution of corruption and the resources allocated to each of these authorities (the human, financial, legal, and technical resources as relevant), including the cooperation among domestic authorities. Indicate any relevant measure taken to effectively and timely cooperate with OLAF and EPPO (where applicable).

As mentioned in the 2021 Rule of Law Report a new national investigative unit was introduced at the beginning of 2022. Hence, from 1 January 2022 the National Special Crime Unit (SCU) as well as the State Prosecutor for Special Crime has been established and are now in function. These replace the State Prosecutor for Serious Economic and International Crime (SØIK). Unfortunately, it is not possible to specifically indicate the resources that the above mentioned authorities have allocated to prevention, detection, investigation and prosecution of corruption respectively.

19. Safeguards for the functional independence of the authorities tasked with the prevention and detection of corruption.

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 where it is stated that the Independent Police Complaints Authority (IPCA) execute external oversight and control of the Police and Prosecution service. Reference is made to GRECO's Fifth Evaluation Report, page 48, where the IPCA and its resources are described in detail.

20. Information on the implementation of measures foreseen in the strategic anti-corruption framework (if applicable). If available, please provide relevant objectives and indicators.

There is no dedicated strategy or policy for the prevention of corruption in Denmark, ⁴ but different initiatives to combat and prevent corruption are carried out by the authorities in charge of prevention detection, investigation and prosecution of corruption, as mentioned in the answer to question 19 in the Annual Rule of Law Report 2020 and the answer to the abovementioned question 18.

⁴ Reference is made to GRECO's Fifth Evaluation Report, page 15-18.

B. Prevention

21. Measures to enhance integrity in the public sector and their application (including as regards incompatibility rules, revolving doors, codes of conduct, ethics training). Please provide figures on their application.

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

22. General transparency of public decision-making (e.g. public access to information, including possible obstacles related to the classification of information, transparency authorities where they exist, and framework rules on lobbying including the transparency of lobbying, asset disclosure rules, gifts and transparency of political party financing)

The Danish government is planning political negotiations concerning political party financing in the spring of 2022. The negotiations are expected to result in new legislation criminalising certain circumventions of transparency in political party financing. Every party in Parliament has expressed support for such legislation. The current regulation of party financing is the most transparent ever in Denmark. The Danish government remains mindful of further potential improvements of issues concerning transparency of political party financing.

23. Rules and measures to prevent conflict of interests in the public sector. Please specify the scope of their application (e.g. categories of officials concerned)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

24. Measures in place to ensure whistleblower protection and encourage reporting of corruption.

The transposition act of the Directive (EU) 2019/1937 on the protection of persons who report breaches of Union law was adopted by the Danish parliament in June 2021 and entered into force on 17 December 2021 to ensure a reasonable timeframe for Danish companies to comply with the law.

In general, the provisions of the Danish Whistleblower Act closely resembles the Directive.

In order to comply with article 11 of the Directive, a general external reporting channel in the Danish Data Protection Agency has been established⁵. To ensure the agency's capacity to operate the channel, the Danish Parliament has decided to grant additional funds to the agency.

Moreover, two special external reporting channels for the Danish Security and Intelligence Service (PET) and the Danish Defence Intelligence Service (DDIS) has been established. These are placed in the Ministry of Justice and the Ministry of Defence respectively. These special external reporting channels were established to ensure that reports concerning the intelligence services, which are likely to include confidential information, are handled correctly. The establishment of the special external reporting channels does not affect the whistleblower's right to use the general external reporting channel established in the Danish Data Protection Agency, however, whistleblowers from the services are encouraged to use the external channels established in the ministries.

To ensure correct implementation, the Danish Ministry of Justice has published guidance notes for private and public organisations and whistleblowers.

25. List the sectors with high-risks of corruption in your Member State and list the relevant measures taken/envisaged for monitoring and preventing corruption and conflict of interest in these sectors. (e.g. public procurement, healthcare, citizen investor schemes, risk or cases of corruption linked to the disbursement of EU funds, other).

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

26. Measures taken to assess and address corruption risks in the context of the COVID-19 pandemic.

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

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

Reference is made to question 24. Moreover, the Danish Whistleblower Act has a broader scope than the Directive as the Act's material scope also covers serious breaches of legislation (e.g. fraud or white collar crime), including both national law and EU law, and other serious offences.

⁵ The external reporting channel in the Danish Data Protection Agency, can be found on this website: <https://whistleblower.dk/english>

C. Repressive measures

28. Criminalisation, including the level of sanctions available by law, of corruption and related offences including foreign bribery.

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

29. Data on investigation and application of sanctions for corruption offences⁹, including for legal persons and high level and complex corruption cases) and their transparency, including as regards to the implementation of EU funds.

The Director of Public Prosecutions has provided the following data regarding corruption offences:

Table: Number of dismissals, withdrawals of charge ('Påtaleopgivelse'), withdrawals of charge under specified conditions ('Tiltalefrafald') and judgments distributed by specific offence 2016-2021:

Section	Decision type	2016	2017	2018	2019	2020	2021	Total
Criminal Code section 122 (active bribery)	Dismissals	2	-	2	2	2	1	9
	Judgments	3	9	18	5	18	6	59
	Withdrawal of charge (specified conditions)	-	-	2	1	0	1	4
	Withdrawal of charge	23	2	7	21	7	11	71
Criminal Code section 144 (passive bribery)	Dismissals	1	1	3	4	2	6	17
	Judgments	-	1	6	2	14	2	25
	Withdrawal of charge	4	1	2	13	3	76	99
Criminal code section 299 (private sector bribery)	Dismissals	-	2	1	-	-	2	5
	Judgments	3	1	-	1	1	5	11
	Withdrawal of charge	7	2	-	-	2	12	23

30. Potential obstacles to investigation and prosecution as well as to the effectiveness of sanctions of high-level and complex corruption cases (e.g. political immunity regulation, procedural rules, statute of limitations, pardoning)

Pursuant to article 24 of the Constitutional Act of Denmark, the government has the prerogative to pardon and grant amnesty. Pardon is granted by Royal Decree in accordance with a proposal made by the Minister of Justice. For prison sentences less than 40 days, the pardon is granted administratively by the Danish Department of Prisons and Probation.

Article 24 of the Constitutional Act of Denmark permits a wide margin of appreciation, although limited by general principles of administrative law such as proportionality, non-discrimination etc. A pardon is only granted in extraordinary circumstances. Factors that may be taken into account include health, old age, on-going resocialisation efforts or humanitarian considerations.

31. Information on effectiveness of administrative measures and sanctions, in particular recovery measures and administrative sanctions on both public and private offenders.

The Danish Government is not familiar with research on the crime preventive effect of administrative measures and sanctions in Denmark for bribery or corruption.

III. Media freedom and pluralism

A. Media authorities and bodies

32. Measures taken to ensure the independence, enforcement powers and adequacy of resources of media regulatory authorities and bodies

Reference is made to the Danish contributions to the Annual Rule of Law Reports 2020 and 2021.

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

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021, question 30.

34. Existence and functions of media councils or other self-regulatory bodies

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021, question 31.

B. Transparency of media ownership and safeguards against government or political interference

35. Measures taken to ensure the fair and transparent allocation of state advertising (including any rules regulating the matter)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021, question 32.

36. Safeguards against state / political interference, in particular:

- *safeguards to ensure editorial independence of media (private and public)*
- *specific safeguards for the independence of governing bodies of public service media governance (e.g. related to appointment, dismissal) and safeguards for their operational independence (e.g. related to reporting obligations),*
- *procedures for the concession/renewal/termination of operating licenses*
- *information on specific legal provisions for companies in the media sector (other than licensing), including as regards company operation, capital entry requirements and corporate governance*

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021, question 32.

Specifically regarding the concession/ renewal/ termination of operating licenses

The rules on concession/renewal/termination of operating licenses are set out in the Radio and Television Broadcasting Act. According to the Act, the Danish Radio and

Television Board handles matters regarding operating licenses. The Board also acts as the supervising body for the given licenses. The state/government cannot interfere in matters pertaining to their activities.

37. Transparency of media ownership and public availability of media ownership information, including on media concentration (including any rules regulating the matter)

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021, question 37.

C. Framework for journalists' protection

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

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

39. Law enforcement capacity, including during protests and demonstrations, 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.

40. Access to information and public documents (incl. procedures, costs/fees, timeframes, administrative/judicial review of decisions, execution of decisions by public authorities)

With regards to the general rules on access to information and public documents, reference made to the Danish contribution to the Annual Rule of Law Report 2021. In addition, in April 2021 it was decided to start political negotiations regarding a possible revision of the Access to Public Administration Files Act. The main goal of the negotiations is to find out if a political agreement can be reached on restricting the use of certain exceptions under the act. The negotiations are expected to continue in the spring of 2022.

According to Section 9(1) of the Access to Public Administration Files Act, a request must 1) contain information necessary in order to identify the case or the documents that the request concerns, and 2) indicate the subject that the case or the document concerns. It is not regulated explicitly by law how a request for information must be submitted. According to The Ministry of Justice's guidelines to the Access to Public Administration Files Act⁶ a request for information can be submitted in written form

⁶ The guidelines are accessible in Danish at this link:

<https://www.offentlighedsportalen.dk/dokument/pdf/160676> (see page 19).

(e.g. e-mail or post) or oral (e.g. telephone or in-person). Section 36(2) of the Access to Public Administration Files Act determines that a request for information must be processed within 7 working days after the receipt of the request unless it is not possible due to e.g. the extent or the complexity of the request. The applicant must be informed of the reasons for exceeding the deadline and of the expected date of the decision.

Furthermore, it follows from the explanatory notes of the Act that if a request concerns an identifiable case with a limited number of documents, the request should be processed within 1-2 working days. If a request concerns further but still few documents that do not require further examination or consideration, efforts should be made to process the request within 3 to 7 working days. If a request includes a large number of documents, or demands considerations of e.g. legal issues of a more complex nature, efforts should be made to process the request within 14 days. In very special cases, a request includes a very large number of documents or demands considerations of e.g. legal issues of complicated nature. In these cases, efforts should be made to complete the request within 40 working days. The deadline of 40 days is not an absolute deadline, but a case with a processing time longer than 40 days must, however, have a very exceptional character.

It is standard practice that documents are handed over free of charge. According to Section 40(3) of the Access to Public Administration Files Act, the Minister for Justice shall lay down rules on the fees payable for delivery of documents and of a juxtaposition of information and data description. The Ministry of Justice has in pursuance of Section 40 (3) issued an executive order⁷ concerning payment related to the handing over of documents either in paper or electronically.

According to Section 37(1) of the Access to Public Administration Files Act, decisions regarding access to information can be appealed separately and directly to the highest appeal body in relation to the authority that has made the decision on the specific request or the substantive case to which the request for access to information relates.

Regarding judicial review, reference is made to the Annual Rule of Law Report 2020.

⁷ The executive order is accessible in Danish at this link:
<https://www.retsinformation.dk/eli/lta/2013/1586>.

41. Lawsuits (incl. SLAPPs - strategic litigation against public participation) and convictions against journalists (incl. defamation cases) and measures taken to safeguard against abusive lawsuits

In December 2021 the Criminal Code was amended to make it an aggravating circumstance when a threat is aimed at preventing the victim from making use of their freedom of speech.⁸

⁸ The Amendment Act is available in Danish here:
<https://www.retsinformation.dk/eli/ft/202113L00014>

IV. Other institutional issues related to checks and balances

A. *The process for preparing and enacting laws*

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

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

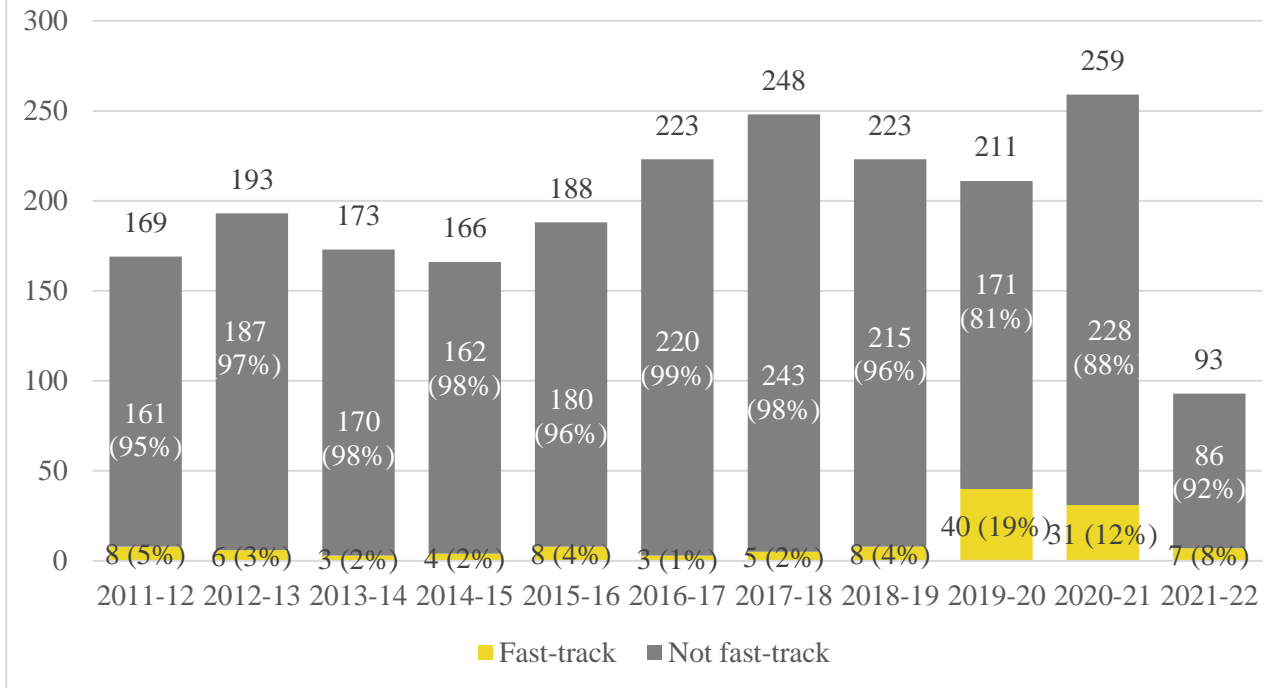
43. *Rules and use of fast-track procedures and emergency procedures (for example, the percentage of decisions adopted through emergency/urgent procedure compared to the total number of adopted decisions)*

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021 concerning the possibility of using a “fast track procedure” in cases of extreme urgency. Reference is also made to the 2021 Rule of Law Report Country Chapter on the rule of law situation in Denmark concerning the report by the Standing Orders Committee of the Parliament adopted in March 2021 and the proposition herein of a number of guidelines for the use of fast-track procedures.

As mentioned in the Danish contribution to the Annual Rule of Law Report 2021, the rules for the Parliament’s consideration of bills are laid out in the Constitutional Act and the Standing Orders of the Parliament, including specific time limits for the legislative work.⁹ A Bill must be read three times in Parliament before it can be adopted. The third and final reading shall take place no earlier than 30 days after the introduction and no earlier than 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 derogate from the time limits of the Standing Orders of the Parliament, cf. section 42, if consent is given by at least three fourths of the voting members of the Parliament.

⁹ 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



The above graph illustrates the number of adopted bills during the last 11 years, including bills where there have been less than 30 days from the bills' proposal to their adoption (see yellow marking).¹⁰ The graph also sets out the percentage of adopted bills by a fast-track procedure from 2011-2022.¹¹

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

¹⁰ It should be noted that there are no clear definition of "fast-track-procedure" in Denmark. Any dispensation from the time limits set forth in the Standing Orders of the Parliament signifies that a bill is granted a faster adoption procedure than the usual. However, a bill must still be read three times in the Parliament before it can be adopted. Furthermore, even though a bill has been adopted no earlier than 30 days after its proposal (and therefore figures in the graph under the "No fast-track procedure") this does not exclude that the bill in its reading has been exempted from one of the other rules in the Standing Order of the Parliament that regulates the legislative procedure.

¹¹ It should be noted, that the bills are indexed according to the sessional year of the Parliament, which runs from the first Tuesday of October until the first Tuesday of October the following year.

44. Regime for constitutional review of laws

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

45. 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*

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

- *oversight (incl. ex-post reporting/investigation) by Parliament 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 2021, the Danish Parliament passed a new Epidemic Act on 23 February 2021¹².

The new 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. For a detailed description of the new set-up, reference is made to the Danish contribution to the Annual Rule of Law Report 2021.

Measures in the context of the COVID-19 pandemic have since 1 March 2021 been implemented in accordance with the new set-up in the Epidemic Act passed on 23 February 2021.

As described in the Danish contribution to the Annual Rule of Law Report 2021, an executive order on vital and extensive areas enabled in the Epidemic Act must be presented to the appointed Parliamentary Committee of Epidemics before it is issued, according to section 9. However, in cases of immediate danger or threats to public health, the consultation with the parliamentary committee regarding an executive order can be postponed until after the order has been issued, as long as the consultation takes place at the earliest possible date hereafter. This derogation from the general legislative procedure in the Epidemic Act, has not been used.

The Danish government has evaluated the authorities' experiences with the use of the new Epidemic Act in a report sent to the Danish Parliament in October 2021. The

¹² The act is available in English with explanations at: https://www.ft.dk/-/media/pdf/publikationer/english/my_constitutional_act_with_explanations.ashx.

report has been subject to a public consultation. The response to the consultation is expected to be sent to the Parliamentary Committee of Epidemics in February 2022. The report and answers from the public consultation will provide a foundation for a debate in the Parliamentary Committee of Epidemics on the need for a future potential adjustments of the Epidemic Act.

B. Independent authorities

46. Independence, resources, 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 institutions¹¹

Danish Institute for Human Rights

Reference is made to the Annual Rule of Law Report 2020 regarding the functioning of the Danish Institute for Human Rights to the Danish contribution.

Upon review of the submission, three clarifications are in order. Firstly, the Board consists of 14 members (not 13). Secondly, in addition to previously provided information regarding the Board, at least one member of the Board must be associated with an organization engaged the area of persons with disabilities. Thirdly, in relation to the DIHR's mandate, DIHR monitors and reports on the human rights situations in Denmark and Greenland. When working internationally, DIHR does not have a monitoring mandate, but acts as a knowledge-based institution, working through partnerships

In relation to the inclusion of *resources* in the scope of the question this cycle, it is added that Denmark provides financial support to both the national and international work of the Institute. DIHR's national work is financed by an Appropriation Act with an allocation of DKK 42.3 million annually, whereas DIHR receives an annual core grant of DKK 40 million (current level in period from 2021-2024) to support its international mandate. In addition, DIHR receives a number of grants to finance selected parts of its international work, for example through the Danish-Arab Partnership Programme. DIHR as well receives funding for its international activities from the European Commission and several bilateral donors inside and outside of EU.

The Board of Equal Treatment

Concerning the functioning of the Board of Equal Treatment, reference is made to the Danish contribution to the Annual Rule of Law Report 2020, where it is stated, that the Board of Equal Treatment handles civil law related complaints regarding discrimination on grounds of gender, race, colour, religion or belief, political opinion, sexual orientation, age, disability, or national, social or ethnic origin. The Board of Equal Treatment has the power to make binding decisions and is able to award

compensation for non-pecuniary damages to victims of discrimination. It is free of charge to put forward a complaint to the Board of Equal Treatment, and the Board will undertake the collection of information necessary to decide the case. The Board cannot initiate cases at its own initiative.

Following an amendment of the Act on Equality between Women and Men, the Act on the Prohibition of Discrimination in the Labor Market, the Penal Code and various other Acts, the competences of the Board of Equal Treatment Board has been changes to also include complaints regarding discrimination on grounds of gender identity, gender expression and gender characteristics.

The Parliamentary Ombudsman

Concerning the functioning of the Parliamentary Ombudsman, reference is made to the Danish contribution to the Annual Rule of Law Report 2020.

According to the Appropriation Act of 2021, Section 3, the Parliament allocated DKK 93.3 million DKK in annual funding of the Ombudsman institution in 2021.

47. Statistics/reports concerning the follow-up of recommendations by National Human Rights Institutions, ombudsman institutions, equality bodies and supreme audit institutions in the past two years.

Danish Institute for Human Rights

According to the Danish Institute for Human Rights' report to the Danish Parliament, *Human Rights in Denmark 2020*, the Institute gave 192 responses to draft legislation or executive orders sent out for external consultation and published 45 reports and several books and research articles. The report further contains criticism raised by the Institute and areas where progress has been made on concerning *inter alia* the rule of law, the justice system, immigration and integration, citizenship, the area of social rights, equal rights and health and the elderly.¹³

The Board of Equal Treatment

The Board of Equal Treatment's annual report 2020 contains summaries of decisions that the board has made during 2020, and articles focusing on topics from the past year on e.g. requirements to wear a face mask, public institutions' obligation to adapt and the status of the Disability Discrimination Act 2.5 years after its entry into force. In addition, the annual report contains statistics on, e.g. the number of cases received

¹³ The report is available in Danish at the website of the Institute for Human Rights: [Menneskerettigheder i Danmark 2020 | Institut for Menneskerettigheder](#)

in the Board of Equal Treatment, the number of decided cases in the Equal Treatment Board and the number of cases distributed by the outcome of the case.

The Board of Equal Treatment's annual report 2019 contains summaries of decisions that the board has made during 2019, and articles focusing on topics from the past year on e.g. forfeiture of rights due to inaction, access to documents and resumption. In addition, the annual report contains statistics on, e.g. the number of cases received in the Board of Equal Treatment, the number of decided cases in the Equal Treatment Board and the number of cases distributed by the outcome of the case.

The Parliamentary Ombudsman

According to the Ombudsman's annual report of 2020¹⁴, the institution handled a total of 6.207 cases of which 1.090 cases led to an investigation (254 full investigations and 836 shortened investigations). 138 of those (full) investigations led to criticism, formal or informal recommendations etc. Consolidated figures on the follow-up by public authorities of such recommendations do not exist. However, as stated in the Annual Rule of Law Report 2020, public authorities in practice adhere the Ombudsman's recommendations.

C. Accessibility and judicial review of administrative decisions

48. Transparency of administrative decisions and sanctions (incl. their publication and rules on collection of related data)

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

49. Judicial review of administrative decisions: - short description of the general regime (in particular competent court, scope, suspensive effect, interim measures, and any applicable specific rules or derogations from the general regime of judicial review).

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 where it is stated that all administrative decisions may be tried before the courts. The judiciary's review of administrative acts is laid down in section 63(1) of the Constitution, which states as follows:

“The courts of justice shall be empowered to decide any question relating to the scope of the executive's authority; though any person wishing to question such authority shall not, by taking the case to the courts of justice, avoid temporary compliance with orders given by the executive authority.”

¹⁴ https://en.ombudsmanden.dk/publications/annual_reports/annual_report_2020/

The courts conduct a judicial review, i.e. scrutiny of whether the decision by the administration has the adequate legal basis and falls within the authority's competence, and if the rules for case handling have been respected. A court may annul administrative decisions and return the decision to the specific authority (cassation) or replace the administrative decision with a new. The intensity of the judicial review by the courts depends on the extent of the discretion vested in the executive authorities. Reference is made to the common core document on Denmark, page 21 and 34, section 96 and 149.

In accordance with the rules laid down in Chapter 40 of the Danish Administration of Justice Act, the court may grant a prohibitory or mandatory injunction meaning that the party must either temporarily do, refrain from doing or tolerate certain actions.

Pursuant to article 239 and 240 of the Danish Administration of Justice Act legal proceedings concerning the State, regions and municipalities must be initiated in a court that belongs to the judicial district of State, region or municipality or of their main office. In relation to the State, it is a court in the judicial district in which the office of the relevant authority is situated.

As for publication of administrative decisions, administrative practice is communicated to the parties of the specific administrative decision as a main rule. However, general publication of administrative decisions are within some special areas conveyed. As an example, The Consumer Ombudsman has the right to publish decisions of general interest or of significance to the understanding of provisions in the Marketing Practices Act, cf. section 2 of executive order No. 1249 of 25 November 2014. Another example is the area of competition law, where the Competition and Consumer Authority shall publish decisions made under the competition Act, decisions on behalf of the Competition and Consumer Authority etc., as stated in section 13 of the Competition Act.

Within the area of administrative law, section 18 of the Access to Public Administration Files Act the Ministry of Justice is responsible for a website, which contains laws, administrative provisions, parliamentary bills and the Parliamentary Ombudsman's statements regarding right of access to public administration files. Pursuant to this obligation, the website www.offentlighedsportalen.dk has been implemented. The website is continuously updated by the Department of Civil Affairs under the Ministry of Justice.

As for accessibility of decisions by the courts, these are available to anyone according to the Act on Court Fees against a court fee of DKK 175. As for accessibility of legal proceedings in Denmark, which is guaranteed by section 65 of the Constitution,

reference is made to the common core document on Denmark, page 34, section 142.

50. Follow-up by the public administration and State institutions to final (national/supranational) court decisions, as well as available remedies in case of non-implementation

Reference is made to the Danish contribution to the Annual Rule of Law Report 2020 and 2021.

D. The enabling framework for civil society

51. Measures regarding the framework for civil society organisations (e.g. access to funding, legal framework incl. registration rules, measures related to dialogue between authorities and civil society, participation of civil society in policy development, 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 and 2021, concerning the access to peaceful assembly and freedom of association.

Concerning the registration rules, as a main rule civil society organisations are not required to register with public authorities.

However, if a given organisation is taxable registration must be made with the taxation/business authorities. The registration must include various basic information as well as the organisation's articles of association. Organisations which are not registered for taxation purposes can voluntarily register with the business authorities. The voluntary registration must include various basic information.

Regardless of whether the registration of a given civil society organisation is made for taxation purposes or other purposes (voluntary registration), the Danish Business Authority issues a unique identification number (CVR-number), which serves various national identification purposes, including identification within the digital infrastructure. Furthermore the organisation is entered in the Danish business register (CVR) and the organisation's basic information is disclosed for transparency purposes.

52. Rules and practices guaranteeing the effective operation of civil society organisations and rights defenders

Reference is made to the answer to question 51.

E. Initiatives to foster a rule of law culture

53. 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.)

Political negotiations about political party financing, which are planned for the spring of 2022, and subsequent legislation are expected to give rise to debates in the public and in Parliament concerning transparency of political party financing, and transparency in politics in general.

Commissions of scrutiny

Reference is made to the Danish contribution to the Annual Rule of Law Report 2021, where it is stated that 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.

For this purpose, the Danish Government on 24 February 2021 introduced a bill amending inter alia the Act on Commissions of Inquiry, which was adopted by Parliament on 13 April 2021. The amended legislation provides a legal basis for the establishment of commissions of scrutiny. In order to ensure that commissions of scrutiny are established and function under the auspices of Parliament, the new legislation entails that Parliament will set up such commissions, draw up the terms of reference, appoint the members of the commissions and receive the reports containing the results of the inquiries carried out by commissions of scrutiny. In addition, Parliament established a new committee for the purpose of strengthening parliamentary control (the Committee of Scrutiny).

On 23 April 2021, pursuant to said legislation, Parliament set up the first commission of scrutiny to investigate the culling of mink (Granskningskommissionen om sagen om aflivning af mink). The commission is expected to submit its report in the first half of 2022.

The Commission of Freedom of Expression

As mentioned in the Danish contribution to the Annual Rule of Law Report 2021, 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, a majority of the Commission has recommended

that certain legislation should be adapted in order to create better conditions for public servants.

The Government is currently looking into ways in which these conditions can be improved. In May 2021, the Minister of Justice stated that he would invite the political parties to discussions on this topic. The political discussion are expected to take place in the first half of 2022.