



JUSTITS MINISTERIET

Ministry of Justice

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A. The role of CSOs and rights defenders in ensuring the effective implementation of the Charter at national level

Q1. How do CSOs contribute to activities aimed at making the fundamental rights enshrined in the Charter a reality in your country? Please give examples.

Answer to Q1:

Within the social field, CSOs contribute with counseling and advocacy work for marginalized and disabled citizens. For example, the Danish government supports various Danish disability organizations who work with advocacy and empowerment of people with disabilities and organizations who support socially marginalized citizens within legal matters.

Futhermore, the Danish Institute for Human Rights – which is an independent state-funded institution – promotes and protects human rights in Denmark and internationally. On a national level, the institute produces analyses and research on human rights, for instance about children with imprisoned parents, legislation on terrorism, the rights of stateless human beings and equal pay. In addition, the institute also carry out specific projects to promote equal treatment and advise those who may have been discriminated against. See <https://www.humanrights.dk/about-us> for more information about the institute's work.

Q2. In which areas do CSOs contribute the most to the protection of fundamental rights?

Q3. How do rights defenders, including NHRIs, Equality bodies and Ombuds-institutions, contribute to activities aimed at making the fundamental

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rights enshrined in the Charter a reality in your country? Please give examples.

Answer to Q3:

The institution of the Parliamentary Ombudsman investigates complaints about the public administration. In this regard, the Ombudsman assesses whether the public authority in question has acted in accordance with existing legislation, including Denmark's obligations under EU law. The Ombudsman Act (ombudsmandsloven) regulates the institution of the Ombudsman¹.

Under the Ombudsman Act, the Ombudsman may investigate a case based on a complaint or on his own initiative. Any person may lodge a complaint with the Ombudsman. However, a complaint concerning matters that may be appealed to another administrative authority, cannot be lodged with the Ombudsman until that authority has made a decision in the matter.

As a general rule, the Ombudsman may express criticism, make recommendations, i.e. ask the authority in question to change or review its decision, or otherwise state his views of a case. The authority is not legally obliged to comply with the Ombudsman's recommendations, but in practice, public authorities overwhelmingly follow the Ombudsman's recommendations.

Q4. In which areas do rights defenders contribute the most to the protection of fundamental rights?

B. The work of the Member States to protect CSOs and rights defenders

Q5. How do you ensure that CSOs and rights defenders work in a safe and enabling environment?

Q6. Please explain the main features of the legal framework applicable to CSOs (for example, rules on declaration/registration/dissolution, rules governing the exercise of their activities, court decisions relating to the application of this legal framework, etc.). Please add relevant references to such rules.

¹ The Act is available in English at <https://en.ombudsmanden.dk/loven/>

Q7. Do you have in place a system for reporting and monitoring threats or attacks (including physical attacks) on CSOs activists and rights defenders? If yes, how does it work?

Q8. Do you provide for, support, or finance an alert mechanism and/or supporting services in case of physical and on-line attacks to CSOs activists and rights defenders?

Answer to Q7 and Q8:

The Danish police do not have in place a system for reporting and monitoring threats or attacks (including physical attacks) on CSOs activists and right defenders.

Further, the Danish police do not provide for, support, or finance an alert mechanism and/or supporting services in case of physical and online attacks on CSOs activists and right defenders.

However, attacks, threats, etc., on CSOs and right defenders can, by their nature, be reported to the police and will thus be processed in accordance with the general national rules on criminal procedure, etc.

Q9. Are you part of the Open Government Partnership (OGP)? If yes, could you share the link to your latest OGP action plan?

Answer to Q9:

Yes, Denmark is a part of the Open Government Partnership. Our latest OGP action plan can be found here: <https://en.digst.dk/media/23101/ogp-ny-handlingsplan-19-22-engelsk.pdf>

Q10. Do you assess how CSOs are impacted by legislative proposals in the legislative preparatory work? If yes, please briefly describe the process/mechanism.

Answer to Q10:

A legislative proposal contains the legal text as well as remarks. The remarks describe and elaborate upon the content of the legislative proposal and provide a comprehensive basis for assessing the proposal's reasoning and expected effects.

To ensure that all important and relevant consequences of a legislative proposal are taken into consideration, there are a number of obligatory questions concerning impact assessment in certain areas, that must be considered and answered in the remarks.

Moreover, it may be reasonable to assess and outline consequences of the legislative proposal in other areas than those, which are obligatory. Such areas could be, e.g. impact on volunteer associations, including CSOs.

The general procedure regarding impact assessments consists of three steps. Firstly, a preliminary assessment must be undertaken in order to establish which consequences the proposal has. Secondly, it must be ascertained which consequences requires a more in-depth assessment, including whom or what is affected directly or indirectly by the proposal. Thirdly, the actual assessment is made and the result is communicated in the remarks of the legislative proposal.

Q11. Do you consider it necessary to improve the cooperation between Member States and the EU to strengthen the level of protection of CSOs and rights defenders working to protect fundamental rights? How?

C. The work of the Member States to support CSOs and rights defenders

Q12. Please indicate which public authorities are competent to disburse public funding and the main programmes of funding available at national and local level for CSOs working to protect and promote fundamental rights.

Answer to Q12:

Governmental agencies disburse public funding to CSOs in various policy areas, primarily within healthcare, the social field, the labor market, sports and culture.

On a local level, municipalities are obliged to cooperate with CSOs and disburse funding to support voluntary social work by CSOs.

(a) How do authorities select the CSOs, and what are the main conditions they have to fulfil?

Answer to Q12(a):

In order to obtain a discretionary grant, CSOs have to satisfy various requirements, which are politically determined.

The parliament decides which CSOs are eligible for grants, which cover the organization's core costs. The organizations are listed on the annual Finance Act.

(b) How do authorities ensure a fair distribution of funds among CSOs?

Answer to Q12(b):

Discretionary grants are given to the CSOs who satisfy the specific requirements the most while principles of equal casework are being considered.

(c) Is there public funding available for organisations' core costs for administrative expenditures and infrastructure?

Answer to Q12(c):

Yes, there is public funding available for organizations' core costs for administrative expenditures and infrastructure.

(d) Is there public funding available for human rights advocacy?

Answer to Q12(d):

In the social area, the funding is targeted the most deprived people and people with disabilities. Thus, various government grants are for example given to Danish disability organizations who work with advocacy and empowerment of people with disabilities.

Q13. Do you have a system in place to get an overview or to coordinate the funding opportunities available at the different levels? By whom is it coordinated, and how does it work?

Answer to Q13:

There is a national website where all discretionary grants are announced. See <https://www.statens-tilskudspuljer.dk> for more information.

Q14. Has any process to simplify and speed up access to funding been considered/adopted/implemented?

Answer to Q14:

There is a continuous effort to simplify and debureaucratize the process of funding opportunities for CSOs, i.e. through governmental initiated working groups with representatives from CSOs. Recommendations from working groups are continuously implemented in the administration while taking into account the administrative and economic framework conditions.

Q15. Does your taxation system provide for a tax exception/relief/incentive in case of donations to CSOs?

Answer to Q15:

Yes, donations amounting to maximum DKK 17.200 (limit in 2022) yearly is deductible from taxable income. Deductibility is conditioned upon approval of the charitable and non-profit organisation by the Danish Tax Authorities or in another EU/EEA country. Approval requires that CSO's object or conduct is not contrary to or does not undermine democracy or fundamental freedoms and human rights. Furthermore, the number of donors in the EU/EEA must exceed 100 each year, the individual donor must have made a donation and at least DKK 200 during the year, the number of fee-paying member in the EU/EEA must exceed 300 and the fee's amount must cover normal administrative expenses, the annual gross income or equity must exceed DKK 150,000, the funds must be used for the benefit of a group of people which is not limited geographically or in any other way to a population level of less than 35,000, and it must be disclosed whether donations exceeding DKK 20,000 have been received from the same foreign donor.

Q16. What is the legal framework applicable to donations for other EU countries or third countries to CSOs?

Answer to Q16:

Donations to CSOs in EU/EEA countries are deductible under the same rules as described under para. 15, provided the CSO is approved under the same conditions in a EU/EEA country.

D. The work of the Member States to empower CSOs and rights defenders

Q17. Is there a structured dialogue policy between CSOs and public authorities at local, regional and national level? Is there a body representing the interest of CSOs? How is it composed and which are its competences?

Answer to Q17:

On a national level, there are permanent partnerships between the government and selected CSOs. Other partnerships are established on an ad hoc basis, e.g. cooperation between government and CSOs under the covid-19 pandemic for combatting loneliness.

On a local level, many municipalities have local councils for volunteering which enables dialogue between the municipalities and the CSOs.

There are different bodies representing the interest of CSOs, some are non-governmental, others are independent but public funded:

- The National Council for Volunteering
- Danish Institute for Voluntary Effort
- Volunteer Centre and Self-Help Denmark
- The Danish Association of Civil Society

Q18. What is the process of consultation of CSOs regarding legislative proposals having an impact on civil society and civic space?

Answer to Q18:

Authorities, organisations etc., including CSOs, should be included in the process of adopting legislation, which impacts their affairs. On this basis there must, among other things, barring exceptions, be a public consultation concerning legislative proposals. Consultation should take place prior to the tabling of the legislative proposal.

The length of the consultation period may be adjusted according to circumstances but should, as a rule, be long enough for the affected parties to compose comprehensive responses. Normally, a four-week deadline is sufficient. If a consultation deadline of four weeks is not possible, e.g. if the legislative proposal is a matter of urgency, a consultation period should still be arranged, albeit shorter than four weeks.

When consultation is concluded, the relevant ministry produces a consultation memo containing a brief summary of the consultation responses and the minister's remarks to said responses. The consultation memo is forwarded to the Parliament along with the tabling of the legislative proposal or, at the latest, on Thursday the week before the first parliamentary session concerning the proposal.

Parliamentary committees may include the public, including CSOs, in the processing of legislative proposals. They do this by, e.g. requesting a minister to respond to inquiries from the public, including CSOs, by receiving deputations or by holding public hearings.

Moreover, it is regulated how many days must elapse between the first, second, and third parliamentary session on a legislative proposal. Accordingly, the third and final session must be held at least 30 days after tabling because of, inter alia, considerations of facilitating a public debate on the proposal.

Q19. Do you have an easily accessible one-stop-shop online platform in place, which regroups all consultations with CSOs and the public?

Answer to Q19:

It is obligatory for ministries to publish legislative proposals, draft administrative legislation, which has been subject to public consultation, consultation letters, lists of consultation parties, and responses, on the digital platform Høringsportalen (The consultation portal), which is administered by the Ministry of Justice's Department of Civil Affairs.

The ministries are, inter alia, obliged to use Høringsportalen when publishing their legislative proposals and consultation material regarding all legislative proposals, which are subject to consultation. Legislative proposals are published once consultation has commenced, and any consultation responses are published, at the latest, once the proposal has been tabled. The intent behind Høringsportalen is to ensure openness regarding the legislative process and to ensure that information on legislative proposals is as accessible to citizens, companies and organisations, including CSOs, as possible.

Q20. Do you have any guidelines or standards on public participation?

Answer to Q20:

The area of public participation is covered in several guidelines and standards.

The Ministry of Justice's guide no. 9539 of 26 August 2018 on Legal Quality contains guidelines concerning the preparation of legislative proposals, including guidelines on public participation in the preparatory legislative process.

The Ministry of Justice's guide no. 9594 of the 9 July 2021 on Administrative Acts contains guidelines concerning the preparation of administrative acts, including guidelines on public participation in this process.

Guide no. 9319 of 7 May 2018 on Impact Assessments contains guidelines on the preparation of impact assessments, including a legislative proposal's potential consequences for CSOs.

The Parliament's Rules of Procedure, administrative order no. 9458 of 17th of June 2021, contains rules concerning the working procedures of the Danish parliament, including public participation in relation to the Parliament's legislative process.

On the 24th of March 2021, the Parliamentary Committee on the Rules of Procedure reported on urgent legislative processes, inter alia, containing guidelines on ensuring public participation in the legislative process.

In Handbook for the Parliamentary Work (2015), guidelines concerning the work of the Danish Parliament can be found, including guidelines in relation to public participation.

Q21. Are CSOs or, where relevant, NHRIs included in the committees set up to monitoring the implementation of EU funded programmes under the Common Provisions Regulation (CPR) and are they involved in the arrangements set up under the horizontal enabling condition to ensure compliance with the Charter? If so, what is their role in this context?

Answer to Q21:

CSOs and NHRIs are included in the setup to monitoring the implementation of EU funded programmes under the CPR. Specifically it is implemented in the rules of procedure for the Monitoring Committee, § 3, subsection 2, that – among others – Disabled People's Organisations Denmark, The Danish Institute for Human Rights, DanChurch Social and Red Cross Denmark each are entitled to nominate a member of the Monitoring Committee. Moreover, it is specified in the rules of procedure § 5 that the Managing Authority (Danish Business Authority) can – either by own initiative or by nomination from the Monitoring Committee – appoint further members of the committee if it is estimated appropriate.

The same CSOs and NHRIs have been involved as stakeholders in the programming phase through bilateral consultations with the Managing Authority (Danish Business Authority) and through formal public consultation. The horizontal enabling condition arrangements to ensure compliance rely on the role played by the Monitoring Committee, and the CSOs and NHRIs exercise their involvement in this context.