UDENRIGSMINISTERIET

Danish contribution to the Annual Rule of Law Report 2020

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A. Independence

1. Appointment and selection of judges and prosecutors

Rules for appointing judges in Denmark are set out in chapter 4 of the Administration of Justice Act (retsplejeloven)[1]. In order to be appointed as a judge in Denmark, an applicant must have a Master degree in law (Candidates Juris) and have the necessary legal and personal qualifications, cf. section 42 and 43 of the Administration of Justice Act[2].

Judges are formally appointed by the Queen on the basis of recommendation from the Judicial Appointments Council (Dommerudnævnelsesrådet). The only exception is the President of the Supreme Court, who is appointed by the Supreme Court's own judges. The recommendations of the Council must be justified and the board can only appoint one applicant for a vacancy (see subsection 5 regarding the Judicial Appointments Council). Furthermore, reference is made to GRECO's Fourth Evaluation Report, page 22, section 73 ff.

Prosecutors are not appointed, but employed. All prosecutors are employed by the Ministry of Justice and serve in the Prosecution Service. The employment of prosecutors is subject to a centralised recruitment procedure. Every 6 months The Ministry of Justice has a general job advertisement on applicants with a Danish Master degree in law (Candidates Juris) regarding vacancies in all the agencies under the Ministry of Justice[3]. All applications are assessed by representatives of either the Ministry of Justice or the Prosecution Service. Suitable applicants are initially interviewed by the Recruitment Board from the Director of Public Prosecutions that determines which candidates are qualified to receive an offer of employment. An additional interview is hereafter held by the Local Prosecution Service. The general principle is that the most suitable person for the position must be employed as prosecutor. The main factors determining an applicant's suitability as a prosecutor are grades from law school, former experience from work or internships, insight in the principles that the Prosecution Service works and stands for and finally on the applicant's personality and robustness. The applicant must also go through a security approval process before given an offer of employment.

Prosecutors are either employed under collective labour agreements on public accord, governed by the Employers' and Employees' Act, or as statutory civil servants, to whom the Civil Servants Act (tjenestemandsloven)[4] applies.

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[1] The act is available in Danish at https://www.retsinformation.dk/eli/lta/2019/938#id8ddd009c-eb04-4274-b019-8b5f4e868eeb.

[2] For a detailed description on the legal and personal qualifications that a judge must possess, reference can be made to chapter 5 in the report in Danish from the Council of Vision (Visionsudvalget). September 2007.

[3] Both applicants who are about to graduate from law school in the forthcoming pending exams as well as lawyers with work experience from legal offices and institutions are the target group of applicants.

[4] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2017/511.

2. Irremovability of judges, including transfers of judges and dismissal

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)[5], which states that judges shall be governed solely by the law in the performance of their duties. This means that neither the Government nor the Parliament can decide how a judge is to pass judgement, and judges may not let themselves be influenced by other interests when passing judgement. A judge can only be dismissed by judgement by the Special Court of Indictment and Revision. As a rule, a judge cannot be dismissed due to age before the age of 65, and they must still receive full pay until they reach the age of 70. Only then must a judge retire due to age. Furthermore, judges cannot be transferred to a different job against their wish except in cases in which a rearrangement of the courts is made as a result of an Act. If such a rearrangement is made a judge cannot refuse to be transferred or dismissed.

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 22, section 99.

3. Promotion of judges and prosecutors

Judges cannot be promoted but are formally appointed by the Queen on the basis of recommendation from the Judicial Appointments Council.[6]

A prosecutor is, when initially employed, (with very few exceptions) referred to as Assistant Prosecutor. When approximately three years of education, training and a final exam are completed, the Assistant Prosecutor will hold the title as Prosecutor.

Further advancement from Prosecutor to Senior Prosecutor, Special Prosecutor, Deputy Chief Prosecutor or Chief Prosecutor is always subject to a recruitment procedure through a specific job advertisement. Former work experience from institutions under the Ministry of Justice and especially work experience from the Prosecution Service – as well as experience from other institutions – is considered favourably in the final decision of which candidate is the most suitable for the position. There is no appeal system regarding administrative decisions on the employment and promotion of prosecutors, but a prosecutor can bring a case about unfair dismissal to the civil court system.

The Director of Public Prosecutions is appointed by the Queen at the recommendation of the Minister of Justice through the Prime Minister's Office. The appointment is based on a recruitment procedure through a specific job advertisement.

[5] 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.
[6] See subsection 1 regarding appointment of judges, which also covers the procedure for appointing judges to the high courts and the Supreme Court.

4. Allocation of cases in courts

As for allocation of cases within any court, reference is made to GRECO's Fourth Evaluation Report, page 26, 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 22 ff., section 101-109.

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 73-77.

6. Accountability of judges and prosecutors, including disciplinary regime and ethical rules.

Rules on the conduct of judges are primarily set out in the Administration of Justice Act, which e.g. contains rules that prohibit a judge from deciding a case due to 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)[7] contains rules on professional secrecy, and it is forbidden for a judge to receive gifts or other benefits, cf. section 144 of the Criminal Code[8].

As any other citizen, prosecutors are subject to criminal proceedings in the Criminal Code. In 2012, the Independent Police Complaints Authority (ICPA) was established. Its main task 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.

Prosecutors are furthermore subject to different legislation and policies on this area, including for example the decorum rule in section 10 in the Civil Servants Act, Code of Conduct within the Police and the Prosecution Service and the publication by the Agency for Modernization, Code VII – 7 key duties[9]. See subsection 20 for further details.

Violations by prosecutors of the relevant rules may result in either disciplinary actions or criminal sanctions[10]. The Director of Public Prosecution acts on behalf of the Ministry of Justice as the appointing authority deciding on and is responsible for disciplinary proceedings against prosecutors.

[7] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2019/976.
[8] See subsection 2 as for disciplinary proceedings concerning judges.
[9] Code VII from 2015 is available in English at https://oes.dk/media/17483/kodex_vii_english_version.pdf.
[10] 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.

A disciplinary procedure concerning a statutory civil servant is expressly described in the Civil Servants Act. The sanctions available are a formal warning, 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. Similar principles apply to proceedings concerning prosecutors employed under a collective labour agreement. The relevant rules are contained in the collective labour agreement as well as the Employers' and Employees' Act and the Public Administration Act. The Director of Public Prosecution on the behalf of the Ministry of Justice may 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 appeal system for disciplinary actions, but a prosecutor may bring a complaint to the Parliamentary Ombudsman or bring the case to the civil court system.

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)[11] as well as determined by collective agreement. Pay and other employment terms are agreed between the Ministry of Finance and the central organisations. 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 pay 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 are entitled to an annual salary negotiation. During these annual 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. As for the Regional State Prosecutors, the State Prosecutor for Serious Economic Crime and the Director of Public Prosecutions there is a predefined bonus scheme. The scheme is individual and defined on a year to year basis. The payment of the bonus is subject to the extent of which the predefined bonus-targets have been achieved by the end of the year.

8. Independence/autonomy of the prosecution service

Formally speaking, the prosecution service cannot be considered a completely autonomous institution given that the Minister of Justice is superior to the public prosecutors, supervises their work and may issue general guidelines about the carrying out of their tasks. However, apart from cases where the Minister of Justice is required by law to approve a decision to prosecute (cf. below), the prosecution service functions autonomously *in practice* when deciding whether or not to prosecute in a given case.

[11] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2017/510.

In certain types of cases – regarding terrorism etc. – the Minister of Justice is required by law to decide whether or not a specific case shall be prosecuted. In these cases, the Minister of Justice acts on the recommendation of the Director of Public Prosecutions (the General Prosecutor). In other cases, the Minister of Justice may only issue instructions concerning the handling of a specific case, including commencing or continuing, abstaining from or terminating prosecution. The decision must be taken in writing, be reasoned, and be included in the case file, and the Speaker of Parliament must be informed of the decision taken.

The Minister of Justice is, as the Chief Administrative Officer to the public prosecutors, subject to the general principles of administrative law such as legality, factual administrative conduct, equality and proportionality. Among other things, this means that the Minister of Justice will not be able to order the public prosecutors to prosecute cases in violation of the principle of objectivity which the public prosecutors are subject to under section 96 (2) of the Administration of Justice Act. According to the principle of objectivity, public prosecutors must ensure that criminals are held accountable and that prosecution of innocents does not take place.

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

The Law and Bar Society (Advokatsamfundet) conjoins lawyers holding the Danish lawyer title "advokat" authorized to practice law and is independent from the state. Registration with the Society is mandatory for lawyers, and the Society works to maintain and ensure lawyers' independence from the state. Rules of the organization of the Society are set out in chapter 15 in the Administration of Justice Act.

10. Significant developments capable of affecting the perception that the general public has 3 of the independence of the judiciary

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

11. Other - please specify

The independence of the courts is guaranteed by section 3 of the Constitution, which states that the courts represent the judicial power. In addition, the Court Administration, which is headed by a board of governors and a director, ensures proper and adequate administration of the courts' and the Appeals Permission Board's funds, staff, buildings and IT. The Minister of Justice has no instructive power and cannot change decisions made by the Court Administration.

B. Quality of justice

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

As for legal aid, reference is made to the common core document on Denmark, page 36, subsection 161-164. Rules for court fees in Denmark are set out in in the Act on

Court Fees (retsafgiftsloven)[12]. A claimant is required to pay a court fee for submitting a claim. 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 pct. 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 hearing[13]. 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). 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 case, including those involving family law, there is no requirement of paying a court fee to the court.

13. Resources of the judiciary (human/financial)

Table 1 shows that the total use of financial resources in the judiciary was DKK 1,795.9 million in 2018 and DKK 1,827.1 million in 2019. Payroll accounts for more than half of the expenses.

Table 1
Financial resources in the Courts of Denmark

DKK million (2020 price level)	**2018**	**2019**
Payroll	1,144.2	1,185.5
Other expenses	651.7	641.6
1. Rent	*302.4*	*300.7*
1. Other goods and services	*302.2*	*297.8*
2. Depreciation	*47.2*	*43.1*
Total	**1,795.9**	**1,827.1**

Table 2 shows that the number of full-time employees in the judiciary was 1,954 in 2018 and 2,012 in 2019. 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.

[12] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2014/1252.
[13] 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 pct. of the amount by which the sum claimed exceeds DKK 50 000.

Table 2
Human resources in the Courts of Denmark

Full-time employees	**2018**	**2019**
Judges and other legal advisers	657	671
Office staff	1,135	1,166
Other personnel	162	174
Total	**1,954**	**2,012**

The above only includes the financial and human resources directly related to the courts of Denmark. Resources related to the Court Administration, the Appeals Permission Board, and the Land Registration Court (Tinglysningsretten) are not included.

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

Regarding the use of ICT systems for case management, the courts operate by means of several different digital solutions. All cases managed by the courts are handled in a digital case handling system.

Civil cases are managed by court employees using the system "Civilsystemet" and by attorneys, citizens and authorities using the external webpage www.minretssag.dk. This ICT system enables the complete digital management of civil cases and was fully implemented in 2018. Other cases, e.g. criminal and probate cases, are managed with the use of a system that have been in use since the early 90s. These systems are planned to be replaced by new systems within the next five to six years. Civil enforcement cases are managed in the system "Fogedsystemet", which was developed about 10 years ago. The system is presently being modernized for more digital workflows.

Regarding court statistics, the Court Administration is the centralized institution responsible for collecting statistical data on the functioning of the courts and the judiciary. It monitors general statistical data on cases flow, target attainment, turnover time, weighted cases and productivity and numbers of staff, which are published on the website of the courts[14]. Every court also publishes an annual activity report where the developments of the court, the case flow, goals attainments of the court in the past year are described and examined. The case processing times are measured from the specific date a court receives a case until it is finalized. The individual procedural steps during the case processing are not recorded. Goals have been defined as either percentiles number of cases that are completed within different time brackets, i.e. 3 months,

[14] The website is available in Danish at www.domstol.dk.

6 months, etc. or that the 80 pct. fastest completed cases should have an average case processing time of i.e. 90 days.

Quantitative performance targets are not defined for each judge, as judges are independent. Therefore, measuring is done by focusing on case-flows and economic indicators without identifying the individual judge. Quantitative performances on a court level can be used to reallocate resources to the courts in the most need of resources. The following performance and quality indicators are defined on court level: Number of incoming cases, length of proceedings (timeframes), number of resolved cases, number of pending cases, backlogs and number of weighted cases. The Court Administration publishes an annual report concerning cases with a special focus on crimes regarding violence, weapon possession and rape. The report includes court statistics.[15]

The courts are financed by the fiscal law. To obtain a fair distribution of funds and new appointments of judges between the courts, a model based on number of weighted received cases are used. This is to take into consideration the expected work load of the individual court.

The performance of the district courts is evaluated on a monthly basis based primarily on the indicators mentioned above. For appeal courts and the Supreme Court this is done on a quarterly basis. The evaluation of the activity is among other used when evaluating the allocation of human and financial resources and to identify the causes of improved or deteriorated performance.

15. Other - please specify

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C. Efficiency of the justice system

16. Length of proceedings

The Court Administration and the individual courts use the length of proceeding as a prime quality measurement of courts performance. All goal attainments are bound to the length of proceedings. In most cases, goal attainment is measured based upon the 80 pct. fastest cases. This is to remove outliers where – typically external – circumstances cause a case to delay. This provides a more representative picture of the average case processing times that 80 pct. of court users can expect. However, the Court Administration also shows the average length of proceedings as a general indicator. In addition, many courts publish the expected time of proceeding as a service to the users of the court on their website. As a new initiative in 2020, the Court Administration has begun to monitor the average age of pending cases. This more forward-looking key performance indicator (KPI) complements the monitoring of the length of proceedings, which is inherently a backward-looking KPI. Regarding statistics on the length of proceedings, reference is made to the European Commission's European Scoreboard, page 12 ff.

[15] The annual report for Danish Courts of 2018 is available in Danish at http://www.domstol.dk/om/publikationer/Publikationer/Danmarks%20Domstoles%20Årsrapport%202018.pdf.

17. Enforcement of judgements

Enforcement of judgements in civil cases takes place through the enforcement courts, cf. chapter 46 in the Administration of Justice Act, which provides procedural provisions for the treatment of enforcement proceedings, including rules on failure to appear and complaints over court decisions. The enforcement courts and the probate courts are divisions under the district courts. Before the case can be heard by the enforcement court, the claim for payment must have been established by way of a judgment or a special document, e.g. a mortgage or a debt instrument with the debtor's signature[16].

Enforcement of judgements in criminal cases takes place in accordance with the rules of the Criminal Enforcement Act (straffuldbyrdelsesloven)[17]. The Act contains detailed regulation on enforcement of prison sentences and judgements regarding fines. The Prison and Probation Service is the responsible authority in the area of enforcement of criminal judgements involving imprisonment as well as suspended sentences and the authority, inter alia, calls in a convicted who has to serve a prison sentence to ensure enforcement of a final court decision. Fines are collected by the police.

18. Other - please specify

For a general introduction to the justice system of Denmark, reference is made to brochure A closer look at the courts of Denmark by the Court Administration. Furthermore, reference is made to the common core document on Denmark, page 21 ff., section 95-100.

II. Anti-corruption framework

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

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

With regard to prevention, there are several authorities that each has a task in preventing corruption and overlooking a fair public management and compliance with the legal framework. This includes amongst others the Financial Supervisory Authority (FSA), the Parliamentary Ombudsman and the Auditor General. In addition, several authorities have tasks related to the promotion of integrity and preventing corruption related to the management of public administration, e.g. the Employee and Competence Agency at the Ministry of Taxation[18] and the Prime Minister's Office[19]. With

[16] The enforcement court can collect money from a debtor by e.g. granting the creditor a charge on the debtor's assets or by selling the debtor's car at an auction in order to pay the creditor. The enforcement court can also evict a tenant from his or her home if he or she has failed to pay rent, or it may assist a parent in gaining access to his or her child if the other parent does not observe the visitation agreement.
[17] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2019/1333.
[18] Formerly known as the Agency for Modernisation (Moderniseringsstyrelsen).
[19] Reference is made to GRECO's Fifth Evaluation Report on Denmark, page 17, where relevant authorities working with prevention of corruption are described.

regard to investigation and prosecution of corruption, the relevant authorities are the Police, the Prosecution Service and the specialized unit for corruption and foreign bribery cases within the State Prosecutor for Serious Economic and International Crime (SØIK)[20]. In addition, the IPCA execute external oversight and control of the Police and Prosecution service[21].

B. Prevention

20. Integrity framework: asset disclosure rules, lobbying, revolving doors and general transparency of public decision-making (including public access to information)

Generally, the Employee and Competence Agency[22] has made two publications, the Code of Conduct in the Public Sector and Code VII – 7 key duties, in relation to the ethical standards and rules of conduct for public employees.

In December 2017, a revised version of the Code of Conduct in the public sector was published. The purpose of the guide is to convey a number of fundamental rules and principles that apply in the public sector and is thus intended to help avoid cases where doubt can arise regarding the conduct of public employees, for example with regard to whether a public employee has wrongfully received gifts from citizens or enterprises in the capacity of their work. It serves as guidelines on the interpretation and use of existing legal framework. More specifically, chapter 7 of the Code of Conduct in the public sector regards rules on secondary employment.

Furthermore, the Code VII – 7 key duties was published in September 2015. The purpose of the Code VII is to contribute to the knowledge of all civil servants in the government administration of the duties to be honoured when serving the ministers and handling cases in the ministries. The Code VII includes 7 key duties: legality, truthfulness, professionalism, development and cooperation, responsibility and management, openness about errors and party-political neutrality. The publication applies to all employees in the public sector and serves as a guideline on existing rules regulating the relationship between politicians and civil servants. In order to implement the two codes the Agency for Modernization (now the Employee and Competence Agency) has made e-learning courses about the specific themes available to all employees in the central administration.
Civil servants in pay grade 38 and above are required to report secondary employment as member of boards of limited companies or other private commercial companies to their employment authority before accepting the task (Circular No. 74/2005). If the employment authority is of the opinion that the secondary employment is incompatible with the civil servant's principal occupation, this decision must be reported to the Employee and Competence Agency for review. If the secondary employment on the

[20] Reference is made to the description of SØIK in page 7 in the UNCAC Country Review Report on Denmark. Reference is also made to the description of SØIK in section 67 og 68 of the OECD WGB Phase 3 Report on Denmark and the description of the specialized team within SØIK to deal with foreign bribery cases described in page 4 and 11 The OECD WGB Phase 3 Follow-up Report on Denmark.
[21] Reference is made to GRECO's Fifth Evaluation Report, page 48, where the Independent Police Complaints Authority (IPCA) and its resources are described in detail.
[22] Previously known as the Agency for Modernisation (Moderniseringsstyrelsen).

basis of this review is considered to be incompatible with the civil servant's principal occupation (section 17 in the Civil Service Act), the civil servant will be requested to give up the secondary employment.

In relation to enforcement, the employers can enforce the rules regarding the public employees via employment law. This includes the possibility of sanctioning breaches on the Code of Conduct and Code VII –7 key duties. There are no general rules regarding a duty to declare financial interests for high-level civil servants.

Civil servants of all levels are bound by the rules on impartiality. This entails a duty for the civil servant to report if he or she is partial considering a particular case. See subsection 21 for further information. Additionally, there exists a so-called decorum requirement, where public employees are expected both on and off duty to conduct themselves in a way that is appropriate with their position. The decorum requirement is a legal regulation with an ethical content. The content is dynamic and evolves over time in step with the shifting norms of society. The requirement generally applies to the behavior of the employee both as a private individual and as a public sector employee. Public sector employees must carry out their work in compliance with the decorum requirement. In practice, distinction is made between actions carried out in private life and actions carried out at work or as part of working life. This means that public sector employees must not act contrary to the law in the execution of their work.

Furthermore, the Financial Supervisory Agency (FSA) published instructions about anticorruption and politically exposed persons (PEP) in October 2017. The instructions were published as part of implementation of directive 2015/849/EU (on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing). The identification of PEP has a preventative aim.

The rules on public access to information are primarily laid down in the Access to Public Administration Files Act (offentlighedsloven)[23]. See subsection 35 regarding the right to access according to the Act.

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

The Public Administration Act (forvaltningsloven)[24] contains in chapter 2 (section 3-6) provisions on legal incapacity. Section 3(1) states that any person employed by or acting on behalf of a public administration body is disqualified from being involved in a particular case under a number of circumstances which are suited to raise doubt about the relevant person's impartiality, inter alia, financial interest in the outcome of the case.

The determination of disqualification is based on an objective and neutral assessment of the situation and no regard can be had to inter alia whether the person otherwise is deemed to be fair or decent. According to section 3(2), there is no disqualification if it is deemed, owing to the nature or level of importance of the interest, the nature of the

[23] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2020/145.
[24] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2014/433.

case or the relevant person's functions in connection with the processing of the case, that there is no risk that the determination of the case may be affected by irrelevant considerations. Section 3(3) states, that any person disqualified in respect of a case may not make decisions, participate in determining or otherwise be involved in processing the relevant case.

Pursuant to section 6(1), any person who is aware of circumstances in relation to himself as referred to in section 3(1) shall notify his superior at the relevant authority thereof as quickly as possible unless it is manifested that such circumstances are of no significance. Pursuant to section 6(2), the issue of the potential disqualification of a person must be determined by the authority set out in subsection 6(1). Furthermore, section 6(3) prohibits the involvement of the relevant person in the processing and determination of the disqualification issue. Additionally, the rules in chapter 2 of the Public Administration Act is supplemented by a general principle of capacity that is applicable, where the Act itself is not applicable. Such rules on capacity is also applicable in regards to the incapacity of the authority in its entirety, as stated in the Code of Conduct in the public sector. See subsection 20 for further information regarding the Code of Conduct.

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

At the present, there is no general regulatory framework regarding the protection of whistleblowers in Denmark. However, Denmark has initiated the process of implementing Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law, in national law. The directive obliges entities in the public sector and entities in the private sector with 50 or more workers to establish internal reporting channels. The directive further obliges Member States to designate competent authorities to establish external reporting channels that allows whistleblowers to file a report outside their place of work. The directive should be implemented no later than the 17 December 2021 (17. December 2023 for legal entities in the private sector with 50 to 249 workers) and it is expected that it will be implemented by a general law fulfilling the obligations set forth in the Directive will be introduced to the Parliament in spring 2021.

Moreover, on 1 March 2019 the Ministry of Justice launched a whistleblower system that covers the police, the prison and probation service, the prosecution service, the security and intelligence service, and the department of the Ministry of Justice on an administrative basis.

The system comprises a web portal with designated units attached for each authority. It enables employees and cooperating partners and their employees to report on irregularities etc. in relation to the covered authorities' handling of their functions. E.g. criminal offences, severe or repeated violations of legislation, principles of administrative law or essential internal guidelines, severe conflicts in the workplace (including severe harassment such as sexual harassment), and deliberate misinformation with regard to citizens and business partners.

Whistleblowers are protected against retaliatory measures related to reports filed in good faith. If a person should be subject to unjustified sanctions due to a report filed

with the whistleblower system, this can and should be reported to the whistleblower system in the relevant authority, which will inform the relevant head of board or the permanent secretary to the Ministry of Justice. A person that has been subject to unjustified sanctions due to a report filed with the whistleblower system can recover damages in accordance with the prevailing regulations on the subject.

In addition, there is established several other whistleblower systems in the public sector on an administrative basis, for instance in some municipalities. Furthermore, there are established whistleblower systems in certain sector specific areas (e.g. in the financially sector) by virtue of an EU obligation. See as an example below.

External whistleblower procedure of the Financial Supervisory Authority (FSA)
The Financial Supervisory Authority (FSA) has two external whistleblower 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 whistleblower 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 whistleblower scheme for potential violation on the financial regulation, e.g. market abuse, was implemented in 2014 in accordance with the Capital Requirements Directive IV (CRD IV) (EU 575/2013). The scheme applies for all financial firms under the Danish FSA's supervision.

Internal whistleblower procedure of the Financial Supervisory Authority (FSA)
When the CRD IV Directive came into force, all financial institutions were obligated to adopt internal rules for reporting serious irregularities ("whistleblowing"). In this context, the DFSA has implemented an internal whistleblower procedure.

The purpose of the internal whistleblower procedure is to provide the staff members of the FSA an option to anonymously report or transmit information to the Chairperson of the FSA. The access could be relevant if a staff member of the FSA discovers serious violations of the law committed by the SFA or staff members of the FSA, e.g. serious violations of the Public Administration Act.

The Chairperson of the FSA Board examines the received information and presents relevant whistleblower reports to the FSA Board of Directors. Based on the reported information, the FSA Board of Directors may decide to take further action.

Whistleblower scheme in the area of audit legislation
The Business Authority has an external whistleblower scheme regarding issues related to potential violation of the audit legislation. The whistleblower scheme was implemented in 2016 in accordance with Article 30 (e) of Directive 2014/56/EU amending Directive 2006/43/EC on statutory audits of annual accounts and consolidated accounts.

The scheme applies for statutory auditors, audit firms, public interest entities and members of the supreme management body or the audit committee of a public interest entity for potential violation of their responsibilities in accordance with the audit legislation and responsibilities in accordance with Regulation 537/2014 on specific requirements regarding statutory audit of public interest entities.

Whistleblower scheme in the area of the structural funds
The Managing Authority for the European Regional Development Fund and The European Social Fund (The Business Authority) has an external whistleblower scheme. The whistleblower scheme is related to potential violation of the rules of the structural funds.

The whistleblower scheme was implemented in march 2015 as prescribed in article 125, 4, (c), in the general regulation (EU) No. 1303/2013 to introduce effective and proportionate anti-fraud measures, taking into account the identified risks. Originally, it was a mailbox, but in 2019 it was changed to a scheme on the Business Authority's website, in order to guarantee anonymity for whistleblowers.

On a regular basis, the Business Authority has informed the Commission about the whistleblower scheme as part of the annual PIF-reports.

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

In line with GRECO's focus areas in the evaluation rounds, Denmark has in particular paid attention to the critical sectors such as the public sector generally and more specifically the parliamentary and judicial systems and prosecution and law enforcement agencies. With regard to the relevant measures taken, reference is made to the evaluation reports from GRECO.

Within the public sector, one of the focus areas is public procurement. In this context, a recent case can be mentioned which involved several salespersons within a large IT-company who were convicted and sentenced up to two years of imprisonment for corruption and bribery directed at 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. As a result of the case, an interministerial taskforce is currently reviewing the rules governing public procurement with the aim of imposing stricter sanctions. In addition, the Police is currently investigating a few additional cases of possible bribery within the area of public procurement. Furthermore, the State Prosecutor for Serious Economic and International Crime is focusing on the risk of bribery conducted by Danish companies with sale and production in countries abroad where production costs are low, and corruption more widespread.

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

With regard to prevention in the judicial system, a recent development in 2019 is the adoption of a set of interpretative explanatory comments to the Ethical Principles for

Judges after deliberations between the Court Administration and the Association of Judges. The purpose of these comments is to give interpretation and practical examples. These Ethical Principles will continuously be brought up for discussion and revision if needed[25].

C. Repressive measures

25. Criminalisation of corruption and related offences

Provisions criminalizing corruption and related offences are found in the Criminal Code. The provisions in the Criminal Code incorporates the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, the Council of Europe Criminal Law Convention on Corruption (ETS No. 173), Council of Europe Additional Protocol to the Criminal Law Convention on Corruption (ETS No. 191) and the United Nations Convention Against Corruption into Danish law[26].

26. Overview of application of sanctions (criminal and non-criminal) for corruption offences (including for legal persons)

With regard to criminal sanctions, breaches of the Criminal Code may be punished by imprisonment or fine by virtue of section 31 of the Criminal Code. The criminal sanction in respect of active bribery (section 122) and passive bribery (section 144) in the public sector is a fine or imprisonment of up to six years and in respect of bribery in the private sector (section 299 (2)) a fine or imprisonment of up to four years. With regard to *legal persons*, section 306 cf. section 25 provides that fines can be imposed on legal persons in respect of an offence under provisions of the Criminal Code. In addition, a criminal case may lead to pre-trial seizure according to the Administration of Justice Act chapter 74 and confiscation by virtue of the Criminal Code section 75-76 (a).

With regard to civil sanctions in relation to corruption, there may be the possibility of imposing civil liability (damages) under the general rules of civil law in relating to a criminal conviction. Also, a conviction of a legal person for corruption may i.e. lead to exclusion from participation in a public contract according to the rules governing public procurement[27]. Reference is made to the answer to subsection 23 with regard to the inter-ministerial taskforce currently reviewing the rules governing public procurement with the aim of imposing stricter sanctions.

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[25] Reference is made to section 27-31 in GRECO's Interim Compliance Report on Denmark with regard to Fourth Evaluation Round.

[26] With regard to the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions reference is made to the OECD WGB Phase 1 Report on Denmark. With regard to the Council of Europe Criminal Law Convention on Corruption (ETS no. 173) reference is made to reference is made to GRECO's Third Evaluation Report on Denmark. With regard to the United Nations Convention Against Corruption reference is also made to UNCAC Country Review Report on Denmark.

[27] Reference is made to page 45 and 46 in the UNCAC Country Review Report on Denmark.

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

Section 57 of the Constitution regulates political immunity for members of the parliament. It states that no member of the Parliament shall be prosecuted or imprisoned in any manner whatsoever without the consent of the Parliament, unless he is taken in flagrante delicto. Outside the Parliament no member shall be held liable for his utterances in the Parliament save by the consent of the Parliament. Further reference is made to GRECO's Fourth Evaluation Report on Denmark, page 8, section 17 and page 18, section 58. Reference is also made to UNCAC Country Review Report on Denmark, page 5, section 53-54 and the publication My Constitutional Act with Explanations by the Parliament, page 31.

As for ministers, they enjoy no political immunities, except for ministers who also are members of the Parliament, in which case section 57 of the Constitution applies (see above). Further reference is made to GRECO's Fifth Evaluation Report on Denmark, page 31, section 87-90.

III. Media pluralism

A. Media regulatory authorities and bodies

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

The Minister of Culture established the Radio and Television Board in 2001. The Board was established in accordance with the Radio and Television Broadcasting Act, and the framework for their activities and duties is set out in the Act. The Minister appoints the members for four years, and reappointments are possible. There are 10 members in total. 8 members are appointed by the Minister including the chair and vice-chair, 1 member is appointed by the Collaboration Forum for Listener and Viewers Organizations and 1 member is appointed by the Association of Judges.

The members of the Board represent an expertise in legal, financial/administrative, business, media/cultural and criminal affairs. The member appointed by the Association of Judges and the member with particularly criminal justice expertise only participates in cases relating to incitement to hatred, promotion of terrorism, etc.

The aim of the Radio and Television Board is to promote the possibilities of quality, versatility and diversity in the broadcasting media by being responsible for licensing and supervision of broadcasters in Denmark. Furthermore the Board is responsible for the supervision of audiovisual on demand services. The Board is represented as the Danish regulator in ERGA. When the revised AVMS-directive is implemented in Denmark, the Board will also be responsible for the supervision of video sharing platforms.

The Board is an independent regulatory authority. The media unit in the Agency for Culture and Palaces is the secretariat of the Radio and Television Board. The secretariat carries out the daily administration of the broadcasting regulation and prepares and implements decisions from the Radio and Television Board.

The decisions of The Radio and Television Board are final and cannot be appealed to the Ministry – only to the courts. The Parliamentary Ombudsman can handle complaints with regard to the case management.

The Board is financed by the state. Each Board member is given a yearly fee, and there are expenses connected to the secretariat. Furthermore the Board has been given additional funding e.g. related to a guidance campaign directed at smaller broadcasters, seminars and meetings with other regulators to share knowledge and exchange best practice.

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

The Minister of Culture appoints the chair of the Radio and Television Board. The chair must have a legal degree.

Dismissal of the head/members of the collegiate body would have to follow the rules of the Administration Act and would be considered as an individual decision according to the law. Prior to the decision of dismissal, a hearing of the member must be made. The decision must be in writing and include an explanation. Furthermore, the member must have the option to file a complaint regarding the decision and appeal it.

B. Transparency of media ownership and government interference

30. The transparent allocation of state advertising (including any rules regulating the matter)

There is no specific allocation of state advertising nor any specific rules on the matter. There is a ban on political advertising in flow tv, but there is not a ban on political advertising on the radio and for on demand services. State advertising should therefore comply with the general rules in the Radio and Television Broadcasting Act and the secondary legislation in connection with the Act. The rules are based on the AVMS-directive.

31. Public information campaigns on rule of law issues (e.g. on judges and prosecutors, journalists, civil society)

The Court Administration runs various campaigns to disseminate public knowledge on the rule of law. As an example, reference can be made to an animation video from 2017 about the Danish legal system, which is available on youtube at www.youtube.com/watch?v=uvpuD60uLdI. In addition, the Court Administration also conducts public campaigns for recruitment purposes with a view to recruiting lay judges every four years. During these campaigns, the Court Administration emphasizes the importance of the rule of law[28]. Finally, the Court Administration regularly carries

[28] Available in Danish on youtube at www.youtube.com/watch?v=3jLwPHTQgIg, www.youtube.com/watch?v=RE2BtwG3lGc,www.youtube.com/watch?v=097LA3BKKms, www.youtube.com/watch?v=Q5Bk_BuAPIo.

out information campaigns targeting journalists with the purpose of raising the standard of journalistic coverage[29].

As for initiatives regarding freedom of speech, a Commission on Freedom of Expression was established in the winter of 2017/2018. The purpose of the Commission is to assess the framework and general conditions for the freedom of expression in Denmark. The purpose of the work of the Commission is to give way for broad political discussions regarding the status of freedom of expression in the Danish society. The Commission delivered its report in April 2020.

As for generally raising human rights awareness among public officials and other professionals, reference is made to the common core document on Denmark, page 42, section 202. Furthermore, the Parliament has published several publications regarding the Danish democracy, e.g. the publication "My Constitutional Act with explanations"[30].

32. Rules governing transparency of media ownership

Transparency of media ownership is not regulated directly in the media law. Instead transparency of ownership is regulated generally by the beneficial ownership act (the BO act)[31]. The laws that were amended by the BO Act shall ensure that corporate and other legal entities are required to obtain and hold adequate, accurate and current information on their beneficial ownership, including the details of the beneficial interests held.

C. Framework for journalists' protection

33. Rules and practices guaranteeing journalist's independence and safety and protecting journalistic and other media activity from interference by state authorities

The overall framework for the protection of the freedom of expression is found in section 77 in the Constitution. The section reads as follows:

> *"Any person shall be at liberty to publish his ideas in print, in writing, and in speech, subject to his being held responsible in a court of law. Censorship and other preventive measures shall never again be introduced."*

[29] On the Danish website https://www.retgodtatvide.dk/journalists can get useful information about the courts and look up specific terms.
[30] See https://www.ft.dk/-/media/pdf/publikationer/english/my_constitutional_act_with_explanations.ashx.
[31] The laws that were amended by the BO Act include: 1) The Companies Act, 2) The Certain Commercial Undertakings Act, 3) The Commercial Foundations Act, 4) The Act on the European Company (the SE Act), 5) The Act on a European Cooperative Society (the SCE Act), 6) The Act on the administration of EEC Regulations on the implementation of European Economic Interest Grouping (EEIG), 7) The Financial Business Act, 8) The Company Pension Funds Act, 9) The Alternative Investment Fund Managers etc. Act, 10) The Investments Associations etc. Act, 11) The Central Business Register Act, and 12) The Act on Foundations and Certain Associations.

Section 77 covers "any person" who resides in Denmark, including foreigners. "Any person" is interpreted broadly and covers everyone irrespective of their education, including journalists.

Furthermore, the freedom of expression is protected in Article 10 of the European Convention on Human Rights (ECHR) and in Article 11 of the Charter of Fundamental Rights of the European Union, both of which Denmark is legally obliged to follow. According to well-established case law from the European Court of Human Rights, journalists and the media enjoy an expanded right to freedom of expression due to their vital function in society. However, it follows from ECHR Article 10(2) that freedom of expression can be limited due to certain interests.

A number of Acts regulate the freedom of expression, including its limitations in specific areas of law. For example, hate speech is criminalized in section 266 (b), defamatory statements are criminalized in section 267, and disclosure of communications or pictures concerning the private affairs of another is criminalized in section 264 d of the Criminal Code.

Journalists and the media are – just like all other persons – obliged to comply with Danish legislation when carrying out their work. This includes the Criminal Code. 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.[32].

There is a long tradition of freedom of expression and freedom of press in Denmark, which ensures that the media can spread information to 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. Even though two of the largest Danish news companies, DR (Danish Broadcasting Corporation, a radio and television public broadcasting company) and TV2 (a public service channel operated on a commercial basis) are owned by the Danish state, this does not affect their level of independence. An arm's length principle is in place ensuring their continued independence.

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[32] See as an example the Supreme Court's ruling of 28 October 1994 (U.1994.988H), where a journalist was accused of invasion of privacy according to section 264 in the Criminal Code by following demonstrators' entry in a minister's private garden. The Supreme Court found, that the balancing between two conflicting interests (the right to freedom of expression versus the right to privacy) led to, that the interest of dissemination of news had to be ascribed to such an importance, that the journalist's presence in the garden could not be considered as unjustified, and the journalist was exempt from punishment Furthermore, the Supreme Court in its ruling referred to the case law of European Court of Human Rights , more specifically the Jersild Case. See Jersild v. Denmark (judgement of 23th September 1994) available at https://hudoc.echr.coe.int/eng#{"fulltext":["jersild"],"documentcollectionid2":["GRANDCHAMBER","CHAMBER"],"itemid":["001-57891"]}. ECHR has in its case law acknowledged that journalists' violation of national legislation due to research for stories of interest to society can be covered by article 10 in the convention. See Mikkelsen and Christensen v. Denmark (judgement of 24 May 2011) available at https://menneskeret.dk/sites/menneskeret.dk/files/2011-05-24_22918.08_mikkelsen_and_christensen_v._denmark.pdf.

In Denmark, the Media Liability Act (medieansvarsloven)[33] stipulates the norms for the exertion of mass media. The main purpose of the Media Liability Act is to secure the freedom of expression and the freedom of information. The Act sets out a system of liability with regard to media content. The Act applies to domestic periodical publications, including images and other representations that are printed or in any other manner duplicated, national radio and television services and texts, images and sound programs that are periodically imparted to the public, provided that they have the form of news presentation. By decision of September 2013, the Press Council stated that posts on professional blog sites are a common part of the media in question and that such blog posts must therefore meet the general press ethical requirements made for media content. Posts on professional blogs must consequently comply with the Media Liability Act. Online media shall be registered with the Press Council in order to fall within the provisions of the Act. Online media receiving subsidies for editorial production or individual projects under the Act on Media Subsidies fall within the Act, whether or not they are registered with the Press Council.

The Act stipulates that the content and conduct of the media shall be in accordance with sound press ethics under section 34(1) of the Media Liability Act. The Press Council determines whether the conduct of the media is contrary to sound press ethics. Its decision is based on the Advisory Rules of Sound Press Ethics, which were part of the Media Liability Bill of 1991. However, the "sound press ethics" standard keeps pace with developments in determination of what is unethical, and adopts standpoints on new situations that arise.

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

The Police are very vigilant in ensuring the safety of journalists, debaters, politicians and other opinion makers in the community. If the safety of this group of individuals is considered to be under threat, based on a specific assessment, the necessary safeguards will be undertaken and criminal offenses will be investigated. Necessary safeguards could include increased police patrols or an increased police presence at specific events to ensure the safety of the concerned group or individual, as well as other similar measures depending on the specific circumstances. Cases of attack – both physical and verbal – committed against journalists as a result of their profession will as a general rule be investigated in departments dealing with offenses against the person as said departments hold an insight into the handling of cases of crime related to the work of the aggrieved person as a journalist, debater, etc. During an investigation, the departments will examine whether any aggravating circumstances exist.

35. Access to information and public documents

The rules on public access to information and documents are laid down in the Access to Public Administration Files Act, which applies to all public administration bodies, including all ministries.

[33] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2014/914.

Section 7 of the Act states that anyone can request the disclosure of the documents entered into or created by a public administration body as part of its administrative procedures in connection with its activities as an authority. This access, however, is limited with regards to some types of cases, documents or information, inter alia, internal working documents of authorities or documents which are being exchanged at a time when a minister needs the advice and counsel of his staff. These limitations are stated in section 19 to 33 and section 35 of the Act.

Anyone has the right of access to information on the factual basis of a case to the extent that the information is relevant to the determination of the case. The same applies to information on external professional assessments made in documents. Also, internal professional assessments will as a rule be disclosed in regard to proposed bills or published political initiatives.

Public authorities, processing a request for access to documents, must consider whether access can be granted to documents and information to a greater extent than required under the rules of the Act. Additional access may be granted unless it would be contrary to other legislation, including rules on confidentiality and rules of the Act on the Processing of Personal Data (databeskyttelsesloven)[34].

Further, the Ministry of Justice issued substantial guidelines to the Access to Public Administration Files Act. Lastly, the Ministry of Justice provides general advice to public authorities and others regarding interpretation of the Access to Public Administration Files Act. Furthermore, reference is made the Danish contribution to the guide of good practices, page 11, section 14 ff.

36. Other - please specify

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IV. Other institutional issues related to checks and balances

A. The process for preparing and enacting laws

37. Stakeholders'/public consultations (particularly consultation of judiciary on judicial reforms), transparency of the legislative process, 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 part of the preparatory work on future legislation, the responsible ministry normally carries out a public consultation on a bill. To this end, before submission of draft legislation to the Parliament (the Folketing), the bill in question (together with the consultation deadlines and list of authorities, organisations and other parties included in the consultation procedure) is made public via a digital public consultation forum (Høringsportalen)[35] and sometimes via newsletters and/or on the website of the relevant ministry. At the same time, the bill is sent out for external consultation to a range

[34] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2018/502.
[35] See the Danish website https://hoeringsportalen.dk/.

of authorities and organisations, believed to have a particular interest in the subject matter of the bill.

After the conclusion of the public consultation on a bill, before passing the bill to the Parliament, the responsible ministry forwards a revised and final bill to the Ministry of Justice, The Law Quality Division, which conducts a technical legislative review, including ensuring that the proposed legislation is in conformity with human rights obligations. Reference is made to the common core document on Denmark, page 33, section 134 and section 146.

When passing a bill to the Parliament, the responsible ministry normally submits the comments received during public consultation to the relevant standing committee with its views to these comments outlined in an explanatory memorandum. If draft legislation – either in full or partly – is the result of considerations in a legislative committee or similar arrangement or is the result of inquiries of private institutions or of a public debate, the views expressed in these should be outlined in the explanatory memorandum to the bill. This is also to be done if the subject of a bill has previously been discussed in the Parliament (e.g. in connection with a proposal for a parliamentary resolution or report from a committee). Adoption of amendments of the Constitution of Denmark is regulated by the Constitution. Reference is made to the common core document on Denmark, page 17, section 57.

As for the Parliament's reading of bills, the Constitution and the Standing Orders of the Parliament[36] entails rules for the Parliaments consideration of a bill, including a number of time limits for the legislative work.

It follows from section 41(2) of the Constitution that a bill shall be read three times in the Parliament before it can be adopted in order to ensure sufficient time for consideration of a bill[37]. The Constitution does not contain specific rules as for the Parliaments three readings of a bill, except for section 41(3) states, that 2/5 of the members of the Parliament can request that the third reading be postponed. This does, however, not apply to all bills, such as Finance Bills, Government Loan Bills, Naturalization Bills, Expropriation Bills, Indirect Taxation Bills, and, in emergencies, Bills the enactment of which cannot be postponed because of the intention of the Act.

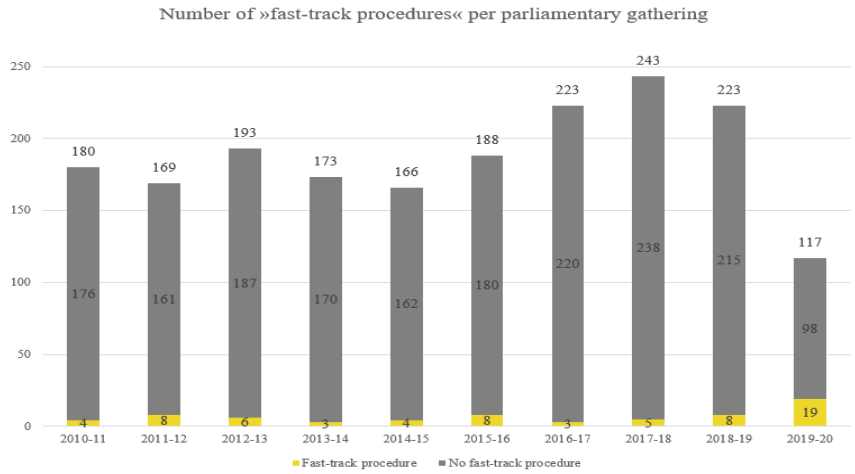
The Standing Orders of the Parliament further regulates the procedure for introduction of bills to the Parliament. The first reading of a bill may at the earliest take place 2 days after and should not take place before 5 days after the bill has been published on one of the Parliaments homepages, cf. section 11 of the Standing Orders of the Parliament. The second reading of a bill must at the earliest take place, two days after the first reading is finished, cf. section 12(1) of the Standing Orders of the Parliament. As for the third reading of the bill, it shall not be adopted until 30 days have passed since the bills proposal and before two days after the second reading of the bill has

[36] The Standing Orders of the Parliament is available in English at https://www.ft.dk/-/media/sites/ft/pdf/publikationer/engelske-publikationer-pdf/forretningsorden_engelsk_2018_samlet_web.ashx.

[37] It is noted that there are further rules in the Constitution regarding adoption of amendments of the Constitution.

passed, cf. section 13 of the Standing Orders of the Parliament. Furthermore, if a committee has submitted a report on a bill, the matter shall be debated in the Parliament not earlier than 2 days after the reports publication on one of the Parliament's websites, cf. section 8 a(2) in the Standing Order of the Parliament. Likewise, any proposed amendments during the Parliament's reading of a bill cannot be considered without the amendment has been published on one of the Parliament's websites no later than the previous day, cf. section 18(2) of the Standing Orders of the Parliament.

It is possible in cases of extreme urgency to deviate from the time limits set forth in the Standing Orders of the Parliament, cf. section 42, if at least ¾ of the voting members of the Parliament consent to it.



The above graph illustrates the number of adopted bills during the last 10 years, including bills, of which there has been *less* than 30 days from the bills proposal to its adoption (see yellow marking).[38]

[38] It should be noted that there are no clearly 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 allowed a faster procedure than the usual for adoption. However, a bill must still be read three times in the Parliament before it can be adopted. Furthermore, it is to be noted that, even though a bill has been adopted 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.

Table 3
Percentage of adopted bills by a fast-track procedure from 2010-2020

Year	Percentage
2010-2011	2 %
2011-2012	5 %
2012-2013	3 %
2013-2014	2 %
2014-2015	2 %
2015-2016	4 %
2016-2017	1 %
2017-2018	2 %
2018-2019	4 %
2019-2020	16 %

*It is to be noted, that the bills are indexed according to the sessional year of the Parliament, which runs from the first Tuesday of October until next Tuesday of October. The numbers, of which the graph (see above) and table 3 is based on, are drawn from are of 9 April 2020 and are based on the public numbers on bills available on the Parliament's website. Reservations are made for any possible errors in the calculations.

According to table 3, the last 10 years – except for 2019-2020 – the number of bills adopted *within* 30 days of their proposal has varied from 3 bills to 8 bills. The percentage differs from 1 to 4 pct. of all adopted bills. As for 2019-2020, the current raise in bills adopted within 30 days after their proposal is due to the Covid-19 situation.

38. Regime for constitutional review of laws

According to well-established case law, the courts are competent to review the constitutionality of Acts. Reference is made to the common core document on Denmark, page 34, section 147. The courts' 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. There are several examples in case law where the courts have scrutinized whether an Act was compatible with the Constitution. However, the Supreme Court's decision of 19 February 1999 in the so-called Tvind-case is the only case where the courts have set aside an Act as being incompatible with the Constitution[39].

[39] See U.1999.841H. The Supreme Court ruled in the case, that the act in question settled an actual legal dispute between the Tvind Schools and the Ministry of Education. The act was for that reason found incompatible with the Constitution, as section 3 in the Constitution stipulates that the judiciary have the exclusive power to settle actual legal disputes.

B. Independent authorities

39. Independence, capacity and powers of national human rights institutions, ombudsman institutions and equality bodies

Danish Institute for Human Rights
Since its establishment in 1987, the Danish Institute for Human Rights has undertaken activities relating to human rights, including dissemination of information, both to the public and to professionals.

DIHR is established by law (Act No. 553/2012) with the purpose of promoting and protecting human rights in accordance with the UN Paris Principles. In 2014, DIHR was appointed the national human rights institution of Greenland. The mandate of DIHR thus extends to Denmark and Greenland, but not the Faroe Islands. Since 2001, the institute has been accredited A-Status under the Paris Principles.

DIHR is a self-governing and independent public institution. It is headed by a Board of 13 members, who is appointed in their personal capacity. The Board must ensure that one member is associated with an organisation engaged in areas of importance to ethnic minorities and to equal treatment of women and men, respectively.

DIHR's general duty is to promote and protect human rights in Denmark and abroad in times of peace and during armed conflicts.

DIHR has also been appointed Denmark's National Equality Body in relation to race and ethnicity (since 2003) and in relation to gender (since 2011). Furthermore, DIHR is appointed by the Parliament to promote and monitor the implementation of the CRPD in Denmark. DIHR is obliged to submit an annual report to the Parliament on the activities of the Institution and the development of the human rights situation in Denmark.

Following the ratification of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2004, Denmark designated the Parliamentary Ombudsman as the National Preventive Mechanism (NPM) of Denmark in 2007. The NPM concluded agreements with the DIHR and the Danish Institute Against Torture (DIGNITY) on formal collaboration with civil society organisations in order to strengthen the Ombudsman's monitoring activities.

The Board of Equal Treatment
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 start cases on its own initiative.

The Parliamentary Ombudsman

The institution of the Parliamentary Ombudsman functions as an appeal authority for decisions of administrative law, where it assesses whether the public administration is acting in contravention of the existing legislation or good administrative practice. The Ombudsman Act (ombudsmandsloven) regulates the institution of the Ombudsman[40].

The Ombudsman is organizationally linked to and elected by the Parliament after each general election and when a vacancy occurs. Furthermore, the Parliament may dismiss the Ombudsman, if he no longer enjoys its confidence, cf. section 3 of the Act. The Ombudsman is independent of the Folketing in the discharge of his functions, cf. section 10 of the Act. The activities of the Ombudsman is described in annual reports on his work, which the Ombudsman is obligated to submit to the Folketing, cf. section 11 of the Act. According to section 29 of the Act, the Ombudsman has to inform the Parliamentary Legal Committee, if he deems himself disqualified in relative to a case, cf. section 3 of the Public Administration Act and sections 60 and 61 of the Administration of Justice Act.

The principle rule of the jurisdiction of the Ombudsman is stated in section 7(1) of the Act as "the public administration". Outside the jurisdiction of the Ombudsman falls the Parliament, the Parliamentary Committees, the individual members of the Parliament and the administration of the Parliament and other institutions under the Parliament. Thus, the Ombudsman is precluded from assessment of complaints regarding the individual effect of new legal provision or its general compliance with the constitution, EU regulations or international law. Under section 12 of the Act, the Ombudsman can draw the Parliament's attention to deficiencies in for example existing Acts, but this provision is understood to refer only to matters of a law technical, administrative or legal protection nature. Similarly, the courts of law, court-like bodies and the tribunals that under satisfactory forms settle disputes between private individuals are not covered by the jurisdiction of the Ombudsman, cf. section 7(2) of the Act.

The Ombudsman may investigate a case based on a complaint or on his own initiative, as stated in section 13(1) and section 17(1) of the Act. 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 cf. section 14 of the Act. The Ombudsman shall determine whether a complaint offers sufficient grounds for investigation and has the ability to reject cases, even though they meet the ordinary complaint conditions.

As a general rule, the Ombudsman institution can only state its opinion of the case, cf. section 22 of the Act, typically by criticizing a decision or ask the authority to change or review its decision. The authority is not legally obliged to comply with the Ombudsman's recommendation, but in practice, the authorities follow the Ombudsman's recommendations. Furthermore, reference is made to the common core document on Denmark, page 35, section 152-155.

[40] The Act is available in English at https://en.ombudsmanden.dk/loven/.

C. Accessibility and judicial review of administrative decisions

40. Modalities of publication of administrative decisions and scope of judicial review

With regards to judicial review of administrative decisions, it is possible to bring an administrative decision before the court. The judiciary's control with the administration 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."*

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 has been respected. The court may annul administrative decisions and return the decision to the specific authority (cassation) or replace the administrative decision with a new. However, the courts are generally reluctant when it comes to reviewing the more discretionary powers of the authorities. Reference is made to the common core document on Denmark, page 21 and 34, section 96 and 149.

As for publication of administrative decisions, as a main rule, administrative practice is communicated to the parties of the specific administrative decision. 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.

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

Public Authorities are required to comply and administrate in accordance with applicable law, including such case law that establishes applicable law. In the event that a

practice of the Public Authorities is directly or indirectly dismissed, the public authority must adjust its practice and as a rule resume the administration of cases by its own motion, if it is estimated that the cases will obtain a different outcome

D. The enabling framework for civil society

42. Measures regarding the framework for civil society organisations

Section 79 of the Constitution regulates the access to peaceful assembly. The section reads as follows:

> *"Citizens shall, without previous permission, be at liberty to assemble unarmed. The police shall be entitled to be present at public meetings. Open-air meetings may be prohibited when it is feared that they may constitute a danger to the public peace."*

Pursuant to section 7(1) of the Police Act (politiloven)[41], the police is tasked with protecting the citizens' right to assembly. If the Minister of Justice so decides, public assemblies require previous notification. In this decision, the Minister takes into account a number of factors, including the protection of individuals, public security, prevention of danger or inconvenience to the traffic etc.

The police may interfere with a person's right to assembly if it is deemed necessary, and if an assembly turns into a riot the police is obliged to avert it, see section 8(1) and 9(1) of the Police Act. Thus, the police may detain persons causing a risk of disturbance of the public order or a danger to the safety of individuals or the public security, under section 8(4) and 9(3) of the Police Act. The police is under a general obligation to use the least interfering measures (section 8(3) and 9(2) of the Police Act), and only if these are deemed insufficient to avert the risk or danger, is it possible to make a detention.

Due to the present covid-19 situation, Denmark has established several temporary measures that have required changes to the legislation in order to prevent or contain the spread of COVID-19, inter alia within the Epidemic Act and the Criminal Code. These measures are based on the principle of proportionality and include for instance a temporary ban on events, activities etc. involving more than 10 people, a temporary ban on bars etc. and on dining-in service at restaurants, cafes etc. as well as other situations prone to significantly increase the risk of spreading the coronavirus. The ban on activities gathering more than 10 people does not apply to assemblies with a political or other meaningful purpose. The Government's approach is based on a precautionary principle to control the coronavirus and the pressure on the healthcare system by reducing social contact, maintaining social distancing and increasing the effect of social distancing.

Furthermore, section 78 of the Constitution guarantees freedom of association. The section applies to foreigners as well as Danish citizens. It allows citizens *to form* associations without any prior permission from the authorities (so-called formal freedom of association).

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[41] The Act is available in Danish at https://www.retsinformation.dk/eli/lta/2019/1270.

The section generally protects associations against State interference (the so-called materiel freedom of association), if the association has a lawful purpose. Associations with an unlawful purpose, which is determined by the associations aim and actions, can only be dissolved by a court, cf. section 78(2). The judgement of 24 January 2020 by the City Court of Copenhagen is the first case, where a court has assessed whether an association should be dissolved according to section 78(2). The court dissolved the association by judgement, which however was appealed[42].

Additionally, freedom of assembly and freedom of association are protected in Article 11of the ECHR and Article 12 in the Charter of Fundamental Rights of the European Union.

43. Other - please specify

As for more knowledge about the Parliament and its legislation work, reference is made to the public publications of the Parliament[43].

[42] The court stated, "that freedom of association in both formal and material terms is such an essential element of a democratic society, that there has to be completely clear og systematic incidents of unlawfulness in an association, including completely clear incidents of violence, that originates of an association, before it can be considered to dissolve an association by judgment according to section 78 of the Constitution". The court found, that the purpose of the formation of Loyal to Familia (the association) and its functions based on an overall assessment was to gain control over the illegal and criminal markets, particularly as for sale of cannabis. Furthermore, the court found, that the purpose of the association was by serious violence, including the use of firearms, to create unlawful income to the members of the association.

[43] See several publications in English available at https://www.ft.dk/da/dokumenter/bestil-publikationer/publikationer.

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