

IN-DEPTH ANALYSIS

Requested by the LIBE committee

DRFMG



# **The Situation of Article 2 TEU values in Denmark**

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Policy Department for Citizens' Rights and Constitutional Affairs  
Directorate-General for Internal Policies  
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EN

# The Situation of Article 2 TEU values in Denmark

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## **Abstract**

This briefing, written by the Policy Department for Citizens' Rights and Constitutional Affairs at the request of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs - Democracy, Rule of Law and Fundamental Rights Monitoring Group, examines the situation of Democracy, Rule of Law and Fundamental Rights in Denmark and how the values of Article 2 of the TEU are respected and implemented in the country.

This document was requested by the European Parliament's Committee of Civil Liberties, Justice and Home Affairs - Democracy, Rule of Law and Fundamental Rights Monitoring Group.

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## LIST OF ABBREVIATIONS

<b>CoE</b>	Council of Europe
<b>CRC</b>	Convention on the Rights of the Child
<b>CSO</b>	Civil Society Organisations
<b>DIHR</b>	Danish Institute for Human Rights
<b>DRFMG</b>	Monitoring Group on Democracy, Rule of Law and Fundamental Rights
<b>ECRI</b>	European Commission against Racism and Intolerance
<b>EP</b>	European Parliament
<b>EPPO</b>	European Public Prosecutor
<b>GRECO</b>	Group of States against Corruption of the Council of Europe
<b>LGBTIQ</b>	Lesbian, gay, bisexual, trans, non-binary, intersex and queer
<b>LIBE</b>	Committee on Civil Liberties, Justice and Home Affairs
<b>NAP</b>	National action plan
<b>NAPAR</b>	National action plan against racism
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>OLAF</b>	European Anti-Fraud Office
<b>OSCE</b>	Organization for Security and Co-operation in Europe
<b>RoL</b>	Rule of Law
<b>SCU</b>	National Special Crime Unit
<b>SOGIESC</b>	Sexual orientation, gender identity, gender expression and sex characteristics
<b>SPCU</b>	State Prosecutor for Special Crime

## 1. INTRODUCTION AND BACKGROUND INFORMATION

This briefing examines the situation of **democracy, rule of law (RoL) and fundamental rights in Denmark** and how the **values of Article 2 of the TEU** are respected and implemented in the country - as well as potential shortcomings in these areas. It is primarily based on the Commission Rule of Law report of 2023, the FRA annual report for 2023, documents from national, European and international bodies, NGO reports and media reports.

The briefing is structured around the main pillars of Article 2 of the TEU: democracy, RoL, and fundamental rights. The chapter on RoL covers the topics of the justice system and anti-corruption. The chapter on fundamental rights covers media freedom, equality and fundamental rights in general.

### 1.1. Recommendations from the Commission Rule of Law report 2023

The Commission launched its yearly RoL Report in 2020. It “takes the pulse of the rule of law situation in each Member State and the EU as a whole, detecting and preventing emerging challenges and supporting rule of law reforms”, through *inter alia*, making recommendations to the Member States.<sup>1</sup> While the 2022 RoL report introduced recommendations to Member States to address certain shortcomings, the 2023 report provides an evaluation of the State’s progress concerning the implementation of the 2022 recommendations, before issuing its 2023 recommendations.

In the 2022 Rule of Law report, Denmark received 4 Recommendations.<sup>2</sup> The 2023 RoL report evaluated the progress achieved on these, before issuing 4 more Recommendations.<sup>3</sup>

Recommendation on adequate resources for the justice system

Recommendation 1 RoL report DK 2022	Ensure adequate human and financial <b>resources for the justice system</b> in the next multiannual framework, taking into account European standards on resources for the justice system
Evaluation RoL report 2022	<b>Some progress</b> in ensuring adequate human and financial <b>resources for the justice system</b> in the next multiannual framework
Recommendation 1 RoL report DK 2022	Ensure adequate human and financial <b>resources for the justice system</b> in the next multiannual framework, building on the increases in 2023, taking into account European standards on resources for the justice system.

Recommendation 2022 on political party financing

Recommendation 2 RoL report DK 2022	Adopt new legislation on <b>political party financing</b> that will address the issue of multiple and anonymous donations and introduce sanctions for breaching the rules on the political parties framework
Evaluation RoL report 2022	<b>Some progress</b> in adopting new legislation on <b>political party financing</b> that will address the issue of multiple and anonymous donations and introduce sanctions for breaching the rules on the political parties framework
RoL DK 2023	(No recommendation on the matter)

<sup>1</sup> The Commission 2023 Rule of Law Report, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52023DC0800>.

<sup>2</sup> The Commission 2022 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2022-07/14\\_1\\_193981\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2022-07/14_1_193981_coun_chap_denmark_en.pdf), p. 2.

<sup>3</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf).

## Recommendation 2023 on corruption data collection

Recommendation report DK 2022	RoL	(no recommendation on this matter)
Evaluation 2022	RoL report	(no recommendation on this matter)
New Recommendation RoL DK 2023	3	Ensure the <b>collection of data</b> on investigations and prosecutions of <b>corruption-related offences</b> at national and local level.

## Recommendation on integrity

Recommendation report DK 2022	3 RoL	Introduce rules on ' <b>revolving doors</b> ' for ministers and on <b>lobbying</b> , and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions
Evaluation 2022	RoL report	<b>No progress</b> on introducing rules on ' <b>revolving doors</b> ' for ministers and on <b>lobbying</b> , and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions
Recommendation report DK 2023	2 RoL	Introduce rules on ' <b>revolving doors</b> ' for ministers and on <b>lobbying</b> , and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions

## Recommendation on access to documents

Recommendation report DK 2022	4 RoL	Continue the process geared at reforming the <b>Access to Public Administrative Documents Act</b> in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents
Evaluation 2022	RoL report	<b>No further progress</b> on the process to reform the <b>Access to Public Administrative Documents Act</b> in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents
Recommendation report DK 2023	4 RoL	Advance with the process to <b>reform the Access to Public Administrative Documents Act</b> in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents

As it can be noted, in the **2023** report, the Commission concluded that **some progress was made on recommendations one (1) and two (2), whilst no progress was made on recommendations three (3) and four (4).** Given the mediocre results in the implementation of the recommendations, three of them were substantially kept for 2023: recommendations one (1), two (2) and four (4) of the 2023 report are essentially the same as the recommendations made in the 2022 report, with the addition of recommendation three (3) on collection of data in corruption-related procedures. Surprisingly, the 2022 recommendation on political party financing was dropped, notwithstanding the "some progress" evaluation (which raises doubts in terms of Commission methodology in relation to the evaluation of progress and related selection of the recommendations proposed).

## 2. DEMOCRACY

### 2.1. Main institutions

Denmark's population is about 5.8 million. The Danish form of government is a **parliamentary democracy**. It has a unicameral parliament (*Folketing*), where both members of parliament and the Government can propose legislation. In general, the Government proposes draft bills.<sup>4</sup> The **parliament is made up of 179 members**. It is elected for four years, but may be dissolved before the end of a term. The Danish electoral system applies proportional representation based on universal direct suffrage for those over the age of 18. The monarch, King Frederik X, is the Head of State, but only has a ceremonial role. The **government is headed by the Prime Minister**, who is responsible to the parliament.<sup>5</sup>

The **latest parliamentary election was held in November 2022** (and the next one is expected to take place in November 2026) and led to a coalition government headed by the Social Democratic **Mette Frederiksen as Prime Minister**. The Social Democrats (50 seats), the Liberal Party (23 seats) and the Moderates (16 seats) form the coalition (89). The other main political parties are in opposition: the Socialist People's Party (15 seats), the Denmark Democrats (14 seats), the Liberal Alliance (14 seats), the Conservative People's Party (10 seats), the Red-Green Alliance (9 seats), the Social Liberal Party (7 seats), the New Right (6 seats), the Alternative (6 seats), and the Danish People's Party (5 seats).<sup>6</sup>

Denmark has a tradition of minority Governments and **safeguards for the opposition** exist. In general, a **strong consensual culture** underpins the working procedures of the Danish Parliament. The use of fast-track procedures is limited and sunset clauses are used. In addition, in October 2022, the previous Government announced an Agreement to strengthen Parliament's scrutiny of the Government and focus on trust in the political, which also included the setting up of a Democracy Committee. The new Government has committed to follow up this agreement.<sup>7</sup>

**Freedom House** rates Denmark as a free country with a robust democracy with high scores of 97/100 and 4th in the global ranking (together with other countries).<sup>8</sup>

Denmark has consistently ranked **very high** in the **IDEA** Global State of Democracy (GSoD) Indices, covering the areas of representation, rights, participation and RoL at levels of around 0.9/1 or more since their measurements started in 1975, with some exceptions. Most notably, Denmark's scores on Rule of law dropped from 0.99 to around 0.86 in 2020–2021, but is almost back to its previous level as of 2022.<sup>9</sup>

The World Justice Project rates Denmark **first** in the world in its **World Rule of Law index 2023**.<sup>10</sup>

<sup>4</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 16–17.

<sup>5</sup> Economist Intelligence Unit, One-click report: Denmark, last updated May 25 2023, <https://viewpoint.eiu.com/analysis/geography/XG/DK/reports/one-click-report>.

<sup>6</sup> The Danish Parliament, Results of the Danish General Election 2022 <https://www.thedanishparliament.dk/en/news/2022/11/election-result-2022>.

<sup>7</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 16–17.

<sup>8</sup> Freedom House, Freedom in the World 2023 – Denmark, <https://freedomhouse.org/country/denmark/freedom-world/2023>.

<sup>9</sup> IDEA, Global State of Democracy – Denmark, last visited 26 July 2023, <https://idea.int/democracytracker/country/denmark#qsod-indices>.

<sup>10</sup> World Justice Project - World Rule of Law Index, <https://worldjusticeproject.org/rule-of-law-index/global/2023/Denmark/>.



## 2.2. Checks and balances

The **Danish Institute for Human Rights (DIHR)** monitors the respect of fundamental rights in Denmark, and the **Parliamentary Ombudsperson** provides oversight on decisions by public authorities. The Commission concludes that these bodies have been able to carry out their mission with adequate resources, independently. Most complaints received by the Ombudsman in 2022 concerned social benefits and social services, children and family matters, environment and constructions, and access to public documents. The DIHR have not experienced refusals to cooperate by public authorities, and its recommendations are followed up.<sup>11</sup>

## 2.3. Civil society

The Commission concludes that **the civic space in Denmark remains open**, as evaluated by CIVICUS, and has a robust framework and mechanisms for involvement of civil society organizations and (CSOs) and for public consultations. The operating space for CSOs is considered **safe**.

However, the DIHR has observed risks with **advanced surveillance technologies** used for police investigations or for intelligence services. In addition, some CSOs have experienced **administrative obstacles** in accessing financial services.<sup>12</sup>

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<sup>11</sup> The Commission 2023 Rule of Law Report, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 16–18.

<sup>12</sup> The Commission 2023 Rule of Law Report, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 18.

### 3. RULE OF LAW

#### 3.1. Justice system

##### 3.1.1. Court system and judicial independence

The judiciary in Denmark is made up of **24 district courts, two specialised courts<sup>13</sup>, the courts of the Faroe Islands and Greenland, two high courts (courts of appeal) and a Supreme Court.**<sup>14</sup> There is **no Constitutional Court**, but all courts are able to make an ex-post constitutionality review in concrete cases. The **National Court Administration** is an independent body that is in charge of the administration and development of the courts. This includes, budget allocation, management of buildings as well as information and communication technology systems.<sup>15</sup> The Ministry of Justice supervises the autonomous prosecution service, which is led by a **Prosecutor General**. The awareness of a **rule of law culture** is actively being promoted across Denmark.<sup>16</sup>

**Judges are appointed through non-binding proposals** (one per vacancy) made by the independent **Judicial Appointments Council** to the Minister of Justice and the King. The executive follows the proposal by the Appointments Council, with no exceptions this far. Court Presidents and the Special Court of Indictment and Revision can issue disciplinary measures for judges. According to the EU Justice Scoreboard 2023<sup>17</sup>, less than 25 % of judges in top positions are women, ranking Denmark in the bottom 5 EU Member States in this matter. The legal profession is governed by the Bar and Law Society, an independent body which ensures the profession's independence.<sup>18</sup>

Both the Commission RoL report and the FRA report of 2023 conclude, based on data from Eurobarometer<sup>19</sup>, that the **level of perceived judicial independence continues to be particularly high** among both companies and the general public in Denmark.<sup>20</sup> In general, 85 % of companies and 86 % of the general population perceived the level of independence of courts and judges to be "fairly or very good" in 2023. This data has remained steady around 85 % since at least 2016, which makes Denmark one of the highest scoring Member States in this field.<sup>21</sup>

##### 3.1.2. Quality: digitalisation, resources, efficiency

- In 2022, the Commission noted some shortcomings when it comes to digitalisation in the Danish justice system. The multi-year project for an IT system to process criminal and probate cases is still under development, as already noted in the 2022 report. It will be rolled out in successive phases by

<sup>13</sup> The Maritime and Commercial Court and the Land Registration Court.

<sup>14</sup> Denmark's Courts, The Danish Judicial System, <https://domstol.dk/om-os/english/the-danish-judicial-system/>.

<sup>15</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 3.

<sup>16</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 19.

<sup>17</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-06/Justice%20Scoreboard%202023\\_0.pdf](https://commission.europa.eu/system/files/2023-06/Justice%20Scoreboard%202023_0.pdf), figure 36.

<sup>18</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 3.

<sup>19</sup> The Commission refers to the EU Justice Scoreboard, which in turn refers to data from Eurobarometer.

<sup>20</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 3; FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 238.

<sup>21</sup> EU Justice Scoreboard 2023 [https://commission.europa.eu/system/files/2023-06/Justice%20Scoreboard%202023\\_0.pdf](https://commission.europa.eu/system/files/2023-06/Justice%20Scoreboard%202023_0.pdf); Eurobarometer 2023 <https://europa.eu/eurobarometer/surveys/detail/2973>; Eurobarometer 2022 <https://europa.eu/eurobarometer/surveys/detail/2752>.

2026. Other improvements in this area have been made, especially in the field of civil proceedings, where procedural rules for digital tools are fully in place. Digital tools for administrative and criminal proceedings remain limited.<sup>22</sup>

- Ensuring **adequate human and financial resources for the justice system** is an ongoing issue in Denmark, and the Commission recommendation of the DK RoL report of 2022 on the matter is kept also in the RoL report of 2023:

Recommendation 1 RoL report DK 2022	Ensure adequate human and financial <b>resources for the justice system</b> in the next multiannual framework, taking into account European standards on resources for the justice system
Evaluation RoL report DK 2022	<b>Some progress</b> in ensuring adequate human and financial <b>resources for the justice system</b> in the next multiannual framework
Recommendation 1 RoL report DK 2022	Ensure adequate human and financial <b>resources for the justice system</b> in the next multiannual framework, building on the increases in 2023, taking into account European standards on resources for the justice system.

Since 2022, **some progress** took place to remedy this and the Government made an **ad hoc financial allocation for 2023** to combat the backlog of cases until the adoption of a new multiannual framework, still the impact of the resources' issue on the length of the proceedings remains a concern for the Commission. Since the last report, the Danish courts have experienced an **increase of pending cases (thus remaining at very high levels) and case processing times**, especially for civil and criminal cases, but also for commercial, administrative and other cases at first instance. It is estimated that the time needed to resolve litigious civil and commercial cases at first instance has increased to 238 days in 2021, as compared to 190 days in 2020. This is seen as a knock-on effect from the increased processing times in criminal cases. At the same time, the expenditure on the justice system and the number of judges remains very low, respectively at 0.16 % of GDP and 6.6 judges per 100 000 inhabitants (the second-lowest number of judges compared to other Member States). The preparatory work to facilitate a **political agreement on human and financial resources in the next multiannual framework for justice systems is ongoing**.<sup>23</sup>

- The Government has introduced a **new prioritisation model of criminal cases**, aimed at a more uniform prioritisation. The previous "VVV"-prioritisation (violence, weapons and rape), which Danish courts applied, have been replaced with a prioritisation of "PFK-cases" (harm to individuals, with a wider scope than VVV-cases). As noted in the 2022 RoL report, legislative initiatives to streamline and avoid delays in the handling of criminal cases has been proposed and adopted. However, some stakeholders have expressed concern that initiatives aimed at shortening court case processing times should not deteriorate the rule of law in the justice system.<sup>24</sup>

- The Commission noted in the 2021 RoL Report, that a pre-legislative committee had been set up in 2020 in response to a number of studies by stakeholders highlighting **weaknesses in the functioning of the legal aid system**. Its work was put on hold in March 2023, after the election held in November

<sup>22</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 4.

<sup>23</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 4–7.

<sup>24</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 8.

2022. The current plan seems to be that the committee's work will be reviewed and continued once an agreement on the multiannual financial framework for the judiciary has been finalised.<sup>25</sup>

- Concerning the implementation of European Court of Human Rights (ECtHR) rulings, the Commission states that:

On 1 January 2023, Denmark had **three leading judgments of the European Court of Human Rights pending implementation**, the same number as the previous. At that time, Denmark's rate of leading judgments from the past 10 years that remained pending was at 60% (the same as the previous year) and the average time that the judgments had been pending implementation was 1 year and 6 months (compared to 6 months in 2022). On 15 June 2023, the number of leading judgments pending implementation **remains three**.<sup>26</sup>

### 3.2. Anti-corruption framework

- **Denmark is perceived as one of the least corrupt countries in the world** and ranks 1st in the EU and globally in the 2022 Corruption Perceptions Index by Transparency International, scoring at 90/100 and remaining at a relatively stable level over the past five years.<sup>27</sup> In general, the perceived level of corruption remains low in comparison to EU average, according to the 2023 Special Eurobarometer on Corruption. For example, only 21 % of respondents in Denmark (with an EU average of 70 %) consider corruption widespread in their country (the second lowest percentage among the EU Member States).<sup>28</sup>

- The **anti-corruption strategic and institutional framework** in Denmark is largely **based on general rules on ethics and integrity as well as social norms and public scrutiny**, with various authorities involved, including the National Audit Office, the Special Crime Unit and the State Prosecutor for Special Crime. Concerning the promotion of integrity among civil servants and ministers, the Prime Minister's Office and the Employee and Competence Agency have responsibilities. The cooperation between national authorities in elaborating anti-corruption measures is ensured by the Ministry of Justice. Danish authorities consider that the existing system, based on *inter alia* general rules on ethics and integrity, is **well functioning**. Thus, **Denmark does not have a dedicated anti-corruption strategy, nor an agency dealing with issues on anti-corruption**. Instead, any such activities are carried out through *ad hoc* written consultations. The new Government has made political commitments to transparency, but no specific steps have been taken thus far.<sup>29</sup>

- Since January 2022, there is a **National Special Crime Unit (SCU)**, with prosecution and investigative powers for complex corruption-related cases, supervised by the **State Prosecutor for Special Crime (SPSCU)**, among others. The Commission reports that the reform creating these two bodies is perceived to have been successfully implemented. The placement of the fight against financial and

<sup>25</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 6–7.

<sup>26</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 19.

<sup>27</sup> Transparency International, Corruption Perceptions Index 2022, [https://images.transparencycdn.org/images/Report\\_CPI2022\\_English.pdf](https://images.transparencycdn.org/images/Report_CPI2022_English.pdf), pp. 2–3.

<sup>28</sup> Eurobarometer, Citizens' attitudes towards corruption in the EU in 2023, <https://europa.eu/eurobarometer/surveys/detail/2968>.

<sup>29</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 8–9.

economic crimes to structurally closer services competent to fight organised crime has been welcomed by law enforcement.<sup>30</sup>

- The Commission finds that the **general reporting on the handling of offences related to corruption is still lacking**. Concerns have been raised about the lack of a reporting mechanism and lack of overall statistics, which makes it hard to assess the efficacy of the repressive system. Cases of bribery are the only collected statistics in this area. In general, there is no data specifically collected of corruption-related cases handled at local level. At the same time, Danish authorities stress that cases related to corruption have remained rare over time. However, the National Audit Office claims that ineffective systems of control and lack of transparency potentially could have caused the risks and challenges related to corruption.<sup>31</sup> For this reason, the Commission inserted a new Recommendation on the matter, number 3 of the RoL report 2023:

Recommendation RoL report DK 2022	(no recommendation on this matter)
Evaluation RoL DK report 2022	(no recommendation on this matter)
New Recommendation 3 RoL DK 2023	Ensure the <b>collection of data</b> on investigations and prosecutions of <b>corruption-related offences</b> at national and local level.

- The Commission notes that **OECD**<sup>32</sup>, **Transparency International**<sup>33</sup> and **GRECO**<sup>34</sup> have raised concerns about **foreign bribery cases being insufficiently investigated and prosecuted**. OECD underlines that there is a lack of proactive assessment of foreign bribery allegations, and that law enforcement is not using its full range of investigative techniques available to it. In addition, the framework on **corporate liability** is criticised for not being comprehensively applied. Denmark's capacity to handle cases of bribery, through confiscation and pursuit of foreign bribery-related money laundering is negatively affected by the fact that no financial investigations are made in bribery cases. The issue of lack of resources for enforcement bodies is present in this area as well. According to OECD<sup>35</sup>, it is not clear whether sanctions on foreign bribery are effective, proportionate and dissuasive. Furthermore, Denmark has yet to address **GRECO's** recommendations in relation to the legislative framework and the issue of "undue advantages".<sup>36</sup>

- In 2022, the Commission recommended Denmark to adopt new legislation on **political party financing**. In the 2023 RoL Report, the Commission finds that **some progress** has been made on this subject since new legislation on public political party financing has been adopted, and that preparations of new legislation on private political party financing have started.

<sup>30</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 8–10.

<sup>31</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 10.

<sup>32</sup> OECD (2023) Working Group on Bribery, Phase 4 evaluation of Denmark, <https://www.oecd.org/daf/anti-bribery/denmark-phase-4-report.pdf>, p. 4.

<sup>33</sup> Transparency International, Exporting Corruption 2022 Report, [https://images.transparencycdn.org/images/2022\\_Report-Full\\_Exporting-Corruption\\_EN.pdf](https://images.transparencycdn.org/images/2022_Report-Full_Exporting-Corruption_EN.pdf)

<sup>34</sup> GRECO Third Evaluation Round – Addendum to the second compliance report on Denmark 2022, <https://rm.coe.int/third-evaluation-round-second-addendum-to-the-second-compliance-report/1680a8353f>, p. 4.

<sup>35</sup> OECD (2023), Implementing the OECD Anti-Bribery Convention Phase 4 Report: Denmark, <https://www.oecd.org/daf/anti-bribery/denmark-phase-4-report.pdf>, p. 11.

<sup>36</sup> The Commission 2023 Rule of Law Report, Denmark [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p.11.

Recommendation 2 RoL report DK 2022	Adopt new legislation on <b>political party financing</b> that will address the issue of multiple and anonymous donations and introduce sanctions for breaching the rules on the political parties framework
Evaluation RoL report DK 2022	<b>Some progress</b> in adopting new legislation on <b>political party financing</b> that will address the issue of multiple and anonymous donations and introduce sanctions for breaching the rules on the political parties framework
RoL DK 2023	(No recommendation on the matter)

The new law on public financing will enter into force in January 2024 and aims to introduce criminal sanctions for political parties that omit to submit their annual accounts and to ensure that public party funding only goes to political parties who were, or almost were, elected. The scope of the initiative on private financing has yet to be determined. The area of private financing has been highlighted as a priority area by GRECO<sup>37</sup>, OSCE<sup>38</sup> and in the 2022 RoL Report.<sup>39</sup>

- Another issue addressed in the 2022 RoL was the **lack of legislation on “revolving doors”** for ministers and on lobbying. The Commission concludes that no progress has been made in this area in the 2023 RoL Report, as **no specific actions** to address this issue have been made by Denmark.

Recommendation 3 RoL report DK 2022	Introduce rules on ‘ <b>revolving doors</b> ’ for ministers and on <b>lobbying</b> , and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions
Evaluation RoL report DK 2022	<b>No progress</b> on introducing rules on ‘ <b>revolving doors</b> ’ for ministers and on <b>lobbying</b> , and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions
Recommendation 2 RoL report DK 2023	Introduce rules on ‘ <b>revolving doors</b> ’ for ministers and on <b>lobbying</b> , and ensure adequate control of asset declarations submitted by persons entrusted with top executive functions

**Transparency International** shares **GRECO’s** view that integrity risks are inadequately addressed by the current framework, and GRECO has issued various recommendations to Denmark over the years to address the lack of **legislation on lobbying and revolving doors, as well as improve the integrity for ministers and top executive functions (see Annexes).**<sup>40</sup> Also, the **OECD** indicators of accountability of public policy making remain very low (score 1 out of 9). The Commission highlights that no monitoring and verification system is in place for integrity risks, but Danish authorities consider that the system works well.<sup>41</sup>

- On **whistle-blowers**, a new system on the protection of whistle-blowers (the Whistleblower Act) **is in force** since June 2021, together with guidelines to support its implementation. Danish authorities report that a need for awareness raising is noted, and that the number of complaints to the Data Protection Authority is not high.<sup>42</sup>

<sup>37</sup> GRECO Third Evaluation Round – Addendum to the second compliance report on Denmark 2022, <https://rm.coe.int/third-evaluation-round-second-addendum-to-the-second-compliance-report/1680a8353f>.

<sup>38</sup> Office for Democratic Institutions and Human Rights (2023), Denmark Early General Elections, 1 November 2022, ODIHR Election Expert Team Final Report, <https://www.osce.org/files/f/documents/6/e/541356.pdf>, p. 17.

<sup>39</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p.12.

<sup>40</sup> GRECO Fifth Evaluation Round – Compliance Report 2021, <https://rm.coe.int/fifth-round-compliance-report-on-denmark-as-adopted-at-the-88th-plenar/1680a4e052>, pp. 7–10.

<sup>41</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp.12–13.

<sup>42</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 13.



## 4. FUNDAMENTAL RIGHTS

### 4.1. Media freedom and pluralism, freedom of expression and information

- The Danish Constitution protects the freedom of expression, while the laws regulate the tasks, organisational structure, and rules of procedures of the Danish Radio and Television Board, the national media regulatory authority. Laws also safeguard the independence of public service broadcasters. There are no special laws on, *inter alia*, media concentration, transparency of media ownership, editorial independence and allocation of state advertising.

- The 2023 Media Pluralism Monitor identifies **low risks** in relation to the indicators Fundamental Protection (14% - low risk), Political Independence (31% - low risk) and Social Inclusiveness (31% - low risk) and **medium risk** for Market Plurality (59% - medium risk), due to its sub-indicators Plurality of Media Providers (96%) and Plurality in Digital Markets (72%) at high risk due to the lack of rules to prevent concentration. The **independence** of the public service media and of the Danish Radio and Television Board is evaluated at low risk and stable.<sup>43</sup> The State cannot interfere with the programme service or administrative and financial management of the Danish public service media, as it is organised as independent media undertakings.<sup>44</sup>

- **RSF** (Reporters without Borders) ranks Denmark **third in its index on media freedom** (it was second in 2022). RSF reports about police and defence intelligence agencies attempting in late 2021 to intimidate journalists and to threaten the secrecy of their sources and warned the media against publishing classified information related to national security under the threat of prison sentences. Revelations of sexism inside the Danish media prompted them to take measures to better protect female journalists, change the newsroom culture and implement a new code of conduct.<sup>45</sup>

- The existing media self-regulatory system continues to be **assessed** in view of possible future updates, and the **ethical rules for the press** are under review. Under the current system, content and conduct of mass media is to be in accordance with "sound press ethics", whilst relevant complaints can be made at the **Press Council**. The aim of the revision is to adapt to technological developments and create more openness about the working methods of editorial media. The future role of the Danish Press Council is also being examined by the Danish authorities.<sup>46</sup>

- The Access to Public Administrative Documents Act of 2014 regulates access to documents<sup>47</sup> and the 2022 RoL Report included recommendations for Denmark to "continue the process geared at **reforming the Access to Public Administrative Documents Act** in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents". However, no further progress has

<sup>43</sup> EUI, Center for Media Pluralism and Media Freedom, 2023 Media Pluralism Monitor, Country report for Denmark, [https://cadmus.eui.eu/bitstream/handle/1814/75719/Denmark\\_results\\_mpm\\_2023\\_cmpf.pdf?sequence=1&isAllowed=y](https://cadmus.eui.eu/bitstream/handle/1814/75719/Denmark_results_mpm_2023_cmpf.pdf?sequence=1&isAllowed=y), pp. 12, 16 and 22.

<sup>44</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 14.

<sup>45</sup> <https://rsf.org/en/country/denmark>

<sup>46</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 13–14.

<sup>47</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p.13

been made in this field according to the Commission, as **Denmark has not taken any concrete steps to remedy the situation.**

Recommendation RoL report DK 2022	Continue the process geared at reforming the <b>Access to Public Administrative Documents Act</b> in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents
Evaluation RoL report DK 2022	<b>No further progress</b> on the process to reform the <b>Access to Public Administrative Documents Act</b> in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents
Recommendation RoL report DK 2023	Advance with the process to <b>reform the Access to Public Administrative Documents Act</b> in order to strengthen the right to access documents, in particular by limiting the grounds for rejection of disclosure requests, taking into account the European standards on access to official documents

The Commission has consistently noted that the Act continues to be subject to certain restrictions, limiting public and journalistic access to specific governmental files. The new Government has announced its intention to go forward with preparing a proposal and create an expert committee to do it, but no precise timeline is available.<sup>48</sup> For this reason, the Commission reiterates its fourth 2022 RoL report recommendations also in the RoL report 2023 on DK.

- The Commission concludes that **the framework for the protection of journalists remains strong**, as noted by the Media Pluralism Monitor 2023. The Danish National **action plan on the safety of journalists** is considered an important commitment from the state, according to stakeholders. **No strategic lawsuits against public participation cases (SLAPPs) have been reported.**<sup>49</sup> The CoE's Platform to promote the protection of journalism and safety of journalism has not published any recent alerts on Denmark.<sup>50</sup> Instead, budgetary cuts in local and regional papers pose the greatest challenges for journalists.<sup>51</sup>

## 4.2. Equality, discrimination and minorities

### 4.2.1. Minorities, hate speech, racism

In its 2023 annual report, **FRA** underlines that Member States still need to step up their efforts to enforce the **Racial Equality Directive**.<sup>52</sup> **ECRI** has recommended, in its report on Denmark for the sixth monitoring cycle in June 2022, to train teachers on matters of anti-discrimination and anti-racism.<sup>53</sup>

<sup>48</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), pp. 14–15.

<sup>49</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 15.

<sup>50</sup> CoE, Platform to promote the protection of journalism and safety of journalists, <https://coe.int/en/web/media-freedom>.

<sup>51</sup> The Commission 2023 Rule of Law Report, Denmark, [https://commission.europa.eu/system/files/2023-07/14\\_1\\_52571\\_coun\\_chap\\_denmark\\_en.pdf](https://commission.europa.eu/system/files/2023-07/14_1_52571_coun_chap_denmark_en.pdf), p. 15.

<sup>52</sup> Council Directive 2000/43/EC of 29 June 2000, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32000L0043>.

<sup>53</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), pp. 89–96; CoE, ECRI report on Denmark, 9 June 2022, <https://rm.coe.int/6th-ecri-report-on-denmark/1680a6d5e4>.



The Commission also called on Member States to adopt national **anti-racism action plans (NAPARs)** by the end of 2022, according to the EU Anti-racism Action Plan 2020–2025<sup>54</sup> and the EU Strategy on Combating **Antisemitism** and Fostering Jewish Life 2021–2030<sup>55</sup>, a call reiterated by the EU Council<sup>56</sup> and the EP<sup>57</sup>. ECRI also addressed the need to set up NAPARs and called Denmark for particular attention to anti-Muslim racism in its recommendations.<sup>58</sup> Denmark is currently developing a NAPAR and adopted a standalone antisemitism strategy<sup>59</sup> in 2022.<sup>60</sup>

The DIHR has reported on data from the national monitoring of the work environment among wage earners, which shows that twice as many wage earners with an ethnic minority background (20 %) as ethnic Danish wage earners (10 %) experienced **discrimination in the labour market**.<sup>61</sup>

Another report from the DIHR found that, over the period 2009–2019, the likelihood of being charged with an offence without the charges resulting in a conviction is 45 % higher for immigrants and 64 % higher for descendants of immigrants than for individuals of Danish descent, illustrating how **discriminatory profiling practices persist**. The DIHR called for revision of Danish legislation, to prohibit and tackle discriminatory ethnic profiling by law enforcement.<sup>62</sup>

The political agreement on the 2021–2023 budget for the police and the prosecution includes an emphasis on **improving the identification and recording of hate crime** as well as strengthening support for hate crime victims. This includes ensuring that prosecutors dealing with hate crimes get more knowledge about the subject.<sup>63</sup> To mitigate some of the above-mentioned issues, the Danish police implemented measures targeted specifically at victims of hate crime. Training modules now include a panel discussion with representatives of groups at risk, including, among others, the Muslim Council and the Jewish community. The police also disseminated new information material aimed at

<sup>54</sup> European Commission, EU Anti-racism Action Plan 2020–2025.

<sup>55</sup> European Commission, EU Strategy on combating antisemitism and fostering Jewish life (2021–2030), [https://commission.europa.eu/document/6160ed15-80da-458e-b76b-04eacae46d6c\\_en](https://commission.europa.eu/document/6160ed15-80da-458e-b76b-04eacae46d6c_en).

<sup>56</sup> Council of the European Union (2022), Conclusions on combating racism and antisemitism, p. 6, 6406/1/22, revision 1, 2 March 2022, <https://data.consilium.europa.eu/doc/document/ST-6406-2022-REV-1/en/pdf>.

<sup>57</sup> European Parliament resolution on the situation of fundamental rights in the European Union in 2020 and 2021, P9\_TA(2022)0325, 15 September 2022 [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0325\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0325_EN.html); European Parliament resolution on racial justice, non-discrimination and anti-racism in the EU, P9\_TA(2022)0389, 10 November 2022 [https://www.europarl.europa.eu/doceo/document/TA-9-2022-0389\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2022-0389_EN.html).

<sup>58</sup> CoE, ECRI report on Denmark, 9 June 2022, <https://rm.coe.int/6th-ecri-report-on-denmark-1680a6d5e4>, para. 63.

<sup>59</sup> The Danish Government (Regeringen), Action plan against anti-semitism (*Handlingsplan mod antisemitisme*), 2022, <https://www.justitsministeriet.dk/wp-content/uploads/2022/01/Antisemitisme-handlingsplan.pdf>.

<sup>60</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), pp. 89–100.

<sup>61</sup> Danish Institute of Human Rights, Ethnic minorities more often state that they experience discrimination and sexual harassment in the workplace (*Etniske minoriteter angiver oftere, at de oplever diskrimination og seksuel chikane på arbejdspladsen*), September 2022, <https://menneskeret.dk/udgivelser/etniske-minoriteter-diskrimination-seksuel-chikane-arbejdsmarked>.

<sup>62</sup> Danish Institute for Human Rights, Ethnic profiling – Main results from three studies, 2022, <https://menneskeret.dk/sites/menneskeret.dk/files/media/document/Ethnic%20profiling%20-%20main%20results%20from%20three%20studies%2C%20April%202022.pdf>.

<sup>63</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 69; Department of Justice (Justitsministeriet), Political agreement on the police and the prosecutions budget 2021–2023 (*Aftale om politiets og anklagemyndighedens økonomi 2021–2023*), 15 December 2020, <https://www.justitsministeriet.dk/wp-content/uploads/2020/12/Aftale-om-politiets-og-anklagemyndighedens-oekonomi-2021-2023-1.pdf>.

increasing awareness among groups and tackling underreporting. Denmark also took action to address ethnic profiling. Training on anti-racism also took place.<sup>64</sup>

**CERD issued concluding observations to Denmark.** It also recalled commitments made in 2021 as part of the Durban Declaration. It specifically recommended that states address racial discrimination against people of African descent.<sup>65</sup>

Concern was expressed by NGOs and international organisations on the so-called “**anti-ghetto law**”. ECRI recommended that Danish authorities avoid forced evictions for achieving the objectives of the legislation as regards a more balanced composition between “non-westerners”, EU citizens and “native Danes” in the neighbourhoods and invited them to introduce positive incentives for all population groups concerned in order to achieve the stated aim (see the Annex with ECRI recommendations).

#### 4.2.2. Women’s rights

In 2022, amendments and proposals have been adopted and presented in several areas, such as **stalking**.<sup>66</sup> **Amnesty International** recalls that “there was broad political agreement on revision of Article 221 of the Penal Code, scheduled to enter into force on 1 January 2023, so that non-consensual sex by perpetrators falsely representing themselves as someone else will no longer be penalized more leniently than rape.”<sup>67</sup>

Denmark tabled its Report pursuant to Article 68, paragraph 4 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (1<sup>st</sup> thematic evaluation round), which was received by **GREVIO** on 4 July 2023.

#### 4.2.3. LGBTIQ+

Denmark ranks **third in the ILGA-Europe Rainbow Map** (after Malta and Belgium) with a score of **76%** achieved targets on human rights of LGBTIQ persons.<sup>68</sup> ILGA-Europe recommends Denmark to review the law on legal gender recognition, recognise trans parenthood and parents’ legal gender and ensure equal treatment for same-sex couples in relation to family reunification.

**New legislation** on aggravating factors and prohibiting discrimination, hate crime and hate speech based on **sexual orientation, gender identity, gender expression and sex characteristics** (SOGIESC) entered into force in 2022 in Denmark<sup>69</sup> to protect and promote the rights of lesbian, gay, bisexual, trans, non-binary, intersex and queer (LGBTIQ<sup>70</sup>) people.

Denmark has a **national LGBT+ strategy for 2022–2025**, “Room for diversity in the community”, which focuses on recognition of LGBT+ families, welfare of LGBT+ children and youth, health, and combating violence and hate. It aims at creating more safety, welfare and opportunities for LGBT+

<sup>64</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 102.

<sup>65</sup> CERD (2022), Concluding observations on Denmark, CERD/C/DNK/CO/22-24, 1 February 2022, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fDNK%2fCO%2f22-24&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fDNK%2fCO%2f22-24&Lang=en), paras 39–40.

<sup>66</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 234.

<sup>67</sup> <https://www.amnesty.org/en/location/europe-and-central-asia/denmark/report-denmark/>

<sup>68</sup> ILGA-Europe Rainbow map 2023, <https://rainbow-europe.org/#8630/0/0>

<sup>69</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), pp. 64–68.

<sup>70</sup> As different sources uses different versions of the LGBTIQ+ acronym, the acronym also varies in this text according to the acronym used in the referred-to document.

persons through 14 initiatives focusing on areas such as hate crime, family rights, transgender rights, health and sports.<sup>71</sup> The ILGA-Europe annual report criticises the fact that the Action Plan fails to include intersex people in its scope.<sup>72</sup>

Denmark adopted new legislation allowing women, as well as **transgender parents**, to be registered as parents in accordance with their legal gender at the time of the birth of their child. According to FRA, these changes had not yet entered into force. The new legislation also makes it possible to change one's name without having to legally change one's gender.<sup>73</sup>

The results of a nationally representative survey in Denmark showed that **LGBT+ people, especially trans people, still face discrimination**, and more severe living conditions than the general population,<sup>74</sup> including in healthcare.

A report commissioned by the Ministry of Immigration and Integration specifically examines the living conditions and support needs of **non-western LGBT+ minorities**, which revealed that 37 % of the respondents had experienced discrimination within the past year. This is a significantly higher rate when compared to wider groups of LGBT+ persons in Denmark.<sup>75</sup>

An analysis by the DIHR of the rights of **gender minorities in prisons** applied an intersectional approach. It concluded that trans, non-binary and intersex people are at higher risk of assault, discrimination and generally poor well-being in Danish prison settings.<sup>76</sup>

#### 4.2.4. Privacy and data protection

Public and private bodies at national level continued to promote, test and take up **AI applications in practice**. One Danish initiative includes a pilot in which the police will use facial recognition to identify child victims of repeated sexual abuse.<sup>77</sup>

In Denmark, an **act on data retention** passed in 2022, which did not appear to be in compliance with the CJEU judgment on the matter, leading the Ministry to plan an amendment of it.<sup>78</sup>

<sup>71</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 68; Ministry of Transport and Equal Opportunities (Transportministeriet), Statement/Perspective and action plan for equality 2022 (*Redegørelse/Perspektiv og handlingsplan for ligestilling 2022*), 2022, <https://www.trm.dk/media/2vadv0ll/perspektiv-og-handlingsplan-for-ligestilling-2022.pdf>; see also Ministry of Transport and Equal Opportunities (Transportministeriet), Space for diversity in the community – LGBT+ action plan 2022–2025 (*Plads til forskellighed i fællesskabet – LGBT+ handlingsplan 2022–2025*), 2022, <https://www.trm.dk/media/c0xf3lbv/plads-til-forskellighed-i-faellesskabet-lgbtplus-handlingsplan-2022-2025.pdf>.

<sup>72</sup> ILGA-Europe, 2023 Annual report, <https://www.ilga-europe.org/sites/default/files/2023/denmark.pdf>

<sup>73</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 73.

<sup>74</sup> VIVE, Mapping the living conditions and social participation of homosexual, bisexual and transgender people (*Kortlægning af homo- og biseksuelle samt transpersoners levevilkår og samfundsdeltagelse*), 9 August 2022, <https://www.vive.dk/da/udgivelser/kortlaegning-af-homo-og-biseksuelles-samt-transpersoners-levevilkar-og-samfundsdeltagelse-0xqel1vk/>.

<sup>75</sup> Als Research, Living conditions and support requirements of new Danish LGBT+ people (*Nydanske LBT+personers levevilkår og støttebehov*), conducted for the Agency for International Recruitment and Integration under the Ministry of Foreigners and Integration, 7 June 2022, [https://alsresearch.dk/wp-content/uploads/2022/08/Rapport\\_nydanske\\_LGBT\\_Als\\_Research.pdf](https://alsresearch.dk/wp-content/uploads/2022/08/Rapport_nydanske_LGBT_Als_Research.pdf).

<sup>76</sup> Danish Institute for Human Rights (2022), The rights of gender minorities in prisons (*Kønsminderetters rettigheder i fængslerne*), 10 January 2022, <https://menneskeret.dk/udgivelser/koensminoriteters-rettigheder-faengslerne>.

<sup>77</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 181.

<sup>78</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), p. 186; Ministry of Justice (2022), 'The judgment of the EU Court of Justice of 5 April 2022 entails a need to change the Danish logging rules' ('EU-Domstolens dom af 5. april 2022 medfører behov for ændring af de danske

A promising practice in this field, according to the FRA, is **the Danish Independent Inspectorate of Evidence**.<sup>79</sup>

FRA raises fundamental rights concerns linked with the **increased legitimisation of surveillance technologies for security purposes**, as law enforcement authorities increasingly rely on various technologies to conduct surveillance. These range from biometric data (notably DNA and facial recognition technologies) to software allowing the interception of communications. The complexity of these surveillance tools and the secrecy attached to them increase the risks to fundamental rights. Security-oriented technologies, and notably technologies relying on biometric data, carry additional risks. Legal initiatives have been presented in Denmark, aiming to regulate its use.<sup>80</sup>

#### 4.2.5. Asylum and migration

On 13 January 2022, the then Danish immigration Minister Tesfaye was invited in the LIBE committee for a hearing on the **government's policy on migration and "zero asylum seekers"**, which was harshly criticised by MEPs, further than by NGOs, UNHCR, etc. The government signed a memorandum in the view of signing an agreement with **Rwanda** to outsource asylum seekers,<sup>81</sup> but plans were then put on hold allegedly to look for an EU-wide solution.<sup>82</sup>

The former government was also criticised for deciding to withdraw residency permits from Syrians from Damascus in 2020, making Denmark the first EU country to say that refugees can be sent back to certain parts of Syria. **Human Rights Watch** warned in March that Syria is not safe for returnees despite recent Danish claims.<sup>83</sup> It had also criticised the mismatch in the treatment of refugees from Ukraine compared to that of those from Syria.<sup>84</sup>

**UNHCR** expressed concern in a series of papers criticising the "paradigm shift" from 2019 for placing a disproportionate emphasis on the "temporariness" of international protection by shortening the length of residence permits, frequently reviewing protection needs, and considering countries of origin as safe more easily.<sup>85</sup>

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logningsregler'), press release, 25 May 2022, <https://www.justitsministeriet.dk/pressemeddelelse/eu-domstolens-dom-af-5-april-2022-medfoerer-behov-for-aendring-af-de-danske-logningsregler/>.

<sup>79</sup> "On 1 January 2022, Denmark established an Independent Inspectorate of Evidence under the same leadership as the Independent Police Complaints Authority. The inspectorate aims to ensure that any technical evidence processing that the police and the prosecution perform undergoes appropriate prior assessment and oversight. First, authorities must establish relevant and sufficient guidelines for the processing of technical evidence (including biometric data). Second, reservations and uncertainties linked to the technical evidence's nature must be sufficiently described and visible in cases. Third, the police and prosecution's detection of possible errors in the technical evidence, of a general or systematic nature and with significance for citizens' due process, must be sufficiently investigated and followed up", FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), pp. 187–188; The Danish Independent Inspectorate of Evidence (Det Uafhængige Tilsyn med Bevismidler) <https://bevismiddeltilsynet.dk/>.

<sup>80</sup> FRA Fundamental Rights Report – 2023, [http://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2023-fundamental-rights-report-2023\\_en\\_1.pdf](http://fra.europa.eu/sites/default/files/fra_uploads/fra-2023-fundamental-rights-report-2023_en_1.pdf), pp. 188–189.

<sup>81</sup> <https://ecre.org/denmark-meps-confront-danish-minister-on-rogue-asylum-policies-as-syrians-flee-to-other-member-states/>

<sup>82</sup> <https://www.infomigrants.net/en/post/46374/denmark-seeks-eu-collaboration-in-sending-asylum-seekers-outside-bloc>

<sup>83</sup> <https://www.hrw.org/news/2023/03/13/syrian-refugees-denmark-risk-forced-return>

<sup>84</sup> <https://www.hrw.org/news/2022/03/16/denmarks-mismatched-treatment-syrian-and-ukrainian-refugees>

<sup>85</sup> <http://refugees.dk/en/news/2022/december/un-warns-against-denmarks-paradigm-shift/> and <https://www.unhcr.org/neu/87843-unhcr-recommendations-to-denmark-on-strengthening-refugee-protection.html>

**Freedom House** finds that Denmark has struggled to uphold fundamental freedoms for immigrants and other newcomers. They face lengthy waiting times for family reunification, including cases involving small children.<sup>86</sup>

Denmark decided to grant asylum to women and girls from Afghanistan, which was welcomed by NGOs.<sup>87</sup>

On 16 November 2023, the Council of Europe Commissioner for Human Rights Dunja Mijatović published the report on her visit to Denmark in May-June 2023, with recommendations on the rights of refugees, asylum seekers and migrants (and the rights of persons with disabilities). She notably highlighted several positive developments in the area of asylum, particularly with regard to those fleeing Ukraine, and the protection of women and girls from Afghanistan based solely on their gender. However, the Commissioner considered that “the recent **paradigm shift in Danish refugee policy towards temporary protection and return, rather than integration, presents a number of human rights risks. According to the Commissioner**, the authorities should refocus on providing greater certainty and security to refugees and other protection holders.”

The Commissioner also urged the authorities to **abandon plans to externalise aspects of the asylum process to a third country**, considering **doubts about their compatibility with international human rights standards**. “Externalisation plans may set a troubling precedent in shifting responsibility within the global system of international protection”, she emphasises. Instead, authorities should redirect and step up focus on greater and fairer responsibility-sharing among European states and globally.

Following the intensification of measures aimed at ensuring that rejected asylum seekers and other foreigners without a residence permit cooperate to ensure their own return, the Commissioner found particularly problematic the fact that individuals who cannot be returned, including families with children, may find their **lives suspended and left in limbo for years**. Considering the impact on mental health and wellbeing, as well as the potential to have life-long negative consequences, she encouraged the authorities to **reconsider the use of return centres**.

Regarding administrative detention of rejected asylum seekers and other migrants, the Commissioner called on the authorities to ensure that alternative measures are prioritised, and that strict, prison-like rules and regimes are not implemented in this context.

As regards integration, she called for further steps to be taken to facilitate family reunification for protection holders, including for temporary subsidiary protection status holders and older children. She also underlined the rising number of stateless persons, and invited the authorities to facilitate access to citizenship for children and young people who were born or grew up in Denmark.<sup>88</sup>

<sup>86</sup> Freedom House, in its report on Freedom in the World 2022 – Denmark, also noted that “In recent years, controversy has arisen over the disproportionate number of people with non-Danish ethnic ancestry in the justice system: though members of ethnic minority groups comprise less than 10 percent of the population, the percentage of incarcerated young men from “non-Western” backgrounds is up to four times that of their ethnic Danish counterparts, according to government statistics. This disparity has been partly attributed to a higher rate of policing in areas with a significant “non-Western” population. However, others have used these figures to promote the government’s “antighetto” initiatives, which seek to shift the demographics of areas identified as having high unemployment and crime rates, and a high percentage of foreign-born residents”, , <https://freedomhouse.org/country/denmark/freedom-world/2022>.

<sup>87</sup> <https://www.hrw.org/news/2023/02/09/denmark-sweden-offer-protection-all-women-girls-afghanistan>

<sup>88</sup> Taken from the CoE press release at <https://www.coe.int/en/web/commissioner/-/denmark-refocus-on-protection-and-integration-in-asylum-policy-and-step-up-measures-to-improve-the-situation-of-persons-with-disabilities>

#### 4.2.6. The rights of persons with disabilities

In the same **report on her visit to Denmark in May-June 2023** and published on **16 November 2023**, **the Council of Europe Commissioner for Human Rights Dunja Mijatović** made recommendations on the rights of persons with disabilities.

The Commissioner called on the authorities to foster a structural approach to improving the situation of persons with disabilities, in particular through the **introduction of a general legal obligation for reasonable accommodation, as well as a comprehensive national action plan on persons with disabilities**. She emphasised the need to address challenges such as the exposure to violence and abuse, including sexual abuse, in residential institutions; the continuing use of larger residential institutions; the limited opportunities for certain persons with disabilities to choose their living arrangements; and the reported increasing number of children and young people with severe mental health conditions being placed in closed care institutions, as well as the conditions within those institutions.

Noting the progress made regarding legal capacity and the right to vote, including the introduction of a system of partial guardianship, the Commissioner considered that there is a need to increase focus on supported decision-making. She urges the authorities to abolish the system of full guardianship and to take steps to foster greater take-up of partial guardianship. In addition, she calls for citizenship acquisition procedures to be fully accessible to persons with disabilities and include provisions of reasonable accommodation.

While recognising efforts made by the authorities in this area, the Commissioner urged the authorities to drastically reduce the use of all forms of coercion, and to end recourse to any coercive measure that may amount to ill-treatment, including in particular the use of belt restraints for extended periods of time.<sup>89</sup>

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<sup>89</sup> Taken from the CoE press release at <https://www.coe.int/en/web/commissioner/-/denmark-refocus-on-protection-and-integration-in-asylum-policy-and-step-up-measures-to-improve-the-situation-of-persons-with-disabilities>



# ANNEX 1

## ECRI 2022 Report on Denmark - List of Recommendations<sup>90</sup>

"The position of the recommendations in the text of the report is shown in parentheses.

1. (§3) ECRI recommends that the Danish authorities amend the relevant legislation to (i) give the Board of Equal Treatment the mandate to obtain evidence and information, including by means of an enforceable court order, as well as to address discrimination based on citizenship or, outside the labour market, religion, and to (ii) explicitly prohibit segregation, discrimination by association, declared intention to discriminate and incitement or aid to discrimination.
2. (§8) ECRI recommends that the Danish authorities amend the relevant legislation in order to strengthen the independence of the Board of Equal Treatment, notably by giving it the authority to manage its own budget, the amount of which should be reviewed to ensure sufficient means for the effective functioning of the Board, as well as by ensuring that the members of the Board are elected fully in line with ECRI's standards on Equality Bodies, in addition to which the Board should be allowed to freely decide on the recruitment and deployment of its staff.
3. (§14) ECRI recommends, in line with its General Policy Recommendation No. 10 on combating racism and racial discrimination in and through school education, that teachers in Danish schools be provided with initial and ongoing training in issues relating to human rights, including the prohibition of discrimination, which should cover, inter alia, international and European standards, in addition to which teachers should be encouraged to use teaching materials specifically intended for teaching human rights, including the right to equality.
4. (§20) ECRI recommends that the Danish authorities carry out regular surveys on the situation of children from minority groups in the school system, especially in so-called "parallel society" areas with a large proportion of "non-western" children, as a basis for preparing, monitoring, and evaluating school policies aimed at continuously improving the situation in school of children from minority groups.
5. (§33) In the light of the above, ECRI recommends that the authorities set up "firewalls" formally prohibiting housing, social security and assistance providers from sharing data on the legal status of migrants with the immigration authorities and eliminate, including at legislative level where appropriate, the obstacles limiting migrants' access to basic services, in particular in the fields of education, employment and health care, including psychiatric support.
6. (§58) ECRI recommends that a legal framework be developed for cutting the funding of and disbanding racist organisations, including political parties where applicable, as recommended in §§ 16, 17 and 18 g of ECRI's General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination and § 9 of GPR No. 15 on combating hate speech.
7. (§62) ECRI recommends that political leaders on all sides, in particular those in government and in line with § 4 of ECRI's General Policy Recommendation No. 15 on combating hate speech, take a firm and public stance against the expression of racist hate speech and react to any such expression with a strong counter-hate speech message. All political parties in the country should adopt codes of conduct that prohibit the use of racist and other forms of hate speech and call on their members and followers to abstain from using it.
8. (§63) ECRI recommends as a matter of priority that the Danish authorities introduce a national action plan against racism, with a particular emphasis on preventing anti-Muslim racism and discrimination. The action plan should take a holistic approach and include actions in, for example, the areas of education, public awareness, promotion of counter speech and the training of relevant professionals, such as law enforcement officials and teachers. Efforts to secure a proportion of 35 staff from Muslim and other minority backgrounds in such professions should be among the elements of this action plan.

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<sup>90</sup> <https://rm.coe.int/6th-ecri-report-on-denmark-1680a6d5e4>

9. (§70) ECRI recommends that the authorities facilitate closer co-operation and institutionalise a continuous dialogue between the police and groups at risk of hate crime, including Black and Muslim communities.

10. (§89) ECRI recommends as a matter of priority that the Danish authorities, in order to avoid forced evictions for achieving the objectives of the legislation as regards a more balanced composition between “non-westerners”, EU citizens and “native Danes” in the neighbourhoods referred to as “parallel societies”, instead introduce positive incentives for all population groups concerned in order to achieve the stated aim.

11. (§109) ECRI recommends that the Danish authorities increase the number of languages and channels in or through which essential information and services related to public health are disseminated or offered.

12. (§114) ECRI recommends that the Danish authorities, in line with § 17 of ECRI’s General Policy Recommendation No. 13 on combating antigypsyism and discrimination against Roma, promote and protect Roma culture, fostering the rest of the population’s better knowledge of Roma communities as well as the advancement of intercultural dialogue.

13. (§116) ECRI recommends that the Danish authorities, in particular law enforcement agencies, pay particular attention to, and comply with, ECRI’s General Policy Recommendation No. 11 on combating racism and racial discrimination in policing. It follows that any such primary or secondary legislation which is meant to especially target foreign members of a particular ethnic group should be withdrawn or amended.

14. (§121) ECRI recommends that the Danish Government, in addition to the existing social support measures available, offer access to tailormade integration and inclusion courses to Greenlanders.”



## ANNEX 2

### GRECO, 5th Evaluation Round, Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies - Compliance report<sup>91</sup>

#### "CONCLUSIONS

80. In view of the foregoing, GRECO concludes that Denmark has dealt with in a satisfactory manner only two of the 14 recommendations contained in the Fifth Round Evaluation Report. Of the remaining recommendations, one has been partly implemented and 11 have not been implemented.

81. More specifically, recommendations ix and x have been dealt with in a satisfactory manner, recommendation iii has been partly implemented and recommendations i, ii, iv, v, vi, vii, viii, xi, xii, xiii and xiv have not been implemented.

82. When it comes to persons with top executive functions (PTEFs), almost no progress has been made on any of the recommendations. The only positive steps that can be mentioned in this context is that again, after the 2019 elections, ministers were briefed on the integrity rules applicable to them and that a memorandum on conflicts of interest has been added to the ministerial handbook. In general, the arguments used by the Danish authorities do not bode well for the future implementation of the outstanding recommendations. The frequent references to the provisions of the Criminal Code (e.g. on bribery and confidentiality) confirm what has been already described in the Evaluation Report about a lack of sensitivity to integrity issues which do not rise to the level of crime. The trust placed in PTEFs as is demonstrated by the Danish authorities in this report prevents the current rules being looked at with an open mind and having gaps therein proactively addressed. GRECO had hoped that an analysis of integrity-related risks involving members of the government and special advisers as a basis for a future integrity strategy would have made a difference in this respect. It thus particularly regrets that no progress on this fundamental recommendation has been made, with equally no or very little progress being reported on almost all other recommendations, covering issues such as a code of conduct for PTEFs, improving access to information under the Access to Public Administration Files Act, increasing the transparency of lobbying, introducing rules to deal with the employment of PTEFs following the termination of their public service, including more data in the financial declarations of ministers and ensuring that these declarations are subject to substantive control. In light of the above, GRECO can only urge the Danish authorities to address the concerns underlying the abovementioned recommendations, with a view to taking more resolute action to have these recommendations implemented in the near future.

83. With respect to law enforcement agencies (police), progress has been made in strengthening the representation of women and other underrepresented groups in the Danish police (which in due time will hopefully also be positively reflected at higher levels in the police) and as regards the training on integrity requirements relevant for the police. However, regrettably very little progress has been reported as regards any of the other recommendations, covering matters such as improving the system of authorising secondary activities in the police, conducting a study on the employment of staff of the police once they leave the police, analysing the need for introducing a requirement for certain officials within the police to declare financial interests on a regular basis and raising the awareness of staff of the police on their duty to report corruption-related misconduct. GRECO encourages the authorities to step up their efforts in this regard.

84. In view of the above, GRECO notes that further progress is necessary to demonstrate an acceptable level of compliance with the recommendations within the next 18 months. Pursuant to Rule 31 revised bis, paragraph 8.2 of its Rules of Procedure, GRECO invites the Head of delegation of Denmark to submit additional information regarding the implementation of the outstanding recommendations (i-viii and xi-xiv) by 31 March 2023.

85. GRECO invites the authorities of Denmark to authorise as soon as possible the publication of this report, to translate it into the national language and to make the translation public."

<sup>91</sup> <https://rm.coe.int/fifth-round-compliance-report-on-denmark-as-adopted-at-the-88th-plenar/1680a4e052>

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This briefing, written by the Policy Department for Citizens' Rights and Constitutional Affairs at the request of the European Parliament's Committee on Civil Liberties, Justice and Home Affairs - Democracy, Rule of Law and Fundamental Rights Monitoring Group, examines the situation of Democracy, Rule of Law and Fundamental Rights in Denmark and how the values of Article 2 of the TEU are respected and implemented in the country.

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