



18 décembre 2007

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## **CHARTRE SOCIALE EUROPEENNE**

27e Rapport national sur l'application de la Charte Sociale  
Européenne

soumis par

***LE GOUVERNEMENT DE DANEMARK***

pour la période du 1 janvier 2005 au 31 décembre 2006  
sur les articles 1, 9, 10 et 15

et

pour la période du 1 janvier 2003 au 31 décembre 2006  
sur l'article 18

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## **27. Danish Report**

**on the European Social Charter**

**Concerning articles 1, 9, 10 and 15  
for the period 01.01.2005 - 31.12.2006**

**&**

**article 18 and 1 of the Additional Protocol  
for the period 01.01.2003 – 31.12.2006**

**December 2007**

**In accordance with article 23 of the Charter, copies of this report have been communicated to :**

**The Danish Employer's Confederation (DA)**

**The Federation of Danish Trade Unions (LO)**

**The Federation of Danish Public Servants' and Salaried Employees' Organisation (FTF)**

**The Danish Confederation of Professional Associations (AC)**

**Article 1**  
**The Right to Work**

**Article 1**  
**Paragraph 1**  
**Question A**

**I.1 Main characteristics of Danish labour market trends**

The labour market has been progressing throughout recent years. The unemployment rate has generally decreased since end-2003, and currently (July 2007) less than 100,000 persons are unemployed. This means that unemployment covered 3.3 per cent of the labour force in July 2007. In roughly the same period, employment increased and has now reached the highest level in several years.

Compared to the other OECD countries, Denmark continues to have a very high labour market participation. In 2006 the participation rate for the 15-64 year-olds was 80.1 per cent and the employment rate for this group was 76.9 per cent.<sup>1</sup>

**Table 1.** Key figures for the labour market (1,000 persons or per cent)<sup>2</sup>

	2003	2004	2005	2006	2007	2008
Employment	2,706	2,707	2,726	2,781	2,828	2,827
- private sector	1,886	1,886	1,908	1,964	2,010	2,008
- public sector	820	821	818	817	818	820
Unemployment	171	176	157	124	98	91
Workforce	2,877	2,883	2,884	2,905	2,926	2,918
Unemployed, percentage of the workforce	5.9	6.1	5.5	4.3	3.3	3.1
Rate of pay increase	3.7	2.8	3.6	3.6	4.6	4.7

Source: Ministry of Finance, Economic Survey - August 2007.

**I.2 Main characteristics of Danish economic trends**

Since 2004, Danish economy has been characterised by strong growth, see Table 2. Economic growth has mainly been driven by foreign demand, which has also given rise to considerable imports of foreign goods and services. In 2007 and 2008 the good economic development is expected to continue, though with a slight decline. The economic moderation is caused by a more moderate private consumption due to increasing interest rate levels and declining price increases on real estate and a continuous high capacity utilisation.

**Table 2.** Key figures for the economic development. Real growth, per cent.<sup>3</sup>

	2003	2004	2005	2006	2007	2008
GDP	0.4	2.1	3.1	3.5	2.0	1.3
Private consumption	1.0	4.7	4.2	3.1	2.2	1.6
Public investments	-7.8	12.6	3.0	13.1	-12.5	5.2
Real investments	-2.9	1.7	7.6	13.5	5.1	1.7
Exports	-1.0	2.2	7.3	10.1	4.9	3.0
Imports	-1.6	7.0	10.8	14.4	5.7	3.5

Source: Ministry of Finance, Economic Survey - August 2007.

**II. The main challenges**

In future years, the demographic developments entail a greater number of elderly people and fewer people of working age thereby increasing the demographic challenge. Employment must increase in order to finance the future welfare state, and this is best achieved by upgrading the skills of the labour force.

<sup>1</sup> OECD (2007), "Employment Outlook 2007".

<sup>2</sup> The key figures for 2007-2008, i.e. the grey fields in the table, are based on projections.

<sup>3</sup> The key figures for 2007-2008, i.e. the grey fields in the table, are based on projections.

### **Initiatives in employment policy**

Employment policy thus plays a pivotal role in relation to the future welfare state. Some initiatives have already been implemented by means of the employment policy. These initiatives included the reform on early retirement pension from 1998, termination of the transitional allowance in 1996, the reform on voluntary early retirement pay from 1999, the employment reform entitled "More People in Employment" from 2002, the integration plan "A new chance for everyone" from 2005, the Danish Government's tax package, and the Welfare Agreement from 2006, which are all moving in the right direction as regards the workforce and employment.

However, there is still a need for further initiatives to reduce sickness absence. Total absence due to sickness in Denmark (autumn of 2006) equals absence from work of about 140,000 full-time employees throughout the year. Absence due to sickness corresponds to a reduction of the labour force by 3 per cent. Public expenditure on sickness benefits alone amounts to about DKK 12 bn per year. Expenses paid by enterprises in connection with sickness absence are estimated to be in the order of DKK 23 bn per year. The expenses for society are estimated to amount to about DKK 35 bn per year.

At the same time, greater efforts must be made to help more elderly people to stay longer on the labour market, and for young people to move faster through the educational system. Another great challenge is to ensure that more immigrants obtain employment through improved integration initiatives. The three latter areas also play significant roles in the Welfare Agreement concluded in the summer of 2006.

Unemployment is low and economic growth is relatively high in Denmark. The positive economic development has led to high demands for labour, and several sectors are experiencing labour shortages. This means that the basis for elderly people to obtain employment is good. In future, more people will be leaving the labour market than entering the labour market. This will further increase the demand for the resources and experience of elderly people.

The ongoing economic upswing has led to increasing employment and falling unemployment, and, as mentioned, more and more sectors are experiencing labour shortages. Against this background initiatives to further reduce unemployment without the risk of bottlenecks are being intensified. These efforts are based on and further develop the last decade's changes of the labour market policy. The intensified employment efforts include the following main points:

- active job search, reinforced availability for the labour market and effective job placement;
- increased active participation and activation;
- harmonisation and rule simplification.

At a time of low unemployment and labour shortages, it is particularly crucial to ensure real availability for the labour market and active job seeking among the unemployed, and to ensure quick and effective job placement of the unemployed with the skills demanded from the enterprises.

Efforts on safety and health at work are part of the employment policy. Working conditions have a significant influence on safety and health at the workplace, which affects the labour supply. Prevention of sickness absence, loss of ability to work and premature retirement thus influence the national economy. Studies indicate that just about half the sickness absence and health-related premature retirement is in a broad sense linked to safety and health at work. In connection with the Welfare Agreement in 2006, a so-called Prevention Fund was set up. Over a ten-year period the Fund will finance specific projects at enterprise level to reduce and prevent physical and mental attrition. The Fund is managing more than DKK 3 bn.

### **The Government's economic 2015-plan**

The Government has presented a new multiannual economic plan covering the period up until 2015. The aim of the 2015-plan is to ensure continued sustainable development in public finances. As a result, improvements implemented up until 2015 may subsequently be maintained without introducing tax increases or other tightening measures.

One of the aims to retain sustainable development in the finance policy is to maintain a structural surplus of the public finances of 3/4 to 1¾ per cent of GDP up until 2010, while the public finances from 2011 to 2015 must as a minimum balance. In addition, the aim is also to reduce public debt to 15 per cent up until 2015.

In order to secure a sustainable balance of the public finances, average working hours must not decrease up until 2015. This requirement must be met in a period where more elderly people in the labour force and more people in publicly subsidised employment are reducing the average working hours.

On the other hand, possible initiatives such as lowering tax on income and, possibly lowering sickness absence, will contribute to ensuring unchanged or longer working hours. This also applies to the common goal in the three-party agreement that more part-time employees must be able to work more.

In order to ensure sustainability in the finance policy, and to give room to launch new initiatives, such as investments in the public sector and a certain rate of growth in public consumption as well as room for possible tax cuts, the 2015-plan lays down a requirement that employment be increased by another 20,000 persons up until 2015. According to the Government, this increase in employment may take place by:

- increasing the import of labour;
- aiming at enhancing the public schemes for persons with reduced working capacity;
- enhancing labour market policy;
- continuing efforts to enhance employment for immigrants and their descendants;
- ensuring that young people complete an education more quickly;
- focusing on employment of elderly people.

The Danish Government plans to set up a Work Commission of independent experts, which is to be responsible for submitting proposals on permanent increases in employment and labour supply before end-2008.

### **III. Policy changes**

The most significant challenge is labour market shortages. An analysis from the spring of 2007 of the recruitment situation for enterprises showed that enterprises had to give up trying to fill about 58,000 vacancies during a period of two months. The equivalent number was about 47,000 in the spring of 2006, and about 70,500 in the autumn of 2006. The sectors affected the most include the building and construction sector, finance and business service sector, and social and health workers.

Labour market efforts made in recent years have thus also primarily aimed at increasing the labour market supply and improving matching processes. This applies, for instance, to the Welfare Agreement from 2006, which is being gradually implemented. The plan entitled "A new chance for everyone" aims at special efforts for recipients of social assistance and start allowance in the period 2006-2008. On 1 January 2007, the municipal reform also entered into force implementing radical changes in the administration of the employment efforts.

In 2007, the Danish Government submitted three major proposals; a quality reform of the public service, the mentioned 2015-plan, and a plan to further decrease tax on income. One of the foundations of the quality reform is the agreement on improvement of workplaces and management in the public sector concluded between the Government and the social partners in June 2007. The proposals aim at securing more people to maintain and improve the welfare society by encouraging more people to obtain employment, and retaining employees in the labour market and by ensuring that employees do not reduce their working hours.

### **Welfare Agreement from 2006**

The agreement includes, first, strengthened efforts to reduce unemployment, and, second, efforts to help more immigrants and their descendants to obtain employment.

The efforts are being implemented gradually, and among the most important can be mentioned that unemployment insurance funds will be playing a more active role. As preparation for this, a so-called leading edge-campaign was launched for four selected unemployment insurance funds in December of 2006. The "leading edge-campaign" aimed at making the participating unemployment insurance funds work actively and systematically on job placement for unemployed members, and thus help alleviate the increasing recruitment problems existing within an increasing number of sectors and occupational fields.

In the spring of 2007 the following initiatives were implemented:

- unemployed people are invited to one kind of interview: the job interview which focuses on jobs and job seeking;
- reinforcement of the role of the unemployment insurance funds. CV interviews must be carried out with insured unemployed people at the time of their notification of unemployment as well as systematic availability assessments of insured unemployed individuals every three months;
- strengthened efforts are implemented aiming at enabling unemployed young people between 25 and 30 years to gain access to the labour market or obtain an education. Activation efforts for young people are accelerated. Young people can instead choose to apply for ordinary education programmes and have eight weeks to choose an appropriate education programme;
- higher subsidies for employment of adult apprentices within the occupational fields that are expecting shortages of skilled labour, and fields with good employment opportunities.

In the autumn of 2007 the following will be implemented:

- a new model for regular placement activity is to be introduced, in which unemployed individuals, who are referred to a job without obtaining it, are to be included in a subsequent systematic placement programme. If the individual does not have a job after three months, a number of activation offers must be presented in order to help the unemployed gain access to the labour market;
- a requirement that unemployed individuals log on to "Jobnet.dk" at least once a week to confirm that they are still seeking employment is to be introduced. The confirmation must take place digitally through [www.Jobnet.dk](http://www.Jobnet.dk). If unemployed people do not confirm the registration, they will receive a reminder and a time limit for registration. If the unemployed individuals have not confirmed registration before the expiry of the time limit, the unemployed individual will lose his or her right to unemployment benefits until a new registration as a job seeking individual has been made;
- the activation effort will be moved forward so that the deadline for the first activation offer for unemployed individuals over 30 years of age will be advanced to after nine months of unemployment;
- all insured unemployed persons must be included in an intensive activation effort after 2½ years with unemployment benefits for the rest of the unemployment benefit period;
- minimum requirements as to the duration of active offers are to be introduced;
- finally, state reimbursement of municipalities' activation expenditure is to be determined, so that it creates an increased economic incentive to deliver an active effort.

With the introduction of "A new chance for everyone" and the "Welfare Agreement" a number of initiatives have been taken to reduce the high rate of unemployment among ethnic minorities. In December 2006, the Government entered into a new agreement with the social partners, Local Government Denmark (KL) and Danish Regions, which included the following:



- 12 "job packages" in industries with good job opportunities. These are overall targeted courses to upgrade the skills of weak unemployed persons, e.g. immigrants with language problems, for a certain job;
- development of the use of mentor schemes in connection with employment initiatives for the unemployed;
- testing and support of the use of clarification of competences of ethnic minorities' qualifications brought with them from abroad.

In connection with the municipal reform, the special unit entitled "the ethnic employment efforts" was launched. This special unit supports the efforts of the job centres by integrating and retaining persons with other ethnic background than Danish on the labour market.

The plan entitled "A new chance for everyone" is aimed at all recipients of social assistance and start allowance, regardless of their ethnic background. The present economic situation thus provides good employment opportunities for persons who would otherwise have difficulty gaining a foothold on the labour market. Some of the activities are as follows:

- ensuring easier access to enterprises for unemployed persons through partnership agreements which also increase their job opportunities;
- employing of 300 job consultants in areas with the most unemployed immigrants to ensure intensive efforts with specifically adapted measures;
- following a specific assessment, an offer may be made to self-supporting persons, i.e. unemployed people who do not meet the criteria for receiving public assistance benefits;
- enabling long-term unemployed recipients of social assistance and start allowance to obtain employment at private enterprises by increasing the wage subsidy;
- implementing right and duty to repeated activation for all persons over the age of 30 who receive social assistance and start allowance;
- requiring a total of 300 hours of work for married couples who receive social assistance.

In the **seniors area** there is still - despite a fall in the unemployment of elderly people - a high rate of unemployment among persons over the age of 55 years. With the Welfare Agreement, prospects of employment for older people are enhanced by virtue of a temporary salary subsidy scheme in private enterprises. On 1 January 2008 a scheme will be introduced where people over the age of 55 who forfeit their right to unemployment benefits can obtain a "senior's job" in their municipality. Employment in a "senior's job" is on ordinary salary and employment terms for equivalent work, and basically the person is guaranteed employment until he or she become entitled to voluntary early retirement pay.

Furthermore, the Government has set up a think tank on seniors and the labour market. This think tank is to help encourage the debate on seniors policy, and offer advice to the Minister for Employment.

The three-party agreement between the social partners in the public sector means that a pool of DKK 600 million has been allocated for testing seniors policy initiatives that are to promote the retention of elderly employees in the labour market. The pool will be implemented by the collective bargaining rounds in 2008.

As part of the efforts to increase the labour force and reduce public expenditure, the emphasis is on **sickness absence efforts**, with an action plan that includes proposals for initiatives on better municipal follow-up on sickness benefits, enterprise-related initiatives, initiatives for a better knowledge basis and digitalisation in the area of sickness benefits. The municipal follow-up on sickness benefits has been strengthened since 1 July 2005, focusing on initiatives for exposed people on sick leave, and with a new referral and follow-up model.

In the **area of disability** a national network has been set up as part of the Government's initiative package "New ways to work" under the competences of the Danish Council of Organisations of Disabled People (DSI), which is to assist already existing institutions etc. in connection with em-

ployment efforts for the disabled. The DSI will set up a secretariat to manage this task. The aim of the network is to collect knowledge on disability and jobs, and to subsequently use this knowledge in relation to persons with a reduced ability to work.

In connection with the municipal reform, the special unit "Job & disability" was set up on 1 January 2007. This special unit aims at supporting employment efforts for disabled persons in the job centres and external players through counselling, information and development.

In 2004, the Government launched an employment strategy for disabled persons. The aim is for 2,000 more disabled persons to obtain employment each year, the number of enterprises employing disabled persons to increase by 1 percentage point each year, and enterprises and persons with reduced ability to gain better knowledge of the employment opportunities and the possibilities of obtaining support or aids and tools that may make up for their disability. The three focal points of the strategy are: 1) that we must know more about disability and jobs, 2) that our attitude towards disability and jobs must change, and 3) that we must make it easier to combine disability and jobs.

In May 2007, the Danish parliament (the Folketing) adopted amendments to the rules on compensation for disabled persons in employment. The amendment does not distinguish between persons with a physical or mental disability in relation to their possibility for obtaining personal assistance. The purpose is to increase the chances for mentally disabled people to obtain employment.

Within the context of the realisation of the Welfare Agreement, a grant of DKK 9.5 million and DKK 5 million in 2007 and 2008, respectively has been earmarked for significant **improvement of reading, writing and arithmetic education for adults**. In 2007 a pilot project will be launched where unemployed people can have their reading and spelling skills screened in connection with activation activities. Basically, the pilot project addresses newly unemployed people with little or no training and education who complete a test in connection with preparing a job plan. If there is a need, the relevant unemployed person can be referred to a subsequent course to upgrade his or her skills. This upgrading of skills may be a separate initiative or part of a work-related combination course.

As expected, the reform on the early retirement pension system and the inclusive labour market made it more attractive to employ persons with permanent and significantly reduced ability to work through the so-called **flex jobs**. By the end of 2006 about 42,500 people were employed in a flex job and about 12,000 people were expecting to obtain a flex job. On 1 July 2006 an adjustment of the flex job scheme was carried out which was to ensure that the referral to flex jobs was improved, and that unemployment for people referred to flex jobs was reduced.

### **The municipal reform and job centres**

On 1 January 2007, as part of the municipal reform, the Public Employment Service (AF=PES) and the municipalities merged in new joint job centres and entered into a binding co-operation focusing on the employment effort. The Public Employment Service (known as AF) no longer exists as an institution. The local job centres include one common access point for all unemployed individuals and enterprises, and will be the pivotal point in the employment effort. The job centres' core assignment will be to manage the direct employment effort as regards citizens and enterprises.

In the new employment system, there will be an increased focus on effects and results of the efforts in the individual job centres. Two new management tools will be introduced: the employment plan and the revision of results, which together with the new portal "jobindsats.dk"<sup>4</sup> will play a major role in the management of the new employment system. Four state employment regions will manage and supervise the job centres to ensure that there is cohesion between the national employment policy and the local effort.

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<sup>4</sup> Jobindsats.dk is a system to measure the employment effort in the job centres and the municipalities. This tool is meant to easily provide an overview of the employment effort in Denmark, and thereby show what is efficient and what is not. The results are to be made public and be transparent to everyone.

### **The deregulation project**

The Ministry of Employment and Local Government Denmark (KL) has launched a deregulation project aiming at strengthening the job focus of the job centres through simplification of rules and deregulation. The management and staff at the job centres have submitted 169 proposals. One quarter of all the proposals, or 44 proposals, are being carried out in 2007. In the long term, 32 proposals will be implemented. At local level, 15 proposals will be carried out.

### **Initiatives through the Task Force on managing labour shortages**

In August 2006 the minister set up a "Task Force on managing labour shortages". The task force analyses labour shortages, including specific examples of situations where enterprises have failed to recruit. Furthermore, the task force is to submit proposals on how specific recruitment problems may be solved. The task force has discussed labour shortages on the basis of three general approaches:

- **The availability approach:** The rules on labour market availability, and the administration of these, including interaction/communication between unemployment insurance funds and job centres;
- **The enterprise approach:** How do the enterprises recruit? Is there sufficient transparency on the demand side? Is it possible to identify the vacancies, and how does the interaction between enterprises and job centres work?
- **The authority approach:** How can job centres most effectively assist enterprises with recruitment problems?

The task force will be discussing the possibilities in and challenges of meeting labour shortages by using international recruitment, and discussing the potential of increasing the labour force by recruiting people who are outside the labour market today (on sickness benefits, the weakest recipients of social assistance, persons receiving early retirement pension, or receiving unemployment benefits). The task force has launched a number of improvements of the CV bank, an analysis of the classification system in Jobnet.dk (type of occupation), and a series of minimum requirements to the CV and the CV interview.

### **Initiatives to increase recruitment from abroad**

In recent years, the Government (and the parties behind the so-called "East Agreement" concerning transitional arrangements for workers from the new EU-Member States) has implemented a series of initiatives in recognition of the increasing need for a strengthened and smoother recruitment of foreign labour, and currently, further initiatives are being considered.

- The first adaptation of the so-called East Agreement entered into force in June 2006, enabling enterprises covered by a collective agreement to be pre-approved to employ citizens from the new EU member states without the citizens first having obtained work and residence permits. About 2,000 enterprises have today been pre-approved.
- In accordance with a political agreement from 29 June 2007, the requirement of a work and residence permit for work covered by collective agreements lapses as of 1 January 2008.
- In September 2006, the Government presented the so-called 13-point plan on recruitment of foreign labour. The main purpose of the plan is, partly, to facilitate enterprises' access to recruitment through increased knowledge and tools, and partly, to market Denmark in Sweden, Poland and Germany as an attractive country in which to work. The initiatives include setting up a hotline for enterprises and the new job centres, and a new website [www.workimport.dk](http://www.workimport.dk) with all necessary knowledge for enterprises and offering the opportunity of direct job seeking from abroad. The tasks are managed by a new special unit. In addition, media campaigns and co-operation with the authorities in the three countries mentioned have been launched.
- The "positive list" of the job card scheme was adapted and extended on 1 May 2007, and at the same time occupations with an annual remuneration of at least DKK 450,000 were also covered by the list dependent upon industry and the precise nature of the occupation.
- At the same time, the green card scheme will be introduced, enabling qualified foreigners from third world countries to seek employment in Denmark.

- The Ministry for Science has set up the website [www.workindenmark.dk](http://www.workindenmark.dk) aimed especially at knowledge workers.
- Finally, the aim is to reduce the rate of case work in the Danish Immigration Service and the new employment regions.

The below tables are an update of previous reports on activation, etc. for the years 2005 and 2006.

**Table 3. Expenses for employment efforts**

<b>DKK bn</b>	<b>2005</b>	<b>2006</b>
PES (AF) operations	836	837
The National Labour Market Authority	107	110
<i>Active employment efforts</i>		
Guidance and upgrading of skills	1,580	1,198
Other (external) actors	628	593
The Regional Labour Market Councils - initiatives, including information, bottleneck projects, etc.	58	48
Mentor scheme	7	8
Adult apprentices	106	123
Municipal activation	2,464	2,532
Education and training for the employed	164	205
Activation allowance	2,815	2,258
Wage subsidies, social assistance	994	286
Wage subsidies, private sector	460	345
Wage subsidies, public sector	1,487	1,246
Support for disabled persons etc.	233	215
Redundancy payment	20,405	15,955
Retirement	22,756	20,567

Active measures	11,938	10,003
Passive measures	43,161	36,522
Total	55,099	46,525

**Table 4. Average number of insured full-time persons in activation**

	2005	2006
Education and Guidance	19,034	15,482
Job training	13,658	11,065
Work Placement	1,024	819
Other	1,969	2,063
<b>Total</b>	<b>35,685</b>	<b>29,429</b>

Source: The National Labour Market Authority ([www.jobindsats.dk](http://www.jobindsats.dk))

**Table 5. Average number of non-insured persons in activation**

	2004	2005	2006
Education and Guidance	10,502	10,274	9,294
Job Training	3,411	2,987	2,584
Individual Job Training	8,133	6,950	5,548
Special Activation Courses	11,844	10,779	10,634
<b>Total</b>	<b>33,890</b>	<b>30,990</b>	<b>28,060</b>

Source: AMFORA (Statistics Denmark)

**Table 6. Change in the self-support degree for insured unemployed persons after completion of an activation offer with the unemployment benefit system.**

Broken down by age and type of activation.

		20 - 24	25 - 29	30 - 34	35 - 39	40 - 44	45 - 49	50 - 54	55 - 59	60 - 64	Total
2004	Job training - Private sector	20.5	30.6	34.7	34.8	29.8	32.8	32.7	25.2	22.5	30.9
	Job training - Public sector	7.5	20.3	23.5	20.3	19.4	18.7	15.1	5.7	5.3	14.9
	Work Placement	-14.2	-5.7	-0.5	2.1	0.1	1	-0.2	-0.7	-9.8	-1.8
	Guidance	-4.8	1.3	4.9	6.2	4.7	0.9	2.2	-1.9	-8.8	1.8
	Education	2.4	4.2	9	9.8	7.8	6.9	3.9	-0.4	-7.1	5.5
	<b>Total</b>	<b>2.9</b>	<b>8.1</b>	<b>12.7</b>	<b>12.8</b>	<b>10.7</b>	<b>10</b>	<b>8.4</b>	<b>3.2</b>	<b>-3</b>	<b>8.7</b>
2005	Job training - Private sector	29.9	37.4	44.4	40.7	42.2	41.3	40.6	35.6	19.7	39.4
	Job training - Public sector	17.8	23.3	27.1	27.7	23.6	24.8	20.4	9.1	3.2	19.5
	Work Placement	-8.8	-5.3	4.4	6.3	5.2	5.4	4.3	2.6	-5.5	2.2
	Guidance	-2.6	5.3	11.6	7.8	8	7.2	5.3	2	-4.5	6
	Education	6	3.2	11.3	12.4	10.8	10.7	7.8	1.8	-8.7	7.8
	<b>Total</b>	<b>8.9</b>	<b>9.7</b>	<b>16.5</b>	<b>16</b>	<b>14.9</b>	<b>14.8</b>	<b>12.2</b>	<b>6.5</b>	<b>-4.2</b>	<b>12.2</b>

Source: The National Labour Market Authority ([www.jobindsats.dk](http://www.jobindsats.dk)).

Note: The change in self-support degree measures the difference (in percentage-points) between the degree of self-sufficiency 12 months prior to activation and 6 months after completion of activation.

**Article 1  
Paragraph 1  
Question B**

The below tables and figures follow up on previous reports on employment etc. for the years 2005 and 2006.

**Table 7. Development in employment 2002-2006**

	2002	2003	2004	2005	2006
<b>Men</b>	1,483,624	1,460,009	1,437,342	1,440,370	1,463,574
<b>Women</b>	1,298,682	1,281,377	1,269,092	1,270,092	1,291,072
<b>Total</b>	2,782,306	2,741,386	2,706,434	2,710,462	2,754,646

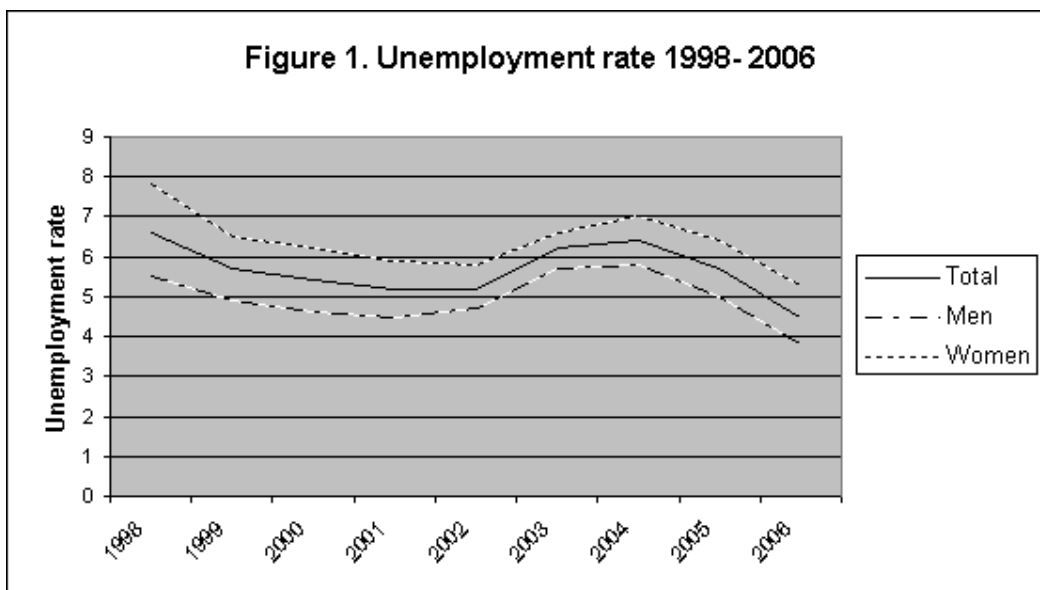
Source: RAS (Statistics Denmark)

**Table 8. Activity and employment rates**

	2003	2004	2005	2006
<b>Activity Rate</b>	76.8	76.6	76.3	76.5
<b>Employment Rate</b>	73.5	72.5	72.6	73.6

Source: RAS (Statistics Denmark)

**Figure 1. Unemployment rate 1998 - 2006**



Source: Statistics Denmark

	1998	1999	2000	2001	2002	2003	2004	2005	2006
Total	6.6	5.7	5.4	5.2	5.2	6.2	6.4	5.7	4.5
Men	5.5	4.9	4.6	4.5	4.7	5.7	5.8	5.0	3.8
Women	7.8	6.5	6.2	5.9	5.8	6.6	7.0	6.4	5.3

**Table 9. Number of unemployed persons broken down on insured and non-insured**

	1998	1999	2000	2001	2002	2003	2004	2005	2006
<b>Insured</b>	153,434	131,584	128,765	123,809	123,251	146,330	149,252	132,848	103,301
<b>Non-insured</b>	29,287	26,605	21,725	21,268	21,481	24,278	27,136	24,588	21,061
<b>Total</b>	182,721	158,190	150,491	145,077	144,732	170,608	176,388	157,436	124,362

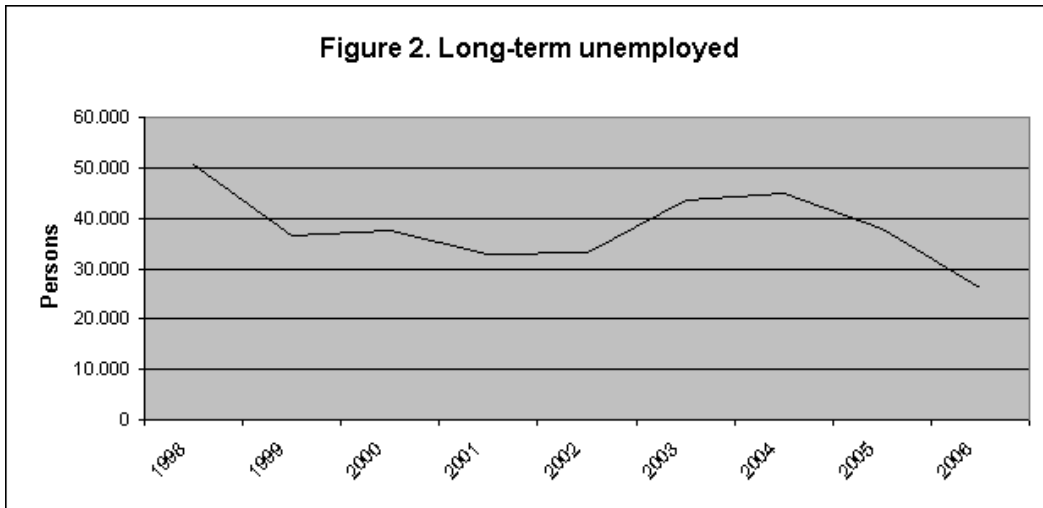
Source: Statistics Denmark

**Table 10. Unemployment broken down by age, 2005 - 2006**

	2005		2006	
	Total	Unemployment rate	Total	Unemployment rate
16-17	12	0	12	0
18-19	1,584	2	1,267	1.6
20-24	10,048	4,5	7,797	3.5
25-29	18,721	6,8	14,250	5.2
30-34	23,007	6,9	18,133	5.4
35-39	21,417	6,1	16,609	4.7
40-44	18,910	5,3	15,652	4.4
45-49	15,064	4,7	11,820	3.7
50-54	14,161	4,7	11,075	3.7
55-59	24,643	8	19,256	6.2
60-64	9,567	7,1	8,488	6.3
65-66	302	3,7	0	0
<b>All</b>	157,436	5,7	124,362	4.5

Source: Statistics Denmark

**Figure 2. Long-term unemployed**



Source: Statistics Denmark.

Note: Long-term unemployed persons are defined as persons who have been unemployed for more than 80 percent of the past year.

**Table 11. Unemployment by length of unemployment, 2005 – 2006**

	Degree of unemployment	0,001 - 0,200	0,2001 - 0,400	0,401 - 0,600	0,601 - 0,800	0,801 - 1,000	Affected number of persons
<b>2005</b>	<b>Share of total unemployment with respective degree of unemployment</b>	49.1%	21.7%	13.8%	8.5%	7.0%	543,059
<b>2006</b>	<b>Share of total unemployment with respective degree of unemployment</b>	54.7%	20.9%	12.3%	6.7%	5.4%	485,331

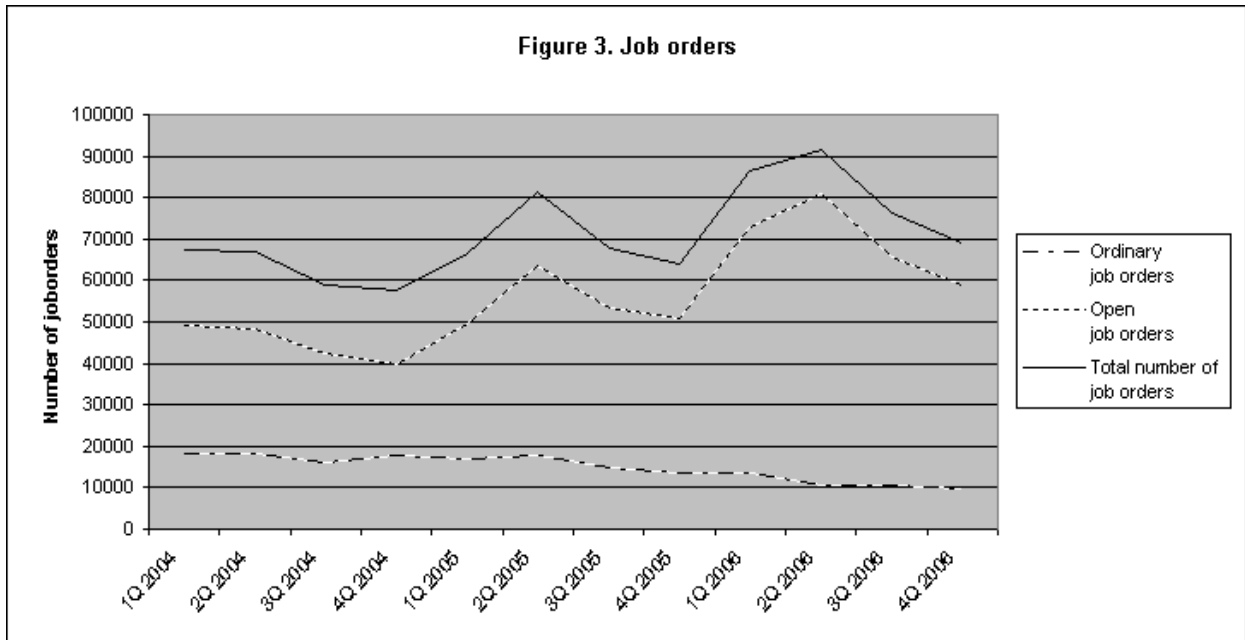
Source: Statistics Denmark



**Article 1  
Paragraph 1  
Question C**

Updated tables for job orders and unfilled vacancies for 2005 and 2006.

**Figure 3. Joborders**



	2004				2005				2006			
	1Q	2Q	3Q	4Q	1Q	2Q	3Q	4Q	1Q	2Q	3Q	4Q
Ordinary job orders	18,403	18,423	16,272	17,689	17,054	17,675	14,660	13,453	13,687	10,490	10,579	9,927
Open job orders	49,156	48,389	42,583	39,989	49,603	63,617	53,345	50,639	72,851	81,097	65,743	58,944
Job orders, total	67,559	66,812	58,855	57,678	66,657	81,292	68,005	64,092	86,538	91,587	76,322	68,871

**Table 12.  
Unfilled  
vacancies**

	1Q 2004	2Q 2004	3Q 2004	4Q 2004	1Q 2005	2Q 2005	3Q 2005	4Q 2005	1Q 2006	2Q 2006	3Q 2006	4Q 2006
Ordinary job orders	18,403	18,423	16,272	17,689	17,054	17,675	14,660	13,453	13,687	10,490	10,579	9,927
Unfilled vacancies	772	1,117	1,266	755	781	1,864	2,037	719	894	954	912	2,860

Source: The National Labour Market Authority

As shown in figure 3, the number of ordinary joborders, i.e. orders concerning vacancies to which the PES specifically locates qualified applicants, has dropped in the period from 2004 to 2006. In the same period of time the number of open job orders to which the PES does not seek out applicants but only advertises the order has increased, cf. also figure 3.

This may be seen as an expression of the self-service strategy that Denmark has developed in this area in recognition of the possibilities made available with job and CV banks on the internet. For instance, the Danish PES introduced an internet-based job bank in 2003. By making the internet-based tools available to the users, the PES has created the framework for employers (job orders) and employees (CVs) to meet easily and comfortably. The PES still has an insight in which qualification requirements the enterprises have, and at the same time, the PES is able to direct the attention of the right unemployed people towards these areas.

There is no available information about the job orders broken down by occupational area.

**Article 1**  
**Paragraph 2**  
**Question A**

The Danish Act on gender equality is from 2000, and has been amended regularly. Reference is made to Consolidating Act No. 1527 of 19 December 2004. The Act explicitly states that it is prohibited to discriminate on the basis of gender, and it includes measures to promote equal opportunities, an obligation for public institutions to prepare statements on equal opportunities, requirements for a balanced gender ratio for public committees, commissions, boards etc. and an equal opportunities board.

The Act on equal pay, which was originally adopted in 1976, was amended in 1986, 1989, 1992, 2000, 2001, 2002 and 2006. It stipulates that any employer employing men and women must ensure equal pay, including equal conditions of pay for equal work or work of equal value. The law text has been enclosed as Consolidating Act No. 906 of 27 August 2006.

The Act on the equal treatment of men and women, which includes the right to employment etc., entered into force in 1978. It was amended in 1984, 1989, 1990, 1994, 1997, 2000, 2001, 2002, 2005 and 2006. It protects men and women against discrimination in relation to employment and other important relevant questions concerning the labour market. The law text has been enclosed as Consolidating Act No. 734 of 28 June 2006.

Discrimination on the labour market on the basis of race, colour, religion or belief, political opinion, sexual orientation, age, disability or national, social or ethnic origin, is covered by the Act on prohibition of discrimination on the labour market etc. from 1996, including subsequent amendments. The most recent Consolidating Act is from 2005, cf. Consolidating Act No. 31 of 12 January 2005.

Act No. 253 of 7 April 2004 included 'religion' as a criterion in the act. The act implements parts of the Council Directive 2000/43/EC of 29 June 2000 on the implementation of the principle of equal treatment regardless of race or ethnic origin as well as parts of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

The Act prohibits direct and indirect discrimination as well as harassment and instructions concerning discrimination. Wage earners and applicants for vacant jobs are protected against discrimination in connection with employment, in connection with dismissal, transfer, and promotion, and with regard to terms of remuneration and working conditions. Employers may not discriminate against employees in respect of access to further vocational education, retraining, etc. The Act applies to employers as well as to anyone who carries on instructional and educational activities, and to anyone who provides placement services.

The Act also contains a duty for the employer to make appropriate adaptations in view of the specific need to grant disabled persons access to employment, to perform a job, find progress in employment or access to education. However, the duty to undertake adaptations must not be unreasonably onerous for the employer. If the burden is sufficiently lightened by means of public measures, it is not considered excessive.

People who plead equal treatment for themselves or others are legally protected against reprisals.

In 2006, the Danish parliament adopted two amending acts prohibiting discrimination in the labour market etc.

- Act No. 240 of 27 March 2006 implements an exception for young people under the age of 18. This exception entails that the Act does not prevent provisions in collective agreements concerning special rules for remuneration of young people under the age of 18.
- Act No. 1542 of 20 December 2006 raises the age limit for when agreements can be made concerning obligatory resignation from the age of 65 to 70.

The Consolidating Act prohibiting discrimination in the labour market etc., including subsequent amendments to the Act are enclosed.

Part 6 of Consolidating Act No. 734 of 28 June 2006 on equal treatment of men and women as regards access to employment etc. regulates sanctions and compensation. Please note that the report to the 23rd report from 2005 contained information on the fact that compensation for dismissal on the grounds of pregnancy and maternity leave could comprise up to 78 weeks, and that 39 weeks which is mentioned in the question is not relevant here.

Act No. 1385 of 21 December 2005 revoked the ceiling for compensation in connection with the implementation of amendments to the Equal Treatment Directive (2002/73/EC).

The reason for the limited possibilities to overrule a dismissal is that only few wage earners actually wish to return to their previous employment after a dismissal case has been brought before the courts. The employment relationship is no longer considered viable.

In addition to giving employers a fine for violating sections 2-6 of the Act on equal treatment, employers must also pay compensation for violating the Act on equal treatment.

## **Part 6**

### ***Compensation, assessment of evidence, etc.***

**Section 14** Persons whose rights have been violated by non-compliance with sections 2 to 5 may be awarded compensation.

**Section 15** An employee, including an employee's representative who is dismissed or exposed to other adverse treatment or consequence due to a claim of equal treatment under sections 2 to 4 shall be awarded compensation from the employer.

(2) Compensation laid down in subsection (1) above shall be fixed taking into account the seniority of the employee and other circumstances of the case.

(3) Subsections (1) and (2) shall be correspondingly applicable where the obligation to observe the principle of equal treatment follows from a collective agreement, but where the collective agreement does not give the person concerned a right to compensation in the case of dismissal which is not reasonably justified by the conditions of the employee or the undertaking. The claim shall be dealt with under the procedures set up for settlement of industrial disputes.

**Section 16** (1) If an employee is dismissed in contravention of section 9, the dismissal shall be set aside if a claim to this effect is made, unless it is - in special cases and after a balancing of the parties' interests - considered unreasonable to claim the employment relationship maintained or restored.

(2) If an employee is dismissed in contravention of section 9 and the dismissal is not set aside, the employer shall pay compensation.

(3) Compensation shall be fixed with due regard to the seniority of the employee and other circumstances of the case.

(4) If the dismissal takes place in connection with pregnancy, or absence laid down in sections 6 to 11, 13 and 14 of the Act on maternity leave, and in periods of notice under section 16 subsection (2) it shall be incumbent on the employer to prove that dismissal was not based on these grounds.

(5) If an employee is dismissed during the periods mentioned in sections 6 to 14 of the Act on maternity leave, the employee shall have the right to a document in writing giving adequate particulars of the ground for the dismissal.

**Section 16 (a)** Where a person who finds that he or she has been discriminated against, cf. sections 2 to 5, 9 and section 15 subsection (1), establishes facts which give cause for presuming that direct or indirect discrimination may have occurred, it shall be incumbent upon the other party to prove that the principle of equal equality has not been violated.

Sanctions upon non-compliance with the discrimination act (discrimination based on grounds other than gender).

Non-compliance with the Act prohibiting discrimination on the labour market etc. is sanctioned pursuant to section 7 following which, persons whose rights have been violated can be awarded compensation. The Act on discrimination also protects against retaliatory measures, and persons who are subjected to unfair treatment or unfair consequences because they have made demands concerning equal treatment can be awarded compensation.

Violation of the prohibition against discriminatory job advertisements is subject to a fine, cf. sections 5 and 8.

**Article 1**  
**Paragraph 2**  
**Question B**

The methods mentioned have not been adopted; however there is an extensive dialogue with the social partners concerning combating discrimination.

**Article 1**  
**Paragraph 2**  
**Question C**

The Act on equal treatment, the Act on equal pay and the Discrimination Act include provisions concerning victimisation in relation to bringing cases about equal treatment and equal pay before the courts. If a wage earner is dismissed under such circumstances, the employer shall pay compensation. The wage earner's access to information concerning pay is also protected by a provision concerning victimisation.

*Information on measures taken to promote the equality of women in employment, as well as all measures taken to transpose 2002/73/EC on the implementation of the principle of equal treatment*

*for men and women as regards access to employment, vocational training and promotion and working conditions and information as to how the concept of indirect discrimination has been defined/interpreted by the courts.*

Directive 2002/73/EC was implemented by Act No. 1385 of 21 December 2005. The Act includes the following main points:

- The insertion of definitions on direct and indirect discrimination, harassment and sexual harassment in accordance with the amended Directive on Equal Treatment. In addition, it is put into statutory form that discrimination also covers harassment, sexual harassment and instructions on discrimination. This amendment aims at creating clear legal standards and thus improving the legal protection in that the amendment at the same time takes into consideration the most recent case law of the EC Court of Justice. The amendment will, furthermore, create cohesion in relation to the definitions laid down in the Act on equal treatment, including the two Article 13 Directives; the ethnic directive and the employment directive, respectively (section 1(II));
- That the principle on mainstreaming is introduced for public authorities in the area of the Act (section 1(III));
- That the prohibition against discrimination is extended to also apply in connection with membership of trade unions and professional and industrial associations (section 1(IV));
- The right to return to the same or similar work for parents who have exercised their right to absence under section 7 of the Act on equal treatment is put into statutory form (section 1(V));
- Access to deviating from the principle of equal treatment under section 13(1) of the Act is specified so that the general principle on proportionality appears directly from the provision (section 1(VI));
- That the protection against discrimination in section 15(1) is extended to not only apply against dismissal but also against any other unfavourable treatment or consequence (reprisal) when claims on equal treatment are made (section 1(VII)), and
- That the maximum ceiling laid down in the Act concerning compensation that may be awarded in connection with violation of the Act on equal treatment is repealed (section 1(VIII) and (IX)).

Indirect discrimination is defined in section 1(3) of the Act on equal treatment and in section 1(2) of the Act on equal pay. In the Act on equal treatment, the definition is an adaption of the amendment directive of the previous definition in section 1(2) of the previous Act. The amendment chiefly means that in the assessment there is less focus on the number of persons affected who, due to a gender-biased effect of a provision, condition or practice, become disadvantaged. In addition, a linguistic adaption was made. The definition corresponds to the definition laid down in section 1(3) of the Act on equal treatment. The definition on indirect discrimination laid down in the Act on equal pay will be adapted to the formulation in the Act on equal treatment in connection with the implementation of the changed Equal Treatment Directive (2006/54/EC).

In cases on indirect discrimination, the employer's motive is irrelevant. It is important that the criteria which the employer uses under the given circumstances have a biased effect. The prohibition against indirect discrimination does not mean that it is generally prohibited to use criteria with biased effect, but that such criteria must be made on an objective basis by the employer, that it must be necessary to use them in order to achieve an unbiased aim, and that the means for it must not intervene in relation to the aim in an inappropriate way. This problem is described in the Seymour-Smith case. The courts interpret in accordance with the common practice of the EC Court of Law.

*Confirmation that there is no ceiling to the amount of compensation that may be awarded; it further asks whether compensation is subject to limits where a claimant is unlawful dismissed for having made a claim of discrimination.*

As can be seen from Part 6 of the Act on equal treatment there is no ceiling to the size of compensation in the victimisation provision of section 15 of the Act on equal treatment, and section 3 of the Act on equal pay has a similar provision where the ceiling is removed in connection with the implementation of the changed Equal Treatment Directive, which is to be implemented no later than 15 August 2008.

**Article 1**  
**Paragraph 2**  
**Question D**

No forced or compulsory labour is authorised or tolerated. Prison work in Denmark falls under the exception in the ILO Convention NO 29, Article 2, 1c.

According to Article 38 (1) of the Sentence Enforcement Act, an inmate has the right and duty to occupation by participating in work, education, training or other approved activity.

Article 38 (2) allows for the Minister of Justice to lay down rules which derogate from subsection 1 in respect of certain institutions or certain groups of inmates when necessary for practical or other special reasons. However, the inmates shall be offered occupation as far as possible.

A convicted offender confined in a local prison does not fall within Article 38(1) of the Sentence Enforcement Act. Such inmates shall nevertheless be offered occupation.

Similarly, prisoners held on remand must be offered occupation, but have no duty to work. Such prisoners are entitled to procure occupation provided that it can reasonably take place in the institution.

**Article 1**  
**Paragraph 2**  
**Question E**

See answer to question D above.

**Article 1**  
**Paragraph 2**  
**Question F**

See answer to question D above.

**Article 1**  
**Paragraph 2**  
**Question G**

The work is carried out under the supervision and control of a public authority (prison staff). The prisoner is not hired to or placed at the disposal of private individuals, companies or associations. According to Article 39 (1) of the Sentence Enforcement Act, the choice of occupation is made in each case on the basis of an overall assessment of the inmate's situation. When making such decisions, the inmate's own desires and occupation, education or training opportunities outside the prison must be taken into consideration as far as possible. The inmates must be counselled on how to remedy the lack of schooling, vocational or other training through education.

**Article 1  
Paragraph 3  
Question A**

Central tables are updated below.

**Table 13. Number of referred persons in 2005 and 2006**

	2005	2006	Development 2005-2006
<b>Summoned total</b>	63,868	45,591	-29%
<b>Referred total</b>	40,521	27,649	-32%

Source: The National Labour Market Authority (AMANDA)

**Table 14. Number of referred persons by gender, 2005 and 2006**

	2005	2006	Development 2005 - 2006
<b>Summoned men</b>	27,499	18,759	-32%
<b>Referred men</b>	18,522	12,600	-32%
<b>Summoned women</b>	36,369	26,832	-26%
<b>Referred women</b>	21,999	15,049	-32%

Source: The National Labour Market Authority (AMANDA)

**Table 15. Number of summoned persons and referred persons in 2005 and 2006 by age**

	2005		2006		Summoned: Development 2005 - 2006
	Number summoned	Number referred	Number summoned	Number referred	
<b>&lt; 25 years</b>	6,848	5,664	3,956	3,235	-42%
<b>25 - 29 years</b>	9,841	6,407	6,413	4,076	-35%
<b>30 - 49 years</b>	32,250	21,243	23,154	14,772	-28%
<b>&gt; 50 years</b>	14,929	7,207	12,068	5,566	-19%

Source: The National Labour Market Authority (AMANDA)

**Table 16. Referred as a share of summoned, 2005 and 2006**

	Referred as a share of summoned, 2005	Referred as a share of summoned, 2006
<b>&lt; 25 years</b>	83%	82%
<b>25 - 29 years</b>	65%	64%
<b>30 - 49 years</b>	66%	64%
<b>&gt; 50 years</b>	48%	46%

Source: The National Labour Market Authority (AMANDA)

**Article 1  
Paragraph 3  
Question B**

In table 17 the staff of the Public Employment Service (PES) has been broken down by the years 2003, 2005 and 2006:

**Table 17: Combination of staff in the Public Employment Service**

Staff category	Share of total number of employees		
	2003	2005 <sup>5</sup>	2006
Management	6%	-	-
Academic staff	8%	-	-
PES consultants	41%	-	-
Career advisors	10%	-	-
Administrative staff	32%	-	-
Others	3%	-	-
<b>Total</b>	<b>1,976</b>	<b>1,878</b>	<b>1,740</b>

Source: Annual report of the PES for 2003, 2005 and 2006.

The number of employees in the Public Employment Service has decreased over a period of years; this decrease is a consequence of the annual demands for productivity improvements laid down in the Finance Act. The decrease from 2005 to 2006 was, furthermore, due to a restraint in generating new jobs up until the transition to the new employment system.

Up until end-2006 there were 63 local PES offices in addition to the 14 regional head offices. Most of these local offices contained the units connected to the public employment service, while some of the offices were only responsible for registration and withdrawal of the registration of unemployed people; often with reduced opening hours.

In 2007 the municipal reform entered into force, and as mentioned earlier, in this connection the PES and the municipalities merged into the job centres of today. The Danish state and the municipalities in the job centres all focus on the employment efforts for citizens and enterprises under the heading: "One employment system with one-stop access".

From 1 January 2007 there are a total of 91 job centres.

The offer of job centres to job seekers and enterprises e.g. includes:

- ordinary and open placement activities through Jobnet.dk;
- information and guidance for job seekers and potential students;
- handling the activation efforts that are to lead to jobs for the unemployed;
- active enterprise contact in order to monitor the labour market and eliminate bottlenecks;
- efforts targeted at special groups, including disabled people in order to help them obtain employment;

The most important elements of the Welfare Agreement from 2006 in relation to employment efforts enter into force in 2007. The Welfare Agreement contributes to increasing the focus of the unemployed and the new job centres on jobs, and strengthening the focus also from the perspective of the unemployed more on labour market availability.

Important elements in the new employment efforts include new and tight rules on labour market availability above all. In addition, systematic use of activation efforts can be used as a tool to up-

<sup>5</sup> From 2004, the National Labour Market Authority no longer compiles studies of the combination of employees in the PES.



grade the skills of the unemployed, and as a means to testing whether the unemployed are available to the labour market.

**Article 1**  
**Paragraph 3**  
**Question C**

In Denmark, it is possible to designate parts of the employment efforts to players outside the job centres (the so-called other actors or external players). In 2005, the Minister for Employment presented an action plan, which forms the basis of a new and improved framework for the use of other actors. The new framework entered into force in connection with the municipal reform.

The Government has decided that other actors are to be involved in the efforts aimed at the unemployed in cases where special knowledge and competences are needed to find employment for the unemployed individual.

State sector authorities select the actors on the basis of public tenders, where one payment model with a high bonus is used to create a strong focus on results and effects. In 2005/2006, the municipal authorities were not similarly obligated to offer tasks for public tenders, but from 2007 they are subject to a requirement to use invitations to tender for public contracts in connection with non-insured unemployed people, including unemployed people with a further and higher education.

**Article 1**  
**Paragraph 3**  
**Question D**

The employment efforts in 2005 and 2006 were managed applying the framework already described in question B.

In connection with the municipal reform and the setting up of the new job centres in 2007, the social partners have been assigned new roles in relation to management and follow-up on the employment efforts. This appears from the Act on the responsibility for and management of the active employment effort.

The National Employment Council (BER) continues to participate in the management of employment efforts by providing advice to the Minister for Employment. The social partners are also represented in the Council that consists of 25 members and one chairman.

In 2007, the 14 regional employment councils (RBR) have been replaced by four regional employment councils where the social partners are also represented. The regional employment councils consist of a chairman and 21 other members; however, there are 42 members in the employment region for Copenhagen and Zealand.

In addition, 91 local employment councils have been established which are involved in the management of the 91 joint state/municipal job centres. The social partners are also represented here. The local employment councils consist of up to 13 members.

Furthermore, there are four operating regions in Denmark responsible for supporting state initiatives in the joint municipal and state job centres.

The primary objective of the operating regions is to manage financial and activity follow-ups in relation to the state sector part of the job centres. The operating regions announce operating and activity appropriations, and activity figures to the job centres in the region. In addition, the operating

regions monitor the state sector part of the activities and consumption of the job centres, and are involved in an ongoing dialogue with the job centres.

**Article 1**  
**Paragraph 3**  
**Question E**

The contents of the active employment efforts in Denmark are, as a starting point, regulated by the Act on active employment measures.

The purpose of the active employment measures is to contribute to a well-functioning labour market by:

- 1) helping job seekers who are looking for a job;
- 2) providing service to private and public employers who are looking for labour, or who wish to retain their employees;
- 3) helping recipients of social assistance, start allowance and unemployment benefits to obtain employment as quickly as possible so that they are able to provide for themselves and their family; and
- 4) supporting persons who because of a limited capability to work have special needs for assistance in order to obtain employment.

**Article 1**  
**Paragraph 4**

Denmark has accepted articles 9,10 and 15.

**In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 25<sup>th</sup> Danish report.**

## **Article 1 – Right to work**

### *Paragraph 1 – Policy of full employment*

The Committee takes note of the information contained in the Danish report.

### *Employment situation*

The Committee notes that the economic situation developed favourably during the reference period: after a fall in the GDP growth rate in 2003 it increased considerably and the growth rate reached 2.4% in 2004. At the same time inflation was brought down from 2% in 2003 to 0.9% in 2004. Furthermore, after two years with job losses there was positive employment growth in 2004 (0.1%). The employment rate increased to 75.7% in 2004.

The report emphasizes the significant fall in structural unemployment which has occurred over the last decade. During the reference period, according to Eurostat, the unemployment rate fell from 5.6% in 2003 to 5.4% in 2004. The positive development was especially pronounced among young people where the unemployment rate fell from 9.9% to 8.2%. The long-term unemployment rate was 20.3% in 2003 which is low by European Union standards.

In reply to the Committee's question the report states that the unemployment rate among immigrants and "descendants from third countries" has been decreasing since 1994, although there is still a noticeable tendency for a lower labour market participation by non-western immigrants (45% employment rate for this group compared to 77% for Danes). By way of example the report states that the unemployment rate among Turkish immigrants was 13% in 2003 and among Pakistani immigrants it was 11%. Immigrant women are more affected by unemployment: the unemployment rate was 17% for both female Turkish and Pakistani immigrants.

As regards the employment situation of disabled people, the report states that no information is available. Having noted that the Government in 2003 presented an action plan in the field of disability, including in relation to employment opportunities for disabled persons, **the Committee asks that any quantitative information on unemployment and employment among the disabled, which may be generated in this context, be included in the next report.**

### **Reply:**

"Reference is made to the 27.th. Report concerning Article 1, para. 1, question A, Article 15, para. 1, questions A-C, Article 15, para 2, questions A and B, and to the answers to the questions raised by the ECSR in Conclusions XVIII-2."

### *Employment policy*

The report recalls that the cornerstone of the present labour market policy with its emphasis on activation was laid down in 1993 and has been continually adjusted ever since. Taking into account the most recent developments in the economy and in employment, the following new activation measures were introduced during the reference period:

- Special placement activities;
- Intensive job search programmes;
- Adjustment of the job rotation scheme;
- Special mentor scheme;
- Abolition of the access to the child care leave scheme.

**The Committee asks how this last measure contributes to activating the unemployed persons.**

**Reply:**

“Since there is no longer a possibility for unemployed persons to go on child care leave, this scheme can no longer prevent unemployed persons from participating in activation measures.”

As from 1 January 2003, implementation of a new employment policy reform -"More people at work" – was begun. As from March 2004 it was followed up by a supplementary initiative "More people in employment - lower unemployment". The purpose of the initiative was to further strengthen the effort to target employment and educational initiatives in order to combat unemployment and in order to secure the qualifications of the labour force. According to the report these reforms have led to a stronger focus on an individual approach in employment measures with a clear job orientation, and on a faster and more direct access to employment.

The Committee takes note of the various specific measures described in the report, including those targeted at improving the integration of refugees and ethnic minorities in the framework of the action plan to promote equal treatment and diversity and to combat racism.

The Committee notes the figures on participation in active measures, which generally reflected the development in unemployment figures. In 2003, about 72,000 persons (insured and non-insured unemployed persons) were on average enrolled in activation corresponding to an activation rate of about 42%.

As regards the effects of active measures, the report provides survey results which indicate that job training in the private sector is the most effective activation instrument in terms of creating lasting employment for the persons concerned. The survey results also show that participation in vocational training, especially in the social and health sector, gives a comparatively high employment effect whereas participation in general education courses has a lower effect.

**Having regard to the above-mentioned action plan in the field of disability, the Committee asks to receive information on the measures implemented, on their impact and on how this impact was assessed.**

**Reply:**

“Reference is made to the 27.th. Report concerning Article 1, para. 1, question A, Article 15, para. 1, questions A-C, Article 15, para 2, questions A and B, and to the answers to the questions raised by the ECSR in Conclusions XVIII-2.”

Finally, the Committee notes that expenditure on labour market policy increased slightly in absolute terms and as a share of GDP (4% in 2002, 4.2% in 2003).

*Conclusion*

Pending receipt of the information requested, the Committee considers that the situation in Denmark is in conformity with Article 1§1 of the Charter.

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*Paragraph 2 – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)*

The Committee notes the information provided in Denmark's report.

## 1. Prohibition of discrimination in employment

The Committee considers that under Article 15§2 legislation should prohibit discrimination in employment at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

Where a state party has accepted Article 15§2 of the Charter the Committee will examine legislation prohibiting discrimination on grounds of disability under this provision.

Legislation should cover both direct and indirect discrimination, in the context of indirect discrimination the Committee recalls that it has stated that in the context of Article E of the Revised Charter: "Such indirect discrimination may arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all" (Autisme Europe v. France, Collective Complaint No 13/2000, decision on the merits of 4 November 2003, §52).

The Act on Equal Treatment of Men and Women, (the Act on Gender Equality) was amended in 2004 (consolidation Act No 1527 of 19 December 2004). It lays down specific prohibitions on gender discrimination, provides for measures to promote gender equality, it further provides for the establishment of a Gender Equality Board, a complaints body, as well as imposing obligations of gender equality on public committee, commissions, boards etc.

Equal pay is governed by specific legislation The Act on Equal Pay for Men and Women (consolidation Act No 756) which was most recently amended in 2002. Issues relating to equal pay are examined under Article 4§3 of the Charter (see Conclusions XVI-2, vol. 1 p. 204).

The Act on Equal treatment of Men and Women as regards access to Employment and Maternity Leave (consolidation Act No 711 of 20 August 2002) was amended most recently in 2002. This Act prohibits discrimination on grounds of sex in connection with recruitment, transfers, promotions, vocational guidance and retraining, working conditions and dismissals. The Act covers both direct and indirect discrimination and provides a definition of indirect discrimination.

The Committee had previously asked whether a right is conferred on a trade union or any other body to bring a court action in connection with cases involving discrimination on the grounds of sex. It recalls in this respect that under Article 15§2 in order to provide more effective protection against discrimination, associations, organizations and other legal entities should be empowered to engage in proceedings. The report states in this respect that trade unions may act only on behalf of their members. **The Committee asks whether there are other bodies which are permitted to provide victims of discrimination with the support they need to take proceedings.**

### Reply:

"In connection with the implementation of the amendment of the Equal Treatment Directive (2002/73/EC), the ceiling for the size of the compensation was abolished by Act No. 1385 of 21 December 2005. Thus there is no ceiling on the size of the compensation in any cases of violation of the Act on equal treatment. Especially, in connection with dismissal on the grounds of pregnancy and maternity leave, compensations are increasing. In general, there is much focus on violation of the prohibition against discrimination in the media, enterprises and among the social partners.

In accordance with section 2(2)(IV) in the Act on setting up the Danish Centre for International Studies and Human Rights, the Danish Institute for Human Rights executes the tasks following from Article 13 of Directive 2000/43/EEC.

At the same time, a Complaints Committee on Ethnic Equal Treatment has been set up under the competences of the Danish Institute for Human Rights.

Pursuant to section 10(2) of the Act on ethnic equal treatment, the Danish Institute for Human Rights was thus given the competence to hear complaints on violation of the prohibition against discrimination on the grounds of race or ethnic origin, and violation of the prohibition against reprisals. In this connection, the institute may indicate their opinion as to whether there has been a violation of the prohibition against discrimination. Pursuant to section 10(3), the Institute may recommend free legal aid to those complainants who meet the conditions for bringing the case before the courts. The Institute decides pursuant to section 10(4) whether a complaint gives sufficient cause for an examination. The Complaints Committee hears complaints about discrimination outside the labour market, cf. the Act on ethnic equal treatment, as well as inside the labour market, cf. section 8a in the Act on prohibition against discrimination.

In the autumn of 2007 the Government will table a bill on setting up a board on equal treatment. The Board on Equal Treatment will be able to hear cases on discrimination in the labour market on the grounds of gender, race, skin colour, religion or belief, political opinion, sexual orientation, age, disability and national, social or ethnic origin. In addition, the board will be able to hear cases on discrimination outside the labour market on the grounds of gender, race and ethnic origin.

The bill centralises the existing administrative instances of appeal as to gender, race and ethnic origin. In addition, an administrative instance for appeal as to skin colour, religious or political opinion, sexual orientation, age, disability and national and social origin will be established.”

Complaints of discrimination on grounds of sex in employment may be filed with the Gender Equality Board, the Board may declare null and void discriminatory provisions, acts and clauses in collective agreements. It may award compensation to victims of discrimination in conformity with the rules laid down in the Act on Equal treatment of Men and Women as regards access to Employment and Maternity Leave (see below).

As regards remedies and sanctions the Act on Equal treatment of Men and Women as regards access to Employment and Maternity Leave provides for compensation in the event of dismissal for having put forward a claim for equal treatment, this compensation is limited to 39 weeks pay.

The Committee recalls that under Article 1§2 it has previously held that compensation must be adequate and proportionate to the damage suffered by the victim and that under other provisions of the Charter it has held that limits to the compensation payable in cases of dismissal are not in conformity with the Charter as they may in certain cases preclude adequate compensation from being awarded. The Committee decides to apply this reasoning *mutatis mutandis* to Article 1§2. Article 1§2 requires remedies for victims of discrimination to be effective, proportionate and dissuasive. It follows from this that the imposition of an upper limit may in certain cases prevent an award of damages commensurate with the loss and damage actually sustained and may not be sufficiently dissuasive for the employer.

Therefore the situation is not in conformity in this respect.

The Committee notes that compensation for acts of discrimination short of dismissal are not subject to a ceiling under the Act on Equal treatment of Men and Women as regards access to Employment and Maternity Leave it seeks confirmation that this interpretation is correct.

No provision is made for the reinstatement of women dismissed for putting forward a claim for equal treatment except in certain limited cases (involving equal pay and dismissal for reasons related to maternity).

Breaches of the provisions on equal treatment are punishable by a fine. The Committee refers to its question under Article 1 of the Additional Protocol (Right to equal opportunities and treatment in

employment and occupation without sex discrimination) for further information on the penalties actually imposed on employers.

As regards the position of women in employment the Committee refers to its conclusion under Article 1 of the Additional Protocol (Conclusions XVII-2,p.). **It asks the next report to provide information on measures taken to promote the equality of women in employment, as well as all measures taken to transpose Council Directive 2002/73/EC of 23 September 2002 on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion and working conditions<sup>6</sup>.**

**Reply:**

“The Government aims at reducing the gender-divided labour market. The mainstreaming strategy is used to analyse the performance of the Ministry of Employment in its promotion of gender equality on the labour market. The focus is particularly on dismantling the gender-segregated labour market.

In March 2006, the inter-ministerial Task Force on Ending Gender-Segregation in the Labour Market prepared the report: "Women and Men's Educations and Jobs. How Do We Address the Gender-Segregated Choices of Career and the Gender-Segregated Labour Market? This report contains specific recommendations on how to dismantle the gender-segregated labour market.

The Minister for Gender Equality has set up a website for career counsellors and parents with a child in the 8<sup>th</sup> and 9<sup>th</sup> grade ([www.lige-frem.dk](http://www.lige-frem.dk)). Already when you choose your secondary education decisions are made about future individual careers. Therefore, it is important to ensure that young people—as well as the adults who influence them—are well-informed about the variety of career options available to them, including the less traditional ones. In March 2007, more information about the web was distributed to career counsellors.

The Act on equal pay to men and women was tightened in 2001 entitling the employees to pass on information about their own pay conditions. This information can be given to anyone.

Since 2000 work has been done to obtain as exact and detailed wage statistic as possible. The statistics were published in 2001 and 2004. New statistics will be published in 2008.

Rules on gender-divided wage statistics broken down by enterprises were introduced in 2006, cf. Act No. 562 of 9 June 2006. The Act aims at focusing and intensifying the work to reduce any wage differences between men and women at enterprises. This is done by increasing the visibility and information on wage differences between men and women at enterprises exceeding a certain size. Major enterprises have been requested to prepare gender-divided wage statistics so that the necessary decision-making basis can be made to ensure that the individual enterprise may work actively on discovering or preventing unintentional wage differences between women and men. The study must be made on a detailed basis.

In addition, a website on equal pay has been set up, [www.ligelon.dk](http://www.ligelon.dk) with legislation, decisions, statistics and guidance on wage differences between women and men. Seminars are held regularly with researchers, the social partners and enterprises on equal pay in order to discuss and initiate initiatives that may reduce the wage differences between women and men. The seminars will replace the previously mentioned equal pay network for enterprises.

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<sup>6</sup> Official Journal L 269 , 05/10/2002 P. 0015 - 0020

Directive 2002/73/EC was implemented by Act No. 1385 of 21 December 2005. The Act includes the following main points:

- The insertion of definitions on direct and indirect discrimination, harassment and sexual harassment in accordance with the amended Directive on Equal Treatment. In addition, it is put into statutory form that discrimination also covers harassment, sexual harassment and instructions on discrimination. This amendment aims at creating clear legal standards and thus improving the legal protection in that the amendment at the same time takes into consideration the most recent case law of the EC Court of Justice. The amendment will, furthermore, create cohesion in relation to the definitions laid down in the Act on Equal Treatment, including the two Article 13 Directives; the ethnic directive and the employment directive, respectively (section 1(II));
- That the principle on mainstreaming is introduced for public authorities in the area of the Act (section 1(III));
- That the prohibition against discrimination is extended to also apply in connection with membership of trade unions and professional and industrial associations (section 1(IV));
- The right to return to the same or similar work for parents who have exercised their right to absence under section 7 of the Act on equal treatment is put into statutory form (section 1(V));
- Access to deviating from the principle of equal treatment under section 13(1) of the Act is specified so that the general principle on proportionality appears directly from the provision (section 1(VI));
- That the protection against discrimination in section 15(1) is extended to not only apply against dismissal but also against any other unfavourable treatment or consequence (reprisal) when claims on equal treatment are made (section 1(VII)), and
- That the maximum ceiling laid down in the Act concerning compensation that may be awarded in connection with violation of the Act on equal treatment is repealed (section 1(VIII) and (IX)).

Indirect discrimination is defined in section 1(3) of the Act on equal treatment and in section 1(2) of the Act on equal pay. In the Act on equal treatment, the definition is an adaption of the amendment directive of the previous definition in section 1(2) of the previous Act. The amendment chiefly means that in the assessment there is less focus on the number of persons affected who, due to a gender-biased effect of a provision, condition or practice, become disadvantaged. In addition, a linguistic adaption was made.”

Act No 459 of 12 June 1996 on the Prohibition of Discriminatory Treatment on the Labour Market was amended most recently in 2004. This legislation prohibits direct and indirect discrimination in the labour market on grounds of race, colour, religion, political opinion, sexual orientation, national, social or ethnic origin as well as age. Discrimination is prohibited in all areas connected with employment; recruitment, promotion, transfers, training, working conditions and remuneration.

**The Committee wishes to receive information as to how the concept of indirect discrimination has been defined/interpreted by the Courts.**

**Reply:**

“The Weekly Law Review in Denmark (Ugeskrift for Retsvæsen) prints case law from the High Courts and the Supreme Court. The present report quotes the decisions made on the basis of the Act on prohibition against discrimination on the labour market etc. since May 2004.

Since 2004, there has been one court case concerning the question of indirect discrimination on the grounds of religion. In the case printed in the Weekly Law Review (Ugeskrift for Retsvæsen) 2005 p. 1265, the Supreme Court dealt with the question of a muslim woman who wanted to wear a headscarf on the job. The Supreme Court found that the company regulations, which banned any kind of head cover and required a neutral appearance in a



large supermarket-chain, were legitimate and did not constitute indirect discrimination on the grounds of religion. The Supreme Court thus acquitted the employer.

Finally, the Ministry of Employment has been informed that the Maritime and Commercial Court in April 2007 reached a decision as to the extent of which language requirement could be considered contrary to the Act on discrimination. In the specific case the court found that the language requirement was laid down on an objective basis, and therefore this was not a case of unlawful indirect discrimination on the grounds of national origin. The decision was appealed to the Supreme Court.”

**Noting that the legislation has only recently been amended to cover discrimination on grounds of age the Committee wishes to receive further information on its operation, as well as any other measures in place to eliminate discrimination on grounds of age.**

**Reply:**

“The Government has so far not been informed of any decisions on discrimination on the grounds of age. However, there are several examples of age-discriminating advertisements that are increasingly reported to the police leading to a fine to the employer/advertiser.

In January 2006, the Ministry of Employment published an updated guide on the Act on equal treatment. The guide was sent to a wide circle of organisations on the labour market as well as private enterprises, and it is also available on the website of the Ministry of Employment. At the same time, a special guide on age discrimination entitled: "Your qualifications are important – and not your age" (only available in Danish) was published.

However, age discrimination attracts great attention politically and it is an area that is always being discussed. Thus in the spring of 2006 a large-scale seniors campaign was implemented to draw attention to the value of elderly people on the labour market, including also any initiatives to be launched with a view to retaining elderly people in employment.

Finally, a senior's think tank has been set up in 2007. The think tank will:

- help encourage the seniors policy debate and disseminate the knowledge of the challenges in this area;
- review rules, legislation and practice in the field of seniors and make proposals for improvements;

advise the Ministry of Employment and the Minister on issues of importance to seniors on the labour market.”

The burden of proof in all cases concerning discrimination rests with the employer once the claimant introduces *prime facie* evidence he/she has been the subject of discrimination.

Where a violation of the non-discrimination norm has been established the victim may be awarded compensation. **The Committee seeks confirmation that there is no ceiling to the amount of compensation that may be awarded; it further asks whether compensation is subject to limits where a claimant is unlawfully dismissed for having made a claim of discrimination.**

**Reply:**

“The Government confirms that in relation to compensation there is no ceiling for the size, neither in cases of unlawful discrimination nor where the case is about dismissal on the grounds that the person in question has put forward a claim for equal treatment (victimisation).”

In the context of discrimination on grounds of race or ethnic origin the report refers to the possibility for the Institute of Human Rights to deal with complaints of discrimination; the Committee requests further information on this possibility.

**The Committee also seeks information on the right of interested groups to obtain a ruling that the prohibition of discrimination has been violated in the employment context. It further wishes to receive information on the number of cases concerning discrimination brought before the courts and the Institute of Human Rights as well as the number of findings of discrimination.**

**Reply:**

“The Government informs that the annual report for 2006 of the Complaints Committee has not yet been published. The following information appears from the annual report for 2005 of the Complaints Committee:

“In 2005, the Complaints Committee held a total of six committee meetings.

In the period from January 2005 to December 2005, the Complaints Committee heard a total of 93 cases. The Committee received a total of 77 complaints and launched examinations of 16 cases on their own initiative.

At the turn of 2005-2006, 25 of the complaints received in 2005 and 11 of the cases submitted by the Committee were still being processed.

At end-2005, the Committee had furthermore prolonged the hearing of two complaints and one case where the Committee had launched an examination at its own initiative.

The Complaints Committee made 26 statements in 2005. Ten of these statements were related to cases brought forward in 2005.

In 20 statements, the Committee found that no violation had taken place. In seven of these statements, the Committee made general recommendations concerning the legislation on equal treatment.

In six statements, the Committee found that there was a violation of the prohibition against discrimination on the grounds of race or ethnic origin. 18 statements concerned matters outside the labour market, and two statements concerned matters inside the labour market.

The Complaints Committee rejected 20 of the 77 filed complaints. 14 complaints were considered baseless and six complaints concerned matters that fall outside the competences of the Committee. 24 complaints were dropped by the complainants, either directly or indirectly due to the complainants not procuring the information requested by the Committee.

The Complaints Committee had in one decision in 2005 recommended that the complainants be granted free legal aid.”

When the annual report for 2006 is presented, the Government will forward this to the Committee of Experts.”

The Committee notes the information provided in the report under Article 1§1 and 1§4 on the unemployment rate among immigrants. It further notes the measures taken to promote employment and integration of persons from ethnic minorities as well as measures to promote equal treatment and diversity and combat racism. **The Committee asks for information to continue to be supplied on measures taken to promote equal treatment in employment for all potentially vulnerable groups.**

**Reply:**

*The Danish Ministry of Employment has given following information:*

“As of 1 January 2007, national special units were set up to handle guidance activities, information, development and follow-up in the following areas: Disability and ethnic employment efforts. The special units are to support the employment efforts in all the job centres in Denmark and with the external players (so-called other actors).

A special unit has been set up

- for jobs and disability. The special unit supports the employment efforts to retain and integrate disabled persons on the labour market. At the same time, in Denmark the disabled are not considered a weak group on the labour market. The Danish Council of Organisations of Disabled People is, for instance, a member of the Employment Council as opposed to interest groups for vulnerable groups.
- for the ethnic employment efforts. The special unit supports the efforts of the job centres to integrate and retain persons with other ethnic background than Danish on the labour market.

Moreover, an internet portal has been set up on the social commitment of the enterprises with focus on commitments aimed at employment in the enterprises. This means well-being, prevention, retention and socially responsible recruitment. Small and medium-sized enterprises may use the portal to search for information whenever they need information about for example, sickness absence, integration of new Danes and flex jobs. On the internet portal the enterprises may find information about how to recruit new employees among the vulnerable groups on the labour market and about which subsidy schemes to use.

In addition, a pool for projects that effectively promote employment of long-term unemployed people and other vulnerable groups has been set aside. There is focus on projects that follow up on the general employment policy, develop the existing knowledge on the employment-related terms of the target group, and involve enterprises in the efforts.

Initiatives for weak unemployed people:

Since 2001, the Government has made agreements with the aim of helping the weak unemployed people onto the labour market. These include the agreements entitled "More People in Employment", "A New Chance for Everyone", the "Welfare Reform" and the four-party agreement with the social partners.

Specific initiatives for weak unemployed people cover:

- individually adapted contacts;
- simplified offers in the Act on active employment measures;
- better possibilities of upgrading of skills;
- ongoing possibilities of receiving Danish lessons for ethnic minorities;
- opportunity to have a mentor attached that typically is an experienced employee in an enterprise who is available to help an unemployed person who is in activation or who is employed in the enterprise on ordinary terms. The mentor scheme is subsidised by the state;
- repetitive activation of persons who have been unemployed for at least one year;
- upgrading of skills, e.g. through job-packages, i.e. job courses in areas with good job opportunities;
- employment of extra consultants in the employment system for more “tailor-made” efforts towards ethnic minorities;

clarification of competences of ethnic minorities' qualifications brought with them from abroad;”

*The Danish Ministry of Refugee, Immigration and Integration Affairs has given following information:*

“In the 25. Danish Report on the European Social Charter for the period 01.01.03-31.12.04 concerning articles 1, 5, 6, 12, 13 and 16, July 2005, the Danish Government has described several measures taken to promote equal treatment in employment (p. 37-38).

The initiatives mentioned are:

- an employment agenda “More People in Employment”. Formed the basis for several initiatives including a labour market reform, a new Act on Danish Language Courses and a revision of the Integration Act which was passed in the Danish Parliament in early summer 2003.
- 114 concrete initiatives. A number of these initiatives aim at improving the employment of immigrants.
- A campaign called “We need all youngsters”. The campaign informs parents as well as children about the educational system and the good employment possibilities. It aims at fighting drop-outs and increasing the rate of immigrants and their descendants who start and complete an education. The Campaign took off in 2002 and runs through 2010.
- “The Government’s Strategy against Ghettoisation” aiming at combating social urban segregation. Urban segregation constitutes a serious barrier to integration and a wide range of specific integration initiatives are therefore included in the strategy – including initiatives targeted at the labour market. The initiatives include development of business projects creating new jobs and economic stimulation, a new type of loan (“get started”-loans) which can be used as initial capital to implement a business idea and establishment of jobcentres in the areas.

Since the previous report, the Danish Government has initiated its own diversity programme to be implemented in the years 2006, 2007, 2008 and 2009. The establishment of the programme is part of the political agreement from June 2005 ‘A new chance for everyone’ but was already mentioned as a project to be instituted in the 2003 Government Action Plan to Promote Equal Treatment and Diversity and Combat Racism.

In recent years a number of companies and employers have chosen to work systematically with diversity management – thereby using diversity as a benefit for the company. The main idea with the programme is to disseminate information on good practices regarding employment of persons of foreign origin. The intention of the programme is also to draw on the already obtained experiences and results from the MIA-Campaign

It is expected that the experiences from the diversity programme and the expansion of diversity management will contribute to bring more immigrants into employment.

The programme consists of a range of initiatives. Examples are:

- Visit by consultants to 10.000 companies to pass on good examples, give advice on diversity management and secure practical use of efficient methods.
- Passing on of experiences from companies to companies.
- From executive to executive. A programme
  - 1) in which executives pass on their experiences to other executives,
  - 2) in which there is support for executives of foreign origin 3) and in which recruitment of more executives of foreign origin is encouraged.

- Improved diversity management in public companies and organisations.

Special funding has been allocated to strengthen diversity in the workplace and thus improve the situation for immigrants and descendants on the labour market. The Ministry of Refugee, Immigration and Integration Affairs has allocated 18 mill. DKK (approx. 2.5 mill. Euro) for the diversity programme.

#### Initiatives regarding employment and education

- Projects to eliminate barriers in regards to employment of newly arrived immigrants and refugees – 33 mill. DKK (app. 4.4 mill. Euro) of financial support to ethnic job consultants.

The purpose of these projects is to develop and undertake development activities etc. so that cultural barriers and negative attitudes do not form a factor when immigrants are employed.

- Projects to ensure employment initiatives for refugee and immigrant women – 25 mill. DKK (app. 3.4 mill. Euro) of financial support local initiatives.

The goal of the programme is to develop new methods and strengthen the labour market integration of the refugee and immigrant women by supporting the development of new projects and initiatives.

- Projects to ensure company-orientated employment initiatives for refugees and immigrants– 25 mill. DKK (app. 3.4 mill. Euro) of financial support local initiatives.

The goal of the programme is to develop new methods and strengthen the labour market integration of the refugees and immigrants by supporting the development of new projects and initiatives related to company-orientated labour market integration.

#### Initiatives on vulnerable communities and groups

- Strengthening of the municipal effort in regards to non-adapted youths – 3.7 mill. DKK (app. 500,000 Euro) of financial support to municipalities.

The purpose of these projects is to strengthen the motivation for immigrant youths to adapt to the general community.

- Support for especially vulnerable groups of unemployed immigrants and refugees - 2 mill. DKK (app. 270,000 Euro) of financial support allocated to disabled immigrants.

The purpose of these projects is to develop the possibilities for disabled persons from immigrant communities to gain access to the labour market.

Initiatives in socially vulnerable communities – 27 mill. DKK (app. 3.6 mill. Euro) of financial support to local employment projects and 40 mill. DKK (app. 5.3 mill. Euro) of financial support to establishment of local integration partnerships.

The purpose of these projects is to strengthen integration of immigrants on the labour market and to promote creation of local integration partnership between municipalities and local companies.

Furthermore, the Danish Government has in June 2007 put forward a wide range of initiatives which shall ensure that more women with ethnical background become active citizens in the Danish society.

The new initiatives relates to the following areas:

- Women's network
- Women's occupation and entrepreneurship
- Women's importance for children's integration

So far, approximately 21,5 mill. DKK (app. 3 mill. Euro) is allocated to the initiatives in 2007 and 2008.

A national women's bazaar was held in March 2007. At the bazaar, 40 different service-providers presented concrete initiatives and tools to give inspiration to the employment and educational efforts towards immigrant women. The bazaar was facilitated by Integrationservice (a service unit providing consultancy to municipalities). Integrationservice gives concrete advice to municipalities on integration and conducts municipality tours disseminating best practices on the employment field concerning the integration of women immigrants, health issues related to job creation schemes etc. A survey conducted in 2007 shows great satisfaction with Integrationservice among the municipalities.

The above mentioned initiatives have among other things brought more people into employment. The frequency of employment for the 16 to 64 years old immigrants and descendants from non-western countries has risen from 45 percent in 2001 to 50 percent in 2006, corresponding to an additional 29.532 people being in employment.

In addition, more young immigrants and descendants are now engaged in the labour market or in an education. In 2001, 67 percent of the 16 to 24 years old immigrants and descendants were in employment or education. In 2006 the percentage had risen to 74. Source: Statistics Denmark

More people feel well integrated: Of approximately 1.000 interviewed immigrants and descendants from selected non-western countries, 53 percent felt that they were well integrated in the Danish society in the first part of 2001. In the second part of 2006, the percentage had risen to 63 percent. Source: CATINÉT: *IntegrationsStatus 2. half-year 2006, 2007.*

Besides the ordinary activities based on legislation a range of special activities is funded by special funds, described on the website [www.nyidanmark.dk](http://www.nyidanmark.dk)."

As regards discrimination in employment on grounds of nationality the Committee recalls that under Article 1§2 of the Charter while it is possible for states to make foreign nationals' access to employment on their territory subject to possession of a work permit, they cannot ban nationals of States Parties, in general, from occupying jobs for reasons other than those set out in Article 31; restrictions on the rights guaranteed by the Charter are admitted only if they are prescribed by law, serve a legitimate purpose and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals.

The only jobs from which foreigners may be banned therefore are those that are inherently connected with the protection of the public interest or national security and involve the exercise of public authority.

According to the report that only persons with Danish nationality may have the status of civil servants, persons with a foreign nationality employed as civil servants have terms corresponding to

those of civil servants and identical pension rights but do not have the status of civil servants per se.

In general there is no requirement that persons employed in the central government administration have Danish nationality but there are certain limited exceptions applying to certain posts within the Ministry of Defence and the prison and probationary Service.

The Committee concludes that the situation is in conformity with the Charter.

## 2. Prohibition of forced or compulsory labour

### *Prison Work*

The conditions of employment and remuneration of prisoners assigned to work in private undertakings during their sentence are identical to those of other employees. The Committee notes that the situation is in conformity with Article 1§2 in this respect.

The Committee refers to its question in the General Introduction to these Conclusions on this issue.

## 3. Other aspects of the right to earn one's living in an occupation freely entered upon

The Committee refers to its question in the General Introduction to these Conclusions as to whether legislation against terrorism precludes persons from taking up certain employment.

### *Part time work*

Part time work is regulated by statute and collective agreements; in particular employees working part time are protected against discrimination in connection with remuneration.

## 4. Conclusion

The Committee concludes that the situation in Denmark is not in conformity with Article 1§2 of the Charter on the grounds that there are limits to the amount of compensation that may be awarded in the event of dismissal for putting forward a claim for equal treatment.

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### *Paragraph 3 – Free placement services*

The Committee takes note of the information contained in the Danish report.

With respect to the placement activities of the Public Employment Services (PES), the Committee notes that the number of persons referred to an interview with an enterprise. The number declined from 83,306 in 2003 to 79,118 in 2004. According to the report the decline can be explained by new self-service internet-based tools, introduced by the PES in late 2002 (CV bank) and early 2003 (Job bank). Vacant jobs are now published by PES on the internet and it has been made compulsory for unemployed to register a curriculum vitae in the CV bank of the PES. This has probably lead to a shift in behaviour as far as the employers are concerned. The new internet-tool makes it possible for the employer to search for a relevant jobseeker without the active involvement of the local PES and to publish vacant jobs on a broader scale and thereby attract the attention of jobseekers again without the active involvement of the local PES. **The Committee asks the Government to comment on how it monitors the efficiency of its services under these conditions of decreasing active involvement in mediation.**

**Reply:**

“The enterprises decide how they wish to recruit labour. The enterprises may decide to use ordinary placement activities (referral of labour) through the PES (AF - from 2007 by use of the new job centres).

Today the enterprises primarily use so-called open placement activities where vacancies are advertised for instance on the internet site Jobnet.dk. Unemployed people and other job seeking persons may apply for these jobs at their own initiative. For a number of years, the trend has been that enterprises to a higher extent prefer open job advertisements in Jobnet.dk to ordinary placement of labour as the enterprises receive applications from motivated applicants through Jobnet.dk.

However, the PES (the job centre) is not less active in relation to procuring labour for enterprises and helping the unemployed to obtain work. From 2003 intensive contact with the unemployed focusing on job search was introduced. Furthermore, in the course of interviews at the PES, the PES has the possibility of referring unemployed people to apply for specific jobs that for instance have been advertised through Jobnet.dk.

The development of Jobnet.dk and new IT ensures that it is possible to apply for jobs and procure jobs across municipal borders. All jobs on Jobnet.dk can be viewed from anywhere in Denmark, and are available to the job centres, the unemployment insurance funds and the external players (“other actors”). Procurement of jobs across municipal borders tallies exactly with the Government’s aim for a targeted and transparent employment policy.”

**However, the report does not contain the requested information on the placement rate, i.e. the ratio of placements made by PES to the number of registered vacancies. The report states that the Danish Labour Market Authority is not able to respond to the Committee’s request, “since no such record is currently kept.” As information on the effects in practice of placement services is essential to the assessment of conformity with this provision of the Charter, the Committee asks that, in the absence of official records, the next report provide estimates of the placement rate, if necessary based on survey data.**

**Reply:**

“It is not possible to estimate how many job placement activities are required to fill an ordinary job order registered with the PES. The employer and PES agree from one job order to another how many persons are to be chosen for an interview with the employer, and this number may fluctuate from one to many (for instance 5-6 persons).

At the same time, the job centres register several job orders that are subsequently procured by the unemployment insurance funds or external players. The scope of the placement activities compared to the incoming job orders is unknown. In addition, job orders are only registered if they cannot be immediately filled.

However, it is possible to disclose how many job placements the PES make in relation to all ordinary job orders within a given time period, for instance one year (see table 18). The table gives an impression of the number of placements the PES handles within a specific period of time. The number of job placements can be seen in connection with the number of ordinary job orders, and thus give an indication as to how many persons are procured a job on average for a given ordinary job order.



**Table 18: Number of ordinary job orders, number of persons with job interviews, number of job orders filled with persons sought out by the PES. 2005.**

	Number of ordinary job orders	Number of persons sought out by PES for ordinary job orders	Number of ordinary job orders occupied with persons sought out by PES	Ratio of placements <sup>1</sup>
<b>Job orders in total</b>	62,842	77,865	46,157	59%
<b>- Job orders of less than 5 days duration</b>	36,315	34,964	29,559	85%
<b>- Job orders of more than 5 days duration</b>	26,527	42,901	16,598	39%

Source: The National Labour Market Authority

Note 1: A job order reported to the PES is not always occupied by the PES for a number of reasons, including that the employer may have withdrawn the job order before the PES has had the opportunity to find suitable candidates, or that the job has been occupied with a person not registered with the PES.

Pending receipt of the information requested, the Committee considers that the situation in Denmark is in conformity with Article 1§3 of the Charter.

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## **Questions from the general introduction regarding article 1, paragraph 2**

**The Committee recalls that it has previously raised issues relating to state of emergency and anti-terrorism legislation, including legislation authorising the denial of employment for the purpose of safeguarding national security or protecting public safety or public order. Any restrictions on the right guaranteed by Article 1§2 must remain within the limits set by Article G and in particular comply with the principle of proportionality.**

**Reply:**

“No legislation aimed at terrorism or incitement to terrorism explicitly precludes persons from taking up certain employment”

**In view of the measures currently being taken by European states to combat terrorism, the Committee asks whether any legislation aimed at terrorism (or incitement to terrorism) explicitly precludes persons from taking up certain employment and, if so, under what circumstances such legislation is applied.**

**Reply:**

“No legislation aimed at terrorism or incitement to terrorism explicitly precludes persons from taking up certain employment.”

The Committee has already previously considered the general issue of prison labour. However, for an accurate examination and assessment of the situation, it requires certain specific items of information::

– Can a prisoner be required to work (irrespective of consent)?

A. For a private undertaking / enterprise?

i) within the prison?

ii) outside the prison?

B. For a public/ state undertaking?

i) within the prison?

ii) outside the prison?

– What types of work may a prisoner be obliged to perform?

– What are the conditions of employment and how are they determined?

### c. Article 1§2 – Right to Private Life

**Reply:**

“Prisoners are not (irrespective of consent) required to work for private undertakings/enterprises, public/state undertakings within or outside the prison. During the last 3 months prisoners may apply for leave to work for an employer or participate in education or training outside the prison.

The inmates work for the prisons in 8 different branches inside the prison:

1. Agriculture, market gardening and forestry
2. Laundry, sewing, and work in depots
3. Occupation in graphic industries and bookbinding
4. Metal work
5. Production of furniture
6. Production kitchens
7. Assembly tasks for private companies
8. Production schools

According to Article 40 of the Sentence Enforcement Act, the workplaces of the institutions must be designed so that the working conditions for the inmates are fully adequate in terms of safety and health.

The time spent by prisoners at work or in vocational training must be kept within standard working hours currently in force on the ordinary labour market (37 hours a week) including overtime hours.

All prisoners who are occupied with work, training or education are paid by the prison authorities except for the prisoners who have permission to work with activities arranged by themselves or to work outside the prisons in jobs on the ordinary labour market.

Prisoners receive wages in the form of work money, the hourly wage being USD 1 to 1.5 (1997 level). The amount is not taxed and has been fixed on the basis of the amount that a recipient of social security benefits would typically have at his disposal after paying fixed expenses for food and lodging.”

**Article 9**  
**The Right to Vocational Guidance**

## **Article 9**

### **Question A**

#### **An overview of educational guidance**

In the following there is a description of the guidance system in Denmark. We will not in concrete follow up on all the issues from the latest report. We will only be dealing with issues, which are relevant within the context of the reform.

#### **The guidance system in brief**

Educational and vocational guidance is given high priority in Denmark. The overall structure and seven national targets in the field of guidance are defined in the Act on Guidance in Relation to Choice of Education, Training and Career, which was adopted by the Danish parliament in April 2003. Subsequently, the 2003 has been amended twice: in 2006 and 2007. The Ministry of Education is responsible for continuous supervision and development of guidance services in the educational sector.

The Act on guidance is primarily targeted at young people up to the age of 25 years but it also concerns services for adults wishing to enter a higher education programme.

Two different types of guidance centres exist:

- Youth guidance centres with responsibility for guidance related to the transition from compulsory school to youth education
- Regional guidance centres with responsibility for guidance related to the transition from youth education to higher education.

The Ministry of Education is responsible for a national guidance portal: [www.uddannelsesguiden.dk](http://www.uddannelsesguiden.dk). UddannelsesGuiden means the "Education Guide". It provides information on:

- Education and training possibilities at all levels
- Vocations/professions
- Labour market conditions and statistics
- Study programmes taught in English at Danish colleges and universities

Other features include an electronic career planning tool, as well as a section with an electronic news service, a quarterly journal and various resources, especially aimed at guidance practitioners.

The Minister of Education has established a National Dialogue Forum on Guidance in order to secure a close dialogue between the Minister and relevant organisations, institutions, guidance counsellor associations, end users and individuals holding a leading position in the field of guidance.

Quality in guidance is a topic that is continuously debated in Denmark. One way of enhancing the quality of guidance provision is to improve the qualifications of the guidance practitioners. Six university colleges in Denmark offer a one-year modular common training programme at diploma level for guidance practitioners across sectors. Furthermore, the Danish University of Education offers a one-year Master of Education programme in guidance counselling. With an amendment in 2007 of the 2003 Act on guidance, it is now a requirement that guidance practitioners working in the education system complete the diploma programme or, alternatively, that they – through assessment and recognition of prior learning – can document that they hold the required qualifications.

The Division for Guidance in the Danish Ministry of Education is actively involved in international cooperation in the field of guidance, and the main aims and elements of the Danish guidance reform are very much in line with the EU Resolution on Lifelong Guidance and with EU and OECD recommendations on guidance policies and practices.

In June 2007, another comprehensive plan for adult guidance services was agreed upon by the Danish Parliament. This plan focuses primarily on improving information and guidance services

related to adult and further education and training. Four new initiatives will be implemented over a three-year period: adult guidance networks - A National Centre for Competence Development - An Internet-based guidance portal - A National Adult Guidance Council.

## **About the Guidance system**

### **National guidance objectives**

Great importance has been attached to ensuring that guidance on the choice of education, training and career is independent of sector interests or the interests of institutions of education. The importance to society of ensuring, that guidance enabling each individual student to find an efficient and appropriate way through the system of education while at the same time developing competencies that are in demand in the labour market, has been made clear.

The objectives stress the two overall purposes of guidance on the choice of education, training and career:

- The guidance provided must ensure that each individual young person to whom guidance is given will have an adequate basis for making realistic decisions concerning the choice of education, training and career that will challenge his or her potential.
- For society the guidance must support and promote the objective of a high rate of employment in a well-functioning labour market.

Guidance on the choice of education, training and career must also be conducive to compliance with objectives of lifelong learning and promotion of a culture of independence.

### **Youth Guidance Centres - "Ungdommens Uddannelsesvejledning (UU)"**

Local authority councils must ensure that guidance is provided on the choice of youth education and career.

Forty-five municipal youth guidance centres provide guidance services for young people up to the age of 25. The forty-five centres represent the 98 local authorities in Denmark, each centre covering a 'sustainable' area in terms of the number and variety of youth education institutions as well as geographical distance. The youth guidance centres numbered about 1000 guidance practitioners and the expenditure is 390 mill. a year (2007) and the number of recipients varies from 300.000 to 4000.000 a year.

The youth guidance centres focus on guidance in relation to the transition from compulsory to youth education or, alternatively, to the labour market. The main target groups are:

- Pupils in compulsory school – forms 6 to 9 (10)
- Young people under the age of 19 who are not enrolled in an education or training programme or in employment. The centres are obliged to establish contact with such young people and help them get back into education and training or employment
- Young people between the age of 19 and 25 who ask for guidance in relation to youth education programmes or employment
- Young people with a special need for guidance – a transverse target group that includes young people whose problems relate to the continuation or completion of an education programme.

Local authorities define the overall framework for guidance activities in their area. Objectives, methods, planned activities as well as the performance (results, outcome) of each youth guidance centre are published on the Internet.

The importance of cross-sectoral cooperation is emphasised in the Danish legislation on guidance to ensure a coherent guidance system and regular sharing of experience, knowledge and best practices. The youth guidance centres must thus work closely with:

- Primary and lower secondary schools and youth education institutions in their respective areas
- Local business life and the public employment service

In cooperation with the school principals, the youth guidance centres organise guidance activities at schools. Teachers are still responsible for the provision of general careers education from form 1 to form 9 (10), whereas specific guidance in relation to the transition from compulsory to youth education and the students' personal education plans are provided by guidance counsellors from the youth guidance centres – at the schools of the students to whom the guidance is provided.

In accordance with the philosophy behind the new legislation on guidance, guidance is regarded as a continuous process that should increase young people's awareness of their abilities, interests and possibilities, thus enabling them to make decisions regarding education and employment on an informed basis. The youth guidance centres may be considered the first step in a lifelong guidance process.

### **Regional Guidance Centres -“Studievalg”**

The Danish Ministry of Education has established seven Regional Guidance Centres. The content of the guidance provided shall apply nationally, but the guidance shall be offered on a regional basis in collaboration with institutions of youth education, institutions of higher education and the Employment Service.

Seven regional guidance centres are responsible for:

- Guidance in relation to the transition from youth education programmes to programmes of higher education
- Provision of quality information about all higher education programmes in Denmark
- Provision of quality information about occupations or professions that higher education programmes may lead to.

The regional guidance centres' main target groups are:

- Students in youth education programmes
- Young people and adults outside the education system who wish to enrol in a programme of higher education.

Teachers at youth education institutions, working part-time as guidance counsellors, provide guidance to students concerning specific youth education programmes. The regional guidance centres focus on the transition from youth education programmes to programmes of higher education. The regional centres organise a wide variety of careers education and careers guidance activities for all students in upper secondary education – at the students' schools. This includes workshops, seminars, careers fairs as well as individual and group guidance sessions.

Furthermore, people from both of the above-mentioned target groups are welcome to call, e-mail or visit the centres to obtain information or to make an appointment for a guidance session. On a regular basis, people will also be able to meet guidance counsellors from the centres at public libraries or other venues in their local area to ensure that geographical distance does not prevent people from getting access to relevant guidance services. The regional guidance centres numbered about 75 guidance practitioners and the expenditure is 40 mill. a year (2007) and the number of recipients varies from 100.000 to 150.000 a year.

The seven regional guidance centres have been selected after a call for tenders. Most of them are consortia of different educational institutions. Like the youth guidance centres, the regional guidance centres are obliged to cooperate with relevant partners in their region to ensure a coherent guidance system and a regular exchange of experience, knowledge and best practice. Relevant partners include:

- Youth education and higher education institutions

- The social partners
- Local authorities

### **National Guidance Portal -"Uddannelsesguiden.dk"**

The Danish Ministry of Education has set up Uddannelsesguiden.dk (the Education Guide), which is an Internet-based information and guidance tool. This guidance portal contains comparable information about youth education programmes, programmes of higher education and other relevant education programmes as well as possible occupations following completion of the programmes and up-to-date labour market information.

Increased use of ICT-based careers information and guidance is one of the objectives of the new Danish Guidance Act. If more people can help themselves by finding the careers information they need to make informed decisions about education, training and careers, there will be more resources available for people with special needs for guidance.

The target groups of the guidance portal are:

- Students in forms 6-10 to whom guidance is provided in the school system.
- Young people enrolled in youth education and training programmes to whom guidance is provided.
- Young people in programmes of higher education who want to enrol in a relevant master's programme or a programme of continuing education, or who wish to switch to another study programme.
- Other young people and adults who want to enrol in a youth education programme or a programme of higher education that falls outside the general guidance structure
- Adults who want to return to the system of education.
- Guidance counsellors, teachers and education consultants who provide guidance to the groups mentioned above.
- Others who seek information about the system of education, but who are neither seeking enrolment in a study programme nor having formal guidance responsibility.

The information provided at Uddannelsesguiden.dk includes:

- Complete information about education and training programmes in Denmark
- Information about occupations in Denmark
- Information about current employment perspectives in relation to the individual articles about education and career
- News about labour market issues and the long-term labour market situation
- Surveys, articles providing guidance including articles aimed at specific target groups
- Articles about the Danish Student Grants and Loans Scheme (SU) and other available grants
- Information about registration for and admission to education and training programmes
- Entry point to education programmes or jobs in other countries
- Virtual Resource Centre
- Externally managed portal areas which ensure that regional issues that are relevant for the choice of an education or training programme are shown in the portal
- Net-based education log with personal login
- Various search facilities – free text search and possibility of searches in previous material as well as cartographic searches.

The Ministry of Education is responsible for the portal, the operation of which has been outsourced to a private service provider.

Examples of the information provided can be found at [www.Uddannelsesguiden.dk](http://www.Uddannelsesguiden.dk)

### **Virtual Resource Centre**

Following the reform, the Danish Ministry of Education functions as a national centre of guidance expertise. The centre is mainly aimed at professional guidance counsellors, people working with guidance counsellor training, public authorities and decision-makers. The most important task of the Virtual Resource Centre is to contribute to coordination and quality development of the guidance provided by making information about guidance-related subjects available to people involved in guidance.

The Resource Centre collates, processes and disseminates information about all aspects of guidance and produces some information itself. The centre covers all areas within the field of education, training and career guidance across educational and occupational boundaries. International aspects are taken into account wherever relevant. The Resource Centre's information is made available to the public at [www.uddannelsesguiden.dk](http://www.uddannelsesguiden.dk).

### **Common training programme for guidance counsellors**

A common training programme for guidance counsellors has been set up. The programme is offered to everybody providing guidance on the choice of education, training and career, its purpose being to provide guidance counsellors with the qualifications needed to organise and carry out ordinary information and guidance assignments within the framework of various guidance schemes. Another purpose of the common training programme is to strengthen the basis for cooperation among guidance counsellors and to ensure ongoing qualification of guidance counsellors as well as competent development work in the field of guidance counselling.

The guidance counsellor training programme is a six-month full-time training programme. The academic level is such that it is possible to achieve a diploma following completion of an additional six-month training programme.

The new guidance counsellor training programme has replaced previous guidance training programmes under the auspices of the Ministry of Education.

### **National Dialogue Forum for guidance on education, training and career**

The Minister for Education has set up a cross-sectoral dialogue forum, which is to ensure open dialogue between the minister and stakeholders in the field of guidance. Within the framework of the forum, relevant parties and individuals can present and discuss various issues and opinions relating to matters of relevance to guidance on education, training and career.

The forum comprises 11 personally appointed members and 18 representatives of the social partners, local authority organisations, counsellors, the Danish Youth Council, the Ministry of Education and other ministries.

**The acts and orders** listed below, all of which pertain to the area covered by the Danish Ministry of Education, are available at <http://www.uvm.dk/vejledningsreformen/love.htm?menuid=7510>

- Consolidation act no. 770 of 27 June 2007 on guidance in relation to choice of education, training and career
- Executive Order No. 586 of 12 June 2006 on guidance concerning the choice of youth education and career
- Executive Order No. 298 of 28 April 2004 on guidance concerning the completion of education and training programmes within the scope of the Ministry of Education
- Executive Order No 928 of 17 July 2007 on changing the executive order on guidance concerning the choice of youth education and career
- Executive Order No. 606 of 21 June 2004 on guidance concerning the choice of a higher education and career
- Executive Order No. 1132 of 15 December 2003 on the training programme for education and career counsellors.



## **Activities of PES/the job centres concerning guidance of adult unemployed and employed people**

In the Danish employment system, primarily the PES provides guidance to citizens (from 2007 this guidance is provided through the new job centres).

The guidance efforts are targeted at the employment opportunities on the labour market. The guidance is based on the situation of the individual, and labour market and training terms, and it aims at strengthening the competences of the citizen relative to the labour market.

The guidance has one common goal: employment. However, the aim may vary depending on education or employment history. Guidance concerning education may e.g. cover help to seek and apply for relevant information on education opportunities, for instance, in the training guide of the Ministry of Education, or refer to the guidance schemes of the Ministry of Education.

Everyone may receive guidance free of charge. However, focus is primarily on the unemployed. All job centres have access to self-help tools; PCs with internet access, and programmes developed to support the guidance.

In addition, the municipalities are providing guidance to their own citizens that receive social assistance and start allowance on which training opportunities are available as an alternative to the opportunities of the employment efforts.

Finally, the private unemployment insurance funds may advise their members generally on job opportunities, offers and voluntary training and education.

The regional employment council is responsible for coordinating the guidance efforts in the employment system. The most important coordination task consists of providing the other guidance schemes, the job centres, the trade unions etc. with up-to-date and relevant knowledge on labour market trends.

### **Reply to questions a-f**

a. All guidance service are free of charge

b. The vocational guidance is carried out in the public sector, it is carried out at school level and by the new guidance centres, and they are all either public or financed by public authorities.

c. As part of the guidance reform we have set up a new web portal, Uddannelsesguiden ([www.ug.dk](http://www.ug.dk)) with updated information on both educations and career possibilities and of labour market information and description of jobs. The portal must be seen in connection with the guidance services.

d. There is a close connection and link between the guidance service provided at the vocational colleges and the possibilities of jobs afterwards since the vocational system is based on the sandwich model, where all apprentices as a part of their education have a contact with a company.

e. As part of the guidance system there is developed quality manuals for both guidance centres (Ungdommens Uddannelsesvejledning and Studievalg). The Ministry of Education has the overall responsibility for the quality of guidance deliverance, and the guidance centres must report documentation of results of the guidance yearly to the Ministry of Education.

f. People with disabilities and people with reduced working capacity: One of the most important reasons for the implementation of the guidance reform was a wish to ensure particular focus on guidance for young people with special needs as regards the choice of education, training and career. Several students in these groups have received special tuition at school and may therefore need special guidance and education/training programmes to continue in the system of education. In order to assure quality in this respect it is important that the guidance counsellor has sufficient knowledge about each individual student's resources and special needs as well as about the possibilities of catering to those needs in the best possible way. To ensure that each individual young person has a realistic perception of his or her situation and opportunities, the guidance reform

stresses the importance of making sure that guidance aimed at this target group does not focus on education, training and career alone, but also incorporates the entire life situation of each young person to whom guidance is provided. In order to provide relevant information about the opportunities available to people with disabilities, the Ministry of Education has also established a web-based accessibility portal with the following address: <http://tilgaengelighed.emu.dk/>

**Article 9**  
**Question B**

Please see above under the overview of the guidance reform. We refer to the purpose of the guidance system where it is stressed, that there must be much more focus on the occupational possibilities and career possibilities.

**Article 9**  
**Question C**

Please see above under the overview of the guidance reform. We refer to the description of the Web portal [www.ug.dk](http://www.ug.dk) (Uddannelsesguiden) and the necessary intervention by guidance staff in order to help students use the information needed for their own perspective.

**Article 9**  
**Question D**

- a. As part of reform in 2004 there has been a change of the whole guidance organization. This means, that we have less numbers of guidance practitioners but those in practice will now be either full time or close to full time practitioners. We do not have the exact numbers of practitioners.
- b. There are different educational backgrounds for the guidance practitioners: Those employed Youths Guidance Centres will typical have teaches qualification, supplied with special guidance education. Those employed at the Regional Guidance Centres will typical have different academic backgrounds (psychology, sociology etc.)supplied with guidance education. Those employed at vocational colleges and upper secondary schools will typical have teachers qualifications, supplied with guidance education. We refer in general to the description of guidance education.
- c. As guidance is a compulsory part of all education from primary school to further education it will include all persons.
- d. We can refer to the description of the guidance reform above and the two services provided.

**Article 9**  
**Question E**

There is an obligation for the regional guidance centres to give guidance to young people and adults from abroad wanting information of education in Denmark including. A purpose with the guidance reform has been to have special focus on people with special need for guidance in general, this includes disabled persons.

**In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 26<sup>th</sup> Danish report.**

#### **Article 9 – Right to vocational guidance**

The Committee takes note of the information in the Danish report.

It notes the adoption of Act 298 of 30 April 2003 on guidance in relation to the choice of education, training and career. This is mainly aimed at young persons aged under 25, but also concerns adults in higher education. The new legislation lays down the main purposes of guidance, which must be adapted to needs and to the objectives of lifelong learning, promotion of a culture of independence and full employment.

New guidance services have been established under the reform, such as the youth guidance centres (*Ungdommens Uddannelsesvejledning*), which focus on the transition from compulsory to senior school education or to the labour market. These centres are aimed, among others, at young persons in specific training programmes and ones with special guidance needs. Regional centres (*Studievalg*) have also been established to offer guidance on the transition from senior school to higher education and the resulting career possibilities.

##### *Vocational guidance within the education system*

###### a. Functions, organisation and operation

In the last conclusion (Conclusions XVI-2, p. 208), the Committee asked whether students were obliged to follow the advice received through guidance, and if the advice was compulsory what were the consequences of non-compliance. The report states that students are not obliged to accept the advice received through guidance.

###### b. Expenditure, staffing and number of persons assisted

In its last conclusion (*ibid*), the Committee asked for information on expenditure and on the staffing of vocational guidance in the education system and the number of recipients. It also asked whether it was offered to all pupils and students during their education.

**Vocational guidance is an integral part of curricula and is received by all pupils and students. There is no information in the report on expenditure and staffing, or the number of recipients. The Committee therefore repeats its request.**

##### **Reply:**

“See the answer to article 9 question A.”

##### *Vocational guidance in the labour market*

###### a. Functions, organisation and operation

The Committee notes that there have been no changes to the situation, which it has previously found to be satisfactory (*ibid*).

###### b. Expenditure, staffing and number of persons assisted

**Despite the Committee's request, there is nothing in the report on staffing or expenditure. The Committee therefore repeats its request. It notes that one of the effects of the reform is to reduce the number of guidance centre staff because more of them are working full time.**

**One of the main purposes of vocational guidance is to increase flexibility and mobility in the labour market.**

**Reply:**

“The PES/AF (job centres from 2007) offers guidance to job seekers and potential students. Guidance concerning employment and education opportunities for unemployed people primarily takes place in connection with the individual contacts, where the unemployed must be interviewed by the AF as a minimum every three months.

Moreover, the unemployed and others may look for information and guidance from AF as staff is always available for this purpose in the information units. Guidance is an integral part of the tasks of the job centres. The career advisors also perform other tasks, and no information exists that might create a basis for stating separate financial specifications of consumption in relation to guidance of job seekers and potential students.”

It also notes that the new legislation has established a common training programme for guidance counsellors and a national dialogue forum bringing together representatives of all those involved in this field.

#### *Dissemination of information*

Following implementation of the new guidance legislation in 2003, a new national Internet guidance portal has been introduced containing up-to-date information on training and career possibilities. Another portal is aimed specifically at persons with disabilities.

#### *Conclusion*

The Committee concludes that the situation in Denmark is in conformity with Article 9 of the Charter.

**Article 10**  
**The Right to Vocational Training**

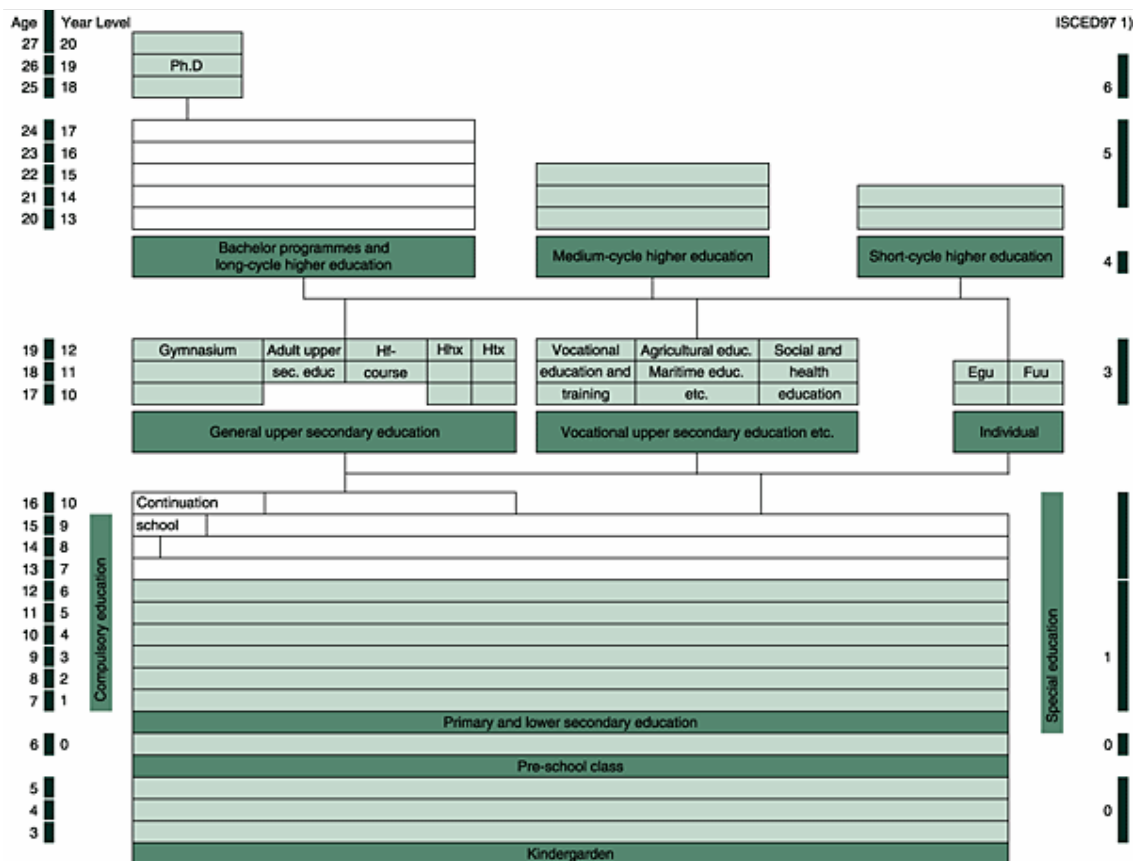
**Article 10**  
**Paragraph 1**  
**Question A**

*An overview of the education and training system in Denmark:*

The Danish education system is normally divided into a number of main areas according to level and branch of education.

- **Primary and Lower Secondary Education.** The public municipal school – the so-called Folkeskole – is a comprehensive school covering both primary and lower secondary education. It caters for the 7-16/17-year-olds. Apart from the compulsory forms 1 to 9, the Folkeskole comprises a voluntary pre-school year and an optional 10th year. Approximately 98 percent of all children attend the pre-school year, and approximately 61 percent attend the 10th year (2003). Approximately 84 percent of a year group attends public schools, which are free of charge. 15 percent attend private schools, which receive a substantial state subsidy, and less than 1 percent are taught outside schools (for instance at home) (2004). Education (not schooling) is compulsory for nine years starting in the year when the child turns 7.
- **Upper secondary education.** This level of education typically begins at the end of full-time compulsory education. In Denmark, this level divides into:
  - 1 General education qualifying for access to higher education. This normally caters for the 16-19 year-olds and comprises: 1) The general upper secondary education provision of the Gymnasium, the higher preparatory examination (or 'hf') programme, the higher preparatory examination (or hf) programme, the higher commercial examination (hcx) programme and the higher technical examination (htx) programme.
  - 2 Vocational education and training (VET) qualifying primarily for access to the labour market. It consists of primarily Vocational Education and Training ('erhvervsuddannelser', or 'eud' in Danish) programmes including the basic social and health training programmes (sosu), as well as other programmes within the fields of agriculture, maritime education, and the basic vocational programmes (egu). These programmes aim at providing the trainees with sound vocational, personal and general qualifications, which are formally and actually recognised by, and in demand in, the labour market. Some vocational programmes have a number of adult participants, especially the social and health educational programmes.
- **Higher education.** This level typically begins at the end of upper secondary education and comprises the short-cycle and the medium-cycle higher non-university education programmes as well as the long-cycle university programmes. <http://www.uvm.dk/>The higher education programmes provide occupational competencies. In general, the programmes are divided into levels according to duration, namely short-cycle higher education programmes, professional bachelor programmes, other medium-cycle higher education programmes and bachelor and candidatus programmes at the universities. Furthermore, there are the PhD programmes. The higher education programmes build on top of the youth education programmes, and some include practical placements. The programmes are of varying duration.
- **Adult Education and Continuing Training.** A distinction is made between
  - 1) General Adult Education at lower secondary and at upper secondary level including literacy and numeracy courses;
    - i) *General Adult Education at lower secondary level* ('Almen voksenuddannelse', 'avu' in Danish) is provided by the regional Adult Education Centres as single subject courses; they are parallel to, not identical with, the initial basic education system: syllabus and examinations are adapted to the experiences and interests of adults; examinations give the same right of access to upper secondary education. All adults of 18 years and more have a right of access to General Adult Education, with a corresponding obligation for the regional authorities to ensure provision of such education in accordance with the law.

- ii) *Single subject courses leading to Higher Preparatory Examination (general adult education at upper secondary level)* ('højere forberedelseseksamen', 'hf') are also provided by the regional Adult Education Centres, as well as Upper Secondary Schools. These courses are identical to the courses in initial upper secondary education for young people. All qualified young and older adults have a right of access in accordance with stipulations in the law.
  - iii) *Preparatory Adult Education* (basic skills in literacy and numeracy) ('Forberedende voksenuddannelse', 'FVU' in Danish), which was introduced in 2001, aims to offer to all adults of 18 years and more, who are able to benefit from this type of courses, a possibility to improve and supplement their literacy and numeracy skills so that they will be better equipped to get along on the labour market and as citizens in a democratic society. This will also greatly enhance their opportunities for undergoing further education or training. Provision of this programme is the responsibility of the regional authorities.
- 2) Vocationally oriented education and training for adults:
- i) *Adult Vocational Training* ('Arbejdsmarkedssuddannelser', 'AMU') which aims to improve and develop the qualifications of the workforce, mainly unskilled adults in employment. This programme is described in detail below.
  - ii) *VET programmes organised for adults, or programmes giving VET qualifications*, based on recognition of prior learning; the latter option is known as Basic Adult Education ('GVU'), which gives VET qualifications after a personalised training programme based on recognition of prior learning, without apprenticeship.
  - iii) *Further education programmes for adults* offered at three advanced levels corresponding to the levels of the mainstream education system, which were introduced as a coherent scheme in 2001. In contrast to the Basic Adult Education ('GVU') at VET level, the education programmes at the three advanced levels are special education programmes for adults, not corresponding to programmes in the mainstream higher education system. Entrance requirements comprise two years of relevant work experience. The organisation of the contents and teaching methods of the further education programmes is to a high degree based on the life and work experience of adults: this is an important rationale for organising the education programmes in such relatively compact programmes (60 ECTS) at levels which are comparable with the levels in the mainstream higher education programmes (short, medium-term and long-term higher education programmes).
- 3) Liberal – adult education ('folkeoplysning'), which consists of a wide range of different schools and courses operating within the framework of liberal, non-formal adult education; there is a long-standing tradition of a prolific provision by a large number of private organisations, and of public subsidies. It is part of the concept that such courses do not lead to recognised qualifications.



*Vocational Education and Training etc.*

Rules laid down by legislation: Consolidation act no 183 of 22 March 2004 on vocational training, act no 823 of 15 July 2004 on basic social and health education programmes (sosu), act no 532 of 25 June 1999 on vocational basic training programme (egu). With later amendments; rules laid down by legislation: Consolidation act no 561 of 22. may 2007.

The joint framework law within the field of vocational education and training groups vocational education and training (VET), the basic social and health care training programmes and agricultural education under one single Act with a simple and dynamic target and framework management. The aim is to further clarity and simplicity in the total system of vocationally oriented youth education. At the same time there is a need to further the possibilities of a dynamic interplay/correlation between the production-technical educational elements and those elements in the business studies and the service industries (VET).

Initiatives included in the government's globalisation strategy and in the agreement on welfare reforms:

- All young people should complete a general or vocational upper secondary education programme. At least 85 per cent of all young people should complete a general or vocational upper secondary education programme in 2010 and at least 95 per cent in 2015.
- General and vocational upper secondary education programmes must be attractive and of top quality and vocational education and training (VET) programmes should be challenging for the brightest students and provide them with opportunities for further education and training. The VET programmes must also include the provision of programmes of a suitable level for weak learners



- Municipalities should have clear responsibility for ensuring that all young people acquire an educational qualification.
- More practical training placements and targeted teaching after the 9th form.
- Mentoring schemes, school environment and guidance and more flexible approach with trainee-oriented and practice-oriented basic courses.
- Basic vocational education and training for young people with weak academic skills and action plan for promoting a higher completion rate of general and vocational upper secondary education at last dividing education and training programmes into levels.

<http://www.stm.dk/publikationer/velfaerdsreform/index.htm>

<http://www.globalisering.dk/page.dsp?area=52>

The contents and structure of vocational education are designed and developed in close cooperation between the Ministry of Education and the social partners. The aim is to ensure development of the vocational educations in accordance with changing qualification needs of trade and industry.

The cooperation is undertaken at three levels:

1) The Advisory Council for Initial Vocational Education and Training with a chairman appointed by the Minister of Education. The aim of the council is to advise the Ministry of Education on all matters concerning the VET system. It is responsible for monitoring labour market trends, and on this basis recommending the establishment of new VET qualifications, the adaptation of existing ones or discontinuation. It is also responsible for monitoring existing programmes, and on this basis making recommendations for better coordination between programmes or the merging of programmes. The council concentrates on general national issues concerning VET provision in Denmark.

2) The national trade committees (for each vocational education stream) with equal representation of the employer's and employee's organizations decides on: duration, structure and content of the education, basic and specific subjects, testing etc. The decisions concerning educational matters must be approved by the Ministry of Education. The national trade committees approve the companies who want to take in apprentices for practical training. In 2007 there were approx 52 trade committees.

3) The local training committees assist the vocational colleges in the local planning of the programmes. They provide advice on all matters concerning training, and are responsible for strengthening the contact between colleges and the local labour market.

As the trainees are on the labour market in the practical training period, their wages during the apprenticeship period - like other wages - are regulated by the social partners by collective agreements.

b. Total amount of public expenditure devoted to Vocational Education and Training etc.: (2007) 6.439.400.000 DKK.

c. Number of vocational and technical training institutions (at elementary and advanced levels): approximately 100 commercial and technical colleges and 31 basic social and health schools.

d. Number of teachers approximately in such educational institutions in 2006: Commercial colleges 1200 teachers, technical colleges 4100 teachers (full time equivalent teachers).

e. Number of pupils, full-time and part-time in such schools  
Please see table of pupils in the education system below.

*Recent measures adopted:*

- A reform in 2000 implied comprehensive restructuring of VET, introducing enhanced flexibility through e.g. the introduction of personal education plans with possibilities for extended basic

training and specialised electives. This implied considerable change in pedagogy, emphasising individual and differentiated teaching. Objectives were influenced by competence descriptions. – This reform was revised in 2003 to improve vocational standards and increase flexibility in Vocational Education and Training, for instance by introducing assessment of prior learning. In certain training programmes, focus is to a high degree on giving young people who are practically gifted, an education perspective, whereas other programmes strengthen theoretical standards. Focus is, i.a., on the development of short training programmes and introduction of levels in existing programmes. The purpose is to provide optimal opportunities for young people who have difficulties in completing a full training programme. Trainees leaving the programme after having completed level 1 may re-enter at a later stage to continue training and complete a full training programme. – The Government Platform from February 2005 emphasises the crucial role of Vocational Education and Training. The Danish VET system is being analysed in terms of its ability to live up to future requirements and specific importance is attached to learning opportunities for practically oriented young people (craft's apprenticeship).

- To the existing options of VET programmes organised for adults was added, from 2001, as part of an adult education reform, a new programme called Basic Adult Education ('GVU'), which gives VET qualifications after a personalised training programme based on the school's recognition of the student's prior learning, a programme without apprenticeship because it consists only of theoretical single subjects and/or the final examination, as the case may be.
- In April 2006 the government issued its globalisation strategy inspired by a Globalisation Council. All young people should complete a general or vocational upper secondary education programme. At least 85 per cent of all young people should complete a general or vocational upper secondary education programme in 2010 and at least 95 per cent in 2015. In 2007 95 per cent of all young start a general or vocational upper secondary education but approximately 82 per cent complete the education. General and vocational upper secondary education programmes must be attractive and of top quality and vocational education and training (VET) programmes should be challenging for the brightest students and provide them with opportunities for further education and training.  
The VET programmes must also include the provision of programmes of a suitable level for weak learners.

### *Higher Education*

#### a. Rules laid down by legislation:

Act no. 1115 of 29 December 1997 on short-cycle higher education.

Act no 481 of 31 May 2000 on medium-cycle higher (-non university-) education.

#### b. Total amount of public expenditure to short-cycle higher education (2007): DKK 888 million.

Total amount of public expenditure to medium-cycle higher education (2007): DKK 1853 million.

#### c. Institutions are grouped into two different sectors:

The college sector, i.e. the professionally oriented higher education sector and

The university sector.

The college sector comprises more than 150 specialised institutions of higher education, about one-third offering short-cycle and two-thirds offering medium-cycle professionally oriented programmes. Increasingly, colleges are merging into larger and more diverse units. The institutions that have specialised in short cycle higher education are merging to Business Colleges (in Danish: Erhvervsakademier) and institutions that have specialised in medium cycle educations have formed a number of Centres for Higher Education (Danish acronym: CVU). From June the Centres for Higher Education (CVU) have been merged into a smaller amount of University Colleges, jf. Act No 562 of 6 June 2007. Colleges often cooperate closely with each other or with universities. It is

mandatory for the CVU's to cooperate with the university sector. All CVU study programmes are research-affiliated.

d. Number of teachers in such education institutions in 2002: The Ministry of Education does not gather the number of teachers in higher education.

e. Number of participants, full-time and part-time in such schools in the last school year: See below

Development of higher education outside universities is encouraged, among others by improving conditions for academies of professional higher education and establishing strong and educationally broad centers for education at medium cycle higher education level. Importance is given to close, dynamic interplay between theory and practice in progressive and attractive short and medium cycle higher education programmes.

Today, 43.5 % (2005) of a year group complete a higher education programme, and this figure has been rising. The government aims for at least 45 % of a year group to complete a course of higher education in 2010, and at least half of a year group in 2015.

There is free intake to most higher education programmes, i.e. it is the educational institutions that determine the number of students to be admitted on the basis of the individual institution's physical capacity, qualified teaching staff and the employment prospects of the graduates. For the teacher and health education programmes, the number of students to be admitted is decided at a central level.

The admission requirements for the programmes are laid down at a central level, whereas the selection criteria (in the case numerous clauses) are decided by the institutions themselves.

The admission requirement for the short-cycle higher education programmes is normally either a general upper secondary or a Vocational Education and Training qualification, supplemented by study competence in typically mathematics and English (C-level). The short-cycle higher education programmes are normally of 2 years' duration.

In August/September 2000, the reform of short-cycle higher education led to the establishment of 13 new programmes which all entitle the graduates to place the designation of AK (i.e. Academy Graduate) after the educational title. These 13 programmes replaced the former 75 programmes (except for the programmes in advanced computer studies and transport logistics, etc.). The programmes give access to relevant diploma programmes. The programmes for e-designers and operation technologists have subsequently been authorised as short-cycle higher education programmes.

In 2003, the former medium-cycle higher education programmes, which took 3-4 years, were reformed and converted into professional bachelor programmes. A few medium-cycle higher education programmes were not, however, affected by the reform (other medium-cycle higher education programmes).

The admission requirement for the professional bachelor programmes is usually a completed examination at general upper secondary level (or parts hereof), but certain eud programmes also meet the admission requirements. A completed social and health education programme may, for instance, give access to some health education programmes. The professional bachelor programmes normally last 3½ years.

As of 2003, almost all schools started professional bachelor programmes, although the health sector had started back in 2001. The programmes alternate between practical work and theory, and include professions such as social helper, journalist, diploma engineer, nurse, teacher and educator.

This conversion from medium-cycle higher education to professional bachelor programmes means that the teaching now must be based on research affiliation, and that the programmes and the

teaching are more closely linked to the profession. The professional bachelor qualifications also give access to relevant candidatus programmes.

Programmes that continue to have the status of medium-cycle higher education programmes include artistic programmes, maritime programmes, building technician, sign language interpreter and defence programmes. These programmes are of varying lengths.

At the same level as the professional bachelor programmes, there are academic bachelor programmes offered by the universities. The officially stipulated duration of such programmes is 3 years, and they are offered within the fields of social sciences, the humanities, the natural sciences, engineering, health studies, agriculture and education.

The present structure of the university programmes (bachelor 3 years + candidatus 2 years + PhD 3 years) was adopted in 1993. Prior to that time, all programmes consisted of one continuous course up to the candidatus degree, which was the first academic degree. Today, almost all university programmes consist of a bachelor programme, a candidatus programme and the possibility of a subsequent PhD programme.

The admission requirement for the bachelor programmes is normally a qualification at general upper secondary level with specific subject requirements as for the other higher education programmes. The bachelor programme constitutes a complete programme in itself, giving both vocational competency and access to the candidatus programme – which the majority of students choose.

On 1 September 2001, it became mandatory for higher education institutions to indicate ECTS-points for all subjects taught. Intentions are to apply the European Credit Transfer System to life-long learning in vocationally oriented adult education. In most programmes, it is possible to accumulate ECTS-point for accreditation.

On 1 September 2002, it became mandatory to use Diploma Supplements. It has since become mandatory for higher education institutions to issue Diploma Supplements in English to graduates.

Priority is given to the establishment of knowledge centres and Academies of Professional Higher Education.

In spring 2004, a new act was adopted which introduced the designation of "university college" as a quality label to education institutions that meet with certain conditions set out by The Ministry of Education. University colleges are centres for higher education which are linked to a profession and which carry out development activities related to education and other knowledge-based areas for a broad target group, building on the centres knowledge database and research affiliation to relevant research bodies in Denmark and abroad.

From 2004-2009, the Danish Evaluation Institute is commissioned to make reports on whether the offer of professionally oriented educational programmes by centres for higher education live up to statutory requirements. The reports are part of an accreditation process where the Danish Evaluation Institute submits recommendations and the Ministry of Education makes final decisions.

To encourage Danish education institutions to promote mobility and ease the administrative burden, institutions receive special taximeter grants for each Danish student sent abroad on credit transferable study periods, and for each foreign student hosted by Danish institutions.

In 2000, the Danish Centre for Assessment of Foreign Qualifications was established to provide the framework in Denmark for the assessment and recognition of qualifications obtained abroad. The centre offers quick, efficient and fair assessment of foreign education programmes and specific and general information on the relation between Danish and foreign qualifications and qualifications systems. In 2003, the Lisbon Recognition Convention was ratified by Denmark.

#### *Adult vocational training:*

a. *Rules laid down by legislation:* Act No 446 of 10 June 2003 on adult vocational training, with later amendments (No 1228 of 2003, Nos 523 and 593 of 2005, and Nos 556 and 561 of 2007). The Adult Vocational Training ('arbejdsmarkedssuddannelser', or 'AMU') programmes have existed since the late 1950s, having served different purposes as the Danish economy has developed and transformed from an agricultural economy to a more service and knowledge intensive economy. Recently the system has undergone a comprehensive reform. In 2001, after a change in Government, these programmes were transferred from the responsibility of the Ministry of (then Labour, now) Employment to the Ministry of Education.

Target groups are: Semi-skilled and skilled workers, mainly employed workers. There are special training programmes for immigrants and refugees.

The AMU programmes serve a triple purpose:

- To provide, maintain and improve the vocational skills of the participants in accordance with the needs and background of enterprises, the labour market, and individuals, and in line with technological and societal developments,
- To solve labour market restructuring and adaptation problems in a short term perspective,
- To contribute to a general upskilling in the labour market in a long term perspective.

AMU training primarily provides skills and competences related to specific job functions. The programmes offer the participants three levels of qualifications based on an assessment of the different job functions for which a qualification is sought. This assessment forms the basis for the types of qualifications to be included in the individual training course. The three levels are: Specific qualifications (e.g. crafts, technical insight and knowledge of materials); general qualifications (IT, languages, work hygiene); personal qualifications (ability to cooperate, responsibility, independence).

A large proportion of the programmes also provide competences to continue at a higher level within a sector. Many training programmes are also recognised by other Vocational Education and Training programmes.

A central element in the 2003 amendment reform was the development of 136 new joint competence descriptions (replaced a much larger number of training programme descriptions), which give educational institutions improved tools and increased flexibility to meet the needs for new skills of employees and companies. The joint competence descriptions comprise not only adult vocational training but also relevant VET single subjects. This marks a conceptual shift, from thinking in terms of training programmes to identifying labour market competences.

#### Certificates and credits:

Participants receive a certificate of credit upon completion of a course. The certificates are nationally recognised. Certificates may be applied at a parallel or higher level within the adult education system or within the labour market itself. A certificate of credit may thus be given as a certificate in the transportation of hazardous goods, but may also be given as a certificate as fork-lift operator. The smallest unit for an AMU programme is an existing adult vocational training plan or a single subject from the Vocational Education and Training programmes.

#### Responsibilities and implementation:

Legislation involves the social partners at all levels – national and local, the labour market as a whole and each vocational/trade area. The Council for Vocational Adult Education and Training, in which the social partners are represented, advises the Minister of Education notably on basic labour market relevant competence development in the form of Adult Vocational Training and initial VET single subjects entered on a list of joint competence descriptions.

The 12 continuing training committees within the AMU programme structure have the responsibility to develop the approx. 150 competence frameworks. The committees must also propose those educational objectives from the different AMU programmes and from the VET systems that the 150 competence profiles should comprise. In the actual implementation the schools have the mandate

to combine educational objectives into a programme that corresponds to the (local) users' needs. It is up to the schools to decide when and where the specific programmes should be placed and if the programmes should be organised as full time, part time, in-company, day-time, night time, week-end, or e-learning activities.

The Public Employment Service (under the field of responsibility of the Ministry of Employment) may purchase adult vocational training courses for the unemployed.

b. *Total amount of public expenditure devoted to adult vocational training:* (2007) DKK 963 million. Total amount of public expenditure devoted to allowance for forgone earnings while participating in adult vocational training (AMU as well as other vocationally oriented adult education and training at max. VET level): (2002) DKK 1,145.4 million, corresponding to 9 percent of the workforce aged 20-70 (based on transactions, not identical with beneficiaries as these may participate in several courses with allowance in one year).

c. *Number of institutions:* There are approximately 140 providers of Adult vocational training (AMU), including 6 Adult Vocational Centres (17 percent of the participants), VET Colleges: Business and Technical Colleges (20 percent), Business Colleges (24 percent), Technical Colleges (34 percent of participants), as well as social and health care training schools, a few institutes for social educators, and some private providers.

d. *Number of teachers* in such institutions: (2004) The number of teachers in Vocational Education and Training Colleges (including initial VET), which also provide AMU, is approx. 5,500. To this number should be added teachers at the 6 AMU Centres, however the exact number is not known to the Ministry of Education.

e. *Number of participants*, full-time and part-time in such schools in the last school year: See below

- *Recent measures adopted for adult vocational training:* A reform of adult vocational training was implemented in 2003 to increase demand management and coherence in efforts related to initial and adult Vocational Education and Training. The act, implemented 1 January 2004, provides improved access to adult vocational training for unskilled and skilled workers at the labour market. A central element in the reform is development of approximately 136 new joint competence descriptions (replaces a much larger number of adult vocational training programme descriptions), which give educational institutions improved tools and increased flexibility to meet the needs for new skills of employees and companies, considering also the need for further training of immigrants and refugees. The joint competence descriptions comprise not only adult vocational training but also relevant VET single subjects. This marks a conceptual shift, from thinking in terms of training programmes to identifying labour market competences. Legislation in 2007 introduced an offer of assessment of basic skills (literacy and numeracy) including guidance and referral to suitable education offers. Right of assessment and recognition of prior learning was enhanced, introducing right to documentation of recognised competences.
- *Recent measures for the recognition of prior learning in education and training:* The November 2004 government policy paper on the recognition of prior learning within education proposes that recognition of non-formal and informal learning be taken into account throughout the entire education system, and that initiatives be taken in adult education and continuing training to improve opportunities for assessment and recognition of prior learning. See <http://pub.uvm.dk/2005/priorlearning/>. The government had already initiated activities several years ago to promote the assessment and recognition of prior learning in several education fields, notably in adult education and training, and most recently in the 2003 reform of (initial) Vocational Education and Training. – But the main message was the necessity to go further than that in the light of Denmark's aims of increasing the level of knowledge and competences. The policy paper was approved by all political parties in Parliament. The policy paper has since been endorsed in the recommendation from the Globalisation Council (2006) as well as in the Welfare Accord of June 2006. As a follow-up to the policy paper and to the major political agreements, the Minister of Education has introduced, and Parliament has passed, new legis-

lation on enhanced recognition of prior learning within adult education and continuing training, which has taken effect from 1 August 2007 (Act No 556 of 6 June 2007). The Ministry of Education has developed schemes for documentation of competences in cooperation with the social partners and actors from liberal adult education and non-profit associations.

### Number of pupils in the education system, full-time and part-time in 2001-2005

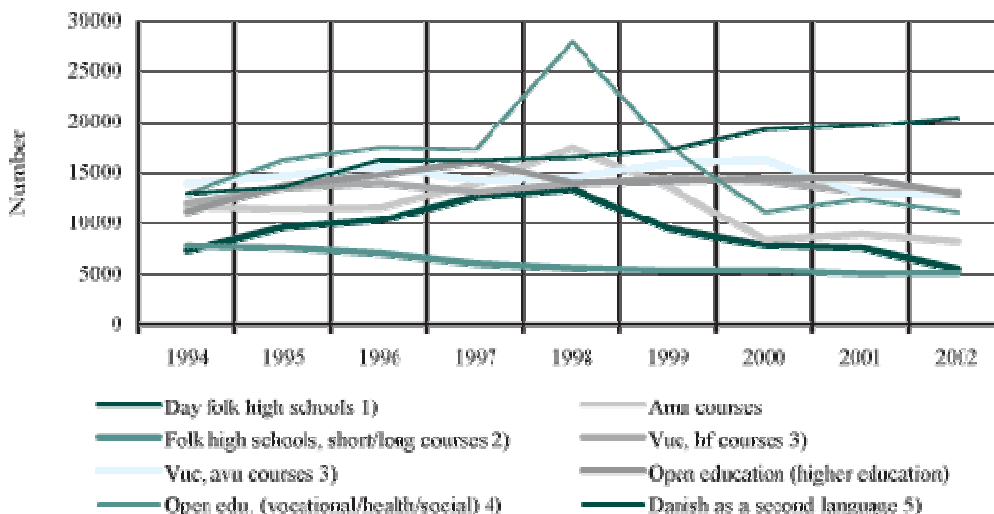
	2001	2002	2003	2004	2005
<b>Basic School total</b>	<b>679.679</b>	<b>693.209</b>	<b>705.557</b>	<b>713.408</b>	<b>713.617</b>
Preschool to 7 <sup>th</sup> form	530.262	539.471	547.285	548.884	548.856
8 <sup>th</sup> to 10 <sup>th</sup> forms	149.417	153.738	158.272	164.524	164.761
<b>Upper Secondary Education, total</b>	<b>221.769</b>	<b>218.099</b>	<b>226.260</b>	<b>232.524</b>	<b>236.003</b>
General Upper Secondary Education	64.708	65.762	67.483	70.130	72.684
Vocational Upper Secondary Education	33.626	33.850	34.359	36.152	33.808
Vocational education and training, basic course	42.173	41.327	44.506	46.118	47.014
Vocational education and training, main course	81.262	77.160	79.912	80.124	82.497
<b>Higher Education, total</b>	<b>198.390</b>	<b>200.327</b>	<b>201.816</b>	<b>202.157</b>	<b>203.668</b>
Short cycle higher education	19.784	18.658	16.937	16.990	18.508
Medium cycle higher education	118.786	120.747	123.047	124.373	126.275
Long cycle higher education	54.983	56.415	57.494	56.247	54.147
Ph.d.	4.837	4.507	4.338	4.547	4.738

### Number of participants in Adult Vocational Training, 2006 (question f)

Total participants*)	Men	Women	Participants, full-time equivalents
617,093	347,540	269,553	10,191.2

Note:\*) It is estimated that this number corresponds to approx. 260,000 persons, as each person may participate several times during a year.

**Student full-time equivalents in selected public sector adult education activities, 1994 – 2002**



Source: “Adult Education in Figures – 2003”, the Ministry of Education.

**Article 10  
Paragraph 1  
Question B**

*Vocational Education and Training etc.*

The VET programmes are divided into two parts: a basic course, which is broad in its scope, and a main course in which the trainee specialises within a craft or a trade. There are seven basic courses:

Trainees (fulltime equivalent trainees) in basic courses (2005)

Building and construction	6,452
Crafts and engineering trades	2,175
Mechanical engineering, transport and logistics	3,960
Service industries	4,065
Technology and communication	6,197
Food production and catering	5,810
Commerce, clerical education and finance	16,935
Social care and health care	1,420

The first six cover technical training, where the basic course is highly flexible and individualised. It may last from 10 weeks to 60 weeks, depending on the proficiency level, desires and needs of the individual trainee. The basic courses for the commercial training programmes last 38 or 76 weeks, and are followed by a main course lasting three or two years. Most VET programmes have a duration of four years, but the system encompasses programmes of durations from 18 months to 5½ years.



The number of male trainees in VET is, on average, marginally higher than the number of females trainees: with 55.6 % male trainees on the basic courses and 54.7 % male trainees on the main courses. However, the gender distribution between the various programmes is uneven. In social and health care subjects, the female trainees constitute 92.3 %, whilst within traditionally male sectors such as mechanical engineering, transport and logistics they only constitute 4.3 %.

The average age of trainees on the basic courses was 20 in 2002. For the main courses, the average age was 25. In 2002, approximately 92 % of all trainees were of Danish origin, and 8 % were immigrants or from ethnic minorities.

*Adult Vocational Training (participants, 2006):*

All	617,093
Industry vocational training courses	67,774
Metal industry continuing training committee	26,742
Trade, administration, communication and management continuing training committee	199,988
Service sector continuing training committee	33,449
Building, construction and industry continuing training committee	47,905
Technical installations and energy continuing training committee	13,931
Wood industry	1,928
Dairy and farming continuing training committee	18,358
Kitchen, hotel, restaurant continuing training committee	15,538
Transport sector continuing training council	82,705
Educational, social and health continuing training committee	33,968
Joint catalogue	71
Welding and heating technique	22,497
Transitional	828
Individual competence assessment	51,411

**Article 10  
Paragraph 1  
Question C**

Please see under article 9.

**Article 10  
Paragraph 1  
Question D**

*Vocational education and training etc.*

The trainees are able within their chosen VET (Vocational Education and Training)- course to supplement with add-on electives, both general subjects such as math, science or foreign language – or specific subjects from their chosen trade. Credits for completed VET-courses or modules can be transferred horizontally.

- thus trainees can switch from a completed basic-course in a VET programme to vocational upper secondary education
- or trainees may acquire general access to higher studies after a completed VET programme supplemented by special add-on electives

**Article 10**  
**Paragraph 1**  
**Question E**

*Vocational Education and Training etc.*

There are by legislation free admission to all VET programmes for trainees with a lawful residence in Denmark.

For trainees with disabilities or learning difficulties, the national legislation provides a limited professional competence on the completion of certain parts of the VET programmes. Special aids, teaching materials and pedagogical session are offered to the physically disabled or student with learning difficulties. However, a few VET programmes have a limited admission, due to employment difficulties.

As a part of the agreement with the social partners it is the employers responsibility to provide the necessary apprenticeship possibilities for the trainees within the various trades. It is up to the trainees own initiative to find an apprenticeship, and they are supported in their efforts by the colleges.

If this is not possible to find possibilities for apprenticeship due to for instance unemployment in the sector, the trainees are under certain conditions offered college-based compensatory practical training schemes to ensure the completion of their education. However 73 VET programmes cannot offer such practical training. An amendment in December 2003 to the Act on Vocational Education and Training furthermore limited the access to these compensatory practical training schemes – the aim is a limit of 1200 trainees - and directed focus on increasing the number of apprenticeships.

If there is a temporary shortage of apprenticeship placements, the Ministry and the social partners are taking measures – approved by the Advisory Council for Initial Vocational Education:

- to appeal to the employers to employ more trainees
- to increase the amount of placement possibilities by a partly approval of employers.

*Adult vocational training: Please see under paragraph 1.*

**Article 10**  
**Paragraph 2**  
**Question A**

The Vocational Education and Training programmes (eud) constitute the greatest part of the vocational upper secondary programmes.

The system is based on three main principles:

1. the dual training principle, i.e. periods in school alternating with periods of training in an enterprise. This principle ensures that the trainees acquire theoretical, practical, general and personal skills which are in demand by the labour market;
2. the principle of social partner involvement, whereby the social partners take part directly in the overall decision-making and daily running of the VET system;
3. the principle of lifelong learning, i.e. the system is extremely flexible, and offers learners the possibility of taking part of a qualification now, and later returning to the VET system and adding to their VET qualifications in order to access further and higher education. Furthermore, VET and Adult Vocational Training are integrated to a large extent, in order to ensure coherence between different qualifications and competence levels.

The eud have 12 access channels comprising a basic course for each student, followed by a main course. The trainees draw up a personal education and training plan together with the school and

the company providing the practical placement in order to allow for individual courses of education and training.

A multi-annual agreement for the Vocational Education and Training programmes, etc. (2003-2006) developed 28 new vocational education programmes normally short (1½-2 years). As of 1<sup>st</sup> January 2005, the eud system comprises 122 different commercial and technical programmes with 215 areas of specialisation and 45 stages.

The eud programmes have continuous intake, and are started by a foundation course, typically lasting 20 weeks. The commercial foundation courses last from 39 to 114 weeks. A vocational education programme lasts 1½-5½ years, the most normal, however, being 3-4 years. Trainees under the age of 25 who have already completed the first stage of a programme can return and complete the entire programme after at least 6 months of relevant employment experience in a course called eud+, where the student receives an adult vocational education grant.

Like the eud programmes, the basic social and health education programmes (sosu) alternate between practical training and theoretical education at school. For young people coming directly from the 9<sup>th</sup> form, and others who so require, the programmes are started with an introductory school-based foundation course (typically 20 weeks, but up to 40 weeks). Admission to this programme is conditional on the student having completed the compulsory basic schooling.

The programme qualifying graduates for jobs as social and health care helpers lasts 1 year and 2 months, of which 24 weeks are normally held at school. The programme qualifying graduates for jobs as social and health care assistants lasts for 1 year and 8 months, with at least 32 weeks of teaching at school. The admission requirement is completion of the social and health care helper programme or similar qualifications.

The vocational education programmes also include a number of agricultural and maritime programmes. The agricultural programmes are programmes which may be completed with the “green certificate” for farmers. The maritime programmes lead to such qualifications as able seaman, basic modules 1+2, fisherman, coastal skipper, etc.

A completed vocational basic training programme (egu) gives vocational qualifications, and normally takes 2 years, but may be extended by up to one more year. This programme is directed at a specific trade, but may be composed of elements from one or more programmes/trades. Each student is required to draw up a training plan, an egu agreement, with the municipality, a vocational college or a production school. The programme alternates between school periods of 20-40 weeks and periods of practical training in one or more companies. The programme allows the student to continue in a Vocational Education and Training programme or another programme, or in a job in the labour market.

**Article 10**  
**Paragraph 2**  
**Question B**

Please see above under paragraph 1, question A, e.

**Article 10**  
**Paragraph 2**  
**Question C**

Please see above under paragraph 2, question A.

**Article 10  
Paragraph 2  
Question D**

In VET system education and training periods in school are funded by the state and the alternating periods of training take place in an enterprise. All Danish private and public employers contribute to the Employers Reimbursement System (AER). The AER refunds certain expenses to employers, who employ trainees in VET and certain other educations.

**Article 10  
Paragraph 2  
Question E**

Please see the general description above under paragraph 1, Question A.

**Article 10  
Paragraph 2  
Question F**

Please see the general description above under paragraph 1, Question A.

**Article 10  
Paragraph 3  
Question A**

Please see the general description above under paragraph 1, Question A. This provision aims at meeting exactly such needs.

*Adult Vocational Training*

For details of the facilities provided for the training and retraining of adult workers *in employment*, including workers (and enterprises) affected by economic and technological change, see the description of Adult Vocational Training above under paragraph 1.

Unemployed people who are members of an unemployment insurance fund are entitled to six weeks of voluntary education and training. Six weeks of voluntary education and training may include a number of adult vocational training programmes, single-subject courses as part of the vocational and training programmes, and part-time training as part of the basic social and health training programmes.

As a rule, unemployed people may in the first unemployment period also receive offers for education and training for up to six weeks as part of a job plan.

This means that there is a training opportunity for up to about three months.

Danish lessons for immigrants and Danes who are reading and writing impaired are not included in the six-week rule, and may be offered in addition to the six weeks.

However, in the first unemployment period an offer may only be made for up to nine months up until 2008. A prerequisite for the offer is that it applies to an education in occupations where labour shortages exist or are expected, or where there are good employment opportunities.

After the first unemployment period there are no limitations to the education opportunities if this is what will most effectively get the unemployed person back into work. Recipients of unemployment benefits can only receive offers as long as they are entitled to receive unemployment benefits.

There is a special scheme enabling enterprises to receive subsidies for education agreements for adults over the age of 25 years. The scheme includes areas where shortages of labour exist or are expected, or where there are good employment opportunities.

Especially in connection with notices of large-scale dismissals, the employment region prepares an action plan which may include offers on job seeking courses for up to two weeks for the dismissed persons. Finally, a subsidy can be granted for the purpose of upgrading of skills, including for further and adult training for up to eight weeks.

**Article 10**  
**Paragraph 3**  
**Question B**

Please see above under paragraph 1, question A.

**Article 10**  
**Paragraph 3**  
**Question C**

*Adult Vocational Training*

The target group is semi-skilled and skilled workers (approx. 2 million persons), mainly employed workers, who are also eligible for an allowance for forgone earnings. The training programmes are also open to those who do not belong to the target group, the only difference being that they are not entitled to an allowance. In practice, most employers cover the wages of the participants and receive the allowance as part compensation. There are special training programmes for immigrants and refugees.

The Public Employment Service/the Jobcentre, which is within the field of responsibility of the Ministry of Employment, may purchase adult vocational training courses for the unemployed.

For further information see answer to article 10, paragraph 3, question A.

**Article 10**  
**Paragraph 3**  
**Question D**

*Adult Vocational Training*

See statistical information on participation in Adult Vocational Training above (paragraph 1).

**Article 10**  
**Paragraph 3**  
**Question E**

*Adult Vocational Training*

General measures to assist unemployed persons to take up or resume employment come within the field of responsibility of the Ministry of Employment.

In connection with the municipal reform, a "special unit for equal opportunities" was set up effective as of 1 January 2007. All employees in the job centres and with other (external) actors must obtain basic knowledge on gender equality issues on the labour market, and as part of the employment efforts. The target group of the gender equality efforts includes insured as well as non-insured unemployed people, people who change jobs, and enterprises.

The main elements of the service that the job centres must provide in order to ensure gender equality and dismantle the gender-divided labour market are:

- guidance and support for job seeking, including the use of self-service tools, i.e. CV bank and job bank. In this connection special focus should be given to women and men having their full competences and skills registered in such a way that the job seeking person increases his or her job and training orientation towards several job areas with good job opportunities, including areas that are not traditionally gender-related;
- guidance in connection with contact and approval of job plans, including selection procedures to an other actor. In this connection, focus must especially be on the issue that groups of women and men who are facing unemployment, in their job plans include employment targets directed at areas with good employment opportunities, including job areas that are not traditionally gender-related;
- organise contacts and guidance so that they inspire women and men to expand their job search, including job areas that are not traditionally gender-related;
- establish contact between enterprises and job seekers with regard to the existing local organisation of the enterprise contact. In this connection special attention must be given to offering guidance to enterprises in relation to the value of hiring unconventional labour;
- handle the ongoing contact to the enterprises. In this connection, special attention should be given to giving advice on existing legislation about discrimination in connection with recruitment and job advertisements on jobnet.dk.

**Article 10**  
**Paragraph 3**  
**Question F**

*Adult Vocational Training*

All persons with permanent residence or employment in Denmark have access to adult vocational training courses are open to all, irrespective of nationality.

**Article 10**  
**Paragraph 4**  
**Question A**

*Vocational Education and Training etc.*

Vocational Education and Training etc. is free of charge for all trainees. Expenditures are financed by the state, as far as egu (vocational basic training programme) concerns partly by the municipalities and as far as basic social and health education is concerned by the counties.

*Adult Vocational Training*

User fees (co-financing by participants or their employers) have been introduced in a number of adult programmes. It has only amounted to sizeable amounts in the provision of 'vocationally oriented' adult education and training programmes at advanced (tertiary) levels (and for liberal adult education). In certain programmes for low skilled adults it had been abolished altogether for some period of time. User payment has now been (re)introduced as a general principle. In 2002 it was introduced in adult vocational training to a very moderate extent, in order to ensure that the demand for education/-training was indeed based on the labour market need for qualification (demand-driven policy), and in order to prevent exceeding of the fixed limit earmarked for this purpose in the state budget.

User fees amount to DKK 500-750 per week (average duration of AMU programmes is one week).

### General Adult Education

1. *Preparatory Adult Education (literacy and numeracy)*: No fees
2. *General Adult education at lower and upper secondary level*: Moderate user fees were introduced in certain subjects (excluding so-called core subjects) in 2000 as part of a financial agreement with the regional authorities in order to assist them in governing regional finances. Apart from core subjects (Danish, Danish as a second language to foreigners, English and Mathematics where a handling fee of DKK 100 still exists), there are user fees ranging from DKK 300 to 900 per course, i.e. still quite moderate amounts.

### Article 10 Paragraph 4 Question B

#### *Vocational Education and Training etc.*

Trainees aged 18 may to cover their living conditions apply for educational grants by the Danish State Education Grant and Loan Scheme (SU). Entitlement to public educational grants stops when trainees enter into paid practical training. Grants are paid partly as scholarships and partly as student loans.

#### *Adult Vocational Training; General Adult Education at lower and upper secondary level; Further adult education programmes at advanced levels*

Public financing includes not only grants towards operational expenditure but also support/allowance schemes for forgone earnings for adults during participation in education/training. Such schemes are in principle for all but are more advantageous for low skilled adults (priority group).

Formally, there are two grant/allowance schemes, which replace earlier legislation, including legislation on education leave of absence in the 1990s:

1. Act, as compiled, No 796 of 18 August 2005 on State educational support for adults ('Statens voksenuddannelsesstøtte', or 'SVU')
2. Act, as compiled, No 795 of 18 August 2005 on Special allowance in connection with participation in vocationally oriented adult education and continuing training ('VEU-godtgørelse').

The schemes are summarized in the table below.

Entitlement	Type of financial support	Number of beneficiaries (% of total employment)
Employer agreement/self-employed: 1. <i>SVU grant scheme</i> : General adult education: >26 weeks in present job – age requirement 25 (or 20) Adult tertiary level: <3 years' work experience (age requirement 25) 2. <i>VEU allowance scheme</i> (AMU and other adult Vocational Education and Training at max. VET level): No requirements of scope of previous employment, no age requirements.	Paid to employees (or to employer if employer pays full wages during training leave). Level for both schemes is maximum unemployment benefit (2006: DKK 3,335 per week for full-time attendance) Maximum duration: 1. <i>SVU scheme</i> : 80 weeks (full-time equivalent) for basic education level; 1-52 weeks (full-time study) within a 5-year period for adult programmes at tertiary level. 2. <i>VEU scheme</i> : Unlimited time	1. <i>SVU scheme</i> : 0.61 % of workforce aged 25-59 in 2002 2. <i>VEU scheme</i> : 9 % of workforce aged 20-70 (based on transactions, not identical with beneficiaries as these may participate in several courses with allowance in one year)

Eligibility depends on an agreement between the employee and the employer. A self-employed person may also be eligible.

Entitlement to the SVU grant scheme are Danish citizens, or residents in Denmark.

For the VEU allowance scheme, foreign citizens (EU or third country) are entitled if they are employed at a Danish workplace, even if they are not resident in Denmark (e.g. commuters from typically Sweden or Germany). The employer must be subject to Danish law.

#### *Grants and loan*

“For students of 18 years or more the support is given as a monthly grant and a monthly student loan. In 2006 students living with their parents receive a monthly grant of DKK 2.349 and a study loan of DKK 2.418. Students living on their own receive a monthly grant of DKK 4.724 and a monthly student loan of DKK 2.418.

Students in higher education receive a “klippekor” with 70 klip, equal to 70 months of support.

Students in basic course receive support until the education course is finished.”

### **Article 10 Paragraph 4 Question C**

#### *Adult Vocational Training*

1. Private initiatives: Stipulations in some private collective agreements.
2. Public initiatives: Legislation on grants and allowance schemes, see above. If the employer pays full wage to the employee during participation in education and training, the public grant or allowance is payable to the employer as (part) compensation.

### **Article 10 Paragraph 4 Question D**

#### *Vocational Education and Training etc.*

The national trade committees are entitled to control and approve an employer who wants to take in apprentices. The approval and control is necessary to ensure that the apprentices are trained adequately and in accordance with the educational aims of the education in question. Thus, at the final exam (the journeyman’s test) the trade committee appoints representatives of employers and employees of the trade to participate as examiners.

The Ministry of Education is responsible for inspection and quality assurance with the VET provision. However the counties have the responsibility to inspect and assure the quality of the basic health education.

### **Article 10 Paragraph 4 Question E**

#### *Vocational Education and Training etc.*

Yes, the above mentioned conditions in the subparagraphs a, b and c are applicable to all trainees concerned.



**In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 26<sup>th</sup> Danish report.**

## **Article 10 – Right to vocational training**

### *Paragraph 1 – Promotion of technical and vocational training and the granting of facilities for access to higher technical and university education*

The Committee takes note of the information in the Danish report.

#### *Secondary and higher education*

The Committee previously examined the organisation of the secondary and higher education system (Conclusions XVI-2, p. 210).

According to the report, the vocational education and training system (VET) was reformed in 2003. The introduction of shorter training programmes and different levels into existing programmes was designed to increase the chances of students who had difficulty in completing a full course of studies.

In 2003, some of the medium-length higher education courses were reformed and converted into shorter “vocational bachelor’s programmes”. Access to these programmes depends on passing the upper-secondary school leaving certificate. They last three-and-a-half years and combine practical and theoretical training in occupations such as social work, journalism, engineering, teaching and youth work.

Universities also now offer shorter “academic bachelor’s programmes”, which last three years and cover areas such as social sciences, the humanities, natural sciences, engineering, health, agriculture and education. “Bachelor’s programmes” constitute full courses in themselves but can also provide access to the higher “candidatus” degree.

#### *Measures to facilitate access to education and their effectiveness*

According to the report, in 2002, there were 131 vocational and technical training institutions and more than 150 specialised higher education institutions. The Committee notes from another source<sup>7</sup> that there were 22 universities or institutions offering university-type courses in 2004.

The report states that there was a yearly average of 220 000 upper secondary school students and 202 000 students in higher education throughout the period 2000-2004.

From Eurostat data the Committee notes that Denmark allocated 6.8 % of its GDP in 2002 to education at all levels (the European Union average was 4.9% in 2002).

In reply to the Committee’s question on equal treatment, the report states that all students residing lawfully in Denmark have full access to VET programmes. With regard to higher education, the admission quotas for foreign students with non-Danish qualifications introduced in 2003 were removed in 2006.

#### *Conclusion*

The Committee concludes that the situation in Denmark is in conformity with Article 10§1 of the Charter.

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<sup>7</sup> Eurydice database ([www.eurydice.org](http://www.eurydice.org)).

## *Paragraph 2 – Promotion of apprenticeship*

The Committee takes note of the information in the Danish report.

The Committee has already looked into the organisation of the vocational education and training system (VET) and considered it to be in conformity with the Charter (Conclusions XVI-2, p. 214). It recalls that in Denmark, there is no distinction between “vocational education” and “apprenticeship” (Conclusions XIV-2, p. 198-199).

In 2003, Denmark had 100 vocational upper secondary schools (technical and commercial colleges) with about 120 000 registered students. The same year, 78% of the students who had begun a vocational training course completed it<sup>8</sup>.

According to the report, total state spending on vocational education and training was DKK 5.2 billion (about EUR 700 million) in 2003.

The Committee has noted previously (Conclusions XVI-2, p. 214) that it is for employers to provide the necessary apprenticeship places for students in various trades. If there is a temporary shortage of places, students can complete the programme through a schoolbased practical training scheme. The report states, however, that following a reform of the Vocational Education and Training Act in 2003, places on these compensatory practical training schemes are limited to 1200 and the number of apprenticeship places is to be increased. **The Committee asks what measures are being taken to ensure that the number of places will increase.**

### **Reply:**

In 2005 a "reward system" was introduced by means of which the employers would get a financial incentive, if they established additional training places, i.e. certain expenses would be reimbursed to the employers. The reward system was alone targeted at pupils with a training contract within the field of vocational education and training (VET) and at pupils who had completed an adaptation period in the enterprise. The reward system was also targeted at other types of education, which, according to a decision adopted by the Board of the Employers Reimbursement System (AER), could be compared to vocational education and training (VET). It cannot be proved by documents that the reward system alone has had the effect that the number of pupils in school-based practical training has declined.

The favourable trade conditions as well as the great demand for manpower have had the effect that the number of school-based practical training places have been reduced considerably from 2003 and up to 2007. During the period from January 1st until September 30th 2007 29,263 training contracts have been entered into. This is an increase of 1,138 training contracts equivalent to 4% compared with the same period last year. By 30th September 2007 67,083 training contracts were in force. This is an increase of 4,001 training contracts equivalent to 6% compared with the same time last year.

The additional number of pupils enrolled in the school-based practical training system has amounted to 1,509 during the period from January until September 2007. From this group 1,088 pupils have been enrolled from a basic course (VET) - the rest has been enrolled according to a previous agreement with an enterprise. The additional number of pupils enrolled in school-based practical training has decreased by 468 pupils equivalent to 24% compared with 2006. By 30th September 2007 1,911 pupils were enrolled in school-based practical training. This is a decrease of 1,221 pupils equivalent to 39% compared with the same time last year.

Pending receipt of the information requested, the Committee concludes that the situation in Denmark is in conformity with Article 10§2 of the Charter.

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<sup>8</sup>Danish Ministry of Education, Facts and Figures, Education Indicators, Denmark, 2005; can be consulted on the Ministry's website at [www.uvm.dk](http://www.uvm.dk).

### *Paragraph 3 – Vocational training and retraining of adult workers*

The Committee takes note of the information in the Danish report.

In 2001, responsibility for continuing education programmes was transferred from the Ministry of Employment to the Ministry of Education.

The system was reformed by Act No. 446 of 10 June 2003 on vocational training for adults. A key feature of the reform was the development of 136 new syllabuses to replace the existing ones. More account is taken of the needs of unskilled workers, immigrants and refugees.

#### *Employed persons*

In reply to the Committee's question, the report states that the Adult Vocational Training system (AMU) pursues three aims:

- to provide, keep up and improve vocational skills in line with the needs of companies, the labour market and private individuals and in keeping with technological and social developments;
- to solve problems linked to the reorganisation of the labour market in the short term;
- to increase the general level of skills in the long term.

The programmes offer participants three types of qualification:

- specific qualifications (for example, crafts, technical insight, knowledge of materials);
- general qualifications (for example, IT, languages, work hygiene);
- personal qualifications (for example, teamwork, responsibility, independence).

In reply to the Committee's question, the report states that the arrangements for training leave are governed by two laws, Act No. 796 of 18 August 2005 on state educational support for adults (SVU) and Act No. 795 of 18 August 2005 on the special allowance for participation in vocational and continuing adult education (VEU). All adults in training are entitled to state allowances, which are paid directly to employees or to employers who pay salaries directly to their employees. In 2006, the maximum weekly contribution to full-time training costs was DKK 3 335 (about 450 euros). Training leave must be arranged through agreements between employers and employees. The maximum total length of leave permitted is 80 weeks for a full-time job.

According to the report, total state spending on adult education was DKK 965 million (about EUR 130 000) in 2003. There are 140 adult education centres with about 5 500 teachers. In 2004, about 250 000 persons attended adult education courses. The Committee notes from another source<sup>9</sup> that in 2003, 52% of workers participated in some form of continuing vocational training.

#### *Unemployed persons*

According to the report, unemployment rose from 5.2% in 2001 to 6.4 % in 2004 (the EU average was 8.1% in 2004). The Committee notes from Eurostat data that unemployment among young people fell from 9.9% in 2003 to 8.2% in 2004). Long-term unemployment was 20.3% of total unemployed in 2003.

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<sup>9</sup>Danish Ministry of Education, Facts and Figures, Education Indicators, Denmark, 2005; can be consulted on the Ministry's website at [www.uvm.dk](http://www.uvm.dk).

According to the report, the reform in 2003 formed part of a radical reform of employment policy, focusing on a more individual approach and clearer job orientation. As a result of the new strategy, unemployed people are given greater training opportunities, through theoretical courses, occupational advice, practical work placements and wage subsidies.

Entitlement to such measures depends on several factors such as length of unemployment, age, social circumstances, physical and mental condition and qualifications. The authorities must maintain regular contact with such persons, communicating with them at least every three months so as to guide them in their search for a job.

**The Committee asks again for detailed information on how the cost of vocational and continuing training is shared between public bodies (state or other collective bodies), unemployment insurance systems, enterprises and households.**

**Reply:**

“In VET system education and training periods in school are funded by the state and the alternating periods of training take place in an enterprise.

All Danish private and public employers contribute to the Employers Reimbursement System (AER). The AER refunds certain expenses to employers, who employ trainees in VET and certain other educations.”

*Conclusion*

Pending receipt of the information requested, the Committee concludes that the situation in Denmark is in conformity with Article 10§3 of the Charter.

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*Paragraph 4 – Encouragement for the full utilisation of available facilities*

The Committee takes note of the information in the Danish report.

*Fees and financial assistance (Article 10§4 a and b)*

In its previous conclusion (Conclusions XVI-2, p. 220), the Committee noted that students over 18 years of age could apply for a grant from the Danish State Education Grant and Loan Scheme (SU). Grants are paid partly as scholarships and partly as student loans. They are based on the applicant's age and his or her own – or in some cases the parents' – financial circumstances. In this respect, **the Committee asks again for detailed information on the degree of solvability provided by these grants and the income levels below which they are awarded.**

**Reply:**

“Answer will follow as soon as possible.”

The report indicates that since 2006, all students from non-EU countries must help to finance their studies in Denmark. A study grant is awarded to certain foreign students from certain countries for short periods of study. **The Committee notes that this reform took place outside the reference period. Consequently, it asks for the next report to contain information on these new financial arrangements.**

**Reply:**

“Answer will follow as soon as possible.”

The Committee previously considered the situation not to be in conformity with the Charter because of the length-of-residence requirements imposed to foreigners for entitlement to a higher education grant. In effect, foreign nationals are not entitled to financial assistance on an equal footing with Danish nationals unless they have been living in Denmark for a minimum of two years and during this period they have had at least a part-time job or traineeship, or if they have been married to a Danish citizen or to a foreign national who had been residing permanently in Denmark for a minimum of 7 years.

According to the report, the length-of-residence requirement affects only a very small number of people. As the situation has not been brought into conformity, the Committee maintains its conclusion of non-conformity on this point.

In reply to the Committee’s question, the report states that persons who participate in further vocational training are entitled to financial aid from the state to cover their costs of living. There are two types of grant for this purpose: the state educational support for adults (SVU) and the special allowance for participation in vocational and continuing adult education (VEU). All Danish citizens and persons residing in Denmark are entitled to the SVU. Foreign nationals from the European Union or any other country are entitled to the VEU if they are employed in a Danish workplace, even if they do not reside in Denmark (for example Swedish or German cross-border workers).

*Training during working hours (Article 10§4 c)*

In reply to the Committee’s question, the report states that time spent on supplementary training at the request of an employer is counted as ordinary working hours.

*Efficiency of training (Article 10§4d)*

The Committee has already considered the situation in this respect and found it to be compatible with the Charter.

*Conclusion*

The Committee concludes that the situation in Denmark is not in conformity with Article 10§4 of the Charter because nationals of other states party to the Charter and the Revised Charter residing or working lawfully in Denmark are not treated on an equal basis with Danish nationals with regard to financial assistance for education and training.

## **Article 15**

**The Right of Physically or Mentally Disabled Persons to Vocational Training, Rehabilitation and Social Resettlement**

**Article 15**  
**Paragraph 1**  
**Question A**

Denmark has not laid down objective criteria on when a person can be considered disabled, and thus becomes a target group for schemes compensating for a disability. The decision is based on a specific assessment of the person's ability to function on the labour market and in social contexts. The target group in the Act on compensation to disabled persons in employment is persons with a permanent and significant physical or mental disability.

A reduction of a person's ability is a demonstrable condition. Reduced ability is not the same as reduced ability to work. A disability, as understood in Danish disability policy and legislation, arises only the moment when a person due to reduced ability has difficulties performing a job. A disability is not a characteristic of the person but of the situation.

Studies made by the Danish National Institute of Social Research show that about every fifth person in the Danish population had a disability or a long-term health-related problem in 2002 and 2005. This corresponds to about 700,000 people. A subsequent survey from the National Institute of Social Research<sup>10</sup> indicates that about 25 per cent of 16-to-64-year-olds had a disability or a long-term health problem in 2006. However, the rise in the number of disabled people may be caused by differences in the data collection methods.

From 2002 to 2006 the surveys from the National Institute of Social Research seem to indicate that employment for disabled people has increased. From 2002 to 2005 the employment of disabled people increased by some 24,000 people, and about 400,000 disabled persons were in employment in 2005. From 2005 to 2006 this number increased from 50.6 per cent in 2005 to 54.8 per cent in 2006 for disabled persons working more than 15 hours per week, corresponding to more than 25,000 persons.

The vast majority of disabled people are employed on normal terms and conditions - and only a small proportion is employed on special terms. In 2002, the distribution was to the effect that 53 per cent of disabled people were employed on ordinary terms and 5 per cent held jobs on special terms. The overall employment rate was thus 58 per cent compared to 85 per cent for people without a disability.

**Article 15**  
**Paragraph 1**  
**Question B**

Unemployed disabled persons are covered by the existing rules laid down in the Act on active employment measures on offers for the unemployed. Disabled persons may thus receive an offer for guidance and upgrading of skills, enterprise training and subsidised employment on the ordinary labour market. In addition to the regular provision on wage subsidies, a disabled person who has completed a long-term further education is entitled to receive special support for wage-subsidised employment for up to two years after the completion of the education programme.

In connection with these offers, a disabled person may receive support for teaching materials, work tools and organising of the workplace.

Furthermore, in pursuance of the Act on active employment efforts, support may be granted to a mentor function where a "support person" helps to support and strengthen the introduction to the workplace.

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<sup>10</sup> The National Institute of Social Research 2007, Disability and Employment - regional differences.

Finally, an employed disabled person may receive support for a personal assistant under the rules laid down in the Act on compensation to disabled persons in employment. The support may be granted on average for up to 20 hours per week per quarter.

The employment strategy for disabled persons is to contribute to increasing the labour supply.

**Article 15**  
**Paragraph 1**  
**Question C**

The municipal authority must offer sheltered employment to people under the age of 65 who, owing to considerably reduced physical or mental functional capacity or special social problems, are unable to obtain or retain a job on ordinary terms on the labour market, and who cannot make use of offers under other legislation. Sheltered employment is a social initiative which must be extended to all disabled people who, to a greater or lesser extent, can make a productive contribution but who cannot obtain employment on the ordinary labour market.

The general framework for "sheltered employment" is laid down in national legislation, which binds the municipalities to offer sheltered employment to disabled people who cannot otherwise obtain earned income through other forms of employment.

Disabled people who are offered sheltered employment will always have another assured source of support - generally in the form of a disability pension. In more exceptional cases the disabled person's basis of support can also be assured in the form of social assistance.

Offers for sheltered employment are made in an institutional framework in especially organised workshops that carry out production jobs under subcontracts for other enterprises.

The political trend in this area goes towards a reduction in the number of institutional offers of employment in sheltered workshops and, instead, arranging sheltered employment in connection with or at enterprises that operate on ordinary market terms.

It is possible to post individual people or groups of disabled people from a sheltered workshop to an enterprise. A special division operating as a sheltered workshop can be established within an enterprise. An enterprise may also enter into an agreement with the local authority for the employment of one or several disabled people under the rules governing sheltered employment.

Sheltered employment primarily accommodates the disabled person's needs for activity and meaning in daily life. Besides this, another purpose of an offer of sheltered employment is to upgrade the disabled person to be able to cope with a job on the ordinary labour market - possibly using the support measures available through legislation on compensation to working disabled people.

The political trend pursued in the area is supported in the main by various development initiatives included in the Government's employment strategy for disabled people.

In the field of "sheltered employment" a number of specific development projects have been launched via a centralised application pool. These development projects are followed up by centrally controlled model projects designed to initiate municipal development initiatives. Furthermore, a research project is being planned which is intended to deliver detailed documentation of the operation of the area on a number of specific points - for the purpose of updating the legislation in the area.

The division of responsibility between the Government and the municipal authorities is in parallel with the division of responsibility already existing by virtue of the municipal structural reform. The Government holds overall responsibility for the framework and the legislation - whereas it is a mu-



municipal responsibility to fill the framework and allocate priorities for the tasks, including determination of the service level.

The regions have no separate politico-economic responsibility. The regions manage joint municipal offers and thus fulfil a supplier function in relation to the municipalities for institutions that were not taken over by a municipality in connection with the municipal structural reform.

**Article 15**  
**Paragraph 2**  
**Question A**

The Government's employment strategy from December 2004 for disabled persons lists 12 specific initiatives to facilitate disabled persons' access to an active working life. In 2005, an additional DKK 80 million were allocated to strengthen the employment efforts for disabled persons, and projects have been launched for these funds that are to strengthen efforts.

No permanent quotas have been laid down for the hiring of disabled persons, however, disabled persons are covered by the general rules on wage-subsidised employment and other schemes under the Act on active employment measures.

**Article 15**  
**Paragraph 2**  
**Question B**

The number of disabled persons employed for more than 15 hours per week on the ordinary labour market has increased in recent years from 50.6 per cent to 54.8 per cent, corresponding to an increase of 25,000 persons.

A study of the disability efforts in 2005 reveals that just about DKK 13 million were spent on disability equipment. There has been an increase in the number of applications and grants from 2004 to 2005.

Furthermore, there has been an increase in the number of hours of personal assistance for disabled persons, from just about 1,080,000 hours in 2003 to just under 1,300,000 hours in 2004 but there was a slight drop in 2005 to just under 1,275,000 hours. 3,501 persons have been awarded personal assistance; an increase of 11 per cent compared to the previous year. Furthermore, there has been an increase in the number of grants for personal assistance of a total of 79 persons for vocational and further education in 2005. There are no more recent estimates of the number of persons in the mentioned schemes.

**In the text below are embodied the answers and supplementary information requested by the Expert Committee regarding the 26<sup>th</sup> Danish report.**

**Article 15 – Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement**

*Paragraph 1 – Vocational training arrangements for the disabled*

The Committee takes note of the information provided in the Danish report.

In 2004, the number of persons with disabilities was about 700,000. The Committee notes that the definition of disability in Denmark is based on an environmental perception of disability, a “handicap” caused by the surrounding society’s lack of ability to meet the needs and requirements of people with disabilities.

*Education*

The Committee recalls that, as stated in the Autism-Europe decision (Autism-Europe v. France, Complaint N° 13/2002, decision on the merits of 4 November 2003, § 48), “the underlying vision of Article 15 is one of equal citizenship for persons with disabilities and, fittingly, the primary rights are those of “independence, social integration and participation in the life of the community. Securing a right to education for children and others with disabilities plays an obviously important role in advancing these citizenship rights”. Under Article 15§1, the Committee therefore considers necessary the existence of nondiscrimination legislation as an important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes. Such legislation should, as a minimum, require a compelling justification for special or segregated educational systems and confer an effective remedy on those who are found to have been unlawfully excluded or segregated or otherwise denied an effective right to education. Legislation may consist of general anti-discrimination legislation, specific legislation concerning education, or a combination of the two.

**The Committee notes that although legislation on education provides all children with the right to free compulsory education, this does not amount to non discrimination legislation. The Committee further notes that such legislation is currently under consideration. It wishes to receive information on the progress on this. Meanwhile, it concludes that the situation is not in conformity.**

**Reply:**

“In June 2007 the act of education for young people with special needs was passed. The act addresses primarily young persons, who are mentally handicapped or persons with special needs, who are not able to complete the mainstream education program for young people. The main purpose for the young person is to attain personal, social and vocational competence in order to be an active and independent citizen in adulthood.

The education is a legal claim and is offered after 9 years of compulsory primary and lower secondary education (Folkeskolen). It is 3 years of training and can be attended until the 25th. year. The young person has to finish the training after five years. The specific training is planned in cooperation with the young person herself, the parents and the Youth Guidance Centres. (“Ungdommens Uddannelsesvejledning”)

Since this youth education program is fairly new the full extend is not known at this time. It is expected to take in approximately 2.3 percent of a youth year group amounting to almost 4.100 young people. The authority, responsibility and financing of Youth Education for Young People with Special Needs are assigned to the municipalities. The municipalities also are responsible for social welfare services and job creation programmes and as such

will be able to coordinate the effort to increasing the participation in public life of young people with special needs.”

It should be noted that, in the view of the Committee, Article 15 applies to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age. It thus also covers both children and adults who face particular disadvantages in education, such as persons with intellectual disabilities.

The Committee notes from an additional source<sup>11</sup> that all education establishments must be physically accessible. Children with disabilities attend mainstream schools to the extent possible. Compensatory measures, i.e. special aids, special planned teaching material etc, may be made available. 10% of all children in mainstream primary schools receive special assistance. Children with disabilities who have complex needs are educated in special schools which may be schools twinned with ordinary schools or in special classes in ordinary schools. Approximately 1.9% of children receive this sort of special education.

The report indicates that general teacher training does not include courses in special needs education, but continuing education is provided where necessary. Moreover, a revision of the teacher training act will be undertaken and the inclusion of special needs education as a part of the general training is under consideration.

Following primary education, young persons with disabilities follow the same path as other young persons, i.e. they may undertake a youth education course leading to an upper secondary school leaving examination or a higher preparatory examination or undertake vocational education/or training courses. In most cases it is the individual school/educational institution which is responsible for offering disabled pupils the necessary compensation.

**In order to evaluate the effectiveness of mainstreaming the Committee asks the next report to provide information on attendance in mainstream compulsory and upper secondary schooling, as well as on any case law and complaints brought to the appropriate institutions.**

**Reply:**

“Compulsory education (primary school)

Children with disabilities attend mainstream schools to the extent possible. Compensatory measures, i.e. special aids, special planned teaching materials etc. may be available. It is estimated that 12% of all children in mainstream schools receive special assistance. Children with disabilities who have complex needs are educated in special schools which may be schools twinned with ordinary schools or in special classes in ordinary schools. In 2005/2006 approximately 3,2 % of children receive this sort of special education in the public sector. In the private schools the percentage is 0,63.

As to the evaluation of the effectiveness of mainstreaming the Committee asks about complaints brought to the appropriate institutions. The complaints procedure of special education is as follows: The decision can be complained against the local authority. This procedure is made in cases of special assistance in the mainstream, public school (folkeskole). The decision, concerning children with severe physical and/or intellectual special needs, can be complained against an impartial complaints board, appointed by the Ministry of Education. This access to complain has been extended as part of the reform of the local authorities/ municipal reform. Recent estimation from fall 2007 shows, that 313 complaints had been received at the complaints board that is 1,56 % - all concerning public schools. It should be noted that it is the experience of the complaints board, that a considerable

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<sup>11</sup> Danish disability policy – equal opportunities through dialogue; the Danish Disability Council 2002.

amount of the incoming complaints are solved on the basis of settlement between parents and the municipality.”

### *Vocational training*

The Committee noted in its previous conclusion that mainstreaming also applies to vocational training (Conclusions XVI-2). The report indicates that students with disabilities – physical and intellectual – are offered special educational assistance in general upper secondary education, vocational education and training and higher education. However, it is not possible to have special educational assistance for adult education. Persons with disabilities who are in employment and undertake further education are entitled to special assistance (Act on Compensation to Disabled people in Employment).

The report indicates that, in 2004, 54 persons with disabilities received personal assistance in vocational training. A project to extend assistance to persons with intellectual disabilities has also been launched; the Committee asks for information about its results.

The Committee notes from the report that rehabilitation consists of job oriented activities as well as financial support which help a person with limited capacity for work to enter or remain in the job market. The local authority decides on the necessary rehabilitation, which can take the form of support for education, training for a job or training taking place in a specific firm.

In reply to the Committee, the report indicates that no statistics are available about the number of people with disabilities attending vocational training or rehabilitation since no such figures are collected. Nonetheless, it provides the number of full time persons who, in 2004, received a rehabilitation grant as the predominant subsidy (23,189). It also gives an estimate of the number of persons with disabilities who receive a grant for vocational training at Further Educational level (3000) and at Higher Educational level (1000). The general subsidy system for students following higher education has been improved with respect to persons with disabilities in 2004.

**The Committee asks information to be provided in the next report about the effectiveness of the measures taken with respect to vocational training, in particular their impact on the subsequent integration of persons with disabilities in the labour market. It also asks what judicial or administrative remedies are available to those who are found to have been unlawfully excluded or segregated or otherwise denied an effective right to vocational training.**

#### **Reply:**

“Reference is made to the reply to the question concerning Article 15, paragraph 2, B. There are no additional estimates on the effect of the efforts towards employed disabled persons receiving salary grants.

A disabled person who is refused support for wage-subsidised employment may file an appeal on this decision to the Employment Board of Appeal. An Employment Board of Appeal has been set up in every region, and the director for the state administration is the chairman of the Board. The Board has six members and is composed of one member from the municipalities in the region jointly, two members from the Confederation of Danish Employers, one member from the Danish Confederation of Trade Unions, one member from the Salaried Employees' and Civil Servants' Confederation and the Danish Confederation of Professional Associations, and one member from the Danish Council of Organisations of Disabled People.”

The Committee concludes that the situation in Denmark is not in conformity with Article 15§1 of the Charter on the grounds that there is no anti-discrimination legislation in the field of education.

## *Paragraph 2 – Employment for persons with disabilities*

The Committee takes note of the information provided in the Danish report.

According to the report, in 2004, there were 700,000 persons with disabilities. 58% of all disabled people are employed, 53% of whom in regular jobs.

### *Non-discrimination legislation*

The Committee notes from another source<sup>12</sup> that, during the reference period, Act No. 756/2004 prohibiting discrimination in employment was adopted (entry into force in January 2005). This act amended the Act on Discrimination in the labour market to introduce two additional grounds, age and disability, and thereby transpose Council Directive 2000/78/EC.

The new act explicitly prohibits direct and indirect discrimination in employment and occupation on the ground, *inter alia*, of disability. It applies to access to employment and vocational training, working conditions including dismissal and pay, promotion, and membership in an organization of workers or employers. Reasonable accommodation, positive measures and access to remedies, including the shift of the burden of the proof, are provided by the legislation. The Committee notes nevertheless that the legislation entered into force at the end of the reference period.

The Committee recalls that non-discrimination legislation must provide for the adjustment of working conditions (reasonable accommodation) in order to guarantee the effectiveness of non-discrimination legislation in the field of employment. In order to assess whether the right to non-discrimination in employment is effectively guaranteed for persons with disabilities, **the Committee asks the next report to indicate how reasonable accommodation is implemented in practice, whether there is case law on the issue and whether the legislation has prompted an increase in the employment of persons with disabilities in the open labour market.**

### **Reply:**

“For the purpose of strengthening and stimulating the opportunities of disabled persons to obtain employment, and to give them the same opportunities of professional activities as non-disabled persons, Act No. 55 of 29 January 2001 on compensation for disabled persons in employment lays down rules on preferential access for disabled persons to jobs with public employers, rules on personal assistance for employed disabled persons and in the course of vocational and further education, and rules on salary grants for recruitment of newly educated disabled persons. Under the Act on active employment efforts, cf. Consolidated Act No. 1074 of 7 September 2007 further support may be granted for special tools and workplaces.

The prohibition against discrimination on the grounds of disability is still relatively new, and therefore case law is still characterised by only a few city court judgments. These judgments have primarily related to the question concerning the disability concept in relation to the Act, and thus the issue of whether the Act should apply in the specific cases. The Government has not received information pertaining to any decisions on the scope of the employer's adaptation duty.

Studies from the Danish National Institute of Social Research show that from 2002 to 2005 employment of disabled people increased by some 24,000 people, and about 400,000 disabled persons were in employment in 2005. From 2005 to 2006 this number increased from 50.6 per cent to 54.8 per cent for disabled persons working more than 15 hours per week, corresponding to more than 25,000 persons.

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<sup>12</sup>Report from the Commission to the Council, Implementation of Directive 2000/78/EC, in [www.ec.europa.eu/employment\\_social/fundamental\\_rights/pdf/legisln/agehan\\_en.pdf](http://www.ec.europa.eu/employment_social/fundamental_rights/pdf/legisln/agehan_en.pdf)

The vast majority of disabled people are employed on normal terms and conditions - and only a small proportion hold jobs on special terms."

### *Measures to promote employment*

There must be obligations on the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, in particular persons who have become disabled while in their employment as a result of an industrial accident or occupational disease.

The report provides information on the various measures in place to promote the employment of persons with disabilities in the ordinary labour market (Conclusions XVI-2).

According to the report, the number of persons with disabilities employed under both Flex jobs and Jobs on special terms (wage subsidized jobs) has been increasing during the period of reference. The number of Flex jobs, the focus of which shifted to individuals with a permanent but also significant reduction in working capacity, increased from about 16,500 in 2001 to 36,500 in 2004; they are equally shared between the public and the private sectors. The number of jobs on special terms increased from 4,824 (2000) to 5,977 (2004). Wage subsidies were also increased in 2003. Working arrangements in this kind of scheme are decided by agreement between the employer and the employee in cooperation with professional labour organizations. Jobs on special terms are prevalent in the public sector. The number of recipients of personal assistance in employment was 3,235 in 2004 (in comparison to 1,853 in 2000).

In reply to the Committee, the report indicates that the number of people employed in sheltered workshops equals the number of those who apply for. It is the responsibility of county authorities to provide sheltered employment to persons with severe disabilities who cannot find or maintain employment on normal terms on the labour market. The Committee recalls that Article 15§2 of the Charter requires that persons with disabilities be employed in an ordinary working environment. Sheltered employment facilities must be reserved for those persons who, due to their disability, cannot be integrated into the open labour market. They should aim nonetheless to assist their beneficiaries to enter the open labour market.

In reply to the Committee, the report explains that remuneration for employment in sheltered employment is paid according to ability. People with severe disabilities and consequently a very limited ability to work can be referred to sheltered employment. This kind of employment is offered with the aim to give persons with severe disabilities a better quality of life and wages are paid according to the effort and value of the production. Remuneration is typically a supplement to a social pension, and can therefore amount to a minimum of 5% of the lowest hourly rate under the collective agreement in the open labour market. Such remuneration is regulated by the collective agreement, negotiated at the central level by the large central employers' organisations and the employees' trade unions.

The Committee recalls that it is the nature of the employment which must determine the level of remuneration for persons with disabilities: fair remuneration is required when production is the main aim of work done by persons with disabilities. On the basis of the explanation contained in the report, the Committee considers that the work carried out in the sheltered employment described in the report is rather occupational therapy than real employment. **It nonetheless asks the next report whether this is the case for all sheltered employment or only for sheltered employment for severely disabled persons. It asks where the production is the main aim of the work done in sheltered workshops, whether wages reflect the real value of work done. The Committee considers the fact that a person may be in receipt of a social pension to be irrelevant in this respect.**

**Reply:**

“The regulatory framework of ‘Sheltered employment’ is under the provision of the Consolidation Act on Social Services as follows:

Section 103. The municipal council shall provide sheltered employment for persons under the age of 65 who on account of substantial impairment of physical or mental function or special social problems are unable to find or maintain employment on the labour market on normal terms, and who are not provided for under any other legislation.

(2) The municipal council may provide special employment opportunities to persons with special social problems.

Section 106. Any production generated through sheltered employment or social and other activities shall not subject other businesses to unfair competition.

The production of work done in sheltered workshops is never the main aim of the work. Sheltered employment is only provided for persons who are unable to find a job on normal terms, and who are not provided for under any other legislation. First and foremost, sheltered employment aims to give the disabled person a daily life equal to other citizens and to accommodate the disabled person's needs for activity and contents in daily life. Besides that, another purpose of an offer of sheltered employment is to upgrade the disabled person to be able to handle a job on the ordinary labour market – and if possible using the support measures available via the laws on compensation to working disabled people.”

Pending receipt of the information requested, the Committee defers its conclusion.

**Article 18**  
**The Right to Engage in a Gainful Occupation in the Territory of  
Other Contracting Parties**



**Article 1**  
**Paragraph 18**  
**Question A**

See the third part of the reply to question C regarding Article 18, paragraph 1.

**Article 18**  
**Paragraph 1**  
**Question B**

According to the Danish Aliens Act, section 9 a (1), a residence and work permit may be issued to a foreign national if essential employment or business considerations make it appropriate, including if the foreign national can obtain employment within a professional field short of particularly qualified labour. As of 1 May 2007, section 9 a (1) has been extended to include positions with an annual pay of DKK 450,000, irrespective of the field or specific nature of the job.

The total number and the specific number of residence and work permits according to the Danish Aliens Act, section 9 a (1) (previously section 9 (2) (iii)), for nationals of Contracting Parties to the Charter – except the pre 2004 EC/EEA member-states, Switzerland and the other Nordic countries – in the period 2004-2006 are stated in the figure below:

	2004	2005	2006
<b>Total number of permits (employment or business considerations)</b>	<b>6.470</b>	<b>7.512</b>	<b>6.430</b>
of which to nationals from Albania	7	12	12
of which to nationals from Armenia	6	9	12
of which to nationals from Bulgaria	94	133	106
of which to nationals from Croatia	20	40	10
of which to nationals from Cyprus	0	0	0
of which to nationals from Czech Republic	64	64	16
of which to nationals from Estonia	53	39	5
of which to nationals from Hungary	38	62	53
of which to nationals from Latvia	59	74	21
Of which to nationals from Lithuania	201	190	39
of which to nationals from Malta	1	0	0
of which to nationals from Moldova	15	11	13
of which to nationals from Poland	696	705	352
of which to nationals from Romania	153	231	269

of which to nationals from Slovak Republic	36	41	18
of which to nationals from Slovenia	4	10	2
of which to nationals from Turkey	90	185	220

The total number and the specific number of refusals of residence and work permits according to the Danish Aliens Act, section 9 a (1) (previously section 9 (2) (iii)), for nationals of Contracting Parties to the Charter – except the pre 2004 EC/EEA member-states, Switzerland and the other Nordic countries – in the period 2004-2006 are stated in the figure below:

	2004	2005	2006
<b>Total number of refusals</b>	<b>668</b>	<b>560</b>	<b>699</b>
of which to nationals from Albania	3	1	5
of which to nationals from Armenia	0	1	2
of which to nationals from Bulgaria	6	6	8
of which to nationals from Croatia	3	0	9
of which to nationals from Cyprus	0	0	0
of which to nationals from Czech Republic	0	0	0
of which to nationals from Estonia	4	0	0
of which to nationals from Hungary	1	2	1
of which to nationals from Latvia	2	5	3
of which to nationals from Lithuania	27	1	1
of which to nationals from Malta	0	0	0
of which to nationals from Moldova	1	1	1
of which to nationals from Poland	92	0	7
of which to nationals from Romania	27	43	131
of which to nationals from Slovak Republic	2	2	0
of which to nationals from Slovenia	0	0	0
of which to nationals from Turkey	33	55	46

The total number of applications pursuant to section 9 a (1) (previously section 9 (2) (iii)), in the respective years cannot be stated.

The number of permits granted and refused in 1999 to 2003 cannot be compared to the number of permits granted and refused in 2004 to 2006. On 1 May 2004 ten new countries – Estonia, Latvia,

Lithuania, Poland, The Czech Republic, Slovakia, Hungary, Slovenia, Cyprus, and Malta, all contracting parties to the social charter – entered the European Union. In relation to foreigners from Cyprus and Malta, the ordinary rules for EU citizens should be applied in stead of section 9 a (1). For nationals from Estonia, Latvia, Lithuania, Poland, The Czech Republic, Slovakia, Hungary and Slovenia a transitional scheme was implemented to ensure a gradual transition to free movement of persons and services. This meant that permits to nationals from these countries could be issued according to another section in The Aliens Act (section 9 a (5)).

The Danish Government, however, emphasizes that the total number of residence and work permits granted to foreign nationals according to section 9 a (1) has increased from 1861 permits in 2001 to 3199 permits in 2006.

Furthermore, the number of residence and work permits to nationals from Estonia, Latvia, Lithuania, Poland, The Czech Republic, Slovakia, Hungary and Slovenia has increased substantially since 2004 when a transitional scheme was implemented for nationals from these countries to ensure a gradual transition to free movement of persons and services (according to section 9 a (5) in The Aliens Act).

**Article 18**  
**Paragraph 1**  
**Question C**

According to section 13 (1) of the Danish Aliens Act, a foreign national must have been issued with a work permit to be allowed to take paid or unpaid employment, to be self-employed or to provide services with or without remuneration in Denmark.

1. According to section 14 (1) of the Danish Aliens Act, the following foreign nationals do not require work permits:

- nationals of another Nordic country;
- foreign nationals falling within the EC rules, except Czech, Estonian, Hungarian, Latvian, Lithuanian, Polish, Slovak, and Slovene nationals issued with a residence permit on the basis of employment (section 9 a); – cf. below 3.2;
- foreign nationals issued with a permanent residence permit;
- foreign nationals issued with a residence permit as refugees (section 7 or 8), on the basis of family reunification (section 9), on humanitarian grounds for foreign nationals whose applications for asylum have been definitely refused (section 9 b), on the basis of former Danish nationality (section 9 d) or on the basis of a need for temporary protection for foreign nationals from the Kosovo Province of the Federal Republic of Yugoslavia holding or formerly holding a residence permit pursuant to the Kosovo Emergency Act or being or having been registered as an asylum-seeker on the basis of an application submitted before 30 April 1999 (section 9 e);
- foreign nationals issued with a residence permit on the basis of exceptional reasons (section 9 c (1)) when the permit has been issued in immediate continuation of a residence permit under section 9 b;
- foreign nationals issued with a residence permit on the basis of exceptional reasons, including e.g. unaccompanied minors and asylum-seekers that cannot be returned (section 9 c) when the permit has been issued to a foreign national who has submitted an application for a residence permit under section 7;
- foreign nationals issued with a residence permit on the basis of exceptional reasons (section 9 c (1)) when the permit has been issued as a result of family ties with a person living in Denmark.

2. According to section 14 (2) of the Danish Aliens Act, the Minister for Refugee, Immigration and Integration Affairs may order that other foreign nationals are exempt from the requirement of a work permit.

Thus according to section 29 (1) of the Aliens Order (Ministry of Refugee, Immigration and Integration Affairs, Executive Order No. 810 of 20 June 2007), the following foreign nationals are exempt from the requirement of a work permit:

- foreign diplomats residing in Denmark, and others with corresponding diplomatic credentials, as well as accompanying family members and individuals employed in their personal household;
- personnel working in foreign trains and motor vehicles in international traffic;
- personnel on Danish commercial ships that are engaged in international traffic, providing the ships call at Danish ports a maximum of 25 times per year.
- Crew members on cruise ships acting as tourist guides for some of or all the passengers of the cruise for up to 72 hours after the cruise ship has called at a Danish port.
- Qualified crew members of flight operators or alliance partners for the purpose of providing assistance to survivors and their family members, to the family members of fatal casualties and to relevant authorities in connection with aircraft accidents.

According to section 29 (2) of the Aliens Order, the following foreign nationals are exempt from the requirement of a work permit for a period of 3 months from entry:

- scientists and lecturers invited to teach etc. in Denmark;
- artists, including musicians and other entertainers, whose participation constitutes a substantial or essential part of a noteworthy artistic event;
- representatives on business trips for foreign firms or companies, which do not have branch offices in Denmark;
- fitters, consultants or instructors hired to fit, install, inspect or repair machines, equipment, computer programmes or similar items, or inform on the use of such items, provided the individual is employed by the firm that manufactured the equipment etc.;
- individuals employed in the household of foreigners visiting Denmark for up to 3 months;
- professional athletes and trainers.

**3.** Foreign nationals not comprised of section 14 (1) or (2) of the Danish Aliens Act, cf. section 29 (1) and (2) of the Aliens Order, may be issued a residence and work permit under section 9 a (1) or (5) of the Danish Aliens Act.

**3.1.** A work permit will be issued to a person who has been granted a residence permit according to section 9 a (1).

Work and residence permits are normally granted only if substantial professional or labour-related conditions warrant it. When examining applications for residence and work permits, authorities will pay particular attention to whether there exists a readily available Danish or foreign national workforce resident in Denmark qualified to perform the job in question, and whether the job in question is of such a special character that a residence- and work permit can be recommended. Normally, permits are not granted to applicants seeking ordinary skilled-labour vacancies, such as carpenters or bricklayers, or unskilled positions, such as pizza-bakers or messengers, etc.

In all circumstances, it is a requirement that salary and employment conditions correspond to Danish standards, and that an employment contract has been drafted between the foreign employee and his or her employer. In certain cases, applicants may be required to submit appropriate professional credentials or similar documents, as for instance foreign-trained doctors, who must have an authorisation from the National Board of Health. In some cases, the Danish Immigration Service will require a statement from the relevant branch organisation or a Regional Labour Market Council in order to process an application.

On 1 July 2002, special procedures were introduced for certain professional fields currently experiencing a shortage of specially qualified manpower – for example the scientific and technological sector. This so-called *Job Card Scheme* means that foreign nationals who have been hired for

work within one of these selected professions will be immediately eligible for a residence and work permit. In these cases the Danish Immigration Service will not request a statement from a branch organisation, but will immediately grant a permit, assuming that the applicant is in possession of a concrete job offer, and that proposed salary and employment conditions correspond to Danish standards.

In order to make the application process run more efficiently, an overview of the professional fields lacking specially qualified manpower has been drafted. These professions are presented in *the positive list*, which is revised on a continual basis. As examples of the types of positions on the positive list could be mentioned:

- Engineers: for example, engineers in the construction sector, environment and planning, electronics, physics and chemistry, chemistry and biotechnology, machine technology, energy and production, engineers in the foodstuffs industry, etc.
- Scientists in the natural sciences and technology sector: for example, mathematicians, statisticians, physicists, chemists, biophysicists, biochemists, pharmacists, biologists, geologists, radiographers, etc.
- Doctors (provided they possess an authorisation from the National Board of Health)
- Nurses (provided they possess an authorisation from the National Board of Health)

Today the positive list includes about 20 different types of positions.

Prior to July 2002 the so-called Job Card Scheme applied only to foreign nationals with special skills within the fields of Information Technology.

As of 1 May 2007 the Job Card scheme was extended to include positions with an annual pay of DKK 450,000, irrespective of the field or specific nature of the job.

In October 2007 a Green Card Scheme has been introduced. According to this scheme a foreign national, who has professional qualifications which are needed in Denmark, has the possibility to obtain a residence permit in Denmark for a period of 6 months with the purpose of looking for a job in Denmark. The evaluation of a foreign national's qualifications is based on a point system.

Under certain conditions a foreign national may also be granted a residence and work permit in order to be self-employed and/or operate an independent business in Denmark. In such cases there must be particular Danish business interests related to the establishment of the business in Denmark, and an adequate economic basis for the business must be presented to the authorities. Furthermore the applicant's presence and involvement must be vital to the establishment of the business, and he or she must participate actively in its day-to-day operation. Applicants with only economic and financial interests in the business – for example, shareholders – are not eligible for a permit on these grounds.

**3.2.** On 1 May 2004 ten new countries – Estonia, Latvia, Lithuania, Poland, The Czech Republic, Slovakia, Hungary, Slovenia, Cyprus, and Malta – entered the European Union. Reference is made to the description in the previous report (twenty fourth report regarding reference period 1999-2003).

**4.** According to section 30 (2) of the Aliens Order, a work permit is issued to foreign nationals with a residence permit on the basis of exceptional reasons (section 9 c (1)) when the residence permit has been issued with reference to trainee placement.

Foreign nationals with a residence permit on the basis of exceptional reasons (section 9 c (1)) in order to pursue a post-secondary education is eligible for a permit to work 15 hours per week, as well as full-time during the months June-August according to section 15 (1) of Executive Order No. 904 of 4 July 2007 concerning residence and work permit to foreign students.

According to section 30 (3) of the Aliens Order, other persons with a residence permit on the basis of exceptional reasons (section 9 c (1)) – who are not exempt of the requirement of a work permit – can be granted a work permit. When examining an application in such cases the focus is on the purpose.

A foreign national with a residence permit as au pair is not eligible for a work permit, because the tasks the au pair undertakes for a host family are not formally regarded as work.

**Article 18**  
**Paragraph 2**  
**Question A**

See the third part of the reply to question C regarding Article 18, paragraph 1.

Reference is also made to the description under this question in the previous report (twenty fourth report regarding reference period 1999-2003).

**Article 18**  
**Paragraph 2**  
**Question B**

When submitting an application for a residence and work permit to Danish missions abroad – i.e. all embassies and certain consulates general – the representation is entitled by order to charge a fee from the applicant (cf. Ministry of Foreign Affairs, Executive Order No. 1240 of 23 December 2002). The fee amounts to DKK 730 per hour or part thereof. Payment, however, may not be demanded for more than two hours. There are no other fees in connection with the submission of an application for a residence and work permit.

**Article 18**  
**Paragraph 2**  
**Question C**

The formalities have been simplified for certain professional fields with the introduction of the Job Card Scheme in 2002, and the extension of the Job Card Scheme in 2007 (see the third part of the reply to question C regarding Article 18, paragraph 1).

**Article 18**  
**Paragraph 3**  
**Question A**

Reference is made to the description under this question in the previous report (twenty fourth report regarding reference period 1999-2003).

**Article 18**  
**Paragraph 3**  
**Question B**

Reference is made to the description under this question and question A regarding article 18, paragraph 3 in the previous report (twenty fourth report regarding reference period 1999-2003).

**Article 18**  
**Paragraph 3**  
**Question C**

See the third part of the reply to question C regarding Article 18, paragraph 1.

**Article 18**  
**Paragraph 4**

There are no regulations in the Danish aliens' legislation restricting Danish citizens from leaving Denmark.

**In the text below are embodied the answers and supplementary informations requested by the Expert Committee regarding the 24<sup>th</sup> Danish report**

**Article 18 – Right to engage in a gainful occupation in the territory of other Contracting Parties**

*Paragraph 1 – Applying existing regulations in a spirit of liberality*

The Committee takes note of the data provided in the Danish report, showing the number of work and residence permits granted and refused during the reference period with respect to nationals of Contracting Parties to the Charter and Parties to the Revised Charter not belonging to the European Union, the European Economic Area or the Nordic countries.

The report does not contain data on the total number of applications for work permits filed but only on the total number of permits granted and refused. In the last supervision cycle the Committee considered this to be sufficient data for an assessment of the situation under Article 18§1 of the Charter.

The Committee notes that the total number of work and residence permits granted to the aforementioned nationals rose from 3,256 in 1998 to 5,767 in 2003 whereas the number of refusals rose from 722 to 960 within the same period. The Committee observes that the refusal rate has thus fallen from almost 20% in 1998 to approximately 15% in 2003. The largest proportion of work permits has been granted to Polish nationals (949 permits and 215 refusals) and Lithuanian nationals (311 permits and 157 refusals). The Committee notes that the refusal rate in the event of Polish nationals is approximately 18.5% and 33% for Lithuanian nationals. The refusal rate for Turkish nationals is 49% (55 permits and 54 refusals).

The Committee understands from the above figures that the total number of work permits granted to nationals of the Contracting Parties to the Charter and Parties to the Revised Charter is constantly increasing since the end of the last supervision cycle. **However, it wishes to receive information on the reasons for the comparatively high refusal rate for work permit applications of Turkish nationals.**

**Reply:**

“The Danish Government would like to emphasize that Danish legislation on labour-related immigration applies equally to all third country nationals. Thus, refusals for work permit applications from Turkish nationals are given because the applicants do not fulfill the conditions for obtaining a work permit, as is the case for any other third country national who does not fulfill the conditions.”

Pending receipt of the information requested, the Committee concludes that the situation in Denmark is in conformity with Article 18§1 of the Charter.

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*Paragraph 2 – Simplifying existing formalities and reducing dues and taxes*

The Committee takes note of the information provided in the Danish report.

*Administrative Formalities*

Issue of work and residence permits



The Committee recalls that an application for a work or residence permit must be submitted to a Danish representative office in the applicant's country of origin and that only under exceptional circumstances may it be submitted by a foreign national already present in Denmark. In reply to the Committee's question, the report specifies that after entry into Denmark an application can be submitted or examined in the case of foreign nationals staying legally in Denmark within the scope of a visa or visa-free stay provided that it is likely that the application can be processed during the person's legal stay. **The Committee notes from another source<sup>13</sup> that visa or visa-free stays are usually granted for periods of up to 90 days. It also notes that the usual processing time for a work or residence permit application is two months. It therefore asks whether there is a realistic possibility that foreign nationals of Contracting Parties to the European Social Charter or of Parties to the revised European Social Charter lawfully staying in Denmark within the scope of a visa or visa-free stay may successfully apply for a work or residence permit.**

**Reply:**

"The Committee's question is related to the practise according to which an application can be submitted or examined after entry into Denmark in the case of foreign nationals staying legally in Denmark within the scope of a visa or visa-free stay provided that it is likely that the application can be processed during the person's legal stay."

This practise has been abolished in January 2005.

Today, an application submitted under a legal stay will be examined unless the application is submitted shortly before the expiry of the legal stay, and the purpose of the submission solely seems to be to ensure a prolongation of the stay in Denmark.

The report furthermore states that foreign nationals staying in Denmark who already have a residence permit are usually entitled to submit an application for renewal of their residence or work permit from within Denmark. A further exemption applies to asylum seekers in the event that they have received an offer for employment within a professional sector suffering from a lack of specially qualified manpower.

The Committee also notes that citizens from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia may stay in Denmark during a job search period of up to six months. Once they obtain a full-time non state-subsidized employment with a Danish employer, they are entitled to a residence and work permit in Denmark for which they apply from within Denmark.

Under Danish legislation, a residence and work permit may only be granted to a foreign national if essential employment or business considerations make it appropriate, e.g. where the national workforce for a certain professional field is not sufficient. When dealing with an application for a work or residence permit, the Danish Immigration Service may request a statement from the relevant professional branch organisation or Regional Labour Market Council in order to process the application and that it verifies whether the applicant is in possession of a concrete job offer and whether the proposed salary and employment conditions comply with Danish standards. The report indicates that the formalities for the granting of work and residence permits have been simplified under the newly introduced Job Card Scheme for certain professional fields which are currently experiencing a shortage of national workers. Under this scheme foreign nationals who have been hired for work within one of these professions are immediately granted a residence and work permit. In these cases the Danish Immigration Service does not request a statement from the relevant professional branch organisation and assumes without verification that the applicant is in possession of a concrete job offer and that the proposed salary and employment conditions comply with Danish standards.

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<sup>13</sup>Danish Immigration Service's website : [www.udlst.dk](http://www.udlst.dk).

## Conditions for renewal

According to the report, a time-limited residence permit may be extended upon application unless there is a reason for its revocation as stipulated in section 19 of the Danish Aliens Act. Revocation would e.g. be possible in the event that the grounds on which the initial application was granted were not or are no longer correct. The Committee notes that this may in particular be the case when the permit holder loses or terminates his or her job or closes his or her independent business.

In reply to the Committee's question as to what are the formalities to be observed for the renewal of work and residence permits, the report states that applications for an extension of a residence permit have to be submitted one month before expiration of a current residence permit. Application forms are available online or may be obtained from and submitted with the Danish Immigration Service.

## Time necessary for obtaining work permits

In reply to the Committee's request regarding the average length of time that elapses between an application being submitted and a work permit being granted, the report specifies that an application for a residence and work permit is usually processed within two months following its receipt by the competent authorities provided that the documentation to be submitted by the applicant is complete. The Committee considers that this time frame complies with Article 18§2 of the Charter.

According to the report, it is not possible to give a break-down of the average processing time for the different types of residence and work permits available in Denmark. **The Committee wishes the next report to specify whether the aforementioned two months period also applies to work permits issued to self-employed workers.**

### Reply:

"As mentioned in the 24<sup>th</sup> Danish report the average processing time with a breakdown for the different types of residence and work permits under section 9 a (1) cannot be given.

The average length of case processing time of an application according to section 9 a (1) is mentioned as two months in 2004, including applications of work permits to self-employed workers.

In August 2007 the average case processing time of applications for residence and work permits under section 9 a (1) was 67 days. 50 % of the cases were processed within 19 days, and 80 % of the cases were processed within 35 days. It is, however, an objective to have an average case processing time of 55 days in this type of cases at the end of 2007."

## *Chancery dues and other charges*

The Committee recalls that the charges levied by the relevant embassies and consulates on the occasion of the submission of an application for the granting of a work and residence permits amounted to 370 Danish Crowns (DKK; € 48) during the last reference period. It notes from the report that pursuant to an Executive Order of the Ministry of Foreign Affairs of December 2003, the current charges amount to 675 DKK (€89) per hour and are limited to a maximum of two chargeable hours, i.e. 1,350 DKK (€ 176). **The Committee assumes that the calculation per hour relates to the time spent by the relevant officer on dealing with an application and wishes to know whether the minimum charge is a one hour charge of 675 DKK or may be lower. It assumes that in any event the average charge is higher than the previously applicable 370 DKK and wishes to receive clarification on this issue in the next report. It also wishes to know whether the charges are made for the granting of a work or residence permit or whether they are payable at the application stage.**

**Reply:**

“The minimum charge for dealing with an application is a one hour charge of DKK 730, which is payable at the application stage.”

*Conclusion*

Pending receipt of the information requested the Committee defers its conclusion.

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*Paragraph 3 – Liberalising regulations*

The Committee takes note of the information provided in the Danish report.

*Access to the national labour market*

The Committee recalls that pursuant to the Danish Aliens Act, a residence and work permit may only be granted to a foreign worker if essential employment or business considerations make it appropriate, e.g. in the event that the foreign national can obtain employment within a professional field short of particularly qualified workforce. Work and residence permits are only granted when there is no Danish worker available to do the job in question and in the event that the job is of such a special character that the granting of a residence and work permit to a foreign worker may be recommended. In some cases, the Danish Immigration Service will require a corresponding statement from the relevant branch organisation or a regional labour market council in order to process an application for a residence and work permit.

Work permits for self-employed workers are only granted where there is a special commercial interest in establishing the business in question. The applicant's presence and involvement must be vital to the establishment of the business and he or she must participate actively in its operation. Applicants who only have an economic or financial interest in the business such as shareholders of a company are not entitled to a residence and work permit.

The Committee has held in the past that the conditions for the issue of residence and work permits under Danish law are particularly restrictive and notes that they have not been liberalised during the current supervision cycle.

It also notes that special application procedures have been introduced under the so-called Job Card Scheme for certain professional fields currently experiencing a shortage of qualified manpower and refers to its respective comments under Article 18§2. It observes that the regulations introduced under such Scheme only simplify the application procedure but do not liberalise access to the Danish labour market itself.

According to the report, the Aliens Act has been amended as of 1 May 2004 in order to reflect the interim arrangement with respect to access to the Danish labour market applying to eight of the countries that entered the EU as of that date, namely the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. Under the interim arrangement, a worker of one of the aforementioned countries will be entitled to a residence and work permit, if he obtains non state-subsidized full-time employment with an employer located in Denmark. Nationals from Cyprus and Malta enjoy full freedom of movement.

*Exercise of the right to employment*

The Committee considered in the last conclusions that the Danish rules providing for the possibility to revoke a work permit where an employee changes the employer is incompatible with the need for liberalisation mentioned under Article 18§3. The report specifies that in the event that a foreign

national finds a new job, even with the same employer, he or she must apply for a new residence permit before beginning work in the new place and/or function.

#### *Consequence of a job loss*

The Committee recalls that a foreigner's residence and work permit can be revoked if he/she loses his/her job even through no fault of his/her own or if a self-employed worker closes his/her independent business.

In reply to the Committee's question, the report states that in these cases the foreign national is not granted extension of a residence permit in order to have a sufficient period of time for a new job to be found. However, according to the report, a foreign national is normally given a time-limit for departure from Denmark of one month during which he or she may look for a new job. In the event that a residence or work permit granted to nationals from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia is revoked or not extended the respective national is allowed to stay in Denmark for a period of six months in order to find a new job (see the conclusion under Article 18§2). In any event, the foreign national who has found a new job or plans to start a new business must apply for and be granted a new residence and work permit before starting work in his new employment relationship. **The Committee reiterates its question as to whether foreign workers appealing against their dismissal can be granted an extension of their residence permit.**

#### **Reply:**

"An appeal of a dismissal can not lead to the grant of an extension of the residence and work permit of a foreign worker in Denmark. In any event, the foreign worker, who has found a new job or plans to start a new business, must apply for and be granted a new residence and work permit before starting work in his new employment relationship.

However, as mentioned in the 24<sup>th</sup> report, a foreign national is normally given a time-limit for departure from Denmark of one month during which he or she may look for a new job.

If the foreign worker files a complaint about the revocation of his work permit no later than seven days after the decision of the Danish Immigration Service is announced, he or she is allowed to remain in Denmark during the appeal process and may look for another job."

The report further states that in the event that the Danish Immigration Service has decided to revoke a residence permit or deny its extension, the concerned foreign national can appeal against this decision to the Ministry of Immigration, Refugee and Integration Affairs. If the foreign worker files the complaint no later than seven days after the decision of the Danish Immigration Service is announced, he or she may remain in the country during the appeal process and may look for another job.

#### *Conclusion*

**The Committee concludes that the situation in Denmark is not in conformity with Article 18§3 of the Charter since the restrictive conditions for the granting of residence and work permits have not been liberalised.**

#### **Reply:**

"Article 18 paragraph 3 states that the contracting parties undertake to liberalise, individually or collectively, regulations governing the employment of foreign workers.

The Danish Government is of the opinion that the situation in Denmark is in conformity with article 18 paragraph 3.

The total number of residence and work permits granted to foreign nationals according to section 9 a (1) has increased from 1861 permits in 2001 to 3199 permits in 2006.

Furthermore, the number of residence and work permits granted to nationals from Estonia, Latvia, Lithuania, Poland, The Czech Republic, Slovakia, Hungary and Slovenia has increased substantially since 2004 when a transitional scheme was implemented to ensure a gradual transition to free movement of persons and services (according to section 9 a (5) in The Aliens Act).

The Danish Government would like to emphasize that in recent years a number of initiatives have been taken aimed at opening the Danish labour market to foreign workers.

In 2002, the Danish Government introduced the so-called Job Card Scheme for foreigners who have been hired for work within certain professional fields currently experiencing a shortage of specially qualified manpower. In these cases the Danish Immigration Service will immediately grant a permit.

In May 2007, the Job Card Scheme was extended to include positions with an annual pay of DKK 450,000, irrespective of the field or specific nature of the job.

In October 2007, a Green Card Scheme has been introduced, according to which a foreign national with professional qualifications needed in Denmark, has the possibility to obtain a residence permit in Denmark for a period of 6 months with the purpose of looking for a job in Denmark.

Moreover, the Danish Government has in October 2007 announced an action programme of which one of the objectives is to make it easier for foreign nationals to obtain a work permit in Denmark.

The action programme contains several proposals of different possible initiatives.

- In May 2007 the Job Card Scheme was extended to include positions with an annual pay of DKK 450,000, irrespective of the field or specific nature of the job. It is proposed that the annual pay shall be lowered to DKK 375,000.
- The Green Card Scheme may be extended.
- The positive list of the Job Card Scheme may be extended.
- All foreign nationals with a residence and work permit, who want to change their jobs, will have the possibility to start in their new job before the new residence and work permit is granted.
- The case processing time in cases concerning work permit according to section 9 a (1) must be shorter.

Furthermore, as described in the reply to question C, regarding Article 18, paragraph 1, there are a number of foreign nationals who are exempt from the requirement of a work permit.

The Danish Government is of the opinion that the policies on liberalising access to the Danish labour market to foreign workers must take into account the situation on the labour market in general. The contracting states may legitimately take into account to what extent there is a need of foreign workers.”

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*Paragraph 4 – Right of nationals to leave the country*

The Committee notes from the Danish report that there have been no changes to the situation, which it has previously considered to be in conformity with the Charter.

The Committee therefore concludes that the situation in Denmark is in conformity with Article 18§4 of the Charter.

**Article 1 of the additional protocol**  
**Right to equal opportunities and equal treatment in matters**  
**of employment and occupation without discrimination on**  
**the grounds of sex**

**Article 1**  
**Additional protocol**  
**Question A**

The Act on equality between men and women was adopted in 2000 and has been amended on an ongoing basis. The Act lays down an express prohibition against discrimination on grounds of gender, provisions to promote gender equality, an obligation for public institutions to draw up reports on gender equality, demands for the representation of gender in public committees, commissions, boards, etc, and the establishment of a Gender Equality Board. The principle of sharing the burden of proof applies in the field of the Act as for the Act on gender equality and the Act on equal pay to men and women.

The Act on equal pay to men and women, which was first adopted in 1976, was amended in 1986, 1989, 1992, 2000, 2001, 2002 and 2006. The Act prescribes that any employer shall give men and women equal pay, including equal pay conditions, for the same work or work given the same value. The text of the Act is enclosed as Consolidating Act No. 906 of 27 August 2006.

The Act on equal treatment of men and women as regards access to employment etc entered into force in 1978. The Act was amended in 1984, 1989, 1990, 1994, 1997, 2000, 2002, 2005 and 2006. The Act protects both men and women against discrimination in relation to employment, maternity leave and other important issues on the labour market. The text of the Act is enclosed as Consolidating Act No. 734 of 28 June 2006.

The Danish Confederation of Trade Unions (LO) and the Confederation of Danish Employers (DA) agree on promoting a development, which prevents any type of discrimination on the labour market. The social partners have thus a joint interest in keeping the gender equality debate on the best possible basis. LO and DA have thus together drawn up an analysis of men and women's pay in order to explain the wage differentials between men and women. This analysis was published in August 2003. Thus, even though it was published after the expiry of the reference period it has been under preparation and debate for the entire reference period. This report is still used as a basis for understanding the wage differences between women and men.

The administrative procedures and the supplementary agreement concerning gender equality on the labour market are still in force.

**Article 1**  
**Additional protocol**  
**Question B**

The practice develops as described earlier. In the first report it was stated that the courts have decided around 200 cases concerning equal treatment on the labour market. The courts still decide around 50 cases concerning equal treatment per year. In addition, the Gender Equality Board, which was mentioned in article 1 D, also deals with several cases concerning equal treatment. The Gender Equality Board decides around 40 cases per year. Dismissal in connection with pregnancy and maternity leave is still an important issue. In most cases the Board awards damages corresponding to around 9 month's pay.

A significant number of cases still deal with sexual harassment and around 5 new cases are decided each year. Violation of the Act on equal pay to men and women is dealt with by arbi-



tration and a small number of cases are brought before the courts and a bigger number before the Equality Board. However, in recent years there have been fewer new cases. This is probably because the cause of action has become clearer and a number of cases are therefore decided by settlement out of court.

**Article 1**  
**Additional protocol**  
**Question C**

As mentioned in earlier reports the Act on equal treatment of men and women and the Act on equal pay to men and women include provisions concerning victimisation in connection with legal proceedings in relation to gender equality and equal pay. If an employee is dismissed under these circumstances the employer shall pay damages. The employees' access to wage information is also protected by a victimisation provision.

The most serious violation of the prohibition against discrimination is considered to be dismissal due to pregnancy and maternity leave. In recognition of this view, the victim will be awarded about nine months of pay if discrimination is established. In severe cases the compensation awarded is even bigger. Among employers there is great respect for the prohibition against dismissal due to pregnancy and maternity leave.

Other violations of the prohibition against discrimination, e.g. sexual harassment and deterioration of working conditions, are heard by industrial arbitration tribunals, the courts and the Gender Equality Board, making it easy for the victim to have a complaint heard.

**Article 1**  
**Additional protocol**  
**Question D**

The Danish Government wishes to create equal opportunities for men and women. It is the aim that men and women shall be considered equal and shall have the same opportunities to choose. The Government is thus working on dismantling the barriers that are preventing women and men from living the life they want. The Government encourages respect for diversity and the personal choice of the individual. Gender equality is an essential part of the Danish democracy.

The gender equality work is handled by:

**The department of the Minister for Equality**

The Gender Equality division is the secretariat for the Minister, and is responsible for:

- servicing of the Minister in relation to the Government, the Danish Parliament and the citizens;
- the inter-ministerial working group for dismantling of the gender-divided labour market;
- a network for enterprises working on employing more women in managerial jobs;
- preparing meetings;
- activities in specially prioritised areas;
- information work.

In addition to the service of the Minister, the Ministry handles the tasks that the Minister is obligated to perform through the Act on gender equality, including:

- drafting of bills for the annual survey on gender equality and perspective and action plans that the Minister will be submitting to the parliament. The annual plan describes the gender equality policy of the Government for the coming years;
- information work on the functioning and duties of the Act, partly through general guidance, and partly, through specific guidance to ministries, etc.;
- monitoring and guidance on the gender composition in councils, boards and committees where there should be an equal gender distribution, and every three years receive the reports from the other ministries on the gender distribution in some state boards;
- compilation and preparation of the reports and studies on gender equality that all ministries, counties and municipalities must prepare every other year;
- secretariat assistance for the Gender Equality Board.

The Gender Equality division is secretariat for:

- the inter-ministerial working group on violence against woman and human trafficking. The deputy permanent secretary of the Gender Equality division is chairman of the working group;
- the control group for the inter-ministerial mainstreaming project;
- the network for mainstreaming.

In addition, at civil servant level, the Gender Equality division follows the international gender equality work in the Nordic Countries, the EU, the Council of Europe and the UN, including participating in meetings, working groups and conferences:

- **The Nordic Countries**  
participates in the Nordic committee for civil servants on gender equality which prepares the minister's meetings and ad hoc working groups;
- **The EU**  
Participates in the Advisory Committee, High Level Group on Gender Mainstreaming and ad hoc working groups;
- **The Council of Europe**  
participates in the Steering Committee for Equality Between Women and Men;
- **The UN**  
makes preparations for participation in the assemblies of the women's commission.

### **The Gender Equality Board**

The task of the Gender Equality Board is to hear specific complaints about discrimination on the grounds of gender. The Gender Equality Board was set up in 2002 for a two-year trial period, and was subsequently made permanent when a majority in the parliament adopted an amendment of the Act on gender equality on 10 April 2003.

- The board hears specific complaints about gender discrimination in society, and makes final decisions at administrative level.
- the board provides guidance and gives advice to citizens, organisations, enterprises and authorities about the possibility of complaining against gender discrimination before the board itself or other bodies.
- The board publishes decisions on gender discrimination and issues an annual review.
- The board consists of one chairman who acts as a judge and two other members, who are lawyers and have knowledge about gender equality and labour market relations.

The decisions of the board are binding to the parties and final. The board may also award compensation if the Act is violated, and under very special circumstances the board may overrule a dismissal unless the working relationship must be considered ruined.

### **Minister for Gender Equality**

The Minister for Gender Equality is responsible for the Government's overall activities in the field of gender equality and co-ordinates the equality work of other ministries. In relation to the Government, the mainstreaming strategy in principle means that there are now 20 Ministers for Gender Equality - each within their own fields of competence responsible for integrating the gender and equality perspective in all policies and activities.

The Minister for Gender Equality is responsible for implementing the mainstreaming strategy, not only in relation to other ministries but also other parts of the public administration. Parallel to the mainstreaming strategy, the Minister lays down rules and guidelines for the gender equality work and initiates special measures to promote gender equality and equal opportunities, i.e. a dual approach is applied.

In 2007, a new inter-ministerial action plan for gender mainstreaming was adopted. The action plan runs up until 2011, and it replaces the previous action plan from 2002-2006. The new action plan focuses on implementation, anchoring, ability grouping and management. All ministries must formulate gender equality policies and specific targets for their own ministry; competences must be built in order to work professionally on gender equality in all ministries and gender equality must be incorporated in central parts of the individual fields of responsibility of the ministries and relevant major inter-ministerial tasks. The action plan will be evaluated in 2011.

Each year the Minister draws up a report and a perspective and action plan for gender equality for the Danish Parliament. The yearly report is based on reports from local authorities and ministries, and defines the governments' priorities for the equality work in the following year.

### **Department of Gender Equality**

The Department was set up under the competences of the Minister for Gender Equality and acts as secretariat for the Minister. The Department is responsible for Government initiatives in the field of Gender Equality through co-ordination, development and implementation of the Governments policies and councils and advises the Minister and the Danish Parliament in matters concerning gender equality.

The tasks include: preparation of legislation and administrative rules concerning gender equality, co-ordination of gender equality measures initiated by public authorities as an element of the mainstreaming strategy, preparation of the annual report on gender equality for the Parliament, implementation of the Minister's perspective and action plan, secretarial assistance to The Gender Equality Board, monitoring of the development in the gender composition of certain committees and boards included in the Act on Gender Equality, representation in a number of international fora.

### **External gender equality players:**

Furthermore, the gender equality work is handled by a wide range of independent organisations and institutions which to different extents receive public support, including the Danish Centre for Information on Women and Gender (KVINFO), which acts as a national centre for knowledge, information and debate, the women's' and gender research at various universities, the Women's Council in Denmark, which is an international umbrella organisation dealing with women's' rights and gender equality.

**Article 1**  
**Additional protocol**  
**Question E**

The Government aims at reducing the gender-segregated labour market. The mainstreaming strategy is used to analyse the performance of the Ministry of Employment to promote gender equality on the labour market. The dismantling of the gender-segregated labour market is particularly in focus in this work.

In March 2006 the Inter-Ministerial Task Force on Ending Gender-Segregation in the Labour Market: "Women and Men's Educations and Jobs. How Do We Address the Gender-Segregated Choices of Career and the Gender-Segregated Labour Market? The report contains specific recommendations on how to break up the gender-segregated labour market.

The Minister for Gender Equality has set up a website for career counsellors and parents with sons or daughters in Grades 8 and 9 ([www.lige-frem.dk](http://www.lige-frem.dk)). It is already when you choose your secondary education that you begin making decisions about your individual career. Therefore, it is important to ensure that these young people—as well as the adults who influence them—are well-informed about the variety of career options available to them, including the less traditional ones. In March 2007, more information about the website was distributed to career counsellors.

The Act on equal pay to men and women was tightened in 2001 so that the individual employee is entitled to pass on information about their own pay conditions. The information can be given to anyone.

Since 2000 work has been done to get as exact and detailed wage statistic as possible. The statistics were published in 2001 and 2004. New statistics will be published in 2008.

Rules on gender-divided wage statistics broken down by enterprises were introduced in 2006, cf. Act No. 562 of 9 June 2006. The Act aims at increasing the attention on and intensifying the work with reducing any wage differences between men and women at the enterprises. This takes place by increasing the visibility and information on wage differences between men and women at enterprises exceeding a certain size. Major enterprises have been requested to prepare gender-divided wage statistics so that the necessary decision-making basis can be made to ensure that the individual enterprise may work actively on discovering or preventing unintentional wage differences between women and men. The study must be made on a detailed basis.

In addition, a website on equal pay has been set up; [www.ligelon.dk](http://www.ligelon.dk) with legislation, decisions, statistics and guidance on the wage differences between women and men. Seminars are held regularly with scientists, the social partners and enterprises on equal pay in order to discuss and initiate initiatives that may reduce the wage differences between women and men. The seminars will replace the previously mentioned equal pay network for enterprises.

**Article 1**  
**Additional protocol**  
**Question F**

Social security matters, as well as other provisions relating to unemployment benefit, old age benefit and survivor's benefit, are not excluded from the scope of Article 1.

**Article 1**  
**Additional protocol**  
**Question G**

According to the Act on rights to leave and cash benefits in the event of birth, the mother has the right to absent from work 4 weeks before the birth, the right **and the obligation** to absent from work 2 weeks after the birth, and hereafter she has the right to absent from work for an additional 12 weeks. The father has the right of absent for 2 weeks immediately after the birth. Finally the parents have the right to absent for another 32 weeks after the 14<sup>th</sup> week after the birth (parental leave).

The parental leave can be shared between the parents – together or in extension to each other. Employed parents have the possibility to postpone part of the 32 weeks period to later use until the child is 9 years old. Employed parents also have the possibility to start work part-time and extend the leave.

It should be mentioned that approximately 95 % of all pregnant women in Denmark take at least 14 weeks leave following confinement.

The Act on Equal Opportunities for Men and Women contains provisions, which entitle women to compensation if they are dismissed because they want maternity leave or has been absent because of maternity.

**Economic compensation:**

**Wage during maternity leave;**

The Government's Maternity-fund committee has estimated that at least 70% of wage earners have the right to wage during maternity leave. In most cases at least 4 weeks before the birth and 14 weeks after the birth.

**Daily cash benefits during maternity leave;**

People who meet the employment requirement in the Act on rights to leave and cash benefits in the event of birth are entitled to maternity leave with daily cash benefit. The leave is distributed as follows:

Pregnancy leave:	4 weeks before birth
Mother's leave:	14 weeks after the birth
Father's leave:	2 weeks immediately after the birth
Parental leave:	32 weeks in total

Daily cash benefits during maternity leave are calculated on the basis of the wage earner's average hourly income and working time. In 2007 the maximum of daily cash benefit is DKK 3.415 (€ 458) weekly.

**Social assistance;**

People, who do not fulfil the requirement of being on the labour market, will have a right to social assistance during the maternity leave. Maternity is an event, which gives the right to social assistance, if there is no other income or fortune to ensure provision. Social assistance for a mother with a child is DKK 11.904 (€ 1.597) monthly.

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Finally it should be mentioned that the Danish Minister of Family and Consumer Affairs has launched an investigation of the flexible maternity leave, which was introduced in 2002. The investigation's primary target is to examine the effects of the flexible maternity leave and to view if the intentions behind the Act have been followed.

The investigation will be completed in November 2007.

**Article 1**  
**Additional protocol**  
**Question H**

The Gender Equality Board which was set up in 2000 handles complaints of discrimination on grounds of gender within the field of the Act on equal treatment and other Acts which deal with gender discrimination. The Board has in such cases awarded damages for dismissal due to pregnancy and unequal pay. The compensation for dismissal due to pregnancy has been substantial as the Board lays down practice in compliance with the practice of the courts in these cases, see the comments under item B.

The Executive Order on the initiatives for the promotion of gender equality was made permanent in 2007 and it came into force on 10 April 2007.

The new Executive Order on initiatives for the promotion of gender equality makes it less bureaucratic for authorities, employers and organisations to work more actively on gender equality. It is no longer necessary to obtain permission from the relevant Minister if initiatives laid down in the Executive Order need to be launched. At the same time, under the Executive Order it is permitted to form teams and introduce training schemes for only one gender in the world of sports.

On the basis of women's and men's different needs and wishes gender equality work must help create the framework for a good life - and the individual person must make the choice. In order for a choice to be realistic, it will often be appropriate that various efforts and initiatives are launched, so that it is possible to promote initiatives on gender equality under the Executive Order.

There are also areas in society where deviations from the principle on equal treatment of women and men will be appropriate in order to exploit human resources as best as possible.

In order for special initiatives to be launched there must be a documented need for them. Deviation from the principle of equal treatment must take place to benefit the "under-represented gender" – for the benefit of both women and men.

**Article 1**  
**Additional protocol**  
**Question I**

In connection with the performance of certain types of professional activities where the gender is of decisive importance, the relevant Minister may grant deviations from a number of provisions concerning equal treatment after having consulted the interested parties.

As an example, it can be mentioned that the Ministry of Ecclesiastical Affairs gave exemption in connection with the equal treatment Act and issued an Order which made it possible for religious communities to decide themselves whether they wanted female priests. The reason is that it is considered to be of decisive importance for the performance of the office of priest that it is possible for the communities to decide the gender of the priest.

In addition, the Minister for Justice gave exemption to the Danish Prison and Probation Service with a view to dealing with referral cases so that consideration may be taken of the gender of the employees. The Minister for Families and Consumer Affairs has granted an exemption so that halal slaughter may be performed by a male halal butcher. The Minister for Social Affairs has granted an exemption stating that it is possible to advertise for female employees for a crisis centre, and to advertise for male employees for a secure ward at a hospital.

**In the text below are embodied the answers and supplementary informations requested by the Expert Committee regarding the 24<sup>th</sup> Danish report**

**Article 1 of the 1988 Additional Protocol – Right to equal opportunities and treatment in employment and occupation without sex discrimination**

The Committee takes note of the information provided in the Danish report.

*Equal rights*

In its previous conclusions, the Committee asked which professional activities were granted derogations by the relevant Minister from provisions concerning equal treatment on the ground that the sex was of decisive importance. In reply, the report states that the Ministry of Social Affairs is not aware of any such permission given by the Minister.

As far as the consequences of a retaliatory dismissal are concerned, the Committee previously noted that Act No. 908/2000 does not provide for reinstatement of the employee except in the event of equal wage claims. The Act lays down maximum damages of 39 weeks' pay which shall be fixed taking into account the seniority of the employee and other circumstances of the case (Section 15). The Committee considers that employers who breach the prohibition of discrimination must face sufficiently dissuasive penalties and pay compensation that is adequate and proportionate to the harm suffered by the victim. **The Committee reserved its position on this subject, pending information on the penalties actually imposed on employers. Since the report does not provide such information, the Committee repeats its request and emphasises that, should the next report fail to provide the necessary information, there would be nothing to prove that Denmark's situation is in conformity with Article 1 of the Additional Protocol.**

**Reply:**

"As mentioned in the Report on the Supplementary Protocol concerning Article 1, question C, the most serious violation of the prohibition against discrimination is considered to be dismissal due to pregnancy and maternity leave. In recognition of this view, the victim will be awarded about nine months of pay if discrimination is established. In severe cases the compensation awarded is even bigger. Among employers there is great respect for the prohibition against dismissal due to pregnancy and maternity leave.

Other violations of the prohibition against discrimination, e.g. sexual harassment and deterioration of working conditions, are heard by industrial arbitration tribunals, the courts and the Gender Equality Board, making it easy for the victim to have a complaint heard."

*Position of women in employment*

In its previous conclusion, the Committee also asked for information on women's career development. The report provides the following data: in the public sector 13.1% of women are employed in managerial positions whereas in the private sector only 4% of women are employed in such positions. In order to improve the situation, the Government has targeted women in managerial positions as a special action area for the private sector, the aim being to make visible that it is good business to employ more female managers.



In 2003, the Danish Confederation of Trade Unions (LO) and the Danish Employers' Confederation (DA) published a joint analysis of the wages of women and men. It quantifies factors which have a decisive impact upon earnings: work function; education/training; occupational sector; work experience; changes between jobs; leave periods; geographical location; and children. The study finds that among blue-collar workers, men's wages are on average 14%-15% higher than those of women. In this group, the factors analysed account for 11 percentage points of the gender difference, while 3-4 points are attributable to other causes. Among white-collar workers, men's wages are on average 19%-20% higher than those of women. In this groups, 12 percentage points of the difference can be accounted for by the factors analysed, while about 7 points are attributable to other causes.

The Committee notes in the Minister for Social Affairs and Equal Opportunities's 2002 Perspective and Action Plan that the Government perceives the gender-segregated labour market as the main reason for the difference in the average pay for women and men. Despite the high degree of gender equality, Denmark has one of the most gender-segregated labour markets in the European Union.

#### *Measures to promote equal opportunities*

As regards gender mainstreaming, the Committee notes that Act No. 388 of May 2000 on Equal Treatment of Women and Men introduced new measures for work towards gender equality with the establishment of a departmental unit for Gender Equality within the Ministry for Gender Equality, the establishment of a complaints board for discrimination on grounds of gender, the Gender Equality Board, and the Knowledge Centre for Gender Equality. The Act is based on the implementation of the principle of mainstreaming in public administration. **The Minister for Gender Equality shall present a report once a year to the Parliament. The Committee asks to receive a summary of these reports as far as they are relevant under Article 1 of the Additional Protocol.**

#### **Reply:**

"The minister for gender equality presents a yearly report to the Parliament containing a status on the implementation of the report from the previous year as well as a report/action plan for the coming year.

The reports (status and action plans) are attached as an annex.

However, for a general overview regarding the position of women in employment as well as measures to promote equal opportunities we would like to inform you on the following:

#### *Measures to promote equal opportunities*

In Denmark measures to promote gender equality are divided within two strategies; Special measures and mainstreaming. This approach ensures a full range gender equality policy.

#### *Areas of particular focus:*

The special measures are fully described in the attached yearly reports. The themes of the special measures/initiatives have for the last couple of years mainly been; women in managerial positions, the gender segregated labour market including the pay gap, gender equality and migrant groups, youth and gender equality, violence and trafficking.

*Mainstreaming:*

The Danish inter-ministerial gender mainstreaming project was launched in March 2001. A steering committee consisting of representatives from all the ministries was established by the Minister for Gender Equality and "Action Plan 2002-2006" was adopted by the steering committee. In autumn 2006, the action plan was evaluated and it concludes that the inter-ministerial gender mainstreaming project has placed gender mainstreaming on the agenda, and, at the same time, it has developed methods and tools that it have been crucial in getting many of the ministries started on implementing the strategy. At the same time, the report concludes that only a few of the ministries are "ready to fly", and that it will continue to be necessary to provide assistance from an inter-ministerial project and from the Department of Gender Equality. On the basis of the evaluation, the steering committee decided to formulate a new action plan for inter-ministerial collaboration, with a focus on implementation, embedding, differentiation and management. The new action plan is due to run until 2011.

The primary goal of "The Danish Inter-Ministerial Gender Mainstreaming Project Action Plan 2007-2011":

- 1) To ensure that gender equality is incorporated into the principal parts of the individual ministries' core activity areas and in relevant large inter-ministerial tasks.
- 2) To ensure that the ministries formulate gender equality policies and specific gender policy objectives within their own core areas and thereby identify gender equality policy challenges and gender-based problem areas.
- 3) To ensure that the resources and competencies for identifying and working professionally with gender related issues and gender equality related challenges are in place within the ministries.

For more details on activities, milestones, sub goals and organisation and management see:

<http://ligeuk.itide.dk/files/PDF/Mainstreaming/mainhandlingsplan2007-2011eng.pdf>

The action plan will be evaluated in 2011.

*The complaints board:*

The Gender Equality Board has since its establishment in 2000 (permanently since 2003) reached a decision in 185 cases. 114 of those cases concerned complaints about gender discrimination within the labour market.

*Position of women in employment:*

The minister for gender equality has amongst other issues focused strongly on the vertical gender division within both the public as well as the private sector. In 2007 the minister initiated the setting up of a charter for companies working to promote women in management positions.

The minister has in cooperation with a large employer's organisation appointed ten top managers from the private and public sphere as ambassadors for women in management. This initiative will run for a year and the ambassadors are committed to promoting the issue by telling about the positive effects of recruiting female managers.

Also, in cooperation with the ministry of finance, a mentoring project for women in management in the private and public sector. The aim is to help women advance from lower positions of management to the top level.

To qualify the work, several surveys have been launched. The last surveys where was: "Kvinder i danske bestyrelser" ("Women in Danish boards" by Centre for Economic and Business Research 2007) and "Kvinder i ledelserne i dag og fremover"

("Women in management today and in the future" by IFKA 2007). On the website [www.lige.dk](http://www.lige.dk) there is a special link on women in management including tools and best practise.

Also, a network consisting of more than 125 private companies has been established, and they meet 3 times a year.

Besides the vertical gender division, the minister has focused on the horizontal segregation, and many initiatives have been launched, including:

In march 2006 the Inter-Ministerial Task Force on Ending Gender-Segregation in the Labor Market: "Kvindens og mænds uddannelser og job. Hvordan vi bløder op på det kønsopdelte uddannelses- og erhvervsvalg og det kønsopdelte arbejdsmarked?" (*Women and Men's Educations and Jobs. How Do We Address the Gender-Segregated Choices of Career and the Gender-Segregated Labor Market?*). The report contains specific recommendations on how to break up the gender-segregated labour market.

The Minister for Gender Equality has set up a Web site for career counsellors and parents with sons or daughters in Grades 8 and 9 ([www.lige-frem.dk](http://www.lige-frem.dk)). It is already when you choose your secondary education that you begin making decisions about your individual career. Therefore it is important to ensure that these young people—as well as the adults who influence them—are well informed about the variety of career options available to them, including the less traditional ones. In March 2007, more information about the Web was distributed to career counsellors."

The Committee notes in the abovementioned Action Plan that one of the initiatives taken by the Government to promote equal pay consists in establishing an equal pay network of companies interested in exchanging experience on the reasons for labour market gender segregation and pay differences as well as methods aimed at ensuring equal pay.

**The report does not reply to the request made in the previous conclusion for a summary of the various types of positive measures adopted by the individual companies to promote equal opportunities at the work place. The Committee therefore repeats its question.**

**Reply:**

"See to the report concerning Article 1, question E of the Additional Protocol."

*Conclusion*

Pending receipt of the information requested, the Committee defers its conclusion.

## The enclosures

Lovbekendtgørelse nr. 770 af 27. juni 2007 (gældende) – Om vejledning om valg af uddannelse og erhverv

Bekendtgørelse nr. 586 af 12. juni 2006 (gældende) – Om vejledning om valg af uddannelse og erhverv

Bekendtgørelse nr. 928 af 17. juli 2007 (gældende) – Om ændring af bekendtgørelse om vejledning om valg af uddannelse og erhverv

Bekendtgørelse nr. 298 af 28. april 2004 (gældende) – Om vejledning af gennemførelse af uddannelser på Undervisningsministeriets område

Bekendtgørelse nr. 606 af 21. juni 2004 (gældende) – Om vejledning om valg af videregående uddannelse og erhverv

Bekendtgørelse nr. 1132 af 15. december 2003 (gældende) – Om uddannelses- og erhvervsvejlederuddannelsen

Lovbekendtgørelse nr. 183 af 22. marts 2004 (gældende) – Om erhvervsuddannelser

Lovbekendtgørelse nr. 1214 af 1. december 2006 (historisk) – Om grundlæggende social- og sundhedsuddannelser

Lovbekendtgørelse nr. 997 af 4. oktober 2006 (gældende) – Om erhvervsuddannelser m.v.

Lov nr. 561 af 6. juni 2007 (gældende) – Om ændring af lov om erhvervsuddannelser og forskellige andre love og om ophævelse af lov om grundlæggende social- og sundhedsuddannelser og lov om landbrugsuddannelser

Lov nr. 1115 af 29. december 1997 (gældende) – Om korte videregående uddannelser (Erhvervsakademiuddannelser)

Lov nr. 481 af 31. maj 2000 (gældende) – Om mellemlange videregående uddannelser

Lov nr. 562 af 6. juni 2007 (gældende) – Om professionshøjskoler for videregående uddannelser

Lov nr. 446 af 10. juni 2003 (gældende) – Om arbejdsmarkedsuddannelser m.v.

Lov nr. 1228 af 27. december 2003 (gældende) – Om ændring af lov om Arbejdsgivernes Elevrefusion, lov om erhvervsuddannelser, lov om godtgørelse ved deltagelse i erhvervsrettet voksen- og efteruddannelse, lov om arbejdsmarkedsuddannelser m.v. og lov om produktionsskoler.

Lov nr. 523 af 24. juni 2005 (gældende) – Om ændring af lov om en aktiv beskæftigelsesindsats med flere love

Lov nr. 593 af 24. juni 2005 (gældende) – Om ændring af lov om produktionsskoler, lov om støtte til folkeoplysende voksenundervisning, frivilligt folkeoplysende foreningsarbejde og daghøjskoler samt om Folkeuniversitetet (folkeoplysningsloven) og forskellige andre love på Undervisningsministeriets område

Lov nr. 556 af 6. juni 2007 (gældende) – Om ændring af forskellige love på Undervisningsministeriets område

Lovbekendtgørelse nr. 1049 af 28. august 2007 (gældende) – Om folkeskolen

Bekendtgørelse nr. 1373 af 15. december 2005 (gældende) – Om folkeskolens specialundervisning og anden specialpædagogisk bistand

Lov nr. 564 af 6. juni 2007 (gældende) – Om ungdomsuddannelse for unge med særlige behov

Bekendtgørelse nr. 974 af 19. juli 2007 (gældende) – Om ungdomsuddannelse for unge med særlige

Lovbekendtgørelse nr. 734 af 28. juni 2006 (gældende) – Om ligebehandling af mænd og kvinder med hensyn til beskæftigelse m.v.

Lov nr. 566 af 9. juni 2006 (gældende) – Om ret til orlov og dagpenge ved barsel (barselloven)

Consolidation Act on Social Services

Lovbekendtgørelse nr. 207 af 18. marts 2005 (gældende) – Om fuldbyrdelse af straf m.v.

Bekendtgørelse nr. 810 af 20. juni 2007 (gældende) – Om udlændinges adgang her til landet (udlændingebekendtgørelsen)

Bekendtgørelse nr. 904 af 4. juli 2007 (gældende) – Om meddelelse af opholds- og arbejdstilladelse til studerende

Bilag 1: Vejledende lister over videregående uddannelser, som er godkendt af en statslig myndighed.

Bilag 2: Vejledende liste over ungdomsuddannelser, som er godkendt af en statslig myndighed.

Bilag 3: vejledende liste over gymnasiale uddannelser, som er godkendt af en statslig myndighed.

Bilag 4: Vejledende liste over grundskoleuddannelser, som er godkendt af en statslig myndighed.

Lovbekendtgørelse nr. 259 af 18. marts 2006 (gældende) – Om danskuddannelse til voksne udlændinge m.fl.

Lovbekendtgørelse nr. 839 af 5. september 2005 (historisk) – Om integration af udlændinge i Danmark

Lovbekendtgørelse nr. 1044 af 6. august 2007 (gældende) - Udlændingeloven

Lovbekendtgørelse nr. 1095 af 19. september 2007 (gældende) - Om ligestilling af kvinder og mænd/*The Danish Act on gender equality / The Act on equality between men and women*

Lovbekendtgørelse nr. 906 af 27. august 2006 (gældende)- Om lige løn til mænd og kvinder/*The Act on equal pay to men and women*

Lovbekendtgørelse nr. 734 af 28. juni 2006 (gældende)- Om ligebehandling af mænd og kvinder med hensyn til beskæftigelse m.v. /*The Act on equal treatment of men and women as regards access to employment*

Lovbekendtgørelse nr. 31 af 12. januar 2005 (gældende) - Om forbud mod forskelsbehandling på arbejdsmarkedet m.v. /*The act on prohibition of discrimination on the labour market etc. / Act on prohibition against discrimination / Act on discrimination*

Lov nr. 566 af 9. juni 2006 (gældende) - Om ret til orlov og dagpenge ved barsel/*The act on maternity leave*

Bekendtgørelse nr. 595 af 22. juni 2001 (gældende) - Af forretningsordenen for Ligestillingsnævnet/*The Gender Equality Board*

Bekendtgørelse nr. 692 af 21. juni 2007 (gældende) - Om kompensation til handicappede i erhverv m.v. /*Amendments to the rules on compensation for disabled persons in employment*

Lov nr. 89 af 30. januar 2007 (gældende) - Om ændring af udlændingeloven og forskellige andre love (Indførelse af selvbetjeningsmodel, ny og forenklet udformning af forsørgelseskravet i familiesammenføringssager og reform af studieområdet)/*Reduce the rate of case work*

Lov nr. 522 af 24. juni 2005 (gældende)- Om ansvaret for og styringen af den aktive beskæftigelsesindsats/*Act on the responsibility for and management of the active employment effort*

Lovbekendtgørelse nr. 1074 af 7. september 2007 (gældende) - Om en aktiv beskæftigelsesindsats/*Act on active employment efforts / Act on active employment measures*

Bekendtgørelse nr. 55 af 29. januar 2001 (gældende) - Om kompensation til handicappede i erhverv m.v. /*Act on compensation to disabled persons in employment*

Lov nr. 411 af 6. juni 2002 (gældende)- Om etablering af Dansk Center for Internationale Studier og Menneskerettigheder/*Act on setting up the Danish Centre for International Studies and Human Rights*

Lov nr. 374 af 28. maj 2003 (gældende) - Om etnisk ligebehandling/*Act on ethnic equal treatment*

Lov nr. 562 af 09. juni 2006 (historisk) - Om ændring af lov om lige løn til mænd og kvinder (Kønsopdelt lønstatistik og redegørelser om lige løn)/*Rules on gender-divided wage statistics broken down by enterprises*

Ufr 2005 p. 1265

### **Additional material**

A quality reform of the public service

Kvalitetsreform

For further information: <http://www.kvalitetsreform.dk/>

East Agreement

Østaf-talen,

For further information: <http://www.bm.dk/sw5291.asp>

Green card scheme

Ny i Danmark, Green Card-ordningen, Green Card Scheme

For further information:

[http://www.nyidanmark.dk/en-us/coming\\_to\\_dk/work/green\\_card/green\\_card\\_job\\_seekers.htm](http://www.nyidanmark.dk/en-us/coming_to_dk/work/green_card/green_card_job_seekers.htm)

Guide on the Act on equal treatment

Beskæftigelsesministeriet, januar 2006

Vejledning om forskelsbehandlingsloven

For further information: <http://www.bm.dk/sw13744.asp>

Inter-ministerial action plan for gender mainstreaming was adopted

Ministeren for ligestilling

Perspektiv og handlingsplan, årlig rapport

For further information: <http://www.lige.dk/default.asp?id=85>

Multiannual economic plan covering the period up until 2015

Finansministeriet, Mod nye mål – Danmark 2015

For further information: <http://www.fm.dk/1024/visNyhed.asp?artikelID=9409>

"positive list" of the job card scheme was adapted and extended on 1 May 2007

Ny i Danmark, Jobkort-ordningen, positivliste, Jobcard Scheme

For further information:

[http://www.nyidanmark.dk/en-us/coming\\_to\\_dk/work/job\\_card.htm](http://www.nyidanmark.dk/en-us/coming_to_dk/work/job_card.htm)

Special guide on age discrimination entitled: "Your qualifications are important – and not your age"

Dine kvalifikationer tæller – og ikke din alder

For further information:

[http://www.seniorpraksis.dk/fileadmin/user\\_upload/pdf/Forskelsbehandling\\_\\_Pixi\\_.pdf](http://www.seniorpraksis.dk/fileadmin/user_upload/pdf/Forskelsbehandling__Pixi_.pdf)

The integration plan "A new chance for everyone" from 2005  
En ny chance til alle. Regeringens integrationsudspil, 2005  
For further information: <http://www.bm.dk/sw11769.asp>

The Finance Act  
Lovstof på Finansministeriets område, herunder Finanslovene  
For further information: <http://www.fm.dk/1024/visArtikel.asp?artikelID=6003>

The municipal reform  
Kort om kommunalreformen  
For further information: <http://borger.dk/forside/fakta-om-danmark/struktureformen>

The Welfare Agreement from 2006  
Finansministeriet, aftale om velfærdsreformer 20.06.2006  
For further information: <http://www.fm.dk/1024/visNyhed.asp?artikelID=8486>

169 proposals submitted by the management and staff at the job centres  
Afbureaukratiseringsprojektet på beskæftigelsesområdet:  
De 169 forslag og det videre forløb  
For further information: <http://www.ams.dk/sw3354.asp?pub=pub0275&reqId=281>